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

Finding Solid Ground in a Shifting Environment for Mining

Pierre Gratton's Speech to the Greater Vancouver Board of Trade
September 21, 2016

Thank you for having me and it's a pleasure to be back in Vancouver for my annual state of the industry address.

I come this year at a time of significant change. For our sector, it may even be fair to say we are at a crossroads. The decisions made in Canada over the next few years will determine whether or not Canadian mining thrives and continues to lead the world by example.

Given the time I have, I'm only going to focus on a couple of areas:

1) Climate change; and

2) Regulatory reform and Indigenous relations.

As always, BC will be centre stage as these issues unfold. As the third-largest mining jurisdiction in Canada, BC's actions will have significant bearing on the path we take.

A Look at Market Conditions

As a prelude to these questions of public policy, I'll provide a quick synopsis of current market conditions.

As anyone who follows mining knows, we've been struggling through a difficult downturn. In 2015, the world's top 40 global mining companies operated at a collective $27 billion loss. The slump that began in earnest in 2014 has continued into 2016, but there is now an emerging consensus that the worst is behind us. Some commodities, such as gold and zinc, have rebounded strongly, while others, such as copper, nickel, iron ore and coal, appear to have bounced off the bottom. Recently, steelmaking coal prices have rebounded strongly, too, which is good news for this province.

Signs of life are out there. Goldcorp's acquisition of Kaminak in the Yukon, New Gold's Rainy River project is in full construction and two diamond mines, De Beers' Gahcho Kue in the NWT and Stornoway's Renard mine in Quebec, have opened in the past month, just to name some activity. There is reason for some optimism.

But there is also cause for concern.

I mentioned last year that it's during a downturn that policy makers need to think about how to capitalize on the inevitable upswing. I want to emphasize the urgency of strong policy signals because there are indicators that the global downturn did not leave Canada unscathed.

There is evidence that we're not as competitive as we used to be. In the latest Fraser Institute survey, it was Western Australia that was named the most attractive destination to explore or mine—normally, a Canadian jurisdiction takes top spot. Australia also had three jurisdictions in the top 10 while Canada had just two. This qualitative survey of perceptions is also backed up by quantitative data. When factoring in exploration budgets for iron ore, SNL Metals & Mining data indicates that Canada no longer attracts the single-largest share of total global mineral exploration budgets, conceding first place to Australia in 2015.

The consequences of both absolute and relative declines in Canada's ability to attract exploration investment are serious. As Natural Resources Canada recently noted, overall investment for the more vulnerable off-mine-site exploration work in Canada declined from a high of $2.8 billion in 2011 to $823 million in 2015. In 2016, this number is expected to decline further to $683 million. This total is the lowest for such spending in more than a decade. If this trend continues, it will reinforce concerns about Canada's capacity to generate new mineral discoveries and projects.[1]

Research from mineral economist, Richard Schodde, suggests that companies exploring in Australia get more bang for their buck. He suggests Canada take urgent action to improve discovery rates and enhance exploration efficiency.[2] Additionally, if deposits in other jurisdictions are able to be discovered, developed and marketed in a more timely manner, Canada will lose the advantage of being "first to market", which is critical for many commodities, including potash and uranium.

Last year, I told you that we're down, but we're not out. From what I've just told you, that statement still rings true. But some things *have* changed since I last saw you, namely glimmers of hope in the commodity market. The cycle is turning much to the relief of Canadian miners.

We also have a new federal government – one that is pursuing ambitious policy changes in several areas that will directly affect the Canadian mining industry. All of this is happening just as the sector is starting its rebound.

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1 Natural Resources Canada. *Information Bulletin – Mineral Exploration and Deposit Appraisal (March 2016). Accessed from* http://www.nrcan.gc.ca/mining-materials/publications/17762

2 Schodde, Richard. *Canada's discovery performance and outlook.* Report commissioned by Prospectors & Developers Association Canada for 2015 PDAC Convention. Accessed from http://www.minexconsulting.com/publications/R%20Schodde%20PDAC%20Conf%20March%202015%20FINAL.pdf

This is why I said we're at a crossroads. Decisions will be made in the next few years that will set the direction of the Canadian mining industry for decades to come. We cannot afford to choose the wrong way.

