THE CANADIAN CHAMBER OF COMMERCE
LA CHAMBRE DE COMMERCE DU CANADA

2011 Policy Resolutions

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Positions on Selected

2011 National and International Issues

This booklet contains the final approved versions of all the resolutions adopted by the voting members of the Canadian Chamber of Commerce on September 18-19, 2011 at the Canadian Chamber's 82nd Annual Meeting in St. John's, Newfoundland. Each resolution, once approved by a convention, has an effective lifespan of three years.

The 2011 resolutions were discussed, amended and approved during debate, at which time accredited voting delegates from across the country considered a total of 62 proposals (of which 56 were approved) which had been drafted originally by local Chambers of Commerce, Boards of Trade and National Committees and Task Forces of the Canadian Chamber. In accordance with the by-laws, a majority of two-thirds of the votes cast was necessary to approve each resolution.

These resolutions will be brought to the attention of appropriate federal government officials and other bodies to whom the recommendations are directed. The method of presentation of each item will be determined by a number of factors, including subsequent events and legislation which may affect the subject matter, additional information that may become available, the timing of a presentation, etc.

Throughout the year, members will be updated and advised of the action(s) taken on each of these positions by way of summaries and reports in Canadian Chamber publications.

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Finance and Taxation

Fiscal Policy

The strongest consensus that emerged at G20 Business Summits is that addressing deficits effectively is essential to improving confidence and driving business investment —a precursor to sustainable economic growth.

The window of opportunity to bring indebtedness down is quickly closing as a rapidly aging population and slower growth in the labour force will exert significant pressures on the public purse. Demand for publicly funded programs, like health care and elderly benefits, will rise significantly, and a smaller number of workers will shoulder a larger share of the tax burden.

The actions we take to eliminate deficits can strengthen the economy or weaken it. We have to get it right.

The Canadian Chamber has called on the federal government to balance its books by 2015 and to do so by limiting program spending growth to about 1.6 per cent per year, on average, through fiscal 2015-16. On the surface this may not appear draconian, but it would represent a dramatic shift since federal program spending increased around six per cent per year from fiscal 2000–01 to fiscal 2008–09. Savings can also be realized by improving the efficiency and effectiveness of government programs. The Canadian Chamber recognizes that across-the-board slashing of government programs without underlying structural reforms will generate little in the way of sustained savings. Close scrutiny of government programs must be an ongoing process.

The Canadian Chamber believes that increasing taxes on Canadian families and businesses is the wrong way to eliminate deficits. In a highly integrated global economy, the tax base is constantly on the move. Skilled workers, businesses, jobs and capital move easily across national borders, seeking the best economic opportunities. They are drawn to low-cost, low-tax environments. It is crucial that we do not undermine the progress that has been achieved to-date with respect to corporate and personal income tax reductions.

With respect to business taxes, the government must proceed with the legislated 1.5 percentage point reduction in the federal general corporate income tax rate (taking it to 15 per cent as of January 1, 2012), continue to review and make improvements to capital cost allowance (CCA) rates, and focus on reducing tax administration and compliance costs for businesses.

When it comes to personal income taxes, there is still much unfinished business. Many low- and middle-income Canadian families with children pay higher effective marginal tax rates on their labour earnings than individuals at the top of the income spectrum because many of the public transfers these families receive (including child tax benefits, the GST and provincial sales tax credits, provincial property tax credits, student financial assistance and social welfare) end up being clawed back as income rises. Punitive marginal tax rates send a strong negative message about the merits of working, upgrading one's skills and pursuing higher education. Fiscal conditions permitting, the Government should reduce high marginal personal income tax rates for low- and middle-income Canadians.

To help attract and retain high-tech skilled workers, upper management, entrepreneurs and professionals, many of whom are quite mobile, a lowering of taxes is also warranted at the top end of the income spectrum. Fiscal conditions permitting, the Canadian Chamber recommends that the federal government raise the threshold at which the top federal marginal personal income tax rate kicks in to $200,000 from the current $128,800. This would result in the marginal personal income tax rate on income between $128,800 and $200,000 falling from 29 per cent to 26 per cent.

The federal government must also review the hundreds of exemptions, deductions, rebates, deferrals or credits that are part of the federal tax system to ensure they are cost effective and economically efficient. For example, some credits simply subsidize activities many recipients would have done anyway. Others may stimulate spending in certain areas prompting suppliers to raise prices and, therefore, negate the benefit of the tax credit. In many cases, the government is using tax preferences to achieve social objectives rather than funding the initiative through spending programs. The incentives show up as tax cuts when in fact they are spending increases. Ultimately, the myriad of tax preferences enormously complicate the tax structure, increase compliance costs and open up avenues for evasion and avoidance of tax. Broadening the tax base would facilitate lower tax rates so that everyone benefits.

Recommendations

That the federal government:

Re: Debt Management

1. Balance the federal books by 2015.

2. Ensure that the debt-to-GDP ratio falls below 30 per cent by 2015 without raising taxes to do it.

Re: Program Spending

3. Limit growth in program spending to an average of about 1.6 per cent per year through 2015-16.

4. Continue to review all direct program spending and operating costs on a four-year cycle to determine where the payoffs are the greatest and identify areas where spending can be reduced or eliminated.

5. Broaden the scope of spending review beyond direct program expenses.

Re: Tax Policy

6. Continue to review and make improvements to Capital Cost Allowance (CCA) rates.

7. When fiscal conditions permit, reduce personal income tax rates for low- to modest-income earners—the 15% rate (on the first $41,544 of taxable income) to 14%, and the 22% rate (on taxable income between $41,544 and $83,088) to 21%.

8. When fiscal conditions permit, raise the threshold at which the top marginal personal income tax rate kicks in to $200,000.

9. Conduct a rigorous review of all tax preferences to identify those failing the tests of economic efficiency and cost effectiveness. Phase out those that do not pass the tests.

Implementation of Tax Law Changes and Retroactive Tax Legislation

Implementation of tax legislation within a reasonable period of time and the certainty that government will not change tax rules retroactively to increase the tax burden are of paramount importance to business planning.

There are a number of examples where the federal government has announced changes to tax law without implementing legislation within a reasonable period of time. One prominent example pertains to the taxation of non-resident trusts and foreign investment entities.

Proposed changes affecting the taxation of non-resident trusts and foreign investment entities were contained in the 1999 federal budget. On November 30, 1999, the Finance Minister announced a number of revisions to the proposals. On June 22, 2000, the Department of Finance released initial draft legislation and invited the public to submit comments by September 1, 2000. On September 7, 2000, the Finance Minister announced that the period of consultation on draft legislation would be extended to December 31, 2000 and that the implementation date will be delayed by one year, to taxation years beginning after 2001.

On August 2, 2001, the Department of Finance released a revised draft reflecting comments received by the Department. On October 11, 2002, a third draft of the legislation was released as a Notice of Ways and Means Motion. On October 30, 2003, a fourth draft of the legislation was released as a Detailed Notice of Ways and Means Motion and stated that "generally, the proposals would take effect for taxation years that begin after 2002".

On July 18, 2005, Finance Canada released revised legislative proposals – based on the Motion tabled in 2003 and reflecting comments received by Finance since that time – to provide guidance to taxpayers in anticipation of the amendments to be tabled in Parliament in the fall of 2005.

On January 1, 2006, Finance Canada released a Notice of Ways and Means Motion which included changes to the taxation of income from foreign investment entities and nonresident trusts. Legislation (Bill C-33) was tabled in Parliament on November 9, 2006. Bill C-33 passed third reading in the House of Commons on June 15, 2007. When Parliament prorogued on September 14, 2007, Bill C-33 died on the order paper. It was re-introduced as Bill C-10 in November 2007 when the next session of Parliament began sitting. The legislation included in Bill C-10 (Income Tax Amendments Act, 2006) would generally apply to tax years that begin after 2006, instead of for taxation years that begin after 2002. However, provisions were made to allow taxpayers to elect an earlier application of the rules as far back as their first tax year beginning after 2002(or for certain non-resident trust, beginning after 2000). Bill C-

10 passed all the stages in the House of Commons on October 29, 2007 and received second reading in the Senate on December 4, 2007. The Bill was then held up by the Senate Committee on Banking, Trade and Commerce for most of 2008. It eventually died on the Senate floor in September 2008 when a federal election was called.

In Budget 2010, the government effectively indicated that it is withdrawing its historical proposals relating to the taxation of foreign investment entities. The government proposed limited changes to certain existing taxation rules as a means of satisfying its stated policy objectives. In contrast, Budget 2010 proposed to retain many of the government's historical proposals relating to the taxation of non-resident trusts. However, the Government announced its intention to substantially modify such proposals to "simplify the outstanding proposals and to better target arrangements that seek to avoid paying the appropriate amount of Canadian tax".

The announcement of tax rule changes with no legislation makes it difficult for individuals and businesses to plan their affairs when they have no assurance as to what form the law will take, whether it will be implemented and how it will apply. The government must refrain from making announcements with respect to changes in tax law if it does not intend to introduce legislation within six months.

The government must also clarify its rationale for changing tax laws on a retroactive basis. The government has stated in the past that "retroactive clarifying amendments should only be made in exceptional circumstances". Due to the general nature of the government's rationale, however, it is open to interpretation which only serves to escalate the level of uncertainty regarding tax law. By allowing the least possible margin of different interpretations, taxpayers will have a higher degree of certainty about the effect of tax law. An atmosphere of mutual trust and confidence between business and government will promote the efficient, effective and equitable operation of the tax system.

Recommendations

That the federal government:

1. Provided that sufficient consultation has taken place, make announcements with respect to changes in tax law only if it is introducing enabling legislation within 6 months.
2. If the legislation is not issued until later, then make the change(s) effective at the later date and not the date on which the original announcement was made.
3. Clearly specify its rationale for adopting retroactive amendments to tax legislation. Define what constitutes "clarifying amendments" and "exceptional circumstances".

Simplification of the Taxing Statutes

Background

The *Income Tax Act* (Canada) ("ITA"), the *Excise Tax Act* (Canada) ("ETA") and Provincial Corporate Tax Acts (e.g. the *Corporate Tax Act* (Alberta) "CTA") govern the taxation of the majority of transactions entered into by corporations and individuals. These statutes have seen significant amendments since enactment by technical amendments, budgets, Order in Council, income tax conventions, consolidations etc. As a result, these statutes have become difficult for the average business owner, employee or investor to interpret and understand. In some cases, even the professional advisors, the Canada Revenue Agency, the taxpayer and the Courts cannot fully understand the provisions. See, for example, *Hoffman v. H.M.Q.*, 2010 TCC 267 where C. Miller, J. states, at paragraph 13:

> The problem, I suggest, is that the system has become so complicated that not only the taxpayer is bewildered, but also advisors and those administering the Act can likewise scratch their heads wondering which way to turn

In J.F. Newton Ltd. and John F. Newton v. Thorne Riddell et al., 91 DTC 5726, Finch, J. of the Supreme Court of British Columbia said, in respect of section 55:

> It surpasses my imagination that anyone considers language such as this to be capable of an intelligent understanding, or that such language is thought to be capable of application to the events of real life, such as the sale of a business.

In submissions to the House of Commons Committee on Finance and Economic Affairs, the Joint Committee on Taxation of the Canadian Bar Association and the Canadian Institute of Chartered Accountants stated:

> For any taxpayer to pick up some of this legislation we are looking at here today and understand how these rules are going to impact him when he sits down to fill out his tax return is almost impossible.

Amendments to tax legislation arise as legislators attempt to deal with perceived abuses, changes due to jurisprudence, development of business opportunities not previously available (e.g. electronic commerce) etc. As governments change - new policies and ideas are introduced in the House of Commons and the Legislative Assembly eventually accompanied by revised legislation. Over time, it is inevitable that amendments to tax legislation will result in a statute containing a collection of piecemeal amendments, corrections, incentives etc. Legislation will inevitably become more complex, less understandable and more expensive to administer.

As the taxing statutes become more complex, businesses are required to devote an increasing amount of time to compliance matters (i.e. preparing and filing tax returns, information slips, reports etc.). Failure to meet the various compliance obligations can result in the imposition of penalties, interest and additional income or excise taxes in addition to sanctions, increased audit activity all of which results in even more compliance-related reporting.

Examples of complex transactions with high compliance costs include:

- Goods and services tax (or harmonized sales tax) administration (real property transactions, joint ventures, multiple jurisdictions)
- Uunincorporated contractor reporting
- Transactions with non-resident persons
- Ccalculation of "safe-income" in corporate reorganizations
- Provisions applicable to the sale of a business
- Sscientific research and experimental development.

A good tax system should be capable of being administered economically and should not impose significant compliance costs on the taxpayers and the governments which administer it. Moreover, the taxing legislation should be clear and simple. The more complicated the legislation, or complex the process, the less likely the system is of being administered efficiently and economically. That being said, it is understood that business transactions are conducted in a sophisticated and uncertain economy and some complexity and uncertainty are unavoidable.

Comprehensive reform of the Canadian federal tax system occurred in 1972 as a result of the recommendations made by the Carter Commission. These reforms resulted in the modern day version of the ITA. In 1987 the federal government introduced its "tax reform" budget containing significant amendments designed to simplify the tax system and make it fair for all taxpayers. The Alberta government has not introduced tax reform or simplification measures since the CTA was enacted. As there have been many significant amendments and revisions to the taxing statues since the above, a comprehensive review of the same is warranted.

A review of taxing statutes should include participants from a wide range of key stakeholders including taxpayers, academics, tax specialists, government departments (like Finance Canada and the Canada Revenue Agency) professional bodies (like the Joint Committee on Taxation, the Canadian Bar Association and the Canadian Institute of Chartered Accountants) and foreign governments.

Recommendation

That the federal government establish an expert committee that includes key internal and external stakeholders to, within a 36 month period, undertake a comprehensive review of taxing statutes with the objective of indentifying, recommending and ensuring the implementation of ways and means to simplify tax legislation, reduce compliance costs and ensure all tax payers are treated fairly, and to continuously monitor changes and publicly report progress at least annually.

Timely Assessment of Income Tax Returns

Background

Under the Canadian taxation system, taxpayers (individuals, corporations and trusts) are required to file income tax returns and pay income taxes due within time lines clearly set out by the *Income Tax Act* ("the Act"). If a taxpayer fails to meet the time lines set out by the Act, harsh penalties and interest apply.

On the contrary, the Canada Revenue Agency ("the CRA") is under no set time line to assess a taxpayer's income tax return. Rather, they are only required to assess a taxpayer's return "with all due dispatch", which in practice can mean a few weeks, months or even years.

Having the CRA accountable for timely assessment of returns is important for a number of reasons, including:

- Cash flow – many taxpayers are experiencing some of the most difficult economic times in recent memory and cash flow is key to their economic survival. A delay in assessment delays the taxpayer's ability to recover overpaid tax
- Refund Interest – recently the rate of interest on corporate refunds of tax was reduced by two percent, whereas the rate of interest on taxes due was not changed. Part of the rationale for this change was that taxpayers were seeking a better rate of return on their cash than they could obtain in the market by overpaying tax. In reality, however, most businesses—in particular small businesses—will earn a better rate of return using their cash in their business
- Reassessment periods – the period of time the CRA has to reassess a taxpayer is based on their assessment date. If the CRA takes an inordinate amount of time to assess a taxpayer's return, they may also unfairly extend the time of reassessment for the taxpayer.

Recommendation

That the federal government introduce legislation requiring the timely assessment of income tax returns wherein taxpayers' returns are automatically deemed to be assessed as filed (and are duly processed) after 120 days of filing thereby initiating the statute barred period after which reassessment could be issued.

Extending the Tax Filing Deadline for T3, T5013 and Similar Tax Forms

Most personal tax returns are due on April 30th each year. Returns that are not filed on time incur an automatic penalty of 5% on the balance owing. The ability to meet this tax filing deadline has become more difficult due to the popularity of income trusts and the extended deadline trusts have to provide information about their income allocations and designations.

The majority of slips required to prepare personal returns like the Statement of Remuneration Paid (T4), Statement of Investment Income (T5) and Statement of Pension, Retirement, Annuity and Other Income (T4A), all have a filing deadline of February 28th. The RRSP deadline is set 60 days after year-end (February 29th or March 1st) as well. These deadlines ensure that personal tax filers receive the information to complete their personal tax return by early March and provide roughly 7-8 weeks to prepare and file the tax return.

The Statement of Trust Income Allocations and Designations (T3) form, for example, has a filing deadline of March 31. Our understanding is that, logistically, this deadline cannot be pushed to February 28th because issuers need much of the information provided from other slips before determining their allocations.

This deadline results in personal tax filers receiving the information to complete their personal tax return in early April, and generally provides three weeks for the return to be filed.

With the growing popularity of income trusts over the last decade, many more individuals are receiving at least one T3 slip forcing them to wait to receive this information to complete their tax return.

This has created an unnecessary burden on the system because tax preparers and the Canada Revenue Agency have to process the majority of tax returns during this three-week period to avoid the penalty. In 2008, the CRA extended the filing deadline to May 6th for online filing because the system was getting overloaded with the volume of filers.

Currently self-employed individuals and their spouses have a "tax filing due date" of June 15th reflecting the extra time required to gather the information to prepare the return. The "balance due date" continues to be April 30th for these individuals. Similar treatment would resolve the T3 filing challenge.

Extending the tax filing deadline for T3, T5013 and similar tax forms would reduce tax compliance costs as the number of assessments and adjustments from the slip matching process that is performed by the Canada Revenue Agency is reduced.

Recommendation

That the federal government extend the tax filing due date for individuals to June 15th, while keeping the balance due date at April 30th.

Taxation of Corporate Groups

Many developed countries have a formal system to consolidate the tax reporting of corporate groups or to otherwise transfer corporate profits and losses among related companies. Canada does not. Instead, various tax-planning strategies are used to directly or indirectly transfer tax attributes between related entities. Techniques include intercompany financing arrangements, mergers of related companies, transfers of property between related corporations and the wind-up (dissolution) of a subsidiary into its parent company.

These techniques entail significant internal reorganization, are disruptive to normal business operations and are time consuming. They result in high compliance and administration costs—associated legal and accounting fees can be significant.

Not all corporations are able to use tax-planning strategies, making the system unfair and inequitable. For small and medium-sized businesses, the complexity of the existing system is particularly challenging and onerous because they do not have the resources—the time, money and management expertise—to engage in complex tax planning arrangements. Additionally, legislative and regulatory constraints may limit the ability of some corporations within corporate groups (for example, those operating in the banking and telecom sectors) from using mergers and windups to consolidate losses.

Finally, Canada Revenue Agency auditors expend considerable resources auditing businesses to ensure loss consolidation techniques are legally effective and comply with the Income Tax Act. In November 1996, the Auditor General of Canada noted "one of the schemes we saw involved over 30 individual transactions to accomplish the loss consolidation. We question why taxpayers should have to go to such lengths if it is Parliament's intent that they be allowed to pay tax only on the net profits of the group."

The Canadian Chamber of Commerce believes a more formalized loss transfer system is the least disruptive to the current tax system and a practical approach for the taxation of corporate groups. It would be easier to design, implement, administer and comply with a lost transfer system than with a full consolidation system. The latter would be particularly complex as well as difficult to implement given Canada has both federal and provincial/territorial levels of corporate taxation.

Designed properly, a new formal loss transfer system can increase tax certainty, reduce complexity, enhance flexibility and improve productivity for businesses of all sizes. It would enhance the global competitiveness of our businesses and Canada's economy.

Recommendations

That the federal government expeditiously work with provincial/territorial governments to implement a formal loss transfer system with the following design attributes:

1. *Degree of Common Ownership*: To allow more corporate groups to participate, base it on >50 per cent common ownership of votes and value and use the concept of "affiliated person" as the basis for determining a control group.
2. *Eligible Groups*: Exclude trusts and Canadian branches of non-resident corporations. Limit it to domestic subsidiaries of corporate groups.

3. *Range of Attributes*: Permit group utilization of current-year and prior year non-capital losses and investment tax credits (ITCs) in addition to allowing the transfer, on paper, of taxable income (net of deductions).

4. *Elective Components*: Ensure participation is voluntary and allow corporate groups to decide on a year-to-year basis (i.e. annual election) whether to participate.

5. *Use of Previously Accumulated Attributes in a New System*: Do not exclude previously accumulated losses, where both companies party to the loss transfer were part of the same economically integrated group when the losses arose. However, if there are significant revenue implications, consider phasing in the ability to transfer existing losses over a period of years.

6. *Revenue Impact*: Consider any potential impacts on federal and provincial/territorial government revenues and federal-provincial/territorial tax arrangements (including the general interprovincial/territorial allocation formula).

Extending Tax Relief for Small Business

Currently (2011), the federal government taxes businesses earning under $500,000 per year at a rate of 11 per cent. Amounts exceeding $500,000 are taxed at a rate of 16.5 per cent. Recognizing recent and current challenges, and in an effort to foster a sustainable and competitive small business sector, the cap of $500,000 for the lower tax rate should be increased to $1,000,000.

January 2011 Federal Corporate Tax Rates (%)	
Incomes up to $500,000	Incomes greater than $500,000
11.0	16.5

With approximately 98 per cent of Canadian businesses having fewer than 100 employees, the impact of small business on job creation and the economy at large is difficult to overstate. In 2009, small businesses alone employed approximately five million Canadians, representing a major source of employment in Canada whose growth needs to be supported by effective public policies and tax measures. The recent economic downturn has been particularly hard on small business, which typically lack the financial depth and economies of scale found in large business plus, are often challenged with access to sufficient financing. The impacts on small business of a less than preferable economic climate will be felt for another five years ahead.

In an environment where job growth remains tepid, despite the best efforts of small business, all reasonable action should be undertaken to support and encourage the success of small businesses.

Despite past moves to increase the corporate tax threshold, the current cap of $500,000 (increased from $300,000 in 2009) on the lowest tax bracket is not an effective way of encouraging businesses to thrive or grow. The 11 per cent federal tax rate does not include the tax rate for each individual province/territory. When both the provincial/territorial and federal tax rates are combined, the burden felt by small business becomes significant.

Moreover, small businesses are disproportionately affected by administrative and regulatory compliance issues that are much more onerous and consuming given its minimal resources, than for larger business. Reducing the tax burden felt against the first million dollars in earnings would both serve as recognition of that burden that is exceptionally prominent with small businesses, while providing tangible measures to help alleviate it.

Recognizing the importance of small business in relation to economic and job growth, some jurisdictions are taking proactive measures to lessen the burden on small business. Recently, Manitoba announced that it would implement an effective small business tax rate of zero percent, with British Columbia to follow suit in 2012.

For many small businesses, a healthy return on investment is often not realized until well after the $500,000 income mark is reached. The current tax structure adversely affects small businesses just as they are beginning to achieve some measure of sustainability and return. So the question must be asked, why is it that the small business owner is hit with a hefty tax increase the moment they approach self-sufficiency and becoming poised for growth. The current policy only makes it harder for an owner to succeed and raises the bar for how much a business must make in order to realize a good profit margin. As stated in the Canadian Chamber's policy position paper entitled "The Rationale for Cutting Business Taxes", "taxes on growth discourage investment and kill jobs".

Given the high sales volume needed for small businesses to become profitable, it is recommended that the annual tax rate on businesses at 11 per cent have a higher income threshold of approximately $1,000,000. This encourages and incents small business owners to continue to grow and invest in more equipment, marketing, exploring and expanding in global markets and the hiring of extra staff in order to cope with increasing sales.

At a $500,000 threshold, small businesses hit a wall of taxation that keeps small businesses small. There is also an argument that the current $500,000 threshold which attracts the lower 11 per cent tax rate encourages the split up of companies into $500,000 inefficient units. Thus, if the threshold were increased to $1,000,000 SME's who do fall into this category could combine operations to increase efficiency. Likewise, it would discourage SME's from splitting their businesses into two units in the first place. At the same time, the tax reduction would free up cash for the SME's which is often important for cash flow and/or financing purposes.

A review of global tax rates finds very specific taxation rates, with increases applying to increments of ten or one hundred thousand dollars in earnings. A graduated structure is more reflective of the reality faced by many small businesses, as opposed to grouping by $500,000 increments. Utilizing the current suggestion it is further recommend that businesses which are between the $1,000,001 to $2,500,000 million range be taxed at a rate of 13 per cent and companies which have reached incomes of $2,500,001-plus should be taxed at 15 per cent.

Recommended January 2012 Federal Corporate Tax Rates (%)		
Incomes up to $1,000,000	Incomes $1,000,001 to $2,500,000	Incomes greater than $2,500,000
11.0	13.0	15

The effectiveness of corporate tax relief and the cost to government of forgone tax revenues is widely debated. The Canadian Chamber of Commerce has historically taken the position that corporate tax relief and cuts has a multiplier effect that stimulates the economy, contributing to government revenues. In its recent policy statement paper entitled "Business Tax Relief Is Crucial to Canada's Economic Success," the Canadian Chamber states "low business taxes promote better economic performance and lead to more tax revenue of all types in the long-run, not less." In addition to increasing competitiveness with a lower tax, if in the future the government does decide on a single tax rate as suggested by some economists, the more graduated rate could act as a useful bridge rather than SME's facing a substantial tax rate adjustment.

Recommendation

That the federal government increase the annual amount of active business income eligible for the reduced tax rate—generally referred to as the small business limit—to $1,000,000 from $500,000. Companies that earn between $1,000,001 to $2,500,000 should be taxed at 13 per cent, and businesses which earn $2,500,001-plus at 15 per cent, thus making it easier for businesses to expand and not make a sudden jump from one tax bracket to a much larger one.

Small Business Deduction

The current taxation of Canadian Controlled Private Corporations (CCPCs) earning business income is based on a number of premises:

- CCPCs, i.e. "small businesses," are known drivers of growth in employment and the economy as a whole. As such, they are provided with tax incentives to encourage their success and growth. The most significant incentive available is the small business income rate reduction (SBD). The SBD effectively provides a deferral of income tax so CCPCs have more money to invest in the business. In most provinces, the combined federal and provincial tax deferral can be over $60,000 if the full SBD limit is used. This deferral of tax provides one source of important financing to privately-held companies

- The 2004 federal budget effectively eliminated the Large Corporations Tax (LCT) and increased the base level deduction to $50 million from $10 million. This was a very welcome change. However, for the purposes of calculating the SBD limit, the base for calculating LCT and the $10 million base deduction were still left in place. Once the base deduction for LCT exceeds $10 million, the SBD limit is reduced on a straight-line basis. This reduction is punitive to any corporation that is highly leveraged due to the cost of its products or equipment. The income generated from this business may be identical to a lower leveraged business, but it would not be eligible for any SBD. This unfairly treats corporations that have to have the most capital and, therefore, could use the benefit of the deferral as a financing source

- With the introduction of the new dividend regime and the General Rate Income Pool (GRIP), private companies are going to start to retain more profits within the corporation. While this is a positive change, it will increase private company's retained earnings. As retained earnings are one of the components of the LCT tax base, this will only exaggerate the reduction of the SBD limit

- The federal government has recognized that the SBD an important incentive by increasing the annual limit. However, by still reducing the eligibility to claim the SBD for companies with a larger capital basis it is penalizing certain sectors.

Recommendation

That the federal government eliminate the reduction to the Small Business Deduction for the Large Corporation Tax capital base.

Improving the Accuracy and Timeliness of the Scientific Research & Experimental Development (SR&ED) Program

The SR&ED program is a federal tax incentive program, administered by the Canada Revenue Agency (CRA) that encourages Canadian businesses of all sizes and in all sectors to conduct research and development (R&D) in Canada. It is the largest single source of federal government support for industrial R&D (see http://www.cra-arc.gc.ca/txcrdt/sred-rsde/bts-eng.html).

In October 2010, the federal government announced the creation of a six-member expert panel to review federal support to R&D. In keeping with its mandate, the panel will provide recommendations on:

- What federal initiatives are most effective in increasing business R&D and facilitating commercially relevant R&D partnerships

- Is the current mix and design of tax incentives and direct support for business R&D and business-focused R&D appropriate

- What, if any, gaps are evident in the current suite of programming, and what might be done to fill the gaps.

Our proposals should be considered as part of, and in the context of the overall review of the program.

Currently any Canadian Controlled Private Corporation (CCPC) can apply for Scientific Research & Experimental Development (SR&ED) investment tax credits for expenditures such as wages, materials, machinery, equipment, some overhead and SR&ED contracts. The SR&ED tax incentive program is generally very well suited to the needs of industry. The SR&ED program assists companies to undertake financial risks typically associated with technological uncertainties. Yet despite being an excellent financial incentive tool for CCPCs and a crucial tool in eliminating these financial risks, the SR&ED program falls short in ensuring that claims are processed efficiently and effectively. The program execution and administration by the CRA requires review and refining to increase the timeliness and accuracy of SR&ED claim processing and maximize benefits to Canadian companies' research and development.

In today's fast paced, quick changing and very challenging economy, timely and accurate processing of SR&ED claims on an annual basis, corresponding to corporations' annual fiscal plans is highly critical for small- and medium-sized enterprises (SMEs). Late or poor SR&ED claim processing can have adverse and irreversible effects on SMEs, affecting CCPC's income, business plans, etc. Therefore, timely and accurate execution of SR&ED claims by the CRA is highly critical to the overall successes of Canada's research and development.

Furthermore, several consecutive annual SR&ED claims by CCPCs may be reviewed at one time in a single year by the CRA. Reduced or denied SR&ED claims from the past two years may dangerously accumulate liability of such claims, and may increase costs of such claims incurred by CCPCs which potentially may hinder current and future business.

