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WPC Committee to Review the Structure
of Securities Regulation in Canada
P.O. Box 10026
700 West Georgia Street
Vancouver, British Columbia
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Attention: Mr. Michael Phelps (Chair)

Dear Sir:

Re: Committee on Securities Regulation

Nexen Inc. ("Nexen") is pleased to respond to your Request for Submissions dated May 8, 2003. We agree that the time is right to seek improvements to the current Canadian securities regulatory regimes. Relatively, speaking, Canada is blessed with very stable political and corporate climates, sound fiscal and monetary policies and fairly sophisticated banking institutions. Nonetheless, there are opportunities for improvement that must be acted upon if the Canadian capital market is to retain its current share of the global market and grow.

Nexen is a very successful Canadian-based global oil and gas and chemicals company, that has produced positive returns for its shareholders in 31 of the last 32 years. Our common shares are traded on the Toronto and New York Stock Exchanges under the symbol NXY. We are a voluntary 10-K filer in the U.S. On June 30, 2003, we had 1,307 shareholders holding 123,321,135 common shares and the closing price on the TSX was \$34.15. We also have outstanding preferred securities trade on the New York Stock Exchange.

In the 2002 Financial Post assessment of the top 500 companies in Canada, we ranked 89th by revenue and 10th among oil and gas companies. Nexen is the most international of Canadian oil and gas exploration and production companies, with only 30% of our production in Canada. We explore for, develop and produce conventional crude oil, natural gas and related products in Canada, the U.S. Gulf of Mexico, Yemen, Columbia, offshore Australia and Nigeria. We have a 7.23% joint venture interest in Syncrude Canada Ltd. and are pursuing a pilot project to develop our numerous oil sands leases in the Athabasca region of Northern Alberta. Our Marketing Division sells our crude oil and natural gas production; markets third-party crude oil and natural gas; and, engages in energy trading through both physical and financial contracts (energy trading activities). Our, our Chemicals Division manufactures, markets and distributes sodium chlorate and chlor-alkali products (chlorine, caustic soda and muriatic acid) in Canada and

Brazil. These products are primarily consumed by the pulp and paper industry. We also market a small amount of sodium chlorate and caustic soda in Asia.

The following are some of the financial highlights of our 2002 operations:

Net Income:	\$452 million
Cash Flow from Operations:	\$1,383 million
Oil and Gas Production:	269,000 boe/d
Capital Expenditures:	\$1,625 million
Proved Reserve Additions, net of Dispositions:	102 million boe
Total Assets:	\$6,764 million
Senior Public Debt:	\$1,844 million
Less Working Capital:	\$69 million
Net Debt:	\$1,775 million
Net Debt to Cash Flow:	1.4 times
Shareholders' Equity*:	\$2,348 million

*Included in shareholders' equity are preferred securities of \$724 million (US\$476 million). Under US generally accepted accounting principles, these are considered long term debt.

Nexen operates under a system of "Total Governance" which means that our Board, management and employees work together to meet corporate goals and foster a culture of integrity throughout the organization. We pride ourselves on our pursuit of "best practices" in corporate governance. In 1990, Nexen was among the first of Canadian oil and gas companies to create an Environment, Health and Safety Committee. We also formed a Reserves Review Committee long before many of our competitors. In 1997, we were leaders in developing the International Code of Ethics for Canadian Business. We have established company-wide sustainable business processes, to minimize our impact on the environment. All employees attend integrity workshops to ensure they understand and comply with our commitment to fair and ethical business practices. Also, we believe that our disclosure review practices are representative of the leading edge in Canada. Nexen is currently included in both the Jantzi Social Index and the Dow Jones Sustainability World Index. As well, for the last two years Nexen has been on the Globe and Mail's Report on Business Magazine's list of The 50 Best Companies to Work for in Canada.

For further details of our operations and financial results, please refer to our Annual Report/10-K or see our website at www.nexeninc.com.

