

# 2010 Policy Resolutions



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**Positions on Selected  
2010 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 26-27, 2010 at the Canadian Chamber's 81st Annual Meeting in Gatineau, Quebec. Each resolution, once approved by a convention, has an effective lifespan of three years.

The 2010 resolutions were discussed, amended and approved during debate, at which time accredited voting delegates from across the country considered a total of 65 proposals (of which 51 were approved) which had been drafted originally by local Chambers of Commerce, Boards of Trade and National Committees and Task Forces of the Canadian Chamber. In accordance with the by-laws, a majority of two-thirds of the votes cast was necessary to approve each resolution.

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

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

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# Finance and Taxation

## Fiscal Policy

Budget 2010 answered the Canadian Chamber's call to stay the course on the recovery plan, lay out a strategy to return to balanced budgets over the medium term without raising taxes, and focus on making Canada more competitive in the international marketplace. With respect to the latter, the elimination of all remaining tariffs on manufacturing inputs and machinery and equipment is particularly noteworthy, as is the emphasis on a Digital Economy Strategy and removing unnecessary job-killing regulations that hit small businesses particularly hard.

Budget 2010 provided some details on how the government plans to curb expenditure growth to rein in deficits over the next five years. The government proposed to curb outlays in a number of areas (including defence, international assistance, and public administration), undertake a full-scale review of all programs, and eliminate tax loopholes.

Total program spending is projected to grow 1.6 percent annually over the next four fiscal years. Such strict control cannot be taken for granted. It is well below the recent trend rate of about seven percent per year, and implies a decline in real per capita terms.

Budget 2010 projects the federal debt (accumulated deficit) to increase from \$566.7 billion in fiscal 2010-11 to \$622.1 billion in 2014-15. Public debt charges (interest on the debt) are projected to consume \$40.6 billion by 2014-15, or about 14 percent of budgetary revenues. This is equivalent to what the federal government anticipates it will collect in corporate and non-resident income tax combined. The federal debt-to-GDP ratio is projected to fall from 35.4 percent in 2010-11 to 31.9 percent in 2014-15.

Changes in economic assumptions affect the projections for revenues and expenses. Finance Canada estimates that a one-percentage point decrease in real GDP growth reduces the budgetary balance by \$3.1 billion in the first year, \$3.4 billion in the second year and \$4.4 billion in the fifth year. Tax revenues from all sources fall by a total of \$2.5 billion in the first year, \$2.7 billion in the second year and \$3.3 billion in the fifth year. EI premiums decrease as employment and wages and salaries fall. Expenses rise, mainly reflecting higher EI benefits and higher public debt charges. See table below.

### Estimated Impact of a One-Year, One-Percentage Point Decrease in Real GDP Growth on Federal Revenues, Expenses and Budgetary Balance (Billions of dollars)

	Year 1	Year 2	Year 5
<b>Federal Revenues</b>			
Total Tax Revenues	- \$2.5	- \$2.7	- \$3.3
EI Premiums	- \$0.1	- \$0.2	- \$0.3
<b>Federal Expenses (major transfers to persons and other program expenses)</b>	\$0.4	\$0.4	\$0.3
Public Debt Charges	\$0.0	\$0.1	\$0.5
<b>IMPACT ON BUDGETARY BALANCE</b>	- \$3.1	- \$3.4	- \$4.4

Note: Numbers may not add due to rounding

With changing demographics and the need to sustain an aging population, the cost of government programs will be increasingly shouldered by a shrinking percentage of workers. We must get our fiscal house in order to gain the economic flexibility needed to prepare for the jobs of tomorrow and to tackle areas that are crucial to our long-term competitiveness, including high marginal personal income tax rates (especially as they apply to individuals with modest incomes).

## Recommendations

That the federal government:

1. Ensure that the debt-to-GDP ratio falls below 30 percent by 2015.
2. Refrain from hiking taxes, or renegeing on promised corporate tax rate reductions, to return to balanced budgets by 2015.
3. Restrain program spending growth to balance the budget over the next five years, i.e. about 1.6 percent per year.
4. Broaden the scope of spending review beyond direct program expenses.
5. When undertaking a full-scale review of all programs, ask the following questions:
  - Does the program or areas of activity continue to serve the public interest?
  - Is there a legitimate and necessary role for government in this program area or activity, or could the private/voluntary sectors play a greater role in whole or in part?
  - Are Canadians getting value for their tax dollars?
  - If the program or activity continues, how could its efficiency and effectiveness be improved? For example, can delivery costs be lowered through intelligent use of technology, public-private partnerships or third-party delivery?
  - Is the federal government acting within its well-known constitutional responsibilities?
  - Is the current role of the federal government appropriate, or is the program a candidate for realignment with the provinces/territories?

## Employment Insurance (EI) Reform

The desired long-term goals of EI reform are to improve fairness of the system, reduce work disincentives, promote labour force mobility, and ensure program costs do not create a drag on economic activity and job creation.

Under existing rules, the Canadian Employment Insurance Financing Board is mandated to increase EI premiums to eliminate deficits (any excess of EI benefits over premiums) accumulated in the EI account since 2009, excluding \$2.9 billion of benefit enhancements announced in Budget 2009 that the federal government has committed not to count among the funds to be replenished in future years.

The projections in the 2010 federal budget suggest EI premiums will rise significantly (the maximum of 15 cents) over the 2011-2014. Thereafter, premiums will be set at the break-even level. Rising payroll taxes will discourage employers from hiring just as the economic recovery matures. Over the long-term, these costs are ultimately passed on to employees in the form of lower wages, taking a bite out of personal income. The large “wedge” created between the cost of hiring employees and workers' take-home pay stifles productivity and damages the economy's long-term performance.

The Canadian Chamber believes EI premium rate increases can be kept at manageable levels by balancing the EI Account over the business cycle of up to ten years.

To promote fairness and efficiency in the tax system, a number of longer-term structural issues must also be addressed:

- Both the Technical Committee on Business Taxation (1997) and the OECD (2004) recommended that Canada design and introduce an employer-based experience rating system. Businesses that lay off fewer workers would pay lower premiums, and would have a greater incentive to create jobs. Without employer-based experience rating, the EI system levies taxes on firms that minimize layoffs (for example, through smoothing of production and the use of work-sharing arrangements) and subsidizes businesses that readily resort to layoffs. The Canadian Chamber recommends that the federal government gradually phase in an employer-based experience rating system.

