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• (1105)

[English]

The Chair (Mrs. Sherry Romanado (Longueuil—Charles-LeMoine, Lib.)): Good morning, everyone. I now call this meeting to order.

Welcome to meeting number 24 of the House of Commons Standing Committee on Industry, Science and Technology. Pursuant to Standing Order 108(2) and the motion adopted by the committee on Monday, June 1, 2020, the committee is meeting to study the Investment Canada Act. Today's meeting is taking place by video conference, and the proceedings will be made available via the House of Commons website.

I'd like to remind the members and the witnesses, before speaking, to please wait until I recognize you by name. When you are ready to speak, please unmute your microphone and then return it to mute when you have finished speaking. When speaking, please speak slowly and clearly so the interpreters can do their work. As is my normal practice, I will hold up a yellow card when you have 30 seconds left in your intervention, and a red card for when your time for questions has expired. Please respect the time limits as we want to make sure everyone has a chance to ask their questions.

I would now like to welcome our witnesses.

From the Council of Canadian Innovators, we have Mr. Jim Balsillie, chair. From Blake, Cassels and Graydon, we have Mr. Brian Facey, chair, competition, antitrust and foreign investment group; and Mr. Joshua Krane, partner, competition, antitrust and foreign investment group. As individuals, we have Mr. Christopher Balding, associate professor, Fulbright University Vietnam, from Vietnam; and Mr. Omar Wakil, partner, Torys LLP. Each witness will present for seven minutes followed by rounds of questions.

With that, we will start with Mr. Balsillie for seven minutes.

Mr. Jim Balsillie (Chair, Council of Canadian Innovators): Madam Chair and honourable members, thank you for the opportunity to present today. I am Jim Balsillie, chair of the Council of Canadian Innovators.

I welcome the committee's study on the Investment Canada Act, because it's a critical regulatory tool for ensuring Canada's prosperity and security. In the modern knowledge-based and data-driven economy, the sources of prosperity and the vectors of risk have changed. The act must therefore change as well to ensure it remains fit for purpose.

Specifically, first, the understanding of foreign direct investment that informs the construction of the act is based on investment in tangible production. It does not reflect the contemporary economy where the most valuable national economic and security assets are intellectual property and data.

Second, the act is based on the premise that, with FDI, the direction of the flow of knowledge and technology is into Canada. This used to be the case with FDI into industrial production. It is not the case with FDI into the innovation economy where FDI is extractive.

Third, the concept of net benefit or risk could be reasonably applied in the industrial economy based on the size of the acquired business assets. In the knowledge-based and data-driven economy, prosperity and risk do not scale with size but with spillovers.

Canadian policy remains firmly grounded in industrial-era concepts, failing to develop national strategies for IP or for data. Companies and countries now compete by owning and controlling intangible assets. The EU is building its own cloud not because Europeans lack faith in the multilateral trading system, but because EU policy-makers understand that whoever owns the IP and whoever controls the data, controls who and what interacts with it, and this has major implications for their prosperity, security and democracy.

Canada is on the sidelines in the global competition for IP and data, contributing to their creation but not contesting their ownership and ensuing benefits. Consequently, we see the exfiltration of knowledge assets out of Canada on a regular basis, across borders with the stroke of a pen, currently without any national security or economic review. For example, foundational IP for AI that Canadian taxpayers have funded for two decades is transferred from the University of Toronto to Google. Also, Huawei creates 17 research partnerships with Canadian universities for equally valuable telecom infrastructure. There are many other examples.

Meanwhile, smart countries such as Germany with its 72 Fraunhofer institutes has one central exploitation department that administers and manages IP applications, exploitations and contracts on an expert basis. Germany, the U.K., the U.S., France and even the EU created updated FDI strategies while Canada has not. Germany went as far as blocking the hiring of one of its computer engineers, a recognition by policy-makers that the negative spillovers for Germany outweigh the private returns of the computer engineer.

IP and data have strong public good characteristics, so private decisions do not price the associated externalities or spillovers into their contractual agreements.

Three aspects of the current ICA study are particularly noteworthy as inappropriate for today's economy: one, the valuation thresholds; two, a moratorium narrowly focused on acquisitions from state-owned enterprises of authoritarian countries; and three, a principal economic focus on jobs. Very few strategic transactions would require review based on these criteria and they don't guide the attention of policy-makers administering the act to the issues relevant in the contemporary economy.

The focus on acquisitions from SOEs of authoritarian countries is insufficient, because if the assets are critical to Canada's prosperity, security and sovereignty, then we need to ensure they remain in our control regardless of the foreign counterparty.

Finally, there are many other economic consequences beyond jobs that must be considered, especially since the key skills for the IP and data-driven economy are in short supply. Instead, we need to ask the following questions: Where does the value proposition in our economy lie; how is the value we generate connected to our prosperity and security; and is the act structured to guide an informed assessment of a given investment into the innovation, knowledge-based and data-driven economy?

• (1110)

Our current approach to dealing with Canada's most valuable economic and national security assets is akin to putting an additional bolt lock on the front door, while advertising that our screen door on the side is open.

In my attached appendix, I proposed an updated analytical framework for the ICA.

I thank you.

The Chair: Thank you very much.

Our next witness is Mr. Wakil.

You have the floor for seven minutes.

Mr. Omar Wakil (Partner, Torys LLP, As an Individual): Thank you very much.

Good morning, everyone. Thank you for asking me to appear before the committee. I am delighted to be here.

Let me begin my remarks by saying that I think the present foreign investment review regime works well in connection with its review of acquisitions of Canadian businesses. I do not think it's necessary to lower Investment Canada Act review thresholds. I do not think it's necessary or desirable to place a temporary moratorium on acquisitions by state-owned enterprises.

In my view, the act and the government's current enforcement practices already provide sufficient means to address foreign investment concerns, even during the COVID-19 crisis. There are a number of reasons for this.

First, in terms of process, the government already has broad powers to review virtually any acquisition of any Canadian busi-

ness. In particular, all foreign investors are subject to potential national security reviews, regardless of the value of the Canadian business, so that's regardless of whether the business has been devalued as a result of the COVID-19 crisis.

Moreover, investors that are SOEs are also subject to net benefit reviews based on thresholds that are much lower than the thresholds for private sector investors. Importantly, the special low threshold for state-owned enterprise investors is based on the book value of the assets of the Canadian business. In many cases, temporary devaluations as a result of the COVID-19 crisis should not affect whether a review is required.

Second, in terms of substance, the government already has broad enforcement powers to protect Canadian interests and to do so on a case-by-case basis. In the case of national security reviews, the government can take, and I quote from the legislation, "any measures" considered "advisable to protect national security". That includes blocking a deal, requiring a divestiture or imposing any conditions whatsoever on the investment.

In the case of SOE investments, there are also special requirements that SOE investors must meet in order to secure a net benefit approval. SOE investors must agree to adhere to Canadian standards of corporate governance and they must operate the Canadian business on a commercial basis. These commitments are perpetual. They apply for the lifetime of the investment and they are actively monitored by the government. In other words, there is a special rigour and scrutiny applied to state-owned enterprise investments to ensure that they operate in the same way as private actors.

In my view, it's highly preferable to continue to review investments in a nuanced and fact-specific way rather than having some type of blanket ban. With a case-by-case approach, investments that are problematic can be blocked or restructured. Investments that are not problematic can be approved to proceed.

There would also be at least three substantial practical risks and hurdles to lowering review thresholds or imposing a moratorium on certain investments.

First, as a general matter, lower thresholds or a moratorium may deter the injections of capital that foreign investment can bring. That could impede our economic reopening and harm Canadians. For example, the alternative for some distressed businesses may not be the status quo or it may not be acquisitions by Canadian buyers; it may be insolvency.

Second, an across-the-board moratorium may be controversial to implement. Labelling certain countries as "authoritarian" could exacerbate existing diplomatic tensions or create new ones.

Finally, and perhaps most significantly, there may be complex legal impediments to changing the Investment Canada Act's net benefit thresholds. That's because certain free trade agreements, such as the Canada-U.S.-Mexico Agreement, have carve-outs for the current thresholds that were negotiated terms of those agreements. In other words, I believe at least some of our trade agreements may have the effect of requiring the government to maintain the current net benefit thresholds, so a potential amendment to the Investment Canada Act in this regard may have unintended knock-on effects that would have to be carefully considered.

In sum, I believe the current regime is well calibrated to capture and deal with potentially problematic acquisitions of Canadian businesses. That's not to say there's no room for improvement. Incremental changes to the Investment Canada Act regime and its administration could be desirable. However, I see these steps as ones that are desirable in the long term and not urgently needed to address the COVID-19 crisis.

- (1115)

To name a few, the government should ensure that the investment review division and its sister agencies receive adequate funding to ensure net benefit and national security reviews are conducted with speed and efficiency. Second, there may be merit in providing additional case-specific guidance on national security reviews. Third, there may be merit in requiring or permitting investors to file notification forms where there are acquisitions of material minority interests, not where there are acquisitions of control, or as Mr. Balsillie has said, to give the government broader jurisdiction over transactions that do not involve acquisitions of control or acquisitions of ownership interests in Canadian companies.

With that, I conclude my remarks. I'm pleased to answer any questions that you might have.

Thank you very much.

The Chair: Thank you very much.

Our next witness is Blake, Cassels and Graydon. You have the floor for seven minutes.

Mr. Joshua Krane (Partner, Competition, Antitrust and Foreign Investment Group, Blake, Cassels and Graydon LLP): Thank you very much, Madam Chair and honourable members. I'm grateful to be here to present evidence this morning. I am appearing on behalf of myself and my partner, Brian Facey, who's the chair of the competition, antitrust and foreign investment group at Blakes, but who is unable to be with us this morning.

