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HOUSE OF COMMONS
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The Honourable Andrew Scheer
Speaker
House of Commons
Ottawa, Ontario
K1A 0A6

September 28, 2012

Dear Mr. Speaker,

I write to you today on a matter of the utmost urgency. Pursuant to Standing Order 52(2), please accept this letter as written notice of my intention to rise, immediately following the conclusion of Routine Proceedings on Monday, October 1st, 2012, and move, "That this House do now adjourn", for the purpose of an Emergency Debate.

With grave and sweeping implications for Canada's sovereignty, security, and democracy, the *Agreement between the Government of Canada and the Government of the People's Republic of China for the Promotion and Reciprocal Protection of Investments* was announced in February during the Prime Minister's visit to China, signed by the Prime Minister in Vladivostok during the APEC meetings on September 9th, 2012, but kept from the Canadian public and Parliament until September 26th, 2012.

According to the *Policy on Tabling Treaties in Parliament*, the Agreement must be tabled in the House of Commons for 21 sitting days prior to ratification, at which point the Privy Council could, without any public or Parliamentary comment or review, with the simple stroke of a pen, commit Canada to perhaps the most comprehensive trade agreement since the *North American Free Trade Agreement* was enacted in 1994. That such a trade agreement could be negotiated and ratified behind closed doors is profoundly corrosive of Canadian democracy. However insufficient an emergency debate will be under the circumstances, it

could well provide the only opportunity to Parliamentarians to review and discuss this agreement before our country is bound by it for the next 15 years.

The assertion by a spokesman for Trade Minister Ed Fast that, if opposition Parliamentarians wish to debate the agreement they can do so on one of their opposition days, clearly indicates that there is no Parliamentary review of the agreement planned, and speaks to a profound lack of respect for the role of Parliament. Moreover, this assertion completely ignores the reality that only the New Democratic Party and Liberal Party are allotted opposition days, thus short of emergency debate, I am left with the likelihood that this Agreement will not receive any debate in the House of Commons.

Mr. Speaker, in the full knowledge that you will carefully read and consider this critical request, I wish to provide you with a brief overview of precisely what is at stake in your ruling on this debate.

Among the most egregious elements of this Agreement, I would draw your attention to Article 3, "Promotion and Admission of Investment", and its implications for decisions taken under the *Investment Canada Act*. As a substantive obligation, Article 3 compels each party to encourage investments from the other party, and to admit such investments as its laws permit. While apparently innocuous, the impact of this obligation is a bias towards approving investments that risk threats to our national security, or are of marginal or negative net benefit to Canada, given that no published criteria or processes to determine net benefit or national security exist in Canadian law.

This aspect is of particular relevance and urgency given the pending takeover of Nexen by the Chinese National Offshore Oil Company (CNOOC), and the subsequent flood of investment by Chinese state-owned enterprises (SOEs) that is poised to follow. The ratification of this Agreement must inevitably result in any such takeover being viewed favourably, despite the stated opposition of a large majority of Canadians. Parliamentarians must be allowed to debate these implications.

Further to this point, and the unique challenges posed by the operation of SOEs and massive amounts of Chinese state capital in Canada, it is crucial that we collectively pause to consider the wisdom of granting such SOEs favourable access to investor-state arbitration and dispute resolution mechanisms. Even when restricted to strictly commercial enterprises, such mechanisms have a profoundly destructive and chilling effect on Canadian democracy, as has been aptly demonstrated by the Canadian experience with NAFTA Chapter 11 and the ability for US corporations to overturn Canadian laws.

Yet however troubling has been our experience with NAFTA Chapter 11, granting similar access to investor-state arbitration to Chinese SOEs promises to be exponentially more damaging. Any doubt about the interests for whom such enterprises operate was effectively removed this past May, as the Chairman of CNOOC exclaimed, "Large-scale deep-water rigs are our mobile national territory and a strategic weapon." While such an admission is hardly surprising, it must lend additional weight to the urgency of this request before you, as we are mere days away from such an unaccountable and potentially hostile entity being granted the ability to overturn laws or decisions made by democratically elected Canadian

Parliamentarians. If anyone imagines that the implications of such power are benign, they should consider China's recent move to claim \$3 Billion in damages from Belgium, due to the failure of one of its investments in that nation.

As a specific example, should the Canadian public at some point decide that our fossil fuel wealth should be best preserved for domestic use, for any reason whatsoever, Article 33(2)(c) of this Agreement binds the Canadian state to restrict domestic access to fossil fuels in equal measure to those restrictions placed on exports to China. In addition, the national treatment provisions would prevent any level of government, municipal, provincial or federal from setting any conditions to favour Canadian materials or Canadian workers for projects within Canada.

Mr. Speaker, given the urgency and gravity of what is at stake, and the opaque and inherently undemocratic means through which it is poised to be carried out, Canadian Parliamentarians must have an opportunity to discuss this agreement before it is too late. With all due respect, if anything has ever been a Parliamentary emergency requiring a timely debate in the House of Commons, this pressing matter clearly is that moment. I humbly request an emergency debate.

Sincerely,

A handwritten signature in black ink, appearing to read 'Elizabeth May', with a long, sweeping flourish extending to the right.

Elizabeth May O.C., M.P.
Member of Parliament for Saanich-Gulf Islands
Leader of the Green Party of Canada