BRIEF TO THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION

42 ND PARLIAMENT 1ST SESSION

MIGRATION CHALLENGES AND OPPORTUNITIES FOR CANADA IN THE 21ST CENTURY

WITH SPECIFIC REFERENCE TO: "**VOLUNTARY MIGRATION CANADA'S EXPECTED LONG-TERM NEEDS AND OBJECTIVES, HOW THE COUNTRY COMPETES GLOBALLY, AND WILL FOCUS ON THE APPROPRIATE LEVELS THAT NEED TO BE ESTABLISHED TO MEET THOSE NEEDS AND OBJECTIVES."**

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Submitted via e-mail to the Clerk of the Committee

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Dear Mr. Oliphant and Respected Committee Members

1. Thank you for the opportunity to make a written presentation on the issue of voluntary migration to Canada.

OBJECTIVE OF SUBMISSION

2. The Committee stated that, inter alia, the objective of this study in terms of voluntary migration would be to focus on three items:

a. **Canada's Expected Long-Term Needs and Objectives**,
b. How the Country Competes Globally, and
c. Will Focus On The Appropriate Levels That Need To Be Established To Meet Those Needs And Objectives

3. The focus of this submission is on sub-paragraph (a) and sub-paragraph (c) above.

4. Voluntary migration represents economic immigrants, skilled immigrants, lower skilled immigrants, business immigrants, entrepreneurs, investors, family immigration, etc. The focus of my submission will be on **skilled immigrants who will enter the labour market based** on the selection methodology of the Immigration Refugee and Citizenship Canada (IRCC). After arrival in Canada these immigrants (some with arranged employment/ job offers and other without job offers) will work for Canadian employers.

5. The 2018 target of Federal High Skilled immigrants (Federal Skilled Worker Program, Federal Skilled Trades Program and Canadian Experience Class) is about 78,200 out of a total of 310,000 immigrants. The focus of this presentation is on the Federal Skilled Worker Class and the Federal Skills Trades class which is about **72,800** immigrants.

6. The presentation will be divided into 4 sections:

a. Who Decides: Government or Industry?
b. Lack of Strategic Coordination about Future Objectives (not Operational Execution of Existing Policy)

c. Anti-Temporary Foreign Worker Sentiment with ESDC/IRCC vs Needs of Industry (Employers)

d. Six Suggestions

WHO DECIDES: GOVERNMENT OR INDUSTRY ?

7. In November 2016 the government decreased the value of arranged employment (job offers to 4 % from 50 %) of the total score of a skilled immigrant in the Express Entry System. On 2 January 2017 the IRCC was asked why the value of a job offer fell from 600 points to 50 points in an express entry application, which is the lowest value to a job offer in decades. The response was as follows: "**Express Entry is a competitive system that actively and purposefully issues invitations only to the candidates who are best positioned for economic success in Canada. Because invitations are issued on a 'top down' basis, elevating candidates with lower levels of human capital (by providing higher levels of points for arranged employment) necessarily results in fewer invitations to candidates with higher levels of human capital. In large enough numbers, these trade-offs have the potential to constitute a significant opportunity cost for Canada's economy[1]"** Based on this logic, a 30-year-old university lecturer in Dutch poetry, the Zulu language (language from South Africa), or Egyptian Hieroglyphs with a honours degree and 3 years' work experience in their field of education has more points (and therefore more value according to IRCC) than an immigrant with a bachelor degree in electrical engineering, 35 years old with 10 years of work experience in electrical engine engineering. This simply does not make sense. What is also concerning is that such major policy changes are being implemented with little research, oversight or accountability. Access to Information Requests has shown that industry was not consulted, despite the fact that industry is the final client of the skilled and lower skilled programs as after arrival Canadian industry is expected to offer jobs to these immigrants.

