Executive Summary & Background Context

Submitted to the Senate Committees on Bill C-48 and Bill C-69

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MY BACKGROUND

I have spent my career in the investment management business with a focus on both the energy sector in Canada and on global investment opportunities across multiple asset classes, and in the study and practice of business leadership and governance.

Relevant experience:

- Founder and Partner of ARC Financial Corp., the largest energy-focused private equity investment management company in Canada.
- Former Chair and Director of Alberta Investment Management Corporation (AIMCo), one of Canada's largest investment management firms, now managing over $100 billion.
- Founder and former Chair of ARC Resources Ltd., a leading oil and gas development and production company in Canada.
- Co-Founder and Chair of Viewpoint Investment Partners Corp., a private wealth management firm with a multi-asset global focus.
- Co-Founder and Chair of Canadian Centre for Advanced Leadership, Haskayne School of Business, University of Calgary.

SECTION ONE: EXECUTIVE SUMMARY

Canada's energy sector is world-class in scale – in its resource base, technical, and managerial capabilities – and it is the largest sub-sector of the Canadian economy, but it is being progressively hampered, if not dismantled, by "made-in-Canada" political, legal, and regulatory processes. It has undeniably lost its competitive footing. Investment confidence and interest within public and private markets, as well as within the corporate sector, have collapsed. There is no fundamental justification for the damage we have done to ourselves. The common explanations come wrapped in concern and criticism about our energy sector's environmental, social, and governance (ESG) standards.

This belies a critical truth. Our ESG standards and performance are as good as it gets in the world.

Yes…our oil sands have created controversy. The primary criticism has been the relatively high greenhouse gas emissions (GHGs), but they represent an insignificant 0.15% of global emissions.[1,2] If phased out and replaced with supplies from other countries, the estimated reduction in global GHG emissions would be a negligible 0.03% (3/100 of 1%).[3] For additional context, the estimated one-year increase in GHG emissions from China and India in 2018 (over 2017) is equivalent to adding nearly ten Canadian oil sands/year.[4]

The unity of the country has been put at risk and the upside for doing so is a truly negligible reduction in GHG emissions.

Canada's oil sand's GHGs are immaterial to the issue of global GHG emissions and climate change. Further, emission levels for new oil sands projects are in line with the average of crude oil refined within the United States (U.S.). This should be a game changer for energy policy in Canada.

We also have a world-class pipeline and marine transportation system with the highest safety standards in the world.

The Canadian oil and gas sector has been a model of shared prosperity for all Canadians. Alberta's cumulative net contribution to the Federal government from 1961 to 2017 is in excess of $600 billion.[5] Alberta has always been a 'giver' within confederation and never a 'taker.'[6]

Upstream oil and gas activity in Canada has created over 528,000 direct and indirect jobs.[7] The oil and gas sector is also the largest employer of Indigenous People in Canada[8,9] creating a meaningful alignment of interest and the opportunity for partnering arrangements.

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1 Environment and Climate Change Canada 2018; World Resources Institute.
2 Natural Resources Canada, "GHG emissions: A shared challenge."
3 Data: IHS Markit, "The greenhouse gas intensity of oil sands production." Analysis: ARC Financial Research; Viewpoint Research Partners.
4 Global Carbon Project, *Carbon budget and trends 2018.*
5 Mintz, "Two different conflicts in federal systems…"
6 Morton, *Presentation to the Economic Education Association of Alberta on February 8-9, 2019.*
7 CAPP, *The economic contribution of Canadian oil and natural gas.*
8 Excluding 2016 and 2017, where British Columbia employed on average, 1,850 more people.
9 Statistics Canada.

Our world-class energy sector, with world-class ESG standards and performance, as a major financial contributor to all of Canada, and as a major employer, is being taken down and dismantled on the basis of perceptions that have been unduly influenced by U.S. funders of activist agencies within Canada.

The damage has been the result of our own "made-in-Canada" actions, but our actions rest on a foundation of perceptions that have been largely "made-in-the-U.S.A." These perceptions, which have now been absorbed within a large part of the public, are steeped in symbolism versus empiricism, and more often than not are based on exaggerations versus a balanced sense of proportion and context.

Bill C-48 and Bill C-69, as currently drafted, are further examples of "made-in-Canada" damage, and the underlying perceptions reflect a "rigidity of perspective" that is not in our national interest.

Bill C-48 is a self-inflicted blow to our strategic competitiveness; it is a definitive attempt to shut down access to new markets. It is misleading in its expressed intent as it is not a tanker moratorium; it is a moratorium on new tanker ports. It fails to conform with empiricism and facts. It is discriminatory against Alberta and Saskatchewan, and discriminatory against certain pro-development First Nations. For investors, the fact that this legislation is even being considered is confirmatory of existing negative sentiments. Politically in Canada, this legislation will fuel divisiveness and a dysfunctional political counter-reaction.

1. Antithetical to Canada's Strategic Needs and Interests

Bill C-48 sabotages Canada's strategic need to access multiple markets to reduce market risk, and for our energy sector to realize its vision to be a world-class supplier of choice. It is another roadblock that we are throwing in front of our own besieged industry to force it to compete in a singular market, to sell to one customer – the U.S. – when demand growth is elsewhere in the world.