Administration of the SR&ED program needs to reward and not hurt businesses as it serves a critical role in fostering and encouraging innovation and growth of Canadian corporations. A review of the program's execution and administration would prove valuable in increasing accountability and transparency, reducing fraudulent claims, and ensuring that businesses benefit from the SR&ED program through an efficient claim review process.

If the CRA developed an approach to SR&ED that mirrored the Canada Border Services Agency's Customs Self Assessment (CSA) program it could focus its attention on SR&ED claims made by claimants it does not know or deems high risk while expediting the processing of claims and issuance of payment from reputable claimants the CRA knows are legitimate. In short, to mirror the CBSA's CSA program, the CRA could establish a program which:

- Is client focused
- Requires CCPC's to follow specified policies and procedures in the preparation and submission of its SR&ED claims
- Allows the CCPC's to be audited and certified by the CRA as known and compliant with the program requirements
- Employs an Administrative Monetary Penalty System (AMPS) for non-compliance. An AMPS could be implemented by the CRA to secure compliance with a preferential SR&ED claim certification program through the application of monetary penalties. An AMPS would authorize the CRA to assess monetary penalties for non-compliance with a preferential SR&ED claim certification program requirements. Like the CBSA's AMPS regime, the CRA could impose monetary penalties based on the type, frequency, and severity of the infraction. Penalties should be graduated and take the compliance history of the client into consideration.

Recommendations

That the federal government, and specifically the CRA:

1. Establish a "SR&ED Claim Certification Program" that CCPC's can voluntarily apply to.
2. Set up a specific department (from within existing structure) to work with CCPCs that are certified to the "SR&ED Claim Certification Program".
3. Set up a preferential and expedited claim and payment process for CCPCs that are certified to the "SR&ED Claim Certification Program", allowing claims to be processed within a guaranteed first three months of CCPCs fiscal year.
4. Establish an Administrative Monetary Penalty System that promotes compliance for CCPCs that are certified to the "SR&ED Claim Certification Program".

Change The Accelerated Capital Cost Allowance for Computer Equipment to the Same Asset Class as Computer Software (Class 12)

Capital Cost Allowances (CCA) rates are generally intended to reflect the economic benefit of the asset over time, specifically, over its useful life. The depreciation rate is intended to reflect the fact that depreciable assets contribute to earnings over a period of time and are not consumed in the year in which they are acquired. Given how quickly technology changes, however, it would seem inappropriate to assume that computer equipment has a useful life and contributes to the earnings potential of a business over a period of more than 1 to 2 years. As such, computer equipment should not be distinguished from computer software which is amortized at a rate of 100%. Effectively, because of the application of the "half-year rule", computer equipment would be fully amortized for income tax purposes over a period of two years, which should be more representative of its useful life.

Recommendation

That the federal government change the Capital Cost Allowance (CCA) depreciation period for computer equipment to more closely resemble its useful life by not distinguishing between computer equipment and computer software, which has a period of two years, and that it include computer equipment in the same asset class (Class 12) as computer software.

Indexing of GST/HST New Housing Rebate

A number of organizations, including the Canadian Home Builders Association, have identified the failure to adjust the new home GST/HST rebate to current housing prices as a major concern to home builders and associated businesses throughout Canada. It also poses a significant deterrent to housing affordability in Canada.

When the GST was introduced in 1991, the new home GST rebate threshold was set at $350,000 for a full rebate of 36 per cent of the GST. Between $350,000.00 and $450,000 the rebate was progressively reduced. Over $450,000 no rebate was available. The federal government committed to reviewing the thresholds every two years to adjust for the likely upward change in home prices. Since then, Statistics Canada's new home price index shows a 54.78 per cent increase between 1991 and 2010 and in some markets prices have increased well beyond that. Meanwhile the rebate thresholds have not changed.

The government's original intention was that 90 per cent of new home buyers would receive the full GST rebate and an additional 5 per cent would receive a partial rebate. However, according to 2009 Home Builders Association figures, only an average of 43 per cent of new home buyers purchased homes at a price point that qualified them for the full GST rebate.

While market conditions are the primary driving force behind the sale of both new and used housing, the sale of entry level new housing is predominantly aimed at new home buyers who have very little equity and for whom the GST rebate plays a significant role in their decision to purchase. An increase in the thresholds could add up to $3500.00 to the purchasing power of a new home buyer. That addition to purchasing power is reflected in the business community by the concentric rings of home builders, subcontractors, suppliers and wholesalers all of whom would benefit by the addition of more buyers to the new home building market.

The failure to index the new home rebate is compounded by the introduction of HST in five provinces where now the federal government's failure to index the threshold has resulted in a two pronged calculation of rebates applied at the Federal threshold (in relation to that portion of HST that represents the GST) and a different threshold to reflect the application to that portion of the HST that represents the provincial sales tax.

Reviewing the Rebate

In Vancouver, where the average price of a detached home is $760,000, less than 1 per cent (.03) of new home buyers qualified for a new home GST rebate in 2009. Compare that to 1991, when 75 per cent of buyers in Vancouver qualified.

If the rebate thresholds had been adjusted to accommodate the 54.78 per cent increase in the cost of housing to the end of 2010, the lower and upper thresholds would have increased in 2011 to $545,000 and $700,000.

The economic contribution that new home construction brings to markets has been severely dampened due to failure to index of the thresholds.

Recommendations

That the federal government:

1. Act (in the next Budget) on an outstanding commitment to adjust the GST/HST rebate thresholds to reflect new housing price increases by setting the thresholds for 2011 at $545,000-$700,000 with an automatic annual adjustment relative to the Statistics Canada New House Price Index.

2. Acting in consultation with the provinces and territories that participate in HST, create a combined HST New Housing Rebate that is administered by the HST department and provides for a single rebate based on indexed thresholds that includes the GST portion of the HST and the provincial sales tax portion of the HST.

GST/HST on Asset Management Services

On July 1, 2010 the federal government facilitated the implementation of harmonization of the GST with provincial sales taxes in Ontario and B.C. While providing streamlined reporting and numerous cost savings for businesses, the implementation of the harmonization has resulted in Canadian investors paying the price on their retirement assets.

The Government of Canada has recognized that Canadians need to save more for their retirements, while at the same time they have implemented an increased tax on saving.

Many people are of the understanding that financial services are a GST exempt service. Individuals do not pay GST on their mortgage, their credit cards, bank accounts or Guaranteed Investment Certificates. However, many do not realize that the provision of asset management services, as defined by Canada Revenue Agency, is not GST-exempt services. Investors are paying GST on the management fees for mutual funds, segregated funds, exchange traded funds, hedge funds and managed pension plans.

With the harmonized sales tax, asset management services are now subject to the combined tax rate. Asset managers must collect and remit the HST that is applicable on their management fees. Managed Asset products are distributed to investors in provinces that are subject to the HST as well as provinces, which are not subject to HST. However, due to the pooled nature of expenses in an asset management account, all expenses are pro-rated to all investors.

The HST implementation rules drafted by the federal government require that the HST be calculated in proportion to the amount invested by residents of HST–participating provinces when compared to non-participating provinces. This results in a "blended rate" of tax for each pooled investment.

Hypothetical blended rate calculation:

Province	**Tax Rate (%) (A)**	**% Invested (B)**	**Weighting (A) X (B)**
British Columbia	12%	12%	1.44%
Nova Scotia	15%	3%	0.45%
Other HST Provinces	13%	55%	7.15%
Non-HST provinces	5%	30%	1.50%
Rate applied to all investors			**10.54%**

Investor Economics reported in November 2010 the following value of managed assets in Canada:

Value of Canadian mutual fund assets: $720-billion
Value of Canadian-listed exchange-traded funds: $36.2-billion
Value of segregated fund assets in Canada: $83.3-billion
Value of hedge fund assets in Canada: $45.7-billion
Value of closed-end funds: $24.1-billion
Source: Investor Economics

The following chart summarizes the impact of the new HST on each of the various managed assets:

	Assets as of Nov 2010	Average Management Fees (%)	Average Management Fees ($)	Assumed Blended HST rate (%)	Blended HST ($)
Mutual Funds	$ 720,000,000,000.00	2.00%	$ 14,400,000,000.00	10.54%	$ 1,517,760,000.00
Exchange-Traded Funds	$ 36,200,000,000.00	0.45%	$ 162,900,000.00	10.54%	$ 17,169,660.00
Segregated Funds	$ 83,300,000,000.00	2.50%	$ 2,082,500,000.00	10.54%	$ 219,495,500.00
Hedge Funds	$ 45,700,000,000.00	2.50%	$ 1,142,500,000.00	10.54%	$ 120,419,500.00
Closed-end funds	$ 24,100,000,000.00	2.00%	$ 482,000,000.00	10.54%	$ 50,802,800.00
	$ 909,300,000,000.00	**2.01%**	**$ 18,269,900,000.00**	10.54%	**$ 1,925,647,460.00**

Value-added taxes, such as the GST and HST, are to by their nature supposed to be transparent to the taxpayer. With the inclusion of GST/HST in the reported Management Expense Ratio of managed assets, investors do not see the GST/HST. Most Canadians would be shocked to know that the provincial and federal governments are taxing their investments to the tune of $1.9 Billion per year.

Recommendations

That the federal government continue to assist Canadians to save for their own futures by exempting asset management services from the Goods and Services Tax.

Federal Legislation for the Current Gas Tax Fund Program

In the absence of a legislative framework, infrastructure investment in Canada has waned since the 1940s, resulting in lower levels of productivity and reduced economic performance. Often taking a back seat to entitlement and program spending, the country's infrastructure is now a major concern for multi-national corporations and detraction to foreign direct investment. Legislation reinforcing the commitment to infrastructure investment is urgently needed to provide for a predictable and positive business climate. An environment where Canadian businesses can confidently make long-term investment decisions that will propel our country into a new era of prosperity.

Following the Second World War, Canada was among the strongest nations in the world in terms of public infrastructure investment, enabling an environment where Canadian and multinational corporations leveraged additional capital investments and significantly improved the country's economic growth and productivity for decades to come. By the late 1960s and into the 1970s, public infrastructure investment had started to slow, as different orders of government deferred maintenance on the country's infrastructure system and focused on program spending at the cost of new capital investment.

During the 1980s and 1990s, provincial and federal budget deficits continued to exact a toll on infrastructure investment as the governments of the day sought to balance budget deficits, which had grown to record proportions when measured against the GDP of the country. During this time the municipal infrastructure gap as a percentage of national GDP grew from 2.7 per cent in 1984 to 5.0 per cent in early 2000s (source: TD Bank Financial Group. "Mind the Gap: Finding the Money to Upgrade Canada's Aging Public Infrastructure."May 2004). Starting in 2005, the federal government recognized this challenge and announced the New Deal for Canadian Cities, pledging to commit funds raised through the national gas tax to infrastructure investment. This pledge was reaffirmed in 2008 when the federal government committed to extending the program and providing $2 billion annually for investment that supports sustainable municipal infrastructure. This was an important and welcome decision. While the federal government's pledge of $2 billion is a step in the right direction, more needs to be done.

Progress made in restoring infrastructure investment through the Gas Tax Program is encouraging but efforts must be made to protect the value of the $2 billion allocated from the effects of inflation. As competition for infrastructure continues to increase in jurisdictions such as China and India, so do the prices of construction materials in Canada. In the United States, the Construction Cost Index), a gauge of infrastructure expense, grew by 3.5 per cent in 2010 and is projected to grow by an annual rate of 3.3 per cent in 2011, or two and a half times the rate of consumer inflation. Without a provision to review infrastructure investments through legislation, the current rate of investment will fall by half in real terms within 15 years, effectively returning to levels of that prior to 2005.

In addition, legislation is an imperative to ensure that year-over-year program/entitlement expenditures no longer compete with and displace critical infrastructure investment, which is required to help set the stage for a new era of prosperity and productivity. Legislation will provide a more predictable investment climate, the absence of which would incent further deferral of these investments, ultimately adding cost and increasing the burden on taxpayers, in particular, the business community (source: Dr. M. Saeed Mirza. "The Urgency of Addressing Canada's Infrastructure." November 22, 2004). This legislative framework can further act as a tool to help ensure that the tenants of good tax policy are followed, namely: efficiency, equity, accountability, and ease of administration. Current provincial agreements vary greatly in their implementation and the framework for accountability in each jurisdiction also varies.

Recommendations

That the federal government:

1. Establish federal legislation to secure the current federal gas tax program subject to transparency and accountability.
2. Review funding levels in the program every four years to ensure that infrastructure investment objectives are being met.

The Locked-in Estate Trust - A Response to Canada's Coming Pension Crisis

The Canadian Chamber of Commerce recognizes the severity of the pension reform issue in Canada and at its 2010AGM adopted a policy entitled "The Base Principals of Pension Reform". There looms a pension crisis for Canadians in the near future. The federal government will be unable to fund the pension requirements of the baby boomer retirees let alone the requirements of subsequent generations.. A Locked-in Estate Trust (LIET) is one solution that would allow for individuals to privately fund LEIT's with the money being held in trust for the future benefit of the named beneficiaries of the LEIT.

Our federal and provincial finance ministers are seeking solutions to protect older Canadians from income shortfalls during their retirement years, but there are few solutions on the horizon. At the same time, many older Canadians, through hard work and extraordinary windfalls in the housing market, find they have accumulated a great deal of wealth, but ironically, have little cash flow to supplement their own retirement.

According to Decima Research, it is estimated that as much as $1 trillion dollars will pass to the next generation of Canadians through estate transfers. More than 50 per cent of the children of baby boomers expect to receive $283,000 on average. Acutely aware of the value of their estates, many older Canadians have concerns about the wisdom of passing on such large lump sum estates to children and grandchildren.

Creating a new financial instrument could provide seniors with income now from their valuable estates and at the same time allow them to utilize family wealth to ensure that their children and grandchildren are able to receive private pension income when they retire. This could be fashioned similarly to the Charitable Remainder Trust which is widely used and promoted in the United States.

A LIET would provide a creative solution to our specific demographic quandary in which the size of the retired population will soon far out weigh the ability of the working population to adequately sustain it. It also has the potential to remove some of the well documented and anxiously anticipated strain on the government's ability to provide Old Age Security and Guaranteed Income Supplement funding to Canadian seniors as the baby boomer bulge exits the workforce. Furthermore, a LIET would provide an investment vehicle that could ensure financial independence for subsequent generations of Canadians.

In recognition of the importance of responsible federal fiscal policy, the federal tax revenue will actually be enhanced by this account on a deferral basis. Typically, contributions to the LIET will result in a deferral of capital gains tax of which only 50 per cent of the gain is taxed, whereas the subsequent withdrawal can and will be taxed as 100% regular income at the current marginal tax rate resulting in incrementally larger revenue tax stream.

Furthermore, this account could be used for the generational transition of small business interests similar to a "Family Trust" with this inclusion of limiting access to the revenue and pension income by the beneficiary until the beneficiary if at age 55.

Large pools of wealth in private portfolios transferred to a LIET would have the potential to significantly reduce the drain on government pension resources. It could also represent significant tax savings to individuals who make a decision to move wealth into a LIET.

The LIET would work similar to already available trust vehicles (e.g., the Charitable Remainder Trust) but with tax advantages to the donor or the settler, such as a non-refundable tax credit based on the amount transferred into the LIET. Funds inside the LIET would be allowed to accumulate tax free and be professionally managed and guided by a conservative investment strategy.

The donor would be permitted to access a percentage of the income generated by the LIET while they remain alive.

Named beneficiaries of the LIET would only be allowed to withdraw a legislated percentage of the capital and income of the LIET after age 55, similar to Locked in Retirement Accounts (LIRAs). This would ensure the long term viability of the LIET for future generations.

Because of the tax advantages, the decision to create a LIET would be made by the donor before death and would be an irrevocable decision or the LIET could be created as a Testamentary Estate Trust (After Death).

It is anticipated that the tax foregone (by the granting of a tax credit to the donor and by a deferral of a valuation of the donor's estate) is far outweighed by the reduction of costs related to pension benefits over the long term and the reduction in the benefits payable under Old Age Security and other government programs such as income tested health care and Guaranteed Income Supplement.

Recommendation

That the federal government convene a special committee to determine the feasibility of implementing a Locked-in Estate Trust in the context of Canada's overall pension plan framework, and that this study and review be completed within a 2-3 year period.

Review Wealth Transfer Tax Provisions

As "baby-boomer" Canadians reach retirement age (the first baby-boomers turned age 65 in 2010), it is expected that a significant amount of wealth will be transferred by these individuals to their adult children, spouses, common-law partners or siblings. In some circumstances, certain provisions in the *Income Tax Act* (Canada) (the "ITA") do not accommodate the transfer of wealth in an efficient manner. This is particularly true where business assets are involved in the transfer. As a result, the capital of the business is eroded through the imposition of income taxes thereby reducing profitability and impairing growth, re-investment and, in some situations, jeopardizing the well-being of the business. Given that small business is a significant economic driver it makes sense that tax policies be engineered to facilitate ownership transfers, particularly among family members, rather than jeopardizing their financial well-being.

It is not beneficial for small businesses to face significant challenges on transfer of ownership as this will impair their ability to continue as going concerns.

At present, individual fishers are able to transfer fishing property (including fishing licences or shares of a fishing corporation) to their children without triggering a tax liability at the time of transfer. A taxpayer may also make an intergenerational transfer of farm property in Canada on an income-tax-deferred rollover basis, if the property was principally used in a farming business in which the taxpayer or a family member was actively engaged on a regular and continuous basis. Similar rules apply to intergenerational transfers of shares of family farm corporations and interests in family farm partnerships.

Examples of transactions that do not transfer wealth efficiently include:

- Division of corporate assets where children have inherited shares from their parents or grandparents
- Inability to claim the capital gain deduction where children use a corporation to acquire shares in the capital stock of a corporation owned by their parents or grandparents
- Inability to claim the capital gain deduction where a corporation has retained its profits rather than paying them out as dividends
- Where property has been sold and some or all of the proceeds from the sale are re-invested in a replacement business or property it can be very difficult for the taxpayer to qualify for the replacement property deferral provisions which seems to defeat the purpose of the provisions
- Inability to access losses within a related corporate group
- Reduction to capital losses realized by an estate on disposition of shares where life insurance proceeds are received by a corporation
- Inability for common-law partners to divide corporate-owned assets in a tax-effective manner on breakdown of their common-law partnership.

Where it is intended that the business continue as a going concern, preservation of the businesses' capital is a significant concern. Income taxes should not be assessed unless the business has been sold and there are proceeds of disposition available to pay the resulting income taxes. Consider, for example, a situation where children have inherited a business and wish to divide it into separate divisions so that they can run the business independently and to engage in their own estate and succession planning. Unless they can divide all of the assets of the business proportionately, income taxes will be payable as if the assets had been sold at their fair market value. This will impose a significant financial burden on the business and may even threaten its financial well-being. Alternatively, children may decide to carry on the business under the status quo to avoid the income taxes – a situation that is not ideal as it prevents them from being able to engage in their own estate and succession planning independent from their siblings – who may have completely different estate and succession planning ideas, risk tolerances and objectives.

There are provisions in the ITA that provide favourable tax consequences where unrelated parties transact with one another. For example, an individual can claim the capital gain deduction where shares of a small business corporation are sold to a corporation controlled by a third party. However, this is not permissible if the same shares are sold to a corporation controlled by that person's children. This tax policy has the effect of encouraging taxpayers to sell businesses to third parties rather than to their own children. It seems counter intuitive to encourage persons to sell to third parties rather than accommodating families who wish to work together to build wealth and keep a family-owned business in the family.

The capital gain deduction was originally introduced in 1985 and, in its present form, is applicable to the sale of certain business assets and shares of small business, fishing or farming corporations. Unfortunately, to qualify for the capital gain deduction, a corporation must meet certain threshold tests that are complicated for the business owner to understand and do not always makes sense from a policy perspective. For example, the capital gain deduction may be denied where the balance sheet of a corporation consists of non-business assets in addition to business assets. Alternatively, where a corporation takes steps to "purify" its balance sheet by removing non-business assets so that the requisite threshold tests can be met – an anti-avoidance rule may be applicable to tax the purification transaction. This begs the question – why have a capital gain deduction if it is difficult to claim? It makes more sense to amend the threshold provisions so that the portion of gain attributable to the growth in value of business assets (rather than passive investment assets) is eligible for the small business deduction rather than imposing arbitrary and complicated threshold tests that can cause the entire gain to be ineligible.

The above are examples of provisions that appear to be contrary to good tax policy. It seems far more desirable to facilitate the transfer of family-owned businesses to the next generation where they can remain profitable and continue to provide employment, investment in capital structure and pay income taxes on an ongoing rather than one-time basis.

The Canadian Chamber urges the government to consult on this matter with key stakeholders including taxpayers, academics, tax specialists, government departments such as the Department of Finance and the Department of

National Revenue, and professional bodies like the Joint Committee on Taxation, the Canadian Bar Association and the Canadian Institute of Chartered Accountants, as well as review best practices in foreign jurisdictions.

Recommendation

That the federal government undertake a comprehensive review of the tax provisions affecting estate and succession planning in the next 24 months to determine whether the existing tax regime appropriately considers transfer of family-owned businesses.

Government Compensation Agreements

With the advent of government policy towards settling a number of provincial and federal land use and Crown land tenure issues, small and large Crown land tenure holders and their contractors are facing adverse tax consequences arising out compensation agreements for expropriations by government. In addition, the federal government has announced special funding for communities impacted by economic trade issues. These trade issues have caused economic and employment crises in communities that produce lumber for U.S. markets and for those involved in automobile and other manufacturing. At the present time, however, there is confusion and inconsistent application by the Canada Revenue Agency as to how such compensation agreements or special funds are to be taxed in the hands of recipients.

As an example, in 2005, the BC Government enacted Bill 28 as part of its Forest Revitalization Plan (the Plan). A key component of the Plan included the claw back of about 20 per cent of the Crown harvesting tenures. The Plan was enacted in response to the ongoing U.S. Softwood Lumber issue, and in part, in order to create opportunity for First Nations to participate in the forest industry. A significant portion of the clawed-back harvesting rights were to be distributed to First Nations as part of a larger package of measures aimed at eventual treaty settlement. With respect to the more important Softwood Lumber Agreement (SLA), a portion of the clawed back harvesting rights were to be redistributed to the BC Timber Sales program thereby creating an acceptable mechanism for determining market based stumpage rates for all remaining harvest tenures. It was felt that this action would create an acceptable market-based solution to timber pricing that would allow the BC government to then advocate for exemption from the SLA.

In both circumstances, it is clear that the Plan was introduced to further the government's public policy agenda related to the forest industry and land claims settlements within in BC and to provide a good that would be beneficial to Canadians as a whole. As part of the Plan, and accompanying legislation used to support it (Bill 28), the Provincial Government created the BC Forest Revitalization Trust (BCFRT). The fund was established to effectively mitigate losses suffered by contractors for the elimination of replaceable logging and road building contracts tied to clawed-back tenures and their employee severance.

The intent of the fund was to make contractors "whole" from the loss of their contracts, so they could invest in other businesses, acquire other contractors for right sizing and /or replace what was expropriated in monetary terms. In addition, in this example, contractors did not want to give up their contractual rights: in effect, there was no willing seller or buyer, and therefore, not a fair market value sale of contractual rights or services. Further, the Province employed the "trust" mechanism structure as the intention was for the funds to be considered non-taxable.

Canada Revenue Agency (CRA)

In the above example, at the time the Trust was settled, it was perceived by the politicians, the trustee and contractors that individual businesses would be impacted by taxation differently, but it was felt the funds should and would be non-taxable. The use of a personal trust, as defined under the *Income Tax Act* was employed in distributing the funds. In fact, the Act deems that capital distributions from a trust (i.e. the funds put in the trust by Government) are non-taxable. It is anticipated that a similar funding / payment structure would be utilized in future compensation agreements set up by governments. The payments are made, not in exchange for a right, but for compensation as a result of enactment of public policy.

However, when the CRA began auditing contractors thatreceived funds from the BCFRT, CRA's position and tax interpretations was to treat the receipts from the BCFRT as income for the contractors for tax purposes. The CRA asserted that the funds received are income since contractors suffered a lost opportunity, were provided an inducement and/or received proceeds of disposition re: timber resource property.

The CRA's interpretation of the *Income Tax Act* in these cases was inconsistent with what the provincial government intended. It was also inconsistent with the treatment of similar funds received for expropriations, which are taxed as capital gains. Further uncertainty has arisen because in some cases *(Frank Beban Logging Ltd. v. The Queen* and *Cranswick v. The Queen)* compensation received was held to be nontaxable. In addition, the historical tax treatment of fishery licence buybacks was to tax the proceeds to fishermen as a capital gain.

It has become unclear whether funds received in these circumstances are non-taxable, to be taxed as a capital gain or to be considered income for tax purposes.

Other Examples

- Toronto Refiners & Smelters operated as a secondary lead smelter in downtown Toronto. When its property was expropriated by the City of Toronto, the company was not able to relocate. It ceased carrying on business and disposed of all its business assets to the expropriating authority. The City paid a total of $12 million in compensation to company ($2.0 million for the land, $100,000 for the building and $9 million because the business could not relocate). Toronto Refiners & Smelters treated the $9 million as damages, a non-taxable receipt. However, upon reassessing the situation, the Minister of Revenue determined that the $9 million was a sale of goodwill -- not compensation for damages – and, therefore, eligible capital property. The company appealed. The Federal Court of Appeal opposed the Minister's evaluation and decided in favour of Toronto Refiners & Smelters. The $9 million was treated as damages and, therefore, non-taxable
- Club Sani Sport de Brossard operated a sport centre in Quebec. The company intended to use part of its land to build a tennis court. Hydro Quebec expropriated part of that land and settled for a payment of $350,000 (which included $286,000 for permanent business losses). The Court ruled compensation paid on the expropriation was a whole amount that could not be split into various damage headings. As a result, it was considered a unitary sum and the full amount was treated as capital and, therefore, taxable as a capital gain
- In Farrell v Minister of National Revenue, Farrell owned land from which he removed gravel for sale. Ontario Hydro expropriated the land and compensated the owner for "granular deposits" based on the revenue Farrell anticipated from the sale of gravel. The Court ruled that compensation received for the business loss was to be treated as a capital gain.

Future Possibilities

It is highly probable that these types of arrangements will be used in the future to compensate businesses impacted by further Government expropriations to settle land claims, reduce fishing rights/tenures, advance resort development opportunities and/or to create additional park land or protected areas.

However, in order for businesses and communities to take advantage of these compensation agreements or special funding mechanisms, the tax consequences of doing so needs to be clear and defined so as to avoid uncertainty and the lengthy and costly process of determining the application of taxation to receipt of funds from these agreements.

Accoring to the BCFRT as of March 31, 2011, the BCFRT issue appeared near resolution with an oral agreement between the province and federal government that BCFRT will refund income taxes paid by contractors on amounts received under the BCFRT, and such payments will not be taxable. Final resolution was deferred due to the federal election, but with the election completed, the federal government is now in a position to resolve this matter (source: BC Forestry Revitalization Trust. Report of the Trustee as of March 31, 2011. p.3)

However, it is equally important that the federal and provincial governments bring certainty, and a fair and reasonable approach, to this issue more broadly, including all resource sectors, the affected Crown tenure holders and their affected contractors and employees.

Recommendations

That the federal government publish appropriate Interpretation Bulletins to provide certainty in respect of similar expropriation compensation if the *Income Tax Act* already provides for clear, fair and reasonable treatment of this compensation, consistent with the apparent agreement in the BCFRT issue.

Environment and Natural Resources

Green Economies Generate Employment and Increase Prosperity

The Land of Opportunity

The economic downturn provided an opportunity for businesses in Canada to reflect on practices and priorities, and to retool and recalculate for the road ahead. As recovery begins to take hold, the words "innovation" and "sustainability" have become focal points for enterprises seeking to ensure business success and longevity. Smart businesses realize that engaging in eco-friendly practices can save money and improve efficiencies and that participating in the knowledge-based economy requires the integration of green technologies and business practices. Additionally, businesses increasingly recognize the wisdom of integrating the "triple bottom line" approach into business planning, assessing economic, social and environmental impacts and outcomes.

Green technology is necessary to meet the resource needs for today without compromising that ability for future generations. Innovative green technologies that support good environmental practice and benefit the economic bottom line are being integrated into the construction, energy, transportation and waste management industries[1], just to name a few. In addition to environmentally sound business practices, however, the green business is rapidly emerging as a power-house industry sector in its own right.

Other nations are notably ahead of Canada in both respects. Environmental technologies, goods and services have experienced impressive employment growth – 6.9% in the EU from 2006-08, compared with 1.9% in Canada – and countries like Germany, China, the US, and Italy are benefiting from environmental goods and services exports[2]. Green business industries related to renewal energy, recycling, waste management, and biodiversity are capturing market share around the globe.

Turn Cost into Profit

A nation abundant in natural resources, Canada is often cited as neglectful of eco-friendly practices. Critics point to a perceived lack of strong environmental regulation, conventional wisdom in many other countries around the globe. Without innovation, implementation of environmentally sound business practices will inevitably raise costs. Canada need not sacrifice competitiveness for environmental improvements, though; adopting a pro-business investment lens makes them complementary[3].

