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effectively restricting the commodity deduction schemes to industry insiders.

"The basic concern was that spreads are being used to shelter some other types of income," said Thaddeus Davis, a lawyer who lobbies for the commodity industry. "We all agree we've got to get rid of the sheltering of unrelated income."

But for professional commodity traders, Davis said, "It's not a question of shelter; it's a question of how they make their living. People in the commodity business are subject to the highest tax rates, up to 70 percent" on their short-term trading profits, he explained. The business is too risky to attract speculators unless they can use special trading techniques to convert their earnings to long-term gains, taxed at the lower rate.

"Without long-term capital gains, the people who are providing the liquidity to the marketplace just won't be there," said Davis.

See STRADDLE, E3

By Merrill Brown
Washington Post Staff Writer

A Senate committee on Tuesday begins consideration of controversial legislation that would revamp the growing telecommunications field, a plan that would entail the most complex restructuring of an industry and a single company — American Telephone & Telegraph Co. — ever undertaken by Congress.

Nearly a year after a House attempt to rewrite the outdated Communications Act of 1934 failed when antitrust concerns blocked legislation from reaching the House floor, the Senate Commerce Committee — now chaired by Sen. Robert Packwood (R-Ore.) — takes on the issue again.

The Senate hearings will begin the sixth year of still unsuccessful and often bitter congressional debate about the future of the

industry and AT&T, its largest component. The atmosphere surrounding that debate is clouded by three major court cases, uncertain Reagan administration policies, new regulators, congressional preoccupation with budget and tax issues, and an increasingly fragmented industry.

Thus — although prospects for passage of the legislation by the Republican-controlled committee appear bright, with endorsement of the bill by four majority members including Packwood and Sen. Barry Goldwater (R-Ariz.) who is the communications subcommittee chairman — prospects for ending the legislative logjam are, at best, murky.

Further complicating the legislative picture is a potentially divisive Republican tussle between Packwood and Sen. Strom Thurmond (R-S.C.), chairman of the Judiciary Committee. Thurmond has announced plans

to seek a referral to his committee of the bill because of the same antitrust concerns that prompted Rep. Peter Rodino (D-N.J.), House Judiciary chairman, to get a review of last year's House bill.

Rodino's efforts and a recommendation against the legislation effectively killed the

"It's our number one deregulatory bill. Nothing has higher priority."

— William Diefenderfer, Commerce Committee chief counsel

bill last fall. Despite important differences between the rules of the chambers of Congress, Thurmond could put a roadblock in

the way of plans laid by the bill's supporters.

The antitrust issue revolves around the bill's provisions that alter a government antitrust decree with AT&T. In addition, most experts say such legislation could alter the relief options facing the court hearing the government's current antitrust suit against AT&T.

But there is nothing on the Commerce Committee's regulatory agenda more important to Packwood. "Sen. Packwood is committed to having a vote on the bill this year," said William Diefenderfer, the committee's chief counsel. "It's our number one deregulatory bill. Nothing has a higher priority."

On the other hand, Rep. Timothy Wirth (D-Colo.), chairman of a House communications subcommittee and an advocate of House legislation last year, is moving far

See COMMUNICATIONS, E2

Kuwait Oil Profits Buy \$7 Billion Worth of U.S. Securities

Kuwait, the second-largest oil producer in the Organization of Petroleum Exporting Countries, has amassed huge blocks of American securities now worth close to \$7 billion. And if Kuwait's American adviser on U.S. securities, Citibank, has its way, the amount could swell to roughly \$8 billion before the end of the year.

Confidential documents have been obtained by the Chicago Tribune that detail for the very first time an OPEC nation's broad-based holdings in the United States. They dispute the repeated statements of Treasury and other government officials that OPEC's petro-billions invested in the United States are going primarily into short-term money market securities, such as Treasury bills.

They also raise serious questions as to the extent of the equity holdings of the other 12 OPEC producers, including Saudi Arabia, the biggest oil exporter of them all.

The documents reveal that Kuwait — which had petro revenues last year of \$18.6

billion — has acquired from 1 percent to over 2 percent of the common shares of a slew of the biggest U.S. companies including Dow Chemical, J.C. Penney, McDonald's, Honeywell, Burroughs, General Mills, K mart, Burlington Industries, Ralston Purina, Associated Dry Goods Corp. and Kerr-McGee.

The documents, which also detail private meetings between Citibank and Kuwaiti officials, reveal that the OPEC producer is unhappy with that bank's management of its funds and has threatened to shift its assets to another bank. Essentially, it wants Citibank to trade the equity market more aggressively — to generate more capital gains.

Considering the Kuwaiti billions in the marketplace, a more aggressive investment strategy — if adhered to by Citibank — clearly could be a destructive force. It would add considerable more volatility to an already volatile stock market.

Included in the documents obtained by the

Tribune is a complete breakdown of two of the largest Kuwaiti equity accounts managed by Citibank — the Earmarked and Reserve portfolios (which are detailed in an accompanying chart). The holdings are as of last

DAN DORFMAN

April 4. Their asset values, though, are based on stock prices as of last December, and stood at \$2.47 billion — about a \$317 million increase from the cost of the stocks.

All told, Citibank manages five equity portfolios for Kuwait, which, as of last Nov. 28, carried a market value of approximately \$3.7 billion. Another \$3.3 billion was in bonds and short-term securities. Plans call for this portfolio, which contains about \$440 million of Canadian equities and bonds, to be increased to over \$8 billion by December.

To guard the identity of the owner of these equities, some of which are stored in Citibank branches in London and Nassau, Citibank lists the Kuwaiti holdings in a secretly coded "M" account.

An examination of Kuwait's equity holdings in the United States — which cover the bread-and-butter of corporate America — shows ownership in 15 U.S. banks. These include interests in Bank of America, Chase Manhattan, Mellon National Corp. and Continental Illinois. Kuwait's biggest interest in a bank — 2.2 percent — is held in the Pittsburgh National Bank.

The Kuwaitis also are using their surging oil revenues to buy up sizable chunks of the most important U.S. energy companies. In fact, more than 22 percent of their two biggest portfolios is centered in oil and oil-service companies. Included are over 1.8 million shares of Atlantic Richfield, more than 1.2 million shares of Phillips Petroleum and over 1 million shares of Conoco.

Ma Bell is another favorite of the Kuwaitis. The Citibank documents show they shelled out nearly \$100 million to buy close to 1.8 million shares of American Telephone & Telegraph.

Peter Vermilye, Citibank's chief investment officer, declined to talk about the Kuwaiti investments. "We don't talk about our clients' affairs, including Kuwait, and there's no more sensitive account than that one," he said.

Vermilye's concern is understandable since Kuwait — by the virtue of its assets — is undoubtedly one of the biggest, if not the biggest, of Citibank's investment accounts. Its total holdings with Citibank — which is not its only adviser on U.S. investments — probably place it among the top five mutual funds in the country (excluding money market funds).

One Citibank memo, focusing on the size
See DORFMAN, E3

Do Kuwait's Petro-Billions Hurt or Help the U.S. Economy?

DORFMAN, From E1

of Kuwait's investments for the 12 months ending June 30, 1980, notes the following:

- A total of almost \$1.25 billion of interests and dividends was earned in the past year.

- Nearly \$33 billion of funds were transferred in and out of accounts.
- More than \$100 billion of securities transactions were completed during the past year.

These add up to huge management fees from Kuwait, as does its rapid acceleration of U.S. investments, which amounted to only \$540 million at the end of 1974.

The greatly accelerated U.S. equity purchases by Kuwait—and that's only one OPEC member—again raises the obvious question of whether there's a genuine danger of the oil-exporting nations' gaining control, or, at the very least, a strong influence, over some of the leading U.S. companies.

—Paul Erdman, author of "The Crash of '79," and an expert on Mideast affairs, views the Kuwaiti investments as positive. Even though the Kuwaitis are insisting on aggressive trading, they're still making a long-term bet on corporate United States, he said. "And the fact they're working with Citibank, rather than through a Swiss account or a hot-shot Caribbean bank, shows they're being responsible." He said he expects Kuwait always to stay below the 5 percent level in individual U.S. equity investments, so as to avoid making a public announcement.

Acquiring of a position of 5 percent, or more, of a publicly owned company's shares requires a public filing with the Securities and Exchange Commission.

Erdman's lack of concern is not shared by Rep. Benjamin Rosenthal

(D-N.Y.), chairman of the Commerce, Consumer and Monetary Affairs subcommittee, which held hearings in 1979 on foreign investments in the United States.

"I'm deeply concerned about OPEC investments in the United States," said Rosenthal, whose committee will resume hearings in July. "The Treasury's data collection is absolutely inadequate," he said. "We could have OPEC countries buying up huge pieces of America without anyone knowing it... and there's nothing to arrest it. It's frightening."

Rosenthal said he plans to push for new laws to require that every foreign investment in the United States—regardless of how small—be duly reported to both the Treasury Department and the Department of Commerce.

"We need an intelligent inventory of the amount of U.S. assets that are being acquired abroad," he said. "Foreign investments may be good for us—but not if they lead to foreign domination."

