



## HOW WOULD THE CANADA-CHINA FIPA AFFECT ENBRIDGE'S NORTHERN GATEWAY?



### BACKGROUND

Canada-China Foreign Investment Promotion & Protection Agreement (**CC-FIPA**) is a pending agreement that binds the state (Canada) to protect the investor (China) and vice versa. Any disputes would go before a *tribunal* outside of Canada's jurisdiction. For example, if the people of British Columbia succeed in preventing the building of Enbridge's Northern Gateway, Canada could be sued by China for anticipated loss of profits likely in the billions of dollars. This would be a compelling reason for a new government *not to stop* the project. **CC-FIPA** is the "Greatest Threat to Canada's Democracy."

### NEXEN

- Nexen is in the business of mining Alberta oil sands.
- China National Offshore Oil Corporation (CNOOC) purchased Nexen for \$15.1 billion in 2012.
- Nexen (now owned by CNOOC) has interests that include the Athabasca oil sands through a 7.23% ownership of Syncrude and the Long Lake project.

### PETROCHINA

- PetroChina purchased the remaining 40% of Athabasca Oil Sands Corp (MacKay River oil sands project) in 2012 for \$680M giving this Chinese oil giant full control of an oil sands asset for the first time.

### ENBRIDGE

- Enbridge Inc. is in the business of energy delivery focusing on transport of crude oil, natural gas and other liquids.
- April 2005, Enbridge and **PetroChina** signed a deal to cooperate on a \$2.5 billion pipeline to transport bitumen from Alberta to the West Coast.
- January 2011, **China's Sinopec Corp** among other companies provided \$100 million to Enbridge to fund regulatory and developmental costs.
- January 2012, **Nexen identified as one of the backers for Northern Gateway.**

### THE LINKAGE BETWEEN CANADA CHINA FIPA AND ENBRIDGE'S NORTHERN GATEWAY

- **CC-FIPA** grants China new powers in Canada in order to protect China's investments.
- Currently, China has invested \$27 billion plus in Canada's natural resource sector.
- Under the rules of **CC-FIPA**, China's companies can sue us for anything that adds additional costs through delays, new regulations or puts the choices of Canadians above their ability to make profit.
- Nexen (now owned by China) has an end goal to ship bitumen through Enbridge's pipelines. Any resistance to stop the flow of bitumen could trigger a lawsuit under the rules of **CC-FIPA**.
- A tribunal that does not consider Canada's Constitution or legal system would decide compensation of China's lost profits.
- One way compensation would be recovered is directly out of the pockets of Canadian taxpayers. The alternative would see the Government of Canada attempting to bypass the Constitutional rights of First Nations and Canadians to allow bitumen to flow through Enbridge pipelines in order to avoid paying compensation.
- **CC-FIPA** would handcuff Canada for 31 years.
- The only legal challenge to **CC-FIPA** to date is by Hupacasath First Nation.

## REFERENCES

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