Not only have we lost our competitive attractiveness to U.S. and other international investors, we are losing companies, equipment, and personnel to the U.S., and we are also having trouble holding onto our own markets from U.S. competitors. U.S. crude oil and petroleum product exports to Canada have increased over 12 times from 1993-2017, to a significant 871,000 barrels/day.[10]

While Canada sputters and stalls, production growth in the U.S. is forecast to be 4 mmb/day by 2024,[11] which is approximately equal to Canada's total crude and liquids production as of December 2018.[12] Our self-imposed restrictions, limits, and constraints, and our inability to approve important infrastructure development and execute on projects, are a boon for the U.S. Not only are they capturing our own domestic markets and international markets, they're also buying our energy products at a discount.

2. Message of Extremism and No Confidence

Bill C-48 sends a message of extremism, that "at all costs" Canadian crude oil will not be shipped out of Northern B.C. deep water ports. It has a hostile look and feel, which will unquestionably confirm for foreign investors that Canada is not business friendly. Further, it sends a message within Canada that the government lacks confidence in the operational capabilities of our energy sector and the government's own $1.5 billion National Oceans Protection Plan (announced in November, 2016). It is also a message of non-confidence in the integrity of our existing world-class marine safety systems, disregarding our well-evidenced, safe shipping record.

3. Inconsistent with Other Realities

Bill C-48 is radically inconsistent with the realities of existing tanker traffic on the East Coast. Approximately 85% of 20,000 tanker movements in Canada occur on the East Coast,[13] and there is no tanker moratorium in existence or being contemplated.

Bill C-48 is also inconsistent with the realities of existing tanker traffic on the West Coast. This is a critical point to understand. There are about 1,400 oil tankers annually transiting between Alaska and a refinery complex in Washington.[14] Bill C-48 will not limit this traffic in any way. The only practical impact of Bill C-48 is that it restricts Canadian crude oil from on-shoring, loading, and departing

[10] U.S. Energy Information Administration, *Petroleum & other liquids…*
[11] International Energy Agency (IEA), *Oil 2019 executive summary.*
[12] Statistics Canada.
[13] ClearSeas, *Oil tankers 101.*
[14] Independent Contractors and Businesses Association, "Re: Bill C-48, oil tanker moratorium…"

from the B.C. North Coast shoreline. The description of Bill C-48 is misleading. It is not a moratorium on tankers; it is a moratorium on tanker ports. This is why, to many, Bill C-48 looks like a blockade against Alberta.

Bill C-48 seems inappropriate and out of step with science and experience, given that there have been no significant oil tanker spills off Canada's shores (with the exception of the tanker M/T Arrow on the East Coast in 1970, almost 50 years ago).[15] Somewhat ironically, given the controversy of Trans Mountain, the company has loaded marine vessels since 1956 without a single tanker spill.[16]

Bill C-48 is in sharp contrast with considerable evidence that our marine systems and safety standards are becoming even more reliable through advanced regulations, ship design (double hull), and more advanced high-tech navigational systems, all combined with a world-class spill response system.

4. Canada's Energy Strategy and the "Moral Argument"

Global demand for hydrocarbons is expected to grow by about one third through to 2040,[17] and hydrocarbons will be a foundational part of the energy mix for many additional decades. We have a strategic choice: 1) to voluntarily curtail our participation in this market and forgo the economic benefits for all Canadians; or, 2) to participate in a growing market with our high standard ESG energy products, encouraging and driving positive change within world markets.

From the perspective of the global environment, our Canadian barrels would be displacing barrels from countries that have minimal environmental standards, no specific climate standards or commitments, virtually no or minimal regulatory oversight and, based on independent surveys, relatively weak social and governance-based standards within their own countries, and, in certain cases, appallingly low standards that are contradictory to Canadian norms and laws. How does it help the world to shut out reliable, high ESG performing Canadian oil barrels, to support the flow of products from other countries?

If there is a moral imperative in this, a "goodness for all" argument, it would be to continue to drive for improved environmental standards of our own products, to reduce our own direct adverse impacts, and to progressively move our products, standards, technologies, practices, and the values of our country into the world. There are parts of the world where poverty remains extreme, where people are striving to develop a higher standard of living, with higher education and health standards, and they need energy. The opportunity for Canada is to become the supplier of choice – to lead in environmental, social, and governance standards, and to lead as the responsible and ethical supplier of energy products – in order to serve people throughout the world who need more energy.

5. More Self-Induced Negative Impacts and a Policy that is Literally Not Needed

Bill C-48 is confirmatory of already negative financial and corporate investor sentiments of Canada and will only escalate political tensions (within Canada). Ironically, Bill C-48 is not necessary. Its intent is to shut down the possibility of developing deep water ports for primarily Alberta crude products. Our regulatory institutions, judicial system, and political processes already control new project development.

Bill C-69 is fundamentally deficient as it compromises the independent governance processes implicit within administrative law. With final approval resting solely with the Minister of Environment and Climate Change, it politicizes the approval process, increases risk to investment, and reduces reliance on independent expert opinion and competency. Furthermore, removing the standing test in terms of who can testify increases timing uncertainty, causing public participation to appear inappropriately unconstrained. The absence of a project list is foreboding, and the severity of discouragement from project proponents is a serious red flag.

1. Political Versus Independent Arm's Length Decision Making

Bill C-69, as written, gives broad discretionary power to the Minister of Environment and Climate Change to designate a project for assessment. The Minister also has complete discretion to refuse to undertake an assessment. Further, the Minister has the ability to extend timelines and to make the final decision on whether a project is in the public's interest. This final decision rests on receiving a report versus a recommendation from an independent, arm's length body. This is too much power focused on one person (or one office),

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[15] Transport Canada, *Get the facts on oil tanker safety in Canada.*
[16] Trans Mountain Corporation, *Trans Mountain statistics.*
[17] IEA, *World energy outlook 2017*.

as it invites undue influence, and creates serious risk of decision-making bias in favour of political interests.