We regularly provide advice to both foreign investors and Canadian businesses regarding all aspects of the Investment Canada Act. We are also the co-authors of *Investment Canada Act: Commentary and Annotation, 2020 Edition*, which is published annually by legal publisher LexisNexis. That book is in its eighth year of publication and is widely used by lawyers, Canadian businesses and foreign investors considering the applications of the ICA to investments in Canada.

I am presenting in my personal capacity and the views do not represent those of Blakes or its clients.

I will begin by providing an overview of the issues raised by the committee, followed by three recommendations for your consideration based on our experience. In short, we believe the Investment Canada Act and the review mechanisms do not require amendment, and no blanket policies or amendments should be adopted at this time. The ICA works as framework legislation that provides broad discretion to the minister to approve, reject or amend foreign investments on a case-by-case basis. We do believe that it is a priority area and that it is critical at this time and, in particular, that the investment review branch should be sufficiently staffed and funded to be able to carry out its important mandate.

The challenges arising from the COVID-19 crisis and faced by businesses and government are, indeed, unprecedented, and while we acknowledge the potential risks associated with foreign takeovers of Canadian businesses critical to national security, the ICA already gives extensive powers to the government to conduct in-depth reviews of foreign investments and to block or remedy any investment that raises a national security concern.

Reviews can and frequently do take upwards of 200 days to complete, but based on our experience and observations over the last several months, a blanket prohibition on investments by certain categories of investor or regarding certain industries is not warranted, and a case-by-case approach is appropriate. Imposing additional obligations on investors, especially without conferring additional resources on the IRB and its partner agencies and providing for additional transparency measures, could signal to the investment community that investors are likely to face additional red tape when trying to invest in Canada. Canada needs foreign direct investment to support a strong economic recovery.

It's also important to keep in mind that Parliament made significant changes in 2009 to implement measures to protect national security, but at the same time it also took steps in 2015 to increase the monetary thresholds and reduce the number of economic or net benefit reviews. These changes achieved an appropriate balance between encouraging investment from our trading partners and making sure that Canadian intellectual property and manufacturing capacity did not fall into the hands of investors whose intentions may not be in the best interests of Canadians. Lowering the review thresholds would be moving backwards in terms of opening Canada up to much-needed foreign direct investment.

I'll now turn quickly to the recommendations that we propose.

Currently, the ICA does not require that investors give notice to the government before closing, unless the investment involves the direct takeover of a Canadian business whose value exceeds the applicable financial threshold. However, it is common practice for investors to notify the government before closing when an investment has potential national security implications.

In our view, this practice works well, but if changes are to be considered, they should be only in connection with investments in industries critical to Canadian national security, and trade agreement investors should also be exempted from a mandatory notification requirement before closing. The list of critical industries should be precise so that investors and Canadian businesses can easily ascertain whether or not a filing is required. Moreover, the government should not add to the already lengthy 200-day timeline for national security reviews. The investment review branch needs to have the resources and directives to triage cases quickly. Let me now turn to that.

● (1120)

We've also observed that when investments are under review, particularly on national security matters, the timelines can be quite long, and this is especially problematic where investors plan to establish new businesses in Canada that create jobs, conduct new research and develop products and services for the benefit of the Canadian economy. A permanent director of investments should be appointed soon, and the government should add more technical staff to the review teams that have the expertise to more quickly assess when investments raise or don't raise national security concerns.

Finally, we also encourage this committee to take steps to improve transparency during the review process. In our experience, investors are often left wondering why their investments get caught up in a national security review, and during that process, investors are told very little about the concerns and the steps that might be needed to address them. A robust national security review framework is in the interest of all Canadians, but that framework must be applied in a principled and transparent way. Investors should have the ability to meaningfully respond to concerns that have been raised, and that process should be built into the law and the regulations.

We thank you for the opportunity to address this committee on this very important topic related to Canada's economic future, and I would be pleased to address any questions that you might have.

The Chair: Thank you very much.

We'll now move to Professor Balding. You have the floor for seven minutes.

Thank you.

Mr. Christopher Balding (Associate Professor, Fulbright University Vietnam, As an Individual): Thank you very much.

I will say at the outset that while I am not an expert on Canadian investment law, I believe I have the necessary expertise to speak on the threat of state-owned investment.

Ladies and gentlemen of the committee, thank you for giving me this opportunity to talk with you today on a topic that I believe is of great importance in the world today. I say this as an economist and as a citizen of a democratic country concerned about the influence of authoritarian states across a variety of sectors.

By intellectual belief, barriers to trade, investment and the free flow of labour are an anathema to me. I have spent most of my career working in Asia and teaching at universities promoting these

ideals and values. I believe open liberal democracies benefit from their openness.

However, after working for nine years at Peking University HS-BC Business School in China as a public employee, I was mugged by the reality of modern China and strong-armed authoritarianism. Modern China under Chairman Xi stands in stark opposition to the values that Canada, as an open liberal democracy, holds dear.

How do we balance the demands of open markets with the very real threat of predatory subsidized state-owned enterprises? To answer this question, we must first answer the question about the threat posed by expansionary authoritarian-controlled, state-owned enterprises. These are companies that are using public funds to target strategic enterprises and control key resources, assets or technology.

In China, we see many examples of state-owned or -linked companies receiving enormous state largesse to help them expand abroad. Whether that is providing vendor financing that would not be allowed under OECD rules, state-backed finance to make acquisitions or industries targeted by political leaders, state-owned and -linked enterprises from authoritarian states receive significant benefits that private enterprises in the rest of the world do not receive. They also target assets, whether in natural resources or technology, that are prioritized by political leaders rather than market forces. We have seen examples where China buys foreign technology companies and attempts to move the entire operation back to China. This is not market-force behaviour or even the behaviour of a trustworthy counterparty.

Arguably more worrying, we have seen examples where China tries different methods to avoid scrutiny of its investment activity and uses a variety of measures to disguise its activity, whether it is third party investment via various funds or whether it is failure to submit foreign investments for regulatory scrutiny, which later require forced divestment. In other examples, they have offered enticements to strike deals, offering opening the Chinese market if technology is transferred to them.

We have evidence that China keeps detailed records about intellectual property held by firms, with a range of related information that value the asset. It is clear that China has a targeted list with a hierarchy of technologies and intellectual property assets. All these behaviours raise valid concerns about the authoritarian Chinese state as a trustworthy counterparty in international investment.

Given the clear risks we see associated with investment from China, I believe it is in the best interest of Canada to seriously think about the risks associated with a country that has demonstrated a clear pattern of threatening and predatory investment behaviour.

I will be willing to take questions from the committee.

Thank you very much.

• (1125)

The Chair: Thank you very much.

Now we will move to our rounds of questions. For our six-minute round, our first round of questions will come from MP Gray.

You have the floor for six minutes.

Mrs. Tracy Gray (Kelowna—Lake Country, CPC): Thank you, Madam Chair.

Thank you to everyone for being here today.

My questions will be for Professor Balding, to start.

Some foreign policy experts have written about concerns regarding the Chinese state strategy to dominate through the acquisition of large companies in other countries. I want to know if you agree with this assessment, Professor Balding.

Mr. Christopher Balding: I would take a slightly more nuanced view but agree in, let's say, general terms. The general priorities that are set by China are laid down relatively regularly, annually, by top leadership, and they have very clear industrial targets. With the foreign exchange rationing that is effectively going on in China, when firms are going out abroad, either they are raising that capital outside of the Chinese markets so that it's in hard currency or they are being allocated that currency by SAFE, the FX regulator in China, which controls U.S. dollars. They basically have a list of industrial targets, sectoral targets, around the world so that the key state-owned enterprises or major state-linked companies in China have their shopping list, for lack of a better term.

I think it's a little more nuanced than that, but they definitely have a clear list of targets around the world that they are essentially looking for, whether that is in technology or natural resources.

• (1130)

Mrs. Tracy Gray: That actually leads into my next question. Some experts have also said that the goal of these takeovers is not about profit but about expanding their international influence.

Professor Balding, do you agree with this, and if so, what detriment could this have on the Canadian economy if these foreign takeovers aren't considering economic well-being?

Mr. Christopher Balding: I think it's very fair to say that a lot of these investments are made much more for influential purposes or for Chinese state strategic purposes. For instance, there is a U.K. semiconductor company that was sold to a Chinese conglomerate, and part of the agreement was that it would remain in Britain. There's currently a national security fight. Basically the Chinese are seeking to move the entire company out of Britain and, effectively, leave little or no staff in Britain.

It's not just influence, but there's clearly influence targeting. There is also very strategic.... Does this meet China's strategic goal, in this specific case, China 2020 to 2025, and its desire to upgrade semiconductor manufacturing output?

It's also very important to note that for what you referred to as "influence", there are many examples in the investment world like that as well. Basically they seem to be less about economic and financial returns and much more about state policies.

Mrs. Tracy Gray: If a review right now is triggered through the current Investment Canada Act, there needs to be a proven net benefit to Canada.

Professor Balding, do you feel that the parameters that are currently laid out, listed, are sufficient to show net benefit?

Mr. Christopher Balding: With the caveat that I am not an expert on Canadian investment law or on exactly how "net benefit" has been defined over time in Canada, I think it would be well worth looking at that closer and at exactly the requirements that are placed on foreign acquirers.

There are many examples where Chinese companies have behaved in a manner that they.... Clearly, not only would they not necessarily follow an agreement after an acquisition was approved, but also they would move companies in different ways and reassign assets that would not be in the best interests of Canada.

