

**Brief on National Security Review
and the Neo Lithium takeover by Zijin Mining**

For the House Standing Committee on Industry and Technology

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The question of how and why the government of Canada conducts national security review of foreign investments, including the strategic outlook, governance structure and capabilities it applies, is an important and evolving one. National security review provisions under the Investment Canada Act have only been in place for the past 13 years (since 2009). In that period the national security threat environment has changed profoundly and concerns about economic security have been greatly magnified. National security review must accelerate to catch up with these geo-economic changes and be undertaken with new seriousness. The extent of the changes to our national security environment have been the focus of a major project undertaken by the Centre for International Governance Innovation on “Reimagining Canadian National Security Strategy.”¹

The government was confronted in the Fall of 2021 with a decision regarding the takeover of a Canadian company, Neo Lithium, by a major Chinese mining enterprise, Zijin Mining, which features substantial Chinese state ownership. The value of the transaction was estimated in media reporting at close to \$1 billion dollars.²

Neo-Lithium is a junior Canadian miner with a major mining asset located in the so-called “lithium triangle” in Argentina.³ It employs a practice of extracting lithium, a crucial mineral in the value chain for electric vehicle batteries, from brine ponds (salar brine). Lithium is listed by the government of Canada as one of 31 “critical minerals” important to the economy of Canada.⁴

The government took two decisions in this case. One was not to block or otherwise impose conditions on this foreign takeover on national security grounds. The government also used a truncated time-line for national security review, which did not take full advantage of the process provided under the Investment Canada Act and did not provide substance to the concept of “enhanced scrutiny” of certain sensitive investments, as promised in revised Ministerial guidelines on national security review.

The decision not to conduct an extended national security review of the transaction that allowed Zijin mining to acquire Neo Lithium was, I believe, a wrong decision. The failure to block

or impose conditions on the Zijin takeover reveals some important deficiencies in the conduct of national security review.

It is important to understand the timeline for the national security review that was conducted on the Neo Lithium takeover to substantiate the argument that the process was unnecessarily truncated and did not constitute “enhanced scrutiny.” The Investment Canada Act allows for a multi-phase national security review. The first phase of such review, which applies to all foreign direct investments, takes place during a mandated 45 day period.

The intended purchase of Neo Lithium by Zijin Mining was publicly announced on October 8, 2021. This followed shortly after the conclusion of a series of site visits to Neo Lithium’s operation in Argentina by officials from Zijin Mining and that company’s decision to proceed with the proposed takeover. Certification of the proposed purchase was completed on October 20.⁵ The Minister of Innovation, Science and Economic Development then has 45 days to notify the investor as to whether an order for national security review may be issued.⁶ The Minister may determine during the first phase of national security review that further scrutiny beyond the initial 45 day phase is warranted to allow the government to decide whether an investment could be injurious to national security. If a decision is taken to extend national security review into the second 45 day phase this involves the use of s25.2 authorities under the ICA and is based on an agreement between the Minister of ISED and the Minister of Public Safety. This decision would be communicated to the interested parties. The third potential phase of national security review falls after the 90 day (45 + 45) day period, at which point the Government may order a Governor in Council (that is Cabinet approved) on-going national security review for up to an additional 90 days under s25.3 powers under the ICA.

During the first 45 day phase of national security review, the transaction is scrutinised by a multitude of government departments and agencies, notably including national security and intelligence agencies, to determine whether the acquisition could be injurious to national security. Allies, including the United States, may also be consulted during this phase. The Minister and officials have refused to say whether or not such consultations took place.

A Neo-Lithium spokesperson, Carlos Vicens, the Chief Financial Officer, publicly confirmed that the national security review process for the acquisition had been completed by early December, which fell at the conclusion of the initial 45 day period of the first phase of review under the Act.⁷ The transaction was allowed to proceed. No additional phases of national security review were deemed necessary by the Government and the transaction was not deemed injurious to Canadian national security.

