



Mining Association of Canada (MAC) 2018 Pre-Budget Submission

A more productive and competitive mining industry can advance Indigenous reconciliation and support the transition to a lower carbon economy, while bolstering broad-based social and economic development across Canada, particularly in the North.

Industry Contributions:

Mining contributes 3.4% to Canada's GDP annually (\$56 billion in 2016), directly employs 373,000 workers and indirectly employs an additional 190,000. Proportionally, mining is the largest private sector employer of Indigenous Peoples nationally, with employment poised to increase. Canada leads global mining finance, with the majority of the world's public mining companies listed on the TSX.

Economic Trends and Outlook:

Despite volatility, world economic growth is anticipated to increase from 3.1% in 2016 to 3.5% in 2017 and 3.6% in 2018. Reflecting improved economic sentiment, upward pressure on mineral and metal prices over the last 18 months has been welcome, but non-uniform across commodities, and volatile. Looking forward, demand for mineral and metal products is expected to increase as the middle classes of the world's most populous countries continue to emerge and as the world transitions to a lower carbon future.

Diverging views on the economic benefits of globalization have led to mounting domestic pressure for inward-looking economic policies in certain leading advanced economies. These developments may disrupt the drive to increase economic integration that has underpinned global economic growth in the post-war era, potentially preventing the full realization of forecast global economic growth prospects.

As an exporting nation, increased global economic integration, enhanced two-way trade and investment flows, and diversification from reliance on traditional markets are critical to Canada's long-term economic wellbeing. Policy decisions made now will be a significant determinant of the extent to which Canada will be able to benefit from projected future growth.

Support from Government:

To enhance national competitiveness and productivity, Canada must increase its attractiveness as a destination for mineral investment and foster innovation. The support detailed below will enable the industry to help government achieve its objectives in the following areas:

- Establishing a regulatory regime that has public confidence, includes meaningful consultation and inclusion of Indigenous Peoples, and facilitates timely sustainable development;
- Providing new socio-economic opportunities for remote, northern and Indigenous communities, businesses and peoples that facilitates Indigenous economic reconciliation; and
- Establishing Canada as a global leader in mining innovation, and addressing climate change as Canada moves to a lower carbon future.

1. IMPROVE THE REGULATORY PROCESS

Ongoing Federal Environmental Reviews

The federal government is in the process of reviewing federal legislation with critical implications for the future of Canada's minerals industry, most significantly, the review of the *Canadian Environmental Assessment Act* (CEAA 2012). Given the importance of the regulatory regime to mining industry competitiveness and Canada's ability to compete for new mineral investment, it is critical that the reviews of CEAA 2012, the *Fisheries Act*, and the *Navigation Protection Act* result in an effective, timely and coordinated regulatory process, from pre-environmental assessment (EA) to post-EA permitting, with meaningful consultation.

Species at Risk Act (SARA)

Mineral exploration and mining proponents are facing barriers related to the SARA during the EA process. Specifically, the narrow application of CEAA 2012 leads to mineral projects being held to account for cumulative effects on species and habitat caused by ongoing non-mining activities that are not subject to CEAA 2012.

SARA also requires projects undergoing federal assessment to comply with all relevant species recovery strategies; however, without long-term compliance and permitting mechanisms, it is unclear how a proponent can demonstrate compliance. The result is uncertainty and project delays (some indefinite) during environmental review and corresponding reputational damage that drives away investment.

To strengthen public confidence in the regulatory regime, government should establish processes that are efficient, effective, consistent and predictable by:

- *Ensuring regulatory agencies and relevant departments have the requisite capacity to adequately perform and carry out their responsibilities;*
- *Ensuring that Canada's investment climate is not undermined by unnecessary inter-jurisdictional conflict and impractical assessment processes;*
- *Enhancing Indigenous participation and role in federal assessments in a manner consistent with Canada's constitutional and legal framework; and*
- *Expediently developing and implementing approaches to species protection and recovery that are consistent and complementary across federal, provincial and territorial governments.*

2. NORTHERN INFRASTRUCTURE, TRANSPORTATION, AND TRADE

Enabling additional mining development in remote and northern Canada is inextricably linked to the government's Indigenous reconciliation, climate change, and broader social and economic development policy objectives. Mining, as the largest private sector economic driver and employer of Indigenous Peoples in the North should be leveraged to achieve these. The goal should be to combine the delivery of these objectives for the benefit of northern, Indigenous and all Canadians.

To date, infrastructure investment decisions that recognize northern challenges and opportunities through the Trade and Transportation Corridor Initiative and the Investing in Canada Plan have been welcome. The next step is to recognize specific consideration for northern challenges and opportunities in the Canada Infrastructure Bank (CIB). Including a northern-specific fund or allocation within the CIB is supported by the National Aboriginal Economic Development Board, as per its [January 2016 report](#).

Further, as the largest industrial customer group of Canada's freight railways, an efficient logistics supply chain is essential to moving products to market and bolstering overall business competitiveness. MAC views the recently tabled the *Transportation Modernization Act*, that includes enhanced rail data disclosure and associated Budget 2017 investment, as a positive step. Ensuring C-49 enables robust, timely and public access to information is essential to developing evidence-based transportation policy going forward.

Finally, 20% of the total overall value of Canada's exports (>\$91 billion in 2015) is accounted for by the mining industry, and approximately half of this total value is destined for US markets. The uncertainty associated with the advent of NAFTA 2.0 has underscored, again, the need to diversify market access for key exports.

