



Report of the Auditor General
of Québec
to the National Assembly
for 2008-2009

Volume II

Highlights

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This brochure is a brief version of Volume Two of the *Report of the Auditor General of Québec to the National Assembly for 2008-2009*. It brings together the main observations arising from the work that our audit teams have carried out in recent months.

The purpose of this shorter version is to give readers access to information that is both concise and effective. I hope that the Members of the National Assembly and citizens who are interested in the subjects that we address will appreciate this quick reference designed to meet specific needs.

Of course, this brochure in no way replaces the full report, which I invite readers to consult. It makes a detailed presentation of the results of the audit engagements and follow-ups, in addition to offering the point of view of the entities.

Renaud Lachance, CA

A handwritten signature in blue ink, reading "Renaud Lachance", is positioned above the printed name. The signature is fluid and cursive.

Auditor General

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The numbers of the chapters as well as those of the paragraphs used in this brochure correspond to those of the full report.

Introduction

- 1.1 The Québec National Assembly has entrusted the Auditor General with the mandate of fostering, through audit, parliamentary control over public funds and other public property. This mandate comprises, to the extent deemed appropriate by the Auditor General, financial audits, audits to ensure the compliance of operations with statutes, regulations, policy statements and directives, as well as value-for-money audits. The Auditor General's field of jurisdiction mainly encompasses the government, its agencies and its corporations; the Auditor General is also empowered to audit funds paid in the form of subsidies.
- 1.2 In the annual report that the Auditor General submits to the National Assembly, he draws attention to any topic ensuing from his work that deserves to be brought to the attention of parliamentarians. This document takes the form of several volumes. Chapter 1 of each volume gives the Auditor General or the Sustainable Development Commissioner the opportunity to establish a more personal contact with readers and to share his observations as well as his concerns about the mission pursued by the organization.
- 1.3 This volume is mainly devoted to the work carried out in 2008 by the Sustainable Development Commissioner. It also includes the results pertaining to an audit engagement and to two follow-ups done by teams assigned to other sectors.
- 1.4 The *Sustainable Development Act* (SDA) entered into force in April 2006. At the same time, the *Auditor General Act* was amended to provide for the appointment of a Sustainable Development Commissioner who would be part of the staff of the Auditor General of Québec.
- 1.5 When this volume went to press, the position of Sustainable Development Commissioner was vacant. The process to appoint the next Commissioner has begun. This person will be called upon to assume an important task: helping the public administration tangibly incorporate in its management the principles conveyed by the SDA. To do this, the new commissioner will have to consider the three components of his mandate:
 - the follow-up on the application of the SDA;
 - audits in the area of sustainable development;
 - the analysis of the principles adopted by the government as well as the procedures or other methods used to meet the expectations of the legislator.

- 1.6 The following pages present various elements that will guide the commissioner's priorities. But first, it is useful to report on the work carried out at the Commission administrative des régimes de retraite et d'assurances (CARRA). This work resulted notably from a parliamentarian's request that an examination be made of some of the Commission's business practices.

Commission administrative des régimes de retraite et d'assurances

- 1.7 The work carried out at CARRA dealt in particular with the project to revamp its computer systems, known under the name of the Plan global d'investissement (PGI), and it covered the period from 2003 to 2008.
- 1.8 At the time of the approval of the project in 2005, the business plan anticipated that it would cost \$87.1 million and that the final delivery of the solution would occur in June 2009. In June 2007, the new board of directors requested that an analysis be made of the unfolding of the PGI. Afterwards, various documents were prepared to enable the board of directors to assess the situation and to evaluate the risks related to the project.
- 1.9 On December 17, 2008, an assessment containing the results of this analysis work and the evaluations concerning the costs of the various scenarios for the completion of the PGI was submitted to the board of directors. Under the scenario that was chosen, the announced cost is \$107.5 million, i.e. a 23 percent increase over the amount initially authorized by a decision of the Conseil du trésor; this estimate is close to the pessimistic scenario included in the 2005 business plan. Moreover, the final delivery has been postponed until May 2010. The board of directors established requirements in order to be able to do a closer follow-up on the unfolding of the project. It also mandated an external firm to obtain an independent opinion on the possibility of completing the project according to the revised timetable and budget, with the sums in question being paid out progressively.
- 1.10 The work of the Auditor General also revealed a situation for which the objective of ensuring competition between service providers had not been achieved. First, it is important to point out that CARRA obtained, in 2005 and in 2007, authorization from the Conseil du trésor to resort to a prequalification procedure with a view to acquiring professional services in the information technology field (PGI and other projects); the mandates in question are those whose estimated cost is less than \$100,000. The purpose of this procedure is to draw up, by way of a call for proposals without prices, a list of prequalified service providers. Afterwards, CARRA prepares a request for intervention which it conveys to the prequalified service providers in order to obtain bids. The contract is then awarded to the service provider having submitted the lowest bid, except if the curriculum vitae of the proposed resource persons do not meet the requirements stipulated in the request for intervention.

