

Quebec risks driving away mining investment with Bill 14

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Until recently, mining executives around the world saw Quebec as having the best policy environment for mining investment (McMahon and Cervantes, 2010). This is mainly thanks to a predictable regulatory environment, the absence of territorial claims in Northern Quebec, high quality geo-scientific data easily accessible to miners, good infrastructure, a skilled workforce, and an attractive mining tax system (McMahon and Cervantes, 2011). But with the introduction of Bill 14, tabled on May 12, 2011 to amend Quebec's Mining Act, the province is now poised to introduce a high level of uncertainty that may scare investors away and seriously damage the policy attractiveness of Quebec to mining investors.

Bill 14 gives additional power to municipalities to control mining activities in their territories. But giving municipalities control over where and how mining can take place sidelines the provincial government as the sole mining regulator and runs the risk of erecting multiple barriers to mining investment, investment that creates well-paying jobs in many Quebec communities. The mineral sector represents 2.4% of Quebec's GDP and more than 52,000 jobs (including 36,000 direct jobs and 16,000—full-time equivalent—in the Quebec supplier network). The annual net tax revenue totaled \$281 million on average since 2000 for the government of Quebec and the value of exports of the mineral sector grew on average by 8.2% since 2000 to reach \$8 billion in 2008 (AMQ and AEMQ, 2010: 3).

To date, provincial management of the mining sector has been characterized by certainty regarding the rules of the game: a transparent process, timeliness, and predictability, which played a big part in the attractiveness of the province for global investors. It's why Quebec was ranked as the top jurisdiction for mining investment by the Fraser Institute's annual *Survey of Mining Companies* from 2008 through 2010.



Under Bill 14, more than 1,000 municipalities, most of which lack the necessary experience, expertise, and knowledge to do so, will be able to implement different rules for different companies in their respective jurisdictions.

For example, Article 91 in Bill 14 states that, contrary to the current situation, any areas within an urban perimeter and any area dedicated to vacationing is withdrawn from staking, map designation, mining exploration, and mining operations. Article 91 also states that, in order to work on these sites, the holders of claims in areas that have been so withdrawn must obtain the consent of the local municipality concerned. However, no compensation is paid by any level of government for the consequences of the new rule.

This means mining claim holders who have already invested millions of dollars in exploration in a parcel of Crown mineral land may retroactively lose, without compensation, their legally acquired right to explore and develop minerals.

Future decisions regarding mining development in municipalities will run the risk of being politicized because of a municipality's power to veto mining exploration and development and because changing administrations may have different opinions regarding the same mining project. Moreover, with Bill 14 both levels of government (the provincial and the municipal) will have the power to change mining policy.



Courtesy of IAMGOLD Corp.

Miners understand that they have to follow sensible regulations and pay taxes. However, they are alarmed when they face uncertainty over their claims. Mining is a highly cyclical and capital-intensive industry, with a long lead time between initial investment and commercial production. Many exploration companies do not have production revenue and, therefore, must rely on investors who are prepared to support high-risk activities.

Bill 14 is reminiscent of British Columbia's experience in the 1990s where mining declined in the province and its share of Canadian mineral exploration fell to 5.7% in 2001 from 29.2% in 1990 (Association for Mineral Exploration British Columbia, 2009). This was mainly due to the BC government's 1995 decision to halt the Windy Craggy mining project in order to create a park on the site (Webster, 1999). This effectively expropriated the company's considerable investment and created a great cloud of uncertainty over mining policy in BC which left miners afraid to invest, lest their property be, in effect, stolen from them by the government.

Public policy actions can either stimulate or hinder mineral investment. With Bill 14, Quebec's Liberal government sends a conflicting message to investors. It gives the impression that it is actively trying to attract global mining investments in the north (where there is little habitation) of the province for the Plan Nord while discouraging them in the south (where population is more concentrated) to ap-

pease a public opinion increasingly hostile to the exploitation of mineral resources in their backyard. This is a risky strategy that may lead global investors to opt for other jurisdictions and damage Quebec's ability to attract investment.

At the time of publication Bill 14 is still in the committee stage.

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