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Chair: Mr. Joël Lightbound





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• (1635)

[Translation]

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

Ladies and gentlemen, colleagues, I am glad to see you again on this Wednesday afternoon.

Welcome to meeting No. 71 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.

To assist us in the study of this bill, we have with us today, in person, Patrick Leblond, associate professor at the Graduate School of Public and International Affairs of the University of Ottawa Faculty of Social Sciences.

Mr. Leblond, thank you for accepting our invitation to join us, even though it was at short notice. We appreciate it.

We also have Ian Lee, associate professor at the Carleton University Sprott School of Business, who is joining us virtually.

Hello, Mr. Lee, and welcome to the committee.

And last, from Edmonton Global, we have Malcolm Bruce, chief executive officer, who is also joining us by videoconference.

[English]

Thank you very much, Mr. Bruce, for joining us this afternoon.

Without further ado, I'll let Mr. Leblond start with five minutes of remarks.

The floor is yours.

[Translation]

**Dr. Patrick Leblond (Associate Professor, Graduate School of Public and International Affairs, Faculty of Social Sciences, University of Ottawa, As an Individual):** Thank you, Mr. Chair.

Good afternoon, members of the committee. Thank you for the invitation to discuss Bill C-34 with you. I will be giving my presentation in French.

[English]

However, please feel free to ask questions in English afterwards.

[Translation]

To begin, I would like to discuss three important aspects of the bill: the nature of an investment that threatens Canada's national security, sanctions for failure to comply with undertakings given by a non-Canadian investor, and transparency.

I will start with the nature of an investment that threatens Canada's national security. Subclause 2(1) of the bill, which amends section 11 of the Act by adding a paragraph (c), refers to "an entity carrying on all or any part of its operations in Canada and that has a place of operations in Canada ... or assets in Canada used in carrying on the entity's operations." The bill uses the expressions "material assets" and "material non-public technical information."

What I wonder about is this: what happens if that non-Canadian investor acquires those material assets or that material technical information directly, without acquiring the entity in question that owns the assets or information? For example, what if the investor buys a bank of personal data about Canadians or the source code of the algorithm for an application associated with critical infrastructure? Is the investor required to give a notice in accordance with the procedure proposed in the bill? Is the acquisition covered by the bill?

If the answer is no, there is a risk that an investor that wishes to use the assets or technical information for legitimate commercial purposes will decide, instead, to acquire them directly from the Canadian entity that owns them, rather than acquire the entity itself and risk having the acquisition blocked by the minister for national security reasons. The same reasoning applies to the owners of a Canadian entity who wish to maximize the value of their assets and technical information: they could put the assets or information up for sale, rather than the entity itself.

In that scenario, the threat to national security is still present. If the Investment Canada Act does not apply to a scenario in which the assets or technical information itself is purchased, and not the entity, such as a business, the acquisition of assets or information needs to be covered by another act or acts. What act or acts would that be? To my knowledge, there are none.

That is the first thing I wonder about regarding the bill, given the intangible nature of some assets, whether they are data or technical information. It is therefore easy to acquire them without necessarily acquiring the business that owns them.

I will now move on to the sanctions for non-compliance with undertakings given by a non-Canadian investor. The bill provides that the minister may approve an investment if the non-Canadian investor gives certain undertakings to limit or reduce the risks of injury to national security. What happens if the investor does not honour their undertakings?

The bill provides a maximum penalty of \$500,000. If that penalty applies only once, it seems to me to be very little. We need only think of the millions in profit that material assets or technical information can generate. Is a single penalty of \$500,000—because the bill does not provide that it be every day or every year—therefore sufficient to encourage, if not compel, a non-Canadian investor to honour their undertakings? At that point, is it not really just an operating cost?

I wonder why a higher penalty is not being considered, such as the one provided in Bill C-27? That bill talks about a penalty of the higher of 5% of global revenue and \$25 million. Why does Bill C-34 talk only about a penalty of \$500,000? On the one hand, personal information is considered to be so important that the penalty can be millions of dollars and possibly as much as 5% of global revenue. On the other hand, however, when we are talking about national security in connection with what may be the same data, the economic sanction is a mere half million dollars. Does this mean that threats to national security are less important? That is my question to you.

In addition, what is to be done if the investor pays the penalty and continues not honouring their undertakings? Does the minister have the power to stop the investment? Although I am not a lawyer, my reading of the act and the bill suggest to me that the minister does not seem to have that power, unlike in the United States, where it is possible to stop an investment retroactively. Would that be the case here? That is what I wonder when I read the bill.

On the subject of transparency, the bill could increase uncertainty on the part of non-Canadian investors who want to invest in Canada and also Canadians who want to sell all or part of their businesses to non-Canadians or obtain financing from non-Canadians. There is therefore a risk that businesses that have or believe they have material assets or material non-public technical information may decide to move their decision-making centre or headquarters out of the country, to the United States in particular.

The greater the uncertainty regarding the application of the act, the higher the risk of a move happening will be. To reduce the uncertainty, there therefore has to be a degree of transparency in the minister's decisions and the undertakings given by non-Canadian investors, without that necessarily meaning that state secrets or trade secrets would be disclosed. Even if the decisions are made on a case by case basis, there have to be clear guidelines, and those guidelines have to be observed. Simply providing a list of material assets or material technical information does not seem to be adequate.

I will stop there. Thank you.

● (1640)

**The Chair:** Thank you, Mr. Leblond. That was very interesting.

Mr. Lee, the floor is now yours for five minutes.

[*English*]

**Dr. Ian Lee (Associate Professor, Sprott School of Business, Carleton University, As an Individual):** Thank you for inviting me.

My disclosures are that I don't donate to or belong to any political party of any kind. I don't consult with any foreign or domestic corporations, and I have no investments in any corporations of any kind.

Please note, I received the invitation less than 48 hours ago and I have had insufficient time to provide a more in-depth analysis of the amendments. However, my knowledge and insights concerning private capital investment, including FDI, are grounded in teaching the strategic management capstone course for 35 years, in which capital investment is a very important corporate strategy of the firm, and in my experience working for a foreign direct investor in Canada early in my career.

I will focus my comments on FDI by private for-profit corporations with head offices in the OECD and rule-of-law countries. I will leave the critical issues of FDI and national security to others far more knowledgeable of those issues.

Turning to the issue of capital investment, it was known as long ago as the time of Adam Smith that capital investment in an economy, any economy, is central and critical to the growth of the economy. To state the obvious, firms invest in long-term assets such as factories, machinery and equipment that allow the firm to create products and services. To correct an enduring popular urban legend that we've been taught by those from Adam Smith to Harvard economist Joseph Schumpeter to Harvard strategy professor Michael Porter, firms do not exist to make a profit.

That may come as a shock. Many professors teach that. It's wrong.

Firms exist to create something of value, a product or a service wanted and needed by buyers and consumers. If the firm is successful at value creation—the reason why firms exist—and buyers and consumers find the value proposition to be advantageous, they will buy the products or services. As an outcome of successful value creation, the firm will increase its market share, its revenues and likely its profitability, but the first step in the value creation chain is capital investment.

Capital investment and value creation are fundamentally a private, strategic decision of investors made by evaluating the gargantuan stream of information, ever changing by the minute, in markets. Restated in the language of politicians and public servants, the net benefit is determined by investors willing to take great risks, with large amounts of capital, in an idea or project that will possibly lead to future value creation success for consumers.

Given the remarkable correlation over 300 years of economic history and evidence of private capital investment and relatively high levels of growth, employment, income and prosperity, evidenced by the astonishing increase in the standard of living in certain countries, what I want to talk about quickly is the hockey stick of prosperity—thousands of years of poverty and subsistence followed by the dramatic, gargantuan increases in prosperity. It has been documented and analyzed by Professor Deirdre McCloskey at the University of Illinois, in Chicago, in her book *The Bourgeois Virtues*.

Given this remarkable 300-year empirical record of an astonishing increase in prosperity driven by private capital investment and consequent value creation, it seems to me we ought to be encouraging any private capital investment in our economy, subject to my previously stated caveats concerning SOEs and national security.

As an aside, I'm in full agreement with Professor Mintz concerning restrictions on SOEs, or what we in Canada call "commercial Crown corporations", the existence of which tilts the playing field and allows the state owner of the SOE or the commercial Crown to tacitly pick winners and losers, rather than have competitive forces determining optimal value creation. In very broad strokes, it's reasonable and rational to impose much more rigorous and stringent rules on SOEs and capital investment from countries that do not support the rule of law, but at the same time I urge the committee to at least reconsider the increasingly burdensome restrictions on private FDI from rule-of-law countries.

Inbound FDI to Canada is falling behind outbound FDI from Canada to other countries. In plain, blunt English, investors with wealth increasingly see opportunities to invest that are better than those inside of Canada. Notwithstanding the extraordinary assets and advantages of Canada, investors are voting with their wallets, and I blame our increasingly hostile economic climate in Canada.

I'll close on a very personal note about FDI. When I was 17 years old, I very foolishly dropped out of high school, and for the next three years I bounced around from one minimum-wage job to another in between being unemployed. I applied to two very large Canadian banks that rejected my absurd job application outright.

• (1645)

I then applied to an American finance company operating in Canada that had invested a lot of money in Canada to create a financial network. Amazingly, they hired me and trained the dickens out of me on how to read an income statement and a balance sheet, evaluate credit and yes, collect from delinquent customers. They paid me every two weeks in real, green Canadian dollars.

Members of Parliament, we need more American capital investment, more German FDI, more French FDI and so forth—not less, more.

Thank you.

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

I will now cede the floor to Mr. Bruce for five minutes.

**Mr. Malcolm Bruce (Chief Executive Officer, Edmonton Global):** Good afternoon.

I would like to start by acknowledging that I am joining this meeting from Treaty 6 territory, the traditional gathering land, ceremonial place and centre for trade for many first nations, Métis and Inuit people.