The company proceeded to a successful shareholder vote on the acquisition that was held on December 10, 2021.⁸ The transfer of control of the company to Zijin Mining is expected to be completed in the first quarter of 2022.

In critiquing the government’s handling of the Neo-Lithium national security review process, I want to make clear that I am not criticizing the performance of the many governments officials

in multiple departments and agencies that contribute to national security review under the ICA. There are many talented and experienced officials who no doubt contributed to the file. They operate within current frameworks for national security review and according to legacy practices. They are required to work under real time pressures, deal with complex issues, and have to provide advice inevitably based on only partial information and limited insights into the future. The volume of work is heavy, comprising over 1,000 certified notifications for 2019-2020.⁹ Their advice, if conflicting, has to be resolved in a committee setting. Their efforts are compounded by the challenges of work under the health restrictions imposed by COVID-19. In the Neo-Lithium case, I also speculate that the review process was further complicated by the lengthy political transition that occurred following the federal election in September 2021. I address this issue briefly later in this document.

The failure to conduct a full national security review in the case of the Neo-Lithium acquisition, using the available provisions of the ICA, and the failure to block or impose conditions on the Chinese takeover, cannot be undone. But the handling of the Neo Lithium case provides important lessons for the conduct of national security reviews in future.

These lessons are four-fold:

1. A more strategic vision needs to be applied to the conduct of national security review
2. Policy intentions and promises need to be translated urgently into action
3. GIC-ordered national security reviews are historically rare. They need to be practiced more regularly in future
4. The outcomes of national security review, both negative and positive, need to be made more transparent, in the interests of accountability and improved performance

Lesson #1. Strategic vision and national security review

National security review is conducted under the leadership of the Investment Review Division (IRD) of Innovation, Science and Economic Development (ISED) on a case-by-case basis using deliberately flexible Ministerial guidelines. As one Member of the Industry committee suggested, a case-by-case approach may miss seeing the forest for the trees.¹⁰

National security review may feature degrees of tension and different perspectives from security agencies and economic officials, which can be difficult and challenging to resolve. It requires a coherent and dedicated understanding of economic security that can be applied in horizontal ways across the many departments and agencies involved in national security review.

Establishing a consistent practice of national security review and decision-making is essential. Inconsistency, exemplified, for example, in the decision to block the acquisition on national security grounds by a Chinese state-owned enterprise of a gold mine based in Nunavut, when

gold is not an element of the government's critical minerals list, while allowing the acquisition, without a full national security review, by a different Chinese SOE of a Canadian company producing lithium, which is on the government's critical minerals list, does not create confidence in the ability of the government to take a consistent approach or apply a strategic lens.¹¹

Important elements of such a strategic lens are not yet in place, though they may be coming.

An enhanced economic security framework is currently under development by Public Safety and it will be important both to deliver that strategic policy as soon as possible and to submit it to critical appraisal and Parliamentary accountability.¹²

Similarly, a critical minerals strategy is also under development, led by Natural Resources Canada.¹³ A critical minerals strategy is important with regard to industrial policy to foster the growth of a critical minerals infrastructure, with respect to issues of northern development, to analyse global supply chains and their resilience, and in the context of disturbing trends in global concentration of critical minerals processing, where China has established a very formidable near-monopoly.

As Dan Ciuriak and Patricia Goff argue in their paper for the Centre for International Governance Innovation (CIGI) project on "Reimagining Canadian National Security Strategy":

*"Strategic commitment to this [critical minerals] industry would thus materially contribute to mitigation of economic security challenges, claim a share of a major growth industry to contribute to Canada's future prosperity, including especially for northern communities and mitigate a potential threat vector..." (p. 12)*¹⁴

A more strategic framework for national security review has to move from the near-term perspective of a single FDI, which is the current and acknowledged practice, to a longer-term perspective on the future implications of foreign investment and the loss of Canadian sovereign control over important assets—like lithium. Thinking of future implications must involve consideration of issues of potential development by a Canadian-regulated company, the changing nature of an industry, the evolution of the market place, the nature of global supply chains, and the consequences of loss of technological prowess and intellectual property assets.