- Employers pay 1.4 times the employee premium rate, or 58.2 percent of EI premiums. This is a significant cost for businesses, particularly small- and medium-sized businesses. The rationale behind this is that employers have greater control over layoff decisions and, therefore, should bear a higher overall share of program costs. In recent years, however, EI benefits totally unrelated to layoffs (for example, parental leave benefits) have contributed to higher program costs, and represent about 37 percent of income support provided through EI. There is no reason for employers to pay more for these benefits than employees do.
- If employee EI premium payments exceed the maximum contribution limit, employees are refunded the difference between what they have paid in any given year and the maximum annual contribution limit when they file their yearly income taxes. Employers are not afforded the same treatment. Even though an employee has contributed the maximum amount in his/her previous job during a given year, the employee's new employer must also contribute on the basis of current employee earnings. While it is difficult to quantify the exact level of over-contributions by employers, it is certainly in the several hundred million dollar range. Given the fact that EI premiums represent a barrier to job creation, the federal government should devise and implement a system that allows for over-contributions by employers to be refunded.

To improve accountability and transparency, the EI program should be operated as a true insurance program – one that provides temporary income support to qualified individuals who involuntarily lose their job. The social-program aspects of EI (like training-related benefits) should be placed within general program spending. Employers and employees would fund the insurance elements, and taxpayer would cover the social benefits. This would facilitate further reductions in EI premium rates, making it more attractive for employers to hire more workers.

Finally, fiscal conditions permitting, the government should adopt a national eligibility standard (560 hours) and standardize duration of benefits (22 to 45 weeks) to ensure regional fairness. For EI purposes, Canada is currently divided into 58 'economic regions'. The criteria to qualify for EI benefits ranges from 420 to 700 hours of insured work in the previous 52 weeks, and benefits last from 14 to 45 weeks depending on regional unemployment rates. Where benefits are less accessible, Canadians who lose their jobs are unfairly treated. When they are more accessible, they discourage labour market adjustment (i.e. upgrading of one's skills and relocating to where the jobs may be). The misallocation of labour reduces overall economic output and hampers productivity.

### **Recommendations**

That the federal government:

1. Immediately amend the present rate-setting formula with a view of balancing the EI Account over the business cycle of up to ten years.
2. Operate the EI program as a true insurance program to facilitate further reductions in EI premium rates. Remove the social-program aspects of EI from the regular premium structure, and fund these programs out of general revenue (i.e. from taxes collected).
3. Gradually (i.e. over a five year period) reduce the employer EI premium rate to equal that paid by employees.
4. Implement a system that allows for over-contributions by employers to be refunded.
5. Ensure equal access to benefits across Canada by standardizing eligibility requirements at 560 hours and benefit duration at 22 to 45 weeks.

### **Equitable Tax Treatment For Individual Retirement Savings**

Canadians have three main sources of potential retirement income:

- Government sponsored and administered plans such as CPP/QPP, OAC, GIS,
- Pension plans linked to, and earned during their employment careers, and
- Individual savings, both inside and outside registered plans.



Economic circumstances have affected employment-based pension plans such that, in the private sector, defined benefit plans are no longer available or sustainable. Those working for small companies or operating their own small- or medium-sized enterprises may have no pension options at all.

Both as individuals and collectively as a country, we face severe long term consequences resulting from inadequate saving for retirement. Seniors in poverty will negatively impact all levels of society and government across almost every sector of daily life and economic activity.

Resulting social tensions will be exacerbated by wide retirement income gaps between those with public-funded and indexed and/or defined benefit pensions and those individuals who, for a variety of reasons, many beyond their control, must make do with severely reduced retirement income resulting from limited savings options, inequitable tax treatment and broken pension promises.

- There is a widening consensus that, fewer than a third of Canadians will retire with adequate financial resources to maintain a lifestyle comparable to their working years.
- The recession of 2008-2009 and the market turmoil that triggered it have combined to significantly reduce the value of a broad range of Canadians' retirement nest-eggs: defined contribution pensions, individual and group RRSPs as well as supplementary non-RSP savings and investments. The time needed to recover these values will likely exceed that available to those already close to retirement age.
- There is an ever-widening gap between public-sector, taxpayer-funded pensions, and those retirement saving options that remain feasible and sustainable for employees and entrepreneurs in the private sector. Current tax rules and limits serve only to magnify the gap with each passing year.

It is possible to alleviate these trends with a series of retirement-related tax reforms that will neither significantly reduce short-term tax revenues nor take anything away from those already enrolled in public sector pension plans. The recommendations below simply represent increased opportunities for private sector Canadians to save more for their own retirement and, upon retirement, to receive equitable tax treatment for their accumulated savings.

### **Recommendations**

That the federal government make it easier for individuals to save more from their own resources for retirement by:

1. Raising the RRSP contribution limit from 18 percent of earned income to a level equivalent to that used for the federal Public Service Plan [34 percent].
2. Raising the maximum annual RRSP contribution amount accordingly from \$22,000 to \$42,000.
3. Offering a full tax credit of \$5,000 on the first \$5,000 contributed in any year to a cumulative total of \$25,000 for Canadians with household incomes below \$80,000 per year.
4. Adjusting the rules for group RRSPs [practical for employees in small groups] to allow deduction of specified administrative expenses incurred in the course of generating outside income [make such rules more equivalent to those for large pension plans].
5. Raising the age limit [but not requirement] for continued contributions into tax-deferred savings plans and conversion to plans with mandatory pay-out provisions [currently age 71].
6. Increase the annual Tax Free Savings Account (TFSA) threshold from \$5,000 to \$10,000 per year.

And treat withdrawals and payouts from individuals own accumulated retirement savings similar to pension income by:

7. Making the pension credit available to persons with RRIF or LIF income regardless of age [the same as for annuities from pension plans].
8. Giving RRIF/LIF income recipients the same spousal income-splitting opportunities as for annuities from pension plans.

## Interest on Overpaid Taxes

Under the *Income Tax Act* and the *Excise Tax Act* the prescribed interest rate payable by the Canada Revenue Agency (CRA) on a refund of net tax will be the basic rate, plus 2%. The prescribed interest rate charged on amounts owing is the basic rate plus 4%. "Basic rate" is based on the rate charged on three-month Treasury Bills (T-bills), adjusted quarterly, and rounded up to the nearest whole percentage point (expressed as a percentage per year).

Budget 2010 proposes effective July 1, 2010 to reduce the interest rate paid on refunds to corporations from the T-bill rate plus 2% to the T-bill rate, while leaving the interest rate charged on tax owing at the T-bill rate plus 4%. This change will not apply to interest rate calculations for non-corporate taxpayers. The stated reason for this reduction is that the Auditor General indicated in her Spring 2009 report that if the government (i.e. CRA) "unnecessarily holds large amounts of deposit, with an obligation to pay interest when making a refund," it "effectively is borrowing those funds at a higher interest rate" than it can borrow directly. The unstated impetus for the proposal may be to prevent taxpayers from intentionally overpaying their taxes in order to receive a higher rate of interest from the CRA than they would receive from other deposits.