- 1.11** On November 10, 2008, 51 contracts (totaling \$3.3 million) had been concluded under this authorization:
- 17 contracts were awarded following the receipt of only one bid;
 - for 10 other contracts, only two bids had been submitted;
 - for the 34 contracts attributed in the case where several bids had been received, the one corresponding to the lowest bid was not chosen on 12 occasions. CARRA explains this situation by the fact that the proposed resources did not meet the requirements of the request for intervention and that it was the responsibility of the bidders to submit tenders that complied with the needs.
- 1.12** In light of this finding, the Auditor General recommended to CARRA that it take steps to ensure that its contract management mechanisms notably promote healthy competition and determine the reasons why there was only one bidder, where such was the case.

Priorities of the Sustainable Development Commissioner

- 1.13** It was in December 2007 that the *Government Sustainable Development Strategy 2008-2013* was tabled in accordance with the requirements of the Act. The Sustainable Development Commissioner had commented on the draft strategy during a parliamentary committee held on this subject; he had also addressed this question in his first report.
- 1.14** The adoption of the SDA and that of the strategy pose challenges that are both stimulating and demanding: maintaining the benefits enjoyed by our society, eliminating the non-viable methods of development used to date, and seeking to increase our well-being at a time when we are already among the most privileged on the planet.
- 1.15** It is understandable that the focus was on learning during the first three years of application of the SDA. The tabling, by the end of March 2009 at the latest, of the sustainable development action plans by the entities subject to the SDA presupposes the progression to a new stage reflecting a certain level of maturity: indeed, it is now necessary to accelerate the pace so that the Act and its principles are taken into account in a more sustained manner.
- 1.16** The Commissioner is responsible for supporting all of the stakeholders so that they achieve this objective. Of course, his various interventions must promote first and foremost parliamentary control over public funds and other public property, the prime mission of the Auditor General. Given the innovative nature of the Act, the Commissioner's advisory role with government authorities and entities as well as within our organization is also very important.

Support for parliamentarians

- 1.17** The Commissioner's priorities will be set according to the usefulness of his work for parliamentarians. The possibilities are numerous and the support that he will offer parliamentarians can take various forms.
- 1.18** First of all, it is worthwhile recalling the existence of some 150 action plans as of March 31, 2009. Within the context of his work, the Commissioner will inform parliamentarians about the compliance of these plans with the legal requirements. He will also pay special attention to the characteristics making it possible to gauge the quality of these plans. He will thus evaluate the extent to which the examined documents meet the following criteria in particular:
- They are based on a rigorous analysis of the objectives appearing in the government strategy, an approach having made it possible to determine those that are relevant in light of the mission and mandates of the entities.
 - They concern the main activities and are not limited to certain greening measures related to the administrative component.
 - They establish a close tie with the principles of the SDA and are clearly in harmony with said principles.
 - They satisfy the rules of results-based management, namely they have clear objectives, significant indicators, realistic targets and precise deadlines; in addition, the responsibilities entrusted to each party are described.
- 1.19** Through his value-for-money audits, the Commissioner will indicate to the Members of the National Assembly the degree of influence of the principles set out in the SDA on the management practices of the entities and will testify to the fact that the "necessary" change is indeed taking place, if such is the case. For example, here are a few of the actions expected from the entities:
- A survey of the changes to be made concerning the laws, regulations, policies and programs is carried out. For this purpose, the short- and long-term environmental, social and economic impacts are considered.
 - Preventive measures are put on the same level as remedial measures.
 - Initiatives are carried out with a view to obtaining convincing and lasting results as regards consumption. These initiatives may relate to various fields, such as the acquisition of goods, energy and transportation.
- 1.20** The Commissioner will also have a key role to play with elected officials when it comes to training, notably through the publication of the results of his work as well as through his participation in parliamentary committees. He must be available to guide them in a timely manner in the choice of the means of control that should be favoured, with regard to the new development objectives.