An Inside Look At Where Kuwait Invests Its Billions

	Holding in 100's	Market Value	Cost	% of Portfolio
AUTOS-DURABLES				
Black & Decker	1,651	3,487,737	4,009,494	0.14
Eaton Corp	32	120,000	104,525	0.00
Firestone T-R	6,990	8,737,500	7,174,262	0.35
General Motors	4,927	26,051,512	24,429,030	1.05
Goodyear-T-R	7,609	15,122,887	12,106,370	0.61
Stearns Power	410	1,081,375	627,505	0.04
FOREST PRODUCTS				
Dow Chem Co	5,610	17,250,750	16,619,250	0.70
Weyerhae	11,661	45,186,375	51,123,390	1.83
CHEMICALS				
Dow Chem Co	11,349	43,409,925	52,620,035	1.76
DuPont	7,498	37,115,100	32,552,118	1.50
Economics Lab	1,635	3,494,812	4,721,682	0.14
FMC Corp	820	2,859,750	1,993,420	0.12

Groce (WR)	788	4,018,800	2,785,234	0.16
Lubrizol Corp	1,845	11,116,125	7,167,892	0.45
Rohm & Haas	590	3,422,000	3,957,081	0.14
Williams Co.	622	2,278,075	1,696,062	0.09
MISCELLANEOUS NONDURABLES				
Burlington Ind	4,712	10,189,700	9,968,755	0.41
Chesapeake-Potomac	6,027	20,341,125	17,235,099	0.82
Colgate-Palmolive	3,019	4,830,400	4,526,144	0.20
Eastman Kodak	7,494	61,076,100	73,798,621	2.47
Int'l Flaw-Frag	5,572	11,561,900	14,609,644	0.47
Procter & Gamble	7,865	55,375,150	71,525,249	2.25
Slavens, JP.	1,435	2,080,750	2,258,509	0.08

AMP Inc	1,000	5,500,000	5,334,654	0.22
Hewlett-Packard	3,000	27,750,000	13,643,206	1.12
Intel Corp	1,000	3,625,000	3,934,497	0.15
Perkin-Elmer	578	1,734,000	1,961,117	0.07
Texas Instruments	470	5,487,250	5,775,969	0.22

FINANCE-BANKS				
Arizona Bank	1,151	1,914,857	1,901,850	0.08
BankAmerica Corp	3,379	9,081,662	6,458,334	0.37
Bankers Trust	1,440	4,520,541	2,844,490	0.18
Chase Manhattan	1,377	6,230,925	4,548,245	0.25
Cont'l Illinois	2,276	7,994,430	6,035,601	0.32
Dominion Bkfrs	430	612,750	658,225	0.02
1st Ala Bancshares	300	825,000	772,500	0.03
1st Bank System	1,500	6,412,500	5,561,000	0.26
Bank System	1,500	6,412,500	5,561,000	0.26
1st Comm Corp	250	693,750	600,000	0.03
1st Ind Bancorp	1,527	8,169,450	5,289,677	0.33
1st N.M. Bkfrs	170	301,750	315,445	0.01
1st Ohio Bancorp	100	225,000	191,250	0.01
1st Nat'l Bkfrs	1,750	3,687,500	6,095,800	0.23
1st N.Y. Bkfrs	1,570	5,612,750	4,477,556	0.23
1st N.Y. Bkfrs	1,370	6,102,500	5,279,030	0.27
Pittsburgh Nat'l	100	220,000	193,850	0.01
S. Carolina Nat'l	535	1,183,687	946,300	0.05
Wachovia Corp	930	3,374,750	2,903,935	0.13

Aetna Life & Cos	5,603	25,563,687	20,061,450	1.03
American Express	440	1,287,000	1,047,501	0.05
Cum & Forster	4,913	5,465,712	8,165,589	0.22
Federal Nat'l Mtg	2,377	14,975,100	8,759,309	0.41
Gen. Ry Corp	654	1,912,950	2,240,184	0.08
Northwestern Nat'l	930	3,374,750	2,903,935	0.13

FOOD-BEV-TOBACCO				
Arc-Dan-Midl	2,527	2,086,393	5,769,844	0.21
Bearcat Foods	10,624	21,380,800	25,700,183	0.87
Conamco Inc	5,134	14,888,600	18,699,314	0.60
General Mills	8,864	29,583,600	24,419,478	1.20
Morris, Philip	2,368	12,106,400	6,721,792	0.49
Nabisco Inc	470	1,415,875	1,131,589	0.06
PepsiCo Inc	650	2,153,125	1,303,250	0.09
Popcorn Inc	1,500	2,225,000	2,762,125	0.09
J.R. Reynolds Ind	24,441	32,384,325	38,089,089	1.31
Robinson Corp	4,330	12,557,000	13,640,383	0.51
Standard Brands	15,350	51,806,250	52,725,487	2.10
Am Home Products	5,926	34,815,250	23,352,620	1.21
Tru Labs	7,036	45,423,000	42,320,669	1.84
Eli Lilly Co	3,445	13,566,656	11,824,427	0.55
Harp Corp Am	640	2,696,000	2,181,490	0.11
Humana Inc	4,712	8,887,000	41,773,341	1.98
Johnson & Johnson	5,808	49,150,200	42,256,077	1.99
Marck & Co	8,208	29,446,200	42,473,098	1.99
Schering-Plough	3,146	10,303,150	10,087,052	0.42
Squibb Corp	1,945	4,765,250	4,609,566	0.19

HEALTH				
Am Home Products	5,926	34,815,250	23,352,620	1.21
Tru Labs	7,036	45,423,000	42,320,669	1.84
Eli Lilly Co	3,445	13,566,656	11,824,427	0.55
Harp Corp Am	640	2,696,000	2,181,490	0.11
Humana Inc	4,712	8,887,000	41,773,341	1.98
Johnson & Johnson	5,808	49,150,200	42,256,077	1.99
Marck & Co	8,208	29,446,200	42,473,098	1.99
Schering-Plough	3,146	10,303,150	10,087,052	0.42
Squibb Corp	1,945	4,765,250	4,609,566	0.19
INFORMATION PROCESSING				
Apple Computer	1,945	4,765,250	4,609,566	0.19

Auto Data Proc	1,510	8,493,750	3,766,276	0.34
Burroughs Corp	6,552	34,479,900	51,357,708	1.40
Comp Sciences	1,585	2,872,812	3,088,651	0.12
Computer-Link	1,376	11,263,200	7,781,211	0.46
Control Data	803	5,530,652	4,238,932	0.22
Datcom Corp	1,250	6,953,125	8,324,243	0.28
Datapoint Corp	1,160	6,351,000	4,727,244	0.24
Digital Equip	5,463	51,079,850	46,422,369	2.07
Honeywell	4,054	42,567,000	33,303,965	1.72
IBM	6,040	37,674,500	33,874,934	1.52
Tandem Corp	1,100	8,305,000	7,514,552	0.34
Wang Labs	1,057	4,215,864	2,071,101	0.17

McDonalds	7,359	46,177,725	40,523,114	1.87
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MACHINERY-ELECTRICAL				
Allis-Chalmers	1,000	3,162,500	3,585,106	0.13
Caterpillar	4,197	27,094,031	22,461,850	1.10
CBI Inc	1,247	6,172,650	3,030,001	0.25
Cooper Indus	2,550	11,573,750	12,304,574	0.47
Cross Hinds	2,245	8,136,125	8,277,016	0.33
Deere & Co	1,000	4,612,500	4,308,564	0.19
General Electric	7,885	32,929,500	41,361,453	2.14
Int'l Tool Works	376	1,118,600	963,777	0.05
Ingersoll Rand	1,979	14,570,387	14,452,353	0.59
Jay Mfg Co	800	4,880,000	4,260,522	0.20
McGraw-Hill	20	87,500	78,200	0.00
Norlon Co	928	4,547,200	5,297,480	0.18
Ramborg Corp	269	796,912	854,075	0.03
Stansbury Corp	300	1,828,750	1,742,390	0.07
Wheelabrator-Frye	1,250	7,015,625	6,396,924	0.28

METALS				
Aluminum Co of	930	3,255,000	2,570,863	0.13
Amalgam	1,849	11,952,393	4,600,237	0.48
Cleveland-Cliffs	1,637	6,568,462	4,746,231	0.27
East Gas Fuel	2,180	5,886,000	3,186,405	0.24
Frederick & Co	1,735	12,426,937	10,996,694	0.50
Kennecott Corp	1,000	5,537,500	3,976,544	0.22
Newmont Mining	746	4,425,200	3,900,385	0.19
Pittston Co	3,124	8,122,400	5,895,832	0.33
St Joe Minerals	1,396	7,329,000	1,797,204	0.30
Texasgulf Inc	750	4,106,250	3,557,282	0.17
Westmoreland Coal	589	1,467,225	1,322,025	0.06

OIL SERVICE				
Halliburton	3,080	23,408,000	8,166,039	0.95
Hughes Tool Co	160	1,282,500	1,000,000	0.05
McDermott	3,463	13,159,400	6,266,209	0.53
Schlumberger	418	1,015,687	999,980	0.04
Western Co of N.A.	5,003	50,845,629	11,976,423	2.06
Western Co of N.A.	266	1,493,332	500,000	0.06

OILS				
Amerado Hess	3,257	11,725,200	13,223,556	0.47
Atlantic Richfield	18,082	96,060,625	43,126,204	3.89
Conoco Inc	10,504	59,478,900	33,704,878	2.41
Exxon Corp	1,476	10,129,050	7,705,080	0.81
Gulft Oil Co	2,064	8,566,098	7,635,100	0.33
Karr-McGee	2,071	15,265,949	16,064,653	0.62
Mobil Corp	3,751	29,171,137	27,238,199	1.18
Pennwalt Corp	2,600	10,075,000	15,789,249	0.53
Phillips 66	534	2,423,025	1,839,539	0.10
Refining Indus	600	1,070,000	468,199	0.04
Shelton Corp	12,682	38,971,300	35,863,867	2.39
Sabine Corp	500	3,043,750	1,000,000	0.12
SanJuanBn Ry Co	600	772,500	32,225	0.03
Southland Ry Co	600	1,890,000	803,174	0.08
Std. Oil, Ind	3,412	25,163,300	9,150,610	1.02
Std. Oil, Cal	4,950	20,295,000	12,219,290	0.82
Std. Oil, Ohio	8,622	45,265,500	15,582,924	1.83

