

Lebrun, Matthew JTST:EX

From: White, Don D JTST:EX
Sent: Sunday, September 9, 2012 9:17 PM
To: Ewing, Rebecca J JTST:EX; Quiring, Janel JTST:EX
Subject: RE: Urgent request from PO re Canada China FIPA

You'll see I incorporated most of your suggestions - thanks to both of you!

From: Ewing, Rebecca J JTI:EX
Sent: Sunday, September 09, 2012 8:48 PM
To: White, Don D JTI:EX; Smith, Josh JTI:EX; Quiring, Janel JTI:EX
Subject: RE: Urgent request from PO re Canada China FIPA

s13

Complementarities Study

Press Release: http://www.international.gc.ca/media_commerce/comm/news-communiques/2012/08/15a.aspx?lang=eng&view=d

Direct link to the report: <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/china-chine/study-comp-etude.aspx?view=d>

Following is a quote from joint Canada-China press release:

"The Study highlights the strong momentum and expansion in bilateral trade and investment relations. It identifies a number of important complementarities and prospects for growth, at the same time as pointing to the need to address certain challenges to best take advantage of these complementarities. The Study concludes that "the Canadian and Chinese governments should continue to deepen and strengthen our bilateral trade and investment ties through appropriate bilateral instruments to ensure that Chinese and Canadian citizens can continue to build a prosperous and sustainable future.""

From: White, Don D JTI:EX
Sent: Sunday, September 09, 2012 8:04 PM
To: Smith, Josh JTI:EX; Quiring, Janel JTI:EX; Ewing, Rebecca J JTI:EX
Subject: Fw: Urgent request from PO re Canada China FIPA

Anything further you think should be added/revised? Would like to respond or give Hayden thumbs-up by 9 tonight.

Thanks,
Don

From: Lansdell, Hayden GCPE:EX
Sent: Sunday, September 09, 2012 07:39 PM
To: Sen, Shom JTI:EX; White, Don D JTI:EX
Cc: Yelovatz, Maureen JTI:EX
Subject: Urgent request from PO re Canada China FIPA

Updated version, with a proper header and some errors removed. PO and MO have asked for this to go out at 7:00 tomorrow morning. Can you please review as soon as possible so that I can get it to the editors tonight.

Hayden

<<2012 09 10_NR_FIPA_v1.docx>>
From: Lansdell, Hayden GCPE:EX
Sent: Sun, September 9, 2012 5:42 PM
To: Sen, Shom JTI:EX; White, Don D JTI:EX
Cc: Yelovatz, Maureen JTI:EX
Subject: Urgent re Canada China FIPA

Attached for review and comment.

This NR is more about trade than anything as I do not have any info on BC's investments in China. Grateful if you could add something as it is a thin NR but ...

Hayden

<< File: 2012 09 10_NR_FIPA_v1.docx >>

Lebrun, Matthew JTST:EX

From: Smith, Josh JTST:EX
Sent: Sunday, September 9, 2012 9:22 PM
To: Smith, Josh JTST:EX; Quiring, Janel JTST:EX; White, Don D JTST:EX; Ewing, Rebecca J JTST:EX
Cc: Sen, Shom JTST:EX
Subject: RE: Urgent request from PO re Canada China FIPA

s13

J.

寄件者: Smith, Josh JTI:EX
寄件日期: 2012年9月9日 下午 09:18
收件者: Quiring, Janel JTI:EX; White, Don D JTI:EX; Ewing, Rebecca J JTI:EX
主旨: RE: Urgent request from PO re Canada China FIPA

Sorry for the late reply. Was watching s22 and not in earshot of my cell!

Comments:

s13

J.

寄件者: Quiring, Janel JTI:EX
寄件日期: 2012年9月9日 下午 08:47
收件者: White, Don D JTI:EX; Smith, Josh JTI:EX; Ewing, Rebecca J JTI:EX
主旨: RE: Urgent request from PO re Canada China FIPA

Agree with Shom's comment that the focus of first para is on

s13

s13

Perhaps just delete

s13

VICTORIA - Pat Bell, Minister of Jobs, Tourism and Skills Training, is confident that the new Canada-China Foreign Investment Promotion and Protection Agreement will provide a framework through which greater economic prosperity will come for British Columbians and British Columbian companies

s13

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To: Smith, Josh JTI:EX; Quiring, Janel JTI:EX; Ewing, Rebecca J JTI:EX
Subject: Fw: Urgent request from PO re Canada China FIPA

Some q's + comments on latest draft from Shom.

From: Sen, Shom JTI:EX
Sent: Sunday, September 09, 2012 08:10 PM
To: Lansdell, Hayden GCPE:EX; White, Don D JTI:EX; Han, Henry JTI:EX; Yung, Philip JTI:EX; Guy, Brodie JTI:EX
Cc: Yelovatz, Maureen JTI:EX; Bubrick, Elaine JTI:EX
Subject: RE: Urgent request from PO re Canada China FIPA

Hi Hayden

Looks good...although I'll wait for Don's comments since he has more background on trade negotiations.

A couple of comments:

s13

o "In 2011, the value of exports destined for the Pacific Rim was 43 per cent, up from 36 per cent in 2009."

s13

o "This represents the first time that export levels to the Pacific Rim were higher than those to the United States (42.7 per cent). However, even greater potential exists for further growth in these markets."

Need to change ministry name: "Ministry of Jobs, Tourism and Innovation"

s13, s16

Perhaps Don may have a few more comments from a trade perspective. I'll let him feedback directly.

Regards

Shom

From: Lansdell, Hayden GCPE:EX
Sent: Sun, September 9, 2012 7:40 PM
To: Sen, Shom JTI:EX; White, Don D JTI:EX
Cc: Yelovatz, Maureen JTI:EX
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Lebrun, Matthew JTST:EX

From: Quiring, Janel JTST:EX
Sent: Monday, September 10, 2012 10:12 AM
To: Ewing, Rebecca J JTST:EX
Subject: RE: Urgent request from PO re Canada China FIPA

s13, s16

-----Original Message-----

From: Ewing, Rebecca J JTI:EX
Sent: Sunday, September 9, 2012 8:51 PM
To: Quiring, Janel JTI:EX
Subject: RE: Urgent request from PO re Canada China FIPA

s13, s16

Let me know if I am missing something there? (tomorrow or later is fine :)

Thanks

From: Quiring, Janel JTI:EX
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To: White, Don D JTI:EX; Smith, Josh JTI:EX; Ewing, Rebecca J JTI:EX
Subject: RE: Urgent request from PO re Canada China FIPA

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Lebrun, Matthew JTST:EX

From: Musgrave, Robert JTST:EX
Sent: Wednesday, February 8, 2012 10:02 AM
To: Gensey, Guy EMNG:EX
Subject: FW: News Release - Canada-China FIPA

You (MEM) might be interested in some of this.

From: White, Don D JTI:EX
Sent: Wednesday, February 8, 2012 9:45 AM
To: Haney, Donald IGRS:EX
Cc: Craven, Paul IGRS:EX; Gervais, Monica JTI:EX; Quirling, Janel JTI:EX; Musgrave, Robert JTI:EX
Subject: RE: News Release - Canada-China FIPA

Thanks Don – following is our understanding of what Can-China have agreed.

A FIPA (still to be ratified after legal scrub) plus....

The new deals signed Wednesday include:

- A framework for co-operation between Parks Canada and China's State Forestry Administration. Under the deal, effective immediately, the two agencies will be able "to collaborate and share their professional and scientific knowledge and experience in the management of national parks, nature reserves and other protected areas."
- A five-year commitment, also effective immediately, for Canada and the Chinese Academy of Sciences to collaborate on individual projects, exchange personnel and share ideas "in the areas of clean energy, earth sciences and mineral resources."
- Building on the May 2011 deal that saw China restore access for some beef products from Canadian animals under 30 months old, a new protocol was agreed "that clears the way for the immediate access to the lucrative Chinese beef tallow market by Canadian processors for the first time in almost a decade."
- An agreement that Canada will fund joint research into a fungal disease that restricted export of Canadian canola seed to China in 2009.
- A plan to launch two new calls for proposals, valued at \$18 million, for "the development of innovations with high commercial potential in the areas of human vaccines and clean automotive transportation."

Renewed agreements include:

- A further renewal of the Energy Cooperation agreement, first signed in 2001 and renewed in 2006, covering "a broad range of energy activities, including energy policy, trade and investment, energy efficiency, oil and gas, nuclear energy, renewable energy, as well as energy research and development."
- A three-year renewal of the already 29-year-old Canada-China Scholars' Exchange Program (CCESP).

From: Haney, Donald IGRS:EX
Sent: Wednesday, February 8, 2012 9:25 AM
To: White, Don D JTI:EX; Musgrave, Robert JTI:EX
Cc: Craven, Paul IGRS:EX
Subject: FW: News Release - Canada-China FIPA

Looks like the feds and China have concluded a FIPA although legal scrubbing is still required.

From: PMO [<mailto:pm@PM.GC.CA>]
Sent: Wednesday, February 8, 2012 8:43 AM
To: ALLNEWS_E@LSERV.PMO-CPM.GC.CA
Subject: News Release

From the [Prime Minister's Web Site](http://www.pm.gc.ca/) (<http://www.pm.gc.ca/>)

PM announces agreement that will facilitate investment flows between Canada and China

More stable investment environment will contribute to jobs and growth

February 8, 2012
Beijing, China

Copyright

Lebrun, Matthew JTST:EX

From: Haney, Donald IGRS:EX
Sent: Wednesday, February 8, 2012 10:12 AM
To: White, Don D JTST:EX
Cc: Craven, Paul IGRS:EX; Gervais, Monica JTST:EX; Quiring, Janel JTST:EX; Musgrave, Robert JTST:EX
Subject: RE: News Release - Canada-China FIPA

Thanks, Don.

I checked with Melanie to see if any BC projects were approved under the **third call for proposals under the Canada-China Framework Agreement for Cooperation on Science, Technology and Innovation**. They're all Ontario or Alberta, but for the one from UNB. The NR made specific mention of funding provided by Alberta. Just thought it was interesting.

Don

From: White, Don D JTI:EX
Sent: Wednesday, February 8, 2012 9:45 AM
To: Haney, Donald IGRS:EX
Cc: Craven, Paul IGRS:EX; Gervais, Monica JTI:EX; Quiring, Janel JTI:EX; Musgrave, Robert JTI:EX
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More stable investment environment will contribute to jobs and growth

February 8, 2012
Beijing, China

Copyright

Lebrun, Matthew JTST:EX

From: Quiring, Janel JTST:EX
Sent: Wednesday, June 20, 2012 8:55 AM
To: Haney, Donald IGRS:EX; White, Don D JTST:EX; Ewing, Rebecca J JTST:EX
Subject: Fw: update on Canada-China FIPA

Fyi

From: Audrey.JolinLessard@international.gc.ca [<mailto:Audrey.JolinLessard@international.gc.ca>]
Sent: Wednesday, June 20, 2012 08:42 AM
To: Quiring, Janel JTI:EX
Subject: RE: update on Canada-China FIPA

Hi Janel,

Unfortunately I was not able to find much information aside from the paragraph below, provided by my colleagues working on the Canada-China FIPA. They assured me, however, that a more complete debrief would be provided on July 9.

Since the conclusion of negotiations on a FIPA between Canada and China, both countries have been engaged in a legal review. On June 13, Canada received the Chinese version of the FIPA text, and officials are currently reviewing it to ensure accuracy and consistency. Canada and China are now working together to implement this Agreement as quickly as possible. Implementation of the Canada-China FIPA will occur as early as fall 2012.

Audrey

From: Quiring, Janel JTI:EX [<mailto:Janel.Quiring@gov.bc.ca>]
Sent: June 19, 2012 5:11 PM
To: Jolin Lessard, Audrey -BSI
Subject: update on Canada-China FIPA

Hi Audrey, it's a busy day for all of us, including you I'm sure! In our flurry of getting ready to respond to TPP and possible announcement on China study, I'm being asked what the status and timelines are for implementation of the Can-China FIPA. Do you have a recent note I can have?

Lebrun, Matthew JTST:EX

From: White, Don D JTST:EX
Sent: Sunday, September 9, 2012 11:37 AM
To: Ewing, Rebecca J JTST:EX
Subject: Re: Confidential - Fyi: Canada-China FIPA Signed

No problem Rebecca - it's apparently in today's Globe + Mail so now public. I let Shom + Henry know for the mission currently in China, and Shom informed Dave B.

No request as yet for briefing material... (!)

Thanks,
Don

From: Ewing, Rebecca J JTI:EX
Sent: Sunday, September 09, 2012 11:13 AM
To: White, Don D JTI:EX
Subject: Re: Confidential - Fyi: Canada-China FIPA Signed

Thanks. Let me know if there's anything in particular you want from me on this. Otherwise I will take a look next week and could prepare a brief overview - perhaps along with an overview of complementarities report if that is useful

From: White, Don D JTI:EX
Sent: Saturday, September 08, 2012 08:48 PM
To: Sen, Shom JTI:EX; Han, Henry JTI:EX
Cc: Ewing, Rebecca J JTI:EX
Subject: Confidential - Fyi: Canada-China FIPA Signed

Fyi (still confidential).

From: Vernon.MacKay@international.gc.ca [<mailto:Vernon.MacKay@international.gc.ca>]
Sent: Saturday, September 08, 2012 06:57 PM
To: alan.barber@gov.mb.ca <alan.barber@gov.mb.ca>; alexandrea_malakoe@gov.nt.ca <alexandrea_malakoe@gov.nt.ca>; robert.donald@gov.sk.ca <robert.donald@gov.sk.ca>; Daryl.Hanak@gov.ab.ca <Daryl.Hanak@gov.ab.ca>; White, Don D JTI:EX; elaine.campbell@gnb.ca <elaine.campbell@gnb.ca>; morris.evangelista@ontario.ca <morris.evangelista@ontario.ca>; egertofj@gov.ns.ca <egertofj@gov.ns.ca>; Gordon.jansen@ontario.ca <Gordon.jansen@ontario.ca>; harley.trudeau@on.aibn.com <harley.trudeau@on.aibn.com>; Andrew.Hashey@gnb.ca <Andrew.Hashey@gnb.ca>; Quiring, Janel JTI:EX; Jesse, Janna L JTI:EX; JudithHearn@gov.nl.ca <JudithHearn@gov.nl.ca>; kbwhitnell@gov.pe.ca <kbwhitnell@gov.pe.ca>; Lisa.Badenhorst@gov.yk.ca <Lisa.Badenhorst@gov.yk.ca>; JeffLoder@gov.nl.ca <JeffLoder@gov.nl.ca>; WMacKay@gov.nu.ca <WMacKay@gov.nu.ca>; mary.ballantyne@gov.ab.ca <mary.ballantyne@gov.ab.ca>; Patrick.Muzzi@mdeie.gouv.qc.ca <Patrick.Muzzi@mdeie.gouv.qc.ca>; jpower@gov.nl.ca <jpower@gov.nl.ca>; rsquires@gov.nl.ca <rsquires@gov.nl.ca>; Musgrave, Robert JTI:EX; Natashia.Stinka@gov.sk.ca <Natashia.Stinka@gov.sk.ca>; TraceyPennell@gov.nl.ca <TraceyPennell@gov.nl.ca>; Veronique.Bilodeau@mdeie.gouv.qc.ca <Veronique.Bilodeau@mdeie.gouv.qc.ca>
Cc: John.oneill@international.gc.ca <John.oneill@international.gc.ca>; Meaghan.Ursell@international.gc.ca <Meaghan.Ursell@international.gc.ca>

Subject: Canada-China FIPA Signed

Colleagues,

This is to let you know that the Canada-China FIPA was signed at the APEC Leaders Summit in Vladivostok, Russia, September 9 (evening of the 8th in Ottawa). The English and French versions of the treaty are attached. We request that you treat the treaties as confidential since we have not yet made them public. There are still a few steps to be taken before the FIPA comes into force. It must be tabled in the Parliament of Canada for a period of 21 days, after which it will require an Order-In-Council for ratification. Once ratified, Canada will notify China that it has completed its ratification procedures. China must also complete its ratification process. The FIPA will come into force on the date that both Parties have provided their notification of ratification. At this point it is a little early to speculate on when that date may be.

Don't hesitate to contact me if you have any questions, and of course I will see you at C-Trade next week.

Regards,

Vern

AGREEMENT
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
FOR THE PROMOTION AND RECIPROCAL PROTECTION
OF INVESTMENTS

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE
PEOPLE'S REPUBLIC OF CHINA** (the "Contracting Parties"),

RECOGNIZING the need to promote investment based on the principles of sustainable development;

DESIRING to intensify the economic cooperation of both States, based on equality and mutual benefit;

HAVE AGREED as follows:

PART A

ARTICLE 1

Definitions

For the purpose of this Agreement,

- I. "investment" means:
 - (a) an enterprise;
 - (b) shares, stocks and other forms of equity participation in an enterprise;
 - (c) bonds, debentures, and other debt instruments of an enterprise;
 - (d) a loan to an enterprise
 - (i) where the enterprise is an affiliate of the investor, or
 - (ii) where the original maturity of the loan is at least three years;
 - (e) notwithstanding sub-paragraphs (c) and (d) above, a loan to or debt security issued by a financial institution is an investment only where the loan or debt security is treated as regulatory capital by the Contracting Party in whose territory the financial institution is located;
 - (f) an interest in an enterprise that entitles the owner to share in the income or profits of the enterprise;
 - (g) an interest in an enterprise that entitles the owner to share in the assets of that enterprise on dissolution;

- (h) interests arising from the commitment of capital or other resources in the territory of a Contracting Party to economic activity in such territory, such as under
 - (i) contracts involving the presence of an investor's property in the territory of the Contracting Party, including turnkey or construction contracts, or concessions to search for and extract oil and other natural resources, or
 - (ii) contracts where remuneration depends substantially on the production, revenue or profits of an enterprise;
- (i) intellectual property rights; and
- (j) any other tangible or intangible, moveable or immovable, property and related property rights acquired or used for business purposes;

but "investment" does not mean:

- (k) claims to money that arise solely from
 - (i) commercial contracts for the sale of goods or services, or
 - (ii) the extension of credit in connection with a commercial transaction, such as trade financing, other than a loan covered by sub-paragraph (d); or
- (l) any other claims to money,

that do not involve the kinds of interests set out in sub-paragraphs (a) to (j);

2. "investor" means with regard to either Contracting Party:

- (a) any natural person who has the citizenship or status of permanent resident of that Contracting Party in accordance with its laws and who does not possess the citizenship of the other Contracting Party;

(b) any enterprise as defined in paragraph 10(a) of this Article;

that seeks to make, is making or has made a covered investment¹;

3. “investment of an investor of a Contracting Party” means an investment owned or controlled directly or indirectly by an investor of such Contracting Party;

4. “covered investment” means, with respect to a Contracting Party, an investment in its territory of an investor of the other Contracting Party existing on the date of entry into force of this Agreement or an investment of an investor admitted in accordance with its laws and regulations thereafter, and which involves the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk;

5. “returns” means the amounts yielded by investments, and in particular, though not limited to, profits, capital gains, dividends, interest, royalties, returns-in-kind or other income;

6. “measure” includes any law, regulation, rule, procedure, decision, requirement, administrative action, or practice;

7. “existing measure” means a measure existing at the time this Agreement enters into force;

8. “financial service” has the same meaning as in sub-paragraph 5(a) of the Annex on Financial Services of the GATS;

9. “financial institution” means any financial intermediary or other enterprise that is authorized to do business and is regulated or supervised as a financial institution under the law of the Contracting Party in whose territory it is located;

¹ For greater certainty, the elements “seeks to make” and “is making” in the definition of an investor are only applicable with respect to Article 5.

10. "enterprise" means:

- (a) any entity constituted or organized in accordance with the laws of a Contracting Party, such as public institutions, corporations, foundations, agencies, cooperatives, trust, societies, associations and similar entities and private companies, firms, partnerships, establishments, joint ventures and organizations, whether or not for profit, and irrespective of whether their liabilities are limited or otherwise; and
- (b) a branch of any such entity;

11. "intellectual property rights" means copyright and related rights, trademark rights, patent rights, rights in layout designs of semiconductor integrated circuits, trade secret rights, plant breeders' rights, rights in geographical indications and industrial design rights;

12. "confidential information" means business confidential information and information that is privileged or otherwise protected from disclosure;

13. "disputing investor" means an investor that makes a claim under Article 20;

14. "disputing Contracting Party" means a Contracting Party against which a claim is made under Article 20;

15. "disputing party" means the disputing investor or the disputing Contracting Party;

16. "ICSID" means the International Centre for Settlement of Investment Disputes;

17. "ICSID Convention" means the *Convention on the Settlement of Investment Disputes between States and Nationals of other States*, done at Washington on 18 March 1965;

18. "Additional Facility Rules of ICSID" means the *Rules Governing the Additional Facility for the Administration of Proceedings by the Secretariat of the International Centre for Settlement of Investment Disputes* and Schedule C (Arbitration) thereto, approved by the Administrative Council on 29 September 2002, as amended from time to time;

19. "Tribunal" means an arbitration tribunal established under Part C;

20. "UNCITRAL Arbitration Rules" means the Arbitration Rules of the United Nations Commission on International Trade Law, approved by the United Nations General Assembly on 15 December 1976, as amended from time to time;

21. "WTO Agreement" means the *Agreement Establishing the World Trade Organization* done at Marrakesh on 15 April 1994;

22. "territory" means:

In respect of Canada:

- (a) the land territory, air space, internal waters and territorial sea over which Canada exercises sovereignty;
- (b) the exclusive economic zone of Canada, as determined by its domestic law pursuant to Part V of the *United Nations Convention on the Law of the Sea* (UNCLOS); and
- (c) the continental shelf of Canada, as determined by its domestic law pursuant to Part VI of UNCLOS.

In respect of China:

the territory of China, including land territory, internal waters, territorial sea, territorial air space, and any maritime areas beyond the territorial sea over which, in accordance with international law and its domestic law, China exercises sovereign rights or jurisdiction with respect to the waters, seabed and subsoil and natural resources thereof.

PART B

ARTICLE 2

Scope and Application

1. This Agreement shall apply to measures adopted or maintained by a Contracting Party relating to investors of the other Contracting Party and covered investments.
2. A Contracting Party's obligations under this Agreement shall apply to any entity whenever that entity exercises any regulatory, administrative or other governmental authority delegated to it by that Contracting Party, such as the power to expropriate, grant licenses, approve commercial transactions or impose quotas, fees or other charges.
3. Each Contracting Party shall take all necessary measures in order to ensure observance of the provisions of this Agreement by provincial governments.²

ARTICLE 3

Promotion and Admission of Investment

Each Contracting Party shall encourage investors of the other Contracting Party to make investments in its territory and admit such investments in accordance with its laws, regulations and rules.

ARTICLE 4

Minimum Standard of Treatment

1. Each Contracting Party shall accord to covered investments fair and equitable treatment and full protection and security, in accordance with international law.

² For Canada, "provincial government" includes a territorial government.

2. The concepts of “fair and equitable treatment” and “full protection and security” in paragraph 1 do not require treatment in addition to or beyond that which is required by the international law minimum standard of treatment of aliens as evidenced by general State practice accepted as law.

3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

ARTICLE 5³

Most-Favoured-Nation Treatment

1. Each Contracting Party shall accord to investors of the other Contracting Party treatment no less favourable than that it accords, in like circumstances, to investors of a non-Contracting Party with respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments in its territory.

2. Each Contracting Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments of investors of a non-Contracting Party with respect to the establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments in its territory.

3. For greater certainty, the “treatment” referred to in paragraphs 1 and 2 of this Article does not encompass the dispute resolution mechanisms, such as those in Part C, in other international investment treaties and other trade agreements.

³ For greater certainty, the treatment accorded by a Contracting Party under this Article means, with respect to a provincial government, treatment accorded, in like circumstances, by that provincial government to investors, and to investments of investors, of a non-Contracting Party.

ARTICLE 6⁴

National Treatment

1. Each Contracting Party shall accord to investors of the other Contracting Party treatment no less favourable than that it accords, in like circumstances, to its own investors with respect to the expansion, management, conduct, operation and sale or other disposition of investments in its territory.
2. Each Contracting Party shall accord to covered investments treatment no less favourable than that it accords, in like circumstances, to investments of its own investors with respect to the expansion, management, conduct, operation and sale or other disposition of investments in its territory.
3. The concept of "expansion" in this Article applies only with respect to sectors not subject to a prior approval process under the relevant sectoral guidelines and applicable laws, regulations and rules in force at the time of expansion. The expansion may be subject to prescribed formalities and other information requirements.

ARTICLE 7

Senior Management, Boards of Directors and Entry of Personnel

1. A Contracting Party may not require that an enterprise of that Party, that is a covered investment, appoint individuals of any particular nationality to senior management positions.
2. A Contracting Party may require that a majority of the board of directors, or any committee thereof, of an enterprise of that Contracting Party that is a covered investment be of a particular nationality or resident in the territory of the Contracting Party, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.

⁴ For greater certainty, the treatment accorded by a Contracting Party under this Article means, with respect to a provincial government, treatment accorded, in like circumstances, by that provincial government to investors, and to investments of investors, of the Contracting Party of which it forms a part.

3. Subject to its laws, regulations and policies relating to the entry and sojourn of non-citizens, a Contracting Party shall permit natural persons who have the citizenship or status of permanent resident of the other Contracting Party and are employed by any enterprise that is a covered investment of an investor, or a subsidiary or affiliate thereof, to enter and remain temporarily in its territory in a capacity that is managerial, executive or that requires specialized knowledge.

ARTICLE 8

Exceptions

- I. Article 5 does not apply to:
 - (a) treatment by a Contracting Party pursuant to any existing or future bilateral or multilateral agreement:
 - (i) establishing, strengthening or expanding a free trade area or customs union; or
 - (ii) relating to aviation, fisheries, or maritime matters including salvage;
 - (b) treatment accorded under any bilateral or multilateral international agreement in force prior to 1 January 1994.
2. Articles 5, 6 and 7 do not apply to⁵:
 - (a) (i) any existing non-conforming measures maintained within the territory of a Contracting Party; and

⁵ The exception described in this paragraph applies without prejudice to the rights reserved by Canada and China in paragraph 3.

- (ii) any measure maintained or adopted after the date of entry into force of this Agreement that, at the time of sale or other disposition of a government's equity interests in, or the assets of, an existing state enterprise or an existing governmental entity, prohibits or imposes limitations on the ownership or control of equity interests or assets or imposes nationality requirements relating to senior management or members of the board of directors;
 - (b) the continuation or prompt renewal of any non-conforming measure referred to in sub-paragraph (a); or
 - (c) an amendment to any non-conforming measure referred to in sub-paragraph (a), to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 5, 6 and 7.
3. Articles 5, 6 and 7 do not apply to any measure that a Contracting Party has reserved the right to adopt or maintain pursuant to Annex B.8.
4. In respect of intellectual property rights, a Contracting Party may derogate from Articles 3, 5 and 6 in a manner that is consistent with international agreements regarding intellectual property rights to which both Contracting Parties are parties.
5. Articles 5, 6 and 7, do not apply to:
- (a) procurement by a Contracting Party;
 - (b) subsidies or grants provided by a Contracting Party, including government-supported loans, guarantees and insurance.

ARTICLE 9

Performance Requirements

The Contracting Parties reaffirm their obligations under the *WTO Agreement on Trade-Related Investment Measures (TRIMs)*, as amended from time to time. Article 2 and the Annex of the TRIMs are incorporated into and made part of this Agreement.

ARTICLE 10

Expropriation

1. Covered investments or returns of investors of either Contracting Party shall not be expropriated, nationalized or subjected to measures having an effect equivalent to expropriation or nationalization in the territory of the other Contracting Party (hereinafter referred to as "expropriation"), except for a public purpose, under domestic due procedures of law, in a non-discriminatory manner and against compensation.⁶ Such compensation shall amount to the fair market value of the investment expropriated immediately before the expropriation, or before the impending expropriation became public knowledge, whichever is earlier, shall include interest at a normal commercial rate until the date of payment, and shall be effectively realizable, freely transferable, and made without delay. The investor affected shall have a right, under the law of the Contracting Party making the expropriation, to prompt review, by a judicial or other independent authority of that Contracting Party, of his or its case and of the valuation of his or its investment in accordance with the principles set out in this paragraph.

2. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to other measures in respect of intellectual property rights, to the extent that such measures are consistent with international agreements regarding intellectual property rights to which both Contracting Parties are parties.

⁶ Annex B.10 shall apply to this paragraph.

ARTICLE 11

Compensation for Losses

Investors of one Contracting Party who suffer losses in respect of covered investments owing to war, a state of national emergency, insurrection, riot or other similar events, shall be accorded treatment by the other Contracting Party, in respect of restitution, indemnification, compensation or other settlement, no less favourable than it accords in like circumstances, to its own investors or to investors of any third State.

ARTICLE 12

Transfers⁷

1. A Contracting Party shall permit all transfers relating to a covered investment to be made freely and without delay. Such transfers include:

- (a) contributions to capital;
 - (b) profits, capital gains, dividends, interest, royalties including payments in relation to intellectual and industrial property rights, fees, returns-in-kind or other income derived from the investment;
 - (c) proceeds obtained from the total or partial sale of the covered investment, or from the partial or complete liquidation of the investment;
 - (d) payments made under a contract entered into by an investor, or its covered investments, including those pursuant to a loan agreement;
 - (e) payments made pursuant to Articles 10 and 11 and arising under Part C;
- and

⁷ Annex B.12 shall apply to this Article.

- (f) earnings of nationals of a Contracting Party who work in connection with an investment in the territory of the other Contracting Party.

2. Each Contracting Party shall permit transfers relating to a covered investment to be made in a freely convertible currency at the market rate of exchange prevailing on the date of transfer. In the event that the market rate of exchange does not exist, the rate of exchange shall correspond to the cross rate obtained from those rates which would be applied by the International Monetary Fund on the date of payment for conversions of currencies concerned into Special Drawing Rights.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Contracting Party may prevent a transfer through the equitable, non-discriminatory and good faith application of its laws relating to:

- (a) bankruptcy, insolvency or the protection of the rights of creditors;
- (b) issuing, trading or dealing in securities;
- (c) criminal or penal offenses;
- (d) reports of transfers of currency or other monetary instruments; or
- (e) ensuring the satisfaction of judgments in adjudicatory proceedings.

4. (a) Nothing in the Agreement shall be construed to prevent a Contracting Party from adopting or maintaining measures that restrict transfers when the Contracting Party experiences serious balance of payment difficulties, or the threat thereof, provided that such measures:

- (i) are of limited duration, applied on a good-faith basis, and should be phased out as the situation calling for imposition of such measures improves;
- (ii) do not constitute a dual or multiple exchange rate practice;

- (iii) do not otherwise interfere with an investor's ability to invest, in the territory of the Contracting Party, in the form chosen by the investor and, as relevant, in local currency, in any assets that are restricted from being transferred out of the territory of the Contracting Party;
 - (iv) are applied on an equitable and non-discriminatory basis;
 - (v) are promptly published by the government authorities responsible for financial services or central bank of the Contracting Party;
 - (vi) are consistent with the *Articles of Agreement of the International Monetary Fund* done at Bretton Woods on 22 July 1944; and
 - (vii) avoid unnecessary damage to the commercial, economic and financial interests of the other Contracting Party.
- (b) Sub-paragraph (a) does not apply to measures that restrict payments or transfers for current transactions⁸, unless the imposition of such measures complies with the procedures set out in the *Articles of Agreement of the International Monetary Fund*.

5. Notwithstanding paragraph 1, a Contracting Party may restrict transfers of returns-in-kind in circumstances where it could otherwise restrict such transfers under the WTO Agreement.

⁸ "Current transactions" has the meaning set out in Article XXX(d) of the *Articles of Agreement of the International Monetary Fund*.

ARTICLE 13

Subrogation

1. If a Contracting Party or its Agency makes a payment to one of its investors under a guarantee or contract of insurance it has granted to a covered investment of that investor, the other Contracting Party shall recognize the transfer of any right or claim of that investor to the first mentioned Contracting Party or its Agency. The subrogated right or claim shall not be greater than the original right or claim of the said investor. Such right may be exercised by the Contracting Party or any agent thereof so authorized.
2. In an arbitration under Part C, a disputing Contracting Party shall not assert, as a defence, counterclaim, right of setoff or otherwise, that the disputing investor has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of its alleged damages.

ARTICLE 14

Taxation

1. Except as provided in this Article nothing in this Agreement shall apply to taxation measures.
2. Nothing in this Agreement shall affect the rights and obligations of the Contracting Parties under any tax convention. In the event of any inconsistency between the provisions of this Agreement and any such convention, the provisions of that convention shall apply to the extent of the inconsistency.
3. Nothing in this Agreement shall be construed to require a Contracting Party to furnish or allow access to information the disclosure of which would be contrary to the Contracting Party's law protecting information concerning the taxation affairs of a taxpayer.

4. The provisions of Article 10 shall apply to taxation measures.
5. No claim may be made by an investor pursuant to paragraph 4 unless:
 - (a) the investor provides a copy of the notice of claim to the taxation authorities of the Contracting Parties; and
 - (b) six months after receiving notification of the claim by the investor, the taxation authorities of the Contracting Parties fail to reach a joint determination that the measure in question is not an expropriation.
6. The taxation authorities referred to in this Article shall be the following until otherwise notified by a Contracting Party:
 - (a) for Canada: the Assistant Deputy Minister, Tax Policy, of the Department of Finance Canada;
 - (b) for China: the Ministry of Finance and State Administration of Taxation or an authorized representative of the Ministry of Finance and State Administration of Taxation.
7. The Contracting Parties shall notify each other promptly by diplomatic note of the successors to the tax authorities identified in sub-paragraphs 6(a) and (b).

ARTICLE 15

Disputes between the Contracting Parties

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, as far as possible, be settled by consultation through diplomatic channels.
2. If a dispute cannot thus be settled within six months, it shall, upon the request of either Contracting Party, be submitted to an ad hoc arbitral tribunal.

3. Such tribunal shall be comprised of three arbitrators. Within two months from the date on which either Contracting Party receives the written notice requesting arbitration from the other Contracting Party, each Contracting Party shall appoint one arbitrator. Those two arbitrators shall jointly select a third arbitrator, who shall be a national of a third State which has diplomatic relations with both Contracting Parties. The third arbitrator shall be appointed by the two Contracting Parties as Chairman of the arbitral tribunal within two months from the date of appointment of the other two arbitrators.

4. If within the periods specified in paragraph 3 of this Article the necessary appointments have not been made, either Contracting Party may, in the absence of any other agreement, invite the President of the International Court of Justice to appoint any arbitrator who has or have not yet been appointed. If the President is a national of either Contracting Party or is otherwise prevented from discharging this function, the next most senior member of the International Court of Justice who is not a national of either Contracting Party shall be invited to make the necessary appointments.

5. The arbitral tribunal shall determine its own procedure.

6. The arbitral tribunal shall reach its decision by a majority of votes. The arbitral tribunal shall, upon the request of either Contracting Party, explain the reasons for its decision. Unless otherwise agreed, the arbitral tribunal shall make best efforts to render its decision within six months of the appointment of the Chairman in accordance with paragraphs 3 and 4 of this Article.

7. Each Contracting Party shall bear the cost of its appointed arbitrator and of its representation in the arbitral proceedings. The relevant costs of the Chairman and the arbitral tribunal shall be borne in equal parts by the Contracting Parties.

8. The decision of the arbitral tribunal shall be final and binding on both Contracting Parties. The Contracting Parties shall, if necessary, within 60 days of the decision of an arbitral tribunal, meet and decide on the manner in which to resolve their dispute. That decision shall normally implement the decision of the arbitral tribunal. If the Contracting Parties fail to reach a decision, the Contracting Party bringing the dispute shall be entitled to receive compensation of equivalent value to the arbitral tribunal's award.

ARTICLE 16

Denial of Benefits

1. A Contracting Party may, at any time including after the institution of arbitration proceedings in accordance with Part C, deny the benefits of this Agreement to an investor of the other Contracting Party that is an enterprise of that other Contracting Party and to covered investments of that investor:

- (a) if investors of a non-Contracting Party own or control the enterprise; and
- (b) the denying Contracting Party adopts or maintains measures with respect to the non-Contracting Party:
 - (i) that prohibit transactions with the enterprise; or
 - (ii) that would be violated or circumvented if the benefits of this Agreement were accorded to the enterprise or to its covered investments.

2. A Contracting Party may, at any time including after the institution of arbitration proceedings in accordance with Part C, deny the benefits of this Agreement to an investor of the other Contracting Party that is an enterprise of that other Contracting Party and to covered investments of that investor if investors of a non-Contracting Party or of the denying Contracting Party own or control the enterprise and the enterprise has no substantial business activities in the territory of the other Contracting Party under whose law it is constituted or organized.

3. For greater certainty, a Contracting Party may deny the benefits of this Agreement pursuant to paragraphs 1 and 2 at any time, including after the initiation of arbitration proceedings in accordance with Part C.

ARTICLE 17

Transparency of Laws, Regulations and Policies

1. Each Contracting Party shall, with a view to promoting the understanding of its laws and policies that pertain to or affect a covered investment:
 - (a) make such laws and policies public and readily accessible;
 - (b) if requested, provide copies of specified laws and policies to the other Contracting Party; and
 - (c) if requested, consult with the other Contracting Party with a view to explaining specified laws and policies.
2. Each Contracting Party shall ensure that its laws, regulations and policies pertaining to the conditions of admission of investments, including procedures for application and registration, criteria used for assessment and approval, timelines for processing an application and rendering a decision, and review or appeal procedures of a decision, are administered in a manner that enables investors of the other Contracting Party to become acquainted with them.
3. Each Contracting Party is encouraged to:
 - (a) publish in advance any measure that it proposes to adopt; and
 - (b) provide interested persons and the other Contracting Party a reasonable opportunity to comment on the proposed measure.

