



AN OVERVIEW OF THE CHANGING NATURE OF PETROLEUM JOINT VENTURES IN CANADA

Prepared by:

Alicia Quesnel and Ashley Weldon
Burnet, Duckworth & Palmer LLP

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CHANGING NATURE, SCALE AND SCOPE OF JOINT VENTURES IN CANADA'S NATURAL RESOURCES SECTOR

- *Who has been investing in Canada's natural resources sector?*
- *Why joint ventures?*
- *How are these joint ventures principally structured?*
- *What are some of the key implications of choosing one structure over another?*
- *What have some of the interesting challenges been?*
- *What lessons are we learning from the early joint ventures?*
- *Are these types of joint ventures the future for the continued development of Canada's unconventional resources?*

WHO HAS BEEN INVESTING IN CANADA'S NATURAL RESOURCES SECTOR?

North American Refiners – Integrated North American Operations

- **ConocoPhillips and EnCana Corporation– FCCL**

Oil Sands Projects

- **CNPC, CNOOC, Sinopec, PTTEP**

Petroleum and Natural Gas (Unintegrated)

- **Sasol, CIC, Toyota Toshusho, KNOC, QP**

Global LNG Project Participants– Integrated Global Operations

- **LNG Canada Project**
 - **Shell, Mitsubishi, CNPC, KOGAS**
- **Pacific Northwest LNG Project –**
 - **Petronas, Japex, PB, Sinopec, IOC**

WHO HAS BEEN INVESTING IN CANADA'S NATURAL RESOURCES SECTOR?

STATE OWNED ENTERPRISES – State Capitalism and Energy Security

- CHINA:** **CNPC, Sinopec, CNOOC**
- THAILAND:** **PTTEP**
- SOUTH KOREA:** **KOGAS, KNOC**
- MALAYSIA:** **Petronas**
- MIDDLE EAST:** **QP, PB**
- INDIA:** **IOC**

WHO HAS BEEN INVESTING IN CANADA'S NATURAL RESOURCES SECTOR?

STATE OWNED ENTERPRISES – State Capitalism and Energy Security

3 transactions have been approved in resources sector since the new "foreign investment" SOE guidelines and amendments were enacted:

- DEML(60)/QP (40) (JVP) acquired Suncor conventional natural gas assets;**
- Petronas acquisition of Talisman Montney Assets (Resource play)**
- Partition of Oil Sands Joint Venture Properties between PTTEP and Statoil**

WHY CHOOSE A JOINT VENTURE?

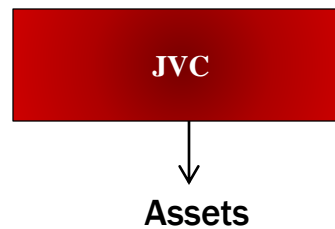
- **Difficult Political climate for Acquisitions**
- **Large Scale Capital Projects – JV's diversify risk exposure**
- **Requirement for an Experienced Operator**
- **Technical Learning Opportunities for resources located elsewhere**
- **Introduction to the Canadian markets**

WHAT IS A JOINT VENTURE (JV)?

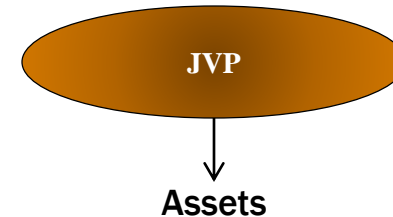
- **The term "joint venture" or "JV" has no legal meaning for general commercial purposes**
 - **Merely refers to the fact that the "undertaking or enterprise" is carried on, directly or indirectly, by 2+ persons**
 - **How persons actually carry on the "undertaking" or "enterprise" will depend on the structure they choose.**

HOW ARE NATURAL RESOURCES JOINT VENTURES PRINCIPALLY STRUCTURED?

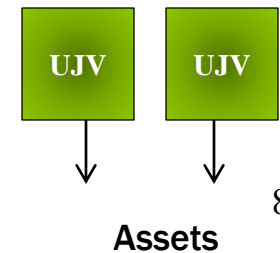
Joint Venture Corporation or "JVC"



Joint Venture Partnership or "JVP"



Unincorporated Joint Venture or "UJV"





KEY IMPLICATIONS OF CHOOSING ONE STRUCTURE OVER ANOTHER

KEY FEATURES

Legal Status

Key Players and Relationship to Entity

Governance

Ownership of Assets/Production

Liability for Debts and Obligations of the Entity

KEY IMPLICATIONS OF CHOOSING ONE STRUCTURE OVER ANOTHER

LEGAL STATUS

JVC	JVP	UJV
<p>Separate Legal Entity</p> <p>A "LEGAL" PERSON</p>	<p>Not a Legal Entity –</p> <p>A RELATIONSHIP OF AGENTS/PRINCIPALS</p>	<p>Not a Legal Entity</p> <p>A RELATIONSHIP AMONG CO-OWNERS</p>
<p>Incorporated by</p> <p>SHAREHOLDERS</p>	<p>formed by</p> <p>PARTNERS</p>	<p>established by</p> <p>PARTICIPANTS</p>
<p>to carry on the joint undertaking or enterprise</p>	<p>to carry on the joint undertaking or enterprise</p>	<p>to carry on the joint undertaking or enterprise</p>



