The Mining Association of Canada | L'association minière du Canada

Mining Association of Canada (MAC) 2015 Pre-Budget Submission to the House of Commons Standing Committee on Finance – August 6, 2014

Mining Industry in Transition:
Despite anticipated volatility, healthy demand for mined materials is likely to persist over the long term. As the middle classes of the world's most populous countries continue to emerge, and as their consumption patterns more closely resemble those of western industrialized countries, demand for mineral and metal products, even if at a moderately-reduced pace, is likely to remain strong.

The Mining Association of Canada's research found that proposed mining investment in Canada amounts to upwards of $160 billion over the next ten years. However, major projects (e.g. Cliff's project in the 'Ring of Fire') will be deferred if the return on investment is uncertain. In light of the current global financial challenges and demand outlook, industry needs support from the federal government to navigate the current instability, enhance global competitiveness, prepare to capitalize on future growth prospects, and become an even stronger contributor to Canadian prosperity.

Global Mining Context
2013 was a particularly challenging year for the global mining industry. The 40 largest mining companies booked record impairments, driving aggregate net profits down 72 percent to their lowest level in a decade, lowering their collective market capitalization by 23 percent, or $280 billion. While net profits from emerging market companies were $24 billion in aggregate in 2013, companies headquartered in developed countries operated at an aggregate net loss of $4 billion.

Mining Contributions to the Canadian Economy:
Despite global economic volatility, mining contributed $53.6 billion to Canada's GDP in 2013, accounting for 3.4 percent of the Canadian economy. In the same year, the industry employed approximately 388,000 workers in mineral extraction, processing and manufacturing, and supported a leading global mining supply sector of over 3,200 companies. Over the decade through 2012, the mineral industry paid an estimated $71 billion in taxes and royalties to federal, provincial and territorial governments. Due to data restrictions, this number excludes contributions made by the mining supply sector. The industry also accounted for over 20 percent of the value of Canada's exports. Mining is also responsible for 51 percent of rail freight revenue generated by Canadian railways, 46 percent of rail freight volume, and approximately 40 percent of marine volume shipped.

Support from Governments:
The government has done a good job at strengthening the fundamentals of the Canadian economy in recent years. Maintaining low inflation, reducing the federal deficit, and decreasing national debt all contribute to a positive business environment. The government has also contributed positively in some respects with policy developments and investments supporting the growth of Canada's mining sector, including:

- Regulatory reform
- Geo-mapping (GEM);
- Exploration (Mineral Exploration Tax Credit and flow-through share mechanism);
- Human resources

While the government should stay the course to maintain Canada's economic fundamentals, targeted and proactive policy measures are needed to maintain the Canadian mining industry's global leadership into the future. Specifically, the government should:

1. **Continue Addressing Regulatory Uncertainty and Inefficiencies**

Significant improvements have been made to the *Canadian Environmental Assessment Act* (CEAA), increasing process clarity and efficiency. The CEA Agency has provided a smooth transition to the new regulatory framework governing environmental assessments. The MPMO continues to provide valuable oversight and support to overall reviews of major projects.

Other federal reforms, most notably changes to the *Fisheries Act*, are posing significant challenges to proponents, particularly those caught in the transition between the old and new regimes. These projects face considerable uncertainty regarding requirements and the process for obtaining Section 35 authorizations.

To deliver on its stated regulatory policy objectives, government should:

- ***Ensure Better Integration –*** *Facilitate better coordination so federal permits (e.g. Section 35 authorization) are integrated into the CEAA or Northern Board Environmental Assessments (EAs) to ensure robust assessments, meaningful consultation and timely permitting.*

- ***Clarify the Fisheries Act –*** *Provide sufficient resources to: support projects in transition from the old to new Section 35 requirements; accelerate the development of new policies and authorizations required for Fisheries Act compliance; and ensure consistent project management support in the field.*

- ***Clarify Species At Risk Act (SARA) Processes –*** *Clarify the interaction of the SARA and CEAA processes to make SARA compliance workable.*

- ***Renew MPMO funding -*** *Renew funding to maintain inter-departmental capacity to ensure efficient reviews of major projects and increase funding to provide additional capacity where needed.*

2. Enhance the Competitiveness of Remote and Northern Regions

Given the lack of infrastructure in remote and northern regions (including northern parts of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec and Newfoundland and Labrador), projects in these areas are not on a level playing field with other industries that typically operate in more central, less cost-intensive regions.

To achieve the federal government's policy objectives in the Canadian Northern Strategy, the Arctic Foreign Policy and the focus of Canada's Chairing of the Arctic Council, the government should:

- ***Provide a new 10% investment tax credit to be earned on eligible mining investments undertaken in northern/remote regions of Canada****. The assets that will be entitled to earn the new credit will be those normally located at the mine site and which are required to process the ore and recover the minerals to the prime metal stage (under CCA Class 41 in the Income Tax Act) .*

- ***Provide an additional 15% investment tax credit (i.e. making a total credit of 25%) to be earned on qualifying <u>infrastructure</u> investments required for new mining operations in northern/remote regions of Canada****. Eligible <u>infrastructure</u> investments include those classified under CCA Class 41 in the Income Tax Act and would also include new power generation facilities, ice and permanent roads, airports, dams, railways, ports and other investments not normally needed for mining developments in southern/less remote parts of Canada.*