ARTICLE 18

Consultations

1. The representatives of the Contracting Parties may hold meetings for the purpose of:

- (a) reviewing the implementation of this Agreement;
- (b) reviewing the interpretation or application of this Agreement;
- (c) exchanging legal information;
- (d) addressing disputes arising out of investments;
- (e) studying other issues in connection with the facilitation or encouragement of investment, including measures referred to in paragraph 3.

2. Further to consultations under this Article, the Contracting Parties may take any action as they may jointly decide, including making and adopting rules supplementing the applicable arbitral rules under Part C of this Agreement and issuing binding interpretations of this Agreement.

3. The Contracting Parties recognize that it is inappropriate to encourage investment by waiving, relaxing, or otherwise derogating from domestic health, safety or environmental measures.

PART C

ARTICLE 19

Purpose

Without prejudice to the rights and obligations of the Contracting Parties under Article 15, this Part establishes a mechanism for the settlement of investment disputes.

ARTICLE 20

Claim by an Investor of a Contracting Party

1. An investor of a Contracting Party may submit to arbitration under this Part a claim that the other Contracting Party has breached an obligation:
 - (a) under Articles 2 to 7(2), 9, 10 to 13, 14(4) or 16, if the breach is with respect to investors or covered investments of investors to which sub-paragraph (b) does not apply, or
 - (b) under Article 10 or 12 if the breach is with respect to investors of a Contracting Party in financial institutions in the other Contracting Party's territory or covered investments of such investors in financial institutions in the other Contracting Party's territory,

and that the investor or a covered investment of the investor has incurred loss or damage by reason of, or arising out of, that breach.

2. (a) Where an investor submits a claim to arbitration under this Article, and the disputing Contracting Party invokes Article 33(3), the investor-State tribunal established pursuant to this Part may not decide whether and to what extent Article 33(3) is a valid defence to the claim of the investor. It shall seek a report in writing from the Contracting Parties on this issue. The investor-State tribunal may not proceed pending receipt of such a report or of a decision of a State-State arbitral tribunal, should such a State-State arbitral tribunal be established.
- (b) Pursuant to a request for a report received in accordance with subparagraph (a), the financial services authorities of the Contracting Parties shall engage in consultations. If the financial services authorities of the Contracting Parties reach a joint decision on the issue of whether and to what extent Article 33(3) is a valid defence to the claim of the investor, they shall prepare a written report describing their joint decision. The report shall be transmitted to the investor-State tribunal, and shall be binding on the investor-State tribunal.
- (c) If, after 60 days, the financial services authorities of the Contracting Parties are unable to reach a joint decision on the issue of whether and to what extent Article 33(3) is a valid defence to the claim of the investor, the issue shall, within 30 days, be referred by either of the Contracting Parties to a State-State arbitral tribunal established pursuant to Article 15. In such a case, the provisions requiring consultations between the Contracting Parties in Article 15(1) and (2) shall not apply. The decision of the State-State arbitral tribunal shall be transmitted to the investor-State tribunal, and shall be binding on the investor-State tribunal. All of the members of any such State-State arbitral tribunal shall have expertise or experience in financial services law or practice, which may include the regulation of financial institutions.

ARTICLE 21

Conditions Precedent to Submission of a Claim to Arbitration

1. Before a disputing investor may submit a claim to arbitration, the disputing parties shall first hold consultations in an attempt to settle a claim amicably. Consultations shall be held within 30 days of the submission of the notice of intent to submit a claim to arbitration, unless the disputing parties otherwise agree. The place of consultation shall be the capital of the disputing Contracting Party, unless the disputing parties otherwise agree.
2. Subject to the Party-specific requirements set out in Annex C.21, a disputing investor may submit a claim to arbitration under Article 20 only if:
 - (a) the investor consents to arbitration in accordance with the procedures set out in this Agreement and delivers notice of such consent to the disputing Contracting Party together with the submission of a claim to arbitration;
 - (b) at least six months have elapsed since the events giving rise to the claim;
 - (c) the investor has delivered to the disputing Contracting Party written notice of its intent to submit a claim to arbitration at least four months prior to submitting the claim;
 - (d) the investor has delivered, with its notice of intent to submit a claim to arbitration under sub-paragraph (c), evidence establishing that it is an investor of the other Contracting Party;
 - (e) the investor has waived its right to initiate or continue dispute settlement proceedings under any agreement between a third State and the disputing Contracting Party in relation to the measure alleged to be a breach of an obligation under Part B of this Agreement; and

- (f) not more than three years have elapsed from the date on which the investor first acquired, or should have first acquired, knowledge of the alleged breach and knowledge that the investor or a covered investment of the investor has incurred loss or damage thereby.

ARTICLE 22

Submission of a Claim to Arbitration

1. A disputing investor who meets the conditions precedent provided for in Article 21 may submit the claim to arbitration under:

- (a) the ICSID Convention, provided that both Contracting Parties are parties to that Convention;
- (b) the Additional Facility Rules of ICSID, provided that one Contracting Party, but not both, is a party to the ICSID Convention; or
- (c) the UNCITRAL Arbitration Rules,

as supplemented or modified by the rules set out in this Agreement or adopted by the Contracting Parties.

2. A claim is submitted to arbitration under this Part when:

- (a) the request for arbitration under Article 36(1) of the ICSID Convention is received by the Secretary General;
- (b) the notice of arbitration under Article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretary General; or
- (c) the notice of arbitration given under the UNCITRAL Arbitration Rules is received by the disputing Contracting Party.

3. Delivery of notice and other documents to a Contracting Party shall be made to the place named for that Contracting Party below:

- (a) for Canada: Office of the Deputy Attorney General of Canada, Justice Building, 239 Wellington Street, Ottawa, Ontario, K1A 0H8;
- (b) for China: Department of Treaty and Law, Ministry of Commerce of the People's Republic of China.

4. The Contracting Parties shall notify each other promptly by diplomatic note of any change in the place for delivery.

ARTICLE 23

Consent to Arbitration

Each Contracting Party consents to the submission of a claim to arbitration in accordance with the procedures set out in this Agreement. Failure to meet any of the conditions precedent provided for in Article 21 shall nullify that consent.

ARTICLE 24

Arbitrators

1. Except in respect of a Tribunal established under Article 26, and unless the disputing parties agree otherwise, the Tribunal shall comprise three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties.

2. Arbitrators shall:

- (a) have expertise or experience in public international law, international trade or international investment rules, or the resolution of disputes arising under international trade or international investment agreements;

- (b) be independent of, and not be affiliated with, or take instructions from, either Contracting Party or disputing party; and
- (c) comply with any additional rules where such rules are agreed to by the Contracting Parties.

3. Where the claimant claims that a dispute involves measures adopted or maintained by the disputing Contracting Party relating to financial institutions of the other Contracting Party, or investors of the other Contracting Party and covered investments of such investors in financial institutions in the disputing Contracting Party's territory, then:

- (a) where the disputing parties are in agreement, the arbitrators shall, in addition to the criteria set out in paragraph 2, have expertise or experience in financial services law or practice, which may include the regulation of financial institutions; or
- (b) where the disputing parties are not in agreement,
 - (i) each disputing party may select arbitrators who meet the qualifications set out in subparagraph (a), and
 - (ii) if the disputing Contracting Party invokes Article 33(4), the presiding arbitrator shall meet the qualifications set out in subparagraph (a).

4. If the disputing parties do not agree on the remuneration of the arbitrators before the constitution of the Tribunal, the prevailing ICSID rate for arbitrators shall apply.

5. If a Tribunal, other than a Tribunal established under Article 26, has not been constituted within 90 days from the date that a claim is submitted to arbitration, the Secretary General of ICSID, on the request of either disputing party, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed, except that the presiding arbitrator shall not be a national of either Contracting Party.

ARTICLE 25

Agreement to Appointment of Arbitrators

For the purposes of Article 39 of the ICSID Convention and Article 7 of Schedule C to the Additional Facility Rules of ICSID, and without prejudice to an objection to an arbitrator based on a ground other than citizenship or permanent residence:

- (a) the disputing Contracting Party agrees to the appointment of each individual member of a Tribunal established under the ICSID Convention or the Additional Facility Rules of ICSID;
- (b) a disputing investor may submit a claim to arbitration, or continue a claim, under the ICSID Convention or the Additional Facility Rules of ICSID, only on condition that the disputing investor agrees in writing to the appointment of each individual member of the Tribunal.

ARTICLE 26

Consolidation

1. Where two or more claims have been submitted separately to arbitration under Article 20 and the claims have a question of law or fact in common and arise out of the same events or circumstances, any disputing party may seek a consolidation order in accordance with either the agreement of all the disputing parties sought to be covered by the order, or the terms of paragraphs 2 through 9.
2. A disputing party that seeks a consolidation order under this Article shall deliver, in writing, a request to the Secretary-General of ICSID and to all the disputing parties sought to be covered by the order and shall specify in the request: the names and addresses of all the disputing parties sought to be covered by the order; the nature of the order sought; and the grounds on which the order is sought.
3. Unless the Secretary-General of ICSID finds within 30 days after receiving a request under paragraph 2 that the request is manifestly unfounded, a tribunal shall be established under this Article.

4. Unless all the disputing parties sought to be covered by the order otherwise agree, a tribunal established under this Article shall comprise three arbitrators: one arbitrator appointed by agreement of the claimants; one arbitrator appointed by the respondent; and the presiding arbitrator appointed by the Secretary-General of ICSID, provided, however, that the presiding arbitrator shall not be a national of either Contracting Party.

5. If, within 60 days after the Secretary-General of ICSID receives a request made under paragraph 2, the disputing Contracting Party fails or the claimants fail to appoint an arbitrator in accordance with paragraph 4, the Secretary-General of ICSID, at the request of any disputing party sought to be covered by the order, shall appoint the arbitrator or arbitrators not yet appointed.

6. Where a tribunal established under this Article is satisfied that two or more claims that have been submitted to arbitration under Article 20 have a question of law or fact in common, and arise out of the same events or circumstances, the tribunal may, in the interest of fair and efficient resolution of the claims, and after hearing the disputing parties, by order: assume jurisdiction over, and hear and determine together, all or part of the claims; or assume jurisdiction over, and hear and determine one or more of the claims, the determination of which it believes would assist in the resolution of the others.

7. A tribunal established under this Article shall conduct its proceedings in accordance with the UNCITRAL Arbitration Rules, except as modified by this Section.

8. A tribunal established under Articles 22 through 25 shall not have jurisdiction to decide a claim, or a part of a claim, over which a tribunal established under this Article has assumed jurisdiction.

9. On application of a disputing party, a tribunal established under this Article may, pending its decision under paragraph 6, order that the proceedings of a tribunal established under Article 22 through 25 be stayed, unless the latter tribunal has already adjourned its proceedings.

ARTICLE 27

The Non-Disputing Contracting Party: Documents and Participation

1. A disputing Contracting Party shall deliver to the other Contracting Party a copy of the notice of intent to submit a claim to arbitration, and the relevant document submitted pursuant to Article 22(2) no later than 30 days after the date that such documents have been delivered to the disputing Contracting Party. The non-disputing Contracting Party shall be entitled, at its cost, to receive from the disputing Contracting Party a copy of the evidence that has been tendered to the Tribunal, copies of all pleadings filed in the arbitration, and the written argument of the disputing parties. The Contracting Party receiving such information shall treat the information as if it were a disputing Contracting Party.
2. The non-disputing Contracting Party shall have the right to attend any hearings held under this Part of this Agreement. Upon written notice to the disputing parties, the non-disputing Contracting Party may make submissions to a Tribunal on a question of interpretation of this Agreement.

ARTICLE 28

Public Access to Hearings and Documents

1. Any Tribunal award under this Part shall be publicly available, subject to the redaction of confidential information. Where a disputing Contracting Party determines that it is in the public interest to do so and notifies the Tribunal of that determination, all other documents submitted to, or issued by, the Tribunal shall also be publicly available, subject to the redaction of confidential information.
2. Where, after consulting with a disputing investor, a disputing Contracting Party determines that it is in the public interest to do so and notifies the Tribunal of that determination, hearings held under this Part shall be open to the public. To the extent necessary to ensure the protection of confidential information, including business confidential information, the Tribunal may hold portions of hearings *in camera*.

3. A disputing party may disclose to other persons in connection with the arbitral proceedings such unredacted documents as it considers necessary for the preparation of its case, but it shall ensure that those persons protect the confidential information in such documents.

4. The Contracting Parties may share with officials of their respective federal and sub-national governments all relevant unredacted documents in the course of dispute settlement under this Agreement, but they shall ensure that those persons protect any confidential information in such documents.

5. To the extent that a Tribunal's confidentiality order designates information as confidential and a Contracting Party's law on access to information requires public access to that information, the Contracting Party's law on access to information shall prevail. However, a Contracting Party should endeavour to apply its law on access to information so as to protect information designated confidential by the Tribunal.

ARTICLE 29

Submissions by a Non-Disputing Party

1. A Tribunal, after consultation with the disputing parties, may accept written submissions from a person or entity that is not a disputing party if that non-disputing party has a significant interest in the arbitration. The Tribunal shall ensure that any non-disputing party submission does not disrupt the proceedings and that neither disputing party is unduly burdened or unfairly prejudiced by it.

2. An application to the Tribunal for leave to file a non-disputing party submission, and the filing of a submission, if allowed by the Tribunal, shall be made in accordance with Annex C.29.

ARTICLE 30

Governing Law

1. A Tribunal established under this Part shall decide the issues in dispute in accordance with this Agreement, and applicable rules of international law, and where relevant and as appropriate, take into consideration the law of the host Contracting Party. An interpretation by the Contracting Parties of a provision of this Agreement shall be binding on a Tribunal established under this Part, and any award under this Part shall be consistent with such interpretation.

2. Where a disputing Contracting Party asserts as a defence that the measure alleged to be a breach is within the scope of the reservations and exceptions set out in Article 8(1), (2) and (3), on request of the disputing Contracting Party, the Tribunal shall request the interpretation of the Contracting Parties on the issue. The Contracting Parties, within 60 days of delivery of the request, shall submit in writing their joint interpretation to the Tribunal. The interpretation shall be binding on the Tribunal. If the Contracting Parties fail to submit an interpretation within 60 days, the Tribunal shall decide the issue.

ARTICLE 31

Interim Measures of Protection and Final Award

1. A Tribunal may recommend an interim measure of protection to preserve the rights of a disputing party, or to ensure that the Tribunal's jurisdiction is made fully effective, including a recommendation to preserve evidence in the possession or control of a disputing party or to protect the Tribunal's jurisdiction. A Tribunal shall not recommend attachment or enjoin the application of the measure alleged to constitute a breach referred to in Article 20.

2. Where a Tribunal makes a final award against the disputing Contracting Party, the Tribunal may award, separately or in combination, and subject to the requirements in paragraph 3, only:

- (a) monetary damages and any applicable interest;

- (b) restitution of property, in which case the award shall provide that the disputing Contracting Party may pay monetary damages and any applicable interest in lieu of restitution.

The Tribunal may also award costs in accordance with the applicable arbitration rules.

3. Where a claim is made for damages to a covered investment that is a juridical person that the investor owns or controls:

- (a) an award of monetary damages and any applicable interest shall provide that the sum be paid to that covered investment;
- (b) an award of restitution of property shall provide that restitution be made to that covered investment; and
- (c) the award shall provide that it is made without prejudice to any right that any person may have in the relief under applicable domestic law.

4. A Tribunal shall not order a disputing Contracting Party to pay punitive damages.

ARTICLE 32

Finality and Enforcement of an Award

1. An award made by a Tribunal shall have no binding force except between the disputing parties and in respect of that particular case.

2. Subject to paragraph 3 and the applicable review procedure for an interim award, a disputing party shall abide by and comply with an award without delay.

3. A disputing party may not seek enforcement of a final award until:
 - (a) in the case of a final award made under the ICSID Convention:
 - (i) 120 days have elapsed from the date the award was rendered, provided that a disputing party has not requested the award be revised or annulled, or
 - (ii) revision or annulment proceedings have been completed; and
 - (b) in the case of a final award under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules:
 - (i) 90 days have elapsed from the date the award was rendered and no disputing party has commenced a proceeding to revise, set aside or annul the award, or
 - (ii) a court has dismissed or allowed an application to revise, set aside or annul the award and there is no further appeal.
4. Each Contracting Party shall provide for the enforcement of an award in its territory.

PART D

ARTICLE 33

General Exceptions

1. Nothing in this Agreement shall apply to measures in respect of cultural industries. "Cultural industries" means natural persons or enterprises engaged in any of the following activities:

- (a) the publication, distribution, or sale of books, magazines, periodicals or newspapers in print or machine readable form but does not include the sole activity of printing or typesetting any of the foregoing;
- (b) the production, distribution, sale or exhibition of film or video recordings;
- (c) the production, distribution, sale or exhibition of audio or video music recordings;
- (d) the publication, distribution, sale or exhibition of music in print or machine readable form; or
- (e) radiocommunications in which the transmissions are intended for direct reception by the general public, and all radio, television or cable broadcasting undertakings and all satellite programming and broadcast network services.

2. Provided that such measures are not applied in an arbitrary or unjustifiable manner, or do not constitute a disguised restriction on international trade or investment, nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or maintaining measures, including environmental measures:

- (a) necessary to ensure compliance with laws and regulations that are not inconsistent with the provisions of this Agreement;
- (b) necessary to protect human, animal or plant life or health; or

- (c) relating to the conservation of living or non-living exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

3. Nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or maintaining reasonable measures for prudential reasons, such as:

- (a) the protection of depositors, financial market participants and investors⁹, policy-holders, policy-claimants, or persons to whom a fiduciary duty is owed by a financial institution;
- (b) the maintenance of the safety, soundness, integrity or financial responsibility of financial institutions; and
- (c) ensuring the integrity and stability of a Contracting Party's financial system.

4. Nothing in this Agreement shall apply to non-discriminatory measures of general application taken by any public entity¹⁰ in pursuit of monetary and related credit policies or exchange rate policies. This paragraph shall not affect a Contracting Party's obligations under Article 12.

5. Nothing in this Agreement shall be construed:

- (a) to require a Contracting Party to furnish or allow access to any information if the Contracting Party determines that the disclosure of that information is contrary to its essential security interests;

⁹ It is understood that the term "investors" in this provision means investors in the financial markets of a Contracting Party.

¹⁰ "Public entity" means a central bank or monetary authority of a Contracting Party, or any financial institution owned or controlled by a Contracting Party.

- (b) to prevent a Contracting Party from taking any actions that it considers necessary for the protection of its essential security interests:
 - (i) relating to the traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods, materials, services and technology undertaken directly or indirectly for the purpose of supplying a military or other security establishment,
 - (ii) in time of war or other emergency in international relations, or
 - (iii) relating to the implementation of national policies or international agreements respecting the non-proliferation of nuclear weapons or other nuclear explosive devices; or
- (c) to prevent a Contracting Party from taking action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

- 6. (a) Nothing in this Agreement shall be construed to require a Contracting Party to furnish or allow access to information the disclosure of which would impede law enforcement or would be contrary to the Contracting Party's law protecting Cabinet confidences, personal privacy or the confidentiality of the financial affairs and accounts of individual customers of financial institutions.
- (b) Nothing in this Agreement shall be construed to require, during the course of any dispute settlement procedure under this Agreement, a Contracting Party to furnish or allow access to information protected under its competition laws, or a competition authority of a Contracting Party to furnish or allow access to any other information that is privileged or otherwise protected from disclosure.

(c) In subparagraph (b),

“competition authority” means the following until otherwise notified by a Contracting Party:

- (i) for Canada, the Commissioner of Competition; and
- (ii) for China, the authority for enforcement of anti-monopoly law under the State Council.

The Contracting Parties shall notify each other promptly by diplomatic note of the successors to the competition authorities identified in sub-paragraphs (i) and (ii).

“information protected under its competition laws” means:

- (i) for Canada, information within the scope of section 29 of the *Competition Act*, R.S. 1985, c.34, or any successor provision; and
- (ii) for China, information protected from disclosure under the relevant provisions of the *Anti-Monopoly Law*, the *Pricing Law* and the *Law Against Unfair Competition*, or any successor provisions.

7. Any measure adopted by a Contracting Party in conformity with a decision adopted by the World Trade Organization pursuant to Article IX:3 of the WTO Agreement shall be deemed to be also in conformity with this Agreement. An investor purporting to act pursuant to Article 20 of this Agreement may not claim that such a conforming measure is in breach of this Agreement.

ARTICLE 34

Exclusions

Article 15 and Part C of this Agreement do not apply to the decisions set out in Annex D.34.

ARTICLE 35

Entry into Force and Termination

1. The Contracting Parties shall notify each other through diplomatic channels that they have completed the internal legal procedures for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the following month after the second notification is received, and shall remain in force for a period of at least fifteen years.

2. After the expiration of the initial fifteen-year period, this Agreement shall continue to be in force. Either Contracting Party may at any time thereafter terminate this Agreement. The termination will be effective one year after notice of termination has been received by the other Contracting Party.

3. With respect to investments made prior to the date of termination of this Agreement, Articles 1 to 34, as well as paragraph 4 of this Article, shall continue to be effective for an additional fifteen-year period from the date of termination.

4. The Annexes and footnotes to this Agreement constitute integral parts of this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of their respective Governments have signed this Agreement.

DONE in duplicate at _____, this _____ day of _____ 2012,
in the English, French and Chinese languages, all texts being equally authentic.

**FOR THE GOVERNMENT
OF CANADA**

**FOR THE GOVERNMENT
OF THE PEOPLE'S REPUBLIC
OF CHINA**

ANNEX B.8

Exceptions

1. Canada reserves the right to adopt or maintain any measure that does not conform to the obligations in Articles 5, 6 or 7, provided that in the Schedule of Canada, including its headnote, in Annex II to the *Free Trade Agreement between Canada and the Republic of Peru*, as done at Lima on 29 May 2008, Canada reserved the right to adopt or maintain that measure in respect of investors or investments of investors of Peru. For greater certainty, this right is reserved even if the Canada-Peru Free Trade Agreement is no longer in force.

2. China reserves the right to adopt or maintain any measure that does not conform to the obligations in Articles 5, 6 or 7, provided that in Chapter 10 of the *Free Trade Agreement between China and the Republic of Peru*, as done at Beijing on 28 April 2008, China reserved the right to adopt or maintain that measure in respect of investors or investments of investors of Peru. For greater certainty, this right is reserved even if the China-Peru Free Trade Agreement is no longer in force.

ANNEX B.10

Expropriation

The Contracting Parties confirm their shared understanding that:

1. Indirect expropriation results from a measure or series of measures of a Contracting Party that has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.
2. The determination of whether a measure or series of measures of a Contracting Party constitutes an indirect expropriation requires a case-by-case, fact-based inquiry that considers, among other factors:
 - (a) the economic impact of the measure or series of measures, although the sole fact that a measure or series of measures of a Contracting Party has an adverse effect on the economic value of an investment does not establish that an indirect expropriation has occurred;
 - (b) the extent to which the measure or series of measures interferes with distinct, reasonable, investment-backed expectations; and
 - (c) the character of the measure or series of measures.
3. Except in rare circumstances, such as if a measure or series of measures is so severe in light of its purpose that it cannot be reasonably viewed as having been adopted and applied in good faith, a non-discriminatory measure or series of measures of a Contracting Party that is designed and applied to protect the legitimate public objectives for the well-being of citizens, such as health, safety and the environment, does not constitute indirect expropriation.

ANNEX B.12

Transfers and Exchange Formalities

With regards to China:

1. The obligations in Article 12(1) shall apply provided that the transfer complies with the relevant formalities stipulated by the present laws and regulations of China relating to exchange control. These formalities:
 - (a) shall not be used as a means of avoiding China's commitments or obligations under this Agreement; and
 - (b) shall not be made more restrictive than the formalities required at the time when original investment was made.
2. With respect to these formalities, China shall accord to investors of Canada or covered investments of Canadian investors treatment no less favourable than the treatment that China accords to third country investors or investments of such investors. To the extent that these formalities are no longer required according to the relevant laws of China, Article 12(1) shall apply without restrictions.
3. A transfer shall be deemed to have been made 'without delay' within the meaning of Article 12(1) if effected within such period as is normally required for the completion of transfer formalities. The said period shall commence on the day on which the relevant request has been submitted to the relevant foreign exchange administration with full and authentic documentation and information and may not exceed two months.

ANNEX C.21

Conditions Precedent to Submission of a Claim to Arbitration: Party-Specific Requirements

Where the claim concerns a measure of China:

1. Upon receipt of the Notice of Intent or at any time prior, China shall require that an investor make use of the domestic administrative reconsideration procedure. If the investor considers that the dispute still exists four months¹¹ after the investor has applied for the administrative reconsideration, or where no such remedies are available, the investor may submit its claim to arbitration.
2. An investor who has initiated proceedings before any court of China with respect to the measure of China alleged to be a breach of an obligation under Part B may only submit a claim to arbitration under Article 20 if the investor has withdrawn the case from the national court before judgment has been made on the dispute. This requirement does not apply to the domestic administrative reconsideration procedure referred to in paragraph 1.

Where the claim concerns a measure of Canada:

3. The investor and, where the claim is for loss or damage to an interest in an enterprise of Canada that is a juridical person that the investor owns or controls directly or indirectly, the enterprise shall waive their right to initiate or continue before any administrative tribunal or court under the law of any Contracting Party, or other dispute settlement procedures, any proceedings with respect to the measure of Canada that is alleged to be a breach referred to in Article 20, except for proceedings for injunctive, declaratory or other extraordinary relief, not involving the payment of damages, before an administrative tribunal or court under the law of Canada.

¹¹ The time limit of "four months" in this paragraph is based on the relevant provisions of the *Law of the People's Republic of China on Administrative Reconsideration* (adopted at the 9th Meeting of the Standing Committee of the Ninth National People's Congress on April 29, 1999) on the date of the entry into force of this Agreement. In the event that China revises the relevant provisions on the time limit for the administrative reconsideration stipulated in the *Law of the People's Republic of China on Administrative Reconsideration* in the future, China shall, in a timely manner, provide Canada with relevant information and may request consultations with Canada pursuant to Article 18 of this Agreement.

4. The waiver required under paragraph 3 shall be delivered to Canada and shall be included in the submission of a claim to arbitration. A waiver from the enterprise shall not be required if Canada has deprived a disputing investor of control of an enterprise.

ANNEX C.29

Submissions by Non-Disputing Parties

1. The application for leave to file a non-disputing party submission shall:
 - (a) be made in writing, dated and signed by the person filing the application, and include the address and other contact details of the applicant;
 - (b) be no longer than 5 typed pages;
 - (c) describe the applicant, including, where relevant, its membership and legal status (e.g., company, trade association or other non-governmental organization), its general objectives, the nature of its activities, and any parent organization (including any organization that directly or indirectly controls the applicant);
 - (d) disclose whether the applicant has any affiliation, direct or indirect, with any disputing party;
 - (e) identify any government, person or organization that has provided any financial or other assistance in preparing the submission;
 - (f) specify the nature of the interest that the applicant has in the arbitration, including an explanation of how the submission would assist the Tribunal in the determination of a factual or legal issue related to the proceedings by bringing a perspective, particular knowledge or insight that is different from that of the disputing parties;
 - (g) identify the specific issues of fact or law in the arbitration that the applicant has addressed in its written submission; and
 - (h) be made in a language of the arbitration.
2. The submission filed by a non-disputing party shall:
 - (a) be dated and signed by the person filing the submission;

- (b) be concise, and in no case longer than 20 typed pages, including any appendices;
- (c) set out a precise statement supporting the applicant's position on the issues; and
- (d) only address matters within the scope of the dispute.

ANNEX D.34

Exclusions

1. A decision by Canada following a review under the *Investment Canada Act*, an Act respecting investment in Canada, with respect to whether or not to:

- (a) initially approve an investment¹² that is subject to review; or
- (b) permit an investment that is subject to national security review;

shall not be subject to the dispute settlement provisions under Article 15 and Part C of this Agreement.

2. A decision by China following a review under the Laws, Regulations and Rules relating to the regulation of foreign investment, with respect to whether or not to:

- (a) initially approve an investment that is subject to review; or
- (b) permit an investment that is subject to national security review¹³;

shall not be subject to the dispute settlement provisions under Article 15 and Part C of this Agreement.

¹² For Canada, the concept of “initially approve an investment” in paragraph 1 means all decisions made with respect to whether or not to permit an investment under the *Investment Canada Act*.

¹³ For China, “national security review” may include a review of various forms of investments for national security purposes. At the time of the entry into force of this Agreement, the specific legal document on China’s national security review is the *Circular of the General Office of the State Council on the Establishment of the Security Review System For The Merger and Acquisition of Domestic Enterprises by Foreign Investors*, focusing on the review of mergers and acquisitions of domestic enterprises by foreign investors.

Lebrun, Matthew JTST:EX

From: White, Don D JTST:EX
Sent: Sunday, September 9, 2012 8:30 AM
To: Sen, Shom JTST:EX
Subject: Re: Confidential - Fyi: Canada-China FIPA Signed

No problem Shom - thought it useful for team to be informed. Thanks

From: Sen, Shom JTI:EX
Sent: Sunday, September 09, 2012 12:15 AM
To: Byng, Dave A JTI:EX
Cc: White, Don D JTI:EX
Subject: Fw: Confidential - Fyi: Canada-China FIPA Signed

Hi Dave

Still confidential, but important for you to know. Pls see Don's update below.

Regards
Shom

From: White, Don D JTI:EX
Sent: Saturday, September 08, 2012 08:48 PM
To: Sen, Shom JTI:EX; Han, Henry JTI:EX
Cc: Ewing, Rebecca J JTI:EX
Subject: Confidential - Fyi: Canada-China FIPA Signed

Fyi (still confidential).

From: Vernon.MacKay@international.gc.ca [<mailto:Vernon.MacKay@international.gc.ca>]
Sent: Saturday, September 08, 2012 06:57 PM
To: alan.barber@gov.mb.ca <alan.barber@gov.mb.ca>; alexandrea.malakoe@gov.nt.ca <alexandrea.malakoe@gov.nt.ca>; robert.donald@gov.sk.ca <robert.donald@gov.sk.ca>; Daryl.Hanak@gov.ab.ca <Daryl.Hanak@gov.ab.ca>; White, Don D JTI:EX; elaine.campbell@gnb.ca <elaine.campbell@gnb.ca>; morris.evangelista@ontario.ca <morris.evangelista@ontario.ca>; egertofj@gov.ns.ca <egertofj@gov.ns.ca>; Gordon.jansen@ontario.ca <Gordon.jansen@ontario.ca>; harley.trudeau@on.albn.com <harley.trudeau@on.albn.com>; Andrew.Hashey@gnb.ca <Andrew.Hashey@gnb.ca>; Quiring, Janel JTI:EX; Jesse, Janna L JTI:EX; JudithHearn@gov.nl.ca <JudithHearn@gov.nl.ca>; kbwhitnell@gov.pe.ca <kbwhitnell@gov.pe.ca>; Lisa.Badenhorst@gov.yk.ca <Lisa.Badenhorst@gov.yk.ca>; JeffLoder@gov.nl.ca <JeffLoder@gov.nl.ca>; WMacKay@gov.nu.ca <WMacKay@gov.nu.ca>; mary.ballantyne@gov.ab.ca <mary.ballantyne@gov.ab.ca>; Patrick.Muzzi@mdele.gouv.qc.ca <Patrick.Muzzi@mdele.gouv.qc.ca>; jpower@gov.nl.ca <jpower@gov.nl.ca>; rsquires@gov.nl.ca <rsquires@gov.nl.ca>; Musgrave, Robert JTI:EX; Natashia.Stinka@gov.sk.ca <Natashia.Stinka@gov.sk.ca>; TraceyPennell@gov.nl.ca <TraceyPennell@gov.nl.ca>; Veronique.Bilodeau@mdele.gouv.qc.ca <Veronique.Bilodeau@mdele.gouv.qc.ca>
Cc: John.oneill@international.gc.ca <John.oneill@international.gc.ca>; Meaghan.Ursell@international.gc.ca <Meaghan.Ursell@international.gc.ca>
Subject: Canada-China FIPA Signed

Colleagues,

This is to let you know that the Canada-China FIPA was signed at the APEC Leaders Summit in Vladivostok, Russia, September 9 (evening of the 8th in Ottawa). The English and French versions of the treaty are attached. We request that

you treat the treaties as confidential since we have not yet made them public. There are still a few steps to be taken before the FIPA comes into force. It must be tabled in the Parliament of Canada for a period of 21 days, after which it will require an Order-In-Council for ratification. Once ratified, Canada will notify China that it has completed its ratification procedures. China must also complete its ratification process. The FIPA will come into force on the date that both Parties have provided their notification of ratification. At this point it is a little early to speculate on when that date may be.

Don't hesitate to contact me if you have any questions, and of course I will see you at C-Trade next week.

Regards,

Vern

Lebrun, Matthew JTST:EX

From: Lansdell, Hayden GCPE:EX
Sent: Sunday, September 9, 2012 5:14 PM
To: Sen, Shom JTST:EX; White, Don D JTST:EX
Cc: Yelovatz, Maureen JTST:EX
Subject: FIPA

PO wants a statement on Fast's signing of the Canada-China FIPA yesterday, and they want it to go out today. I am drafting but will require a quick review.

Hayden

NEWS RELEASE

For Immediate Release
[release number]
[September 09, 2012]

Ministry of Jobs, Tourism and Skills
Training

Canada-China Agreement Good for B.C.

VICTORIA - Pat Bell, Minister of Jobs, Tourism and Skills Training, is confident that the new Canada-China Foreign Investment Promotion and Protection Agreement will provide a framework through which greater economic prosperity will come for British Columbians and British Columbian companies that choose to invest in China.

On Saturday, Prime Minister Stephen Harper and Hu Jintao, President of China, witnessed the signing of the agreement at the Asia Pacific Economic Cooperation (APEC) Leaders' Meeting in Vladivostok, Russia.

"Our government continues to believe that expanding our economic relationship with China will lead to greater prosperity, and more jobs, in British Columbia. Our Premier is there right at this moment delivering that message."

China is B.C.'s second-largest trading partner and the second-biggest economy in the world. Goods shipped from British Columbia to China rose to \$5.1 billion last year, a 24 per cent increase over 2010.

Overall, B.C. has enjoyed phenomenal success in Asia, and exports to the key markets identified in 'Canada Starts Here: The BC Jobs Plan' - China, Japan, India and South Korea - rose 23.3 per cent in 2011 over the previous year. In 2011, the value of exports destined for the Pacific Rim was 43 per cent, up from 36 per cent in 2009. This represents the first time that export levels to the Pacific Rim were higher than those to the United States (42.7 per cent). However, even greater potential exists for further growth in these markets.

Quick Facts:

B.C.'s top exports to China:

- Pulp and paper: \$1.75 billion
- Wood products: \$1.4 billion
- Energy products: \$762 million
- Metallic mineral products: \$461 million

Learn More:

Go to www.BritishColumbia.ca to find out about the province's international trade and investment representative offices around the world.

Lebrun, Matthew JTST:EX

From: Lansdell, Hayden GCPE:EX
Sent: Sunday, September 9, 2012 9:09 PM
To: White, Don D JTST:EX; Yelovatz, Maureen JTST:EX; Yung, Philip JTST:EX; Sen, Shom JTST:EX
Cc: Han, Henry JTST:EX; Guy, Brodie JTST:EX; Bubrick, Elaine JTST:EX
Subject: RE: Urgent request from PO re Canada China FIPA

Just a note re Pac Rim stat, note that this is taken directly from a previous NR:

<http://www.newsroom.gov.bc.ca/2012/02/record-export-numbers-to-the-pacific-rim-in-2011.html>

From: White, Don D JTI:EX
Sent: Sun, September 9, 2012 8:52 PM
To: Yelovatz, Maureen JTI:EX; Yung, Phillip JTI:EX; Sen, Shom JTI:EX; Lansdell, Hayden GCPE:EX
Cc: Han, Henry JTI:EX; Guy, Brodie JTI:EX; Bubrick, Elaine JTI:EX
Subject: Re: Urgent request from PO re Canada China FIPA

Drafting as we speak...

From: Yelovatz, Maureen JTI:EX
Sent: Sunday, September 09, 2012 08:50 PM
To: Yung, Phillip JTI:EX; Sen, Shom JTI:EX; Lansdell, Hayden GCPE:EX
Cc: White, Don D JTI:EX; Han, Henry JTI:EX; Guy, Brodie JTI:EX; Bubrick, Elaine JTI:EX
Subject: Re: Urgent request from PO re Canada China FIPA

Don -- your comments?

From: Yung, Phillip JTI:EX
Sent: Sunday, September 09, 2012 08:32 PM
To: Sen, Shom JTI:EX; Lansdell, Hayden GCPE:EX
Cc: White, Don D JTI:EX; Han, Henry JTI:EX; Guy, Brodie JTI:EX; Yelovatz, Maureen JTI:EX; Bubrick, Elaine JTI:EX
Subject: RE: Urgent request from PO re Canada China FIPA

Hi Hayden and Shom,

In addition to Shom's comments, just not sure about the usage of "Pacific Rim" in this context for BC...

1. BC has always used "the Asia Pacific" to refer to the priority markets in Asia, since the launch of the API in 2007;
2. In most references, the Pacific Rim includes the States, thus making the point (highlighted) below confusing.

