



PROSPECTORS &
DEVELOPERS
ASSOCIATION
OF CANADA

PDAC submission to the Department of Foreign Affairs, Trade and Development on
“Building the Canadian Advantage: A CSR Strategy for the International Extractive Sector”

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INTRODUCTION

“When Canadian companies succeed abroad, all Canadians benefit.”

- Minister Fast (Global Markets Action Plan)

Over the past few decades, Canada’s mineral exploration and mining industry has successfully leveraged its domestic expertise into a global competitive advantage. Canada’s resources have created a unique ecosystem within the minerals industry that includes thousands of companies with a vast array of expertise, from mineral exploration to metals fabrication. The industry touches every part of the country, from communities in Canada’s North to the financial services industry in Toronto – a global hub for mineral financing. This complex, interdependent ecosystem is the foundation for the industry’s global success, and Canadian companies now play a significant role in exploring and developing the mineral resources of countries around the world. Canada’s stock exchanges also host the majority of the world’s publicly listed mining companies. In 2012 the TMX alone accounted for 70% of global mining equity financing. Together, these activities generate wealth and economic opportunities for Canada. Under the right conditions, they can also generate wealth and opportunity for host countries and communities.

The Government of Canada can play an important role in supporting both the global competitiveness of the Canadian minerals industry and its ability to contribute to the sustainable development of the societies in which it operates. The Government’s recent announcement of its Global Markets Action Plan¹, and the intention to create industry-specific strategies underneath the auspices of this plan, represents an opportunity to focus on global competitiveness while supporting

¹ <http://international.gc.ca/global-markets-marches-mondiaux/index.aspx?lang=eng>

the minerals industry to find and produce the minerals and metals that make modern life possible. Simultaneously, the Government's announcement that it is reviewing its 2009 Corporate Social Responsibility Strategy for the International Extractive Sector² creates an opportunity to focus on sustainable development – supporting the minerals industry to find and produce minerals and metals in a responsible way.

As the national voice of Canada's mineral exploration community, the PDAC would like to take this opportunity to provide input into the review of the Government's CSR Strategy for the International Extractive Sector, as well as the Global Markets Action Plan, so as to inform a whole-of-government approach to supporting the global competitiveness and responsibility of the Canadian minerals industry. In particular, the PDAC encourages investments in the following four areas:

1. Maintaining an open global economy
2. Strengthening the role of the Trade Commissioner Service
3. Building the governance capacity of host countries to manage their natural resources responsibly
4. Supporting and strengthening non-judicial grievance mechanisms.

1. Maintaining an open global economy

Over the last five years, Canadian-based companies have consistently accounted for approximately 40% of global exploration expenditures. Increasing global interconnectedness has allowed Canadian companies to build on their domestic expertise and become dominant global players in mineral-related fields as diverse as drilling, mineral financing, engineering consulting, and geophysics. It has also allowed Canada to attract companies and investors from around the world to enter Canada and develop our domestic resources, generating jobs, growth and revenues for Canadian jurisdictions.

The PDAC strongly supports efforts by the Government of Canada to maintain an open global economy that facilitates this two-way flow of investments. In particular, we support the development of Foreign Investment Promotion and Protection Agreements (FIPAs). FIPAs help contribute to the creation of stable operating environments for Canadian exploration and mining companies abroad and reduce risks arising from political instability, regulatory uncertainty, and resource nationalism. Resource nationalism (in all of its various guises) is consistently cited as one of the top risks for

² <http://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-strat-rse.aspx?lang=eng>

exploration and mining operations abroad. FIPAs create mutual commitments to fairness and transparency, and offer investors protection against risk. Countries with substantial amounts of resource-related Canadian investment should be prioritized for the development of future FIPAs.

2. Strengthening the capacity of the Trade Commissioner Service

“Canadian firms, and SMEs in particular, face an uphill struggle expanding into emerging markets, where the business culture, regulatory environment and language can be particularly challenging, even with a trade agreement.”

- Global Markets Action Plan

Trade Commissioners are key resources for companies that are considering investments, or have invested, in a particular jurisdiction. The PDAC strongly encourages the Government of Canada to strengthen the Trade Commissioner Service (TCS) by equipping them with the skills and resources to support the competitiveness and the responsibility of Canada’s minerals industry. In addition to supporting companies in navigating the economic and regulatory landscape of a new market, the TCS can also play an important role providing information, tools and resources that support companies to operate responsibly (e.g. raising awareness of *e3 Plus: A Framework for Responsible Exploration*³). These supports can create a competitive advantage for Canadian companies by helping them avoid conflicts that could arise from not fully understanding the dynamics at play within the host jurisdiction.

