OTTAWA'S REGULATORY ASSAULT ON THE EXTRACTION SECTOR AND ITS IMPACT ON INVESTMENT

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Business investment is a foundational requirement for a prosperous economy. It provides the resources to establish new companies, expand existing ones, and invest in new factories, machinery, and technologies. Business investment in Canada has declined markedly for over a decade. It is a major reason why Canadian living standards are stagnating in absolute terms and declining relative to many peer countries, particularly the United States.[1]

One factor behind declining business investment is the heavy regulatory burden imposed by the current federal government on the extraction sector, which includes: mining, quarrying, and oil and gas. Since 1990, this sector averaged 17.3 percent of total non-residential business investment, and reached as high as 28.7 percent of the total in 2013.[2]

The federal government has been particularly critical of the oil and gas sector. As an example of such sentiment, in a 2017 speech Prime Minister Trudeau said it would take time to "phase out" the oil sands, indicating the long-term goal of the federal government to eliminate the fossil fuel industry (Muzyka, 2017). The prime minister's comments were followed by a number of new regulations that directly or indirectly targeted the oil and gas sector:

- In 2019, Bill C-69 amended and introduced federal acts to overhaul the governmental review process for approving major infrastructure projects (Parliament of Canada, 2018). The changes were heavily criticized for prolonging the already lengthy approval process, increasing uncertainty, and further politicizing the process (Green, 2019).
- In 2019, Bill C-48 changed regulations for vessels transporting oil to and from ports on British Columbia's northern coast, effectively banning such shipments and thus limiting the ability of Canadian firms to export (Parliament of Canada, 2019).
- Indications from the federal government that a mandatory hard cap on GHG emissions would eventually be introduced for the oil and gas sector. In 2023, such a cap was introduced (Kane and Orland, 2023), excluding other GHG emitting sectors of the economy (Watson, 2022).
- In early 2023, the government announced new fuel regulations, which will further increase the cost of fuels beyond the carbon tax (ECCC, 2023).
- In late 2023, with limited consultation with industry or the provinces, the Trudeau government announced major new regulations for methane emissions in the oil and gas sector, which will almost inevitably raise costs and curtail production (Tasker, 2016).

The growing regulatory burden has a number of implications that impede or even prohibit oil and gas investment, by increasing costs and uncertainty, making it less attractive to invest in Canada. Both a 2022 survey of mining companies and a 2023 survey of petroleum companies identified the same three risks as inhibiting investment in Canadian provinces—uncertainty over disputed land claims, protected areas, and environmental regulations.[3]

It is also important to recognize that the Trudeau government introduced a carbon tax in 2016, which conceptually should replace regulations related to greenhouse gas (GHG) emissions such as those listed previously rather than be an additional policy lever used to manage GHG emissions.[4]

The regulations discussed above, as well as direct decisions by the federal government had tangible effects on the oil and gas sector:

- In late 2016, the Northern Gateway pipeline running from northern Alberta to Kitimat, British Columbia was cancelled by the Trudeau government, further limiting the ability of firms in Alberta to get their products to export markets (Tasker, 2016).
- In 2017, TransCanada Corp. cancelled its $15.7 billion Energy East pipeline, which would have transported oil from Alberta to Saint John, New Brunswick. The project was cancelled in large measure due to changes in national policy regarding the approval of large infrastructure projects (Canadian Press, 2017).

- While the Trans Mountain pipeline from Edmonton to Burnaby, BC was approved, Kinder Morgan exited the project in 2018 due to uncertainties and questions about the economics of the project, forcing the Trudeau government to take the ownership. The cost of the project has since increased by more than four times the original estimate to $30.9 billion (Globe and Mail Editorial Board, 2023).
- In 2019, US-based Devon Energy announced plans to exit Canada's oilsands to pursue more profitable opportunities in the United States (Healing, 2019).
- In 2020, Teck Resources abandoned its $20 billion Frontier oilsands mine in Alberta because of increasing regulatory uncertainty (Connolly, 2020).
- In 2020, Warren Buffett's Berkshire Hathaway decided not to invest $4 billion in Saguenay LNG, a liquified natural gas plant and pipeline, due to political and regulatory risks (CBC News, 2020).