In 2011, the value of exports destined for the Pacific Rim was 43 per cent, up from 36 per cent in 2009. This represents the first time that export levels to the Pacific Rim were higher than those to the United States (42.7 per cent). However, even greater potential exists for further growth in these markets.

Perhaps we can consider including BC's effort in assisting BC companies to open new markets in the Asia Pacific and attract new investment, together with TIR presence in our priority markets... China and Hong Kong (soon), India, Korea, Japan etc. the NWP... reinforcing the benefits of the Agreement as well as the PCC mission.

Just a thought.

Philip

From: Sen, Shom JTI:EX

Sent: Sun, September 9, 2012 8:10 PM

To: Lansdell, Hayden GCPE:EX; White, Don D JTI:EX; Han, Henry JTI:EX; Yung, Philip JTI:EX; Guy, Brodie JTI:EX

Cc: Yelovatz, Maureen JTI:EX; Bubrick, Elaine JTI:EX

Subject: RE: Urgent request from PO re Canada China FIPA

Hi Hayden

Looks good...although I'll wait for Don's comments since he has more background on trade negotiations.

A couple of comments:

s13

- "In 2011, the value of exports destined for the Pacific Rim was 43 per cent, up from 36 per cent in 2009."

s13

- "This represents the first time that export levels to the Pacific Rim were higher than those to the United States (42.7 per cent). However, even greater potential exists for further growth in these markets."

- Need to change ministry name: "Ministry of Jobs, Tourism and Innovation"

s13, s16

- Perhaps Don may have a few more comments from a trade perspective. I'll let him feedback directly.

Regards

Shom

From: Lansdell, Hayden GCPE:EX

Sent: Sun, September 9, 2012 7:40 PM

To: Sen, Shom JTI:EX; White, Don D JTI:EX
Cc: Yelovatz, Maureen JTI:EX
Subject: Urgent request from PO re Canada China FIPA

Updated version, with a proper header and some errors removed. PO and MO have asked for this to go out at 7:00 tomorrow morning. Can you please review as soon as possible so that I can get it to the editors tonight.

Hayden

<< File: 2012 09 10_NR_FIPA_v1.docx >> _____

From: Lansdell, Hayden GCPE:EX
Sent: Sun, September 9, 2012 5:42 PM
To: Sen, Shom JTI:EX; White, Don D JTI:EX
Cc: Yelovatz, Maureen JTI:EX
Subject: Urgent re Canada China FIPA

Attached for review and comment.

This NR is more about trade than anything as I do not have any info on BC's investments in China. Grateful if you could add something as it is a thin NR but ...

Hayden

<< File: 2012 09 10_NR_FIPA_v1.docx >>

Lebrun, Matthew JTST:EX

From: Lansdell, Hayden GCPE:EX
Sent: Monday, September 10, 2012 10:37 AM
To: Sen, Shom JTST:EX; White, Don D JTST:EX
Cc: Yelovatz, Maureen JTST:EX
Subject: RE: Urgent request from PO re Canada China FIPA

Agreed. Thank you so much for your help last night.

Hayden

-----Original Message-----

From: Sen, Shom JTI:EX
Sent: Sunday, September 9, 2012 10:13 PM
To: White, Don D JTI:EX; Lansdell, Hayden GCPE:EX
Cc: Yelovatz, Maureen JTI:EX
Subject: Re: Urgent request from PO re Canada China FIPA

Excellent feedback Don

Thanks
Shom

----- Original Message -----

From: White, Don D JTI:EX
Sent: Sunday, September 09, 2012 09:09 PM
To: Lansdell, Hayden GCPE:EX; Sen, Shom JTI:EX
Cc: Yelovatz, Maureen JTI:EX
Subject: RE: Urgent request from PO re Canada China FIPA

Hayden, you may to play with the wording but some suggestions...

s13

Hope that helps,
Don

From: Lansdell, Hayden GCPE:EX
Sent: Sunday, September 09, 2012 7:39 PM
To: Sen, Shom JTI:EX; White, Don D JTI:EX
Cc: Yelovatz, Maureen JTI:EX
Subject: Urgent request from PO re Canada China FIPA

Updated version, with a proper header and some errors removed. PO and MO have asked for this to go out at 7:00 tomorrow morning. Can you please review as soon as possible so that I can get it to the editors tonight.

Hayden

From: Lansdell, Hayden GCPE:EX
Sent: Sun, September 9, 2012 5:42 PM
To: Sen, Shom JTI:EX; White, Don D JTI:EX
Cc: Yelovatz, Maureen JTI:EX
Subject: Urgent re Canada China FIPA

Attached for review and comment.

This NR is more about trade than anything as I do not have any info on BC's investments in China. Grateful if you could add something as it is a thin NR but ...

Hayden

<< File: 2012 09 10_NR_FIPA_v1.docx >>

Lebrun, Matthew JTST:EX

From: Ewing, Rebecca J JTST:EX
Sent: Monday, September 10, 2012 9:09 AM
To: Greenwood, Gail JTST:EX
Cc: Jessee, Janna L JTST:EX
Subject: RE: trade info: China

Thanks Gail,

FYI we got news of this on the weekend, including a confidential version of the agreement. Don asked for comments on a draft BC News Release and Janel, Josh and I sent a few that he passed along.

Let me know if you want to know more.

From: Greenwood, Gail JTI:EX
Sent: Monday, September 10, 2012 8:49 AM
To: Quiring, Janel JTI:EX; Gervais, Monica JTI:EX; Jessee, Janna L JTI:EX; Ewing, Rebecca J JTI:EX
Subject: trade info: China

Ottawa, China sign investment agreement

National Post

Monday, September 10, 2012

Page FP1

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Canada-China deal belies APEC's fading role

Vancouver Sun

Monday, September 10, 2012

Page B01

By Jonathan Manthorpe

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Page 076

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Harper, Hu promise stronger trade ties; PM meets with Chinese leader at Asian summit

The Province

Sunday, September 09, 2012

Page A29

By Matthew Fisher

Ottawa, China trade deal to protect investors

Globe and Mail

Monday, September 10, 2012

Page B07

By Mark Mackinnon

Page 078 to/à Page 079

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Lebrun, Matthew JTST:EX

From: Quiring, Janel JTST:EX
Sent: Monday, September 10, 2012 1:02 PM
To: Ewing, Rebecca J JTST:EX; Paul, Trevor JTST:EX; Smith, Josh JTST:EX; Gervais, Monica JTST:EX
Subject: FW: Canada-China FIPA Signed
Attachments: 2012-09-07 Canada-China FIPA Extended TP brief.docx

fyl

From: Vernon.MacKay@international.gc.ca [<mailto:Vernon.MacKay@international.gc.ca>]
Sent: Monday, September 10, 2012 11:57 AM
To: Vernon.MacKay@international.gc.ca; alan.barber@gov.mb.ca; alexandrea_malakoe@gov.nt.ca; robert.donald@gov.sk.ca; Daryl.Hanak@gov.ab.ca; White, Don D JTI:EX; elaine.campbell@gnb.ca; morris.evangelista@ontario.ca; egertofj@gov.ns.ca; Gordon.jansen@ontario.ca; harley.trudeau@on.aibn.com; Andrew.Hashey@gnb.ca; Quiring, Janel JTI:EX; Jesse, Janna L JTI:EX; JudithHearn@gov.nl.ca; kbwhitnell@gov.pe.ca; Lisa.Badenhorst@gov.yk.ca; JeffLoder@gov.nl.ca; WMacKay@gov.nu.ca; mary.ballantyne@gov.ab.ca; Patrick.Muzzi@mdele.gouv.qc.ca; jpower@gov.nl.ca; rsquires@gov.nl.ca; Musgrave, Robert JTI:EX; Natashia.Stinka@gov.sk.ca; TraceyPennell@gov.nl.ca; Veronique.Bilodeau@mdele.gouv.qc.ca
Cc: John.oneill@international.gc.ca; Meaghan.Ursell@international.gc.ca
Subject: RE: Canada-China FIPA Signed

Colleagues,

The attached backgrounder and points may be useful in summarizing the contents of the FIPA for your senior management.

Vern

From: MacKay, Vernon -TNI
Sent: September 8, 2012 9:58 PM
To: 'Alan Barber'; alexandrea_malakoe@gov.nt.ca; 'Bob Donald'; Daryl Hanak; 'Don D. White'; 'Elaine Campbell'; 'Evangelista, Morris'; 'Frazer Egerton'; 'Gordon Jansen'; harley.trudeau@on.aibn.com; Hashey, Andrew (IGA/MAI); 'Janel Quiring'; Janna Jesse (Janna.Jessee@gov.bc.ca); 'Judith Hearn'; kbwhitnell@gov.pe.ca; 'Lisa.Badenhorst@gov.yk.ca'; Loder, Jeff; MacKay, William; 'Mary Ballantyne'; 'Patrick Muzzi'; 'Power, Jacqueline'; 'Richard Squires'; 'Robert Musgrave'; Stinka, Natashia EC; 'Tracey Pennell'; Veronique.Bilodeau@mdele.gouv.qc.ca
Cc: O'Neill, John -TNI; Ursell, Meaghan -TNI
Subject: Canada-China FIPA Signed

Colleagues,

This is to let you know that the Canada-China FIPA was signed at the APEC Leaders Summit in Vladivostok, Russia, September 9 (evening of the 8th in Ottawa). The English and French versions of the treaty are attached. We request that you treat the treaties as confidential since we have not yet made them public. There are still a few steps to be taken before the FIPA comes into force. It must be tabled in the Parliament of Canada for a period of 21 days, after which it will require an Order-In-Council for ratification. Once ratified, Canada will notify China that it has completed its ratification procedures. China must also complete its ratification process. The FIPA will come into force on the date that both Parties have provided their notification of ratification. At this point it is a little early to speculate on when that date may be.

Don't hesitate to contact me if you have any questions, and of course I will see you at C-Trade next week.

Regards,

Vern

Canada-China Foreign Investment Promotion Protection Agreement

Background

On February 8, 2012, Prime Minister Harper and President Hu Jintao of China announced the conclusion of negotiations of a FIPA. Canada and China subsequently completed the required legal review of the text in English, French and Chinese. The FIPA was signed by Minister Ed Fast and Minister Chen Deming on September 9, 2012, on the margins of the APEC Leaders' Summit in Vladivostok, Russia, with Prime Minister Harper and President Hu observing the ceremony.

The treaty will now need to proceed through both Canada and China's respective ratification processes in order to be brought into force. In Canada, the FIPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will then come into force once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.

This FIPA will ensure greater predictability for Canadian investors in the Chinese market, and protection against discriminatory and unfair practices. The FIPA will also promote increased investment flows between Canada and China. Canadian investment in China was C\$4.5 billion at the end of 2011, with sectors of interest being financial services, transportation, biotechnology, education, information technology, manufacturing, and natural resources. Chinese investment into Canada was C\$11 billion at the end of 2011. Sectors of interest for China include natural resources, renewable energy, information and communication technology, food processing, pharmaceuticals and natural medicine, and advanced manufacturing.

Summary Points:

- We are pleased to note that on September 9, 2012, the Canada-China Foreign Investment Promotion and Protection Agreement was signed.
- Although we have not yet determined the date when the text of this Agreement will be made available to the public, and consequently cannot share a copy with you at this time, we can give you an overview of the elements of the agreement.
- The Canada-China FIPA is a high quality bilateral investment treaty that will provide a more predictable and stable investment climate in China for Canadian investors.
- The FIPA applies to measures adopted or maintained by Canada and China, at the national and sub-national levels, relating to investors and their investments. The FIPA applies, as well, to an entity, such as a state-owned enterprise, that exercises governmental authority delegated to it by a Party.
- The agreement provides for non-discriminatory treatment for Canadian investors on both a national treatment (post-establishment) and a most-favoured nation treatment (pre- and post-establishment) basis, and ensures that the treatment of investors by governments at all levels meets an absolute minimum standard under customary international law.

- This FIPA also offers: commitments on performance requirements consistent with the WTO Trade Related Investment Measures; protection from expropriation, except for a public purpose and with fair and prompt compensation; and, assurances that transfers of investment related funds, such as contributions to capital, profits, capital gains, interest, dividends, proceeds from sales of investments, etc. can be made freely and without delay. Although, on transfers, China took a reservation for its foreign exchange controls.
- The treaty grandfathers existing non-conforming measures, but subjects them to a ratchet mechanism. That is, such measures cannot become more restrictive moving forward.
- The FIPA permits either country to take measures necessary to protect human and animal health or plant life, as well as allowing measures taken for prudential reasons to maintain the safety, soundness, integrity or financial responsibility of financial institutions.
- If a dispute arises, the FIPA contains direct access for investors to an effective, impartial dispute resolution system through international arbitration. In accordance with Canada's practice, the provisions and procedures for investor-to-state dispute settlement are clearly laid out and stipulate transparency provisions that are important to Canada.
- Policy flexibility is maintained in key sensitive sectors, consistent with Canada's position in other agreements, such as the North American Free Trade Agreement.
- The treaty will now need to proceed through both Canada and China's respective ratification processes in order to be brought into force.
- For Canada, the FIPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will then come into force once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.

RESPONSIVE on exact timing of entry into force:

- *At this stage we cannot speculate on the exact timing for the Agreement's entry into force.*

RESPONSIVE on public release of the FIPA text:

- *The Canada-China FIPA text will be posted on Foreign Affairs and International Trade Canada's website sometime before, or when the text is tabled in Parliament.*

Lebrun, Matthew JTST:EX

From: Mihai.Lascu@international.gc.ca
Sent: Thursday, October 11, 2012 11:03 AM
To: alan.barber@gov.mb.ca; alexandrea_malakoe@gov.nt.ca; audrey.jolinlessard@international.gc.ca; robert.donald@gov.sk.ca; daryl.hanak@gov.ab.ca; White, Don D JTST:EX; elaine.campbell@gnb.ca; erica_wright@gov.nt.ca; morris.evangelista@ontario.ca; egertofj@gov.ns.ca; Gaetan.Martineau@international.gc.ca; Hugo.Cameron@ontario.ca; jpower@gov.nl.ca; Quiring, Janel JTST:EX; kbwhitnell@gov.pe.ca; Lisa.Badenhorst@gov.yk.ca; Natasha.Stinka@gov.sk.ca; Patrick.Muzzi@mdeie.gouv.qc.ca; rsquires@gov.nl.ca; Musgrave, Robert JTST:EX; GORDONSL@gov.ns.ca; Paul, Trevor JTST:EX; wmackay@gov.nu.ca
Cc: Anh.Nguyen@international.gc.ca; Vernon.MacKay@international.gc.ca; Michel.Lacourciere@international.gc.ca; Simon.Rainville@international.gc.ca; Dennis.Abraham@international.gc.ca
Subject: C-FPT 159: Final Environmental Assessment of the Canada-China FIPA // L'évaluation environnementale finale de l'APIE entre le Canada et la Chine
Attachments: 2012-10-04 Canada-China FIPA FINAL EA (FINAL).doc; 2012-10-04 Canada-China FIPA FINAL EA (FINAL_FRENCH).doc

For Information / À titre d'information

From / De : Intergovernmental Relations / Relations intergouvernementales
Number / Numéro : C-FPT 159
Attachment(s) / Pièce(s) jointe(s) : 2

La version française suit en seconde partie du message

Dear Provincial/Territorial Colleagues,

The purpose of this message is to provide you with a copy of the Final Environmental Assessment of the Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) for your information. The Final Environmental Assessment documents the outcome of negotiations in relation to the environmental assessment process. The Initial Environmental Assessment, which assessed the environmental impacts of a Canada-China FIPA, was published in 2008.

The attached Final Environmental Assessment identifies any notable divergence from the Initial Environmental Assessment, subsequent analysis undertaken and the anticipated environmental implications. The document also takes into consideration additional information and comments received from the public on the EA during the course of negotiation.

The Final Environmental Assessment of the Canada-China FIPA is attached for your information.

BACKGROUND

In accordance with the Cabinet Directive on Environmental Assessment of Policy, Plan and Program Proposals, Foreign Affairs and International Trade Canada (DFAIT) is committed to conducting environmental assessments for all trade and investment negotiations using a process that requires interdepartmental coordination and public consultation.

The objectives of the environmental assessment of a trade agreement are:

- 1) to assist Canadian negotiators to integrate environmental considerations into the negotiating process by providing information on the environmental impacts of a proposed trade and/or investment agreement; and
- 2) to document how environmental factors are being considered in the course of trade negotiations.

The policy and process for conducting environmental assessments of trade negotiations provides for a flexible approach and timeline that can be adapted and applied on a case-by-case basis according to the nature of the agreement to be negotiated. The process calls for a negotiator self-assessment in three possible phases: an initial environmental assessment (required) to address the scope of

potential environmental impacts of a trade agreement, a possible draft environmental assessment (optional) to investigate environmental impacts in more detail, and a final environmental assessment (required) to record how environmental considerations were incorporated into negotiations. At the conclusion of each phase, a report is issued along with a notice welcoming public comment.

Until recently, FIPAs were assessed using a distinct Strategic Environmental Assessment (SEA) method consisting of multiple phases and formal consultation with other government departments, provinces and territories, and external advisory group as well as the Canadian public. On January 20, 2012, the external Environmental Assessment Advisory Group with who DFAIT consults its SEAs, has indicated its support for a streamlined FIPA SEA process. Effective September 1, 2012, the department adopted the standard SEA process used for memoranda to cabinet to assess FIPA negotiations to determine whether important environmental impacts are likely to result from a new FIPA. Under the new procedures, if impacts are likely, an SEA will be carried out according to established practice. If impacts are unlikely however, the analysis will be considered complete and additional consultations will not be undertaken. This new measure is expected to generate efficiencies in the department's compliance with the Cabinet Directive.

Should you have any questions, please do not hesitate to contact me.

Thank you.

Madame,
Monsieur,

La présente a pour objet de vous faire parvenir, à titre d'information, un exemplaire du rapport de l'Évaluation environnementale (EE) finale de l'Accord sur la promotion et la protection des investissements étrangers (APIE) entre le Canada et la Chine. L'EE finale présente les résultats des négociations à la lumière du processus d'évaluation environnementale. L'EE initiale, qui évaluait les impacts sur l'environnement d'un éventuel APIE entre le Canada et la Chine, a été publiée en 2008.

L'EE finale ci-jointe fait état de toute modification notable apportée à l'EE initiale, des analyses subséquentes et des implications environnementales prévues. Le document tient également compte des renseignements supplémentaires et des commentaires formulés par le public à l'égard de l'EE au cours des négociations.

L'EE finale des négociations de l'APIE entre le Canada et la Chine vous est envoyée en pièce jointe aux fins d'information.

CONTEXTE

Conformément à la Directive du Cabinet sur l'évaluation environnementale des projets de politiques, de plans et de programmes, Affaires étrangères et Commerce International Canada (MAECI) est tenu d'effectuer des EE dans le cadre de toutes les négociations portant sur le commerce et l'investissement au moyen d'un processus qui nécessite la coordination interministérielle et la consultation publique.

Voici les objectifs de l'EE des accords commerciaux :

- 1) aider les négociateurs canadiens à intégrer la dimension environnementale dans le processus de négociation en leur fournissant des données sur les effets environnementaux de l'accord commercial ou de l'accord d'investissement proposé;*
- 2) montrer comment les facteurs environnementaux sont pris en compte dans le cadre des négociations commerciales.*

La politique et le processus relatifs aux EE des négociations commerciales prévoient une approche et un échéancier flexibles qui peuvent être adaptés et appliqués au cas par cas selon la nature de l'accord faisant l'objet des négociations. Il est prévu à cet égard un processus d'auto-évaluation de la part des négociateurs qui peut comprendre trois phases : l'EE initiale (obligatoire), pour examiner la portée des impacts environnementaux éventuels d'un accord commercial; l'EE préliminaire (facultative), pour étudier plus en détail les incidences environnementales; et l'EE finale (obligatoire), pour documenter la façon dont les facteurs environnementaux ont été pris en considération dans le cadre des négociations. Un rapport est publié à l'issue de chaque phase, assorti d'un avis invitant le public à formuler des commentaires.

Jusqu'à tout récemment, les APIE étaient évalués à l'aide d'une méthode d'évaluation environnementale stratégique (EES) distincte comportant de nombreuses étapes et des consultations officielles avec les autres ministères fédéraux, les provinces et les territoires, le Groupe consultatif externe et la population canadienne. Le 20 janvier 2012, le Groupe consultatif externe sur l'évaluation environnementale, qui est chargé d'examiner les EES avec le MAECI, s'est dit en faveur d'un processus d'EES simplifié des APIE. Le 1^{er} septembre 2012, le Ministère a adopté le processus d'EES normalisé destiné aux mémoires au Cabinet pour évaluer les négociations d'un APIE, afin de déterminer si la conclusion d'un nouvel APIE est susceptible d'avoir d'importantes incidences sur

l'environnement. En vertu de ce nouveau processus, une EES sera réalisée dans les règles s'il est fort probable qu'un APIE aura des incidences sur l'environnement. Toutefois, dans le cas contraire, l'analyse sera jugée complète et aucune autre consultation ne sera entreprise à cet égard. Grâce à cette nouvelle mesure, le Ministère devrait se conformer à la Directive du Cabinet tout en réalisant des économies.

Si vous avez questions, n'hésitez pas à me contacter.

Anh Nguyen

Senior Trade Policy Analyst | Analyste principale de la politique commerciale

Investment Trade Policy Division (TNI) | Direction de la politique commerciale sur l'investissement (TNI)

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Foreign Affairs and International Trade Canada | Affaires étrangères et Commerce international Canada

Government of Canada | Gouvernement du Canada



Foreign Affairs and
International Trade Canada

Affaires étrangères et
Commerce international Canada

Canada

Final Environmental Assessment of the Canada-China Foreign Investment Protection Agreement (FIPA)

This report outlines the results of the Final Environmental Assessment (EA) of the Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) negotiations. On September 9th, 2012, Canada's Minister of International Trade and Minister for the Asia-Pacific Gateway, Ed Fast, and China's Minister of Commerce, Chen Deming, signed a Foreign Investment Promotion and Protection Agreement (FIPA) between Canada and China (News Release: <http://www.pm.gc.ca/eng/media.asp?category=1&featureId=6&pageId=26&id=5018>). Prime Minister Harper and President Hu Jintao of China presided over the signing ceremony, which followed the announcement of the conclusion of negotiations for the FIPA in February 2012, during the Prime Minister's visit to China (News Release: <http://www.pm.gc.ca/eng/media.asp?id=4632>).

As a basis for these negotiations, negotiators used Canada's 2004 FIPA model¹. However, given the extended history of these negotiations, certain aspects of the text reflect approaches used in previous models. The full text of the concluded Agreement is available at: <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fipa-apie/china-text-chine.aspx?lang=eng&view=d>.

I. Framework for Conducting Environmental Assessments of Trade Negotiations

FIPA negotiations are subject to the 2001 *Framework for Conducting Environmental Assessments of Trade Negotiations*². The Framework provides a methodology for conducting an EA of a trade or investment negotiation. It is intentionally flexible so that it can be applied to different types of negotiations (e.g., multilateral, bilateral, regional) while ensuring a systematic and consistent approach to meet two key objectives.

The first objective is to assist Canadian negotiators to integrate environmental considerations into the negotiating process by providing information on the possible environmental impacts of the proposed agreement. As such, negotiators and environmental experts are involved in the EA and work proceeds in tandem to the negotiations.

The second objective is to respond to the environmental concerns expressed by the public. The Framework contains a strong commitment to communications and consultations throughout each EA of a trade or investment negotiation.

The process under the 2001 *Framework for Conducting Environmental Assessments of Trade Negotiations* focuses on the likely economic effects of the trade and investment negotiations and their likely related environmental impacts in Canada. The process

¹ http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fipa-apie/what_fipa.aspx?lang=en&view=d

² <http://www.international.gc.ca/trade-agreements-accords-commerciaux/ds/Environment.aspx?lang=en&view=d>

involves three phases—the Initial EA, Draft EA and Final EA. The middle phase, also known as the Draft EA, is not undertaken if the agreement in question is not expected to generate significant economic effects and environmental impacts in Canada. Public consultations are an integral part of the EA and are undertaken throughout the process.

An Initial EA of the Canada-China FIPA was completed in January 2008³. The Government of Canada opened the Initial EA for public comments from February 20 to March 21, 2008. No public comments were received. In the light of the Initial EA's conclusions regarding the unlikelihood of significant environmental impacts in Canada, preparation of a Draft EA was subsequently deemed to be unnecessary. The findings of the Initial EA were communicated to Canada's lead negotiator and were integrated into Canada's negotiation strategy. The purpose of the Final EA is to document the outcome of the negotiations in relation to the EA process.

II. Findings of the Final Environmental Assessment for the Canada-China FIPA

While the findings of the Initial EA were valid and accurate at the time of the report's completion, the results of the Final EA of the Canada-China FIPA negotiations do differ slightly from those found in the Initial EA. In the Initial EA, it was found that significant changes to investment in Canada were not expected to occur as a result of the Canada-China FIPA. In addition, it was found that no significant environmental impacts were expected as a result of the Canada-China FIPA. In this Final EA, the claim that no significant environmental impacts are expected based on the introduction of a Canada-China FIPA are upheld; however, over time, Chinese investors have shown greater interest in investing in Canada, and this trend is likely to continue, if not increase with the introduction of a FIPA. The findings of the Initial EA, along with the more recent developments in Canada's bilateral investment relations with China were communicated to Canada's lead negotiator and were made a part of the negotiation strategy.

a. Areas of Growth in Investment

The stock of Canadian FDI in China was valued at approximately C\$4.5 billion at the end of 2011. That same year, the stock of foreign direct investment into Canada from China reached approximately C\$11 billion. These figures amount to approximately a 24.5% increase in Canadian FDI in China between 2008 and 2011, and approximately a 92.4% increase in Chinese investment in Canada over that same time period. Canadian investors have expressed interest in a broad range of sectors in China, including transportation, biotechnology, education, finance, information technology, manufacturing, and natural resources. As China's economic importance continues to grow, it will remain a priority market for Canada. Sectors of interest for Chinese investors in Canada include natural resources, renewable energy, information and communication technology, food processing, pharmaceuticals and natural medicine, and advanced manufacturing.

³ <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/initialEA-china-EEinitiale.aspx?lang=eng&view=d>

b. Estimated Economic Impacts of the Canada-China FIPA

While a FIPA should be a positive factor in investors' decisions on whether or not to invest, a FIPA does not impose new market access obligations or liberalize existing investment restrictions. Companies and individual investors determine risks through independent economic and political assessments, and determine their willingness to accept those risks and invest in a given market. A FIPA seeks to reduce the risk of investing in a foreign market; however, this type of government-to-government treaty cannot directly facilitate new investments or directly create new opportunities for investment. As such, it is not feasible to establish direct causal link between changes in investment patterns and the presence of a FIPA. Nevertheless, by ensuring greater protection against discriminatory and arbitrary practices, and enhancing predictability of a market's policy framework, a FIPA allows investors to invest with greater confidence. This increase in investor confidence indirectly encourages increased investment, and potentially attendant benefits such as job creation and broader economic growth.

c. Estimated Environmental Impacts of the Canada-China FIPA

As new flows of investment from China into Canada (or Canada into China) cannot be directly attributed to the presence of a FIPA, there can be no causal relationship found between the implementation of such a treaty and environmental impacts in Canada. It is for this reason that the claim made in the Initial EA, that no significant environmental impacts are expected based on the introduction of a Canada-China FIPA, is upheld. Regardless, as in all Canadian FIPAs, the Canada-China FIPA ensures that the Parties retain the ability to regulate in the public interest, including with respect to environmental issues. Moreover, the FIPA will not inhibit Canada's ability to develop and implement environmental policies. All foreign investors in Canada are subject to the same laws and regulations as domestic investors, which includes laws aimed at protecting the environment.

III. Environment-Related Provisions in the Canada-China FIPA

No new issues arose during the latter stages of the Canada-China FIPA negotiations with respect to potential environmental impacts in Canada. The environment-related provisions of the Canada-China FIPA are closely reflective of those found in Canada's FIPA model.

Mirroring Canada's model, the Canada-China FIPA includes general exceptions with respect to the protection of human, animal or plant life or health, as well as the conservation of exhaustible natural resources. These safeguards, found in Article 33(2), are based on those contained in GATT Article XX and GATS Article XIV.

As per the FIPA model, Article 18 of the Agreement contains a clause whereby the signatories recognize that it is inappropriate to encourage investment by relaxing

domestic health, safety of environmental measures. In the event that a Party offers such encouragement, the other Party may request consultations.

Finally, and as is found in the model, Annex B.10 of the Canada-China FIPA provides that regulations designed and applied to advance legitimate public welfare objectives, such as those respecting health, safety and the environment, do not constitute an indirect expropriation.

IV. Corporate Social Responsibility (CSR)

The Government of Canada encourages and expects all Canadian companies working internationally to respect all applicable laws and international CSR standards, to operate transparently and in consultation with host governments and local communities, and to develop and implement CSR best practices. Adherence to internationally-agreed upon voluntary principles and guidelines is a key part of Canada's CSR approach. According to a Canadian Chamber of Commerce (CCC) a report titled *Responsible Business Conduct in a Complex World* (2012), 71% of Canadian corporate executives say they believe Corporate Social Responsibility (CSR) is "an essential part of doing business" and needs to be recognized and reported.

Initiatives focused on CSR, or "sustainable development", in China are still in the nascent stages of development. The Beijing Chapter of the Canada-China Business Council (CCBC), one of the longer-standing bilateral business organizations active in China, restructured its executive into committees in 2006, forming a sustainable development committee focused on CSR. The committee organized two independent networking and information events, and several joint networking events with other Chambers of Commerce in 2006/07, bringing together interested companies and Non-Governmental Organizations (NGOs).

The Canadian embassy in Beijing has met with the CCBC's Sustainable Development Committee Chairs to discuss future initiatives. Some of the initiatives discussed include: a) an education seminar that helps companies to properly define CSR and understand the benefits of a CSR policy to the company's bottom line in addition to the countries and regions that they operate; b) a workshop bringing together CSR-minded Canadian and Chinese companies to network and discuss sustainable solutions to common problems facing these businesses; c) development of a list of qualified NGOs that can work with companies to implement sustainable projects in line with companies' CSR plans and strategies; and d) a joint project with other Chambers of Commerce to investigate hot topics in CSR, such as micro-credit or micro-financing.

In addition to initiatives led by government and associations, some individual Canadian companies continue to provide leadership in this area.

V. Canada/China Environmental Cooperation Activities

Canada and China are actively engaged in environmental cooperation activities⁴. Although not specifically linked to the FIPA, these efforts demonstrate existing mechanisms to work together on issues of common concern.

- **Canada-China Framework Statement for Cooperation on Environment into the 21st Century:** Canada and China signed the “Canada-China Framework Statement for Cooperation on Environment into the 21st Century” in November 1998. The framework reflects a shared interest in enhancing cooperation on environmental and sustainable development issues and provides an umbrella for collaboration on the environment. The Framework Statement created the Canada-China Joint Committee on Environment Cooperation (JCEC) with Environment Canada and the Chinese Ministry of Environmental Protection as the lead agencies. As a forum for cooperation, the JCEC provides an opportunity for high level policy dialogue, an exchange of knowledge on environmental matters, a review of bilateral achievements, as well as a venue to identify potential areas for further cooperation. The JCEC held its inaugural meeting in 2000. The 7th JCEC meeting took place in November 2011, where discussion focused on bilateral cooperation related to environmental emergencies; biodiversity; water; eco-labeling; environmental technologies and mercury emissions.
- **Memorandum of Understanding on Matters Related to Protected Areas:** The signing of this MOU was witnessed by Prime Minister Harper and Premier Wen Jiabao in Beijing, during the Prime Minister’s visit to China in February 2012. The purpose of the MOU is to provide a framework for Parks Canada and China’s State Forestry Administration to collaborate and share their professional and scientific knowledge and experience in the management of national parks, nature reserves and other protected areas. The areas of cooperation may include: the development and implementation of national parks and nature reserves; ecological restoration, public education, tourism and visitors experience; conservation measures for endangered wild fauna and flora species and their habitat, including species reintroduction; development and management of wetland parks, monitoring and management of wetlands of international importance; and, conservation measures for the preservation of forests and wetlands within national parks and nature reserves.
- **Memorandum of Understanding on Environmental Cooperation:** Environment Canada and the Ministry of Environmental Protection renewed the Memorandum of Understanding (MOU) on Environmental Cooperation in October 2010 in Beijing. This is the third renewal since the signing of the first MOU in 1993. The MOU provides a framework for cooperation on regional and global environmental issues and advocates for the building of partnerships and facilitation of dialogue among environmental protection agencies, organizations and enterprises in both countries. Through work plans developed by the Joint Committee on Environmental Cooperation, the MOU is implemented through

⁴ http://www.canadainternational.gc.ca/china-chine/bilateral_relations_bilaterales/environment.aspx?view=d

bilateral cooperative projects and activities on environmental issues of mutual interest

- **The Canada-China Climate Change Working Group (CCWG):** The Canada-China Climate Change Working Group was formed in March 2004, as a follow up to the Canada-China Joint Statement on Climate Change Cooperation. The Working Group co-ordinates and advances the bilateral effort to respond to climate change and is co-led by Environment Canada (EC) and the department of Foreign Affairs and International Trade (DFAIT) on the Canadian side and the National Development and Reform Commission (NDRC) and Ministry of Foreign Affairs (MFA) on the Chinese side. The first CCWG meeting was held in Vancouver in March 2004 and since, there have been five additional CCWG meetings, with venues alternating between China and Canada. These meetings are an opportunity for government officials from Canada and China representing various ministries and departments to hold frank and open discussions on the issues related to climate change while identifying opportunities for future cooperation in priority areas, such as clean technology, renewable energies, sustainable urban development and others depending if the priorities of the time.
- **MOU on Climate Change Cooperation:** Canada and China signed an MOU on climate change cooperation on December 3rd, 2009, during Prime Minister Harper's trip to China. The purpose of the MOU is to formalize and enhance bilateral policy dialogue and cooperation on mitigation and adaptation issues of mutual interest. The most recent activity under the CCWG was an Adaptation Workshop held in Vancouver, Canada, from March 21-22, 2012. The delegations from both countries included senior officials in addition to technical experts in the area of adaptation. The focus of the exchange included: national strategies; national planning experiences; and sectoral approaches to adaptation.
- **MOU on Science and Technology Related to Meteorology, Hydrology, Environmental Prediction and Climate Change:** The Meteorological Service of Canada (MSC) has had a long lasting and successful relationship with the China Meteorological Administration (CMA) through the *MOU for Cooperation in Science and Technology Related to Meteorology, Hydrology, Environmental Predictions and Climate Change*, which was first signed in 1986, and most recently renewed in May 2011. The purpose of this MOU is to improve cooperation in science and technology related to the fields of meteorology, hydrology, environmental predictions and climate change undertaken by the CMA and MSC and their co-operators. Under the MOU there have been over 150 projects undertaken, 30 delegations received in Canada, and 50 senior decision-makers hosted in Canada over the 25+ years of engagement. This cooperation has enhanced and maximized capabilities in these areas in both of our countries, and is a good example of how collaboration can lead to mutual benefit.
- **Environmental Trade Missions to China:** The Government of Canada has organized a number of environment themed trade missions to China. In the past, Trade Team Canada Environment (TTCE) missions were organized by Industry

Canada, in cooperation with the Canadian Government's Trade Commissioner Service in China. The mandate of these missions was to facilitate the transfer of Canadian environmental technologies and know-how to China, and foster partnerships between environmental industries in both countries. More recent activities between Canada and China in the area of clean tech have focused on government to government meetings, particularly the Working Group on Environmental Protection and Energy Conservation, which brings together leaders in government and academia to find ways to increase cooperation in these sectors.

- **2007 Science and Technology Cooperation Agreement between Canada and China:** On January 15, 2007 in Beijing, the Government of Canada and the Government of China signed a Science and Technology (S&T) Cooperation Agreement that provides support for collaborative research and development activities between the two countries. The Agreement promotes greater collaboration in research and development between Chinese and Canadian academics, and both private and public sector researchers and innovators and harnesses both public and private sector investment in joint S&T initiatives. The work conducted under the Agreement focuses on five priority areas: energy and clean technologies, ICT, life sciences, agriculture, and civil aviation.
- **China Council for International Cooperation on Environment and Development:** In 1992, a major building block in Canada-China cooperation on environment was laid when the Canadian International Development Agency (CIDA) provided assistance for the establishment of the China Council for International Cooperation on Environment and Development (CCICED), a high-profile international advisory body for collaboration and exchange on matters of sustainable development. Canada's support for the work of the CCICED has been a cornerstone of Canada's engagement with China on environmental policy issues, and through CIDA, Canada has been CCICED's lead international partner for the past four phases (1992-2012). As a high-profile international advisory body, chaired by the Chinese Vice Premier and co-chaired by the Chinese Minister of Environmental Protection and the President of CIDA, the CCICED provides world class policy advice to China to help the country deal with its considerable environmental challenges. CCICED has been credited with a number of positive environmental policy changes undertaken by China over the past 20 years, such as the decision to build an Environment and Health Management System (2008) and the policy needs associated with Low Carbon Economy (2009).