Mrs. Tracy Gray: We've seen some examples of a Chinese state-owned enterprise, China Communications Construction Company, building globally, such as the Malta dry dock, the China-Pakistan economic corridor infrastructures and the Sri Lankan port city. Many academics call this the "debt trap diplomacy".

How do you see this playing out, and is this something we should be concerned with here Canada?

Mr. Christopher Balding: Those are two specific issues that you raised. I think it's likely less of an issue for Canada because Chinese lenders are not necessarily lending significantly, that I am aware of, in any appreciable amount to either Chinese local governments or major Canadian industrial [*Technical difficulty—Editor*].

The other thing that I think is noticeable about China is that there was probably less thinking about this. I doubt that there was a debt-trap plan concocted in Beijing, and it was simply more that they were under orders to go out and lend to companies abroad in targeted countries along the Belt and Road .

Mrs. Tracy Gray: Thank you.

I think our time is up, Madam Chair.

The Chair: Unfortunately, yes.

Our next round of questions goes to MP Erskine-Smith.

You have the floor for six minutes.

• (1135)

Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.): Thanks very much, Madam Chair.

Before I get to the witnesses, the clerk did circulate a notice of motion. I just want to make sure it is a matter of public record today. I'll move it on Thursday, but just so everyone is on the same page, the motion is:

That, pursuant to Standing Order 108(2), the Standing Committee on Innovation, Science and Technology invite senior representatives from Loblaw Companies Ltd., Metro Inc. and Empire Company Ltd. [which owns Sobey's] to explain their decisions to cancel, on the same day, the modest increase in wages for front-line grocery store workers during the pandemic, including how those decisions are consistent with competition laws.

I know a number of us were quite frustrated to see that decision taking place, and I think it's important on behalf of Canadians that we have these companies in to explain themselves. Hopefully, they don't talk to one another first.

My question on the Investment Canada Act is the same for all the witnesses. We heard previous testimony to the effect that the policy guidance in mid-April that was issued by the minister's office effectively says there's going to be greater scrutiny on state-owned companies or companies that are associated with authoritarian regimes. There is currently additional scrutiny should those acquisitions be proposed. We heard some witness testimony, though, that rather than that policy direction there ought to be firmer guidance with greater specificity. Out of all of the witness testimony, that seems to be a recommendation that is reasonable.

I wonder, starting with Mr. Wakil, if that's something that you think we ought to support.

Mr. Omar Wakil: It is something that I think we should support. I should say by way of additional background that I think the government has, over the years, done a good job in trying to increase the transparency around national security reviews under the Investment Canada Act. The annual report that the investment review division issues is a valuable source of information to members of the bar and to foreign investors and Canadian businesses seeking foreign investment with respect to statistical information about the types of national securities that have been undertaken, the outcomes of the reviews, remedies and the timelines. There are also guidelines on national security reviews that are also helpful.

However, as I said in my opening remarks, I think additional guidance would be necessary. Investors in Canadian businesses don't mind having rules, but they like to have as much certainty about the rules as possible.

Additional guidance that may be helpful is case-specific guidance to the extent that's possible. Sometimes these national security reviews, by their very nature, inhibit the disclosure of information that may be valuable. I think there is additional guidance that the government could give as it obtains additional experience with national security reviews in case-specific situations, more information about the industry that was of interest to the government or information about the outcomes of the review.

Mr. Nathaniel Erskine-Smith: Mr. Krane.

Mr. Joshua Krane: Thank you very much.

I agree with Mr. Wakil that the government has done a good job increasing transparency, particularly through the annual report. In my experience, however, investors are told very little about what specific national security concern their investments raise. They're

not actually told anything until the 90th day of a review, and even then, they're just given a summary statement of a couple of sentences at a pretty generic level and then asked to make representations to respond. There's no formal process by which investors are given a thorough explanation of the national security concern, nor are they given specific guidance necessarily about the types of measures they could take to address those concerns.

Mr. Nathaniel Erskine-Smith: Knowing that businesses, as Mr. Wakil says, depend upon certainty for investment, then ensuring that the policy direction that was issued in mid-April—which I think is the right policy direction as far as it goes—is translated into more fulsome guidelines with greater specificity is something that you would support.

Mr. Joshua Krane: Absolutely. Even during the case-specific process, additional transparency measures would help so that the investors know whether the outcome is looking promising or the outcome is just not going to work in their favour. To drag investors through a 200-day process only to tell them, "I'm sorry. We can't work things out," doesn't necessarily send the best message to the investment community.

• (1140)

Mr. Nathaniel Erskine-Smith: Jim, do you have any thoughts on this?

Mr. Jim Balsillie: I will just echo what I said in my comments. We have a decades-outdated framework for this that doesn't bear any relationship to the economic and security structures of the contemporary economy. Every thoughtful nation has long updated its approach to this. Even the U.S. right now is going through distinct and broad sectors to list the various technologies and companies, and how they are going to review it.

We're woefully out of date, and our framework does not apply to the issues at hand for the contemporary economy.

Mr. Nathaniel Erskine-Smith: I see that our chair has put up the yellow card, so as I run out of time, I'll say that I love all of my colleagues but, Bobby Morrissey, I miss you most of all. It's good to see you online.

The Chair: Thank you very much.

[*Translation*]

Mr. Savard-Tremblay, you have the floor for six minutes.

Mr. Simon-Pierre Savard-Tremblay (Saint-Hyacinthe—Bagot, BQ): Thank you, Madam Chair.

Mr. Balding, you mainly painted a picture of the Chinese power, which is apparently managing to take advantage of certain bankruptcies. Although the Chinese model is that of a market economy, it is still a system of collusion between large industrial groups and the state. So it is a very aggressive model.

However, there is also a form of collusion with large industrial groups from those same liberal democracies. For example, the Chinese model often works hand in hand with foreign multinationals.

At the end of the day, doesn't the issue come from us being dependent on China? That was on display with medication and rare metals, among others.

Is this not also an issue of collusion between the Chinese state and Canadian and U.S. companies?

[*English*]

Mr. Christopher Balding: I think there is a lot of truth to that. For instance, in key sectors what you will frequently see is that the CEO of, for instance, the first China telecom will become the CEO of China Unicom, who will become the CEO of the next Chinese telecom company. They are really all one company.

That's one of the things I think is very important to note. A lot of times, a company of any size from China, if they are investing in Canada with any significant amount of money, they clearly have the state blessing and they have been provided funds from Chinese banks in different ways, as well as access to foreign capital.

When you talk about that level of state and enterprise collusion, that's a relatively accurate statement. There's this marriage between business and the state. That's why I said earlier that they are essentially given industries that they need to go out, and if they are investing abroad, there's a certain list of industries they are supposed to be investing in.

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay: What can be done now?

For instance, although China is a member of the World Trade Organization, it is not a founding member, and although it is part of it, we can say that the way it operates contradicts the World Trade Organization's model. So what can be done?

The relationship between Canada and China may have been excellent in the past, but that is no longer the case. Just a few years ago, there was talk of concluding a free trade agreement between Canada and China, and now the idea has been dropped completely. The relationship has turned sour. However, despite everything, this form of collusion continues.

Once again, what can be done?

[*English*]

Mr. Christopher Balding: If we're focusing on investment in Canada, the basic question is what we think of as national security. This is a question that countries around the world, especially in light of COVID, are re-examining right now. Even six months ago, if somebody had said that basic medical equipment like PPE was to be considered national security, nobody would have taken that person seriously. Now, that is front and centre in everyone's thoughts.

I think one of the first things that we have to think about... I notice that today we're on Zoom. Zoom is basically a Chinese company. All of their encryption, everything goes through China right now. My understanding is that this video is going to be made public, but if it were preferred to be private or secure in some way, this could cause real problems for the Canadian government.

I think one of the things is that—and I would agree with some of the other witnesses who have spoken about this—there's a double-edged sword here. There needs to be transparency as to the rules and what the procedure is. It also needs to be noted that China uses that transparency against governments like Canada's and has taken steps to make sure that its investments avoid scrutiny or regulatory detection, and then, after they're forced to divest or something like that, they already have the necessary data or IP to go off and make their own product.

There needs to be a balance struck between the necessary transparency, which I agree with the other witnesses on, and keeping certain information confidential for the government.

● (1145)

[*Translation*]

Mr. Simon-Pierre Savard-Tremblay: I see that my time is almost up.

I still want to say that you have provided a pretty evocative example. Although there have been warnings about the Chinese threat for such a long time, the Canadian Parliament is meeting through a Chinese application. What a mild paradox.

Thank you.

The Chair: Thank you very much.

[*English*]

Our next round of questions goes to MP Masse. You have the floor for six minutes.

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

Briefly but importantly, I want to thank Mr. Erskine-Smith for bringing that motion forth. I'll be supporting that motion.

It's unreal that during this time, when our system of monopolization has resulted in significant revenues for grocery stores, this would take place. I'm hoping we can do a further analysis with regard to a riding like mine, where there is disproportionate reduction in service in poor and more challenged areas, versus more economically advantaged areas. That is also reflected in staffing, consumer supports, pricing, the way the facility looks and its overall business plan for the area. In fact, some areas are not even serviced by some of these chains because of the challenges they present. I hope we can have a good discussion about that because nutrition is important for equality, and there is a problem of systemic discrimination among these chains with regard to some of the services they're providing in certain neighbourhoods.

With that, my first question is for Mr. Wakil and Mr. Krane. Keeping the status quo is, for the most part, what you're advocating, so what specifically has Canada gotten right that other countries are doing wrong? I ask this because an analysis of this shows that we're different. What tangible results and specific statistics can you point to that have economically advantaged us, either through the creation of new products and services or GDP, because of the type of system we have, which is different from those of other countries?