Nexen appreciates the scope of the Committee's review and believes that the eight categories of questions should elicit responses that will be helpful to the Committee. From reading our specific responses, three inter-related key themes become apparent. Firstly we believe that a single, national regulator would eliminate the current duplication of effort and inefficiencies, leading to a more transparent and understandable securities regulatory regime. Secondly, Canada must recognize that capital markets are global in nature and must endeavour to harmonize the Canadian market with international markets. In order to achieve this, Canada must be mindful of the relative size of its capital market and seek to position itself within the global market (i.e. endeavour to expand the breadth and depth

of the market to reduce the need for Canadian companies to seek capital Internationally, while becoming more attractive to foreign companies). Finally, we believe that effective enforcement, not just additional regulation, is fundamental to instilling confidence in the securities regulatory regime and the Canadian capital market.

Our specific responses are as follows:

1. What, in your view, are the key strengths and weaknesses of the current structure?

The current structure has some positive attributes. Most of the Canadian regulatory regimes have much in common with international (particularly, U.S.) regimes. This is accentuated by the availability of the MJDS. The MJDS has been of significant value to Nexen and similarly situated Canadian issuers, by allowing such issuers to access the U.S. capital markets efficiently, (i.e. without a cumbersome, time-consuming and costly SEC review). As well, the lead jurisdictions are fairly responsive regarding filings and, particularly for large issuers or listings, are not prohibitively expensive.

There are also some weaknesses in the current structure. The multi-jurisdictional regime is rife with duplications and inefficiencies. Investors and issuers must review volumes of acts, regulations, rules and national instruments in order to navigate through the current structure. The costs of compliance are inordinately high (while the fees are not prohibitive for large issuers, for the level of service provided by some jurisdictions, the rates seem little more than a fee-grab). As well, the Byzantine nature of the structure creates confusion and discourages investment in the market. Furthermore, the lack of harmonization with the international market appears to be ghettoizing the Canadian market. While the current B.C. initiative to strip down that jurisdiction's regulatory regime to a more principles-based approach seems laudible, there is a danger that further movement away from the initiatives of other Canadian jurisdictions or from international (i.e., U.S.) jurisdictions could render it even less harmonized than before. In short, multiple jurisdictions with overlapping or inconsistent provisions confuse issuers, investors and intermediaries, increase transaction costs and reduce transparency.

2. How well are enforcement activities related to capital markets carried out in Canada? Does the present securities regulatory structure enhance or diminish the effectiveness of enforcement? What are the key enforcement issues?

While Nexen has no direct experience with enforcement issues, it appears that enforcement is at times very ineffective and that there is little or no coordination among provincial commissions regarding enforcement proceedings or settlement agreements. We suggest that the current regime would be more adequate if enforcement was effective and that the need for additional regulation is often questionable. For example, alleged improprieties with respect to reserves disclosures by certain issuers (e.g., Meritt Energy, Blue Range, Renaissance, Bre-X) seems to have resulted in little or no sanctions. Rather, the Canadian Securities Administration led by the Alberta Securities Commission (ASC) has responded with what we consider to be a flawed proposal (National Instrument 51-101). NI 51-101 gives the impression that third party evaluations and the enhanced disclosure will prevent future reserve disclosure improprieties. In

fact, the cases mentioned above all had third party evaluators. What is needed is better corporate governance standards and better enforcement.

We also believe there is a risk that if Canadian securities regulators do not seek to enforce the current rules, the SEC may seek to remove whatever benefit issuers gain from the MJDS. In light of the apparent unwillingness of the provinces to be diligent regarding enforcement, Nexen is encouraged by the recently announced initiatives of the federal government in this regard: i.e., *Bill-C46 an act to amend the Criminal Code (capital markets fraud and evidence gathering)* and promises of increased funding and diligence regarding enforcement).

3. How does Canada's regulatory structure affect the International competitiveness of Canadian capital markets and the Canadian economy?

