



Submission to the
Red Tape Reduction Commission
by the
SME Committee
of the
Canadian Chamber of Commerce

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Introduction

As Canada's largest and most influential business association, the Canadian Chamber of Commerce has an extensive network of over 420 chambers of commerce and boards of trade, representing approximately 192,000 businesses of all sizes – SMEs being, of course, the majority – in all sectors and regions.

Red tape is a major barrier to competitiveness and a severe disincentive to investment. It results in significant cost to the Canadian business community. Cumbersome paperwork, approval delays and demanding reporting obligations are a matter of concern. A lack of clarity and difficulty accessing information and assistance cause further frustration. In dealing with the government, there are problems obtaining concrete answers and identifying who does what.

Accordingly, companies must spend valuable time and resources understanding and meeting technical requirements and may even need to hire external consultants to administer the associated paperwork. This leaves less time and resources to invest in the business. There is no direct trade-off between the company's objectives and the regulation's intention.

The problem is further compounded by the strict approach to compliance taken by many government officials. Requirements are applied across the board. We need to shift from zero tolerance-process focused enforcement to an outcome sensitive approach. There should be a clear accountability framework for regulators. At the moment, it is the business which must absorb the costs in the process focused approach, and there is no down side for regulators when their actions create delay, confusion or contradictory instruction.

Moreover, Canada is in direct competition with low-cost jurisdictions around the world. Red tape is a drain on the economy we cannot afford. Commercialization in Canada is impeded heavily by all the requirements, permits and approvals that businesses must go through. Steps to identify and rectify existing compliance issues and address the costs, uncertainty and delays of the regulatory environment are crucial.

The Canadian Chamber is an ongoing advocate of reducing red tape and the compliance burden on business. In this submission prepared by the SME Committee of the Chamber, we have concentrated on several key areas that are hugely impacted - taxation, immigration, the border, tourism, climate change, the environment and Statistics Canada Schedule II ownership returns.

Certain Specific Areas of Concern:

Taxation

In the area of taxation, the administrative and compliance burden on businesses of all sizes must be reduced. It costs businesses a significant amount annually to comply with their tax obligations. Not surprisingly, the lion's share of the burden is born by SMEs and, the smaller the business, the higher the tax compliance cost per employee. Factors contributing to tax compliance costs include the high amount of paperwork, the complexity of the tax system, frequent changes in tax legislation, difficulty obtaining answers from CRA, different rules across jurisdictions and the need to deal with multiple audits (federal and provincial/territorial). Also, complying with sales tax rules is a top irritant for many small business owners.

The Canadian Chamber has also been lobbying for improvement of Canada's system of international taxation in order to cut red tape, facilitate investment and streamline the compliance process associated with the taxation of cross-border activity. Implementing a formal system of loss transfer or consolidated reporting for corporate groups would improve the functioning of the tax system, significantly ease compliance and strengthen international competitiveness.

Furthermore, the Chamber has long suggested that the federal government reform the SR&ED tax incentive program in order to make it useful to all R&D performing businesses and to also take action to improve the program's administrative management. Administration of the program is often unpredictable. Many of our members are frustrated that SR&ED tax credits are not being delivered in a predictable, timely and cost-effective manner. Improvements to SR&ED programs would therefore be welcome.

Also, the current narrow focus of the Canada Revenue Agency as to what is supported and how SR&ED claims should be documented is simply not delivering the broad-based incentive. SMEs represent about three-quarters of the claimants but less than one-quarter of qualifying SR&ED expenditures. The overly narrow eligibility criteria and complex application procedures discourage many SMEs from applying. As a result, the enormous potential for innovation among Canada's SMEs is underexploited and SMEs are not maximizing productivity and growth.

Immigration Process and Programs

Immigration policies must ensure Canada's continued prosperity. SMEs experience frustration with processing delays and the overall complexity of the immigration system. The process must be driven by business, not visa officers, and immigration programs must continue to be improved.

Businesses are frustrated by the bureaucratic red tape and complex rules involved in hiring temporary foreign workers. Furthermore, once they are in Canada, making an application for permanent residence often requires a new Labour Market Opinion (LMO) and work permit extension, rendering it a time-consuming and costly process. Companies have been forced to consider options other than the LMO process due to associated problems. LMOs are becoming significantly more difficult to obtain for a reasonable duration of time, such as for the maximum period of three years. Given even longer immigration processing times for permanent residence and the time it generally takes to properly collect all documents and prepare the application, it is often difficult for temporary foreign workers to complete the process within the validity of their initial work permit. With LMO and work permit duration of three years, however, it is easier to process the permanent residence application without requiring extensions.