Sup Oil Co	2,105	46,571,125	26,942,670	1.89
Transco Cos	44	196,000	124,925	0.01
Union Oil, Cal	2,057	8,099,437	8,444,457	0.33
RETAIL SALES				
Arc Dry Goods	3,511	10,751,437	6,917,640	0.44
Eckerd, Jack	1,933	7,707,837	6,237,382	0.31
Federated Dept Srs	6,673	25,524,225	24,254,374	1.03
K mart Corp	16,791	32,742,450	33,484,896	1.33
May Dept Stores	3,833	10,925,475	12,037,745	0.44
Pennys	10,020	26,932,750	26,355,360	1.17
Tandy Corp	1,000	5,975,000	4,267,128	0.24
Woolworth	1,670	4,404,625	3,895,090	0.18

TRANSPORTATION				
Burlington North	1,409	9,528,903	4,241,620	0.
CSX Corp	1,331	7,502,656	3,726,497	0.
Cons Frl	1,521	5,741,775	3,544,911	0.
Overnite Trans.	190	260,000	445,645	0.
Union Pacifi	500	37,000,000	13,507,651	1.
Yellow Frl. Syst	2,450	4,287,500	4,038,000	0.

JJ

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20506

July 1, 1981

TO: Bill Niskanen
FROM: Elinor Sachse
SUBJECT: TPRG - 7/2/81, 10 A.M.

The activity of Canada's FIRA, in conjunction particularly with the Canadian National Energy Program (NEP) was discussed at CCEA yesterday.

- o National Energy Program (NEP). Announced by GOC on October 28, 1980, NEP is designed to maximize Canadian ownership and control of the oil and gas industry and to reduce oil imports primarily through a switch to gas.
- o Foreign Investment Review Agency (FIRA). FIRA, the Canadian CFIUS with more power, regulates foreign acquisitions in Canada. It has been directed to implement NEP by:
 - prohibiting new investments in Canada by foreign-owned oil and gas firms;
 - rejecting any proposed expansions by such firms into non-energy sectors of the Canadian economy.

You no doubt recall that CFIUS also met yesterday on much related questions.

At CCEA, Brock was asked to take the lead within the Cabinet in this issue. He has also been invited "to attend" Congressman Doyle's hearings next week on these matters. "Unfriendly" (USTR's word choice) tender offers, like that of Seagram for Conoco, have upset the U.S. Congress. MacDonald (DUSTR) held discussions with FIRA in Ottawa, last May.

The TPRG meeting tomorrow at 10 a.m. will cover both MacDonald's discussions and the Canadian NEP; it may lead to a TPC rumored for July 7. There are no papers for tomorrow's TPRG, but Bob's background for the CFIUS is relevant; you may want him to go along.

Attachment

cc: MW
JJ
JB
RM

memorandum

DATE: June 30, 1981

REPLY TO
ATTN OF: Bob MurphySUBJECT: Scope of Authority of the CFIUS and
Briefing Material for Today's Meeting

TO: Bill Niskanen

The Committee on Foreign Investment in the United States (CFIUS) is chaired by the Treasury Department (Assistant Secretary for International Affairs) and consists of representatives at the Assistant Secretary level from USTR, CEA, State, Commerce, and Defense. As described in the Executive Order establishing the CFIUS (E.O. 11858, May 7, 1975), the CFIUS has "primary continuing responsibility within the Executive Branch for monitoring the impact of foreign investment in the United States, both direct and portfolio, and for coordinating the implementation of United States policy on such investment." On general policy guidelines, recommendations from the CFIUS are considered by the Cabinet Council on Economic Affairs (CCEA) subgroup on international investment. On specific investment cases the CFIUS has reviewed many, but has not to date found significant negative effects that would warrant further action. If a decision was to be made by the CFIUS to stop foreign investment in a specific case, it would recommend this decision to a cabinet level committee (probably CCEA). The Administration would then approach the foreign government (or foreign private concern) and express the United States desire to stop the investment. The assumption is that power of persuasion is enough to force the foreign interests to back off as there are no legislative enforcement mechanisms to support such a decision.

The agenda for today's meeting at 4:00 PM in Treasury Building Room 4125 is Canadian investment in the United States. The two issues to be discussed are Seagrams attempt to takeover Conoco and the Elf Aquitaine bid to acquire Texasgulf. Attached are two articles covering these issues which appeared in yesterday's Wall Street Journal. As soon as the material from Treasury arrives (noon at the latest) I'll pass it along to you.

If your have no objections, I'll plan to attend the meeting along with you.

Attachments
cc: AW, MW, JJ, JB

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Conoco Board Weighing Options on Bid By Seagram to Purchase a 41% Stake

By STEVE MUFSON

Staff Reporter of THE WALL STREET JOURNAL

NEW YORK—Will another company rescue Conoco Inc. or will the giant oil and gas concern remain within the grasp of Seagram Co.?

Conoco's fate hangs in the balance as its directors meet this week to discuss the company's options in the face of Seagram's \$2.55 billion bid for 41% or more of Conoco at \$73 a share. The open-ended bid leaves the way clear for Seagram to take complete control of Conoco if enough shares are tendered, and many analysts don't think anything can stop the cash-rich Canadian distiller.

"I'm not sure the story is over," said Warren Shimmerlik, oil analyst with Merrill Lynch Pierce Fenner & Smith Inc. "I can't imagine that the management of Conoco is going to roll over and play dead." But Mr. Shimmerlik said he isn't sure what the company can do or whether there is enough time before Seagram's tender offer expires July 24.

One rumor on Wall Street Friday was that Conoco was buying up shares of Seagram. Seagram closed in New York Stock Exchange composite trading at \$58.25 a share, up \$5.50 in heavy trading, even though it was up only slightly the day it announced its tender offer for Conoco.

But Canadian observers doubted Conoco could seriously threaten Seagram. The Bronfman family owns 35% of Seagram stock individually or through family trusts and the Canadian distiller has sufficient cash from its sale of U.S. energy properties to repurchase its own stock for defensive reasons and still buy control of Conoco. Furthermore, Conoco's purchases would be subject to review by Canada's Foreign Investment Review Agency, which regulates foreign acquisitions.

Several other options remain for Conoco. It could try to persuade its shareholders that the \$73 a share offer is inadequate. "They tried that once before," said Sanford Margoshes, oil analyst with Bache Halsey Stuart Shields Inc. In May Conoco's management urged shareholders not to respond to Dome Petroleum Ltd.'s offer of \$65 a share for 20% of Conoco. Instead, by May 28, slightly more than half the company's shares were tendered to Dome. The readiness of the shareholders to tender probably attracted the attention of Seagram's chairman, Edgar Bronfman, who the next morning called Conoco's chairman, Ralph E. Bailey, with an offer. Most analysts expect a majority of Conoco's shares outstanding to be offered again this time.

Conoco could also look for another suitor. But as Mr. Margoshes observed, "The bigger the stakes the fewer the possible white knights." For another company to top Seagram's bid would cost the company close to \$3 billion. Furthermore, most of the companies with that much money available are oil companies. In addition to the potential anti-

trust problems that would arise from a merger of two oil companies, most oil companies would be better off buying back their own stock. Most oil company stocks are depressed because of the world surplus of oil and slumping prices for refined oil products. Conoco, after two tender offers in two months, is selling at \$65 a share, well above the \$49 a share two months ago and close to its 52-week high of \$73. Conoco closed Friday at \$65.25, up \$3.25.

But Mr. Shimmerlik said, "A lot of companies will come out of nowhere" to buy Conoco because the \$73 price is still well below the company's asset value. Mr. Margoshes, however, said it might be difficult to realize that asset value, at least in the near future. Much of the asset value of Conoco is in the form of coal reserves, and coal prices are soft and the future markets for coal uncertain.

Merger Option

Another option for Conoco would be to try to find another merger partner in an effort to become too big for Seagram to digest. The problem there would be convincing shareholders and finding a company that would fit with Conoco. Such a merger might dilute the earnings of Conoco shareholders.

Nonetheless, investor speculation continued to run high on Friday about such a merger, as Conoco's talks with Cities Service Co. collapsed in the face of the Seagram offer. The two companies had discussed a marriage of equals. Investors turned Friday to other companies, which, like Cities Service, are smaller oil and gas companies. Diamond Shamrock Corp. closed Friday at \$37.875 a share, up \$1.25. Pennzoil Co. closed at \$44.875 a share, up \$2.375.

Conoco also has enough cash and credit—about \$2.5 billion—to make an acquisition of its own. That would presumably push up the value of the stock past Seagram's offer. But it isn't clear that such an action would be enough or that Seagram wouldn't boost its offer. The current tender offer would require Seagram to use about half of the cash and credit it has available.

Conoco could also try to liquidate part of the company and sell some of its assets in an effort to get a high price or to make the company less attractive to Seagram. But the remaining company would then be only more vulnerable.

Government Action?