For senior issuers such as Nexen, it is the size, depth and liquidity of the Canadian capital market which is the most restrictive factor. Issuers are required to go to the U.S. markets because of the availability of capital, at competitive rates and on competitive terms. For instance, in the last five years, Nexen has raised over US\$1.4 billion in the U.S. capital markets and only \$375 million in the Canadian capital markets. However, the confusion of multiple jurisdictions and the cost of compliance is certainly another reason Canadian and foreign issuers look elsewhere when seeking to raise capital. The current multi-jurisdictional structure also encourages various regulators to vary their rules, despite the fact that such tinkering appears to add little or no value.

The proposed National Instrument 51-101 is a prime example of a "made-in-Canada" solution that could further marginalize Canada and Canadian issuers from international capital markets. NI 51-101 is a "made-in-Canada" policy geared to smaller Western Sedimentary Basin based companies which presents an entirely new set of problems for inter-listed companies such as Nexen. The "made-in-Canada" approach to reserves disclosure will reduce the attractiveness of Canadian capital markets to foreign issuers who would be required to comply with NI 51-101.

As an inter-listed issuer and an SEC 10-K filer, Nexen would have to file two different sets of reserve data in each of Canada and the U.S in order to comply with NI 51-101. This duplication of effort in compiling reserve data would be extremely costly to Nexen and will confuse investors. Accordingly, we are considering applying for an exemption to allow us to file, as much as possible, our 10-K reserves data as the only set of filed data. It appears, however, that this exemption may not be as broad as it initially appears (For example, the Companion Policy provides in s.8.4 that relief may be obtained from any element which exceeds or differs from SEC requirements. However, the instrument takes the unusual step of directing the content of non-filed information.) Since certain of these terms are again "made-in-Canada", and are at odds with industry accepted forms of disclosures as used by our U.S. peers, or create disputes with partners or host governments, Nexen's general disclosures to the public may be restricted for fear of contravening the Instrument. Another example is that to maintain the exemption, Nexen would be prohibited from **any** disclosure using forecasted prices, as this would trigger compliance with the majority of the provisions in the Instrument resulting in two sets of filed reserve data. Furthermore, the Instrument is geared to companies using only one reserve evaluator, and leaves many unresolved issues on the use of independent evaluators/auditors

from international jurisdictions and the fact that they will not be familiar with NI 51-101, Canadian mandated reserve definitions, or other related mandated aspects of NI 51-101. In order to ensure Nexen does not fall offside these rules, we may also seek an exemption to this rule because NI 51-101 has not taken into account the broader circumstance of Canadian based international, inter-listed companies. This type of regulation is not in the best interests of large international Canadian exploration and production companies. Indeed, there may well come a day when such rules cause senior Canadian issuers to leave the Canadian market completely.

4. How does the current regulatory structure affect your costs of complying with securities regulation? How have recent initiatives by the Canadian Securities Administrators affected these costs? Are there other significant efficiency issues?

Multiple jurisdictions increase the cost of complying with securities regulations. While the various fees present a problem (particularly for smaller issuers), we believe that it is the internal costs and professional costs that are the most problematic. Nexen is large enough to have some securities expertise in-house, which helps keep down the costs of external professional services. However, as domestic securities regulations become more complex and duplicative, these costs are increasing.

The Mutual Reliance Review System has been of some assistance in bringing about some harmonization of regulatory regimes. An attempt at a Uniform Securities Act also seems to be a good approach. While the CSA's national instrument approach is a good "band-aid", the process of developing a national instrument is very slow and any province may ultimately opt out.

We note with interest that previous regulatory reform initiatives were designed to gain efficiencies (e.g. the short-form, shelf, MJDS and SEDAR), whereas many of the more recent initiatives appear to be designed to differentiate Canadian regulations.

5. Are there unique regional and local characteristics of capital markets across Canada that affect you? What regional and local requirements are met by the current structure and how? In particular, do small and medium sized growth companies have unique needs and how does the current regulatory structure accommodate these needs?