The United Nations Environmental Programme states that"…a green economy supports growth, income and jobs"[4], and that the so-called "trade-off" between economic progress and environmental sustainability is a myth, especially if one measures wealth inclusive of natural assets, and not just narrowly as produced output. The results of the report indicate that while in the short term economic growth under a "green" scenario may be less than under business as usual, in the longer term (2020 and beyond), moving towards a green economy would outperform business as usual by both traditional measures and more holistic measures.

Entrepreneurs are open and eager to exploring new avenues that can preserve and sustain our environment while supporting increased prosperity. With a supportive pro-business focus, the federal government can lay the foundation for a prosperous, diverse and resilient green economy.

Take a Stand, Chart the Course

Investing in the development of a green economy accomplishes several things:

1. **Establishes Canada as an environmental leader**: Canada's reputation regarding environmental issues has been in a downward spiral since the onset of large investments in the oil and gas sectors. Currently, Canada

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[1] ECO Canada: Defining the Green Economy http://www.eco.ca/pdf/Defining-the-Green-Economy-2010.pdf **(page 17)**

[2] ECO Canada: Environmental Trends 2010 Report http://www.eco.ca/pdf/Enviro-Trends-2010-Summary-Report.pdf

[3] The Institute for Sustainability and Competitiveness http://www.isc.hbs.edu/soci-environmental.htm

[4] Towards a Green Economy, UNEP 2011http://www.unep.org/greeneconomy/Portals/88/documents/ger/GER_synthesis_en.pdf

is ranked 15th out of 17 developed countries in terms of environmental leadership[5] Strong investment in green business can portray to the nation and the globe that Canada has the ability to put that same energy and focus into emerging industry, and prosper in new ways. Using incentives, low-interest rate loans, and enhanced education and training programs, the government can lay the foundation of a diverse and resilient Canadian economy. "Countries like the U.S. and the U.K. are aggressively ramping up energy efficiency," says Green Communities Canada, "which creates green jobs, improves competitiveness, and generates huge bill savings as well as major environmental benefits."[6]

2. **Diversifies the economy:** Canada is a resource nation, and a trading nation; however, fluctuations in commodity prices can create tremendous economic volatility. Moving to a more balanced, stable economy is a priority, and investing the development of eco-business opportunities constitutes a critical component. "The potential for green diversification is significant," says Canada West Foundation.[7] In the 2008 report *Ensuring Canadian Prosperity in a Changing Global Economy*[8], author Vera Martynkiw says, "In order to maximize its international commercial success… Canada should invest in environmental research and technology and become a leader in cleaner energy technology. By protecting the environment, Canada would create an entire new industry and would secure its long-term prosperity." Muscular investment in new markets with a proven global foothold such as green technology and eco-commerce can support a resilient, stable, strong economy in Canada.

3. **Creates skilled jobs:** The United Nations Environmental Programme (UNEP) 2011 report *Towards a Green Economy* finds that in a number of important sectors such as agriculture, buildings, forestry and transport, a green economy delivers more jobs throughout the short, medium, and long terms than business as usual. In sectors whose capital is severely depleted, such as Canadian fisheries, greening may necessitate the loss of income and jobs in the short and medium term to replenish natural stocks, but this is to prevent the permanent loss of income and jobs in these same sectors. In such cases, transitional arrangements are needed to protect workers from negative impacts on their livelihoods. A green economy can generate as much growth and employment as a brown economy, and outperforms the latter in the medium and long run, while yielding significantly more environmental and social benefits. ECO Canada's report *Defining the Green Economy* states that "greening the economy… will be a major stimulus to employment" through "the adaptation and reallocation of existing jobs, and the creation of new jobs."[9]

4. **Attracts foreign investment**: Attracting investors requires innovative thought and the generation of fresh opportunities. The global momentum around eco-commerce continues to build. Clean technologies are already the third largest sector for venture capital after information and biotechnology in the United States, while green venture capital in China more than doubled to 19 per cent of total investment in recent years[10]. Although the bulk of the investments required for the green transformation will come from the private sector, public policy will also have a leading role to play in overcoming distortions introduced by perverse subsidies and externalized costs, and public investment will be required to jump-start an effective transition to a green economy. In select circumstances and over defined periods, rational use of subsidies can facilitate the transition to a green economy. Taxes and other market-based instruments can be used to stimulate the necessary investment and innovation for funding the transition. And while the scale of financing required for a green economy transition is large, it can be mobilized by smart public policy and innovative financing mechanisms.

5. **Reduces costs and improves efficiencies:** Economic well-being is improved when organizations are enabled to identify waste and inefficiencies in processes, products and services and find cost-saving solutions to those

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[5] The Conference Board of Canada http://www.conferenceboard.ca/hcp/details/environment.aspx

[6] Green Communities Canada http://greencommunitiescanada.org/pages/News.php

[7] The Green Economy and Economic Diversification, Canada West Foundation 2010 http://cwf.ca/projects/the-green-economy-and-economic-diversification

[8] Department of Foreign Affairs and International Trade Canada 2008 http://www.international.gc.ca/cip-pic/discussions/prosperity-prosperite/ediscussion/11.aspx?lang=eng

[9] ECO Canada: Defining the Green Economy **http://www.eco.ca/pdf/Defining-the-Green-Economy-2010.pdf**

[10] Green Jobs: Towards Decent Work in a Sustainable, Low-Carbon World, www.ilo.org/global/What_we_do/Publications/.../index.htm

issues. Furthermore, rather than imposing costs on business to promote compliance with environmental reforms, developing eco-business creates opportunities to profit.

6. **Preserves our natural resources and sustains our way of life for future generations:** Green technology will be necessary to meet the resource needs for today without compromising the ability of future generations to meet their own. With a low-carbon energy future we will reduce the need for non-renewable resources with the implementation conservation and use of renewable ones. Reduced energy costs to run businesses across the country will improve efficiencies and productivity. Clean air and water will improve public health and lessen the burden on the public health care system.

As with all business, there are many risks and challenges along the way. Moving towards a green economy will require Canada's leaders, civil society and leading businesses to engage in this transition collaboratively. It will require a sustained effort on the part of policy makers and their constituents to rethink and redefine traditional measures of wealth, prosperity and well-being. However, Canada can put its enterprising culture to good use to improve its environmental track record and capture a share of a burgeoning global market.

Recommendations

That the federal government:

1. Establish sound policy frameworks that optimize potential for eco-business success to attract venture capital and private investment in green technologies, reducing subsidies for brown economic activities which are already established & proven to be economically self sufficient.
2. Reassess regulations impacting capital initiatives to remove obstacles to investment.
3. Prioritize government investment and spending in areas that stimulate the greening of technologies and systems in all sectors and industries.
4. Educate producers and consumers to incent a shift in preference toward green investment and innovations that promote environmental sustainability.

Canadian Industry Program for Energy Conservation (CIPEC)

For more than 30 years, the Canadian Industry Program for Energy Conservation (CIPEC) has been helping Canadian industry boost its bottom line by using energy more efficiently. It is a unique partnership between industry and government that offers a number of services to help each of Canada's industrial sectors develop energy efficiency goals and action plans. Its mission is to promote effective voluntary action in Canadian industry to reduce energy intensity (use per unit of production), thereby improving economic performance and helping Canada meet its climate change objectives through reduced greenhouse gas emissions.

CIPEC is coordinated by the Office of Energy Efficiency within Natural Resources Canada (http://www.oee.nrcan.gc.ca/cipec/). Over 1400 companies and trade associations participate in the program. CIPEC's reach is continually spreading — as of early 2011, CIPEC had 26 task forces involving 50 trade association, representing a broad spectrum of enterprises in all of Canada's industrial sectors. CIPEC industries are making a positive contribution towards Canada's efforts to achieve greater energy efficiency and reduce greenhouse gas (GHG) emissions.

Through CIPEC, the mining, manufacturing and construction sectors have voluntarily met and exceeded annual targets to reduce their energy intensity. Upstream oil and gas companies have implemented projects to reduce greenhouse gas emissions by millions of tonnes. And electrical utilities have dramatically increased their alternative energy production.

Some details from the 2010 CIPEC Annual Report:

- The Gross Domestic Product (GDP) created by CIPEC industries increased 38.5 percent between 1990 and 2008. With the help of effective energy management, energy consumption by these industries rose only 26.4 percent
- In 2008, CIPEC industries created approximately 27 percent of the country's GDP and provided jobs for 3.5 million Canadians

- The more than 5,000 companies that CIPEC represents reduced their combined energy intensity by 8.8 percent between 1990 and 2008, an average of 0.5 percent per year. The mining, manufacturing and construction sectors improved their energy intensity by an average of 1.5 percent per year. Between 1990 and 2008, these sectors improved energy intensity by 26.7 percent
- Improved energy efficiency enabled Canadian industry to avoid approximately $3.8 billion in purchased energy in 2008 – enough energy to heat almost 4.8 million Canadian households for one year. Had energy intensity remained constant, GHG emissions would have been 37.1 megatonnes (Mt) higher
- As of March 31, 2010, close to 2,100 industrial facilities have signed on as CIPEC Leaders.

The Canadian Chamber of Commerce is a member of CIPEC and will continue to promote this program and encourage its members to participate in the appropriate task force for their industry sector. This program is a key component of Canada greenhouse gas emissions reduction strategy which is called for under the United Nations Framework Convention on Climate Change.

Recommendation

That the federal government undertake an aggressive education campaign to promote the Canadian Industry Program for Energy Conservation (CIPEC).

Consistent Environmental Regulatory Acceptance for Technologies Relating to Soil, Water and Air

There are approval mechanisms in place for drinking water, waste water plants and transportation usage across Canada. However, when dealing with systems that do not immediately involve human receptors, (ie. aquatic ecosystems and other open loop systems) that have potential to release to the receiving environment no consistent mechanism across Canada currently exists for industry product approval for water or soil chemical usages that supports best available technologies. This is true not only at the federal level but at the provincial and municipal levels as well. The current acceptance process only requires that an MSDS and in some cases a Toxicology report be provided but do not contain minimum/maximum threshold guidance, leading to a broad acceptance of products that continue to pose significant risk to the environment. Many of the products used today also pose a risk via the carrier/distribution means (eg. surfactants, emulsificants). There is limited guidance and decision making tools available to regulatory staff in accepting the best product (via the current system – MSDS/toxicity report absent of range/thresholds).

Many effective products cannot find their way to market easily because end users typically request approvals letters from the regulators before they will change a product, regardless of cost. Regulators such as Environment Canada state that they are unable to provide such approval. The cost to bring a new technology or product to market is prohibitive enough without having to compete with the very regulations (or lack thereof) that should be supporting more environmentally friendly solutions.

Existing products are allowed to continue due to "grandfathering in" and are not required to provide any similar types of letters of approval. This gives existing technologies, regardless of their impact on the environment, a definite advantage over any newer, better, more environmentally preferable technologies. In some cases existing suppliers are able to avoid having to provide toxicity reports. Instead they utilize MSDS sheets as a toxicity report and the same are being accepted because their products are grandfathered in. Newer technologies in many cases can potentially be more cost-effective than existing technologies due to increased quality of water and increased efficiencies, reduction in post application costs, reduced maintenance costs, less monitoring requirements, simpler and more passive operations and reduced labor costs.

In summary federal environmental requirements do not necessarily always match provincial or municipal requirements on projects with shared jurisdiction. This absence of a coordinated regulatory approval process greatly hinders the development of better technologies that are developed to improve our environment.

Recommendations

That the federal government work with the provincial and territorial governments to:

1. Develop consistent requirements for regulations within the environmental sector across Canada and its individual provinces/territories.

2. Ensure that the regulations apply to new products/process or technologies as well as all existing products/process or technologies.

3. Ensure that toxicological data, following accepted standards and practices, has been provided as opposed to relying solely on MSDS information to ensure that a product or technology is verifiably safe to the environment.

4. Ensure that the regulations are realistic, have impact and meet the requirements of all the regulatory bodies and the environment.

5. Implement a harmonized product review standard between the various regulators, Municipal, Provincial/Territorial and Federal that allows a clear and consistent standard that all product, technology suppliers, manufacturers and or companies must adhere to and or meet. If a product or technology meets acceptable criteria as defined by the product review standard then the product would become a recognized technology within the various Canadian jurisdictions.

Definition of the Precautionary Principle

The precautionary principle is an approach to risk management that has been developed in circumstances of scientific uncertainty, reflecting the need to take prudent action in the face of potentially serious risk without having to await the completion of further scientific research. The most broadly accepted definition of the Precautionary Principle is Principle #15 of the June 1992, Declaration of the Rio Conference on Environment and Development, which reads:

> "In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

This definition of the precautionary principle is currently enshrined in the 1999 Canadian Environmental Protection Act (CEPA 1999):

> "Whereas the Government of Canada is committed to implementing the precautionary principle that, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

The precautionary principle has been incorporated into CEPA 1999 in the "Preamble", "Administrative Duties" section and in the provisions with respect to controlling toxic substances. As one of the first countries in the world to implement the precautionary principle in its environmental legislation, Canada will also have to provide leadership and show innovation in determining how to apply the Principle and make it work.

This definition is also used in the Pest Control Products Act, with the addition of a reference to human health, appropriate in this case:

> "Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent adverse health impact or environmental degradation."

Unfortunately, not all definitions currently in use in Canada are compatible with this definition. For example, in the Canada Marine Conservation Areas Act, which received Royal Assent in June 2002, the definition reads as follows:

> "Whereas the Government of Canada is committed to adopting the precautionary principle in the conservation and management of the marine environment so that, where there are threats of environmental damage, lack of scientific certainty is not used as a reason for postponing preventive measures"

This definition lacks certain key principles which are contained in the CEPA/Rio definition. These principles ensure a balance between the requirement for science in decision-making and the need to protect the environment in the face of probable threats:

- In this Act, the precautionary principle is invoked where there are "threats of environmental damage". This provides no useful threshold to determine what level of threat, or how credible of a threat, is required.

In CEPA 1999, the words "threats of serious or irreversible damage" signal a high threshold of imminent harm before the principle is invoked

- In CEPA 1999, the words "lack of full scientific certainty" imply that there is still a need for sufficient scientific data to establish that a plausible threat exists for the possibility of serious or irreversible harm. Some degree of scientific certainty is required before invocation of the precautionary principle is appropriate. Without the word "full" in the definition, there would be no clear threshold for any scientifically sound justification before action would be taken
- Under the definition used in CEPA 1999, unlike that in the Canada Marine Conservation Areas Act, any measures to prevent the risk of harm are to be "cost-effective". This ensures that with any actions taken, the cost of the measure is proportional to the risk of harm. As the scientific certainty of risk goes up, the justification for costlier measures is similarly increased

In the Canada Consumer Product Safety Act (2010), the words cost-effective are again missing:

> "Whereas the Parliament of Canada recognizes that a lack of full scientific certainty is not to be used as a reason for postponing measures that prevent adverse effects on human health if those effects could be serious or irreversible;"

In the fall of 2001, the federal government released a discussion paper on the precautionary approach entitled "A Canadian Perspective on the Precautionary Approach/Principle". In that document, the federal government affirm its support for the Rio definition of the precautionary principle. The Canadian Chamber hopes that this support will lead to consistency across all legislation.

The goal of risk management is scientifically sound, cost-effective integrated actions that reduce risks while taking into account social, cultural, ethical, political and legal considerations. It is very important for business confidence and for public credibility that throughout government there is a consistent approach to risk management.

Recommendations

That the federal government:

1. Use the definition of the precautionary principle agreed to internationally at the Rio Conference on Environment and Development in any new legislation, regulations or international treaties, conventions and agreements and, amend any existing legislation which uses a different definition.
2. Work with our international partners to amend existing treaties so that any definition of the precautionary principle is compatible with the Rio definition.

Nuclear Science and Technology in Canada

Issue

Canadian Chamber of Commerce members are concerned that the enormous benefits of Canada's nuclear industry to Canadians may be in jeopardy due to an apparent lack of understanding, strategic planning and promotion at the Federal level.

Background

The Canadian nuclear industry is a substantial and integral part of the Canadian economy, involving activities from mining to manufacturing to materials research to medicine. It generates over $6.6 billion a year in economic activity, over $1.5 billion in federal and provincial revenues, with over $1.2 billion in exports in 2008 alone. The industry sustains 71,000 direct and indirect full time jobs.

Nuclear energy is clean air technology. It produces over half of Ontario's electricity, plus more in Quebec and New Brunswick, without greenhouse gas or acid gas emissions. That's the equivalent of 90 million tones of CO_2 -- *avoided each year*. In addition, Canada's emissions of nitrous oxides and sulphur dioxide have also been reduced by about 10% compared to the emission that would have been produced using coal.

The Canadian nuclear industry is also of immense strategic importance. Canada's CANDU heavy water reactor technology is unique and is used in electricity generation reactors in Korea, China, India, Argentina and Romania . The nuclear research conducted in Canada, principally at the Chalk River Laboratories (CRL) and at twelve universities that are members of the University Network for Excellence in Nuclear Engineering (UNENE), not only supports these made-in-Canada reactor technologies but is used by worldwide clients to test parts, materials and samples for many kinds of manufacturing, engineering, medicine and other areas of research. It is a key component of Canada's science, technology and manufacturing infrastructure, going well beyond nuclear alone.

Since Canada's world-class nuclear industry is a complex, multi-talented and interdependent technological program , it needs all aspects to operate efficiently and collaboratively to be most effective and competitive. This has occurred, in no small measure, due to the leadership and support of Canada's federal government in providing infrastructure – like public sector research laboratories – for which there is no free-market substitute. The world's most innovative economies, such as Japan, the U.S., Germany and Korea, invest greater proportions of their GDP in government –supported research and development infrastructure than Canada does.

A large part of Canada's nuclear business is reactor sales, both at home and abroad. A nuclear reactor is a strategic investment spanning several decades, and a buyer needs to know that the seller will support the product over the long term. Also, emerging nuclear nations are looking for technology partnerships, and they expect government to be part of the team. This is another area in which the federal government's active presence is indispensable to the industry's growth.

CANDU reactor designs are instrinsically safe and proliferation-resistant. They exceed federal standards and operate safely in six countries including two of the largest future markets for nuclear energy: China and India. On May 12, the Chinese Nuclear Energy Association announced plans to boost the country's nuclear capacity by as much as eight times by 2020. A day later, India's Atomic Energy Commission announced plans to increase production 13-fold by 2020. The potential for Canada is huge.

The CCC is concerned that government may not fully recognize the benefits of our Canadian nuclear industry to Canadians, and, in particular, that *research is at the heart of Canada's nuclear industry.* For Canada to remain a competitive player in the global nuclear industry (more than just reactor sales alone) we need investments in R&D infrastructure to maintain our expertise, which is known around the world.

Sales opportunities for CANDU technology exist right now, and the network of Canadian nuclear R&D facilities is needed to support these sales prospects . The Chalk River –based division of AECL that is not being divested is central to the nuclear science and technology sector in Canada. That sector also consists of major research facilities in Vancouver, Saskatoon and Laval plus various private companies and more than a dozen universities across the country.

Recommendation:

That the federal government, working with the Canadian Nuclear Industry, put in place on an ongoing basis, a panel/committee to include, but not be limited to, experts from nuclear operators, universities, and jurisdictions that may require nuclear energy in new applications to review, oversee and make recommendations on the governance and future of nuclear science and technology in Canada.

Industry

Investment Canada Act

Foreign direct investment can convey great advantages by bringing knowledge, technology, efficiencies and economies of scale, all of which are critical to competitiveness. As an enduring policy, Canada should embrace foreign direct investment and reduce barriers to it.

In our view, the *Investment Canada Act* (Section 20) provides a fairly detailed process, including six economic factors that are considered by the Minister in determining whether a transaction is of "net benefit" to Canada. These are: 1) effect of the investment on the level of and nature of economic activity in Canada; 2) the degree and significance of participation by Canadians in the business; 3) effect of the investment on productivity, product innovation and product variety in Canada; 4) effect of the investment on competition within an industry in Canada; 5) the compatibility of the investment with nation, industrial, economic, and cultural policies taking into consideration the stated policies of the provinces that are affected by the acquisition proposal; and 6) contribution of the investment to Canada's ability to compete in the world.

While the six factors provide guidance for the Canadian government, the government does not clearly explain to the purchaser(s) why a negative ruling has been made, thus creating uncertainty for investors and others in the very expensive acquisition process.

The public is entitled to jurisprudence. Additionally, investors are entitled to know, in advance, if they are buying a company which they will not be free to sell somewhere down the road. Similarly, disclosing the benefits of an approved transaction, while preserving confidential commercial information, should be encouraged. Such disclosure does not require an amendment of the *Act*.

The main preoccupation must be to minimize the uncertainties around the review process. An efficient, predictable and transparent process benefits everyone. Canada needs to signal that it still welcomes foreign investment to keep attracting needed capital and to allow Canadian companies to be welcomed elsewhere in the world. Unclear interpretations of terms like "net benefit" and "strategic asset" create investment uncertainty and barriers to entry for foreign investment.

In early 2011, the House of Commons Standing Committee on Industry, Science and Technology launched consultations on the *Investment Canada Act* and the Canadian Chamber looks forward to its report. The Canadian Chamber is also encouraged by the comments made by the Prime Minister that the Industry Minister is working on providing greater clarity and hopes to provide more information about the "parameters" of the government's decision-making process on foreign reviews.

Recommendation

That the federal government minimize uncertainties around the foreign investment review process by making it more transparent and predictable and by providing greater clarity on the interpretations of terms like "net benefit" and "strategic asset" in legislation and interpretative bulletins.

Modernization of Outdated Export Controls

As Canadian companies of all sizes, increasingly look to do business outside of our borders, regulatory issues that inhibit increased domestic R&D investment must be eliminated. Increasingly, our burgeoning high-tech firms are being impeded by outdated and inefficient Canadian Export Control requirements. Currently, companies that develop and/or manufacture products containing encryption technologies are subject to export regulations that result in costly and time consuming delays in R&D projects, research mandates, and product launches. Like other exporting sectors of the Canadian economy, typically 90% – 95% of the tech sector's revenues are earned outside of our borders.

Canada's onerous Export Control requirements have resulted in crippling, multi-month delays for companies launching global products. In the ICT industry, where the time from concept to delivery is often less than 18 months, and multiple products are launched in a year, inserting a minimum of 45 days to approve a Canadian export to a massive, growing market like Asia, results in a grievous loss of revenue. Competitors in other countries that currently market less capable products in industries such as aerospace or consumer electronics have advantaged access to the growing economies of India and China, and are using their situation to capture market share.

Establishing successful partnerships, distribution and supply relationships is critical to determining which companies will dominate these markets once they take off, and export control requirements are denying Canadian companies that first-mover advantage. Export control approvals insert a high degree of risk into the scheduling of technology deployment projects. If a customer agrees to a 45 or 60 day delay for export permit approvals, but no permit is given after this time period, the customer's project will behind schedule before it even starts. Not surprisingly, customers get very frustrated; cancel orders and/or vow to never again do business with the Canadian company.

Leading edge companies also spend weeks navigating red tape just to share R&D information within their own company if one of its locations is physically located outside of Canada. Some Canadian-based subsidiaries have even been shut out of R&D activities by their parent companies due to Canadian export control requirements, moving high income, wealth generating jobs outside of Canada.

In the United States, where national security issues are given a very high priority, companies that export encryption technologies enjoy a far more permissive and efficient export control system compared to their competitors in Canada. US Export Control regulations were relaxed in 2000 and again in 2010 to the point companies are permitted to notify the government after shipping their products. To ensure success in the face of global competition, Canadian exporters must be on a level playing field with foreign competitors. That means that Canadian innovators driving a home-grown digital economy need a domestic export-control regime that does not create unreasonable restrictions and costly delays compared to countries where their competitors operate.

Recommendations

That the federal government:

1. Launch an immediate review of Canada's Export Controls regime with a view to introducing, within 6 months, all measures required to tip the playing field in favour of Canadian companies while adhering to the spirit of its international trade obligations. This time frame is reasonable considering the numerous reviews and public consultations the federal government has undertaken in the last 18 months.
2. See that the modernization of Export Controls include more tax-payer centric policies such as timeliness of reviews, framework of delivery guidelines, specific turnaround service standards, and the appropriate resource allocation for government to administer the program.
3. Ensure that Industry Canada lead the government's efforts in modernizing Canada's Export Control requirements.

Reducing Internal Barriers to Trade and Investment: Replacing the Agreement on Internal Trade

Creating a favourable business environment is critical to enhancing Canadian competitiveness and productivity. Governments in Canada have the ability to positively influence the Canadian business climate by streamlining regulation, eliminating barriers to trade investment and mobility, and removing disincentives to invest. The Canadian Chamber of Commerce is calling for increased leadership amongst the provinces, territories and the federal government in removing internal trade barriers to the movement of goods, services, labour and investment.

The cost of barriers in Canada in 2005 was estimated to be one per cent of Canada's gross domestic product.[11] The Government of Alberta estimates that internal trade barriers cost the Canadian economy as much as $14 billion per year.[12]

Explicit tariffs between the provinces are strictly prohibited under Section 121 of *The Constitution Act of 1867*; interprovincial barriers are therefore the result of differing rules, regulations, licensing requirements and regional

[11] Conference Board of Canada. *An Impact Assessment of the BC/Alberta Trade, Investment and Labour Mobility Agreement*. 2005. Accessed Online (November 13, 2010): http://www.gov.bc.ca/ecdev/down/conf_board_impact_assessment_2005.pdf.
[12] Government of Alberta. *FAQ's on the Agreement on Internal Trade (AIT).* 2008. Accessed Online (November 23, 2010): http://www.international.alberta.ca/658.cfm.

programs which occur when jurisdictions pursuing similar policy objectives use differing approaches. The end result creates differences between jurisdictions that inadvertently create trade barriers and increase the complexity and cost burden to business.

To address these concerns, an *Agreement on Internal Trade* (AIT) was signed by the provinces, territories and federal government in 1994. The objective of this agreement is "to reduce and eliminate, to the extent possible, barriers to the free movement of persons, goods, services and investment in Canada, and to establish an open, efficient and stable market."[13]

By removing existing interprovincial trade barriers and harmonizing interprovincial standards, inter-provincial trade is rendered more efficient, more accessible and allows for greater mobility of tradespeople and professionals. The AIT focuses on reducing trade barriers within eleven specific sectors: procurement, investment, labour mobility, consumer protection, agricultural and food products, alcoholic beverages, energy, communications, transportation and environmental protection.

Recently, amendments have been incorporated into the AIT to further improve labour mobility, the trade of agricultural and food goods and procurement practices. The dispute-resolution process was also amended to allow the imposition of monetary penalties on governments for non-compliance with the AIT.

Recent amendments reflect progress in the right direction; however, as the Committee for Internal Trade (CIT) prepares to meet in Prince Edward Island for its 2011 Annual meeting, it will be important to consider a full review and renegotiation of the AIT with a view to establishing a new pan-Canadian agreement to further eliminate barriers to trade, investment and labour mobility.

The Government of Alberta is a strong proponent of reducing interprovincial trade barriers and moving forward with the AIT, but recognizes the challenge to reach consensus among all provinces, territories and the federal government. Consequently in April 2006, British Columbia and Alberta signed the *Trade, Investment, and Labour Mobility Agreement* (TILMA). The agreement eliminates all barriers to trade between the two provinces, creating the second largest economic region in Canada. The agreement commenced in 2007 and was fully implemented in April 2009. It has a stronger dispute resolution process than the AIT, is effectively enforceable for all disputes and has monetary penalties for non-compliance.

Based on the success of TILMA, the governments of Alberta, British Columbia and Saskatchewan signed the New West Partnership Trade Agreement, which came into effect on July 1, 2010. This agreement extends trade liberalization in western Canada. While this regional approach is the best alternative in the short-term, a longer-term approach incorporating all provinces, territories and the federal government is needed.

Eliminating interprovincial trade barriers is a vital part of creating an efficient and streamlined business environment in which Canadian firms can flourish. Internal barriers, just like international trade barriers, only decrease trade and economic opportunity between provinces, encourage regional disparities and undermine incomes, productivity and competitiveness. They represent a significant cost to doing business, and need to be eliminated.

The Canadian Chamber of Commerce recognizes that the Canadian-European Union Trade Agreement (CETA), when ratified, will have a significant impact on Canada's Agreement on Internal Trade and interprovincial/territorial trade barriers. However, until the CETA is concluded the Canadian Chamber recommends interim action be taken.

Recommendations

That the federal government work with the provincial and territorial governments to:

1. Consider the New West Partnership Trade Agreement as a model for further trade liberalization in Canada.
2. Work to fully implement the Premiers' Council of the Federation work plan on internal trade.
3. Continue to pursue trade liberalizing agreements with other Canadian jurisdictions through the use of Article 1800 (Trade Enhancement Arrangements) of the AIT, which allows interested parties to move forward when consensus is not possible.

[13] Government of Canada. *Agreement on Internal Trade: Consolidated Version*. 2007. Accessed Online (November 19, 2010): http://www.ic.gc.ca/eic/site/ait-aci.nsf/vwapj/AIT_agreement_2007-05_en.pdf/$FILE/AIT_agreement_2007-05_en.pdf.

4. Consider a full review and renegotiation of the AIT with a view to establishing a new pan-Canadian agreement to further eliminate barriers to trade, investment and labour mobility. Any new agreement must:

   - Cover all sectors of the economy and include all government entities including ministries, crown corporations and regional and local governments, without exception
   - Institute a dispute resolution mechanism for persons that includes access to a panel with binding and enforceable powers and contains significant fines for non-compliance
   - Ensure that any free trade agreement includes the elimination of non tariff trade barriers to encourage competition and ensure a level playing field for signatories and their respective businesses.