Maybe Mr. Krane could answer first, and then Mr. Wakil.

Mr. Joshua Krane: Sure. Thank you very much, Mr. Masse.

You know, we've had a national security process in place now for about 11 years, and the process has actually worked quite well. The government has issued repeated guidance to investors to come in early when they have transactions that raise national security concerns, and for the most part investors have heeded that guidance.

Mr. Brian Masse: I'm sorry to interrupt. Do you have some statistical information to back that up? That is what I'm looking for.

Mr. Joshua Krane: I've been told that more than half of investments are pre-notified before closing, but that's a figure you should try to obtain from the investment review branch because they track that information. It's not available publicly, but they would have that information if you require it.

The other thing to note is that Canada receives notice of about a thousand investments every year, and only a handful of those investments are ultimately reviewed on national security grounds, which shows that the vast majority of foreign direct investments into Canada are not subject to a national security review, and only a handful are. This suggests to me that either investors are being prudent about the types of investments they are making or that the government has accurately identified the types of investments that raise national security issues.

• (1150)

Mr. Brian Masse: I'm sorry, that wasn't really what I was looking for.

Mr. Wakil, maybe you can take a shot at that. I'm not trying to be disrespectful to Mr. Krane. I was talking about what Canada was doing differently from other countries and how the net benefit really should have shown statistically for either investments or opportunities.

Mr. Wakil, can you take a shot at that, please?

Mr. Omar Wakil: I'll try to take a shot at it, sure. I think my first response is that Canada is highly unusual compared to other jurisdictions in having an economic net benefit type of review for foreign investment. The vast majority of countries have either a national security review of foreign investments or no review of foreign investment whatsoever. Canada, along with Australia and a handful of other jurisdictions, is in a highly unusual and small group of countries that review certain inbound investments for benefit.

Second, with respect to your specific question, you're asking for information that, to my knowledge, has not been collected or analyzed by the government, which would be very difficult or challenging to do. Part of the reason that it would be challenging to provide you with an answer to that—that is to say, on the benefit of the net benefit regime—is that we don't know the “but for” scenario. We don't know what would have happened to that Canadian business if the foreign investment hadn't happened.

I can tell you from personal experience, anecdotally, that there are a lot of investments that have worked out very well. There are a lot of investments where, as I said in my opening remarks, the alternative to the investment was insolvency, and the foreign invest-

ment, the injection of foreign expertise, the injection of foreign capital, helped the Canadian business and saved jobs, and so—

Mr. Brian Masse: Thank you. I'm sorry, Mr. Wakil. I need to move on, because I want to go Mr. Balsillie—

Mr. Omar Wakil: Fair enough.

Mr. Brian Masse: I do appreciate that, and it's a fair assessment of what I'm asking for. It's just that when we hear about keeping the status quo, the arguments in that regard often really don't have any evidence. They're not empirically analyzed, and we often hear the fear of change argument, of this being a violation of trade agreements and so forth.

Really quickly to Mr. Balsillie—we only have a few seconds—is there something that Canada can do with regard to the low-hanging fruit right away to at least ebb the tide of the exodus of some of the critical foreign companies that are smaller right now?

Mr. Jim Balsillie: Absolutely. You need to have an updated framework that factors in the nature of the spillovers and the consequences in a cross-cutting fashion of the contemporary economy, and we don't use that right now, so when you calculate the benefit, you don't calculate it properly. You calculate it with an anachronistic approach.

The Chair: Thank you very much. We'll now move to round two of our questions.

Our first round goes to MP Dreeshen. You have the floor for five minutes.

Mr. Earl Dreeshen (Red Deer—Mountain View, CPC): Thank you very much, Madam Chair, and hopefully my Internet connection stays hooked up.

This is to both Mr. Balsillie and Professor Balding. The rest of the world seems to understand the importance of what is happening as far as IP is concerned. Perhaps after Wednesday's vote with regard to the UN Security Council, we can get back to focusing on Canadian jobs and giving proper attention to policies for Canadians.

Professor Balding, you mentioned the following in a tweet: “Beijing has made it clear for sometime it wants to do away with the liberal international order. Continued multilateral steps toward openness and respect for human rights are dead if you accept the Chinese vision.”

As someone with intimate knowledge of the Chinese government and their economy, I wonder if you could put this into the context of our study on the Investment Canada Act. We've heard testimony, for example, that suggests that Canada needs to clarify its foreign investment rules, and as the COVID-19 pandemic puts the country at heightened risk of strategic takeovers by aggressive foreign actors like China, the suggestion has been made that potential takeovers by Chinese state-owned enterprises in particular could be used on behalf of the Communist Party of China to advance its foreign strategic interests.

Over the short and long terms, could you expand on what you believe are the foreign strategic interests of the Chinese government? What are the risks to Canadian assets? Should we impose a complete moratorium on these investments, or at the very least significantly strengthen the national security provisions of the ICA?

• (1155)

Mr. Christopher Balding: Thank you very much for that question, Mr. Dreeshen.

I think that is an accurate statement I tweeted. Let me start by explaining a little about how the Chinese economy works and their strategic investment objectives, which play into this.

Every year, they are given a list of prioritized sectors. Right now they have nine sectors that are prioritized. We see these sectors getting vast sums of money to invest abroad and domestically. The sectors that we see being prioritized are politically motivated sectors. We see this fundamentally in the performance of the firms. Believe it or not, Chinese firms, especially the SOEs, have very low return on assets and equity, some of the lowest in the world. Large cap companies in the Chinese stock market have been yielding about 1% annually for the past 25 years.

Then we also see this in how capital is allocated within the country and abroad. As a simple example, they have prioritized sectors like big data and facial recognition, primarily for domestic security concerns. When they are talking about things like artificial intelligence at the University of Toronto and some of the other highly skilled areas, they're using that technology in ways that liberal democracies might not appreciate.

Even if it is not necessarily a firm that is purchased, with the jobs being relocated out of Canada, at the very least it probably bears a second look at what some of these Chinese companies are doing, especially with technological resources and how they are being used in places like Xinjiang.

In how Chinese companies are investing abroad, we see very clear examples where they will work through venture capital firms to access the technology of a target firm and gain access to its technology and then either copy or license that technology—there are many different patterns this has taken—so that the technology can essentially be exported to China and used there. We've seen examples in the United States and other countries where they have not submitted to a national security review.

We see this as the behaviour we're dealing with, and when we talk about a rules-based order and the standard economic practices that we take for granted, they are not something that China abides by, typically.

Mr. Earl Dreeshen: Thank you very much.

I see that the chair's yellow card has come up. I was going to ask Mr. Balsillie similar questions about his concerns about state-owned enterprise legislation, which we believe is necessary, but I will have to leave that for another time.

Thank you so much.

The Chair: Thank you very much.

Our next round of questions goes to MP Ehsassi.

You have the floor for five minutes.

Mr. Ali Ehsassi (Willowdale, Lib.): Thank you, Madam Chair.

Thank you to each of the witnesses. I found today's testimony very informative.

I'll start with Mr. Balding, if I may. On several occasions during the course of your testimony, you have made it known that you're not familiar with the Investment Canada Act. Is that correct?

Mr. Christopher Balding: Yes, that is correct.

Mr. Ali Ehsassi: As I understand, having listened to you, you're concerned about predatory action by Chinese state-owned enterprises. Is that correct? I think you consistently emphasize that these SOEs are attempting to avoid scrutiny so far as their investments are concerned.

All of that is to say that the Government of Canada, the Department of Industry, released a statement on April 18. I'll read it to you, and you can tell me whether there is any way those SOEs could avoid scrutiny: "the Government will also subject all foreign investments by state-owned investors, regardless of their value...to enhanced scrutiny".

Does that put to rest some of the concerns you have highlighted?

• (1200)

Mr. Christopher Balding: Thank you for that piece of information.

It does not really, and let me explain why.

In China, a state-owned enterprise is a very specific incorporation classification. It's like LLC, partnerships, or things like that. SOE is a very specific form of incorporation.

Mr. Ali Ehsassi: Mr. Balding, do you know the national security provisions in the Investment Canada Act? Those can be used. Are you aware of that?

Mr. Christopher Balding: Yes, and here's what I'm leading up to. There are many companies that do not qualify as state-owned enterprises that are also, first of all, either acting at the behest—

Mr. Ali Ehsassi: But, Mr. Balding, even if that were the case—even if, let's say, for whatever reason, the government is not aware that this is essentially a state-owned enterprise—there are national security provisions that allow you to look at every single investment. Are you aware of that?

Mr. Christopher Balding: Yes, I learned that today. I would just—

Mr. Ali Ehsassi: If you'll allow me, I will now turn to Mr. Wakil.

Welcome, Mr. Wakil. I know you have an abundance of experience. You've been one of the most distinguished practitioners in this area. In your [*Technical difficulty—Editor*] intellectual property could fall into the wrong hands. Does the Investment Canada Act provide adequate protection?

Mr. Omar Wakil: I only got the last bit of that question. My apologies, I had audio difficulties.

Mr. Ali Ehsassi: My apologies.

The Chair: Mr. Ehsassi, could you please repeat the question? You were cutting out. I've stopped the clock.

Mr. Ali Ehsassi: Sure.

Mr. Wakil, I know you're very experienced in this area—over 20 years, I would say. Mr. Balsillie has identified a real concern about intangible assets, intellectual property and things of that nature. Do you think the Investment Canada Act, as it's currently constituted, protects against the acquisition of intellectual property assets?

