CHAPTER 12: *International Investment Policy*

THE CANADIAN GOVERNMENT is committed to stimulating and attracting business investment from both domestic and international sources. More than merely focusing on capital, it also seeks to encourage the transfer of ideas and technology. In addition, it works to foster a climate supportive of entrepreneurial initiative as the most effective way of stimulating economic activity and creating employment. In shaping and implementing its investment-related policies, Canada's federal government consults continuously with the private sector as well as with the provincial and territorial governments.

INVESTMENT CANADA ACT

For the past decade, successive federal governments have based investment policies on the fundamental principle of being "open for business". This principle is enshrined in the 1985 Investment Canada Act, the purpose of which is to encourage and facilitate investment from domestic and international sources.

Regulatory Aspects

In keeping with its open-for-business philosophy, the threshold for the review of foreign investments has been raised and the range of transactions exempted from review has been increased. Portfolio investments, the acquisition of assets that do not constitute a business, and investments in related businesses are neither reviewable nor notifiable. Most investments to establish new Canadian businesses are not subject to review.

For acquisitions of Canadian businesses, thresholds have been established to determine whether a transaction has to be reviewed. For an acquisition below these thresholds, non-Canadian investors need only notify the federal Department of Industry of the investment within 30 days of the transaction.

For the direct, controlling acquisition of a Canadian business whose assets are less than $5 million, there is no review. In cases of an indirect, controlling acquisition of a Canadian business — through the acquisition of its foreign parent — there is also no review provided the assets do not exceed $50 million or 50 percent of the global value of the assets of the transaction.

Transactions that fall above these thresholds are reviewable, unless the investor comes from a World Trade Organization (WTO) signatory country. For a WTO investor, the thresholds have been raised considerably to match the levels accorded North American Free Trade Agreement (NAFTA) member-countries. In these instances, the 1995 review threshold for a direct acquisition is $160 million. There is no review for an indirect acquisition; the company need only notify the government. These changes were made by amendment to the Investment Canada Act as part of Canada's commitments under the WTO.