8. What does the media say about the outcome of our selection policies of skilled immigrants?:

a. Mr. Benjamin Tal (Deputy Chief Economist of CIBC or the Canadian Imperial Bank of Canada) wrote an article in the Globe and Mail dated 27 October 2018 named “Why a BA in history and a minor in plumbing should not be seen as a joke”.[2] In the article he wrote the following:

i. “Narrowing employment and earnings premiums for higher education mean that, on average, Canada is experiencing an **excess supply of postsecondary** graduates. And the risk attached to the investment on that education has never been higher.”

ii. “Canada has the highest proportion of postsecondary degree- or diploma-holders in the Organization for Economic Co-operation and Development (OECD), and an above-

[1] E-mail from the Representative’s Mailbox dated 13 Feb 2017, Reference number REP-2017-0116.

[2] https://www.theglobeandmail.com/opinion/article-why-a-ba-in-history-and-a-minor-in-plumbing-should-not-be-seen-as-a/ dated 27 Oct 2018

average annual university tuition cost. But Canada also has the highest share of university graduates earning less than half the median income. **Those degrees are not being translated into good jobs, ones that would also promote income equality**. Why the disappointing performance?"

iii. "The Canadian degree is not the whole problem. **Poor labour-market outcomes of immigrant postsecondary graduates are part of the story**. More than 20 per cent of Canadians with either a college diploma or a bachelor's degree are immigrants, and that share rises with the level of education. Half of all PhD holders in Canada are foreign-born. **Yet the unemployment rate among immigrants with postsecondary education is notably higher than it is for Canadian-born individuals with similar education. The same can be said for earnings**."

b. On 7 February 2013, Mr. Benjamin Tal from CIBC spoke with TVO (www.tvo.org) about the "Labour Gap".[3] During the discussion with Steve Paiken the following was mentioned:

"And if the productivity is not rising, it means the economy and labour market cannot rise in a very significant way. If you look at the number of vacancies, we have roughly 200 vacancies for every one thousand unemployed. This is a record high, which means we have people unemployed, but still we have rising vacancy rates because we don't have the right people. This is the mismatch. Too many people that don't have the skills of companies want and need."

c. In a 19 September 2016 Calgary Herald article named "**Skilled Immigrants wasting their talents in Canada**"[4] interesting comments were made about the underemployment of skilled immigrants. The following was mentioned in the article:

"In 2015, the Conference Board of Canada estimated that if Canadian employers and professional regulatory bodies did a better job of recognizing immigrants' skills, they would earn an additional $10 billion to $12.7 billion annually and would pay more tax. Added to that is the huge emotional toll on these newcomers, especially when they wind up working survival jobs in cleaning, fast-food restaurants and retail, said Naghmeh Rezvani, a career practitioner at the Centre for Newcomers in Calgary."

d. It was reported in the Toronto Sun on 29 August 2018[5] that the federal government is considering to pay employers to employ immigrants. More specifically the following was mentioned: "**Under the Social Impact Bond model, the government and employers, with input from stakeholders including job agencies, would first agree on the specifics of what a successful outcome for an 'initial hire' or 'job laddering' would look like….A**

[3] https://tvo.org/transcript/2092969/video/programs/the-agenda-with-steve-paikin/benjamin-tal-labour-market-gap

[4] https://calgaryherald.com/news/national/skilled-immigrants-wasting-their-talents-in-canada=

[5] https://torontosun.com/opinion/columnists/lilley-federal-report-calls-for-special-treatment-of-immigrants

monetary value would be assigned to each outcome, to be paid to the employer on completion, and a third-party evaluator would monitor the number of successful outcomes." If this report is accurate and this program is implemented, the tax payers would need to borrow more money in an effort to correct a dubious selection system.

9. Many more examples can be quoted but the presentation is limited to 10 pages. The nonsensical nature of Canadian skilled immigration based on a dubious points system of the federal government system is obvious.

LACK OF STRATEGIC COORDINATION ABOUT FUTURE OBJECTIVES (NOT OPERATIONAL EXECUTION OF EXISTING POLICY)

10. The needs of industry in the current federal immigration classes (Federal Skilled Worker Class and the Federal Skills Trades Class) are represented via requests for Labour Market Impact Assessments (LMIAs). Therefore, an LMIA is a tool in the Immigration and Refugee Protection Regulations whereby the needs of industry for immigrants are recognized.