Service Canada officers often do not understand the complexity, significant expense and long-term nature of projects, the training involved and the need to be able to rely on long-term availability of staff for planning purposes. Many have a limited understanding of the implications of unavailable skilled and experienced employees. Companies have also advised that the enforcement attitude of Service Canada officers is a concern as it has a significantly negative impact on a company's ability to bring legitimate temporary foreign workers to Canada. Moreover, officers at ports of entry need to be better trained on work permit provisions in order to ensure a smoother and speedier process.

In addition to the problems regarding LMO duration, the new advertising rules require companies to post salaries or salary ranges for skill level "B" occupations. Such advertising puts a company at a clear disadvantage, rendering it easier for competitors to poach employees. Service Canada refuses to allow exceptions to this policy. The new requirements also result in frivolous advertising with added hassle and cost to the company, especially in view of the termination of LMO extension provisions. With extensions no longer possible, a new LMO must be obtained and therefore new advertising must be done, even if the company is perfectly satisfied with the incumbent in a particular role. Service Canada may recognize the burden of additional unnecessary advertising but still insists on it

in most cases. Although they do have discretion to waive the requirement, it is unfortunately exercised in a very narrow and limited way. Changes are necessary. When an employee has applied for permanent residence, mandatory advertising should be waived. This would allow the company to avoid the added burden of re-advertising a position when they intend to hire the employee as soon as permanent residence status is obtained.

Federal Skilled Workers Program (FSWP): Serious problems in the FSWP need to be addressed, including long delays, qualifications mismatches and recognition issues. In order for Canada to be able to compete effectively in attracting foreign skilled workers from the limited global pool, our processing times cannot be longer than those of other countries. Presently, however, they are longer than immigration competitors, such as Australia. Current FSWP processing times are excessive, frequently approaching over two years. The FSWP has also become less attractive due to mandatory language requirements and longer processing times in the United States (where many applications are filed). Furthermore, companies find the language requirements costly and ill-conceived. It is a waste of time and resources when skilled workers, (who may be US citizens), have to take an entire day, (during the weekend on their own time or during the week on company time), for the language test. There should be reasonable exceptions for applicants from English or French-speaking countries or for graduates of English- or French-language universities. "One-size-fits-all" should not apply.

Provincial Nominee Program (PNP): The PNP allows participating provinces and territories to nominate immigrants who wish to settle in their jurisdictions, based on labour needs and through separate provincial nomination processes. PNP applications are subsequently granted priority processing by Citizenship and Immigration Canada (CIC), according to Canadian immigration requirements. The PNP process is however more expensive and can take longer than an LMO application. The government should explore removal of the nominee cap per company.

Canadian Experience Class (CEC): The CEC modeled on the Australian program is a welcome development allowing international students trained in Canada to integrate into the workforce after graduation. This program was initially quite appealing due to fast processing times of 6-8 months and less stringent requirements than the FSWP. Processing times have since increased to 12-14 months, rendering the CEC less attractive and, as a result, work permit extensions and new LMOs are required while permanent residence applications are being finalized. Another problem is that international students in one-year

post-diploma programs are not eligible for the CEC as they have not studied in Canada for at least two years, and cannot apply under the FSWP either without arranged employment. The government should seriously consider allowing them to apply for permanent residence in Canada.

The Border

Despite being regulated under NAFTA, the temporary entry of professionals continues to present problems. There are four criteria for temporary entry permits under NAFTA: traders or investors, professionals, intra-company transferees and business visitors. While rules are in place governing entry requirements, the growing red tape associated with temporary entry permits is an ongoing concern to businesses.

The Chamber is a strong advocate of trusted shipper and trusted traveler programs, such as Free and Secure Trade (FAST), NEXUS, Customs Self-Assessment (CSA), Customs-Trade Partnership against Terrorism (C-TPAT) and Partners in Protection (PIP), to reduce border congestion by allowing border officers to focus limited resources where most needed – on unknown cargo and travelers. The costs of becoming a trusted trader or traveler, however, are often high and benefits limited. For instance, certification in trusted shipper programs can take years and cost over \$100,000. SMEs have a hard time justifying these costs. Also, ensuring compliance requires dedicated, full-time staff. Overlap among these programs, in areas like risk assessment, program conditions and client interaction, causes additional complications for participants. There is a need to reduce redundancies by integrating trusted trader programs. Better alignment between programs is also necessary.