Improving Consumer Choice: Removing Inter-Provincial Trade Barriers to Sales of 100% Canadian Wine

Issue

In an increasingly competitive global marketplace, inter-provincial barriers in Canada still prohibit growth in many businesses and industries. In 1994, provincial and territorial governments concluded the Agreement on Internal Trade providing a basis to tackle inter-provincial trade barriers. While this approach was a commendable first step towards creating a more competitive national marketplace, for some industries it has yet to deliver on its promise.

A prime example of a sector faced with inter-provincial barriers is Canada's growing wine industry. Canadian consumers have limited access to the world-class, award winning wines that Canada's 400+ grape-based wineries are producing. Federal and provincial laws and regulations prohibit the personal transport or direct delivery of Canadian wines across provincial boundaries. An amendment of these prohibitive and archaic regulations would strengthen the domestic wine industry and facilitate consumer choice.

Background

Since 1928, the federal *Importation of Intoxicating Liquors Act (IILA)* and corresponding provincial and territorial legislation has prevented the movement of liquor across provincial boundaries. Currently, it is illegal to transport or deliver alcohol across provincial borders unless it is purchased by or on behalf of a provincial liquor board, which controls cross-border movement of alcohol. The result of these laws is that it is a federal criminal offense for Canadians to take even one bottle of alcohol across a provincial border.

Canadian wineries are able to apply to provincial liquor boards, or to private Alberta and British Columbia stores, to have their products listed and sold. The retail sales application process require time, agency support and adds significant costs, which are often beyond the reach of some wineries which have neither the sales volumes to meet liquor board thresholds nor the financial means to afford the restricted profit margins due to liquor board mark-ups (e.g., 62.5 percent in Ontario, 123 percent in British Columbia). Moreover, all liquor boards have limited shelf space, and cannot physically stock the growing number of wine products from more than 400 grape-based wineries operating across Canada. Many provincial liquor boards have special order programs, but these systems are cumbersome, costly and inefficient compared to an order directly from a winery.

These rules were designed long before internet sales and just-in-time delivery became viable options for wine distribution. As the industry continues to grow, it is vital that it have access to domestic opportunities beyond its province of production. Direct sales would give Canadian wineries of all sizes a new sales channel and greater choice for Canadian wine consumers.

Reduced inter-provincial barriers would also provide an important benefit for wine tourism. With significant growth in wine and culinary tourism, out-of-province Canadian tourists are restricted by law from bringing wine home, joining a wine club, or even ordering wine online. The winery loses because it cannot build a long term loyal relationship. The customer loses because they may not be able to find the wine at their local retail store. The winery province loses because winery tourism loses its caché with Canadian tourists. It is simply wrong that Canadians who visit Canada's wine regions do not have the opportunity and choice of transporting or ordering domestic wines not readily available in their home province.

The growth of the wine industry in the four key producing provinces – Ontario, BC, Nova Scotia and Quebec – and the potential in other provinces (e.g., Prince Edward Islan, New Brunswick) is clearly beneficial to Canada. Not only does the domestic wine industry create jobs, preserve valuable agricultural land and create vibrant tourism destinations, it also adds value to the economy in many other ways. A 2008 study conducted by KPMG and commissioned by the Wine Council of Ontario concluded that the sale of one litre of 100 percent Ontario wine added $11.50 in value to the Ontario economy compared to $0.67 in added value from the sale of an imported wine.

In the United States, similar prohibitive state regulations hindered the domestic wine industry from delivering directly to out-of-state consumers. In 2005, the U.S. Supreme Court ruled that regulations restricting the direct delivery of wine between states were unconstitutional and ordered regulations to be adjusted to allow for domestic wines to be direct delivered across state jurisdictions. As a result, some 38 states now permit direct-to-consumer delivery (including 72 percent of states that have a monopoly over whole-selling and retailing of alcohol, e.g., Maine, Pennsylvania and Oregon) representing 1 percent of total wine produced in the US, excluding exports. By allowing more consumer choice, the entire domestic industry has benefited.

Changes in Canada could have the same positive impact. By removing inter-provincial barriers to domestic wine delivery, an important agricultural commodity will gain access to a larger domestic market, improving the financial stability of the industry; help it to compete against imported wines which dominate the Canadian wine sales; and enhance its overall positive impact on the economy. Importantly, Canadian consumers will have increased access to quality Canadian products.

There is clearly a growing citizen, voter and parliamentarian demand to allow Canadians to buy more Canadian wine. The Alliance of Canadian Wine Consumers' campaign has been formed to spearhead a consumer voice for change. In the last Parliament, MP Ron Cannan also introduced a motion inthe House of Commons that proposes a personal exemption to the *IILA* allowing Canadian consumers to move a limited volume of wine across provincial boundaries. MP Rick Dykstra, during 2011 pre-budget consultations, indicated that inter-provincial barriers to domestic wine delivery negatively impactsbusinesses (particularly SMEs) as well as consumers and their choices.

The time has come for Canadian governments (federal, provincial and territorial), in cooperation with the wine industry, to eliminate the barriers to trade and finally make it legal for adult Canadians to purchase 100 percent Canadian wines at out-of-province wineries or have it shipped to their home without breaking the law. This can be accomplished while meeting our trade obligations; social responsibility concerns; and delivering some tax revenues to the receiving province. Given the small impact to the overall wine volumes, the mandate and revenue stream of liquor boards will not be compromised.

Recommendations

That the federal government:

1. Work with all provinces and territories to facilitate the shipment and/or direct sale and delivery of 100 per cent Canadian wines from out-of-province/territory wineries to Canadian consumers.
2. Work with the provinces/territories and the Canadian wine industry to create a personal exemption system that would allow specified quantities of wine to be personally transported by or delivered directly to out-of-province/territory Canadian consumers.
3. Take the needed steps unilaterally should the provinces/territories refuse to come to the table.

Reducing Red Tape and the Administrative Burden on SMEs

The regulatory and compliance burden poses a serious problem for small businesses in particular. This is mainly due to the fact that SMEs lack the necessary resources to understand and respond to the myriad of regulations imposed by government. The disproportionate impact on small firms is especially important given that SMEs are a critical driver of the Canadian economy and firms with less than 50 employees account for 97% of companies in Canada.

The costs of complying with regulations represent a significant proportion of overhead expense and net margin. Cumbersome red tape, lengthy processing times for approval and complex reporting obligations mean that companies must expend valuable time and resources on understanding and meeting technical requirements, and that many must even hire external consultants just to administer the associated paperwork. As a result, companies have fewer internal resources to finance investments in assets, knowledge and innovation. In other words, all of this adds up to less time and resources for investing in the business.

The lack of clarity, when it comes to accessing information and assistance, results in frustration for many companies as there is difficulty in identifying who does what in government, and finding the most appropriate individual(s) who can provide concrete answers. The problem is further compounded by the strict approach to compliance taken by many officials. We need to shift from zero tolerance, process focused enforcement to an outcome sensitive approach. And in enforcement there needs to be a clear accountability framework for regulators. At the moment, it is business which must absorb the costs in the process focused approach; and there is no down side for regulators when their actions create delay, confusion and/or contradictory instruction for a regulated company.

Another challenge is that most government agencies lack dedicated client-outreach bureaus and substantive private sector participation in the policy-making process. Accordingly, regulations are usually based on policy derived from line ministry or bureaucrat direction, with almost no input from business.

There is an immediate need for change as Canadian businesses spend significant amounts each year adhering to regulations. In addition, there is significant risk that regulatory problems will get worse if action is not taken in a timely manner.

Reducing the compliance burden will require concerted action to pinpoint and eliminate existing irritants that have a clear detrimental effect on growth, competitiveness and innovation. To succeed, the commitment to cut red tape needs to be top of mind in government, driven by the Prime Minister's office. Therefore, creation of the Red Tape Reduction Commission, which aims to work to reduce the burden of federal regulatory requirements on Canadian enterprises, especially SMEs, is a welcome and positive development. It is key that this important initiative be allowed to follow through on its plan of action in order to help ensure SMEs can grow, prosper and create jobs without being continually impeded by unnecessary government regulations.

The stated goals of the Red Tape Reduction Commission are to: 1) identify the top irritants facing business, and 2) devise permanent solutions focused on systemic changes that measure, control, and reduce the compliance burden on an ongoing basis.

In carrying out its work, the Red Tape Reduction Commission will need to recognize certain clear principles and guidelines concerning red tape and SMEs. It will be important to "think small first" where the owner/operator is responsible for compliance along with all other aspects of the business. Information already available within the administration should not be requested (except for updating purposes). Single points of contact through which businesses can obtain all relevant information and complete all necessary procedures by electronic means need to be established. Before a potential regulation is drafted, the process needs to be communicated, defining the objective, cost of compliance (to business and to the taxpayer), who is accountable and where feedback will be housed. A sunset clause should be considered. Those businesses /sectors impacted need to be consulted and changes not made, especially with cost considerations, without appropriate notice. Lastly, determine if it will replace an old regulation or if it will be an add-on, and why? A new regulation that aligns with one already in place in a province/municipality may not still be required. Always test whether compliance is reasonable and define what happens if it is not.

Recommendations

That the federal government reduce SMEs' compliance burden and costs by:

1. Providing a more efficient business-government interface such as "one window" access online to a myriad of government services.

2. Ensure that in conducting its tasks, The Red Tape Commission recognizes certain clear principles and guidelines concerning red tape and SMEs including:

    - Information already available within the administration should not be requested (except for updating purposes)
    - Single points of contact through which businesses can obtain all relevant information and complete all necessary procedures by electronic means need to be established
    - Before a potential regulation is drafted, the process needs to be communicated, defining the objective, cost of compliance (to business and to the taxpayer), who is accountable and where feedback will be housed
    - A sunset clause should be considered

- Those businesses /sectors impacted need to be consulted and changes not made, especially with cost considerations, without appropriate notice
- Determine if it will replace an old regulation or if it will be an add-on, and why
- Always test whether compliance is reasonable and define what happens if it is not

3. Implementing, in an aggressive timeframe, the recommendations of the Red Tape Reduction Commission.

Illegal Cigarette Trade in Canada

The illegal cigarette trade has increased during the last few years, increasingly affecting the Canadian economy. The majority (94.9 per cent) of the illegal cigarette trade is concentrated in Quebec and Ontario, but the problem seems to be spreading to other provinces. The problem results in losses for the Canadian economy, not only for retailers, but also because unpaid taxes on the sale of tobacco deprive federal and provincial governments of important revenues, estimated at $1.5 billion to $2 billion in 2006.

It is not the first time that cigarette sales have escaped government control. In the past, Quebec fought against a thriving illegal cigarette trade. In the 90s, high tobacco taxes were associated with a huge increase in cigarette contraband, and during that period, the illegal trade reached alarming proportions. Quebec's Minister of Finance estimates that almost 65% of all cigarettes smoked in Quebec were sold illegally and that this clandestine economy cost the ministry nearly $1.3 billion in lost tax revenues between 1990 and 1994. By agreeing together to reduce tobacco taxes, the governments of Canada and Quebec were able to stop the crisis. Paradoxically, despite the 80% reduction in tax rates, fiscal revenues from tobacco sales increased in Quebec after declining for several years due to the underground economy.

The illegal cigarette trade has been booming since 2000. According to the Canadian Tobacco Manufacturers Council, in Quebec and Ontario, almost 1 in 3 cigarettes is bought illegally and the illegal trade is growing. Data shows that the volume of illegally sold cigarettes is growing, and reached 31% in 2007 up from 22% in 2006 in Quebec. Although Quebec accounts for 41.1% of cigarettes illegally sold nationally, the problem is national in scope and 22% of cigarettes purchased in Canada are illegal. Currently, the price of one carton of illegal cigarettes (200 cigarettes) can be sold for as little as $6, which is equivalent to 3 cents per cigarette. The problem is urgent.

It is in the best interest of Canadians to stop the illegal cigarette trade, because of its many negative consequences for the community in general. Tolerating the trade of illegal products, on which taxes are not paid, amounts to accepting the loss of legitimate fiscal revenues, estimated in Canada at more that $1.5 billion in 2006. Moreover, owners of retail businesses, including very small neighbourhood retailers, see their sales fall dramatically and this cannot be explained by a lower rate of tobacco use in the population. According to the Canadian Convenience Stores Association, illegal cigarettes are lowering retailer revenues by 25%.

The illegal cigarette trade affects not only the economy, but also the health of Canadians. There is no quality control on products sold illegally. Health requirements, such as disclosing content, and the prohibition of tobacco sales to minors are not necessarily followed. Young people have access to cigarettes more easily and cheaply and risk becoming regular smokers. So, it is important to increase awareness among the young by working more closely with affected groups.

The illegal cigarette trade is a criminal issue because it breaks the law and gives organized crime additional revenues, allowing it to finance other illegal and damaging activities. Until now, government responses have not succeeded in stopping the perception that one can disobey the law and suffer very few consequences. It is obviously in the best interest of Canada and the provinces to justly and effectively control cigarette sales, as any other trade, to ensure compliance with the laws.

Recommendations

That federal and provincial/territorial governments take all necessary measures to end the illegal cigarette trade in Canada, including:

1. Implement adequate enforcement measures to ensure compliance with the laws in force relating to cigarette trade.

2. Increase collaboration between the various federal, provincial/territorial, and municipal law enforcement authorities in order to make law enforcement actions more efficient.

3. Develop a closer partnership with Aboriginal communities in order to end the illegal cigarette trade and encourage legitimate and viable economic development on reserves.

4. Develop a clear communications plan for the Canadians reaffirming the illegal nature and negative consequences of cigarette smuggling.

5. Providing a performance report on or before June 30, 2012 showing progress since the previous resolution was passed.

Pharmaceuticals – Life Sciences as an Economic and Competitiveness Driver

Background

Knowledge-based industries, such as innovative pharmaceuticals, are recognized as engines of the new economy and will help Canada achieve its stated goal of a world leadership position in health innovation. Governments are striving to enhance our competitiveness and the economic base in which the discovery, development and commercialization of new innovations can thrive. At the same time, policymakers are seeking to moderate and control healthcare expenditures.

A robust innovative pharmaceutical industry will result in "health and wealth", in the form of better patient outcomes, job creation and a strong economy. Innovation can contribute to all of the principles and objectives that a healthcare system might strive for. Pharmaceutical research and development into innovative medicines contributes value to the health of Canadians by helping them to live longer and more productive lives. Patient care is best served by making new innovations rapidly available. New medicines save valuable dollars by helping to reduce the number of expensive hospitalizations and surgeries.

Industry investments into research and development of innovative new medicines have the additional benefit of enhancing economic growth within the knowledge-based, life sciences sector, creating new high value highly skilled jobs, and can create a competitive advantage for Canada in adapting and implementing world class technologies as they become available.

The evolving global context is very challenging. Other nations are competing aggressively in a global marketplace with Canada for the same innovative pharmaceutical jobs and investments. However, the potential for growth is huge. With two and a half percent of the total global sales, Canada currently accounts for only one percent of global pharmaceutical investments. It is time for the federal and provincial governments to establish a favorable climate for increased research and development and investment in this key part of the knowledge based economy by following and implementing the recommendations set out below.

In order to create a business friendly climate for the pharmaceutical industry to increase its investment in Canada, several crucial aspects must be addressed:

- Improved protection of intellectual property
- Rapid and fair access to markets
- A globally competitive regulatory environment.

Recommendations

That the federal government:

1. Ensure that Canada's pharmaceutical intellectual property protection regime is "best in class" in all material respects with the regimes of Canada's key competitors, including without limitation instituting increased data protection for innovative biologics, patent term restoration, and stable and predictable intellectual property protection with meaningful enforcement mechanisms. In particular, equity and balance must be restored under the *Patented Medicines (Notice of Compliance) Regulations* by providing innovators with a right of appeal in the event of an unfavorable decision. Each of the recommended intellectual property

improvements is described in greater detail in "*Innovation for a Better Tomorrow: Closing Canada's Intellectual Property Gap in the Pharmaceutical Sector*", (Canadian Intellectual Property Council, 2011).

2. Ensure that the Common Drug Review (CDR) moves to adopt the recommendations of the House of Commons Standing Committee on Health and recognizes the Government of Canada's support for these recommendations:

   - Undertake a third party evaluation
   - Strive for greater openness within the various stages of the CDR process consistent with practices elsewhere in Canada and globally, including convening expert committee hearings in public
   - Strive for a meaningful appeals process
   - Establish the appropriate used and weighting of evaluation criteria to incorporate social and ethical values for the review of innovative medicines, including first-in-class medicines and medicines for rare disorders.

   Related to the recommendations above, a key element is to improve access to drugs in federal programs as well as in provinces and territories by establishing a Patient Wait Times Guarantee (PWTG) for pharmaceuticals, with a defined timeframe and evidenced-based benchmarks for making decisions around reimbursement.

3. Review the mandate, governance and work of the Patented Medicine Prices Review Board (PMPRB) given that it has now been in existence for more than 20 years. The goal of such a review should be to ensure that the Board is performing a valuable service within its statutory mandate to Canadians without adding an undue regulatory burden or hindering the trade and industrial development objectives of the federal government.

   Ensure that the PMPRB annual review of R&D spending by the patentees includes an updated definition of R&D as well as the research conducted by the biotech companies themselves (which are investing large sums in R&D in their own rights, but it is not captured because they are not marketing patented products).

4. Continuously strive to increase the efficiency and sustainability of the federal drug review and approval processes while at the same time maintaining and assuring safety and efficacy in accordance with Health Canada regulations.

5. Encourage greater international harmonization of standards and sharing of scientific review information with leading regulatory authorities.

6. Adopt a more efficient approval process for prescription drugs, , but continue to maintain and ensure safety, according to Health Canada regulations.

7. Amend the *Income Tax Act* to broaden the definition of what qualifies for Scientific Research and Experimental Development (SR&ED), with the objective of encouraging further investments in R&D and improving Canada's global competitiveness for attracting these types of investments. One potential measure could include expanding the definition of SR&ED to include research in the social sciences as contained in the OECD definition. Furthermore, the administration of the SR&ED credit could be streamlined and made more predictable for claimants.

Steel Industry Trade

Issue

To ensure the Canadian Steel Industry remains world class and sustainable, steel trade must be market-based and fair.

Background

The Canadian Chamber of Commerce advocates for free trade but it must be fair trade. The Canadian Steel Industry currently competes with steel industries around the globe contingent on fair, open and market-based competition. However, numerous countries participate in trade that is not market-based primarily due to government intervention through subsidization and dumping, raw materials export restrictions, non-tariff barriers, etc. Those countries recognize the importance of a strong domestic industry to develop internal infrastructure, create jobs and foster economic turnover. Similarly, the importance of a strong domestic industry is crucial to the Canadian Steel industry, as well as the Canadian economy in general.

The Canadian Steel industry directly employs over 25,000 people and produces more than 13 million tons of steel, resulting in sales of $12 - $14 billion. Steel is integral to the everyday lives of all Canadians. It is a component in nearly 80% of manufactured goods. Thousands of businesses, who are suppliers to the Canadian producers, rely on these operations in their communities. Local governments rely on the economic benefit these operations provide, as do the organizations that rely on charitable giving, notwithstanding the benefit to the workers who also generate even more economic turnover.

The recent changes in the global steel market have fundamentally changed the dynamics, although the Canadian producers are better prepared than ever to compete. However, many countries have built capacity far in excess of their consumption levels irrespective of not having any competitive advantage on raw materials to do so, yet continually impact other markets negatively by selling the steel from this excess capacity at depressed prices to avoid interrupting production levels at home.

Recommendations

That the federal government:

1. Ensure a market-based international trade environment that will encourage continued investment in Canada to further strengthen all sectors.
2. Apply strict trade rules through the WTO and use trade remedy mechanisms in a WTO and NAFTA consistent manner to respond to threats to the Canadian steel industry. Apply strict enforcement of trade rules and use trade remedy mechanisms in a WTO (World Trade Organization) and NAFTA (North American Free Trade Agreement) consistent manner to respond to the threats to fair trade, negatively impacting all sectors but in particular sectors such as manufacturing and within that, steel.
3. Champion a strategy that will create an environment within which the contributions of all sectors will permit wealth generation for Canadians through high paying jobs.

Crisis and Opportunity in Canada's Forest Products Industry

The forest products industry, one of Canada's leading manufacturing sectors and largest net exporter, is slowly recovering from a state of crisis. From 2004 to 2009, the market value of Canada's forest products fell by 47 per cent as a result of the dramatic decrease in North American housing starts, falling commodity prices and a rising Canadian dollar. Demand has also decreased, for paper and pulp due to the global recession, and for newsprint as a result of declining readership and advertising shifts to the internet.

The value of Canada's forest products decreased by $21.1 billion during that time. The industry faced six years of soaring costs, declining earnings, shutdowns and layoffs; and is now emerging from the crisis in a position of unique opportunity.

Workers and industry itself must take the lead in being competitive; however, government hosting conditions play a central role in determining how competitive the forest products industry can be in the global marketplace. Both the provinces and the federal government have taken steps in the right direction, but several challenges continue to create barriers to the industry's competitiveness.

Housing Crash

From 2006 to 2009, U.S. housing starts fell by 69 per cent, and Canadian housing starts by about 34 per cent, which caused near-record low prices for lumber and panel board products. In 2010 the market began to show signs of recovery, but analysts predict that full recovery is still several years away.

High Canadian Dollar

An upsurge in the Canadian dollar's value against the U.S. dollar has slashed forestry revenue. From 2002 to 2010, our dollar strengthened by 66 per cent. Each annualized one-cent rise in the Canadian dollar compared to the U.S. dollar reduces Canada's forest products industry revenue by about $40 million.

Mountain Pine Beetle

Since 2006, the provincial governments of both British Columbia and Alberta (2007) have declared States of Emergency in response to the pine beetle infestation in Western Canada's forests. With the support of provincial and federal governments, forest companies in both provinces have invested heavily in both the time and resources required to aggressively harvest at-risk pine, mitigating the potentially devastating effects of the pine beetle epidemic in Western Canada and reducing its eastern spread.

U.S. Pulp Subsidies

From 2007 to 2009, the U.S. government provided an estimated $7 billion dollars in subsidies to the pulp industry for the renewable energy source produced and used in kraft pulp mills ("black liquor"). As a result, U.S. mills received $200-$300 per ton on pulp that costs $500 per ton to produce. The subsidy put Canadian mills at a competitive disadvantage to U.S. mills during an already challenging time for the industry.

Infrastructure Needs

Transportation costs, for both the delivery of raw materials to mills and finished products to market, play an increasing and substantial role in the competitive position of Canada's forest companies. Critical infrastructure needs include roads and rail.

Impact and Importance of the Forest Industry to Canada

Although recovery has begun, industry experts are predicting recovery to take several more years. So long as the United States remains the largest net importer of Canada's forest products, this industry will continue to be at the mercy of factors such as the drop in U.S housing starts and value of their dollar. Through diversification and the aggressive pursuit of new markets, risk to this industry sector, and the value it provides to Canadian economies can be mitigated:

- Canada's forest products industry generated sales of $57.1 billion in 2010, representing 12 per cent of Canada's manufacturing GDP
- In the same year, export sales exceeded $26 billion and contributed a positive trade balance in excess of $16.6 billion
- Canada's forest industry provides close to 236,700 jobs in 12 of 13 provinces and territories. These are well-paying jobs that in 2009 averaged $46,882 per employee, a figure that is 9 per cent above the national average and combines to contribute more than $11 billion in household income in our nation
- Over $1 billion in corporate, personal and property tax and other fees are paid annually by forest producers and employees in each province where the industry is active. These support our nation's schools, hospitals, social services, infrastructure and overall well-being
- The forest industry is a leader in sustainability. By law, all lands harvested in Canada must be reforested. In 2008, more than 447,000 hectares were replanted and 34,600 hectares of forest were seeded. More than 60 per cent of energy used by the forest industry in Canada is bio-energy.

Since 2006, 86,900 forest industry-related jobs have been lost in Canada. More than 200 mills have closed permanently in the last two years alone, and many more have closed temporarily or curtailed operations. The present situation has far-reaching effects that go beyond production curtailment, job losses and mill closures. Municipalities across Western Canada are experiencing devastating economic hardships - particularly the 192, predominantly rural, forest-dependent communities.

The long-term viability of Canada's forest products industry is threatened, and while the Canadian Chamber of Commerce understands that our federal government cannot influence some of the factors causing this situation, we believe it does have an important role to play in recovery. The Canadian Chamber of Commerce maintains that continued government attention is imperative to the forest industry's ability to weather this downturn.

Timely response by government is essential to harness opportunity for renewal

Forestry is based on a renewable resource, with the ability to provide ongoing sustainable contributions to our country's economy if it survives its current challenges. Although diversification of the industry presents many opportunities in the emerging bio-economy, these opportunities are dependent on the continued renewal and overall strength of the primary forest products industry.

The support of our provincial governments to-date has helped to mitigate some of the challenges faced by forest producers and their communities. Federal support for these initiatives will help to secure the long-term sustainability of our forest industry, the health of our forests, and the livelihood of more than 236,000 Canadians – while maintaining Canada's position as a worldwide leader in environmental sustainability and resource management.

Recommendations:

That the federal government:

1. Continue action to improve the competitiveness of the forest industry and the sustainability of forestry communities through continuation of the 'Green Transformation Program', set to end in March 2012.
2. Address the industry's transportation needs by collaborating with Provincial and Municipal jurisdictions to invest in bridge upgrades and key strategic resource roads.
3. Work collaboratively with the forest industry and Canadian municipalities to effect positive changes for the industry.
4. Aggressively pursue potential new markets for Canadian forest products in emerging economies such as India and China.
5. Coordinate a National Forest Road Map initiative, providing a long-term strategy that supports a coordinated approach by government and the industry to promote new product innovation, research, development, and the pursuit of new markets in emerging global economies.
6. Continue to financially support provincial efforts to control the spread of Mountain Pine Beetle.

Mackenzie Valley Fibre Link

Key policy objectives of the Canadian Chamber of Commerce include the development of the North, support for rural and remote high speed communication systems and Canadian Sovereignty.

There are currently approximately 75 remote sensing satellites in polar orbits. Within the next decade, it is expected that an additional 300 remote sensing satellites will be launched. However, there is a growing shortage of ground station facilities worldwide. In recent years, both domestic and foreign parties have identified Inuvik, Northwest Territories as an optimal location for the development of satellite earth stations to download a rapidly growing number of scientific, commercial and government/military polar orbiting low earth orbiting (LEO) satellites. With the recent commissioning of a satellite ground station (Inuvik Satellite Station Facility – ISSF), Inuvik compliments the European ground stations and has the potential to become one of the world's most important satellite receiving ground stations, providing Canada with a leading role in satellite data acquisition and dissemination. However, satellite ground stations require a very large amount of data to be transported to worldwide Space Agencies, governments and private sector clients. A high speed fibre optic link is the single lacking piece of infrastructure required to enable the significant growth of a national and international class satellite earth station at Inuvik, and to link the station to southern Canada and the world.

The Government of the Northwest Territories(GNWT) and the Federal Government(INAC) have, for a number of years explored the possibility of the construction of a high speed fibre optic link utilizing the Mackenzie Valley corridor to connect communities (along the Mackenzie Valley and in the Mackenzie Delta) to high speed Canadian fibre optic networks in the south. In January 2011, the GNWT commissioned a study entitled "Mackenzie Valley Fibre Link – Feasibility". The study defines the potential for ground station development as well as the requirement for the fibre optic facilities. The study further identifies the potential revenue, cost and possible sources of infrastructure funding under current government programs and the shortfall of capital requirements. The combination of significant private sector opportunities, and public investment would provide the opportunity for substantial revenue generation; for example, a ground station located in Kiruna, Sweden generated an estimated $150 million in gross revenue in 2010.

Canada has significant space assets and continues to invest in space borne surveillance satellites for sovereignty, biological, agricultural, land management, resource development and climate change purposes as well as for coastal surveillance and search and rescue. A northern located Ground Station will enhance the control of northern waterways and assertions of Canadian sovereignty. A Mackenzie Valley Fibre Optic Link will provide a modern high speed communications infrastructure to the Western Arctic and Mackenzie Valley. The benefits include economic growth, job creation, the attraction of world class investment, and further opportunities for resource development and economic diversification. The link will also improve health care for remote northern communities and improve education and employment options for Canada's Aboriginal peoples in the Northwest Territories.

Recommendation

That the federal government review the completed Mackenzie Valley Fibre Link – Feasibillity Study with a view to participating in a public/private ownership structure to construct a Mackenzie Valley Fibre Optic Link that would enable further development of Canada's expertise and competitiveness.

Technovation: a shift in philosophy, an investment in Canada's future

From around the globe, technovation's (technology driven Innovation) influence on our lives continues to increase at an exponential pace. Technology is a common factor in the daily lives of virtually everyone and in every sector**.** Mobile Apps, Facebook, in-vehicle monitoring systems, office webinars, robotic field personnel – technology and the knowledge-based economy are here and must be embraced for any level of productive living, working, interacting.

As the global economy evolves at an increasing rate of speed, technology and cyber or e-business is now a fundamental part of mainstream commerce.