My name is Malcolm Bruce, and I am the CEO of Edmonton Global, the foreign direct investment attraction and trade corporation for the Edmonton metropolitan region. The Edmonton region is the fifth-largest economy in Canada, with \$105 billion in GDP, which approximates one-third of Alberta's GDP. We have a population of 1.5 million people and are one of the youngest and fastest growing regions in the country. The purpose of Edmonton Global is to transform and grow the economy of the Edmonton region, and we're focused on attracting investment and helping our regional businesses grow internationally.

The conversation this committee has been having is extremely important. As someone who comes from a military background with over 30 years of service, I fully appreciate the need to prioritize Canada's national security. Foreign direct investment can, under certain circumstances, undermine Canada's national security. China is an obvious example; however, bilateral trade with China last year grew by 17%, and they continue to have significant financial stakes, for example, in our energy sector.

As we know, they may not have had our best interests at heart. We need to be paying close attention to how our economic ties with this country develop, and develop it will for the foreseeable future. We can't be seen as the weak link by our security partners, but neither can we be seen as a weak link in our trade and economic endeavours. Business leaders across the country recognize that Canada's ability to attract foreign investment is essential to maintaining Canadians' high quality of life.

Foreign investment fuels company expansions, increases demand for domestic goods and services and promotes market choice and competition. These benefit consumers and create good, well-paying jobs for Canadians. Foreign investment also supports the development of emerging industries. A good example is the extraction and development of critical minerals in Canada, a national security issue in its own right.

One story I'd like to share with you today is about an Edmonton-based company that operates a silica quartz mining operation in Golden, B.C. Silica quartz can be refined into silicon metal, an essential mineral for green energy transformation producing everything from computer chips, EV batteries, solar panels and lightweight alloys to over 7,000 consumer products. This particular company spent millions of dollars over the years trying to build a foundry in Canada that would be able to refine this material here, but ultimately, they were unable to make it work in Canada. They have since begun construction of that foundry in Tennessee, an investment that will grow to over \$1 billion over time, and we've lost the value-added opportunity related to this vital natural resource.

From a national security and resiliency perspective, we've lost out doubly. All of the silicon metal that is being produced will go directly to U.S. companies, including the Department of Energy focused industries of computer chips, solar panels and EV batteries. As America prepares itself for the future and independence from global supply chain issues, we may still remain very vulnerable. We need to be paying attention to the resiliency of our supply chains and invest in the infrastructure that will make us less vulnerable to geopolitical and economic shifts. Energy and food security are top of mind for many countries, including our closest allies. Our region is at the forefront of a significant global opportunity in hydrogen and the net-zero economy, global food security and the technology that will transform the way we do everything—artificial intelligence.

I recently spent some time travelling to South Korea, Japan and Taiwan to share the opportunities that exist here in our region. There's a lot of interest in what Canada has to offer, and they want to invest. We need to ensure they can.

From the investment attraction standpoint, what I want to emphasize today is the importance that investor confidence plays in attracting investment. From friendly investments, we cannot risk lengthy delays in closing transactions or have investors concerned about steep penalties in the event of an unclear legal requirement. It is my understanding that the government is still defining the prescribed business activities that will be required for a pre-closing filing. It's imperative that this legislation provide reasonable, predictable and transparent guidelines for companies exploring investments in Canada.

- (1650)

Agencies like Edmonton Global need clear guidance on institutional roles and on who, within the federal government, we can consult with to support potential investments.

I also recommend that the government commit to a timeline for reviewing the amendments after they have been in force, and continue to consult with organizations like ours to understand how this legislation is helping or hindering our work.

Once again, I'd like to thank the standing committee for the opportunity to speak with you today. We appreciate all the work that's going on to protect Canada's national interests.

Thank you.

**The Chair:** Thank you, Mr. Bruce. We thank you for taking the time to join us this afternoon.

To start the conversation, we'll go to Mr. Perkins for six minutes.

**Mr. Rick Perkins (South Shore—St. Margarets, CPC):** Thank you, Mr. Chair.

Thank you to the witnesses. Those were all great and fascinating opening statements. As a Conservative, it's pretty hard to disagree with any of those statements. Obviously, we need enormous amounts of foreign direct investment to continue to grow our economy. However, we have also always had an eye, regardless of party, on understanding and making sure that those investments are actually a net benefit to Canada and certainly within the confines of our interests, as well, on national security.

That's why my questions, first and foremost, given the presentations, will be for Dr. Leblond.

You outlined three interesting areas. Some of them, actually, are in alignment with my second reading speech on this and a number of other areas. I'd like to ask you about a few of them, perhaps starting with your first point, which was on the nature of investment and national security.

If I heard you correctly, the first part of that is a concern about not just making sure that we have the appropriate national security reviews when warranted. I think we're all probably in unison that this really needs to happen when it's a state-owned enterprise, particularly one from a hostile country because their interests are not always aligned with ours.

You mentioned the area of assets, tangible and intangible, and that a company may choose to review. I think we've had trouble in the last few years even deciding whether or not we should do national security reviews and net benefit reviews on entire companies. We have a long list of them, from Neo Lithium on, that have not had them.

My question to you is on the assets side, tangible and intangible. What is the impact if some of our critical technology....? We've had some of the most inventive blockchain technology, for example, we've heard, invented here in Toronto. Those are subject...not blockchain itself but we constantly see those. From my understanding, I don't think the Investment Canada Act has any provisions for a review of asset sales, whether that be a mine that an overall company sells—so the company is not being sold but the mine is being sold—or whether it's an intangible one like a technology or a database.

Specifically, what kind of amendment do you think we could make to this bill to make that a part of the automatic review process or some sort of threshold for review?

**Dr. Patrick Leblond:** I'd like to say first that I'm not a lawyer and certainly not a legal expert on the Investment Canada Act.

Certainly, as I was reading Bill C-34, I was surprised with this focus on the unit—in French, *unité exploitée*—which to me refers much more to the legal entity, the enterprise. Then I was thinking, “Okay, is it the enterprise itself that potentially poses the risk in terms of national security?” No. In fact, the bill talks about important assets or important technical information that is not public. If these are the issues and a foreign company decides to buy these assets or this technical information, bypassing the company itself, does it have an obligation to notify? In terms of my reading, it's not clear, which is why I raise the question.

Then, in terms of a solution, instead of talking about the entity, the *unité exploitée*, why not talk directly about assets and technical information? Why not make that the focus in terms of national security so that any foreigner who buys these assets—whether through a company, an enterprise or whatever or on its own—should notify the government? Then it's up to the government to decide whether there is a national security implication or not. It would be the same for these technical....

Why have this intermediate step focusing on the entity itself? You know, you could strip it and then say, “Oh, well, there's nothing there,” so the transaction goes on and the national security risk remains.

• (1655)

**Mr. Rick Perkins:** I would suggest that would apply to net benefits as well, because in some cases, that could be not just a security issue; it could be a net benefit issue for Canada.

On your second point, on non-compliance, I agree with you on the fine issue because it doesn't appear to me that the minister has the authority to force a company to divest if they don't meet conditions.

I'll give you an example. Nexen, one of our important oil sands players, was bought by CNOOC, 10 years ago. A number of conditions were put on it by the government of the day—the Harper government. Those conditions were up, and my understanding is that many haven't been met, but it doesn't look to me like the act gives the minister the power to actually say, “You haven't met the conditions. Therefore”—in the most extreme—“you have to divest yourself of that asset because you didn't meet the conditions.”

Is that the idea of what you were looking at?

**Dr. Patrick Leblond:** Yes. In a way, if the idea is that we can ask for commitments to reduce the risks to national security, then the question is how we make sure the foreign investor is actually going to respect those commitments.

To me, a half-million dollar fine—one shot—doesn't do it. Compare that with Bill C-27, where, if you don't protect personal data, you could actually be fined at a minimum of \$25 million. Is our personal data so much more important than national security? I

would argue not. They should at least be equal, so I'm surprised that this same formula doesn't apply here.

Now, that's one thing. Here's another. Let's say that a company makes billions of dollars from these assets, these important assets or technical information. Even \$25 million is nothing. Does the minister then have the ability to impose further sanctions or to say, “No. You actually have to divest now. I'm sorry. We gave you *x* number of warnings. You can't do it.”

I think the law should be much stronger in terms of holding foreign investors to the commitments that we require of them in the first place.

**Mr. Rick Perkins:** This fine just becomes a cost of doing business.

**Dr. Patrick Leblond:** Yes, and we see it in real estate all of the time. People just say, “Oh, the house burned,” pay the \$25,000 and then move on. It has no impact.

**Mr. Rick Perkins:** Right.

I have only one other question. It relates to one of the areas that I covered, and we've had a little bit of discussion on this. That asset, that company, may be bought by a company that, at the time, is of net benefit to Canada—or seemed to be of net benefit to Canada, or at least not a security issue—but is subsequently acquired by a state-owned enterprise from China. That is a problem.

Other G7 countries seem to have the ability to force an unwinding of that transaction if that happens, but the Investment Canada Act doesn't. I wonder if you have any thoughts on that.

**Dr. Patrick Leblond:** I think that anything that is a threat to national security at any time should be possibly under review. Certainly, if after things change, a technology that was not a worry 10 years ago becomes a worry now for whatever reason, I think somewhere in our laws, whether it's the Investment Canada Act or something else, the minister should ultimately have the ability to go in and make an assessment to protect Canada.

Obviously it has to be done with rules, standards, guidelines and some degree of transparency. We don't want some protectionist measures to be adopted in the name of national security. We've experienced that. It's not good for economic well-being. At the same time, we need all of the tools possible in order to protect ourselves. If it means forcing a divestment after the fact because something new came up, I think that ability should be there.

Now the big question is whether it should be in.... If it concerns foreign investors, obviously, it should be in the Investment Canada Act.

• (1700)

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

[*Translation*]

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

Mr. Fillmore, the floor is yours.

[*English*]

**Mr. Andy Fillmore (Halifax, Lib.):** Thanks very much, Chair.

Many thanks to the witnesses today. I'd like to direct my questions to Dr. Lee, and Mr. Bruce, if I could.

Dr. Lee, thank you for the excellent primer on FDI. That was very well received.

Mr. Bruce, thank you for your service.