Finally, Conoco could try to get the government to come to its rescue. Samuel Schwartz, Conoco's senior vice president and one of its top negotiators in the talks with Dome and Cities Service, has spent several days before a congressional committee this month testifying about the "discriminatory" Canadian energy policy. He has argued that the U.S. should pass retaliatory measures against Canadian companies seeking U.S. assets.

The Canadian energy policy is aimed at increasing Canadian ownership of the do-

mestic oil and gas industry, which is about 80% owned by foreign companies, mostly American. The policy grants tax and subsidy advantages to Canadian-controlled companies and limits acquisitions by foreign companies.

Mr. Schwartz argued before the committee that the Canadian policy devalued U.S.-owned properties in Canada and thus left Conoco more vulnerable to takeover.

Last week, just hours after Seagram announced its tender offer for Conoco, two members of the House of Representatives introduced legislation to block Canadian takeovers of U.S. companies. Rep. Robert Whittaker (R. Kan.) and Michael Synar (D., Okla.) introduced a bill that would prevent Canadian concerns or citizens from holding more than 5% of stock in a U.S. company. Passage of the bill or any similar legislation was considered doubtful, however, because such a measure could severely affect U.S. relations with its northern neighbor.

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Conoco Sues Seagram in Bid to Block Offer; Damages of \$1 Billion Sought

By a WALL STREET JOURNAL Staff Reporter

NEW YORK—Conoco Inc. began its fight against Seagram Co.'s \$2.55 billion bid to buy 41% of its common stock by simultaneously filing a \$1 billion suit to block the tender offer and urging shareholders not to tender their shares.

Ralph E. Bailey, chairman of Conoco, called Seagram's \$73-a-share offer "inadequate" in a six-page letter to shareholders. He said there is a "wide gap between the intrinsic value of Conoco stock and its market price." He added that Conoco's board "is considering action with a view toward narrowing this gap and thereby enabling all Conoco stockholders to realize more fully the value of their holdings in the near term."

However, Mr. Bailey refused to say what action Conoco might take and Conoco officials refused to comment further on the board's meeting Monday.

In New York Stock Exchange trading yesterday, Conoco topped the active list on volume of more than one million shares; it closed at \$65.50, off 37.5 cents.

Three Assertions

Conoco's suit, filed in federal court here yesterday afternoon, accuses Seagram of violating an agreement to refrain from instituting a hostile tender offer, an accord that was reached during friendly negotiations, the suit says. The action also contends that the oil and gas concern failed to reach a

merger agreement with Cities Service Co. because of Seagram's unwelcome tender offer.

A third contention in the suit is that a Seagram takeover of Conoco would violate the liquor laws of many states that prohibit liquor wholesalers from directly, or indirectly, owning retailers of alcoholic beverages. The suit adds that Conoco holds more than 400 licenses to sell beer and wine in various states.

The suit says that Edgar M. Bronfman, Seagram's chairman and chief executive officer, assured Conoco's board and several of its officers that Seagram wouldn't attempt a takeover of Conoco if friendly negotiations failed. On June 17, the suit adds, the Conoco board rejected a Seagram proposal that Seagram would acquire up to 25% of Conoco under certain restrictions. The restrictions dictated that Seagram wouldn't solicit proxies in opposition to Conoco board recommendations and that Seagram wouldn't obtain more than three seats on Conoco's 15-member board, unless the board was expanded.

Subsequently, Seagram announced its unwelcome tender offer and Conoco's talks with Cities Service collapsed. Stamford, Conn.-based Conoco and Cities Service, a

smaller oil and gas concern, had discussed a possible merger.

The suit seeks a court order blocking Seagram's tender offer and imposing on Seagram the restrictions discussed during friendly negotiations between the two companies. It also seeks \$500 million in "consequential" damages and \$500 million in punitive damages.

Denials by Seagram

Seagram said Conoco's suit "is totally without legal merit." It denied making any agreement with Conoco that would bar its move. The company said it agreed to refrain from a hostile offer only as long as Conoco was still negotiating with Dome Petroleum Ltd., which, at the time was making a bid for 20% of Conoco that it later swapped, along with \$245 million in cash, for Conoco's Canadian oil and gas holdings.

Seagram also denied that its offer "escalates the continued Canadianization of America's natural resources to a new and more dangerous level," as contended in Mr. Bailey's letter to Conoco shareholders.

Seagram said no one complained about its ownership of Texas Pacific, which it sold last year to Sun Co. Seagram said the money for the Conoco acquisition comes from that sale and that the money has been kept in short-term securities in the U.S.

Conoco's suit countered that Seagram, a cash-rich company, is a desirable target for a tender offer, but that it is protected from unwelcome offers by "unfair and discriminatory" Canadian legislation.

"While protected . . ." the suit says,

"Seagram Canada expects to do business in the U.S., be treated like any U.S. company, avail itself of U.S. laws permitting tender offers for U.S. companies, and invalidate bylaws and other corporate provisions adopted by U.S. companies to protect themselves from the potentially disastrous effects of raids by Canadian and other foreign investors."

The Canadian government's Foreign Investment Review Act gives a Canadian agency the power to review acquisitions of Canadian companies by U.S. investors.

Variety of Options

In a statement filed with the Securities and Exchange Commission, Conoco said its board on Monday considered a variety of options. These included selling part or all of the company to someone other than Seagram, entering joint ventures, acquiring another company, or liquidating part or all of the company.

Conoco wouldn't say, however, whether it had any concrete possibilities in mind.

A hearing on Conoco's suit is scheduled for July 14. Seagram's tender offer expires July 26.

Conoco Unit's Venture

By a WALL STREET JOURNAL Staff Reporter

PITTSBURGH—Consolidation Coal Co., a Conoco Inc. subsidiary, said it formed a joint venture and entered a long-term sales agreement with Rheinische Braunkohlenwerke AG of West Germany to develop as

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many as five large coal mines in southwest-
ern Pennsylvania.
Consolidation Coal said the project, when
fully developed, could produce 12.5 million
tons of coal annually. At current market
prices, such production would generate revenue
of about \$500 million annually, it said.
The joint-venture agreement calls for the
Conoco unit and Rheinische to develop as
many as five mines in Pennsylvania's Wash-
ington and Greene Counties. Consolidation
Coal said the reserve's estimated 360 million
tons of recoverable coal could sustain maximum
production levels for about 28 years.
The Conoco subsidiary will have a 76%
interest in the joint venture and Rheinische
the rest. The German company will pay an
unspecified amount of cash at closing. Con-
solidation Coal will operate the mines.
The long-term sales agreement calls for
Rheinische to buy an additional amount of
coal equal to its equity participation.
Consolidation Coal said it intends to close
the transaction by Oct. 31. Preliminary de-
velopment work has begun on the first mine,

which the Conoco unit said will be producing
coal by 1984 and at full production in 1987.

The U.S. concern said coal from the
mines will be shipped to Baltimore, where
Conoco is developing a coal-export terminal.
Consolidation Coal said Rheinische will
grind part of its coal to dust in Germany for
sale to industrial clients as a replacement
for heavy fuel oil.

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Elf Aquitaine Bids to Acquire Texasgulf, Sell Most Of Combined Canada Assets in \$5.1 Billion Package

Canada Development Would Trade Its 37% Holding And Cash for the Assets

By MARIA SHAO

Staff Reporter of THE WALL STREET JOURNAL. Societe Nationale Elf Aquitaine announced a plan to acquire Texasgulf Inc. in a complex \$5.1 billion transaction. After the purchase, Elf Aquitaine would sell all of Texasgulf's Canadian assets and most of its own to Canada Development Corp.

Elf Aquitaine, the French government-controlled oil company, made a tender offer for 63% of the U.S. minerals company and said it will acquire the remaining 37% held by CDC by swapping Texasgulf's Canadian properties.

The French company offered \$50 a common share and \$159.37 a preferred share for all but the 37% block owned by CDC, an investment concern controlled by the Ottawa government. The transaction is valued at \$2.5 billion.

In addition, Elf Aquitaine is selling 75% of its Aquitaine Co. of Canada unit to CDC for \$61.65 a share, or \$993 million (U.S.). CDC purchased on Friday 49% and will buy the remaining 26% following a 30-day waiting period under the Hart-Scott-Rodino Act. Elf Aquitaine plans to use most of the proceeds to fund the tender offer for the Stamford, Conn. minerals producer.

Subsequently, Elf Aquitaine would swap Texasgulf's Canadian assets for CDC's 37% block plus cash in a transaction estimated at \$1.63 billion. The package sets a total value of \$3.13 billion for all of Texasgulf.

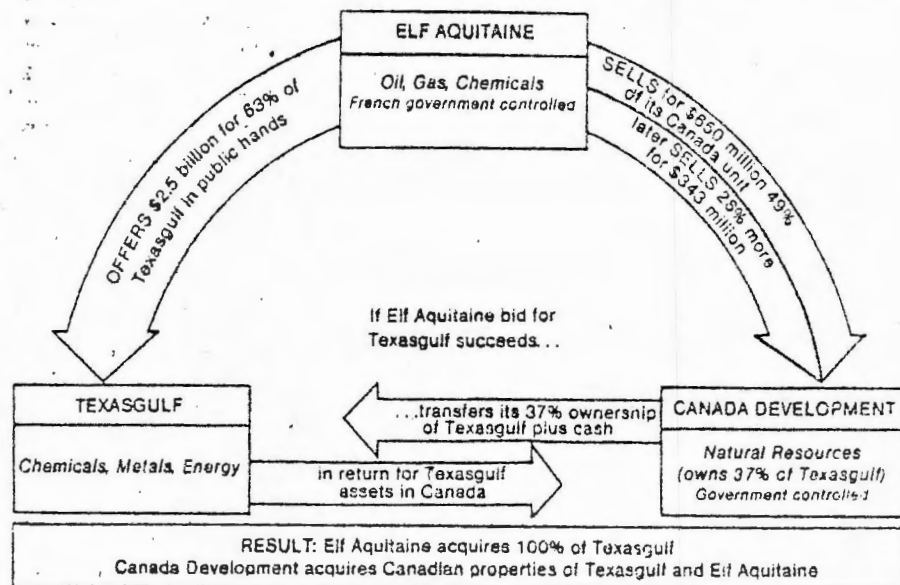
As a result, Elf Aquitaine, which has been seeking diversification into the U.S., would end up with Texasgulf's major U.S. operations in phosphates, sulphur, potash, oil and gas. CDC would become a major natural resources producer by acquiring Texasgulf's Canadian assets in silver, copper and zinc mining and the 75% stake in Aquitaine Co. of Canada, an oil producer. Texasgulf, however, would be dismembered.