Comments on this report may be sent by email, mail or fax to:

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Final Environmental Assessment of the Canada-China Foreign Investment Promotion and Protection Agreement (FIPA)

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Évaluation environnementale définitive de l'Accord sur la promotion et la protection des investissements étrangers (APIE) Canada-Chine

Le présent rapport présente les résultats de l'évaluation environnementale (EE) définitive des négociations relatives à l'Accord sur la promotion et la protection des investissements étrangers (APIE) Canada-Chine. Le 9 septembre 2012, le ministre du Commerce international du Canada et ministre de la porte d'entrée de l'Asie-Pacifique, l'honorable Ed Fast, et le ministre du Commerce de la Chine, M. Chen Deming, ont signé un accord sur la promotion et la protection des investissements étrangers (Communiqué : <http://www.pm.gc.ca/fra/media.asp?category%20=1&featureId=6&pageId=26&id=5018>). Le Premier ministre Harper et le président chinois, M. Hu Jintao, ont présidé la cérémonie de signature, laquelle a suivi l'annonce de la conclusion des négociations en vue de l'APIE en février 2012 dans le cadre de la visite en Chine du premier ministre (Communiqué : <http://www.pm.gc.ca/fra/media.asp?ID=4632>).

Le modèle d'APIE établi par le Canada en 2004¹ a servi de fondement aux négociations. Toutefois, étant donné le long passé de ces négociations, des approches adoptées dans des modèles précédents ont été utilisées pour certains aspects du texte, dont la version intégrale se trouve à l'adresse suivante: <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fipa-apie/china-text-chine.aspx?lang=fra&view=d>.

I. Cadre pour l'évaluation environnementale des négociations commerciales

Les négociations d'APIE sont assujetties au *Cadre pour l'évaluation environnementale des négociations commerciales*² de 2001. Le Cadre propose une méthode pour effectuer l'EE d'une négociation sur le commerce ou l'investissement. Il est volontairement souple afin qu'on puisse l'appliquer à divers types de négociations (multilatérales, bilatérales, régionales), tout en assurant une approche cohérente et rigoureuse afin d'atteindre deux objectifs clés.

Le premier objectif consiste à aider les négociateurs canadiens à intégrer les considérations environnementales dans le processus de négociation, en leur fournissant de l'information sur les impacts environnementaux possibles de l'accord proposé. Ainsi, des négociateurs et des spécialistes de l'environnement participent à l'EE, et le travail est effectué parallèlement aux négociations.

Le deuxième objectif consiste à répondre aux préoccupations sur l'environnement soulevées par le public. Le Cadre contient un engagement ferme à assurer la communication et à tenir des consultations pour chaque EE d'une négociation sur le commerce ou l'investissement.

¹ http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fipa-apie/what_fipa.aspx?lang=fr&view=d

² <http://www.international.gc.ca/trade-agreements-accords-commerciaux/ds/Environment.aspx?lang=fra&view=d>

Le processus assujéti au *Cadre pour l'évaluation environnementale des négociations commerciales* de 2001 est axé sur les effets économiques possibles des négociations sur le commerce et l'investissement et leurs impacts environnementaux probables au Canada. Il comporte trois phases : l'EE initiale, l'EE préliminaire et l'EE définitive. La deuxième phase, soit l'EE préliminaire, ne sera pas amorcée si l'on prévoit que l'APIE ne produira pas d'effets économiques ni d'impacts environnementaux importants au Canada. Les consultations publiques font partie intégrante de l'Évaluation environnementale et sont engagées tout au long du processus.

Une EE initiale de l'APIE Canada-Chine a été effectuée en janvier 2008³. Le gouvernement du Canada a ouvert l'EE initiale aux commentaires publics du 20 février au 21 mars 2008; aucun commentaire n'a été reçu du public. Comme l'EE initiale a permis de conclure à la faible probabilité d'effets importants sur l'environnement au Canada, la préparation d'une EE préliminaire n'est pas jugée nécessaire. Les résultats de l'EE initiale ont été communiqués au négociateur en chef du Canada et pris en considération dans la stratégie de négociation. L'EE définitive a pour but de rendre compte du résultat des négociations en ce qui concerne le processus d'EE.

II. Résultats de l'évaluation environnementale définitive de l'APIE Canada-Chine

Bien que les résultats de l'EE initiale étaient valides et exacts au moment de l'achèvement du rapport, les résultats énoncés dans l'EE définitive des négociations de l'APIE Canada-Chine diffèrent quelque peu de ceux exposés dans l'EE initiale. Les auteurs de l'EE initiale ont indiqué que la mise en œuvre de l'APIE Canada-Chine n'était susceptible d'entraîner ni des changements importants au chapitre de l'investissement ni des impacts environnementaux considérables au Canada. Dans l'EE définitive, on réitère que la mise en œuvre de l'APIE Canada-Chine n'aura aucun impact environnemental important; toutefois, au fil des années, les investisseurs chinois ont manifesté de plus en plus leur désir d'investir au Canada, et cette tendance va probablement se poursuivre, voire augmenter, à la suite de la mise en œuvre de l'APIE. Les résultats de l'EE initiale, ainsi que les plus récents développements touchant la relation bilatérale entre le Canada et la Chine en matière d'investissement, ont été communiqués au négociateur en chef du Canada et pris en considération dans la stratégie de négociation.

a. Secteurs de croissance dans le domaine de l'investissement

Le stock d'investissements directs canadiens en Chine était évalué à près de 4,5 milliards de dollars canadiens à la fin de 2011. La même année, le stock d'investissements directs chinois au Canada a atteint environ 11 milliards de dollars canadiens. Ces montants représentent une hausse approximative de 24,5 p. 100 des investissements directs canadiens en Chine, de 2008 à 2011, et d'environ 92,4 p. 100 des investissements directs chinois au Canada au cours de la même période. Les investisseurs canadiens ont montré leur intérêt pour un vaste éventail de secteurs en Chine, notamment le transport, la biotechnologie, l'éducation, les services financiers,

³ <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/initialEA-china-EEinitiale.aspx?lang=fra&view=d>

les technologies de l'information, la fabrication et les ressources naturelles. À mesure que s'accroît l'importance économique de la Chine, ce pays demeure un marché prioritaire pour le Canada. Les investisseurs chinois s'intéressent notamment aux secteurs suivants au Canada : ressources naturelles; énergies renouvelables; technologies de l'information et des communications; transformation des aliments; produits pharmaceutiques et médecine naturelle; fabrication de pointe.

b. Impacts économiques estimés de l'APIE Canada-Chine

Bien que l'existence d'un APIE constitue un incitatif important dans la décision d'investir sur le territoire de l'autre partie, un tel accord n'impose généralement aucune obligation supplémentaire d'accès au marché ni ne supprime les limites existantes à l'investissement. Les entreprises et les investisseurs déterminent les risques au moyen d'une évaluation indépendante des informations économiques et politiques, à la suite de quoi ils déterminent leur désir d'accepter ces risques et d'investir dans un marché donné. Un APIE a pour objet de réduire les risques associés à l'investissement dans un marché étranger; toutefois, ce type d'accord entre gouvernements ne peut faciliter directement de nouveaux investissements ni créer directement des occasions d'investissement. Il n'est donc pas possible d'établir un lien direct de cause à effet entre un changement éventuel des structures d'investissement et la présence d'un APIE. Néanmoins, en augmentant la prévisibilité d'un cadre stratégique du marché et la protection contre les pratiques discriminatoires et arbitraires, un APIE permet aux investisseurs de passer à l'action avec une confiance accrue. Cette hausse de confiance favorise indirectement l'accroissement des investissements et peut même engendrer des avantages connexes, comme la création d'emplois et une croissance économique plus large.

c. Impacts environnementaux estimés de l'APIE Canada-Chine

Puisqu'on ne s'attend pas à ce que l'APIE provoque de nouveaux flux d'investissements de la Chine au Canada (ou du Canada en Chine), on ne peut établir un lien de cause à effet entre la mise en œuvre d'un tel accord et les impacts environnementaux au Canada. C'est pour cette raison que l'on maintient la conclusion tirée dans l'EE initiale, selon laquelle la mise en œuvre de l'APIE Canada-Chine n'aura aucun impact environnemental important. Par ailleurs, comme dans tous les APIE conclus par le Canada, l'APIE Canada-Chine veille à ce que les Parties conservent leur capacité de réglementer dans l'intérêt public, y compris en ce qui concerne les questions environnementales. En outre, l'APIE ne nuira pas à la capacité du Canada d'élaborer et de mettre en œuvre des politiques environnementales. Les investisseurs étrangers au Canada sont assujettis aux mêmes lois et règlements que les investisseurs canadiens, y compris ceux qui visent la protection de l'environnement.

III. Dispositions de l'APIE Canada-Chine liées à l'environnement

Aucune question n'a été soulevée au cours des dernières phases des négociations de l'APIE Canada-Chine en ce qui concerne les impacts environnementaux possibles au Canada. Les dispositions de l'APIE Canada-Chine liées à l'environnement sont presque identiques à celles du modèle d'APIE du Canada.

À l'image du modèle du Canada, l'APIE Canada-Chine comporte des exceptions générales en ce qui concerne la protection de la vie ou de la santé humaine, animale et végétale et la conservation des ressources naturelles non renouvelables. Ces sauvegardes, énoncées au paragraphe 33(2), reposent sur l'article XX du GATT et l'article XIV de l'AGCS.

Conformément au modèle de l'APIE, l'article 18 de l'accord comporte une disposition par laquelle les signataires reconnaissent qu'il n'est pas bon d'encourager l'investissement en relâchant les mesures nationales en matière de santé, de sécurité et d'environnement. Si une partie offrait un tel encouragement, l'autre partie pourrait réclamer la tenue de consultations.

Finalement, l'annexe B.10 de l'APIE Canada-Chine, qui est identique au modèle, prévoit que les règlements établis et appliqués dans le but d'atteindre les objectifs de protection légitime du bien-être public, tels que ceux ayant trait à la santé, à la sécurité et à l'environnement, ne constituent pas une forme d'expropriation indirecte.

IV. Responsabilité sociale des entreprises (RSE)

Le gouvernement du Canada s'attend à ce que toutes les entreprises canadiennes présentes à l'étranger respectent toutes les lois applicables et normes internationales, mènent des activités transparentes et le fassent en consultation avec le gouvernement du pays hôte et les communautés locales, et élaborent et appliquent des pratiques exemplaires en matière de RSE, et il les encourage dans ce sens. L'adhésion aux principes volontaires et aux principes directeurs internationalement acceptés constitue un élément essentiel de l'approche canadienne en matière de RSE. Selon un rapport de la Chambre de commerce du Canada (CCC) intitulé *Conduite responsable en affaires dans un monde complexe* (2012), 71 p. 100 des cadres d'entreprises canadiennes estiment que la RSE constitue une « partie essentielle des affaires » et qu'elle doit être reconnue et faire l'objet de rapports.

Les initiatives ciblant la RSE ou le « développement durable » en Chine n'en sont qu'au premier stade. La section de Beijing du Conseil commercial Canada-Chine (CCCC), l'un des organismes de commerce bilatéral les plus anciens en Chine, a restructuré en 2006 son exécutif en comités, dont un comité du développement durable portant sur la RSE. Ce comité a organisé deux manifestations indépendantes consacrées au réseautage et à l'information, et plusieurs séances conjointes de réseautage avec d'autres Chambres de commerce en 2006-2007, réunissant des entreprises intéressées et des organisations non gouvernementales (ONG).

L'ambassade du Canada à Beijing a rencontré les présidents du Comité du développement durable du CCCC afin d'envisager de futures initiatives. Les projets

suivants sont à l'étude : a) un colloque sur l'éducation destiné à aider les entreprises à bien définir leur RSE et à comprendre les avantages d'une politique de RSE sur leurs résultats financiers, ainsi que sur les pays et les régions où elles exercent des activités; b) un atelier réunissant des entreprises canadiennes et chinoises soucieuses de la RSE afin de faire du réseautage et d'étudier des solutions durables à des problèmes communs; c) l'élaboration d'une liste d'ONG qualifiées en mesure de collaborer avec les entreprises afin de mettre en œuvre des projets durables, conformément aux plans et aux stratégies de RSE de celles-ci; d) un projet conjoint mené avec d'autres Chambres de commerce afin d'analyser les sujets brûlants de la RSE, tels que le microcrédit ou le microfinancement.

Outre les initiatives menées par le gouvernement et les associations, certaines entreprises canadiennes continuent de jouer un rôle de chef de file dans ce domaine.

V. Activités de coopération entre le Canada et la Chine dans le domaine de l'environnement

Le Canada et la Chine participent activement à des activités de coopération dans le domaine environnemental⁴. Bien qu'ils ne soient pas spécifiquement liés à l'APIE, ces efforts témoignent de la validité des mécanismes en place permettant de collaborer pour régler les questions présentant un intérêt pour les deux parties.

- **Déclaration cadre pour la coopération Canada-Chine en matière d'environnement au XXI^e siècle** : Le Canada et la Chine ont signé la *Déclaration cadre pour la coopération Canada-Chine en matière d'environnement au XXI^e siècle* en novembre 1998. Cette déclaration reflète le désir des deux pays d'accroître la coopération en matière d'environnement et de développement durable et coordonne la collaboration relative à l'environnement. La Déclaration cadre a créé le Comité conjoint Canada-Chine sur la coopération environnementale (CCCE), Environnement Canada et l'Administration d'État pour la protection de l'environnement de la Chine étant les organismes responsables. En tant que forum pour la coopération, le CCCE permet la tenue d'un dialogue de haut niveau, l'échange de connaissances sur des questions environnementales, l'examen des réalisations bilatérales ainsi que l'identification de domaines où la coopération pourrait être accrue. Le CCCE a tenu sa réunion inaugurale en 2000. La septième réunion du CCCE, qui a eu lieu en novembre 2011, a mis l'accent sur la coopération bilatérale liée aux urgences environnementales; la biodiversité; l'eau; l'écoétiquetage; les technologies environnementales et les émissions de mercure.
- **Protocole d'entente sur les questions relatives aux zones protégées** : La signature de ce PE s'est déroulée en présence du Premier ministre Harper et du premier ministre Wen Jiabao à Beijing, lors de la visite du Premier ministre Harper en Chine, au mois de février 2012. Ce PE sert de cadre à Parcs Canada et à l'administration forestière d'État de Chine, en vue d'une collaboration ou du

⁴ http://www.canadainternational.gc.ca/china-chine/bilateral_relations_bilaterales/environnement.aspx?lang=fra&view=d

partage de leurs connaissances et de leur expérience professionnelles ou scientifiques dans le domaine de la gestion des parcs nationaux, des réserves naturelles et d'autres zones protégées. Les éléments de la coopération pourraient être les suivants : élaboration et mise en œuvre de parcs nationaux et de réserves naturelles; restauration écologique, éducation du public, tourisme et expérience des visiteurs; mesures de conservation pour les espèces de la faune et de la flore sauvages en voie de disparition et leur habitat, notamment la réintroduction d'espèces; aménagement et gestion des parcs de terres humides, surveillance et gestion des terres humides d'importance internationale; mesures de conservation pour préserver les forêts et les terres humides dans les parcs nationaux et les réserves naturelles.

- **Protocole d'entente sur la coopération environnementale :** Environnement Canada et l'Administration d'État pour la protection de l'environnement de la Chine ont renouvelé le Protocole d'entente (PE) sur la coopération environnementale, en octobre 2010, à Beijing. Il s'agit du troisième renouvellement depuis la signature du premier PE en 1993. Celui-ci prévoit un cadre de coopération sur les questions environnementales d'envergure régionale et planétaire et facilite l'établissement de partenariats et le dialogue entre des organismes, des organisations et des entreprises de protection de l'environnement dans les deux pays. Au moyen de plans de travail élaborés par le Comité conjoint sur la coopération environnementale, le PE est mis en œuvre dans le cadre d'activités et de projets de coopération bilatéraux portant sur des questions environnementales d'intérêt commun.
- **Le Groupe de travail Canada-Chine sur les changements climatiques :** Le Groupe de travail Canada-Chine sur les changements climatiques (GTCC) a été créé en mars 2004 comme mesure de suivi de l'Énoncé conjoint Canada Chine sur la coopération en matière de changements climatiques. Le Groupe de travail coordonne et fait progresser l'effort bilatéral pour lutter contre les changements climatiques, sous la direction conjointe d'Environnement Canada et d'Affaires étrangères et Commerce international (MAECI) du côté canadien et de la Commission nationale du développement et de la réforme et du ministère des Affaires étrangères du côté chinois. La première réunion du GTCC a eu lieu à Vancouver en mars 2004; depuis, le GTCC a tenu cinq autres réunions, alternant l'emplacement de celles-ci entre la Chine et le Canada. Ces réunions sont des occasions pour les représentants de divers ministères canadiens et chinois de mener des discussions franches et ouvertes sur les questions liées aux changements climatiques, tout en cernant des possibilités de collaboration future dans des domaines prioritaires convenus, notamment les technologies propres, les énergies renouvelables et le développement urbain durable.
- **Protocole d'entente sur la coopération en matière de changements climatiques :** Le Canada et la Chine ont signé un PE sur la coopération en matière de changements climatiques le 3 décembre 2009, lors de la visite du Premier ministre Harper en Chine. Le PE a pour objet d'officialiser et d'accroître le

dialogue et la coopération stratégiques bilatéraux sur les questions d'atténuation et d'adaptation d'intérêt mutuel. La plus récente activité organisée par le GTCC était un atelier sur les mesures d'adaptation, qui a eu lieu les 21 et 22 mars 2012, à Vancouver (Canada). Les délégations des deux pays étaient entre autres composées de hauts fonctionnaires ainsi que d'experts techniques du secteur de l'adaptation. L'échange a notamment mis l'accent sur les stratégies nationales, les expériences de planification nationale et les approches sectorielles en matière d'adaptation.

- **Protocole d'entente sur la coopération en sciences et technologie dans les secteurs de la météorologie, de l'hydrologie, des prévisions environnementales et des changements climatiques :** Le Service météorologique du Canada (SMC) maintient depuis longtemps une relation fructueuse avec l'Administration météorologique de Chine (AMC) dans le cadre du *Protocole d'entente sur la coopération en sciences et technologie dans les secteurs de la météorologie, de l'hydrologie, des prévisions environnementales et des changements climatiques*, qui a tout d'abord été signé en 1986, puis renouvelé en mai 2011. L'objectif de ce PE est d'améliorer les activités de coopération en sciences et technologie dans les secteurs de la météorologie, de l'hydrologie, des prévisions environnementales et des changements climatiques menées par le SMC, l'AMC et leurs collaborateurs. Depuis plus de 25 ans, dans le cadre de ce PE, on a mis en œuvre plus de 150 projets et accueilli au Canada une trentaine de délégations et une cinquantaine de hauts responsables des politiques. Cet effort coopératif a eu pour effet d'accroître et de maximiser les capacités des deux pays dans ces secteurs; il démontre comment la collaboration peut être bénéfique pour les deux parties concernées.
- **Missions commerciales environnementales en Chine :** Le gouvernement du Canada a organisé un certain nombre de missions commerciales en Chine sur le thème de l'environnement. Par le passé, les missions de l'Équipe commerciale Canada de l'environnement étaient organisées par Industrie Canada, en collaboration avec le Service des délégués commerciaux du Canada en Chine. Le mandat de ces missions était de faciliter le transfert des technologies et savoirs environnementaux du Canada vers la Chine et favoriser les partenariats entre les industries environnementales des deux pays. Les plus récentes activités menées entre le Canada et la Chine dans le secteur des technologies propres étaient axées sur les réunions intergouvernementales, notamment celles du Groupe de travail pour la protection de l'environnement et la conservation de l'énergie, lequel réunit des dirigeants gouvernementaux et d'universités dans le but de trouver des moyens d'accroître la coopération dans ces secteurs.
- **Accord de coopération scientifique et technologique entre le Canada et la Chine de 2007 :** Le 15 janvier 2007 à Beijing, le gouvernement du Canada et celui de la Chine ont signé un Accord de coopération scientifique et technologique visant à soutenir les activités canado-chinoises de recherche et développement. L'Accord vise à accroître la collaboration en matière de recherche et développement entre les universitaires canadiens et chinois ainsi que

les chercheurs et les innovateurs des secteurs privé et public et prévoit des mécanismes pour faciliter les investissements des secteurs privé et public dans les initiatives conjointes de S-T. Les travaux menés dans le cadre de l'Accord portent sur les cinq domaines prioritaires suivants : l'énergie et les technologies propres; les TIC, les sciences de la vie; l'agriculture; l'aviation civile.

- **Conseil chinois de coopération internationale en environnement et en développement** : En 1992, l'Agence canadienne de développement international (ACDI) a posé un important jalon dans la coopération environnementale Canada-Chine en apportant son aide dans l'établissement du Conseil chinois pour la coopération internationale sur l'environnement et le développement (CCCIED), un organisme consultatif international de haut niveau voué à la collaboration et aux échanges en matière de développement durable. Le soutien du Canada aux travaux du CCCIED constitue une pierre angulaire de son engagement avec la Chine en matière de politique environnementale. Par ailleurs, le Canada, par l'entremise de l'ACDI, a également été le principal partenaire international de la Chine au cours des quatre dernières phases (1992-2012). À titre d'organisme consultatif international de haut niveau présidé par le vice-premier ministre chinois et co-présidé par le ministre chinois de la protection environnementale et le président de l'ACDI, le CCCIED prodigue à la Chine des conseils judicieux de calibre mondial pour l'aider à formuler des politiques lui permettant de relever les défis environnementaux importants auxquels elle fait face. On attribue d'ailleurs au CCCIED le crédit de plusieurs changements positifs à la politique environnementale de la Chine au cours des 20 dernières années, dont la décision de créer un Système de gestion environnementale et de santé (2008) et de se doter des outils politiques nécessaires à la création d'une économie à faible émission de carbone (2009).

Tout commentaire sur ce rapport peut être envoyé par courriel, par la poste ou par télécopieur à :

Direction des consultations et de la liaison

Évaluation environnementale définitive de l'Accord sur la promotion et la protection des investissements étrangers (APIE) Canada-Chine
Affaires étrangères et Commerce international Canada
Édifice Lester B. Pearson
125, promenade Sussex
Ottawa (Ontario)
K1A 0G2

Télécopieur : 613-944-7981

Courriel : consultations@international.gc.ca

Lebrun, Matthew JTST:EX

From: Bubrick, Elaine JTST:EX
Sent: Thursday, October 18, 2012 9:52 PM
To: Heine, Chris JTI:EX
Subject: RUSH - ; Canada China Foreign Investment Promotion and Protection Agreement
Importance: High

Hi Chris

Could I please ask you to cliff this Information Note as well at the news release.

Thank you.
Elaine

From: Bubrick, Elaine JTST:EX
Sent: Thu, October 18, 2012 8:46 PM
To: Yelovatz, Maureen JTST:EX
Cc: Hourston, Sveah JTST:EX; Fanning, Lindsey JTST:EX
Subject: FW: Canada China Foreign Investment Promotion and Protection Agreement

Hi Maureen

As you can appreciate this went up to meet a short turnaround time. I noticed that it wasn't cliffed.

Please let me know if you were prefer that we cliff this in the morning.

Thank you.
Elaine

From: Sen, Shom JTST:EX
Sent: Thu, October 18, 2012 7:46 PM
To: Byng, Dave A JTST:EX
Cc: Bubrick, Elaine JTST:EX; Greenwood, Gail JTST:EX; Little, Christine JTST:EX; Yelovatz, Maureen JTST:EX; Fanning, Lindsey JTST:EX; Lansdell, Hayden GCPE:EX
Subject: Canada China Foreign Investment Promotion and Protection Agreement

Some more background on the FIPA including the BC News Release, the IN for the Minister of Environment and the Federal Government Information Note.

Regards
Shom

Here is the BC News Release:

Canada-China agreement good for B.C.

<http://www.newsroom.gov.bc.ca/2012/09/canada-china-agreement-good-for-bc.html>



VICTORIA - Pat Bell, Minister of Jobs, Tourism and Skills Training, is confident that the new Canada-China Foreign Investment Promotion and Protection Agreement will provide a framework through which greater economic prosperity will come for British Columbians and British Columbia companies.

On Saturday, Prime Minister Stephen Harper and Hu Jintao, President of China, witnessed the signing of the agreement at the Asia Pacific Economic Cooperation (APEC) Leaders' Meeting in Vladivostok, Russia.

"Our government continues to believe that expanding our economic relationship with China will lead to greater prosperity, and more jobs, in British Columbia. Our premier is there right at this moment delivering that message."

This agreement helps us move closer to our goal of enhanced economic and trade relations with China by promoting Chinese investment in British Columbia and providing more protection for British Columbia companies investing in China, which can lead to more exports and jobs.

Canada and China's commitment to further expand bilateral trade and investment is also demonstrated in the joint Canada-China Economic Complementarities Study, released last month, which identifies a number of important prospects for growth. This investment agreement is an important step towards British Columbia deepening and strengthening our trade, investment and cultural ties with China.

China is B.C.'s second-largest trading partner and the second-biggest economy in the world. Goods shipped from British Columbia to China rose to \$5.1 billion last year, a 24 per cent increase over 2010.

Overall, B.C. has enjoyed phenomenal success in Asia, and exports to the key markets identified in Canada Starts Here: The BC Jobs Plan - China, Japan, India and South Korea - rose 23.3 per cent in 2011 over the previous year. In 2011, the value of exports destined for the Pacific Rim was 43 per cent, up from 36 per cent in 2009. This represents the first time that export levels to the Pacific Rim were higher than those to the United States (42.7 per cent). However, even greater potential exists for further growth in these markets.

Learn More:

Go to www.BritishColumbia.ca to find out about B.C.'s international trade and investment representative offices around the world.

Media Contact:

Ministry of Jobs, Tourism and Skills Training
250 356-8177

Here is the IN for Minister of Environment:



IN_BC-China
treaty (2).docx

Here is the Federal Government Info Note:

Canada-China Foreign Investment Promotion Protection Agreement

Background

On February 8, 2012, Prime Minister Harper and President Hu Jintao of China announced the conclusion of negotiations of a FIPA. Canada and China subsequently completed the required legal review of the text in English, French and Chinese. The FIPA was signed by Minister Ed Fast and Minister Chen Deming on September 9, 2012, on the margins of the APEC Leaders' Summit in Vladivostok, Russia, with Prime Minister Harper and President Hu observing the ceremony.

The treaty will now need to proceed through both Canada and China's respective ratification processes in order to be brought into force. In Canada, the FIPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will then come into force once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.

This FIPA will ensure greater predictability for Canadian investors in the Chinese market, and protection against discriminatory and unfair practices. The FIPA will also promote increased investment flows between Canada and China. Canadian investment in China was C\$4.5 billion at the end of 2011, with sectors of interest being financial services, transportation, biotechnology, education, information technology, manufacturing, and natural resources. Chinese investment into Canada was C\$11 billion at the end of 2011. Sectors of interest for China include natural resources, renewable energy, information and communication technology, food processing, pharmaceuticals and natural medicine, and advanced manufacturing.

Summary Points:

- We are pleased to note that on September 9, 2012, the Canada-China Foreign Investment Promotion and Protection Agreement was signed.
- Although we have not yet determined the date when the text of this Agreement will be made available to the public, and consequently cannot share a copy with you at this time, we can give you an overview of the elements of the agreement.
- The Canada-China FIPA is a high quality bilateral investment treaty that will provide a more predictable and stable investment climate in China for Canadian investors.
- The FIPA applies to measures adopted or maintained by Canada and China, at the national and sub-national levels, relating to investors and their investments. The FIPA applies, as well, to an entity, such as a state-owned enterprise, that exercises governmental authority delegated to it by a Party.
- The agreement provides for non-discriminatory treatment for Canadian investors on both a national treatment (post-establishment) and a most-favoured nation treatment (pre- and post-establishment) basis, and ensures that the treatment of investors by governments at all levels meets an absolute minimum standard under customary international law.
- This FIPA also offers: commitments on performance requirements consistent with the WTO Trade Related Investment Measures; protection from expropriation, except for a public purpose and with fair and prompt compensation; and, assurances that transfers of investment related funds, such as contributions to capital, profits, capital gains, interest, dividends, proceeds from sales of investments, etc. can be made freely and without delay. Although, on transfers, China took a reservation for its foreign exchange controls.

- The treaty grandfathers existing non-conforming measures, but subjects them to a ratchet mechanism. That is, such measures cannot become more restrictive moving forward.
- The FIPA permits either country to take measures necessary to protect human and animal health or plant life, as well as allowing measures taken for prudential reasons to maintain the safety, soundness, integrity or financial responsibility of financial institutions.
- If a dispute arises, the FIPA contains direct access for investors to an effective, impartial dispute resolution system through international arbitration. In accordance with Canada's practice, the provisions and procedures for investor-to-state dispute settlement are clearly laid out and stipulate transparency provisions that are important to Canada.
- Policy flexibility is maintained in key sensitive sectors, consistent with Canada's position in other agreements, such as the North American Free Trade Agreement.
- The treaty will now need to proceed through both Canada and China's respective ratification processes in order to be brought into force.
- For Canada, the FIPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will then come into force once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.

RESPONSIVE on exact timing of entry into force:

- *At this stage we cannot speculate on the exact timing for the Agreement's entry into force.*

RESPONSIVE on public release of the FIPA text:

- *The Canada-China FIPA text will be posted on Foreign Affairs and International Trade Canada's website sometime before, or when the text is tabled in Parliament.*

Lebrun, Matthew JTST:EX

From: Little, Christine JTST:EX
Sent: Thursday, October 18, 2012 4:09 PM
To: Greenwood, Gail JTST:EX
Cc: Ewert-Johns, Marcus JTST:EX; Sen, Shom JTST:EX; Buttner, Klaus JTST:EX; Bubrick, Elaine JTST:EX
Subject: FW: China FIPA Op Ed

Here's the agreement that the Jon McComb article is about. Scott is also tracking down the TNO article for me – will forward when it comes.

Gail – will need an IN as soon as possible ☺

Christine Little
Executive Director, Strategy, Policy and Performance
International Trade and Investment Attraction Division
Ministry of Jobs, Tourism and Skills Training
3rd Floor, 1803 Douglas Street
Victoria, BC

Phone: 250-953-3479

Mobile: s17

From: Colbourne, Scott GPCE:EX
Sent: Thursday, October 18, 2012 4:07 PM
To: Little, Christine JTST:EX
Subject: FW: China FIPA Op Ed

Our release...

From: Gervais, Monica JTST:EX
Sent: Thursday, October 11, 2012 1:53 PM
To: Colbourne, Scott GPCE:EX
Subject: China FIPA Op Ed

Hi Scott,

I left you a voice mail but thought easier to type. Did MPB put out an Op Ed piece around the Canada-China foreign investment agreement (FIPA)? or just a news release?

Canada-China agreement good for B.C.

<http://www.newsroom.gov.bc.ca/2012/09/canada-china-agreement-good-for-bc.html>

Economy Monday, September 10, 2012 7:30 AM

VICTORIA - Pat Bell, Minister of Jobs, Tourism and Skills Training, is confident that the new Canada-China Foreign Investment Promotion and Protection Agreement will provide a framework through which greater economic prosperity will come for British Columbians and British Columbian companies.

On Saturday, Prime Minister Stephen Harper and Hu Jintao, President of China, witnessed the signing of the agreement at the Asia Pacific Economic Cooperation (APEC) Leaders' Meeting in Vladivostok, Russia.

"Our government continues to believe that expanding our economic relationship with China will lead to greater prosperity, and more jobs, in British Columbia. Our premier is there right at this moment delivering that message."

This agreement helps us move closer to our goal of enhanced economic and trade relations with China by promoting Chinese investment in British Columbia and providing more protection for British Columbia companies investing in China, which can lead to more exports and jobs.

Canada and China's commitment to further expand bilateral trade and investment is also demonstrated in the joint Canada-China Economic Complementarities Study, released last month, which identifies a number of important prospects for growth. This investment agreement is an important step towards British Columbia deepening and strengthening our trade, investment and cultural ties with China.

China is B.C.'s second-largest trading partner and the second-biggest economy in the world. Goods shipped from British Columbia to China rose to \$5.1 billion last year, a 24 per cent increase over 2010.

Overall, B.C. has enjoyed phenomenal success in Asia, and exports to the key markets identified in Canada Starts Here: The BC Jobs Plan - China, Japan, India and South Korea - rose 23.3 per cent in 2011 over the previous year. In 2011, the value of exports destined for the Pacific Rim was 43 per cent, up from 36 per cent in 2009. This represents the first time that export levels to the Pacific Rim were higher than those to the United States (42.7 per cent). However, even greater potential exists for further growth in these markets.

Learn More:

Go to www.BritishColumbia.ca to find out about B.C.'s international trade and investment representative offices around the world.

Media Contact:

Ministry of Jobs, Tourism and Skills Training
250 356-8177

Lebrun, Matthew JTST:EX

From: Little, Christine JTST:EX
Sent: Thursday, October 18, 2012 4:18 PM
To: Greenwood, Gail JTST:EX
Cc: Sen, Shom JTST:EX; Ewert-Johns, Marcus JTST:EX; Buttner, Klaus JTST:EX
Subject: FW: FIPA story

Here's the other piece of background.

Christine Little
Executive Director, Strategy, Policy and Performance
International Trade and Investment Attraction Division
Ministry of Jobs, Tourism and Skills Training
3rd Floor, 1803 Douglas Street
Victoria, BC

Phone: 250-953-3479

Mobile: s17

From: Colbourne, Scott GPCE:EX
Sent: Thursday, October 18, 2012 4:17 PM
To: Little, Christine JTST:EX
Subject: FIPA story

<http://thetyee.ca/Blogs/TheHook/Federal-Politics/2012/10/14/China-Canada-Agreement/>

The TNO radio piece relates back to the above; there's a PDF link there to the original article...

Here's the most recent trade key messages related to China, with two FIPA lines:

- China is clearly a priority market for British Columbia.
- The BC Government is confident that the new Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) will provide a framework through which greater economic prosperity will come for British Columbians and British Columbian companies.
- FIPA helps us move closer to our goal of enhanced economic and trade relations with China by promoting Chinese investment in British Columbia and providing more protection for B.C. companies investing in China, which can lead to more exports and jobs.
- Canada and China's commitment to further expand bilateral trade and investment is also demonstrated in the joint Canada-China Economic Complementarities Study, released this past August, which identifies a number of important prospects for growth. This investment agreement is an important step towards British Columbia deepening and strengthening our trade, investment and cultural ties with China.
- In an effort to diversify its trading partners, British Columbia's exports to China (including Hong Kong) have almost doubled since 2007 and China is now the Province's second most important destination for exports.

Background:

- Since 2001, the Province's exports of goods to China, including Hong Kong, have increased 445 per cent (to August of 2012).
- Year-to-date (January to August), BC exports of goods to **China**, including Hong Kong, are up by 13.5% to \$3.7 Billion compared to year-to-date 2011.
 - This growth was led by increased **Mineral Product** exports (up 76.0% year-to-date to \$1.1 Billion; **Coal**--\$835.4 Million) and **Machinery & Equipment** exports (up 94.7 % year-to-date to \$117.6 Million).
 - Exports of **Pulp** were down 6.8% (to \$1.2 Billion).
 - Exports of **Wood Products** were down 10.0% year-to-date (to \$872.1 Million; **Lumber**--\$667.4 Million) but up 1,234.6% from the same period in 2006.
- China is now the second largest economy in the world and is projected to overtake the United States as the top economic power in the world within five years.
- British Columbia softwood lumber exported to China has surpassed softwood lumber exports to the United States.
- China is the number one source of post-secondary international students studying in British Columbia.

Scott Colbourne | Public Affairs Officer
 Ministry of Jobs, Tourism and Skills Training
 Government Communications & Public Engagement
 Government of British Columbia
 8th Floor, 1810 Blanshard St. / Victoria, B.C.
 w: (250) 952-0163 / c: (250) 882-2506
 Email: Scott.Colbourne@gov.bc.ca

Lebrun, Matthew JTST:EX

From: Greenwood, Gail JTST:EX
Sent: Friday, October 19, 2012 9:17 AM
To: Quiring, Janel JTST:EX; Gervais, Monica JTST:EX; Jessee, Janna L JTST:EX; Ewing, Rebecca J JTST:EX
Subject: FW: Minister Request for Information: McComb doubts BC's engagement in fed-China trade deal
Attachments: IN Canada China FIPPA.docx

From: Sen, Shom JTST:EX
Sent: Thursday, October 18, 2012 7:38 PM
To: Byng, Dave A JTST:EX
Cc: Bubrick, Elaine JTST:EX; Greenwood, Gail JTST:EX; Little, Christine JTST:EX; Yelovatz, Maureen JTST:EX; Lansdell, Hayden GCPE:EX
Subject: RE: Minister Request for Information: McComb doubts BC's engagement in fed-China trade deal

Please find attached an IN on the FIPA with China.

Regards
Shom

From: Fanning, Lindsey JTST:EX **On Behalf Of** Byng, Dave A JTST:EX
Sent: Thu, October 18, 2012 4:00 PM
To: Sen, Shom JTST:EX
Cc: Bubrick, Elaine JTST:EX; Byng, Dave A JTST:EX; Yelovatz, Maureen JTST:EX; Lansdell, Hayden GCPE:EX
Subject: Minister Request for Information: McComb doubts BC's engagement in fed-China trade deal
Importance: High

Hi Shom,

Please see request for information. Do we have an IN on this?

Thanks,

Lindsey

From: Bell, Pat JTST:EX
Sent: Thursday, October 18, 2012 3:52 PM
To: Byng, Dave A JTST:EX
Subject: Fwd: CKNW: McComb doubts BC's engagement in fed-China trade deal

Dave

We need to get an update on this.

Pat

Sent from my iPad

Begin forwarded message:

From: "Today's News Online GCPE:EX" <tno@gov.bc.ca>

Date: 18 October, 2012 3:38:12 PM PDT

Subject: CKNW: McComb doubts BC's engagement in fed-China trade deal

s3

TNO...

