THE CANADIAN CHAMBER OF COMMERCE
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2012 Policy Resolutions

Positions on Selected

2012 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 23-24, 2012 at the Canadian Chamber's 83rd Annual Meeting in Hamilton, Ontario. Each resolution, once approved by a convention, has an effective lifespan of three years.

The 2012 resolutions were discussed, amended and approved during debate, at which time accredited voting delegates from across the country considered a total of 66 proposals (of which 52 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.

Questions pertaining to these policy positions should be directed to the Policy Division of the Canadian Chamber of Commerce at:

The Canadian Chamber of Commerce
55 University Avenue, Suite 901
Toronto, Ontario M5J 2H7
Telephone: (416) 868-6415
Fax: (416) 868-0189

The Canadian Chamber of Commerce
360 Albert Street, Suite 420
Ottawa, Ontario K1R 7X7
Telephone: (613) 238-4000
Fax: (613) 238-7643

TABLE OF CONTENTS

SOCIAL POLICY

Importance of Continuing to Establish Canada's Educational Brand Internationally

Introduction

The world of education has changed significantly, particularly in the last 30 years, with post secondary education (PSE) establishing itself as a global product, accessed via a fiercely competitive global marketplace, particularly in the English language. Almost all countries have aggressive national strategies for PSE systems to advance their national agendas, especially in terms of awareness of the country's innovation, productivity and economic growth strategy.

Canada's track record in PSE

Canadian Chamber members welcome the importance placed on PSE by senior levels of government. Indeed, their investment positioned Canada well in the post-World War II marketplace. According to a study conducted by the Canadian Council on Learning:

> *Canada has achieved significant standing in PSE. It has been able to provide high levels of public funding for PSE … support high participation rates across the PSE sector; reduce disparities in access to PSE; maintain high standards of scholarship and quality; maintain a relative equivalence of quality across institutions and provincial boundaries; and attract increasing numbers of international students.*

Canada's educational brand in the international marketplace

Notwithstanding Canada's track record in PSE, it must and is doing more. Hence the importance of the Imagine Education au/in Canada initiative, a joint effort by the Department of Foreign Affairs and International Trade Canada (DFAIT) and the provinces and territories through the Council of Ministers of Education, Canada (CMEC).

The objective of the initiative is to develop a strong, distinctive image for the Canadian educational experience to be used by governments, educational institutions and other participants in the education field to address international students, a fundamental element of not only the economic viability of Canada's post-secondary institutions but also a group that represents the best and brightest hope for attracting new, highly skills workers to Canadian communities, using a consistent voice.

By conveying a consistent message that an education in Canada opens the door to a world of opportunities, the Imagine campaign allows Canada to move forward and thereby enable an entire generation of international youth to discover the many advantages of studying in Canada.

Canada's educational brand needs continued funding

We applaud the federal government's commitment to Imagine Education au/in Canada through its allocation of $1 million per year to DFAIT for 5 years (2008-2012). However, its commitment must not stop now. As international competition for foreign students becomes more fierce, the importance of Imagine Education au/in Canada beyond 2012 is greater than ever.

Without continued funding, the Canadian Chamber believes we risk being poorly positioned to compete in the knowledge economy of the 21st century and also, perhaps more importantly, risk hampering our position as a globally attractive market for post-secondary students and investment in this critical knowledge sector. Without continued marketing, Canada risks sliding on the international scale.

Recommendation

That the federal government continue to allocate a minimum of $1million per year to the Department of Foreign Affairs and International Trade in its annual budget 2013-2017, in order that it can continue to establish Canada and its provinces and territories as a preferred destination for international students looking to pursue their education abroad.

First Nations Student Education

Federal government funding and legal structures for First Nations student education falls far behind that of other Canadians, to a degree that is nearly unbelievable.

The huge costs to Canadian society and business created by the poor education and the extreme inadequacy of the First Nations educational system are well documented, most recently by:

- A report from the Standing Senate Committee on Aboriginal Peoples[1], chaired by Conservative Senator Gerry St. Germain and supported by Liberal senators, which urged legislation to create a First Nations education system, and
- The National Panel on First Nation Elementary and Secondary Education (The Panel) which delivered its report Feb. 8, 2012. It was co-sponsored by Mr. Shawn A-in-chut Atleo, National Chief of the Assembly of First Nations (AFN) and the Honourable John Duncan, Canada's Minister of Aboriginal Affairs and Northern Development.

In Canada, education is a constitutional responsibility of the provinces and territories, except for First Nations peoples living on reserves where the federal government is responsible. Thus, First Nations students have a different educational funder and management structure than other Canadians.

There are a number of aspects of First Nation peoples' education that require improvement, but the following provides a focus on two; underfunding and lack of educational structure.

Underfunding

In 1996 the federal government placed a cap on First Nation education spending of a 2 per cent increase per year. Since then the provinces'/territories' education budgets have been growing at an average of just over 4 per cent, even as their enrolments drop[2]. Thus, the funding per student has increased at an even higher rate. But the federal government has maintained its cap.

In addition, the number of First Nation students has increased by 23 per cent. The cap applies to total federal spending, so every increase in student numbers reduces the funding per student.

Currently the widely agreed upon figure is that funding for First Nation education is only 60 to 70 per cent of that for non-First Nations students. A 3-year pilot project started recently in Manitoba found funding of $7,200 per student (from the federal government) at the Waywaysecapo First Nation high school and $10,500 per student at the provincial high school only a few kilometres away. Differing views exist on the underfunding; all agree that funding is grossly inadequate.

While remote communities have special and separate issues, many First Nation students are not in remote communities; but they still face discrimination in their education – because they are First Nation and fall under federal responsibility instead of provincial/territorial responsibility like every other Canadian citizen.

Lack of Federal Education Structure

The Panel extensively documented the embarrassing gaps and inadequacies in the current First Nation education policies and practices of the federal government.

> *"In the early 1970s, following the dissolution of the residential school system and the devolution of First Nation education to individual First Nations, virtually no thought was given to the necessary supporting structure for the delivery of First Nation education. There was no clear funding policy, no service provision and no legislation, standards or regulations to enshrine and protect the rights of a child to a quality education and to set the education governance and accountability framework. No consideration was given to the connections and inter-relationships to provincial systems and no accountability were put in place for transitions of students between provincial and First Nation schools."* ***iii***

[1] Reforming First Nation Education: From Crisis to Hope, December 2011

[2] Globe and Mail Editorial, "Spending cap on aboriginal education is self-defeating", Feb. 28, 2012

Every provincial/territorial government in the country has an education department with expertise focused on delivery of sound education. And they have the legislation required to manage education. For example, Manitoba governs schools with 150 pages of legislation in the Public Schools Act and the Education Administration Act.

This is in extreme contrast to the federal government which has no such department and is recognized as not having such expertise. The federal government's legislation covering its responsibilities for First Nation education consists of only 3 pages in the Indian Act.

History

The history of residential schools that destroyed family relationships and caused a great many aboriginal peoples to associate "schools" with forced removal of children, has created a culture that makes many aboriginal peoples cautious of outsiders forcing education on their communities.

First Nations have been frustrated by the long-time lack of action on this issue. The federal government signed a comprehensive agreement with provincial/territorial governments and aboriginal leaders (known as the Kelowna Accord) that included educational reform, but that was halted when the new government came to power in 2006. The Kelowna Accord had made First Nations education a priority.

Business Issue

The inadequate education system is not just a moral and social issue; it is also an economic and business issue. Giving all students equal opportunity to a good education is recognized around the world as a key to economic development.

National Chief of the AFN, Mr. Atleo, has made educational reform for First Nations a top priority during his term in office. Recently he said, "There's a compelling economic imperative as well, [because of] an aging mainstream Canadian population. And the fastest-growing segment of the population in this country is First Nations young people."[3]

The need is urgent. Forty-two per cent of the Registered Indian population is under 20 years of age while for Canadian total population it is 25 per cent. And, the on-reserve population is expected to grow by 64 per cent over the next 14 years. Sixty per cent of on-reserve youth do not complete high school, severely limiting their own potential and depriving the work force of a valuable resource.

In some provinces/territories the portion of school age children that are First Nations is much higher than the national average, e.g. Manitoba has the highest proportion in the country with 25 per cent of 5 to 14 year olds being First Nations. Thus, in those provinces/territories with a high percentage, the future economic prospects are more negatively impacted by the federal government's inadequate education system. A 2011 news article[4] succinctly described the consequences of the federal education policies:

- High dropout rate: 38 per cent of First Nations between 25 and 34 do not have a high school diploma; versus less than ½ that (at 16 per cent) for non-aboriginal peoples
- Low employment rate versus non-aboriginal peoples for all education levels except University degree (see table following)

[3] 'Do the math' on native schools, Ottawa told", Globe and Mail, Mar. 15, 2012

[4] "Making the Grade – Aboriginal high school education by the numbers, Winnipeg Free Press, November 26, 2011, page A35, Mia.Rabson@freepress.mb.ca

Education Attained	Aboriginal Peoples' Employment Rate (%)	Non-Aboriginal Peoples' Employment Rate (%)
No high school	30.3	38.3
High school diploma	58.7	63.8
Trades certificate	62.8	68.2
College diploma	70.3	72.7
University degree	78.4	76.6

Sources: Statistics Canada and Census, 2006 Canada Policy Research Networks

This lower educational result means First Nations are not as well prepared to enter the workforce as non-First Nations students. This reduces the skills and number of workers available to Canadian business, increases social costs and decreases the GDP and tax revenues of the country.

Resolving this issue holds one of the greatest economic opportunities for Canada. As noted in the Panel's report, the Centre for the Study of Living Standards estimates that Canada would gain $401 billion[5] in increased productivity and reduced expenses over 25 years if First Nation individuals had the same education and employment outcomes as the average Canadian.

Dramatic Change for the Future

The recent high profile report[6] of the Panel outlines five recommendations it considers essential to improving education outcomes for First Nation students. They are to:

- Co-create a child-centered First Nation Education Act
- Create a National Commission for First Nation Education to support education reform and improvement
- Facilitate and support the creation of a First Nation education system through the development of regional First Nation Education organizations to provide support and services for First Nation schools and First Nation students
- Ensure adequate funding to support a First Nation education system that meets the needs of First Nation learners, First Nation communities and Canada as a whole; and
- Establish accountability and reporting framework to assess improvement in First Nation education

The Panel's recommendations reflect a growing consensus

> *"The key to smashing this cycle of failure is to replace the patch-work of reserve schools overseen by local band councils with a First Nations education system. Provincial native school boards, or their equivalent, would supervise the schools and the teachers in them, while ensuring the curriculum fit with both the indigenous culture and provincial standards. For this, there would be extra money from Ottawa and greater involvement by provincial governments – which are already have the expertise for educating students." ii*

At the end of February 2012, a unanimous, all-party resolution was passed by Parliament which promised a First Nations education system that will be "*at a minimum, of equal quality to provincial school systems*". The resolution is an implicit admission that First Nation students on reserves are not receiving the education that their non-First Nation counterparts can access.

Further, the federal government announced, as part of the March 2012 Budget, that it will introduce a First Nation Education Act "*to establish the structures and standards needed to support strong and accountable education systems on-reserve*." This is as was recommended by the Panel. It would lead to the creation of a proper First Nation education system.

This is a dramatic step towards improvement. It is viewed by many as giving Prime Minister Stephen Harper an opportunity to create the legacy of an improved First Nation education system.

5 National Panel on First Nation Elementary and Secondary Education Delivers Final Report – Press Release, February 8, 2012
6 Available at http://firstnationeducation.ca/home/

The March 2012 federal budget included additional funding of $275 million over three years targeted to support First Nations education and to build and renovate schools on reserve. The budget also committed the government to introduce legislation and explore new funding mechanisms for First Nations elementary and secondary education. However, there is no new funding for the Post-Secondary Student Support Program (PSSP) for First Nations and Inuit, despite a backlog of over 10,000 students. And, the 2 per cent cap on funding has not been lifted. The Assembly of First Nations has stated that $500 million per year in funding is needed to bring First Nations education to the level of that provided to other Canadians.

For Canadians to continue to accept such inequality is unthinkable.

Many chiefs, especially younger ones, recognize that ending generations of poverty, ill health and joblessness on reserves begins with properly educating this generation of students. However, some others fear another ploy by Ottawa to assimilate their children. The wounds of residential schools are far from healed.

The good news is that First Nations do not have to wait for a fully documented complete national educational reform. Recently the federal and British Columbia governments ratified an agreement with First Nations leaders to create exactly that kind of system. Ottawa is increasing funding in an effort to ensure that students on reserve schools in B.C. receive something close to the education they would get at a provincial school, while protecting their culture and language.

A similar agreement is already in place in Nova Scotia. And the federal government has signaled that there is no need to wait for legislation if First Nations in other provinces/territories want to adopt the template.

While fewer than half of First Nations students on reserves graduate from high school nationally, the figure for Mi'kmaw students in Nova Scotia – most of whom attend a combination of reserve and provincial schools – is over 70 per cent. The Senate report proposes building on that model with legislation that would encourage – but not compel – First Nation leaders across the country to co-operate in establishing school boards and even the equivalent of education ministries, with federal education funding flowing through the new authorities.

First Nations in Canada face many issues, but fixing the education system is an urgent requirement for success that can be acted upon, jointly with First Nations, by the federal government.

All over the world all agree that education is a key to future success of a society. To bring economic and social development as well as remove Canada's current discriminatory educational system, action is required.

Why did Canadians ever accept less?

Recommendations

That the federal government:

1. Within the current federal funding envelope, act to rapidly implement the recommendations of the National Panel on First Nation Elementary and Secondary Education, focusing on how the 2 per cent cap on the Post-Secondary Support Program can be lifted or – at minimum – increased.
2. Encourage – but not compel – Canada's First Nations to co-operate in establishing a new First Nation education structure, with federal funding, to provide First Nation students with an educational opportunity equal to that already provided to all other Canadian students by the provinces/territories.
3. Make Canadians aware of the historic discriminatory and inadequate education provided to First Nation children; and thus gaining support for more rapid implementation of First Nation education reform.

Meeting Canada's Labour Needs by Attracting and Retaining International Students

In the recent report titled "The Top 10 Barriers to Competitiveness", the Canadian Chamber of Commerce has identified the Canada's skills crisis as the *major socio-economic challenge confronting this country*[7]. At present, many initiatives, such as engaging Aboriginal people, youth and older people to the labour market are underway to help

[7] Canadian Chamber of Commerce, Retrieved on May 16, 2012 from: http://chambertop10.ca/skills-crisis/

mitigate the challenges associated with the massive shortage of skilled workers. Nonetheless, the business community fears that what is currently being implemented is not sufficient and does not provide the access to a highly educated and specialized workforce.

Despite the federal government's concerted efforts placed on solving labour challenges with economic immigrants and the underemployed sectors (e.g. persons with disabilities and Aboriginal populations), Canadian employers in many regions continue to be faced with a stressful, looming shortage, which in the long term will have serious negative implications on Canada's growth and prosperity.

Attracting and retaining international graduates can be a successful strategy to help face the consequences of aging baby boomers and severe labour force shortages that Canada is going to experience within the next few decades. In October 2011, the federal government launched an Advisory Panel on Canada's International Education Strategy that will reinforce Canada as a country of choice to study and conduct world-class research. However, Canadian employers believe their skills and labour needs should also be incorporated into the effort to attract and retain international students.

In spite of the urgent need for skilled workers in many parts of Canada, a number of regulatory and legislative barriers still exist which prevent and/or delay the successful attraction and retention of skilled labour into the country. In particular, young educated people, who would like to study and settle down in Canada, all too often face numerous obstacles that significantly lower their interest in making Canada a permanent home.

At present, attracting international students to Canada and retaining them post-graduation as permanent residents, consists of four main stages:

Stage 1: Student applies to a recognized university, college or other educational institution in Canada. Once accepted, student applies for a study permit;

Stage 2: Student may find work during his/her studies–working on campus, working off campus, or participating in co-op and internship programs;

Stage 3: A student who wishes to work in Canada post-graduation must apply for a work permit under the Post-Graduation Work Permit Program and begin work with a Canadian employer; and

Stage 4: Student, now employee, applies for Permanent Residency under the Canadian Experience Class (CEC) or provincial/territorial programs.

At present, the processing times for study permit applications examined by the visa officers outside Canada can take up to 15-18 weeks.[8] In comparison, the applications for a study permit submitted online inside Canada require only two weeks.

Once the international student is accepted and enrolled in an educational program at a public or private post-secondary institution (university, community college, technical school, private career college or vocational school) recognized by the Citizenship and Immigration Canada (CIC), there are three options for the student to gain Canadian working experience: working on campus, working off campus or participating in co-op or internship programs. Nonetheless, none of these experiences currently count when applying for the Permanent Residency in the frame of CEC program.

It is possible for a student to apply for the post-graduation work permit (within 90 days of receiving written confirmation stating that the student studied full-time in Canada and has met the requirements for completing the academic program).[9] One of the impediments to benefiting from a young, well-educated international workforce is the duration of the post-graduation work permit they are given by the CIC. According to the present regulations, an international student has to complete an educational program that lasts at least 8 months. Then, a post graduation work permit is awarded equivalent to the official length of a student's program of study. If the student was enrolled in a two year program or longer, than the work permit is awarded for 3 years. The international graduates who

http://www.cic.gc.ca/english/information/times/temp/students.asp

[2] Citizenship and Immigration Canada, Retrieved on May 15, 2012 from: http://www.cic.gc.ca/english/study/work-postgrad-who.asp

completed an 8-11 month educational program are particularly harmed by this regulation as they are not legally allowed to gain a full one year professional experience in their skilled discipline.

It is generally accepted that in order for an employer to gain full economic benefit from a hire, the employee needs to be employed with the organization about four to five years. Having an international graduate enrolled in an 8 month program and only being able to work for 8 months, presents a disincentive for employers to hire international students. This creates a large exodus from Canada of educated, skilled and already assimilated potential employees, and Canada's losses in that our country never experiences the full long-term economic potential from these students.

Once the international graduate obtains the post-graduation work permit and starts working for a Canadian employer, there are two options applying for Permanent Residency, both being fairly time-consuming.

As mentioned previously, to become a permanent resident, the international graduate can either apply at the provincial level through the appropriate provincial program, or at the federal level under the Canadian Experience Class (CEC) category. Depending on the province/territory, there could be a restriction that states that the international graduate has to have worked for a provincial/territorial employer in a skilled position for between six and twelve months.

If the foreign graduate from a Canadian post-secondary institution decides to apply for permanent residence under the CEC program, the graduate must have at least one year of full-time (or equivalent) skilled work experience in Canada. At present, only experience gained post-graduation counts toward the application for permanent residency in the frame of CEC and does not take into account the work experience that an international student gains from working off campus, working on campus or participating in co-op or internship programs. The application is presented directly to the CIC.[10]

In both cases, it takes approximately 15 months for the CIC to provide the applicant with a response if he/she has been granted Permanent Residency status and can fully contribute to the Canadian economy.

Recommendations

That the federal government:

1. Change the length of time for which a post-graduation work permit can be valid, from the current status of valid for no longer than three years, to five years, especially in the fields that will be in high demand in Canada in the following decades, so long as graduation is obtained from an accredited Canadian educational institution.
2. When considering applications for permanent residency, take into account the working experience that an international student gains through working off campus, working on campus or participating in co-op or internship programs.
3. Speed up processing for overseas study permit applications and for permanent residency applications from international students who graduates from a Canadian institution, and are currently employed in Canada.
4. Through Citizenship and Immigration Canada (CIC) recognize when an international student completes an educational program that lasts at least eight (8) months as equivalent to one (1) year of study to allow for the student to gain a full year of professional experience in their skilled discipline.

Attracting Global Talent Key to Canada's Economic Future

Preamble

As Canadian industry and entrepreneurs seek new international markets for their goods and services, our country stands at the forefront of the Pacific century. While this provides new opportunities for industry development and investment in the country, increasingly, participation in this marketplace will demand a new look at the commitment to attracting skilled employees and talented entrepreneurs to our country. Demographics challenges and competition

[10] Government of Alberta, Retrieved on May 15, 2012 from: http://albertacanada.com/immigration/media/AINP-ProcessTimeIGCtoCEC.pdf

amongst jurisdictions are growing significantly and the pace of global demand for talented individuals means that Canadian companies must be allowed to effectively compete in this global context. Increasingly global in their own right, without the ability to attract this highly mobile talent pool, Canadian companies will fall behind, hampering our economic prosperity and reducing the opportunities available to all Canadians.

While Canada faces steep demographic and workforce challenges in the coming years, for many industries, this is already a daily reality. These businesses need access to global talent in a timely fashion, or face losing investment and business to their international competitors. In order to remain competitive, these companies require predictable and efficient government programs to assist them in bringing talented individuals to our shores and in turn, create new employment for all Canadians.

In recent years, the federal government and provincial governments have undertaken a series of initiatives to respond to the needs of industry, including new accelerated labour market opinion[11] (A-LMO) options for certain occupation classifications, but more can and must be done[12]. The A-LMO initiative applies only to higher skilled positions such as management, professional and technical occupations, leaving the other hiring requirements of employers to the regular, more cumbersome, LMO process. To address funding and resource capacity challenges, the current federal immigration programs would benefit greatly from employing best practices currently being used by their provincial counterparts, including adopting new cost recovery models and expedited service programs in order to better match industry demand with the government's ability to respond.

Currently, funding for important economic immigration programs comes from annual appropriations of general revenue as determined by the federal budget. This process makes it hard to match program demands with the appropriate resources. Establishing a cost recovery model similar to that of the BC Provincial Nominee Program, with a separate line item budget and associated performance requirements, would allow the federal government to better respond to industry demand, saving employers precious weeks and months which adversely impact their bottom lines in lost productivity and increased costs[13]. This initiative would better meet the needs of industry and facilitate job creation and productivity gains for the country.

In 25 years, only 60 per cent of the Canadian population will be of working age[14]. In addition, we must stay competitive by gaining highly sought-after skills, talent and experience in the international marketplace. To further meet the needs of our country's fastest growing industries, a stronger emphasis on the economic impact and spin off job creation from attracting foreign talent must be incorporated into government requirements, like the current labour market opinion or "LMO" process. For the country's knowledge based industries, being able to hire key global talent acts as a catalyst to hire many other Canadians. Without this talent, this additional job creation is lost. Stronger emphasis on such factors in the LMO process will only assist in Canada's economic competitiveness and creating new jobs for Canadians.

The LMO process focuses more on the efforts made to hire a Canadian for a single position (i.e. recruitment efforts, willingness to train available Canadian citizens and permanent residents, wage consistency, etc.) than it examines the overall economic benefits of employing a temporary foreign worker. A company that designs video games in Canada, as an example; the organization would like to hire a Japanese Project Lead due to his or her advanced knowledge and skills in the video game design field. In this case hiring a temporary foreign worker could create upwards of 25 other jobs for Canadians, stimulate the company's investment in Canada, and create an innovative new product, keeping the company globally competitive. All of which wouldn't be possible if the project is stalled or scrapped because the video game company is unable to attract a highly skilled Project Lead due to the current LMO process. Moreover the process is very time-consuming, which for an industry where product lifecycles are short, can further impede production, growth, and competitiveness.

Canada's future rests on our ability to attract and retain the best and brightest from around the globe. Reforming and adapting economic immigration programs to better meet these challenges is an important step in ensuring our continued economic prosperity.

[11] http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/almo/factsheet.shtml
[12] Citizenship and Immigration Canada. *Evaluation of the Federal Skilled Worker Program*. August 2010.
[13] TD Research., *Knocking Down Barriers Faced By New Immigrants To Canada: Fitting the Pieces Together*.February 2012.
[14] Statistics Canada. *Canadian Demographics at a Glance*. January 2008.

Recommendations

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

1. Place a greater emphasis on the overall potential for economic and employment stimulus in LMO criteria and in Temporary Foreign Worker Unit applications by evaluating under the following criteria:
    - the potential number of jobs created
    - total amount of investment by the company
    - potential for investment by the company
    - whether a unique or new service or product is being offered
    - the effect on the company's ability to remain globally competitive
    - the effect on other Canadian companies.
2. Develop an accelerated application option for LMO, temporary foreign workers, Federal Skilled Worker and Canadian Experience Class programs for organizations willing to pay affordable cost recovery fees to reduce application turnaround time.

Resolving Canada's Skills Crisis through Increased Immigration

Issue

According to a 2010 study by the Canadian Chamber of Commerce, "The proportion of our population aged 60 and over is expected to mushroom from roughly one-fifth of the Canadian population today to nearly a third by the mid-2020s."15 The baby boom generation is ready for retirement: seniors over 65 comprised 14.8 per cent of the 2011 Canadian population, an increase from 13.7 per cent in 2006. There is good news in that the population of children aged 4 and under increased by 11 per cent from 2006 and 2011, the highest growth rate for this age group since the baby boom. Effectively, there will be a second baby boom when this new generation joins the workplace in another 20-25 years. But, for short- and medium-term labour needs, Canada must look internationally to provide the sheer amount of workers required. Indeed, nearly all net new growth in the national labour force in 2012 will be the result of immigration.

Concerning economic immigration, the Canadian Chamber agrees with recent amendments to the Federal Skilled Worker Class (FSWC) and TFW program, the creation of a new Federal Skilled Trades Class (FSTC) and improvements to the Canadian Experience Class (CEC). These are good steps forward to addressing the national labour shortage but the Chamber would advocate for the enactment of further measures.

Canada's labour market requirements must be addressed nationally by solutions that do not benefit one region at the expense of another. The solutions to the labour shortage may not be the same for each region, but the needs are no less urgent and important. The overarching problem is that the current immigration admission levels (set by Citizenship and Immigration Canada) are insufficient to meet the labour market needs of the entire country. Provinces with the strongest representation gain a larger share of the immigrant numbers while other provinces may be overlooked in terms of targets and federal resources.

The Canadian Chamber encourages the federal government to sign updated immigration agreements with each province and territory that are tailored to meet each province's specific immigration needs. An example of this is the Canada-Manitoba Immigration Agreement of June 2003, which responds to the specific and strategic labour needs of Manitoba. This agreement is comprehensive, promotes the sharing of research, and has resulted in tremendous economic success in Manitoba. The Chamber would see the same for each province to address their specific labour challenges.

[15] Canadian Chamber of Commerce, *Canada's Demographic Crunch: Can underrepresented workers save us?* 2010.

Recommendation

The federal government must increase the number of annual immigrants to Canada in the economic streams. We recommend three specific initiatives:

1. Increase the number of economic immigrants to this country to at least double the current rate commensurate with need.
2. Renegotiate and sign new memorandums of understanding with each of the provinces and territories to increase provincial caps for Provincial Nominee Programs. The Canada-Manitoba Immigration Agreement of June 2003 – the country's strongest PNP program – should serve as the starting point for these agreements.
3. Ensure that local Citizenship and Immigration Canada offices are adequately staffed to meet demand and alleviate the labour market crisis.