The essence of good governance is to minimize the self-interest bias of insiders. In the corporate world, that self-interest bias often relates ultimately to self-serving, profit-seeking behaviour, the result of which may be to compromise the interests of other stakeholders. In the political world, the self-interest bias of insiders often relates to self-serving vote-seeking behaviour. Similarly, the interest of other stakeholders, for example, the interests of regions who might be under-represented in government decision-making, may become compromised. Projects may be favoured in regions of the country where political support, for the then government in power, is highest. This is a dangerous path to go down, and many in Alberta and Saskatchewan feel we are already well down that path.

As a former Director and Chair of AIMCo, I was exposed to five different Premiers. It didn't matter who was in power, or whether it was a Conservative or NDP government. The temptation to interpose on independent decision-making or governance processes was often too much to resist. This is, of course, the purpose of arm's length independent process and administrative law – to remove decision making from political processes and avoid undue bias and influence.

In the proposed Bill C-69 legislation, one person, the Minister of Environment and Climate Change, would be the primary decision-maker. This person would attract a high-level of efforts and actions from others, inside and outside of government, to influence decision-making outcomes. This is a risk for all stakeholders; plain and simple, it is "bad governance." The result is a high risk of unfair process and outcomes. This is not Canadian.

This is not a hypothetical problem. As others have also pointed out,[18] the current SNC Lavalin controversy is an obvious case in point. The issue at hand is the effort, however real and substantive, of elected officials to circumvent established independent administrative and legal processes. Who wants to argue that this is not in fact a risk?

With the politicization of project decision making, there is a risk of projects being approved for political gain. There will be a temptation for elected officials to give away projects in certain jurisdictions where they have a political interest and fail to support projects in other jurisdictional areas where they have no or very little political interest. There is a critical need for a structural process to manage and avoid the risk of political bias.

2. Risk of "Bias of Perspective" is Magnified with Concentrated Authority

In addition to the risk of political bias, there is the risk of an imbalance of perspective where one desired outcome is inappropriately emphasized and others are not given fair and full consideration. This risk would be magnified with concentrated authority in one person, the Minister of Environment and Climate Change. The obvious example within the actual draft legislation is the failure to explicitly account for "economic benefits" as part of its assessment; there appears to be a singular focus on possible negative environmental impacts. This is not just a problem of words and drafting. This apparent turning of a blind eye toward the value of economic development is in fact blatantly evidenced in Bill C-48.

From both the perspective of political bias and the failure to consider economic benefits, there is a compelling argument that the ultimate decision makers on major projects should include three Ministers: Environment and Climate Change, Finance, and Natural Resources.

3. Reduced Reliance on Expert Input in Decision Making

Along with increased politicization of decision making and the risk of bias, is a reduced reliance on independent expertise and subject experts. All of this is a shift towards politicized decision-making and away from independent, non-political, and competency-based processes and decision making. The National Energy Board has been recognized around the world for its balanced and methodical approach to the regulation of energy projects. This was not a model that needed to be replaced – it needed better supports to deal with the fact it had become a place where grievances were aired, despite the fact that that was not what it was intended to address.

[18] Mar, "Why Ministerial discretion does not belong in Bill C-69."

4. Unconstrained Public Participation and Increased Time Frames

Undefined and unconstrained public participation also increases the risk of a more politically-related process where opponents have free reign to potentially overwhelm and drown out expertise-based deliberations. Their motivations may be to simply drag out time frames and hearings to dissuade project proponents, despite the fact that they won't be directly impacted by a project. There is considerable evidence that a disturbing proportion of public participation appears to be based on tactically-driven opposition rather than well-balanced reasoning, evidence, and facts. It is particularly disturbing that certain tactically-driven intervenors have been funded by foreign, politically-motivated groups whose agenda may be anything but Canada's national interest. Again, all of this contributes to increased risk for project proponents, leading to frustrations, and reduced motivations to invest in new projects.

5. Wide Open Possibility of "Project List" Creates Unlimited Scope for Political Intervention

The absence of clear criteria for the basis of a project list is foreboding. This uncertainty poses unacceptable risk for organizations who are undertaking projects on a regular basis, where clear mitigation practices have been established. The broader fear is that the absence of clear criteria for a project list signals that more projects, not less, will be dragged through layers of regulatory process and time delays, contrary to the government's expressed intention to reduce regulatory burden.

Further, there is a related serious concern that Bill C-69 could extend into existing provincial powers relating to natural resource projects, which could create additional political conflict within Canada.

6. Corporate Investors Within the Private Sector are Not Being Heard

Project developers and the corporate sector are virtually unanimous in their criticism of Bill C-69. They are the entities who will be bringing proposals forward for new projects. Corporate investment creates economic growth, job creation, and tax, and royalty revenues. Their input and perspectives should be welcomed because of the benefits the investment activity confers on the country. It does not make sense to turn our backs on them, particularly given the crisis of investor confidence that now exists. The exact opposite mindset is needed. We need to go the extra distance to turn private and corporate investors around and win them over. To not do so is horribly impractical and short-sighted.

RECOMMENDATION:

As a Canadian with decades of experience in the investment management business focused on the energy sector, and having been involved in capital raising and investment projects all over the world, my recommendation to the Senate Committees reviewing Bill C-48 and Bill C-69 are this:

- Withdraw Bill C-48 in its entirety. It is a message of extremism; it is cynical; it is divisive; it is not based on science and empiricism; and it is not in Canada's national interest.
- Introduce substantive amendments to fix Bill C-69. Adopt the major amendments proposed by active project proponents and, in particular, those amendments that will reduce the risk of political versus regulatory and expertise-based decision making.