Canada is lagging in its investment in and commitment to innovation and technology, according to the Conference Board of Canada Michael Porter's economic cluster model to economic success[14] a white paper written on Silicon Valley, says the private sector plays prominently as a key contributor to a robust technovative society. This paper lists five major components that contribute to the success in Technovation experienced by Silicon Valley:

- Publicly funded Researchers
- Privately funded Innovators (technovators)
- SME's/Entrepreneurs
- Venture Capitalists
- Political Advocates

Critics cite a focus on traditional sectors and a resistance to adaptation as factors undermining Canada's transition to the knowledge-based economy[15]. Conventional approaches to innovation (e.g. SR&ED, IRAP, Tech Futures, etc.) focus on product birthed in or in some fashion attached to academia, resulting in overlooked knowledge-based business ideas born in the field rather than the lab. Private sector inspired, innovative knowledge or cyber based business ideas such as mobile apps, cloud based computing apps, social networks, etc. run into obstacles that often prevent them from getting to market.

The *Report Card on Canada* gives Canada a 'D' on innovation, describing a lack of understanding of and commitment to knowledge-based innovation. E-business entrepreneurs whose ideas may not have tangible assets are at a distinct disadvantage, contributing to Canada's brain drain.

The adoption of a *Proof of Concept*[16] project model approach for Canada's technology-related grants, loans and new business programs would offer technovators latitude to create, prove out and patent valuable assets that could be legally protected and then made available to entrepreneurs for commercialization in Canadian and global markets.

[14] Silicon Valley White Paper, Jarunee Wonglimpiyarat www.sciencedirect.com
[15] Innovation Policy for the Knowledge-based Economy, David A. Wolfe http://www.utoronto.ca/progris/pdf_files/Wolfe_InnovationPolicy.pdf
[16] *What is Proof of Concept*, Wise Geek, http://www.wisegeek.com/what-is-a-proof-of-concept.htm

Many enduring mainstream technologies today were born in garages and cyber space, and the majority of technovations have come from the private sector. With focus on and public sector investment in private sector R&D and technological innovation, new technovations could become more readily available to enterprising SME's/entrepreneurs, who in turn would build businesses on the technovation creating profits, giving back to our economy through increased tax base, employment, competitiveness, provincial acclaim, and ancillary economic activity through the supply chain.

Although Venture Capital (VC) can and should play a role in the commercialization of technovation, it is the Canadian economy that stands to gain. A recent article in the Globe and Mail report on Community Futures cites that "For every $1 spent in loans to SME's, on average, Canada gets $4.2 back".

Provinces such as Ontario have recognized the need for this type of change and are implementing programs to accommodate and support private sector knowledge-based businesses[17], recognizing that meaningfully supporting and promoting technovation reaps many benefits; however, there is no national strategy.

Through capitalizing on a balanced combination of educational programming and the cultivation of market-driven, private sector technovation opportunities, Canada can address issues such as job creation, a stable, diverse economy, brain drain, wealth creation and global competitiveness and strengthen its enviable position as a stable, robust, continuously growing global economic force.

Recommendations

That the federal government:

1. Reallocate current narrowly-focused grants & loans programs funds to a more broadly defined Technovation grant fund to support Small and Medium Enterprise's/Entrepreneurs willing to take patented or IP protected Technovations to market.
2. Augment the budget for R&D to include applicants who wish to execute Intellectual Property (IP) copyrightable and/or patentable Technovation Proof of Concept projects.
3. Revise the current pre-qualifying criteria for Technovation grants and loans to be more inclusive of the private sector.
4. Review and revise the definitions of technology innovations across ministries and initiatives country wide to be consistent and current, and to ensure such definitions are kept current.
5. Modernize Canada's IP regime by reviewing and revising legislation related to Intellectual Property (IP) rights and patent laws to help protect innovators as well as SMEs and Canadian multi-national companies willing to commercialize these patented innovations.

Private Sector Privacy: Maintaining a Proper Balance and Fostering Innovation

Privacy and the protection of personal information are important issues for consumers and businesses alike. Good business privacy practices lead to consumer confidence and loyalty, which are imperative elements to business success.

The Canadian Chamber of Commerce has supported the federal government in its work to put in place private sector privacy legislation, *The Personal Information Protection and Electronic Documents Act* (herein "PIPEDA") based on the consumer- and industry-developed best practices embodied in the Canadian Standards Association Model Code for the Protection of Personal Information.

Since PIPEDA came into force, the Canadian Chamber has worked closely with our members, local chambers and boards of trade to ensure that businesses of all sizes understand their roles and responsibilities under the Act. The Chamber has provided its members with tools to comply with PIPEDA and to adopt best practices in the collection, use and disclosure of personal information.

The principles-based structure of PIPEDA allows for an effective and workable balance between the interests of protecting an individual's personal information and allowing for business to operate effectively. In addition, the

[17] http://www.itworldcanada.com/news/canada-3-0-wraps-up-with-15-ideas-from-co-chairs/140649

flexibility built into PIPEDA is an important factor in allowing industry to respond to privacy issues in a meaningful way. The adoption of innovative technologies that enable personalized service to consumers can only happen and be facilitated with a principles-based system that is not mired in old ways of doing things. Finally, PIPEDA, as it currently exists has relatively low associated costs and a very efficient complaints mechanism.

Both business and the Privacy Commissioner's Office have demonstrated a solid, co-operative working relationship. This collaborative relationship and efficiency of complaint-resolution depends on the prevailing ombudsman model, by which the Commissioner seeks to *resolve* complaints rather than meting out punishments. The ombudsman model works and should not be altered unless there is clear evidence that the current system is broken. Any alteration of this scheme would transform the relationship from one of collaboration and cooperation to an adversarial one. In addition, the protections that would be required by the Charter to implement principles of natural justice and procedural fairness would lead to inefficiency and litigation.

The Canadian Chamber and its members believe that Canadian privacy legislation should continue to strike an appropriate balance between the privacy rights of individuals and the legitimate needs of businesses to collect and use customer information. The legislation has built-in flexibility that takes into account consumer expectations and permits business to meet those expectations through the delivery of innovative products and services that are tailored to the individual consumer. The flexibility built into PIPEDA has been very beneficial to consumers and business alike during the more than five years since its implementation.

The Canadian economy is increasingly a service economy and technology is a key enabler for increasing productivity and efficiency. The future of Canada's economy is rooted in innovation and technological developments that it can provide to Canadian consumers and to the world-wide marketplace. One of the most important enablers of efficiency and access to secure leading-edge IT services is cloud computing. Interprovincial and international barriers, in the name of protectionism couched as privacy rules, are a key barrier to the adoption of cloud computing. It would be ironic for Canadians to be denied greater IT security and privacy because of protectionism, masquerading as privacy concerns.

The Canadian Chamber believes that ensuring Canada has a consistent, national approach to the protection of privacy and personal information is still a crucial issue. Privacy legislation must be consistent to break-down interprovincial barriers and Canada should strongly encourage consistent privacy regulation among our major trading partners. In particular, Canada needs to be on guard against using privacy as a pretext to erect barriers. In addition, undue compliance burdens place Canadian businesses at a disadvantage when competing on the world stage. To accomplish this, we urge the federal government to keep in mind the following three key principles:

Balance of Interests: Canadian privacy legislation should aim to strike the appropriate balance between the rights of individuals and legitimate needs of business to manage customer's information in order to provide services consumers expect. Both sets of interests are important and must be satisfied if public confidence and maximum compliance are to be attained.

Harmonization: A central goal of Canadian privacy legislation should be to harmonize provincial law with federal law. Privacy legislation in Canada should not create excessive compliance burdens for businesses and individuals, nor should it be the source of further internal or external trade barriers.

Innovation: Canada's regulatory framework, including privacy regulation, should seek to foster innovation by Canadian businesses and the making available of innovative products and services to Canadian consumers. Good privacy legislation should be an enabler of this innovation instead of a barrier.

CSA Privacy Principles: Canadian privacy legislation should continue to be based on the ten principles found in the Canadian Standards Association's Model Code for the Protection of Personal Information. These principles were the result of consensus-based, multi-stakeholder (business, consumer and government representatives) consultations.

Recommendations

That the federal government:

1. Only make changes to PIPEDA if it is failing to meet the above key principles.
2. Continue to work with the provinces and our major trading partners to create a consistent framework for privacy, based on the principles of harmonization, the fair information practices set out in the CSA Model Code and balance.

3. Ensure the Privacy Commissioner continues her role of educating and informing firms of their privacy responsibilities and focusing on resolution of issues, rather than adopting an oversight role that is inherently adversarial and counter-productive.

Creating Equality in Federal Economic Development Agencies in Canada

Issue

While every other federal economic development region within Canada has a standalone agency that is financially accountable to Parliament, the Northern Ontario development agency (FedNor) is the only one to exist solely as a program within Industry Canada. This means that, unlike its agency counterparts, FedNor's finances and performance are not fully accountable to the public and cannot be adequately monitored; conversely, the effectiveness of all other Canadian regional economic development agencies is due in large part to their accountability. FedNor's unique status as a program and not an independent agency also makes it the only federal economic development entity in Canada to lack access to basic protection from political vagaries.

Background

Created in 1987, the Federal Economic Development Initiative of Northern Ontario (FedNor) is a program within the Regional Operations Sector of Industry Canada. FedNor's deliverables have traditionally focused on promoting economic development, diversification, job creation and encouraging sustainable, self-reliant communities in Northern and rural Ontario. In recent years, FedNor's initiatives have expanded to include Community Futures Development Corporations (CFDCs) located throughout the province, including those within rural communities in eastern and southern Ontario. Prior to the dissolution of Parliament in March 2011, the program's budget was an estimated $50 million.

This system is in contrast to how the federal government handles regional economic development for other areas of Canada. In the 2009 Federal Budget, the Government of Canada announced $1 billion over five years for the creation of FedDev Ontario, a federal economic development agency for southern Ontario which operates independently of Industry Canada. FedDev is only one of many regional economic development agencies – each operating independently – as established through legislation by the government of Canada. Other such agencies include: Atlantic Canada Opportunities Agency (ACOA Act, 1988); Western Economic Diversification Canada (Western Economic Diversification Act, 1987); Economic Development Agency of Canada for the Regions of Quebec (Economic Development Agency of Canada for the Regions of Quebec Act, 2005).

The federal government has also created the Canadian Northern Economic Development Agency, a similar standalone organization for Canada's northern territories – Nunavut, Northwest Territories, Yukon – in August 2009. The result is that Northern Ontario remains the only economic development region in all of Canada to be overseen by a government program rather than a standalone agency.

Because of FedNor's status as a program, it does not benefit from the same legislative protections and requirements as these aforementioned government agencies. In particular, this means its budgetary and performance results are folded into Industry Canada's reporting figures, without any clear breakdown of individual initiatives within the program, and without any specific outline of successes and failures. This lack of full public transparency is unique to Northern Ontario's federal economic development situation.

As a result of its status as a program, rather than an agency, FedNor is also unique in that it is not afforded the same protection from political pressures as its agency counterparts. Whereas agencies require approval from Parliament to be modified or eradicated, programs such as FedNor merely require approval from the individual ministries as to whether or not they will receive funding or even continue to exist. This places FedNor in a politically precarious position, with no guarantees of its continued approval from one budget year to the next, and no sense of a legislatively defined mandate.

Overall, this leaves Northern Ontario at a unique disadvantage to gauge the success and failure of the federal government's regional economic development efforts, to determine its spending efforts, and to ensure its continuity of service -- -- abilities which are afforded to all of Canada's other regional economic development entities as a result of their different structure.

On four separate occasions in recent federal politics, members of Parliament from Northern Ontario communities have attempted to enact private members' bills that would establish a standalone federal economic development agency for Northern Ontario; three died on the Order Paper, while the fourth was introduced in June 2011.These include:

- Bill C-451: An Act to Establish the Economic Development Agency of Canada for the Region of Northern Ontario (Tony Martin (NDP), MP, Sault Ste. Marie; First Reading 6 June 2007)
- Bill C-499: A Act to Establish the Economic Development Agency of Canada for the Region of Northern Ontario (Anthony Rota (Liberal), MP, Nipissing-Timiskaming; First Reading 4 February 2008)
- Bill C-309: An Act to Establish the Economic Development Agency of Canada for the Region of Northern Ontario (Anthony Rota (Liberal), MP, Nipissing-Timiskaming; Third Reading 9 February 2011.)
- Bill C-204: An Act establishing the Economic Development Agency of Canada for the Region of Northern Ontario (Claude Gravelle (NDP), MP, Nickel Belt; First Reading 8 June, 2011.)

Providing a new structure for the existing FedNor framework by converting it from an internal ministry program to a standalone economic development agency for Northern Ontario will result in, at a minimum:

- The provision of economic development support programs and agencies equal in legal status to that of other regions of Canada
- The ability to track investment dollars into the region instead of a blended Industry Canada budget
- Full public transparency for FedNor's performance and finances
- The assurance of program continuity for both providers and clients of economic development initiatives
- Better provision of services by economic development officers based on the certainty and/or continuity of funding programs from year-to-year
- The federal government demonstrating an expression of confidence in Northern Ontario people, businesses and communities.

Recommendation

That the federal government institute equality among all of Canada's regional economic development agencies by immediately tabling legislation converting the FedNor program within Industry Canada into a standalone economic development agency of Canada for the Region of Northern Ontario utilizing the current resources (both human and financial) and existing infrastructure associated with the FedNor program..

International Affairs

Enhancing and Diversifying Canada's International Trade and Investment

Canada is one of the most trade-dependent nations of the G8. Ensuring the vitality of Canadian businesses and communities requires open global markets and rules-based trade and investment, a goal which Canada diligently pursues through its bilateral and multilateral ties. As the world rebounds from the global economic crisis, Canada's continued economic success and ability to create growth opportunities for its businesses and communities will hinge upon its ability to diversify its international trade. Negotiating resources must continue to be focused on enhancing exchanges with major economies, in recognition of changing trade and investment patterns.

It remains important for the international community to avoid implementing new protectionist and trade-distorting measures and to roll back existing ones, as these risk dampening the global economy recovery as it slowly takes hold. Canada must continue working with its trading partners and through multilateral forums and institutions such as the G20, World Trade Organization (WTO), Organisation for Economic Co-operation and Development (OECD) and Asia-Pacific Economic Cooperation (APEC) forum, to buttress free, rules-based trade and to counter protectionism and trade-distorting practices.

For Canada, it is crucial to maintain strong, open and transparent trade and investment ties with the United States (U.S.), which represents 75 per cent of our exports and $1.6 billion in daily two-way trade. Our two countries must work together to deepen mutually beneficial economic integration. We applaud the Shared Vision for perimeter security and economic competitiveness announced by Prime Minister Harper and President Obama, and call for: the negotiation of a permanent procurement agreement between the two countries; the development of a continental energy strategy given Canada's profile as a trusted and reliable supplier of energy to the United States; and the upgrading and amelioration of infrastructure and processes at the Canada-U.S. border to make it faster, safer and more predictable for the legitimate two-way movement of people and goods.

While it is recovering, the U.S. economy is forecast to grow more slowly in coming years. Even as the U.S. remains our foremost economic partner, Canada needs to continue actively diversifying its trade and investment by enhancing exchanges with other major economies.

The European Union (EU) is our second largest trade and investment partner after the United States. Good progress has been made in the negotiation of a Canada-EU Comprehensive Economic and Trade Agreement (CETA), projected to generate some $40 billion in annual trade and investment gains once concluded. We must continue vigorously working to successfully conclude the negotiation of a high-quality Canada-EU CETA, and to have it ratified by the federal parliament, and provincial and territorial parliaments and assemblies, by 2012.

The Canadian government has strengthened its engagement with the Asia-Pacific region, whose economic growth and markets matter increasingly to Canadian businesses.

We welcome the launch of Canada-India Comprehensive Economic Partnership Agreement (CEPA) negotiations and call for their successful conclusion. Also, it is essential that all Canadian economic sectors, including the Information and Communications Technologies (ICT) sector, have a voice in the negotiations. W, and we encourage the Canadian government to continue engaging with India with the aim of having the Canada-India Foreign Investment Promotion and Protection Agreement (FIPA) finally ratified in the Indian parliament.

With China, Canada has renewed leadership ties, signed MOUs on cooperation and is negotiating a FIPA. Canada and China should: continue exchanges at the highest levels of government; work together to resolve the main impediments across various sectors to mutually beneficial rules-based trade and investment between the two countries (e.g. market access barriers for goods, services and investment; trade distortions; indigenous innovation provisions; intellectual property rights enforcement; etc.); encourage more commercial investment from China in sectors other than resources that helps those sectors to grow in Canada while benefiting Chinese shareholders through high returns; and conclude a high-quality Canada-China FIPA. All this is essential for the broadening and deepening of the Canada-China economic partnership.

We also call for the conclusion of the recently resumed Canada-Japan Joint Study and for the launch of Canada-Japan Economic Partnership Agreement (EPA) negotiations.

It is also important to achieve a balanced outcome on tariff and non-tariff barriers on trade and investment in order to conclude ongoing Canada-Korea FTA negotiations.

Recently concluded FTAs with countries such as Panama are positive achievements. The next step is to have Parliament approve completed agreements. Canada should focus its political and trade negotiating resources on future initiatives that maximize opportunities for Canadian businesses, more specifically on large, important economies and markets around the world where Canadian companies have the most to gain through greater effective market access.

The Chamber recognizes and applauds the Government's current emphasis on fiscal restraint to manage the current deficit challenges. However, the Chamber also feels that it is essential that the necessary financial and human capital be allocated to ensure that the government can proactively advance and defend Canada's international trade and investment platform, as well as conclude prospective trade and investment agreements, thereby solidifying Canada's position in the global trading arena.

Recommendations

That the federal government:

1. Strengthen Canada-U.S. relations as our primary bilateral trade policy priority, including through the negotiation of a permanent procurement agreement between the two countries, the development of a continental energy strategy in light of Canada's profile as a trusted and reliable supplier of energy, and improving infrastructure and processes at the Canada-U.S. border to make it faster, safer and more predictable for the legitimate two-way movement of people and goods.
2. Work vigorously to conclude the negotiation of an ambitious and balanced Canada-E.U. CETA, and to have the final agreement ratified federally and by the provinces and territories by 2012.
3. Overcome outstanding issues for the Canada-India FIPA to be ratified in both countries, and successfully conclude Canada-India CEPA negotiations, while ensuring that a significant place be given to the every economic sector within the negotiating process in order to ensure that industry-specific problems be heard and dealt with appropriately.
4. Strengthen the Canada-China economic partnership by concluding the Canada-China FIPA, pursuing political exchanges at the highest levels of government, resolving impediments to mutually beneficial trade and investment between the two countries and encouraging commercial investment in areas other than resources to develop Canadian sectors.
5. Conclude the recently resumed Canada-Japan Joint Study and launch Canada-Japan Economic Partnership Agreement (EPA) negotiations.
6. Work toward a balanced outcome on tariff and non-tariff barriers to conclude Canada-Korea FTA negotiations
7. Implement signed FTAs and focus remaining political and negotiating resources on current and proposed negotiations that provide the greatest value to Canada.
8. Combat protectionist pressures and strengthen the principles and mechanisms of rules-based free trade and investment via bilateral ties and multilateral forums and institutions (G20, WTO, OECD, APEC).

Revision of the new Competition Bureau guidelines for use of the "Product of Canada" and "Made in Canada" claims for manufactured and food products

The Canadian Chamber has supported the government's initiative to update the voluntary federal (Competition Bureau) guidelines governing the use of the "Made in Canada" and "Product of Canada" labels. The updated guidelines will allow Canadian consumers to more easily identify the Canadian content in food and manufactured products and allow goods "made" or "produced" in Canada to be the sole beneficiaries of Canada's international reputation for high quality production.

Manufactured goods

However, the new guidelines for manufactured goods (which took effect on January 1, 2011) have resulted in a number of significant competitive disadvantages and increases in compliance costs for Canadian manufacturers. These Canadian businesses produce and manufacture Canadian products but cannot reasonably meet the requirements under the updated guidelines and, as a result, are prohibited from using the "Product of Canada" and "Made in Canada" designations.

First, to qualify for use of the "Product of Canada" claim, the cost of material and labour incurred to produce or manufacture the Canadian product (manufactured goods as well as food) must be at least 98 per cent Canadian content. This threshold is unrealistically high given that Canada's manufacturing sector has become deeply integrated with regional and global supply chains over the past decade—that it sources numerous inputs from abroad whose cost-effectiveness, quality or accessibility enhances the global competitiveness and performance of Canadian final products. Many inputs that are essential to Canadian manufacturing are no longer produced on Canadian soil.

Given this, most Canadian manufactured products are prohibited from being labelled as a "Product of Canada" since the product does not meet the 98 per cent threshold. However, many of these same products are genuinely Canadian: the products are conceived, developed and perfected using Canadian industrial know-how, research and development, financing and the skills and innovativeness of Canadian workers. Their value-added content is captured predominantly in Canada. It is therefore imperative that the 98 per cent threshold for the "Product of Canada" designation be revised to a more realistic level that better accounts for today's highly integrated supply chains.

Second, Canadian manufacturers wishing to use the "Made in Canada" claim face substantial, often prohibitive compliance costs that foreign producers and manufacturers do not incur when using their own competing national "Made in–" brands of excellence in both Canadian and other markets. For example, a Canadian producer of manufactured goods destined for both domestic and foreign markets would need to meet the Canadian labelling requirements of the "Made in Canada" claim to be able to market its goods as such in Canada, while at the same time being required to meet foreign jurisdictions' labelling requirements in order to export its goods. This requirement unnecessarily adds to production, packaging, marketing, inventory-management and distribution costs for Canadian producers and manufacturers. The result is that many Canadian businesses may simply forgo use of the "Made in Canada" claim for their manufactured products so as to avoid prohibitive compliance costs, thereby placing them at a competitive disadvantage vis-à-vis foreign rivals benefiting from their own national "Made in–" brands of excellence.

The Canadian Chamber of Commerce therefore requests that the government seek to harmonize the guidelines governing the use of the "Made in Canada" claim with the labelling / marketing standards required in the United States and other key export markets.

Without revision of the "Product of Canada" threshold and harmonization of the "Made in Canada" requirements, Canadian producers and manufacturers will be deprived of the opportunity to label and market their goods as Canadian, thereby harming their competitiveness in the Canadian market vis-à-vis imported substitutes, prohibiting Canadian producers and manufacturers from informing Canadian consumers of the availability and identity of such Canadian products in the Canadian market and restricting the visibility of the Canadian brand of manufacturing excellence abroad.

Food products

Canadian agri-food producers continue to suffer from competitive disadvantages resulting from the revised guidelines for use of the "Product of Canada" claim on food product labels, which came into effect on December 31, 2008.

A 2008 Parliamentary Committee led by MP James Bezan (Selkirk-Interlake), studied the "Product of Canada" food label requirements, consulted with the food industry broadly and issued a consensus report that recommended revising the long standing previous level of a minimum of 51 per cent to a new level of at least 85 per cent Canadian content to be eligible for use of the "Product of Canada" label. Without further consulting the industry, the Federal Government subsequently implemented a 98 per cent level of Canadian content for use of the "Product of Canada" label.

While the "Product of Canada" claim is voluntary, it is crucial to food processing companies and consumers, in order to inform consumers of the source of their food and to fit with the trend to increased consumption of more local foods. When the "Product of Canada" claim is used, it is assessed based on the established criteria, which is currently set at the 98 per cent level of Canadian content. This restrictive requirement means that Canadian food, using Canadian meat, and processed in Canada cannot take advantage of the "Product in Canada" label because it may use foreign spices, fruit, vegetables or other food components that make up more than 2 per cent of its value.

Some of these components are not even produced in Canada (e.g. tropical fruit, spices), or are only available seasonally in Canada. While others are produced in Canada, the cost of their use could be prohibitive to Canadian food producers for logistical or other reasons.

The result has been that few processed food products use the "Product of Canada" claim on their labels, leaving consumers less informed, and harming Canadian food producers by depriving them of the ability to market genuinely Canadian food products as such in the Canadian marketplace. It is therefore imperative that the 98 per cent threshold for use of the "Product of Canada" claim by food products be revised down to the more realistic value of 85 per cent.

Recommendations

That the federal government:

1. Revise the current 98 per cent threshold governing the use of the "Product of Canada" claim for manufactured products to a numerical value that reasonably accounts for the integrated nature of supply chains and genuinely Canadian products' use of imported inputs.
2. Further harmonize labelling requirements for use of the "Made in Canada" claim by Canadian producers and manufacturers with the labelling / marketing standards required in key export markets.
3. Revise, from an unrealistic 98 per cent level to 85 per cent, the Canadian content percentage required for a food product to be eligible to use the "Product of Canada" claim on its label.
4. Continue to support and work with the Canadian food processing industry to grow the Canadian Brand and to improve their competitiveness in domestic and international markets.

Reforming the Export Control System

Issue

Canada's export control system needs a complete overhaul. Canada's exporters are faced with growing competition from American and foreign companies.

Background

Several countries have adapted their exporting standards and procedures in order to quickly and adequately meet the challenges of a modern economy, demands of just-in-time management and complexities of logistic chains.

Companies that export strategic products subjected to export controls face particularly constraining formalities, even when they are exporting to allied countries and to Canada's long-standing trading partners. Many countries have developed fast-track and simplified procedures for exchanging these products between reputable and targeted trading partners.

Export controls on certain products and technologies aim to protect the public and ensure certain groups, organizations or countries do not use them against the interests and security of Canada, its allies and populations all over the world. But they should not adversely affect trade in strategic goods between allies or friends.

However, the Canadian system is too heavy and too restrictive with regards to the export of a wide range of controlled goods and technologies to like-minded countries. Although efforts have been undertaken recently, much work remains to be done to differentiate between like-minded countries and those who do not exercise control over these types of products.

Canada's export control system should be completely overhauled to allow Canadian companies to benefit from the emergence of non traditional high potential growth export markets and the new economy's opportunities. According to a report by I.E. Canada, this could be done by:

- implementing new revised general export permits
- increasing individual export permits to 4 years from today's 2-year duration

• adopting standards similar to those of Canada's main trading partners for export controls of encryption products and technologies

• implementing export control service standards at Foreign Affairs and International Trade Canada.

Recommendation

That the federal government:

1. Immediately launch a reform program aimed at simplifying administrative formalities and regulatory restrictions of its export control system.

2. Adopt best practices used by Canada's main trading partners where appropriate.

3. Introduce a simpler system for exports of a larger range of controlled goods and technologies to like-minded countries.

24 Hour Commercial Border Crossing Access

Canada and the U.S. enjoy one of the most prosperous relationships in the world, with a staggering volume of bilateral trade totalling $593 billion in 2009. This equates to over $1.6 billion in two-way trade and over 300,000 travelers crossing the border each day.

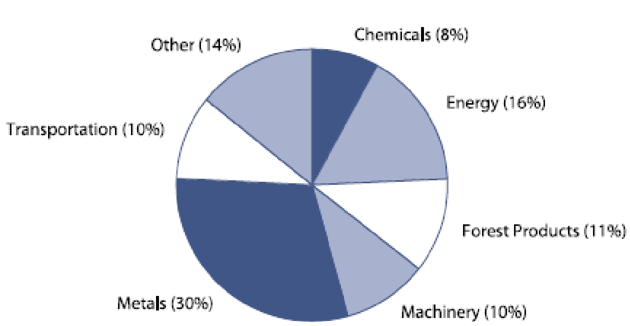
In particular, Montana and Canada continue a profitable trading relationship with bilateral trade flows climbing to $6.5 billion with the largest proportion of trade coming in the sectors of energy, chemicals and metals. Moreover, Canada was Montana's most important export destination, purchasing more from the state than all other countries combined. Total Montana exports to Canada totaled $593 million with total Montana imports from Canada totaling $5.9 billion.

In 2008, 30% of Montana's total exports to Canada originated from the metals and fabricated metal products sector, shipping a wide range of metal products across the northern border - $170 million alone in other metals in ores and scrap.

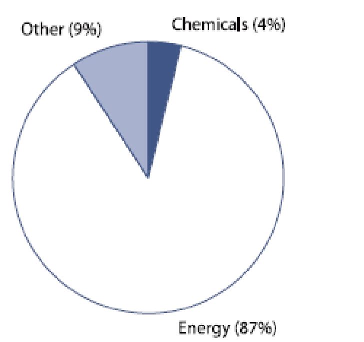
Continuing the trend, Montana looked to its northern neighbor for energy, increasing its imports by 37% from the previous year. The state bought $4.8 billion in Canadian crude petroleum, primarily from the western provinces of Alberta and Saskatchewan. Similarly, Montana found a vibrant market for its energy goods north of the border, exporting $97 million.

Montana's top exports to Canada include paper & paperboard ($51 million), automobiles ($30 million), electric generators & motors ($23 million), crude petroleum ($39 million), plywood and wood building boards ($10 million). Montana's top imports from Canada include crude petroleum ($4.8 billion), fertilizers ($162 million), petroleum & coal products ($140 million), natural gas ($123 million) and softwood lumber ($50 million).

Montana's exports to Canada



Montana's imports from Canada



Even with this important trading relationship, a current disparity in the relationship between population, gross domestic product and the number of border crossings in each province currently exists across our country:

	24 Hour Crossing	Total Crossings	GDP (2009 C$)	Population
British Columbia	9	19	191,006	4,530,960
Alberta	1	6	247,184	3,609,319
Saskatchewan	2	13	56,553	1,049,701
Manitoba	3	17	50,973	1,235,412
Ontario	13	14	578,183	13,210,667
Quebec	21	33	303,747	7,907,375
New Brunswick	12	18	27,497	751,755

It is critical that we encourage the government to remove any barriers or encumbrances on imports and exports of our key sectors between Canada and the U.S. and work to improve international trade by removing pressure and congestion on our 24-hour commercial ports and corridors.