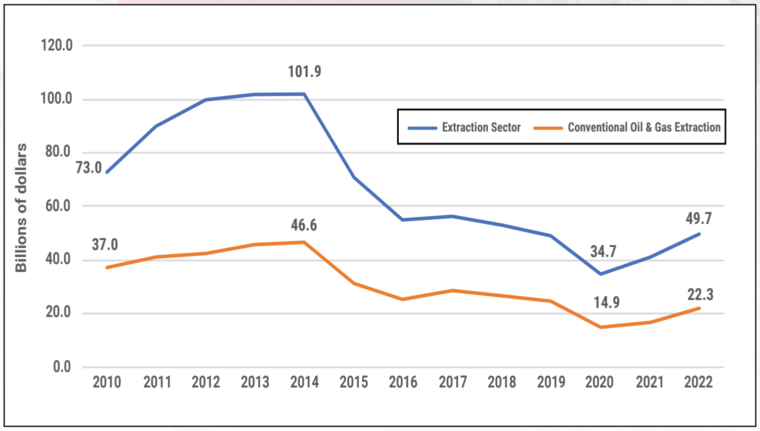
The divestitures above are not an exhaustive list. Other companies including Norwegian Equinor (formerly Statoil), France's TotalEnergies SE (formerly Total SA), US-based Murphy Oil, and ConocoPhillips have all reduced their investments in Canada's oil and gas sector.

The government's mounting regulations and hostilities towards the oil and gas sector did not go unnoticed outside of Canada. A 2018 article in *The Economist* listed the many failures to develop pipeline infrastructure in Canada to bring much-demanded oil and gas to market. Indeed, the piece called it a "three-ring circus" that risked "alienating foreign investors who are already pulling back from Canada" (Economist, 2018).

It is first important to acknowledge the overall decline in business investment in Canada since 2014. Overall, total non-residential business investment (inflation-adjusted) declined by 7.3 percent between 2014 and 2022.[5, 6]

The decline in business investment in the extractive sector (mining, quarrying, and oil and gas) is even more pronounced. Since 2014, business investment excluding residential structures and adjusted for inflation has declined from $101.9 billion to $49.7 billion in 2022, a reduction of 51.2 percent (figure 1).[7] A similar decline in business investment of 52.1 percent is observed for conventional oil and gas, falling from $46.6 billion in 2014 to $22.3 billion in 2022 (inflation-adjusted) (figure 1). In percentage terms the decline in non-conventional oil extraction was even larger at 71.2 percent, falling from $37.3 billion in 2014 to $10.7 billion in 2022.[8] Simply put, the declines in the extraction sector are larger than the total decline in overall non-residential business investment between 2014 and 2022, indicating the magnitude of the overall effect of the decline in business investment in this sector.

Figure 1: Business Investment in the Extraction Sector, Inflation Adjusted (Billions $)



The importance of business investment to the health of an economy and the rising living standards of citizens cannot be overstated. One of the major challenges facing Canadian prosperity are regulatory barriers, particularly in the oil and gas sector.

In that light, much of the regulatory burden added over the last eight years to the oil and gas sector should simply be eliminated. In some ways this is already being forced on the federal government through court decisions. For instance, in October of 2023, the Supreme Court of Canada ruled that parts of Bill C-69 were unconstitutional as they infringed on areas of exclusive provincial jurisdiction, requiring revisions to the Act (Dryden, 2023).

A careful and clear analysis is needed of the costs and benefits of the regulatory measures imposed on the oil and gas sector, including Bill C-48, the recent methane regulations, and the emissions cap. Based on this analysis, the regulatory measures should be adjusted to help improve the ability of Canada's energy sector to attract and retain investment. ❖