These recommendations are not a push back on strong environmental protection. They are a push back on unjustifiable extremism in the case of Bill C-48, and excessive politicization of project decision-making and "bad governance" implicit within Bill C-69.

SECTION TWO: BACKGROUND CONTEXT

1. ***The energy sector in Canada, specifically the oil and gas extraction and pipeline sector, is immensely important to Canada's economy, arguably the most important sub-sector of the economy.***

The oil and natural gas extraction, services, and pipeline sector in Canada in 2018 was approximately $132 billion or 6.8% of total Canadian GDP. [19] This is:

- 8.2 times larger than Canada's auto and parts manufacturing sector ($132 billion versus $16 billion).

[19] Statistics Canada.

- 2.6 times the size of the residential construction industry in Canada ($132 billion versus $50.7 billion).
- 4.0 times larger than our telecommunications sector ($132 billion versus $33.4 billion).
- 1.7 times larger than the entire transportation sector, including air, rail, water, trucking, and related warehousing ($132 billion versus $77.6 billion).
- 3.3 times larger than the combined agriculture, forestry, and fishing industry ($132 billion versus $40 billion).
- 5.6 times the size of Canada's combined forestry, logging, wood product, and paper manufacturing sectors ($132 billion versus $23.5 billion in 2018).
- The oil and gas extraction and pipeline sector accounted for a slightly larger share of national GDP in 2018 than the total finance and insurance sector in Canada ($132 billion versus $128.2 billion).[20]

This data for the oil and gas extraction and pipeline sector, excludes natural gas distribution, petroleum and coal product manufacturing, plastics and rubbers, and petroleum product wholesalers. Including these oil and gas related sub-sectors would increase the $132 billion to $163.2 billion. If power generation and distribution is included, the total contribution of the energy sector expands towards $200 billion, which is just over 10% of total GDP in the economy.[21]

2. The Canadian energy sector is a key source of employment, direct and indirect, and important to the employment of Indigenous People.

There are 528,000 jobs that exist in Canada, directly and indirectly, related to the oil and gas sector.[22] The oil and gas and pipeline sector is also the largest employer of Indigenous People in the country and offers the potential of playing a meaningful role in the federal government's reconciliation agenda. There are numerous examples of partnerships within the sector, such as the sale of a 34.3% stake in Suncor's East Tank Farm development to the Fort McKay and Mikisew Cree in 2016.[23]

3. The Canadian energy sector is suffering a severe loss in its competitive position. Investor confidence has collapsed, and there is virtually no risk capital available for the industry.

In the discussions about Bill C-48 and Bill C-69, there is an expressed concern on the part of many participants that we need to maintain and protect investor confidence. It is critically important to see that this concern is too late. The damage to investor confidence has already happened. From the perspective of my own experience in the financial business in Alberta, including my interactions with a large base of foreign investors, the following needs to be highlighted:

- We are seeing an extreme deterioration of investor interest in Canada. Specifically, there is virtually no investor interest in the Canadian energy sector, and this reality applies to both foreign and domestic investors.
- Total equity raised for oil and gas in Canada in 2018 was about $650 million, down 94% over the past five years, which is the lowest level on record over 27 years (since this information has been available).[24]
- However, there is substantial interest on the part of Canadians to invest in the U.S. and other global jurisdictions.

Total (all sectors) foreign direct investment into Canada is down 56% since 2013, and Canadian investment outside of Canada, in foreign assets and opportunities, is up 74% since 2013.[25,26]

At ARC Financial, we have been able to raise new investment capital, but quite frankly, most of our private equity peers have been hollowed out; they cannot raise new capital at this time. The picture is challenging for us as well. Many of our international investors have decided that they will not invest in Canada given current conditions. The usual refrain is some version of fatigue and tremendous skepticism of Canada, and evidence of discouraging returns compared to the U.S.

Companies, equipment, and people are exiting.

- A number of major international companies have exited from the Canadian oil sector, pulling out capital, technology, and

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[20] Ibid.
[21] Ibid.
[22] CAPP, *The economic contribution of Canadian oil and natural gas.*
[23] Oil & Gas Journal, "Suncor, Mikisew Cree First Nation sign deal for tank farm."
[24] ARC Financial Research.
[25] Globerman, *Fraser research bulletin: Canadian foreign direct investment…*
[26] Argitis, "Foreign direct investment in Canada plunges to the lowest in eight years."

expertise; notably Statoil (Equinor), Total SA, ConocoPhillips, Marathon Oil, Royal Dutch Shell, and most recently Devon Energy has announced its intention to exit.

- Leading Canadian energy companies, Encana, TransCanada, and Enbridge have made major acquisitions in the U.S., and are clearly shifting their strategic focus south of the border.
- Many service companies are similarly shifting equipment, capital, and personnel to the U.S.; notably Precision Drilling, Akita Drilling, Total Energy Services, STEP Energy Services, and Citadel Drilling.
- The 12 largest Canadian energy service companies with U.S. operations are now generating over 50% of their combined revenues from the U.S. – the highest proportion since at least 2013, and likely the highest on record.[27]
- Our experience at ARC Financial is that the best equipment (i.e. Tier 1 A/C triple drilling rigs) is migrating to the U.S. We also understand that U.S. operators are requesting Canadian labour given skill levels and labour shortages within the U.S. market.
- From 2014-2018, about 67,000 jobs have been lost in Canada's energy sector, 53,000 of which were in Alberta.[28] CAPP estimates are much higher, placing total oil and gas upstream job loss from 2015-2017 at 116,000.[29]
- Unemployment among young men in Alberta aged between 15 to 24 is at a record high of 45%.[30]

Many Albertans are understandably feeling that the government's commitment to preserve and create jobs depends on where the jobs are located within Canada. Even a priority as basic as jobs for Canadians has become extremely politicized.