Currently, as I understand it, a net benefit analysis can take upwards of 75 days to conclude. Some colleagues here in Ottawa have suggested that perhaps cabinet should be making the final determination at the end of these reviews. I wonder if either of you have any thoughts on whether cabinet's involvement would extend that 75 days even longer, and if so, what are the implications of a lengthened review?

I would ask Mr. Bruce first, and then perhaps Mr. Lee, if you have any thoughts on that.

**Mr. Malcolm Bruce:** I thank you for the question. I think it's a very reasonable one.

Ultimately, many large deals in this country take years to make, so adding 75 days to a decision—depending on where that fell under the sequence—may not have the sort of detrimental impact that you would think it would have.

However, that's for large deals. For smaller deals around technology and things like that, I suggest to you that it may have an impact because, when it comes to intangible assets like the technology sector, many of these deals can move quite quickly and cash will flow quite quickly.

I think it depends on the sector a little bit, and I also think it depends on where that is in the decision cycle in trying to get to a final investment decision.

That would be my quick answer.

**Mr. Andy Fillmore:** Thanks very much.

Dr. Lee.

**Dr. Ian Lee:** I don't think it's a good idea to politicize these decisions. That's what we see in developing countries, like Argentina. I'm not going to use real basket case examples, but we see it in countries that have struggled in the last few years to be competitive and to attract foreign investment.

I study the data every year from UNCTAD, the world investment report, and I'm always struck by the fact that the country that attracts the most FDI in the world is the country that least needs it, and that's the United States. Why does the U.S. attract so much foreign capital? It's seen as more friendly to investment in that country. There are fewer barriers to entry.

What this is doing is simply...and I agree with what was just said about "what's another few days, or 75 days, on top of a very elongated process?", but that's not going to create the impression amongst foreign investors that this is a good place to do business. They now say, gee whiz, now I have to go through yet more hurdles, more hoops, and at the end of the day the politicians can step in—and they're unpredictable people, whatever the political party—and throw the whole thing out the window. They say, I can go just across the border and I can do it lickety-split where those barriers do not exist.

Capital is vastly more mobile today than it was even 25 years ago, so I don't think that's a good idea.

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

I guess you answered me on the involvement of cabinet. I would imagine, though, you might think that any lengthening of the time for review would not be in Canada's interest. Is that fair to say?

**Dr. Ian Lee:** That's right. We have to make that sharp distinction that I referenced in my notes.

I think there are almost two animals in this bill. One's talking about national security, which is really important—and others will talk about that—and we're talking about really wanting to put barriers up to protect national security. On the other hand, we want to welcome more private, for-profit FDI from countries that are simpatico with Canadian values. We want to go in two different directions with this same idea of foreign direct investment.

• (1705)

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

Mr. Bruce, with your background in security and defence, regarding FDI, what do you imagine this bill could do to encourage FDI while still maintaining that national security is uninjured?

**Mr. Malcolm Bruce:** Thank you.

I just look at the way the U.S. right now has published a sensitive technology list. Right now, the U.S. has this list of sensitive technologies where they say you cannot get involved with exporting this or getting foreign direct investment from certain agencies into these types of technologies. We do not.

Because the U.S. is our closest trading partner and such an important security partner for us, it would be foolish for anybody in my business to get involved with those kinds of exchanges with countries that may be suspect in terms of using it as dual technologies or being able to funnel it into some other purpose. I think one of the things that I am always cautious of, and it goes back to some of the common themes you've heard from all of us, is that transparency and certainty in process really helps all of us, so those are the kinds of things that I'd be looking for.

Just to reinforce that idea about preconditions that are going to be described in some form of regulation that are not yet described, you're asking us to look at a bill that hasn't set out those prescribed conditions that we need to really know more about the bill in order to be able to say whether this is a good thing or a bad thing before we can close an FDI.

We have scalable FDI so I just think, again, certainty and transparency are so important for investor confidence and without them they're not coming here.

If I may, I'll finish by saying an opportunity lost is not felt by this country, as opposed to, say, a closing of a factory or something that is more real and more tangible, but we are missing out on tremendous amounts of opportunity coming into this country because of the uncertainty the investor feels about Canada and the regulations that we have.

Thank you.

**Mr. Andy Fillmore:** Thank you very much, Mr. Chair.

As you know, in this review process, we have to define “prescribed business activities”. There is some question around whether we should define “prescribed business activities” in legislation, or whether they should be in regulation—for example, through the guidelines on the national security review of investments.

Do either of you have any sense where these definitions should live? Is it in regulation or legislation?

**Mr. Malcolm Bruce:** I would be so bold as to describe them in the act itself.

Thanks.

**Mr. Andy Fillmore:** In the act....

**Dr. Ian Lee:** That will certainly make it more transparent but less flexible at the same time. I agree with what you just said, but I think it will be more rigid. Again, you know how long it takes to slow down to amend a bill. It can take years. It will certainly introduce a further rigidity in the decision-making process.

**Mr. Andy Fillmore:** Okay.

I thank you both.

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

[Translation]

Mr. Lemire, the floor is yours.

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

Mr. Leblond, when you appeared before this committee in 2020, you said we needed to distinguish between what is strategic and what is not. You said that the Investment Canada Act has to be robust in the long term and that its mission is twofold: attracting foreign investors and businesses, but also protecting national security. Do you feel that Bill C-34, which we are considering today, does a good job of answering those questions?

**Dr. Patrick Leblond:** Thank you for your question, Mr. Lemire.

My interpretation of the bill focuses a lot on the process and not necessarily on the content. We were just discussing how to define

material assets. We are told that a list will be produced by the department. Should that be in the act or somewhere else? On that point, I share Mr. Lee's opinion. If it is in the act, it becomes very rigid. We know technology is evolving rapidly. It therefore seems preferable to me that it be in regulations or directives rather than in the act.

In this case, the bill seems to me to be very focused on process. So how do we try to improve the process to make sure we are better able to protect national security in connection with investment by non-Canadians? Regarding notification, for example, rather than letting the government decide by itself what falls under national security, the bill requires that everyone do it.

However, as I said earlier in my opening statement and my answers to Mr. Perkins, when the act refers to *une unité exploitée*—in English, it uses the term “business”, which, to my mind, has a slightly different definition from the French term—why not put the emphasis directly on the assets or information? In this regard, I wonder how effective the bill can be.

If you can circumvent the process by saying you have acquired not an entity carrying on operations, but simply assets or information—for example, the source code for an application, not even the application itself—is this kind of acquisition a threat to national security? Personally, I think it is. So maybe that type of transaction has to be mentioned.

The other aspect mentioned deals with the way we can enforce the undertakings given by non-Canadian investors to reduce or eliminate the risk of injury to Canada's national security. If we are not capable of enforcing those undertakings, either because the economic penalties are too low or because we are unable to compel or threaten divestment, we are even further reducing the effectiveness of the bill, and ultimately of the Investment Canada Act, as a tool to protect Canada's national security.

• (1710)

**Mr. Sébastien Lemire:** There is the national security problem and at the same time the supply chain security problem. We agree that since the start of the pandemic, the international dynamics have changed, particularly in this regard.

The last time you were here, we discussed the transaction involving Rona, which was then taken over by Lowe's. Today, that asset has been sold by Lowe's to an investment fund. At the time of the transaction, Lowe's had undertaken to protect a majority of the jobs and keep the company's headquarters in Boucherville, Quebec. Four years later, what have the net benefits of allowing that sale been for Canada, in your opinion?

**Dr. Patrick Leblond:** I can't comment because I don't know the details, but given Lowe's lack of success after acquiring Rona, we might doubt that it has been beneficial. Of course, the question is whether the same obligations still exist since the acquisition of Rona by an investment fund. As I said, since I don't know the details, I am not in a position to say whether the undertakings given by Lowe's were honoured and whether they have been maintained by the investment fund.

That needs to be monitored. What happens if those undertakings are not honoured? As I understand it, in cases like that, a minister or a department has relatively little power to enforce that kind of undertaking. Lowe's could have said that the company was bankrupt and it could no longer honour its undertakings. In the deal made with the investment fund, does it say the undertakings are abandoned? Rona was not necessarily a business in a strategic sector, but it was nonetheless a jewel in Quebec's economy.

In the circumstances, I think something has to be done beforehand; when it's too late, it's too late. We have to do something beforehand, before things deteriorate, to make sure the undertakings are honoured.

**Mr. Sébastien Lemire:** Do you feel that this bill allows for more enforcement?

**Dr. Patrick Leblond:** As I said, my training is in economics, business administration and political science, and those are the perspectives from which I read the situation. I'm not a lawyer.

I think the bill does not allow it. In fact, it is not clear. From my understanding of the Investment Canada Act, the minister or department does not have the power to go back, to threaten to cancel everything or force a sale, but, in my opinion, that is a power they should have. It should be clearly included in the bill. As well, I think the economic penalties should certainly be much higher than \$500,000. In many cases, that is a symbolic amount.

**Mr. Sébastien Lemire:** Thank you.

• (1715)

**The Chair:** Thank you, Mr. Lemire and Mr. Leblond.

Mr. Masse, the floor is yours.

[*English*]

**Mr. Brian Masse (Windsor West, NDP):** Thank you, Mr. Chair.

Thank you to the witnesses.

Mr. Lee, I'm glad you raised the issue over investment maybe leaving our country and going to the United States. You seemed to have been suggesting that it's a lot easier.

I guess I'm going to ask, then, your assessment. CFIUS, the committee on foreign investment in the United States, actually has 16 departments that oversee foreign investment. It was created by Gerald Ford in 1975. In the 1980s it really emerged significantly, dealing with Japanese semiconductor issues in American supplies. In 1988, the Exon-Florio arrangement gave them the option to outright reject mergers or acquisitions. CFIUS right now does not have to have a public review. It doesn't even have to engage the parties that are looking to take over. They do not exercise any public commentary of the decisions they make.

I'm just wondering. Given that, are you suggesting that our current laws in this current bill would give us equivalency or stronger powers than CFIUS?

**Dr. Ian Lee:** I haven't looked at CFIUS, but I want to respond in a slightly different way because of the way I've been teaching the strategy course for some 30 years. I've increasingly turned away from theory. I'm not putting down theory. Theory is very important, but I'm increasingly evidence-based. Let's look at the data. What is the actual data saying? Look at the actual FDI flow. It's not my opinion. It's the actual flow.