Citizenship and Immigration Canada Regional Settlement

Under Canada's Constitution, responsibility for immigration is shared among the federal, provincial and territorial governments.

Traditionally, provinces and territories have entered into comprehensive agreements with the federal government (Citizen and Immigration Canada or CIC) that cover a wide range of immigration issues. Yukon, British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Prince Edward Island have or have had this kind of agreement with CIC at one point.

Additionally, in recent years, various provinces and territories have secured agreements that cover more specific issues, in response to their respective needs. For example, British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories and Yukon have signed Provincial Nominee agreements, which allow them to nominate immigrants to meet specific labour-market needs.

In both cases, a central element necessary to fulfill these agreements were the local settlement offices that were supported and/or staffed by CIC. These offices were crucial to performing the work necessary to carry out the agreements and ensured that the provincial and territorial immigration departments were aligned in encouraging and informing newcomers of the possibilities and opportunities that existed in mid-size urban municipalities across the country outside of the larger metropolitan centres.

Unfortunately, Budget 2012 outlined significant reductions in the funding necessary to operate these regional settlement offices and programs. The CIC budget is to be cut by $29.8 million in 2012-13, which will increase to a cumulative $65 million in 2013-14, and $85 million in 2014-15. This represents only 3 per cent of the budget.

This decrease in funding will certainly affect nearly every organization that provides settlement services across the country — including language training, employment counselling, help finding housing or youth programs.

The federal government maintains that CIC has been moving diligently towards an increasingly integrated, modernized, and centralized working environment; they point to technology allowing CIC to process applicants anywhere and in a more effective manner and are merging 7 regions (Atlantic, Quebec, Ontario, Prairies, Northern Territories, British Columbia and Yukon) into 5 regions.

So far, the government has only identified two of the five regions included in this amalgamation; the eastern region which will include Québec and the Atlantic provinces with regional headquarters in Montreal; and one western region amalgamating BC, Yukon, Prairies, the Northwest Territories and Nunavut.

Altogether, nineteen CIC offices will be closed or consolidated and services will be relocated to other offices or moved to on-line services. The list of the offices being closed include:

- BC - Nanaimo, Prince George, Kelowna, Victoria
- AB – Lethbridge

- SK – Regina
- ON - Thunder Bay, Barrie, Oshawa, Sudbury, Sault St. Marie, Kingston
- QC – Gatineau, Sherbrooke, Trois Rivières, Québec
- NB – Saint John, Moncton
- PE – Charlottetown

This will create an absence of localized, stand-alone service staff in each region and compel clients and applicants to access settlement services at a centrally managed location which may be hundreds of kilometres from their city.

Despite assurances from the federal government that this consolidation will increase efficiency and assist in the creation of common service standards, the new model and funding reduction will affect the ability of mid-sized urban municipalities to attract and retain skilled immigrants.

Furthermore, an increasingly older population and a declining birth rate have bequeathed Canada with a labour shortage. This is now affecting all sectors of the economy and the closure of regional settlement offices will only work to limit the ability of the smaller and mid-sized communities to seek out, encourage and retain individuals seeking to settle and find gainful employment.

In the end, the Canadian immigration experience has unfairly relied on the large, urban centres that dot the county; predisposed by their possession of an international airport with CIC and Customs services, they are precisely the communities and regions that require lesser amounts of CIC attention and funding. In these places, vibrant newcomer settlement services are operating outside direct CIC contribution. More important, they demonstrate large existing immigrant bases that can support newcomers.

Recommendations

That the federal government:

1. Ensure that there is a regional strategy to apply fairly the resources required to meet settlement needs for newcomers in all regions of the country.
2. Enforce the current level of service in the new structure so that all areas of the country are able to access skilled employees.

Address Issues in Foreign Worker Programs

The federal government's Temporary Foreign Worker Program (TFWP) and Canada's Provincial Nominee Programs are important components of Canada's labor strategy. However, changes in how the programs are implemented and integrated federally are urgently needed. Change is needed to reform processes to increase Canadian businesses' ability to compete domestically and globally.

In spite of record levels of participation and immigration and in spite of extremely slow economic growth, the demand for workers is expected to exceed the supply by 2014, with an ever-widening gap thereafter.[16] In addition to skilled workers, employers needing to fill low or semi-skilled positions report increasing difficulty. Some employers spend in excess of $250,000 per year recruiting. The TFWP is a program established to serve the labour needs of Canadian businesses on a short-term basis, however Canada's employers have permanent jobs to be filled. Many businesses, struggling to meet their labour needs, rely on the TFWP primarily for unskilled workers in industrial, agricultural and retail settings.

The 2012 federal budget bill (Bill C-38, the *Jobs, Growth and Long-term Prosperity Act*) implemented several changes to Canada's Employment Insurance program that will increase the motivation of unemployed Canadians to return to work or find work in another field. The Conference Board of Canada predicts that by 2020, Canada will experience a

[16] *A Perfect Storm: Substaining Canada's Economy During Our Next Demographic Transformation, Ramlo and Berlin, The Urban Futures Institute: Report 66*

labour shortage of nearly one million people.[17] Changes to the TFWP and Provincial Nominee Programs are necessary to facilitate the importation of labour to assist in alleviating this shortage and assist Canadian companies to stay competitive locally and globally.

Employers cite numerous concerns with the delivery model including:

- **Processing Errors**: Most provinces have to provide a Labor Market Opinion (LMO) for TFWs, which must be approved before Citizenship & Immigration Canada (CIC) will issue a work permit. Service Canada agents from time to time have declined Labour Market Opinion applications in error and/or without justification.
- **Lack of Appeal Mechanism:** With no appeal or review process, Service Canada is not accountable to the employer or TFW for any decisions. If the LMO is declined the employer must reapply to Service Canada for LMO approval. This reduces the employer's operating efficiency and profitability. Employers estimate their recruitment costs at $3,000 to $3,500 per TFW.
- **Calculation of Prevailing Wage Rates:** Prevailing wage rates established by Service Canada are creating challenges for some businesses since the calculation is not industry specific and often fails to recognize local employment demographics. Increased flexibility in wage determination is needed to ensure that the nature and location of the business, labour demographics and wage parameters are duly recognized at the local level when establishing wages for TFW's. Access to qualified workers may vary significantly by location (i.e. urban vs. rural, region vs province etc.). It is not realistic to expect that small business owners in rural settings can compete at the same wages as those offered by the multinationals operating in major urban centers. This is due to the differences in which wages are established provincially, regionally and locally.
- Additionally, Service Canada may change the posted wage rate in the course of a day. Employers who unknowingly used a wage rate on their initial LMO application that has subsequently become outdated may have their application denied, in which case they must re-apply causing costly delays.
- **National Occupation Classification (NOC Codes):** NOC codes are generic and do not adequately address the nature and location of the business. Larger centers have greater access to pools of qualified labour. Employers in larger centers often have greater capacity to pay higher wages than those in smaller communities and remote rural locations. Many employers feel it is unrealistic to expect small rural business owners to compete with the multi-nationals under the current NOC code system. Employers in smaller centers are disadvantaged because NOC codes do not adequately recognize and differentiate between skill level needs and regional demographics. One example is found with grain farm equipment operators. Currently in Alberta there are no NOC codes for employers seeking to recruit grain farm operators under the TFW Program with pathways available to Permanent Residency. For example, grain farm equipment operators are considered high skilled. This limitation of the TFW Program puts Alberta grain farmers at a disadvantage to those in Saskatchewan and other provincial jurisdictions.
- **Barriers to Permanent Residency Transition:** Many employers who utilize the TFW program require unskilled workers, making the program a good fit. Reports indicate that TFWs provide a stable, diligent workforce. Not surprisingly, employers typically attempt to transition TFWs into permanent residents through Provincial Nominee Programs. This process poses additional problems. For example, in order to qualify for the Alberta Provincial Nominee Program, the immigrant must have obtained three years of related experience before coming to Canada; experience obtained while in Canada on the TFW program does not qualify.
- **Differences in Provincial Systems:** Though the LMO process is administered by Service Canada, a federal agency, regional Service Canada offices have latitude to interpret policy and manage the process. For example, Saskatchewan's Immigrant Nominee Program (SINP) varies from the Alberta Immigrant Nominee Program (AINP) and contains a number of flexibilities unavailable through the Alberta program. LMO applications for highly skilled occupations are optional in the neighboring province. Saskatchewan employers utilizing SINP for highly skilled workers are able to negotiate terms of employment directly with

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

SINP agents who are familiar with the differences between rural and urban labor markets and are empowered to adjust pricing to reflect industry and regional variances.

Recommendations

That the federal government and the provincial/territorial governments work together to:

1. Use the Temporary Foreign Worker Program as a true temporary worker program for immediate shortages while enabling foreign workers to use other immigration programs for permanent residency.
2. Develop permanent solutions to chronic labour shortages by expanding pathways to permanent residency, including negotiating with the federal government to expand the Canadian Experience Class to give low- and semi-skilled temporary foreign workers the right to apply for permanent residency after three years of work experience with his/her employer, based on employer recommendations, satisfactory background check, appropriate prior experience in country of origin and minimum language proficiency requirements.
3. Implement a process by which employers are notified of any changes to processes or information utilized in the calculation and submission of their initial LMO application, permitting employers the opportunity to update applications and avoid costly delays, particularly in the case of prevailing wage rates.
4. Implement a timely, responsive appeal process for employers and temporary foreign workers who are denied applications, with a report to be provided to both levels of government as a means of improving operating efficiency and effectiveness, while remaining responsive to industry specific labour shortages.
5. Allow an open work permit to be the official entry document into the country rather than the current additional visa requirement for certain temporary foreign workers, similar to the process in the United States.
6. Improve processing efficiencies by recommending that Service Canada create a temporary foreign worker (TFW) industry specific labour pool where semi-skilled or skilled TFWs who have been terminated without cause, can register with an open work permit, from where other qualified industry specific employers from across Canada have the opportunity to recruit from this "pool."
7. Review National Occupation Classification (NOC) Code processes in all provinces, and establish flexible, responsive practices that incorporate rural, urban and regional labour market needs.
8. Amend the advertising criteria for LMOs to allow companies from the same sector to jointly advertise rather than as individual organizations.

Aboriginal Governance

Issue Statement

Without a dramatic improvement in Aboriginal governance and institutional capacity, progress on standing issues such as the socio-economic and education gap between Canada's Aboriginal population and the non-Aboriginal population will continue to remain elusive. This gap has been cited as a key barrier to Canadian productivity growth. Fully engaging Aboriginal peoples in society and the economy is important to solving Canada's growing skills crisis and could potentially increase Canada's GDP by $401 billion, increase tax revenues by $39 billion and reduce government expenditures by $77 billion over a 20 year period.[18]

Background

Strong governance is integral to economic development and relies on capable governing institutions that are efficient, effective, and legitimate. Without these qualities social and economic progress will remain out of reach. Some of the most innovative and persuasive research addressing Aboriginal economic development and the role of governance is being done by the Harvard Project on American Indian Economic Development.

[18] Sharpe, Andrew and Arsenault, Jean Francois. "*The Effect Of Increasing Aboriginal Educational Attainment On The Labour Force, Output And The Fiscal Balance*" Canadian Centre for the Study of Living Standards (2009). Retrievable at http://www.csls.ca/reports/csls2009-3.pdf.

These researchers have concluded that successful Aboriginal economic development is founded on practical decision-making authority combined with capable governing institutions. This combination is key because it allows Aboriginal communities to both set long-term economic development goals based on their own needs, desires and culture (jurisdiction) and achieve them (capable governing institutions).

In addition, researchers have found that economically successful Aboriginal communities ensure that whatever institutions they develop, be they economic, political or legal, they are reflective of the local culture and have legitimacy in the eyes of the community.

Many Aboriginal communities are poor, but this poverty is not universal or uniform. Some communities have broken away from poverty by embracing a different approach to economic and institutional development, referred to as the "nation building" (NBA) approach. This approach emphasizes good governance, institution and capacity building, is driven by members of the Aboriginal community, and is built upon a strategic long-term approach.[19]

The NBA is contrasted with the "standard" approach (SA) to development, which grew out of policies of the early 20th century, much of which are still in place today. In contrast to the NBA, the SA focuses on short-term projects and grants as well as neglecting capacity and governance issues. The SA approach treats Aboriginal communities as passive receivers of policy, and is externally directed by funders or bureaucrats.[20] The two contrasting approaches have different impacts on the economic development process and the broad role Aboriginal governments.

In the SA economic development process, the goals are formulated external to the community, dominated by funding and grant proposals. The primary relationship is with governments and is micro-managed by the community's political leadership. In the SA the role of Aboriginal governments is to lobby for outside funds/support and implement strategic objectives set by outside organizations and funders.

In the NBA, communities determine their goal and objectives first and then build the appropriate institutions to support the achievement of those goals. The primary role of Aboriginal governments is to establish the community's objective and goals, strategic leadership the building of appropriate institutions including transparent financial and dispute resolution mechanisms.

Developing the institutional capacity and effectiveness of Aboriginal governance has the potential to dramatically improve Canada's competitiveness and help to alleviate future and current labour shortages. By empowering appropriate Aboriginal governments to develop their own effective, efficient and legitimate government institutions, Canada can help to close the skills gap between Aboriginal peoples and non-Aboriginal peoples, develop a skilled future labour force and increase Canadian productivity.

Recommendations

That the federal government:

1. Facilitate and encourage the gradual devolution of functional decision-making authority, including the power to tax and spend, to appropriate Aboriginal governments.
2. Shift federal funding and oversight from a program-specific, contingent funding model to block grants, contingent upon addressing administrative capacity.
3. Support the transfer of practical decision-making authority to Aboriginal governments while ensuring an adequate separation of powers, in particular a distinct separation of the political leadership from the day to day running of community business.
4. Encourage the creation of objective, transparent and non-political dispute resolution mechanisms in Aboriginal communities.
5. Support capacity building and the sharing of best practices for Aboriginal communities to achieve the above objectives.

[19] Cornell, Stephen, and Joseph P. Kalt. "Two Approaches to Economic Development on American Indian Reservations: One Works, the Other Doesn't." *Resources for Nation Building: Governance, Development, and the Future of American Indian Nations*. (2005): 4.
[20] Ibid:18.

6. Encourage the creation of effective legal and financial structures to guide commercial activity such as the First Nations Tax Commission.

Métis

Issue Statement

Canada faces a looming labour and skills shortage driven by an aging population, low birthrates and increasing workforce specialization in the economy.[21] These challenges are key barriers to Canadian competitiveness and productivity. To solve these challenges, business will need to engage underutilized pools of labour, including the Métis community. However, poorer socio-economic outcomes and a lack of both legal and policy clarity surrounding Métis rights, entitlements and responsibilities hinders the ability of industry to successfully engage this emerging and valuable pool of workers.

Background

The Métis are one of Canada's three constitutionally recognized Aboriginal peoples, along with First Nations and Inuit. There are a total of 389,780 Métis people in Canada as of the 2006 Census, which accounts for approximately 33 per cent of the total Aboriginal population.[22] The Métis population is growing faster than either the non-Aboriginal population or the First Nation population, having nearly doubled (91 per cent increase) since 1996.[23]

The unique cultural, geographic and demographic characteristics of the Métis make them an ideal source of labour. Compared to other Aboriginal peoples, the Métis are more likely to live in urban areas; as of 2006, approximately 70 per cent of Métis lived in urban areas.[24] The largest urban concentrations of Métis are in Winnipeg (40,980), followed by Edmonton (27,740), Calgary (14,470) and Toronto (7,580).[25] In addition, the Métis have the highest education levels and best labour market outcomes of any of Canada's three Aboriginal peoples, despite limited government funding and the lack of coherent policy framework.

For business, the combination of underemployment, a younger than average population, and individuals rooted in the local community make the Métis community an ideal source of talent.

Improving labour market outcomes for the Métis has the potential to reduce government spending. Due to poor socio-economic outcomes, the federal government incurs expenditures on remedial and support services that are over and above those consumed by the population at large.[26] Not only do poor labour market outcomes necessitate higher levels of social spending by government, the government also forgoes income, personal taxes and economic output, exacerbating government deficits. A 2009 study by the Canadian Centre for the Study of Living Standards estimates that by improving Aboriginal labour market and social outcomes—with education playing a key role—the cumulative fiscal impact to Government (stemming from higher incomes and tax revenues and a significant drop in government costs) could be as high as $115 billion over the 2006-2026 period.[27]

[21] Canadian Chamber of Commerce, "Canada's Skills Crisis." Last modified 2012. Accessed April 27, 2012. http://chambertop10.ca/skills-crisis.
[22] Council for Aboriginal Business, "*Métis Population: Rapidly Rising*", accessed January 17, 2012. Retrievable at http://www.ccab.com/uploads/File/Métis%20Population.pdf.
[23] Statistics Canada. "*Aboriginal Peoples in Canada in 2006: Inuit, Métis and First Nations*." 2006 Census of Population, Catalogue no.97-558-XIE.
[24] Ibid.
[25] Ibid.
[26] Waslander, Ben. "*Government Expenditures on Aboriginal People: The Costly Status Quo*." *Canadian Tax Journal*. 45. no. 5 (1997): 959-78. Retrievable at http://www.fcf-ctf.ca/ctfweb/Documents/PDF/1997ctj/1997CTJ5_Waslander.pdf.
[27] Sharpe, Andrew, Jean-François Arsenault, Simon Lapointe and Fraser Cowan. "*"The Effect of Increasing Aboriginal Educational Attainment on the Labour Force, Output and the Fiscal Balance*." Canadian Centre for the Study of Living Standards (May 2009). Retrievable at http://www.csls.ca/reports/csls2009-3.pdf.

Despite the compelling business case for industry to engage with the Métis to ensure a stable, long term source of labour, unresolved issues remain that hinder the ability of industry to effectively engage the Métis community. The most important issue is lower levels of educational attainment relative to the non-Aboriginal population.[28]

In addition to gaps in educational attainment, there remains a lack of legal and policy clarity surrounding Métis issues, despite being officially recognised as a one of Canada's constitutionally protected Aboriginal peoples.[29] This policy void has led to a lack of adequate and stable funding for education, training and business development programs relative to First Nations, Inuit or urban Aboriginals.

In addition, industry is often unsure on how to engage Aboriginal communities. This is especially difficult when dealing the Métis due to the legal and political uncertainty surrounding Métis issues. Clarifying issues surrounding Métis rights, responsibilities and entitlements will help to increase certainty for business, resulting in increased investment and employment.

Finally, there has been a tendency for Métis issues to be subsumed into broader Aboriginal issues. This has resulted in policy that is not designed to reflect the unique cultural, geographic, legal and economic realities that exist today within Canada's Aboriginal community, hindering our ability to maximize our workforce competitiveness.

Recommendations

That the federal government:

1. Prioritize improving the educational outcomes of the Métis, focusing on high school completion and workplace training, in partnership with business.
2. Ensure equity in federal funding for Métis education and employment programs, relative to other Aboriginal groups. This funding will originate from within existing federal budget envelopes.
3. Work to ensure that any employment, education and economic development policies are designed to reflect the unique characteristics of the Métis.
4. Work pro-actively and in collaboration with Métis groups to clarify Métis rights, responsibilities and representation, thus spelling out the "rules of engagement" for government, business and Métis organizations.

[28] Vandament, Tyson. "*Closing the Gap: Partnering for Metis Labour Market Success*". Calgary Chamber of Commerce. (March 2012): 22-26. Accessed April 27, 2012. http://aboriginallynx.ca/sites/aboriginallynx.ca/files/u12/Closing_the_GapPartnering_for_Metis_Labour.pdf.,
[29] Ibid: 37.

TRANSPORT AND INFRASTRUCTURE

Addressing Canada's Public Infrastructure Challenge

Introduction

State of the art, effective and reliable infrastructure is a key component of economic competitiveness. Infrastructure allows value-added sectors to develop, to create jobs and to compete. It is also critical to the health of Canadian communities and Canadian citizens. Unfortunately, Canada faces a major challenge in terms of infrastructure investment and financing. Looking ahead we see an enormous bulge of public infrastructure requirements. As infrastructure ages, new investments are required to refurbish or replace existing stock. Yet, the Canadian government has traditionally adopted an inconsistent approach to infrastructure investment.

To address this deficiency, Canada needs a national infrastructure investment plan that includes funding models, increased private sector involvement and takes into account the wide range of challenges and opportunities in communities across Canada. The Canadian Chamber of Commerce applauds the work currently being done to develop a new long-term plan for public infrastructure and views this as an important first step in addressing Canada's long term infrastructure challenge.

Background

Public infrastructure such as roads, bridges, highways, water systems and the electrical grid provide services critical to economic competitiveness, sustainability and quality of life. Unfortunately, the service life of public infrastructure extends only a couple of decades.[30] This poses a significant challenge for Canada where much of the existing public infrastructure was built over thirty years ago. Today, a large percentage of Canadian publically owned infrastructure needs to be refurbished or completely retired. While increasing usage, growing demand and environmental stressors have all contributed to this decay, much of the decline can be attributed to decades of underinvestment and poor maintenance. To make matters worse, thanks to the prolonged period of underinvestment, the costs of updating and maintaining existing infrastructure are increasing.

The Canadian government has recognized the extent of the challenge and has developed helpful policies and investments over the past several years. The Building Canada Fund, the Green Infrastructure Fund, the Gas Tax Fund and infrastructure stimulus earmarked under the Economic Action Plan are all examples. The federal government has also made the annual $2 billion Gas Tax contribution to municipal infrastructure a permanent program. While these initiatives are welcome, they will not be sufficient to address the growing need for further infrastructure investment.

For example, Canada's transportation infrastructure is in dire need of investment. Major roads and highways are crumbling and our ports of entry need continued investment to remain competitive and to sustain Canada's import/export base. Canada's multimodal transportation sector is also responsible for the movement of people. Unfortunately, Canadian public transit systems remain badly underfunded and unable to keep up with expanding demand. Canada continues to be the only OECD and G8 country without a long-term public transit plan. According to the Canadian Urban Transit Association (CUTA), Canadian transit requires a $71.3 billion investment in order to operate at optimal levels.[31]

Conclusion

The Canadian Chamber of Commerce welcomes the 2011 announcement of a new long-term infrastructure plan. To be successful, this plan must include infrastructure financing that goes beyond the budget-to-budget approached adopted by successive Canadian governments. A longer-term vision for Canadian infrastructure would help avoid deferring on necessary infrastructure investments during periods of fiscal uncertainty.

While income and property taxes should remain a fundamental part of revenue streams, Canada must examine other funding options such as increasing the usage of public-private partnerships (P3s). Effectively designed, P3s have the potential to bring international investment and to call on the best innovation that the global market can offer. Building on the PPP Canada Inc, a crown corporation that promotes public-private partnerships, the Canadian

[30] TD Bank Financial Group. Mind the Gap: Finding the Money to Upgrade Canada's Aging Public Infrastructure. May 2004
[31] Canadian Urban Transit Association. The Optimal Level of Supply and Demand for Urban Transit in Canada. 2008

government should put in place a standard of using P3s when maintaining and developing infrastructure. As Canada moves towards greater use of P3s, there will be a need for increased public sector training to enable public sector officials to cope with the challenges of supervising these projects.

This new long-term infrastructure plan must also address pressing issues facing Canadian municipalities such as traffic gridlock, rising commuter times and necessary investments in public transit. Cooperation between taxing administrations at the federal, provincial and municipal level to ensure transparency, economic efficiency and accountability of financing techniques is also necessary.

Recommendations

That the federal government:

1. Ensures that the new long-term infrastructure plan includes a comprehensive review of best practices in infrastructure finance, the development of innovative fiscal tools, planning for the required investments and enabling legislation.
2. Ensures that the new long-term infrastructure plan includes targeted investments in Canada's major economic hubs, gateways and public transit systems.
3. Ensures that the new long-term infrastructure plan includes a mechanism to evaluate federally funded capital projects as potential P3s.
4. Ensures that all relevant public sector employees are able to efficiently manage P3s and deliver quality P3 investment in a timely manner.
5. Commits to reviewing the funding levels in the gas tax program every four years to ensure that infrastructure investment objectives are being met.

Ensuring Competitiveness for Canada's Marine Transportation Industry in the Great Lakes Region

Issue

Canada's marine transportation industry plays an important role in the movement of goods and facilitating trade in the Great Lakes region. As a bi-national region, the marine industry is regulated by Canadian and American government agencies. The lack of harmonization of the regulations is a significant challenge to marine industry's abilities to operate efficiently and competitively.

Background

The Great Lakes is an important transportation corridor for Canada. The annual commerce exceeds 180 million tonnes. Commodities that range from iron ore for the steel industry to limestone for the construction industry passes through the Great Lakes. However, the marine transportation industry faces regulatory challenges due to gaps in alignment between U.S. and Canadian authorities. Some of the areas of misalignment include:

- Ballast water
- Emission standards
- Security regulations

This misalignment was highlighted when the State of New York passed ballast water regulations that were scheduled to take effect in January 1, 2013 for new vessels (vessels manufactured after January 1, 2012). If implemented it would have significant impact on the Canadian marine transportation industry in the Great Lakes region. Under the regulations, ships would be required to adhere to a standard that is 1,000 times greater than current International Maritime Organization (IMO) standards when entering New York waterways. All other vessels would have to be compliant with the new regulations by August 2013. The regulations for existing vessels were 100 times greater than current IMO standards. Currently, the technology does not exist to have met the environmental standards set by New York State. It was projected that based on the ballast water regulations, and the lack of technology in the marine

industry to meet the standards set by the New York State government, the impact on the bi-national Great Lakes-Seaway economy, (which includes two provinces, eight states), could result in the disruption and abandonment of $34.6-billion of economic activity and 227,000 jobs. While this issue was resolved through various advocacy initiatives, it underscored the need for regulatory harmonization pertinent to the marine industry, the St. Lawrence Seaway and the Great Lakes.[32] In addition the United States Environmental Protection Agency (EPA) released new draft permitting regulations for vessels in the Great Lakes. The draft permitting rules contain ballast water management requirements. The requirements to install ballast water treatment systems (BWTS) cannot currently be met. The industry has indicated that there are no BWTS available today that can meet the unique operational and technical constraints of the lake vessel fleets and that have been proven to work in the distinct fresh water environment of the Great Lakes

Similarly, the United States Environmental Protection Agency (EPA) has extended certain provisions of the North American Emission Control Area (ECA) into the American waters of the Great Lakes. Specifically, all vessels with the exception of steamships will be required to either switch to more expensive diesel fuel or install exhaust gas scrubbers by Jan. 1 2015. However, the EPA has provided some exceptions to enable US domestic shipping companies to continue to operate. The EPA exceptions impact the Canadian marine transportation industry's ability to be competitive in the Great Lakes region.

