

Foreign Ownership Policy Briefing



Prime Minister Stephen Harper at Canada Day celebrations on Parliament Hill, July 1. *PMO Photo*

The politicization of foreign investment

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It has been just over a year since the publication of *Foreign Direct Investment and the National Interest: A Way Forward*, our study on foreign investment and its role in advancing the Canadian national interest. Since that time, while there are ongoing examples of foreign investment in Canada and federal government approval, larger questions and uncertainty continue to chill some foreign investment in Canada.

For example, it seems clear that there has been a chill on investment in the oil sands and for major "strategic" assets that would fall in the category of companies such as Potash Corp., whose acquisition was aborted by BHP because of foreign investment regulatory concerns.

The key for us as Canadians is to continually assess, as we attempted to do in our study, whether the national interest is best being served with our enforcement approach and with our messaging in light of global developments and Canadian economic needs.

The best framework to examine this question today is through two lenses. Firstly, what does the Canadian economy currently appear to require to make the most of its potential for the benefit of Canadians? Secondly, what are the general global trends that we are competing with and against?

Regarding the first lens, across the board, the Canadian economy continues to need basic inputs to pull the country into high growth mode. It needs capital investment and jobs. Most often these two are connected, but not always.

For example, in Alberta there are jobs, but the province needs greater capital investment to make the most of its economic opportunity including as that opportunity relates to the oil sands. In a recent study published by Eugene Beaulieu and Matthew Saunders examining the impact of the government's foreign investment policy in the oil sands, it was found that changes in this policy in 2012 (implemented in the wake of the CNOOC-Nexen transaction) resulted in an overall chill of SOE investment in the oil sands and saw a 20 per cent decline in the share values of companies in the oil and gas sector.

While no single factor is responsible for the decline, the government's strict oil sands investment policy has certainly had some effect. Another example is in Ontario, where investment is absolutely necessary to help fund projects and create much-needed jobs and to help put the province back on a course of fiscal prosperity.

The second lens is that of global trends in the foreign investment realm and assessing where Canada sits today. Our study examined and compared Canada's legal regime to key global players and found that while

Canada is generally competitive, because we're smaller we must be more competitive to continue to attract investment above our economic weight class.

Three trends

Since our study was published, there are three general global trends that have emerged or been accentuated over the last year. Foreign investment policies appear to have become more protectionist, more political and accompanied by even greater sensitivity to national security concerns.

The expansion, and some would say protectionism, of foreign investment concerns have been reflected in major global stories such as Pfizer's failed bid for AstraZeneca and GE's recent acquisition of Alstom. Even without clear legal frameworks, questions were asked on how these transactions could be shut down at a national level. The United Kingdom is only now looking to enact a formal foreign investment regime of general application, and France implemented decrees designed to intervene in the GE/Alstom deal if necessary.

These transactions also showed the politicization of foreign investment issues, from the UK prime minister directly commenting on the Pfizer bid to high-level French politicians involved in negotiating the GE/Alstom deal and the CEO of GE testifying before the National Assembly of France to make his case. There's no doubt

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Canada's national security issues are becoming more sensitive, especially in the wake of the many security leaks and the Snowden affair. As we've seen elsewhere, Canada's national security reviews have become more robust with transactions in the last year relating to the telecom industry with Allstream/Accelero and what was reported relating to BlackBerry.

National security issues are of the highest concern to any country, Canada included. This concern demands clarity and transparency to prevent unnecessary and unhelpful investment chill.

In the year since the publication of our study, the need for foreign investment in Canada remains as strong as ever. Our study intended to show some ideas to alleviate foreign ownership concerns as well as alleviate unnecessary investment chill by recasting some of our key messages to encourage investments of net benefit to Canada.

With global trends tipping in a somewhat protectionist direction, Canada has a relative opportunity to reaffirm its openness to foreign investment, foremost for our own national interest.

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