Mr. Omar Wakil: I share Mr. Balsillie's concerns that there are gaps in the legislation. I think the legislation as it's currently drafted does a very good job with respect to monitoring the acquisition of controls of Canadian entities. In certain instances, there may be jurisdictional scope for an acquisition of an intellectual property asset to be caught by the Investment Canada Act and reviewed by it.

I think it would be worthwhile to do exactly what Mr. Balsillie says and think about whether or not there are any gaps. I think there are arguably gaps with respect to its scope, and that is with respect to transactions that do not involve acquisitions of control, or acquisitions of ownership interests in other entities or assets. There could be situations where technology transfers undermine national security but are not caught by the jurisdictional scope of the act.

I do think the act does a great job, and my response to the question that the committee is considering in these hearings, with respect to whether or not there ought to be threshold reviews or moratoriums, is that the act doesn't need to be changed.

With respect to non-COVID-specific issues that are broader in nature, should we periodically re-evaluate the act and whether or not it needs to be upgraded? Yes, I think we should.

Mr. Ali Ehsassi: Very briefly, Mr. Balsillie, as for the concerns you've raised, do you want to see all of these changes in the Investment Canada Act framework, or can some of the things that you're concerned about be addressed outside the Investment Canada Act?

Mr. Jim Balsillie: The ICA has to be profoundly revisited for the nature of the contemporary economy.

Mr. Ali Ehsassi: Thank you.

• (1205)

The Chair: Our next round of questions goes to MP Patzer.

You have the floor for five minutes.

Mr. Jeremy Patzer (Cypress Hills—Grasslands, CPC): Thank you, Madam Chair.

I'm going to start with Mr. Balsillie here. I want to go back to what you told us a few weeks ago, and I'll start with a quote:

...we have to be honest about the degree to which our policy community has been captured by foreign interests.... A sovereign Canada is not their job and not what they're interested in, so we have to be very cautious about the degree to which foreign companies have captured the regulatory mechanisms and policy-making of our country. I see it every day....

We're studying this closely now. Could you get a lot more specific on these points? What are you seeing from foreign companies and policy-makers that works against our sovereignty?

Mr. Jim Balsillie: What I see is our policy-makers inviting foreign companies to take our sovereignty and prosperity away. That's why I said in my comment that we're talking about a second bolt on the front door while we advertise the screen door on the side is open. We have no effective policies for the nature of the contemporary economy, and I think you could begin by creating a list of strategic technologies, which every advanced country is doing.

The U.S. is revisiting that right now in key sectors of their economy. We have not done that. They list the technologies, they list the companies, they list the researchers and then they review this very carefully. Then they have a comprehensive spillover framework so that the nature of any investment is taken through the lens of the nature of the spillovers for how these technologies work. Those are two steps we should have done 20 years ago.

Mr. Jeremy Patzer: The government has talked about enhancing scrutiny under the ICA for public health and critical goods and services. There are areas that should be considered critical, but the government is not declaring or treating them as such.

Does it make sense to define our energy sector and agriculture as critical? If so, would that include oil and gas?

Mr. Jim Balsillie: You have to look at the nature of the technologies that have economic and non-economic effects, because of the cross-cutting nature of it. I wouldn't say agriculture broadly or energy broadly, but I would say aspects of renewable energy, aspects of clean agriculture and aspects of AI that apply to those. If we want to be sovereign, secure and prosperous in those realms, we have to define the specific technologies and spillover structures.

I've laid out a framework that is rather straightforward and considered convention by innovation economists globally and other nations. I suggest we adopt what others do.

Mr. Jeremy Patzer: Being industry-specific, though, are there any other industries that may or may not be considered critical that should be protected in the Canadian interest?

Mr. Jim Balsillie: Sure. We could look at the U.S. right now. This week they're studying water treatment and sanitation. Next week they're studying emerging fintech. Last week they did AI and quantum. Do we know who's the leading holder of quantum technologies in Canada? Do we know how many patents they hold? Would they hit our threshold? The week after, the U.S. is doing space and space technology.

Have we done any of these exercises for any of our sectors that affect us economically and non-economically? I'm deeply involved in these files and the answer is no.

Mr. Jeremy Patzer: Mr. Balding, there are concerns that our natural resources, which the government doesn't seem to care about developing in the first place, are vulnerable to foreign acquisition, but I want to bring up the upcoming shift to 5G.

Canadians were already worried about Huawei before the COVID economy, but now we have to consider it even more. You mentioned that China has a list of targeted sectors. How likely is it that it includes our communications companies? Would there be subtle or indirect methods for a takeover?

Mr. Christopher Balding: They absolutely have a lengthy list, not just of companies but also of specific intellectual property that they're interested in, and they use a variety of methods. For example, even though we're using Zoom, China has.... Basically, the underlying technology in Zoom is used widely within Chinese companies and it's going to essentially flow over the exact same network. Even if you were to leave Zoom, there are Canadian companies using basically the same underlying set of code that is going to take that communication through China.

It's not just direct-investment takeovers. There are many channels through which China seeks to obtain that level of interest, and telecommunications would be a key sector for them.

• (1210)

Mr. Jeremy Patzer: I think I'm at the end of my time, so I'll cede the rest of what I have.

The Chair: Thank you very much, MP Patzer.

The next round of questions goes to MP Jowhari.

You have the floor for five minutes.

Mr. Majid Jowhari (Richmond Hill, Lib.): Thank you, Madam Chair.

Once again, welcome, witnesses, to our committee. It is very informative.

Mr. Balsillie, I'm going to focus my whole five minutes on asking questions and exploring IP and the contemporary economy that you talked about, IP and big data.

As I was prepping for the meeting, I was looking at the number of applications that have been submitted, the dollar value, the threshold, etc., but nowhere could I find the number for the IP associated with these investments. When I looked at the \$428 million in assets, I was trying to get a definition of the asset, and whether or not the IP includes the asset. I was looking at different state-owned organizations, for which it's \$1.6 billion, or \$1.07 billion.

I come from a management consulting background. I worked with a lot of Fortune 500 companies as well as small businesses. Even from the Government of Canada industry department, which is spending \$2.2 billion scaling up organizations—and these guys come with a lot of IP—I could not find any indicators of the number for the IP going to foreign investment or foreign countries, regardless.

I know most of our investment is going to the U.S., 54%. The rest is going to the EU at 24%, and 5% to China, but I could not get any data around IP. Do you have some data around where our IP is going?

Mr. Jim Balsillie: Yes, there was a recent IRPP study, which basically said that an overwhelming proportion of Canadian IP is leaving the country. As well, WIPO recent reported that we're the only large AI country that's had a decline in patents filed in the past three years.

For 20 years, Canadian taxpayers have funded foundational AI IP that is transferred to Google without any review, and Google has said it's in all their products and worth billions of dollars a year in their profits. Seventeen of our top researchers in strategic telecommunications are working with Huawei, with no form of strategic review in either research funding or our ICA.

As I said, we have a big screen door at the side with a sign that says, "Please enter here", while we're talking about another bolt on the front door.

Mr. Majid Jowhari: What could we change in the short term and in the long term? You're talking about updating a new framework. You're saying we need to update it, and immediately, that we need to bring IP and big data into it. I agree 100%. What can we do in the short term as an amendment, as a recommendation, and in the long term?

Mr. Jim Balsillie: As I said, in the short term there are two things you should do right now. First, create a list of strategic technologies and review them, just as other nations have been doing throughout 2019 and 2020. The U.S. is working through specific sectors right now, and it's all on the web.

Second, I would have an updated framework that codifies the effects for what they really are, not just some arbitrary dollar level, and not jobs when it's a reshuffling of jobs for sectors that have zero or negative unemployment.

Mr. Majid Jowhari: The government has identified six sectors, what we call tables. We recently added two more around food distribution and health. Isn't that sufficient as a tool to use, or do we need to further modify that? What, to you, would be a strategic technology that's not covered under the act?

Mr. Jim Balsillie: I'm deeply aware of what those tables are doing, and in no way, shape, or form have they looked at this kind of role for the purposes of protecting us from a national strategic point of view, based on our geostrategic realms for investment in technologies. If they put that in the mandate, that's fine. Then they'll come back and say the very same thing: Create a list of technologies and sectors that matter; create a framework that you evaluate, and make sure it's a proper approach for most—

Mr. Majid Jowhari: With 30 seconds to go, could you give me the top three that you recommend?

Mr. Jim Balsillie: Do you mean technologies? Without a doubt, AI and quantum should be in it, and other things like telecommunications that go with it, renewable energy, all the biomedical and biotechnology, emerging fintech and space technology. Those also happen to be the eight that the U.S. is doing.

• (1215)

Mr. Majid Jowhari: Regardless of the threshold, the valuation, the asset or the benefit, should any organization that has an IP in that area be considered for a review?

Mr. Jim Balsillie: It should, 100%.

Mr. Majid Jowhari: Thank you.

The Chair: Thank you very much.

[Translation]

Next up is Mr. Lemire.

Mr. Lemire, you have two and a half minutes.

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

My question is for Mr. Wakil.

In your presentation, you talked about the possibility of progressively amending the act. In my opinion, to be able to amend the act, we must understand it, and to understand and assess it, we will need transparency.

Would you agree with providing access to archives and with reviewing ministers' decisions to determine what reasons they used and what conditions they imposed under the Investment Canada Act? Would you be open to doing that in order to better understand the act's weaknesses?

[English]

Mr. Omar Wakil: I would be agreeable to a proposal to engage in an *ex post* review of investments to measure the effectiveness of the Investment Canada Act.