In order to maximize the utility of the TCS, more support is needed to build and maintain their knowledge of the extractive industry and how it operates so that they can provide relevant advisory and support services. In addition, the TCS needs to be given the mandate and resources to engage in dialogue with a wide range of stakeholders in-country, including those that might be critical of mining, to provide more holistic assessments of the risks and opportunities Canadian companies might face. With adequate resources, Trade Commissioners could more effectively act as convenors who bring local government, regulatory, and civil society actors together to engage with Canadian companies operating in their jurisdiction. By performing this function, Trade Commissioners could support Canadian companies in building the relationships that help them obtain, and maintain, a social license to operate.

³ <http://www.pdac.ca/programs/e3-plus>

Many Canadian mineral exploration companies are not aware of the resources that are available through the TCS. We would also encourage the Government of Canada to organize outreach sessions for exploration companies at mineral industry conferences, such as the annual PDAC Convention, to facilitate communication between the TCS and companies when they are operating outside of Canada.

3. Building the governance capacity of host countries to manage their natural resources responsibly

In November 2012, the Standing Committee on Foreign Affairs and International Development released *Driving Inclusive Economic Growth: The Role of the Private Sector in International Development*. While the report acknowledged the contribution that private enterprise can make towards achieving poverty reduction and human development outcomes in the developing world, it also flagged the importance of public institutions and good governance, particularly for the natural resources sector. The report specifically notes the consensus amongst many witnesses that “the minimization of the harm and maximization of the benefits associated with natural resource development both depend substantially on efforts to strengthen the capacity of governments at the national and local levels in countries where mining takes place.”⁴

Although host country capacity-building was one of the four pillars in the Government of Canada’s 2009 Corporate Social Responsibility Strategy, the PDAC has observed that this theme was under-conceptualized, under-resourced and undervalued. The PDAC feels strongly that resources previously dedicated to project-specific partnerships between Canadian mining companies and non-governmental organizations could be significantly more impactful if they were focused on bilateral and multilateral initiatives to strengthen public institutions in resource-rich countries. This is where the Government of Canada, working in partnership with the provinces and territories that are responsible for mineral resource management, has a global comparative advantage that should be leveraged to support responsible resource development abroad.

The PDAC recommends that host country capacity-building be the centrepiece of the next phase of the Government of Canada’s CSR Strategy for the Extractive Sector. A focus on host country governance capacity-building can help to create an enabling environment for responsible exploration and mining in the countries where Canadian companies operate. Strong public

⁴ <http://www.parl.gc.ca/content/hoc/Committee/411/FAAE/Reports/RP5732913/faaerp06/faaerp06-e.pdf> page 71. Accessed December 15, 2013.

institutions can help reduce the social and reputational risks faced by exploration and mining companies, and can contribute to the sustainable development of host countries and communities.

Once target countries have been identified, and their agreement has been secured, the PDAC would recommend that the Government of Canada begin with a comprehensive assessment that identifies the specific governance capacity gaps that are impacting both the attractiveness of a jurisdiction as a destination for mineral investment and its ability to manage its resources responsibly. The assessment should incorporate input from all levels of government within the country, representatives of regulatory bodies and judicial authorities, civil society groups and community representatives, and mineral exploration and development companies active in the jurisdiction.

This capacity assessment would allow interested parties to identify and prioritize the capacity-building investments that would most support responsible exploration and mining in a given jurisdiction, such as investments in:

- Infrastructure
- Knowledge of the landmass (e.g. publicly available geoscience information)
- Mineral cadastres and tenure regimes
- Tax policy
- Indigenous rights policies
- Community consultation requirements
- Land-use planning practices
- Environmental assessments and monitoring programs
- Licences and permitting
- Revenue transparency
- Independent judiciaries and other dispute resolution mechanisms

The PDAC would also recommend that the Government of Canada's host country capacity-building work pay special attention to helping countries manage the company-community relationship, which has been identified as a critical challenge by both members and stakeholders of the PDAC through the development of its CSR Roadmap⁵.

⁵ <http://www.pdac.ca/public-affairs/corporate-social-responsibility/public-affairs/2013/11/01/csr-roadmap-outreach-report>

An assessment which incorporates governance elements impacting both business competitiveness and responsibility has the potential to create the accountability and transparency required to drive sustainable development through private sector investment. Ultimately, as is currently underway in Cameroon through a World Bank funded mining sector technical assistance project, the goal would be to “improve the integration of current exploration and future exploitation activities into local and regional development.”⁶

Once assessed, the Government of Canada could work in partnership with the range of other actors interested in building the capacity of resource-rich governments, such as the African Minerals Development Centre, the World Bank, the International Finance Corporate, and a range of other bilateral donor agencies. Key delivery devices for such multilateral initiatives could include the Canadian International Institute for the Extractive Industry and Development, as well as the Intergovernmental Forum for Mining, Minerals and Sustainable Development. With Canada’s support, the IGF has already contributed significantly to the area of governance capacity-building, as evidenced by the creation of the Mining Policy Framework. The Government of Canada should continue to support the IGF in particular, and utilize the extensive resources, network, and expertise it offers in its work on governance capacity-building.