Canada's decline and bleak conditions are in sharp contrast with U.S. expansion.

- Over the last ten years, U.S. oil production has doubled from six million barrels per day to 12 million barrels per day, and it is now the largest oil producer in the world, ahead of Saudi Arabia and Russia.[31]
- The U.S. has leapfrogged past Canada in capturing Asian LNG markets, and constructing and sanctioning 12 bcf/d of capacity versus 1.8 for Canada.[32] Yes, we have one big project ready to go, but as a result of cumbersome internal review processes, in-fighting, and adverse political intervention, we remain stuck with continual over-supply, constrained take-away capacity, and reliance on one customer.
- The growth in U.S. oil and gas production over the past ten years is greater than the entirety of Canada's oil and gas sector.[33]
- Comparative equity market performance reflects the fundamental divergence of Canada and the U.S. Over the past ten years, the annual return on Canada's oil and gas equities has been a negative 0.5% versus a positive 5.5% for U.S. oil and gas equities. A $1 million investment in the U.S. was $1.75 million after ten years versus $960 million for Canadians. A U.S. portfolio today is about 1.8 times that of a Canadian portfolio.[34]

4. The loss of Canada's competitiveness is the product of failed political, legal, and regulatory process.

Why has all this happened? We know our energy resource is competitive, and that we have the executive, entrepreneurial, and technical talent, and access to the best technology. We know we can compete and sustain a highly successful industry.

But, we are failing. I have spent my career as an advisor and investment manager in the oil and gas sector. I wish to state clearly why we are failing:

What is happening is an extraordinary case study of the impact of "made-in-Canada" failed political, legal, and regulatory process.

There is lots of blame and finger-pointing, but from the perspective of capital markets, investors don't care who is to blame. The perspective of investors is that Canada can't get its act together to move forward on important projects and now carries with it an element of sovereign risk. Specifically, four large project failures have attracted much attention over many years and have created enormous doubt about Canada's ability to execute on new major project development:

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[27] AltaCorp, "Research note."
[28] Data: Statistics Canada. Analysis: Viewpoint Research Partners.
[29] CAPP, *Frequently used statistics.*
[30] Corbella, "Employment at record low for young men in Alberta."
[31] Gloystein, "Oil prices dip as U.S. crude output hits record 12 million barrels per day."
[32] Forrest, *Snapchart – LNG breakeven cost comparisons.*
[33] Natural Resources Canada, *Crude oil facts.*
[34] Data: Bloomberg; Analysis: Viewpoint Investment Partners.

- The $8 billion failure of Northern Gateway, after eight years of work, $650 million of costs incurred by project proponents, and after receiving federal government approval, was overturned by a newly elected government in 2015. This is perceived as an extreme example of what investors think of as sovereign risk; a project approved by a government only to be overturned by a newly elected government.
- The $15.7 billion failure of Energy East, where the project proponent withdrew after incurring $1 billion in costs, facing publicly expressed resistance from Quebec and changing regulations relating to a request to undertake an "assessment of upstream and downstream emissions" and "likely future delays resulting from the regulatory process."[35]
- The $36 billion failure of the Petronas LNG project after incurring hundreds of millions of dollars in costs, facing hostile politics, on-going government wrangling about royalties and taxes, a slow regulatory review, multiple First Nation interventions, law suits, and ultimately deteriorating market conditions.
- The $7.5 billion besieged Trans Mountain expansion, in spite of the federal government's bailout purchase of the project and however it unfolds, is being viewed as prima facie evidence of another failure of regulatory and constitutional authority in Canada.

Canada has lost much of its credibility in capital markets, among public market investors, lenders, and direct investors, and certainly among the corporate proponents behind the failed projects. One of the greatest barriers to competitiveness within the Canadian energy sector has been the shortage of pipeline takeaway capacity, restricted market access, and resulting price discounts on energy products.

Our investors put this very simply, "Why should we invest in your commodity-based business and accept the full risk of these businesses, if you cannot get the full value for your commodities?" It isn't just the needed access to facilitate new volumes; it is avoiding the price discount on existing volumes that results from over-supplied systems.

As well as the failure to move forward on much needed infrastructure and the resulting over-supply that caused severe price discounts, the industry has had to endure a royalty review in the same year that oil prices were collapsing; the imposition of carbon taxes when U.S. competitors pay none; inflammatory language from political leaders directed towards the integrity of our regulators; the Prime Minister talking about the phase out of the oil sands;[36] and a high profile inter-provincial dispute with B.C., which is challenging the constitutional authority of the federal government.

For investors, it has been too much. We have heard several of them say that they cannot put resources to work to "figure out Canada," when it cannot resolve its own internal differences.

5. Strategic context for Bill C-48 and Bill C-69 – "How can we turn this around?"

The economic damage to the economy and the damage to investor confidence due to failed political, legal, and regulatory process has happened. We don't need to worry about it happening. It has happened, and it has been severe. Given the damage, we need a different mindset to move forward. We must see our realities clearly and we need to be careful.