Transportation access is fuel for economic development. Regions with flexible, efficient transportation networks can access product markets, suppliers, vendors, workers and customers more efficiently and more cost effectively than those that do not. Investment leads to trade, as companies' activities increasingly become part of the global value chain, necessitating not only clear and open investment rules, but also ensuring that goods and services produced in our region can be transported easily to market. To be part of this chain, Canada and the United States must not only be open to these cross-border opportunities, but also must ensure that the goods and services produced have easy access to markets in both countries and internationally.

It is in the best interest of Canada to expand trade linkages with the United States through transportation crossings and corridors that link Canada to the United States to facilitate a growing trading market. A renewed effort is needed to eliminate the obstacles that continue to prevent the expansion of 24 hour commercial port facilities and promote this as access to our north-south trade corridors.

Recommendations

That the federal government:

1. Accelerate dialogue with U.S. counterparts to provide support for border initiatives and ensure that the hours of our border crossings consistently match the U.S. border hours in both traveler and commercial service hours.
2. Ensure that provinces with high volumes of bilateral trade and corridor traffic have access to sufficient 24 hour commercial border services and that all provinces have more than a single 24 hour full service commercial port of entry.

Foreign Trade Zone - 2011

The Foreign-Trade Zone (FTZ) concept is recognized globally as a policy tool to develop local economies. FTZs typically provide financial incentives for value-added manufacturing and processing by allowing firms to source low-cost materials for incorporation into final products. This arrangement helps developed economies to level the playing field with international low-cost competitors as companies operating in FTZs are able to use the advantages of the program to facilitate storage, distribution, manufacturing and value-added activity. The deferral of duties or taxes within defined FTZs helps businesses with their cashflow and reduces operating expenses. The products that are manufactured or value-added in a FTZ can be sold domestically or re-exported.

FTZs may be defined strictly to a specific geographic area or defined instead by the firms registered under the program. FTZs support the development of gateways – something Canada needs to give serious thought to given the current gateway initiatives underway. FTZs offer a flexible, streamlined, profitable approach to the movement of goods and services that will encourage Canadian businesses to take advantage of manufacturing, storage, distribution, value-added, domestic and re-export trade opportunities. An effective and efficient FTZ program will ultimately increase Canada's competitiveness in the global supply chain.

FTZs also help to attract economic activity that in the absence of an FTZ would be done offshore. FTZs add to the economic activity that takes place – they are not established to merely relocate existing activity.

Prior to the most recent recession (and hopefully the trend will continue post recession) FTZs exhibited strong growth and economic success throughout the world. As of 2008 there were more than 500 distinct FTZs worldwide, a number that more than tripled in 30 years. In the United States alone, there were nearly 250 general purpose FTZs in addition to over 460 sub-zones in all 50 states and Puerto Rico.

The closest parallel to a FTZ in Canada is a pilot project at CentrePort Canada. This single window access to FTZ-like programs is a first step towards implementing better promotion of the applicable programs as well as facilitating easier access. It is a combination of the Export Distribution Centre (EDC) Program and the Duty Deferral Program. These programs are administered by the Minister of National Revenue, the Canada Revenue Agency (CRA) and Canadian Border Services Agency (CBSA). The CentrePort Canada (CPC) single window has a designated contact in CBSA and CRA and is supported by a Task Force comprised of representatives of different departments of the three levels of government in Winnipeg.

CPC has mapped out the application process for the programs accessible through the single window. The CPC pilot project and other parts of Canada's Foreign Trade Zone (FTZ)-like legislation, provide many of the benefits of FTZs in other countries, but not all. Canada's programs are heavily focused on companies that export the bulk of their production. There are also significant constraints on the permitted amount of value added. The programs are complex and overlap and may require the use of more than one program for maximum benefit; thus as noted previously, multiple federal departments are involved. As it stands right now, the FTZ-like programs have limited promotion because these programs are only a fraction of the many programs administered by CRA and CBSA.

Canada is the last G-8 nation to fully enact the trade incentives offered through a FTZ program and is still behind a number of OECD and developing nations. To improve Canada's FTZ-like programs and policies, we believe it is critical to address current administration and marketing.

The following recommendations are intended to provide a basis for discussion with federal officials. The language is directional rather than specific. We are not currently in a position to quantify our recommendation to reduce or remove the restrictions on the amount of value-added activity that can occur in a FTZ. We are recommending that the federal government examine the limitations on participation in the current FTZ-like programs in order to reach a conclusion on specific changes that will enhance the attractiveness of the programs and broaden their application.

Recommendations

That the federal government:

1. Use the nomenclature Foreign Trade Zone (FTZ) in creating a program that restructures and fully integrates current FTZ-like programs into a single program with one federal point of contact for potential users.
2. Reduce or remove the restrictions on the amount of added value activity that can occur in a FTZ.
3. Allow companies that sell a significant proportion of their production within Canada to participate in the FTZ program.
4. Allow the deferral of GST/HST throughout all components of the FTZ program.
5. Promote and market the FTZ program effectively in domestic and foreign markets.

APEC Business Travel Card

The importance of the Asia Pacific Gateway to Canada's trade with Pacific Rim countries cannot be overstated. Over the last several years, significant investment has been made into the Gateway with a view to increasing trade of goods and services between Canada and APEC countries. Free Trade Agreements Negotiations are underway with South Korea and India and exploratory talks about Free Trade are taking place with Japan. With the growth of business travel between member nations of the Asia-Pacific Economic Cooperation of which Canada is a signatory, and our free trade partners, the increasing demand for qualified personnel and the growing scarcity of skilled personnel, there is an accelerating need for travel between Canada and other APEC member nations by executives, professionals and technical specialists.

The APEC Business Travel Card (ABTC) provides a three-year-cleared multiple-entry visa valid for all participating APEC economies, with the added perk of using specially-designated "fast track" immigration lanes at major international gateways. It also allows the ABTC card-holders to work in member countries for a period of time on each entry—said period of time varying from country to country. Although Canada, a member of APEC, allows ABTC visa-holders to enter and work in Canada, the Canadian government has not yet put in place the mechanisms required to allow Canadian businessmen reciprocal arrangements (i.e., hold an ABTC). We recognize that implementation of this program would come at a certain cost to the Canadian government. However, the benefits to the business community and increase in Canada's GDP would far outweigh the costs. It must also be recognized that, although it may presently appear that there would not be many business people interested in the travel card, this would increase once the card is available and as Canada negotiates more free trade agreements with APEC countries.

This situation impedes the normal conduct of business between Canada and APEC member countries with Canadian businessmen being at a significant disadvantage. There is a need for a solution to this that will ensure that qualified individuals can know in advance that they will be able to enter APEC countries, while ensuring at the same time that the need for security has been met.

The free movement of executive, professional and technical specialist personnel between Canada and other APEC member countries would be a desirable outcome. This is especially important in that APEC is reported to presently be in negotiations with the European Union for recognition of the ABTC. Given Canada's present trade negotiations with the EU and possible trade agreement, access to the EU is vital and an ABTC type of card would be of great benefit to Canadian business travellers.

Recommendation

That the federal government implement the APEC Business Travel Card for Canadian business travellers to provide them with a level playing field with business travellers from member APEC nations.

Marketing Canada as an International Destination

Marketing Canada as an international travel and tourism destination is critically important to maximizing economic benefits for provinces/territories but there is a downward trend in the level of core funding for the national tourism marketing agency. This trend of declining core funding needs to be reversed to ensure Canada can effectively compete in the international marketplace and by extension drive incremental visitation to provinces/territories.

Background

The global tourism market continues to increase and is forecasted by the World Tourism Organization to reach 1.6 billion international tourist arrivals worldwide by 2020. [1] Many jurisdictions are vying for market share because the sector 'provides significant potential for economic growth and development'.[2]

In 2009, total tourism revenue for Canada was $69.5 billion. 80% (or $55.4 billion) came from tourism domestic demand and 20% ($14.1 billion) from tourism export revenue. [3] Over the last 10 years the contribution from international travellers to Canada's total tourism revenue has dropped from 35% in 2000 to 20% in 2010. Revenue generated from international travellers represents new dollars for the Canadian economy and this remains a primary focus of our national marketing strategies. According to the Canadian Tourism Commission's research, domestic travellers spend on average $91 per day while international traveller spend $129 per day on average.[4] Dependence on the domestic market is a concern with limited growth potential available from Canada's relatively small population base.

In order to capture a significant portion of the tourism market, Canada must remain competitive with other destinations. Between 2002 and 2009, international tourist arrivals to Canada declined from 20.1 million to 15.8 million, a 21.5 percent decrease.[5] In 2002, Canada ranked 7th in the world for international arrivals but in 2009

Canada ranked 15th behind new competitors like Malaysia, Turkey, Ukraine and Russia. The global tourism marketplace is increasingly competitive.

Part of Canada's declining competitiveness stems from limiting travel policies. For example, stricter visa and passport requirements dampen demand. When Canada imposed visa requirements on Mexican nationals on July 14, 2009 the market, already under stress from the global recession, contacted sharply. August 2009 customs entries to Canada decrease 50.1% compared to August 2008, and 2009 year-end Mexican travel to Canada was down 36.6% compared to 2008.[6] Likewise, the short-haul United States drive market has been negatively impacted by new passport requirements. Air access continues to be a limiting factor on international travel to Canada. Full implementation of Canada's 2006 Blue Skies Policy is important. A primary objective within that policy is to provide a 'framework that encourages competition and the development of new and expanded international air services to benefit travellers, shippers, and the tourism and business sectors.' [7] Greater liberalization of air service agreements combined with complementary visa policies would contribute to a more internationally competitive tourism sector in Canada.

Some situations are beyond immediate control and/or require negotiating complex agreements with other countries. Marketing, on the other hand, is totally within our control and represents another critical area of our international competeveness. In this area Canada is falling behind. By allocating the necessary resources for international tourism marketing, the Government of Canada can ensure that Canada competes on a level playing field with other long-haul destinations. Canada is currently ranked 20th in the world in terms of national tourism organization funding. The Canadian Tourism Commission's core funding has declined from nearly $100 million in 2001 to an anticipated $70.7 million in 2012.[8] By means of comparison, Tourism Australia receives an annual base investment of $147 million CDN from the government of Australia and Tourism Ireland receives a base investment of $211.3 million CDN.[9] In early 2010, the United States created the Corporation for Travel Promotion, which will oversee the development and implementation of a global marketing and promotion campaign aimed at increasing the number of international visitors to the U.S. The corporation's annual budget is projected to be $250 million CDN, making it one of the largest national tourism communications programs in the world.[10]

The Canadian Tourism Commission

The marketing of Canada as a destination is the responsibility of several groups including the Canadian Tourism Commission (CTC), provincial, regional and city Destination Marketing Organizations (DMOs) and private sector companies. The CTC is the lead entity and works to coordinate Canada's promotional efforts abroad in order to drive visitation. To achieve its strategic goal of growing tourism export revenues for Canada, the CTC focuses on markets where Canada's tourism brand leads and the return on investment highest.

It stimulates and promotes tourism through joint public and private marketing initiatives based on an industry-led and market-driven approach. The tourism industry's role within the CTC is to define industry needs and goals, contribute to strategic planning efforts, and invest financially in marketing initiatives.

The tourism industry believes that the CTC is the appropriate entity to lead the Canada branding and marketing file and that its current strategies, informed by solid research, are the right ones to pursue as we go forward.

Investments in CTC's promotion of Canada as a tourism destination produce significant returns on investment. For example in 2009, CTC produced a return on investment of 101:1 on its core marketing activities. The demand created by this promotion directly created or protected over 15,000 jobs in Canada.[11]

In spite of strong business results, since its creation as a crown corporation in 2001, the CTC's core funding from the Government of Canada has declined from nearly $100 million to an anticipated $70.7 million in 2012.[12] This decrease in funding comes at a time when Canada faces increasing competition from existing and mature tourism markets and from new exotic market entrants.

Canada's overall global market share has eroded in recent years, in large part, as a result of competition from new entrants. Since 2000, Canada's overall market share of global tourist arrivals has decreased by approximately 24%, while overall global tourist arrivals to all countries have increased by approximately 24%.[13] Given the CTC's declining resources and intense competition, the CTC has had to sharpen its strategic focus and invest where Canada's brand has greater recognition and impact than the provincial and major Canadian city brands. It has reduced the number of long-haul countries where it targets high-yield travellers. For example, the CTC no longer invests in consumer marketing in the United States. This has been a difficult decision but a necessary decision given reduced core funding. While this strategy is producing excellent business results for the markets and the amounts invested, growth will be difficult to achieve and Canada will be hard pressed to reach the stated goal of $100 billion in tourism revenues by 2015.[14]

While CTC's base budget has been in steady decline, CTC has attracted some one-time or special project funds. For example, The CTC invested $26.0 million between 2008 and 2012 to leverage the 2010 Winter Games tourism opportunity for Canada, and $48.0 million in 2009-2011 as part of Canada's Economic Action Plan. These one-time funding injections are very useful in delivering short-term specified marketing programs for which the CTC has provided significant returns on investment (e.g. 43:1 ROI).[15] However, the long-term stability provided by core, or A-Base, funding allows for improved market development and sales strategies, increased partner contributions, and phased campaign implementations. **Conclusion**

Canada faces increasing competition from existing and mature tourism markets and from exotic new market entrants.

Canada's overall global market share has eroded in recent years as a result of competition from new entrants.

The CTC, Canada's national tourism marketing agency, produces significant business results for the dollars invested.

The tourism industry needs the CTC better resourced.

Core investments produce significantly higher returns on investment for the Canadian economy than short-term one-time funding initiatives (e.g. $101 in tourism revenues generated for every $1 invested in the CTC's 2009 core campaigns compared to $43 to $1).[16]

Recommendation

That the Federal Government:

1. Return the CTC's budget to the 2001 level of $98.7 million (budget for 2011 and 2012 is $70.7 million) and index core funding at CPI rates."
2. Review the market efficiencies between the Canadian Tourism Commission, provincial /territorial and local/regional organizations in order to maximize the returns on total funds invested."

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16. Canadian Tourism Commission, 2009 Annual Report, pg 34, Insignia Research: advertising tracking and conversion study

Fisheries Management

Issue

Overfishing by foreign vessels has been a major contributor to the collapse of Canada's fish resources. Canada's continental shelf extends beyond the 200-mile exclusive economic zone (EEZ) into areas of the continental shelf known as the Nose and Tail of the Grand Banks, and also the Flemish Cap. Canada is one of only three countries with such a continental shelf that extends beyond 200 miles. While the shelf is different in the west and north than it is off the east coast, multinational cooperation and reform is necessary to manage shared stocks in a commercially viable manner.

Background

The $3.9 billion national fishing industry employs over 70,000 people directly and contributes over $1.5 billion to the national trade surplus (2009 figures, DFO).

The North Atlantic Fisheries Organization (NAFO) was established in 1979 to manage the stocks that straddled Canada's EEZ and the high seas beyond 200 miles and those on the Flemish Cap. NAFO has been ineffective in achieving conservation of internationally fished groundfish stocks. The stocks include northern cod, southern Grand Bank cod, and several flatfish species. These species move outside the 200-mile limit in response to changes in water temperature and food availability.

According to the United Nations Food and Agriculture Organization: "On the Pacific coast, the degree of regional dependence on the fisheries is less than on the Atlantic. Nonetheless, the fisheries are an important component of the British Columbia economy. The UNFAO talks about historic actions in the B.C. fishery related to herring: "Herring were first caught in British Columbia in 1877, but a serious stock collapse of the fishmeal fishery in the 1950s led to a closure and a strong emphasis on preserving the resource." It also talks about the present: "Regulatory measures that have been employed in the fishery include input controls such as very short openings (some as short as 2 hours) and technical measures such as closures." This indicates that fisheries management lessons can be learned from the Pacific experience and bi-coastal management practices may apply.

Annual patrols in the North Pacific Ocean work to deter and detect illegal, unregulated and unreported (IUU) fishing and verify compliance with the UN global moratorium on high seas driftnet fishing. IUU is environmentally destructive and economically detrimental, and threatens international marine resources, including many fish stocks, which are an important resource to many Canadian communities on the Pacific coast. Vessels can be using driftnets on the high seas greater than 2.5 km in length.

The biomass of global fish stocks have been allowed to run down to the point where it is no longer possible to catch the amount of fish that could be caught. According to a 2008 UN report, titled *The Sunken Billions: The Economic Justification for Fisheries Reform*, the world's fishing fleets incur a "$US 50 billion annual economic loss" through depleted stocks and poor fisheries management. The report, produced jointly by the World Bank and the UN Food and Agriculture Organization (FAO), asserts that half the world's fishing fleet could be scrapped with no change in catch: "By improving governance of marine fisheries, society could capture a substantial part of this $50 billion annual economic loss. Through comprehensive reform, the fisheries sector could become a basis for economic growth and the creation of alternative livelihoods in many countries. At the same time, a nation's natural capital in the form of fish stocks could be greatly increased and the negative impacts of the fisheries on the marine environment reduced." Participants are now experiencing such low catches per unit of effort that it is rapidly becoming an uneconomic industry. Continued fishing on diminishing stocks could result in commercial extinction.

Regional Fisheries Management Organizations are the only vehicle the law of the sea provides for management of straddling stocks but they really have been given no effective powers to attain conservation in the absence of cooperation. NAFO has been particularly ineffective in managing the stocks under its protection.

Strengthening fisheries management could mean more initiatives like the following:

- In September 2010, NAFO Contracting Parties once again strengthened the compliance framework by enhancing the inspection and catch reporting regimes. Specifically, the time allowed on-board for vessel inspections in the NAFO Regulatory Area has been increased from three to four hours, and the composition of inspection parties has been increased from two to four inspectors (maximum). Vessels fishing in the NAFO Regulatory Area will also be required to report catches to NAFO on a daily basis, for all divisions and all species

- NAFO is proceeding with a Performance Review in 2010-2011. The Working Group overseeing this process will be composed of three external experts in fisheries management, fisheries science, and *Law of the Sea* matters, as well as internal experts from Canada, Denmark (in respect of Faroe Islands and Greenland), the European Union, and the Russian Federation. The Performance Review is expected to be completed by September 2011.

Recommendation

That the federal government:

1. Act with urgency following the NAFO performance review and lead the structural reformation of NAFO to make it an effective management organization that has the ability to achieve sustainable fisheries management through science, regulatory power and effective enforcement.
2. Apply the lessons learned to management of offshore fisheries in the Pacific and Arctic to maintain a commercially viable fishery for Canadian companies and workers.
3. Where necessary, exercise sovereign rights to protect re-building offshore fish stocks by means which may include but would not be limited to such measures as custodial management of the entirety of the Nose and Tail of the Grand Banks and the Flemish Cap, which extends beyond the 200 mile limit to include the natural geographical boundary of the continental shelf.

Social Policy

Aboriginal issues: Achieving Greater Certainty

Businesses operate best in a stable and predictable environment, where rights are certain and are protected by the rule of law. The biggest issue for the business community arising from Aboriginal claims is uncertainty. In British Columbia, for example, Aboriginal groups assert rights of ownership or control over all of the land in the province, but those rights are not recognized in the legal regime that business operates in.

Many activities that businesses pursue, or would wish to pursue with the permission of the Crown, may be seen as impacting these asserted Aboriginal rights in some way. It is clear that Aboriginal rights and Aboriginal title still are protected by the Constitution, but in most instances the extent of Aboriginal rights is unclear, while the extent of Aboriginal title still remains completely unknown.

Increased Expectations

The gap between what Aboriginal and non-Aboriginal populations would accept as a reasonable resolution or reconciliation appears to have grown in the last decade.

It appears to many of the Canadian Chamber's members that since the 1997 decision of the Supreme Court of Canada in *Delgamuuk'w*, to the effect that Aboriginal title has not been extinguished, there has been a trend of increasing expectations by Aboriginal peoples as to the extent and strength of their rights.

Two recent and significant events that may have contributed to raising those expectations are the (non-binding) statements made by Mr Justice Vickers in the *William* case in November 2007 concerning the extent of Aboriginal title of the Tsihlqot'in people, and the 2009 Recognition and Reconciliation (R&R) initiative of British Columbia. Although the R&R initiative was ultimately declared "dead, dead, dead" by British Columbia's Aboriginal leadership ts, before it died it proposed a very significant degree of control of provincial resources through "shared decision making", as well as the potential recognition by the Province of British Columbia that Aboriginal title existed throughout the whole of the province.

The level of Aboriginal expectation is probably best indicated by the extent to which a standard of "free, prior and informed consent" was adopted by Aboriginal groups as a precondition to business development. This principle was expressly rejected by the Supreme Court of Canada in *Haida* in 2004, expressly rejected by the federal government when it voted against the UN Declaration on the Rights of Indigenous Peoples in 2007, and expressly rejected on November 12, 2010 when Canada issued a Statement of Support endorsing the Declaration as an aspirational document but at the same time noting it was a non-legally binding document that does not alter the legal duty to consult.

The increased level of expectation of Aboriginal peoples may be a significant factor in the lack of progress in the Treaty process, and the withdrawal of many Aboriginal groups from the Treaty process altogether, since what is offered in that process cannot meet their present levels of expectation.

Further directions and clarity on the legal rights of Aboriginal people appear to be necessary to move forward with the ultimate goal of reconciliation. Under our Constitution, the Supreme Court of Canada is the only body that can define the rights of Aboriginal peoples.

The Canadian Chamber of Commerce is not generally of the view that recourse to the courts is the best way to resolve a dispute. However, the most prudent way of determining whether the expectations of aboriginal peoples are supportable is to have more cases concerning the extent of Aboriginal rights and title determined by the Supreme Court of Canada.

Achieving Long Term Certainty Will Require Negotiation, Litigation and Time

Certainty concerning the extent of Aboriginal rights and title will most likely be achieved by two methods running in parallel – that is, by a combination of court decisions which will provide better guidance to all parties as to the actual extent of aboriginal rights and title, and by negotiations culminating in final settlements in the Treaty process.

It is important to note that achieving certainty concerning the extent of Aboriginal rights and title in Canada will take a very long time, and it is necessary to create a workable environment for the business community pending final achievement of that goal.

Achieving Greater Certainty in the Short-Term

The challenge for federal and provincial/territorial governments is to create an environment which will allow businesses to operate successfully and competitively – and with greater certainty – for the foreseeable future, while the resolution of the Aboriginal rights and title issues is still underway. The solution, as noted below, is to institute an effective process of consultation, as suggested by the Supreme Court of Canada in *Haida*.

The most important recent decision that provides how to achieve greater certainty in the short term with respect to Aboriginal rights issues is still the November 2004 decision of the Supreme Court of Canada in *Haida*.

The *Haida* decision – and the companion *Taku* decision – addressed the process the Crown should follow before granting licences and rights which might affect unproven but asserted claims to Aboriginal rights and title. This was further clarified by the decision in *Rio Tinto Alcan* (2010).

The key finding of the Supreme Court of Canada was that the Crown has a duty to consult with aboriginal groups who have not yet established their rights, before granting licences or permits that might affect their asserted rights, and in some circumstances, the Crown has a duty to 'accommodate' those aboriginal groups.

The Court made it clear that the duty to consult with aboriginal groups is one owed solely by the Crown, and is not owed by the business community.

The Court described the nature of the consultation required as being on a sliding scale, based on an assessment of the strength of Aboriginal claim and the impact of the proposed activity on the asserted Aboriginal interest.

The Court also commented on 'accommodation', describing it as a process of trying to harmonize the competing interests of development and the wish to protect aboriginal interests.

A very interesting part of the decision was a statement by the Court that the Crown (both federal and provincial/territorial) could establish regulatory schemes to comply with the legal obligation of consultation. In effect, the highest Court in Canada advised the Crown that if a fair process for consultation was established, and followed, then the courts would uphold the decisions that emerged from that process.

The consultation principles in *Haida* were also applied to Treaty rights in *Mikesew* (2005), and were further clarified in the Treaty context in *Little Salmon* (2010).

From the perspective of the business community the consultation process largely remains a black box with almost no rules. This is a major impediment for business people. Achieving greater certainty with respect to the process of aboriginal consultation – with guidelines, timelines, and outcomes that can be relied on – is of critical importance to the business community.

Indian and Northern Affairs Canada (now Aboriginal Affairs) made an initial effort to address this policy vacuum by releasing its "Interim Guidelines for Federal Officials to Fulfill the Legal Duty to Consult" in February 2008 and has followed up with the Federal Consultation Guidelines of March 2011.

However, these efforts fall short of the regulatory regime that was suggested to both levels of government by the Supreme Court of Canada in 2004 in *Haida*. According to Wikileaks, a cable from the U.S. Embassy in Ottawa "…as long as Canada lacks a clear definition of Aboriginal rights or a uniform model for negotiations, effective mechanisms to resolve Aboriginal grievances in a timely manner will remain elusive". There is little guidance from either Crown as to what are the reasonable outcomes or timing expectations in a consultation process.

One additional point is that the federal/provincial/territorial governments are often involved in the same project, with permits required from each of them. There is no real effort to coordinate the consultation processes required for the different permits, so the consultation process is generally repeated by both levels of government, with little or no reference to the other, adding to both expense and delay.

Revenue Sharing by the Crown(s)

A common companion to the wish of Aboriginal groups to have greater control over the decision making process concerning whether a new business activity should proceed, is a wish to receive a portion of the revenue derived from the proposed business activity.

Whether an Aboriginal group should receive such an economic benefit is a matter of policy that should be determined by the Crown, and not by individual businesses.

In *Haida* – and the decisions that followed - the Court did not propose a practice of paying money as a requirement of 'accommodation' before Aboriginal rights had been established. Outside of business activities carried out on reserve or Treaty land, there is no legal basis to suggest that the business community should be paying Aboriginal groups for the "right" to conduct business.

How the resource revenues and tax base of a province/territory should be shared between the Crown and the Aboriginal people ought to be a matter of government policy, and not developed as a consequence of individual arrangements between Aboriginal groups and business people based on self-interest and pragmatism, as a consequence of the failure of the federal and provincial/territorial governments to develop an effective consultation process, or a workable policy around revenue sharing.

In summary, while both levels of government have been taking steps in the right direction to assist in achieving greater certainty for business in the province, there is still much room for improvement.

Recommendation

That the federal governments work with the provinces and territories to:

1. Develop harmonized workable regulatory processes for carrying out consultation with the aboriginal people that will amount to the regulatory schemes referred to in Haida.
2. Continue to provide clearer guidelines for the business community with respect to its role (if any) in the consultation process.
3. Continue to develop policies around revenue sharing with Aboriginal peoples.
4. Make it clear that it is not an expectation or requirement of either Crown that in the course of permit approval businesses must pay Aboriginal groups in order to carry on business on land over which Aboriginal peoples do not have an established legal right.

Aboriginal Treaty Negotiations – Fisheries Component

Canadians want to see progress on treaties. Negotiations between Canada, provinces/ territories and Aboriginal groups are currently underway. Virtually all of these negotiations include provisions for fisheries.

Yet this one of the thorniest components with widespread opposition to harvest agreements and treaty protected sale of fish that result in special and separate commercial fisheries specific to each treaty group.

Despite this opposition, the commercial fishing sector understands and accepts that there will be increased access to fisheries by Aboriginal groups both through the treaty process and outside it. The challenge is to move forward in an equitable way, assuring a level playing field so that no one group of commercial participants has a competitive advantage over another with fair compensation to the existing commercial sector for the cost of settling treaties through increased access to fish.

Recommendations

That the federal government work with the provinces/territories to:

1. Implement the following changes to guide both fisheries management and ensure that all fisheries components of treaties include:
   - An integrated commercial fishery with all participants fishing under the same rules and priority
   - A more responsive management regime for all participants
   - Greater co-management and accountability for both stakeholders and managers
   - Enhanced security of access for all participants
   - Enhanced certainty of harvest share through defined allocations
   - Continued arrangements to accelerate Aboriginal groups' access to commercial fisheries through voluntary, market-based arrangements (i.e., willing buyer/willing seller)

- Actions to depoliticize decision-making.

2. Formally declare that they will fairly compensate established harvesters for the transfer of allocation to Aboriginal groups to ensure that the costs of treaty settlements are borne equitably by all Canadians.

Aboriginal Post-Secondary Retention and Transition

Canada's aging population is creating, and will continue to exasperate, significant issues of labour capacity. Over the next two decades, Canada's senior population will double while the workforce grows by just eight per cent. This problem will be compounded further as Canada continues to recover from the 2008 global economic slowdown.

Canada's Aboriginal population is growing faster than the general population and, according to Human Resources and Skills Development Canada, increased 20.1 percent from 2001 to 2006. The growing Aboriginal population in Canada represents an opportunity to address a significant portion Canada's impending labour issues.

Education is a critical factor in ensuring that Aboriginal Canadians have success within the workforce. According to the Association of Universities and Colleges of Canada (AUCC) 66 percent of Aboriginal Canadians have completed high school (data applies to Aboriginal Canadians of working age 25 to 64 years). Only 8 percent of this group has achieved a University degree. However those who do achieve a bachelor's degree earn almost more than $20,000 more per year than those with a high school certificate and significantly more like to be employed.