C.D. Howe put out a wonderful paper about a year ago called "Decapitalization". They have the comparative metrics normalized to share of GDP for investment FDI, Canada versus the States, and—

**Mr. Brian Masse:** I'm going to go to the other witnesses if you don't want to comment on that. I want to get commentary from the other witnesses on CFIUS directly, because I'm trying to look for it. I don't mean to be rude, and I'll try to get back around to it, but I would like to hear from the other witnesses.

This is kind of a comparable sister law to what we would have here in Canada. We're looking at a minister and maybe cabinet and a few other things.

Mr. Leblond or Mr. Bruce, perhaps you could provide some commentary. With these amendments that we're looking at, how does that compare with the United States? Again, my personal opinion from doing an assessment...and what I'm getting from my American colleagues is that they're looking at us and saying, "Are you serious?"

Perhaps Mr. Leblond first and then Mr. Bruce could provide something with regard to that.

**Dr. Patrick Leblond:** Thank you, Mr. Masse.

Certainly with where we are now, and then including this bill, I think the CFIUS process remains much tougher than what we're seeing here and what we have currently in terms of protecting national security. I'm not necessarily saying I agree with it. I think the fact that it has zero transparency and does create uncertainty is a problem. In fact, CFIUS has pretty much killed any Chinese investment in the United States as a result of its process. A lot of companies are looking at this and are asking whether they want to go through that only to find out in the end that their investments are not going to happen.

On the other hand, referring to the previous comments, the fact that CFIUS can retroactively force disinvestment in the name of national security is something I think is worth considering. There's the famous, obviously now well-known, case of Grindr, which is the matching application for homosexuals. They found out that this was bought by a Chinese company and it could potentially be abused. People could be blackmailed, for instance, if they had not come out, or something like that. Retroactively, it forced the sale of the company.

You might question the fact whether, once the data has been transferred, it really matters if you force the disinvestment. It's kind of too late. Once you have the assets, whether it's the data or whether it's the technical information, disinvestment itself—forcing Grindr to be sold to an American, European or Canadian company—to me...the ship has sailed. It's too late, but, at least, it's potentially a threat that could be used, especially in the case of commitments that are made and they're not respecting those commitments.

I think the CFIUS process might be, in a way, too opaque for my liking.

• (1720)

**Mr. Brian Masse:** Thanks.

I'll go to Mr. Bruce and let him get in on this if he has an opinion.

The Grindr one was really about limiting damage control and also whether they, later on, would get more acquisitions as well. That's a very good point.

Mr. Bruce, do you have anything on this?

**Mr. Malcolm Bruce:** No, I'm actually not going to comment any further. I think most of those points have been addressed.

**Mr. Brian Masse:** I will go back to Mr. Leblond.

You mentioned Rona not being strategic, but when you look at some of the consumer stuff out there, as an economist... I'm just looking at lack of competition being a big issue. Zellers was bought by Target, and Zellers was making a profit. It actually had benefits for its workers and so forth. Target is now gone. Future Shop was bought by Best Buy, and it closed up. Stone Canyon in Windsor bought Windsor Salt. They also bought an American firm, and now there are strikes and stuff like that.

With Rona and Lowe's, I guess I would argue that, for a strategic industry, these are consumer products that have intrinsic values in our economy for businesses and consumers. How do we relate that?

I'm not taking offence to your comment and saying it's not strategic. I want to challenge that assessment in the sense that the lack of competition by losing consumer products that are connected to small and medium-sized businesses becomes a problematic thing for our economy.

**Dr. Patrick Leblond:** My comment in terms of what is strategic, and going back to my testimony from 2020, is that again it was more in the context of a threat to national security. I think what you're referring to is more on the net benefit analysis within the Investment Canada Act. Obviously, to me, you're absolutely right that competition should be part of that analysis. Now it is not clear to

me whether it is. It's one of the things that are obviously or supposed to be considered, but often we don't know.

That's one of the issues in terms of transparency. Often we get the decision and say it's a net benefit, but we don't really know how the decision was reached and what part competition had in it. That's why I think, in general, it would be nice to have more transparency. Obviously, there are things you don't necessarily want to put out in the public, but then again, maybe parliamentarians should be part of that process and should have some kind of ability to review some of those decisions or at least get the information.

**Mr. Brian Masse:** Hence, you have valid criticism of or concern with CFIUS as a response mechanism, although it does include many more departments and governmental oversight. However, still, there's a secrecy behind it. You don't really know what the magic formula is, and we don't know what it is in terms of a decision by the minister.

Thank you, Mr. Chair.

Thank you for the testimony.

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

You have the floor, Mr. Williams.

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

I want to jump on a lot of the testimony. This is a good discussion with Mr. Masse.

Mr. Leblond, do you believe that part of the net benefit review should involve competition and that we should be looking at competition as one of the aspects?

**Dr. Patrick Leblond:** I think we should. Obviously, there is the Competition Bureau, which is the agency responsible for these things.

However, if we're looking at foreign acquisition, competition should be part of the analysis. Certainly, it is in some sectors, such as the financial sector. If we had a major international bank or other investors, that would be one of the concerns we might have. In some cases, it might lead to more competition. In others, it might not.

If the idea is to attract investments but also to stimulate more competition to ultimately create more investments—not just foreign ones but Canadian ones—I think it's one of the considerations.

As I said, I don't know what the process is. I don't know when there is an investment where, on the one side, you have the investment Canada team looking at and reviewing a transaction and, on the other, you have the Competition Bureau. Do they talk to each other? Do they exchange information? I have no idea.

**Mr. Ryan Williams:** I want to get into the other thing you were talking about earlier, which was the critical technology list that CFIUS has. Maybe I'll ask this of some of the other witnesses here.

In Canada, we seem to have an investment review division that's part of ISED. What CFIUS says is that it's multi-agency. I think Mr. Masse mentioned about 15 different agencies. They're on their own.

I agree that we shouldn't have a list that's embedded or baked into legislation, because it can take 15 years sometimes to undo that, but is the investment review division sufficient? To any of the witnesses, instead of being baked into just ISED, should it be across many agencies?

I'll start with Mr. Leblond.

**Dr. Patrick Leblond:** Thank you for your question.

I think so. The fact is that now we're not just talking about buying stuff. We're talking about buying, sometimes, very sophisticated technology—

• (1725)

**Mr. Ryan Williams:** To interrupt, I think the term you have not said once but are alluding to is “intellectual property”. You've talked about data stuff, but the thing we've studied in other committees and talked about here is commercializing IP or protecting IP.

We're looking at the ICA. Would you agree it's IP that we're evidently trying to protect for Canada?

**Dr. Patrick Leblond:** In a way, I'm using the terms that are set in the bill. Obviously, “intellectual property” covers a lot of ground.

Ultimately, what matters is that.... Again, if we're talking about national security, it should involve the investment review people, but they should certainly talk to the people at CSIS. Maybe they should talk to the people at Global Affairs Canada, who might have certain knowledge about a company or where it comes from and about the investors themselves.

Where is that expertise, whether it's in terms of the technology or the person acquiring it?

To me, it should be much more of a whole-of-government approach, since national security is a whole-of-government issue, even on the net benefit, which, to me, is separate from the national security one. More and more it seems that, as I just mentioned, co-operating with the Competition Bureau would be a good idea.

**Mr. Ryan Williams:** I think you have some good ideas.

I want to go to Dr. Lee and Mr. Bruce on this too. One of the big ones we have is FINTRAC. FINTRAC is an organization. Again, sometimes they work...but they are different legal entities. They work separately.

Dr. Lee and Mr. Bruce, can you answer that from your perspective as well? Answer really quickly, if you can.

**Dr. Ian Lee:** I'll be very quick.

I have to respectfully disagree with Dr. Leblond. I agree on the national security side—I'm not going to go there—but when I hear that you want to start looking now at the protection of Canadian IP and at the competitiveness, however you're going to measure that in industries that are very dynamic....

I want to give a quick “for instance”. Last November, I had never really heard of ChatGPT, and now I've decided, after a two-hour

seminar I watched two days ago by Dr. Tony Bailetti in his technology innovation program, that I'm going to spend the entire summer getting up to speed to embed it in my course. This is in the space of four months. This is how quickly things are moving.

However, the language of various members of the committee suggests that in the commercial sphere—and I'm not talking about the Chinese or threats to national security—we can somehow fix it. We'll say, “Okay, Rona, you're going to do all these things for the next five years,” which implicitly suggests that there's no change in the markets.

The markets are just far too dynamic. I don't think you can go down that road.

**Mr. Malcolm Bruce:** I tend to agree.

I think, for national security, the answer is yes. In everything else.... The reality is that 90% of all our businesses are small and medium-size enterprises, and they're ripe for the taking. M and A is occurring regularly among our technologies and other things. This is just the reality of the way our ecosystem and the world ecosystem are working right now.

What we need to do is focus on the outcomes we want to create, and then make sure this legislation is creating outcomes that will help us achieve them. Thank you.

**Mr. Ryan Williams:** Thank you.

I'll focus on one last subject I want to talk about, which is looking at China itself.

Obviously, we've had testimony. I'm sure it isn't any surprise that any company—it doesn't matter who it is—operating within China is a state-owned industry. Somehow, in some way, those companies are all embedded with the state itself.

Mr. Leblond, would you support that, for any company that's state-owned, we do an automatic review?

**Dr. Patrick Leblond:** Right now, certainly, for a lot of transactions, my understanding is that it is automatic. I think, again, it depends on what the nature of the acquisition is.

For instance, a state-owned company that buys a mine.... It's in the ground. You can't easily move it outside Canada. Now, if there is a fear this Chinese company—state-owned or not—would take what's in the ground and move it abroad for its own purpose, with no benefit to Canada, then again, to me, in this case, it's not so much the type of ownership; it's what the risks are. Commitments could be required or regulations could be done. Again, we have to look at what the risks we're talking about are. In some cases, ownership doesn't matter—whether it's state-owned or not.