We don't have an environmental crisis in Canada; we have a crisis of confidence caused by self-sabotage, and a rigidity of perspective reflected in extreme politicized and polarized interests within our country. This has evolved into an economic crisis, at least regionally, but the more general economic impact will be felt across Canada.

Further, it has clearly evolved into a national political crisis in Canada. There is a high and growing level of alienation among the people of Alberta and Saskatchewan, and the issue of Alberta's oversized fiscal contribution to confederation is now front and centre.[37]

The critical question is, how can we turn this around? How can we turn around Canada's energy sector, the adverse regional economic impact, and the political dysfunction and risk to our country?

In the vernacular of the banking industry, we are distressed. We have become a "work out" problem. What is required is urgency and action that is positive, strategic, and impactful, versus more uncertainty, in-fighting, and prolonged ineffective process.

Both Bill C-48 and Bill C-69, in their current forms, do not represent positive, strategic, or impactful "turnaround" initiatives. Canadians should not be asked to accept the economic and political risk of the impact of these legislative initiatives as they are now written.

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[35] Delkus, "TransCanada letter to the National Energy Board."
[36] Muzyka, "Trudeau's 'phase out' oilsands comments spark outrage in Alberta."
[37] Leavitt, "Jason Kenney outlines 'fair deal' and warns Ottawa of Alberta separatist sentiment."

6. The key to our turnaround is to see the realities of our ESG standards and performance.

The key to our turnaround is to acknowledge Canada's actual ESG standards, our record of progress, our commitment to continual progress, and that oil and gas will play a continuing, important part of a long-term global solution to satisfy the need for energy. The oil and gas sector is not going away as the demand for energy isn't going away; we need to consider a solution that balances environmental, economic, and social outcomes based on science, empiricism, and facts.

Whether we like it or not, world oil demand continues on an inexorable march upwards, growing 15.3 mmb/d over the last ten years (2009-2019).[38] This growth in demand is equivalent to over three times Canada's total current oil production.[39] It will take decades to transition to a reduced hydrocarbon and low carbon future. In fact, globally, there has been $3 trillion invested in renewables in the last ten years,[40] but the renewables sector accounts for only 3.6% of total primary energy, and oil and gas has lost only 3% of its market share (from 60.5% to 57.6%).[41]

It is in this context that we must ask ourselves: What is the role of Canada in the growing global energy market?; How can we contribute as a responsible developer of resources?; and How can we satisfy environmental concerns? One central perspective is to recognize that the world is better off if it uses Canada's energy products. We are ESG leaders on this planet.

At ARC Financial, we advocate Canada's ESG record to foreign investors and have deep conviction about its importance. A few broad points on ESG in Canada and within our energy sector:

- Relating to governance, the "G" in ESG, Transparency International has again confirmed in a recent report that Canada is among the least corrupt countries in the world, well within the top decile of 180 countries, in 9th place closely behind the Netherlands and a number of primarily Scandinavian countries. In this report, of the countries to whom we import oil, out of 180 countries, the U.S. is ranked 22nd, Saudi Arabia 58th, Nigeria 144th, and Azerbaijan 152nd.[42]
- On the social side, the "S" in ESG, looking broadly at human rights and based on the Freedom Index which uses a set of criteria derived largely from the Universal Declaration of Human Rights (developed by the United Nations), of the 209 countries included, Canada was virtually at the top, ranking just one point below each of Finland, Sweden, and Norway. With the exception of Norway, the U.S. and the United Kingdom, most other major oil producers are well down the list.[43]
- On the environmental side (the "E" in ESG), executives of international oil and gas companies consistently share their experience that Canada's environmental standards are as high as any other country in the world. But, there are challenges and controversy. We have a particular stream of hydrocarbons that has relatively high GHG emissions. This, of course, is our oil sands. But, why is it that internal politics within Canada, under the concern about climate change, are tearing the fabric of our country apart when the oil sands represents only 0.15% of global GHG emissions?[44]

I have always felt that leadership is about understanding what is material and what is most important. It is hard to argue that the focus on 0.15% of global emissions is material and of high importance relative to the problem of climate change.

Why is it that the political leaders of our country are prepared to attack, divide, and potentially destroy the country over perceptions about the moral efficacy of a project, that on a global basis, is immaterial to the concern we all have about global climate change?

7. The oil sands are an insignificant part of global GHG emissions and climate change, and emission intensities for oil sands are improving.

Not only are the oil sands an insignificant 0.15% of global emissions, if they are "phased out," as the Prime Minister has suggested, what would replace these volumes?[45] In the practical reality of available substitutes, markets, the economy, and reasonable timeframes, it would be heavy crude volumes from other countries, notably Saudi Arabia, Iraq, Venezuela, Mexico, and a few, less significant suppliers. These suppliers have significantly poorer ESG standards and performance.

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[38] BP, *BP statistical review of world energy 2018.*; IEA, *Global energy & CO2 status report.*
[39] Statistics Canada.; CAPP, *Frequently used statistics.*
[40] Bloomberg, *Clean energy investment trends 2018.*
[41] BP, *BP statistical review of world energy 2018.*
[42] Transparency International, *Corruption perceptions index 2018.*
[43] Freedom House, *Freedom in the world, 2018.*
[44] Natural Resources Canada, "GHG emissions: A shared challenge."
[45] Muzyka, "Trudeau's 'phase out' oilsands comments spark outrage in Alberta."

Further, the new volumes from these other suppliers would also have a certain emission intensity, which may be 20% less than existing oil sands production. The net reduction in GHG emissions would be 20% of 0.15% which would be a reduction of 0.03% in global emissions.[46] It would be truly inconsequential. Mother Nature would not notice this impact.