Texasgulf executives were taken by surprise and didn't indicate whether they favor or oppose the bid. Directors met Saturday, but said only that they will meet again Thursday. However, the company has retained the law firm of Skadden Arps Slate Meagher & Flom and investment bankers Morgan Stanley & Co. to explore alternatives.

Texasgulf officials were described as "mad" and shocked that CDC, which they considered a friendly shareholder with three directors on Texasgulf's 11-member board, would cooperate in the bid. "Nobody can be happy about cutting the company in half," commented one insider.

The CDC block was crucial to the bold Elf Aquitaine offer, analysts said. They had generally considered Texasgulf more resistant to takeover attempts than other companies because CDC was presumed a friendly holder.

Texasgulf is the latest mining company to be targeted for takeover. Cash-rich com-



shares undervalued, analysts say. The passing of Texasgulf's Canadian mining properties and of a majority stake in Aquitaine of Canada's oil assets into Canadian hands would also underscore Ottawa's new determination to implement policies that favor domestic control of minerals, they added.

Trading in Texasgulf's stock has been active this month amid heavy buying, which saw its shares rise to \$37.50 apiece on the New York Stock Exchange before trading was halted Friday. The price was about \$20 in early June. Still, some takeover professionals asserted the \$50-a-share offer wasn't generous, in light of recent bids for other mining companies like Amax Inc., Kennecott Corp. and St. Joe Minerals Corp.

For Texasgulf, the bid comes less than five months after it lost its chairman Charles F. Fogarty and seven other employees in an airplane crash. However, analysts said the bid wasn't related to his death because the transition conducted by new chairman Richard D. Mollison appeared to have been smooth.

Interest in Kidd Creek

About 42.5% of Texasgulf's assets, or roughly \$850 million, are in Canada, and are mostly in metals. Roughly 53% of its operating income last year came from Canada. CDC has been interested in Texasgulf's high-grade Kidd Creek investment in the U.S. concern eight years ago.

"Kidd Creek has beautiful reserves. It was a great find" by Texasgulf, said George Cleaver, an analyst at Merrill Lynch, Pierce, Fenner & Smith Inc. Texasgulf recently completed a new copper smelter and refinery there, plans to expand Kidd Creek's output, and is exploring for gold nearby. The company's other Canadian assets include interests in oil and gas, woodlands, three sulphur recovery plants and a 40% stake in the Allan Potash Mines in Saskatchewan.

In the U.S., Texasgulf produces sulphur from three Texas mines; phosphates from the Lee Creek facilities in North Carolina; potash at the Cane Creek mine in Utah; soda ash in Wyoming, and oil and gas.

Texasgulf plans major expansions in energy, soda ash and phosphates.

"It's fundamentally a good company," said Merrill Lynch's Mr. Cleaver. "Texasgulf has been very conscious of the importance of developing middle management," he added. In the last two years, Texasgulf benefited from rising prices for metals, sulphur and other fertilizer ingredients. As a result, last year it earned a record \$325.6 million, or \$9.70 a pre-split share, on sales of \$1.1 billion, and return on shareholders' equity rose to 32%. A two-for-one split was declared in April.

But the company's earnings outlook has dimmed this year due to lower metal prices and a disappointing spring fertilizer season. Mr. Cleaver estimates it will earn \$3.50 to \$3.75 a post-split share this year, down from \$4.25 in 1980.

Texasgulf, CDC Relations

CDC made its original investment in Texasgulf in 1973, prompting bitter resistance by the U.S. concern, including lawsuits. Eventually, they settled their differences, and both have maintained publicly that relations have been friendly. However, CDC has said it could increase its stake "materially" at any time, while remaining a minority shareholder.

Wall Street observers considered the moves shrewd for CDC and Elf Aquitaine, and they didn't see any immediate defenses for Texasgulf, since CDC has pledged the 37% stake to Elf Aquitaine. Observers suggested Texasgulf might pursue options including lawsuits, negotiations for a higher price, and imploring the U.S. government to intercede against the foreign bidders.

The French company said it began talks in February with CDC on the transactions and intends to finance the \$2.5 billion tender offer with proceeds from the sale of 75% of Aquitaine of Canada and bank loans.

Elf Aquitaine said it filed lawsuits in federal courts in Louisiana, Nebraska and Utah to enjoin the use of those states' takeover laws to delay its tender offer. The offer ex-

Canada Development to Gain Texasgulf, Elf Aquitaine Holdings in Oil, Minerals

By LEONARD ZEHR

Staff Reporter of THE WALL STREET JOURNAL

TORONTO — Canada Development Corp.'s bid to buy control of Aquitaine Co. of Canada Ltd. and the Canadian assets of Texasgulf Inc. would make the former government investment agency a major natural resources producer.

But the purchases also could weaken the company's claim that it operates free of government influence. "A lot of people are going to wonder and worry about the politics behind these deals," says an investment analyst close to Canada Development.

Since it was created 10 years ago by an act of the Canadian parliament with a mandate to promote Canadian investment, Canada Development has fought vigorously to convince investors that its board operates independently of the government, which owns 49% of the company. But due to continuing fears over possible government involvement, Canada Development shares always have traded at a discount.

While playing down the political aspects of the Aquitaine and Texasgulf transactions, a spokesman for Canada Development conceded the purchases were in line with the government's goal of boosting domestic ownership in the natural resources sector.

Purchase Hailed

In Ottawa, Canadian energy minister Marc Lalonde reiterated that the Canada Development decision to buy control of Aquitaine Canada was "purely a business decision," taken on the company's initiative and without government prompting.

In hailing the purchase, Mr. Lalonde predicted that, with the planned transaction, the government's goal of achieving at least 50% Canadian ownership of oil and gas production by 1990 will be realized "well before" then.

The plan to buy Aquitaine Canada culminates a two-year search by Canada Development for an oil acquisition to augment its small but growing CDC Oil & Gas Ltd. unit. Canada Development originally approached Aquitaine's French parent 18 months ago, but was rebuffed.

Since the government introduced its strongly nationalistic energy program last October, oil-industry analysts have considered Aquitaine Canada a prime takeover candidate.

Aquitaine, which earned \$65.1 million (Canadian), or \$3.02 a share, in 1980, is the 15th largest oil and 13th largest gas producer in Canada. Besides having a coal-mining operation in the U.S., Aquitaine also

is one of the largest owners of oil and gas leases in the Canadian Arctic and offshore eastern Canada.

The proposed cash-and-stock swap with Elf Aquitaine for the Texasgulf assets in Canada would fulfill a goal Canada Development sought when it originally acquired its stake in Texasgulf in 1973. The Texasgulf Kidd Creek mine in northern Ontario is the "prize jewel" of the company, contends Patrick Mars, an analyst with Alfred Bunting & Co., a Toronto securities firm.

David James, mining analyst with Richardson Securities of Canada, figures Canada Development will be able to use Aquitaine's frontier exploration tax credits against income from the Texasgulf assets, which in 1980 contributed an estimated \$136 million (U.S.) to Texasgulf's consolidated net income of \$325.6 million, or \$9.70 a share.

But Richard Stovel, an analyst with Burns Fry Ltd. of Toronto, notes that what Canada Development is getting from Aquitaine and Texasgulf currently represents "poor earning assets," but offers promising long-term growth possibilities.

Financing Disclosed

A Canada Development spokesman said Bank of Montreal, Royal Bank of Canada and Bank of Nova Scotia will provide about \$1 billion to finance the two transactions.

Canada Development in 1980 earned \$189.1 million, or \$5.13 a share, of which \$108.1 million represented its stake in Texasgulf. Besides mining, oil and gas, Canada Development is engaged in petrochemical production, fishing, electronics, life sciences and venture capital.

Under securities legislation in Ontario, Canada Development could be forced to offer \$74 a share, or about \$400 million, for the remaining 25% of Aquitaine Canada shares it hasn't promised to buy. Canada Development said it hasn't decided whether it will seek an exemption from that requirement.

Mr. Stovel of Burns Fry says that to investors, Canada Development always was regarded as a petrochemical company with an interest in Texasgulf. Its petrochemical holdings consist of a 60% interest in Petrosar Ltd. and 100% of Polysar Ltd., both of Sarnia, Ontario.

Going from a minority position in Texasgulf (Canada Development's largest single asset) to the operator of the Kidd Creek mine will have a "profound impact" on Canada Development, Mr. Stovel says. But he adds that based on past experience, "I think they can handle the transition."