- ***Make provision, in lieu of the 25% credit, to offer a 25% conditionally repayable contribution (CRC) for special situations where there are large infrastructure deficits and/or the companies involved might not be able to fully access the value of the investment tax credits.*** *The CRC would be conditional upon the governments of the eligible provinces and territories also being participants of the Contribution Agreements. The federal component would be delivered by agencies responsible for regional development, possibly through a P3 structure. Where such conditionally repayable contributions are provided, there may also be an option whereby the ownership of any qualifying infrastructure receiving the CRC incentive reverts to the Crown(s) after a pre-specified period of time.*

3. Enhance Canadian Mineral Taxation Competitiveness

Canada relies heavily on foreign investment, and the mining industry accounts for approximately 9 percent of Foreign Direct Investment annually. Many countries are also competing to attract resource capital and investments, and unfortunately, Federal Budgets 2012 and 2013 significantly reduced Canada's global attractiveness as a destination for mineral investment through the introduction of the Foreign Affiliate Dumping rules, and the reduction or elimination of several mining-specific tax credits.

In our industry, profit tax represents a large share of earnings. It includes corporate income taxes, mining taxes or royalties, and range between 32-48 percent. Additional levies reduce Canada's attractiveness and make the playing field uneven both for investors and when compared to other jurisdictions. MAC believes that a review of these levies should be undertaken.

Specifically, the government should:

- ***Phase Out Withholding Tax Rules –*** *Dividend withholding tax is, in fact, an additional income tax that becomes payable when profits are distributed to foreign shareholders. Canada's dividend withholding tax varies between 5% and 25% and is, therefore, not the same for all investors, creating an uneven playing field. When added to mining and corporate income taxes, total tax on profits remitted to foreign shareholders reach between 35.5% and 61%. In order to facilitate the flow of funds and cross-border investments needed for project development, many countries no longer require dividend payers to withhold tax. The United States has entered into numerous tax treaties which provide for a 0% dividend withholding tax rate. Australia does not require dividend withholding tax to be remitted when a sufficient amount of corporate tax has been paid. The United Kingdom has abolished its dividend withholding tax. Similar statements can be made for many other countries that have augmented their competitiveness beyond Canada in this respect.*

- ***Introduce a Substantial Shareholder Exemption –*** *While business is not static and corporations need to reorganize and focus on their strengths, the Canadian tax system is imposing a cost on those that are trying to do so, leaving assets in the hands of suboptimal owners. Many countries have dealt with this issue by providing capital gain tax exemption (Substantial Shareholder Exemption) on the disposal of shares of corporations that have been owned for more than a year. MAC recommends that Canada introduce a Substantial Shareholding Exemption in order for corporate reorganization performed by Canadian or foreign groups to be tax free and allow for a better allocation of capital.*

4. Increase Rail Data Transparency

Two developments have dominated federal transportation policy over the last year: the Lac Mégantic disaster and poor rail service. Post Lac Mégantic, regulatory developments to respond to Transportation Safety Board edicts have occurred, and a series of consultations to address issues such as dangerous goods, liability, and rail safety are currently underway.

The government's measured approach in developing policy in these important areas is to be commended.

On the rail service front, however, exclusive and interventionist grain sector-specific legislative measures were enacted, without any consultation, that are liable to transfer rail capacity from mining and other sectors to the grain industry. This could further exacerbate our sector's long-standing rail service issues.

Specifically, the government should:

- ***Disclose Railway Service Data –*** *Government should make provisions for the disclosure of the railway data needed to inform public policy decisions, and balance the commercial relationship between railways and shippers. If sector and company-specific data were available to the government and shippers, they could more easily determine the cause of service disruptions and other failures. Various performance measures could provide evidence of capacity displacement from one shipper to another or, conversely, prove that railways are acting responsibly. Moreover, transparency will likely lead to less of an adversarial relationship between railways and shippers as both parties, being aware of the strength of each other's position, will be motivated to negotiate to avoid a legal proceeding and arrive at mutually-beneficial results.*

5. Job Creation

While media has recently called into question the accuracy of labour market intelligence and the extent of the skills shortage in Canada, our members continue to struggle to attract, recruit and retain the workers needed to operate their Canadian mines. According to the Mining Industry Human Resources Council, the Canadian mining industry will need to hire 121,000 workers (not including oil sands) over the coming decade to meet baseline production targets.

This challenge is compounded by the need to replace highly skilled and experienced workers with new entrants who do not have the depth of experience of those they are replacing. This places additional emphasis on the need to communicate industry's needs for knowledge and skills to job-seekers and training organizations, which will support better matching of available talent with jobs in the industry.

While recent human resources actions undertaken in Federal Budgets 2013 and 2014 are aligned with industry priorities, there remains room for expanded synergy between industry and Aboriginal Canadians. Approximately 1,200 Aboriginal communities are located within 200 kilometres of some 180 producing mines and more than 2,500 active exploration properties.

Specifically, the government should:

- ***Continue Aboriginal Skills Training –*** *Governments should continue to collaborate with industry, educators and Aboriginal groups to address the real and ongoing skills shortage in the mining sector. With regards to Aboriginal-specific skills development and training, we recommend continuing ongoing investments in the Aboriginal Skills and Employment Training program as Aboriginal essential skills training and work readiness are critical to the sector's ability to recruit and retain Aboriginal workers.*