The unity of the country is at risk, and the upside of doing so is a truly negligible reduction in GHG emissions.

The emission intensity from the oil sands has improved 29% since 2000,[47] and is expected to improve another 16-23% by 2030.[48] Suncor has higher expectations, targeting a 30% reduction in total GHG emissions of its oil and petroleum products from 2018 to 2030.[49]

8. New projects are now generating emissions levels that may be close to the average level of the crude oil refined within the U.S.

To quote from Suncor's 2018 Climate Risk and Resilience Report, "our greenhouse gas emissions for the average barrel extracted at Fort Hills are on par with the average crude refined in the U.S." (p.12)[50]

To quote from Cenovus's 2018 Carbon Disclosure report, our "oil sands production has an emissions intensity that is less than the average barrel of oil refined in the U.S." (p.5)[51]

To quote from Imperial in a 2018 announcement,[52] new technology being adopted at the proposed Aspen project "could reduce both greenhouse gas emissions intensity and water use intensity by up to 25 percent through lower energy utilization per barrel, compared with traditional steam-assisted gravity drainage technology." Imperial has also stated that their new cyclic solvent process "could virtually eliminate the use of steam and reduce emissions intensity up to 90 percent in certain areas" of their Cold Lake field.

Similarly, Suncor[3] is saying that "[n]ext-generation in situ technologies hold the potential to not only reduce costs, but to also dramatically lower GHG emissions – in some cases by 50 to 70%." (p.4)

How do anti-oil politicians and activists view this emerging performance? How will they view new oil projects within Canada where emission levels are equivalent or below that of the U.S.? The fact that new oil projects within Canada will have emission levels at or below that of the U.S. is a game changer. That story must be told.

On a total fully-assessed ESG basis, Canada is well ahead of most other suppliers from around the world. We can compete not just on the basis of economics, but on the basis of our ESG record.

9. An integral part of our ESG performance is a world-class pipeline transportation system.

On average, 99.999% of oil transported via federally regulated pipelines reaches its destination safely each year.[53] Although, there are occasional pipeline incidents. For example, 2017 was an outlier year, with seven oil and liquids incidents; however, 99.3% of oil spilled was recovered through clean up.[54,55]

Canada's pipeline safety record has been improving as production has been expanding. We are getting better at safety as the industry expands. Over the last ten years, liquids incidents relative to production volumes has declined approximately 90%.[56,57]

The liquids pipeline infrastructure in Canada is far superior to that of the U.S. Both countries are improving, but the number of incidents relative to production in Canada is about one-tenth of incidents within the U.S.[58,59]

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[46] Estimation based on IHS Data.; IHS Markit, "The greenhouse gas intensity of oil sands production."
[47] Natural Resources Canada, *Crude oil facts.*
[48] IHS Markit, "The greenhouse gas intensity of oil sands production."
[49] Suncor Energy Inc, *Report on sustainability.*
[50] Suncor Energy Inc, *Climate risk and resilience report.*
[51] Cenovus Energy, *Cenovus's carbon disclosure: Managing climate-related risks.*
[52] Imperial, "Imperial applying new technologies to reduce oil sands greenhouse gas emissions intensity."
[53] National Energy Board, *Incidents at NEB-regulated pipelines and facilities.*
[54] Canadian Energy Pipeline Association, "Transmission pipeline industry performance report 2018."
[55] National Energy Board, *Incidents at NEB-regulated pipelines and facilities.*
[56] Ibid.
[57] ARC Financial Research.
[58] National Energy Board, *Incidents at NEB-regulated pipelines and facilities.*
[59] U.S. Pipeline and Hazardous Materials Safety Administration, *U.S. liquids pipeline incidents - All reported incidents 20 year trend.*

10. Another integral part of our ESG performance is a world-class marine transportation and safety system.

Oil and refined liquids (fossil fuels) are the largest traded commodity in the world (by value) at $2.1 trillion,[60] and Canada is a major exporter, the fourth largest oil exporter in the world after Saudi Arabia, Russia, and Iraq. It is a major strategic decision for Canada to alter its trade position in this market.

Oil tankers are imperative to global energy trade and have been growing in importance; despite the increases in oil borne cargo, tanker spills have been reduced significantly since the 1970s.[61]

Approximately 85% of 20,000 tanker movements in Canada occur on the East Coast and there is no tanker moratorium in existence or being contemplated.[62]

There are about 1,400 oil tankers annually transiting between Alaska and a refinery complex in Washington.[63]

There have been no significant oil tanker spills offshore Canada.[64] Somewhat ironically, given the controversy of Trans Mountain, it has loaded marine vessels since 1956 without a single spill from tanker operations.[65]

There is considerable evidence that our marine systems and safety standards are becoming more reliable through advanced regulations, advanced ship design (double hull), and more advanced high-tech navigational systems, all combined with a world-class spill response system.

Our world-class marine safety system will only get better with further measures to be implemented through the $1.5 billion National Oceans Protection Plan.

11. There are other significant attributes and contributions relating to our ESG standards and performance that need to be recognized.

Canada was the first country in the world to commit to national methane emission regulations. Further, a study published in 2018 in the journal, Science, named Canada as a world leader in regulations in methane reductions relating to flaring and venting.[66] If our standards were adopted worldwide, methane emissions from oil production could be reduced by almost 25%.

