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

Subcommittee on Bill C-38 (Part III)
Standing Committee on Finance

May 28, 2012

Distinguished Members of the Committee, Clerk, Staff and Observers:

Thank you for the opportunity to appear before the Committee and participate in the examination of this important piece of legislation. Part III of Bill C-38 has catalyzed a great deal of discussion and I'm pleased to be able to contribute an industry perspective to assist in clarifying some of the more contentious elements of the debate.

For the record, I am Pierre Gratton, President and CEO of the Mining Association of Canada (MAC). MAC is the national voice of Canada's mining and mineral processing industry. Since 1935, we've supported and promoted one of Canada's most integral economic sectors, providing leadership, sharing resources and continuing to build, strengthen and engage our mining industry. MAC represents more than 30 members engaged in exploration, mining, smelting and semi-fabrication across a host of commodities including iron ore, gold, diamonds, oil sands, steel making coal, base metals and uranium.

In 2011, the mining industry contributed $36 billion to Canada's GDP, employed 308,000 workers, and paid $8.4 billion in taxes and royalties to provincial and federal governments. The industry also accounts, on an annual basis, for more than 50% of the freight revenues of Canada's rail system. To understand this economic contribution in different terms, in 2010, the industry accounted for 21% of the value of Canadian goods exports and represented just under 3% of Canada's GDP. According to recent MAC research, Canada's mining industry is poised to invest $140 billion in projects over the next decade, with multiple billions in each of British Columbia, Alberta, Saskatchewan, Ontario, Quebec, Newfoundland and Labrador, Nunavut and the Northwest Territories. The sector is a truly pan-Canadian industry supporting communities and economic growth and development from coast-to-coast-to-coast.

MAC supports responsible development, and believes that a constructive business environment in Canada depends on public understanding of our country's major industries. The Association places a high priority on corporate social responsibility (CSR), and through initiatives such as Towards Sustainable Mining, we address issues surrounding sustainability and governing policies in a collaborative, progressive way.

This contribution to Canada is important – it matters to Aboriginal and remote communities through the business development opportunities that it creates. It matters to governments who receive a significant portion of their annual budgets from royalties and tax contributions. It

350, rue Sparks Street • Suite 1105 • Ottawa, ON K1R 7S8 • Tel/Tél 613.233.9391 • Fax/Téléc 613.233.8897

matters to hundreds of thousands of Canadians across the country who rely on our sector for their livelihood.

REGARDING PART III OF BILL C-38

Note that our comments are based on a preliminary analysis of the legislation. At this point, there remain certain questions regarding the Bill's overarching impact that we are still seeking clarity on. Additionally, the effect of the changes will depend on the details of regulations and policies that we have not yet seen, and are, ourselves, hoping will provide some of the clarity we are seeking.

With this caveat, I will now reflect on our members' reaction to C-38.

As an industry which operates outside of urban Canada, we are pleased that C-38 recognizes the importance of Aboriginal consultation. A tremendous opportunity for mutual benefit and success exists and is being realized through the partnerships that the Canadian mining industry has formulated and continues to develop with our Aboriginal partners. Open and honest consultation is a cornerstone of this process.

With respect to the new *Canadian Environmental Assessment Act* (CEAA), we do not expect it to have a dramatic, substantive effect on mining projects. As we told the House of Commons Committee, great improvements in the process for mining projects came from the 2010 amendments, which cut out delays in starting federal assessments and allowed the federal process to start at the same time as provincial assessments. Nevertheless, CEAA 2012 does promise significant additional improvements in clarity and predictability, as well as the promise of reducing duplication of process.

As an association serving a diverse group of members, an important feature for us is that we will have an Act that we will be able to explain for the first time since CEAA was created. CEAA 2012 can be summarized on a simple flowchart. The current CEAA cannot be explained simply – the complex interplay of definitions and triggers and Exclusion List and Inclusion List left most people confused.

CEAA 2012 includes the features that we have been calling for:

- One clear Responsible Authority.
- Clear and predictable process with defined timelines.
- Sufficient flexibility to make common sense decisions. The screening process (Sections 8 through 12) and the "safety net" process (Subsections 14(2) through (6)) should ensure that unforeseen situations can be resolved.
- Authority to initiate and to engage in Regional Studies.
- Substitution and equivalency where warranted.
- Obligation on federal authorities to provide timely information.

There are, of course, some features of CEAA 2012 that will require careful implementation, such as enforceable decision statements. It will be important that the Agency ensure these are clear and feasible. None of these changes will affect the substance and quality of the assessment process. In fact, they will enhance it.

I would like to flag one disappointment. Given that the projects where the Canadian Nuclear Safety Commission (CNSC) will be the Responsible Authority includes uranium mines and mills, the benefits of these positive regulatory reforms should be available to uranium operations to the extent possible. A uranium mining or milling operation has more in common with gold, copper or coal mines, yet this industry continues to be treated as more akin to a nuclear reactor.

As a result, the uranium mining and milling sector has been exempted from some of the most beneficial streamlining measures announced in the new CEAA, including:

- Equivalency
- Substitution
- "Screening out"

Further, the timelines specified in the transitional provisions do not impact current comprehensive studies where the CNSC is the Responsible Authority, when the same is not the case for those led by the National Energy Board (NEB). We have difficulty reconciling the differential treatment in this regard.

We are less advanced in our understanding of the changes to the Fisheries Act. The incorporation of means for better federal-provincial cooperation is valuable, as is the incorporation of a larger "toolbox" for dealing with the Act's absolute prohibitions, such as the possibility of regulations for Section 35. However, at this time, we are not clear about how the "fisheries" and the "pollution prevention" provisions of the Act will work together in practice. As some Members may recall from our visits in November of last year, we had concerns about lack of clarity and consistency in how Sections 35 and 36 worked together, and this issue appears to be made murkier by the amendments. We hope to work with officials to develop greater clarity through regulations and guidance.