With respect to the specific proposal or suggestion to open the archives, I would hesitate to do that. There are statutory protections for the confidentiality of information that investors have provided to the government in the context of their reviews. I think an opening of the archives would risk breaching those statutory provisions, and investors take great comfort in the fact that their sensitive business information will be treated confidentially in the context of a review.

Some form of review to assess success or failure, I think, should always be welcomed and endorsed, but the specific opening of the archives I would not recommend.

[Translation]

Mr. Sébastien Lemire: Nevertheless, we see that the minister is not currently accountable.

Do you think we would benefit from making sure that the minister is accountable and transparent relative to his obligations?

[English]

Mr. Omar Wakil: I have nothing to add to the prior response.

[Translation]

Mr. Sébastien Lemire: I was thinking more about the current situation. Should the minister be more transparent in terms of his decisions right now?

[English]

Mr. Omar Wakil: No, I don't think there is urgent need for greater transparency with respect to net benefit reviews.

With respect to national security reviews, as per my prior statement, I think it would be helpful, as we have experience with a national security review regime, for the government to consider whether or not additional case-specific disclosure would be possible in order—

The Chair: Unfortunately, that's all the time we have for that round.

Mr. Omar Wakil: Okay.

The Chair: We will now move to MP Masse.

You have the floor for two and a half minutes.

Mr. Brian Masse: Thank you, Madam Chair.

Part of the challenge we have right now is the fact that the Investment Canada Act was changed in 2013 under the Harper administration, through a budget bill. What that meant was that there were no committee undertakings with regard to this as a specific file. In fact, in the subsequent Parliament, I had a motion to do just that, which didn't come to fruition either.

What that means is that we've never had a robust discussion, nor an opportunity to discuss the intricacies and also the changes necessary for updating. In fact, we saw the threshold go up, in 2017, to \$1 billion. All this was done with zero public input with regard to an actual bill and zero consultation open in a democracy.

Mr. Balsillie, do you think there would be an interest from stakeholders in various sectors to actually now participate in a more wholesome review of the legislation, given the fact that even when we talk about the review that was done in 2013, prior to that it was decades before there was anything meaningful done on this bill?

• (1220)

Mr. Jim Balsillie: Yes, the stakeholders are Canadians, so the most important thing is to understand what we need to be prosperous and sovereign in a changed world.

That's why I talked about public goods versus private interests. You have externalities or spillovers that aren't priced in an individual's decision, and that's why I mentioned the computer engineer who may take a job with an SOE in Germany, and that's good for him because he or she gets a raise, but it hurts the country overall.

I know very directly that those who are administering these policies are looking for political direction on this, so it has to be a lens of the country, not a specific sector, because they'll just look after the narrow private interests, not the broader externalities or spillovers.

Mr. Brian Masse: Just quickly to Mr. Krane, Mr. Wakil and Mr. Balding, were you consulted at all during the 2013 changes? Could you just say yes or no? I know my time is up after this.

Mr. Joshua Krane: Yes. In fact, I appeared before this very committee in 2013 to discuss the changes to the SOE—

Mr. Brian Masse: That was in the context of the budget bill, yes.

The Chair: Thank you very much.

We will now start our third round.

The first questions go to MP Rempel Garner.

You have the floor for five minutes.

Hon. Michelle Rempel Garner (Calgary Nose Hill, CPC): Thank you, Madam Chair.

First, I will put on the record that the Conservatives are supportive of the motion that Mr. Erskine-Smith moved. We are particularly interested in the context in which that decision was made, given that the Liberal government allocated \$12 million to Loblaw's for refrigerators in the last Parliament, I believe, or earlier this year.

We're also interested in the working conditions front-line workers would have been subjected to during the COVID crisis. It will be a great conversation. We hope we will also have representation from the workers with regard to that study, so we will be supporting that motion.

Mr. Balding, I'm going to start by directing some questions to you. I'll give you two pieces of context for this study that I as a legislator have found to be interesting.

First, Canada is unique, as all countries are, but we don't have the same level of large-scale capital that other countries might have access to, broadly speaking, in terms of being able to capitalize up big, let's say, natural resource plays, so often we look to FDI for that type of investment.

The second piece of context was my experience in trying to find witnesses for the study. I think among five different areas there may be conflict or a desire to keep the status quo. The first would be when I think about the amount of money that comes from mergers and acquisitions related to state-owned or state-influenced enterprises for authoritarian countries. That's a big piece of business in the Canadian legal community, as well as in the Canadian banking community.

I also think about Canadian universities, where there is a propensity for the university administration to attract students from au-

thoritarian countries, given that as international students, they pay our universities a lot of money to go there. Also, my background is in parapolitics, intellectual property management and sponsored research at various Canadian universities, and there is a push to participate in various sponsored research contracts with either authoritarian governments or state-owned or state-influenced enterprises from those countries.

Then, of course, our government right now is in the middle of a very significant push to secure a UN Security Council seat, which has its own politics associated with it, so I find there's this propensity to not talk about this. It's like, let's just ignore everything and hope that the status quo continues.

Given that you sort of sit outside those baskets of potential conflict, I'm wondering if you could point us, as legislators, to other countries or perhaps other witnesses who might not be tainted by those particular glasses and might help us with our deliberations on how to move forward.

Mr. Christopher Balding: The question, as I understand it, is which witnesses I could refer you to who would not be tainted by those glasses, specifically—

• (1225)

Hon. Michelle Rempel Garner: Sure, or what are some best practices internationally that we could be deliberating upon?

Mr. Christopher Balding: Absolutely, I'd be more than happy to get you a list of people who would be able to speak to that and who have experience with countries like Canada and some of the unique characteristics. I think I can refer you to some people. I'd be more than happy to exchange emails or something like that and come up with a list of people who I think would be able to answer that specific set of questions—as you said, people who were not in those specific boxes or weren't hindered by them.

Hon. Michelle Rempel Garner: Thank you.

With the last few seconds I have left, I'll turn to Mr. Balsillie.

I want to go back to the point I made about Canadian universities. We have wonderful universities here, but this is kind of a touchy taboo topic. How much do you think Canadian universities are compromised by a desire to attract international students and R and D funding, sponsored research funding from authoritarian countries?

Mr. Jim Balsillie: In my experience, the consideration is getting their research advanced and getting their work published. The lens of national security or national prosperity is not their responsibility. It's the responsibility of the funder, which is the government, to provide guidance on that, and currently that's absent.

Hon. Michelle Rempel Garner: You're saying that the marriage point there is looking at this from the perspective of the government's fiduciary responsibility and allocating tax dollars to universities that might be in this situation.

Mr. Jim Balsillie: That's correct.

Hon. Michelle Rempel Garner: Thank you.

The Chair: Thank you very much.

This is just a message to Professor Balding with respect to the list requested by MP Rempel Garner. If you could forward that list to the clerk, he'll make sure it is distributed. Thank you so much.

With that, we'll move to MP Lambropoulos.

You have the floor for five minutes.

Ms. Emmanuella Lambropoulos (Saint-Laurent, Lib.): Thank you, Madam Chair.

Thank you to all of our witnesses for being here with us today to answer our questions.

My first question is going to go to Mr. Wakil.

In the Investment Canada Act, the concept of national security is not explicitly defined so as to give some leeway to the Minister of Innovation, Science and Industry in consultation with the public safety minister to flag or review any investments that seem to be a threat to Canadian security and that seem to be injurious to Canada.

Given this, do you think that the flexibility and the fact that it's not clearly defined have some negative consequences on our security? Do you think there should be at least some lower limits that people need to guide themselves by, considering governments change and different ministers are responsible at different times?

Mr. Omar Wakil: I think it's important to have flexibility, and I think it's difficult to balance the need for flexibility with the need for certainty. I think the government has tried to do a good job in balancing that over the last couple of years since the national security review regime was introduced.

The act, as you say, doesn't have a definition of national security. It's issued guidelines with respect to what national security can include. It's provided disclosure in its annual reports about the sorts of cases that it's reviewed under the national security review regime, the countries of origin of the investors, the industry sectors that it's investigated, and that sort of disclosure is good, helpful and useful to us, but I think that incremental change would be better. Incremental change would be useful. That is to say, enhanced disclosure of specific cases and more disclosure along the lines that we have as the government gets more experience with the national security review regime would be helpful and desirable.

Do I think wholesale change is needed? No, I don't. I don't think the government should say, "Here's the list of 10 things that are national security and will always be national security". That's an exhaustive list. I think it should continue along the path that it's on, and just continue down that path.

Ms. Emmanuella Lambropoulos: You mentioned in your testimony that you are quite happy with the way the act is written and with how the government is handling it as it stands.

Would there be any recommendations that you think would strengthen the security while still allowing us to benefit from foreign investments?

Mr. Omar Wakil: Yes, I do think the act is, generally speaking, well written. It covers a lot of transactions, a lot of foreign investment acquisitions—virtually all. Where I think there is a potential gap is in some of the areas that Mr. Balsillie has been talking about, which is with respect to technology transfers.

For example, if you acquire a company with sensitive IP, that is subject to review. If that company enters into an agreement with a foreign entity to transfer that IP to the foreign entity, that's not subject to review. The effect is the same—the foreign buyer, the foreign entity, has control of the IP or has access to the IP—but one type of commercial arrangement is subject to review and scrutiny, and the other type of commercial transaction, commercial arrangement, is not subject to review and scrutiny.

I think it would be prudent to look at the legislation to see whether or not there are gaps that can be filled, like the one that I just gave by way of example.

• (1230)

Ms. Emmanuella Lambropoulos: Thank you very much.

Mr. Balsillie, I think you've made your point clearly on what changes you believe need to be made, but do you think, by imposing the changes that you have, we would not necessarily be benefiting and we would be, perhaps, alienating foreign investors and not allowing them to be attracted to Canada?