While Nexen is a relatively large issuer, we believe that there are few, if any, proven unique regional or local needs / characteristics within the Canadian capital market. Certain commentators would suggest that Alberta and British Columbia securities regulators have over the years responded to regional capital market characteristics in order to reduce barriers to smaller cap corporations. We find this argument unpersuasive and feel that any arguments for regional capital markets invariably have their root cause in multiple jurisdictional issues which themselves impose barriers to capital access to all issuers. This is especially so with respect to the growth engines of the oil and gas industry, which are most certainly global in nature. Issuers and investors, wherever they are situated, all need a common, comprehensible set of securities regulations. We believe that a national regulator, harmonized with international securities

regulators is not an abdication of responsibility or a loss of sovereignty; rather, it is the recognition of the realities of the global capital market.

6. How do you perceive the timeliness, responsiveness and flexibility of the current system in developing policies, rules and regulations and, where necessary, in revising or simplifying them to meet new circumstances?

Under the multi-jurisdictional securities regulatory regime, each jurisdiction may be fairly effective, responsive and flexible in developing policies, rules and regulations. However, when this is repeated over several jurisdictions, any such efficiencies are lost. The inefficiencies in having duplicative or inconsistent rules and administrative procedures make it difficult to access the capital market and to seek changes to the securities regulatory regime. While the CSA has performed some good work, it tends to focus on very narrow issues and must undergo the very time consuming process of seeking consensus among participating jurisdictions. Having 10 (or 13!) jurisdictions with which issuers and investors must contend is not helpful to Canadian competitiveness.

7. What is your assessment of regulatory structures in other countries? Are there lessons to be learned from other countries' experiences?

Of course, the foreign jurisdiction most relevant to us is the U.S. While the U.S. regulatory structure is complicated, there is mercifully only one jurisdiction with which Nexen must comply. The Sarbanes-Oxley Act of 2002 has required Nexen to review and slightly revise its policies, procedures, board committees, etc.; however, our historical approach of pursuing best practices with respect to corporate governance meant that we were already well on our way with respect to many of the changes brought about by the Act. We understand that Australia and the European Union have had some recent successes in terms of harmonizing intranational and international jurisdictions. Presumably, this has been done out of a recognition of the growing globalization of the capital markets. The recent success in integrating the financial services regulators in Australia is proof that regulatory revision is possible. As well, in the European Union, an issuer is regulated in accordance with the laws of its home jurisdiction.

8. What would be the best securities regulatory system for Canada?

Clearly, the *status quo* is not an option. However, any changes should not jeopardize the significant benefits of the MJDS. While Canada's capital market makes up a tiny percentage of the world market, it must institute changes to grow or even maintain its current share. In short, to maintain or increase its competitiveness, Canada requires:

- **a single, efficient, national securities regulator;**
- **harmonized with international jurisdictions (which for many practical matters means the U.S.); and**
- **effective enforcement.**

Constitutional and political realities suggest that instituting such a system may be difficult but, with the appropriate amount of resolve, it can be done. We believe it to be very arguable that

the federal constitutional powers with respect to Regulation of Trade and Commerce and Peace Order and Good Government and the provincial constitutional powers with respect to Property and Civil Rights must be viewed in terms of the international nature of 21st century capital markets. Accordingly, the imposition of a national securities commission is defensible. However, it may be more politically expedient to have participating provinces delegate their powers to a federal commission. Alternatively, the CSA's Uniform Securities Legislation (USL) Project would be much better than nothing. A final alternative may be to allow companies to choose to be regulated by a single national/federal securities commission (e.g. large issuers) or to allow companies to choose among any of the provincial jurisdictions. Ultimately, however, we believe that Canadian issuers and investors deserve a securities regulatory regime embodying the three attributes set out above.

Should the Committee, its staff or the public have any questions regarding our submission, please direct same, in English, to the following:

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We thank you for providing us the opportunity to make a submission in this regard and wish the Committee well in its endeavours.

Yours very truly,

NEXEN INC.



Charles W. Fischer
President and Chief Executive Officer

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