Collaboration with key stakeholders in the Administration

- 1.21 While the taking into consideration of sustainable development principles at the government level is a collective responsibility, some stakeholders are called upon to assume decisive duties. The adequate performance of these duties will contribute globally to the success of the undertaking. Mention may be made of departments and agencies with a government-wide mandate, the Comité interministériel de développement durable and, of course, the Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP). Indeed, through their comments and their actions, these stakeholders can steer the other public stakeholders in the right direction and make the public aware of the required changes.
- 1.22 To obtain the anticipated results, government authorities must change the ways they do things, by being on their guard against relying on deeply rooted management reflexes. As stipulated in his mandate, the Commissioner will have to be on the watch for the most favourable opportunities to assert his point of view to decision-makers and to comment on the actions that they take in the sustainable development field. Concrete examples should be used to illustrate the nature of the interventions that the Commissioner is likely to make with decision-makers.
- 1.23 First, it is worthwhile pointing out that the *Government Sustainable Development Strategy 2008-2013* hinges on 9 orientations and 29 objectives, and that it applies to all activity spheres of the State. This is completely in line with the measures announced in the SDA, the purpose of which is to put in place a “new management framework”. Such an expression indicates the major scope of this Act, one that is comparable to that of the *Public Administration Act*, adopted in 2000.
- 1.24 Upon reading the strategy, one notes that the search for a more viable approach encompasses the multiple components of development. To realize this fact, one simply needs to consider some of the stated objectives: “support research and new practices and technologies [...]”; “promote recourse to economic, fiscal and non-fiscal incentives [...]”; “increase the standard of living”; “prevent and fight poverty and social exclusion”. These objectives clearly show that sustainable development goes well beyond the environmental dimension. Consequently, the Commissioner will continue his efforts aiming to rectify the perception that the issues are limited to this dimension, a perception which still all too often influences decision-making.
- 1.25 The budget process occupies a central place among the tools at the State’s disposal to create conditions that are conducive to the implementation of the strategy. When it comes to a government’s priority orientations in the development field, there is no more significant message than the content of its budget. The latter makes it possible to give tangible expression to the commitments, intentions and decisions associated with activities of every kind. Within such a context, it will be important that the Commissioner express his opinion on how to harmonize the budgetary process with the strategy’s objectives and on the measures that should be taken to achieve these objectives.

- 1.26** In other respects, one of the government's major challenges is to assess the state of development globally. For this purpose, the government must determine the main societal issues and then refer to reliable measurement tools capable of showing the evolution of the parameters in question.
- 1.27** Traditionally, the evaluation of our economic situation has largely been based on known or anticipated trends in the Gross Domestic Product (GDP). Our conception of a strong economy is thus based on the growth of the GDP. Such an approach may be hard to reconcile with certain principles appearing in the SDA. The principle dealing with responsible production and consumption and the one associated with respect for ecosystem support capacity provide a good idea of the complexity of the problem.
- 1.28** One must not forget that the GDP reflects first and foremost, in the form of figures, the value of all of the goods and services produced on a territory; the GDP has not been designed to report on the sustainable nature of development. The government must therefore quickly come up with indicators providing answers that go beyond those taken from the GDP.
- 1.29** The Commissioner will continue to carefully monitor the elaboration of the indicators associated with sustainable development in order to give an informed opinion to parliamentarians and to the managers concerned regarding their relevance for evaluating the progress of society more accurately.