Intelligence assessments, potentially contributed by a number of departments and agencies (including CSIS, CSE, RCMP, PCO, Public Safety, DND/CFINTCOM, Global Affairs/International Security) are critical to decision-making on national security review under the ICA. Intelligence assessments on FDI are challenging and may be hobbled by the lack of resources currently devoted to economic intelligence collection and analysis by the Canadian national security and intelligence community. There may also be methodological shortcomings.

Economic intelligence is not a mainstream business for either of our two main intelligence collection agencies, CSIS and CSE. Economic intelligence is not specifically identified in the CSIS

Act. The new CSE act, passed as part of national security legislation in 2019, affirms that CSE may play a role in contributing its expertise to the conduct of national security review under the ICA, but the extent that it is able to do so is unknown.¹⁵ Whether and to what extent economic intelligence is featured in the Cabinet-level determination of Canada's intelligence priorities is unknown, as is the extent to what economic intelligence is defined as an intelligence requirement for tasking purposes.¹⁶

The government has promised more resources to assist with national security review and this commitment needs to be acted on and scrutinized.¹⁷

In the context of future intelligence assessments related to national security review, it is important for the relevant departments and agencies to apply a net assessment methodology to national security review. Net assessment is a standard practice developed by the US intelligence community some 40 years ago. Its application to national security review essentially involves a balanced consideration of how a foreign direct investment might directly impact on Canadian security as well as how it might benefit a foreign competitor or adversary to the detriment of Canadian economic security.¹⁸

Lesson #2. Translating intentions and promises into action

The Government promised to enhance national security review of foreign investments. But a question remains about the translation of promises into real action.

Among the promises, there are two that I focus on in this brief: the revised Guidelines on the National Security Review of Investments, issued on March 24, 2021; and the ISED Minister's Mandate letter, published on December 16, 2021.

The Revised Guidelines contain some notable assertions, including that all foreign investment by state-owned investors will be subject to enhanced scrutiny and that the Minister may take into account "the potential impact of the investment on critical minerals and critical mineral supply chains."¹⁹ As previously noted, Lithium is included in the Government's list of critical minerals.

While the desire to retain Ministerial flexibility is understandable, too much flexibility has downsides. "Enhanced scrutiny" as a practice in regard to state owned enterprises and critical mineral resource acquisitions is not further described. It should involve, at the very least, a requirement to use an extended 45 day time frame (on top of the initial 45 day period for national security review) to conduct additional scrutiny as provided under s25.2 of the ICA to allow for a determination as to whether an investment could be injurious to national security.

The Minister's mandate letter contains multiple relevant directives including the use of the ICA "to ensure the protection and development of our critical minerals;" creation of a critical

minerals strategy; promotion of economic security; modernization of the ICA to strengthen national security review and the safeguarding of intellectual property-intensive businesses.²⁰ These are important directives that must now be translated into action.

In particular, future national security review must pay more attention to intellectual property issues and our data-driven economy. When asked at committee, the Deputy Minister of ISED stated that they were considered with regard to Neo-Lithium, but no further details were provided.²¹

Lesson #3. Conducting more national security reviews under the s25.3 provisions of the ICA.

The latest annual report of the ICA (for 2019-20) shows that historically less than 1% of investment filings have been subject to an order under the Act.²² The published statistics establish the following:

None were ordered in 2015-16
 5 in 2016-17
 2 in 2017-18
 7 in 2018-19
 7 in 2019-20

There are no obvious trend lines in these statistics.

In that timeframe, 13 of the 21 formal national security reviews involved acquisitions by Chinese entities.

The ICA annual report contains some mixed messaging. This is particularly striking with regard to statements that very few foreign investments raise national security concerns and that “economic based threats to Canada’s national security have taken on increasing prominence in the last number of years.” “Very few” and “increasing prominence” don’t jibe. This mixed messaging reinforces the point that we need a better strategic vision for national security review, attuned to the new and complex threat environment that Canada faces. We need a greater willingness to conduct full national security reviews.