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Office of the
Assistant Secretary for
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There will be a full CFIUS meeting
Tuesday, June 30, at 4:00 p.m. in
Room 4125, Main Treasury to discuss the
Seagram tender offer for Conoco and the
Elf Aquitaine-Texasgulf deal.

Attached are:

-- a background paper on the
Seagram-Conoco and Elf Aquitaine-Texas-
gulf deals;

-- a copy of a letter from Assistant
Secretary Leland to the Kuwaiti Ambassador;
and

-- an announcement that Deputy
United States Trade Representative
MacDonald has been appointed as a rep-
resentative to the CFIUS.

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Background Paper for the June 30, 1981, Meeting of the CFIUS
(Conoco-Seagram, Elf-Aquitaine-Texasgulf Deal)

The introduction of the Canadian National Energy Policy has sparked a number of Canadian investments in U.S. oil and gas companies, particularly those with investments in Canada. Since non-Canadian buyers are effectively excluded from the bidding and U.S. corporations find it difficult to find other merger partners while retaining their Canadian subsidiaries, the result could well be the disposition of Canadian assets at less than the market price. Conoco's sale of its Hudson Bay Oil and Gas interests to Dome Petroleum Inc. was, according to Conoco, precipitated by the Canadian NEP. Seagram's, another Canadian firm, is now attempting to takeover Conoco.

In a related development, Elf-Aquitaine, which is 67 percent owned by the French government, announced plans to take over Texasgulf, a U.S. chemicals and natural resources company with substantial Canadian holdings. A part of the deal involves trading Texasgulf's Canadian assets for shares of Texasgulf held by the Canada Development Corporation.

National Energy Program

On October 28, 1980, as part of its budget message, the Canadian Government announced a far-reaching National Energy Program (NEP), designed to maximize Canadian ownership and control of the industry and to reduce oil imports primarily through a switch to gas. The Government, through this program, contains a number of measures which will discriminate against U.S. investment and trade, and could result in reduced energy exploration and production in Canada.

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The government plans to restructure the industry to ensure 50% Canadian ownership of the oil and gas industry in Canada by 1990 and full Canadian control of "several" large, foreign-owned oil and gas companies. The Government of Canada expects to increase its ownership of oil and gas production in the early stages of this program. To accomplish these goals the Canadian Government proposes to:

- Replace some existing depletion allowances with direct incentive payments which are keyed to the level of Canadian ownership.
- Offer preferential treatment to Canadian-owned/controlled firms in granting new gas export licenses.
- Create a natural gas bank to purchase gas which cannot be readily marketed from Canadian-owned/controlled firms, ensuring them a source of needed cash flow for exploration.
- Restrict production on federal Canada lands (the Northwest Territories and Yukon plus the off-shore areas) to firms at least 50% Canadian-owned.

The Canadian Foreign Review Agency (FIRA) will play a major role in implementing the NEP. The NEP directs that FIRA will in the future prohibit new investments in Canada by foreign-owned oil and gas firms. FIRA is also directed to reject any proposed expansions by foreign-owned oil and gas firms into non-energy sectors of the Canadian economy (presumably on the basis of the assumption that such expansions are prima facie of no significant benefit to Canada).

The discriminatory investment measures designed to promote the NEP's objectives are cause for considerable concern in light of the principle of national treatment established as a goal by the 1976 OECD Declaration and a related Decision which reaffirmed the principle in 1979.

Aside from broad issues of principle such as the OECD national treatment concept, the NEP and its investment-related measures raise more immediate issues in the context of the U.S.-Canada bilateral economic relationship. A major question raised by critics is the degree of reciprocity in the relationship. Should the U.S., for example, continue to afford the benefits of national treatment to Canadian investors?

Conoco - Dome Transaction

Conoco, a U.S. oil company with earnings of \$1 billion on revenue of \$18.8 billion in 1980, has been a target for Canadian investors. Dome Petroleum Ltd. and Conoco Inc. recently completed the exchange of 22 million shares of Conoco and \$245 million in cash for Conoco's 52.9 percent interest in Hudson's Bay Oil and Gas Co., Ltd. Total value of the deal is about \$1.7 billion.

From the outset of its offer, Dome's announced purpose in acquiring Conoco shares was to swap the stock back for Conoco's majority interest in Hudson's Bay Oil and Gas, which controls 13.6 million net acres in Canada. Hudson Bay is the second largest natural gas producer in Canada, with the highest gas reserves per acre, and has one of the largest inventories of undeveloped land in western Canada. If Canada's National Energy Program is enacted, Hudson Bay Oil and

Gas, in Canadian hands, would qualify for oil and gas exploration and development subsidies substantially greater than those received by U.S. or U.S.-controlled firms. Thus, potentially Hudson's Bay Oil and Gas is more profitable under Dome's control than under Conoco's.

Conoco initially rejected Dome's original bid for Hudson's Bay Oil and Gas - which would have involved a swap of 14 million Conoco shares for Conoco's controlling interest in its Canadian unit - as grossly inadequate. The offer was worth about \$910 million; Conoco's majority share of Hudson's Bay Oil and Gas was appraised at \$1.07 billion. Industry sources noted that Conoco also objected to the Dome offer because it reduced the number of shares outstanding, leaving the company vulnerable to a takeover attempt.

Conoco also was concerned about a financially weakened Dome as its major shareholder. In the absence of a swap, the Canadian firm would have to borrow \$1.5 billion for the stock purchase, reducing Dome's ratio of annual earnings to debt service to 1.96 - for most financially healthy companies it is about 6. Alleging that a loan agreement between Dome and four Canadian banks violated regulations of the Federal Reserve Bank, Conoco asked the Federal District Court in Oklahoma City to contest the tender offer and, failing that, to restrict Dome from exercising direct or indirect control over Conoco's management. Conoco failed to win an injunction against Dome. Five days later the companies reached an agreement, confirming industry rumors that behind-the-scenes negotiations were taking place while the parties

were in court. The Conoco chairman, Mr. Sam Schwartz, later indicated that he believed the company received fair value for its Canadian holdings.

Joseph E. Seagram & Sons Ltd.'s Tender Offer for Conoco Inc.

Joseph E. Seagram and Sons, Ltd. of Montreal announced on June , 1981, a tender offer of \$73 a share for 41 percent of the common shares of Conoco, Inc. Cities Service, previously rumored to have sought a merger with Conoco, has backed out of merger talks. Conoco is cash heavy and its stock price is undervalued in relation to book value. Conoco is attractive because in addition to its oil and gas reserves, it also has 15 billion tons of coal reserves (making it the country's second largest coal company). Moreover, by disposing of Hudson's Bay Oil and Gas, there would be fewer antitrust problems for a major oil company.

Elf-Aquitaine-Texasgulf

Elf-Aquitaine, the oil company which is 67 percent owned by the French Government, announced plans to take over Texasgulf, a U.S. chemicals and natural resources company. The French company offered \$150 per Texasgulf share, and \$159.3 per preferred share. The total value of the offer amounted to \$2.5 billion. Once that take over is completed, Elf plans to exchange Texasgulf's Canadian mining interests with the Canada Development Corporation for that Corporation's holdings of Texasgulf (37%).

Texasgulf earned \$325.6 million, \$9.70 a share, on sales of \$1.09 billion last year, approximately 53% from Canadian operations. About 42.5% of Texasgulf's assets, approximately \$850 million, are in Canada. Its property in Canada includes Kidd Creek Mine, a producer

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of zinc, silver, and copper as well as two nearby gold mines and various oil and gas properties in the western provinces. Following the announcement, some analysts reported that the Kidd Creek Mine might be the world's single best mining property.

Texasgulf's U.S. operations include three Texas sulphur mines, phosphates facilities in North Carolina, a potash mine in Utah, a soda ash in Wyoming, and oil and gas in the Gulf of Mexico. Texasgulf's shares have risen in value from \$30 in early June to \$37.50 by Friday, June 26. However, some stock analysts do not consider the \$37.50 bid generous when compared to recent bids for other mining companies like Amax Inc., Kennecott Corp., and St. Joe Minerals Corp.

Elf Aquitaine is connected to the French Government through the Enterprise de Recherches & d'Actions Petroliers holding company, .

100% owned by the French Government, which owns 67% of Elf. Elf's effort last year to acquire Kerr-McGee was reportedly stymied by then Industry Minister Giraud. This bid may indicate that the new French Administration will permit Elf management a freer hand. It is not clear, however, whether the new French Administration will continue the previous policy of pushing French companies to invest abroad in high technology corporations.

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Cullen
12/15/81



DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

ISTANT SECRETARY

Pg. 2 revised per MEL - 6/24

JUN 25 1981

Dear Mr. Ambassador:

I enjoyed our recent meeting and very much appreciate your cooperation in the Committee on Foreign Investment in the United States (CFIUS) review of the proposed joint venture between the Kuwait Petroleum Corporation (KPC) and Pacific Resources Inc. We hope to be able to conclude that review, which is now under way, relatively soon.

On June 3, a few days after our meeting, KPC and AZL Resources Inc., a U.S. agribusiness and natural resources company, announced the formation of a joint venture. I would appreciate any information you could supply on the Government of Kuwait's intent in this proposed joint venture.

With respect to the general policy towards investments in the United States by foreign governments or entities controlled by foreign governments, the U.S. Government has, since the establishment of the CFIUS in 1975, requested that foreign governments contemplating major investments in the United States consult with us on such investments. This request for consultation does not extend to either diversified portfolio investments in U.S. corporate securities or to investments in U.S. Government securities.