Taxpayers have legitimate concerns regarding the gap between the taxable lower rate of interest paid by the CRA on refunds and the higher non-deductible rate of interest charged by the CRA on taxes owing. Additionally, large corporations are generally forced to immediately pay one-half of any tax that has been reassessed, even though they are disputing the reassessment. Reassessments are often issued without the taxpayer receiving a full hearing on either the facts or the law. Forcing large corporations to pay one-half of the tax in dispute, only to receive low rate taxable interest if they are successful, is regarded by businesses and their non-resident parent corporations as being penal in nature and an unfair impediment to conducting business in Canada.

### Recommendation

That the federal government exclude any refund issued as a consequence of an amount paid pursuant to a notice of reassessment from the new reduced interest rate rule.

## Tax Provision Threshold Indexing

When introducing new measures to the Canadian taxation system, a great deal of study is generally conducted to ensure that the measure fits within the existing Canadian taxation framework. As a result of this process, various thresholds and limits are introduced along with the tax measures to ensure their fairness or that policy aims are achieved, and to ensure that there is not an undue amount of administrative burden placed on the taxpayer as a result of the new measure. Unfortunately, following the introduction of a new measure, the thresholds and limits introduced are not reexamined to ensure their fairness and administrative relevance in the future.

Examples of these thresholds include:

- A rebate of goods and services tax ("GST") under the Excise Tax Act ("ETA") on the purchase of a new home reduces the rebate on "luxury homes" with a purchase price of over \$350,000 and under \$450,000. For homes over \$450,000 there is no rebate. The luxury home thresholds were introduced in 1991 with the introduction of the GST, and have not been changed since.
- The Lifetime Capital Gains Exemption was increased in Budget 2007 to \$750,000 from \$500,000, the only increase since it was first introduced in 1988. It excludes from taxation the first \$750,000 of gains realized on the sale of qualified small business corporation shares, or qualified farm and fishing property under the Income Tax Act ("the ITA").
- The ITA restriction on Capital Cost Allowance (CCA) on "luxury automobiles" was first introduced in 1987 and limited the CCA which may be claimed on these vehicles to \$20,000 of the actual vehicle cost. The federal government reviews this limit annually. Over the years the limit has gradually increased to \$30,000 but has been unchanged since 2000.
- The "small supplier threshold" for registering for the GST under the ETA was introduced at \$30,000 in 1991 with the introduction of the GST. This threshold has not changed since. While the federal government has recognized the importance of reviewing certain thresholds/limits, as evidenced by the recent indexation of

personal tax credits and registered retirement savings plan limits, many measures have not been revisited in years and some since their introduction a generation ago.

## **Recommendations**

That the federal government:

1. Introduce formalized procedures by which all past tax measures with thresholds and/or limits are reviewed annually to ensure their continued applicability to current economic circumstances and policy targets.
2. Make certain that all new tax provisions containing thresholds and limits are introduced with annual indexation as an integral part of the provision.

## **Deferral of Capital Gains Taxation**

During Election 2006, a key Conservative Party election promise called for the elimination of the capital gains tax for individuals on the sale of assets when the proceeds are reinvested within six months. At the time of this proposal in the election platform, very little detail was provided to guide the development of this idea into potential legislation. In Finance Minister Flaherty's May 2nd, 2006 Budget, the Government of Canada introduced legislation to eliminate the taxation of capital gains on the donation of marketable securities to registered charities, but there was no mention of the campaign proposal of broad capital gains tax relief.

The Canadian Chamber of Commerce believes that the principle of reducing taxes on investment income (including capital gains) is positive and requires significant attention in the Government of Canada's continued promise to undertake personal and corporate income tax reform. In particular, the Canadian Chamber of Commerce strongly believes that the pre-election commitment to reform the taxation of capital gains must be a focal point in any upcoming fiscal announcement. However, due to the complexity of the issue, it is imperative that the Department of Finance carefully consider the parameters for the implementation of the deferral regime and be open to recommendations with respect to the defining principles and implementation process for any proposed legislation in this regard.

One important consideration is the fact that a good number of Canadians have investments in real property; however, these investments would not currently qualify as an asset for consideration in capital gains deferrals. Investments in real property lack liquidity and portability due to the immediate application of capital gains, therefore making it difficult for investors to grow their real property investments. The result, as stated by the Canadian Real Estate Board, is a "lock-in" effect where real property owners do not sell assets that have increased in value and have a disincentive to maintain the overall quality of both commercial and residential investment properties.

In addition, the Canadian Chamber of Commerce recommends that the Government of Canada continue to review the taxation of all sources of investment income in order to develop strategies that encourage all Canadians to save and invest for their future and retirement.

## **Recommendations**

That the federal government, and specifically the Department of Finance, re-examine and communicate with a view to:

1. Move to implement legislation to provide for the deferral of income taxation on taxable capital gains incurred in a taxation year when the proceeds are reinvested within a six month period. Any amounts not re-invested within the stipulated period be taxed on a prorated basis in consideration of the amounts actually re-invested.
2. Carefully consider the definition of a "qualifying asset" for the purposes of re-investment to ensure that no significant barriers to Canadians exist on re-investment of capital gains.
3. Ensure that all capital property, including real property, that currently gives rise to a capital gain on its disposition will frame the definition of a "qualifying disposition" for the purposes of the deferral of the capital gain on disposition.

4. Avoid adding unnecessary complexity to this proposed legislation by avoiding implementation of annual or lifetime limitations; term-certain limitations (akin to the 21-year deemed disposition rule) or complex adjusted cost basis determinations.

## Employee Stock Options

Employee stock options, awarded by a company to their employees as a form of incentive compensation, are an attractive tool to attract and retain talent in a very competitive marketplace.

Under the *Income Tax Act*, an employee can elect to exercise a stock option and receive the shares, or receive a cash payment (if the employer provides stock options with cash-out rights) equal to the in-the-money value of the exercised option (i.e. the difference between the exercise price paid by the employee and the fair market value of the shares at the time of exercise).

When an employee exercises the option and receives the shares, there is a deemed employment benefit equal to the in-the-money value of the exercised option. If certain conditions are met, the employee can claim a 50 percent deduction against the amount of the deemed employment benefit, effectively resulting in the stock option benefit being taxed at capital gains rates. The employer cannot claim a tax deduction.

Before the 2010 federal budget, the employer could claim a tax deduction when a cash payment equal to the in-the-money value of the exercised option was made to the employee (i.e. the employee exercised "cash-out" rights). In the appropriate circumstances, the employee could also claim a deduction.

Budget 2010 proposes that either the employee or the employer claim a deduction, but not both. This measure will immediately and retroactively apply to *all* options exercised (i.e. cash-out rights exercised) after March 4, 2010, regardless of the date the underlying option was granted. Employers that provide stock options with cash-out rights need to decide if they will forego the deduction of the cash-out right, whether to eliminate cash-out rights on outstanding options (through an amendment or conversion of an existing option), and whether to provide cash-out rights with new options. To preserve preferential tax treatment for the employee, an employer's election must be filed with the Canada Revenue Agency (CRA) by the employer, the employer is required to provide written evidence of the election to the employee, and the evidence of the election must be filed by the employee when he/she files his/her tax return claiming the 50 percent deduction.