The advantages of full national security review under a Governor-in-Council process include:

Additional time to collect intelligence from all sources on the investment

Additional time to conduct a full, horizontal, interdepartmental strategic analysis of the investment

Additional time to consult key allies, especially the U.S. and among our Five Eyes partners

Elevated, senior-level attention to the investment, beyond government officials at the Director and DG level, to include the National Security and Intelligence Adviser to the Prime Minister, who is also responsible for national security community-wide coordination.

Involvement of multiple decision-makers at the Cabinet level, with attendant responsibility and political accountability.

These benefits outweigh the costs of the delays and uncertainties occasioned by more extended and formal review when it is warranted by sensitive foreign direct investment.

Willingness to conduct full s25.3 Governor-in-Council ordered national security reviews should not be taken as a blank cheque for a lengthy delay in decision-making. In most cases full national security review should be wrapped up within an additional 90 days.

Lesson #4. The need for more transparency

When ISED addresses transparency concerns with regard to national security review and the provisions of the ICA, they are solely concerned with transparency for the parties to an investment. This is clear from statements in the annual report of the ICA, such as:

“Most of the changes made since 2009 have focused on bringing increased transparency to allow Canadian businesses and investors to better understand how the review process operates.” ²³

When asked at committee about the need for more transparency, the ISED Deputy Minister, Simon Kennedy, was guarded and non-committal, saying that the ICA annual report has been used to provide more information about national security review but that there are risks in providing information that might be harmful to Canada’s interests. ²⁴

A different and more robust perspective on transparency is needed. There should be more transparency beyond that which involves the parties, to allow for greater accountability, and through greater accountability enhanced performance. This would be in keeping with the government’s national security transparency commitment, including the principles that it set out, in 2017.

The national security review process is a secretive undertaking. It is rare that Canadians learn anything about the reasons behind national security review decisions at any stage of the process.

In the context of the Neo-Lithium acquisition, it is very unusual to have heard from government about the rationale for not conducting a full S25.3 national security review.

The manner and content of assertions from the Minister and Parliamentary Secretary raise important issues around how transparency could best be achieved in a non-partisan and objective manner.

Reasons were first provided at the Industry committee by the Parliamentary Secretary, Mr. Fillmore, on January 20, 2022. According to Mr. Fillmore the reasons while the Neo-Lithium acquisition was not regarded as posing a threat to national security were two-fold. One was that the acquisition of Neo-Lithium was of no national security concern to Canada because its Argentinian mine was producing lithium carbonate, which, he asserted, is not relevant to electric vehicle batteries, rather than lithium hydroxide, which is.

This statement is contradicted by the description of Neo Lithium's product on its web site, in the detailed prospectus for its sale to Zijin mining, and by numerous other public descriptions of the uses of lithium carbonate, which is a mineral extract that can and is used in electric vehicle batteries. It is also worthy of note that Zijin mining, in its first entry into the global supply chain for electric vehicle battery minerals, proposes to pay nearly 1 billion dollars for the assets of this junior Canadian miner.

The second reason advanced by Mr. Fillmore was that Neo-Lithium wasn't really a Canadian company. He described it as an Argentinian company that had a presence on the Toronto Stock Exchange "in the hopes of raising money." What Neo-Lithium is is a start-up company with a significant mine asset in the so-called "Lithium triangle," based in Argentina. It is subject to Canadian laws and regulations. Its mining technicians are based in Argentina. Its head office in Toronto includes its Chief Financial officer, Carlos Vicens, who has specifically described his role as engaging with the North American market for his company's product.²⁵

Mr. Fillmore also made the surprising suggestion in his committee remarks that Neo-Lithium was engaged in an "increasingly dubious-appearing operation in Argentina." The basis for this claim is entirely unknown. What is known is that Zijin Mining engaged in its own extensive site visits to the Argentinian mine prior to formalising its offer to Neo -Lithium. It was prepared to pay nearly 1 billion dollars for this "dubious-appearing" operation. Neo Lithium's preliminary feasibility study for the mine asset estimated annual production at 20,000 tons of lithium carbonate per year.²⁶ Using 2017 figures from the US Geological survey, this would represent roughly 6% of total global production. Perhaps Zijin Mining is paying \$ 1 billion for a turkey; perhaps the 3Q mine will never produce 6% of the world's lithium. Perhaps Mr. Fillmore misspoke.