Setting the Right Policy Environment for Investment

So let me now turn the policy issues I raised, beginning with climate change.

In April, MAC released a set of seven climate change principles. The very first one raised a lot of eyebrows, because it called for the establishment of a national price on carbon. Why, many asked, would an industry group support a new "tax"? The answer lies, in part, in the other six principles.

We accept that climate change is happening and that human activity is a contributing factor.

We agree that actions must be taken to reduce carbon emissions.

We believe carbon pricing is the most efficient and effective method to drive emissions reductions, foster innovation, and maintain sustainable and competitive economic growth.

The majority of our members' operations are located in jurisdictions that have put a price on carbon or announced they will do so. What is important, therefore, is *how* it's done. This is where our other six principles kick in.

An effective carbon pricing regime that will lead to reduced carbon emissions and maintain a strong economy must:

- Be revenue neutral – this should not be another tax by governments
- Protect trade exposed, price taking sectors like mining and avoid carbon leakage
- Be sensitive to changing economic conditions and geography – Canada's North has fewer options for reducing carbon emissions than the south and we need to accept this
- Keep it simple – our governments need to work together, avoid duplication and take into account other policy objectives
- Support investments in the development and implementation of technologies that lower emissions
- Recognize early action – emissions today from Canada's mining and smelting and refining sectors are below what they were more than two decades ago.

What do these principles mean for a jurisdiction like British Columbia? A lot, actually. BC's carbon tax is often held up as a model for the rest of Canada for its simplicity and revenue neutrality. But when I stack our principles up against BC's carbon tax, I have a different view.

The fact is, BC's carbon tax as currently designed fails to protect trade-exposed, price-taking sectors like mining and this results in carbon leakage, which in turn creates higher global emissions and lost jobs. This is bad economically and environmentally.

What do I mean by this?

A trade-exposed sector like mining sells its products at a fixed international market price, no matter where they are mined. If a mine in one country has a carbon tax added to its cost base, while a mine in another jurisdiction does not, then the former faces a competitive disadvantage. The mine with the carbon tax also faces higher costs when its suppliers and service providers -- like railways, for example -- automatically pass on the carbon tax they had to pay on to the mine in the form of higher prices. Over time, the mine will lose customers, lose money and, at worst, have to shut down, laying off hundreds, possibly even thousands of employees.

This situation creates 'carbon leakage', shifting production and the economic benefits from jurisdictions that are taking action on climate change to those that are not. The result is jurisdictions that take action on climate change are punished, while those that do not are rewarded with jobs and investment, and climate action is stymied.

This is what BC's current carbon tax is doing and it is why BC's new Climate Leadership Plan rightly commits to fix it. We need to make sure this happens.

Let me be clear. It's not a case of exempting trade-exposed sectors from a carbon tax. What I am saying is that policy makers have to think about the specific conditions facing trade-exposed sectors and take these into account, being especially mindful of what BC's international competitors, like Chile for copper or Australia for steelmaking coal, are doing to implement carbon pricing.

Finding the right policy solutions to fix BC's carbon tax is not difficult. One simple step would be to make it revenue neutral for mining, another of MAC's seven principles. When BC first introduced its carbon tax it said it would be. In practice, it has been revenue neutral for the government and even revenue positive for some in BC. But for mining, especially during the current commodity price cycle when the sector can least afford it, carbon tax payments have far outstripped savings from the corporate tax reductions the Province implemented under the auspices of revenue neutrality.

What all this underscores is that when it comes to carbon pricing, we need to get it right, in BC and across the country. This is especially important as the federal government will be releasing details on its pan-Canadian climate change plan this fall.

Make no mistake, mining is prepared to do its part and, in fact, has been. Our sector has a long history of innovating to manage energy use and reduce emissions. As I mentioned, today’s GHG emissions from mining and smelting and refining are at or below 1990 levels, respectively.

This is largely a result of company action and industry-wide commitment. Today, three-quarters of MAC’s member facilities have comprehensive energy and GHG management systems in place. One of them, New Gold’s New Afton mine, is the first Canadian mine to achieve ISO 50001 certification.