11. LMIAs (representing employer needs) are refused by Service Canada for nonsensical reasons as will be mentioned further down. The left hand refuse immigrants to enter Canada with jobs (via LMIA refusals by Service Canada/Employment and Social Development Canada) and the right hand approves permanent residence visas without job offers (arranged employment) by Immigration and Refugee Citizenship Canada.

12. The Senate Standing Committee on Agriculture and Forestry completed a study named 'Study on How The Value-added Food Sector Can Be More Competitive in Global Markets.' As part of this study, Ryan Koeslag, Executive Vice-President and Chief Executive Officer, Canadian Mushroom Growers' Association shared his frustration with the senate committee: "**We also have arbitrary rulings for some of these LMIAs. We hear from our farmers everywhere that they applied for an LMIA for five workers and the people reviewing it say, no, you can only have three. Or you post the job position on the Canadian market, you have nobody apply for it, you get your LMIA and you apply, and they say no, you should be able to find a Canadian who can meet that job. Even though we fulfilled all the requirements in order to access the LMIA, they are still coming back and saying no, you can find a Canadian**." Given these complaints ESDC has launched a study into its role in agriculture and established a bi-monthly round table meeting with role players in the agricultural industry.

13. Many challenges exist in the LMIA process that include the following:

a. LMIA polices remain hidden and inaccessible to employers. This briefing is limited t0 10 pages. Therefore the list of hidden/secret policies of 2 pages cannot be inserted here.

b. Refusals to release information about LMIA policies. In two complaints to the Federal Information Commissioner, it was found the refusals so release LMIA policy to the public

was not justified. After 2 years and an investigation by the Office of the Information Commissioner Employment and Social Development Canada released these policies.

c. Waiting up to 12 months for a LMIA related policy inquiry to be answered.

d. Directors at Employment and Social Development Canada ignore repeated requests (six in one specific case) by CEO of Canadian company to answer policy questions related to LMIAs.

e. There is not a standard address or e-mail address that employers or representative can send LMIA policy inquiries. ESDC has a stated at this committee that a report line is available to the public to make anonymous complaints and tips (both an online tool and a mailing address). Sadly the same level of motivation to help employers to understand the policies or ask questions about LMIA policies does not exist. Inquiries by employers are often not answered. I waited 12 months for a policy question to be answered by ESDC.

f. Refusals of LMIAs based on insubstantial reasons pose a serious challenge to industry:

i. Service Canada officers often claim employers should train more Canadians despite evidencing months of advertising and not being able to find Canadians.

ii. LMIA are refused if the work address is not in the advertisement while websites (URLS) containing the physical address is being listed in the advertisement. The Federal Court has set aside a refusal based on these grounds, but the policy has not yet changed.

iii. Service Canada officers often claim that employers did not advertise sufficiently by not using the government's website (www.jobbank.gc.ca) despite explanations of why the website does not work an/or is inappropriate for the advertisement. No free text can be used and often employers cannot list it’s own requirements.

iv. Service Canada officers often claim no labour shortages exist in dubious websites such as Ontario Job Futures. In a specific example a Service Canada officer claimed that there was not a shortage of industrial engineers and ignored the employer's explanation of the specialized skills of a foreign trained Industrial Engineer. Many Service Canada officers believe that all occupations are homogenous and they do not recognise special / unique skills when claims are made that labour shortages do not exist.

v. In a specific case a Service Canada officer claimed that contracts by Canadian employers with foreign buyers were not accepted to demonstrate

enough income to pay the salary without having clear grounds to refuse the LMIA application, despite the income being shown in bank statements of the Canadian employer.

vi. A Service Canada officer asked an employer why he needs to appoint skilled immigrants with the assistance of a LMIA. The employer responded that he needs skilled workers to grow the business. The officer claimed that an employer may not use a LMIA to grow a business. This is an example of the extreme negative attitude within Service Canada/ Employment and Social Development Canada towards employers in the LMIA process.

g. The Agriculture Stream for a LMIA is for certain agriculture commodities such as bovine or poultry operations. This type of LMIA would be refused if a cattle herdsman spends 3 weeks of the year making sileage (food for cattle), as making sileage is nor seen to be part of a bovine operation such as a feedlot. The LMIA would be refused after the employer already waited 3 months for a decision while the problem could have been resolved by simply requesting a new form to be submitted. Yet Service Canada officers would refuse such an application and force the farmer to complete the advertising again and wait another 3 months for a decision.

h. Employment and Social Development Canada changes the same forms multiple times throughout the year unannounced. As soon as a "wrong" form is used and application is shredded.