Coaching of the entities

- 1.30** Chapter 4 of this volume shows that the entities subject to the SDA are aware of their responsibilities and that they have invested significant efforts to make the change sought by the Act. To successfully carry out this major undertaking, they do, however, need to precisely understand the objectives to be achieved. From that moment on, they will be able, if necessary, to reorient their actions accordingly and in a concerted manner.
- 1.31** On this subject, it is clear that it is in the interest of government authorities to send as soon as possible a strong signal to the entities concerned and to the public regarding the place given to this societal project. This can notably take the form of the preparation and distribution of guides, the implementation of measures making it possible to improve interministerial collaboration, and the dissemination of good practices.
- 1.32** As for the Commissioner, a proactive attitude will be maintained in order to assist the entities in the best way possible. With all due regard for the mandate of the MDDEP, work will be carried out to convey to the entities the comments concerning the implementation of sustainable development within the Administration. This work can deal with the content of the action plans, the review of management methods in order to better take into account the adopted principles and the use of specific tools.

Assistance to the Auditor General's staff

- 1.33** Following the example of the departments and agencies, the implementation of sustainable development at the office of the Auditor General will not be the responsibility of a limited group of individuals. As was specified in Volume One of the *Report of the Auditor General of Québec to the National Assembly for 2007-2008*, the general objective is that each member of the organization understands the scope of the SDA, embraces the related principles, and is able to adequately use them to guide both auditing activities and activities of other kinds.
- 1.34** The Commissioner will continue to invest the necessary time and effort in order to promote the awareness of staff about the issues associated with sustainable development, to provide adequate training and to develop various auditing tools facilitating the integration of the principles of the SDA in all work. The Commissioner will endeavour to forge close ties with each administrative unit while bearing in mind its respective vocation.

Content of this volume

- 1.35** Chapters 2 and 3 of this volume respectively deal with government interventions in the mining sector and transportation and land use planning in the Metropolitan Montréal Region. They report on the changes that need to be made in the search for more sustainable development in relation to these aspects. A few avenues for improvement are suggested: long-term planning which takes into account the indissociable nature of the economic, social and environmental issues; active interministerial collaboration, a greater cohesion of the actions taken by the various stakeholders; a more rigorous application of control, follow-up and reporting mechanisms.
- 1.36** As for Chapter 4, which examines the application of the SDA in 2008, it reveals that the putting in place of mechanisms and means ensuring the deployment of the government strategy is continuing, despite certain delays. These elements, once available, will be useful on the condition that they are implemented in fertile ground and focus on the activities that are at the heart of the mission of the entities.
- 1.37** As for Chapter 5, it deals with the interventions in the housing field of the Société d'habitation du Québec. Given the social component of its mission, the Société has an essential role to play in the search for better development in relation to the government activities that concern it. Health and quality of life as well as social equity and solidarity are principles that must remain at the heart of its concerns. Moreover, the recently begun initiative concerning the modernization of its processes is closely linked to the subsidiarity principle advocated by the SDA.
- 1.38** Finally, Chapter 6 brings together two follow-ups. The first one concerns the Basic Prescription Drug Insurance Plan while the second one deals with the quality of performance information published by the Ministère de l'Emploi et de la Solidarité sociale.

- 1.39** The prime purpose of the comments and recommendations made in this volume is to contribute to improving the management of the audited entities. However, the other entities subject to the SDA will hopefully draw inspiration from these comments and recommendations to guide their own development.

Conclusion

- 1.40** It is clear that we are faced with a formidable undertaking in the sustainable development field and that the work to be carried out is at times without precedent. While the task is arduous, the collective project which the State has chosen to embark upon is highly motivating; indeed, it is an invitation to surpass oneself. In order to achieve the goal that has been set, it will be necessary to demonstrate flexibility and to accept significant changes in various respects. This is a major challenge for the government administration just as it is for the person assuming the duties of Sustainable Development Commissioner.