In addition the recent Joint Action Plan on Perimeter Security and Economic Competitiveness between Canada and the U.S demonstrated a commitment by both U.S. and Canadian governments for harmonized security requirements. Specifically, the two governments committed to align regulatory requirements in the St. Lawrence Seaway and Great Lakes, and harmonize Canadian and U.S. marine transportation security requirements, which will help prevent the duplication of services and remove impediments to cross-border operations. This also included a commitment to the advance security screening of cargo and the implementation of a new cargo security strategy, under which cargo will only have to be cleared at its first port of entry, thus reducing the time and expense involved in re-screening. The harmonization of security requirements will be an important component in making the marine transportation industry more competitive. As part of the Joint Action Plan, the Prime Minister of Canada and President of the United States announced the Canada – U.S. Regulatory Cooperation Council (RCC). The Council commits both countries to finding ways to reduce and prevent regulatory barriers to cross-border trade.

In the United States, individual states have the authority to set marine standards for their respective waterways. In addition the USEPA also has regulatory powers to impose various restrictions with the consent of the legislature (the United States Congress). In Canada, the federal government is solely responsible for regulatory policy on marine transportation waterways. However Canadian and U.S. governments are part of key organizations established to facilitate regulatory harmonization in the Great Lakes region. For example,

the Council of Great Lakes Governors is an organization of Great Lakes Governors dedicated to promoting regional cooperation. This council has statutory powers related to the approval of activities in the Great Lakes region.

Marine transportation is an important part of Canada's economic growth potential. With the interconnectedness of the St. Lawrence Seaway and the Great Lakes body of waters, many industries are reliant on marine transportation to move significant amounts of goods in and out of North America.

Recommendations:

That the federal government:

1. Take leadership by working with the relevant stakeholders to develop harmonized environmental standards for the Great Lakes and St. Lawrence Seaway.
2. Facilitate the development and adoption of a pact between Great-Lakes States (New York, Illinois, Pennsylvania, Ohio, Michigan, Minnesota, Indiana, and Wisconsin), the Province of Quebec and the Province of Ontario with advice from the marine transportation industry that commits to a clear and aligned set of environmental standards related to marine transportation.

[32]Marine Delivers; the Chamber of Marine Commerce**.** Press Release: New York State will follow national ballast water standard Cloud of uncertainty for Canadian marine shipping lifted. February 22, 2012. http://www.cmc-ccm.com/library/docs/NY.pdf

3. Work with the Canadian marine transportation industry and United States Environmental Protection Agency (USEPA) to develop and adopt clear and balanced phase-in timelines for new vessels and technologies to meet emissions standards, ballast water treatment standards, and prevent the discharge of invasive species.

4. Work through the Regulatory Cooperation Council (RCC) to expedite the establishment a Canada-U.S. safety and security framework for the St. Lawrence Seaway and Great Lakes system.

Completion of an All-Weather North-South Trans Canada Highway

The Canadian Chamber of Commerce has identified national infrastructure as one of the top ten barriers to competitiveness. To support economic development and speed Canada's economic recovery, the nation needs an all-weather north-south Trans Canada Highway through the Mackenzie Valley to the Arctic coast.

This country's development was driven by creating overland east-west transportation linkages – both rail and road – but work remains if we are to truly connect Canada from sea to sea to sea. It was Prime Minster John G. Diefenbaker who first proposed an all-weather highway connection to Canada's Arctic coast and more than 50 years later, his vision has yet to be fully realized. It would cost roughly $1.2 billion to extend the Mackenzie Valley Highway from its current terminus near Wrigley to Tuktoyaktuk.

There are many benefits related to the construction of this much needed infrastructure project. It would ensure Canada's sovereignty in the North, improve our ability to respond to emergencies, allow business and residents to better adapt to climate change both in terms of reduced dependence on winter roads and enhanced ability to develop alternative energy sources to diesel-generated power, reduce costs for business and residents in six currently isolated, predominantly First Nations communities, encourage economic development in the North, and increase tourism opportunities.

An extended all-weather Mackenzie Valley Highway would spur development in the resource industry.

Construction of this much-need piece of infrastructure would create thousands of short-term construction-related jobs with the lower section between Wrigley and Fort Good Hope alone projected to require up to 2,360 person-years of labour during development and as many as 55 full-time employees related to ongoing annual maintenance.

Recommendation

That the federal government:

1. Fund the completion of an all-weather north-south Trans Canada Highway through the Mackenzie Valley from Wrigley to Tuktoyaktuk in the NWT to achieve several priorities:
    - Speed Canada's recovery from the recession.
    - Fuel economic development across Canada.
    - Enhance Arctic sovereignty as climate change makes the North and its resources much more accessible.
2. Move ahead with this project immediately as a means of improving the economics of increased resource exploration and future production infrastructure.

Harmonize the CBSA Boater Reporting System with the U.S.'

While Canada Border Services Agency (CBSA) has modernized its reporting requirements for pleasure craft entering Canadian waters, the present law is stricter than the equivalent USA regulations. This regulatory divergence is harmful to boating and fishing tourism in Canada's shared waters. In 2009 over 10,500[33] visitors came to Canada to take part in Canadian boating and fishing opportunities. If even one third of those are dissuaded from coming due to this unrealistic requirement the dollar loss to these industries is significant.

[33] *Data courtesy of Tourism Sarnia Lambton*

All recreational boaters are required to present themselves upon their arrival in Canada as per the Customs Act (CA) and Immigration and Refugee Protection Act (IRPA). This includes all foreign/and private boaters entering Canada as well as those who depart Canada and enter foreign waters, and subsequently return to Canada.

This obligation exists regardless of their activities while outside of Canada or their planned activities while in Canada. Arrival in Canada occurs when the pleasure craft crosses the international boundary into Canadian waters.

This provision applies regardless of whether or not boaters drop anchor, land, enter an inland tributary or moor alongside another vessel while in foreign waters.

The only exception to the above applies to vessels that are 'in-transit' through Canada. In order to be considered "in-transit" the vessel must be proceeding directly from one point outside of Canada to another point outside of Canada. In-transit movement must be continuous, uninterrupted and without delays or stopovers. Such movement could be for reasons of the shortest route, requirement of deep waters, evading obstacles such as bridges, etc.

In an effort to simplify reporting, certain private boaters may present themselves to the CBSA by calling the Telephone Reporting Centre (TRC) 1-888-226-7277 from their cellular telephones from the location at which they enter Canadian water which includes the following groups:

- Canadian citizens and permanent residents who have not landed on U.S. soil and U.S. citizens and permanent residents who do not plan on landing on Canadian soil.
- Owners/operators of private boats that are strictly weaving in and out of Canadian waters but are not in transit, will be required to call the TRC only once at the time of their initial entry into Canadian waters. If this activity changes, i.e., the vessel docks in Canada or takes on new persons or goods while in foreign waters, the boater must report directly to a designated marine reporting site and call the TRC upon their arrival in Canada.

All other private boaters, including those without cellular telephones (most small boat fisherman in international rivers), must proceed directly to a designated marine telephone reporting site and place a call to the TRC in order to obtain CBSA clearance. This includes all vessels carrying foreign nationals (other than U.S. citizens or permanent residents). NEXUS and CANPASS members can call those agencies to present.

Should the TRC's 1-888 service not be available, operators must call the nearest TRC directly. In May 2012 as a result of staff reduction plans in the federal government the four centres across Canada were reduced to one in Hamilton.

Failure to report may result in detention, seizure or forfeiture of the vessel and/or monetary penalties. The minimum fine for failing to report to the CBSA upon entry to Canada is C$1,000. There was a controversial case in the Thousand Islands area that increased the profile and implementation of this call-in procedure by CBSA. This case became front page news in many U.S. maritime states when a US boater was fined $1,000 for not reporting-in. Eventually, our government had to back down and reduced the fine to a token amount. This type of negative publicity affects the image of our country as a place to visit and do business.

The CBSA is reviewing its reporting arrangements for participants in large events, such as fishing derbies, and is considering options to facilitate a more streamlined approach in these cases.

The problem with this rule as it now exists, understanding that it has been on the books for a number of years, is that is too onerous and restrictive to be realistic. With stricter enforcement it is conceivable that there will be more violations than compliance and with major reductions to CBSA it is perplexing to understand how increased enforcement will occur or save dollars. The present rule is a waste of CBSA time and dollars. They are now forced to t answer calls from a family out tubing or fisherman following a fish instead of focusing on illegitimate activities such as smuggling.

Too, many small boaters are not equipped to understand where the international border exists in these waterways. This will succeed in driving boaters away from these shared waters.

In the U.Ss, reporting in (call-in) to the U.S. government on return across the border is not required unless you have anchored, landed or moored in Canadian water. The U.S. rule is more understanding of the needs of fishermen and boaters that are not intending to land in Canada. They simply are following a fish or sight-seeing.

In the March 2012 budget, the exemptions for those crossing the border to shop were harmonized with those of the U.S.. In May 2012, the government stated in an effort to "promote tourism and improve cross-border travel", changes were made to permit Canadians to cross the border with a rental car from the U.S.. The rule for boaters to report-in should also be harmonized with the more user friendly, tourism friendly U.S. version.

Recommendation:

That the federal government boater reporting laws be harmonized immediately to be the same as presently in use by the United States along Canadian shared international waters.

INDUSTRY

The Competition Act

Background

The Competition Act (the "Act") is framework legislation that is vital to the efficient operation of Canadian industry and to ensuring Canada's competitiveness in the global market. A sound approach to competition policy and enforcement is a critical aspect of economic regulation, and contributes to maintaining Canada's competitiveness.

The Commissioner of Competition (the "Commissioner") and the Competition Bureau are the primary actors in Canadian competition policy, and administer the Act. In addition to formal enforcement initiatives, the Commissioner plays an important role in providing guidance on enforcement policy through, enforcement guidelines and other policy statements ("Policy Statements"). Policy Statements can improve the transparency of the enforcement process and can be a useful guide to understanding how the Act is applied to business. The Canadian Chamber believes that such an approach is consistent with the transparency initiative endorsed by the Commissioner and will positively serve the interests of all stakeholders.

Transparency and Publicity

Enforcement proceedings under the Act sometimes receive a high degree of publicity. Though this is a feature of litigation, enforcement agencies such as the Competition Bureau bear responsibilities when communicating publicly about proceedings. In recent years, the Bureau has been increasingly proactive about using the media to communicate its enforcement objectives and achievements. The Canadian Chamber is supportive of the Bureau's efforts to increase transparency and communicate with the business community about its activities and enforcement policy. However, the Bureau has sometimes engaged in media dialogue in a manner that is not measured - and indeed, in one recent case, it is involved in litigation over statements made in a press release concerning an ongoing matter.

Competition Act Amendments

The Act was substantially amended in 2009. The Canadian Chamber has previously commented on the nature of the consultation for those amendments, noting that stakeholders had a relatively limited opportunity to provide input on the changes to the Act, which were some of the most significant since the legislation was enacted. The Canadian Chamber believes it important that future amendment processes be more consultative.

Confidentiality

The Act contains confidentiality provisions that are designed to keep information provided to the Bureau by parties confidential, subject to certain exceptions. Confidentiality benefits both private parties and the Bureau in most, if not all contexts. Notwithstanding this, there are indications that the Bureau is seeking to expand the situations in which information it receives may be disclosed to third parties on the basis that such disclosure is required for the purposes of the administration and enforcement of the Act. Examples include the Bureau's policy that it does not require waivers to communicate with foreign antitrust agencies in certain circumstances and the recent introduction of a Merger Registry which discloses certain information about parties to notifiable transactions. The Canadian Chamber believes it important that the Bureau not erode the confidentiality provisions of the Act by taking an overbroad view of applicable exceptions.

Recommendations

That the federal government:

1. Ensure full and open consultation with stakeholders when undertaking any amendments to the Act, to permit meaningful dialogue by all interested stakeholders.
2. Direct the Commissioner of Competition to continue to enhance the transparency and predictability of the interpretation and enforcement of the Act through the issuance of Policy Statements, ensuring full and open consultation with stakeholders to permit meaningful dialogue by all interested stakeholders.
3. Direct the Commissioner of Competition to take a measured and reasonable approach to asserting any exceptions to the general confidentiality protection afforded by the Act.

4. Direct the Competition Bureau to evaluate and carry out its communications strategy in a manner that is consistent with transparency objectives yet fair to parties to enforcement proceedings.

Intellectual Property Rights Theft

Background

The Canadian Chamber of Commerce remains very concerned about intellectual property (IP) protection and enforcement in Canada. The federal government has taken a significant step in improving the Copyright Act through Bill C-11, which has recently received Royal assent. The new legislation strikes an acceptable balance between various interests and provide a solid foundation for future economic growth and job creation in Canada. However, much remains to be done.

The theft of intellectual property rights through counterfeiting and copyright piracy continues to have a major impact in Canada and worldwide. While IP piracy may lack the social stigma of many other criminal offences, this illegal activity is a drain on the economy, is responsible for loss of employment opportunities and results in a reduction in tax revenues for governments. Counterfeiting and piracy have also been linked to organized crime. Patents, trade-marks and copyrighted subject matter are particularly affected by IP theft.

These activities may also pose serious consumer health and safety risks due to poor quality and the sometimes hazardous nature of the fakes. Consumers are increasingly being harmed by counterfeited goods, such as medicines, electrical products, toys and foodstuffs that do not meet Canadian safety standards. These fake products undermine consumer confidence in established brands. In addition, the misuse of a rights holder's IP not only erodes the value of IP but also discourages investment in innovation and creation. In a rapidly changing global economy that focuses on global trade and digitization, protecting IP is critical to ensuring a competitive Canada.

Virtually no industry escapes this illegal activity. The economic impact of IP theft on Canadian companies and government revenues is significant. The International Chamber of Commerce (ICC) has estimated that the global trade in counterfeited and pirated goods is over $700 billion annually and growing. While the counterfeit market used to consist of t-shirts and other novelty items, larger criminal rings are now pirating everything including, but certainly not limited to, pharmaceutical products, electrical products, software, movies, food, wine, personal care products, automobile parts and luxury goods.

The federal government's laudable focus on creating Canadian jobs by expanding trade through new bilateral and multilateral free trade agreements presents a unique opportunity for Canada to modernize its IP system and bring Canadian IP protection up to the standard of our largest trading partners. Canada has also committed through international treaties to provide effective criminal and border enforcement against willful trade-mark counterfeiting and copyright piracy on a commercial scale (eg. TRIPS, NAFTA).

In an effort to better protect IP and to stem the flow of counterfeit and pirated goods in Canada, the Canadian Chamber launched the Canadian Intellectual Property Council (CIPC) in 2008. The CIPC's goals continue to be to: strengthen the protection and enforcement of IP rights in Canada; promote the importance of IP rights for continued economic growth and competitiveness and raise awareness of the dangers IP theft has on the health and safety of Canadian consumers and the economic prosperity of Canadian businesses. Earlier this year, the CIPC released a report on the state of intellectual property theft in Canada and urged the government to take action to stop the economic bleeding and harm this underground industry has on all Canadians.

Law enforcement agencies and prosecutors need new laws providing a greater ability to combat counterfeiting and piracy. The RCMP and the CBSA currently work collectively with other law enforcement agencies across Canada in a coordinated manner in an attempt to counter threats posed by counterfeiting and piracy. However, Canada's enforcement regime is weak, particularly with respect to trade-mark infringement.

In early 2012, the Canadian government officially signed the Anti-Counterfeiting Trade Agreement (ACTA). The conclusion of the Anti-Counterfeiting Trade Agreement is a positive step in that direction, as was allowing for the proceeds of crime from copyright crimes to be confiscated. The next step is for the government to provide the Canada Border Services Agency (CBSA) with "ex-officio" power and additional resources, which will enable border agents to search and seize suspected counterfeit goods at Canada's gateways and to establish mechanisms in order to assist the CBSA in locating and identifying counterfeit and pirated goods and communicating with IP rights holders.

Communication with IP rights holders is essential so as to allow for effective criminal, civil and/or administrative enforcement and deterrence.

In order to effectively deal with the increase in counterfeiting and piracy, Canadian law enforcement agencies also need to have effective tools to police our markets. Changes to the Customs Act, Trade-marks Act, Criminal Code, and Copyright Act must be considered. The changes should provide for: a clear definition of the prohibited activity: the power to search, seize and destroy counterfeited/pirated products both within Canada (and at our borders); clear criminal offences for knowingly importing or commercially distributing counterfeited and pirated products (there are currently no effective trade-mark offences); an offence to manufacture, distribute, use or possess products whose primary purpose is to facilitate or enable counterfeiting/piracy; the ability for the Crown and IP owners to seek reasonable costs from offending persons; administrative fines for the importation of counterfeited and pirated goods; and increased intelligence sharing between Canadian and international agencies, as well as with IP owners.

Reform of the Patent Act, especially as it relates to the life sciences sector, is also urgently needed in order to foster innovation and facilitate research jobs in Canada. Patent reform in Canada will help to drive innovation, increase commercialization, close Canada's productivity gap and continue to encourage a strong entrepreneurial culture.

Through 2012 and beyond, the Canadian Chamber, and its affiliate the Canadian Intellectual Property Council, looks forward to working with Parliamentarians to improve our IP system.

Recommendations

That the federal government:

1. Make the needed legislative changes to ensure Canadian law enforcement and border agencies have both the authority and resources to proactively confront the growing reality of counterfeiting and intellectual property piracy. The implementation of effective trade-mark provisions and border measures should be treated as an urgent priority. CBSA needs the authority to search and seize suspected counterfeit goods at Canada's border points in a timely manner.
2. Strengthen existing statutes, such as the *Criminal Code, Federal Court Act* and *Trade-marks Act*, either individually or through a dedicated anti-counterfeiting statute. Initiatives that should be taken in relation to this are:
    - Enact criminal legislation that expressly targets IPR crimes.
    - Amending the *Criminal Code* to properly define "counterfeiting" as a special criminal offence, thereby making it a criminal offence to manufacture, reproduce, distribute and/or import or offer for sale counterfeit products for commercial purposes.
    - Amending the Federal Court Act to provided for expedited civil proceedings for cases involving counterfeit products and other IP infringement, such as copyright, trade-mark and patent infringement.
    - Adding counterfeit goods to the proceeds of crime regime, making it possible for law enforcement officers to seize the illicit wealth of counterfeiters, similar to that of copyright crimes.
3. Creating a government task force or central resource to oversee the advancement of IP in Canada with the necessary representation from all relevant stakeholders, and to guide, coordinate and lead anti-counterfeiting and anti-piracy efforts in Canada.
4. Work domestically and through existing trade agreements and ongoing trade negotiations to improve Canada's IP regime in order to harmonize key aspects of Canadian statutory and regulatory protections for the life sciences sector with that of our major trading partners in order to foster innovation, grow trade and economic ties, and to facilitate research and development in Canada
5. Work with the business community to find effective solutions and undertake a public awareness campaign to highlight the benefits of IP protection and the damage that is caused by counterfeiting and piracy, including both economic and public health.

No to Overregulation of Drinks, Food Products, Fast Food and other Consumer Products

Background

Some interest groups are seeking regulatory measures from federal and provincial/territorial governments in order to discourage consumption or restrict sales or advertising of certain products. Specifically mentioned are energy drinks, carbonated beverages, chips and fast food.

Regulations sought by these groups include:

- a surtax on the product;
- limiting or prohibiting advertising;
- prohibiting sales of the product in specific environments (schools, hospitals…).

The federal government is specifically asked to enact labeling regulations, and to a lesser extent, possible surtaxes. Provincial/territorial governments are asked to act on advertising, surtaxes and trade restrictions.

These overregulation proponents have a simple strategy: blame the product for a serious health problem. For example, they say soft drinks increase obesity. According to this strategy, soft drink consumption must be discouraged to solve the obesity problem. Of course, it is a simplistic short cut, but some governments are sensitive to it. The same argument is used for chips, energy drinks and fast food.

Many scientific studies show that the obesity issue is much more complex and requires multiple measures. It cannot be solved simply by overtaxing beverages or other foods. According to a large-scale survey done by Ipsos Reid in 2011 for the Canadian Beverage Association, 89 per cent of Canadians think the government should foster behaviour change through consumer awareness rather than additional taxes.

Understandably, these products must be consumed in moderation. In this case, and many others, abuse has consequences. Most of all, it is important to encourage moderation, mainly through education. In 2011, The Canadian Beverage Association launched a voluntary initiative called ''*Clear on* calories'', which allows consumer to know *instantly* the caloric value of beverages. Also, in October 2010, Food and Consumer Products of Canada and Health Canada launched the *Nutrition Facts Education Campaign*, an educational campaign that gives Canadians the information they need to make informed food choices for themselves and their families.

Food and beverage producers or vendors agree with regulations based on scientific evidence, but they oppose discriminatory regulations that target a particular consumer product or merchant type by blaming it entirely for certain health problems. They are against overregulation. Regulations that are not based on science or on solid fiscal and economic principles will harm investments in and growth of the food processing and beverage industry, one of Canada's main employers.

Recommendation

That the federal government avoid over-regulating certain food products, including carbonated beverages and chips, in a discriminatory fashion, and apply to these products, based on scientific data, normal labeling rules in order to fully inform the consumer about nutrients and caloric value.

Intensifying the fight against contraband tobacco

Background

In Canada, the issue of contraband cigarettes raises concerns and is spreading across all provinces and territories. It is responsible for sales of more than 8 billion cigarettes each year, representing 21 per cent of the Canadian market.[34]This phenomenon has five very serious consequences:

[34] The Canadian Tobacco Market Place : Estimating the volume of contraband sales of tobacco in Canada 2006-2010, Physicians for a Smoke-Free Canada, December 2011, Statistics from the Euromonitor. Tobacco in Canada. July 2011, p. 10.

- Contraband cigarettes deprive governments of substantial revenues. Since 2008, it is estimated that tax revenue loss resulting from sales of illegal tobacco products fluctuated between $1.5 and $2.4 billion annually[35].
- Illegal market revenues benefit organized crime, allowing it to flourish with complete impunity and branch out into other illegal and criminal activities.
- The RCMP estimates that contraband tobacco is the cash cow of more than 175 criminal gangs, who use the proceeds to finance their other activities, including guns, drugs, and human smuggling.
- The low cost of contraband tobacco encourages consumption, mainly among the young, which greatly weakens the effects of campaigns and other anti-smoking measures. On the black market, one carton of 200 cigarettes can be sold for as little as $10, whereas the sale price of tax paid cigarettes varies between $70 and $100.
- The illegal tobacco market completely ignores the numerous mandatory industry regulations pertaining to designated tobacco products emissions, toxicity levels and cigarette emissions. Furthermore, these tobacco products are not always manufactured under clean and safe conditions.
- The production and sale of illegal tobacco products, creates unfair competition against Canadian producers and threatens the livelihood of local small business owners. In fact, the Canadian Convenience Stores Association reports that there have been over 2300 store closures across Canada since 2008 primarily due to contraband.

While the illegal cigarette trade also concerns provincial and territorial governments, the federal government has the most powers when it comes to fighting these criminal activities efficiently.

The federal government and certain provincial governments, specifically those of Québec and Ontario, have earned due credit for having implemented measures to curb contraband, but there is still work to be done.

During the last federal election campaign, the Conservative Party promised to intensify the fight against contraband tobacco products. However, no significant measure has been taken to fulfil this promise since the 2011 election. The Royal Canadian Mounted Police also launched an anti-smuggling strategy in 2008. The progress report it published in 2010 reveals that little progress has been made; on the contrary, the number of illegal product factories and smoke shacks has grown.

Recommendation

That the federal government develop a contraband tobacco strategy that would:

1. Collaborate with provincial/territorial, municipal and state governments as well as and U.S. federal government to tackle this issue.
2. Fulfill its election commitment to create a minimum sentence for repeat contraband offenders and create a RCMP taskforce.
3. Expand police powers to fight contraband; modeled on the Quebec model, where local police and courts are able to conduct contraband investigations.
4. Require tougher licensing of non-tobacco manufacturing materials. There are many parts to making cigarettes, apart from tobacco. They should be more strictly regulated and licensed.
5. Report annually on the results of the implementation of the contraband tobacco control strategy.

[35] This figure is calculated based on the level of illicit trade in 2008 and 2010 from GfK Research and PTT Revenue is sourced from the Government Budget documents (Government Year end March 31, 2008 and 2010).

Ensuring Canada's Economic Success Using Information and Communications Technologies

Canada's Innovation Gap

Canadian business is not online. A recent study by the Boston Consulting Group of G-20 countries indicates that Canada is behind in the adoption of technology by business, and in the size of our Internet economy. This study concludes that this gap will widen over coming years, meaning that Canada will lag behind its global competitors even more. The 4.2 trillion dollar opportunity represented by the Internet will pass Canada by. This gap exists across the economy, across sectors, and regardless of the size of entity.

The federal government must do more to stimulate the adoption of information and communication technologies (ICT) in Canada. Many countries have recognized that investments in e-commerce and ICT result in increased productivity and growth in the overall economy, and Canada needs to be a leader in this area.

For Canadians to continue to enjoy a high quality of life and standard of living, we must improve our productivity and competitiveness through innovation. The Conference Board of Canada has noted that "innovation is the ability to turn knowledge into new and improved goods and services" and that "Canada's performance on innovation over the past three decades rates a consistent D." That's simply not good enough.

Approximately 98 per cent of Canada's population is able to obtain access to broadband Internet. According to the "Connectivity Scorecard" report overseen by University of Calgary business school dean Leonard Waverman, Canada ranks eighth in "useful connectivity," reflecting both the world-class networks available to Canadians but also deficiencies in the adoption and usage of broadband – and investment in ICTs generally – across the economy (see http://www.connectivityscorecard.org/). It is worth noting that the U.S. and Australia have made national-level commitments to investment in broadband, particularly in rural and remote areas.

Clearly, Canadian businesses need the right incentives, such as tax incentives and continued improvements to the SR&ED program in order to keep investing in next generation infrastructure if Canada is to rise to the very top of the international rankings and most effectively lever broadband for competitive advantages. Further, while both wireline and wireless broadband is critical infrastructure and the cornerstone of economic growth, addressing the availability of broadband is not sufficient without a broader focus on adoption and usage of information and communications technologies (ICT). Government policy must also ensure access extends to rural communities and do its part as a major user to stimulate demand.

Across the economy, as a large user of information technology, the government can play a large role by mandating online interactions, for its partners, for citizens, and for suppliers. Already, tax returns can be filed on line. Like any large user, by undertaking a commitment to online commerce and the related technology, governments can defray costs for suppliers and provide valuable incentive to adopt technology. To this end, the government should design initiatives to drive demand and adoption among key user groups, such as small and medium enterprises. As the Competition Policy Review Panel noted in its June 2008 final report, the Internet is "a force for productivity growth because it promotes the more efficient use of business resources."

Canada can become a global innovation leader

Even as Canadian business lags, Canadians themselves are highly engaged online. Canadians are some of the most active consumers in the world of online services, including social networking, online video and other Internet services.

This activity should be a signal to governments and to business that additional focus on Internet innovation can result in significant uptake and success with consumers. However, such focus needs to be brought to bear, and the federal government has a significant role to play.