Currently, trusted shipper programs are administered by CBSA and US Customs and Border Protection. Expanding these programs to other government departments with mandates in border services, such as the Canadian Food Inspection Agency, would have a positive effect on industry participation and appeal to a larger number of industries subjected to additional screening by these departments.

Climate Change and the Environment

The Chamber is also concerned about duplication and the excessive administrative burden caused by environmental regulations. One issue is the paper burden associated with Canadian Environmental Protection Act (CEPA)

documentation and reporting requirements. As well, there is a need to coordinate and/or harmonize environmental regulations between the federal government and provinces, and also among the various provinces. For example, a company should only need to report its greenhouse gas emissions to one level of government and copy the other, rather than having to complete separate forms (that might have different requirements or measurement techniques). Moreover, provinces are developing their own systems, which may not be compatible, causing problems for companies that operate in multiple provinces.

Hence, a major source of concern for our members is duplication in the federal-provincial Environmental Assessment (EA) process. A streamlined and efficient EA process requires coordination between provincial and federal jurisdictions at the national level. Historically, the lack of coordination, duplication of requirements and absence of timelines have been burdensome and a major contributor to project delays. A standardized national EA process has not yet been developed. More needs be done to harmonize EA across jurisdictions through a statutory, regulatory and dispute resolution framework that enables remaining discrepancies to be resolved. A national framework integrating existing policies and procedures would ensure that planned reforms to the process result in greater predictability across the board, reducing the compliance and regulatory burden and lowering the cost of doing business. A standardized one project-one assessment approach that harmonizes federal and provincial statutes and regulations is the answer.

Tourism

The Chamber is lobbying for elimination of the excessive administrative burden placed on international tour operators by the Foreign Convention and Tour Incentive Program (FCTIP), which is too cumbersome to benefit the tourism industry. The FCTIP complexities render the rebate process burdensome. Tour operators will raise their price of Canadian tours to recoup GST costs rather than apply for rebates, rendering Canadian tour options less competitive. It is recommended that the excessive administrative burden on international tour operators, that hampers uptake of the FCTIP, be eliminated. Development of an individual traveler GST/HST rebate program is also recommended.

Foreign Ownership Returns

Statistics Canada requires Schedule II ownership returns for every entity registered in Canada (or any province). These returns are for the government to “collect detailed information on foreign ownership and control in the Canadian economy, which is reported to Parliament”. Canadian entities need to file these returns annually. The returns are very time consuming and often do not reflect correct information even after corrections have been made in previous returns. They also need the signature of the President or COO of the entity, an added burden. There is no point in requiring Canadian controlled companies to complete these returns.

Conclusion

In closing, the exercise launched by the Red Tape Reduction Commission is a positive signal that the federal government appreciates what is at stake in the issue of red tape and regulatory reform and that changes are necessary.

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

SMEs are the engines of the economy. It is therefore imperative that the government follows through on implementing changes to tackle the disproportionate compliance burden on small businesses to allow them to grow and flourish.

The SME Committee of the Canadian Chamber of Commerce endorses the direction of the government and eagerly awaits the outcome of the review process.

SME Committee Members

André Dumais

Manager, Corporate Services, Bestech

Larisa Beach

VP, International Business Development
Neptec Design Group

Jason Di Tommaso

President, Di Tommaso Consulting

Tracy Peterson

General Manager, CMO Data Systems

John Treleaven

President
Saanich Peninsula Chamber of Commerce

Nancy M. Conrad

Senior Vice President, Policy
Halifax Chamber of Commerce

Brian Rose

Vice President, Membership
Halifax Chamber of Commerce

Laura Small

CEO
Women Entrepreneurs of Saskatchewan Inc.

Kelly Pritchard

Policy Analyst, Ontario Chamber of Commerce

Anne Argyris

Director, SME Policy
Canadian Chamber of Commerce

Jennifer Hagen

Director, Chamber Relations
Canadian Chamber of Commerce