Audited entity:

- Ministère des Ressources naturelles et de la Faune

- 2.1** Québec is known for its rich abundance of mineral resources. In 2007, the number of active exploration titles reached a 10-year peak, which translated into \$401 million in investments in metallic ore deposit exploration and development expenses. During this same period, the metal production represented a sum of \$3.9 billion, namely a 61 percent increase over 2005. As the trustee of this public asset, the State, by way of the Ministère des Ressources naturelles et de la Faune (MRNF), must deal with a number of economic, social and environmental stakes.
- 2.2** We checked the extent to which the MRNF integrates the economic, social and environmental stakes within government planning interventions related to the mining sector in order to optimize the spin-offs for society in a long-term perspective. Similarly, we evaluated if the control mechanisms put in place by the MRNF make it possible to minimize the environmental consequences and, in so doing, the risks that the State will be called upon to assume new financial obligations.
- 2.3** We were particularly interested in the exploration and mining of metallic ores. We carried out our work mainly from January to September 2008.

Government planning interventions

- 2.4** Given the major increase in mining exploration in Québec, it is essential and fundamental that the MRNF plan government interventions related to the exploration and mining of mineral resources over the long term. In this respect, the MRNF was supposed to prepare a first government strategy for the mining sector before the end of 2007. Such a strategy had not yet been made public at the time we completed our work.
- 2.5** Based on what we have observed in its operating procedure, we have concerns about the MRNF's ability to consider, in this mineral strategy, the main economic, social and environmental stakes. Our findings notably include the following:
- The fiscal and economic analyses produced by the MRNF do not allow it to estimate the extent to which Québec obtains sufficient compensation in return for the mining of its natural resources. This question namely concerns the provincial mining tax collected by the State. For the 2002-2008 period, 14 companies paid no mining tax even though they had combined gross annual production values of \$4.2 million. As for the other companies, they paid, for the same period, \$259 million, namely 1.5 percent of the gross annual production value.

- In recent years, the MRNF has changed its approaches regarding the collection and analysis of information on the mining industry. Consequently, it stopped making a systematic statistical analysis and publishing information on this industry.
- Although one of the components of the MRNF's mission relates to the conservation of resources, it has not set objectives for acquiring knowledge on this subject.

Control mechanisms

- 2.6 In the past, numerous exploration and mining sites were abandoned by their owners. These sites are now the responsibility of the State which will be required to commit sums estimated at \$264 million as of March 31, 2008 to restore them. The results of our work showed us that the interventions seeking to ensure that mining companies comply with legal requirements during the various stages of a mine's life do not minimize the risk that the State may have to assume additional restoration costs. Based on the analysis of a sample of 25 mining-site files, we noted the following elements:
- For 11 of the 25 files examined, the stipulated deadlines were not met concerning the tabling or the revision of the plan.
 - The assessment of the rehabilitation and restoration plan and the resulting decision did not always concur.
 - The average time period between the tabling of the plan and its approval was approximately three years. The longer the time period, the more the financial guarantee payments are delayed, since these payments only begin following approval of the plan.
 - The *Mining Act* stipulates that the MRNF shall approve the plan after consulting the Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP). In 10 files, the plan was approved despite a MDDEP notice that was inconclusive, unfavourable or that specified conditions, or in the absence of such a notice. These decisions by the MRNF were not sufficiently documented to be able to understand what justified them in the absence of a favourable notice.
 - The financial guarantee, which is supposed to cover 70 percent of the estimated restoration costs, has its limits given the conditions for establishing and paying the sums. To illustrate this point, the applicable guarantee in the audited files stood at \$109 million, while the total cost of the restoration work for all of these sites was established at \$352 million on March 31, 2007.
 - The MRNF has done little work to monitor the state of the reserves indicated in the rehabilitation and restoration plan, even though this is one of the major factors for establishing the financial guarantee payment calendar.