Recommendations

That the federal government:

1. Act as a leader, and provide its services online. Almost every transaction that Canadians make with the government should be able to be completed online.
2. Accelerate investments in next-generation networks by amending tax policies to stimulate investments on a geographically and technologically neutral basis.

3. Continue to rely on private sector investment and competitive market forces to drive the roll-out of broadband networks and facilities in Canada.
4. Ensure that any initiatives designed to help facilitate access to broadband facilities by Canadians in rural and remote areas, where market forces are not sufficient, are introduced in the least market-distorting manner possible by working with relevant not-for-profit organizations, utilities, and service providers.
5. Promote digital literacy as a critical aspect of skills development.
6. Increase engagement with the private sector to accelerate e-business adoption among SMEs, especially given the increasing growth rate in this sector.
7. Systematically identify and eliminate regulatory barriers to the use of digital technologies by business

Restoring Balance in Sector Applicability of SR&ED

Canada's Scientific Research and Experiment Development (SR&ED) tax incentive program is intended to encourage Canadian businesses to conduct research and development (R&D) in Canada. It consists of an income tax deduction which allows immediate expensing of qualifying, current SR&ED expenditures and an SR&ED investment tax credit that is applied to income taxes otherwise payable. For small Canadian-controlled private companies, the credit is fully refundable. The Jenkins Report recommended that the SR&ED program be overhauled and simplified. Unfortunately, the proposed changes could negatively impact innovation in Canada.

The 2012 federal budget announced changes to the SR&ED program that impact large Canadian-controlled private corporations and public or foreign-controlled corporations by reducing the general investment tax credit rate from 20 per cent of eligible expenditures to 15 per cent. For small Canadian-controlled private companies, the rate will remain at 35 per cent.

In addition to the reduction in the general investment tax credit rate for large corporations, other changes to the program have been proposed. As of 2014, all capital expenditures will be excluded from eligible expenditures. This encompasses all shared-use equipment, any leased capital and the portion of an expenditure paid to another party representing any amount that is of a capital nature incurred in the prosecution of SR&ED performed for or on behalf of the taxpayer. And finally, effective January 1, 2013, there will be a reduction in the eligibility of arm's-length SR&ED contract expenditures to 80 per cent from 100 per cent.

The result of these changes is that the program disadvantages capital-intensive companies, like those in the manufacturing, pharmaceutical and biotechnology sectors. The manufacturing sector is particularly harmed by the reduction in the general rate, the exclusion of capital expenditures as well as the reduction of the inclusion rate for payments made to subcontractors; expenditures like those for pilot plants and resource-intensive industrial processes are largely disallowed under the new framework.

Ostensibly, the exclusion of capital expenditures, including leased capital, has been justified based on the view that that the rules regarding the eligibility of capital expenditures are the most complex for businesses to comply with. It is said that this will reduce time spent on CRA reviews of claims. However, the greatest administrative burden to the program is the review of incremental overhead expenditures to direct R&D activities when calculated using "traditional overhead" methods. The Prescribed Proxy Amount (PPA) is currently offered as an alternative to specifically quantifying overhead expenditures, although taxpayers have a choice in whether they want to use "traditional" or "proxy" overhead calculations.

The federal government has specified that changes to its funding of private sector R&D must be revenue neutral. If the government were to restore full contract expenditures, capital expenditures and leased expenditures on R&D and eliminate the lucrative but burdensome traditional overhead calculation alternative, allowing only the Prescribed Proxy Amount, the administration of the program could achieve its goals of simplified administration and remove the bias against capital-intensive R&D.

The spirit of the enabling legislation for SR&ED was to provide equal opportunity for intellectual property generation to flourish, and the proposed changes in this resolution seek to restore this balance while recognizing the need for change in how the program is administered.

The Canada Revenue Agency (CRA) will conduct a pilot program to determine the feasibility of a formal pre-approval process. The concern is that SMEs often develop new products based on the needs of customers. Waiting for pre-approval may slow the process and discourage innovation. This process must be monitored carefully to make sure it accomplishes the objectives.

Recommendations
That the federal government:

1. Review the existing legislation to make sure that the changes do not favour labour intensive industries over capital intensive industries.
2. Provide clarity when it comes to innovation. Responsibility should be assigned to a single minister, supported by government and stakeholders working with provincial and territorial governments.
3. Eliminate traditional overhead calculation, and reintroduce recognition of capital and leased expenditures and the full value of expenditures eligible for SR&ED deduction and Investment Tax Credits, ultimately achieving the desired "revenue neutral" changes and removing the current bias against capital-intensive research and development.
4. Monitor carefully the pilot pre-approval process.

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

The shift of government support away from indirect funding sources (i.e. Scientific Research and Experimental Development investment tax credits) to more direct funding sources may not achieve the government's objective of more effectively supporting research and development and innovation due to inherent inefficiencies in the delivery of funding through government assistance programs.

In the recently announced 2012 Economic Action Plan, the federal government introduced a number of measures geared toward achieving its strategy to support the commercialization of new products, processes and services that create high-value jobs and economic growth. As part of this strategy, the government is seeking to alter the existing funding model to focus a greater proportion of its support of innovation through direct supports. These direct supports include the provision of $400 million for venture capital activities for private sector investments; $110 million per year to the National Research Council's Industrial Research Assistance Program (IRAP); as well as funding for new or existing programs including the Industrial Research and Development Internship Program; Business-Led Networks of Centres of Excellence Program; Canadian Innovation Commercialization; and the National Research Council.

As a result of the increases in funding through direct supports, funding provided via the Scientific Research and Experimental Development (SR&ED) program, an indirect source of funding for research and development, has been reduced through a number of measures. These measures include a reduction in the general investment tax credit rate from 20 per cent of eligible expenditures to 15 per cent on January 1, 2014; the elimination of capital expenditures from the base of eligible expenditures on January 1, 2014; a reduction on the prescribed proxy amount from 65 per cent to 60 per cent for calendar 2013 and to 55 per cent for calendar 2014; and the reduction in the eligibility of arm's length contract expenditures from 100 per cent to 80 per cent effective January 1, 2013.

In October 2011, the Jenkins panel provided recommendations on the following questions:

- 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 recommendations 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 helps companies mitigate 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 that:

- 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.

With regard to the SR&ED program specifically, it is recognized that Canadian businesses find it to be complex and cumbersome from an administrative standpoint, and that the distribution of support of business research and development in Canada is more heavily weighted toward tax-incentives as opposed to direct expenditures relative to other countries. As such, the re-shifting of support to direct supports is viewed as a positive initiative in enabling the government to more effectively support innovative firms and public-private research collaborations.

However, caution must be exercised to ensure the effective deployment of support through direct approach sources. While, the Jenkins report found that the federal government supports numerous programs aimed at promoting business innovation, it also notes that Canadian businesses find it difficult to identify and pursue such programs hence creating inefficiencies.

As well, most government assistance programs typically involve onerous application and reporting requirements. Many programs require the submission of detailed business plans and other supporting documentation. In most cases, government assistance programs are designed to be non-entitlement and discretionary in nature. Therefore,

despite meeting the program eligibility and evaluation criteria, the availability of funding is unpredictable and subjectively determined. In addition to this, many programs require on-going reporting requirements and other support for the use of awarded funds.

Careful consideration is required on the part of the government to ensure that newly introduced or re-designed direct funding programs provide for an effective and efficient means of support.

Recommendations

That the federal government:

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".
5. Ensure SR&ED eligibility and evaluation criteria for federal funding programs are clearly defined and specific to appropriately and effectively establish the intended recipient pool.
6. Ensure all funding programs have clearly defined submission and evaluation protocols to provide for a fair and transparent evaluation process.
7. Ensure all funding programs have pre-screening mechanisms to provide timely guidance to prospective applicants as to the potential for success in the evaluation process.
8. Ensure that only necessary application support is requested of applicants and minimize on-going reporting requirements to reduce the administrative burden associated with the submission process.
9. Ensure programs and funding are available to appropriately address the needs of existing Canadian business as well as those being pursued in identified strategic priority industries.

From Innovation to Commercialization—An SME Strategy

Issue

The federal government has recognized the importance of an innovative, knowledge-based economy to the nation's future prosperity by investing in research and development (R&D).

For many SMEs, the efficient and reliable commercialization of R&D into new products, processes and services is extremely challenging, particularly given the limited resources available to SMEs.

By better supporting SMEs to commercialize breakthrough ideas, innovation will become a catalyst for the development and growth of new businesses, high-value jobs, and long-term economic prosperity for Canada.

Background

In the March 2012 federal budget, the Government referenced "Canadian businesses need to innovate" and stressed that "Canada can and must do better to promote innovation". Included were a number of measures to stimulate R&D and bring it to market.

While it is encouraging that the government is moving in the right direction, more can be done.

Several studies have concluded that there is a gap in the Canadian marketplace with respect to available resources and capital for SMEs. It has been observed that a common and effective strategy used by bootstrapped companies is

to look to a first customer to help grow the company. However, established companies are hesitant to adopt risk by buying from a start-up.

We propose that programs be developed to incent large corporations to become receptors for innovative business and technical solutions developed by smaller firms. This would be facilitated through:

Tax incentives

Create tax incentives that will aid in the development and adoption of new innovation by providing access to capital for start-up businesses. For example, a mechanism to monetize future tax benefits that cannot be immediately applied could provide short-term capital for start-up companies. For companies looking to be early adopters, these taxation benefits would best be applicable to both operating and capital expenditures.

De-risking innovative technologies and products to incent adoption by larger companies

Entrepreneurs would work in collaboration with arms-length sector-specific organizations to evaluate opportunities and, thus, serve to mitigate this type of risk for buyers. Discussions have been conducted which indicate that that industry expertise residing in organizations like the Ontario Bioscience Industry Organization (OBIO) can be leveraged in an advisory capacity to address the concerns of prospective businesses. Further, such experts can act as mentors for start-up companies seeking to secure early adopter customers.

Public sector procurement policy that focuses on value creation through the adopting of new technologies

Policies that support innovation and technology adoption through procurement by connecting SMEs with federal departments and agencies would be of high value. By helping to grow SMEs into globally completive enterprises, long-term sustainable policies will help assure their continued presence in Canada, increasing economic activity and leading to job creation.

The federal government has a great opportunity to work with the Canadian Chamber of Commerce to gain industry input around the issue of incenting innovation adoption, and to be in a position to implement recommendations for 2013.

Recommendations

That the federal government:

1. Create tax incentives (i.e. angel investment tax credits) that will aid in the development and adoption of new innovation by providing access to capital for Canadian start-up businesses.
2. Focus on reducing the risk associated with adoption of innovative technologies and products to incent adoption by larger companies by leveraging in advisory capacity arms-length sector specific organizations to mentor and serve as commercialization advocates for start-up companies.
3. Develop a public sector procurement policy that focuses on value creation through the adoption of new technologies.
4. Consult with industry on developing specific public policy that would optimize the effectiveness of the measures highlighted in recommendations 1-3.

Support to Ranchers in the Removal of Specified Risk Material (SRM)

Since 2007 increased costs associated with the removal of specified risk material from cattle has caused significant cost disadvantages for Canadian cattle producers, processors and veterinarians. In order to maintain slaughter capacity and restore competitiveness in the Canadian cattle industry, the federal government should work to implement regulatory reform and policies to offset costs and harmonize regulations with the United States.

The devastating effect that bovine spongiform encephalopathy (BSE) has had on Canadian cattle producers is still a significant obstacle to the success of the cattle industry. In 2007, "enhanced animal health protection" requirements were introduced by the Canadian Food Inspection Agency (CFIA) designed "to help eliminate bovine spongiform encephalopathy (BSE) from Canada". The protocols and regulations introduced have led to greatly increased costs in

time, resources, and administrative record keeping for producers, veterinarians, and processors forced to handle and dispose of dead stock and Specified Risk Material (SRM).

The requirements have created a cost disadvantage to slaughtering cattle in Canada, as the average cost of complying with the 2007 federal SRM removal and disposal regulation is upwards of $30 per animal; which is more than the cost in the United States. While the same parts of cattle are considered SRM in Canada and the United States, one of the major factors that increase costs to Canadian processors are the disposal costs. In the United States some SRM's can be used in products such as fertilizer, while in Canada all SRM must be incinerated or sent to a special landfill exclusively used to hold SRM's. According to Canfax Research Services this equates to over 50kgs of SRM removed and disposed of from over –thirty-month (OTM) cattle in Canada, while only 0.5lbs is disposed of in the United States, this means lost value as well as increased disposal fees in Canada.

A 2007 Feed Ban Cost Survey by the Canadian Meat Council shows the average cost for complying with the feed ban regulation in Canada, and therefore the increased disposal cost is $12.41/head on OTM cattle. Based upon 2006 actual slaughter this regulation alone cost the cattle industry $22,678,272.00

Processing facilities have closed, scaled back or changed policy to deal with the increased costs and complications of the regulations and it has forced producers, veterinarians, and processors to absorb all the increased handling and disposal costs. Although costs have come down slightly, it continues to cost more to slaughter an animal in Canada than in the United States due to the different approaches the two countries take in disposing of Specified Risk Material. The increased costs have a ripple effect on our economy, as there is decreased slaughter capacity, resulting in loss of jobs and increased beef imports.

Recommendations

That the federal government:

1. Work with the cattle industry to determine a cost-effective solution to the removal of Specified Risk Material until a time when the Canadian Food Inspection Agency discontinues its current policies for disposal of dead stock cattle and their associated Specified Risk Material, to ensure processors are not operating at a competitive disadvantage relative to their American counterparts.
2. Ensure that the Canada-United States Regulatory Cooperation Council prioritize the harmonization of specified risk material regulations in Canada and the United States.
3. Work with the United States Government to harmonize regulatory standards in both Canada and the United States for Specified Risk Material.

Counteracting the Growing Productivity Gap: Call for the Public Debate

At the 17th annual International Economic Forum of the Americas, the Secretary General of the Organisation for Economic Co-operation and Development (OECD) stated that, nowadays, the biggest challenge for the Canadian economy to maintain its global competitiveness is productivity.[36] At present, Canada has relatively healthy balance sheets, low taxes and low borrowing cost, what potentially makes Canada a competitive partner for the emerging markets and global economy key players.[37] However, there are a few important obstacles that lessen the Canadian economy attractiveness, underuse the country's economic and human potential and, in the whole, slow down the Canadian productivity notably.

As stated by the research conducted by the World Economic Forum (WEF) *Canada continues to benefit from highly efficient markets (with its goods, labor, and financial markets ranked 12th, 5th, and 13th, respectively), well-functioning and transparent institutions (11th), and excellent infrastructure (11th). In addition, the country has been successful in nurturing its human resources: it is ranked 6th for health and primary education and 12th for higher education and training*. The same

[36] *Canada must boost productivity: OECD*, Retrieved on 28 May, 2012 from: http://www.cbc.ca/news/business/story/2011/06/06/canada-productivity-oecd.html
[37] *Productivity must rise: Bank of Canada*, Retrieved on 28 May, 2012 from: http://www.cbc.ca/news/business/story/2010/03/29/boc-jenkins.html

organization suggests that *improving the sophistication and innovative potential of the private sector, with greater R&D spending and producing goods and services higher on the value chain would enhance Canada's competitiveness and productive potential going into the future*.[38]

In ten years time the emerging economies will account for 55 per cent of the world's economic output, up from the current 45 per cent. The strong demand in these countries for materials, finished products and services presents opportunities for the Canadian business. However, with the productivity growth ranked on the 28th position among other OECD members (Korea and Chile being the most productive), Canada cede the territory for more attractive economies.[39] According to the WEC, the most problematic factors for doing business in Canada are: inefficient government bureaucracy, access to financing, tax rates, tax regulations and inadequate supply of infrastructure.

At the same time, the Canadian researchers indicate that a key source of U.S. higher productivity growth has been the development and production of information and communications related goods, and subsequently the broad application of these through the U.S. economy, particularly in the service sector. The intensity of usage of information technology by Canadian business is only half that of the U.S.

In 2007, Canadian business ranked 14th among OECD countries in research and development expenditures as a percentage of GDP. Canadian business spending on R&D was only 1 per cent of GDP, well below the OECD average of 1.6 per cent, half of what the U.S. business spends and 33 per cent compared with Sweden, Finland and Korea. As a result, Canadian business has less capacity to be receptive to innovation, and less of a focus on innovation as part of integrated business strategy in Canada.

This having been said, the Canadian Chamber of Commerce would like to acknowledge the efforts that the federal government is making towards diminishing the productivity gap. The Chamber is aware of the government's valuable input in funding programs for students through scholarships and student loans, as well as for the SMEs through training services and other initiatives as Digital Technology Adoption Pilot Program (DTAPP). In addition, the Canadian Chamber of Commerce perceives the Canadian Institute of Health Research Funding Program, Industrial Research Assistance Program and Natural Science & Engineering Research Council (NSERC) Idea to Innovation Grant as priceless patterns to follow and develop in the future. Furthermore, numerous federal initiatives outlined in the recent Canada's Economic Action Plan have met with an approval from our members. The Chamber has also welcomed rousingly the newest amendments to the federal immigration law that refer to the PhD international students, Federal Skilled Workers Program, Canadian Experience Class and Federal Skilled Trades Class Program, which all together emphasize the importance of economic class immigrants.

However, taking into account the complexity of the problem and numerous attitudes towards the reason for the Canadian productivity gap, there is no denial that Canada is missing a broader debate about the countries productivity. A concerted productivity strategy that would encompass innovation, the labour force, markets and attitudes, should be elaborated. Having acknowledged that raising the number of workers alone is not a solution and that innovation is a driver for productivity growth, Canadian government should adopt a long term systematic approach. Canada needs to focus on building global centres of research excellence, better commercialization of research efforts to create jobs and wealth, better models of business-university partnerships, and better market-based means of financing the application of innovation.[40]

Recommendations

That the federal government:

1. Develop a long-term, comprehensive productivity strategy for the country that would take into account the changing international environment Canada is operating in.

[38] The Global Competitiveness Report 2011-2012, World Economic Forum, Retrieved on 22 May, 2012 from: http://www3.weforum.org/docs/WEF_GCR_Report_2011-12.pdf
[39] Organization for Economic Co-operation and Development, *Labour productivity growth in the total economy*, Retrieved on 29 May, 2012 from: http://stats.oecd.org/Index.aspx?DatasetCode=PDYGTH
[40] Based on Kevin Lynch article, *Canada's productivity trap*, Retrieved on 28 May, 2012 from: http://www.theglobeandmail.com/news/opinions/canadas-productivity-trap/article1449944/

2. Increase funding for R&D projects and research centres so that Canada can compete on equal terms with the most innovative economies.

FINANCE AND TAXATION

Fiscal Policy

With improved economic assumptions and lower than-anticipated spending numbers, the federal government is enjoying a brighter fiscal outlook. The deficit for fiscal 2011-12 is estimated at $24.4 billion, a $6.6 billion improvement relative to what it had predicted in the November fiscal update. The government anticipates a return to surplus in fiscal 2015-16, as previously forecasted.

The debt-to-GDP ratio, an important measure of fiscal sustainability, is on track to fall to below 30 per cent by 2016-17, returning it to its pre-recession level.

The medium-term fiscal plan hinges on the government's commitment to limit annual program spending increases to an average of about 2.1 per cent per year through fiscal 2016-17 and secure permanent administrative efficiencies in the current plan.

The government continues to rule out tax increases to balance its books. This is a victory for the Canadian Chamber and the network that pushed hard for spending restraint over growth-killing tax hikes to balance the books.

Given the lingering economic uncertainties, the government has incorporated additional prudence into the budget plan. The Canadian Chamber praises this cautious approach as it will provide the government with greater flexibility in the event of unanticipated economic developments or spending pressures.

Delivering a Better Tax System

Canada has much to gain by using the tax system optimally to promote employment, productivity and higher living standards. Reducing our heavy reliance on economically-damaging income and profit taxes, broadening the tax base, creating a more neutral business tax system, and reducing compliance costs for taxpayers can significantly boost Canada's international competitiveness.

The following are long-standing principles of good tax policy.

- Tax Neutrality: Economic activities should bear similar tax treatment to encourage the best allocation and profitable use of resources in the economy.
- Tax Equity or Fairness: A tax system should distribute its burdens fairly There are two dimensions to equity. The first facet is that people in similar economic circumstances should receive the same tax treatment (horizontal equity). The second aspect is based on the notion that the more an individual earns, the more income tax s/he should pay (vertical equity).
- Efficiency: The tax system should minimize adverse affects on taxpayer behaviour that undermine the efficiency of the economy.
- Simplicity: The tax system should be simple, transparent and easy to understand and comply with.

The tax base

There are some 260 tax-preference measures (exemptions, deductions, credits or rebates) listed in the federal government's assessment of tax expenditures. Some credits simply subsidize activities many recipients would have done anyway. Others may stimulate spending in certain areas, prompting suppliers to raise prices, thereby negating 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 myriad tax preferences enormously complicate the tax structure and increase compliance costs.

The tax base should be as broad as possible, allowing tax rates to be as low as possible at all points so that everyone benefits. This practice leads to fewer economic distortions, improved fairness and efficiency, and lower administration and compliance costs.

Tax compliance and administration

According to the Fraser Institute, it costs Canadians an estimated $2.9 billion to $5.5 billion annually to comply with their personal income tax obligations and businesses $13 billion to $19.3 billion to comply with theirs. Tax compliance

imposes a heavy burden on businesses, particularly small and medium-size enterprises, and has the potential to be a disincentive to investment.

Not all taxes are created equal

Business taxes have a significant negative impact on investment and job creation, while personal income taxes affect a wide range of decisions regarding work effort, savings and entrepreneurship. Yet in Canada, approximately 46 per cent of total tax revenue is generated from income and profit taxes, compared to 36 per cent in countries represented by the Organisation for Economic Co-operation and Development (OECD). Twenty-six of the 33 OECD countries rely less than Canada on high-cost income and profit taxes and more on consumption-based tax, like the goods and services tax (GST) and the harmonized sales tax (HST), which are the least economically damaging form of taxation. Consumption taxes provide fewer opportunities for tax evasion and rely on a broader base. Thus, they can be more economically efficient than income taxes. Additionally, consumption-based taxes do not tax the normal return from saving and investment. Switching the tax mix toward consumption-based taxes like the GST or HST would encourage both work and capital formation and, as a result, stimulate productivity and economic growth.

Business taxation

Marginal effective tax rates (METRs) on capital investment—which include the statutory corporate income tax rate, sales taxes on capital inputs as well as deductions or credits associated with purchasing capital goods—vary widely by industry. Service providers (e.g., the retail trade, wholesale trade and communications sectors) face a rate of around 25 per cent. In contrast, METRs on capital are relatively low for forestry and manufacturing (6 per cent and 11 per cent respectively). This is concerning because services are a major source of job creation and are increasingly exposed to international trade and competition. Corporate taxes can hurt the economy most when they are not neutral among industries because capital tends to gravitate towards industries with the most preferred tax treatment rather than to where growth prospects may be higher. Governments (federal and provincial/territorial) should strive to achieve a neutral business tax system—one that does not distort business decisions by favouring particular industries, investments or activities.

Personal income taxes

The top marginal personal income tax rate in Canada (federal/provincial combined) averages 44.4 per cent compared to 34.4 per cent in the U.S. (federal/state combined). Moreover, Canada's top marginal tax rate kicks in at a much lower level of income. Specifically, in 2012, the top marginal personal income tax rate in the U.S. applies to income in excess of US$388,350 for married individuals filing joint returns, unmarried individuals and heads of households. For married individuals filing separate returns, the top marginal personal income tax rate applies to income in excess of US$194,175. In Canada, the top marginal personal income tax rate kicks in for income in excess of C$132,406.

Many low- and middle-income Canadian families with children with income in the $25,000 to $45,000 range face marginal effective tax rates in excess of 50 per cent because many of the public transfers they 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.

The impacts are similar for seniors in that marginal effective tax rates are high at the low end of the income scale. Many low-income retirees encounter effective marginal tax rates as high as 80 per cent as their guaranteed income supplement or the old age security gets clawed back as taxable pension savings—RRSPs/RPPs—are withdrawn.

The Canadian Chamber of Commerce recommends that the federal government focus first on reducing marginal tax rates for low- and modest-income families because they face the highest marginal rates of all Canadians. Specifically, the Canadian Chamber recommends, when fiscal conditions permit, that the federal government reduce the 15 per cent personal income tax rate that applies on the first $42,707 of taxable income to 14 per cent. It also recommends that the 22 per cent rate that applies to taxable income of between $42,707 and $85,414 be reduced to 21 per cent. The Canadian Chamber recognizes that reducing personal income tax rates as they apply at the lower end of the income spectrum carry a high fiscal cost. Hence, it recommends this gradual approach.

Going forward, Canada will face the increasing challenge of attracting and retaining skilled workers that are essential to our international competitiveness. To entice high-technology skilled workers, upper management, entrepreneurs and professionals to Canada, 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 $132,406. This would make it more

consistent with the top threshold that applies in the U.S. (i.e. US$194,175 for married individuals filing separate returns). As a result, income in the $132,406 and $200,000 range would be taxed at a rate of 26 per cent, down from 29 per cent.

For Canadian families, reducing personal income tax rates would result in higher disposable income. The benefits to Canada from increasing the incentive to work, save, stay in Canada and undertake further education and training come in the form of higher productivity and economic growth.

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 2016.

Re: Program Spending

3. Limit growth in program spending to an average of 2.1 per cent per year through 2016-17.
4. Continue to examine new ways to reduce costs, modernize how government works and ensure value for taxpayers' money, including in the areas of service delivery, corporate asset management, travel and administrative systems.

Re: Tax Policy

5. Ensure that Canada's tax system is as neutral, simple, efficient and fair as possible.
6. Avoid ad hoc changes to tax legislation, like the constant addition of special provisions and targeted tax benefits.
7. Appoint an advisory panel (similar to the Advisory Panel on Canada's System of International Taxation) to identify ways to reduce the complexity of Canada's tax system. This should include a comprehensive review of the hundreds of exemptions, deductions, rebates, deferrals or credits that are part of the federal tax system to determine which ones are inefficient and wasteful. The panel should be supported by a secretariat and rely on the Department of Finance, the Canada Revenue Agency and the Auditor General of Canada for information and data regarding the current system.
8. Reduce Canada's heavy reliance on more damaging, high-cost sources of taxes, namely income and profit taxes, and rely more on consumption-based taxes, like the GST/HST.
9. Strive to achieve a neutral business tax system—one that does not distort business decisions by favouring particular industries, investments or activities.
10. Once the books are balanced, reduce the 15 per cent rate that applies to the first $42,707 of taxable income (2012) to 14 per cent, and the 22 per cent rate that applies to taxable income between $42,707 and $ 85,414 to 21 per cent. Raise the threshold at which the top federal marginal personal income tax rate kicks in to $200,000 from $132,406. As a result, income in the $128,800 and $200,000 range would be taxed at a rate of 26 per cent, down from 29 per cent.