In BC, Teck is piloting LNG as a fuel source in haul trucks at Fording River – the first time this has been tested in Canada. This innovative solution has the potential to eliminate approximately 35,000 tonnes of CO2e annually at Teck’s steelmaking coal operations and reduce fuel costs by more than $20 million. Since 2013, Taseko’s Gibraltar mine has reduced diesel consumption by 285,000 litres, saving $1.3 million and reducing 900 tonnes of GHG emissions annually.

In addition to energy efficiency projects, several MAC members have built renewable power facilities across Canada and globally, as these technologies become more proven and cost-effective.

Mining companies invest millions in R&D every year, but we also know there has to be greater collaboration to expedite change across the sector. Industry, governments and service providers need to band together.

The time is ripe to accelerate GHG reductions through energy efficiency and renewable energy investments with the federal government’s commitment to invest in innovation in the natural resources sector, with a particular focus on clean energy and clean technology.

MAC and its members are working with the Canada Mining Innovation Council, whose Towards Zero Waste Mining innovation strategy has the capacity to transform how the industry operates through next-generation technologies.

Just imagine, underground, continuous mining equipment powered entirely by electric or battery technology. Or, greater adoption of renewable power to reduce remote and northern mines’ reliance on costly and high-emitting diesel. Or, being able to access real-time water quality data for companies and their local communities. Or, reducing waste and tailings during production by improving ore definition during exploration.

This is not pie in the sky. Goldcorp aims to build Canada’s first all-electric, diesel-free, mine in Ontario within five years. All of this is possible in mining, not in 50 years, but within the next 10 to 20 years – if we move now.

Canada’s Regulatory Morass

Let me now turn to a second challenge – a perennial one – which is our regulatory system.

Jack Mintz recently wrote about the cost of Canada’s regulatory burden on the economy by its impact on the return on investment. He wrote “if the regulatory process was as efficient as Australia’s, our tax burden amounts to roughly 24 percent of pre-tax profits. Add three more years of regulatory delay and the tax and regulatory burdens rise dramatically to 31 percent.”

Mintz referred to the 2016 World Bank’s Doing Business report, which ranks the ease of operating a business in 189 countries. This report shows that Canada sits far below our key competitors like Australia and the U.S.

Why this is? After all, didn’t the previous government reform Canada’s regulatory system to make it easier for business? Isn’t that why the new government has launched a review of the reforms to “restore public confidence in our regulatory system,” because the previous government went too far?

My perspective might surprise you. The regulatory reforms of the previous government have failed Canada’s mining sector. And nowhere is this failure playing out more acutely than here, in British Columbia. If it were possible to turn back the clock to 2011 and reverse the changes to the Canadian Environmental Assessment Act, we would happily do so.

Let me explain why this is.

Under CEAA 2012, we have seen deterioration in federal and provincial coordination, adding to delays and uncertainty.

Further, the Act is poorly integrated with post-EA permitting. For mining proponents, it’s not the time it takes for an EA to be completed that matters, it’s the whole time from EA through to final permitting.

CEAA 2012 has created life-of-mine, stand-alone permit with condition statements. This pushes the federal government further into provincial jurisdiction than ever before, but without the capacity for thoughtful follow-up.

And last, but not least, the Act is structured to assess only large, clearly defined projects like mines, rather than the cumulative effects of human activity on ecosystems, species or Aboriginal rights. In so doing, it is failing the environment and Indigenous peoples.

All of this is heading in the direction of gridlock, heightened uncertainty and, if not addressed, a major disincentive to new mining investment.

Let me illustrate with a BC example.

Two steel-making coal projects are currently undergoing environmental assessment in northeast BC. One is led by CEAA, the other is a "substituted project", led by BC but still subject to federal decisions.

Three years into the environmental review of the first project and we have learned that the federal government is proposing a finding of significant adverse effect due to this project's potential for a cumulative impact on caribou habitat, and the hunting rights of local First Nations.