Mr. Jim Balsillie: They're not the kind of investors you want, because FDI in tech is principally extractive. That's why our productivity in innovation has declined or stayed flat for the last 20 years while the rest of the world has soared. We're manufacturing our own decline. We don't want that kind of investment, so absolutely not.

It is very important to draw a distinction. Somebody said that Canada needs FDI for a strong economic recovery. Certain kinds of FDI will erode our recovery, so you have to draw a distinction as to the nature of it. There needs to be that basic nuance.

Ms. Emmanuella Lambropoulos: That's my time, I believe.

Thank you very much to our witnesses, once again.

The Chair: Thank you very much.

Our next round of questions goes to MP Rempel Garner. You have the floor for five minutes.

Hon. Michelle Rempel Garner: Thank you, Madam Chair.

During testimony today, some witnesses have alluded to the fact that we really don't have a timely way of knowing if takeovers are happening unless a publicly traded company has had to tell its investors or until the takeover is finalized, so that's a feature that's somewhat unique to the Canadian system, I would think.

I'm just wondering, Professor Balding, if you want to speak at all to the principle of transparency in terms of any sort of review framework that countries around the world have implemented to have some public awareness of what is happening with regard to state-owned enterprises or state-influenced enterprises' investments into countries, and particularly if you want to speak to best practices.

Mr. Christopher Balding: I think there are two specific issues. The United States was addressing these very same issues roughly, I think, one or two years ago, 18 months maybe. They basically found themselves at a very similar point where they had discovered a significant number of transactions either in minority states or, as Mr. Balsillie has alluded to, and I believe Mr. Wakil also alluded to, technology licensing, various things like that which were designed to avoid review.

Even in the United States, it was basically on the honour system, so that foreign investments were submitted by the acquirer for review. They basically reviewed that system, found a lot of the same gaps that I'm hearing about today and tightened up in a lot of the same way, so whether it was licensing of sensitive technologies, whether it was minority stakes or whether it was through things like venture capital funds that would take stakes through third parties. I would agree with the previous witnesses, Mr. Balsillie and Mr. Wakil. I think there are probably gaps and tightening that should be used.

I think specifically in the case of China, we need to make sure that it's not simply state-owned enterprises but whether the state has a stake or whether it's a state-linked firm like Huawei, which is not technically state owned but is in reality state owned. There are a lot of definitional issues around what exactly is state owned.

Hon. Michelle Rempel Garner: We're struggling with that in Canada as well. I'm hearing the lexicon change more toward state influenced. It seems to be a definition that could be more tightly defined and used.

I guess I would also switch to your knowledge of enforcement best practices. Broadly speaking, in Canada, without going into technical specificity, if there are conditions put on an approval of a takeover, there's really limited enforcement capability within our legislative framework right now. I think it might encourage bad actors or, basically, "So what?" might be the outcome.

Could you speak at all of anything you know in terms of best practices on tightening enforcement if there are conditions placed on investment, and if there are any other jurisdictions in the world that we should be looking to in terms of best practices to strengthen that aspect of our legislative framework?

• (1235)

Mr. Christopher Balding: I think most of the European countries that I have dealt with, with regard to Chinese investment, are probably at a very similar point. Most of them are reviewing their investment practices. This is debated in Europe.

In the United States where we see that there have been a couple of transactions, for instance, in which Chinese purchasers either made or began to make the acquisition and it's debatable whether or not they expected it to fall apart, but they got access to sensitive

technologies and then walked away or decided not to submit in one case. Then in another case there was a forced divestment because of the gay dating app Grindr, which basically exposed users around the world to Chinese government users.

These are questions that I think, honestly, everybody is dealing with. For these specific issues there are no best practices that I know of, because they are still relatively new issues globally.

Hon. Michelle Rempel Garner: Thank you.

The Chair: Thank you very much.

Our next round of questions goes to MP Longfield.

You have the floor for five minutes.

Mr. Lloyd Longfield (Guelph, Lib.): Thank you, Madam Chair.

Thank you to the witnesses for the testimony today.

I want to start off my questioning, Mr. Krane, on the theme of trade. I'm very interested in your testimony around the need for international trade and investment. Do you have any comments on the idea of having a moratorium or a temporary moratorium on SOEs, and what that might mean with regard to the signals we're giving in terms of wanting to be a trading nation?

Mr. Joshua Krane: I do. Thank you very much, Mr. Longfield.

One of the risks of having blanket rules is that we don't always see what the unintended consequences of those rules might be. For example, Canada is still quite reliant on other countries for PPE, and we are co-operating with other nations to develop vaccines and treatments for COVID-19, which is affecting not just Canadians but citizens from around the world. I will note that the government did announce a research partnership with a Chinese company to work on developing the COVID-19 vaccine in Canada. My concern is that if we impose blanket restrictions on investment, maybe we don't benefit from those opportunities, and we impact our ability to work co-operatively with other countries on goals that are mutually shared.

I don't disagree with Mr. Balsillie that there are areas where we need to have heightened scrutiny and where we should be focused on protecting critical industries and critical technologies, but having blanket restrictions does send the wrong message to the world: that Canada is not open for business. We need to collaborate with other nations to achieve common goals.

Mr. Lloyd Longfield: Thank you.

I had a Zoom meeting earlier this morning with the all-party health research caucus, in which we had scientists from across Canada talking about the importance of sharing information in order for us to attack a global pandemic together and how there will be a global recovery we have to attack together. I think we're much more connected than we even realized through the unintended consequences.

As a quick follow-up on that, in our act right now, we have a national security review, of course, and at this point it's open to interpretation, which gives us some flexibility, and then we have the net benefit review. Do you see any need to change either of those portions within the act?

• (1240)

Mr. Joshua Krane: It's a great question.

The Investment Canada Act is actually working quite well at the moment. It does cover, at least on the national security side, the vast, vast majority of investments in Canada. I do agree there are situations that may not be covered by the Investment Canada Act, but even situations in which a company would acquire an important piece of technology could be considered a reviewable national security investment under the right circumstance if that asset was important and an important part of a company's business. The act does cover that.

To another point that was raised earlier, there is no evidence that companies are avoiding filing notifications under the Investment Canada Act. Foreign investors who come to Canada don't know the rules here and will work closely with legal counsel and with advisers to make sure when they do invest here they're given guidance on how to comply with Canadian law. In my experience, investors are actually quite cautious about making sure they do comply with the law. In my experience, investors will submit filings to the government to advise them on a transaction. Where the government has expressed concerns, they don't hesitate to let us know. That commences quite a lengthy and detailed investigative process that, as I mentioned, can take upwards of 200 days to complete, which is twice as long as the process in the United States.

Mr. Lloyd Longfield: Great.

Under the companion legislation, the corporations act, you still have to follow the law even after investment, and there are ways of handling that if you don't.

Mr. Joshua Krane: That's correct. The Investment Canada Act also provides extensive penalties for investors who do not comply. They can be forced to sell their investment at no minimum price. There are fines of \$10,000 per day for each violation, and that's in addition to all of the other provincial and federal rules that investors are required to comply with when they come to Canada.

Mr. Lloyd Longfield: Thank you for your balanced testimony. I really appreciate it. I think it's very good for our report to have both sides of the argument. I'm on your side, by the way.

Mr. Joshua Krane: Thank you very much, Mr. Longfield.

Mr. Lloyd Longfield: Thank you, Madam Chair. I'll hand the floor back over to you.

The Chair: Thank you.

Our next round of questions goes to MP Lemire.

[*Translation*]

Mr. Lemire, you have two and a half minutes.

Mr. Sébastien Lemire: Thank you, Madam Chair.

Mr. Balsillie, frankly, your comments have been among the most relevant we have heard in this committee. I would like to take

things a bit further and hear your comments on the notion of stakeholders in the act. Last week, a witness said that the act should include shareholders, employees, suppliers, creditors, consumers, the government and the environment.

Do you agree with the idea of amending the act and integrating those stakeholders into it?

In light of your testimony today, patents and innovations should also be enshrined in the act, as should strategic technologies.

[*English*]

Mr. Jim Balsillie: I'll try to answer that.

The first thing I'd like to say is that Mr. Krane was characterizing my testimony as a blanket thing for all investments, and I was talking about a particular lens for the nature of the externalities and spillovers from technology, which is absent from the contemporary economy.

For MP Longfield, I'm for Canada here. When we look at these things, we've learned that technologies affect our health, affect our security and affect our economy, so when you interview stakeholders, the most important thing is that this is supposed to be a public good, a net benefit test, in which you look at the overarching effects of these things. You should interview many stakeholders, but ultimately, you need experts to measure these various effects. I've had considerable interplay with those who administer the ICA, and Huawei is considered a Canadian company because it has a Canadian subsidiary. They ask us to voluntarily bring forward things if we're taking investment because there might just be a problem, and I'm deeply involved with a number of technology companies.

People are making decisions based on their narrow and specific interests, and it's up to our policy community to make sure that these are in our national interests.

• (1245)

[*Translation*]

Mr. Sébastien Lemire: Would you agree with the fact that the Minister of Innovation, Science and Industry should be more transparent and be accountable in terms of his decisions, which must always be to Canada's net benefit?

[*English*]

Mr. Jim Balsillie: I can't comment on the benefit calculation. What I do know is that the overwhelming majority of consequential transactions never cross his desk.

The Chair: Thank you very much.

Our next round of questions goes to MP Masse.

You have the floor for two and a half minutes.

Mr. Brian Masse: Thank you, Madam Chair.