Taking Advantage of External Expertise in Federal Departments and Agencies

In its first five years, consultation and communication with stakeholders was a key element in helping to ensure Canada Revenue Agency (CRA) services were aimed at areas where they were most needed. In this regard, the CRA established more than 50 advisory and consultative committees at the national, regional, or local levels. This enabled the CRA to build an understanding of the particular issues facing groups ranging from seniors and the charitable sector to large business, small business, and the film industry.

In recent years, there has been a significant reduction in the number of opportunities that are available to non-government taxation experts and economists to assist in improving the administration and compliance burden imposed by the tax system. In most cases, the CRA Advisory Committees that previously existed have been wound down, and the opportunities for exchanges between government and external advisors (from industry, law or accounting firms) have been reduced.

The existence of the CRA Advisory Committees allowed for an exchange of ideas and increased understanding of the workings of both government and business, and facilitated the proposal and development of solutions that took the needs of both parties into account.

Additionally, there has been a significant reduction in the number of opportunities that are available to non-government experts to influence policy and assist in the development of legislation. Private-sector experts can provide policy makers and legislators with the knowledge required to understand how a policy or legislative change will impact business and the broader economy.

Finally, the government has much to gain by developing a more robust Executive Interchange Program with carefully thought-out and pre-planned assignment opportunities to engage the private sector in staffing assignments. Experts from the private sector would be seconded to government departments and agencies—for a fixed term—as consultants or special advisors. The secondees would be funded by independent organizations (for example, professional services firms) for which they work for. When their secondment term is over, the individuals would return to their jobs in the private sector. For the federal departments/agencies involved, the benefits are immediate: a vigorous infusion of new expertise, ideas and perspectives; closer working relationships between the private and public sector; and lasting partnerships for the future. Individuals on secondment would experience the public policy-making process first hand; broaden their knowledge of complex public policy issues; and better understand the workings of government.

Recommendation

That the federal government, through the Department of Finance and the Canada Revenue Agency, actively expand opportunities to draw on the experience and advice of non-government experts from law, accounting firms and industry through exchanges, advisory committees, selective reviews or executive interchange programs that reflect regional economic interests. Where required, confidentiality agreements could be considered to ensure that the advice being sought and provided is treated with the level of sensitivity required.

Simplification of the Taxing Statutes

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 system has become so complicated that not only the taxpayer is bewildered, but also advisors and those administering the *Act*.

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)
- unincorporated contractor reporting
- transactions with non-resident persons
- calculation of "safe-income" in corporate reorganizations
- provisions applicable to the sale of a business
- scientific 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. Some Provincial Governments, Alberta for example, did not follow suit and have not introduced tax reform or simplification measures since the CTA was enacted. And, as there have been many significant amendments and complicating revisions to the taxing statues since 1987, a comprehensive and immediate 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 immediately establish a royal commission to undertake a comprehensive review of taxing statutes with the objective of identifying, recommending and ensuring the implementation of ways and means to simplify tax legislation, reduce compliance costs and ensure Canada's tax system is as neutral, simple, efficient and fair as possible. In support of the commission a standing committee should be established to continuously monitor changes and publicly report progress at least annually.

Canada Revenue Agency Impact on Small Business

The Canada Revenue Agency (CRA) has conducted many studies in the last number of years to identify ways to improve its systems and service; however, small businesses in Canada continue to report frustration and a need to commit significant time, often at considerable expense, to deal with taxation and filing issues.

Small businesses are the backbone of Canada's economy. According to Industry Canada, small businesses account for 98 per cent of businesses in Canada, and employ 48 per cent of the private sector labour force.[41]

Many businesses, at some point in time, have had to correspond with the CRA over some matter related to their business, whether by letter, fax, telephone, online or in person. Inquiries typically centre on issues related to business income taxes, the goods and services tax, payroll taxes, customs and excise taxes, or personal income taxes.

Although there is one basic number for business inquiries and one for inquiries regarding personal income tax, which should make for efficient, effective interaction with the CRA, many small businesses find themselves spending exorbitant amounts of time dealing with the CRA. When a business makes an error in filing, there are tight timelines placed on correction and response; however, when the CRA is in error, a small businessperson may invest significant amounts of time communicating with CRA officials and being transferred from department to department. In many cases an accountant is required to handle the matter, creating more cost and more red tape.

In 2006 the Canadian Department of Finance established the *Action Task Force on Small Business.*[42] A *Final Report on Action Items* was released in November 2008 followed by an *Update on the Final Report on Action Items* in November 2009 and *Closing Report on Action Items* in October 2011. In the *Closing Report* the CRA committed to:

- Simplify, improve, and, where appropriate, reduce the frequency of small business interactions with the CRA.
- Improve how and when it communicates with small businesses.
- Make "burden reduction" systemic within the CRA

However, business owners still report significant administrative burden, lack of timeliness, professionalism and predictability when dealing with regulators, lack of coordination between regulators, and a lack of fundamental understanding of the realities of small business.[43]

With the release of the Red Tape Reduction Commission's January 2012 report "Cutting Red Tape…Freeing Businesses to Grow", opportunity exists to advocate for meaningful CRA reform.

Recommendations

That the federal government:

1. Instill flexibilities into Canada Revenue Agency (CRA) systems to allow frontline staff to manage communications between CRA streams on behalf of small business owners, and take initiative to resolve small issues in a timely fashion, maintaining a client-oriented, customer-service approach.
2. Assign a case officer, with the appropriate training, to small business files to make compliance faster, cheaper and simpler.
3. Instruct the CRA to correct and respond regarding CRA errors within 30 days of notification by the taxpayer or taxpayer's representative.
4. Hold the CRA accountable for its actions and decisions by implementing open government practices, and by correcting and corresponding regarding CRA errors within 30 days of notification by the taxpayer or taxpayer's representative.

[41] Industry Canada Key Small Business Statistics July 2010. http://www.ic.gc.ca/eic/site/sbrp-rppe.nsf/eng/h_rd02488.html
[42] Canada Revenue Agency Form RC4483. http://www.cra-arc.gc.ca/formspubs/pbs/rc4483-ctntmspdt-eng.html
[43] Red Tape Reduction Commission, Summary of Roundtable Consultation Saskatoon, January 27, 2011. http://www.reduceredtape.gc.ca/sessions/01-27-2011-eng.asp

Fair Tax Process for Small Business

Issue

Canadian courts, through an area of common law rights called administrative law, hold most government agencies accountable to basic procedural safeguards to ensure that all Canadian citizens benefit from a fair and due process when denied or granted government benefits.

These protections do not, however, cover the activities of the Canada Revenue Agency (CRA) wherein citizens must understand the complicated details of the Income Tax Act and escalate concerns to the courts.

While rigorous enforcement of tax laws is imperative since taxes are critical for the maintenance of public services that allow for a prosperous Canadian society, small businesses require some form of intermediary assistance to understand and navigate issues and deal with the CRA. This assistance should be structured to enable greater effectiveness and should not require the additional expense of a tax accountant and lawyer to resolve.

Background

The problem is quite widespread. The following comments made by Chief Justice Gerald Rip in Pytel v. The Queen, 2009 TCC 615 provide the best explanation for prevalence of the problem:

> [42]The vast majority of informal appellants in this Court act for themselves or are represented by persons without any legal background. This, the Tax Court has in common with all other Canadian courts. Employees of the Tax Court try to assist the appellants and prospective appellants in getting their appeal to trial. The Court has produced a video describing the conduct of an appeal. Judges try to help the taxpayers subject to their limits of judicial impartiality. Nevertheless taxpayers and their lay representatives are often intimidated by the process and are unable to fully prosecute *[defend]* the appeals. This is what happened here.
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> [43] I am informed that the Legal Aid programs of the provinces do not provide assistance to taxpayers who cannot afford legal representation in income tax appeals. The rationale, I could only guess, is that if a person has a tax problem, the person must have money. There are appeals before the Court that are family related matters, such as Canada Child Tax benefits, and if disputed before a Family Court judge, may entitle the parties to legal aid. There are also appeals claiming medical expenses, Unemployment Income benefits, Canada Pension Plan benefits, among others, that impact upon low income persons.
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> [44] A need for taxpayers to be better prepared for their appeals before this Court is obvious. Legal Aid programs must consider extending their assistance to taxpayers, notwithstanding current budgeting issues. Dealing with a government bureaucracy, the CRA, for example, and then with a court is very stressful even on the most experienced persons. Unjust tax assessments may cause strain on the family relationship and ought to be challenged with public support when appropriate. Law firms and law schools also have the capacity to help.

Subsequent to the Pytel case, Chief Justice Rip wrote a letter to every law dean in Canada to see if there was anything they could do within the law schools to help address this growing problem. He also raised the issue in a meeting with the Canadian Bar Association's tax court bench and bar committee.

Recommendation

That the federal government review the Canada Revenue Agency's (CRA's) internal policies for small business and implement common administrative law practices into its procedures so that there is assistance for small business to resolve conflicts with the CRA with the protection of due process.

Non-Residents Performing Services in Canada Policy—Waivers from Withholding Obligations Under Regulations 105 and 102

Many Canadian companies routinely, or as required, work with nonresident consultants, engineers and other service providers from the United States and elsewhere. Very onerous tax withholding and reporting requirements exist in relation to these services. These requirements discourage growth, act as a barrier to international trade and create unnecessary reporting and withholding requirements for Canadian businesses.

Sections 105 and 102 of the *Income Tax Regulations* impose withholding requirements on payments for services rendered in Canada by non-residents. Regulation 105 covers situations where a fee is paid to a non-resident for services rendered in Canada while regulation 102 addresses compensation paid to an employee who is working in Canada.

Section 105 of the Canadian *Income Tax Regulations* ("Regulation 105") stipulates that "every person paying to a non-resident person a fee, commission or other amount in respect of services rendered in Canada, of any nature whatsoever, shall deduct or withhold 15 per cent of such payment" and remit it to the Canada Revenue Agency (CRA).

An amount withheld and remitted pursuant to Regulation 105 operates, in effect, as an installment in respect of the non-resident's potential Canadian tax liability for regular tax. Potentially significant penalties and interest charges could apply to the payer in respect of a failure to withhold, remit and report as required under the *Income Tax Act*.

A payer may be relieved of Regulation 105 withholding and remittance requirements, in whole or in part, when the CRA issues either an income and expense waiver or a treaty-based waiver to the non-resident.

The non-resident can apply to the CRA for a refund of an amount withheld and remitted on its behalf under Regulation 105 if the amount earned was not taxable in the non-resident's hands. For example, pursuant to the Canada-U.S. Income Tax Convention, a U.S. resident taxpayer with no permanent establishment in Canada is not taxable on business income earned in Canada. It is also possible to apply for a treaty-based waiver of the obligation to withhold on the ground that the non-resident recipient: (i) if an individual, earns less than C$5,000 for the current calendar year; (ii) does not have a recurring presence in Canada within the "period" and performs services in Canada for less than 180 days pursuant to a service contract; or (iii) has a recurring presence in Canada within the "period" provided the cumulative presence is less than 240 days during the "period" and less than 180 days pursuant to the service contract. For these purposes, the "period" means the current calendar year, the three immediately preceding years and the three immediately following years. Even with a waiver, the non-resident is still required to file a Canadian income tax return to report its Canadian-source income and expenses.

For Goods and Services Tax ("GST") purposes, the threshold for non-residents being required to register, collect and remit GST is very different. For GST purposes, the service provider must only be carrying on business ("COB") in Canada. The CRA has stated that to be considered to be COB, the service performed must be the object of the contract and not merely ancillary to the supply of a product or service. Thus, while a non-resident may be exempt from Canadian income tax under a tax treaty, they may not be exempt from being required to register, collect and remit GST. Since in many cases this GST would be recovered by the payer, there is no net tax revenue generated by the CRA in these circumstances.

The present withholding requirements, as set out in Regulation 105, are severe deterrents to allowing Canadian organizations to effectively compete for global resources. The burden resulting from compliance with the requirements is carried by the organization contracting for services in terms of withholding, tracking, reporting and remitting. This impairs Canadian businesses' ability to effectively procure the skills needed for them to effectively compete on a global basis. There is also an undue burden on the service provider in terms of additional reporting requirements and cash flow, and on the CRA in their administration of the program. Additionally, the requirement drives an unintended result in that many non-resident suppliers merely increase their prices, by way of tax gross-ups, to account for the withholding taxes levied under this regulation.

The OECD has recognized that the implementation of withholding taxes in situations where a permanent establishment does not exist can lead to excessive taxation.

Concerns regarding Regulation 105 were also raised during consultations undertaken by Advisory Panel on Canada's System of International Taxation. The Panel heard that the costs associated with complying with Regulation 105 are significant; service providers commonly gross-up their fees to offset the withholding tax, which can result in additional costs to Canadian businesses and hamper their ability to engage skilled workers from outside Canada; the waiver process is cumbersome and so it is not used as often as it should be; and the service provider may suffer reduced or delayed revenues and cash flow problems if the service provider has not received a gross-up from the payer.

The Advisory Panel recommended the elimination of withholding tax requirements related to services performed and employment functions carried on in Canada where the non-resident certifies the income is exempt from Canadian tax

because of a tax treaty. Such an approach would be consistent with the approach used in certain other countries, most notably the United States. Given the geographic proximity, and the quantity of cross-border commerce, between Canada the United States, a comparable approach in this regard (or one that does not impose substantially higher administrative burdens) should ensure that Canadian businesses are not placed at a competitive disadvantage.

Under section 102 of the *Income Tax Regulations* ("Regulation 102"), non-resident employers have obligations similar to those of Canadian resident employers to withhold, remit and report amounts in respect of remuneration paid to an employee who renders services in Canada on behalf of the non-resident employer. Employers are required to withhold and remit withholding tax, Canada Pension Plan contributions (CPP) and Employment Insurance premiums (EI) for each of their employees unless a foreign-service provider can show, before performing the services in Canada, that the amount to be withheld is more than the ultimate Canadian income tax liability. Waivers may be applied for in certain situations, but will only be issued to non-resident employees who are from countries which have a tax treaty with Canada.

In June 2011, the CRA issued form R102-R, "Regulation 102 Waiver Application." The form must be submitted to the CRA 30 days before either the start of the employment services in Canada or the initial payment. We believe this requirement is not practical in many circumstances.

The CRA has also updated Form R102-J, "Regulation 102 Waiver Application – Joint Employer/Employee." Because Form R102-J is a joint employee/employer request, more of the process requirements are transferred from the employee to the employer. Non-residents have a 60 day grace period to make the application for a waiver after services have started. However, when requesting treaty-based tax relief, the threshold amounts of income earned in Canada are very low – C$10,000 for United States residents and C$5,000 for residents of other treaty countries. Where the employee will be treaty exempt, but the amount of exempt remuneration is higher, a separate waiver must be made by way of a letter to the CRA explaining the facts and circumstances to support the treaty exemption.

In order to obtain either of these waivers, however, the employee must obtain a Canadian social insurance number or an individual tax number, both of which require separate applications together with supporting documentation. Furthermore, even where a waiver has been obtained, the non-resident employer must still make timely T4 filings and will typically be required to file a T2 corporate income tax return.

The Advisory Panel on Canada's System of International Taxation determined that because regulation 102 applies to such a broad range of situations, it places a significant administrative burden on the non-residents, as well as Canadian corporations who carry out the administrative duties on behalf of related non-resident employers. For example, where a non-resident performs employment duties in Canada for just one day, a withholding obligation is placed on the employer. Similar to the consequences for failing to comply with Regulation 105, in the absence of a waiver, penalties and interest charges could apply to the employer in respect of a failure to withhold, remit and report Regulation 102 amounts as required under the *Income Tax Act*. Although a waiver can be obtained if the employee ultimately will not be taxable in Canada, the time delay is often considerable, making the process unhelpful, particularly for shorter-term work assignments. In practice, it is difficult for non-resident companies to set up a process to withhold and remit various Canadian taxes for what may be small amounts.

Recommendations

That the federal government:

1. Eliminate Regulation 105.
2. Introduce legislation to all non-resident employers to administer a Regulation 102 blanket waiver process for employees working in Canada below a specified number of days.
3. In the alternative, introduce legislation to permit a non-resident employer with non-resident employees working in Canada during a particular year to make a single Regulation 102 filing within [90] days following the end of the year, together with Regulation 102 remittances (including interest but not penalties) for any of its employees who were ultimately taxable in Canada for the year.
4. Revise the requirements for registering, collecting and remitting GST to ensure that non-residents exempt from income tax under a tax treaty with Canada, are also not required to register, collect and remit for GST purposes. Annual information return reporting of payments to non-residents should be continued to ensure the CRA's ongoing ability to audit non-residents providing services in Canada.

5. Institute an information return for non-residents employing people in Canada.

A Better Way to Fund Training

Employment Insurance (EI) is an important pillar of Canada's social safety net and it has a huge impact on Canada's labour market. In 2011, the program paid out $18.3 billion dollars in benefits to approximately 849,000 unemployed workers and other beneficiaries (maternity-parental, health, and compassionate care benefits).

EI recipients can also qualify for active employment measures, including job training, to upgrade their skills. The largest portion of federal funding for active employment measures, $1.95 billion, comes from EI premiums and is transferred annually to the provinces and territories as part of bilateral (federal and provincial/territorial) Labour Market Development Agreements (LMDAs).

The LMDAs, however, prevent the provinces and territories from targeting funds at people outside the EI system. Only workers eligible for EI benefits, or recent EI recipients, can access training programs funded by EI premiums. As a result, many unemployed Canadians who are not eligible for EI do not have access to training. Yet, it is often those outside of EI who are most in need of training.

Additionally, given the very different levels of EI coverage across Canada, federal support for training varies widely across Canada. Many communities across the country have insufficient access to labour market programs, and not all Canadians have equal access to training programs. Simply put, the system is too complicated and fragmented.

Training is extremely important and essential to an individual's and organization's success and we need to rethink how it is funded. Due to the aging workforce and retiring baby-boomers, Canada will experience short-term labour shortages in many sectors of the economy and regions of the country. This is already evident. If nothing is done, there will be a shortage of specialized workers and many unemployed workers will lack the necessary qualifications to take the jobs that are in demand.

To help support the development of human capital and help fill labour shortages, EI qualification should be eliminated as a precondition for accessing training. In a knowledge-based economy we can no longer deny training support to individuals who have not qualified for EI. A national, inclusive approach is needed—one that does not turn people away if they do not conform to the criteria outlined in the LMDAs.

Finally, removing active labour market funding from EI would result in lower EI premiums for workers and businesses. Employers would have a greater incentive to hire and employees would have more take-home pay.

Recommendation

That the federal government remove the training component from EI and fund all training and active employment measures through a general revenue-funded transfer to the provinces/territories to ensure that all workers in need of training are able to access it.

Strengthening Canada's Workforce through Tax Indexing

The federal Department of Finance began indexing personal income tax brackets in 1988. However, the Finance Department has failed to index a number of deductions, which, in effect, has Canadians paying unfair taxes in certain areas. Two specific examples that affect the business community are the deduction of childcare costs and Canada Pension Plan contributions.

The practice of indexing was implemented to prevent "bracket creep" where, as a result of a cost-of-living increase, the taxpayer was bumped up into the next tax bracket and, as a consequence, took home no additional monies.

Current deductions for childcare, only applicable for children under six years of age, are capped at $7,000 per year; a figure arrived at in 1998. Although the deduction amount and eligible age has not changed, the cost of childcare has risen substantially. A parent returning to the work force must make a financial decision of how much their take-home

income is benefiting the family versus the cost of being away from the children and paying for care. This chart demonstrates the average cost of full time childcare across Canada[44].

If the average full-time employee is working five days a week for 47 weeks, the annual cost of infant care ranges from $6,580 in Manitoba, to $13,395 in Ontario. The $7,000 deduction limit has not kept pace with the cost of care. With chronic skilled labor shortages across Canada reaching critical stages in some regions, it is incumbent upon government to make workforce engagement as appealing as possible to young parents.

On the other end of the workforce lifecycle is the issue of Canada Pension Plan (CPP) contributions. Recently, the new CPP contribution limits were announced recognizing the inflation-indexing adjustment to the contribution limits.

Since 1997 the maximum annual pensionable earnings has increased due to indexing by $12,500. The basic exemption has increased by a comparative number of $0.

The employee/employer-matched contributions have increased by $1,272.82, a 135 per cent increase over the past 14 years.

Canadians and their employers are paying an ever-increasing cost to fund CPP. The government has taken credit for holding the contribution rate on CPP steady through the recent downturn in the financial markets and world economies. However, the indexing of the maximum contribution amount and the non-indexing of the basic exemption has actually raised payroll taxes substantially at a time where few can afford it.

There are a number of specific tax credits that are indexed, along with the tax brackets, yet there are some glaring areas where indexing is not applied. Canada's workforce can be strengthened if workers are not de-motivated from labor force participation by antiquated taxation policies.

Recommendation

That the federal government apply indexing to all exemptions, deductions and contribution limits, applicable in the Income Tax Act so Canadians and businesses are not unfairly taxed.

Increasing Rental Inventory Through Fair Tax Treatment

A healthy rental market is important to business operations as the rental inventory provides housing for employees at all levels of the employment spectrum, and most importantly, for entry level employees. Employers are increasingly finding the issue of rental availability to be a hurdle to recruitment and retention of employees. In some areas, extremely low vacancy rates may have adverse effects on the ability of businesses to grow.

Tax changes introduced over the past 25 years have disadvantaged the treatment of investment in real property and rental housing in particular. The tax changes have created inequitable taxation on these investments when compared to other forms of investment. The result has been decreased activity in the rental housing market, such as less property turnover and revitalization and less purpose built rental property construction. This has been reflected in the erosion of available rental units, which according to the Canada Mortgage and Housing Corporation, has fallen from an average Canadian vacancy rate of 4.5 per cent in 1994 to 2.5 per cent by the spring of 2011.

Treatment of Capital Gains

In the 1990s, investments in real property were eliminated from the lifetime capital gains exemption. The rationale for the tax move was to direct investment dollars to more "productive" investments. The capital gains tax formula on the sale of rental property is applied immediately upon the disposition of the asset, whereas capital gains on other assets, such as "former property" or "former business property" are eligible for tax deferral when a replacement property is purchased within a specific time frame. Rental property, oddly, is specifically excluded from the definition of "business property".

In addition to the capital gains tax, property owners must also pay tax at their full tax rate on the recaptured amount of capital cost allowance depreciated over the period of their ownership tenure. Together these two tax measures

[44] Today's Parent. April 2010

result in a significant "lock-in effect", where owners of real property hold on to the assets rather than re-invest in more productive properties. The tax measures also act as a disincentive to maintain or revitalize the overall quality of both commercial and residential assets, as doing so would result in higher capital gains tax payment upon eventual disposition.

The Canadian Real Estate Association, through the services of Dr. Thomas Wilson, a leading authority on taxation and the University of Toronto's Institute for Policy Analysis, has determined that the cost to government to introduce a deferral on capital gains for real property is minimal. The approximate cost in the first year is estimated to be $415 million to the federal government and $208 million in total to provincial and territorial governments. The Association asserts that the cost would actually decrease in subsequent years as the deferrals of gains would come into play and that increased business activity from newly freed capital would more than compensate through increased tax revenue.

Tax Treatment of Rental Income

In addition to the treatment of capital gains on rental properties, the rental income they generate falls under the definition of "aggregate investment income" in the *Income Tax Act* (ITA). Since it is not "active business income", a Canadian Controlled Private Corporation (CCPC) is not able to take advantage of the small business credit, which reduces the corporate tax rate to only 16.5 per cent on the first $500,000 of active business income. Furthermore, since "aggregate investment income" is excluded from the definition of "full rate taxable income", the CCPC will also not be eligible for the General Rate Reduction. This means that the starting point of the corporate tax rate on this type of income can exceed 40 per cent. To potentially qualify for a lower rate, the business must be classified as a "Principal Business Corporation" (PBC). A PBC's primary business must be the leasing, rental, or the development for lease, rental or sale of real property owned by them, and they must employ at least six full-time employees. Most of the companies that provide the majority of rental housing in Canada do not meet these requirements and therefore are taxed at the higher rate.

Furthermore, governments have moved to discourage the use corporations to defer tax on investment income, instituting an "Additional Refundable Tax" (ART) on aggregate investment that qualifies for a dividend refund. This is an additional tax on corporations that aggregate investment income and don't pass along the income through dividends to their shareholders. The ART adds a tax of 6.66 per cent on the aggregate investment income of CCPCs, which makes the corporate tax rate for CCPCs roughly equal to the highest individual marginal tax rate.

The effect of these definitions and requirements has been to deter investment in rental housing, directing it to other real estate sectors such as the hotel and accommodation industry, where the requirements and tax treatment on active business income are more favourable.

Effects of the GST on Rental Housing

Since it was introduced in 1991, the GST has discriminated against rental housing by providing a rebate for ownership housing but none for rental units. In addition, because residential rents are classified as exempt rather than zero-rated under the GST, landlords are unable to recover tax paid on the purchase, repair or improvement of residential buildings. Allowing for a zero-rated designation would mean that because landlords cannot charge GST on rent, they would be able to claim GST on their Input Tax Credits (ITCs).

All taxes induce people to behave in certain ways. It is clear that the changes in tax policy of the last 25 years applying to investment in real property, and specifically rental property, have resulted in a lock-in effect, less activity in the rental housing industry, and an overall decrease in rental accommodation availability. Yet as noted at the outset, a healthy rental market is important to business operations since rental inventory provides housing for all levels of the employment spectrum.

Recommendations

That the federal government, when fiscal conditions allow:

1. Enact deferral of capital gains tax on the sale of real property, including rental property, when the proceeds of sales are reinvested within a six-month period into other real property investments.
2. Defer the recapturing of the value of depreciated capital cost allowances on real property.
3. Include rental income under the definition of "active business income" for CCPCs in the ITA legislation.

4. Allow a 100 per cent refund of GST paid by businesses investing in rental housing.

5. Zero-rate rental housing operations to allow landlords to claim ITCs on their expenses.

Support Future Mineral Exploration and Mining in Canada

Mineral exploration and mining are mainstays of Canada's economy, particularly in northern and remote regions. Canada's mining industry accounts for approximately 20 per cent of Canada's annual goods exports and generally 3-4 per cent of Canada's GDP. The industry employs over 300,000 Canadians in mineral extraction, processing and manufacturing.

The Prospectors & Developers Association of Canada (PDAC) is a national organization with more than 10,000 members representing the range of companies and individuals in mineral exploration and development. Their individual members include prospectors, geoscientists, consultants, mining executives, students and people working in the drilling, financial, legal and other supporting fields; it provides valuable information and advice on mining issues. According to PDAC, mineral reserves which sustain mining have fallen dramatically over the past 25 years, threatening the future of the industry. The only way to replace the reserves is by mineral exploration (research and development). It is essential that policies initiated by the federal government to encourage exploration continue and that tax rules are reviewed to ensure they reflect the needs of the current economic environment.[45]

Canada dominates the global mineral exploration industry, with financing provided through the TSX and its venture exchange for projects in over 100 countries. Exploration is the lifeblood of the mining industry at home and abroad and Canada needs to continue to attract a significant share of global exploration investment to projects within its borders.