As a result of these changes, the cash out alternative will make it more difficult for junior employees who participate in such plans. Further, the increased shareholder dilution may cause companies to abandon stock-option plans altogether or restrict their application to the most significant or senior employees.

With respect to existing awards, employers will have to consider the impact of the loss of the deferred tax asset for financial reporting purposes as well as the impact on numerous employees and stakeholders. The proposed modifications to the taxation of stock options will have a retroactive affect on these awards. As existing awards were issued in conformity with the long-standing position of the CRA with respect to the tax treatment of such awards, such a retroactive amendment is unacceptable and serves no clear policy objective other than generate additional tax revenue. Individual and business decisions are made on the basis of existing tax laws. Taxpayers require consistency, certainty and predictability so they may manage their affair intelligently.

Before the 2010 federal budget, an employee could defer paying tax on the stock option benefit relating to publicly traded shares (up to an annual vesting limit of \$100,000), provided certain conditions were met, until the underlying shares were sold. Budget 2010 eliminates the tax deferral election effective March 4, 2010. Unless required to hold a certain number of shares under an employment contract or equity investment policy of the company, employees may end up selling their shares immediately after exercising their options in order to pay for the tax liability, working against the objective of employers to promote minimum or target share ownership. Some employees may be unable to do so where the shares are thinly traded.

The Budget proposes to provide relief to individuals who took advantage of the deferral election and find themselves in a situation where the proceeds from selling their shares are insufficient to pay the tax on the stock option employment benefit (the allowable capital loss arising at the time of disposition cannot be used to offset the taxable employment benefit). An employee will be able to elect to pay a special tax equal to the full proceeds of the disposition (two-thirds of the proceeds if the taxpayer is a Quebec resident). This is to ensure that the tax liability

on a deferred stock option benefit does not exceed the fair market value of the shares being sold. The special election is intended to apply to sales of optioned shares before 2015. For shares sold before 2010, the employee will be required to make the election on, or before their filing due-date for the 2010 taxation year (generally April 30, 2011).

To ensure the government collects taxes when options are exercised, employers will be required to withhold tax at source and remit tax. The new rules will apply after 2010. Employers will need to withhold tax from the employee's remuneration to the same extent as if the amount of the benefit had been paid to the employee in money as a bonus. The amount of withholding may be reduced to the extent the 50 percent deduction is available. The upfront payment may cause cash-flow problems and hardship for an employee who is required to come up with both the exercise price and the tax. Those employees who have options in publicly traded shares may be able to sell their shares immediately upon exercise to fund the tax withholding, unless they are subject to lock-ups or blackouts. It is unclear what would happen if the amount of the employee's cash remuneration is not sufficient to fund the withholding obligation. In the past, where full withholding and remittance would be problematic, the CRA provided administrative relief.

Relief from withholding and remittance is provided under the 2010 federal budget proposals where the employee exercises options granted before 2011 if the stock option agreement was entered into before 4 p.m. EST on March 4, 2010 *and* the employee is subject to a written condition that restricts his or her ability to dispose of the securities acquired upon exercise for a period of time after exercise. Withholding will not be required where the employee stock option is granted by a Canadian-controlled private corporation (CCPC) because the taxable benefit is not realized at the time of exercise but when the shares acquired on exercise are sold.

The administrative complexities forced upon employees to try to comply with the rules prescribing withholding taxes on the exercise of stock options are of significant concern.

In general, stock options may no longer be as attractive an incentive compensation for either employees or employers. Companies may have few alternatives for mid-term incentives, as cash settled restricted stock units have a maximum term of three years, and deferred share units are intended to be paid at the end of a career.

## **Recommendations**

That the federal government:

1. Not proceed with the retroactive nature of the change to programs with "cash-out" rights (i.e. the budget proposals with respect to "cash-out rights" should not apply to any agreement entered into before 4 p.m. on March 4, 2010).
2. Exempt from withholding tax plans where employees are not able to sell shares (either because of restrictions imposed by the employer, or due to a limited market for the shares).

## **Establishing Allowable Capital Loss on In-Kind Contributions**

Within the *Income Tax Act*, there exists an inequity between claiming capital gains and losses when making in-kind contributions to Registered Retirement Savings Plans.

A commonly used RRSP tax strategy is to contribute investments in-kind (the pure investment form like stocks and bonds vs cash) to one's Registered Retirement Savings Plan. The main reasons for the "in-kind contribution" would be to possibly conserve cash outside the RRSP or because there is a shortage of cash.

The purpose of the in-kind contribution is to prevent having to sell a good investment to make an RRSP contribution. Selling would create unnecessary brokerage fees to sell, contribute the cash and repurchase when in the RRSP. It should be noted that selling also triggers a capital gain or a capital loss for tax purposes.

While allowing an investment to be moved into an RRSP without having to sell and incur fees, the government still requires that any capital gains on that investment must be recognized at the time of the contribution (also known as deemed disposition). However, if the investment was in a capital loss situation (i.e. the cost is greater than the current market value), Section 40 (2)(G)(iv) of the *Income Tax Act* states that the "losses are deemed nil". Otherwise stated, an individual does not get to claim the capital loss.

Recognizing that the government is moving toward a fairer and more usable taxation system, this is inconsistent. There should be a balance on the tax liability if the *Act* is trying to prevent unusual superficial loss. It is easy enough for the investor to simply sell the investment, crystallizing the loss to offset any capital gains. It would, for consistency, practicality and investor efficiency, make sense to simply allow the loss as a result of an in-kind transfer or contribution.

### **Recommendation**

That the federal government remove Section 40 (2)(G)(iv) from the Income Tax Act in order to allow recognition of capital losses as a result of an in-kind contribution (moving an asset in its original form) to an RRSP.

## **GST/HST Treatment of Financial Services**

On December 14, 2009, Finance Canada released a backgrounder containing technical legislative proposals to address recent court decisions that may have created uncertainty with respect to the scope of the definition of “financial service” in the *Excise Tax Act*. The Department of Finance stated that such proposals are intended to “clarify” and confirm the government's policy intent that certain services like investment management, administration, marketing, promotional services and credit management do not constitute financial services and are, therefore, subject to GST/HST. The backgrounder also states that the proposals would apply to all supplies of these services made after December 14, 2009 and to past transactions where the suppliers treated these services as taxable.

On February 11, 2010, the Canada Revenue Agency (CRA) released GST/HST Notice No. 250 in response to the proposal to change the definition of “financial services”. The examples provided in this notice completely reversed the examples of exempt supplies that had previously been provided in CRA’s policy statements P-239 and P-119. On March 26, 2010, Finance Minister Jim Flaherty announced a review of Notice No. 250, and reiterated that the proposed changes were meant to be clarifications, not new taxes.