Should we just talk about China? I'm not sure. I think one has to look at the governments, obviously, in various countries. We might have worries that they can gain access that could ultimately threaten Canada's national security. That could be part of the economy.

We talk a lot about China, access to data and all these things, but we never question the fact that, in the United States, the government also has access, through the Patriot Act and other things, to a lot of data and companies. Because the U.S. is obviously an ally, we don't worry about that. However, the same kind of access the U.S. government has.... A lot of governments, even in democracies, have the same thing. Now, should we be concerned about that? In some cases, we have been. We have said, "No, we can't allow this kind of data to go to the U.S. because it has actually hurt Canadians."

Just saying, "Everything Chinese is bad" or "Everything this is bad".... I think we have to look at what the risks are. Is the Chinese acquisition of a piece of land a problem? If so, why is it a problem? That land cannot be easily moved. There are other things, such as IP, that can be easily moved. What would it mean if it were moved from the Canadian economy? Mining is another thing—critical minerals. Yes, if they are moved and serve only Chinese companies, that could be a problem.

Again, it's not so much about the ownership. It might be more about what.... A Canadian company could also sell everything to China, because China would pay more for critical minerals. Maybe we need a separate approach focused on a percentage of what comes out of the ground, so that some stays in Canada or goes to the U.S., for instance, for our consumption. The rest, you can sell to whomever you want at whatever price you want.

I'm just saying it's not always a question of ownership creating the risk.

• (1730)

**Mr. Ryan Williams:** Thank you, sir.

[*Translation*]

**The Chair:** Thank you.

Mr. Gaheer, the floor is yours.

[*English*]

**Mr. Iqwinder Gaheer (Mississauga—Malton, Lib.):** Thank you, Mr. Chair.

Thank you to the witnesses for appearing before the committee.

I'd like to ask questions of Mr. Bruce and Dr. Lee about the provisions in the act itself.

In the act, we know there's an amendment to create a new filing requirement prior to the implementation of investments in prescribed business sectors. Some colleagues, I think, would rather the act require pre-implementation filing for all investments and not just for key sectors.

My personal view is that requiring the investments to undergo this filing for all sectors would create more red tape for investors. However, the targeted pre-implementation filing measure would achieve the objective of protecting national security while also limiting the economic harm.

I want to get your views on that.

**Mr. Malcolm Bruce:** I'm happy to start.

The problem is that I don't know what those pre-filing conditions will be, because they have not been outlined in regulation yet. It's really hard to make a qualified answer to the conditions.

To follow on Mr. Lee's point, anything we do that's going to add to the regulatory burden of companies' trying to invest here will be a disincentive, not an incentive, to people.

Again, I can't give you a better answer than that because I don't know what those pre-filing conditions are going to be.

**Mr. Iqwinder Gaheer:** Would you at least agree that it should be for key sectors and not for all transactions that go through?

**Mr. Malcolm Bruce:** Less is more in this particular case, yes.

**Dr. Ian Lee:** I'll respond to the question you just asked very quickly.

I'm very skeptical, and I've talked before and certainly in my classes for a long time of this idea of strategic industries. Michael Porter has written about this, and I think he's criticized it quite extensively, as have other economists. Dr. Leblond would be very familiar with this.

It's really just to disguise picking winners and losers. If we're worried about certain companies—or certain ownership, as Dr. Leblond put it—fine, we can develop regulations in that respect. Just saying a blanket industry is strategic seems to me to be bordering on tipping over into protectionism, which is going to harm the Canadian economy.

**Mr. Iqwinder Gaheer:** My question is again for Mr. Bruce.

We know that companies often hold significant value in IP, intangible assets. The interim conditions that are proposed in Bill C-34 would block access to those assets in order to address the risk of national security injury that could arise during the course of the review of that investment, thereby reducing the threat to national security, while Canadian businesses can continue to operate with minimal impact and continue to review.

Can you talk a little more to the committee about the benefit of having these interim conditions and what sort of interim conditions you'd like to see?

• (1735)

**Mr. Malcolm Bruce:** Again, having been in the business of doing business with folks who want to invest in this country, the regulatory environment is a key one. If we are going to lay out conditions that are going to impact, for example, IP, we need to make sure that they're clear and transparent so people understand what those things are going to be when it comes to national security.

The other comment that has been alluded to is the net benefit agreement. The reality is that much of the technology that we're looking at today is going to be able to be used for dual purpose. Again, if you're going to be looking at certain sectors and certain technologies, we need to understand. Artificial intelligence, for example, is going to be the defining technology over the next two decades. It's not a vertical. It's a horizontal, which means that it's going to be integrated in virtually every sector in this country, national defence right through to health and life sciences criteria.

How do you protect against the use of that in some other form? I think you're going to have a very challenging set of conditions if you're going to want to list them all. I think you have to look at outcome-based things that are more important to drive what you're looking for in this legislation.

**Mr. Iqwinder Gaheer:** We know that Bill C-34 will also amend the ICA to allow Canada to share case-specific information with international counterparts.

Can you talk to the committee about how this step will facilitate international collaboration and information exchange to potentially address areas where there are common national security threats?

**Dr. Ian Lee:** I'll defer to Mr. Bruce on that.

**Mr. Malcolm Bruce:** When it comes to an ally, there will be opportunities to speak to them. I think the point has been raised.

Acts like the Patriot Act are a point of interest for many folks who are looking to access the U.S. market. They come to Canada to be able to store their data here but still be able to access the largest market in the world, which is the U.S. They come to Canada because there are advantages to not being in the U.S. jurisdiction because of things like the Patriot Act.

There are going to be times when we can cheer, and there are going to be times when we're not cheering, simply because our own national interests have to take priority over some of our allies, not to mention some of the other folks who are doing it.

I would not do it with China. I would not do it with Thailand or Vietnam, because these types of countries we have agreements with, for their own economic well-being, are the Chinese. Whenever

er we're dealing with a third party, we need to understand where their linkages are in other parts of the world, because that technology could transfer quite quickly.

**Mr. Iqwinder Gaheer:** Great. Thank you.

That's why it will be case by case.

Mr. Chair, that's the end of my questions.

[*Translation*]

**The Chair:** Thank you.

Mr. Lemire, the floor is yours.

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

Mr. Leblond, I would like to talk first about acquisitions of foreign Quebec or Canadian entities, but also about the importance of contracts secured by foreign businesses in response to public tenders, particularly in strategic sectors, that may have enormous impacts in terms of national security. I am thinking here of the example of the China Railroad Rolling Stock Corporation. That Chinese business, which was banned in the United States, has been selected as a possible candidate for replacing Toronto's subway cars.

If we want to protect our national security, should the Investment Canada Act not provide measures that would also protect public tenders in strategic sectors?

**Dr. Patrick Leblond:** That is a good question.

In general, it is up to the government that issues the tender to take into account things that might represent a threat to public security, whether national or regional.

In the case of a public tender for rebuilding subway cars in Toronto, the public security aspects do need to be taken into account. If we can think that a business, Chinese or otherwise, presents risks because of a close connection with the Chinese government, that absolutely has to be taken into account. It presents risks relating to access to critical information or to information about a critical technique or infrastructure.

What I understand at the moment is that things like these are not covered by the Investment Canada Act. They are the responsibility of the government that issues the tender. The question to ask ourselves is: does a municipal government or regional authority that issues this kind of tender have to take those elements into account? I don't have the answer. You would have to ask them.

In cases like that, we can ask ourselves what powers are given to the federal government or the provincial governments to impose criteria like this in awarding contracts. One thing is certain, when it involves a subway, it involves potentially critical infrastructure.

• (1740)

**Mr. Sébastien Lemire:** Exactly.

**The Chair:** Do you want to continue, Mr. Lemire?

**Mr. Sébastien Lemire:** I would be curious to ask Mr. Lee or Mr. Bruce the same question, if they wanted to add something.

[English]

**Dr. Ian Lee:** You can go first, Mr. Bruce, but I will add.

**Mr. Malcolm Bruce:** Thank you.

It's an interesting question because when you think of what international needs are.... In China, they have an aging population. What they want to do is learn how our seniors system, believe it or not.... I know many of us in this country believe that it's broken, but in many cases, countries like China that are experiencing a vast aging of their population are looking to Canada for solutions. One of the ways they learn is to acquire assets that are in this country to figure out how we're actually conducting independent living, assisted living and dementia living all in the same complex. The Chinese are looking to us for help.

The question, then, that you have to ask yourself is.... They will, then, continue to provide that service when they acquire that particular facility or those facilities or a company that delivers those facilities. Is that considered a net benefit to Canada? Is it a threat to security? I would suggest that it's probably not a security threat, but it is going to be a net benefit for Canada. We're helping them solve a problem, which will build good relationships with the people we want to in the Chinese economy.

**Dr. Ian Lee:** I'll add to that very quickly.

I'm not one of those people who think we should ban all Chinese investment. I hope the Chinese import a lot of LNG from Canada so that they can reduce their dependence on coal as the number one emitter of GHGs in the world. I'm not going to be unhappy if they're importing wood or agricultural products because these are products that are not sensitive—I don't think they're sensitive—to national security.

There are industries we know.... A moment ago I was dismissive of the idea of strategic industries. I did not say that certain industries aren't a greater risk. I think the issue—and I think both of the other witnesses have mentioned this or focused on this—is the degree of risk involved in terms of the particular industry or the particular asset that we're discussing.

I don't see any risk in exporting agricultural products to China. I hope that we can trade a lot more and export a lot more. However, there are other industries wherein we don't want to have any relationship, especially in the high-technology realm.

[Translation]

**Mr. Sébastien Lemire:** Thank you.

Thank you, Mr. Chair.

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

Mr. Masse, the floor is yours.

[English]

**Mr. Brian Masse:** Thank you, Mr. Chair. I'm going to table a motion with my time.

Before I do that, I just want to note that, in Windsor West, we actually had to call the army in during COVID because the private sector was killing our residents by not providing proper services. They also had the Salvation Army in. It's interesting. I hope we don't teach others the wrong things.

With regard to my motion, I'll use my time here so we don't take up witness time. I move:

That pursuant to standing order 108(2) the committee undertake meetings to study the proposed takeover of HSBC's Canadian division by the Royal Bank of Canada (RBC), which is the largest proposed acquisition in the banking sector since RBC's proposed takeover of the Bank of Montreal was rejected by regulators.