14. A good snapshot of the lack of coordination is demonstrated by the following statistics that cover the period January 2015 to July 2016.[6]

NOC 2171 Information System Analysts
1255 applicants approved for permanent residence in Express Entry
390 positive LMIAs
735 negative LMIAs

Therefore employers that wanted to employ foreign trained information system analysts received 735 negative LMIAs. IRCC then approved 865 permanent residence visas for foreign trained information system without job offers for information systems analysts via Express Entry (1255 – 390 = 865)

NOC 2173 Software Engineers
940 applicants approved for permanent residence in Express Entry
449 positive LMIAs
585 Negative LMIAs

[6] Presentation by IRCC named "Refocusing Express Entry Stakeholders Consultations" 26 July 2016. Access to Information request ESDC File A-2016-01023/DA dated Oct 2016 and Access to Information Request ESDC file A-2016-0192/EM dated 14 Oct 2016.

Therefore employers that wanted to employ foreign trained Software Engineers received 585 negative LMIAs. IRCC then approved 491 permanent residence visas for software engineers without LMIAs/Arranged Employment via Express Entry (940 – 449 = 585)

NOC 2174 Computer Programmers and Interactive media developers
935 applicants approved in EE i.e. 3 % of total approvals
451 positive LMIAs
1170 negative LMIA's

Therefore employers that wanted to employ foreign trained Computer Programmers received 1170 negative LMIAs. IRCC then approved 484 permanent residence visas for computer engineers without job offers/arranged employment via Express Entry (935 - 451 = 484).

15. The Senate Standing Committee on Agriculture and Forestry completed a study named 'Study on How The Value-added Food Sector Can Be More Competitive in Global Markets'. During the hearings, many organizations expressed their need of temporary foreign workers (supported by LMIAs) as it is first step to apply for permanent residence. Many skilled workers in the agriculture (farm managers, specialized life stock workers, grain farm supervisors) must start to work in Canada on work permits supported by LMIAs. After arrival the foreign workers may then apply for permanent resident visas. **Therefore, the LMIA is in many cases a compulsory first step in obtaining permanent residence visa**. Here are a few examples:

a. In Alberta all workers in all industries (including agriculture) must be working in Alberta before an application for permanent residence can be made in the Provincial Nominee Class.

b. In British Columbia's Provincial Nominee program points are awarded to applicants whom are currently working for farmers.

c. In the Federal Skills Trades Class, a foreign national must hold a provincial certificate of qualification or a LMIA in order to be selected in this specific immigration class.

16. To make matters worse, the Federal Government committed itself to approving eighty percent of all applications in Express Entry within 6 months. Many of these immigrants arrived without job offers / arranged employment. Ironically, if an employer applies for a LMIA to employ a farm manager, it requires 28 days of national advertising, 3-4 months for a LMIA decision by Service Canada and another 4 months for a work permit approval. **Therefore it can take 9 months to get a foreign national to the workplace where a Canadian cannot be found after the issuance of a LMIA, but 6 months for a Dutch poet or Zulu language lecturer (without filling a vacancy or having a reasonable expectation to find work after arrival) to get selected in Express Entry and obtain permanent residence.**

ANTI-TEMPORARY FOREIGN WORKER SENTIMENT WITH ESDC/IRCC V NEEDS OF INDUSTRY (EMPLOYERS)

17. Visa officers have the duty to apply the Immigration and Refugee Protection Act; and the associated regulations when a foreign national applies for a work permit. More specifically Immigration and Refugee Protection Regulation 200 stipulates the following: "**Subject to subsections (2) and (3) — and, in respect of a foreign national who makes an application for a work permit before entering Canada, subject to section 87.3 of the Act — an officer shall issue a work permit to a foreign national if, following an examination, it is established that (b) the foreign national will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9**;"

