

## FOREIGN INVESTMENT – TIME FOR CLARITY

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The federal government has changed, but certain economic fundamentals haven't. Canada relies on trade and depends significantly on foreign investment. Being open to trade and investment has been fundamental to Canada's historical success – it is key to our future success as well.

Foreign investors require stability and certainty. Canada does well in terms of both political and economic stability, but after a decade of inconsistent decisions, lack of clear criteria, mixed messages to the global investment community, inability to move forward with indigenous communities and, more recently, political leaders disregarding our own regulatory decisions, we are building a unique reputation for uncertainty.

Ottawa's refusal in 2010 to allow Australia's BHP Billiton's purchase of PotashCorp surprised many. The decision was seen as political, and the ripples were felt throughout the global investment community. In 2012, Canada approved the acquisition of Nexen by China's CNOOC, only to immediately, and confusingly, impose rules preventing other similar investments. Canada made flip-flopping decisions on foreign investment in the telecom sector as well: In 2009 it actively supported the investment by Orascom in Wind Mobile (to the point of Cabinet overruling the CRTC with respect to foreign ownership rules) – yet subsequently refused (on undisclosed national security grounds) to allow Accelero, controlled by the same interests as Orascom, to acquire MTS Allstream. The decision was a surprise, not because of the importance of national security issues, but because Canada had so recently been so welcoming to investment by the same interests, in the same sector.

Now, with a new government, Canada has an opportunity to clear up its reputation. The Prime Minister is saying that "Canada is open for business". While in opposition, those now in power called for clearer criteria, with clear rules of engagement, applied consistently. Yet by our actions, we're not off to a great start.

Last month the very same Allstream that, only recently, was not allowed to be sold to foreign interests for 'national security reasons', was sold to US company Zayo. This time, however, we didn't even engage in a national security review. This is not to say that we should have said yes or no – the point is that two almost opposite approaches to the acquisition by foreign interests of exactly the same asset leaves potential investors wondering how Canada will treat the next one.

Now we have another problem. An increasing number of politicians have refused to enforce regulatory decisions; in some cases they have publicly denounced them. Canada's regulatory processes can always be improved, but they have been developed over the years as a fundamental part of our democratic system – a key element of which is removing important decisions from

political influence. It is one of the reasons our regulatory processes are respected around the world. When we let politics trump decisions reached by way of those regulatory processes, we tell the world that we are unreliable.

Unfortunately, this was reinforced last week by Minister of Natural Resources Jim Carr.

Minister Carr, to his credit, understands – indeed refers to, often – the need for Canada to get its oil and gas resources to tidewater sustainably. He is engaged in an effort to improve the way the National Energy Board operates, “to increase Canadians’ trust in the process”. These are positive efforts, and an example of how our system is able to, and does, adapt to changing public requirements. It is critical to have an impartial system that examines the key economic, environmental and community issues thoroughly, and based on that analysis makes decisions that advance the public good. Improvements to enhance the public trust in the process are important, and welcome. However, when pressed as to whether, once the process is improved, the Canadian government would enforce those decisions, Minister Carr [bluntly called the process “political”](#) and said that, once the new-and-improved regulator makes a decision, Cabinet will then embark on “its own consultations” – and only then decide whether to proceed or not.

Why improve the regulatory process, which we rely on to remove these decisions from the realm of political whim, if we still let politics trump it all?

With a relatively small domestic capital market, Canada needs to look abroad for additional capital to help fund the building, creating and developing that are essential to our continued prosperity and growth. But investors need certainty. No one expects Canada to simply fling its doors open. We are right to require that investors comply with Canadian rules, and everyone understands that any country has the right to protect its national security. But we need clearer criteria and a commitment to abide by them. Investors need to know (and be able to count on) the rules of engagement. Otherwise, as they are increasingly doing, they will go elsewhere.