



February 19, 2019

Standing Committee on Energy, the Environment and Natural Resources  
The Senate of Canada  
Ottawa, ON K1A 0A4  
[enev@sen.parl.gc.ca](mailto:enev@sen.parl.gc.ca)

Dear Senators,

**Re: Bill C-69**

The PADA (Petroleum Acquisition & Divestment Association) Society is submitting this letter to the Senate Standing Committee on Energy, the Environment and Natural Resources as part of its study on Bill C-69 which has been referred to your Committee for review.

The following is some background on PADA:

- Calgary based non-profit volunteer organization formed to meet the needs of its professional members
- provides educational opportunities related to topics of interest and importance concerning merger and acquisition activities in the oil and gas sector, and further opportunities to meet and interact with fellow professionals
- membership represented by approximately 140 companies and includes a diverse range of businesses involved in oil and gas as well as industries which work to provide professional services to companies operating in the oil and gas sector
- businesses represented include for example: oil and gas producers, land consulting companies, legal firms, investment banks, independent engineering auditors and evaluators

We believe that Bill C-69, if enacted in its current form, will have severe negative consequences for the companies who are directly and indirectly involved in the energy sector as well as the investors who have committed capital through both the public and private equity markets. In turn these consequences will have ripple effects through the communities in which companies work, impacting their employees and families.

While we acknowledge the government's efforts to build on the success that industry has had in reducing its environmental footprint and establishing continuous improvements in sustainability and consultation practices, we are opposed to this legislation as written. The National Energy Board (NEB) has a long history of successfully approving and overseeing responsible natural resource development and infrastructure projects which have enabled Canada to establish itself as a global leader in socially and environmentally responsible development, transportation and use of energy. We acknowledge that the NEB process could benefit from updating but believe that Canadians would be better served through improvements to the existing process rather than the wholesale restructuring which Bill C-69 contemplates. In analyzing Bill C-69, we would encourage the Senate to carefully consider the decades of success demonstrated by Canada's resource sector under the existing process.

Should the Senate choose to move forward with Bill C-69, we believe that substantive amendments must be made in order to secure the future success of all of Canada's resource sectors, including oil and natural gas, agriculture, forestry, mining and power, which underpin Canada's economy. We have highlighted below some key issues that we believe must be addressed prior to Bill C-69 proceeding.

#### Economic Benefits

Any change to either the NEB process or implementation of a new process must consider economic benefits as part of a balanced approach to the development, transportation and export of Canada's resources. Bill C-69's purpose statements as they relate to the Impact Assessment Act and the Canadian Energy Regulator Act all but ignore the economic benefits of what is being proposed and, more importantly, give no consideration to how the Bill can be used to materially improve Canada's ability to attract investment and growth-oriented businesses.

#### Ministerial Discretion

If a new process is intended to reduce the politicization of decision making then the matter of Ministerial discretion must be resolved. The proposed degree of Ministerial discretion introduces significant uncertainty, with limited accountability, which is a key factor for new investment. Our Canadian economy relies on capital investment from domestic and foreign investors to foster growth, contributing to the high standard of living which we have established and which is envied around the world. Investors in turn rely on a stable and predictable regulatory environment to minimize political risk and ensure that the underlying fundamentals of a business are able to be realized. We believe that Bill C-69 will further erode investor confidence given the many areas of Ministerial discretion within the Bill which relate to broad public interest decisions. The existing NEB process provides a framework whereby a committee is able to evaluate and assess the unique circumstances of each project and make recommendations. An opportunity exists to enhance the public policy framework under which a committee or agency approves the project. To assign that responsibility to one individual severely weakens the process and deters investment.

#### Enhanced Public Consultation

Improving the public consultation process is imperative in order to ensure that those directly or adversely impacted are provided with the opportunity to participate and voice their concerns. However, a process which lacks guidance on prioritization of input from affected parties leaves an unfettered and potentially endless process that risks both the minimization of important facts affecting the majority and over attention to strong opinions from a small minority. For example, Section 22(n) of the proposed Impact Assessment Act requires consideration of comments received from the public without determining if those from the public providing comments would have standing in a review. At a minimum we believe that the legislation should be amended to reflect a "standing test" or define those that are "directly affected" and that the point at which public consultation be considered closed be clearly outlined to eliminate open ended timelines.

Many others in the business community have commented on the unintended consequences of Bill C-69 and the specific flaws in the Bill which would adversely impact the prospects of any major project being proposed, let alone approved, in the future. We echo the concerns that have been expressed. The country, and in particular the energy sector, has already seen a dramatic drop in investor interest, due in large part to the uncertainties (and risks) associated with regulatory processes. Our concern, like that of many others, is with the ability of the country to harness its resources to contribute to a thriving economy,

and in turn the ability of individual companies to continue to grow and contribute to the well-being of the many people with which they are associated. We have grave concerns that Bill C-69 will exacerbate the lack of investor interest in Canada and will have a severe negative impact on the Canadian economy and the ability of fundamentally strong companies to continue to grow.

As an industry association focused on Acquisitions and Divestitures, PADA has direct exposure to the mobility of capital into and out of Canada. While Canada becomes less investable, capital is being redirected into other countries with significantly poorer environmental standards, disastrous human rights records and rampant corruption. The legislation as written will create "carbon leakage" rather than a global carbon reduction.

Canada is a nation of builders, both connected and fueled by oil and gas which has provided a means to enhance efficiencies and offers a bridge to a long term greener future, not just in Canada but globally. As a nation we have established multiple sectors within our economy that capture the value of the available resources with increasing environmental efficiency, endeavoring to retain and reclaim the natural beauty and health of the environment around us. For decades industry and government have worked together to ensure access to markets and to provide the best opportunities for all Canadians, in every province. We believe that Bill C-69, as proposed, severely jeopardizes the ability to continue to do that.

The Senate has an opportunity to recognize the value in improvements to our existing process but also a responsibility to recognize that, as written, Bill C-69 does not achieve improvements in a way that preserves the economic well-being of Canadians. We believe that it is incumbent on the Senate to either stop Bill C-69 or enact substantive amendments to ensure a regulatory review process that works for all stakeholders and will ensure a better future for all Canadians.

Respectfully submitted,

PADA Society



Donna Phillips  
President