The Canadian Chamber of Commerce urges the government to ensure that any services which had previously been described as exempt in policy statement P-239 and P-119 continue to be treated as exempt services to ensure that these changes are truly only clarifications. Should the government determine that any of the examples which had previously been described as exempt services in their policy statements are now subject to tax, any such changes must be subject to an effective date that allows taxpayers sufficient time to make the necessary systems and process changes.

As a result of the uncertainty and confusion that has resulted from this announcement, it is imperative that any changes to existing published policy not be made on a retroactive basis, or even with an effective date of December 15, 2009, as vendors have no ability to go back to their customers to claim several months of additional GST/HST, if they are able to do so under their agreements.

### **Recommendation**

That the federal government:

1. Withdraw these proposals to change the definition of financial services pending consultations with key stakeholders.
2. Ensure that any subsequent or revised proposals to change the definition of financial services not be applied on a retroactive basis.

## **Improving Rental Incentives through Tax Reform**

The outlook for rental units is a significant concern. In major cities, renters are paying substantially more than they can afford on rent. According to a 2004 PricewaterhouseCoopers report for the Greater Vancouver Regional District (GVRD) titled *Forecast Demand for Affordable Housing in Greater Vancouver*, in 2001, 43 percent of renters in the GVRD spent over 30 percent of their income on rent, and 22 percent of renters spent more than 50 percent of their income. The problem has worsened in the Region since 2001.

A rapidly decreasing number of rental housing starts since 1970 has limited the rental housing stock available to the average renter. The most recent CMHC Rental Market Statistics report indicates that from October 2008 to October 2009, the Universe Of Privately Initiated Rental Apartments in 28 Census Metropolitan Areas increased from 1,751,031 to 1,762,175 or a mere 11,144 units [from October 2007 to October 2008, the Universe Of Privately Initiated Rental Apartments in 28 Census Metropolitan Areas decreased from 1,797,468 to 1,751,031 or 46,437 units].

**The availability** of affordable housing/rental accommodation has economic implications since there is a direct impact on the ability of businesses to retain current employees who have difficulty in meeting their housing needs, and the ability to recruit new employees into the region due to high housing costs.

According to a 2007 report by the Urban Development Institute titled *A New Agenda for Canada's Urban Environment*, one critical cause for the reduction in the provision of rental housing has been changes in federal income tax policy such as the elimination of capital gain rollovers, decreases in the amount of allowable Capital Cost Allowance (CCA), the capitalization of soft costs (i.e. legal fees, engineering, financing, etc.) and the introduction of the GST. The federal government has the ability to reduce some costs for investors and homebuyers by re-introducing federal tax policies that successfully encouraged the development of rental housing in the past.

### **Recommendations**

That the federal government:

1. Offer a rebate of the Goods and Services Tax (GST)/Harmonized Sales Tax (HST) on new rental housing.
2. Offer deferral of capital gains tax and recaptured Capital Cost Allowance (CCA) upon sale of a property and re-investment in new rental housing within a reasonable amount of time (two years).
3. Increase CCA for new rental housing to line up with the true economic life of the relevant asset.
4. Restore soft cost deductibility in the year the costs are incurred for new rental housing.

### **Applying the Accelerated Capital Cost Allowance to All Mining and Resource Processing Investments**

Accelerated Capital Cost Allowance (ACCA) has been a feature of mining sector taxation in Canada for decades to encourage investment and value-added processing. Capital cost allowance rules specify the rate at which capital assets can be expensed annually. ACCA allows the normal costs of capital to be deducted as fast as income from the project will allow rather than deferring the deductions over time. As corporations recover their initial investments sooner, ACCA reduces the investment risk associated with the mine or project, thus improving the overall economics of the project.

In the 2007 Federal Budget, Finance Minister Jim Flaherty grandfathered ACCA for oil sands assets in project (both mining and in-situ) phases that commenced major construction prior to March 19, 2007, and announced that for other projects that have begun construction, companies could claim ACCA until 2010, and the rate would be gradually reduced between 2011 and 2015. The timing for this decision was unfortunate. The ACCA for oil sands provided a significant boost for this costly industry and companies had announced investments of \$150-billion in spending before oil prices collapsed. The elimination of the ACCA coincided with a plunge in the price of oil as well as the ongoing threat of significant new costs to combat environmental issues including climate change.

Although the federal government eliminated the ACCA for oil sands, at the same time it introduced an ACCA for investments in manufacturing machinery and equipment. Originally intended to be available for two years, the ACCA for manufacturing machinery and equipment was extended for a further year in 2008 and in response to the economic crisis, last year the federal government extended the ACCA for machinery and equipment for a further two years until 2012. Clearly the government understands the power of the ACCA as an inducement to further investment.

As times remain competitive, ACCA needs to remain in place as a key component of a strategy that encourages investment in resource industries and gives Canada a competitive edge.

As Greenfield projects, new upgraders in Canada are more costly especially with the higher construction (labour and material) costs as well as the need to develop supporting public and private infrastructure. Competing locations in the U.S. (e.g. the U.S. Gulf Coast and the U.S. Midwest) enjoy the benefits of existing infrastructure. They are also shielded from the inherent high cost of transporting heavy barrels through the averaging down of regulated pipeline tariffs based upon depreciated capital invested in pipelines constructed years ago at lower historic costs.

Alberta also has in place a rigorous environmental and socio-economic public interest tests for major energy projects operated through the EUB regulatory process. This process extends the lead-time and up-front costs of projects.

In addition to the uneven playing field created by applying the ACCA to manufacturing machinery and equipment and not oil sands mining and upgrading, the ACCA has not been available for merchant upgraders or for additional value added processing such as petrochemicals and refining.

This means, for example, that some upgraders operating are eligible (those with common ownership and processing feedstock from a particular mine or in situ project) and some are not (those purchasing bitumen on the open market), creating a further disincentive or barrier to investment in upgrading capacity.

However, Alberta's case is not exclusive and many other mining industries, such as those involved in diamond, uranium, nickel mining are capital intensive, face competition from other jurisdictions, and considerable higher operating costs due to labour and regulatory controls. Faced with these challenges, seizing the new economic opportunities will require our governments to implement fiscal policies like the ACCA that encourage rather deter investment.

## **Recommendations**

That the federal government:

1. Retain Accelerated Capital Cost Allowance for oil sands and mining projects in Canada.
2. Extend Accelerated Capital Cost Allowance to resource processing investments, including upgraders/other high conversion capacity investments and shared processing infrastructure, and other resource conversion equipment used in diamond, nickel, uranium and other mining operations.



# Environment

## Climate Change

Canada has reached an important juncture in the development of climate change policy at the domestic, North American and international levels. Canada and Canadian business must ensure that its voice is heard and that it participates in the development of these policies.