18. This is not an easy task, but in my opinion this regulation is applied in a very strict manner and some of the reasons for refusals under this mandate appear dubious and/or vague. The agriculture industry and many other industries receive the direct consequences of the manner in which work permits for skilled workers are adjudicated. In a recent case a work permit for a foreign national with 27 years' cattle farming experience was refused as it was claimed that the foreign worker did not have enough experience. The farmer in Canada interviewed the applicant and found the foreign national to be competent and skilled in cattle farming. A visa officer with zero farming experience believes she knows more about cattle farming than a Canadian farmer. These types of refusals are implicitly approved through a lack of intervention by senior managers at IRCC as for decades legislation was used to refuse foreign nationals for temporary entry. The negative application of IRPR 200 is well entrenched. Complaints to the Minister's office are met with bureaucratic boiler plate responses that each cases is assessed on it's merits. No real and meaningful discussion on this issue can take place with IRC or the Minister's office.

19. The fees for LMIA has been increased to $1000 which is part of an effort to discourage employers to apply for a LMIA.

20. Service Canada officers and Employment and Social Development Canada Managers often state their task to "protect the jobs of Canadians". This statement also shows the deep rooted attitude and negativity towards employer that wants to employ foreign workers (that will become permanent residents). The focus is about "protection of Canadians" in stead of "**helping employers to find the skills they require**" to be successful, grow and become competitive. There is a very thin line between these two objectives , however the two approaches sends very different messages.

21. Taking the occurrences mentioned above a well-entrenched anti job offer attitude has developed with two federal departments with regards to skilled immigrants. Indirectly the anti-job offer attitude is fundamentally an anti-industry attitude within immigration selection polices. This well entrenched attitude is not in the interest of industry and Canadian employers. It is also not in the interest of skilled immigrants that arrive without job offers that are underemployed after arrival.

22. In a recent policy change the Global Talents Stream LMIA was developed which is a departure from the anti-job offer approach. The Global Talent Stream is an example of a policy

decision in the right direction as it recognizes the urgent need for some skilled immigrants. Managers that lead this development should be rewarded.

SIX SUGGESTIONS

23. Industry (employers) should be given more power and influence to make selection decisions in determining the need for economic immigrants. In other words, more weight should be given to a job offer (arranged employment) when points are used/ awarded in Express Entry to determine the value of an immigrant.

24. Once immigrants with job offers receive priority in the Express Entry quota, the balance of the immigrants Express Entry without job offers/arranged employment should be based on a negative or positive occupation list. A negative list would include 20-30 occupations with a high unemployment number in Canada. A positive list would include a list of occupations that are in short supply. Currently IRCC is allowing foreign nationals to emigrate despite potential high unemployment rates in certain occupations. If for example, if there is a large number of unemployed accountants, IRCC should not allow more accountants to emigrate unless they have job offers (arranged employment). Indiscriminate Issuance of visa based on a dubious points system should stop.

25. Strategic and high-level coordination between senior management of both ESDC and IRCC should focus of the needs of industry. Skilled immigrants with job offers should get their work permits or PR visas quicker than those without arranged employment (job offers).

26. Officers in both departments should be trained to change their mindset in terms of immigrants with job offers (especially in the work permit stage). A negative attitude should be replaced with an appreciation of the urgent needs of employers and the importance of getting the foreign worker at the Canadian work place. Less emphasis should be placed on “Ties to Country of Citizenship” and more on the need of the foreign worker at the work place. Currently “Ties to country of Citizenship” trumps needs of employers. When work decisions about work permits are made visa officers only focus on the ““Ties to Country of Citizenship” and ignore the needs of employers in Canada.

27. Application of LMIA policies should be supporting employers via LMIAs to employ the skilled immigrants they require, in stead of LMIA refusals based on insubstantial reasons.

28. Employment and Social Development Canada (ESDC) should publish all of its LMIA directives to employers to allow them to understand the rules.

29. Immigration policy changes at Service Canada/employment and Social Development Canada as well as Immigration and Refugee Citizenship Canada should be based on research and industry consultation, not secret hunches.