According to Health Canada, "First Nations and Inuit health has improved in areas such as living longer and preventing infant deaths. Despite improvements, gaps remain in the overall health status of First Nations and Inuit compared to other Canadians. For example, First Nations people and Inuit have higher rates of injury, suicide and diabetes." The Public Health Agency of Canada states key factors which influence population health include income and social status; social support networks; education; and employment/working conditions.

A study by the Centre for the Study of Living Standards illustrates the kind of impact that would result if the education and labour market outcomes of Aboriginal Canadians reached the 2001 level of non-Aboriginal Canadians by 2026. Income would increase by $36.5 billion, total tax revenue would increase by $3.5 billion and government expenditures could also decrease by $14.2 billion.[18]

Aboriginal students, however, face unique barriers to post-secondary education. As well as financial, these barriers are social and cultural. Aboriginal students are more likely to be older, with little local family and community support and are more likely to need services like childcare. Further, Aboriginal students often lack sufficient math and science skills when they enter a post-secondary environment.

Some federal departments have created one-time funds for programs at post-secondary institutions for certain types of Aboriginal learners. Some of these initiatives have demonstrated that when Aboriginal students receive targeted supports retention rates can be improved and student success can be achieved. For example, in 2007 Health Canada granted $1 million over three years to the University of Lethbridge to create the Support Program for Aboriginal Nursing Students (SPANS). This program was created in response to the shortage of Registered Nurses in rural and First Nations, Métis and Inuit communities across Canada. There are several elements to this unique program including a pre-nursing transitional year of study, mentorship by elders, mentorship by Aboriginal nurses, opportunities for social networking and tutoring. The program has recently expanded to assist students working towards degrees in Addictions Counseling and Public Health. The program has grown from seven students to approximately 60 in four years. The retention rate of the program is also an indicator of success: of all the Aboriginal nursing students who started in SPANS, only one is no longer enrolled in a post-secondary program. The majority of Aboriginal students remain in a health-related program at the university.

The federal government announced in its March 22, 2011 budget (which did not pass before the government was defeated) that it is collaborating with the Assembly of First Nations, and has announced that a Panel of Experts will lead an engagement process to develop options for concrete and positive changes in First Nations education to bring greater success and opportunities to First Nations students.

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18 Andrew Sharpe, Jean-François Arsenault, Simon Lapointe and Fraser Cowan, *The Effect of Increasing Aboriginal Educational Attainment on the Labour Force Output and the* Fiscal Balance (Centre for the Study of Living Standards, May 2009) Available on-line http://www.csls.ca/reports/csls2009-3.pdf

The importance of improving educational outcomes was highlighted in the June 3 Speech from the Throne. "Building on the work of the National Panel on First Nation Elementary and Secondary Education, our Government will engage with partners to make concrete, positive changes to give First Nations children a better education so that they can realize their dreams. We will also expand adult basic education programming in the territories to help to increase education and employment levels."

This commitment was followed up in the Budget Speech. "Building upon a Budget 2010 commitment, the government, in collaboration with the Assembly of First Nations, has announced that a Panel of Experts will lead an engagement process to develop options for concrete and positive changes in First Nations education to bring greater success and opportunities to First Nations students."

In its 2011 June Status Report, the Auditor General of Canada stated that Indian and Northern Affairs Canada has "yet to make progress on closing the education gap" and that the progress of their 2004 recommendation to develop a comprehensive strategy to do so is deemed "unsatisfactory".

Recommendation

That the federal government, as part of its overall strategy for Aboriginal education, fund pilot-projects at Canada's post-secondary institutions to improve Aboriginal student success, retention, and transition into the labour market.

Improving the LMO Component of the Provincial/Territorial Nomination Programs

Canada's aging population means that the demand for skilled labour will continue to outweigh the supply. Temporary foreign workers are a source of skilled labour and the rate of applications is on the rise. In order to hire a Temporary Foreign Worker, the employer must first request a Labour Market Opinion (LMO), through Service Canada. The LMO process is the government's way of ensuring that hiring a foreign worker is not taking away opportunities for Canadians and Permanent Residents.

There are two major challenges with regards to the LMO process:

1. Over the past few years, we have seen the processing time at Service Canada balloon from three weeks to its current processing time of up to six months for LMOs. Service Canada cannot keep up with the demand for foreign workers. The processing times at Canadian Consulates have, on average, slowed slightly but not nearly as much as they have at Service Canada.
2. Companies simply cannot wait six months for a new employee to arrive, especially when they actually needed them "yesterday". Trying to keep a prospective employee interested over the six-month waiting period is equally difficult in this hot global employment market.
3. LMOs may only be requested for full-time work when often employers have need for part time workers and there are no local sources of labour to fill the position. Because the number of employed hours is deemed more important than any other factor, such as the level of pay or the demand for particular qualifications, employers looking for part time workers are ineligible for a LMO. The absurdity of this situation becomes evident when we recognize that employers may apply for an LMO for a full time prevailingwage-rate-paying position as a cook at McDonalds but not, for example, a .8 position working as a registered nurse for $32.40 per hour, more than 3 times the amount per hour than the cook would receive.

Recommendation

That the federal government work with the provinces/ territories:

1. To shorten the processing time for provincial/territorial nomination program applications.
2. Remove restrictions for full-time employment on the LMO application.

Improving Canada's Immigration Processes

While the recent economic downturn has impacted many businesses, the long term shortfall of labour resources remains a major concern for Canadian businesses in the long term. Many businesses are concerned about this impending shortage of workers in anticipation of the next economic surge. The Conference Board of Canada predicts that by 2020, Canada will experience a labour shortage of nearly one million people. Quebec could face a shortfall of 292,000 workers by 2025, rising to 363,000 by 2030. Alberta could be short of 332,000 workers by 2025. Ontario could be short of 360,000 workers by 2025 and over 564,000 by 2030. In the case of BC estimates suggest that the province will create one million new job openings by 2017 while only graduating 350,000 students through the K-12 system.[19]

Immigration will play a key role in addressing these short- and long-term labour market needs. Between 2011 and 2016, growth in Canada's working-age population will virtually stagnate and post 2016 it will decline. At the same time, baby boomers (those born between 1946 and 1964) will begin reaching retirement. Innovative responses are needed so that Canada can attract people from around the world with the right mix of skills and talents to support economic growth now and in the future and meet global competition head-on. Other industrialized countries are confronted with similar challenges and will be increasingly competing with Canada for this global pool of skilled workers.

Though Canada has historically used immigration to deal with its labour scarcity (due to the low natural population growth rate), there are some ways that the government can make this process more efficient. With the benefits that immigrants bring, overwhelmingly as skilled labour, the Canadian Chamber of Commerce supports the federal government's efforts to attract and retain immigrants to help alleviate labour shortages. However, a number of challenges to full employment of immigrants continue to exist.

Visa Processes

Permanent Workers

Hiring a foreign worker to come to Canada as a permanent resident has become extremely difficult based on the time it takes to get an employee and their family admitted to Canada. First, an individual must apply for a working visa which is a lengthy process (6 months). Unless the individual can make a case that their skills are in demand and a Canadian is not available to take the position, the immigration case is rejected. The problem with this system is the process involves both HRSDC as well Citizenship and Immigration. If HRSDC statistics show a lack of demand, the case is lost. Unfortunately, the statistics do not factor in localized or specialty needs. They are based solely on surveys and reports which are often flawed as Immigration and HRSDC do not collaborate with firms that require the skills.

The lengthy wait times for approval from Citizenship and Immigration Canada virtually guarantees that the foreign worker will seek other opportunities. Applications for permanent residency are processed on a first-come-first-served basis, rather than having a prioritized approach. By providing more transparent and realistic timelines for the permanent residency process, it would be possible to attract more foreign nationals to make their homes and livelihoods in Canada so as to fuel our growth potential.

Temporary Foreign Workers

Most employers rely on the Temporary Foreign Worker (TFW) Program to bring workers into Canada, even if the intention is to recruit long-term employees. Recruiting temporary foreign workers is generally a two-step process: the first step is a Labour Market Opinion (LMO) from Service Canada, followed by a visa or work permit, which is provided by Citizenship and Immigration Canada at understaffed centres overseas. Obtaining a LMO, essentially seen as confirmation that there are no Canadians available to fill the position, currently takes approximately 4-6 weeks plus the time for required advertising and recruiting. The previously implemented expedited LMO (e-LMO) process, which was designed to speed up the process for selected occupations, has now been discontinued. This leaves a regular LMO process which is still slow and unresponsive to current labour market conditions related to pay, labour shortages, and recruitment processes due to the excessive lag time.

Many of the recruitment advertising requirements, particularly for some of the professional and high skilled occupations, are out of touch with how the business community actually recruits such talent. This information gap means that these processes do not currently distinguish between the various categories of workers based on skill

[19] Conference Board of Canada, "The Workplace of the Future: Leaders and the World of Work in 2020." July 2010.

levels, such as professional, skilled, semi-skilled, low skilled and non-skilled. Applications for low skilled workers should not draw away from applications from those who are highly- skilled, given the economic benefits created by the latter, as education and spin-off employment occur through the hiring of professionals and other highly-skilled people.

Furthermore, with more severe labour shortages on the horizon, the Canadian Chamber of Commerce recommends that the e-LMO process be reinstated and the list of demand occupations it covers be reviewed and expanded.

International Students

International students, studying at Canadian post-secondary institutions, are another valuable source of skilled workers for our country. To be accepted at a university or college, and to successfully achieve a Canadian post-secondary credential, students must be proficient in either one of our official languages. These students develop an attachment to the Canadian labour market through working off-campus during their studies and, once they complete their program, have Canadian credentials. In addition, foreign students contribute over $6.5 billion to the Canadian economy annually.[20] Slow processing times and backlogs negatively impact the approval of student visas and hinder effective recruitment of students and future employees.

Immigration Services

The complexity of the Canadian immigration system renders the process extremely difficult for future newcomers. According to a public consultation conducted by Citizenship and Immigration Canada (CIC) in May 2009, 53 percent of respondents were either very dissatisfied with or indifferent to the service they paid CIC for. Moreover, the survey shows that 35 percent of respondents were seeking help to understand the process and to complete their applications.[21] This highlights a need for the services we offer overseas to provide clarity and value in recruiting the right employees for Canadian businesses.

To fully utilize and engage the skills of immigrants in Canada, it is necessary to have suitable integration services. Without knowledge of the customs and culture of the place where they have chosen to settle down, immigrants cannot truly become contributing members of the community. This lack of engagement can lead to social and financial costs, such as "discouraged worker syndrome" and taking on lower paying jobs (many of which are not in the same occupational sector as the ones that they were trained in).

Presently, there is a wide range of government-supported and non-profit programs that try to cope with different aspects of immigration albeit the number of them makes it hard for a potential immigrant to get precise information. There is no centralized integration service organization at either the federal or provincial/territorial levels that would coordinate integration policy for new immigrants. The existing integration services are represented by non-profit organizations (with limited budgets) or by the heritage centers that concentrate their work only on particular nationalities. Community-specific integration services, run by local non-profits, should be established to truly harness the growth and productivity that immigration can bring.

Foreign Qualification Recognition (FQR)

Unnecessary barriers to foreign qualification recognition exist in many professions and sectors. New Canadians need the shortest, most practical route to obtain Canadian qualifications in their professions, without sacrificing standards. The ultimate goal is to give new immigrants the tools to become self-reliant and to take full advantage of the opportunities that Canada affords. By failing to properly recognize foreign qualifications and experience, immigrants will continue to remain unemployed and/or under-contributing members of the Canadian economy – ultimately earning less income, paying less in taxes, and unable to afford the goods and services necessary to build their new lives in Canada. It is important that government, business and qualification-granting bodies work together to improve the processing time and policies for the qualification recognition of internationally trained professionals, alleviating the problems of labour shortages but also creating a society where everyone can become a contributing member.

At the same time, Canada needs to raise the profile of the Pan-Canadian Framework for the Assessment and Recognition of Foreign Qualifications to ensure businesses and immigrants are aware of the opportunity to access assessments of foreign educational qualifications relative to provincial educational standards. It needs to be easy to

[20] Foreign Affairs & International Trade Canada. "*International Students Contribute Over $6.5 Billion to Canadian Economy*." October 2009.

[21] Ibid.

find guidelines and other pertinent information on these websites, as this is usually the first step for many potential immigrants.

There are nearly 500 professional regulatory authorities and numerous credential assessment/accreditation bodies, hundreds of vocational institutions which are involved in assessing foreign credentials in 13 jurisdictions in Canada. At the same time immigrants still encounter difficulties in obtaining transparent, accountable and systematized information about regulatory requirements. Generally, the provinces are responsible for licensing and certification in approximately 55 regulated professions (15 percent of Canada's labour market), while employers determine if a worker possesses the appropriate qualification in the other occupations, which remain unregulated (85 percent of Canada's labour market).[22] Meanwhile, the governments of Australia and New Zealand have carried out reforms, which aim to centralize the assessment of credential recognition through National Office of Overseas Skills Recognition (NOOSR) and New Zealand Qualifications Authority (NZQA) respectively.[23]

Credential assessments have become more complicated since the range of immigrant source countries has broadened significantly. Moreover, there is no requirement for applicants to have their credentials assessed prior to submitting an application in Canada.[24] In addition, immigrants on the whole, have higher levels of education. In 2007, about 37 percent of foreign born individuals between 25 and 54 years had a university degree, compared to 22 percent of the Canadian born population in the same age group, yet the unemployment rate among immigrants is twice as high as those who are Canadian-born.[25]

Official Language Skills

Language skills are an additional concern. The share of immigrants whose mother tongue is neither French nor English has increased from 53 percent in 1981 to 80 percent in 2006.[26] In a 2007 survey of Calgary-based businesses, 90 per cent of respondents indicated that an immigrant must speak, understand, read and write English or French well enough to be easily understood by others, in person, on the telephone, and to understand peers. Even if a person has the skills necessary but not the ability to communicate, the given skills cannot be adequately utilized.

Moreover, immigrants that search for work in the Canadian labour market cite language barriers as their major problem (32 percent).[27] The profile of immigrant source countries has also changed. In 2009, almost 40 percent of top ten countries of origin were from Asia (China, Philippines, India, Pakistan, Iran, and Republic of Korea).[28] In many cases, the existing English or French language skills of immigrants needed to be improved (such as grasping idioms or social convention) so as to be appropriate for the workplace. In order for these immigrants to succeed in Canada, official language skills training is a must.

Recommendations

That the federal government:

1. Improve the overseas preparation of immigrants enabling a pre-arrival credential assessment as well as establishing a National Qualification Framework, using the credentials assessing agencies of Australia and New Zealand as a successful reference.

2. Develop an education profile of the main source countries of immigrants in order to have a transparent and comprehensive description of their educational systems available for business and other hiring entities.

3. Work with business and professional credentials assessing/accreditation bodies to develop more flexible approaches to recognizing credentials and experience, while maintaining Canadian standards. There must be

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[22] Becklumb, P., Elgersma, S., *Recognition of the foreign credentials of immigrants*, in: "Parliamentary information and research service", October 2008, http://www2.parl.gc.ca/content/lop/researchpublications/prb0429-e.htm, accessed December 12, 2010.
[23] Business Council in British Colombia, *Labour market needs, Immigration programs, Foreign credential recognition & Employment*, http://www.bcbc.com/Documents/LE_20070412_Submission_LIFE.pdf, March 2007, accessed December 5, 2010.
[24] Ibidem.
[25] The Canadian Chamber of Commerce, *Canada's Demographic Crunch: Can underrepresented workers save us?*, http://www.chamber.ca/images/uploads/Reports/2010/Canadas%20Demographic%20Crunch141010.pdf, accessed November 30, 2010.
[26] Drummond D., Fong F., *An economic perspective on Canadian immigration*, in: "Options Politiques", Jullet-Août 2010, http://www.irpp.org/po/archive/jul10/drummond.pdf, accessed December 11, 2010.
[27] **Schellenberg, G., Maheux, H,** *Immigrants' perspectives on their first four years in Canada: Highlights from three waves of the Longitudinal Survey of Immigrants to Canada*, **Social and Aboriginal Statistics Division, Statistics Canada,** http://www.statcan.gc.ca/pub/11-008-x/2007000/9627-eng.htm#9, accessed January 20, 2011.
[28] Citizenship and Immigration Canada, *Annual report to Parliament on Immigration, 2009*

a particular focus on official language training programs for new immigrants and those waitlisted to arrive in Canada as this is a major issue for prospective immigrants and potential employers.

4. Adopt a new approach to processing immigration applications, for example doing more of it in Canada, to eliminate backlogs within 24 months.

5. Prioritize applications from foreign workers and international students based on the Occupations Under Pressure list rather than on a first-come, first-serve basis, to help speed the processing of applicants in the most needed occupations.

6. Expand the list of Occupations Under Pressure to reflect Canada's current and future labour needs as well as create labour market database for Canada which would include short- and long-term labour shortages.

7. Improve educational campaigns overseas in order to acquaint future newcomers with the Canadian labour market requirements, application processes and integration services.

8. Reinstate the e-LMO process and streamline the LMO process for any worker in an occupation on the Occupations Under Pressure list by considering the broader labour market for that skill rather than only the specific advertising efforts of each individual employer.

9. Differentiate immigration processes between professional skilled and semi-skilled versus low-skilled and non-skilled workers under the TFW Program to ensure the applications of immigrants whose skills are in highest demand are processed more quickly.

10. Consider broader information sources in determining the appropriate salary or wage level, including industry sector surveys that can often be provided by employer and employer associations.

11. Review the connection between HRSDC, Citizenship and Immigration Canada, CBSA and firms desiring a specific skill and seeking to hire an immigrant due to lack of local talent to ensure the process is driven by a true reflection of supply and demand rather than process driven.

12. Create an Approved Employer List of employers with a proven track record of explicitly following both the letter and the spirit of the regulations, with an expanded latitude with respect to processing of temporary foreign workers. This would free up Service Canada and other government staff to scrutinize more files, and expend their time pursuing those employers and files that may not always be adhering to the intent of the regulations.

Registered Health Savings Plans

The issues of pension reform/retirement savings and health care spending have become increasingly critical for governments across Canada.

The Canadian Institute for Health Information (CIHI) indicated last October that total national spending on health care was expected to reach $192 billion in 2010, growing an estimated $9.5 billion or 5.2 percent since 2009. Government spending on heath care was expected to reach $135.1 billion, while private sector spending encompassing private insurance and out-of-pocket expenses was estimated at $56.6 billion.

In May of 2011, the Canadian Alliance for Sustainable Health Care was launched. This new initiative, with support from government and business, will assess the fiscal sustainability of the publicly-funded health care system nationally and provincially. Subsequent research will include detailed analysis of financial pressures and reform options in the system by identifying implications and enabling discussion of policy options.

Glen Hodgson of The Conference Board of Canada, the organization which initiated the CASHC, noted that Canadian governments are carrying a collective deficit of $100 billion. Health care spending is the dominant budget line for all provinces and territories, and cash-strapped finance ministers that are already raising taxes may have to consider federal financial intervention into health care from a new and different perspective.

An important financial risk that private and public sectors have to plan for is health care expenses in retirement. While the issue ranks as a concern, a small percentage of Canadians are taking steps to address it.

An Ipsos Reid study for the Canadian Medical Association[29] indicated that among 3500 Canadians polled in June of 2010, 72 percent believe they will not have enough money to maintain their health as they get older. Four in five respondents asserted that all Canadians or the wealthiest baby boomers will need to pay more rather than accepting a reduced level of service.

A quarter of those surveyed also expect to funnel some retirement funds into health care costs, while 25 to 36 percent believe they are unlikely to consider additional savings to mitigate those expenses.

Only one in ten Canadians aged 65 years and older indicated they have assumed a proactive approach to preparing for retirement health care costs by obtaining supplemental public health care coverage. Fewer still – 6 percent – have purchased long-term insurance and only 5 percent have saved specifically for health care costs during retirement.

An earlier poll conducted for the Canadian Medical Association in February of 2010 indicated that two of three Canadians believe it is a "good idea" to develop a Registered Health Savings Plan (RHSP) to allow individuals to save money on a tax-free basis so they can pay for health services or prescription drugs that are not included in public health plan coverage.

Sun Life Financial Canada President Kevin Dougherty, in speeches to the Vancouver Board of Trade on June 11, 2010, and the Greater Kitchener Waterloo Chamber of Commerce on November16, 2010, stated that with baby boomers approaching retirement in large numbers, their impact on the insurance industry and financial planning sector is evident in the products that have been developed and the questions that need to be answered.

Noting a number of circumstances that have created a perfect storm around financial security – economic shocks, health care concerns, pension reform issues and increasing life expectancies – a number of solutions have been advanced by the industry.

Prominent among the solutions is the creation of a Registered Health Savings Plan, a federal initiative to complement current provincial plans that would allow Canadians to create a health spending account using pre-tax dollars that could be withdrawn for approved health care costs on a tax-free basis in retirement.

Dougherty indicated that such an initiative could be easily made through regulatory changes, and it would serve to improve the financial security of Canadians immediately without hindering the ability to improve existing government programs.

In late December of 2010, Federal Finance Minister Jim Flaherty and his provincial counterparts reached an agreement for a Pooled Registered Pension Plan. Minister Flaherty stated this new private sector initiative will provide a low-cost retirement savings option for the self-employed and those who work for small and medium-sized businesses regardless of employer participation.

Minister Flaherty also stated that he and his counterparts are reviewing options for changes to the Canada Pension Plan (CPP). An RHSP could potentially act as a supplement to the CPP or other pensions since a significant component of a retiree's savings is generally required for health care costs.

Also, RHSPs have the potential to create significant pools of investment capital across the financial services industry where the plan would be administered.

Recommendation

That the federal government investigate a Registered Health Savings Plan to determine whether or not it would be a suitable measure to relieve the pressures of health care costs on provincial and territorial governments as well as to better prepare employers and employees for post-retirement health care costs.

Health Crisis – Canada Needs Thousands of Physicians and Surgeons Now

The ability to attract business and their workers to a community is directly affected by the presence of medical services, as well as physicians and surgeons in the community. There are not enough physicians and surgeons in

[29] 10th Annual National Report Card on Health Care, August 2010. Canadian Medical Association.

Canada to service our existing populace let alone to service an increase in population that would occur with a relocation of workers to a community.

From Tofino, British Columbia to Fogo Island, Newfoundland and Labrador, there are simply not enough physicians and surgeons. According to the College of Family Physicians of Canada, an estimated 4 to 5 million Canadians have no family physician or are "orphan patients". Even 70 percent of Canada's physicians and surgeons, have no doctor, according the Canadian Medical Association.

Although the urban areas are somewhat better served, the situation in rural and small town Canada is often described by health care experts as "desperate". This has led to internal competition among provinces/territories in an attempt to attract the limited number of physicians and surgeons available. If this continues, it is only a matter of time until businesses feel the effect of their employees making decision about continued employment based not on the job or the salary, but on the quality of healthcare that they and their families will be able to receive in the community where the business is located.

We are losing some of our brightest medical graduates of Canadian medical schools to other countries when they take the training we have provided them and leave Canada to practice medicine in another country.

In addition, Canada's best and brightest, with excellent academic credentials, often leave the country to train elsewhere because our university medical programs are full. Once such students have been trained in another jurisdiction there is a greater likelihood of those students choosing to remain there.

Currently, Canada has 69,267 physicians and surgeons for its 34.2 million people.

According the Organization for Economic Co-operation and Development (OECD) Canada has about 2 physicians and surgeons for every 1,000 people. That falls well below the OECD average of about 2.7 physicians and surgeons per thousand people. In fact, Canada ranks 25th out of 30 in the number of physicians to population ratio. Just to meet the OECD average, Canada would need 20,000 new physicians.

Canada's doctor shortage began in the mid 1990s. When the country should have been increasing the number of medical school graduates, provincial health ministers reduced medical school enrollment (by 10 percent in 1997 alone).

Although there have been significant increases in enrollment since then, Canada has still not recovered from the cuts. In fact, according to the Canadian Medical Association (CMA), had we continued to graduate physicians and surgeons at the pre 1997 levels, we would have 1600 more physicians and surgeons than we have now.

We currently have 2742 first year medical students, but the country continues to lag when it comes to training new physicians and surgeons. In 2005, Canada graduated 5.8 physicians and surgeons per 100,000 people; again well below the OECD average of 9.8 physicians and surgeons per 100,000.

The low numbers of medical students in Canada has nothing to do with a lack of interest by Canadian students in becoming physicians and surgeons. Quite the contrary. There are hundreds of young Canadians in medical schools outside Canada – not because they do not meet the standards of admission in Canada, but because there are not enough spaces available in Canadian medical schools.

The doctor shortage has been further compounded by an aging population and changes to physician practice styles where physicians and surgeons demand a better work/life balance and are no longer willing to devote the 70 hours a week to their practice that led to burnout and other health issues for their predecessors. The aging population is also affecting our existing physicians and surgeons. Sixteen percent of our physicians and surgeons are over the age of 65 and 38 percent are over the age of 55. Many will retire soon or substantially cut back their workloads. Many are not accepting new patients.

Furthermore, improved treatments for diseases have resulted in long term chronic conditions placing more demands on the system and its physicians.

The shortage of physicians and surgeons often means that provinces/territories compete with each other and with other countries for the limited supply of physicians and surgeons and medical school graduates. They may offer financial or other incentives to secure physicians for their own needs.

Currently, Canada tries to attract International Medical Graduates (IMGs) to cover the short fall of physicians and surgeons in our country. Approximately 1 out of every 4 physicians and surgeons is an IMG. In Saskatchewan, 50 percent of the physicians and surgeons are IMGs. However, there are an estimated 1200 IMGs in Canada who have not been able to secure a license to practice. At the core of the problem for IMGs is a shortage of residency and post graduate positions. Completion of those educational requirements is necessary in order to meet the requirements of the medical colleges who regulate medical practice licensing.

Many Canadian trained physicians and surgeons and medical students leaving Canada are doing so with education and expertise that has usually been financed by large student loans. These loans are sometimes in the hundreds of thousands of dollars with loan guarantees given by the federal and provincial/territorial governments. If medical students who choose to practice outside of Canada were enticed to instead practice in Canada by way of loan forgiveness or other forms of subsidization, then it would limit the drain of Canadian trained physicians and surgeons to other countries and increase the number of physicians and surgeons available for our communities. A requirement that newly graduated physicians and surgeons work in Canada for a period of 3 - 7 years before the loan was forgiven or the subsidization would vest, would allow for the establishment of many more physicians and surgeons within our country. The time required to work would be a sliding scale to take into account the region of Canada in which the doctor chose to work. Rural areas and areas where the need for physicians and surgeons is greater would require a shorter work period.

Further delays in grappling with the doctor shortage and failing to address the issues indicated above will compound the crisis in the years ahead and could severely impact the ability of our country and provinces/territories to attract new business and new workers to our communities.

Recommendations

That the federal government work with the provinces/ territories to:

1. Develop solutions to the doctor shortage that would increase the number of physicians in Canada by a minimum of 10%.
2. 2. Implement incentives to:
   - Keep Canadian trained physicians and surgeons in Canada after their residencies
   - Attract Canadians who are being trained in medical schools outside the country to return to Canada to practice medicine
   - Repatriate Canadian trained physicians and surgeons working outside the country
   - Encourage physicians and surgeons to locate to areas with a need for physicians and surgeons
3. Physicians and surgeonsClear the backlog of IMGs waiting to be licensed to practice as well as reducing the general costs and administrative red tape currently required for provincial licensing.
4. Work towards establishing international licensing standards.
5. Increase the level of funding available for residency positions in Canadian hospitals to accommodate the increased number of graduate physicians and surgeons.

Transport and Infrastructure

National "Gateway to the Arctic" Strategy

Issue Statement

As can be evidenced over the past decade, climate change has rapidly opened Canada's Arctic as never before, in many cases year round. This opening of the Arctic is expected to significantly increase international marine traffic through the Northwest Passage, as well as expand access to resources that Canada asserts claim to, such as minerals and oil and gas reserves. Even with substantial actions taken by the government in recent years, Canada still faces a significant challenge in the immediate term, with pressure from this international community over control of and access to the Arctic region.

Background

Canada's Arctic will be vital to the country's long-term economic future. From a resource development perspective, the Arctic could hold 412 billion barrels of oil equivalent (undiscovered conventional oil and natural gas resources; U.S. Energy Information Administration). Extensive mining activity worth billions annually is underway throughout the North, and is expected to grow substantially with increased access to the region. Spin-off business from resource development activities is worth hundreds of millions annually to northern and southern Canadian firms. From this perspective, protecting the sovereignty of our Arctic regions is of paramount importance.

Canada has recognized this and invested significantly: $720 million to procure a new Polar Icebreaker – the CCGS John G. Diefenbaker, procuring new Arctic/Offshore Patrol Ships, expansion and modernization of the Canadian Rangers, establishing a Canadian Forces Army Training Centre in Resolute Bay, establishing a deep-water berthing and fueling facility in Nanisivik, launching RADARSAT II satellite and ongoing military exercises and surveillance operations are all forward-thinking initiatives.

However, the threat of loss of control of Canada's Arctic region is real. A number of countries are laying claim to all or a portion of the Arctic region, including Russia, the United States, Denmark, and Norway. For a variety of reasons, Canada is currently in dispute with several countries regarding the status of certain portions of the Arctic sea region. For example, since 2004, Canada and Denmark have been quarreling over claims to Hans Island, a small, uninhabited parcel straddling the marine border between Greenland and Canada (Nunavut).