In Alberta, venting and flaring of methane has dropped by nearly two-thirds between 1996 and 2014.[67] We represent a fraction of global emissions, but if our practices were adopted worldwide, it would have a significant impact. We are punching above our weight.
LNG Canada is expected to deliver the lowest level of GHG emissions compared to any similar project in the world.[68]

Our LNG in global markets will be replacing coal. The net result is a meaningful reduction in global emissions. This is an example of what counts – the net reduction in global emissions.

The turnaround of our energy industry requires a profound turnaround in understandings and in the mindset of political leaders within the federal government and certain provincial governments. The need is to look objectively at: 1) Canada's ESG performance within the energy sector; 2) our global standings; 3) the progress we are making; and, 4) objectively recognizing that the global oil and gas sector will be part of the transition to a long-term low carbon future. The only question is whether Canada will play a significant role through this transition, versus being held back and contained within internal, hostile, and divisive politics.

If the full realities are understood, it is easy to argue that Canada should have a prominent and growing presence in energy markets around the world as we transition to a low-carbon future.

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[60] Resourcetrade.earth, *Global resource trade statistics.*
[61] International Tanker Owners Pollution Federation, *Largest tanker spills - Oil tanker spill statistics 2018.*
[62] ClearSeas, *Oil tankers 101.*
[63] Independent Contractors and Businesses Association, "Re: Bill C-48, oil tanker moratorium…"
[64] Transport Canada, *Get the facts on oil tanker safety in Canada*.
[65] Trans Mountain Corporation, *Trans Mountain statistics.*
[66] Masnadi et al., "Global carbon intensity of crude oil production.".
[67] CBC, "Canadian oilpatch rules could cut global emissions, study concludes."
[68] LNG Canada, *Safety and environment.*

12. ***More than $600 million from U.S. non-government organizations has funded Canadian activist groups pursuant to a defined plan, called the Tar Sands Campaign, developed in 2008 with the expressed goal to landlock Canada's oil sands crude from reaching international markets.***[69]

The undermining of our competitiveness is the result of self-inflicted "made-in-Canada" initiatives, but our underlying perceptions of our industry could be described as "made-in-the-U.S.A."

U.S.- based funding and the orchestration of related strategies can reasonably be seen as foreign-sponsored activism directed towards Canadian public policy. The following quotes from the manifesto of the Tar Sands Campaign Coalition reveal the campaign's intentions:[70]

- *"We must keep a special focus on the perceived principle decision-makers in this mix – the Canadian and Alberta governments." (p.12)*
- *"The Lead Campaign Coordinator and two Deputy Coordinators will constitute the Tar Sands Campaign Steering Committee. The Coordination Center shall remain invisible to the outside and to the extent possible, staff will be 'purchased' from engaged organizations." (p.13)*

It is a fact that there are numerous individuals within government today who worked with agencies that were receiving foreign funding to tear down Canada's oil sands sector.[71]

As a final comment on this point, the Tar Sands Campaign Coalition document highlights the main problem of Canada's oil sands being "high life cycle carbon content."[72] This is no longer true for new projects, however, it is my understanding that the campaign continues.

One profound question must be asked, what would the reaction be if the situation was reversed? If money was flowing from Canada into the U.S., with the express purpose of compromising corporate activity and economic growth in that country? The answer is that it would not be tolerated. Action would be taken. Why have we not acted to stop this activity that is harming our country?

13. ***Canada has succumbed to influences that have created a serious level of polarization and a risk to national unity.***

There is considerable evidence that current energy policy understandings and perceptions are reflecting a dysfunctional level of extremism and rigidity. The clearest, most obvious "in-our-face" evidence is the two legislative initiatives currently within debate: Bill C-48 and Bill C-69. Bill C-48 is extreme in its apparent intent to shut down much needed new market access for Canadian crude oil. It is as if we are trying to drive the risk of environmental impact to zero and have lost perspective of the need to balance environmental and economic outcomes including regional economic development and related benefits. We have also lost perspective of the reality that the oil and gas sector will continue to play a critically important part in satisfying the total long-term energy needs of the world.

Further, we've lost perspective on Canada's positive influence globally, in exporting our high ESG products and standards into other markets. There is also a level of extremism reflected in Bill C-69 with the tilt towards increasing the politicization of project approval decision-making versus independent arm's length, science-based regulatory process. Canada's great historical achievements in independent, regulatory decision-making are being sacrificed in the name of more political decision-making. This is a huge strategic decision for Canada that may be deeply regretted.

Broadly, there is a "rigidity of perspective" apparent in both these policies where a single view dominates, and a balance of considerations has been lost. As perspectives and related policies become increasingly narrow, the natural consequence is increased conflict and polarization. It is as if the dominance of a single perspective, specifically our concern for climate change, is more important than the unity of our country. The great irony is that our level of emissions and potential impact on global climate change is immaterial. It is hard to accept this, but it is reality. This is the central point of my submission.

As a country we have lost our perspective; our understanding of context. We are tearing the country apart for no material gain in solving the global problem of GHG emissions and climate change. Canada is important, but not in the way that our current policies seem to indicate. Instead of shutting ourselves down, we need to bring more of ourselves into markets. We need to keep driving for reduced environmental impacts, new high-efficiency technologies, and even higher ESG standards, in order to model our commitment to continuously advance our ESG performance. This is the win-win strategy for Canada and the planet.

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[69] Krause, *Fair questions.*
[70] Marx, "Tar sands campaign strategy 2.1."
[71] Corcoran, "The ugly pipeline war is no accident. It was the plan."
[72] Marx, "Tar sands campaign strategy 2.1."

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