



October 15, 2014

Mr. Campion Carruthers
Director, Program Integrity Division, Temporary Foreign Worker Program
Employment and Social Development Canada
140 Promenade du Portage (mailstop 409)
Gatineau, Quebec
K1A 0J9

Re: Discussion paper: Regulatory proposals to enhance the Temporary Foreign Worker Program
and International Mobility Program compliance framework

Dear Mr. Carruthers:

The Saskatchewan Chamber of Commerce (SCC) welcomes the opportunity to submit its comments to Employment and Social Development Canada (ESDC) with regard to the regulatory proposals to enhance the Temporary Foreign Worker Program and International Mobility Program compliance framework. As the Voice of Business in Saskatchewan, the Saskatchewan Chamber of Commerce represents the interests of over 10,000 businesses across the province through the Chamber Network.

The SCC has given careful consideration to the regulatory proposals put forward in the discussion paper. While the SCC does not support the federal government's decision to purposely reduce the number of temporary foreign workers available to Saskatchewan employers, particularly because the province has the lowest unemployment rate in Canada, the SCC does believe some of the proposed regulations will strengthen the system for workers as well as most employers. Our organization also understands that it is only through a strengthened system that employers can continue to access the international workforce they so desperately need.

The SCC has always been supportive of placing penalties upon unscrupulous employers and our organization believes that providing ESDC with more tools to do this will help to more clearly connect violations with consequences. However, the SCC is very concerned that the proposed regulations remove the option of allowing non-penalizing responses by the government for good faith errors and unintentional accounting or administrative errors where corrective action is subsequently taken by the employer. The SCC does not think mistakes of this nature should subject an employer to an administrative monetary penalty (AMP) and/or a ban because these mistakes are unintentional, typically applied equally to all employees (i.e. not exclusive to foreign nationals), and generally already addressed through existing employment laws. The SCC

recommends that this change to the compliance standard be eliminated from the proposed regulations.

The SCC is also concerned with the proposal to multiply the AMP applied to a single violation by the number of foreign nationals impacted. This is particularly concerning when coupled with the fact that the proposed regulations also wants to apply AMPs for good faith errors and unintentional accounting or administrative errors where corrective action is taken. The SCC believes the AMP is a tool that the ESDC should have access to, but that the application of it needs to be balanced. The range of fines available through the AMPs, \$500 - \$100,000 gives a sufficient array of financial penalty for ESDC to utilize. The SCC supports the premise that AMPs should be applied for each unique violation an employer has made but that the number of foreign nationals involved should not be a factor. Including this would apply a dual penalty to large employer because they are already segregated into a costlier bracket for the determination of sanctions and they typically employ a higher number of foreign nationals. The regulatory proposal does not multiply the length of program bans by the number of foreign nationals involved, so putting that criterion in place for the AMP appears as a cash grab by the government that our organization does not support.

The discussion paper on the proposed regulations references the future development of guidance documents to clearly explain criterion and examples to assist program officers in making determinations. The SCC urges ESDC to undertake this task immediately. The inconsistency of decision making is a frequent complaint of businesses involved in the temporary foreign worker program and it must be standardized as penalties become more severe.

Taking the complaint of inconsistent decision making one step further, the SCC supports the decision to add an administrative review process for AMPs and/or ban lengths, but believes this review potential should be expanded to LMIA rulings as well. Inconsistency in LMIA administration is not a new concern, but the increased cost of applications makes this more distressing. LMIAs can cost employers tens of thousands of dollars, not to mention the tangible impact a worker shortage has on operations. Due to this considerable impact, employers should not be left without any recourse to appeal a decision on reasonable grounds. Expanding the administrative review process to include LMIA rulings is the next logical step to enhance accountability within the government and improve transparency of the program.

In conclusion, although the SCC is disappointed with the federal government's decision to place impractical limits on the number of TFW's coming to Saskatchewan, our organization supports the introduction of AMPs and variable ban length. With this in mind, the SCC believes the proposed regulations can be strengthened if the following amendments are made:

- 1) Do not enable AMPs and/or bans when good faith errors and unintentional accounting or administrative errors are made in situations where corrective action is taken.
- 2) Do not multiply the AMP applied to a single violation by the number of foreign nationals impacted.
- 3) Immediately develop guidance documents to assist staff in consistent decision-making.
- 4) Establish a clear appeal process for employers who believe their LMIA processing was mishandled.

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By instituting the reforms outlined in this letter, the SCC believes that the Government of Canada can operate a more successful Temporary Foreign Worker Program that responds to the concerns of the government, public stakeholders and foreign workers while treating employers in a balanced, respectful way.

If you have any questions or concerns relating to the recommendations in this letter, I encourage you to contact our office at 306-352-2671.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve McLellan', written in a cursive style.

Steve McLellan, CEO

c.c. Hon. Jeremy Harrison, Saskatchewan Minister Responsible for Immigration