The Canadian mining industry accounts for approximately 20 per cent of Canadian goods exports and, according to the Mining Association of Canada, paid $5.5 billion ($8.4 billion when including the oil sands) to Canada's federal, provincial and territorial governments in 2010, a significant increase from $5.1 billion the preceding year. The exploration and mining industry generates thousands of high-skilled, high-paying jobs across Canada. In remote regions this is particularly important. As an example of the impact that a new mine can have on a region, the Meadowbank gold mine, which opened in Nunavut in 2010, has provided approximately 500 new jobs and contributed almost 12 per cent of the GDP of Nunavut.

However, the future of mining in Canada is threatened by an inability to replace the mineral reserves at the same pace that they are being extracted; reserves of base metals are close to their lowest levels in 30 years and gold reserves are far below their highs. Due to the fragile state of the global economy there is downward pressure on companies' share prices and their ability to raise high-risk financing.

Canadian initiatives such as flow-through share financing and the federal Mineral Exploration Tax Credit, provincial exploration incentives and public geoscience research help to create the conditions that make Canada the world's leading destination for mineral exploration investment. This is important to consider as project costs are rising as a result of exploration, development and production taking place in more complex ore bodies, deeper lying deposits with lower grades and more remote locations.

As costs rise, financing becomes more critical. New mines are essential to Canada's economic growth; however, mineral deposits that are capable of supporting commercial development occur very rarely, and are difficult and costly to find. With respect to exploration and equity financing, flow-through shares and the Mineral Exploration Tax Credit (METC) offer individual Canadian investors an additional incentive to support higher risk ventures.

Metals Economics Group (MEG) reports that, in 2011, Canada led all countries with 18 per cent of the world's mineral exploration spending (Australia is second with 13 per cent). The TSX/TSXV is #1 in equity capital raised for mining and #1 in listed mining companies with 58 per cent (1629) of the world's total. According to Raw Materials Group (RMG), Canada is second only to Australia in mining investment. The Mining Association of Canada reports that Canada's mining industry plans to invest $136 billion in projects over the next decade.

[45] Submission to the House Standing Committee on Finance (FINA) by the Prospectors & Developers Association of Canada.

As Metals Economics Group stated in its March 2012 World Exploration Trends, risk capital-dependent junior companies have accounted for close to half of annual mineral exploration spending in recent years and "the state of equity markets plays a key role in shaping trends and strategies in the exploration industry". MEG reports that equity markets "struggled in the second half of 2011, and the pace of exploration financings fell back to the levels of late 2009 and early 2010". "As the pace of exploration financings weakened in late 2011", MEG says, "many juniors have had trouble raising the funds needed to sustain or increase exploration spending in 2012".

The mineral exploration tax credit was introduced in 2000 at a time when it was very difficult to raise financing for mineral exploration even using the flow-through share system. The credit provided a 15 per cent tax credit on top of the 100 per cent tax deduction for Canadian Exploration Expense (CEE). Several provinces added their own harmonized incentives. This system called "Super Flow-Through" by the industry provided the incentive needed to attract investors. The METC was reintroduced in 2006 and subsequently renewed for two years. It has since been extended on a yearly basis. Despite industry requests for the 2012 federal budget to make it permanent, in the March 2012 budget, the METC was again extended for an additional year to March 31, 2013. This system has been in place for over a decade and has helped ensure that Canada continues to attract the greatest share of global exploration (Canada is currently first among countries with 19 per cent of the world's exploration investment).

The METC and flow-through share financing, continue to serve a critical role as they allow junior companies to raise needed capital, keep investment in Canada and sustain grassroots exploration activity in remote and northern regions where transportation and field camp costs are high.

In the June 2011 federal budget, it was estimated that the extension of this measure for an additional year would result in a net reduction of federal revenues of $90 million over the 2011–12 to 2012–13 period. However, in an average year, the METC investors collectively provide companies with $400 million in new financing to be spent on grassroots exploration in Canada. The money has to be spent in Canada, thereby ensuring that, if a mine is discovered, the jobs and associated economic opportunities benefit Canadians directly.

In addition to market uncertainty, Canadian mineral exploration companies face increased operating costs. These include compliance costs related to the Crown's Duty to Consult with Aboriginal communities and increased environmental regulatory costs (i.e. federal, provincial and territorial policies that establish new permitting conditions for companies beyond the existing regulations and community engagement practices). The PDAC believes that most of these costs should qualify for renunciation as Canadian Exploration Expense (CEE) under flow-through share arrangements.

The situation is urgent, as without sufficient investor support, companies will carry-out less exploration causing an impact on service companies and individuals, particularly those in rural, northern and Aboriginal communities. In addition, the sustainable replacement of Canada's mineral reserves will be at risk.

To support responsible exploration and development, the Canada Revenue Agency needs to clarify the current CEE guidelines to allow companies to manage new costs associated with government and societal requirements. This will improved corporate social responsibility and environmental practices by exploration companies.

Communities located near where the exploration is taking place, which are often northern and Aboriginal communities, will be better informed and more involved in mineral exploration, resulting in additional employment and business opportunities. Companies and Canada Revenue Agency auditors will have greater certainty regarding the eligibility of costs related to exploration.

Recommendations

That the federal government:

1. Make the Mineral Exploration Tax Credit (METC) permanent, as it has been repeatedly renewed since 2000, to provide greater certainty to the exploration industry and investment community.

2. Encourage good corporate social responsibility and environmental practices by undertaking a review, in consultation with industry, of the tax rules governing the extent to which community consultation and environmental compliance costs are eligible for the Canadian Exploration Expense (CEE) deduction.

GST Exemption for Medical Service Providers

Certain medical service providers are required to charge GST on their services, while other medical service providers are exempt. This creates a competitive advantage to service providers who are not required to charge the tax, as consumers can choose a non-taxable service over a taxable service.

Also, in certain instances where a medical service provider holds a medical licence in a non-taxable medical services profession (e.g. Chiropractic), while also holding a medical licence in a taxable medical services profession (e.g. Massage Therapy), the former medical service provider is not required to charge tax on services rendered in the otherwise taxable service (in this case, massage therapy). This results in a tax advantage within the profession.

For a medical professional to qualify for a GST tax exemption, the following conditions have to be met:

A. The medical service provider has to be defined by the Canada Health Act as a "Health Care Practitioner", meaning "a person lawfully entitled under the law of a province to provide health services in the place in which the services are provided by that person".

B. The medical service provider is to be a member of a professional organization that requires members to receive continuing education credits and holds its members accountable for malpractice.

C. The services rendered by the medical service provider are to be covered by the Veterans Affairs Health Care Benefits Program.

Currently the following health care services, provided by licensed health professionals, are covered by the Veterans Affairs Health Care Benefits Program:

- Occupational Therapy
- Physiotherapy
- Massage Therapy
- Chiropractic
- Acupuncture
- Speech Language Pathology and
- Psychological Counselling

Of these, all services are exempt of charging GST on services, but:

- Acupuncture, and
- Massage Therapy

As the exemption of the GST for the above medical professions (Acupuncture and Massage Therapy) would result in lost revenue for the federal government, information is used from a Statistics Canada Health Report ("Use of Alternative Health Care" by Jungwee Park [2003]) to estimate the yearly loss in revenue.

Formula Input:

- 5.4 Million Canadians (20 per cent of the Canadian population that used alternative health care services in 2003)
- Of those 8 per cent consulted with Massage Therapists and 2 per cent consulted with Acupuncturists or Traditional Chinese Medicine Doctors
- Average Price of Session: $95.00
- Number of Practitioner Visits per Year: 5 (estimated)
- Actual percentage of GST Charged on Goods and Services

Calculation of Lost Tax Revenue

- Taxes - Massage Therapy: 5.4 million x .08 x $95.00 x 5 x .05 = $10.26 million / year
- Taxes - Acupuncture: 5.4 million x .02 x $95.00 x 5 x .05 = $2.565 million / year

Based on the increasing popularity of alternative health care services, the numbers are rounded to arrive at a yearly revenue loss of $15 million.

Recommendation

That the federal government exempt all medical service providers, as outlined above, from charging GST on medical services rendered in their facilities once the federal budget is in balance.

Mitigating the Negative Effects of the New Tax Exemption Limits for the Canadian Retailers on the U.S.-Canadian border

In February 14, 2011 the Prime Minister of Canada and the President of the United States signed a declaration titled *Beyond the Border: a shared vision for perimeter security and economic competitiveness* with a view to enhancing Canada and U.S. "security, and accelerate the legitimate flow of people, goods, services between (…) two countries".[46] The agreement is a positive incentive to reduce a red tape in the bilateral trade. However, the new document also led to the government's decision to harmonize the personal tax exemption on the border, coming into force on June 1st, 2012. The new regulation, together with emerging challenges for Canadian competitiveness, puts in danger numerous Canadian businesses located close to the border, in particular those in the retail sector.

The retail sector plays a key role in bridging production and consumption, and as a result has significant direct and indirect benefits on the Canadian economy. While directly contributing $74.2 billion to Canada's gross domestic product (GDP) in 2009, the retail sector affects other industries through its pioneering of innovative practices. The retail sector invested:

- $5.9 billion in machinery and equipment, of which $1.6 billion was in information and communication technologies (ICT) in 2008, greater than both the Canadian manufacturing sector and the U.S. retail sector in terms of dollars invested in ICT per GDP.
- $5.5 billion in infrastructure and led to a further $2.7 billion invested by other industries in the development of shopping centres, plazas, malls and stores in 2007.
- $1.0 billion in logistics and transportation services in 2008.

However, according to a complex report prepared by the Retail Council of Canada, retailers anticipate a continuation of slow demand growth over the course of 2012. The Retail Council states that a substantial majority of their members (61 per cent) expect sales growth between one and five percent in 2012; most expect growth only in the two to three percent range. Inflation is anticipated to be in the two percent range making the growth in actual volume of sales minimal.[47]

Numerous factors have impacted the retail sector negatively in the last decade, including the growing use of internet that makes the prices more transparent, strong competition from emerging-market economies (BRIC), the appreciation of Canadian dollar and the 2008 economic recession.

The Canadian dollar trading near parity with its U.S. counterpart has encouraged consumers to compare prices across the border and to shop in the U.S. The number of Canadians crossing the border to shop in the U.S. continues to increase and it's predicted to rise significantly after June 1, 2012. Same-day car trips are a commonly used metric to gauge cross-border shopping. In December 2011, Canadians took 2.5 million same-day car trips to the U.S., according

[46] *Beyond the Border: a shared vision for perimeter security and economic competitiveness.* Retrieved on 10 May, 2012 from: http://pm.gc.ca/eng/media.asp?id=3938
[47] The Retail Council of Canada. *Study on the potential reasons for price discrepancies between Canada and the United States*. Retrieved on 16 May, 2012 from: http://www.retailcouncil.org/mediacentre/newsreleases/pr20120424-submission-to-senate-committee.pdf

to Statistics Canada, a 4.2 per cent increase from November and the highest monthly total since May 1998.[48] By comparison, over the last decade, the number of American tourist same day trips to Canada has declined by 69 per cent. To cite the example, the number of vehicles entering Whatcom County daily from points of entry near Surrey (BC) reached 8785 in May 2012, while in February the number was 5015. The Fraser Institute estimates that because of a low number of U.S. trips to Canada, around 7 billion in potential receipts were lost to the Canadian economy.[49]

In addition, jurisdictions across the United States have benefited from Canadian shoppers heading south of the border. Canadian shoppers are being credited for helping boost tax revenues in popular cross-border destinations across the U.S.

In Erie County, New York sales tax revenues reached $400 million in 2011 for the first time. New York State has a sales tax of four per cent, and Erie County levies an additional tax of 4.75 per cent on all retail purchases, which Canadian shoppers are also required to pay. Two other large cross-border shopping destinations are Bellingham, Washington which is a popular area for cross-border shoppers coming from Vancouver and Grand Forks, North Dakota which draws shoppers from Winnipeg. Bellingham's sales tax is 8.7 per cent, while Grand Forks has a sales tax of 6.75 per cent. However, North Dakota offers Canadian shoppers a tax rebate on purchases of more than US$25. Neither Washington nor New York offer sales tax rebates to Canadians. Canada used to offer tax rebates to U.S. shoppers, but discontinued the program in 2007.

The Standing Senate Committee on National Finance and the Retail Council of Canada have found four interrelated reasons for retail shelf prices being different in Canada compared to the U.S.[50] All of them make it impossible for the Canadian retailers to compete on equal terms with the U.S. counterparts. These are:

- Economies of scale. Canadian wholesalers and retailers are of smaller scale compared to their U.S. counterparts, thus, the U.S. retailers can obtain volume discounts. As a result, multi-national suppliers often charge Canadian retailers more than the U.S. merchants (between 10 per cent and 50 per cent more for identical products).
- The structure of Canadian distribution channel that includes an extra participant, an importer or subsidiary operation, compared to many U.S. distribution channel structures.
- The input price to the channel. Due to higher import duties imposed by Canada, prices charged by manufacturers for goods destined to be sold in Canada are frequently higher than in the United States.
- The cost of doing business. Factors such as occupancy costs, principally rents and corporate taxes, are higher in Canada with transport still being a great challenge for smaller and medium retailers.
- Supply management. Dairy products and poultry products are the most popular products purchased by Canadians on the majority of same-day cross-border shopping trips to the U.S. The Retail Council of Canada flagged Canada's system of supply management as a factor contributing to higher prices for these items in Canada compared to the U.S.

As recently as this year, the federal government has taken steps to eliminate the duties on manufacturing inputs. They have stopped short of reducing or eliminating duties on finished good entering into Canada. Retailers cannot compete when they have to pay considerably greater import duties than their American counterparts for products imported from around the world.

Additionally, the Retail Council of Canada noted that the government should provide a level playing field for Canadian retailers of popular grocery items, most notably dairy and poultry, by putting specific restrictions on the quantities of these products travellers can bring across the border into Canada, as it has done with tobacco and alcohol.

[48] Statistic Canada. Retrieved on 12 May, 2012 from: http://www5.statcan.gc.ca/cansim/a26
[49] Fraser Institute. *The Cost of the Canada-US Border*, Retrieved on 10 May, 2012 from: http://www.fraserinstitute.org/uploadedFiles/fraser-ca/Content/research-news/research/articles/costs-of-the-canada-US-border.pdf
[50] The Retail Council of Canada. *Study on the potential reasons for price discrepancies between Canada and the United States*, Retrieved on 16 May, 2012 from: http://www.retailcouncil.org/mediacentre/newsreleases/pr20120424-submission-to-senate-committee.pdf

Recommendations

That the federal government:

1. Eliminate the outdated tariffs on finished goods entering into Canada.
2. That Canadian border officials enforce all tax exemption limits for all travellers returning to Canada.

Pooled Registered Pension Plans

The Summary Report by the Federal-Provincial Research Working Group on Retirement Income Adequacy (December 2009) concluded that, despite a system that is currently performing well and providing Canadians with an acceptable standard of living after employment, an increasing number of residents are at risk of significantly under-saving for retirement.

A number of factors may be contributing to this predicament, including declining participation in employer-sponsored Registered Pension Plans (RPPs). The proportion of employed Canadians in these plans has declined from 41 per cent in 1991 to 34 per cent in 2007.

In December of 2010, finance ministers across Canada agreed to construct a framework for Pooled Registered Pension Plans (PRPPs) for allowing Canadian employers to better assist their employees in preparing for retirement. The new initiative is an alternative to an expanded Canada Pension Plan (CPP).

Pooled Registered Pension Plans are relatively uncomplicated with defined contributions that can be offered at a low cost by Canadian employers through regulated financial institutions such as banks and insurance companies. Employees of eligible businesses can participate in large pooled plans where economies of scale can be realized. A PRPP will operate much like a defined contribution registered plan but will contain assets collected from multiple employers. Also, the plan allows participation from self-employed individuals and the transfer of benefits when required.

As regulated financial institutions act as PRPP providers, employers are relieved of their pension administrator responsibilities. These institutions are subject to rigorous oversight and regulation by government, ensuring the interests of employers and employees are scrutinized and protected.

Statistics Canada and industry data indicate that 50-60 per cent of private sector workers in Canada do not have access to a workplace retirement plan. As a result, many of these individuals will have severe difficulties maintaining their standard of living when exiting the workforce.

The federal government introduced Bill C-25 the Pooled Registered Pension Plans Act on November 17, 2011 which received Royal Assent on June 28, 2012. The legislation provides a PRPP framework for employers which are federally regulated, such as banks, telecommunications and transportation, however, provincial/territorial governments are required to enact enabling legislation for the plans to become fully operational across Canada. Quebec has announced it will table PRPP legislation and it is expected other provinces/territories will follow.

In a submission to Finance Canada in March 2011, Canadian Chamber of Commerce Senior Vice President Warren Everson noted that PRPPs offer more options to small and medium-sized businesses, many of which have limited or no resources for workplace retirement savings plans.

Frank Swedlove, President of the Canadian Life and Health Insurance Association Inc., was quoted in a January 17, 2012 Financial Post article noting that small and medium business owners are prepared to embrace PRPPs as they seek new ways to keep employees and attract new people. Canada is close to making a fundamental shift on the pension landscape.

In a February 2012 brief, the Canadian Bar Association indicated that PRPPs should strive for provincial/territorial harmonization to achieve the federal government's desired effect of offering simple, low cost retirement plans. Accommodating for divergent provincial rules can increase costs and prevent eligible administrators from offering a single PRPP across the country.

Recommendations

That the federal government make it a top priority to work with provincial and territorial finance ministers to expedite Pooled Registered Pension Plan legislation at the provincial/territorial level that will allow more small and medium-sized businesses across Canada to offer retirement plans to their employees

Severance Transfers to RRSPs

Until the mid-1990's, provisions allowing for transfer of severance to Registered Retirement Savings Plans ("RRSPs") had been in place to allow employees faced with difficult career changes to plan for their future. However, in 1995 the federal government removed the transferability of severance to an RRSP. The rationale behind the change, based on the budget supplementary comments, was "the maturation of pension plans, the increase in RRSP limits for those not in pension plans, and the ability to carry forward unused RRSP limits". The time for reviewing these statements and this policy is well overdue.

Provisions allowing for the rollover of severance were in place to allow an employee to defer taxation of income necessary to sustain them while new work was sought. As the funds were needed, they could be accessed and tax would only apply at that time. By allowing the rollover of severance, an employee was only taxed on the income as they required it, the employee's RRSP limits were unaffected, and the employee's ability to save for retirement uncompromised.

By not allowing rollover treatment the federal government is essentially treating severance as normal employment income when it clearly is not. Conversely, the employee earns no additional RRSP room based on their severance as they would with normal employment income.

One of the other reasons noted for the repeal of RRSP rollover was the maturation of pension plans. However, severance payments serve a very different purpose than pensions and traditional RRSPs, which are intended as method of saving for retirement. Severance is intended to provide an employee financial support and compensation resulting from an employer's restructuring, allowing them to sustain themselves until new work is found.

The deferral of this compensation allows the employee to reduce taxes which are abnormally high due to the receipt of severance in the year of receipt, and allows the employee the ability to use the funds as required. The use of RRSPs serves as simple and existing means of achieving these goals through the tax system.

By taxing severance in the same manner as normal employment income, an employee is forced to use unused RRSP room to shelter the severance. When the employee withdraws the funds for living expenses while they search for new work, the RRSP room used up is not refreshed. As a result, the employee is forced to forgo the ability to save for retirement in order to defer being taxed on their severance. This is contrary to the purpose for RRSPs.

Severance resulting from corporate downsizing has been and will be an issue for taxpayers, as can be seen in the recently announced layoffs in various sectors of the economy. As the global economic uncertainty continues, many more Canadian employees will be faced with these issues.

The federal government appeared to recognize the increased incidence of severance when in 1998 they removed the applicability of alternative minimum to severance. While this was a positive step, it was of limited benefit since the ability of employees to roll severance into an RRSP was already eliminated. No additional measures have been introduced since then.

Recommendation

That the federal government:

1. Reinstate provisions allowing for the rollover of severance to an RRSP, without impacting the employee's otherwise earned RRSP room.
2. Update the amount of severance an employee is allowed to transfer to an RRSP by reference to today's contribution limits.

3. Immediately permit employees to contribute $5,500 per year of service with an employer, plus an additional $9,000 per year that they were not a member of an employer's registered pension or deferred profit sharing plan, with annual indexing thereafter.

Federal Alignment of Liens Policies with Provincial Counterparts

The misalignment of federal and provincial policies around liens on derelict properties creates hardships for municipalities and slows regeneration.

Already struggling with a massive infrastructure deficit and the responsibility for funding services downloaded from the provincial and federal governments, Canadian municipalities face the additional challenge of paying off provincial and federal liens on abandoned properties before they can be sold and redeveloped or made attractive and functional.

A lien is a legal claim on the property of another as security against the payment of a debt.

Business liens are attached to a property, rather than to the owner. As a result, the sale of the property is the only recourse available to recoup unpaid taxes on derelict properties. Buildings are often left in such a state of disrepair that they are in violation of provincial building codes, and the amount of the cumulative liens far exceeds the market value of the property. With limited resources at their disposal to pay off the liens and demolish or upgrade the structures, municipalities often leave derelict buildings to further deteriorate and stand as eyesores, impeding future development around them and lowering the value of surrounding properties.

When the property tax on land goes into arrears for a period of three years, the Ontario Municipal Act states that a municipality can initiate a "tax sale" in an attempt to recover the amount of unpaid taxes. There follows a one-year registration period before a municipality can advertise for this tax sale.

In a tax sale, tenders are accepted from parties interested in owning the property, including the municipality, and ownership is transferred to the highest bidder. If there are no bids received, but the municipality feels that the property may be of some value for future development, it can vest the ownership to the municipality. The term "vesting" refers to the transfer of ownership of property to a municipality with no monetary compensation.

For example, if an Ontario municipality sells or vests the property within seven years, it is required to pay the province for any provincial liens that exist on the property. If the municipality is not able to sell the property because it does not receive any bids that meet or exceed the total unpaid taxes plus the cost of undertaking the tax sale, or if the property sells for less than $10,000, it has the option of assuming ownership free of provincial Crown liens[51]. If the municipality does not want the property and it is unsellable, the property remains in the owner's name and the cycle is repeated.

There are, however, no similar provisions for federal Crown liens that continue to be tied to the property. While the federal government has agreed to remove all or part of liens on an ad hoc basis to encourage the redevelopment of contaminated sites[52], no formal mechanism is in place to have federal Crown liens removed from uncontaminated, derelict properties.

Liens that remain on derelict properties serve as a significant deterrent for individuals who wish to purchase the land for the purpose of redevelopment. With no process whereby properties may be completely freed of federal liens, the propensity for properties that are in a state of disrepair to continue to deteriorate and burden municipalities will surely continue.

[51] The Municipal Act, 2001 (www.e-laws.gov.on.ca)

[52] A National Framework for Encouraging Redevelopment of Qualifying Brownfields through Removal of Crown Liens and Tax Arrears, 2005, page 25-26

Recommendations

That the federal government:

1. Immediately allow for the removal of federal liens against a property by establishing and maintaining lien policies that are in alignment with those of provincial/territorial governments.

2. Work collaboratively with provincial/territorial governments to establish and maintain a nationally consistent, coordinated approach to removing Crown liens and tax arrears on qualified properties.

INTERNATIONAL AFFAIRS

Enhancing Canada's Trade Relationship with Asia Pacific and, in Particular, with Japan

Canada is a trade dependent nation and ensuring the vitality of Canadian businesses and communities therefore requires open global markets and rules based trade and investment. In view of changing trade and investment patterns, Canada's continued economic success and ability to create growth depends on successfully diversifying its markets. Failure to take advantage of high growth markets will result in the economy underperforming. For the economy to expand in the future, exports will need to be increased.

It is crucial for Canada to maintain a strong, open and transparent relationship with the United States. The United States is struggling, however, to emerge from a tough economic downturn that has impacted the growth of the American economy and has also led to the implementation of trade and investment barriers. Even as the United States remains our foremost economic partner, Canada needs to actively pursue the diversification of trade and investment by enhancing exchanges with other major economies. An overreliance on trade with the United States has resulted in Canada being outpaced in the race for markets. Canadian firms need to invest and broaden their horizons beyond the safe and close U.S. market.

Strengthening Canada's engagement with the Asia-Pacific region is vital as its strong economic growth and markets matter increasingly. Canada's market share in Asia is below potential and Canada has no full trade agreements with Asian countries. Canada needs to take part in the Trans-Pacific Partnership (TPP) Agreement negotiations as its top priority. TPP participation would provide enhanced access to a series of markets recognized as gaining importance in global trade and investment. Additionally, negotiations with India for a Canada-India Comprehensive Economic Partnership Agreement (CEPA) need to be concluded as soon as possible and exchanges at high level of government between Canada and China must continue to deepen the bilateral relationship and further trade.

As enhanced trade relations are discussed, it is important to ensure the countries Canada engages commit to open their domestic markets and eliminate non-tariff barriers. For example, when Canada-Korea negotiations for a free trade agreement (FTA) resume, they need to provide meaningful market access for all industries.

In addition, the importance of enhancing the relationship with Japan needs to be reinforced as the significance of Japan for Canada should not be overlooked or understated. Japan is the third largest economy in the world and a global industrial leader. Japan is an economy of weight for Canada and a leading innovator and global investor. Increased harmonization of Japanese and Canadian policy objectives, regulatory environments, and intellectual property rights regimes provides excellent prospects for increased Canada-Japan business collaboration in key sectors, such as aerospace and life sciences. Japan is also a major importer of Canadian commodities, including energy, food, primary and processed forestry products and minerals, and has an obvious interest in securing reliable sources of energy. As a result, discussions of an economic partnership agreement (EPA) with Japan are an attractive and positive development if sector-specific market access concerns can be addressed and Canada is able to secure market openness in sectors that have traditionally faced significant sector-specific non-tariff barriers to entry.

As aspirants to the TPP, it is also important for Canada to consider the potential impact of bilateral discussions with Japan as Japan also aspires to join TPP negotiations. Bilateral negotiations must carefully consider the benefits within the stronger TPP negotiating forum and anticipate the leverage of the combined North American jurisdictions when negotiating with other markets on contentious issues.

It is important for Canada to participate in the reconstruction effort in Japan. The earthquake off the Pacific coast of Tōhoku, also known as the Great East Japan Earthquake, with a magnitude of 9.0, occurred on March 11, 2011, and was the most powerful earthquake to ever hit Japan. The earthquake triggered tsunami waves that reached heights of up to 40.5 metres (133 ft) which, in the Sendai area, travelled up to 10 km inland. The World Bank has estimated that total damages could cost up to $235 billion.