The United Nations set 2013 as the deadline for countries to submit survey data on the extent of their underwater continental shelves in the Arctic. Based on the geography of these shelves, nations could lay claim to economic zones far beyond their visible coastlines. For example, in August of 2007 Russian explorers planted their country's flag on the seabed 4,200m below the North Pole to further their claim to the Arctic. Additionally, Japan and the United States would like to see the Northwest Passage declared international waters, should it become ice free.

Other countries have advanced their own Arctic initiatives: China's $12B for the Trans-Siberian Railway will halve Beijing-Moscow freight time for instance, and many countries have developed extensive infrastructure to service the oil and gas industry in Arctic waters.

International management of Canada's offshore has been an important and often contentious issue. Organizations such as the United Nations are requesting information on continental shelf mapping to resolve international claims in the Arctic in determining access to:

- Strategic northern transportation routes
- Offshore resources including various fisheries and hydrocarbon deposits
- Established, clear rules on the management of coastal and international waters.

In November 2010, Manitoba committed to develop an Arctic Gateway Strategy which includes improving health services, economic development, transportation and tourism. To accrue such social and economic benefits to the people of the Arctic as well as nationally rather than regionally, a made-in-Canada solution is required with significant input from key northern stakeholder groups. This would augment the Government of Canada's national made-in-Canada Northern Strategy.

The 2007 Northern Strategy advances needed work in the Arctic region of Canada; however, additional efforts will allow it to create comprehensive and permanent links to and from the southern part of the country. A coordinated national plan of Gateways to the Arctic is required to avoid the Northern Strategy helping to develop a region that is not connected to the rest of the nation. Having a national strategy connecting this vital region to the rest of Canada will also indicated, internationally, that Canada is serious about sovereignty and other strategic issues in its vast north.

Recommendation

That the federal government:

1. With a sense of urgency and importance, build on its forward-looking 2007 Northern Strategy by generating a specific and ambitious National "Gateway to the Arctic" Strategy. The development of this strategy must be done with key stakeholders and jurisdictions to address issues such as sovereignty, infrastructure development, environmental protection, and economic development.
2. Add as a transportation priority initiatives infrastructure investments in regional Gateways to the Arctic in the East, the West and at strategic and economically viable points in central and Northern Canada.
3. For each regional Gateway to the Arctic strategy, create operational plans for Search and Rescue, climate/weather centre and technological bases based on the geography, oceanography and topography of each area.

Reduce Costs to Improve Canadian Aviation Competitiveness

Issue

Canada's airports are becoming less competitive when compared to their U.S. counterparts and as a result, continue to lose an increasing share of the market to bordering U.S. airports.

Background

Aviation in Canada is plagued by high Operating Costs and excessive taxation when compared to the United States. The higher costs manifest themselves in higher air fares from Canadian cities when compared to the U.S. These air fare differences can be significant and it results in an ever increasing amount of passenger and cargo leakage from Canadian Airports to U.S. border city airports. The relative strength of the Canadian Dollar versus the U.S. currency has further exacerbated the problem.

- About half the passengers flying out of Bellingham, WA are from Canada, about half of Alaska Airlines' passengers on the Bellingham-to-Honolulu flights are Canadian
- 21% of Canadians say they travel to U.S. airports, where the cost of a ticket can be between half and three-quarters of the price at home and that number is growing rapidly

BC residents are driving from the lower mainland to Bellingham and Seattle. In the interior they may also travel to Spokane. In Alberta, Saskatchewan and Manitoba, the airports of Montana, North Dakota and Minnesota are readily available. And of course in Ontario, tens of thousands take advantage of lower fares in Detroit and Buffalo.

Canada's airports and airlines have been severely impeded in their efforts to compete with their well-funded U.S. counterparts largely because of these factors but as well by the onerous fees imposed on them by the federal government. The Canadian air transportation sector is an important contributor to the well-being and growth of the Canadian economy. With supply chains becoming more and more global, it is imperative that Canada has an efficient transportation system. This means ensuring that all modes of transportation compete fairly amongst themselves and with international competitors.

The Canadian airports and air carrier industry are a vital part of our national economy.

Airports in Canada directly employ approximately 200,000 people and account for $45 billion in economic output. Furthermore, Canada's airports have invested over $9.5 billion in infrastructure improvements within the last decade. Since 1992 Canada's airports have paid over $2.5 billion in airport rents that were only worth $2.0 billion at the time of transfer.

On the infrastructure side of the argument, a study conducted by ACTA (the Association of Canadian Travel Agencies) concludes that the U.S. Government invested about $4.5 billion in airport infrastructure last year alone while the Canadian Government put in just $430 million over the past nine years combined. What we (Canada) should have been spending, according to the ACTA report (taking into account the size differential in the two markets) was $450 million just this past year alone, much less over nine years.

If we are have any hope of growing the country's important travel and tourism industry and the much needed job growth that accompanies it, the federal government has to take the breaks off Canada's aviation system and put some air under the wings of our airports.

Exacerbating the problem further are the increasing security requirements, regulations and harmonization of rules between the U.S. & Canada – none of which are bad things in and of themselves – but they will doubtless lead to higher costs for carriers and airports. And while our U.S. counterparts get substantially more funding to offset these costs, Canadian operators are forced to make up those costs by raising the price of air tickets.

The leakage of passenger and cargo has many direct economic and sociological implications for Canada and they include:

1. There is a significant loss to the economy of Canada.
2. Substantial tax revenue lost to the federal government.
3. Canadian Carriers are losing passengers and market share to U.S Airlines.
4. There is a tremendous loss of revenue to providers of aviation services in Canada.
5. Canada is losing substantial employment to U.S. border cities.
6. Inconvenienced passengers can't leave from their home airport.

The federal government has a role to play in reducing the number of Canadian travelers who choose to start and end their journeys across the border at U.S. airports, on U.S. carriers because of the higher ticket prices at home.

Giovanni Bisignani, Director General and CEO of the International Air Transport Association (IATA) recently called on the Canadian government to improve the global competitiveness of air transport, travel and tourism. He indicated that Canada has fallen from eighth place in 2002 to fifteenth place in 2009 among most visited countries and 106th in cost competitiveness behind Japan, the UAE, India, China and the United States. An airline ticket to Canada is on average $160 more expensive than a ticket to the United States, he added.

And Canada is alone in the world at charging Crown rents to airports. Here it is estimated that the federal government takes in $257 million a year from Canadian airports and our air navigation system while the majority of other countries in the world put significant amounts back into the system to grow their whole travel industries and move them forward.

In Canada, the federal government owns the land under most major airports and charges ground rents to these airports. These rents along with federal and provincial taxes and other charges imposed on the airports are so high, Canadian airports must charge airlines and other airport users fees that are much higher than similar charges at U.S. airports. This, of course, adds to airline ticket prices and other airport-related charges to consumers, not to mention costs associated with the movement of cargo. This inhibits Canada from becoming a true Gateway into North America. Furthermore, it places airports and air carriers at a competitive disadvantage to other modes of transportation and international competitors. Reducing airport rent will be a positive step towards facilitating the development of a competitive multimodal transportation system in Canada.

Several major airports including Pearson, the country's largest, and Calgary's airport have seen recent increases in their ground rents. If we are to break through this impasse and become truly competitive in a global sense the federal government must re-think its position on airports and view them as an engine that can drive huge amounts of local investment, jobs and revenues for Canadians and stop considering them just as a source of tax and rental revenue.

What is the Solution?

The aviation industry in Canada, together with the Federal and Provincial Governments, need a collective approach to addressing the economic imbalance between Canada and the United States. A full analysis of the impact on Canada of this imbalance should be undertaken. The belief is that with a comprehensive understanding of this issue a solution can be found that results in a complete "win" for Canada. Fees and charges can then become competitive with the U.S., passenger leakage to the U.S. reduced, increased passengers travelling through Canadian airports, higher load factors and yield for Canadian Airlines, more employment and economic impact for Canada, and additional tax revenue for the Government of Canada. The Federal government must begin to view airports as an economic generator not merely as a source of revenue.

Recommendations:

That the federal government, in order to reduce passenger/freight leakage to U.S. border airports:

1. Immediately examine the cost structure of government imposed fees on the airlines and airports in Canada with the goal of reducing costs and stimulating the aviation sector.
2. Develop policies designed to mitigate the impact of the transportation surcharges and fee differentials in Canada by incorporating the results of the examination (as per recommendation number one) by 2012.
3. Move immediately to eliminate airport rents where they still exist by the end of fiscal 2015/16.

Assessing the Funding of the Canada Border Services Agency and Framework of Core Services Review

In their role as the caretaker of border activity, the Canada Border Service Agency (CBSA) is a crucial regulatory body in the overall prosperity and security of Canada.

The CBSA is the lead federal agency for operations at border ports of entry. Under the Canada Border Services Agency Act, the Agency has a dual mandate to provide integrated border services that support national security and public safety priorities and that facilitate the free flow of persons and goods that meet all regulatory requirements. The Agency works with other partners to provide these services. Every year, it allows 96 million people to enter and approves the entry of $404.5 billion in imported goods. Its 12,800 staff provide a full-time presence at 148 border points and a limited presence at a further 1,121 locations across Canada.

In 2006, the federal government provided $543 million over five years for initiatives aimed at modernizing border management and priorities of the Security and Prosperity Partnership (SPP). In 2008, the federal budget committed $75 million over two years to the CBSA to maintain current levels of services; however, no funding was allocated for new or expanded core services.

In the fall of 2010, the Auditor General of Canada produced a report on CBSA. It did not make clear whether the significant funding allocations from previous years had yet amounted to progress and expected outcomes.

Airports

The funding allocated to the CBSA has become an impediment to economic growth in communities with smaller international and regional markets where core services are limited.

In 2005, the Core Services Review was established to examine and recommend improvements to the CBSA's capacity to provide services at all entry points with CBSA staffing. However, improvements since then have been few. The Canadian Airport Council (CAC) has since published a report on the Core Services Review. The majority of the CAC members find CBSA service levels and allocated resources to be unsatisfactory.

Currently the CBSA is unable to provide an increase in services to airports that are willing to pay, ostensibly because they do not have the ability to provide sufficient officers. As a result of lack of services and available officers, many smaller airports are not able to attract new carriers to their communities.

Air Services Policy Framework

The CBSA has been using an Air Services Policy Framework since April 1, 2009 to evaluate requests for expanded boarder clearance services. This framework consists of a tiered ranking system which allots points to airports based on their service capacity and then classifies them for CBSA service. The point scores are determined based on the following factors; international passenger volume, flight frequency, and the distance from the airport to the nearest CBSA service location. The required flight volume increases significantly with each respective Tier. For example, the variance between Tier 4 and Tier 3 and Tier 3 and Tier 2 consists of 2,500 international passengers per year. To qualify for Tier 1, the requirement is significantly greater being 50,000 international passengers per year.

General aviation airports, classified as Tier 4 are automatically prohibited from advancing into Tiers 1, 2, or 3 regardless of their traffic volume. This is because they may not have *regularly* scheduled international flights – a result of their inability to access adequate CBSA services.

When airports are unable to attract new carriers or persuade existing ones to provide regularly scheduled international flights because they cannot access CBSA services, they cannot graduate into a higher tier where access to CBSA services is available. This "catch-22" situation works to prevent the natural flow of people and goods that fuel the economy and limit the ability of an airport to pursue a growth agenda.

As a consequence, a revision of the resources allocated to the CBSA, and a re-examination of the policy framework is necessary to ensure that all airports across Canada can compete on a level playing field.

Recommendations

That the federal government:

1. Recognize the crucial role the CBSA plays in the movement of goods and people and develop a responsible and sustainable funding formula for the CBSA that dedicates a portion from the billions in annual import tax revenues to ensure additional officers are available at airports and other points of entry so that they may be serviced appropriately.
2. Revise the CBSA multi-tiered framework so that it recognizes the different needs of all airports of all sizes.
3. Allow airports the opportunity to present business cases illustrating the economic benefits that additional flights and a CBSA presence can bring and take this into account when assigning a tier score.

Rebuilding the Champlain Bridge

Background

The Champlain Bridge is a major axis of transportation for people and goods. It is essential not only for the competitiveness of businesses in the Montreal area but is also a crucial component of eastern North America's large urban area transportation infrastructure and an international Gateway into Canada.

The Champlain Bridge is crossed more than 57 million times a year by vehicles. The bridge also ensures the flow of goods in the Ontario-Quebec-New England trade corridor through which most exports travel to the United States. More than $20 million in goods cross Champlain Bridge each year. Thousands of businesses rely directly on the bridge – the distribution centres on each side of the river as well as the important trucking and shipping industry. For these businesses and so many others, the Champlain Bridge is the region's economic lung.

A recent federal study made public on July 13, 2011 clearly stated that ''Annual expenditures rising from $18 to $25 million over the next ten years…would be necessary to prolong its life''. The study also mentions that: ''the maintenance work will become increasingly extensive and complex and require increasingly long lane closures…''The document reports ''a lack of seismic resistance'' of the existing structure due to ''the deterioration of the deck [which] results in a deterioration of the girder flanges.''

Technical studies are unanimous: remedial patches are no longer sufficient. The bridge's lifespan is nearly over and it must be replaced. A new construction that is secure, durable and integrated with public transportation is needed.

This is why the Champlain Bridge construction coalition has unanimous stakeholder approval. Municipalities, businesses, associations, business people, provincial governments, chambers of commerce are all in favour of the project. Citizens have been invited to add their voice to the coalition's by signing the online petition at www.champlainenchantier.ca.

The Quebec government has created the *Bureau des partenaires sur les mesures préparatoires en vue du remplacement du pont Champlain.* By this gesture, it took a step forward towards the construction of a new bridge.

However, immediate commitments by the Federal government are required to avoid widespread socio-economic repercussions across Eastern Canada and Quebec. We anticipate that the new Champlain Bridge will promote our collective prosperity and bring permanent solutions to public transportation issues. It is critical that we act now to get this project up and running as soon as possible.

During the 2011 election campaign, the coalition called on all parties to immediately begin rebuilding the Champlain Bridge and develop a work plan for its construction. This work plan must address the reorganization of traffic flows during the years of construction, contain a work schedule and involve the creation of a project office.

Unfortunately, the federal government has yet to officially support rebuilding the bridge In the last federal budget, no budget measure for the construction of a new Champlain bridge was announced; instead funds were allocated for general maintenance band-aid repairs. The Canadian Chamber of Commerce is disappointed, since we had already taken note of prior investment announcements for infrastructure maintenance. Given the urgency of the matter and the alarming results from various studies, the only possible solution is to urgently build another bridge before the current Champlain Bridge lifespan is over. Other options are available which could alleviate funding concerns such as the implementation of a toll system or developing the projects as a public private partnership.

A decision must also be made as soon as possible to guarantee the security of the millions of people who cross the bridge each year. Canadians deserve certainty and the Canadian government must go forward with a major announcement concerning a secure, efficient and durable infrastructure, particularly as planned work on Louis-Hypolite-Lafontaine tunnel will only increase the load on Champlain Bridge.

WHEREAS the Champlain Bridge is in a state of degradation and whereas associated risks are such that, according to the consulting engineers who examined it and recently presented a study to the government, it must be replaced by a new structure.

WHEREAS the Champlain Bridge is a major transportation axis for people and goods in Greater Montreal and Eastern Canada and is essential to business competition and productivity.

WHEREAS the Champlain Bridge is a crucial component of the Ontario-Quebec-New England trade corridor and our businesses would be greatly affected by loss of productivity due to a closing or a traffic disruption on the bridge.

WHEREAS the Champlain Bridge plays a strategic role in road transport within Quebec.

WHEREAS the design and construction required for such a project are important and must be undertaken without delay.

Recommendations

That the federal government:

1. Commit to rebuilding Champlain Bridge immediately.
2. Develop an action plan for the construction of the bridge which includes the reorganization of traffic flows during the years of construction, a work schedule and the creation of a project office.
3. Explore all available funding options including but not limited to implementing a toll system and/or developing the project as a P3 (public private partnership)

National Transportation Strategy – 2011

Issue

Transportation has always been a critical component of the Canadian economy. The continued developments in innovation in transportation have played a significant role in the growth of Canadian cities. In addition to connecting our vast geography the transportation sector employs thousands of Canadians at our ports of entry it also allows us to become a Gateway into North America. It is an economic enabler that provides a framework for value-added sectors to develop, create additional jobs, and allow businesses to compete globally.

However, increasing global competition, integrated global supply chains, the growing services sector and urbanization in Canada, current and forecasted skills shortages, recent fluctuations of the Canadian dollar and fuel prices, and growing environmental concerns require a new vision for an efficient and cost-effective transportation system. While the Government of Canada has implemented a number of positive initiatives and policies over the years, including increased investment in our Gateways and ports of entry, it has not been guided by a long-term and predictable strategy.

Canada's transportation infrastructure requires significant investment and our transportation regulatory environment, consisting of inefficient tax and operating requirements and split responsibilities between levels of government, requires modernization. Furthermore, continued investment in Canada's Gateways –including improvements to our regulatory structure, investments in both physical and technological infrastructure, and the reduction of operational setbacks – is needed to ensure that our main ports of entry are able to adapt to shifting trade flows. We need to increase our competitiveness. Our competitors are investing billions of dollars in transportation infrastructure. If we delay, we will not only miss new opportunities, but also put our current business at risk. The window of opportunity for this investment is five to six years. The danger in not acting now is to be pushed to the fringe for access to global supply chains and pushed out of an increasingly competitive global market.

Background

In an effort to increase the challenges in transportation infrastructure we recommend that the Government of Canada develop and implement a *National Transportation Strategy* for the movement of goods and people. A National Transportation Strategy must be an integral part of our national economic policy for realizing Canada's overall potential. It must ensure that all parts and levels of government share a common vision while working collaboratively with industry toward a common goal. It must also actively promote all of Canada's gateways to ensure Canada is prepared for increasing and shifting trade flows.

There are a number of important transportation initiatives in various government departments, but given the importance of trade to Canada's economic well-being and changing domestic and global economies, a *National Transportation Strategy* needs to be in place to guide the actions of all government departments, not just the action of one ministry.

The *National Transportation Strategy* should have a clear scope, with ambitious and targeted objectives that follows four guiding pillars:

- Connect North American to the global economy
- A multimodal transportation infrastructure investment strategy
- A competitive regulatory and fiscal environment
- Developed in an economically, socially and environmentally sustainable manner.

A *National Transportation Strategy* should address the entire transportation system, taking into account the priorities of Canadian business and Canadian citizens. Forecasted increases in international trade and a changing Canadian economy require an efficient and cost-effective multimodal transportation system to move goods and people within Canada, including urban and regional areas; between Canada and the United States; and between Canada and the rest of the global economy.

A *National Transportation Strategy* should ensure that consumers and customers have the ability to make the choice of mode without impact from artificial barriers or inducements of government policy. This would apply to all areas impacting trade, including safety, security and border management. Doing so requires building awareness of the importance of transportation, including through the reinstatement of National Transportation Week.

Objectives:

The objectives of the *National Transportation Strategy* should be to:

1. Develop the safest and most effective multimodal transportation system by integrating policies concerned with the movement of goods and people in marine, air, rail and road transportation warehousing facilities, urban transportation, border security, and transportation information flows.
2. Make Canada a competitive gateway for inbound and outbound trade and travel between North America and the rest of the world.
3. Be socially and environmentally sustainable, aiming to reduce the social impacts and the carbon footprint of the transportation of goods and people.

4. Work in partnership with stakeholders, including the private sector during the development phase and effectively communicate it to the Canadian population at large.

5. Build on current and past government initiatives and policies, creating a benchmark that is flexible and responsive to changing economic conditions and that can continually be built upon and improved by future government and private sector partnerships.

Recommendations

That the federal government:

1. View the Canadian transportation sector as a single multimodal system which includes a strong North American transportation vision that:
   - Maintains a secure and trade efficient border that facilitates the movement of legitimate goods and people
   - Establishes a cooperative framework to efficiently utilize and enhance current levels of border capacity and integrate our transportation systems.

2. Develop a priority-based multimodal transportation investment strategy that builds on existing policies and compliments current Gateway and Trade Corridors initiatives and that operates for a period of not less than 10 years. The investment strategy should:
   - In cooperation with provincial and territorial governments, contain a formal transportation infrastructure single window to streamline the regulatory and approval process
   - Pursue public-private partnerships, wherever appropriate and feasible, to maximize efficiency in maintaining and developing transportation infrastructure.

3. Given the multimodal nature of the transportation system and recognizing the distinct advantages and competitive situations of each mode of transportation develop a national, non-discriminatory and market-based regulatory and fiscal environment that fosters competition in the transportation system.

4. Analyze all transportation infrastructure and regulatory projects and weigh these against the economic, social, and environmental axes of sustainable development. This includes:
   - Taking a leadership role to address community impacts and environmental concerns
   - Building public awareness of the importance of transportation in relation to the quality of life enjoyed by all Canadians, including the reinstatement of national Transportation Week
   - Attracting skilled people to meet the needs of the transportation sector
   - Encourage transparency across the supply chain and containing a research initiative tied to the objectives of the *Strategy*.

5. Address the intricacies of each transportation mode and its respective infrastructure needs, recognizing that not all transportation can be based on self-financing or cost-recovery models. Dispersed geography and the needs of rural Canada to maintain and grow its economic contribution means that the policy must acknowledge that some transportation routes must be subsidized or considered differently.

Protecting Trade on the Great Lakes and St. Lawrence Seaway

The State of New York has unilaterally imposed ballast water regulations for ships transiting New York waters that require technology that does not currently exist. Adopted under the Vessel General Permit with individual State additions, these standards would require all ships discharging ballast water in New York State and ships transiting New York State waters to have the ability to clean their ballast water to a standard that is 100 times greater than International Maritime Organization (IMO) standards. Furthermore, all new ships will be required to adhere to a standard that is 1000 times greater than current IMO standards.

When not fully loaded, cargo ships must take on water (ballast) to maintain their stability. Ballast water pumped onboard in one port may inadvertently contain aquatic organisms that are then released when the ballast is discharged in another port. In most cases, these organisms die; however, in some cases they thrive in their new environment. As global trade expands, concern over the movement of aquatic organisms is also growing.

Today, vessels entering the Great Lakes region undergo the most stringent ballast management and inspection regulations in the world. To ensure compliance with regulations, the US and Canadian governments stop, inspect and test every foreign ship entering the Great Lakes in Montreal – the gateway to the St. Lawrence Seaway. Since these protections were put in place in 2006, there have been no new discoveries of aquatic nuisance species in the Great Lakes. In fact, a June 2010 Department of Fisheries and Oceans study determined that Canada's ballast water policies for the Great Lakes are among the best in the world. The study conclude that not only has the 2006 Great Lakes Ballast Water Program proven to be highly effective in preventing the spread of aquatic invasive species but could form the framework for similar programs across the world.

As all vessels entering the Great Lakes / St. Lawrence Seaway must pass through New York waters, the new regulations would effectively shut down all vessel transits into and out of the Seaway. This would dramatically affect many large ports situated on the Great Lakes and St. Lawrence Seaway.

Furthermore, once these regulations go into effect, many of the industrial and manufacturing companies with operations on the Great Lakes will be unable to ship goods and materials to and from Canadian, North American and international markets. This will cause massive disruptions in markets that depend on these goods and could have serious economic impacts not to mention infringe of Canadian sovereignty over its waterways.

While New York State has extended the original deadline for the installation of this technology from January 1, 2012 to August 1, 2013, the requirements continue to pose a serious risk to shipping and cargo transportation on the Great Lakes and St. Lawrence Seaway. Over the past several years there have been advancements with innovative ballast water treatment technology. Unfortunately the technological standard set by New York State requires technology that has not been developed to meet their proposed standards, that will work in fresh water and Great Lakes environmental conditions, and that will meet operational parameters of Great Lakes ships operations. Furthermore this technology is likely to remain unavailable by August 2013.

The results of the imposition of these unrealistic and technologically impossible standards will be severe.

Recommendations

That the federal government to prevent widespread economic harm while still supporting ongoing environmental improvements, the Canadian Chamber of Commerce recommends that the Canadian government:

1. Continue to work with the United States federal and state governments to reach a solution that protects Canadian interests and sovereignty.
2. Adopt the position that the State of New York's regulations are beyond the powers of the state (ultra vires) because they impede international trade with Canada.
3. Pressure the government of New York State to work in tandem with other jurisdictions and relevant stakeholders to adopt achievable and harmonized regulatory requirements that are based on science and are technologically and economically feasible.
4. Pressure the government of New York State to eliminate their State specific and non achievable ballast water treatment standards.
5. Work with U.S. and Canadian federal, state, provincial and territorial governments to develop bi-national solutions and to ensure that similar regulations are not unilaterally adopted.

Modernizing the Canada-U.S. Border

Canada and the United States (U.S.) enjoy one of the largest trading relationships in the world. Every day over 300,000 travellers and $1.7 billion worth of trade crosses the Canada-US border. One-third of this two way trade is the intra-company delivery of input materials. We literally *build things together*. The citizen of both our countries benefit from this relationship. Eleven million jobs – three million in Canada and eight million in the U.S. depend on this trade. Yet, the success of the Canada-U.S. economic partnership depends on a smart, secure border that facilitates the flow of legitimate people, goods and services. Unfortunately, since 9/11 the border between Canada and the United States has become increasingly inefficient.

Over the past ten years, there have been dramatic increases in security measures at the border – costly measures that have resulted in greater numbers of fees and inspections for those that use the border the most. When coupled with growing layers of regulations, increasing regulatory complexity, infrastructure constraints and uncertain wait times it is not surprising that businesses are upset. High costs at the border means reduced profitability for businesses and higher prices for consumers.

On February 4, 2011, President Obama and Prime Minister Harper recognized the need to improve the efficiency of the Canada-U.S. border. The leaders promised to establish a new long-term partnership to strengthen the economic and physical security of both countries while facilitating the flow of legitimate goods and people across the border.

Their joint declaration focused on four key areas: the early identification of threats; trade facilitation, and economic growth; integrated cross-border law enforcement; and the protection of critical infrastructure. To oversee the implementation of these measures, the leaders created the Beyond the Border Working Group (BBWG). The Canadian Chamber of Commerce has been actively calling for improvements to the Canada-U.S. border and views the February 2011 announcement as a positive step in the right direction.

The Canadian Chamber believes that work to improve the efficiency of the Canada-U.S. border must have three political outcomes. First, it must make North American more secure by increasing participation in trusted traveller and trader programs. This would allow border agencies to focus their limited resources where they are most needed. Second, it has to improve the predictability of the border in terms of wait times, inspections, fees and service standards. Finally, improving border efficiency would strengthen economic growth by facilitating the movement of legitimate people and goods across the border.

While the recession had a negative impact on the amount of traffic crossing the Canada-U.S. border, there are signs of recovery. For example, in 2010 truck traffic on the Ambassador Bridge was up by 17.4% over the previous year.[30] As we recover from the recession and traffic volumes increase, the unaddressed structural problems at the border will once again result in delays.

One area that has consistently been identified by the trade community as a source of delays is the confusion surrounding admissibility requirements. With every year that passes new regulations and requirements are developed and imposed on the cross border business community. Business must constantly keep abreast of changes to avoid delays caused by unintentional non-compliance. For example, both countries are moving towards the collection of data electronically. Unfortunately there are significant concerns that these new requirements ignore the reality of modern supply chains by requiring information that is impossible, difficult or too costly to collect properly.

The trade community has identified several other areas that contribute to unpredictable wait times at the border including: insufficient training of customs officials, inadequate staffing models, the need for greater participation by other government departments, outdated or insufficient border infrastructure and lack of, or inefficient use of technology.

There is also a need to focus the limited resources of border agencies where they are most needed – unknown trade and travel. There are currently many trusted shipper and trusted traveller programs such as Free and Secure Trade (FAST), NEXUS, Customs-Trade Partnership Against Terrorism (C-TPAT), Partners in Protection (PIP) and Customs Self Assessment (CSA). The Canadian Chamber of Commerce is a strong supporter of these programs yet the cost of participation in these programs is high and the benefits limited. Furthermore, many businesses remain concerned about overlap in areas such as risk assessment, client interaction and program conditions. There is a very real need to harmonize the different policies for participation in these programs.

Recommendations

That the federal government work with the U.S. government to:

1. Set up a pilot trusted shipper program for companies that are regulated by government agencies other than CBSA and CBP. This would allow more companies to participate in trusted shipper programs.

[30] Toll Road News. **Ambassador Bridge reports 11.5% traffic rise 2010/2009 but still 41% below 2000.** Jan 13, 2011.

2. Develop accurate staffing models for border services that reflect demand –including participation from other government departments.

3. Ensure that there are a sufficient number of border crossings with 24/7 operations to facilitate cross border trade and travel in all of Canada’s provinces and territories.

4. Work to remove redundancies, harmonize Canada/U.S. requirements and programs, maximize benefits and minimize the costs of participating in trusted trader and traveller programs.

5. Continue to invest in modern infrastructure and technology to reduce wait times and improve security at the border.

6. Improve business traffic by addressing the inconsistent handling of inspections and infrastructure limitations.

7. Expand upon existing CBP and CBSA Cargo Security Initiatives and Joint Targeting Initiatives to allow for a North American perimeter approach to international container inspections.

8. Establish reciprocal processes for transborder Canadian or U.S. originated shipments for controls and interdiction at point of origin wherever possible, with a focus on the inherent controls of intermodal operations.

9. Where inland inspection of containers is required these should be modelled after CBSA's process for interdiction at destination.