

Considering the effects of Bill C-69 on Canada's Competitiveness

Issue

Canadian's long-term prosperity is contingent on a regulatory system for major projects that is science-based, transparent, dependable and competitive with other jurisdictions. Bill C-69 *“Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts,”* requires amendments to deliver those outcomes.

Background

Competitiveness remains a significant issue for Canadian business. In the last two years, new policies have been introduced that negatively impact our ability to compete globally, undermine confidence in the rule of law in Canada, and are resulting in negative consequences for the national economy including; an Oil Tanker Moratorium (Bill C-48), federal regulations to reduce methane emissions in the oil and gas sector, clean fuel standards, climate change policy, and a lack of clarity on implementing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Each of these on their own could hurt Canadian business. Together, they are creating a crisis resulting in growing uncertainty in the business environment and declining confidence in the rule of law and business investment move to other countries. Canadian oil producers are receiving discounted price for products with restricted export capacity, yet operate with some of the world's highest environmental standards.

There is a consensus view among investors, job creators and regulatory experts regarding the inadequacy of Bill C-69 to address the negative consequences affecting the national economy because of regulatory uncertainty and lack of competitiveness. Redressing the inadequacy will require amendments to:

- ensuring regulators remain independent from political influence,
- expediting review timelines,
- minimizing regulatory duplication,
- limiting consultation to those directly impacted, and
- clarifying the process around Indigenous consultation.

Without making these changes it is highly probable that the current trends of declining foreign investment, declining royalty revenues, divestitures from Canada, and job losses will continue.

The Alberta Chambers of Commerce recommends the Government of Canada:

1. Refrain from passing Bill C-69 until the following amendments have been incorporated into the legislation and all draft regulations have been tabled for consideration and review by the public:

Increase certainty around review timelines and respect jurisdictions

- a. Limit the maximum review timeline to 24 months, including the 180-day early planning phase.
- b. Respect provincial/territorial jurisdiction and ensure that projects which fall under provincial legislation are not subject to redundant federal review.

Emphasize science-based decision making

- c. Amend Section 17 (1) to read as follows:

If, at least 30 days before the Agency provides the proponent of a designated project with a notice of the commencement of the impact assessment of the designated project under subsection 18(1), the proponent so requests, the Ministers of Finance, Natural Resources Canada and the Environment and Climate Change Canada must, prior to the notice of commencement provide a written notice if, in their opinions, the project is inconsistent with formal government policy. The written notice must set out the basis for the Minister's opinion.

- d. Add an additional subsection after section 17(2) of the act which reads as follows:

17(3) For greater certainty, the provision of a written notice to a proponent of a designated project under subsection 17(1) does not suspend or terminate the impact assessment of the designated project.

Ensure those most impacted by a project be heard

- e. Define a mechanism to define the nature and scope of public participation to the public in the assessment process which,
 - i. limits eligibility to stand and provide evidence for the review panel to individuals who demonstrate that the project presents "significant adverse environmental effects" to themselves or their communities, and
 - ii. permits individuals who cannot demonstrate that the project would have significant adverse environmental effects for them or their communities to submit their perspectives via online platforms or mail.

Create confidence with a federal backstop

- f. Implement a federal backstop which,
 - i. Compensates companies that adhere and fully comply with the regulatory process but find their project cannot proceed because of errors made by the Government in the consultation and assessment process.
 - ii. Compensate indigenous and other communities for the economic losses associated with the cancellation of a project because of the Government's inability to fully execute its duty to consult. The compensation should be provided for lost opportunities from shared construction benefits, money earmarked for long-term community investment, and lost direct employment opportunities.

Clarify new project criteria and eligible projects

- g. Clearly define all impact factors considered in an Impact Assessment.

- h. Clearly define the conditions under which a designated project can be exempt from an Impact Assessment by,
 - i. Indicating the respective weighting of factors considered under subsection 16(2) of the Act.
 - ii. Clarifying how factors considered under subsection 16(2) of the Act will be evaluated
 - iii. Including whether a project has received an equivalent assessment in an implicated jurisdiction as an additional criterion for exemption.