I don't know who said it, but I know I just won a bet with the "not open for business" slogan. I had predicted with my staff that I would hear that today, so I've won a coffee from Tim Hortons, which is now going to benefit 3G Capital, which has, in essence, allowed Canada's iconic coffee maker to drop from 13th to 67th in Canada's reputable companies, representing the biggest slide in history for that.

At any rate, I do want to ask Professor Balding a question here. Even private equity firms are unknown investment options in terms of a review as well. Should that also be a concern? There are a couple of factors we need to consider here. Canadians, through either corporate tax cuts or direct subsidies municipally, provincially or federally to acquire jobs or even research and development grants and waivers of costs, contribute to the economic growth and development of some of these companies through the jobs. When they are taken over, whether it be by China or other non-democratic governments, we don't know what we're getting into.

Is there a benefit to reviewing ownership that might come through another model?

Mr. Christopher Balding: It would be reasonable to take in some of those third party investors, like B.C.'s Intech, or private equity, maybe more established firms, because that is clearly something that we've seen Chinese firms do, work through some of those third party beneficiaries to disguise asset transactions. I think that would be a reasonable step in some way, whether it required changing legislation or just making a regulatory change.

Mr. Brian Masse: Yes, and that's where we see perhaps some other kingdoms and others involved in investments. I think it's reasonable that when they go against some of our subsidized, even global initiatives, our investments undermine our own practices.

Do you think that's significant enough to warrant a review as well?

Mr. Christopher Balding: Yes, and I think we've seen some of the changing practices by companies like this in how China is changing, through their investments and other practices, the overall conversation.

Mr. Brian Masse: Thank you, Madam Chair.

The Chair: That is the end of our third round and we do have time to begin a fourth round. I understand that the Conservatives will split their time equally between the Bloc Québécois and the NDP.

[Translation]

Mr. Savard-Tremblay, you have two and a half minutes.

Mr. Simon-Pierre Savard-Tremblay: Thank you, Madam Chair. Since my time is being shared, please warn me halfway through my speaking time and not at the end of it.

Mr. Balsillie, toward the end of your exchange with my colleague Sébastien Lemire, you said that the majority of transactions do not cross the minister's desk.

Could a mechanism be developed so that a larger portion of transactions would end up on the minister's desk?

[English]

Mr. Jim Balsillie: Yes, of course. If you had a list of strategic technologies that you reviewed and you had a list of the key actors who were involved in those technologies, and as part of their requirements they notify you on indirect investments or certain licensing technologies that were mentioned, or certain partnerships of research, then absolutely it would come forward.

Our current lens of framework, as I mentioned in my testimony, does not address the overwhelming majority of consequential transactions in the intangibles economy, which is 91% of the value of the S&P 500. This is why we're at risk for sovereignty, and this is why our productivity and prosperity have slid in the innovation economy in the last 20 years.

• (1250)

[Translation]

Mr. Simon-Pierre Savard-Tremblay: So you would agree with greater transparency in this area.

[English]

Mr. Jim Balsillie: I thought the question on transparency was about evaluating and the calculation of the net benefit test. In that respect I can't comment.

However, I do know that the overwhelming majority of relevant transactions never come forward, based on the lens and the framework that's applied to this. That was the nature of my testimony today. You have to change your lens and your framework so that we properly understand and calculate the issues for Canada, economically and non-economically.

[Translation]

Mr. Simon-Pierre Savard-Tremblay: That still leads to more transparency, tighter criteria and more information at our disposal, so that we can do our work together.

[English]

Mr. Jim Balsillie: Yes.

[Translation]

The Chair: Thank you very much.

[English]

Our next two and a half minutes will go to MP Masse.

Mr. Brian Masse: Mr. Wakil, we were talking earlier and I want to go back to that. It's with regard to the evidence that's out there in terms of measuring. I think it's a fair discussion that there isn't enough out there.

How do we go about changing that? I think it is, at some point, logical to do some type of metrics when a company is purchased in Canada, related to what patents or what types of innovation are then brought to our country from somewhere else, versus what exits from the country.

Are you aware of any model out there that another country is doing? I think that's a fair way of evaluating. Otherwise, when we look historically at some of the companies that we've lost, we don't seem to go back to review whether what we're doing makes sense or not. Hence, since we have not had a comprehensive review of the Investment Canada Act, wouldn't it be a logical thing to at least measure the success or failure of the model we have?

Mr. Omar Wakil: I think it certainly is something that would be worth exploring to determine whether or not there could be a methodology developed that would give us an accurate assessment of whether or not the Investment Canada Act regime, or at least the net benefit portion of the regime, has worked well over the years.

A problem we would have is one that I began to flag in my earlier comment, which is the "but for" scenario to the extent that...and that's the problem with the assessment of investments now. For example, the government's trying to predict the future. What is the likely one, two, three or four years going to look like for the Canadian business and how does that align with the investor's plans, and is that beneficial or not? Is there a benefit to proceeding with the transaction based on the likely future outcome of the Canadian business? That's a very tricky and complicated assessment to make.

We have a similar problem with respect to the ex post review of an investment that's completed. What would have happened if the investment hadn't happened? Do we have the information available? Conceptually, I think it would be worthwhile to look back and see whether or not it would be possible to construct a test to evaluate the success of the legislation, but I can see that there would be a lot of practical challenges with that.

Mr. Brian Masse: Thank you. I know that I'm just about out of time, but it seems really odd that we have just a shot in the dark process that doesn't have any type of empirical evidence afterwards when we know we can get some of those facts.

Thank you, Madam Chair.

The Chair: Thank you very much.

Our last round will go to MP Ehsassi.

You have the floor for five minutes.

Mr. Ali Ehsassi: Thank you, Madam Chair. I'm very grateful for that.

Given that this is the last round of questioning, I think it will be devoted to mopping up and to clarifying anything I've had a hard time understanding.

One of the members of this committee was suggesting that, after reviewing the annual report, they could not determine which one of those acquisitions had an element of intellectual property that had been acquired as well.

Mr. Wakil, if I can go to you, I don't think it's the job of the annual report to clarify which acquisition involved IP and which one didn't. Am I correct in that assumption?

Mr. Omar Wakil: You are correct. I would assume that most acquisitions would involve the acquisition of some degree of IP, and that would be a reasonable assumption to make but, no, it's not a requirement to disclose whether IP—

• (1255)

Mr. Ali Ehsassi: Most of that doesn't mean for a second that our regulators, our framework, do not examine the intellectual property aspects of a company that's about to acquire. Is that correct?

Mr. Omar Wakil: I agree with that.

Mr. Ali Ehsassi: Okay. Finally, I have another quick question. Do you know of any other regime in any OECD country that does list the IP assets that were required?

Mr. Omar Wakil: No, I don't.

Mr. Ali Ehsassi: I will ask Mr. Krane the same question just so I can satisfy myself that I understand this.

First of all, is it unusual that the annual report does not state what the intellectual property assets of each one of those companies were?

Mr. Joshua Krane: No, the annual report is meant to provide a summary overview of where investments are originating from and the value of foreign direct investment that's notified to the government each year.

Mr. Ali Ehsassi: Okay. Again, that doesn't mean that our regulators are not also reviewing intellectual property capital that could also be ensnared in an acquisition.

Mr. Joshua Krane: That's correct. In my experience, on all national security files, there's a request for a list of the target company's intellectual property, which is reviewed and assessed.

Mr. Ali Ehsassi: My last question is the same question as the one I put to Mr. Wakil. Do you know of any regime in any OECD country in which intellectual property assets are actually listed so anyone could go look at it and see if anything needed to be flagged?

Mr. Joshua Krane: I'm not aware of any, but Canada does have a public registry of patents, trade and trademarks, which anybody can freely look up on the Internet.

Mr. Ali Ehsassi: Thank you for that.

Mr. Krane, I very much enjoyed your testimony. At some point, you stated that you think perhaps our regime would benefit from improved notification. Could you actually unpack that for us? Given the safeguards we currently have, if we wanted to make for an even more robust system, what would that notification require and what would that look like?

Mr. Joshua Krane: While my position is that the ICA regime is working well and investors are approaching the government pre-closing on a voluntary basis, we could look to the model that the Americans piloted in 2018 and adopted in February 2020, which requires that certain types of investments regarding a specified list of critical technologies or critical infrastructure are notified at least 30 days before closing.

While my position is that the system is working well, that's a model that the committee may want to examine to make sure that, first, we are addressing the problems that Mr. Balsillie has identified, and second, we act in a manner that's consistent with our most important trading partner and there is harmonization and alignment between Canada and the U.S on foreign investment reviews.

Mr. Ali Ehsassi: Thank you for that, Mr. Krane.

Mr. Wakil, could you also comment on what, for lack of a better word, we could refer to as a regime that has pre-emptive notification? What are your thoughts on that?

Mr. Omar Wakil: I agree. It would be desirable to explore whether or not we should move to a mandatory preclosing notification regime. I think we'd have to think carefully about how we implement that to make sure there is no unfairness for different types of investors.

For example, if there's a mandatory regime just for state-owned enterprises, but a non-mandatory regime for not state-owned enter-

prises, could that deter beneficial state-owned enterprise investment in Canada? At the same time, if there is an identified list of technology or of businesses that would be subject to a mandatory preclosing notification regime, if that were sufficiently clear so that everybody knows the rules apply to them, I think it is definitely worth exploring, but there are issues that we have to think carefully about.

• (1300)

Mr. Ali Ehsassi: Thank you for that.

The Chair: Thank you very much. That is our time for today.

I'd like to thank the witnesses for being with us today and, of course, our clerk, our analysts, IT and our interpreters. Thank you so much for your assistance again today.

With that, I call this meeting adjourned.

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