At the moment, we are producing in Canada 0% of the world's lithium.²⁷ As the Assistant Deputy Minister for Natural Resources Canada, Jeff Labonte, testified on January 27, Canada possesses its own lithium brine deposits in western Canada, which could be in future be used to produce lithium carbonate in a manner similar to that utilised by Neo Lithium in its pilot extraction plant in Argentina. It is worth noting that no Canadian lithium extraction, whether from salar brine deposits or hard rock sites, is currently underway. Moreover, according to the latest global report produced by the US Geological Survey, Canadian lithium reserves represent

only a tiny proportion of the global resource, with Chile, Australia and Argentina featuring in the top three. The Canadian proportion of lithium reserves represents about 2.5% of the world's total.²⁸ These figures demonstrate that Canada will inevitably be dependent on access to a global, not local, supply chain for this mineral.

There may be understandable support from politicians for hoped-for developments in Canada and especially Quebec, where the Nemaska lithium project is set for a rebirth under new ownership. The Nemaska Whabouchi lithium mine, when it becomes operational, will produce lithium hydroxide as an extract, but this single mining venture should not be taken to represent the needs of a globalized supply chain.²⁹ Nor should the challenges of hard rock mining of lithium, with its attendant environmental concerns, and the difficulties of the chemical conversion process, be underestimated—challenges that have so far given an edge to lithium extracted from salar brine as in the Neo-Lithium project.³⁰

The Minister repeated the essence of the claims advanced by his Parliamentary secretary, but took a different tack by making the surprising argument that lithium carbonate is really a product only for the Asian market and of no interest in a Canadian or North American context. Public domain information makes it clear that lithium carbonate is indeed a resource of great interest in the Asian market, especially in China. Supply is currently tight and prices are on the rise. The Asian market interest is directly tied to the production of electric batteries and electric vehicles where China has taken a lead and has established itself as a major global manufacturer. Moreover, the market interest is not restricted to Asia. The argument that lithium carbonate is only of interest to the Asian market simply fails to take account of the nature of the global electric vehicle battery supply chain or of the significance of this critical mineral for the transition to a green economy. It also fails to acknowledge that Asian market interest is a product of the fact that the Asian market has taken a substantial lead in the lithium supply chain whereas North American economies in Canada and the United States have been laggards. As a Guardian news analysis described the current situation, China is in “pole position” in a “battery arms race.”³¹ China has also created its own national champion in the electric car battery supply chain, a company called CATL (Contemporary Amperex Technology Co. Ltd.) which has benefitted from the Chinese government's Made in China 2025 plan.³² It currently controls a whopping 30% of the world's EV battery market.³³

In June 2021, the US Federal Consortium for Advanced Batteries produced a “National Blueprint for Lithium Batteries.” This blueprint is directly relevant to Canada. The summary stated:

“Lithium-based battery storage systems are becoming increasingly important for commercial markets, including electric vehicles, stationary grid-storage systems, and aviation, as well as national defence markets. The world-wide battery market is expected to grow by a factor of 5 to 10 over the next decade and there is a race to capture the market. Strengthening and bolstering U.S. competitiveness in advanced battery innovation and manufacturing is vital.”³⁴

The very first listed goal of the U.S. government blueprint is:

“Secure access to raw and refined materials and discover alternatives for critical minerals for commercial and defence applications.”

It is difficult to see how Canada can grow a critical minerals and processing sector in this country, understood to be important to Canada’s future national and economic security, if the government allows such promising start-up enterprises as Neo Lithium to be sold off to Chinese SOEs.