KEY IMPLICATIONS OF CHOOSING ONE STRUCTURE OVER ANOTHER

KEY PLAYERS AND RELATIONSHIP TO ENTITY

JVC	JVP	UJV
Business Corporations Act	Partnership Act	-
Relationship is governed by statute, common law (CL) as modified by a	Relationship is governed by statute, CL and as modified by a	Relationship is governed by CL, as modified by a
UNANIMOUS SHAREHOLDERS AGREEMENT	PARTNERSHIP AGREEMENT	JOINT VENTURE AGREEMENT

KEY IMPLICATIONS OF CHOOSING ONE STRUCTURE OVER ANOTHER

GOVERNANCE

JVC

**Board of Directors/
Senior Management**

JVP

**Management
Committee/Managing
Partner**

UJV

**Operating
Committee/Operator**

KEY IMPLICATIONS OF CHOOSING ONE STRUCTURE OVER ANOTHER

OWNERSHIP OF ASSETS/PRODUCTION

JVC	JVP	UJV
<p>Assets/production are owned by the JVC</p>	<p>Assets/production are Partnership Property owned by the Partners</p>	<p>Assets/production are owned separately by each Participant</p>
<p>Shareholders have no interest in any of the assets/production of the JVC, including the revenues of the JVC.</p>	<p>Each Partner has an undivided interest in <u>all</u> of the assets/production of the JVP, including the net profits of the JVP, equal to its Partnership Interest.</p>	<p>Each Participant has an ownership interest in each asset contributed to the UJV and a corresponding share of production equal to its Participating Interest.</p>
<p>NO RIGHT TO TAKE IN KIND</p>	<p>NO RIGHT TO TAKE IN KIND</p>	<p>UJV does not have "revenues".</p>
<p>Shareholders are entitled to Dividends.</p>	<p>Partners are entitled to Distributions.</p>	<p>Participants are entitled to Production.</p>

KEY IMPLICATIONS OF CHOOSING ONE STRUCTURE OVER ANOTHER
LIABILITY OF PRINCIPALS

JVC

Shareholders have no liability to Third Parties unless they exercise the power of the directors.

Liability is limited to "director liability"

Liability is not linked to shareholder interests

JVP

Partners have joint and several liability to Third Parties

Each Partner is liable for 100% of the obligations and debts of the JVP, regardless of its Partnership Interest.

Partners establish several liability as between them under the Partnership Agreement

UJV

Participants are severally liable to Third Parties

Each Participant is liable for its Participating Interest share of the liabilities

WHAT HAVE SOME OF THE INTERESTING CHALLENGES BEEN?

CULTURAL DIFFERENCES IN NEGOTIATION STYLE *

The Impact of Culture on Negotiation		
Negotiation Factors		
Goal	Contract	Relationship
Attitudes	Win/Lose	Win/Win
Personal Styles	Informal	Formal
Communications	Direct	Indirect
Time Sensitivity	High	Low
Emotionalism	High	Low
Agreement Form	Specific	General
Agreement Building	Bottom Up	Top Down
Team Organization	One Leader	Consensus
Risk Taking	High	Low

"Negotiating: The Top 10 ways that Culture can Affect Your Negotiation", Jeswald Salacuse, Ivey Business Journal, September/October 2004.

WHAT HAVE SOME OF THE INTERESTING CHALLENGES BEEN?

SCOPE OF RESTRICTIONS ON AUTHORITY OF MANAGING PARTNER/OPERATOR

Managing Partner/Operator Control Mechanisms:

Financial Controls (thresholds; secondment to "CFO" position)

Operational Controls (detail in work programs and budgets)

Contracting Controls (thresholds and specified contracting protocols)

Policies and Procedures Controls (MC approval of financial, operational, technical, environmental, insurance (etc.) policies/procedures)

Possible Trade-offs – loss of operational efficiency/ increased costs

WHAT HAVE SOME OF THE INTERESTING CHALLENGES BEEN?

- **Reporting Obligations**
 - **Formal Reports** – Daily, Weekly, Monthly, Quarterly, Annually
 - Level of Detailed Information
 - **"As Requested"**
 - Most challenging
 - Can be administratively burdensome and costly



WHAT LESSONS ARE WE LEARNING?

- **Bifurcation of theory and practice in administration of the JV**
- **Complexities and intentional ambiguities**
- **Pace of Development/Sole Risk in the JVP context**
- **Changing markets impact long term development plans in ways not contemplated**

WILL WE CONTINUE TO SEE CANADA'S UNCONVENTIONAL RESOURCES DEVELOPED THIS WAY?

There is and will remain, in the foreseeable future, a global demand for access to Canadian petroleum and natural gas resources on a resource play and/or "integrated project" basis.

Canadians will continue to look to foreign capital for both conventional and unconventional resource development.