The reason I'm tabling that is that we will have some business coming up. I'm hopeful that we can actually have some discussion on this.

The Competition Bureau has asked for further information with regard to this takeover. It was in the early 1990s that the Bank of Montreal was actually not consumed by a takeover because of regulator decisions. This obviously has significant consequences for consumers and also for small businesses and medium-sized businesses in particular.

With that, I'll table the motion and leave it for the committee for the next date that we have business, please.

Thank you, Mr. Chair. That's the end of my intervention.

• (1745)

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

I understand that you don't require us to vote on your motion at this point. You're just tabling it for future discussion.

**Mr. Brian Masse:** I don't like to ambush members at the last minute and so forth. I want to get it....

**Some hon. members:** Oh, oh!

**Mr. Brian Masse:** I have learned from somebody else's practices.

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

I understand for the benefit of members that you're not pulling what's called "a Brad Vis" here in this committee.

Thank you very much.

I'm sorry to our witnesses for this interruption, but this is part of committee business.

I appreciate your motion, Mr. Masse. We'll look at it at the first opportunity when we do committee business.

We'll now turn to Madam Lapointe for five minutes.

[Translation]

**Ms. Viviane Lapointe (Sudbury, Lib.):** Thank you, Mr. Chair.

[English]

My question is for Mr. Bruce.

I'm an MP from Sudbury. Critical minerals are very important to our region. We know that critical minerals present a significant opportunity for Canada.

If we focus on the minerals only without developing the infrastructure around it, like refining, processing and mining innovation, we'll have lost a significant portion of that economic opportunity. I found it interesting when you talked in your opening statement about how we need to ensure that the processing is being done here in Canada.

What does the government need to do to ensure that this occurs and that we build that chain here in Canada?

**Mr. Malcolm Bruce:** The first thing is that, if we agree that this is critical to our national interests, we need to look at the entire value chain and figure out where our friction points are and then mitigate against those so that we are able to build them here.

I'll give you another example of the reason why we want to process material in Canada.

We ship most of our critical minerals out for others to process on our behalf. There are residual outcomes from these processes. In one case, critical minerals that are processed produce another critical mineral. Maybe 30 tonnes are produced globally. Every single pair of night-vision goggles produced globally has this critical mineral in it. Canada could be the main provider of it, but we're not anymore because we ship it all out.

When you talk about national security and national interests, one would think that, if we can get the foundries and the value added here, then we're not only becoming a valued ally or exporter, but we are also providing great high-paying jobs and all the rest of it for economic benefit to Canada.

**Ms. Viviane Lapointe:** Thank you.

Mr. Lee, do you want to add to that?

**Dr. Ian Lee:** Yes.

Pardon me for invoking academic theory from time to time, but Einstein said theory can very practical.

Porter talked about this in his idea of cluster theory. It's had a huge impact at the United Nations. Developing countries have taken very it seriously. It's the idea that you don't just want to have one company that's very successful; you want to have that constellation of companies and the full value chain system that Mr. Bruce was referring to.

I completely agree. Porter argued that the wealthiest countries in the world—Germany, Japan and U.S.—have more clusters. Hollywood is a cluster. Silicon Valley is a cluster. Banking in New York City is a cluster. It's not just the bank itself; it's all of the suppliers. In Hollywood, it's the scriptwriters and all the people who win Academy Awards. That's the cluster. That's what you're referring to.

Where I'm going with this is that I don't think we can legislate it. I think what we have to do is create the conditions necessary to encourage companies to come here.

Mr. Bruce said to identify the friction points. I think we should, and I hope you MPs ask the questions: Why are they not coming here right now? Why are they going somewhere else? They come here, get the minerals and ship them out. The first and most obvious question is why.

Given all the advantages that we have, there's something missing. That's why we have this capital outflow, which has been documented. More money is flowing out in FDI than is coming into Canada. People are voting with their feet because there's something that they see that's remiss or not going in the right direction. I think we have to zero in on that to fix those problems or, what Mr. Bruce called, friction points.

**Ms. Viviane Lapointe:** Thank you.

Mr. Bruce, you also talked about your travels across the globe and how investors want to invest in Canada. I can tell you that I've had that experience too. I attended the prospectors and developers conference in March this year. It was very clear from talking to investors across the world that they want to invest in Canada.

You said that we need to ensure that they can. What do we need to do to be successful on this front?

• (1750)

**Mr. Malcolm Bruce:** We need to be providing an enabling framework and not a constraining one. I say that in all sincerity. In the example I cited in my opening remarks, this company tried for four years to get through the regulatory process to be able to open a foundry. They spent millions of dollars trying to do that. In the end, he gave up and went down to Tennessee, where he's spending over a billion dollars to process raw materials that are coming out of our mines in Canada.

This is just one of a number of issues that we continue to impose on ourselves, this uncertainty, and the fact that we don't get bipartisan agreement on big, major national projects that are important to our national security and our national health. I think there are things we could do better as a collaborative to be able to create far better outcomes than what we're achieving.

We have all the inputs in the world. I'll give you an example in the agriculture industry. The Dutch have 4.4 million acres in agriculture. They produce about \$150 billion of GDP out of their ag sector. Canada, just in the three prairie provinces alone, has 78 million acres of arable land. The total output for Canada's ag sector is about \$136 billion. The Dutch do better on their 4.4 million acres than we can do on our entire land mass.

You tell me why we can't do better. Some of it is that we're constraining, not enabling.

**Ms. Viviane Lapointe:** My last question is for both Mr. Lee and Mr. Bruce.

In your opinion, will this bill help mitigate potentially harmful foreign investments in critical minerals?

**Mr. Malcolm Bruce:** I'll let you answer first, Mr. Lee.

**Dr. Ian Lee:** Thank you.

Yes, I think it probably will. I'm saying that with hesitation, because it's mixed up in this instance. There's national security mixed up with net benefit. As I keep saying, these are two very different animals. The animal I'm much more familiar with is net benefit, which is not the language I use. I talk about sustainable competitive advantage. Sustainable competitive advantage is just the business strategy term for net benefit, so we're just using synonyms for the same phenomenon. There are others here far more versed in national security, but it seems to me that with critical minerals it's both, so this is making it devilishly complex for you, the legislators. I'm very sympathetic to you, but I think this is going to slow it down at a time when we need to speed it up.

It's not just lithium. It's the other critical minerals. I think there's an increasing world shortage of copper. Copper's the backbone of decarbonization. The studies I am reading—serious studies, really good international studies—are saying that there's a huge shortage of copper. I think this is going to possibly slow things down.

**Mr. Malcolm Bruce:** My only comment is that we have to do better than what we're doing now. I'm interested in seeing where this goes. The jury's still out, so to speak.

[*Translation*]

**The Chair:** Thank you, Ms. Lapointe.

I will now turn the floor over to Mr. Lawrence for five minutes.

[*English*]

**Mr. Philip Lawrence (Northumberland—Peterborough South, CPC):** Thank you very much.

My questions are with respect to some of the definition issues and the “to come” regulations. I would certainly give the government this much grace: This is not an easy area in which to draft legislation. I think we all have to be aware of that. I would put that at the outset of my comments.

I think there are a number of definitional issues that will cause considerable struggles going forward, and without having the prescribed regulations in front of us, it will make it even more challenging. Some of the ideas that are weakly defined include “business activity” and “material assets”, among others. I have another definitional issue, but maybe I'll start there.

Maybe you can give me some assurance and say, “No, Mr. Lawrence, this is completely clear”, or maybe, if you share any of these issues, you can expand upon them. I'd welcome comments from any or all of the panellists.

**Dr. Ian Lee:** Can I jump in on that very quickly?

Dr. Leblond brought this up earlier and I was really itching to jump in. He brought up something very important that he talked about in his last appearance, and I'm going to use slightly different language to say the same thing.

What he was talking about was the phenomenon of the past 20 to 25 years of the unbundling of the corporation or the unbundling of the value chain. Ronald Coase won a Nobel Prize at the University

of Chicago asking why firms exist. He said they're a bundle of value-creating activities. What we've learned, because of the incredible power of IT, is that corporations today in their corporate strategies can bundle, rebundle, unbundle and sell off this asset without shutting down the firm or selling the firm out in an IPO.

As your committee starts to go down that rabbit hole of saying, not only do we want to regulate the corporate entity, which I do understand.... When you start saying, I want to regulate the IP of the entity and maybe this mine of it, you're getting deep into the value chain and the corporate and business strategic decision-making of individual corporations.

First, I don't think that's your role as parliamentarians, and second, even if you decide it's your role, I think you're going to have hell on earth trying to become such a macro-micro regulator. You're getting deep into the corporate and business strategic decisions of what assets they need to maximize value creation. When you start getting down to that, I understand your motives and I understand your intent, but I just think you're talking about very large numbers of companies. They're very complex and they're very sophisticated, and I think you're going to find it devilishly difficult.

• (1755)

**Dr. Patrick Leblond:** Thank you.

My opening remarks and subsequent answers to questions obviously raised the issue of what business activity is in relation to material assets or technical information.

As I mentioned at the outset, focusing on business activity and separating it to some extent from the assets and the technical information I find is problematic in the current bill. This is because, in a way, if the focus to trigger a notification is a business activity and the acquisition of the business activity or an entity, then what happens, as I said, if a foreign investor buys the assets directly or the information?

**Mr. Philip Lawrence:** I'm curious because you did mention that before, and there was a question that came to mind. I'm asking you to state the other side of the argument, which might be difficult for you.

Why do you think they chose the entity level as opposed to the asset level?

**Dr. Patrick Leblond:** I don't know. You would have to ask the drafters.

I think in part this is how the Investment Canada Act is built. It's focused on the entity and the business activity, and not so much on assets—except that now it's no longer just about an investor buying into a company or an enterprise. We're talking in terms of national security. The enterprise itself is not the problem in terms of national security. It's what we do with those assets or what potentially a foreign investor could do with those assets in threatening national security. It's the same thing with technical information.