Consultation on major investments gives the United States Government an opportunity to comment on individual investments by foreign governments which, if consummated, might have major implications for the national interest or raise important public policy issues. We view such consultations as beneficial to prospective investor governments as well as to the United States Government in that they will reduce the possibilities for misunderstandings.

CODE	INITIATOR	REVIEWER	REVIEWER	REVIEWER	REVIEWER	
				6303		
SURNAME	MCMRAGON	OUELLETTE	TVARDEK	NEWMAN	MUNK	CORNELL

Kuwaiti and other foreign investment has been welcome in this country for many years in the knowledge that the free flow of capital internationally is beneficial to the world economy. It would, however, be most helpful if you could let us know when major direct investments such as the KPC joint ventures referred to previously are under consideration, especially when those investments are in the energy area. I look forward to hearing from you about the KPC joint venture. Please feel free to contact me or Frank Vukmanic at 566-2386.

Very best regards.

Sincerely,

(Signed) Marc E. Leland

Marc E. Leland
Assistant Secretary
(International Affairs)

His Excellency
AS'UD ibn Nasir Sa'ud al-Sabah
Ambassador to the United States
Embassy of Kuwait
2940 Tilden Street, N.W.
Washington, D.C. 20008

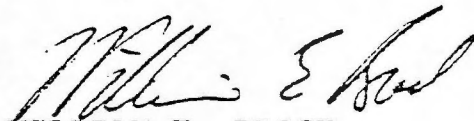
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON
20506

MEMORANDUM

TO: MEMBERS OF THE COMMITTEE ON FOREIGN INVESTMENT
IN THE UNITED STATES (CFIUS)

SUBJECT: Designation of USTR Representative to CFIUS

Pursuant to Executive Order 11858 of May 7, 1975, I hereby designate David R. Macdonald, Deputy U.S. Trade Representative, as the representative of the Office of the United States Trade Representative to the Committee on Foreign Investment in the United States.



WILLIAM E. BROCK
U.S. Trade Representative

memorandum

DATE: July 6, 1981

REPLY TO
ATTN OF: Bob Murphy

SUBJECT: CFIUS Staff Meeting, July 2, 1981

TO: Jerry Jordan

I attended a staff meeting of the Committee on Foreign Investment in the United States (CFIUS) held on Thursday, July 2. The topic of discussion was the attempt by Elf Aquitaine, an oil company which is 67 percent owned by the French Government, to take over Texasgulf, a U.S. chemical and natural resources company. (See attachment for details of the bid.)

The purpose of the meeting was to raise the key issues and to ask participants for input into a draft paper being prepared by Treasury for Assistant Secretary Leland, Chairman of the CFIUS. This paper should be available late Tuesday. I'll pass along a copy to you.

Discussion at the meeting focused on two points:

1. Does the proposed transaction raise problems for anyone,
- and 2. Does the involvement of two foreign governments (Canada and France) per se create difficulties.

On the first point, the relevance of U.S. securities laws for U.S.-based foreign-owned firms raises some questions. When a foreign concern purchases all but 300 shares of a U.S.-based company, the U.S.-based company is no longer required to report to the Securities and Exchange Commission. In addition, the initial bid for Texasgulf need only be 85-90 percent successful for Elf Aquitaine to complete the takeover under short-form merger laws. Under these laws, Elf Aquitaine can automatically buy out remaining shareholders. Hence, with financial disclosure not required for the foreign-owned firm, monitoring and prosecution of potential antitrust violations might prove difficult. Non-disclosure does not present problems for monitoring and prosecution of antidumping/countervailing duty laws since these laws generally apply in cases where the firm is foreign owned. Other aspects of point 1 will be dealt with in the Treasury draft paper. These include national security issues concerning strategic minerals produced by Texasgulf, differential tax treatment of foreign-owned versus U.S. owned firms, and implications for competition in trade.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

On the question about two country involvement: the Government of Canada holds a controlling interest in the Canadian Development Corporation (CDC). As part of the proposed takeover, CDC will swap its 37 percent share in Texasgulf to Elf Aquitaine in return for Texasgulf's Canadian assets. The issue of two foreign governments being parties to a takeover attempt is not a problem by itself. To the extent that Elf Aquitaine desires to invest in Texasgulf and finds that CDC (rather than say a U.S. company) just happens to hold 37 percent of Texasgulf, the government involvement issue is no problem. However, to the extent that Texasgulf is a takeover candidate because of discriminatory Canadian investment policy which makes Texasgulf's Canadian assets more valuable to Canadian firms, then there is cause for concern. Canadian Government involvement would raise questions similar to those currently being discussed in the TPRG. Thus, leaving aside security concerns, the economic issues pertaining to government involvement seem to center around the Canadian National Energy Program (NEP) and its discriminatory investment policies, and not around the involvement of the French Government.

cc: BN, JB, ES, MC, MW, AW

Elf Aquitaine Bids to Acquire Texasgulf, Sell Most Of Combined Canada Assets in \$5.1 Billion Package

Canada Development Would Trade Its 37% Holding And Cash for the Assets

By MARIA SHAO

Staff Reporter of THE WALL STREET JOURNAL
Société Nationale Elf Aquitaine announced a plan to acquire Texasgulf Inc. in a complex \$5.1 billion transaction. After the purchase, Elf Aquitaine would sell all of Texasgulf's Canadian assets and most of its own to Canada Development Corp.

Elf Aquitaine, the French government-controlled oil company, made a tender offer for 63% of the U.S. minerals company and said it will acquire the remaining 37% held by CDC by swapping Texasgulf's Canadian properties.

The French company offered \$50 a common share and \$159.37 a preferred share for all but the 37% block owned by CDC, an investment concern controlled by the Ottawa government. That transaction is valued at \$2.5 billion.

In addition, Elf Aquitaine is selling 75% of its Aquitaine Co. of Canada unit to CDC for \$61.65 a share, or \$993 million (U.S.). CDC purchased on Friday 49% and will buy the remaining 26% following a 30-day waiting period under the Hart-Scott-Rodino Act. Elf Aquitaine plans to use most of the proceeds to fund the tender offer for the Stamford, Conn. minerals producer.

Subsequently, Elf Aquitaine would swap Texasgulf's Canadian assets for CDC's 37% block plus cash in a transaction estimated at \$1.63 billion. The package sets a total value of \$3.83 billion for all of Texasgulf.

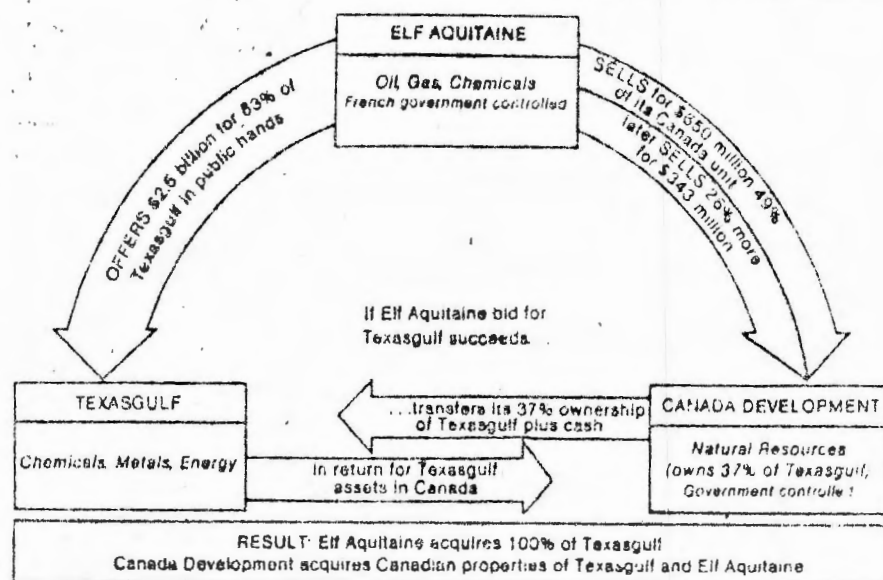
As a result, Elf Aquitaine, which has been seeking diversification into the U.S., would end up with Texasgulf's major U.S. operations in phosphates, sulphur, potash, oil and gas. CDC would become a major natural resources producer by acquiring Texasgulf's Canadian assets in silver, copper and zinc mining and the 75% stake in Aquitaine Co. of Canada, an oil producer. Texasgulf, however, would be dismembered.

Texasgulf executives were taken by surprise and didn't indicate whether they favor or oppose the bid. Directors met Saturday, but said only that they will meet again Thursday. However, the company has retained the law firm of Skadden Arps Slate Meagher & Flom and investment bankers Morgan Stanley & Co. to explore alternatives.

Texasgulf officials were described as "mad" and shocked that CDC, which they considered a friendly shareholder with three directors on Texasgulf's 11-member board, would cooperate in the bid. "Nobody can be happy about cutting the company in half," commented one insider.

The CDC block was crucial to the bold Elf Aquitaine offer, analysts said. They had generally considered Texasgulf more resistant to takeover attempts than other companies because CDC was presumed a friendly holder.

Texasgulf is the latest mining company to be targeted for takeover. Cash-rich companies, especially oil concerns, have made a spate of bids for mining companies this year



shares undervalued, analysts say. The passing of Texasgulf's Canadian mining properties and of a majority stake in Aquitaine of Canada's oil assets into Canadian hands would also underscore Ottawa's new determination to implement policies that favor domestic control of minerals, they added.

Trading in Texasgulf's stock has been active this month amid heavy buying, which saw its shares rise to \$37.50 apiece on the New York Stock Exchange before trading was halted Friday. The price was about \$30 in early June. Still, some takeover professionals asserted the \$50-a-share offer wasn't generous, in light of recent bids for other mining companies like Ammax Inc., Kennecott Corp. and St. Joe Minerals Corp.