Let me be very clear: respecting First Nations rights in this region and elsewhere is completely appropriate. I want to acknowledge, as well, that local First Nations have themselves imposed a hunting ban in the region because the herd is in danger of extinction. What's at issue is how the current CEAA is forcing an outcome that is neither environmentally nor economically sound, nor respectful of First Nations rights.

A few things you need to know about this project. It is an underground mine, with a small footprint. Its potential impact on caribou habitat is theoretical – it depends on whether or not there is subsidence from underground mining and on whether the herd, which is currently not in the area, eventually at some point moves into the region. All of the land in question is provincial Crown land.

A finding of significant adverse effect means this project must go to cabinet for approval, which means additional delay and uncertainty as there are no timelines for cabinet approvals.

There is, in this region, significant activity by other sectors. Natural gas development is intense, while logging has been underway for years, and there's plenty of recreational activity that affects caribou. The footprints of all of these activities far outstrip the potential impact of this mine. And these activities are ongoing, unregulated by the federal government. It is because of CEAA 2012, which left mining as one of the few sectors subject to federal review, that this project finds itself at risk of a no decision -- or indefinite delay -- while these other sectors continue their activity unchecked.

Indeed, over the course of the summer while the proponent was putting together an offset as a way of potentially finding a way forward, logging was underway nearby, adding to habitat loss. CEAA 2012 has made mining the "fall guy" of industrial development.

This reveals a system that is broken. We have got to this position because of a flawed Act, and because our two levels of government have not been cooperating on species at risk.

A no decision on this project will have no bearing on whether or not the caribou survive and recover. To put it bluntly, the current Act will more likely guarantee their extinction and will do nothing to protect First Nations' hunting rights. Given our sector's superior track record when it comes to the participation of Indigenous Canadians in mining, and the high likelihood of impact benefit agreements and resource revenue sharing from these mines, it also means that First Nations will receive fewer benefits. It's a lose-lose situation all around.

I may sound a little cranky, but it's for good reason. This situation in northeast BC is not unique to this one project. The second mining project in the region I mentioned earlier is in the same boat – the substitution of EA to the province does not solve the problem. And there is potential for similar gridlock for mining in northern Alberta, northern Saskatchewan and parts of Quebec where the identical intersection of species at risk, Aboriginal hunting rights and cumulative effects exist. This is happening at the same time that Canada should be doubling down on its efforts to attract mineral investment.

For this reason, we welcome the new federal government's decision to review CEAA 2012 and the Fisheries Act -- where similar problems are also emerging for our sector. We welcome it not without trepidation, as constant review and amendments to key environmental legislation is a source of much uncertainty. However, the current situation is unsustainable.

We need to find a different way to assess cumulative effects; we need an Act that fosters rather than discourages federal-provincial cooperation; we need an Act that doesn't only assess mining projects but looks at other, large scale industrial activities, including, I might add, the federal government's own activities, which it exempted from CEAA in 2012.

The imposition of layers of process on the mining industry is not helping to protect Canada's environment or furthering reconciliation with First Nations or, in this case, recovering caribou.

We need an Act that reverses the trend Mintz has accurately identified, or our sector's and our country's future economic prospects, and the most significant prospects for Indigenous Canadians and, indeed, the federal government's reconciliation goals -- are all going to look very, very grim.

Indigenous Reconciliation

Tied to regulatory reform is the issue of Indigenous reconciliation. The Liberal government has expressed its intention to: "enhance the consultation, engagement and participatory capacity of Indigenous groups in reviewing and monitoring major resource development projects." Further, the government has asked an expert panel to, among other matters, "consider the relationship between environmental assessment and the Aboriginal and treaty rights of Indigenous peoples and reflect the principles outlined in the United Nations Declaration on the Rights of Indigenous Peoples."

As you may know, UNDRIP includes a requirement to obtain the *Free, Prior and Informed Consent* of Indigenous peoples before a project can proceed, which many have said is granting Indigenous communities a right of veto.

I do not intend to engage in a legal debate with you today on the question of veto. The Honourable Carolyn Bennett, Minister of Indigenous and Northern Affairs, has already indicated UNDRIP will be implemented within Canada's constitutional framework, which means no veto.