**Mr. Philip Lawrence:** That's a great segue, actually.

My other definitional issue is with respect to national security. It's easy for a politician to write down those words, but as we've seen just recently with one of our own MPs and his family being threatened, the breadth of national security can be quite wide.

An example is a predatory regime. If they get a lead in AI that could be a national security issue for us going forward. In fact, I would challenge Mr. Bruce.

You said something about working with perhaps the regime in Beijing, and if we give them access to our economy we'll be friends with them. To me that just strikes of naïveté and dangerously so. Should we not be separating, or at least having some discussion in terms of there being a difference there from the United States of America, a democracy that, by and large, lives by the rule of law as opposed to authoritarian, dictatorial regimes?

I would open the floor to Mr. Bruce on that.

**Mr. Malcolm Bruce:** Thank you.

First of all, I didn't say "friends". What I said was, the engagement with China is something we will continue to do unless we sever all ties with them. As I indicated, we had a 17% growth in our bilateral trade with them last year. It's now at \$100 billion. We are engaging with China, so the question is this: Do we want to be in the driver's seat, or do we want to be driven by that relationship?

I'm saying to you that we have opportunities to continue engagement—and dialogue is important. People forget you're in the coldest of the cold wars. Thirty per cent of western Europe's energy needs were met by the U.S.S.R. When they were building the wall around Berlin, we were still talking to the U.S.S.R. The fact that people want to completely cut off these countries, I think is naive.

We need to be able to sit down and have conversations where it's appropriate to do so, in our own national interests. Climate change is a good one, health and life sciences. Look at the work we did on COVID-19 around the world. There are things we can work on together where we mutually agree on the outcome, and I think that's what I was talking about.

• (1800)

**Mr. Philip Lawrence:** Mr. Leblond, maybe I'll throw it back to you.

The definition of national security isn't just about arms that we might be selling to other countries or to military. Do you share at all my concern that defining national security could be incredibly broad? I think Mr. Bruce even brought up land. To a certain extent, if an authoritarian regime is buying large swaths of our farmland, that to me is also a national security concern.

Do you share any of those concerns, or am I all wet on this one?

**Dr. Patrick Leblond:** No, you're absolutely right. National security can be defined very broadly. Ultimately, national security is whatever the government says it is. We saw that early during the Trump administration, when all of a sudden tariffs were imposed on our steel and aluminum, because of national security. From our point of view, we were no threat to the United States' national security—on the contrary—but in the mind of Donald Trump we were.

Obviously, we can all agree that it was not national security. It was much more about protectionism, but, yes, national security can be invoked for other purposes. Again, with transparency in mind, obviously national security takes many forms. I'm not sure we can define it in a way that says, okay, this is national security; this is not.

Given the example of land, you can say, if a foreign country buys all our agricultural land and decides that it wants to starve us and decides not to exploit those lands, that's a national security issue. Now, if it exploits it and then exports it somewhere else, maybe too much to our liking to China, but then, if the revenues are taxed here and we can buy other stuff, you might say that's not a national security issue.

Your question is correct, and it reflects the challenges. In a way, to me, if there are decisions that are made on national security grounds, they have to be justified somehow, at a minimum, to Parliament, which ultimately is supposed to hold government to account.

**Mr. Philip Lawrence:** I'm good, Chair.

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

Colleagues, I've spoken to you off-line, but instead of going to a formal third round, given that it's already six, I propose that we just open the floor to those of you who have questions. Given that Mr. Perkins just told me he has a pile of questions, I'll go to Mr. Lemire first.

**Voices:** Oh, oh!

[*Translation*]

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

I am going to start by doing what Brian Masse did and table a motion, as I undertook to do at the Standing Committee on Canadian Heritage this week. I am going to essentially repeat the following motion here at the committee, which was tabled in the other committee by my Conservative colleague, Rachael Thomas:

That, considering the Auditor General report tabled on Monday, March 27th titled "the Progress on access to high-speed Internet and mobile cellular services lags behind for rural and remote communities and First Nations reserves", the committee invite Karen Hogan, Auditor General of Canada, to testify before committee as soon as possible for no less than 2 hours.

We agree that given our committee's workload, "as soon as possible" will probably be in the fall. However, I thought it worthwhile for this motion to be included in the committee's discussions, because Liberal Chris Bittle had raised the fact that it was maybe more up to the Standing Committee on Industry and Technology to debate it. In my opinion, it is important for this motion to be included in our discussions at some point, so I am giving notice today, without debating it.

I will now come back to the witnesses and the question of transparency, which is important.

Mr. Lee, foreign investments funds obviously have to be able to continue doing business. However, the global situation can change. For a country, some nations may be allies one minute, but become enemies or non-allies the next. We can agree that the situation with China and Russia has evolved very rapidly over the last five years alone.

Should the way Canada accepts foreign investments change? What options do we have for remaining open to allowing these funds in, but also protecting our national security? Does the current Investment Canada Act protect Canada well, given the growing hegemony of certain countries?

• (1805)

[*English*]

**Dr. Ian Lee:** Thank you, Mr. Lemire. I was glad you asked that question, because I'm obviously a lot older than you are, so I have memories going back to the Cold War.

I'm bringing that up because I'm in this debate group with some friends of mine, and academia out in the business world is debating and saying that the U.S. dollar is in decline as the foreign reserve currency, yet when you look back over the last 100 years, right up to today, I don't see big changes in our allies and our enemies. There was a bloc called the Warsaw Pact, or the U.S.S.R. and its satellites, that worked under its own currency, which was ruble-dominated. They were the "enemies". There is a bloc emerging today. China is pushing this BRIC-issued currency.

To answer your question, I went and looked up World Bank data. It's very easy to access. I looked up the allies, the OECD countries that are really under the U.S. partnership or umbrella. The GDP of these countries—I'm talking about the OECD, so it's 35 or 36 countries, including France, Germany, Italy and Canada—is about two-thirds, or \$65 trillion, of the world GDP of \$100 trillion.

The developed countries—and I'm not being ethnocentric, because I've taught in many developing countries—the high-income countries, to use the World Bank classification, are two-thirds of the world. They are growing much more quickly. As *The Economist* cover story showed just last week, the United States is growing and outperforming everybody. It seems to me that the coalition of partners is very stable, all the way from 1917 and the Russian revolution to today. It's just that China, if you will, has taken the place of the Soviet Union. You have two very clear blocs emerging again.

I don't disagree with Mr. Bruce. I'm not suggesting we should stop dealing with China. I'm saying we can deal with China, to put it simplistically and crudely, with low-technology products, shipping them fish, wheat or barley. I understand the believable and serious concern with much more sophisticated products, for which there are issues of technology that we don't want to transfer.

I think we can look at the world through that prism of two blocs. There's the OECD bloc, the high-income bloc or the U.S.-led bloc—whatever word we want. There's another bloc led by China,

but it's much smaller. It's only a third of the world's GDP. By the way, the lion's share of that is China.

If you look at it through that lens, I think you can look at the national security.... I know who the allies of Canada are. They are next door. They are the U.S., Germany, France, Italy, the U.K. and so forth. I don't worry about that, because I have a clear idea.

I'm saying this as somebody who has taught in China for 25 years, year after year. I love going there. There are wonderful people at the student level, but at the same time, it's a very different bloc with very different values and a very different legal system. We have a good sense of who the two camps or the two blocs are and what countries are in each one.

[*Translation*]

**Mr. Sébastien Lemire:** It is important to be both rigid, flexible and agile when it comes to the Investment Canada Act. One approach will maybe be to do it by a list of regulations.

This is particularly true in relation to protecting critical and strategic minerals. Do you feel that the present list is complete? Is this the right way to protect our investments in what is obviously the foundation of the 21st century economy?

[*English*]

**Dr. Ian Lee:** If you're asking me, I will be very quick, because I know the other two and I want to hear them.

I'm not worried about protecting critical minerals from the Germans or the Americans. I'm not. I keep saying there are two animals in this bill. There's the national security animal, which is very important. I think that's much more important. You're going in the right direction, it seems to me.

On the net benefit, I think you're going in the wrong direction. You're trying to micromanage companies and foreign investment from reliable partners like the U.S., Switzerland, Germany or France, when we should have a lighter hand and less regulation. That's where the lion's share of foreign direct investment is coming from, and I don't see them as a threat to national security.

People who are far more learned in national security may disagree with me on that.

• (1810)

[*Translation*]

**Mr. Sébastien Lemire:** Mr. Chair, before turning the floor over to Mr. Perkins, I will let the other two witnesses give us their opinion on protecting critical and strategic minerals using the Investment Canada Act.

**Dr. Patrick Leblond:** As far as I'm concerned, as I have already said, I wonder whether critical minerals represent a threat to national security. It isn't clear. If we compare a mine owned by Chinese interests to a mine owned by German interests, does it pose a threat to national security? That isn't necessarily the case. A German business might very well decide to sell its entire production to Germany to produce electric vehicles in Germany, while a Chinese business might simply sell its minerals to the highest bidder, and vice versa, of course.

In a case like that, the question that arises is where the risk lies, and what the threat is. Is there really a threat to national security? Maybe not, unless the minerals are used to manufacture military equipment, for example. At that point, we might need to debate it. Again, there is the issue of the identity of the owner. In addition, since the owner always has the option of buying the asset but not operating it, would we have ways of requiring that the owner operate it, for example by telling the owner that it will lose its investment if the asset is not operated?

There may be other avenues to explore that are not limited solely to agreeing or not agreeing to the investment. In some cases, foreign investors are prepared to pay dearly to get our assets. So do we want to deprive ourselves of that? We have to ask ourselves why they want to pay so much, and what economic risks and, potentially, national security risks there are. However, whether the investors are Chinese, German or American is not necessarily going to determine the risk. A more thorough and somewhat more nuanced analysis has to be done.

**Mr. Sébastien Lemire:** Mr. Bruce, do you have something to add?

[*English*]

**Mr. Malcolm Bruce:** The only thing I would love to add is that supply chains are very integrated on a global scale.

There will be some resiliency and reshoring of certain supply chains around national interests, but think about the iPhone, which many of you hold. It's built primarily by a Taiwanese company called Foxconn. They have a million employees in mainland China. In fact, the phone is being made in China. Tesla's batteries for their vehicles, by and large, are made in mainland China, because they have the capacity to scale and the technology to be able to do that.