As the Neo Lithium decision suggests, greater transparency leads to contestability and to the potential avoidance of poor outcomes and wrong thinking in the future.

The question should not be whether more transparency is needed, but how it can best be delivered. It is important that the delivery of national security review transparency be isolated as much as possible from the political realm by establishing clear rules, to avoid political spin and over-simplification.

My suggestion is that transparency for national security review should be the purview of officials at ISED in charge of national security review (in consultation with their colleagues in the national security departments and agencies), should be made available for all sensitive foreign direct investment (FDI), and summarised fully in the ICA annual report. Handling of FDI national security review should also be subject to periodic external review by the National Security and Intelligence Review Agency, by the National Security and Intelligence Committee of Parliamentarians and by the Auditor General.

The following details should be allowed to be made public on national security review of investments:

The date at which ISED became aware of a specified foreign direct investment

The date at which national security review commenced

The departments and agencies of the federal government consulted as part of the national security review process

Whether allies were consulted in the course of national security review

The duration of the national security review process, including whether s25.2 of the Act was invoked to allow for an additional 45 day period of scrutiny

The date at which the process of national security review was concluded and advice provided on whether the FDI could be injurious to national security

The general reasons for reaching a determination that a FDI was not injurious to national security, in the event s25.3 powers of the Act are not invoked

If a Governor in Council order for extended national security review is invoked under s25.3 of the Act, the general reasons for whatever ultimate decision on the FDI is reached—block; divestiture or other mitigation measures.

None of this information could be regarded as harmful to national security or betraying national security confidentiality. Much of it is information that would have been provided to the parties to the investment. Its broader provision would be beneficial to the investor community as well helping increase public understanding of the nature and importance of national security review.

Conclusions:

Important questions are raised by the handling of the Neo-Lithium transaction, all pertinent for considering the future of national security review.

One concerns the strategic framework used to analyse the transaction. The key issue is whether the analytic framework was sufficiently rigorous, comprehensive, and consistent. Canada may have suffered reputational loss among our allies given shared concerns about building accessible and resilient critical minerals supply chains. These concerns are at the heart of the Canada-US joint action plan on critical minerals.³⁵

Consistency of application of national security review is especially raised by the decision to block the acquisition by a Chinese SOE of a Nunavut gold mine while allowing the acquisition of a lithium extraction and processing asset by a Chinese SOE without even engaging in a full S25.3 national security review.

A second, and related concern is the question of why the transaction was not subject to an extended national security review under the s25.3 provisions of the ICA. As I have noted there are many benefits to conducting full s.25.3 national security reviews for sensitive acquisitions, as provided for in the Ministerial guidelines. In addition to this question, confusion remains around the exact time frame that the Government allowed for its decision owing to an unwillingness by Government officials and Ministers to be specific. Testimony provided by the Deputy Minister of ISED to the Committee about an expanded time frame for national security review regarding the Neo Lithium acquisition appears to be contrary to the facts of the case.³⁶

A period of protracted political transition following the federal election intersected with the timelines of the Neo-Lithium national security review, between October and early December 2021, and may have impacted on high-level attention to the issue.

The federal election was held on September 20 and returned a minority government, approximately two weeks prior to the public announcement of the Neo-Lithium takeover. A new Cabinet was only announced on October 26, by which time the first phase of national security review had already been launched. The ISED Minister's mandate letter was only published on December 16, well past the date at which government officials decided there was

no need to continue the national security scrutiny of the Neo-Lithium takeover beyond the initial 45 day review period, determining that it involved no injury to national security.

In this period of political transition, ISED, in consultation with national security departments and agencies, rushed unnecessarily to determine that no full GIC-ordered national security review of the Neo-Lithium transaction was necessary. This rush to judgement precluded more thoughtful analysis and was unwise. In the context of the issues raised by the acquisition of Neo-Lithium by Zijin Mining a full national security review under s25.3 of the Act was warranted and should have been conducted.