- The guarantee payments have not always corresponded to the calendar established by the MRNF, with the delays occasionally exceeding two years. In some cases, the payments had just simply not been made. At the time of our audit, the total unpaid guarantee for two of the audited files represented roughly \$4.4 million. In other respects, the payment requirements determined by the MRNF for some files did not comply with the regulation, resulting in the postponement of \$16 million in payments.
- There was a serious lack of organization in the inspection activities. We were unable to find any report concerning such activities in 56 percent of the audited files. For the other files, the inspections had been carried out without an analysis grid and occasionally dated back more than two years.
- In almost all of the files, we found no trace of cooperation between the inspectors from the MRNF and those from the MDDEP. Such cooperation is essential if the government wishes to enhance the coherency of its work and optimize the efficiency and effectiveness of inspection activities.
- Among the three audited files for which a certificate of release had been issued following the restoration work, we did not find any documented analysis making it possible to ascertain that the certificate had been issued based on established criteria in this respect. Moreover, when a third party had agreed to assume the restoration obligations, the MRNF had not verified the solvency of this third party.
- The information recorded in the MRNF's mining-site files did not provide a complete overview of the interventions made. We also noted a lack of management information and tools likely to help the department collect data on the evolution of the situation of all of the mining sites.

Recommendations

- 2.7 This section brings together the recommendations made in our report. It should be noted that, for information purposes, the number of the paragraphs in question is indicated in parentheses.
- (2.43) **We recommended to the department that it:**
- analyze the main economic, social and environmental costs and benefits associated with government interventions in order to help decision-makers in their planning;
 - re-evaluate the provincial mining tax in order to make sure that it is sufficient to compensate for the depletion of the extracted resources.

- (2.51) We recommended to the department that it:
- clearly determine the information needed to acquire and maintain the knowledge concerning the mining sector;
 - develop tools making it possible to collect management information that is precise, up-to-date and likely to be incorporated in the decision-making process;
 - make the information available in order to facilitate, among other things, the participation of interested individuals in the decision-making process and their involvement.
- (2.54) We recommended to the department that it acquire a better knowledge of the complementary means of extracting ore in order to take them into account in the government intervention planning process.
- (2.60) We recommended to the department that it complete the development of a mineral strategy that:
- takes into account all of the main economic, social and environmental stakes surveyed and respects the principles of sustainable development;
 - contains significant result indicators, precise targets, priority actions and deadlines that must be met;
 - specifies the responsibilities.
- (2.71) We recommended to the department that it:
- adopt mechanisms making it possible to ensure compliance with the requirements concerning the tabling of rehabilitation and restoration plans, and their revision;
 - strengthen the rehabilitation and restoration plan authorization process, namely to carry out the following actions:
 - adequately document the reasons leading to the acceptance or the refusal of a plan;
 - obtain a favourable notice from the Ministère du Développement durable, de l'Environnement et des Parcs before approving a plan or document the reasons for acting in the absence of such a notice;
 - set a reasonable time period for the approval of plans.
- (2.84) We recommended to the department that it:
- re-evaluate the adequacy of the guarantee currently required in order to protect the State against the risk of having to assume additional restoration costs;
 - put in place control mechanisms making it possible to evaluate the plausibility of the state of reserves disclosed in the rehabilitation and restoration plan submitted by mining companies;
 - improve the process for following up on the guarantee payments by companies to ensure compliance with the regulation.

- (2.91) We recommended to the department that it:
- plan inspection activities according to the potential risks of each site in order to determine an optimal frequency for visits to the sites;
 - oversee the carrying out of inspection activities, namely with respect to the following aspects:
 - the scope and extent of the work;
 - documentation of the outcome of the inspections and the ensuing decisions;
 - the follow-up on the deficiencies noted;
 - establish, in collaboration with the Ministère du Développement durable, de l'Environnement et des Parcs, the relevant information that should be shared regarding their respective inspection work.
- (2.97) We recommended to the department that it:
- document the decision to issue a certificate of release on the basis of the four established criteria used to determine if the state of the site is satisfactory;
 - make sure that a favourable notice is obtained from the Ministère du Développement durable, de l'Environnement et des Parcs before issuing a certificate of release or document the reasons for acting in the absence of such a notice;
 - pay special attention to the financial situation of the acquirer, in cases where the environmental responsibility is transferred to a third party, in order to make sure that the said third party has the capacity to meet the obligations associated with the restoration.
- (2.108) We recommended to the department that it:
- oversee the documentation of the files in order to allow an effective monitoring of its control interventions namely regarding rehabilitation and restoration plans, the financial guarantee, inspections and certificates of release;
 - define the necessary information and management tools to evaluate the efficiency and effectiveness of its interventions on a regular basis.