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Lebrun, Matthew JTST:EX

From: Greenwood, Gail JTST:EX
Sent: Friday, October 19, 2012 9:20 AM
To: Quiring, Janel JTST:EX; Gervais, Monica JTST:EX; Jessee, Janna L JTST:EX; Ewing, Rebecca J JTST:EX; Paul, Trevor JTST:EX
Subject: Trade info: FIPA, China, green economy

CKNW, Thursday, October 18, 2012 15:15
By CKNW World Today

Copyright

CFAX, Thursday, October 18, 2012 12:04
By CFAF

Copyright

CKNW, Thursday, October 18, 2012 16:36
By CKNW World Today

Copyright

CFAX, Thursday, October 18, 2012 10:52
By CFAF Adam Stirling

Copyright

Restrict China, protect Canada

Vancouver Sun

Friday, October 19, 2012

Page A10

By Editorial

Copyright

CBYG, Thursday, October 18, 2012 12:31

By CBYG

Copyright

Copyright

Canada urged to tap into booming green market

Vancouver Sun

Thursday, October 18, 2012

Page B01

By Mike De Souza

Copyright

Lebrun, Matthew JTST:EX

From: Bubrick, Elaine JTST:EX
Sent: Friday, October 19, 2012 11:52 AM
To: Heine, Chris JTI:EX
Subject: Re: 68599 ADM Committee on Trade Email Update

Thank you Chris. Greatly appreciated.
Cheers

Elaine 604 775-0005

On 2012-10-19, at 11:48 AM, "Heine, Chris JTI:EX" <Chris.Heine@gov.bc.ca> wrote:

Hi Elaine,

Attached below is the email to go out. I have confirmed the recipients and contacts to be copied with Monica Gervais.

I have decided against pre-populating the "to" and "cc" fields of the email to avoid risk of accidental sending. When it's ready to send, all that will have to be done is to copy, from the body of the email, the addresses of the 21 ADM recipients, and the 4 cc: contacts.

Thanks,
Chris

From: Bubrick, Elaine JTST:EX
Sent: Friday, October 19, 2012 9:29 AM
To: Heine, Chris JTI:EX
Subject: RE: 68599 ADM Committee on Trade Email Update

Hi Chris
Monica got back to me last night and we are to do one email with all the ADMs with the cc to Janel, Don and Gail.

If you could insert all the ADM addresses in a line so that Shom will be able to copy /paste, it would be appreciated.

Thank you.

Elaine
Elaine Bubrick
Executive Administrative Assistant
Office of the Assistant Deputy Minister
Ministry of Jobs, Tourism and Skills Training
and Ministry Responsible for Labour
International Trade and Investment Division
Suite 730 - 999 Canada Place
Vancouver, BC V6C 3E1
Phone: 604 775-0005

From: Heine, Chris JTI:EX
Sent: Thursday, October 18, 2012 2:38 PM
To: Bubrick, Elaine JTST:EX
Subject: RE: 68599 ADM Committee on Trade Email Update

Hi Elaine,

Attached is a template email that I created based on your sample message below, but will require modification of the recipient list. It includes the attachment that is to be sent as well. I've renamed the attachment to reflect the title that is referenced in the email.

I am awaiting clarification as to whether or not I am to prepare a separate email for all 70 individuals on the list. If this is the case, each would contain a list of the 69 other individuals in the cc: portion of the letter which would make it rather lengthy.

Thank you,
Chris

<< Message: CONFIDENTIAL INFORMATION – ADMs' Committee on Trade Policy >>

From: Bubrick, Elaine JTST:EX
Sent: Thursday, October 18, 2012 11:24 AM
To: Heine, Chris JTI:EX
Subject: FW: 68599 ADM Committee on Trade Email Update

Hi Chris
There is a draft email as well as a list of who should receive the email.

Shom like to send this out individually and not as a group.

Would you please prepare an email for each and send to me. Thank you.

SAMPLE

From: Shom Sen, Assistant Deputy Minister, International Trade and Investment Attraction Division,
Ministry of Jobs, Tourism and Skills Training

EMAIL: Jay.Chalke@gov.bc.ca

To: Jay Chalke, ADM

cc: Don.D.White@gov.bc.ca
Janel.Quiring@gov.bc.ca
Gail.Greenwood@gov.bc.ca

Subject: CONFIDENTIAL INFORMATION – ADMs' Committee on Trade Policy.

ent (1): ADM Committee on Trade Contact List

Highlights:

Not Responsive

- Canada has officially joined the Trans-Pacific Partnership (TPP) trade negotiations table.
- Premier's mission to China was a success.

Dear Colleagues:

I am writing to provide you with updates on:

1. New developments in international trade with BC priority markets in Asia;

2. Not Responsive

3. The Premier's recent mission to China.

Not Responsive

My trade policy officials have been working closely with yours in preparing positions, providing information and identifying issues and decisions that may require your attention as the negotiations have proceeded. Attached is a list of ministry contacts that are involved in these initiatives (see Attachment 1-ADM Committee on Trade Contact List). **Please advise Monica Gervais at Monica.Gervais@gov.bc.ca if you require any changes to the contacts listed.**

Below, I have highlighted some of the trade agreement negotiations in which Canada is currently engaged or working towards launching in the near future. We will need your continued support to prepare positions and identify issues pertaining to these negotiations. **A further round of discussions will be held with your staff in the coming weeks**

s16

s16

NEGOTIATIONS

Not Responsive

China, India, Japan and Korea are identified as priority markets in the BC Jobs Plan, and the reduction or elimination of protectionist trade measures in these and other jurisdictions is a key goal. Combined with the Trans-Pacific Partnership countries, these markets represent a population of 3.4 billion and a combined gross domestic product of \$36 trillion – almost half the world's population and just over half of global gross domestic product. Current provincial exports of commodities to these markets totalled \$27 billion in 2011.

Canada is also concluding negotiations with the European Union, a market of over 500 million consumers with a GDP of over \$17 trillion and the fifth largest market of goods exports from the Province behind the United States, China, Japan and Korea. If Canada successfully concludes an agreement with the European Union, Canada will be the only developed nation with an agreement with both the United States and the European Union.

Not Responsive

Trans-Pacific Partnership:

On June 19, 2012 Canada was formally invited to join the Trans-Pacific Partnership (TPP), a free trade agreement currently under negotiation by nine countries: Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, the United States and Vietnam. Canada (and Mexico) will officially join the negotiation table after October 8, 2012. The TPP is a priority negotiation for the province and we will be working with your staff to [REDACTED]

s16

Not Responsive

China:

In July 2012, Canada and China released a joint study identifying opportunities for deeper economic and trade relations in certain sectors. The study is viewed as a precursor to exploratory talks to enhance trade. [REDACTED]

S13, S16

[REDACTED] In September 2012, Canada and China announced the signing of a Foreign Investment Promotion Protection Agreement (FIPA) which will ensure greater predictability for Canadian investors

in the Chinese market, and protection against discriminatory and unfair practices. The FIPA will also promote increased investment flows between Canada and China.

Premier's mission

The Premier was in China from September 10 to September 12, 2012, attending events with Premiers from Alberta and Saskatchewan prior to a trade mission of Premiers of the Council of the Federation.

In Hong Kong, the Premier presided over the Friends of BC reception attended by 250 people (community, business, government and many BC Alumni) where the premier announced the opening of a British Columbia Trade and Investment Office in Hong Kong. Premier also met with many key Chinese and Hong Kong investors during the luncheon and reinforced BC's Jobs Plan commitment to increase jobs throughout the Province through investment.

In Tianjin, the Premier participated on the World Economic Forum Tianjin panel "Future of Energy" with other panelists such as Mr. Yurihiko Kojima, Chairmen of Mitsubishi. The Premier discussed the Province's liquid natural gas strategy and the importance of natural gas as a clean energy source for Asia. The World Economic Forum attracts approximately 1,500 of the world's top business executives and government leaders.

In Beijing, the Premier met with China Huadian, China's fifth largest energy company and largest end user of liquid natural gas. China Huadian has prospective investment interests in BC.

If you have any questions, please do not hesitate to contact me or Don White, Executive Director, Trade Initiatives Branch, at 250-952-0708.

Sincerely,

Shom Sen
Assistant Deputy Minister
Ref: 68599

Elaine

Elaine Bubrick
Executive Administrative Assistant
Office of the Assistant Deputy Minister
Ministry of Jobs, Tourism and Skills Training
and Ministry Responsible for Labour
International Trade and Investment Division
Suite 730 - 999 Canada Place
Vancouver, BC V6C 3E1
Phone: 604 775-0005

From: Gervais, Monica JTST:EX
Sent: Monday, October 15, 2012 4:30 PM
To: Little, Christine JTST:EX
Cc: Greenwood, Gail JTST:EX; Purdy, Sandra JTST:EX; Bubrick, Elaine JTST:EX
Subject: 68599 ADM Committee on Trade Email Update

Hi Christine,

I understand that Shom is s22 and wondering if it is possible if you can send out the email update to the ADM Committee on Trade. We are hoping to have it go out this week as we are intending to contact ministry staff across government to meet with them and determine their negotiating objectives for the ongoing and upcoming negotiations (India, Japan, Korea, Trans-Pacific Partnership).

Email and attachment: (email addresses are in the attachment which also accompanies the email; please put the staff contacts in the "Cc" line of the email).

<< File: 68599 - Attachment 1 ADM Trade Committee and Ministry Contact List.docx >> << File: 68599 - ADM Email October 2012.docx >>

Thank you,
Monica
Tel. 250-952-0702

From: Shom Sen, Assistant Deputy Minister, International Trade and Investment Attraction Division, Ministry of Jobs, Tourism and Skills Training

EMAIL: Jay.Chalke@gov.bc.ca; Melanie.J.Stewart@gov.bc.ca; Peter.Cunningham@gov.bc.ca; Dawn.Minty@gov.bc.ca; Leah.Bailey@gov.bc.ca; Heather.Brazier@gov.bc.ca; Claire.Avison@gov.bc.ca; Mark.Zacharias@gov.bc.ca; Heather.Wood@gov.bc.ca; Stuart.Newton@gov.bc.ca; Dave.Peterson@gov.bc.ca; Barbara.Walman@gov.bc.ca; Donald.Haney@gov.bc.ca; Trevor.Hughes@gov.bc.ca; Jeff.Vasey@gov.bc.ca; Karen.Koncohrada@gov.bc.ca; Douglas.S.Scott@gov.bc.ca; Roger.Bissoondatt@bcldb.com; Karen.Ayers@gov.bc.ca; Toby.Louie@gov.bc.ca; Jacquie.Dawes@gov.bc.ca

To: Jay Chalke, ADM; Melanie Stewart, ADM; Peter Cunningham, ADM; Dawn Minty, ADM; Leah Bailey, Director; Heather Brazier, Executive Lead; Claire Avison, ADM; Mark Zacharias, ADM; Heather Wood, ADM; Stuart Newton, Controller General; Dave Peterson, ADM - Tenures, Competitiveness and Innovation; Barbara Walman, ADM - Pharmaceutical Services; Don Haney, Executive Director; Trevor Hughes, ADM; Jeff Vasey, ADM; Karen Koncohrada, Executive Director; Douglas S. Scott, ADM; Roger Bissoondatt, A/General Manager; Karen Ayers, ADM; Toby Louie, Executive Director; Jacquie Dawes, ADM

cc: Don.D.White@gov.bc.ca
Janel.Quiring@gov.bc.ca
Gail.Greenwood@gov.bc.ca
Monica.Gervais@gov.bc.ca

Subject: CONFIDENTIAL INFORMATION – ADMs' Committee on Trade Policy.

Attachment (1): ADM Committee on Trade Contact List

Highlights:

Not Responsive

- Canada has officially joined the Trans-Pacific Partnership (TPP) trade negotiations table.
- Premier's mission to China was a success.

Dear Colleagues:

I am writing to provide you with updates on:

1. New developments in international trade with BC priority markets in Asia;
2.

Not Responsive
3. The Premier's recent mission to China.

Not Responsive

My trade policy officials have been working closely with yours in preparing positions, providing information and identifying issues and decisions that may require your attention as the negotiations have proceeded. Attached is a list of ministry contacts that are involved in these initiatives (see Attachment 1-ADM Committee on Trade Contact List). **Please advise Monica Gervais at Monica.Gervais@gov.bc.ca if you require any changes to the contacts listed.**

Below, I have highlighted some of the trade agreement negotiations in which Canada is currently engaged or working towards launching in the near future. We will need your continued support to prepare positions and identify issues pertaining to these negotiations. **A further round of discussions will be held with your staff in the coming weeks**

s16

s16

NEGOTIATIONS

Not Responsive

China, India, Japan and Korea are identified as priority markets in the BC Jobs Plan, and the reduction or elimination of protectionist trade measures in these and other jurisdictions is a key goal. Combined with the Trans-Pacific Partnership countries, these markets represent a population of 3.4 billion and a combined gross domestic product of \$36 trillion – almost half the world's population and just over half of global gross domestic product. Current provincial exports of commodities to these markets totalled \$27 billion in 2011.

Canada is also concluding negotiations with the European Union, a market of over 500 million consumers with a GDP of over \$17 trillion and the fifth largest market of goods exports from the Province behind the United States, China, Japan and Korea. If Canada successfully concludes an agreement with the European Union, Canada will be the only developed nation with an agreement with both the United States and the European Union.

Not Responsive

Not Responsive

Trans-Pacific Partnership:

On June 19, 2012 Canada was formally invited to join the Trans-Pacific Partnership (TPP), a free trade agreement currently under negotiation by nine countries: Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, the United States and Vietnam. Canada (and Mexico) will officially join the negotiation table after October 8, 2012. The TPP is a priority negotiation for the province and we will be working with your staff to identify offensive and defensive positions as soon as possible.

Not Responsive

China:

In July 2012, Canada and China released a joint study identifying opportunities for deeper economic and trade relations in certain sectors. The study is viewed as a precursor to exploratory talks to enhance trade. The federal government has signalled such negotiations are unlikely to commence in the very short-term. In September 2012, Canada and China announced the signing of a Foreign Investment Promotion Protection Agreement (FIPA) which will ensure greater predictability for Canadian investors in the Chinese market, and protection against

discriminatory and unfair practices. The FIPA will also promote increased investment flows between Canada and China.

Premier's mission:

The Premier was in China from September 10 to September 12, 2012, attending events with Premiers from Alberta and Saskatchewan prior to a trade mission of Premiers of the Council of the Federation.

In Hong Kong, the Premier presided over the Friends of BC reception attended by 250 people (community, business, government and many BC Alumni) where the premier announced the opening of a British Columbia Trade and Investment Office in Hong Kong. Premier also met with many key Chinese and Hong Kong investors during the luncheon and reinforced BC's Jobs Plan commitment to increase jobs throughout the Province through investment.

In Tianjin, the Premier participated on the World Economic Forum Tianjin panel "Future of Energy" with other panelists such as Mr. Yurihiko Kojima, Chairmen of Mitsubishi. The Premier discussed the Province's liquid natural gas strategy and the importance of natural gas as a clean energy source for Asia. The World Economic Forum attracts approximately 1,500 of the world's top business executives and government leaders.

In Beijing, the Premier met with China Huadian, China's fifth largest energy company and largest end user of liquid natural gas. China Huadian has prospective investment interests in BC.

If you have any questions, please do not hesitate to contact me or Don White, Executive Director, Trade Initiatives Branch, at 250-952-0708.

Sincerely,

Shom Sen
Assistant Deputy Minister
Ref: 68599

<ADM Committee on Trade Contact List.docx>

Lebrun, Matthew JTST:EX

From: Heine, Chris JTI:EX
Sent: Friday, October 19, 2012 10:25 AM
To: Bubrick, Elaine JTST:EX
Subject: RE: 68599 ADM Committee on Trade Email Update

Hi Elaine,

I hope this is what is sought after. All the ADM contacts are listed there which will allow Shom to copy/paste for each recipient.



CONFIDENTIAL
INFORMATION – ADI

Thanks,
Chris

From: Bubrick, Elaine JTST:EX
Sent: Friday, October 19, 2012 9:29 AM
To: Heine, Chris JTI:EX
Subject: RE: 68599 ADM Committee on Trade Email Update

Hi Chris

Monica got back to me last night and we are to do one email with all the ADMs with the cc to Janel, Don and Gall.

If you could insert all the ADM addresses in a line so that Shom will be able to copy /paste, it would be appreciated.

Thank you.

Elaine

Elaine Bubrick
Executive Administrative Assistant
Office of the Assistant Deputy Minister
Ministry of Jobs, Tourism and Skills Training
and Ministry Responsible for Labour
International Trade and Investment Division
Suite 730 - 999 Canada Place
Vancouver, BC V6C 3E1
Phone: 604 775-0005

From: Heine, Chris JTI:EX
Sent: Thursday, October 18, 2012 2:38 PM
To: Bubrick, Elaine JTST:EX
Subject: RE: 68599 ADM Committee on Trade Email Update

Hi Elaine,

Attached is a template email that I created based on your sample message below, but will require modification of the recipient list. It includes the attachment that is to be sent as well. I've renamed the attachment to reflect the title that is referenced in the email.

I am awaiting clarification as to whether or not I am to prepare a separate email for all 70 individuals on the list. If this is the case, each would contain a list of the 69 other individuals in the cc: portion of the letter which would make it rather lengthy.

Thank you,
Chris

<< Message: CONFIDENTIAL INFORMATION – ADMs' Committee on Trade Policy >>

From: Bubrick, Elaine JTST:EX
Sent: Thursday, October 18, 2012 11:24 AM
To: Heine, Chris JTI:EX
Subject: FW: 68599 ADM Committee on Trade Email Update

Hi Chris

There is a draft email as well as a list of who should receive the email.

Shom like to send this out individually and not as a group.

Would you please prepare an email for each and send to me. Thank you.

SAMPLE

From: Shom Sen, Assistant Deputy Minister, International Trade and Investment Attraction Division, Ministry of Jobs, Tourism and Skills Training

EMAIL: Jay.Chalke@gov.bc.ca

To: Jay Chalke, ADM

cc: Don.D.White@gov.bc.ca
Janel.Quiring@gov.bc.ca
Gail.Greenwood@gov.bc.ca

Subject: CONFIDENTIAL INFORMATION – ADMs' Committee on Trade Policy.

Attachment (1): ADM Committee on Trade Contact List

Highlights:

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- Canada has officially joined the Trans-Pacific Partnership (TPP) trade negotiations table.
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1. New developments in international trade with BC priority markets in Asia:

2. Not Responsive

3. The Premier's recent mission to China.

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Below, I have highlighted some of the trade agreement negotiations in which Canada is currently engaged or working towards launching in the near future. We will need your continued support to prepare positions and identify issues pertaining to these negotiations. **A further round of discussions will be held with your staff in the coming weeks** s16

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s16

Not Responsive

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In Beijing, the Premier met with China Huadian, China's fifth largest energy company and largest end user of liquid natural gas. China Huadian has prospective investment interests in BC.

If you have any questions, please do not hesitate to contact me or Don White, Executive Director, Trade Initiatives Branch, at 250-952-0708.

Sincerely,

Shom Sen
Assistant Deputy Minister
Ref: 68599

Elaine

Elaine Bubrick
Executive Administrative Assistant
Office of the Assistant Deputy Minister
Ministry of Jobs, Tourism and Skills Training
and Ministry Responsible for Labour
International Trade and Investment Division
Suite 730 - 999 Canada Place
Vancouver, BC V6C 3E1
Phone: 604 775-0005

From: Gervais, Monica JTST:EX
Sent: Monday, October 15, 2012 4:30 PM
To: Little, Christine JTST:EX
Cc: Greenwood, Gail JTST:EX; Purdy, Sandra JTST:EX; Bubrick, Elaine JTST:EX
Subject: 68599 ADM Committee on Trade Email Update

Hi Christine,

I understand that Shom is s22 and wondering if it is possible if you can send out the email update to the ADM Committee on Trade. We are hoping to have it go out this week as we are intending to contact ministry staff across government to meet with them and determine their negotiating objectives for the ongoing and upcoming negotiations (India, Japan, Korea, Trans-Pacific Partnership).

Email and attachment: (email addresses are in the attachment which also accompanies the email; please put the staff contacts in the "Cc" line of the email).

<< File: 68599 - Attachment 1 ADM Trade Committee and Ministry Contact List.docx >> << File: 68599 - ADM Email October 2012.docx >>

Thank you,
Monica
Tel. 250-952-0702

	Name	Title	Ministry	Email
1	Jay Chalke	ADM	AG	Jay.Chalke@gov.bc.ca
2	Melanie Stewart	ADM	AGRI	Melanie.J.Stewart@gov.bc.ca
3	Peter Cunningham	ADM	ARR	Peter.Cunningham@gov.bc.ca
4	Dawn Minty	ADM	AEIT	Dawn.Minty@gov.bc.ca
5	Leah Bailey	Director	CFD	Leah.Bailey@gov.bc.ca
6	Heather Brazier	Executive Lead	CSCD – Local Government	Heather.Brazier@gov.bc.ca
7	Claire Avison	ADM	EDUC	Claire.Avison@gov.bc.ca
8	Mark Zacharias	ADM	ENV	Mark.Zacharias@gov.bc.ca
9	Heather Wood	ADM	FIN	Heather.Wood@gov.bc.ca
10	Stuart Newton	Controller General	FIN - OCG	Stuart.Newton@gov.bc.ca
11	Dave Peterson	ADM - Tenures, Competitiveness and Innovation	FLNRO	Dave.Peterson@gov.bc.ca
12	Barbara Walman	ADM – Pharmaceutical Services	HLTH	Barbara.Walman@gov.bc.ca
13	Don Haney	Executive Director	IGRS	Donald.Haney@gov.bc.ca
14	Trevor Hughes	ADM	CTZ	Trevor.Hughes@gov.bc.ca
15	Jeff Vasey	ADM	EMNG – Building Safety	Jeff.Vasey@gov.bc.ca
16	Karen Koncohrada	Executive Director	EMNG - Energy	Karen.Koncohrada@gov.bc.ca
17	Douglas S. Scott	ADM	EMNG – Gaming Policy	Douglas.S.Scott@gov.bc.ca
18	Roger Bissoondatt	A/General Manager	EMNG - LDB	Roger.Bissoondatt@bclddb.com
19	Karen Ayers	ADM	EMNG – Liquor Licensing/Policy	Karen.Ayers@gov.bc.ca
20	Toby Louie	Executive Director	PSSG	Toby.Louie@gov.bc.ca
21	Jacquie Dawes	ADM	TRAN	Jacquie.Dawes@gov.bc.ca

Ministry Contacts

	Name	Title	Ministry	Email
1	Don White	Executive Director	JTST - Trade	Don.D.White@gov.bc.ca
2	Janel Quiring	Director	JTST - Trade	Janel.Quiring@gov.bc.ca
3	Gail Greenwood	Director	JTST - Trade	Gail.Greenwood@gov.bc.ca
4	Rebecca Ewing	Manager	JTST - Trade	Rebecca.Ewing@gov.bc.ca
5	Monica Gervais	Manager	JTST - Trade	Monica.Gervais@gov.bc.ca
6	Janna Jessee	Manager	JTST - Trade	Janna.Jessee@gov.bc.ca
7	Teresa Zhuang	Manager	JTST - Trade	Teresa.Zhuang@gov.bc.ca
8	Linda Chase-Wilde	Director	JTST – Economic Analysis	Linda.ChaseWilde@gov.bc.ca
9	John Blakely	Executive Director	JTST - Labour	John.Blakely@gov.bc.ca
10	Andrea Buzbuzian	Senior Analyst	AG	Andrea.Buzbuzian@gov.bc.ca
11	Bruce Macallum	Legal Counsel	AG	Bruce.Macallum@gov.bc.ca
12	Anita Petkovic	Legal Counsel	AG	Anita.Petkovic@gov.bc.ca
13	Geoff Moyse	Supervising Solicitor	AG – ABR	Geoff.Moyse@gov.bc.ca
14	Jim Fowles	Legal Counsel	AG – TRANS	Jim.Fowles@gov.bc.ca
15	James Marshall	Trade Advisor	AGRI	James.D.Marshall@gov.bc.ca
16	Barron Carswell	Senior Manager	AGRI – Fish	Barron.Carswell@gov.bc.ca
17	Charlie Twaddle	Seafood Policy and Regulatory Analyst	AGRI – Fish	Charlie.Twaddle@gov.bc.ca
18	Carmen Matthews	Fisheries & Aquaculture Info. Specialist	AGRI – FISH	Carmen.Matthews@gov.bc.ca
19	Brenda Lennox	Manager	AGRI	Brenda.Lennox@gov.bc.ca
20	John Harper	Director	ARR	John.Harper@gov.bc.ca
21	Janice Larson	ED, International Education	AEIT	Janice.Larson@gov.bc.ca
22	Katherine Thiessen-Wale	Director	AEIT	Katherine.ThiessenWale@gov.bc.ca
23	Leah Bailey	Director	CFD	Leah.Bailey@gov.bc.ca
24	Sandra Sajko	Executive Director	CSCD – Local Government	Sandra.Sajko@gov.bc.ca
25	Mary Shaw	Director	EDUC	Mary.Shaw@gov.bc.ca
26	Kerry Pridmore	Director	EDUC – International Education	Kerry.Pridmore@gov.bc.ca
27	Caroline Ponsford	Director	EDUC – IGR	Caroline.Ponsford@gov.bc.ca

28	Lisa Paquin	Director	ENV	Lisa.Paquin@gov.bc.ca
29	Anthony Danks	Executive Director, Strategic Policy	ENV	Anthony.Danks@gov.bc.ca
30	Jessica Pfeffer	Senior Policy Advisor	ENV	jessica.pfeffer@gov.bc.ca
31	Joey Primeau	Policy Analyst	FIN	Joseph.Primeau@gov.bc.ca
32	David Pilling	Director, Procurement and Financial Management Governance	FIN – OCG Procurement	David.Pilling@gov.bc.ca
33	Christine Gelowitz	Executive Director	FLNRO	Christine.Gelowitz@gov.bc.ca
34	Richard Grieve	Director	FLNRO	Richard.Grieve@gov.bc.ca
35	Wendy Trotter	Director	HLTH	Wendy.Trotter@gov.bc.ca
36	Tom Gregory	Executive Director	HLTH	Tom.Gregory@gov.bc.ca
37	Cheryl Martin	Director	HLTH	Cheryl.Martin@gov.bc.ca
38	Sharon Stewart	Executive Director	HLTH	Sharon.Stewart@gov.bc.ca
39	Judi Sigurdson	Manager	IGR	Judi.Sigurdson@gov.bc.ca
40	Sukumar Periwal	Executive Director	IGR	Sukumar.Periwal@gov.bc.ca
41	Duncan McLelland	Executive Director - Procurement	CTZ-Logistics and Business Services	Duncan.McLelland@gov.bc.ca
42	Trudy Rotgans	Executive Director	EMNG – Building Safety	Trudy.Rotgans@gov.bc.ca
43	Tracy Green	Director, Safety Policy & Liaison	EMNG – Building Safety	Tracy.Green@gov.bc.ca
44	Guy Gensey	Director	EMNG - Energy	Guy.Gensey@gov.bc.ca
45	Michele Jaggi-Smith	A/Director	EMNG - Gaming	Michele.JaggiSmith@gov.bc.ca
46	Gord Hall	Director	EMNG – LDB	Gord.Hall@bcldb.com
47	Barry Bieller	Director	EMNG – Liquor Policy	Barry.Bieller@gov.bc.ca
48	Sandy Evans	Senior Manager	TRAN	Sandy.Evans@gov.bc.ca
49	Greg Gilks	Director	TRAN	Greg.Gilks@gov.bc.ca

Lebrun, Matthew JTST:EX

From: Bubrick, Elaine JTST:EX
Sent: Friday, October 19, 2012 1:18 PM
To: Heine, Chris JTI:EX
Subject: RE: 94753 - RE: Minister Request for Information: McComb doubts BC's engagement in fed-China trade deal

Thanks Chris!

Elaine

Elaine Bubrick
Executive Administrative Assistant
Office of the Assistant Deputy Minister
Ministry of Jobs, Tourism and Skills Training
and Ministry Responsible for Labour
International Trade and Investment Division
Suite 730 - 999 Canada Place
Vancouver, BC V6C 3E1
Phone: 604 775-0005

From: Heine, Chris JTI:EX
Sent: Friday, October 19, 2012 9:53 AM
To: Bubrick, Elaine JTST:EX
Subject: 94753 - RE: Minister Request for Information: McComb doubts BC's engagement in fed-China trade deal

Hi Elaine,

CLIFF# 94753 has been assigned to this Information Note.

Thank you,

Chris

From: Bubrick, Elaine JTST:EX
Sent: Friday, October 19, 2012 9:18 AM
To: Heine, Chris JTI:EX
Subject: FW: Minister Request for Information: McComb doubts BC's engagement in fed-China trade deal

Elaine

Elaine Bubrick
Executive Administrative Assistant
Office of the Assistant Deputy Minister
Ministry of Jobs, Tourism and Skills Training
and Ministry Responsible for Labour
International Trade and Investment Division
Suite 730 - 999 Canada Place
Vancouver, BC V6C 3E1
Phone: 604 775-0005

From: Sen, Shom JTST:EX
Sent: Thursday, October 18, 2012 7:38 PM
To: Byng, Dave A JTST:EX
Cc: Bubrick, Elaine JTST:EX; Greenwood, Gail JTST:EX; Little, Christine JTST:EX; Yelovatz, Maureen JTST:EX; Lansdell, Hayden GCPE:EX
Subject: RE: Minister Request for Information: McComb doubts BC's engagement in fed-China trade deal

Please find attached an IN on the FIPA with China.

Regards
Shom

From: Fanning, Lindsey JTST:EX **On Behalf Of** Byng, Dave A JTST:EX
Sent: Thu, October 18, 2012 4:00 PM
To: Sen, Shom JTST:EX
Cc: Bubrick, Elaine JTST:EX; Byng, Dave A JTST:EX; Yelovatz, Maureen JTST:EX; Lansdell, Hayden GCPE:EX
Subject: Minister Request for Information: McComb doubts BC's engagement in fed-China trade deal
Importance: High

Hi Shom,

Please see request for information. Do we have an IN on this?

Thanks,

Lindsey

From: Bell, Pat JTST:EX
Sent: Thursday, October 18, 2012 3:52 PM
To: Byng, Dave A JTST:EX
Subject: Fwd: CKNW: McComb doubts BC's engagement in fed-China trade deal

Dave

We need to get an update on this.

Pat

Sent from my iPad

Begin forwarded message:

From: "Today's News Online GCPE:EX" <tno@gov.bc.ca>
Date: 18 October, 2012 3:38:12 PM PDT
Subject: CKNW: McComb doubts BC's engagement in fed-China trade deal

s3

s3

TNO...

This e-mail is a service provided by Today's News Online and is only intended for the original addressee. All content is the copyrighted property of a third party creator of the material. Copying, retransmitting, redistributing, selling, licensing, or emailing the material to any third party or any employee of the Province who is not authorized to access the material is prohibited.

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING
AND MINISTER RESPONSIBLE FOR LABOUR
INFORMATION NOTE

Cliff #: 94753

Date: October 18, 2012

PREPARED FOR: Honourable Pat Bell, Minister

ISSUE: Canada-China Foreign Investment Promotion and Protection Agreement

BACKGROUND: The Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) was signed on September, 2012 during Prime Minister Harper's participation at the Asia-Pacific Economic Co-operation (APEC) summit. It will be ratified once Canada and China complete their respective ratification processes.

DISCUSSION: Elizabeth May, and the Green Party is a vocal opponent of the FIPA and has written to the Premier. A professor of Osgoode Hall Law School, Gus Van Harten published an article against the FIPA and wrote to the Premier stating his concerns. Various media have become involved restating the concerns.

s13

The FIPA permits either country to take measures necessary to protect human and animal health or plant life, as well as allowing measures taken for prudent reasons to maintain the safety, soundness, integrity or financial responsibility of financial institutions.

If a dispute arises, the FIPA contains direct access for investors to an effective, impartial dispute resolution system through international arbitration.

Prepared by: Gail Greenwood, Director Trade Policy
Telephone: (250) 387-7575

Reviewed by				
Dir:	ED:	ADM: SS	DM:	MIN:

Lebrun, Matthew JTST:EX

From: Heine, Chris JTI:EX
Sent: Friday, October 19, 2012 11:25 AM
To: Gervais, Monica JTST:EX
Subject: 68599 ADM Committee on Trade Email Update
Attachments: 68599 - Attachment 1 ADM Trade Committee and Ministry Contact List.docx; 68599 - ADM Email October 2012.docx; CONFIDENTIAL INFORMATION – ADMs' Committee on Trade Policy

Hello Monica,

I'm preparing the email to be sent by the ADM (see attached message file). I understand the email will be going to the 21 ADM contacts from the attached list. However, we have some confusion as to who it is to be copied on the email.

Only Don White, Janel Quiring, and Gail Greenwood are listed as cc: in the body of the message, yet it is unclear if the cc: will be going to only these three individuals or to all 49 from the "ministry contacts" on the provided list. If it is to be copied to all 49, I will add these 49 email addresses to the body of the message.

Thank you for providing clarification.

Best regards,

Chris Heine

Administrative Assistant
Office of the Assistant Deputy Minister
Ministry of Jobs, Tourism and Skills Training
International Trade and Investment Attraction Division
Phone: 604-660-2020 | Fax: 604-660-6835
www.britishcolumbia.ca

	Name	Title	Ministry	Email
1	Jay Chalke	ADM	AG	Jay.Chalke@gov.bc.ca
2	Melanie Stewart	ADM	AGRI	Melanie.J.Stewart@gov.bc.ca
3	Peter Cunningham	ADM	ARR	Peter.Cunningham@gov.bc.ca
4	Dawn Minty	ADM	AEIT	Dawn.Minty@gov.bc.ca
5	Leah Bailey	Director	CFD	Leah.Bailey@gov.bc.ca
6	Heather Brazier	Executive Lead	CSCD – Local Government	Heather.Brazier@gov.bc.ca
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14	Trevor Hughes	ADM	CTZ	Trevor.Hughes@gov.bc.ca
15	Jeff Vasey	ADM	EMNG – Building Safety	Jeff.Vasey@gov.bc.ca
16	Karen Koncohrada	Executive Director	EMNG - Energy	Karen.Koncohrada@gov.bc.ca
17	Douglas S. Scott	ADM	EMNG – Gaming Policy	Douglas.S.Scott@gov.bc.ca
18	Roger Bissoondatt	A/General Manager	EMNG - LDB	Roger.Bissoondatt@bcldb.com
19	Karen Ayers	ADM	EMNG – Liquor Licensing/Policy	Karen.Ayers@gov.bc.ca
20	Toby Louie	Executive Director	PSSG	Toby.Louie@gov.bc.ca
21	Jacquie Dawes	ADM	TRAN	Jacquie.Dawes@gov.bc.ca

Ministry Contacts

	Name	Title	Ministry	Email
1	Don White	Executive Director	JTST - Trade	Don.D.White@gov.bc.ca
2	Janel Quiring	Director	JTST - Trade	Janel.Quiring@gov.bc.ca
3	Gail Greenwood	Director	JTST - Trade	Gail.Greenwood@gov.bc.ca
4	Rebecca Ewing	Manager	JTST - Trade	Rebecca.Ewing@gov.bc.ca
5	Monica Gervais	Manager	JTST - Trade	Monica.Gervais@gov.bc.ca
6	Janna Jessee	Manager	JTST - Trade	Janna.Jessee@gov.bc.ca
7	Teresa Zhuang	Manager	JTST - Trade	Teresa.Zhuang@gov.bc.ca
8	Linda Chase-Wilde	Director	JTST – Economic Analysis	Linda.ChaseWilde@gov.bc.ca
9	John Blakely	Executive Director	JTST - Labour	John.Blakely@gov.bc.ca
10	Andrea Buzbuzian	Senior Analyst	AG	Andrea.Buzbuzian@gov.bc.ca
11	Bruce Macallum	Legal Counsel	AG	Bruce.Macallum@gov.bc.ca
12	Anita Petkovic	Legal Counsel	AG	Anita.Petkovic@gov.bc.ca
13	Geoff Moyse	Supervising Solicitor	AG – ABR	Geoff.Moyse@gov.bc.ca
14	Jim Fowles	Legal Counsel	AG – TRANS	Jim.Fowles@gov.bc.ca
15	James Marshall	Trade Advisor	AGRI	James.D.Marshall@gov.bc.ca
16	Barron Carswell	Senior Manager	AGRI – Fish	Barron.Carswell@gov.bc.ca
17	Charlie Twaddle	Seafood Policy and Regulatory Analyst	AGRI – Fish	Charlie.Twaddle@gov.bc.ca
18	Carmen Matthews	Fisheries & Aquaculture Info. Specialist	AGRI – FISH	Carmen.Matthews@gov.bc.ca
19	Brenda Lennox	Manager	ARGI	Brenda.Lennox@gov.bc.ca
20	John Harper	Director	ARR	John.Harper@gov.bc.ca
21	Janice Larson	ED, International Education	AEIT	Janice.Larson@gov.bc.ca
22	Katherine Thiessen-Wale	Director	AEIT	Katherine.ThiessenWale@gov.bc.ca
23	Leah Bailey	Director	CFD	Leah.Balley@gov.bc.ca
24	Sandra Sajko	Executive Director	CSCD – Local Government	Sandra.Sajko@gov.bc.ca
25	Mary Shaw	Director	EDUC	Mary.Shaw@gov.bc.ca
26	Kerry Pridmore	Director	EDUC – International Education	Kerry.Pridmore@gov.bc.ca
27	Caroline Ponsford	Director	EDUC – IGR	Caroline.Ponsford@gov.bc.ca

28	Lisa Paquin	Director	ENV	Lisa.Paquin@gov.bc.ca
29	Anthony Danks	Executive Director, Strategic Policy	ENV	Anthony.Danks@gov.bc.ca
30	Jessica Pfeffer	Senior Policy Advisor	ENV	jessica.pfeffer@gov.bc.ca
31	Joey Primeau	Policy Analyst	FIN	Joseph.Primeau@gov.bc.ca
32	David Pilling	Director, Procurement and Financial Management Governance	FIN – OCG Procurement	David.Pilling@gov.bc.ca
33	Christine Gelowitz	Executive Director	FLNRO	Christine.Gelowitz@gov.bc.ca
34	Richard Grieve	Director	FLNRO	Richard.Grieve@gov.bc.ca
35	Wendy Trotter	Director	HLTH	Wendy.Trotter@gov.bc.ca
36	Tom Gregory	Executive Director	HLTH	Tom.Gregory@gov.bc.ca
37	Cheryl Martin	Director	HLTH	Cheryl.Martin@gov.bc.ca
38	Sharon Stewart	Executive Director	HLTH	Sharon.Stewart@gov.bc.ca
39	Judi Sigurdson	Manager	IGR	Judi.Sigurdson@gov.bc.ca
40	Sukumar Periwal	Executive Director	IGR	Sukumar.Periwal@gov.bc.ca
41	Duncan McLelland	Executive Director - Procurement	CTZ–Logistics and Business Services	Duncan.McLelland@gov.bc.ca
42	Trudy Rotgans	Executive Director	EMNG – Building Safety	Trudy.Rotgans@gov.bc.ca
43	Tracy Green	Director, Safety Policy & Liaison	EMNG – Building Safety	Tracy.Green@gov.bc.ca
44	Guy Gensey	Director	EMNG - Energy	Guy.Gensey@gov.bc.ca
45	Michele Jaggi-Smith	A/Director	EMNG - Gaming	Michele.JaggiSmith@gov.bc.ca
46	Gord Hall	Director	EMNG – LDB	Gord.Hall@bcldb.com
47	Barry Bieller	Director	EMNG – Liquor Policy	Barry.Bieller@gov.bc.ca
48	Sandy Evans	Senior Manager	TRAN	Sandy.Evans@gov.bc.ca
49	Greg Gilks	Director	TRAN	Greg.Gilks@gov.bc.ca

From: Shom Sen, Assistant Deputy Minister, International Trade and Investment Attraction Division, Ministry of Jobs, Tourism and Skills Training

To: [ADM's Committee on Trade Policy]

cc: Don.D.White@gov.bc.ca
Janel.Quiring@gov.bc.ca
Gail.Greenwood@gov.bc.ca

Subject: CONFIDENTIAL INFORMATION – ADMs' Committee on Trade Policy.