For Texasgulf, the bid comes less than five months after it lost its chairman Charles F. Fogarty and seven other employees in an airplane crash. However, analysts said the bid wasn't related to his death because the transition conducted by new chairman Richard D. Mollison appeared to have been smooth.

Interest in Kidd Creek

About 42.5% of Texasgulf's assets, or roughly \$350 million, are in Canada, and are mostly in metals. Roughly 53% of its operating income last year came from Canada. CDC has been interested in Texasgulf's high-grade Kidd Creek investment in the U.S. concern eight years ago.

"Kidd Creek has beautiful reserves. It was a great find" by Texasgulf, said George Cleaver, an analyst at Merrill Lynch, Pierce, Fenner & Smith Inc. Texasgulf recently completed a new copper smelter and refinery there, plans to expand Kidd Creek's output, and is exploring for gold nearby. The company's other Canadian assets include interests in oil and gas, woodlands, three sulphur recovery plants and a 40% stake in the Allan Potash Mines in Saskatchewan.

In the U.S., Texasgulf produces sulphur from three Texas mines; phosphates from the Lee Creek facilities in North Carolina; potash at the Cane Creek mine in Utah; soda ash in Wyoming, and oil and gas, mostly in the Gulf of Mexico. "These things have decent long-term prospects," said Pe-

Texasgulf plans major expansions in energy, soda ash and phosphates.

"It's fundamentally a good company," said Merrill Lynch's Mr. Cleaver. "Texasgulf has been very conscious of the importance of developing middle management," he added. In the last two years, Texasgulf benefited from rising prices for metals, sulphur and other fertilizer ingredients. As a result, last year it earned a record \$325.6 million, or \$9.70 a pre-split share, on sales of \$1.1 billion, and return on shareholders' equity rose to 32%. A two-for-one split was declared in April.

But the company's earnings outlook has dimmed this year due to lower metal prices and a disappointing spring fertilizer season. Mr. Cleaver estimates it will earn \$3.50 to \$3.75 a post-split share this year, down from \$4.85 in 1980.

Texasgulf, CDC Relations

CDC made its original investment in Texasgulf in 1973, prompting bitter resistance by the U.S. concern, including lawsuits. Eventually, they settled their differences, and both have maintained publicly that relations have been friendly. However, CDC has said it could increase its stake "materially" at any time, while remaining a minority shareholder.

Wall Street observers considered the moves shrewd for CDC and Elf Aquitaine, and they didn't see any immediate defenses for Texasgulf, since CDC has pledged the 37% stake to Elf Aquitaine. Observers suggested Texasgulf might pursue options including lawsuits, negotiations for a higher price, and imploring the U.S. government to intercede against the foreign bidders.

The French company said it began talks in February with CDC on the transactions and intends to finance the \$2.5 billion tender offer with proceeds from the sale of 75% of Aquitaine of Canada and bank loans.

Elf Aquitaine said it filed lawsuits in federal courts in Louisiana, Nebraska and Utah to enjoin the use of those states' takeover laws to delay its tender offer. The offer expires July 27 at midnight, unless extended, and is being managed by Salomon Brothers.

Canada Development to Gain Texasgulf, Elf Aquitaine Holdings in Oil, Minerals

By LEONARD ZEHR

Staff Reporter of THE WALL STREET JOURNAL

TORONTO — Canada Development Corp.'s bid to buy control of Aquitaine Co. of Canada Ltd. and the Canadian assets of Texasgulf Inc. would make the former government investment agency a major natural resources producer.

But the purchases also could weaken the company's claim that it operates free of government influence. "A lot of people are going to wonder and worry about the politics behind these deals," says an investment analyst close to Canada Development.

Since it was created 10 years ago by an act of the Canadian parliament with a mandate to promote Canadian investment, Canada Development has fought vigorously to convince investors that its board operates independently of the government, which owns 49% of the company. But due to continuing fears over possible government involvement, Canada Development shares always have traded at a discount.

While playing down the political aspects of the Aquitaine and Texasgulf transactions, a spokesman for Canada Development conceded the purchases were in line with the government's goal of boosting domestic ownership in the natural resources sector.

Purchase Hailed

In Ottawa, Canadian energy minister Marc Lalonde reiterated that the Canada Development decision to buy control of Aquitaine Canada was "purely a business decision," taken on the company's initiative and without government prompting.

In hailing the purchase, Mr. Lalonde predicted that, with the planned transaction, the government's goal of achieving at least 50% Canadian ownership of oil and gas production by 1990 will be realized "well before" then.

The plan to buy Aquitaine Canada culminates a two-year search by Canada Development for an oil acquisition to augment its small but growing CDC Oil & Gas Ltd. unit. Canada Development originally approached Aquitaine's French parent 18 months ago, but was rebuffed.

Since the government introduced its strongly nationalistic energy program last October, oil-industry analysts have considered Aquitaine Canada a prime takeover candidate.

Aquitaine, which earned \$65.1 million (Canadian), or \$3.02 a share, in 1980, is the 15th largest oil and 13th largest gas producer in Canada. Besides having a coal-mining operation in the U.S., Aquitaine also

is one of the largest owners of oil and gas leases in the Canadian Arctic and offshore eastern Canada.

The proposed cash-and-stock swap with Elf Aquitaine for the Texasgulf assets in Canada would fulfill a goal Canada Development sought when it originally acquired its stake in Texasgulf in 1973. The Texasgulf Kidd Creek mine in northern Ontario is the "prize jewel" of the company, contends Patrick Mars, an analyst with Alfred Bunting & Co., a Toronto securities firm.

David James, mining analyst with Richardson Securities of Canada, figures Canada Development will be able to use Aquitaine's frontier exploration tax credits against income from the Texasgulf assets, which in 1980 contributed an estimated \$136 million (U.S.) to Texasgulf's consolidated net income of \$325.6 million, or \$9.70 a share.

But Richard Stovel, an analyst with Burns Fry Ltd. of Toronto, notes that what Canada Development is getting from Aquitaine and Texasgulf currently represents "poor earning assets," but offers promising long-term growth possibilities.

Financing Disclosed

A Canada Development spokesman said Bank of Montreal, Royal Bank of Canada and Bank of Nova Scotia will provide about \$1 billion to finance the two transactions.

Canada Development in 1980 earned \$89.1 million, or \$5.13 a share, of which \$108.1 million represented its stake in Texasgulf. Besides mining, oil and gas, Canada Development is engaged in petrochemical production, fishing, electronics, life sciences and venture capital.

Under securities legislation in Ontario, Canada Development could be forced to offer \$74 a share, or about \$400 million, for the remaining 25% of Aquitaine Canada shares it hasn't promised to buy. Canada Development said it hasn't decided whether it will seek an exemption from that requirement.

Mr. Stovel of Burns Fry says that to investors, Canada Development always was regarded as a petrochemical company with an interest in Texasgulf. Its petrochemical holdings consist of a 60% interest in Petro-sar Ltd. and 100% of Polysar Ltd., both of Sarnia, Ontario.

Going from a minority position in Texasgulf (Canada Development's largest single asset) to the operator of the Kidd Creek mine will have a "profound impact" on Canada Development, Mr. Stovel says. But he adds that based on past experience, "I think they can handle the transition."

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20506

July 7, 1981

MEMORANDUM FOR: Frank Vukmanic
FROM: Bob Murphy
SUBJECT: Elf Aquitaine bid for Texas Gulf

This note briefly summarizes what I see as the two key issues on which an economic (as opposed to national security or antitrust) assessment must focus.

First, the principal of minimizing barriers to flows of goods and services between countries is naturally extended to flows of capital. There is no good economic argument for restricting such flows. In a situation where a foreign government controls the foreign firm involved in the takeover, an argument can be made that future unfair trade practices (subsidies for intermediate goods, sourcing of supplies, dumping of final product produced in U.S.) are possible. Fears of predatory pricing by a U.S.-based subsidiary of a foreign government controlled firm are likely to be greater than in a case where the foreign firm is privately held because the foreign government may not be as concerned about short-term profits. In addition, some may argue that government involvement in private markets alone is a problem, whether it be domestic or foreign government. If, however, U.S. antitrust laws and dumping/countervailing duty laws are properly enforced, the distinction of foreign government controlled versus foreign privately controlled is of little economic consequence. What matters is the operation of U.S. domestic markets and fair international trade practices, not the operation of foreign home markets and the degree of government involvement therein.

Second, the involvement of the Canadian Government through control of the Canadian Development Corporation (CDC) links the Elf Aquitaine-Texasgulf takeover with the broad issue of discriminatory Canadian investment policies. If the 37 percent share held by CDC was instead held by a U.S. company or another foreign concern, there would be little

reason for opposing the deal on economic grounds. Because the deal includes a swap of Texasgulf's Canadian assets for the 37 percent share held by CDC, the issue arises as to whether discriminatory Canadian investment policy has made Texasgulf more susceptible to a takeover bid. Under current Canadian policy, Texasgulf's Canadian assets are more valuable to Canadian concerns than to U.S. or other foreign holders. This aspect of the takeover attempt suggests that economic issues pertaining to government involvement center around the Canadian National Energy Program (NEP), and not around the role of the French Government in Elf Aquitaine. Hence, discussion of this specific case might well be integrated with recent discussions in the Trade Policy Review Group (TPRG) concerning NEP.

cc: JJ, BN, JB, AW, ES, MC