Reconstruction stimulation strategies are being created and alternative energy projects are in demand. The reconstruction agency in Japan will facilitate investment and fast track approvals. Canadian business should focus on getting involved and seriously consider visits to Japan to strengthen connections, drawing on the support of local business organizations, such as the Canadian Chamber of Commerce in Japan.

Obviously, the EPA negotiations combined with the restoration special development project stimulus in Tohoku as well as a renewed focus on the Asia-Pacific region for Canada make Japan an attractive opportunity. This calls for

reengagement on a priority basis and the enhancement of our bilateral relationship. It is time to recalibrate the economic dimension of Canada's foreign policy to enable us to take better advantage of this market.

Recommendations

That the federal government:

1. Strengthen the engagement with Asia-Pacific countries through enhanced government engagement with Japanese and other governments in the region and ensure reciprocal market access for Canadian companies.
2. Enhance Canada-Japan economic relations through bilateral discussions, TPP forum and conclude the Canada-Japan Economic Partnership Agreement (EPA) negotiations on a priority basis
3. Continue to emphasize the role that Canada can play in Japan's reconstruction effort with respect to energy, engineering and other high demand areas.
4. Offer enhanced support by tracking and providing briefings to the business community on fast track approvals and other pertinent information related to Japan's reconstruction effort.

Developing a New Direction for the Canada-U.S. Trade Relationship

Canada and the United States have a special relationship built on shared values and a long history of family, friends and visitors living on both sides of the border. While historically the U.S. has been our largest trading partner and will always remain so, bilateral trade has been declining steadily for over a decade. There are many factors leading to this decline, including the high Canadian dollar, border thickening/inefficiencies, regulatory divergence and the growing importance of increased ties with Europe and Asia.

The United States is struggling to emerge from a tough economic downturn that has led to the implementation of trade and investment barriers. These measures are aimed to protect local industries in response to the domestic pressures faced. Current irritants in the Canada-U.S. relationship involve the delay of the Keystone pipeline approval until 2013, ballast water requirements and the Obama administration's decisions to revive 'Buy America' purchasing rules and to raise over $100 million from Canadian travelers via passenger inspection fees. Protectionist policies will continue to hurt North American economies.

A new reality is upon us and conventional approaches will not be enough to secure the long term stability of the bilateral relationship.

In focusing on revitalizing the bilateral relationship, Canada and the United States will need to strive for a more open trade and investment market by first working on opening the border to facilitate movement of goods, services and people. In 2011, Prime Minister Harper and President Obama announced a new "Shared Vision for Perimeter Security and Economic Competitiveness Action Plan." These action plans focus on improving the efficiency of the Canada-U.S. border and reducing unnecessary regulatory divergence. While these initiatives mark an important step, the business community remains concerned that governments will not live up to the commitments they have made, and also that not enough has been done to ease border restrictions.

Moreover, with the stalled Doha Round of multilateral trade negotiations, countries are quickly turning to bilateral and regional free trade agreements (FTAs) to foster trade and investment expansion. Canada has recently joined the Trans Pacific Partnership (TPP) Agreement. Participation in the TPP will provide enhanced access to a series of markets recognized as gaining importance in global trade and investment.

It is definitely time to be more ambitious and strategic by targeting countries that offer tangible growth opportunities for Canada while aiming to rebuild the bilateral relationship with the U.S

Also important for the United States is the fact that Canada is already their largest source of energy and can reduce America's dependence on energy from unstable suppliers in the Middle East and South America.

It is time to recalibrate the economic dimension of Canada's foreign policy to enable us to take better advantage of high growth markets while championing a new direction in our bilateral relationship with the United States.

Recommendations

That the federal government:

1. Define specific impediments to open trade and facilitate enhancements for trade and investment with the U.S. while simultaneously focusing on diversifying Canada's trading partners, targeting markets with the greatest promise.
2. Deliver a more open border that will ease the movement of goods, services and people and deliver on the commitments made in the Beyond the Borders and Regulatory Cooperation Actions Plans.
3. Continue to work within the framework of our existing membership in TPP to emphasize the foreign policy importance of Canada as an Asia-Pacific partner.
4. Move forward on an integrated approach by strengthening IP rights and copyright protection and demonstrating progress in other areas of trade reform that the U.S. is seeking from Canada.
5. Continue to emphasize the role that Canada can play with respect to energy security by reducing America's dependence on energy from unstable suppliers.

Canada's Free Trade Agreements – a New Dynamic

Issue

A more strategic approach is needed for Canada's international trade agenda. By their very nature, Free Trade Agreements (FTAs) focus predominantly on the removal of tariffs and duties. The government should focus on FTA opportunities where there is the real potential for Return on Investment (ROI) for both (or all participating) countries and, where the process is both consultative and available for public review.

While it is generally understood that FTAs offer a competitive advantage or at the very least a level economic playing field, Canada should not enter them uncritically. Entering into such agreements requires significant due diligence and a rigorous process that can and should include increased consultation with Canada's business community.

Background

Free trade agreements are meant to decrease or remove costly and time- consuming trade barriers in order to accelerate the trading of goods and services thereby generating more profits for those engaged in the agreement. In other words by opening up to new foreign markets, you allow for increases to sales and profits for domestic companies. It has been argued that this in turn, creates a domestic middle class with higher wage jobs over the longer term. Developing countries on the other hand gain access to cheaper goods and services which provides for a wider market for Canada's own domestically produced goods and services.

The Canadian government has increased its focus on expanding Canada's trade agenda. In the past number of years FTAs have been launched with key markets such as India, Japan, the European Union and the Trans-Pacific-Partnership. While Canadian businesses are generally in favour of market liberalization, some are concerned about the transparency and potential benefits of these FTAs. Furthermore, there is growing concern that Canada's international trade agenda lacks sufficient strategy and that time is being spent on securing agreements with jurisdictions that will bring only minimal gains to the Canadian economy.

For example, in the past few years agreements have been concluded with Honduras, Panama, Jordan and Colombia while negotiations with key markets such as Singapore, South Korea, India and the European Union have yet to been concluded.

The Canadian Chamber supports free trade and the following recommendations are designed to keep us focused on more strategic free trade agreements with specific countries. They are also designed to improve FTA utilization through increased FTA information and to create better links between existing FTAs. We acknowledge that the primary purpose of any FTA is for the betterment of the Canadian economy and its peoples. However, FTAs should not be entered into solely for special interest and not for political bi-lateral relationships.

Recommendations

That the federal government works with the private sector and provincial and territorial governments to improve the development of FTA's by:

1. Undertaking continued/expanded consultation with business that will help to establish the goals and objectives of any Free Trade Agreement.
2. Creating a clearly designed and defined repository of tangible benefits that will accrue to Canada's domestic suppliers of goods and services with an overall benefit to Canada's economy. (e.g. new jobs, export capacity, lower cost imported inputs, stability and transparency of trade environments etc.)
3. Seeking to improve the availability of access and information on current Canadian FTAs. This includes those already in force, which ones are predicted to come on line in the future, and the rationale that was or will be used for the development of these FTAs.
4. Ensuring greater transparency in the process and the inclusion of a full cost benefit analysis prior to drafting and conclusion of FTAs. These findings should be developed and shared in consultation with relevant stakeholders**.**
5. Conducting continued research into ways and means to improve trade not only within FTAs but between existing FTAs such cross cumulation: a known convergence methodology that encourages better and more efficient use multiple FTAs.

New Border Pact- Beyond the Border Action Plan

Trade between Canada and the United States currently equates to the movement of approximately $1.6 billion in goods and services per day in addition to which some 300,000 people cross the Canada-U.S. border every day. This international trade between our two countries represents tremendous mutual economic benefit and has grown substantially since the enactment of the North American Free Trade Agreement. The new Beyond the Border Agreement endorsed by Canadian Prime Minister Harper and U.S. President Obama makes provision for action plans that are intended to reduce trade barriers through harmonization of the regulatory process, increase mobility and reduce delay while increasing efficiency under enhanced security measures.

Trusted-traveller and business programs such as NEXUS and the Free and Secure Trade (FAST) programs are slated for expansion. Harmonization of the regulatory process is intended to improve and streamline the flow of traffic and trade. Trade facilitation, economic growth and jobs are key areas of cooperation outlined in this new border pact. Both parties to the Action Plan recognize the need to reduce the cost of conducting legitimate business across the border, and to implement "coordinated, cooperative, and timely border management decision making".

There are some flaws within the prevailing border programs relating to the cross-border mobility of people that are deserving of attention within the forthcoming harmonization process – some of which are addressed within the following observations:

NEXUS

NEXUS enables Canadian and U.S. border authorities to concentrate their efforts on potentially high-risk travelers and goods, thereby enhancing border security. It also allows card-holders to enjoy predictable and timely border-crossings. NEXUS attempts to strike a balance between national security and economic security. However, both the "zero-tolerance" enrollment policy and absence of an appeal mechanism for those denied enrollment shows little regard for personal security. To date, NEXUS procedures have left individual rights subject to the whim of institutional expediency.

After-sales service

The Plan outlines several cross-border business areas in which improvement is anticipated. One of these areas is after-sales service. We note that CBP construes rules allowing foreign nationals to enter the U.S. for this purpose as narrowly as possible. However, this narrow construction is not inherent in applicable law.

In 1991, the U.S. Department of Commerce published a pamphlet entitled "U.S. - CANADA Free Trade Agreement After-sales Service and Repair Questions and Answers". Page 5 of the pamphlet indicates that for an American to perform after-sales service in Canada, it is not necessary for an American company to have made the sale of the product to the Canadian user; it sets out provisions for a third country national company to make the sale and to contract the after-sales servicing to a U.S. company. Applying this rule to the converse situation (i.e., to Canadian after-sales service providers) a Canadian company need not have made the sale to the U.S. user provided the after-sales servicing has been contracted to it (provided that the product is not of U.S. origin) for one of its Canadian employees to provide the after-sales servicing.

Redress and expedited removal

The Plan calls for a review of the effectiveness of existing redress and recourse mechanisms for business travelers whose applications are denied.

Expedited removal is a procedure authorized by U.S. law in 1986 by which non-resident aliens may be excluded from the U.S. without the opportunity of a hearing and barred from re-entry for a period of five years. There is no judicial review of an Order of Expedite Removal. Nothing can be as devastating for a cross-border business as the expedited removal of a key employee. The Attorney General has been authorized to exempt certain aliens from the expedited removal process, and has done so by promulgating 8 C.F.R. § 235.3 which reads: "*An alien who is arriving in the United States, … who is determined to be inadmissible under section 212(a)(6)(C) or 212(a)(7) of the Act* ***(except an alien for whom documentary requirements are waived under §211.1(b)(3) or §212.1 of this chapter****), shall be ordered removed from the United States…*"

8 C.F.R. § 212.1 provides that "a visa is generally not required for Canadian citizens." Thus, reference to 8 C.F.R. § 212.1 by 8 C.F.R. § 235.3 means that Canadian citizens are not to be subjected to expedited removal. Unfortunately, CBP subjects Canadians to expedited removal on a daily basis. Meanwhile, Canada has no equivalent to the expedited removal process.

Facilitating the conduct of cross-border business

Among other things, this topic calls for:

A. Providing enhanced administrative guidance and training to CBP and CBSA officers and enhanced operational manuals to achieve optimal operational consistency at all ports of entry on business traveler issues.

B. Reviewing current processes under which all categories of business travelers may request adjudication of employment and related petitions by the destination country's immigration authorities to identify and resolve potential issues prior to the actual date of travel.

Recommendations

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

1. Implement improvements in cross-border transactions to support the principle that people, goods and services are deserving of equitable treatment irrespective of whether the transaction is southbound or northbound across our mutual international borders.
2. Address the current existing inequities between regulatory and interpretative aspects of Canada – U.S. border impediments which negatively impact the legitimate flow of people, goods and services across the Canada/U.S. border and undertake these in conjunction with implementing improvements under the new "Beyond the Border Action Plan".
3. Establish the criteria contained in the1991, the U.S. Department of Commerce pamphlet entitled "U.S. - CANADA Free Trade Agreement After-sales Service and Repair Questions and Answers" as the baseline for expansion of after-sales service rules and formulation of after-lease service rules, and as a model for a new bilateral publication reflecting the Beyond the Border after-sales and after-lease service agreements
4. Review and clarify CBP's use of expedited removal against Canadians to ensure that expedited removal will no longer be used against Canadians requesting admission to the U.S. at Ports of Entry for business or pleasure

5. Ensure that all CBSA and CBP guidance and training materials and enhanced operational manuals are made available to stakeholders prior to finalization to allow stakeholder feedback, and that all current guidance and training materials and current operational manuals be shared with stakeholders as soon as possible.

6. Advance the cause of free trade agreement generally through demonstrated removal of existing flaws within the prevailing NAFTA system through implementing harmonized revisions under provisions of the "Beyond the Border Action Plan."

Canada Border Services Agency - Customs & Immigration Programs

Canada's economic trade viability relies significantly on a number of gateways where transportation networks converge to connect centres of economic activity ("Gateways"). Gateways to Canada include approximately 300 commercial sea ports, over 20 major airports, and a large number of land border crossings, 18 of which are part of major road border crossings.

There are inequities in the provision and cost of Canadian Border Services at Gateways across the country. The Canadian Border Services Agency (CBSA) considers Gateway operators to be the sole beneficiaries of customs services rather than the public at large and, therefore the Gateway operators are subject to cost recovery.

The CBSA is a critical part of developing international trade and tourism throughout all regions in Canada yet the current CBSA policy is inflexible to develop new or expand existing services. CBSA is inflexible in its approach to requests for new levels of service and treats every application as a cost recovery issue. Smaller communities across Canada are being unfairly penalized by this policy. Where Gateways are obliged to contract with CBSA for additional new service, they either lose a large portion of the benefit from the new trans-border and international traffic, or must increase fees to cover the cost. The ability to attract new service for the community suffers. The economic benefits resulting from increased international traffic to Gateways can far outweigh the cost of providing customs services. Direct tax benefits to the federal government alone should justify the additional cost. Where it can be demonstrated through pre-determined criteria, where the benefits of this service extend beyond a single user or supplier, the system should adjust to accommodate the need without additional cost to the Gateway operator.

Transportation schedules change on a regular basis to accommodate customer's needs. The CBSA needs to have the flexibility to adjust to these shifts in demand. The CBSA must develop a policy for Gateway operators to: a) have a method to obtain afterhours service and b) have a cost recovery schedule collected by the CBSA directly.

It is critical that border services and infrastructure act as a catalyst and not an impediment to this vital part of our economic prosperity. Removing discriminatory policies, which penalize certain Gateways over others, must be a part of ongoing discussions to develop accurate staffing models for border services that reflect and respond to demand, and further strengthen border infrastructure programs.

This is an issue experienced by gateways all across Canada; however a few choice examples can illustrate the negative effect of existing policies. First, in Kamloops, B.C. custom services are offered Monday to Friday 08:30am to 4:30pm. Aircraft can arrive directly in Kamloops during those times and CBSA officers are on hand to attend to the aircraft and facilitate arrive to Canada. After hours cross border aircraft (with 30 passengers or less) are diverted to other points of entry. More often than not, the pilot is cleared by telephone in an alternate entry point and directed to proceed onto Kamloops for landing. Under the current agreement with CBSA, the Kamloops Airport Authority has the responsibility to collect the custom fees from the passengers, often at a later date. Due to the privacy policy CBSA will not divulge fees charged in the past for this service and because fees are not posted on the CBSA website, Kamloops Airport receives an invoice from CBSA after the passengers have disembarked and the plane has already left the jurisdiction. Kamloops Airport then has to bill each passenger after the fact and up to 30 per cent of inbound passengers refuse to pay. This leaves the Kamloops Airport in a loss position for these fees. Ironically the CBSA does provide after-hours customs service in Kamloops for aircraft with animals or insects on board. Prince George also experiences a similar issue. International flights not arriving during the 8:30am to 4:30pm window are charged an additional fee by CBSA. Since the vast majority of flights arrive outside of these hours, almost all international flights are charged by CBSA. CBSA core hours should be adjusted to match the peak operational hours of the airports where they are providing services. To make matters worse, when airports submit their business case for expanded services, CBSA does not consider arrivals of cargo planes or tech stops. Therefore, carriers are often forced to divert to other locations for clearance.

This is an issue not contained to B.C. and affects airports all across Canada. For example, The Mont Tremblant airport a La Macaza, QC is experiencing similar problems. They are having difficulty establishing an air connection for the area's tourism attractions which includes a ski resort in winter and golf in the summer. Currently CBSA charges $1,200 per aircraft to clear customs. Plans for scheduled service with a major commercial carrier are on hold due to prohibitive CBSA charges that will exceed $2,000 per flight. This is hindering growth in the tourism sector in that region even though the increase in GST alone to the federal government would recover their costs.

Recommendations

That the federal government and in particular the Canadian Border Services Agency:

1. Move immediately to remove the discriminatory cost recovery mechanism for Customs and Immigration services and provide these services on the same basis as they are provided in other areas of the country and at the same cost to Canadians.
2. Where new services are required in any region of Canada, the provision of such services should meet a legitimate business case that is a net benefit to Canada.
3. Develop and publish an after-hours service policy on a cost recovery and this basis should reflect actual costs of coverage; not HQ and regional overhead.
4. Post all its fee schedules, including on call services, on its website and set-up a direct collection methodology.

ENVIRONMENT AND NATURAL RESOURCES

Supporting Canada's Responsible Resource Development

Canada's resource development projects and associated infrastructure are an economic enabler for its economy, allowing value-added sectors to develop, create jobs, and compete. Currently, Canada's resource industries are in need of major investment to improve Canadian business competitiveness and trade potential.

Unprecedented natural resource opportunities have the potential to drive billions of dollars of investment in new capital projects. In their Plan for Responsible Resource Development, the Canadian government estimated that over $500 billion of new investments will occur across Canada over the next ten years in the mining, energy and forest sectors. These investments will be an important source of job creation for years to come. For example, the Conference Board of Canada estimates that for every $100 million invested in electricity generation, transmission, and distribution infrastructure, real GDP will be boosted by $85.6 million and 1,200 jobs will be created.

Regulatory review of resource and infrastructure projects addresses a broad range of environmental, health and safety, socioeconomic, community, and Aboriginal issues to ensure that the concerns of all interested stakeholders are taken into account. Potential environmental effects of a proposed project are identified and evaluated, providing the opportunity for the proposed project to be modified, if appropriate, before detailed design and construction starts. Through the regulatory review process, potential projects are endorsed, modified or rejected depending upon whether significant adverse effects, following planned mitigation measures, are predicted.

Achieving the investments needed to ensure Canada's competitiveness will require an efficient regulatory review process that ensures continued health and environmental protection of Canadians while generating jobs, economic growth and prosperity. A streamlined process will encourage investment by providing businesses with clear and predictable process and protect the environment while making the best use of limited government resources. Inefficient and unpredictable processes may turn away potential investors and prevent businesses may not be able to make informed location and logistics decisions. For example, the World Economic Forum has cited "inefficient government bureaucracy" as one of the biggest impediments to improving Canada's economic competitiveness. We need to make sure that the regulatory review process is efficient, has a clear scope, reasonable timelines, and the flexibility to address unforeseen circumstances.

All levels of the government have been working to make the regulatory review process more efficient by bringing greater certainty to the timelines for each review and by eliminating redundant or duplicative practices. The Federal Government took significant steps in this direction in the March 2012 budget, which proposed system-wide legislative improvements to the review process to achieve the goal of "one project, one review" in a clearly defined time period. The budget proposal to streamline the review process for major economic projects, support consultation with Aboriginal peoples, and strengthen pipeline and marine safety is welcomed by the Canadian Chamber. This intention builds on earlier improvements, including the creation of the Major Projects Management Office (MPMO), to provide a single window for the federal regulatory process for natural resources projects and on changes to the Canadian Environmental Assessment Act.

The Canadian Chamber of Commerce welcomes changes to improve the efficiency of the regulatory review process for major infrastructure projects. However, we encourage all levels of government to continue to build on these improvements to ensure that Canada develops a world class regulatory system that effectively supports economic competitiveness while protecting Canadians and the environment.

Recommendations

That the federal government, in cooperation with provincial, territorial and aboriginal governments:

1. In consultation with the private sector, lead the development of a comprehensive and adequately funded system consistent with the principles set out in the 2012 Budget that enables the completion of regulatory reviews in a timely manner while ensuring environmental protection.
2. Facilitate alignment with the implementation of regulatory changes and that information and expertise is shared in an efficient manner.

Energy Market Diversification

Canada has diverse energy resources that are spread across the country including oil, natural gas, coal, biofuels, and uranium as well as electricity generation opportunities. It is now the fifth largest energy producer globally and one of the few developed nations that are net energy exporters.[53] Currently nearly all of Canada's energy exports are to the United States, missing a chance to access global markets. Diversification of Canada's energy markets can create new jobs and economic growth from building infrastructure, improving energy security and helping to obtain maximum value from resource production and to increase value-added upgrading.

Canada's energy industry is vital to the country's economy, representing about 7 per cent of GDP, 23 per cent of exports and employing 260,000 people.[54] The industry contributes taxes and royalties to governments and is a backbone of the economy, providing competitively priced fuel for transportation and power for business operations.

Despite the country's strong energy production and export opportunities, Canada remains a regional player. Right now Canadian energy exporters essentially have one customer, the United States. This relationship has naturally occurred due to geographic proximity, a shared market-oriented approach, economic integration and friendly political relations. It has resulted in an integrated market with energy flows both ways between the two countries.

In 2010, Canadian energy exports contributed $94 billion to the economy with the majority from crude oil, petroleum, coal and natural gas exports.[55] Almost all of Canada's oil exports, and all natural gas exports, headed to the US via pipeline. In 2010, Canada exported about $2 billion in electricity to the US, the majority from low cost hydro-producing provinces.

At the same time, Canada also imports energy from the United States. In 2010, about $40 billion was imported including natural gas, liquefied natural gas and crude. These imports occur because domestic supplies are inaccessible or are at a higher cost than what is available internationally.

Interprovincial energy trade is also an important part of Canada's overall energy system. These relationships are complex and have evolved from market forces and provincial/territorial energy policy. For crude oil, connections between western Canada run until Ontario, with Quebec and Atlantic Canada lacking adequate pipeline capacity. Numerous projects are now being contemplated to rectify this situation. For natural gas, the mainline pipeline links BC through to Quebec; however, the increase in US shale production is reducing line volume. For electricity, the provinces trade less with each other than with the US. Although there are some interprovincial interties, unlike the United States, there is no significant grid system. An opportunity exists to improve the pan-Canadian energy trading relationship as part of the broader diversification drive.

Changing market dynamics are forcing Canadian energy producers to look beyond North America. Growing Canadian oil production, coupled with slow US demand growth, has created opportunities to feed faster growing parts of the world, particularly the Asia-Pacific region. While the US will remain an important and valued customer, new export options could secure higher prices for Canada's resources.

For oil, pipeline constraints in the US Midwest have created a divergence of the North American oil price (West Texas Intermediate or WTI) to the offshore world price (Brent). In 2011, this differential averaged US $17 per barrel,[56] costing billions in lost revenue for producers and significantly less taxes and royalties for governments. The National Energy Board expects this spread to decline as new infrastructure is built between the US Midwest and the Gulf Region. However, this approach adds market risk for Canadian energy producers who become at the mercy of foreign government pipeline approvals. Opening new markets provides producers with the flexibility to potentially access higher offshore prices (Brent), and reduce political risk associated with having only one consumer.

On the gas side, prolific shale gas plays have more than doubled gas resources in the US, leaving more than 100 years of supplies at current production levels.[57] Moving forward the US is projected to be a net exporter of liquefied natural

[53] Energy Policy Institute of Canada. A Strategy for Canada's Global Energy Leadership. July 2011.
[54] Natural Resources Canada. Canada as a Global Energy Leader: Toward Greater Pan-Canadian Collaboration. July 18, 2011.
[55] National Energy Board. Canadian Energy Overview 2010. July 2011.
[56] National Energy Board. Annual Report 2011 to Parliament.
[57] U.S. Department of Energy, *Modern Shale Gas Development in the United States : A Primer, accessed March 2011*
http://fossil.energy.gov/programs/oilgas/publications/naturalgas_general/ShaleGasPrimer_Online_4-2009.pdf

gas (LNG) in 2016 and a net pipeline exporter in 2025.[58] US production is booming because its shale plays have a cost advantage over Canadian producers with lower drilling and transportation costs. The market diversification case for natural gas is even more compelling. In 2011, North American natural gas prices averaged US $4.04/MMBtu (NYMEX).[59] Strong demand in Asia-Pacific countries such as Japan, South Korea and Taiwan has created opportunities to obtain higher liquefied natural gas prices of between $12-18/MMBtu. Again, billions are at stake for producers across Western Canada from this differential.

For electricity the market diversification opportunities are different from oil and gas. It is not feasible to export electricity other than to the United States. Here the opportunity is to increase exports of low carbon power to the US as it moves to secure less greenhouse gas emitting power sources. There is also an opportunity and improve interprovincial interties across Canada where prudent. A significant barrier to greater interprovincial electricity transportation is that provinces/territories have essentially created self-contained markets, with different approaches including crown corporations, market-based pricing systems serviced by private sector, or other variants. The greatest challenge to increasing interprovincial electricity trade is the patchwork of approaches and lack of transparency of pricing.

Recommendations

That the federal government works with the provinces and territories to:

1. Support the development of key energy infrastructure to improve Canada's access to global energy markets and increase west-east oil trade flows within the country.
2. Develop a pan-Canadian policy framework that improves the development of an environment that fosters an increasing share of the processing of natural resources to value added products while being mindful of market forces.
3. Explore opportunities to enhance interprovincial electricity trade by improving transparency of provincial and territorial pricing.
4. Encourage US decision-makers to a further integrate Canada's hydroelectricity as a low cost, low emissions power source.
5. Continue to improve the regulatory review process to ensure it is timely, efficient and effective.

Northern Gateway Pipelines Project

In order to sustain economic growth in Canada and avoid a land-locked glut of Canadian crude oil which could drive the return on crude exports to severely discounted levels resulting in halted oil production, it will be necessary to expand our access to crude oil markets beyond just the United States.

Crude oil production in Canada currently exceeds 3 million barrels per day (bbl/day) with the majority of that production occurring in the oil sands. Approximately 2 million bbl/day of Canada's crude is exported to a single U.S. market at prices that are marginally lower than the West Texas Intermediate (WTI) benchmark. In turn, WTI prices are significantly lower than world market prices using Brent Crude as the benchmark.

Given the current rate of oil sands production development, Canada's total oil production available for export will near 4 million bbl/day by 2025. Although Alberta receives a majority of the benefit from oil sands development the economic impact across Canada is very significant. Over the next 25 years it is estimated that benefits to British Columbia will be approximately $25 billion, Saskatchewan $5 billion, Manitoba $4 billion, Ontario $63 billion, Quebec $14 billion and another $3 billion throughout the maritime provinces and the northern territories.