Attachment (1): ADM Committee on Trade Contact List

Highlights:

Not Responsive

- Canada has officially joined the Trans-Pacific Partnership (TPP) trade negotiations table.
- Premier's mission to China was a success.

Dear Colleagues:

I am writing to provide you with updates on:

1. New developments in international trade with BC priority markets in Asia;
2.

Not Responsive
3. The Premier's recent mission to China.

Not Responsive

My trade policy officials have been working closely with yours in preparing positions, providing information and identifying issues and decisions that may require your attention as the negotiations have proceeded. Attached is a list of ministry contacts that are involved in these initiatives (see Attachment 1-ADM Committee on Trade Contact List). **Please advise Monica Gervais at Monica.Gervais@gov.bc.ca if you require any changes to the contacts listed.**

Below, I have highlighted some of the trade agreement negotiations in which Canada is currently engaged or working towards launching in the near future. We will need your continued support to prepare positions and identify issues pertaining to these negotiations. **A further round of discussions will be held with your staff in the coming weeks**

s16

s16

NEGOTIATIONS

Not Responsive

China, India, Japan and Korea are identified as priority markets in the BC Jobs Plan, and the reduction or elimination of protectionist trade measures in these and other jurisdictions is a key goal. Combined with the Trans-Pacific Partnership countries, these markets represent a population of 3.4 billion and a combined gross domestic product of \$36 trillion – almost half the world's population and just over half of global gross domestic product. Current provincial exports of commodities to these markets totalled \$27 billion in 2011.

Canada is also concluding negotiations with the European Union, a market of over 500 million consumers with a GDP of over \$17 trillion and the fifth largest market of goods exports from the Province behind the United States, China, Japan and Korea. If Canada successfully concludes an agreement with the European Union, Canada will be the only developed nation with an agreement with both the United States and the European Union.

Not Responsive

Trans-Pacific Partnership:

On June 19, 2012 Canada was formally invited to join the Trans-Pacific Partnership (TPP), a free trade agreement currently under negotiation by nine countries: Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, the United States and Vietnam. Canada (and Mexico) will officially join the negotiation table after October 8, 2012. The TPP is a priority negotiation for the province and we will be working with your staff to

s16

s16

Not Responsive

Not Responsive

China:

In July 2012, Canada and China released a joint study identifying opportunities for deeper economic and trade relations in certain sectors. The study is viewed as a precursor to exploratory talks to enhance trade. The federal government has signalled such negotiations are unlikely to commence in the very short-term. In September 2012, Canada and China announced the signing of a Foreign Investment Promotion Protection Agreement (FIPA) which will ensure greater predictability for Canadian investors in the Chinese market, and protection against discriminatory and unfair practices. The FIPA will also promote increased investment flows between Canada and China.

Premier's mission

The Premier was in China from September 10 to September 12, 2012, attending events with Premiers from Alberta and Saskatchewan prior to a trade mission of Premiers of the Council of the Federation.

In Hong Kong, the Premier presided over the Friends of BC reception attended by 250 people (community, business, government and many BC Alumni) where the premier announced the opening of a British Columbia Trade and Investment Office in Hong Kong. Premier also met with many key Chinese and Hong Kong investors during the luncheon and reinforced BC's Jobs Plan commitment to increase jobs throughout the Province through investment.

In Tianjin, the Premier participated on the World Economic Forum Tianjin panel "Future of Energy" with other panelists such as Mr. Yurihiko Kojima, Chairmen of Mitsubishi. The Premier discussed the Province's liquid natural gas strategy and the importance of natural gas as a clean

energy source for Asia. The World Economic Forum attracts approximately 1,500 of the world's top business executives and government leaders.

In Beijing, the Premier met with China Huadian, China's fifth largest energy company and largest end user of liquid natural gas. China Huadian has prospective investment interests in BC.

If you have any questions, please do not hesitate to contact me or Don White, Executive Director, Trade Initiatives Branch, at 250-952-0708.

Sincerely,

Shom Sen
Assistant Deputy Minister
Ref: 68599

Lebrun, Matthew JTST:EX

From: Ewing, Rebecca J JTST:EX
Sent: Monday, October 22, 2012 3:09 PM
To: Greenwood, Gail JTST:EX
Subject: Canada's FIPAs in Force

You probably know this, but Canada has 24 FIPAs in force, another 8 (including China and India) that have been negotiated but not in force yet, and another 12 under negotiation.

Foreign Investment Promotion and Protection (FIPAs)

A Foreign Investment Promotion and Protection Agreement (FIPA) is a bilateral agreement aimed at protecting and promoting foreign investment through legally-binding rights and obligations. For more information on FIPAs, please visit Canada's Foreign Investment Promotion and Protection Agreements on the Foreign Affairs and International Trade Canada website.

Not Responsive

FIPAs - Negotiations concluded

Not Responsive

- Canada - China - Negotiations concluded: February 2012

Not Responsive

Not Responsive

Lebrun, Matthew JTST:EX

From: Greenwood, Gail JTST:EX
Sent: Monday, October 22, 2012 10:28 AM
To: Quiring, Janel JTST:EX; Gervais, Monica JTST:EX; Jessee, Janna L JTST:EX; Ewing, Rebecca J JTST:EX
Subject: trade info: FIPA, Beyond the Borders

China Trade Deal a '31-Year Ball and Chain' on Canada
The Tyee
Friday, October 19, 2012

By Andrew Nikiforuk

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Page 150 to/à Page 152

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Lack of debate on trade deal troubling

Vancouver Sun

Monday, October 22, 2012

Page B01

By Michael Den Tandt

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Page 154

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Plan speeds flow of goods to U.S.

The Province

Monday, October 22, 2012

Page A06

By Frank Luba

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Lebrun, Matthew JTST:EX

From: Haney, Donald IGRS:EX
Sent: Tuesday, October 23, 2012 3:53 PM
To: Jessee, Janna L JTST:EX
Subject: FW: Opposition to Canada's FIPA with China

Jessee – couple articles fyi

Don

Oct 20th – article has some points on the worries being overstated:

<http://www.calgaryherald.com/business/China+business+pact+gets+little+discussion/7420959/story.html>

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<http://www.ipolitics.ca/2012/10/04/the-canada-china-investment-agreements-generous-exception-article/>

The Canada-China investment agreement's generous exception article

By [BJ Siekierski](#) | Oct 4, 2012 8:12 pm | 1 Comments

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Canada's FIPA treaty with China and what it means

By [Sarah Barmak](#) | October 16, 2012

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- [Maybe we're exploiting China](#)
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Lebrun, Matthew JTST:EX

From: Greenwood, Gail JTST:EX
Sent: Tuesday, October 23, 2012 4:26 PM
To: Quiring, Janel JTST:EX
Cc: Jessee, Janna L JTST:EX; Gervais, Monica JTST:EX; Ewing, Rebecca J JTST:EX
Subject: FW: Canada China Foreign Investment Promotion and Protection Agreement

I asked Janna and Monica if they had any info. Monica said to ask if Vern McKay is there in Brussels and if you could ask him. We have been asked about the 31 year commitment when other FIPAs are on 1 year plus 15 while China has an additional 15 year minimum. s16

s16

Here is the BC News Release:

Canada-China agreement good for B.C.

<http://www.newsroom.gov.bc.ca/2012/09/canada-china-agreement-good-for-bc.html>

Economy Monday, September 10, 2012 7:30 AM



VICTORIA - Pat Bell, Minister of Jobs, Tourism and Skills Training, is confident that the new Canada-China Foreign Investment Promotion and Protection Agreement will provide a framework through which greater economic prosperity will come for British Columbians and British Columbian companies.

On Saturday, Prime Minister Stephen Harper and Hu Jintao, President of China, witnessed the signing of the agreement at the Asia Pacific Economic Cooperation (APEC) Leaders' Meeting in Vladivostok, Russia.

"Our government continues to believe that expanding our economic relationship with China will lead to greater prosperity, and more jobs, in British Columbia. Our premier is there right at this moment delivering that message."

This agreement helps us move closer to our goal of enhanced economic and trade relations with China by promoting Chinese investment in British Columbia and providing more protection for British Columbia companies investing in China, which can lead to more exports and jobs.

Canada and China's commitment to further expand bilateral trade and investment is also demonstrated in the joint Canada-China Economic Complementarities Study, released last month, which identifies a number of important prospects for growth. This investment agreement is an important step towards British Columbia deepening and strengthening our trade, investment and cultural ties with China.

China is B.C.'s second-largest trading partner and the second-biggest economy in the world. Goods shipped from British Columbia to China rose to \$5.1 billion last year, a 24 per cent increase over 2010.

Overall, B.C. has enjoyed phenomenal success in Asia, and exports to the key markets identified in Canada Starts Here: The BC Jobs Plan - China, Japan, India and South Korea - rose 23.3 per cent in 2011 over the previous year. In 2011, the value of exports destined for the Pacific Rim was 43 per cent, up from 36 per cent in 2009. This represents the first time that export levels to the Pacific Rim were higher than those to the United States (42.7 per cent). However, even greater potential exists for further growth in these markets.

Learn More:

Go to www.BritishColumbia.ca to find out about B.C.'s international trade and investment representative offices around the world.

Media Contact:

Ministry of Jobs, Tourism and Skills Training
250 356-8177

Here is the IN for Minister of Environment:



IN_BC-China
treaty (2).docx

Here is the Federal Government Info Note:

Canada-China Foreign Investment Promotion Protection Agreement

Background

On February 8, 2012, Prime Minister Harper and President Hu Jintao of China announced the conclusion of negotiations of a FIPA. Canada and China subsequently completed the required legal review of the text in English, French and Chinese. The FIPA was signed by Minister Ed Fast and Minister Chen Deming on September 9, 2012, on the margins of the APEC Leaders' Summit in Vladivostok, Russia, with Prime Minister Harper and President Hu observing the ceremony.

The treaty will now need to proceed through both Canada and China's respective ratification processes in order to be brought into force. In Canada, the FIPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will then come into force once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.

This FIPA will ensure greater predictability for Canadian investors in the Chinese market, and protection against discriminatory and unfair practices. The FIPA will also promote increased investment flows between Canada and China. Canadian investment in China was C\$4.5 billion at the end of 2011, with sectors of interest being financial services, transportation, biotechnology, education, information technology, manufacturing, and natural resources. Chinese investment into Canada was C\$11 billion at the end of 2011. Sectors of interest for China include natural resources, renewable energy, information and communication technology, food processing, pharmaceuticals and natural medicine, and advanced manufacturing.

Summary Points:

- We are pleased to note that on September 9, 2012, the Canada-China Foreign Investment Promotion and Protection Agreement was signed.
- Although we have not yet determined the date when the text of this Agreement will be made available to the public, and consequently cannot share a copy with you at this time, we can give you an overview of the elements of the agreement.
- The Canada-China FIPA is a high quality bilateral investment treaty that will provide a more predictable and stable investment climate in China for Canadian investors.
- The FIPA applies to measures adopted or maintained by Canada and China, at the national and sub-national levels, relating to investors and their investments. The FIPA applies, as well, to an entity, such as a state-owned enterprise, that exercises governmental authority delegated to it by a Party.
- The agreement provides for non-discriminatory treatment for Canadian investors on both a national treatment (post-establishment) and a most-favoured nation treatment (pre- and post-establishment) basis, and ensures that the treatment of investors by governments at all levels meets an absolute minimum standard under customary international law.
- This FIPA also offers: commitments on performance requirements consistent with the WTO Trade Related Investment Measures; protection from expropriation, except for a public purpose and with fair and prompt compensation; and, assurances that transfers of investment related funds, such as contributions to capital, profits, capital gains, interest, dividends, proceeds from sales of investments, etc. can be made freely and without delay. Although, on transfers, China took a reservation for its foreign exchange controls.
- The treaty grandfathers existing non-conforming measures, but subjects them to a ratchet mechanism. That is, such measures cannot become more restrictive moving forward.
- The FIPA permits either country to take measures necessary to protect human and animal health or plant life, as well as allowing measures taken for prudential reasons to maintain the safety, soundness, integrity or financial responsibility of financial institutions.
- If a dispute arises, the FIPA contains direct access for investors to an effective, impartial dispute resolution system through international arbitration. In accordance with Canada's practice, the provisions and procedures for investor-to-state dispute settlement are clearly laid out and stipulate transparency provisions that are important to Canada.

- Policy flexibility is maintained in key sensitive sectors, consistent with Canada's position in other agreements, such as the North American Free Trade Agreement.
- The treaty will now need to proceed through both Canada and China's respective ratification processes in order to be brought into force.
- For Canada, the FIPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will then come into force once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.

RESPONSIVE on exact timing of entry into force:

- *At this stage we cannot speculate on the exact timing for the Agreement's entry into force.*

RESPONSIVE on public release of the FIPA text:

- *The Canada-China FIPA text will be posted on Foreign Affairs and International Trade Canada's website sometime before, or when the text is tabled in Parliament.*

HERE IS SOME KEY MESSAGING:

Here's the most recent trade key messages related to China, with two FIPA lines:

- China is clearly a priority market for British Columbia.
- The BC Government is confident that the new Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) will provide a framework through which greater economic prosperity will come for British Columbians and British Columbian companies.
- FIPA helps us move closer to our goal of enhanced economic and trade relations with China by promoting Chinese investment in British Columbia and providing more protection for B.C. companies investing in China, which can lead to more exports and jobs.
- Canada and China's commitment to further expand bilateral trade and investment is also demonstrated in the joint Canada-China Economic Complementarities Study, released this past August, which identifies a number of important prospects for growth. This investment agreement is an important step towards British Columbia deepening and strengthening our trade, investment and cultural ties with China.
- In an effort to diversify its trading partners, British Columbia's exports to China (including Hong Kong) have almost doubled since 2007 and China is now the Province's second most important destination for exports.

Background:

- Since 2001, the Province's exports of goods to China, including Hong Kong, have increased 445 per cent (to August of 2012).
- Year-to-date (January to August), BC exports of goods to **China**, including Hong Kong, are up by 13.5% to \$3.7 Billion compared to year-to-date 2011.

- This growth was led by increased **Mineral Product** exports (up 76.0% year-to-date to \$1.1 Billion; **Coal**--\$835.4 Million) and **Machinery & Equipment** exports (up 94.7 % year-to-date to \$117.6 Million).
- Exports of **Pulp** were down 6.8% (to \$1.2 Billion).
- Exports of **Wood Products** were down 10.0% year-to-date (to \$872.1 Million; **Lumber**--\$667.4 Million) but up 1,234.6% from the same period in 2006.
- China is now the second largest economy in the world and is projected to overtake the United States as the top economic power in the world within five years.
- British Columbia softwood lumber exported to China has surpassed softwood lumber exports to the United States.
- China is the number one source of post-secondary international students studying in British Columbia.

ADVICE TO MINISTER

CONFIDENTIAL ISSUES NOTE Ministry: Environment Date: October 17, 2012 Minister Responsible: Terry Lake	Canada-China Foreign Investment Promotion and Protection Agreement
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ADVICE AND RECOMMENDED RESPONSE:

s13

KEY FACTS REGARDING THE ISSUE:

- Multiple media reports from September 27 – October 12, 2012 (Toronto Star, The Globe and Mail, Vancouver Sun, The Vancouver Observer, The Tyee) have been quoting Gus Van Harten, a professor of international law from Osgoode Hall at York University, who is warning that a new Canada-China investment treaty will make it easier to build the Northern Gateway Pipeline and open up the BC government to lawsuits from Chinese investors if the pipeline isn't built.
- According to media, the deal would give Sinopec (a large Chinese backer of NGP) the right to sue the BC government if it blocks the project. It also has similar implications for China National Offshore Oil Corporation's (CNOOC) proposed buy-out of oil and gas producer Nexen, if the FIPPA goes through.
- The treaty will proceed through both Canada and China's respective ratification processes in order to be brought into force. In Canada, the FIPPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will come into force on October 31, 2012 once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.

- The agreement will last 31 years and is described as the most significant trade deal since NAFTA. The deal is set for automatic approval. No vote or debate will take place in the House.
- The deal falls under the Federal Government and does not require provincial consent. The final deal was signed on September 9th, 2012.
- Elizabeth May and the Green Party is a vocal opponent of the FIPPA. She requested a meeting with the Premier and has spoken with Minister Pat Bell. See: <http://www2.canada.com/oceansidestar/story.html?id=93f2a4e1-5b21-4004-9377-a3b7ba472bf8>
- Canada and China's commitment to further expand bilateral trade and investment is also demonstrated in the joint Canada-China Economic Complementarities Study, released last month, which identifies a number of important prospects for growth. This investment agreement is an important step towards British Columbia deepening and strengthening our trade, investment and cultural ties with China
- The law professor quoted in the articles, Gus Van Harten, states that the treaty will *"pre-empt important elements of the debate on the Northern Gateway Pipeline and may frustrate in a very significant way the ability of the current BC government or any future government from stopping that pipeline or bargaining a better deal for BC."*
- Van Harten goes on to say that *"if this treaty comes into effect, and there's any Chinese ownership whatsoever in assets related to this pipeline—then Canada will be exposed to lawsuits under this treaty, because the BC government will be discriminating against a Chinese investor, which is prohibited by the treaty."* In addition the deal *"allows Chinese companies to sue Canada outside of Canadian courts."*
- s13, s16

s13, s16

"Under the treaty, a Chinese company can demand 'treatment no less favourable than that given to Canadian firms (Article 6 of the treaty) or to investors from third countries (Article 5). A Chinese investor could claim that the denial of B.C. permits was not 'fair and equitable' treatment (Article 4) if it could point to general approvals given by Ottawa. Notoriously, many arbitrators have expanded this right significantly by requiring governments to meet 'legitimate expectations' of investors, broadly construed, and to maintain a 'stable regulatory framework' over the entire life of a project. Democratic choice and provincial jurisdiction are not a defence. This highlights the treaty's constitutional significance for Canada."

Communications

Brian Cotton

Contact:

Program Area Contact:

Anthony Danks

File Created:

October 17, 2012

File Updated:

Lebrun, Matthew JTST:EX

From: Chase Wilde, Linda JTST:EX
Sent: Tuesday, October 23, 2012 8:48 AM
To: Musgrave, Robert JTST:EX; Greenwood, Gail JTST:EX; Haney, Donald IGRS:EX
Subject: Challenge to Canada's FIPA with China

There appear to be a number of large challenges; reference is made to a BC examination 14 years ago..

http://www.theglobeandmail.com/commentary/what-if-the-canada-china-investment-treaty-is-unconstitutional/article4629972/?utm_medium=Newsletter&utm_source=The%20Globe%20and%20Mail&utm_type=ext&utm_content=TheGlobeandMail&utm_campaign=98667146

What if the Canada-China investment treaty is unconstitutional?

GUS VAN HARTEN

Published Tuesday, Oct. 23, 2012 02:00AM EDT

Last updated Monday, Oct. 22, 2012 08:03PM EDT

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And another:

Why aren't we debating the Canada-China investment pact?

LAWRENCE MARTIN

Published Tuesday, Oct. 23, 2012 02:00AM EDT

Last updated Monday, Oct. 22, 2012 11:36PM EDT

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Lebrun, Matthew JTST:EX

From: Google Alerts [googlealerts-noreply@google.com]
Sent: Wednesday, September 12, 2012 12:38 PM
To: Jessee, Janna L JTST:EX
Subject: China FIPA announcement and other Asian trade initiatives

News

5 new results for **japan canada trade**

Parsing Canada's latest Asian foray

Embassy

But it is quite separate from what he called "a much more ambitious and exciting development that is the possibility of a free trade agreement between **Canada** and **China**." The two governments released a study on Aug. 15 that looked at the possible ...

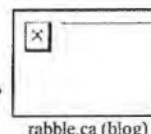
[See all stories on this topic »](#)

Protests greet another Trans-Pacific Partnership round

rabble.ca (blog)

While **Canada** and **Mexico** were desperate to join that club, **Japan** is being wooed two ways and has yet to commit to either the TPP or a broader Asian free trade arrangement. It's also the case that **Canada** is moving independently of the TPP, with Harper ...

[See all stories on this topic »](#)



Canadian trade deficit at record low

Victoria Times Colonist

Canada and the European Union are negotiating towards a free-trade agreement, which the Harper government has said it would like to reach by the end of this year. There are also negotiations at various stages with **Japan** and a group of countries known ...

[See all stories on this topic »](#)

GOVERNMENT OF CANADA : PARLIAMENTARY SECRETARY KEDDY SAYS ...

4-traders

Canada has also begun deepening trade and investment ties with the largest, most dynamic and fastest-growing markets in the world, including **Brazil**, **China**, the European Union, **India** and **Japan**. For more information on the benefits of an ambitious ...

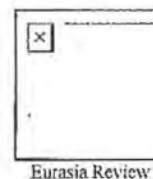
[See all stories on this topic »](#)

Japan's Dilemma On The Trans-Pacific Partnership - Analysis

Eurasia Review

As signatories of the North American Free Trade Agreement, it comes as no surprise that **Canada** and **Mexico** have been allowed to enter talks on negotiating the terms of the Trans-Pacific Partnership (TPP). This leaves **Japan** as the only prospective member ...

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Tip: Use quotes ("like this") around a set of words in your query to match them exactly. [Learn more.](#)

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[Manage your alerts.](#)

Lebrun, Matthew JTST:EX

From: Google Alerts [googlealerts-noreply@google.com]
Sent: Friday, October 26, 2012 12:38 PM
To: Jesse, Janna L JTST:EX
Subject: Canada - China investmetn treaty: Evidence doesn't support doomsayers

News

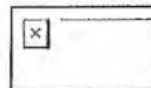
1 new result for **japan canada trade**

Canada-China investment treaty: Evidence doesn't support doomsayers

Globe and Mail

It's not. About 70 other countries, many of them developed and democratic, have similar deals with China, including New Zealand, Germany, the Netherlands, Belgium and **Japan**. ... As in all of its investment treaties (and **Canada** itself has close to 30 ...

[See all stories on this topic »](#)



[Globe and Mail](#)

Tip: Use a minus sign (-) in front of terms in your query that you want to exclude. [Learn more.](#)

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Lebrun, Matthew JTST:EX

From: Jessee, Janna L JTST:EX
Sent: Tuesday, October 23, 2012 3:02 PM
To: Haney, Donald IGRS:EX
Subject: RE: Canada - China FIPA

Hi Don,

Sorry for the delay in getting back to you. I've attached the analysis that I sent to Env't (first attached email), as well as a package of information that Gail has just sent to the Premier's office.

Regards,
Janna



RE: Canada-China RE: Canada China
investment tr... Agreement

From: Haney, Donald IGRS:EX
Sent: Thursday, October 18, 2012 4:57 PM
To: Jessee, Janna L JTST:EX
Subject:

Janna – are you able to share your analysis? I understand if you're not able.

From: Jessee, Janna L JTST:EX
To: Paquin, Lisa C ENV:EX
Cc: Greenwood, Gail JTST:EX
Subject: RE: Canada-China investment treaty and provincial powers
Date: Wednesday, October 17, 2012 2:40:00 PM

Mr. Van Harten's says that the agreement will "limit provincial powers irreversibly for 31 years".

S13

Regards,

Janna

From: Paquin, Lisa C ENV:EX
Sent: Wednesday, October 17, 2012 2:25 PM
To: Greenwood, Gail JTST:EX
Cc: Danks, Anthony ENV:EX; Trozki, Peter ENV:EX; Jessee, Janna L JTST:EX
Subject: RE: Canada-China investment treaty and provincial powers

Hi Gail,

Is Janna's advice based on legal advice your office has received? We are getting questions on this, specifically because the Osgoode Hall lawyer is suggesting the contrary. Can you please check this with your trade lawyers. Thank you very much, Lisa

From: Greenwood, Gail JTST:EX
Sent: Wednesday, October 17, 2012 2:17 PM
To: Paquin, Lisa C ENV:EX; Danks, Anthony ENV:EX
Subject: FW: Canada-China investment treaty and provincial powers
Importance: High

From: Jessee, Janna L JTST:EX
Sent: Wednesday, October 17, 2012 2:07 PM
To: Greenwood, Gail JTST:EX
Subject: RE: Canada-China investment treaty and provincial powers

The FIPA states that "Each Contracting Party shall take all necessary measures in order to ensure

observance of the provisions of this Agreement by provincial governments" (Part B, para 2). In other words, it is up to Canada to ensure that BC adheres to the provisions of the agreement. s13

s13

With respect to measure to measures necessary to protect human and animal health, the agreement states: "Provided that such measures are not applied in an arbitrary or unjustifiable manner, or do not constitute a disguised restriction on international trade or investment, nothing in this Agreement shall be construed to prevent a Contracting Party from adopting or maintaining measures, including environmental measures".

The question becomes: does a Contracting Party include the province? Here's what the agreement states: "A Contracting Party's obligations under this Agreement shall apply to any entity whenever that entity exercises any regulatory, administrative or other governmental authority delegated to it by that Contracting Party, such as the power to expropriate, grant licenses, approve commercial transactions or impose quotas, fees or other charges." s13

s13

Janna

From: Greenwood, Gail JTST:EX
Sent: Wednesday, October 17, 2012 1:45 PM
To: Jessee, Janna L JTST:EX
Subject: FW: Canada-China investment treaty and provincial powers

From: Greenwood, Gail JTST:EX
Sent: Wednesday, October 17, 2012 10:19 AM
To: Paquin, Lisa C ENV:EX
Subject: FW: Canada-China investment treaty and provincial powers

FYI

From: Greenwood, Gail JTST:EX
Sent: Tuesday, October 16, 2012 2:18 PM
To: Haney, Donald IGRS:EX; Quiring, Janel JTST:EX
Cc: Gervais, Monica JTST:EX
Subject: RE: Canada-China investment treaty and provincial powers

Here is a link to a paper he wrote:

<http://www.thestar.com/opinion/editorialopinion/article/1264290--canada-china-investment-deal-allows-for-confidential-lawsuits-against-canada>

Attached is what I forwarded to MPB office for mtg with Elizabeth May.

From: Haney, Donald IGRS:EX

Sent: Tuesday, October 16, 2012 11:23 AM

To: Greenwood, Gail JTST:EX; Quiring, Janel JTST:EX

Subject: FW: Canada-China investment treaty and provincial powers

FYI – background info at this point.

Not Responsive

Not Responsive

Lebrun, Matthew JTST:EX

From: Greenwood, Gail JTST:EX
Sent: Tuesday, October 23, 2012 2:56 PM
To: De Wit, Antoinette PREM:EX
Subject: RE: Canada China Agreement

Edits below. However, FYI, here is what we have sent to IGRS and to our MO.



Canada China



RE: Minister



FW: FIPA story

Foreign Investment Request for Information

I have changed the wording as there are no further reviews nor discussions. BC has been consulted regularly, the agreement is signed and going thru the ratification process which in Canada is 21 days from when the agreement was tabled in the House expected to be complete November 1st. As mentioned earlier I do not believe any other letter has been responded to in writing.

From: De Wit, Antoinette PREM:EX
Sent: Tuesday, October 23, 2012 1:28 PM
To: Greenwood, Gail JTST:EX
Subject: RE: Canada China Agreement

Ok, well your insight on this wording would be helpful:

s13

Not Responsive

Antoinette De Wit
Managing Director
Premier's Correspondence Branch
250 387-3570; 250 356-1385 (fax)
"Striving for Excellence in public service"

Not Responsive

Lebrun, Matthew JTST:EX

From: Sen, Shom JTST:EX
Sent: Thursday, October 18, 2012 7:46 PM
To: Byng, Dave A JTST:EX
Cc: Bubrick, Elaine JTST:EX; Greenwood, Gail JTST:EX; Little, Christine JTST:EX; Yelovatz, Maureen JTST:EX; Fanning, Lindsey JTST:EX; Lansdell, Hayden GCPE:EX
Subject: Canada China Foreign Investment Promotion and Protection Agreement

Some more background on the FIPA including the BC News Release, the IN for the Minister of Environment and the Federal Government Information Note.

Regards
Shom

Here is the BC News Release:

Canada-China agreement good for B.C.

<http://www.newsroom.gov.bc.ca/2012/09/canada-china-agreement-good-for-bc.html>

Economy Monday, September 10, 2012 7:30 AM



VICTORIA - Pat Bell, Minister of Jobs, Tourism and Skills Training, is confident that the new Canada-China Foreign Investment Promotion and Protection Agreement will provide a framework through which greater economic prosperity will come for British Columbians and British Columbian companies.

On Saturday, Prime Minister Stephen Harper and Hu Jintao, President of China, witnessed the signing of the agreement at the Asia Pacific Economic Cooperation (APEC) Leaders' Meeting in Vladivostok, Russia.

"Our government continues to believe that expanding our economic relationship with China will lead to greater prosperity, and more jobs, in British Columbia. Our premier is there right at this moment delivering that message."

This agreement helps us move closer to our goal of enhanced economic and trade relations with China by promoting Chinese investment in British Columbia and providing more protection for British Columbia companies investing in China, which can lead to more exports and jobs.

Canada and China's commitment to further expand bilateral trade and investment is also demonstrated in the joint Canada-China Economic Complementarities Study, released last month, which identifies a number of important prospects for growth. This investment agreement is an important step towards British Columbia deepening and strengthening our trade, investment and cultural ties with China.

China is B.C.'s second-largest trading partner and the second-biggest economy in the world. Goods shipped from British Columbia to China rose to \$5.1 billion last year, a 24 per cent increase over 2010.

Overall, B.C. has enjoyed phenomenal success in Asia, and exports to the key markets identified in Canada Starts Here: The BC Jobs Plan - China, Japan, India and South Korea - rose 23.3 per cent in 2011 over the previous year. In 2011, the value of exports destined for the Pacific Rim was 43 per cent, up from 36 per cent in

2009. This represents the first time that export levels to the Pacific Rim were higher than those to the United States (42.7 per cent). However, even greater potential exists for further growth in these markets.

Learn More:

Go to www.BritishColumbia.ca to find out about B.C's international trade and investment representative offices around the world.

Media Contact:

Ministry of Jobs, Tourism and Skills Training
250 356-8177

Here is the IN for Minister of Environment:



IN_BC-China
treaty (2).docx

Here is the Federal Government Info Note:

Canada-China Foreign Investment Promotion Protection Agreement

Background

On February 8, 2012, Prime Minister Harper and President Hu Jintao of China announced the conclusion of negotiations of a FIPA. Canada and China subsequently completed the required legal review of the text in English, French and Chinese. The FIPA was signed by Minister Ed Fast and Minister Chen Deming on September 9, 2012, on the margins of the APEC Leaders' Summit in Vladivostok, Russia, with Prime Minister Harper and President Hu observing the ceremony.

The treaty will now need to proceed through both Canada and China's respective ratification processes in order to be brought into force. In Canada, the FIPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will then come into force once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.

This FIPA will ensure greater predictability for Canadian investors in the Chinese market, and protection against discriminatory and unfair practices. The FIPA will also promote increased investment flows between Canada and China. Canadian investment in China was C\$4.5 billion at the end of 2011, with sectors of interest being financial services, transportation, biotechnology, education, information technology, manufacturing, and natural resources. Chinese investment into Canada was C\$11 billion at the end of 2011. Sectors of interest for China include natural resources, renewable energy, information and communication technology, food processing, pharmaceuticals and natural medicine, and advanced manufacturing.

Summary Points:

- We are pleased to note that on September 9, 2012, the Canada-China Foreign Investment Promotion and Protection Agreement was signed.

- Although we have not yet determined the date when the text of this Agreement will be made available to the public, and consequently cannot share a copy with you at this time, we can give you an overview of the elements of the agreement.
- The Canada–China FIPA is a high quality bilateral investment treaty that will provide a more predictable and stable investment climate in China for Canadian investors.
- The FIPA applies to measures adopted or maintained by Canada and China, at the national and sub-national levels, relating to investors and their investments. The FIPA applies, as well, to an entity, such as a state-owned enterprise, that exercises governmental authority delegated to it by a Party.
- The agreement provides for non-discriminatory treatment for Canadian investors on both a national treatment (post-establishment) and a most-favoured nation treatment (pre- and post-establishment) basis, and ensures that the treatment of investors by governments at all levels meets an absolute minimum standard under customary international law.
- This FIPA also offers: commitments on performance requirements consistent with the WTO Trade Related Investment Measures; protection from expropriation, except for a public purpose and with fair and prompt compensation; and, assurances that transfers of investment related funds, such as contributions to capital, profits, capital gains, interest, dividends, proceeds from sales of investments, etc. can be made freely and without delay. Although, on transfers, China took a reservation for its foreign exchange controls.
- The treaty grandfathers existing non-conforming measures, but subjects them to a ratchet mechanism. That is, such measures cannot become more restrictive moving forward.
- The FIPA permits either country to take measures necessary to protect human and animal health or plant life, as well as allowing measures taken for prudential reasons to maintain the safety, soundness, integrity or financial responsibility of financial institutions.
- If a dispute arises, the FIPA contains direct access for investors to an effective, impartial dispute resolution system through international arbitration. In accordance with Canada's practice, the provisions and procedures for investor-to-state dispute settlement are clearly laid out and stipulate transparency provisions that are important to Canada.
- Policy flexibility is maintained in key sensitive sectors, consistent with Canada's position in other agreements, such as the North American Free Trade Agreement.
- The treaty will now need to proceed through both Canada and China's respective ratification processes in order to be brought into force.
- For Canada, the FIPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will then come into force once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.

RESPONSIVE on exact timing of entry into force:

- *At this stage we cannot speculate on the exact timing for the Agreement's entry into force.*

RESPONSIVE on public release of the FIPA text:

- *The Canada-China FIPA text will be posted on Foreign Affairs and International Trade Canada's website sometime before, or when the text is tabled in Parliament.*

Lebrun, Matthew JTST:EX

From: Little, Christine JTST:EX
Sent: Thursday, October 18, 2012 4:18 PM
To: Greenwood, Gail JTST:EX
Cc: Sen, Shom JTST:EX; Ewert-Johns, Marcus JTST:EX; Buttner, Klaus JTST:EX
Subject: FW: FIPA story

Here's the other piece of background.

Christine Little
Executive Director, Strategy, Policy and Performance
International Trade and Investment Attraction Division
Ministry of Jobs, Tourism and Skills Training
3rd Floor, 1803 Douglas Street
Victoria, BC

Phone: 250-953-3479

Mobile: s17

From: Colbourne, Scott GPCE:EX
Sent: Thursday, October 18, 2012 4:17 PM
To: Little, Christine JTST:EX
Subject: FIPA story

<http://thetyee.ca/Blogs/TheHook/Federal-Politics/2012/10/14/China-Canada-Agreement/>

The TNO radio piece relates back to the above; there's a PDF link there to the original article...

