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Summary submission to the House Standing Committee on Public Safety and National Security on key changes needed to Parts 2 and Part 4 of Bill C-70, *An Act respecting countering foreign interference*, and related lobbying laws

Key changes needed to close loopholes in amendments to the “*Foreign Interference and Security of Information Act*” (“*FISIA*” – new title) and the proposed new *Foreign Influence Transparency and Accountability Act (FITAA)* and related lobbying laws that allow for secret foreign interference activities, and to ensure effective enforcement of all these laws

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A. Summary

[Click here to see](#) the webpage for Bill C-70, *An Act respecting countering foreign interference*, on the LEGISinfo website, and [click here to see](#) the text of Bill C-70 at first reading stage, upon which this submission is based.

Part 4, s. 113 of Bill C-70 is the proposed new *Foreign Influence Transparency and Accountability Act (FITAA)*. Part 2 of Bill C-70 adds related new provisions to the federal *Security of Information Act* (proposed in the Bill to be changed to the “*Foreign Interference and Security of Information Act*” (*FISIA*)) containing the offences for actually undertaking secret influence activities that relate to the offences set out in the *FITAA* for failing to register and disclose influence activities.

The points set out below in Part B detail the key gaps in the proposed *FITAA*, and some of the following points also detail related key gaps in the proposed new provisions to be added to the *FISIA*. Some of the points in Part B also detail related key gaps in the federal *Lobbying Act* and provincial, territorial and municipal lobbying disclosure laws.

These gaps mean significant unethical, undemocratic and secret foreign interference activities in Canadian politics will continue to be legal, and foreign agents will not be required to register or disclose these activities in the proposed new Foreign Influence Registry (FIR).

Even if these gaps are closed, the proposed enforcement system for the *FITAA*, and the enforcement system for *FISIA*, and the current enforcement system for the federal *Lobbying Act* and lobbying laws across Canada, and the general anti-corruption and anti-foreign interference system through the RCMP and FINTRAC, all lack independence, effectiveness, transparency and accountability.

The enforcement system changes set out below in Part C need to be made to Parts 2 and 4 of Bill C-70, and similar changes are needed to the enforcement system for the *Lobbying Act* and lobbying laws across Canada, to ensure independent, non-partisan, effective, transparent and accountable enforcement of the *FITAA*, *FISIA* and lobbying laws.

NOTE: Democracy Watch has also provided a full submission to the Clerk of the Committee that provides details for each of the key changes needed to Bill C-70 and related federal, provincial, territorial, municipal and Indigenous government laws that are listed below.

B. Loopholes that need to be closed in proposed *Foreign Influence Transparency and Accountability Act (FITAA)* and new provisions in *Foreign Interference and Security of Information Act (FISIA)*, and related lobbying disclosure laws across Canada, because they allow for secret, unethical and undemocratic foreign interference and influence activities

1. Close loophole that allows for foreign interference arrangements with entities, and allows arrangements with entities to be kept secret.
2. Remove provisions in *FITAA* that allow Cabinet to exempt foreign interference arrangements and foreign agents from the law.
3. Close loophole in *Lobbying Act* that allows for secret lobbying if lobbyist is not paid or lobbies as an employee less than 20% of work time, so foreign agents can't use lobbyists as "proxies" for secret influence.
4. Close loophole in *Lobbying Act* that allows for secret communications, so foreign agents can't use lobbyists as "proxies" for secret influence.
5. Close loopholes in *Lobbying Act* that allows for secret lobbying about contracts, enforcement and tax credits, so foreign agents can't use lobbyists as "proxies" for secret influence.

6. Close loophole in *FITAA* and *FISIA* so foreign interference in political party leadership contests and platforms is prohibited and required to be disclosed.
7. Close loophole in *FITAA* and *FISIA* so foreign influence communications with non-public office-holding nomination and party leadership contestants and election candidates are prohibited and required to be disclosed.
8. Close loophole in *FITAA* and *FISIA* so foreign influence communications with prospective MPs and Senators are prohibited and required to be disclosed (and close same loophole in other laws).
9. Close loophole in *FITAA* and *FISIA* so foreign influence communications with all public office holders at every level of government are covered.
10. Remove provision in ss. 27(b) of *FITAA* that allows Cabinet to exclude people from the definition of “public office holder”.
11. Close loophole in *FITAA* and *FISIA* so foreign influence communications with territorial politicians and public officials are prohibited and required to be disclosed.
12. Close loophole in *FITAA* and *FISIA* so foreign influence communications with judges and lieutenant governors are prohibited and required to be disclosed.
13. Close loophole in *FITAA* and *FISIA* so foreign influence communications with staff, volunteers, friends, family members and close associates of contestants, candidates and parties are covered, so foreign agents can’t use lobbyists as “proxies” for secret influence activities.
14. Close loophole in *FITAA* and *FISIA* so foreign interference by all foreign-owned or controlled businesses will be prohibited and required to be disclosed.
15. Change *FITAA* to detail information required to be disclosed in FIR, and requirements for updates and information retention and disposal, instead of allowing Cabinet to develop regulations.
16. Federal government should not delay extending *FITAA* to provincial and municipal (and territorial) public office holders, as *Constitution* allows federal government to do, and extend it to cover their appointees.
17. Close loopholes in provincial, territorial, municipal and indigenous lobbying laws that allow for secret lobbying and communications, so foreign agents can’t use lobbyists as “proxies” for secret influence.

C. Changes needed to proposed *Foreign Influence Transparency and Accountability Act (FITAA)* to ensure independent, non-partisan, effective, transparent and accountable enforcement

18. Make the Foreign Influence Transparency Commissioner (“FIT Commissioner”) an officer of Parliament funded by Parliament, not a government employee.
19. Change *FITAA* so FIT Commissioner is chosen by an all-party committee from a short-list of qualified candidates submitted by a fully independent appointments committee after a public, merit-based search.
20. Change *FITAA* to prohibit Cabinet from reducing term of FIT Commissioner to less than 7 years.
21. Change *FITAA* so FIT Commissioner serves only one term to prevent Commissioner from trying to please politicians to be re-appointed.
22. Change *FITAA* to prohibit Cabinet from appointing interim commissioner if FIT Commissioner leaves office during term; Deputy Commissioner should fill role while independent process chooses new commissioner.
23. Change *FITAA* to specify that FIT Commissioner appoints Deputy Commissioners, officers and employees of the Commissioner office.
24. Change *FITAA* to require FIT Commissioner to investigate and issue a public ruling on every situation.
25. Change *FITAA* to require FIT Commissioner to impose a penalty for every violation, and change *Lobbying Act* to create and require penalties to be imposed, and increase penalties based on income of violator.
26. Change *FITAA* to require FIT Commissioner to include reasons for every decision.
27. Change *FITAA* to allow any member of the public to challenge a FIT Commissioner decision in court, to ensure accountability.
28. Change the *FITAA* to require the FIT Commissioner to undertake regular, unannounced audits of political offices and communications.
29. Change the federal *Lobbying Act* so that the Commissioner of Lobbying is also independent, non-partisan, transparent and accountable and empowered and required to penalize all violations.
30. Set deadline in *FITAA* for when *FITAA* will come into force.
31. Establish new, specialized, fully independent anti-corruption, anti-money laundering and anti-foreign interference police force because RCMP has been shown to be ineffective.
32. New, specialized, fully independent police force must be required to be independent, transparent and accountable like FIT Commissioner.