Continued uncertainty regarding future climate change policy brings significant environmental and economic risks for business including the potential for increased protectionism among our trading partners. Recent activities from other stakeholders such as the National Round Table on the Environment and the Economy (NRTEE) point to a growing consensus in Canada that we need to address climate change for environmental and competitive reasons.

It is important that the federal and provincial governments act decisively and in a coordinated manner to produce a Canadian solution that will address these concerns. There will need to be a shift in the way energy is produced, delivered and consumed while respecting capital investments already made. A thoughtful, comprehensive energy and climate policy will help to secure economic prosperity and provide opportunities for Canadian business to innovate and succeed. We recognize that achieving emission reductions and complying with provincial and national carbon constraints will not be free of costs. Internationally, the United States is our main trading partner and any Canadian climate change policy will be most effective if it is compatible with their legislation and policy. The federal government has been working with the US through the Clean Energy Dialogue and we encourage them to continue with this. As well, we support the Canadian Government's commitment to develop a GHG emissions pricing policy that is compatible with upcoming US legislation and policy.

In 2009, the United States signaled climate change was a high priority internationally through the UNFCCC and Major Economies Forum (MEF) and made it clear that they were moving forward on climate policy: the Environmental Protection Agency (EPA) had begun the process of regulating emissions of carbon dioxide and legislation was re-introduced in Congress with the Administration, key members of Congress and leaders of business indicating a clear preference for a market-based approach as a major element. Unfortunately, these processes have slowed and it is quite possible that no real progress will happen this year.

Canada must continue to develop its own climate policy that works for Canadians and works towards the federal government's stated goal of aligning with the US with a GHG reduction target of 17% from 2005 levels by 2020. While remaining compatible with US policy will be essential, we can proceed with targeted actions and with the development of a Canada-wide carbon pricing system.

Canada is a major trading nation and a major exporter of energy and resources. As far as domestic action is concerned, any solutions to respond to the challenges of climate change cannot ignore trade concerns and measures undertaken by our major trading partners. They must catalyze changes in consumer behaviour and ensure that all sectors of society share the burden, in an equitable way while recognizing a number of critical issues for Canada:

- The reality that fossil fuels will remain a major source of energy for many years for most countries.
- Inter-provincial wealth transfer is a significant issue.
- Federal/provincial relations and jurisdictions must be respected while moving towards one national system for GHG mitigation.
- The need to focus on both near-term emission reductions and on the advancement of technology for larger future reductions.
- Any international obligations that Canada takes on must be based on solid domestic programs that ensure we can meet our obligations.
- Recognition that Canadian circumstances, namely Business as Usual (BAU) emissions in 2020 relative to 2005, are quite different than those of the US. A 17% reduction from 2005 is a much more stringent target for Canada, requiring a much greater effort at emission reductions than it is for the US.

The Canadian Chamber of Commerce supports the development of an international agreement on climate change that includes all major economies and major greenhouse gas emitters. While the 2009 Copenhagen climate change conference failed to reach consensus, the Copenhagen Accord represents a step forward in bringing the largest economies together in developing a long-term agreement on climate change. The UNFCCC has been the primary

forum for these discussions but the G8/G20 and the Major Economies Forum can play important roles in bringing the largest economies together to advance an agreement towards a low carbon economy.

There must be a balance between addressing climate change, which includes the advancement of clean energy development, and other global priorities such as poverty, disease eradication and economic development. Since many developing countries are struggling to provide even the most basic necessities to their citizens, a global approach to addressing climate change will require innovative financing mechanisms to ensure their participation in climate action.

Finally, any plan to address climate change must recognize that consumers have a vital role to play in reducing Canada's emissions of greenhouse gases.

## **Recommendations**

That the federal government:

### **International Climate Change Framework**

1. Ensure that any international agreement reached for the post-2012 framework adheres to the principles of common but differentiated responsibilities:
  - For developed countries, commitments must be realistic, achievable, and differentiated to reflect national circumstances. They must be comparable and based on an objective set of criteria
  - All major greenhouse gas emitting countries, including advanced developing countries, must have agreements ensuring the inclusion of measurable, reportable and verifiable commitments.
  - Investment in development of low carbon emission technologies must be recognized as a valid contribution and part of national commitments.
2. Take serious steps to adapt to changing climate conditions and their environmental, economic and social impacts and encourage all other countries to take similar actions.
3. Ensure that any future framework:
  - facilitates the scale-up of research, development and demonstration of clean energy technologies through new financial mechanisms and international cooperation
  - Protects intellectual property rights, as any measures to weaken these provisions will run contrary to efforts aimed at technology innovation and cooperation.
4. Explore the potential of using international sectoral cooperation:
  - as a tool for agreements in technology diffusion,
  - in determining benchmarks for domestic actions and regulations , and
  - through the development of multi-project sectoral benchmarks to help prove additionality for domestic and international offset projects.

### **Domestic Climate Change Policy**

5. Develop a national policy on climate change that addresses mitigation and adaptation. Use a market-based approach for climate change mitigation which includes a comprehensive carbon pricing system, coupled with cost containment measures applied consistently across the economy. An emissions pricing system must have the following characteristics:
  - Ensures the price stability needed for making long-term investments
  - Recognizes the realities of international competitiveness, ensures that Canadian businesses are not disadvantaged, includes an appropriate transition period, addresses the reality of capital stock turnover, and acknowledges the actions of our major trading partners in introducing a price for carbon.
  - Includes an economy-wide carbon pricing system with two distinct categories:
    - a downstream system that would cover large stationary sources (basically industrial facilities) and

- an upstream system to cover other emissions such as transportation fuels, residential and commercial use of natural gas
  - Ensures that any sector whose emissions would not be captured by the emissions pricing system will be covered by other policies and programs in order to achieve a comparative level of effort and cost.
  - Includes a solid accounting system with a robust infrastructure that is compatible with those of Canada’s major trading partners.
  - Includes the compliance option of payment into a technology fund.
  - Includes the option of recycling the carbon charge or levy from technology funds within the industry and jurisdiction in which it originates to develop technology and infrastructure to reduce greenhouse gas emissions at the source.
  - Includes domestic offsets from those sectors of the economy not covered by pricing and international offsets that will be defined through regulation and that can help Canada meet its international obligations.
  - Includes provisions for cost containment (e.g. ceiling price, floor price, and/or strategic offset reserve) to minimize financial risk and provide investment certainty.
  - Ensures that any border adjustment tax is WTO compatible (i.e. the least chance of being manipulated to the detriment of Canadian exporters if imposed by other trading nations), transparent, predictable and that will have the least tax liability and administrative burden on Canadian businesses.
  - Where a foreign jurisdiction does not impose a domestic carbon tax, includes the ability for Canadian exporters to claim (like the GST) a quantifiable carbon tax rebate to maintain our competitiveness in that market.
6. Recognize the vital role played by consumers and create complementary policies that include price signals for consumers and other measures to change consumer behaviour such as the use of lower-carbon fuels, lower-carbon transportation technologies and systems, and improved energy efficiency in buildings, industry and appliances.
  7. Encourage the use of public-private partnerships to provide capital for the support of low- and zero GHG-emitting technologies without interfering with market conditions.
  8. Continue to work with the United States through the Clean Energy Dialogue on the development of clean energy science and technologies to reduce greenhouse gases and combat climate change.
  9. Work to make the Canadian emissions pricing system compatible with other pricing systems around the world, including ensuring that:
    - As the United States develops its own emissions pricing system, the Canadian price on carbon emissions and the associated burden is linked to it to create a North American common signal to industry and consumers in both countries
    - An emissions pricing scheme is included in the comprehensive economic cooperation negotiations between Canada and the European Union.
    - If Canada adopts a common carbon pricing system with the US and European Union, an agreement is reached with those parties that will exclude Canada’s exports of goods and services from any “border tax adjustments” which they may impose.
  10. Recognize efforts already undertaken by many corporations to reduce emissions over the last few years.