In contrast to Canada's increased production, US domestic oil consumption is forecast to remain relatively flat due largely to conservation initiatives and U.S. oil imports are being displaced by prolific new oil plays in North Dakota,

[58] US Energy Information Administration. EIA issues AEO2012 Early Release. January 23, 2012.
[59] National Energy Board. Annual Report 2011 to Parliament.

Montana and Texas. On the other hand, global demand for crude oil from emerging economies is predicted to increase rapidly, driven by strong growth in Asian Pacific countries, particularly India and China.

The proposed Northern Gateway Pipelines Project would see two 1,170 km pipelines from the Edmonton area in Alberta to the port of Kitimat, British Columbia. One pipeline would carry on average 525,000 barrels per day of petroleum products from Alberta to Kitimat, the other line would carry on average 193,000 barrels of condensate (diluents) per day east to Bruderheim, Alberta. The project includes a 5 million barrel tank terminal and a deep water marine terminal with two berths near Kitimat, providing tanker access for oil exports to offshore markets via Very-Large Crude Carriers. Upon completion the Northern Gateway Pipelines project would provide the desired access to Asian markets.

As part of Canada and Alberta's world-leading environmental protection regime, the project will be reviewed by a Joint Review Panel (JRP), which is a three member, independent body mandated by the Minister of the Environment and the National Energy Board.

Over the course of 2012, the JRP will receive and consider all the information presented to them by the project proponent, Enbridge Inc., as well as various interveners, and it will consult with any and all interested parties in considering the engineering requirements, environmental and socio-economic impacts, economic and financial matters, impacts to public and First Nations lands, and any other public interest that may be affected by the proposed project under both the *Canadian Environmental Assessment Act* 2012 and the *National Energy Board Act*.

The submissions received by the JRP will go on record and will be used by the panel members to determine if the project is required for public convenience and necessity. An environmental assessment report will also be submitted to the Minister of the Environment. Following the federal and provincial governments' response to the environmental report, the panel will make a recommendation on whether or not a certificate of public convenience and necessity should be granted by the *National Energy Board. If a certificate is issued, the project can be given final approval to proceed by Cabinet.*

The Canadian Chamber of Commerce is very supportive of the project and believe that the Northern Gateway Pipelines initiative is of national importance, with the potential to significantly expand market access not only for Alberta, but also for Canada, and could be a nation building project as was the St. Lawrence Seaway project which initially opened the entire country to international trade routes and markets.

In addition to an estimated $81 billion in tax revenues and a $270 billion in national GDP uplift over 30 years, construction of the Northern Gateway Pipelines project will benefit communities throughout the country. In total, the project will generate 558,000 person years of employment yielding $48 billion in labour income and will provide $28 billion of value to industry in the first 10 years alone. Over 1,177 km of pipeline with pump stations and the marine terminal will provide 1,400 person years of direct construction employment in Alberta and 4,100 person years in B.C. Including indirect and induced employment a total of 62,000 person years across Canada will boost labour income by $4.3 billion.

However, business support alone will not be sufficient to ensure the project proceeds, so in the interests of the nation as a whole and in respect of the comprehensive and inclusive Joint Review Panel process, it is vital that the Government of Canada demonstrate strong leadership in enabling the project to proceed.

Recommendations

That the federal government:

1. Demonstrate strong support for the Northern Gateway Pipelines Project including appropriate participation in the Joint Review Panel process.

2. Encourage all provincial and territorial governments to support the Northern Gateway Pipelines Project in the spirit of national best interest and the development of a pan Canadian Energy Strategy.

3. Coordinate with other relevant governments and agencies to provide to the project proponents whatever permits, licenses and permissions that may be necessary to ensure the project moves ahead as soon as possible, following due process for such permits, licenses and permissions, upon conclusion of the hearings and as expeditiously as possible.

4. Respect the Joint Review Panel schedule, independence and authority and restrict any challenges brought forth outside the formal comment/input/appeal process.

Support for a Canadian Energy Strategy

Canada is energy-rich with a highly skilled workforce, world-class regulatory system and strong commitment to innovation. Energy is fundamental to the country's economy, security and quality of life. In a global context, Canada's abundant resources will help meet world energy demand which is projected to increase by 36 per cent by 2035.[60] A strategy developed by provinces, territories and the federal government could help establish shared objectives and areas of alignment towards a coherent national framework to maximize the country's energy potential. It would allow Canada to speak with a united voice internationally.

Developing this framework, Canada should continue with a market-oriented approach. Decisions on supply, transportation and energy use, both here in Canada and with Canada's trading partners, must be shaped by market forces. The framework should respect the division of powers and responsibilities for energy development between the provinces, territories and the federal government.

While continuing to respect jurisdiction and a market-oriented approach, a Canadian energy strategy could help establish a consensus on Canada's long-term energy direction. It could have practical benefits such as enhancing the regulatory system and securing agreement on energy transportation infrastructure. It could enable greater sharing of energy system information and best business practices. And it could help enable investment in new technologies to maximize the country's resource potential while improving environmental performance. All of these elements are critical to creating economic growth and enhancing energy security while providing a reliable and affordable supply of energy to Canadians.

Canada has diverse energy resources that are spread across the country. It is now the fifth largest energy producer globally.[61] The country ranks second in the world in hydro electricity production and second in uranium production. It is the only OECD country with growing oil production, ranking sixth in the world. Canada's oil reserves are third in the world behind Saudi Arabia and Venezuela. It is also third in natural gas exports. The country is also well placed to grow renewable sources such as wind, solar, geothermal and tidal power and biomass.

The direct benefits of the energy sector are significant and affect all regions in Canada. In 2009, the energy sector comprised about 7 per cent of Canada's GDP, employing 260,000 people.[62] Capital expenditures amounted to $61 billion, 20 per cent of total new capital investment in Canada. The energy sector is the largest private sector investor and source of foreign direct investment. In the next 10 years, more than 500 energy, mining and forest sector projects representing $500 billion in new investment are likely to occur across Canada.[63]

There are also significant indirect benefits of energy production to Canadians. Energy has formed the basis of an important industrial cluster that can create a competitive advantage for firms in a wide variety of industries, including manufacturing, finance and professional services.

This contribution cannot be taken for granted. Many major social, economic and geopolitical changes are impacting Canada's energy sector. The sector must respond, building upon its strengths to reach a new level of prosperity.

Citizens and others around the world have an expectation that Canada's energy resources be developed in an environmentally responsible and socially acceptable way. This also includes a gradual transition to a low-carbon economy. Technology and innovation will be a key component to enable this to occur.

In another major trend, energy demand in Canada's largest customer, the United States, is slowing, coupled with new US unconventional sources of oil and gas causing less reliance on Canadian products. While at the same time new

[60] International Energy Agency. 2010 2010 Work Energy Outlook presentation.
[61] Energy Policy Institute of Canada. A Strategy for Canada's Global Energy Leadership. July 2011.
[62] Natural Resources Canada. Canada as a Global Energy Leader: Toward Greater Pan-Canadian Collaboration. July 18, 2011.
[63] Natural Resources Canada. News release: Harper Government announces plan for responsible resource development. April 17, 2012.

growth opportunities are arising in emerging economies such as Asia. While the US will remain an important and valued customer, accessing new markets is necessary to provide energy producers with more options and potentially access to higher prices. The breadth of Canadian energy resources provides an opportunity to achieve global energy security.

Key to seizing this opportunity is competitiveness and the ability to attract investment. Capital is highly mobile and moves to the jurisdictions that provide the best risk-adjusted returns. With Canada requiring substantial new investment to develop its new energy supplies, competitiveness is vital to the industry's future success. One of the most important elements of competitiveness is the regulatory system. Regulatory complexity created by a joint provincial/federal processes has created concerns around efficiency, effectiveness and timeliness of the system. The federal government has recently introduced measures to improve the efficiency of the regulatory review process and move to a 'one project, one review' process with set regulatory timelines. Canada's business sector welcomes these changes as a solid step towards improving Canada's competitive position.

Unleashing industrial energy innovation, more efficient and effective regulation and enabling energy transportation infrastructure to access new markets represent opportunity areas for greater cooperation and collaboration across Canada.

Enacting the regulations, policies and programs that will allow Canada to leverage energy into a competitive advantage in the global economy will require a focused, cooperative and coordinated approach. As a result, the Canadian Chamber of Commerce broadly endorses a Canada-wide strategy to address the challenges and realize the benefits of responsible development, transportation and use of energy resources, for the benefit of all Canadians.

Recommendations

That the federal government, recognizing the roles of the provinces, territories and municipalities, facilitate the development of a Canadian Energy Strategy by:

1. Participating in discussions with provincial, territorial and municipal governments on the creation of a Canadian Energy Strategy that will form a shared vision for Canadian energy production and use, and provide mechanisms to facilitate coordination and cooperation across governments.
2. Supporting the development of key energy infrastructure to improve Canada's access to global energy markets, while continuing to improve the regulatory review including Aboriginal consultation processes.
3. Enabling the development and utilization of cleaner technologies through supportive policy, regulatory and financial frameworks, and collaborative innovation.
4. Facilitating energy literacy in the Canadian public though information sharing and outreach.

The Future of Canadian Nuclear Research & Development

The Canadian nuclear energy industry represents a vital part of the Canadian economy. The industry employs 70,000 Canadians directly and indirectly (via support industries), generating over $7 billion dollars a year in economic activity and over $1.5 billion in both provincial and federal revenues.

In 2011 nuclear energy provided 15.2 per cent of the Canadian electricity supply, with the Province of Ontario drawing over half (56 per cent) of its electricity from nuclear power. With the majority of western Canadian provinces still relying heavily on fossil fuel-based energy production, there exists an opportunity for further domestic nuclear energy expansion in Canada. Hydroelectric production has reached practical capacity, and coal and natural gas-based production methods utilize non-renewable resources which produce considerable greenhouse gas emissions. Alternative 'green energy' production, such as wind and solar, provide carbon-neutral sources of energy, but are limited by operational considerations, such as the availability of wind and solar energy and the high cost of storing generated energy.

According to the Ontario Society of Professional Engineers (OPSE), the government of Ontario is committed to nuclear power remaining at approximately 50 per cent of the province's electricity supply, as outlined in the Long-Term Energy Plan. To do so, units at the Darlington and Bruce sites will need to be modernized and the province will

need two new nuclear units at Darlington. The timely completion of the planning phase of the refurbishment will allow for energy supply stability and less reliance on high-polluting and expensive alternative energy sources.

With over 400 nuclear facilities in operation globally, 63 currently under construction and 66 in the planning phase, nuclear energy expansion and maintenance of existing facilities will become an increasingly vital source of energy and economic stability in coming years. The Canadian nuclear industry is already well entrenched in the global nuclear energy community, with significant operations in over 20 countries. Support for the Canadian nuclear industry from all levels of government, especially at the federal level, will become increasingly necessary due to increased demand for nuclear production, both domestically and internationally, as well as increased competition within the market. Since 2009, the Greater Oshawa Chamber of Commerce, together with the Ontario and Canadian Chambers, have supported the creation of an oversight committee/panel to address nuclear industry issues and act as a liaison between government and relevant industry representatives.

Note: Data for this resolution was generously contributed by industry members including Ontario Power Generation, CANDU Energy Incorporated, and the Ontario Society of Professional Engineers.

Recommendations

That the federal government in co-operation with its territorial and provincial counterparts, support:

1. In consultation with all stakeholders (i.e. business, education, labour), including the provinces and territories, ensure that Canada employs a 'made-in-Canada' nuclear energy strategy that will continue to remove barriers, provide jobs, encourage investment and foster economic strength for the Canadian economies in the coming decades.
2. Ensure that the strategic framework is national in scope, and encompasses (but is not limited to):
    - Research and Development, and the commercialization of technology
    - Fiscal Policy
    - Skills Policy, for the education of the Canadian workforce
    - Innovation Policy
    - Trade and Infrastructure issues (the cross-border movement of goods and services)
    - Education and information campaign.

An Integrated Approach to the Management of Waste and Recyclables

The Canadian Chamber recognizes the need for a consistent and equitable integrated approach to the management of waste and recyclables that incorporates social, environmental and economic considerations. We support the need to substantially reduce the quantity of waste that society generates, something that is driving a fundamental change in our attitudes and habits. Furthermore, we support the view that all segments of society, including the business community, should share responsibility for achieving this objective.

Traditional post consumer waste disposal practices are not sustainable. Such practices are wasting valuable resources, increasing social costs, and filling up difficult-to-site landfill space. The result has been initiatives from business and all levels of government to develop and implement new sustainable waste management technologies, processes and practices. Dealing separately with only a part of the waste stream or only one treatment method without considering the overall picture is likely to be environmentally and economically inefficient.

Industry recognizes its responsibility to minimize its use of resources and their environmental impact subject to the constraints of the function for which they are intended. Steps must be taken to ensure that products and packages are safe and compatible with waste management solutions. The federal government can demonstrate leadership by helping to develop secondary markets through procurement policy that specifies the use of recycled materials.

In addressing this important issue, the focus should be on eliminating waste at its source, developing sustainable alternatives, supporting waste/recyclable management infrastructure, educating the public, and growing alternative

markets for recycled materials. Industry has an important role in supporting technical and policy input to the development of a waste management infrastructure, promoting technology transfer and contributing to public education.

One class of new initiatives in waste management is Extended Producer Responsibility (EPR), defined as policies to shift responsibility for waste disposal from municipalities and taxpayers to producers and consumers. While the construct can be useful, the proliferation of unique EPR programs and the application of EPR as a default for any waste management issue without consideration of the unique characteristics of the waste material is inappropriate. In addition, the possibility of unintended consequences (such as expropriation of existing business) means that caution should be used in its application. This means ensuring that the design of EPR programs is based on solid evidence regarding their effectiveness as well as through consultation with businesses on the particular characteristics of the industry and waste product in question.

Recommendations

That the federal government, recognizing the roles of the provinces, territories and municipalities, adopt the following guidelines in the planning, promotion and implementation of programs for the management of wastes and recyclables:

1. Work with provinces and territories to eliminate duplication and reconcile the patchwork of unique regulatory initiatives across the country that add unnecessary administrative costs for Canadian consumers and stifle innovative approaches to waste management.
2. Foster pollution prevention and waste minimization through appropriate funding within the existing budget. The primary focus of funding for the first two years should be on educating businesses on their responsibilities under the current regulations and any future regulations that come into effect.
3. Ensure that consumers are aware of the costs of the various waste management methods through labeling that is transparent, fully-costed and related to waste quantities rather than hidden or blended into other costs.
4. Continue to support Canadian business' efforts to develop, manufacture, market and distribute innovative and world-class waste minimization, management and recycling technologies.
5. Continue to advocate the use of a range of appropriate waste management tools, including non-regulatory commitments, before prescriptive regulations.
6. Build upon the Canadian Council of Minister's of the Environment 2009 *Canada-Wide Action Plan for Extended Producer Responsibility* by ensuring that program design principles are:
    - Widely-applied during program development using consistent definition of EPR, and
    - Draw on a strong evidence-base as to the effectiveness of EPR policies
7. Ensure that government policy regarding waste management programs take into account a balance of environmental, economic and societal considerations by, for example, exempting recyclables from any definition of waste and recognizing that products can be created from by-products that might otherwise be considered waste.

Accelerating Domestic Styrofoam Reuse and Remanufacture for Environmental and Economic Gain

Expanded Polystyrene (EPS), commonly referred to as Styrofoam, is a rigid and tough, closed-cell foam. EPS is supplied to molders in the form of expandable polystyrene beads. The EPS beads contain pentane, a "blowing" or expanding agent, which activates when steam is applied. This causes the EPS beads to expand, and be processed and molded into either low or high-density foam products.

For more than 50 years, the effectiveness of EPS has been proven in numerous applications used by a wide variety of industries, consumer product manufacturers and shipping companies. Lightweight EPS is ideal for packaging applications due to its cushioning characteristics, dimensional stability and its thermal and moisture resistance. There is a growing use of EPS in construction, as insulating concrete forms and insulated EPS sandwich panels, as well as structural blocks in road and highway construction.

EPS is non-toxic, inert and made without chlorofluorocarbons (CFCs). EPS packaging has less impact on the environment than molded pulp packaging. Unfortunately, it is almost indestructible. Discarded polystyrene does not biodegrade for hundreds of years and is resistant to photolysis.

The current practice in disposing of EPS waste is to send it to landfills, ship it to China for remanufacture, or to a much smaller level, a few companies in the industry receive and store it, ultimately using the material in domestic remanufacture.

EPS In Canada

According to the 2008 EPS Recycle Rate Report prepared by the Alliance for Foam Packaging Recycler (AFPR), the total amount of post-consumer and post-commercial EPS sold in the U.S. was 172 million pounds in 2008. In Canada, the estimated total amount of post-consumer and post-commercial EPS sold is about 18.4 million pounds per year. This equals to more than 23 million cubic feet of EPS being sold in Canada for consumer and commercial purpose.

The majority of the post-consumer and post-commercial EPS is from electronics packaging that is used as an impact-absorbent for fragile electronic devices. In 2010 alone, Canada imported $43 billion dollars' worth of electronics. The estimated cost of packaging for electronics is approximately $860 million dollars. Depending on provincial regulations, the electronic companies may take the responsibility of recycling the end-of-life electronics through different product stewardship programs across Canada. However, the electronic companies refused to recycle the packaging that comes with electronics, including the EPS packaging that is used to protect sensitive electronic devices. This means that each year, hundreds of millions of dollars of packaging materials are sent to landfills, instead of being recycled.

Due to the weight of EPS, diversion will have minimal effect on municipal diversion rates or goals comparing to heavier items like bottles and is therefore low on the target list. Several municipalities in Ontario claimed that 100 per cent of EPS diversion will only increase their overall municipal diversion rate by 0.5 per cent.

As EPS takes 19 times the amount of space as regular garbage in a landfill, diverting EPS from landfill is more beneficial. It extends landfill life, attractive to operators because 19 times the amount of garbage can be dumped with the associated tipping fees.

Currently, an estimated 14.4 million pounds (80 per cent) of EPS waste in Canada goes to landfills, river streams and the ocean. This is the equivalent of 18.4 million cubic feet, or 208 Olympic sized swimming pools of EPS waste in Canada each year. In 10 years, it is estimated that over 64,000 trailer loads (40' trailers) of post-consumer and post-commercial EPS waste will be buried in landfill across the nation. The impact on our environment is enormous if we do not recycle the EPS waste. Due to the light weight and large volume physical properties, the total cost to haul EPS waste from transfer stations to landfill sites is estimated to be $20 million dollars, and the landfill cost is estimated to be $2.4 million dollars.

One criticism in the industry is that there is insufficient focus on redirecting EPS from both landfills, and shipment out of the country, to encouraging greater domestic remanufacture.

A Commercial Opportunity

EPS is 100 per cent recyclable. Recycled post-consumer and post-commercial EPS can be turned into value-added plastic products, such as crown moldings, picture frames, and park benches, movie props, faux marble and stone, etc, reducing the amount of virgin material needed. Comparing the various options for the 14.4 million pounds of EP waste in landfills every year, and using the virgin material price at $.90 cents per pound, following are the Costs and Value returned/retained on each option:

Landfill: Cost of hauling and landfill: market value $/lb : $(0.13)	Economic Value: $(1,896,480)
Compacted and exported to China: market value $/lb : $0.16	Economic Value: $2,304,000
Extrude & pallatize PS, and sell in open market: market value $/lb : $.50	Economic Value: $7,200,000
Basic recycled plastic products: market value $/lb : $1.20	Economic Value: $17.280,000
Innovate and high value recycled plastic products (conservative estimate) market value $/lb : $2.00	Economic Value: $28,800,000

Innovate and high value recycled
plastic products (optimistic estimate) market value $/lb : $3.00 Economic Value: $43,200,000

Recommendation

That the federal government actively promote the domestic reuse and remanufacture of waste Expanded Polystyrene (EPS), by convening or initiating a dialogue with, Canadian plastics industry companies and research institutions to explore and develop ways to stimulate and encourage research into, and development of, competitive and/or high value, job-rich products made in Canada, from recycled EPS.

Reduce Costs to Improve Federal Buildings

Issue

Globally, governments and the private sector alike are increasingly looking for ways to increase sustainability and to decrease their overall impact on the environment. The Canadian government can play a central role both in Canada and internationally by demonstrating sustainability leadership.

Background

As a significant builder and manager of infrastructure, the government is in a position to ensure that its federal building portfolio both from a construction and ongoing maintenance perspective are managed in a cost effective manner that maximizes sustainability and minimizes negative environmental burdens.

Solution

Efficient and effective approach to determine a federal building's sustainability and environmental impact is to assess the overall impact caused by the materials used to construct the building based on:

- direct and indirect sustainability and environmental impacts of the materials used in the construction/renovation the building project
- employ recognized life cycle assessment tools and methodologies to make quantitative material comparisons
- meet competitive and sustainable funding formulas for federal building

Recommendations

That the federal government:

1. When building new structures, renovating or adding on to existing buildings, require proponents and design teams to demonstrate critical evaluation of sustainable and lowest impact material solutions using recognized evaluation tools such as the LEED Certification Process.
2. Take steps to amend the National Building Code to include measurement criteria for assessing the sustainable and environmental impact of building materials including the adoption/identification of appropriate life cycle assessment tool(s) that fulfills federal government objectives.
3. Meet competitive and sustainable funding formulas for federal building set by the federal government.

Involvement of Foreign Foundations in Canada's Domestic Affairs

Project proponents particularly in the energy sector, are subject to regulatory oversight that requires proponents to fully disclose a wide range of information, including sources of financial support as part of the regulatory process. Alternatively, organizations that participate within or outside of the regulatory process to oppose such projects are not required nor expected to disclose their sources of financial support. Increasingly, what ends up happening is that projects proposed by Canadian firms are receiving significant opposition from organizations with little understanding or regard for the needs of local communities and local business.

Additionally, companies that promote projects that may be subject to regulatory oversight are required through the regulatory process to put forward science based assessments that are held to a high standard. Opponents on the other hand may use "junk science" to promote political unrest, instability and delay in the development process and are not held to any accepted standard. These actions, political or otherwise, create an uneven playing field between those businesses trying to contribute, in a positive, sustainable manner, to the economic well-being of Canada and those organizations that oppose projects based primarily on ideology and conjecture, rather than economic benefit and factual information.

Research has shown that a significant number of Canadian non-governmental organizations (NGOs) receive financial support not only from foreign interests and foundations with the intent of influencing Canadian public opinion and policy directions. What may not be fully appreciated is that all Canadian taxpayers indirectly support these causes if the NGOs acquire Canada Revenue Agency (CRA) charitable status, which many NGOs do. The NGOs are then able to issue tax receipts, which they then write off from their Canadian tax obligations, despite the fact that much of their activity could be deemed as directly political in nature. Many NGOs (or their representatives) are operating as lobbyists without following any of the rules laid out by Canadian law. [64]

In effect, there are a growing number of Canadian registered charitable organizations that are opposed to large-scale, industry-led developments, in many cases are actually being funded both directly and indirectly by the general public, that is, the Canadian taxpayer by individual private donations as well as the federal government's charitable tax incentives.[65]

To ensure transparency and fairness, Canadian taxpayers should be fully aware of which local and foreign interests are funding Canadian groups and to what level with the goal of hindering development of economically beneficial, yet environmentally sustainable projects in Canada. These projects are often of significant national importance to Canada's growth and prosperity. It is the view of the submitting chambers that the public has the right to know this type of information, and that right ought to be legally entrenched.

Although this issue is gaining momentum, advocacy has been limited to few independent individuals and small number of groups from the private, public and academic levels.

According to preliminary calculations conducted by Vivian Krause, a Canadian citizen and contributor to The Financial Post, U.S. foundations have contributed at least $300 million into the environmental movement in Canada since 2000. The Gordon and Betty Moore Foundation (Palo Alto, CA) has granted at least $90 million to B.C. environmental groups, the Hewlett Foundation (Menlo Park, CA) and the Packard Foundation (Los Altos, CA) have granted a combined total of $90 million and the Pew Charitable Trusts (Philadelphia, PA) has granted at least $82 million. At least $40 million has been granted by other U.S. foundations which co-ordinate their grant making through an umbrella organization called the Consultative Group for Biological Diversity (San Francisco, CA). The David Suzuki Foundation has received at least $13 million from American foundations over the past decade. The Rockefeller Brothers Fund (New York, NY) runs a "Tar Sands Campaign" which explicitly aims to block both the MacKenzie Pipeline project and the Enbridge Northern Gateway pipelines project and to block oil tanker traffic on the strategic coast of British Columbia. This campaign, with a budget of $7 million per year, involves several leading environmental organizations including the Pembina Institute, the World Wildlife Fund, Greenpeace, the Sierra Club and others. As part of this campaign, during 2009 and 2010 the U.S. Tides Foundation, based in California granted approximately $10 million into 40 different Canadian and U.S. environmental groups. In addition, the Geneva-based Oak Foundation, set up by British billionaire Alan Parker, has divided almost $2.6 million among six groups for campaigns against the oil sands since 2007; and, those are only to name a few.[66]

In the public realm, Conservative MP Brian Jean (Ft. McMurray-Athabasca) will be bringing forward a private members bill that would propose to block foreign funding of so-called "radical Canadian environment groups". The bill is still in the preliminary stages of development. The House of Commons Finance committee is also examining laws governing charitable donations and possibly forcing greater disclosure. On February 28, 2012, Ontario Senator

[64] Debates of the Senate (Hansard) – 1st Session, 41st Parliament, Volume 148, Issue 54, February 28, 2012

[65] Debates of the Senate (Hansard) -1st Session, 41st Parliament, Volume 148, Issue 55 February 29, 2012

[66] Debates of the Senate (Hansard) – 1st Session, 41st Parliament, Volume 148, Issue 54, February 28, 2012

Nicole Eaton launched an inquiry into "funding by foreign foundations," claiming that the issue is a "threat to the Canadian economy."

In her initial remarks during a February 28, 2012 Senate debate, Senator Eaton stated, "If we follow the money trail of financial contributions to Canadian charities and NGOs, we will certainly understand why foreign foundations are spending so much money in Canada. Unfortunately, the answers are often hidden behind layers of clever lawyers and accountants working for privately endowed foundations structured to avoid scrutiny."

Recommendations

That the federal government enact legislation requiring that Canadian registered charitable organizations wishing to participate in a regulatory process be required to satisfy the same set of criteria as other organizations for establishing a 'good standing' as a participant. At minimum the 'good standing 'criteria for all organizations seeking standing must include:

- full and complete disclosure of both the source of all funds raised (foreign and domestic) as well as the amounts contributed by those sources as proof of majority Canadian interest and funding
- clear demonstration that the organization is operating within its objects of incorporation
- proof that the organization is within the 10 per cent threshold legal restriction on political activity/lobbying
- demonstration of a direct interest in the outcome of the proceedings or a "public interest" basis for their participation
- provision of some unique evidence or perspective that is of direct relevance to the regulatory issues