Building host country governance capacity could significantly enhance the contribution of mining to sustainable development by helping countries to: attract much needed investment, reduce conflicts between companies and communities, reduce and/or mitigate negative impacts, and (by facilitating collaboration between the public and private sectors) align business investments with local, national and regional development objectives.

4. Supporting and strengthening non-judicial dispute resolution mechanisms

An important element of the relationship between a company and its local stakeholders is the availability of accessible, credible accountability mechanisms through which grievances can be raised and addressed. While leading companies have implemented grievance mechanisms at the site level, there remains a place for Canada (as a home country), to provide an independent, external body that can review issues raised by stakeholders impacted by the operations of Canadian companies outside of Canada. As such, the PDAC acknowledges the important step taken by the Government of Canada when it established the Office of the CSR Counsellor for the Extractive Sector as a key pillar of its 2009 CSR Strategy. We also acknowledge the important role

⁶ Report No: 65188-CM. November 17, 2011.

played by the OECD National Contact Point, which handles requests related to the OECD Guidelines for Multinational Enterprises. These institutions take time to develop, however, as evidenced by the experience of similar offices (e.g. the World Bank Compliance Advisor/Ombudsman). A high level of awareness among industry and stakeholders of their function and the standards they apply is also critical to their effectiveness.

At this juncture, the PDAC recommends that the Government of Canada undertake an evaluation of each of the requests for review that were accepted by the CSR Counsellor's Office since it began work in 2010 in order to inform a possible change to the mandate of the Office. Such a review should include engaging directly with the former CSR Counsellor, Marketa Evans, as well as her policy advisor Erica Bach, and with the companies and stakeholders involved in each request to understand how and why each request evolved as it did. This evaluation would identify ways in which the Office of the CSR Counsellor can be strengthened. In addition, the PDAC supports continued efforts to promote the availability of these resources to companies and communities, as non-judicial grievance mechanisms can be valuable tools to support healthy community-company relationships when they are given sufficient time and resources.

CONCLUSION

As part of its 2009 CSR Strategy, the Government of Canada took numerous steps to promote corporate social responsibility in the international extractive sector. The current review process presents an ideal opportunity to address the gaps in the implementation of the 2009 Strategy and build on its successes. For example, while the promotion of widely-recognized international CSR performance guidelines can be an important first step in improving companies' social and environmental practices, the Government should also allocate resources to assessing and documenting any correlation between the adoption of guidelines and the improvement of practices on the ground. Similarly, the Centre of Excellence was created to disseminate high-quality CSR information, and although this valuable goal was not realized, an unanticipated result was the creation of an additional forum for multi-stakeholder dialogue. The Government of Canada has demonstrated a commitment to supporting this type of dialogue in various ways. For example, the Department of Foreign Affairs, Trade and Development (in partnership with the World Economic Forum) will be hosting a one-day conference on how the minerals industry can contribute to local economic development as part of the 2014 PDAC International Convention. The Government of Canada should continue to support and participate in existing platforms for multi-stakeholder

dialogue, particularly those oriented towards the sharing of leading practices that support responsible exploration and mining.

Going forward, while the promotion of international guidelines and support for multi-stakeholder dialogue may continue to be components of the Government of Canada's strategy, the PDAC would strongly encourage host country capacity-building to be the centrepiece of the Government's support for the international extractive sector. In addition, for its next iteration, the PDAC encourages the Government of Canada to rename its CSR Strategy for the Extractive Sector and call it instead a "Responsible Minerals Development Strategy". This name change would better reflect the responsibility that all actors involved in mineral exploration and development (not just companies) share in ensuring the optimization of benefits for all parties. A "Responsible Minerals Development Strategy" would also more accurately capture the breadth of initiatives the Government has undertaken, and continues to undertake, in this regard.

The global operations of the Canadian minerals industry can generate substantial socio-economic development opportunities for Canadians as well as for the citizens of the countries in which it operates. The PDAC sees the Government of Canada as a key partner in supporting a competitive and responsible Canadian extractive sector, and looks forward to continued collaboration in this area.