## Clean Energy Systems and Services

### The Underlying Need – Better Integration and Innovation

Energy consumption is a major contributor to greenhouse gas emissions in North America. While much has been done to increase the energy efficiency throughout our economy, there is more we can do by using a systems approach to mitigate our energy use.

The complexity of energy systems across North America suggests an opportunity for more integration. Consider the multitude of players in the sector: from resource developers to end users, from researchers to distributors, from procurement managers to system designers, and from financiers to engineers. Clean technologies, decentralized power, time-of-use rates, feed-in tariffs and demand-side management programs are but a few examples of opportunities that would benefit from a systems perspective.

Many investors, decision-makers and policy analysts do not understand the complexity of energy supply and demand systems. In the pursuit of cleaner energy, decision-makers frequently focus on products, overlooking the opportunities for improved systems and services. Financiers and entrepreneurs focus on venture capital for new technology start-ups. While new technologies are needed, service companies and engineering consultants can provide more immediate and less risky options. For example, with regard to mobile energy storage, the focus on building better products (such as improved fuel cells or batteries) has overshadowed the system design opportunities (such as hydrogen distribution systems or exchangeable battery packs).

Innovative new technologies can succeed or fail for a variety of reasons – not just technical but also social, commercial and financial. For example, consider carbon sequestration: a level playing field is needed to ensure this technology's cost-effectiveness is compared to a systems perspective of emerging alternatives such as carbon mineralization<sup>1</sup>. Evaluations of longer-term clean energy development initiatives would benefit from more credible and factual analyses of the longer-term impacts.

### The Opportunities – Our Strengths in Systems and Services

Canada possesses world-class expertise and experience in energy technologies and systems. Unlike most other nations, we deal with dramatic differences in climate, vast geographies, urban/rural/remote challenges and a variety of natural resources. On the supply side, we have researched, piloted and commercialized a variety of technologies based on our plentiful resources in oil, gas, coal, uranium, biomass, flowing water, sun, wind and tides. On the demand side, we have deployed the full gamut of institutional and market approaches: demand-side management programs, regulation, voluntary initiatives, fiscal incentives, grant programs, feed-in tariffs, etc.

Service industries have a dramatic effect on the commercialization of innovative technologies – a fact often overlooked, even ignored. Canada has an incredible wealth of knowledge workers in the energy and related sectors, including researchers, energy modelers, consulting engineers, lawyers and financiers:

- Engineers and technicians/technologists represent one of the fastest growing employment areas in Canada, currently 3.3 percent of all jobs<sup>2</sup>,
- Science and engineering represents 14% of all paid employment<sup>3</sup>, and
- Engineering consulting is a \$15 billion industry, including \$4 billion in exports<sup>4</sup>.

Canada is active throughout the world in designing and building energy systems and infrastructure (e.g. China, Dubai).

From both the economic and environmental impact perspectives, these system and service factors are often missing in policy discussions of climate change, energy supply systems, energy demand programs and clean energy

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<sup>1</sup> See new research into combining CO<sub>2</sub> with rock minerals to produce a solid carbonate, Abo University (Finland) & Carbon Sciences.

<sup>2</sup> Prism Economics and Analysis, Toronto; "Engineering and Technology -- Labour Market Study"; sponsored by Engineers Canada (EC) & Canadian Council of Technicians and Technologists (CCTT); May 2009

<sup>3</sup> Statistics Canada; Beckstead & Gellatly; "Innovation Capabilities: Science and Engineering Employment in Canada and the United States", May 2006

<sup>4</sup> Prism Economics and Analysis, Toronto; "Engineering and Technology -- Labour Market Study: Canada's Consulting Engineering Sector in the International Economy"; Sponsored by Engineers Canada (EC) & Canadian Council of Technicians and Technologists (CCTT); March 2009.

development. While investment choices in some near-term energy and infrastructure projects embrace a systems approach – utilizing the value of consultants, systems analysts and designers – longer term strategies and policy discussions tend to focus on particular technologies or products.

There are three specific areas that must be addressed:

- Despite the fact that Canadian capabilities in energy systems design are substantial and world-class, they are poorly recognized both domestically and internationally. These capabilities present tremendous opportunities for export growth as well as domestic progress on GHG emission reductions.
- Canada’s investments in clean technology lag those of other countries (on a per capita basis). Furthermore, our investments in clean technology focus on products, missing the equally tangible opportunities in services (and especially in systems design).
- Despite the near-term cost-effective opportunities, many public and private infrastructure projects lack consideration of systems integration, energy efficiency or clean technology options.

The way forward can be guided by a few fundamental principles and objectives:

- Take an integrated systems approach. Consider a practical mix of energy sources and demand-side efficiency measures.
- Avoid short-term policy thinking. Focus on market-based approaches, including appropriate price signals for energy and carbon. Avoid having governments “picking winners”. Promote transparency in investment choices.
- Build capacity in energy systems and services. Grow our skilled labour force and target the most effective R&D investments. Grow both domestic and export opportunities in energy services.

Public and private institutions can both influence and benefit from more integrated development of clean energy systems and services. Opportunities abound, not only through new technologies and companies, but in integrating existing technologies, training our existing workforce, exporting our world-class services and making better funding and procurement decisions.

### **Recommendations**

That the federal government:

1. Take a systems approach to ensure that the impact on the entire energy sector value chain is considered when developing policies designed to encourage the development of clean energy.
2. Include funding for energy services (such as system design) and related infrastructure needs within the clean energy development funding umbrella.
3. For larger research, development and demonstration projects, carry out sustainability studies such as life-cycle and socio-economic impact analyses.
4. Work with the provincial and territorial governments to provide increased accessibility and funding for training in energy systems design, green technology and sustainability analysis focusing equally on graduating more skilled workers (in degree/diploma programs) and retraining existing skilled workers (e.g. consulting engineers).
5. When implementing green procurement policies, use performance-based tendering to ensure the maximum innovation at minimum cost.
6. Aggressively pursue opportunities for exporting our energy systems and services through, for example, DFAIT’s Cleantech Practice and the Trade Commissioner Service.