I think you have to look at a supply chain issue when it comes to certain outcomes you're looking for and understand where all that integration occurs. Again, I think we need to have a more mature and very methodical look at what these things look like, because we can't prescribe one action that is going to cover all these other bases we have.

I think flexibility and agility in the legislation are going to be key.

[*Translation*]

**Mr. Sébastien Lemire:** Thank you.

[*English*]

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

Go ahead, Mr. Perkins.

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

Thank you, witnesses.

I think I'd like to take us away from the issue of trade, because this bill is not about trade, and we've had a lot of discussion here about trade. This bill is about when a foreign company buys a Canadian company. The Investment Canada Act, which replaced FIRA in the 1980s, exists to deal with that issue. I'd like to focus my questions and the responses on that issue.

I'll start with Dr. Leblond.

The Investment Canada Act has a formula for when a foreign takeover allows the minister to start a review. Right now, this year, it's at \$1.3 billion, so any foreign takeover of a Canadian company—not asset—of more than \$1.3 billion then allows ISED Canada and the minister to take a look at it. There is nothing in the Investment Canada Act that compels them to do a national security review or a net benefit review.

How do we know that? In the last few years, we've seen the takeover of Tancomine, a lithium-producing mine in Manitoba, by a large, Chinese, state-owned resources company, and it had no national security review. The minister of the day, Navdeep Bains, decided not to do a national security review. We know that Norsat, which owns Sinclair Technologies—Norsat was a Vancouver telecommunications company and Sinclair was a Toronto-based company—was acquired in 2019 by Hytera, which is a Chinese state-owned company. Again, the minister of the day chose not to do a national security review, so there's nothing in there that requires that.

Earlier you mentioned that you thought it was automatic. It's not. Right now that flexibility applies to a state-owned enterprise that acquires something that's over \$415 million. If it's under \$415 million.... China is buying a lot of assets in Canada under \$400 million. In my part of the world, they're paying five times the price every quarter for at least three to four lobster buyers. I know it seems small, but they're paying \$10 million for \$2-million businesses. They've bought the supply chain. They've bought the control of the freight-forwarding company that exports all of that lobster out of Nova Scotia. Now, if you're not a Chinese state-owned buyer in Nova Scotia, your lobster has to go to New York or Chicago to fly to Asia, and the Halifax airport live lobster control is now being controlled by the freight forwarder owned by China.

There are supply chain issues here of takeovers, but when you're below \$415 million, there's an issue. Even when you are over \$415 million, there's no guarantee.

What I'm suggesting is that the state-owned enterprise takeover needs to be automatic. The minister doesn't get the option to choose not to do a national security review, which has happened quite frequently in the last few years.

I'd like your comments on that issue, please.

● (1815)

**Dr. Patrick Leblond:** The example you gave of the lobster could have happened with a non-state-owned enterprise. Ultimately, it's a competition issue. You basically have a company that has bought a bunch of companies and taken control of the supply chain and now somehow is managing a section of it in terms of a monopoly for its own benefit. To me, again, it's not really a question of whether it's ownership or not. This is really behaviour.

**Mr. Rick Perkins:** That was just one example below \$415 million—

**Dr. Patrick Leblond:** No, I understand.

**Mr. Rick Perkins:** —but it's a good point.

**Dr. Patrick Leblond:** The issue—and I've said this in other instances—is that sometimes the ownership itself is not the problem. It's the risks associated with that ownership. Obviously, on national security grounds, people will say, “A state-owned enterprise that buys a lobster company or the freight forwarding is not really a national security issue,” although maybe in Nova Scotia it might be considered national security, and I respect that. However, to me this case seems to be much more of a competition issue.

The big question, as you mentioned, in terms of SOEs or others is that, obviously, the thresholds create this kind of problem. If we think that SOEs are a problem—again, what kinds of SOEs are we talking about?—then it's a little bit like the bill here, Bill C-34. We think that anything in terms of either assets or technical information that might be a risk to national security needs to be notified. Ultimately, the minister has to decide whether this flies or not.

Now, if we think that state-owned enterprises in and of themselves are a menace to our economy or to our national security, the same logic should apply. Any state-owned enterprise, regardless of where it's from in the world, should notify an acquisition to the minister. The minister should then decide whether this flies or not, and again be able to justify, if there is a decision, to not investigate or to allow the acquisition to go through.

If the risk is there, why the threshold? You're absolutely right. They might say, “We'll just buy below the threshold and end up exactly where we want to be.”

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

Dr. Lee, I have a couple of questions for you.

**Dr. Ian Lee:** Can I just respond to that quickly?

**Mr. Rick Perkins:** Let me ask the question, and then maybe you can build it into where we're going, because it's sort of linked.

We've had a chat about the speed. A primary purpose of this bill is to make the process quicker. I've sat around C-suites for 25 years as a business guy. I know that I made brilliant decisions in the things I was responsible for, but I always had to bring them to the executive table for a discussion. Generally—as you know as a busi-

ness professor—you get better decisions out of the team's scrutinizing that then you do out of one particular individual making the choice on their own.

By the same token, what the current Investment Canada Act requires is that when the review, either on net benefit or national security, is done, the minister has to go to the Governor in Council, to the cabinet, with a recommendation and get their judgment. I've talked to a number of former ministers about those discussions that have happened on this, and they said that they got better decisions because they had a multitude of perspectives at the table. I'm a little concerned about removing...which this bill does. It removes that part of it and leaves it solely to the minister.

Like any executive and like any minister, some are better than others, and if you leave it solely to the minister, you lose the importance of that corporate executive decision-making process.

● (1820)

**Dr. Ian Lee:** I agree with what you just said, that you're going to lose that and that more voices are better than a single, solitary voice.

The larger issue with SOEs—I've made a very similar argument for years, similar to Jack Mintz—is that it's unfair competition. It's not a level playing field for everybody. They do not play by the rules. If they lose money, they go to the government and say, “Give me more money.” It's the same problem I have with commercial Crown corporations. When it was still owned by the government, Air Canada would.... Guess what. If it lost money, we gave it more money. That's not competition. That's just going to your sugar daddy, the Government of Canada, and digging into the deep pocket of the taxpayer.

The whole point, if you believe in the level playing field and if you believe in the Competition Act of Canada and the Competition Tribunal, is that we want more competition on a level playing field. Any SOE—I don't care if it's Chinese or Canadian or if it's British or French—does not compete for capital. They do not compete for anything because, at the end of the day, if they need more, they go to the government that owns them and they get it from the government. That's the problem. All SOE transactions should be scrutinized.

**Mr. Rick Perkins:** I agree. They have a different cost of capital, which is very important.

With regard to the industry list, the U.S., as you've said, is a very dynamic and open market for attracting foreign capital. It's not just about the foreign direct investment rules. It's also because of the size of the market. It has an industrial list that says that it's identified certain segments, like telecommunications, as strategic. Now, that doesn't mean that it's regulated. It means it has to go through a review. It's not saying that you can't do it, just that it has to go through a review.

This bill does not give the minister the authority to do that. I believe it should give the minister the authority to create a regulatory list of industries that the government thinks are strategic and that should go to a review if they're bought—biotech may be one, that kind of thing.

I'd like your comments on that.

**Dr. Ian Lee:** I agree with you.

By the way, if I can just give a sidebar, the United States is as attractive as it is because it is seen—and you know this as a former CEO—as having the most risk-free rate of return in the world. In other words—and I heard this when I was teaching in Russia, imagine, or in Ukraine, where I have taught, and in China—if you are a smart person and you have this brilliant new technology, where are you going to try to develop that new company and IPO? Is it Mongolia? Is it Russia? Are you dreaming? You want to go to Silicon Valley because you know that the government is not going to expropriate you because it's not Putin, and it's not going to regulate you to death because it's America and [*Technical difficulty—Editor*].

**The Chair:** Thank you, Mr. Lee. You're on mute, but that's convenient.

I was about to add that if you're a bank, they're going to bail you out.

**Voices:** Oh, oh!

**The Chair:** I'll just move to Mr. Gaheer for five minutes.

**Mr. Iqwinder Gaheer:** Thank you, Mr. Chair.

I just want to get a question in before we conclude for the day.

With regard to Mr. Perkins' point, I think the regulatory list actually already exists in the guidelines on the national security review of investments.

**Mr. Rick Perkins:** They're guidelines. They're not regulations.

**Mr. Iqwinder Gaheer:** But the regulatory lists do exist within the guidelines.

I want to ask a slightly related question about lists themselves.

This has been touched on a little bit in this committee. We've heard suggestions that there should be a list or a guide of threaten-

ing state actors or authoritarian regimes included in this legislation. My personal view is that this would be too rigid because authoritarian regimes do evolve over time. However, how could this impact Canada's reputation as a destination for foreign investment?

Mr. Lee or Mr. Bruce...?

**Mr. Malcolm Bruce:** I'll start.

I don't think anybody was suggesting that we list hostile state actors in the legislation. What we were thinking about was things like the precondition lists that are proposed as part of this bill, and we're not sure what they're actually going to mean at the end of the day.

Some of the things we think should be considered are things like sensitive technologies, where we provide more transparency to potential outside investors into this country so that they know what processes they have to go through, depending on what sector they are going to invest in. That's really the recommendation I would have.

• (1825)

**Dr. Ian Lee:** I can't add to that. I agree completely.

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

If there are no other questions, that concludes our two hours of committee work for today.

Before we adjourn, I want to thank our witnesses. It's been very interesting. I speak on behalf of all members when I say that was an enlightening conversation. We appreciate your taking the time, and for some of you, it was at the very last minute. We appreciate your presence here this afternoon.

Before we adjourn, though, members, we have budgets to adopt.

[*Translation*]

You have received the relevant material from the clerk.

I therefore move the adoption of the budgets for the consideration of Bills C-34 and C-27. Is there unanimous consent to adopt these budgets?

**Voices:** Agreed.

**The Chair:** Thank you.

The meeting is adjourned.







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