Here's the most recent trade key messages related to China, with two FIPA lines:

- China is clearly a priority market for British Columbia.
- The BC Government is confident that the new Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) will provide a framework through which greater economic prosperity will come for British Columbians and British Columbian companies.
- FIPA helps us move closer to our goal of enhanced economic and trade relations with China by promoting Chinese investment in British Columbia and providing more protection for B.C. companies investing in China, which can lead to more exports and jobs.
- Canada and China's commitment to further expand bilateral trade and investment is also demonstrated in the joint Canada-China Economic Complementarities Study, released this past August, which identifies a number of important prospects for growth. This investment agreement is an important step towards British Columbia deepening and strengthening our trade, investment and cultural ties with China.
- In an effort to diversify its trading partners, British Columbia's exports to China (including Hong Kong) have almost doubled since 2007 and China is now the Province's second most important destination for exports.

Background:

- Since 2001, the Province's exports of goods to China, including Hong Kong, have increased 445 per cent (to August of 2012).
- Year-to-date (January to August), BC exports of goods to **China**, including Hong Kong, are up by 13.5% to \$3.7 Billion compared to year-to-date 2011.
 - This growth was led by increased **Mineral Product** exports (up 76.0% year-to-date to \$1.1 Billion; **Coal**--\$835.4 Million) and **Machinery & Equipment** exports (up 94.7 % year-to-date to \$117.6 Million).
 - Exports of **Pulp** were down 6.8% (to \$1.2 Billion).
 - Exports of **Wood Products** were down 10.0% year-to-date (to \$872.1 Million; **Lumber**--\$667.4 Million) but up 1,234.6% from the same period in 2006.
- China is now the second largest economy in the world and is projected to overtake the United States as the top economic power in the world within five years.
- British Columbia softwood lumber exported to China has surpassed softwood lumber exports to the United States.
- China is the number one source of post-secondary international students studying in British Columbia.

Scott Colbourne | Public Affairs Officer
 Ministry of Jobs, Tourism and Skills Training
 Government Communications & Public Engagement
 Government of British Columbia
 8th Floor, 1810 Blanshard St. / Victoria, B.C.
 w: (250) 952-0163 / c: (250) 882-2506
 Email: Scott.Colbourne@gov.bc.ca

Lebrun, Matthew JTST:EX

From: Yelovatz, Maureen JTST:EX
Sent: Thursday, October 25, 2012 11:52 AM
To: Bubrick, Elaine JTST:EX; Ewing, Rebecca J JTST:EX
Cc: Hourston, Sveah JTST:EX
Subject: URGENT ACTION REQUIRED FOR MPB TODAY

Importance: High

Rebecca – this is what you provided – correct? They want this paired up with the requested letter (sent under separate cover) and back to MO today.

Maureen Yelovatz
Director, Executive Operations
Office of the Deputy Minister
Ministry of Jobs, Tourism and Skills Training
and Minister Responsible for Labour
Phone: 250-952-0104
Fax: 250-356-1195

From: Parhar, TJ S JTST:EX
Sent: Thursday, October 25, 2012 11:47 AM
To: Yelovatz, Maureen JTST:EX
Cc: Stickney, Matthew JTST:EX
Subject: FW: FIPA QAs

M,

Here is the Q&A. Can you fact check this and get back me with the letter,

Thanks,

T

From: Lansdell, Hayden GCPE:EX
Sent: Thursday, October 25, 2012 11:38 AM
To: Parhar, TJ S JTST:EX; Stickney, Matthew JTST:EX; Ehl, Cameron JTST:EX
Cc: Perzoff, Lara GCPE:EX; Colbourne, Scott GCPE:EX
Subject: FIPA QAs

Response to your questions on the FIPA with China. Note as well that debate in the House of Commons on this matter is occurring but there appears to be a motion of some sort that may delay third reading.

What benefits would FIPA bring to BC?

The main purpose of a FIPA is to encourage foreign investment by providing foreign investors with greater protection against discriminatory and arbitrary practices in the host state, providing a process for adequate and prompt compensation in the event of an expropriation, and enhancing the predictability of regulations affecting foreign investors and their investments.

Canada has 24 FIPAs in force with countries, another 8 (including China and India) that have been negotiated but are not yet in force, and another 12 under negotiation.

Canadian businesses make significant investments in China in the transportation, biotechnology, education, finance, information technology, manufacturing and natural resources industries. By the end of 2011, the amount of Canadian direct investment in China was C\$4.5 billion.

British Columbia will benefit from a more stable and predictable investment regime for BC businesses and investors doing business with China and Chinese state owned enterprises. Further, through the FIPA, BC businesses and investors will have recourse to dispute mechanisms which will allow them to challenge discriminatory and unfair practices.

How does this agreement protect investment Canadians make in China and that China makes in BC?

The agreement provides for non-discriminatory treatment of investors on:

- a) A most favoured nation treatment basis - no less favourable treatment than accorded investors from other countries with respect to establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments, and
- b) A national treatment basis – no less favourable treatment than it accords its own investors with respect to expansion, management, conduct, operation and sale or other disposition of investments, and
- c) Ensures that the treatment of investors by governments at all levels meets the minimum standard under customary international law.

This FIPA also offers:

- Protection from expropriation, except for a public purpose and with fair and prompt compensation;
- Assurances that transfers of investment related funds, such as contributions to capital, profits, capital gains, interest, dividends, proceeds from sales of investments, etc. can be made freely and without delay.
- A dispute settlement process through independent international arbitration panels
- Commitment to ensure laws and regulations related to investment are publicly and readily available.

Does the agreement protect jobs for British Columbians and Canadians?

By providing a more stable/predictable investment environment, this agreement will encourage increased investment flows and provide an enhanced opportunity for BC-based companies to expand operations in China. This will in turn lead to expansion and growth of BC businesses, and direct and indirect job creation.

What do we give up if the Feds sign the agreement?

Since Canada has transparent and fair investment rules today, we do not give up anything by committing to treat Chinese investors by minimum international, most favoured nation and domestic industry standards.

Why a 31 year agreement?

We are seeking information from the federal government on this issue.

Is Canada selling off our natural resources with this agreement?

No. The agreement is about security of investment. It has explicit provisions that allow countries to take measures necessary to protect human health and the environment.

Lebrun, Matthew JTST:EX

From: Gervais, Monica JTST:EX
Sent: Thursday, October 25, 2012 1:03 PM
To: Ewing, Rebecca J JTST:EX; Quiring, Janel JTST:EX
Subject: Fw: Urgent re FIPAA

From: Anh.Nguyen@international.gc.ca [mailto:Anh.Nguyen@international.gc.ca]
Sent: Thursday, October 25, 2012 12:28 PM
To: Gervais, Monica JTST:EX
Cc: John.oneill@international.gc.ca <John.oneill@international.gc.ca>; Vernon.MacKay@international.gc.ca <Vernon.MacKay@international.gc.ca>
Subject: RE: Urgent re FIPAA

Monica,

A response to question 5.

The treaty could be in effect for a minimum of 31 years for any investments that are established when the treaty comes into force – this is within the norm for Canadian investment agreements and for those of many other countries. The treaty provides for this initial period of application to ensure that Canadian investors are provided a period of stability and predictability without the possibility that the treaty will be terminated by the other party – whether this is China or any other negotiating partner.

Regards,

Anh Nguyen

Senior Trade Policy Analyst | Analyste principale de la politique commerciale
Investment Trade Policy Division (TNI) | Direction de la politique commerciale sur l'investissement (TNI)
anh.nguyen@international.gc.ca
Telephone | Téléphone 613-944-1677
Facsimile | Télécopieur 613-944-0679
Foreign Affairs and International Trade Canada | Affaires étrangères et Commerce international Canada
Government of Canada | Gouvernement du Canada



Foreign Affairs and
International Trade Canada

Affaires étrangères et
Commerce international Canada

Canada

From: Gervais, Monica JTST:EX [mailto:Monica.Gervais@gov.bc.ca]
Sent: October 25, 2012 2:07 PM
To: Nguyen, Anh -TNI
Subject: FW: Urgent re FIPAA

S13

Pages 189 through 190 redacted for the following reasons:

S13

Lebrun, Matthew JTST:EX

From: Ewing, Rebecca J JTST:EX
Sent: Thursday, October 25, 2012 12:26 PM
To: Ewing, Rebecca J JTST:EX; Greenwood, Gail JTST:EX; Gervais, Monica JTST:EX; Sen, Shom JTST:EX; Bubrick, Elaine JTST:EX; Lansdell, Hayden GCPE:EX
Subject: RE: Urgent re FIPAA

On the 4th question about 31 year term:

I spoke with John O'Neill at DFAIT who is head of the Investment Trade Policy Division in DFAIT that looks after these FIPAs.

s13, s16

From: Ewing, Rebecca J JTST:EX
Sent: Thursday, October 25, 2012 11:00 AM
To: Greenwood, Gail JTST:EX; Gervais, Monica JTST:EX; Sen, Shom JTST:EX; Bubrick, Elaine JTST:EX; Lansdell, Hayden GCPE:EX
Subject: RE: Urgent re FIPAA

s17

S13

Pages 192 through 202 redacted for the following reasons:

S13

Lebrun, Matthew JTST:EX

From: Ewing, Rebecca J JTST:EX
Sent: Thursday, October 25, 2012 1:33 PM
To: Lansdell, Hayden GCPE:EX
Cc: Gervais, Monica JTST:EX; Colbourne, Scott GPCE:EX
Subject: RE: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

Hi Hayden,

The dispute mechanism is very similar to NAFTA and under the same set of International rules (ICSID/UNICTRAL).

Dispute documents can be public under the Canada--China FIPA. The section of the agreement dealing with this says:

"Any Tribunal award.. shall be publicly available, subject to the redaction of confidential information. Where a disputing Contracting Party determines that it is in the public interest to do so ... all other documents submitted to, or issued by, the Tribunal shall also be publicly available."

Under NAFTA Chapter 11 which covers Investor-state disputes, similar to what you would get under a FIPA, there is no requirement to make all proceedings public. However, Canada has chosen to do this in recent cases.

Canada states that "Canada is committed to ensuring that any treaty-based investor-state arbitration is open to the public."

From: Lansdell, Hayden GCPE:EX
Sent: Thursday, October 25, 2012 1:07 PM
To: Ewing, Rebecca J JTST:EX
Cc: Gervais, Monica JTST:EX; Colbourne, Scott GPCE:EX
Subject: RE: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

Have a follow up from them: Why the dispute resolution process is not public, as it is with NAFTA?

From: Ewing, Rebecca J JTST:EX
Sent: Thursday, October 25, 2012 1:06 PM
To: Lansdell, Hayden GCPE:EX
Cc: Gervais, Monica JTST:EX
Subject: FW: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

Sorry – meant to copy you on this and previous.

From: Ewing, Rebecca J JTST:EX
Sent: Thursday, October 25, 2012 1:06 PM
To: Ewing, Rebecca J JTST:EX; Sen, Shom JTST:EX; Greenwood, Gail JTST:EX; Gervais, Monica JTST:EX
Cc: Bubrick, Elaine JTST:EX
Subject: RE: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

We have some additional language from the feds related to the 31 year term:

The treaty could be in effect for a minimum of 31 years for any investments that are established when the treaty comes into force. This is within the norm for Canadian investment agreements and for those of many other countries. The treaty provides for this initial period of application to ensure that Canadian investors are provided a period of stability and predictability without the possibility that the treaty will be terminated by the other party, whether this is China or any other negotiating partner.

From: Ewing, Rebecca J JTST:EX
Sent: Thursday, October 25, 2012 12:12 PM
To: Sen, Shom JTST:EX; Greenwood, Gail JTST:EX; Gervais, Monica JTST:EX
Cc: Bubrick, Elaine JTST:EX
Subject: RE: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

Hello,

s13

Also, we were asked by Maureen Yelovatz that the response to this be combined with Qs and As attached.

Also, I have spoken with Ottawa and have some more info on 31 year term. Will send that in a moment.

Rebecca

s17

From: Sen, Shom JTST:EX
Sent: Thursday, October 25, 2012 11:40 AM
To: Greenwood, Gail JTST:EX; Ewing, Rebecca J JTST:EX; Gervais, Monica JTST:EX
Cc: Bubrick, Elaine JTST:EX
Subject: FW: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement
Importance: High

Can you please advise if this looks ok factually? Or any last minute changes?

Regards
Shom

From: Yelovatz, Maureen JTST:EX
Sent: Thursday, October 25, 2012 11:15 AM
To: Sen, Shom JTST:EX; Little, Christine JTST:EX
Cc: Parhar, TJ S JTST:EX; Fanning, Lindsey JTST:EX; Hourston, Sveah JTST:EX; Lansdell, Hayden GCPE:EX
Subject: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement
Importance: High

Shom/Christine:

PCC's office (via TJ) have asked for final ok re. wording on the letter below back to Dr. Jane Sterk.

You ok with this response? Understand that Hayden may have further input.

From: De Wit, Antoinette PREM:EX
Sent: Tuesday, October 23, 2012 3:18 PM
To: Haakstad, Kim PREM:EX
Cc: Mills, Shane PREM:EX
Subject: Jane Sterk letter on Canada China Agreement

I have worked with info from IGR and JTST, especially the Trade Policy Unit Director Gail Greenwood. There are no more discussions taking place. We have been involved closely throughout the process. I condensed all that info into one possible response to Dr. Sterk ... if you agree on being this informative, I think we should run it by Mr. Byng as DM. Shall I do that or ask TJ to do that?

s13

Antoinette De Wit
Managing Director
Premier's Correspondence Branch
250 387-3570; 250 356-1385 (fax)
"Striving for Excellence in public service"

Lebrun, Matthew JTST:EX

From: Quiring, Janel JTST:EX
Sent: Thursday, October 25, 2012 11:54 AM
To: Gervais, Monica JTST:EX
Subject: Re: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

I agree take it out, it doesn't really work.

From: Gervais, Monica JTST:EX
Sent: Thursday, October 25, 2012 11:45 AM
To: Quiring, Janel JTST:EX
Cc: Ewing, Rebecca J JTST:EX; Greenwood, Gail JTST:EX
Subject: FW: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

s13

From: Sen, Shom JTST:EX
Sent: Thursday, October 25, 2012 11:40 AM
To: Greenwood, Gail JTST:EX; Ewing, Rebecca J JTST:EX; Gervais, Monica JTST:EX
Cc: Bubrick, Elaine JTST:EX
Subject: FW: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement
Importance: High

Can you please advise if this looks ok factually? Or any last minute changes?

Regards
Shom

From: Yelovatz, Maureen JTST:EX
Sent: Thursday, October 25, 2012 11:15 AM
To: Sen, Shom JTST:EX; Little, Christine JTST:EX
Cc: Parhar, TJ S JTST:EX; Fanning, Lindsey JTST:EX; Hourston, Sveah JTST:EX; Lansdell, Hayden GCPE:EX
Subject: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement
Importance: High

Shom/Christine:

PCC's office (via TJ) have asked for final ok re. wording on the letter below back to Dr. Jane Sterk.

You ok with this response? Understand that Hayden may have further input.

M

Not Responsive

Not Responsive

Lebrun, Matthew JTST:EX

From: Greenwood, Gail JTST:EX
Sent: Thursday, October 25, 2012 1:37 PM
To: Gervais, Monica JTST:EX
Subject: Fw: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement
Attachments: URGENT ACTION REQUIRED FOR MPB TODAY
Importance: High

From: Sen, Shom JTST:EX
Sent: Thursday, October 25, 2012 12:28 PM
To: Yelovatz, Maureen JTST:EX
Cc: Greenwood, Gail JTST:EX; Ewing, Rebecca J JTST:EX; Little, Christine JTST:EX; Bubrick, Elaine JTST:EX
Subject: FW: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

Hi Maureen

Recommend removing the last line in the letter (please see section below in blue) in order to be factually correct.

On the attached Q&A, regarding the 4th question about 31 year term, Rebecca spoke with John O'Neill at DFAIT who is head of the Investment Trade Policy Division in DFAIT that looks after these FIPAs, and obtained the following background:

s13, s16

Regards
Shom

From: Ewing, Rebecca J JTST:EX
Sent: Thursday, October 25, 2012 12:12 PM
To: Sen, Shom JTST:EX; Greenwood, Gail JTST:EX; Gervais, Monica JTST:EX
Cc: Bubrick, Elaine JTST:EX
Subject: RE: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

Hello,

Also, we were asked by Maureen Yelovatz that the response to this be combined with Qs and As attached.

Also, I have spoken with Ottawa and have some more info on 31 year term. Will send that in a moment.

Rebecca

s17

From: Sen, Shom JTST:EX
Sent: Thursday, October 25, 2012 11:40 AM
To: Greenwood, Gail JTST:EX; Ewing, Rebecca J JTST:EX; Gervais, Monica JTST:EX
Cc: Bubrick, Elaine JTST:EX
Subject: FW: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement
Importance: High

Can you please advise if this looks ok factually? Or any last minute changes?

Regards
Shom

From: Yelovatz, Maureen JTST:EX
Sent: Thursday, October 25, 2012 11:15 AM
To: Sen, Shom JTST:EX; Little, Christine JTST:EX
Cc: Parhar, TJ S JTST:EX; Fanning, Lindsey JTST:EX; Hourston, Sveah JTST:EX; Lansdell, Hayden GCPE:EX
Subject: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement
Importance: High

Shom/Christine:

PCC's office (via TJ) have asked for final ok re. wording on the letter below back to Dr. Jane Sterk.

You ok with this response? Understand that Hayden may have further input.

M

Not Responsive

Not Responsive

Lebrun, Matthew JTST:EX

From: Gervais, Monica JTST:EX
Sent: Thursday, October 25, 2012 1:53 PM
To: Ewing, Rebecca J JTST:EX
Subject: FW: Canada-China FIPA

FYI see Peter Van Loan's letter to the editor of the Globe&Mail below to the question "Why no debate on China FIPA".

From: Colbourne, Scott GPCE:EX
Sent: Thursday, October 25, 2012 11:54 AM
To: Gervais, Monica JTST:EX
Subject: RE: Canada-China FIPA

Thanks Monica. Your FIPA responses are with the MO and I'll tune into C-PAC today to monitor any motion (see the letter to the editor below, which I think offers hints).

Will also reply to the freelancer about CETA; we still have that Embassy mag request but tomorrow is fine for that one...

Cheers,

Scott

Published | Publié: 2012-10-25
Received | Reçu: 2012-10-25 2:23 AM



GLOBE AND MAIL (METRO)
LETTER TO THE EDIT, Page: A20

The China debate

PETER VAN LOAN

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Government House Leader

From: Gervais, Monica JTST:EX
Sent: Thursday, October 25, 2012 11:08 AM
To: Colbourne, Scott GPCE:EX
Subject: RE: Canada-China FIPA

Rebecca and I crafted the attached which are with Hayden. Still waiting from DFAIT on "31 years".

From: Colbourne, Scott GPCE:EX
Sent: Thursday, October 25, 2012 11:06 AM
To: Quiring, Janel JTST:EX; Gervais, Monica JTST:EX
Subject: FW: Canada-China FIPA

DFAIT key messages on this FIPA. They don't have provincial messaging yet and so far nothing for those last three specific questions...

S.

From: Darrel.Houlahan@international.gc.ca [<mailto:Darrel.Houlahan@international.gc.ca>]
Sent: Thursday, October 25, 2012 10:55 AM
To: Colbourne, Scott GPCE:EX
Subject: RE: Canada-China FIPA

This is high-level and general. Does it work?

Canada's Foreign Investment Promotion and Protection Agreement (FIPA) with China – the world's second largest economy – will provide stronger protection for Canadians investing in China, and facilitate the creation of jobs and economic growth here at home.

As in all of Canada's FIPAs, this Agreement provides mechanisms for the resolution of disputes. This mechanism provides for the impartial and timely resolution of conflicts and is a key element of the protection provided to investors. It is Canada's long-standing policy to permit public access to such proceedings. Canada's FIPA with China is no different.

Ultimately, access to international arbitration will provide Canadian investors with the confidence that comes from recourse to an independent, international body to adjudicate any disputes.

By ensuring greater protection against discriminatory and arbitrary practices, and enhancing predictability of a market's policy framework, this FIPA will allow Canadians to invest in China with greater confidence.

Lebrun, Matthew JTST:EX

From: Anh.Nguyen@international.gc.ca
Sent: Thursday, October 25, 2012 2:35 PM
To: Gervais, Monica JTST:EX
Subject: RE: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

Monica,

I'm waiting for the response to be approved and will advise you as soon as possible.

Anh

From: Gervais, Monica JTST:EX [mailto:Monica.Gervais@gov.bc.ca]
Sent: October 25, 2012 4:19 PM
To: Nguyen, Anh -TNI
Cc: Ewing, Rebecca J JTST:EX
Subject: FW: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

Hi Anh,

Hate to do this to you but there is a follow up question: "Why is the dispute resolution process is not public, as it is with NAFTA?"

Would you or one of your colleagues be able to provide an answer?

Thank you, again.

Monica

From: Lansdell, Hayden GCPE:EX
Sent: Thursday, October 25, 2012 1:07 PM
To: Ewing, Rebecca J JTST:EX
Cc: Gervais, Monica JTST:EX; Colbourne, Scott GCPE:EX
Subject: RE: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

Have a follow up from them: Why the dispute resolution process is not public, as it is with NAFTA?

From: Ewing, Rebecca J JTST:EX
Sent: Thursday, October 25, 2012 1:06 PM
To: Ewing, Rebecca J JTST:EX; Sen, Shom JTST:EX; Greenwood, Gail JTST:EX; Gervais, Monica JTST:EX
Cc: Bubrick, Elaine JTST:EX
Subject: RE: URGENT REVIEW/APPROVAL: Jane Sterk letter on Canada China Agreement

We have some additional language from the feds related to the 31 year term:

The treaty could be in effect for a minimum of 31 years for any investments that are established when the treaty comes into force. This is within the norm for Canadian investment agreements and for those of many other countries. The treaty provides for this initial period of application to ensure that Canadian investors are provided a period of stability and predictability without the possibility that the treaty will be terminated by the other party, whether this is China or any other negotiating partner.

Lebrun, Matthew JTST:EX

From: Colbourne, Scott GPCE:EX
Sent: Thursday, October 25, 2012 5:05 PM
To: Gervais, Monica JTST:EX
Subject: FW: QP/MINT/CHINA-CANADA: MINT responds to criticism about Nexen-CNOOC deal

The back-and-forth in the Tyee is [here](#). Could you send that Globe story you found? I see the flooded email story but not much else...

Meeting 53 of the International Trade Committee was in-camera so no word about how the motion fared as far as I can see. Minutes from today's exchange on the floor are below...

Cheers,

Scott

From: Darrel.Houlahan@international.gc.ca [mailto:Darrel.Houlahan@international.gc.ca]
Sent: Thursday, October 25, 2012 12:04 PM
To: Colbourne, Scott GPCE:EX
Subject: FW: QP/MINT/CHINA-CANADA: MINT responds to criticism about Nexen-CNOOC deal

Here's some back and forth in House of Commons this afternoon... during QP (see the bit on the motion):

From: Media Monitoring / Surveillance Médias (BCM)
Sent: October 25, 2012 2:59 PM
Subject: QP/MINT/CHINA-CANADA: MINT responds to criticism about Nexen-CNOOC deal

Transcript (closed captioning)
MINT responds to criticism about Nexen-CNOOC deal
October 25. 14h43

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Lebrun, Matthew JTST:EX

From: Gervais, Monica JTST:EX
Sent: Friday, October 26, 2012 9:10 AM
To: Colbourne, Scott GPCE:EX
Cc: Ewing, Rebecca J JTST:EX; Greenwood, Gail JTST:EX
Subject: G&M China FIPA Articles

Can't access the internet right now but there are two articles in today's Globe & Mail re: China FIPA. One was a thorough rebuttal of arguments against the FIPA by a DFAIT Trade Lawyer, the other just a play-by-play of the NDP's unsuccessful attempt to have the FIPA blocked.

Lebrun, Matthew JTST:EX

From: White, Don D JTST:EX
Sent: Wednesday, September 26, 2012 12:45 PM
To: Ewing, Rebecca J JTST:EX; Quiring, Janel JTST:EX; Greenwood, Gail JTST:EX; 'jannajessee@gmail.com'
Cc: Sen, Shom JTST:EX
Subject: Fw: Canada-China FIPA

Fyi

From: Vernon.MacKay@international.gc.ca [mailto:Vernon.MacKay@international.gc.ca]
Sent: Wednesday, September 26, 2012 12:43 PM
To: alan.barber@gov.mb.ca <alan.barber@gov.mb.ca>; alexandrea_malakoe@gov.nt.ca <alexandrea_malakoe@gov.nt.ca>; robert.donald@gov.sk.ca <robert.donald@gov.sk.ca>; Daryl.Hanak@gov.ab.ca <Daryl.Hanak@gov.ab.ca>; White, Don D JTI:EX; elaine.campbell@gnb.ca <elaine.campbell@gnb.ca>; morris.evangelista@ontario.ca <morris.evangelista@ontario.ca>; egertofj@gov.ns.ca <egertofj@gov.ns.ca>; Gordon.jansen@ontario.ca <Gordon.jansen@ontario.ca>; harley.trudeau@on.aibn.com <harley.trudeau@on.aibn.com>; Andrew.Hashey@gnb.ca <Andrew.Hashey@gnb.ca>; Quiring, Janel JTI:EX; Jessee, Janna L JTI:EX; JudithHearn@gov.nl.ca <JudithHearn@gov.nl.ca>; kbwhitnell@gov.pe.ca <kbwhitnell@gov.pe.ca>; Lisa.Badenhorst@gov.yk.ca <Lisa.Badenhorst@gov.yk.ca>; JeffLoder@gov.nl.ca <JeffLoder@gov.nl.ca>; WMacKay@gov.nu.ca <WMacKay@gov.nu.ca>; mary.ballantyne@gov.ab.ca <mary.ballantyne@gov.ab.ca>; Patrick.Muzzi@mdeie.gouv.qc.ca <Patrick.Muzzi@mdeie.gouv.qc.ca>; jpower@gov.nl.ca <jpower@gov.nl.ca>; rsquires@gov.nl.ca <rsquires@gov.nl.ca>; Musgrave, Robert JTI:EX; Natasha.Stinka@gov.sk.ca <Natasha.Stinka@gov.sk.ca>; TraceyPennell@gov.nl.ca <TraceyPennell@gov.nl.ca>; Veronique.Bilodeau@mdeie.gouv.qc.ca <Veronique.Bilodeau@mdeie.gouv.qc.ca>
Cc: John.oneill@international.gc.ca <John.oneill@international.gc.ca>; Meaghan.Ursell@international.gc.ca <Meaghan.Ursell@international.gc.ca>
Subject: RE: Canada-China FIPA

Colleagues,

The Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) was tabled today in the House of Commons. The treaty will now remain in the House for 21 sitting-days pursuant to the Government's treaty tabling policy. Concurrent with this process, the text of the FIPA has now been published on the Department's website, and may be viewed at the links below.

Following the 21 sitting days, the Canada-China FIPA will come into force once an Order in Council seeking authority to ratify the Agreement has been approved by the Governor General, the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes. Should you have any questions or concerns related to the ratification and implementation of this treaty, please contact John O'Neill or Vernon MacKay in the Investment Trade Policy Division.

Regards,

Vern

EN

<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fipa-apie/china-chine.aspx?lang=en>

<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fipa-apie/china-text-chine.aspx?lang=en>

FR

<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fipa-apie/china-chine.aspx?lang=fr>

<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/fipa-apie/china-text-chine.aspx?lang=fr>

From: MacKay, Vernon -TNI

Sent: September 7, 2012 4:37 PM

To: 'Alan Barber'; alexandrea_malakoe@gov.nt.ca; 'Bob Donald'; Daryl Hanak; 'Don D. White'; 'Elaine Campbell'; 'Evangelista, Morris'; 'Frazer Egerton'; 'Gordon Jansen'; 'harley.trudeau@on.aibn.com'; Hashey, Andrew (IGA/MAI); 'Janel Quiring'; Janna Jessee (Janna.Jessee@gov.bc.ca); 'Judith Hearn'; kbwhitnell@gov.pe.ca; 'Lisa.Badenhorst@gov.yk.ca'; Loder, Jeff; MacKay, William; 'Mary Ballantyne'; 'Patrick Muzzi'; 'Power, Jacqueline'; 'Richard Squires'; 'Robert Musgrave'; Stinka, Natasha EC; 'Tracey Pennell'; Veronique.Bilodeau@mdeie.gouv.qc.ca

Cc: O'Neill, John -TNI; Ursell, Meaghan -TNI

Subject: Canada-China FIPA

Dear Colleagues,

This is to let you know that the Canada-China FIPA is likely to be signed in the coming days. Our intention is to send you an electronic copy of the FIPA shortly after it is signed, on the same day. I know that earlier this year I expressed a willingness to share a copy of the agreement with you before the signature, but unfortunately I am unable to do so. Nevertheless, you will receive a copy of the Agreement immediately after signature and in advance of it being made available to the public. We have not yet determined exactly when to make it publicly available, but anticipate that it would not be for at least a couple of days after its signing, maybe longer. China has indicated that it will not be making the FIPA available to the public immediately after its signing. Regards,

Vern

Vernon J. MacKay

Deputy Director / Directeur adjoint

Investment Trade Policy Division (TBI) / Direction de la politique commerciale sur l'investissement (TBI)

vernon.mackay@international.gc.ca

Telephone / Téléphone: 613-944-1596

Facsimile / Télécopieur: 613-944-0679

111 Sussex Drive, Ottawa, Ontario, K1A 0G2

Foreign Affairs and International Trade Canada | Affaires étrangères et Commerce international Canada

Gouvernement du Canada | Gouvernement du Canada



Foreign Affairs and
International Trade Canada

Affaires étrangères et
Commerce international Canada

Canada

Hall, Jane M CSCD:EX

From: Lansdell, Hayden GCPE:EX
Sent: Tuesday, October 30, 2012 11:17 AM
To: Ehl, Cameron JTST:EX; Stickney, Matthew JTST:EX; Parhar, TJ S JTST:EX
Cc: Colbourne, Scott GPCE:EX
Subject: Canada-China FIPA messaging
Attachments: IN_FIPA_Oct_19_FINAL.docx; QA_FIPA-China_Oct_2012.docx

Cam,

As per your request.

This messaging is also available at:

https://gcpecommoffice.gov.bc.ca/jtst/JTI%20Wiki/IN_Canada_China_FIPA_Oct_19_2012.aspx

h

ADVICE TO MINISTER

CONFIDENTIAL ISSUES NOTE

Ministry of Jobs, Tourism and Skills Training
Date: October 19, 2012
Minister Responsible: Hon. Pat Bell

Canada-China Foreign Investment Promotion and Protection Agreement

ADVICE AND RECOMMENDED RESPONSE:

- Our government continues to believe that expanding our economic relationship with China will lead to greater prosperity and more jobs in British Columbia.
- The Canada-China Foreign Investment Promotion and Protection Agreement helps move B.C. closer to our goal of enhanced economic and trade relations with China by promoting Chinese investment in British Columbia.
- It also provides more protection for British Columbia companies investing in China, which can lead to more exports and jobs.

If asked re: criticism of FIPA

s13

- The Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) is a high-quality bilateral investment treaty that will provide a more predictable and stable investment climate in China for Canadian investors. B.C. has been consulted regularly on the FIPA, and supports the agreement.
- The FIPA permits both Canada and China to take the measures necessary to protect human and animal health or plant life, as well as allowing measures taken for prudential reasons to maintain the safety, soundness, integrity or financial responsibility of financial institutions.
- If a dispute arises, the FIPA also provides investors with access to an effective, impartial dispute resolution system through international arbitration.

KEY FACTS:

The Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) was signed during Prime Minister Harper's participation at the Asia-Pacific Economic Co-operation summit in September 2012. The agreement will come into force on October 31, 2012 once Canada and China have concluded their respective ratification processes. The agreement will last 31 years and is described as the most significant trade deal since NAFTA.

The Green Party (Elizabeth May) is a vocal opponent of FIPA and has written to B.C.'s Premier with her concerns. In addition, a professor of international law at Osgoode Hall (Gus Van Harten) has also been widely quoted in the media on his concerns that 1) the agreement will make it easier to build the Northern Gateway Pipeline and 2) open up the BC government to lawsuits from Chinese investors if the pipeline isn't built. He has also written to the Premier.

Government's position is that these concerns are unfounded. The agreements permits both

countries to take the measures necessary to protect human/ animal health and plant life, as well as measures to maintain the safety, soundness, integrity or financial responsibility of financial institutions. If a dispute arises, FIPA also provides investors with access to an effective, impartial dispute resolution system through international arbitration.

s13

Canada and China's commitment to further expand bilateral trade and investment is also demonstrated in the joint Canada-China Economic Complementarities Study, released last month, which identifies a number of important prospects for growth. This investment agreement is an important step towards British Columbia deepening and strengthening our trade, investment and cultural ties with China.

China is B.C.'s second-largest trading partner and the second-biggest economy in the world. Goods shipped from British Columbia to China rose to \$5.1 billion last year, a 24 per cent increase over 2010.

Communications Contact:	Erin Klingmann	250-356-5613
Program Area Contact:	Christine Little	250 953-3479
File Created:	October 19, 2012	
File Updated:	October 19, 2012	
File Location:	c:\users\janehall\appdata\local\microsoft\windows\temporary internet files\content.outlook\9agk9i7\in_fipa_oct_19_final.docx	

Program Area	Comm. Director	ADM	DM	Sent to MO

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Questions and Answers

Ministry of Jobs, Tourism & Skills Training and Minister Responsible for Labour

Canada-China Foreign Investment Promotion and Protection Agreement

1. What benefits would the Canada-China FIPA bring to BC?

The main purpose of a FIPA is to encourage foreign investment by providing foreign investors with greater protection against discriminatory and arbitrary practices in the host state, providing a process for adequate and prompt compensation in the event of an expropriation, and enhancing the predictability of regulations affecting foreign investors and their investments.

Canada has 24 FIPAs in force with countries, another 8 (including China and India) that have been negotiated but not in force yet, and another 12 under negotiation.

Canadian businesses make significant investments in China in the transportation, biotechnology, education, finance, information technology, manufacturing and natural resources industries. By the end of 2011, the amount of Canadian direct investment in China was C\$4.5 billion.

British Columbia will benefit from a more stable and predictable investment regime for BC businesses and investors doing business with China and Chinese state owned enterprises. Further, through the FIPA, BC businesses and investors will have recourse to dispute mechanisms which will allow them to challenge discriminatory and unfair practices.

2. How does this agreement protect investment Canadians make in China and that China makes in BC?

The agreement provides for non-discriminatory treatment for investors on:

- a) A most favoured nation treatment basis - no less favourable treatment than accorded investors from other countries with respect to establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments, and
- b) A national treatment basis – no less favourable treatment than it accords its own investors with respect to expansion, management, conduct, operation and sale or other disposition of investments, and
- c) Ensures that the treatment of investors by governments at all levels meets the minimum standard under customary international law.

This FIPA also offers:

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Questions and Answers

- protection from expropriation, except for a public purpose and with fair and prompt compensation;
- assurances that transfers of investment related funds, such as contributions to capital, profits, capital gains, interest, dividends, proceeds from sales of investments, etc. can be made freely and without delay.
- A dispute settlement process through independent international arbitration panels
- Commitment to ensure laws and regulations related to investment are publicly and readily available.

3. Does the agreement protect jobs for BCers and Canadians?

By providing a more stable and predictable rules-based investment regime, this agreement should encourage increased investment flows from BC to China, providing an enhanced opportunity for BC based companies to expand operations in China, thereby increasing expansion and growth of BC businesses, leading to both direct and indirect job creation.

4. What do we give up if the Feds sign the agreement?

Since Canada has transparent and fair investment rules today, we do not give up anything by committing to treat Chinese investors by minimum international, most favoured nation and domestic industry standards.

5. Why a 31-year agreement?

S13, S16

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Questions and Answers

6. Is Canada selling off our natural resources with this agreement?

No. The agreement is about security of investment. It has explicit provisions that allow countries to take measures necessary to protect human, animal or plant life or health, and related to the conservation of living or non-living exhaustible natural resources.

DRAFT

Lebrun, Matthew JTST:EX

From: Greenwood, Gail JTST:EX
Sent: Tuesday, October 30, 2012 8:44 AM
To: Quiring, Janel JTST:EX; Musgrave, Robert JTST:EX; Gervais, Monica JTST:EX; Jessee, Janna L JTST:EX; Ewing, Rebecca J JTST:EX
Subject: trade info: India, China FIPA, Petronas, Japan, Aus, China, Nexen, India, FIPA, EU

Harper prepares for an all-out trade push

Vancouver Sun

Monday, October 29, 2012

Page B05

By Mark Kennedy

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Canada-China treaty gives away too much
Times Colonist (Victoria)
Sunday, October 28, 2012

CBYG, Friday, October 26, 2012 12:12
By CBC Almanac

Copyright

China fears blamed for Petronas denial
Vancouver Sun
Monday, October 29, 2012
Page C04
By David Ljunggren and Scott Haggett

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Page 219

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Hurdles ahead for Canada in Japanese free-trade talks

Globe and Mail

Monday, October 29, 2012

Page A04

By Steven Chase

Copyright

As Australia stumbles, will Canada follow suit?

Globe and Mail

Saturday, October 27, 2012

Page B02

By Scott Barlow

Copyright

R Are we ready to get into bed with China?