It was warranted on the following grounds:

1. The scale of the transaction (nearly \$1 billion)
2. The involvement of a Chinese SOE and the implications of the acquisition in support of Chinese economic strategy (net assessment analysis)
3. The sensitivities of our close allies and partners, including the US, Five Eyes and the EU, regarding critical minerals
4. The importance of critical mineral extraction and processing technology and know-how (IP) to Canada
5. The need to fully understand the challenges of building reliable and resilient global supply chains for critical minerals including lithium, a key component of electric vehicle batteries
6. The foundational need to begin a process of creating a critical minerals infrastructure, knowledge base, investor awareness, and industrial policy for Canada

In any future scrutiny of an FDI involving a critical minerals asset such as lithium, these elements must be considered. The government must be willing and able to use the full range of national security review tools at its disposal.

With regard to future national security review of FDI critical mineral acquisitions, there must be a rigorous and consistent process in place using a lens provided by a defined economic security strategy and a defined critical minerals strategy. Net assessment intelligence methodology must be employed. Sufficient time must be taken to ensure a thorough-going analysis including such factors as market evolution, global supply chains and the value of intellectual property.

When a state-owned enterprise is involved in a significant critical mineral acquisition, especially if it is a SOE from a country regarded as adversarial to Canada's national security interests, it should automatically be subjected to full s25.3 national security review.

Finally the outcome of national security review must be delivered in a more transparent manner to ensure contestability, learning, and full accountability.

¹ See the special report written by Aaron Shull and Wesley Wark, “Reimagining a Canadian National Security Strategy,” December 2021, <https://www.cigionline.org/publications/reimagining-a-canadian-national-security-strategy/>

² Library of Parliament, Briefing Note and Suggested Questions, “Critical Minerals;” BNN Bloomberg, “Canada’s Neo-Lithium Spikes on Chinese takeover bid,” October 12, 2021, <https://www.bnnbloomberg.ca/canada-s-neo-lithium-spikes-on-chinese-takeover-bid-1.1665216>

³ For an explanation of the lithium triangle, see Harvard International Review, <https://hir.harvard.edu/lithium-triangle/>

⁴ Natural Resources Canada, https://www.nrcan.gc.ca/sites/nrcan/files/mineralsmetals/pdf/Critical_Minerals_List_2021-EN.pdf

⁵ Library of Parliament, Briefing Note and Suggested Questions, prepared for the House of Commons Standing Committee on Industry and Technology, January 20, 2022.

⁶ The Osler law firm website provides clarification of this and other issues regarding the Investment Canada Act, see <https://www.osler.com/en/resources/regulations/2016/frequently-asked-questions-concerning-the-investme#how-do-investors>

⁷ Niall McGee, “Ottawa Allows Chinese acquisition of Canada’s Neo-Lithium to pass with no formal national security review,” *The Globe and Mail*, January 12, 2022, <https://www.theglobeandmail.com/business/industry-news/energy-and-resources/article-ottawa-allows-chinese-acquisition-of-canadas-neo-lithium-to-pass-with/>

⁸ Neo Lithium Corp news announcement, “Neo Lithium announces updates on arrangements with Zijin and provides supplemental disclosure” December 6, 2021, <https://www.newswire.ca/news-releases/neo-lithium-announces-updates-on-arrangement-with-zijin-and-provides-supplemental-disclosure-808559142.html>

⁹ Investment Canada Act annual report (2019-2020), https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/h_lk81126.html

¹⁰ A point made by Liberal MP, Nathaniel Erskine Smith, Industry committee meeting, January 27, 2022

¹¹ Financial Post, “Canadian government invokes national security to block Chinese takeover of Nunavut gold mine,” Dec. 22, 202, ¹¹ <https://financialpost.com/commodities/mining/canada-blocks-china-shandong-gold-mining-buying-tmac>

¹² Minister of Public Safety Mandate letter, December 16, 2021, <https://pm.gc.ca/en/mandate-letters/2021/12/16/minister-public-safety-mandate-letter>; statement on Public Safety economic security task force, May 2021, <https://www.canada.ca/en/public-safety-canada/news/2021/05/government-of-canada-expands-work-to-address-economic-based-threats-to-national-security.html>

