CANADIAN MANUFACTURERS & EXPORTERS

MANUFACTURIERS & EXPORTATEURS DU CANADA

Standing Senate Committee on Energy, The Environment and Natural Resources

February 21, 2019
8:00 a.m. to 10:00 a.m.
Room W120, 1 Wellington Street
Ottawa, Ontario

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Good morning and thank you for inviting me here today to discuss an important piece of legislation that will have a significant impact on Canada's manufacturing sector. I am here today on behalf of Canadian Manufacturers & Exporters (CME), and our association's 2,500 direct members, to talk about how C-69 should be amended to enable resource development across Canada.

Manufacturing represents the largest business sector in the country. It directly accounts for 11 per cent of GDP, two-thirds of Canada's exports, and 1.7 million employees in high wage, high skilled jobs in nearly every community across the country. And while we count a significant number of resource developers – particularly energy producers – as part of our membership, by and large the Canadian resource sector are our valued customers and partners. Together, manufacturers and resource developers are the cornerstone of the Canadian economy.

Manufacturers in every region of the country see Bill C-69 a direct threat to future resource development and the well-being of their essential suppliers and customers.

We can't seem to get things built in Canada and we've failed to tap into the wealth of our vast natural resources. Our regulatory system must do far more to facilitate economic growth and competitiveness. We must acknowledge that a lack of policy clarity has resulted in disputes being settled in court, causing delays and uncertainty. This has cost Canada billions of dollars in investment. – investment that Canadian manufacturers rely on for their businesses.

Canada's Manufacturers and Exporters support the development of Canadian energy and understand the intent of Bill C-69, but recommend the modifications identified to support a process that enables good projects to proceed quickly, amicably, and predictably.

In its current form, Bill C-69 fails to do that. The bill will make it more difficult and, in some cases, impossible to proceed with nationally significant natural resource development projects.

We acknowledge the great work done by Canada West Foundation in their February study - *Bill C-69: We Can Get this Right*. This thorough report provided the foundation for CME's position on this legislation and we encourage the members of the committee to read and consider it.

In our view, Bill C-69 must be amended. After extensive consultation with members and partners across Canada, CME has eight recommendations that would address most of the Bill's shortcomings.

1) **The importance of economic growth.** Bill C-69 would create a system designed to find flaws and ignore positive economic benefits. Section 63 describes the five factors the Minister must consider in making a decision. These include:

    - Sustainability;
    - Potential adverse effects;
    - Implementation of the mitigation measures;
    - Adverse impacts on Indigenous groups and their rights; and,
    - The extent to which project hinders or contributes to the Government of Canada's environmental obligations and climate change commitments.

    The Act should be amended to include national, regional and community economic interests.

2) **The role of life cycle regulators.** Despite the stellar health and safety record of Canada's pipeline and nuclear industries, Bill C-69 will move the approval and condition-setting function for pipelines and nuclear facilities from the National Energy Board (NEB), Canadian Nuclear Safety Commission and the Nova Scotia and Newfoundland Offshore Petroleum Boards to Environment and Climate Change Canada (ECCC). Life cycle regulators must not be removed from the project approval process.

3) **Project List.** In order to have a clear debate, the proposed project list should be made public. In situ operations should be excluded from the Project List, as they are currently subject to stringent Alberta regulations that manage environmental and socio-economic impacts.

4) **Duty to Consult.** The duty to consult Indigenous groups is enshrined in section 35 of the Constitution and is included in this legislation. Duty to consult has been repeatedly tested in the courts and, through trial and error, the expectations of government and project proponents have been clarified. Introducing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) into Bill C-69 will introduce unnecessary uncertainty.

5) **Politicization of approvals.** Bill C-69 and the Impact Assessment Act place the discretion for the determination of the "public interest" of a particular project in the hands of the Minister of Environment. This simply opens the door to politicization of these decisions. As has been recommended elsewhere, tripartite decision making (potentially requiring Finance and Natural Resources sign-off) must be required in the legislation. Further, the Impact Assessment Agency should be established as an independent body with an independently appointed Board of Directors, rather than an arm of Environment and Climate Change Canada.

6) **Jurisprudence**. Any new legislation must not undermine the jurisprudence that has been established over the years around project approvals. In the past five years, court challenges in both the Federal Court of Appeal and the Supreme Court of Canada have added layers of judicial certainty regarding the NEB's regulatory process. Replacing the NEB now with a new process would welcome another round of court challenges – setting Canada back years.

7) **Reasonable timeframes.** The Act should implement reasonable timeframes during which challenges can be made. This would increase certainty around "clock stoppages" and clear rules allowing for timeline extensions.

8) **Mandatory review requirements**. The mandatory requirement for review of offshore oil and gas activities is an unnecessary over reach. Not all projects justify this level of oversight, and mandatory panel reviews could make new offshore exploration economically unviable.

I thank you for inviting me to present here today. I look forward to your questions and the discussion.