To advance stated policy objectives related to: 1) Indigenous reconciliation and climate change in Canada's remote and Northern regions; 2) improving the effectiveness and reliability of the logistics supply chain; and 3) enhancing

Canada's trade and investment competitiveness, government should:

- Recognize the unique challenges of remote and northern regions through Canada Infrastructure Bank programs and governance, including through the appointment of a northern business professional to a leadership position to inform and diversify institutional culture.
- Enable evidence-based decision making by ensuring the rail data transparency regime is robust, well-resourced, timely, and maximizes publicly accessible information.
- Continue efforts to diversify market access while promoting greater liberalization of trade through NAFTA 2.0.

3. ENHANCE CANADIAN MINERAL TAXATION COMPETITIVENESS

Canada relies heavily on foreign investment, and the mining industry accounts for approximately 10% of FDI annually. Countries compete to attract resource investments, and Budgets 2012 and 2013 reduced Canada's global attractiveness for mineral investment by introducing the Foreign Affiliate Dumping rules, and by reducing/eliminating several mining tax credits.

Profit tax represents a large share of earnings in mining. Corporate income taxes and mining taxes or royalties range between 32-48%. Additional levies reduce Canada's attractiveness and make the playing field uneven both for investors and when compared to other jurisdictions. Consistent with our Tax Expenditure Review submission, MAC supports a review of these levies.

Specifically, the government should:

- **Phase Out Withholding Tax Rules:** Dividend withholding tax is an additional income tax that becomes payable when profits are distributed to foreign shareholders (other than tax-exempts such as pension funds resident in treaty countries). Canada's dividend withholding tax varies between 5% and 25%, creating an uneven playing field. When added to mining and corporate income taxes, total tax on profits remitted to foreign shareholders reach between 35% and 61%. 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 that 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. Similar statements can be made for many other countries that have augmented their competitiveness beyond Canada in this respect. A capital importing nation such as Canada would benefit from eliminating this disincentive for foreigners to invest in our economy, particularly given the prominence of this country's capital-intensive resource sector; and

- **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 for corporate reorganization performed by Canadian or foreign groups to be tax free and allow for a better allocation of capital.
- **Enable all mining tax payable to be deductible regardless of the year in which it is paid or whether it is deemed payable post-audit.** MAC's understanding is that CRA and Finance officials recognize that this issue should be addressed, but it has not yet been.

4. CLEAN TECH, INNOVATION AND CLIMATE CHANGE

In addition to supporting a revenue neutral price on carbon, MAC underscores the need for climate change policy to ensure the competitiveness of emissions-intensive and trade-exposed (EITE) sectors, to be sensitive to changing economic and geographical realities, and to minimize compliance burden. Approaches that fail to address these concerns risk creating carbon leakage that will diminish Canadian competitiveness with no global net gain in GHG reductions – a "lose-lose" scenario.

MAC welcomes the government's commitment to invest \$1.2 billion to support innovation in mining and other resource sectors. Beyond environmental and health benefits, innovations in electrification and ventilation, among others, enhance mining process efficiency and lower operational costs.

The government's Innovation Superclusters Initiative (ISI) is a timely vehicle to bolster the Canadian mining sector's competitive advantage. The CLEER Innovation Network (Clean, Low-energy, Effective, Engaged, Remediated), a consortium of national and regional research centres, mining companies and established Canadian mining supply organizations, is developing a proposal for the formation of a Clean Resources Innovation Supercluster.

By harnessing the collaborative strength of Canada's mining ecosystem to accelerate significant and sustained innovation in energy, water, and land-use, CLEER has the potential to:

- Support the sustainable growth of Canada's mining sector;
- Enable the development, adoption and export of clean energy and water technologies; and,

- Grow Canada's global-facing mining supply services sector.

To support stated clean tech, innovation and climate change priorities, government should:

- Integrate MAC's climate change [principles](#) within Canada's climate change policies and regulations, ensuring robust EITE protections, sensitivity to remote and northern regions, and consistency and compatibility across federal and provincial initiatives.
- Support the CLEER Innovation Network's proposal for the formulation of a Clean Resources Innovation Supercluster.

5. ACCELERATE INDIGENOUS INCLUSION IN MINING

Mining leadership to facilitate full participation of Indigenous Peoples in our sector remains an ongoing priority. Our members are committed to developing and maintaining strong and trusting relationships with Indigenous communities near, or with an interest in, mining activities.

A key mechanism through which economic opportunities have been created is company-community agreements. There have been a significant number of agreements signed since 1974; the majority (376) have been signed within the last decade. These voluntary agreements are progressive in their collaborative scope, particularly for production-stage projects, and are increasingly recognized internationally as a leading practice.

Resulting from these efforts, the mining industry has become the largest private sector employer of Indigenous Peoples in Canada on a proportional basis, with employment increasing by 12% from 2007 to 2015.

To strengthen and enhance Indigenous participation in mining, governments should:

- Enhance foundational social investments (health, housing, water, education) that contribute to better outcomes for Indigenous Peoples;
- Increase funds for skills training and entrepreneurship to assist Indigenous Peoples in securing opportunities generated by the industry; and
- Establish/improve mechanisms through which governments share a portion of the revenues generated from royalties, mining taxes and/or fees in their jurisdiction.