¹³ Minister of Natural Resources mandate letter, December 16, 2021, <https://pm.gc.ca/en/mandate-letters/2021/12/16/minister-natural-resources-mandate-letter>

¹⁴ Dan Ciuriak and Patricia Goff, “Economic Security and the Changing Global Economy,” <https://www.cigionline.org/publications/economic-security-and-the-changing-global-economy/>

¹⁵ Communications Security Establishment Act, <https://laws-lois.justice.gc.ca/eng/acts/C-35.3/>

¹⁶ For a valuable discussion and critique of aspects of the intelligence priority process, see the annual report of the National Security and Intelligence Committee of Parliamentarians, 2018, chapter 3, released April 2019, <https://www.nsicop-cpsnr.ca/reports/rp-2019-04-09/intro-en.html>

¹⁷ Minister of Public Safety mandate letter, December 16, 2021, <https://pm.gc.ca/en/mandate-letters/2021/12/16/minister-public-safety-mandate-letter>;

¹⁸ There is a substantial literature on net assessment. See Paul Bracken, “Net Assessment: A Practical Guide,” (2006), <https://www.hsdl.org/?view&did=460780>

¹⁹ Revised Ministerial guidelines on national security review, March 2021, <https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/lk81190.html>

²⁰ Minister of Innovation, Science and Economic Development, mandate letter, December 16, 2021, <https://pm.gc.ca/en/mandate-letters/2021/12/16/minister-innovation-science-and-industry-mandate-letter>

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- ²¹ Simon Kennedy, DM, ISED, in response to a question in committee, Standing Committee on Industry and Technology, January 27, 2022
- ²² Investment Canada Act annual report (2019-2020), https://www.ic.gc.ca/eic/site/ica-lic.nsf/eng/h_lk81126.html
- ²³ Ibid, p. 20
- ²⁴ Simon Kennedy, DM, ISED, in response to a question in committee, Standing Committee on Industry and Technology, January 27, 2022. The exchange was obscured because of technical difficulties.
- ²⁵ See Mr. Vicens' address to Benchmark Minerals, December 16, 2020, <https://vimeo.com/491533924>
- ²⁶ Neo Lithium, "Neo Lithium announces filing of technical report for the pre-feasibility study on its 3Q mining project," May 8, 2019, https://www.neolithium.ca/news-detail.php?id_news=43
- ²⁷ CBC, "Canada, a critical minerals superpower? Let's pause for a reality check," November 26, 2021, <https://www.cbc.ca/news/world/canada-critical-minerals-overview-1.6262406>
- ²⁸ US Geological Survey, Mineral Commodity Summaries, Feb 1, 2021, <https://pubs.er.usgs.gov/publication/mcs2021>
- ²⁹ Nemaska Lithium, <https://www.nemaskalithium.com/en/>; the challenges of hard rock mining of lithium such as is planned by Nemaska, and its conversion into a battery grade extract are cited in a Financial Post analysis of July 2021, <https://financialpost.com/commodities/energy/electric-vehicles/as-lithium-booms-again-new-players-hope-to-avoid-horror-show-of-predecessors>
- ³⁰ Financial Post analysis, *ibid*.
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- ³⁴ U.S. Federal Consortium for Advanced Batteries, Executive Summary, "National Blueprint for Lithium Batteries, 2021-2030," <https://www.energy.gov/eere/vehicles/articles/national-blueprint-lithium-batteries>
- ³⁵ <https://www.canada.ca/en/natural-resources-canada/news/2020/01/canada-and-us-finalize-joint-action-plan-on-critical-minerals-collaboration.html>
- ³⁶ In testimony before the Committee on January 27, the Deputy Minister of ISED, Simon Kennedy, in response to a question posed by MP Michael Kram, stated that the national security review process for the Neo Lithium takeover by Zijin Mining, lasted longer than 45 days and extended over a period of months but would not provide specifics.