Times Colonist (Victoria)

Tuesday, October 30, 2012

Page A10

By Michael Den Tandt

Page 222

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Canada-China trade deal needs more debate

The Province

Tuesday, October 30, 2012

Page A16

By Gus Van Harten

Copyright

China takes new step in oil sands

Globe and Mail

Tuesday, October 30, 2012

Page B01

By Nathan Vanderklippe

CALGARY

Page 225

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CNOOC's compelling deal

National Post

Tuesday, October 30, 2012

Page FP11

By David A. McLellan

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Page 227

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India thirsts for Canadian energy

National Post

Tuesday, October 30, 2012

Page FP3

By Matthew Fisher

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CKNW, Monday, October 29, 2012 13:35
By CKNW Simi Sara

Copyright

CKNW, Monday, October 29, 2012 17:36
By CKNW World Today

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Canada, Europe not so different
National Post
Tuesday, October 30, 2012
Page A06
By Andrew Coyne

Copyright

Hall, Jane M CSCD:EX

From: Watson, Andy GCPE:EX
Sent: Tuesday, October 30, 2012 1:40 PM
To: Stickney, Matthew JTST:EX; Parhar, TJ S JTST:EX; Ehl, Cameron JTST:EX
Cc: Lansdell, Hayden GCPE:EX; McAndrews, Caroline GCPE:EX; Perzoff, Lara GCPE:EX; GCPE Jobs, Tourism and Innovation Media Requests GCPE:EX; Watson, Andy GCPE:EX; Colbourne, Scott GPCE:EX; May, Michelle GCPE:EX; Mentzelopoulos, Athana GCPE:EX; Gleeson, Kelly T GCPE:EX
Subject: LIVE MEDIA REQUEST: CBC Daybreak South / FIPA - Oct. 31, 7-8 a.m. window
Attachments: QA_FIPA-China_Oct_2012.docx; IN_FIPA_China_Oct_2012.docx
Importance: High

Outlet / Reporter: CBC Daybreak South / Producer Christina Low (250-861-3781 ext. 237 / Christina.low@cbc.ca)

Deadline: Book by 2 p.m. / **Request Received:** Oct. 30, 11:45 a.m.

Live Interview: Oct. 31, 7, 715, 740 or 750 a.m.

Topic: FIPA - China-Canada Investment Act. Station has been running a few stories on the China-Canada Investment Act and they recently talked to a Law prof, MP Ron Cannan and also an NDP MP. Their stories have prompted many listeners to call wondering what stand the province is taking on this agreement. The CBC understands a law prof has written the Premier, urging the province to "defend its jurisdictional rights," while Conservative MP Cannan says the province supports the agreement.

Recommendation: MPB conducts live interview with messaging attached.

Message:

- See IN and Q and A attached

Andy Watson | Public Affairs Officer

Ministry of Jobs, Tourism and Skills Training and Responsible for Labour

Government Communications & Public Engagement

Government of British Columbia

8th Floor, 1810 Blanshard St., PO Box 9896, Stn Prov Govt / Victoria, B.C. / V8W 9N3

W: (250) 356-8177 / C: (778) 679-5667

Email: andy.watson@gov.bc.ca

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Questions and Answers

Ministry of Jobs, Tourism & Skills Training and Minister Responsible for Labour

Canada-China Foreign Investment Promotion and Protection Agreement

1. What benefits would the Canada-China FIPA bring to BC?

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- b) A national treatment basis – no less favourable treatment than it accords its own investors with respect to expansion, management, conduct, operation and sale or other disposition of investments, and
- c) Ensures that the treatment of investors by governments at all levels meets the minimum standard under customary international law.

This FIPA also offers:

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Questions and Answers

- protection from expropriation, except for a public purpose and with fair and prompt compensation;
- assurances that transfers of investment related funds, such as contributions to capital, profits, capital gains, interest, dividends, proceeds from sales of investments, etc. can be made freely and without delay.
- A dispute settlement process through independent international arbitration panels
- Commitment to ensure laws and regulations related to investment are publicly and readily available.

3. Does the agreement protect jobs for BCers and Canadians?

By providing a more stable and predictable rules-based investment regime, this agreement should encourage increased investment flows from BC to China, providing an enhanced opportunity for BC based companies to expand operations in China, thereby increasing expansion and growth of BC businesses, leading to both direct and indirect job creation.

4. What do we give up if the Feds sign the agreement?

Since Canada has transparent and fair investment rules today, we do not give up anything by committing to treat Chinese investors by minimum international, most favoured nation and domestic industry standards.

5. Why a 31-year agreement?

S13, S16

FOR INTERNAL USE ONLY

Questions and Answers

6. Is Canada selling off our natural resources with this agreement?

No. The agreement is about security of investment. It has explicit provisions that allow countries to take measures necessary to protect human, animal or plant life or health, and related to the conservation of living or non-living exhaustible natural resources.

DRAFT

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING
AND MINISTER RESPONSIBLE FOR LABOUR
INFORMATION NOTE

Cliff #:

Date: October 18, 2012

PREPARED FOR: Honourable Pat Bell, Minister

ISSUE: Canada-China Foreign Investment Promotion and Protection Agreement

BACKGROUND: The Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) was signed on September, 2012 during Prime Minister Harper's participation at the Asia-Pacific Economic Co-operation (APEC) summit. It will be ratified once Canada and China complete their respective ratification processes.

DISCUSSION: Elizabeth May, and the Green Party is a vocal opponent of the FIPA and has written to the Premier. A professor of Osgoode Hall Law School, Gus Van Harten published an article against the FIPA and wrote to the Premier stating his concerns. Various media have become involved restating the concerns.

s13

The FIPA permits either country to take measures necessary to protect human and animal health or plant life, as well as allowing measures taken for prudential reasons to maintain the safety, soundness, integrity or financial responsibility of financial institutions.

If a dispute arises, the FIPA contains direct access for investors to an effective, impartial dispute resolution system through international arbitration.

Prepared by: Gail Greenwood, Director Trade Policy
Telephone: (250) 387-7575

Reviewed by				
Dir:	ED:	ADM:	DM:	MIN:

Lebrun, Matthew JTST:EX

From: Ewing, Rebecca J JTST:EX
Sent: Tuesday, October 30, 2012 5:11 PM
To: Greenwood, Gail JTST:EX
Cc: Zhuang, Teresa Q JTST:EX
Subject: RE: China's ratification of FIPA

Sorry, I haven't been able to find anything besides this general policy description on China's Ministry of Commerce website:

<http://english.mofcom.gov.cn/aarticle/policyrelease/Cocoon/201209/20120908359187.html>

Am copying Teresa in case she might be able to find Canada's process for formal approval of this type of international agreement.

Thanks

Rebecca

From: Haney, Donald IGRS:EX
Sent: Tuesday, October 30, 2012 4:35 PM
To: Greenwood, Gail JTST:EX; Quiring, Janel JTST:EX
Cc: Jessee, Janna L JTST:EX
Subject: China's ratification of FIPA

Gail et al – we know that Canada can ratify the FIPA after 21 sitting days, but do you know the Chinese ratification process and timing?

Thanks,
Don

s16

s16

s16

Lebrun, Matthew JTST:EX

From: Vernon.MacKay@international.gc.ca
Sent: Wednesday, October 31, 2012 12:18 PM
To: Ewing, Rebecca J JTST:EX
Cc: Greenwood, Gail JTST:EX; Jessee, Janna L JTST:EX; John.oneill@international.gc.ca
Subject: RE: China's FIPA

Thanks Rebecca. The earliest the FIPA could come into force is early December, but for now that is all I can say. We certainly welcome B.C.'s voice of support for the Agreement! Vern

From: Ewing, Rebecca J JTST:EX [mailto:Rebecca.Ewing@gov.bc.ca]
Sent: October 31, 2012 3:10 PM
To: MacKay, Vernon -TNI
Cc: Greenwood, Gail JTST:EX; Jessee, Janna L JTST:EX
Subject: RE: China's FIPA

Thanks very much for this information Vern, and for the quick response. S13, S16

S13, S16

As I'm sure you know, BC supports the agreement, and we are getting a lot of questions from the public about it.

Rebecca

s17

From: Vernon.MacKay@international.gc.ca [mailto:Vernon.MacKay@international.gc.ca]
Sent: Wednesday, October 31, 2012 12:03 PM
To: Ewing, Rebecca J JTST:EX
Subject: RE: China's FIPA

Hi Rebecca.

The China FIPA's 21-day sitting period in the House of Commons ends November 1st, so tomorrow. The next step is to go to Treasury Board to obtain an order-in-council approval to ratify the Agreement. That takes at least three weeks. After the OIC to ratify is obtained, DFAIT would send a diplomatic note to China informing them that Canada has completed its ratification process. On the first day of the month after the receipt of the second of the two notices (one each from Canada and China), the FIPA comes into force.

We do not have the details of the Chinese ratification process, other than that the State Council must give its approval.

I do not have the timing for the conclusion of either Party's ratification process.

Vern

From: Ewing, Rebecca J JTST:EX [mailto:Rebecca.Ewing@gov.bc.ca]
Sent: October 31, 2012 1:25 PM
To: MacKay, Vernon -TNI
Subject: China's FIPA

Hello Vernon,

I work with in BC's Trade Initiatives Branch with Don White, Gail Greenwood and Janel Quiring.

Gail suggested I contact you with two questions we have related to the Canada-China FIPA:

- a) Whether we expect FIPA to be ratified in Canada tomorrow
- b) What Chinese process for ratification is and what timing is.

Any info you can send greatly appreciated,

Thank you

Rebecca Ewing
Manager, Trade Policy
Trade Initiatives Branch
BC Ministry of Jobs, Tourism and Skills Training
Victoria, BC

s17

Hall, Jane M CSCD:EX

From: Watson, Andy GCPE:EX
Sent: Wednesday, October 31, 2012 12:02 PM
To: Stickney, Matthew JTST:EX; Parhar, TJ S JTST:EX; Ehl, Cameron JTST:EX
Cc: Lansdell, Hayden GCPE:EX; McAndrews, Caroline GCPE:EX; Colbourne, Scott GPCE:EX; Watson, Andy GCPE:EX
Subject: For Approval - Statement on FIPA

CBC Radio South is still looking for a statement on FIPA. As Hayden mentioned, we do have messaging prepared and this is what we have drafted something for your approval.

- The *Canada-China Foreign Investment Promotion and Protection Act* is a high quality bilateral investment treaty that will provide a more predictable and stable investment climate in China for Canadian investors. BC has been consulted regularly and supports it.
- Our Government continues to believe that expanding our economic relationship with China will lead to greater prosperity and more jobs in British Columbia. The *Canada-China Foreign Investment Promotion and Protection Act* helps move B.C. closer to our goal of enhanced economic and trade relations with China by promoting Chinese investment in British Columbia. It also provides more protection for British Columbia companies investing in China, which can lead to more exports and jobs. The Province is actively working with our federal counterparts where B.C.'s interests are at stake and supports this agreement.

Andy Watson | Public Affairs Officer

Ministry of Jobs, Tourism and Skills Training and Responsible for Labour
Government Communications & Public Engagement
Government of British Columbia
8th Floor, 1810 Blanshard St., PO Box 9896, Stn Prov Govt / Victoria, B.C. / V8W 9N3
W: (250) 356-8177 / C: (778) 679-5667
Email: andy.watson@gov.bc.ca

Lebrun, Matthew JTST:EX

From: Haney, Donald IGRS:EX
Sent: Wednesday, October 31, 2012 1:44 PM
To: Ewing, Rebecca J JTST:EX; Greenwood, Gail JTST:EX; Jessee, Janna L JTST:EX; Quiring, Janel JTST:EX
Subject: RE: China's ratification of FIPA

Thanks, Rebecca. This is very useful info – especially the Canadian process.

s16

s16

From: Ewing, Rebecca J JTST:EX
Sent: Wednesday, October 31, 2012 12:53 PM
To: Haney, Donald IGRS:EX; Greenwood, Gail JTST:EX; Jessee, Janna L JTST:EX; Quiring, Janel JTST:EX
Subject: RE: China's ratification of FIPA

Hi Don,

Thanks for this information. The attached e-mail from Vern MacKay at DFAIT indicates he is not sure what or when China's ratification process entails, but that there is another 3 week Canadian process with Treasury Board, and then the Agreement comes into force the first of the month after both sides have notified each other that they have ratified. So the earliest the Agreement would come into force is December 1.

I suppose from your information below it is possible that China has already ratified in its most recent meetings.

Rebecca

<< Message: RE: China's FIPA >>

From: Haney, Donald IGRS:EX
Sent: Wednesday, October 31, 2012 12:44 PM
To: Greenwood, Gail JTST:EX; Jessee, Janna L JTST:EX; Quiring, Janel JTST:EX
Cc: Ewing, Rebecca J JTST:EX
Subject: RE: China's ratification of FIPA

Thanks. We think, based on our internet research, is that it would have to be ratified by the National People's Congress (NPC) Standing Committee. The leadership of the Standing Committee will change over the next couple weeks, but it normally meets once every two months, and can call additional meetings as needed. Their last meeting was last week (Oct 23 – 26) and the next meeting would be around mid-December (unless they call one sooner).

From: Greenwood, Gail JTST:EX
Sent: Wednesday, October 31, 2012 11:18 AM
To: Jessee, Janna L JTST:EX; Haney, Donald IGRS:EX; Quiring, Janel JTST:EX
Cc: Ewing, Rebecca J JTST:EX
Subject: RE: China's ratification of FIPA

Rebecca is looking into this.

From: Jessee, Janna L JTST:EX
Sent: Wednesday, October 31, 2012 10:50 AM
To: Haney, Donald IGRS:EX; Greenwood, Gail JTST:EX; Quiring, Janel JTST:EX
Subject: RE: China's ratification of FIPA

Hi Don,

I don't have any information on the Chinese ratification process. Janel?

Janna

From: Haney, Donald IGRS:EX
Sent: Tuesday, October 30, 2012 4:35 PM
To: Greenwood, Gail JTST:EX; Quiring, Janel JTST:EX
Cc: Jessee, Janna L JTST:EX
Subject: China's ratification of FIPA

Gail et al – we know that Canada can ratify the FIPA after 21 sitting days, but do you know the Chinese ratification process and timing?

Thanks,

Don

Lebrun, Matthew JTST:EX

From: Greenwood, Gail JTST:EX
Sent: Wednesday, October 31, 2012 3:53 PM
To: Quiring, Janel JTST:EX; Ewing, Rebecca J JTST:EX; Jessee, Janna L JTST:EX; Gervais, Monica JTST:EX
Subject: Trade info: China FIPA

Time to cut hysteria on China investment deal

The Province

Wednesday, October 31, 2012

Page A16

By Laura Dawson

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BC Green party raises red flags over China-Canada treaty

Vancouver Sun

Wednesday, October 31, 2012

Page A10

By Jane Sterk

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China deal turns Canada into 'resource colony': foes

Times Colonist (Victoria)

Wednesday, October 31, 2012

Page B01

By Heather Scofield and Cindy E. Harnett

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CHNL, Tuesday, October 30, 2012 14:03
By CHNL

CKNW, Tuesday, October 30, 2012 15:36
By CKNW World Today

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Maclean's October 10, 2012

<http://www2.macleans.ca/2012/10/10/on-canadas-shift-toward-asia-free-trade-agreements-and-exports-of-expertise/>

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Page 252 to/à Page 254

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China

The Council of the Federation (CoF) held a high-profile trade and investment focussed mission with more than 100 business delegates and institutional leaders to mainland China and Hong Kong from September 10 to 20, 2012. The CoF was represented by nine provinces and territories: Nova Scotia as chair of the Council, British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Prince Edward Island, Yukon and Northwest Territories

The mission included a shared CoF program in Beijing, Shanghai and Hong Kong. DFAIT posts helped organizing the mission, including individual provincial and territorial program days. The CoF mission provided Canadian premiers with the opportunity to secure trade and investment opportunities in key sectors, and promote Canada's gateways and corridors, natural resources and educational excellence.

On September 9, 2012, Canada and China signed the Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) in Vladivostok, Russia. Both Canada and China are now moving forward with their respective domestic ratification processes to bring this agreement into force. In Canada, the FIPA was tabled in the House of Commons for 21 sitting days and made public on September 26, 2012. The 21 sitting days will end on November 1, 2012. The Canada-China FIPA will ensure greater protection for Canadian investors against discriminatory and unfair practices in that market, and will enhance the predictability of the policy framework affecting those investors and their investments.

On August 15, 2012, Minister Ed Fast and Minister Chen Deming released the Canada-China Complementarities Study. The study highlights the strong growth in Canada-China trade and investment, and focuses on seven sectors that comprise 85% of Canada's goods exports to China and a large share of services and investment. It concludes that Canada and China should continue to strengthen our bilateral economic ties through appropriate bilateral instruments to help Canadian and Chinese citizens build a prosperous and sustainable future.

Strategic questions

- What are the outcomes of the CoF mission?
- What priorities will you focus on as next steps?
- How else might we work together to promote provincial and territorial cooperation with China?

FEDERAL-PROVINCIAL-TERRITORIAL COMMITTEE ON TRADE (C-Trade) MEETING
111 Sussex Drive, Canada Room
Ottawa, Ontario
11-13 April 2012

Wednesday, 11 April 2012

General C-Trade items		
8:45-9:00	Guests arrival	
9:00-9:10	Opening remarks	Randle Wilson Director General DFAIT – Canada Bureau

Not Responsive

Not Responsive

9:55-10:10

Canada-China FIPA

Vernon MacKay

Deputy Director

DFAIT – Investment Trade Policy

Division

BACKGROUND

- February 8, 2012, Prime Minister Harper announced the conclusion of negotiations toward the Canada-China Foreign Investment Promotion and Protection Agreement (FIPA). It will not be ratified until it is tabled in the House of Commons.
- Canadian investment in China was valued at approximately \$5 billion in 2010, an increase of 38 % over 2009. Investment took place in a broad range of sectors including financial services, transportation and technology.
- Chinese investment in Canada reached \$14 billion in 2010, an increase of 9% from 2009. Sectors of interest TO China include, among others, natural resources and renewable energy.

PROTECTED A

STATUS OF FOREIGN INVESTMENT PROTECTION AGREEMENTS (FIPAs)
Updated May 25, 2011

Not Responsive

Not Responsive

Current Negotiations

China: Canada and China held the last round of FIPA negotiations on January 10-11, 2011 in Beijing. The next meeting will be held in Canada, date to be determined.

Not Responsive

PROTECTED A

Not Responsive

FEDERAL-PROVINCIAL-TERRITORIAL COMMITTEE ON TRADE (C-Trade) MEETING
111 Sussex Drive, Canada Room
Ottawa, Ontario
11-13 April 2012

Wednesday, 11 April 2012

General C-Trade items

Not Responsive

9:55-10:10

Canada-China FIPA

- Overview of the agreement
- Steps toward enforcement

Vernon MacKay

Deputy Director

DFAIT – Investment Trade Policy Division

Not Responsive

Updated: June 19, 2012

FEDERAL-PROVINCIAL-TERRITORIAL COMMITTEE ON TRADE (C-Trade) MEETING
111 Sussex Drive, Canada Room
Ottawa, Ontario
July 9-11, 2012

Monday, July 9, 2012

Not Responsive

17:30-17:45	Foreign Investment Promotion and Protection Agreement (FIPA) <ul style="list-style-type: none">• Status update on ongoing negotiations• Update of the legal scrub process of concluded negotiations, including the China FIPA	Vernon MacKay Deputy Director DFAIT – Investment Trade Policy Division
-------------	---	---

Not Responsive

Updated: September 6, 2012

FEDERAL-PROVINCIAL-TERRITORIAL COMMITTEE ON TRADE (C-Trade) MEETING
111 Sussex Drive, Library Room
Ottawa, Ontario
12-14 September, 2012

Wednesday, 12 September 2012

Canada-EU CETA

Not Responsive

Not Responsive

Thursday, 13 September 2012

Not Responsive

Not Responsive

Friday, September 14, 2012

Not Responsive

Not Responsive

10:15 –10:25

Canada-China FIPA

- Update on the status and next steps for the Canada-China FIPA

Vernon McKay
Deputy Director
DFAIT - Investment Trade Policy

Not Responsive

[Questions to GCPE October 25, 2012]

What benefits would FIPA bring to BC?

The main purpose of a FIPA is to encourage foreign investment by providing foreign investors with greater protection against discriminatory and arbitrary practices in the host state, providing a process for adequate and prompt compensation in the event of an expropriation, and enhancing the predictability of regulations affecting foreign investors and their investments.

Canada has 24 FIPAs in force with countries, another 8 (including China and India) that have been negotiated but are not yet in force, and another 12 under negotiation.

Canadian businesses make significant investments in China in the transportation, biotechnology, education, finance, information technology, manufacturing and natural resources industries. By the end of 2011, the amount of Canadian direct investment in China was C\$4.5 billion.

British Columbia will benefit from a more stable and predictable investment regime for BC businesses and investors doing business with China and Chinese state owned enterprises. Further, through the FIPA, BC businesses and investors will have recourse to dispute mechanisms which will allow them to challenge discriminatory and unfair practices.

How does this agreement protect investment Canadians make in China and that China makes in BC?

The agreement provides for non-discriminatory treatment of investors on:

- a) A most favoured nation treatment basis - no less favourable treatment than accorded investors from other countries with respect to establishment, acquisition, expansion, management, conduct, operation and sale or other disposition of investments, and
- b) A national treatment basis – no less favourable treatment than it accords its own investors with respect to expansion, management, conduct, operation and sale or other disposition of investments, and
- c) Ensures that the treatment of investors by governments at all levels meets the minimum standard under customary international law.

This FIPA also offers:

- Protection from expropriation, except for a public purpose and with fair and prompt compensation;
- Assurances that transfers of investment related funds, such as contributions to capital, profits, capital gains, interest, dividends, proceeds from sales of investments, etc. can be made freely and without delay.
- A dispute settlement process through independent international arbitration panels
- Commitment to ensure laws and regulations related to investment are publicly and readily available.
-

Does the agreement protect jobs for British Columbians and Canadians?

By providing a more stable/predictable investment environment, this agreement will encourage increased investment flows and provide an enhanced opportunity for BC-based companies to expand operations in China. This will in turn lead to expansion and growth of BC businesses, and direct and indirect job creation.

What do we give up if the Feds sign the agreement?

Since Canada has transparent and fair investment rules today, we do not give up anything by committing to treat Chinese investors by minimum international, most favoured nation and domestic industry standards.

Why a 31 year agreement?

The treaty could be in effect for a minimum of 31 years for any investments that are established when the treaty comes into force. This is within the norm for Canadian investment agreements and for those of many other countries. The treaty provides for this initial period of application to ensure that Canadian investors are provided a period of stability and predictability without the possibility that the treaty will be terminated by the other party, whether this is China or any other negotiating partner.

Background:

- The terms of FIPAs vary around the world – anywhere from 5-20 year terms.
- The FIPA's Canada has been a party to, historically looked like the Canada-China one with a 15 year initial term, and then an opportunity to terminate with one year's notice. Upon termination, existing investors are subject to an additional 15 year "standstill" protection .
- Beginning in mid 2000's, Canada began changing the term provisions in its FIPAs to eliminate the initial 15 year term. So FIPA agreements Canada has signed in last few years can be terminated with one year's notice from the time it was signed. Same as above, upon termination existing investors are subject to a 15 year "standstill" protection where the provisions of the agreement apply.
- The agreement with China having the initial 15 year term before possibility of termination is a result of the timing of negotiations which began pre mid-2000. At that time the initial 15 year term was the standard.
- Since the agreement is really more about protecting Canada's interests in China rather than China's interests in Canada where there are transparent and open investment rules, Canada is comfortable with the 15 year term before parties are allowed to terminate the agreement.

Is Canada selling off our natural resources with this agreement?

No. The agreement is about security of investment. It has explicit provisions that allow countries to take measures necessary to protect human health and the environment.

Federal government responses (Daryl Houlihan to Scott Colbourne):

Canada's Foreign Investment Promotion and Protection Agreement (FIPA) with China – the world's second largest economy – will provide stronger protection for Canadians investing in China, and facilitate the creation of jobs and economic growth here at home.

As in all of Canada's FIPAs, this Agreement provides mechanisms for the resolution of disputes. This mechanism provides for the impartial and timely resolution of conflicts and is a key element of the protection provided to investors. It is Canada's long-standing policy to permit public access to such proceedings. Canada's FIPA with China is no different.

Ultimately, access to international arbitration will provide Canadian investors with the confidence that comes from recourse to an independent, international body to adjudicate any disputes.

By ensuring greater protection against discriminatory and arbitrary practices, and enhancing predictability of a market's policy framework, this FIPA will allow Canadians to invest in China with greater confidence.

Published | Publi : 2012-10-25
Received | Re u: 2012-10-25
2:23 AM

THE GLOBE AND MAIL



GLOBE AND MAIL (METRO)
LETTER TO THE EDIT, Page: A20

The China debate

PETER VAN LOAN

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BC News Release:

Canada-China agreement good for B.C.

<http://www.newsroom.gov.bc.ca/2012/09/canada-china-agreement-good-for-bc.html>

Economy Monday, September 10, 2012 7:30 AM



VICTORIA - Pat Bell, Minister of Jobs, Tourism and Skills Training, is confident that the new Canada-China Foreign Investment Promotion and Protection Agreement will provide a framework through which greater economic prosperity will come for British Columbians and British Columbian companies.

On Saturday, Prime Minister Stephen Harper and Hu Jintao, President of China, witnessed the signing of the agreement at the Asia Pacific Economic Cooperation (APEC) Leaders' Meeting in Vladivostok, Russia.

"Our government continues to believe that expanding our economic relationship with China will lead to greater prosperity, and more jobs, in British Columbia. Our premier is there right at this moment delivering that message."

This agreement helps us move closer to our goal of enhanced economic and trade relations with China by promoting Chinese investment in British Columbia and providing more protection for British Columbia companies investing in China, which can lead to more exports and jobs.

Canada and China's commitment to further expand bilateral trade and investment is also demonstrated in the joint Canada-China Economic Complementarities Study, released last month, which identifies a number of important prospects for growth. This investment agreement is an important step towards British Columbia deepening and strengthening our trade, investment and cultural ties with China.

China is B.C.'s second-largest trading partner and the second-biggest economy in the world. Goods shipped from British Columbia to China rose to \$5.1 billion last year, a 24 per cent increase over 2010.

Overall, B.C. has enjoyed phenomenal success in Asia, and exports to the key markets identified in Canada Starts Here: The BC Jobs Plan - China, Japan, India and South Korea - rose 23.3 per cent in 2011 over the previous year. In 2011, the value of exports destined for the Pacific Rim was 43 per cent, up from 36 per cent in 2009. This represents the first time that export levels to the Pacific Rim were higher than those to the United States (42.7 per cent). However, even greater potential exists for further growth in these markets.

Learn More:

Go to www.BritishColumbia.ca to find out about B.C.'s international trade and investment representative offices around the world.

Media Contact:

Ministry of Jobs, Tourism and Skills Training
250 356-8177

Here is the IN for Minister of Environment:

**CONFIDENTIAL
ISSUES NOTE**

Ministry: Environment

Date: October 17, 2012

Minister Responsible: Terry Lake

**Canada-China Foreign Investment
Promotion and Protection Act**

ADVICE AND RECOMMENDED RESPONSE:

s13

Key Facts Regarding the Issue:

- Multiple media reports from September 27 – October 12, 2012 (Toronto Star, The Globe and Mail, Vancouver Sun, The Vancouver Observer, The Tyee) have been quoting Gus Van Harten, a professor of international law from Osgoode Hall at York University, who is warning that a new Canada-China investment treaty will make it easier to build the Northern Gateway Pipeline and open up the BC government to lawsuits from Chinese investors if the pipeline isn't built.
- According to media, the deal would give Sinopec (a large Chinese backer of NGP) the right to sue the BC government if it blocks the project. It also has similar implications for China National Offshore Oil Corporation's (CNOOC) proposed buy-out of oil and gas producer Nexen, if the FIPPA goes through.
- The treaty will proceed through both Canada and China's respective ratification processes in order to be brought into force. In Canada, the FIPPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will come into force on October 31, 2012 once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.
- The agreement will last 31 years and is described as the most significant trade deal since NAFTA. The deal is set for automatic approval. No vote or debate will take place in the House.
- The deal falls under the Federal Government and does not require provincial consent. The final deal was signed on September 9th, 2012.
- Elizabeth May and the Green Party is a vocal opponent of the FIPPA. She requested

a meeting with the Premier and has spoken with Minister Pat Bell. See:
<http://www2.canada.com/oceansidestar/story.html?id=93f2a4e1-5b21-4004-9377-a3b7ba472bf8>

- Canada and China's commitment to further expand bilateral trade and investment is also demonstrated in the joint Canada-China Economic Complementarities Study, released last month, which identifies a number of important prospects for growth. This investment agreement is an important step towards British Columbia deepening and strengthening our trade, investment and cultural ties with China
- The law professor quoted in the articles, Gus Van Harten, states that the treaty will *"pre-empt important elements of the debate on the Northern Gateway Pipeline and may frustrate in a very significant way the ability of the current BC government or any future government from stopping that pipeline or bargaining a better deal for BC."*
- Van Harten goes on to say that *"if this treaty comes into effect, and there's any Chinese ownership whatsoever in assets related to this pipeline—then Canada will be exposed to lawsuits under this treaty, because the BC government will be discriminating against a Chinese investor, which is prohibited by the treaty."* In addition the deal *"allows Chinese companies to sue Canada outside of Canadian courts."*

s13, s16

"Under the treaty, a Chinese company can demand 'treatment no less favourable than that given to Canadian firms (Article 6 of the treaty) or to investors from third countries (Article 5). A Chinese investor could claim that the denial of B.C. permits was not 'fair and equitable' treatment (Article 4) if it could point to general approvals given by Ottawa. Notoriously, many arbitrators have expanded this right significantly by requiring governments to meet 'legitimate expectations' of investors, broadly construed, and to maintain a 'stable regulatory framework' over the entire life of a project. Democratic choice and provincial jurisdiction are not a defence. This highlights the treaty's constitutional significance for Canada."

Communications Contact: Brian Cotton
Program Area Contact: Anthony Danks
File Created: October 17, 2012

Federal Government Info Note:

Canada-China Foreign Investment Promotion Protection Agreement

Background

On February 8, 2012, Prime Minister Harper and President Hu Jintao of China announced the conclusion of negotiations of a FIPA. Canada and China subsequently completed the required legal review of the text in English, French and Chinese. The FIPA was signed by Minister Ed Fast and Minister Chen Deming on September 9, 2012, on the margins of the APEC Leaders' Summit in Vladivostok, Russia, with Prime Minister Harper and President Hu observing the ceremony.

The treaty will now need to proceed through both Canada and China's respective ratification processes in order to be brought into force. In Canada, the FIPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will then come into force once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.

This FIPA will ensure greater predictability for Canadian investors in the Chinese market, and protection against discriminatory and unfair practices. The FIPA will also promote increased investment flows between Canada and China. Canadian investment in China was C\$4.5 billion at the end of 2011, with sectors of interest being financial services, transportation, biotechnology, education, information technology, manufacturing, and natural resources. Chinese investment into Canada was C\$11 billion at the end of 2011. Sectors of interest for China include natural resources, renewable energy, information and communication technology, food processing, pharmaceuticals and natural medicine, and advanced manufacturing.

Summary Points:

- We are pleased to note that on September 9, 2012, the Canada-China Foreign Investment Promotion and Protection Agreement was signed.
- Although we have not yet determined the date when the text of this Agreement will be made available to the public, and consequently cannot share a copy with you at this time, we can give you an overview of the elements of the agreement.
- The Canada-China FIPA is a high quality bilateral investment treaty that will provide a more predictable and stable investment climate in China for Canadian investors.
- The FIPA applies to measures adopted or maintained by Canada and China, at the national and sub-national levels, relating to investors and their investments. The FIPA applies, as well, to an entity, such as a state-owned enterprise, that exercises governmental authority delegated to it by a Party.
- The agreement provides for non-discriminatory treatment for Canadian investors on both a national treatment (post-establishment) and a most-favoured nation treatment (pre- and post-establishment) basis, and ensures that the treatment of investors by governments at all levels meets an absolute minimum standard under customary international law.
- This FIPA also offers: commitments on performance requirements consistent with the WTO Trade Related Investment Measures; protection from expropriation, except for a public purpose and with fair and prompt compensation; and, assurances that transfers of investment related funds, such as contributions to capital, profits, capital gains, interest, dividends, proceeds from sales of investments, etc. can be made freely and without delay. Although, on transfers, China took a reservation for its foreign exchange controls.

- The treaty grandfathers existing non-conforming measures, but subjects them to a ratchet mechanism. That is, such measures cannot become more restrictive moving forward.
- The FIPA permits either country to take measures necessary to protect human and animal health or plant life, as well as allowing measures taken for prudential reasons to maintain the safety, soundness, integrity or financial responsibility of financial institutions.
- If a dispute arises, the FIPA contains direct access for investors to an effective, impartial dispute resolution system through international arbitration. In accordance with Canada's practice, the provisions and procedures for investor-to-state dispute settlement are clearly laid out and stipulate transparency provisions that are important to Canada.
- Policy flexibility is maintained in key sensitive sectors, consistent with Canada's position in other agreements, such as the North American Free Trade Agreement.
- The treaty will now need to proceed through both Canada and China's respective ratification processes in order to be brought into force.
- For Canada, the FIPA will be tabled in the House of Commons for 21 sitting-days pursuant to the Government's treaty tabling policy. It will then come into force once the Order in Council has been approved by the Governor General and the ratification process in the People's Republic of China has been completed, and both Parties have submitted notice of the conclusion of their respective ratification processes.

RESPONSIVE on exact timing of entry into force:

- *At this stage we cannot speculate on the exact timing for the Agreement's entry into force.*

RESPONSIVE on public release of the FIPA text:

- *The Canada-China FIPA text will be posted on Foreign Affairs and International Trade Canada's website sometime before, or when the text is tabled in Parliament.*

Not Responsive

Not Responsive

China-Canada Investment: Recent Developments

Prime Minister Stephen Harper and Chinese President Hu Jintao witnessed the signing of the Canada-China Foreign Investment Promotion and Protection Agreement (FIPA) on September 8, 2012. The Agreement was signed by Canada's Minister of International Trade and Minister for the Asia-Pacific Gateway, Ed Fast, and China's Minister of Commerce, Chen Deming, on the margins of the Asia Pacific Economic Cooperation (APEC) Leaders' Meeting in Vladivostok, Russia.

The FIPA signing follows the release by Ministers Fast and Chen on August 15, 2012 of the Canada-China Economic Complementarities Study. That study highlighted the expansion in bilateral trade and investment between Canada and China, and concluded that the two governments "should continue to deepen and strengthen our bilateral trade and investment ties through appropriate bilateral instruments". The FIPA signing appears to be one such instrument.

Canada supports rules-based investment through FIPA negotiations since a FIPA is meant to protect and promote Canadian investment abroad through legally binding provisions as well as to promote foreign investment in Canada by ensuring greater protection against discriminatory and arbitrary practice and enhancing policy predictability.

Canadian investment in China was just under \$4.5 billion in 2011 – an increase of 9.6 percent over 2010 levels. China is expected to become the world's largest economy by 2020. Chinese investment in Canada was \$10.9 billion in 2011. Chinese firms have expressed a strong interest in investing in Canada. Sectors of interest include mining and oil and gas extraction.

On July 23, China National Offshore Oil Co. (CNOOC) announced a \$15.1-billion deal to buy Calgary-based Nexen Inc. On August 29, 2012, Industry Minister Christian Paradis confirmed that CNOOC had filed an application for review of its proposed acquisition of Nexen under the Investment Canada Act (ICA) and that he was conducting a review of the proposed investment. The review will take 45 days initially, but can be extended by 30 days or more.

On September 7, 2012, Prime Minister Harper said that Canada would outline a road map for foreign takeovers when the federal government completes its review of the CNOOC proposal to take over Nexen. According to the Prime Minister: "Because of the size of the takeover, because of the size and nature of the proposal, in making a decision the government has to put in place a pretty clear policy framework that indicates why it would or would not accept this decision or subsequent such decisions."

The Government of Canada currently reviews large-scale foreign investments in Canada which exceed a designated financial threshold under the regulatory framework provided by the ICA. For a deal to proceed, it must be approved by the Investment Review Division, Industry Canada, as well as the Federal Competition Bureau.

The ICA was enacted more than 20 years ago and has not been substantially reviewed since. Under the ICA, a prospective investor must demonstrate that the proposed transaction is of net benefit to Canada. The ICA provides a list of factors considered by the Minister of Industry in determining whether a transaction is of net benefit, including:

- the effect of the investment on the level and nature of economic activity in Canada
- the degree and participation by Canadians
- the factors of productivity, efficiency, technological development, product innovation and variety
- competition in Canada
- the compatibility with national industrial, economic and cultural policies
- Canada's ability to compete in world markets.

The positives must outweigh the negatives for an investment to be approved.

The ICA has been criticized for its lack of predictability regarding how the net benefit test will be applied, as well as for the lack of public transparency on the obligations and commitments made by potential investors.

Australia has a general investment screening system similar to Canada's that reviews foreign investments based on monetary thresholds. However, Australia's policy is framed such that it can block any foreign acquisition that is judged contrary to "national interest."

Australia has been mentioned as a competitor for Chinese investment, most recently by Jim Prentice, CIBC Vice Chairman and former Conservative minister. On September 7, 2012, speaking at the same forum as Prime Minister Harper, Mr. Prentice said: "Canada is lagging other trading partners, notably Australia, in accessing the growing markets in Asia and has to improve its game... It's hard to imagine a full strategic partnership with China which did not welcome Chinese investment to Canada and similarly welcome Canadian investment to China." Mr. Prentice argued the CNOOC deal should be judged on its own merits, while the governments dealt with broader trade and investment issues separately.

On September 4, 2012, federal Natural Resources Minister Joe Oliver highlighted the need for foreign capital in further developing the natural resources sector in Canada. Mr. Oliver told reporters that "we don't have enough capital in this country, and so we are welcoming capital from the outside."