And, personally, I think the issue of veto is both polarizing and a distraction.

In the context of the review of CEAA, what's at issue is the nature and scope of Indigenous participation in environmental assessment.

A few considerations to start with. Unlike projects reviewed by the NEB, no interested party and no Indigenous group that has requested the opportunity to participate in a CEAA review of a mining project has been denied standing. Indigenous input in reviews of mining projects plays a central role, often supported by active company and community engagement already in place by the time the EA begins.

As we also know, mining projects invariably come with impact benefit agreements, now pretty much accepted as a regular business practice. This is why, today, there are over 350 active agreements across Canada. And it is why, a few examples notwithstanding, mining projects have not faced the same level of opposition as others, and have obtained their approvals and proceeded with Indigenous support in hand.

Although Indigenous support for mining projects is by no means a given, it is more and more commonplace and relationships between our sector and Indigenous communities are arguably the strongest in the country and getting stronger every day. Just look at the new agreements concluded in BC over the past year, between Imperial Metals and the Tahltan, and Teck and the Ktunaxa, by way of example, or how New Gold is bringing its successful approach at New Afton to its Rainy River mine in Ontario.

Given the growing strength of company and Indigenous relationships, my concern is less what Indigenous communities expect from environmental assessment and more *how* the federal government will change CEAA to enhance Indigenous participation in project reviews.

Reconciliation will not be met by adding three months to the comment period of a mine review, for example, or by eliminating timelines altogether. It will not be met by adding more process to a process-heavy exercise.

In fact, I would suggest the opposite may be true. Rather, improved federal-provincial cooperation may provide more space for meaningful Indigenous participation without adding new delays. Governments more effectively and meaningfully carrying out their duty to consult would also help. And as I stressed before, considering cumulative effects within a regional context rather than through the lens of a single project would allow for Indigenous concerns regarding landscape impacts to be more thoroughly and appropriately examined and responded to. Expanding the scope of EA to include other activities currently exempt, including the government's own, would shine a light on potentially more significant impacts on Indigenous values and lead others to take the steps the mining industry has taken to engage and partner with Indigenous communities.

And, of course, reconciliation goes far beyond project reviews and environmental assessment. UNDRIP has 41 articles, with Articles 26-29 and 32 dealing with the management of natural resources. The remainder considers the rights to identity, language, culture, education, health and other matters. Addressing these issues should be seen as integral to any strategy that seeks to eliminate, once and for all, the gap that exists between Indigenous and non-Indigenous Canadians.

Prime Minister Trudeau says he's determined to close this gap. His government has announced major investments in Indigenous education and health. Investing in the capacity of Indigenous communities to participate in and benefit from the opportunities of natural resources development will only increase support for such development over time. This may be the long road, but it's the right one. The wrong road is increasing the burden and duration of regulatory review that will only reduce the opportunities for economic advancement and closing the gap.

Conclusion

A new federal government has brought about a major shift in priorities and focus. I have touched on a couple of them that, depending upon how they are addressed, will strongly influence the future of Canada's mining sector.

But these are not the only factors at play. Had I more time, I could speak to other issues that are also important to our sector. The current review of the Transportation Act, and how the relationship between shippers and the railways is changed (or not), will materially affect our sector's ability to get products to market and compete with other countries with shorter, more efficient logistical supply chains.

The federal government has an ambitious infrastructure agenda, with plans to spend $120 billion over the next 10 years. One way for Canada to de-risk mining investments is to make strategic investments in nation-building infrastructure, particularly in Canada's north.

Continuing the pursuit of trade agreements, including a critical one with China, to improve access for Canadian markets, is also critical.

As I've said before to the Greater Vancouver Board of Trade, mining is a complex business. There are many things that can go wrong; there are many ways to improve our domestic competitiveness. Regulatory reform, climate change, innovation, infrastructure, transportation and trade are all components that help determine the success or otherwise of a domestic mining industry.

With a new government with an ambitious agenda in all of these areas, we have a lot at stake. We have a huge opportunity to rebound from the current commodity slump with strength, but we can also fail. BC’s role in this rebound is important and I urge all of you to help make sure mining succeeds.

Thank you.