### **Water for Sustainability – A Canada-Wide National Water Strategy**

Canadians in general expressed concern and the Canadian Chamber of Commerce, through this resolution, expresses their concern how best to deal with "significant pressures" that Canada is facing on its water resources.

The past several years have provided us with numerous examples of the need for a Canada-Wide National Water Strategy. The floods, the droughts, the Great Lakes pollution problems, the waterborne infectious diseases, the issue of water exports, the variability of our climates and the impact of man's activities on that climate all speak to the need for a coordinated effort between the federal, provincial and municipal governments to develop a Canada Wide Strategy to guide local and National practices and policies for one of our most precious resources. For over a decade, leaders and leadership groups from across Canada have been identifying severe problems with our management of water and calling for the development of a durable Canada-wide Water Strategy. The multiple issues of concern, and the interactions and overlaps among jurisdictions and issues are often cited as the reasons for seeking such an overarching strategy - a strategy that will establish a collaborative vision and comprehensive set of management principles for water.

There is recurrent recognition that Canada's approach to water management lacks coordination. The diffuse responsibilities for protection of water lead to conflicts and gaps. An overarching framework will facilitate the wise management of water into the future by providing agreed principles and enhancing the coordination of action plans that address the highest priority issues. Effective local and watershed-specific management decisions will result with consequent overall cost savings.

Governments, industries and non-government organizations are working on water strategies and plans within their own jurisdictions (and some are taking leadership outside of that) but there is as yet no single place or position that guides the future for our nation's water resources. There is emerging consensus that these efforts alone are inadequate to ensure the future security of water in Canada. The Canadian Council of Ministers of the Environment (CCME) have recently included a quest for a National vision for water in their work plans which is an excellent start, and the next step will be a strategy which must involve all stakeholders in the country.

There are other efforts that span jurisdictions based on shared beliefs and attitudes about our responsibilities towards water - such as those of religious groups in general and some national as well as provincial NGOs. So the need for coordination comes from more directions and has at least as many routes for potential success.

Towards this end, and to sustain Canadian quality of life, healthy water quality and economic well being, the Canadian Water Resources Association (CWRA) has circulated "Sustainability Principles" for Water Resources management. (CWRA.org) In addition, CWRA has also created a roadmap report titled "*Toward a Canadian National Water Strategy*" illustrating a feasible method to develop a Canada Wide Water Strategy. (The de Loe report)

Historically and economically, Canada has been shaped by our waterways and water infrastructure. The benefits that we have derived from water are diverse. Canada has more lakes than any other country. We have more water per capita than any other large country. Unfortunately we tend to take water for granted and undervalue it. Canada's per capita water use is among the highest in the world, twice as much as the average European.

Despite the fact that Canada possesses 9 percent of the world's fresh water supply, Canada is not necessarily a water rich country. Viewed globally, Canada's land mass is proportional to its water supply. Approximately 60 percent of Canada's fresh water drains north, while 90 percent of our population lives within 300 kilometers of the 49th parallel. Therefore the preponderance of Canada's fresh water is not available to the area where it is needed for economic and domestic uses.

In 1987, the federal fresh water policy was tabled in parliament. This federal policy outlined five strategies: water pricing, science leadership, integrated planning, legislation and public awareness. Since 1987 water quality has become an important issue and it should now be added as a sixth federal strategy. Although the agencies that once looked after federal water policy have been rearranged and divided among many federal departments, the need for a *comprehensive cooperative water strategy* and related policy remains with us today. There is an opportunity for standardized water policies, practices and cooperative legislation to economically preserve and protect our water resource for future generations.

The following is a quote from the report prepared by the Canadian Water Resources Association (CWRA) and released in the summer of 2008

Significant threats to water resources exist across Canada. Climate change is an emerging challenge in all parts of the country, but numerous long term problems also exist, with serious implications for Canada's environment, economy and society.

Canada does not currently have an overarching national water strategy that facilitates more effective responses to current and emerging challenges and threats. The benefits of having such a strategy are numerous. Examples include the following:

- More consistent and effective responses to concerns with national dimensions, such as water exports and climate change
- Increased accountability due to broader stakeholder participation in governance
- Enhanced environmental protection and a stronger foundation for economic productivity
- Stronger national capacity to respond to threats and crises
- Better positioning to meeting growing international expectations and obligations
- Greater public acceptance and support for water management decisions

The Canadian Water Resources Association (CWRA) believes that a Canadian National Water Strategy (CNWS) is an effective way to address the water management challenges we face, and that such a strategy is within reach.”

“The CWRA supported a CNWS that had the following broad characteristics:

A CNWS for Canada must be developed and implemented through the participation of all stakeholders. Indigenous people should have leadership roles. The federal government must be a full and active participant, as must all the provinces and territories. However, initial lack of participation by some provinces/territories should not preclude initiation of the process.

Common goals and principles endorsed by all participants should be at the core of a CNWS. These should be comprehensive in their scope, and should be sufficiently specific that they can guide the policies and actions of participants.”

Canada's focus of "Source to Tap" should include specific outcomes for:

1. Safe, secure drinking water.
2. Healthy aquatic ecosystems.
3. Reliable, quality water supplies for a sustainable economy.
4. Knowledge to make effective water management decisions by:
  - cross ministry knowledge sharing (team approach)
  - sharing of resources
  - adoption of a watershed approach to management and decision-making
  - involvement of all Canadians in managing water supplies and resources;
  - increasing knowledge and understanding of water resources issues;
  - increasing water conservation activities;
  - allocating water resources more effectively;
  - promoting healthy aquatic ecosystems;
  - protecting surface and groundwater quality
  - ensuring Canadians have safe and secured drinking water.

Water touches all of our lives and is a significant factor in the economy of all sectors, but good information at the federal level about the water resource base and various uses is lacking. The development of an effective water policy and strategy can only be undertaken with full knowledge of the quantity and quality of total water supply along with a consideration of water use. To the extent that the watershed approach to water resource management is adopted, so should the reporting of water sources and its uses and returns.

The Canadian Chamber fully expects the Canadian government to seek further comments and feedback from stakeholders on, further, more detailed, action plans for preservation and conservation of both surface water and groundwater quality that emerge from any consultative process.

## **Recommendations**

That the federal government:

1. Take a leadership role in bringing the provinces and territories together to place an urgent and high priority on water management issues in the country.
2. Reintroduce the federal fresh water strategy from 1989 as a foundation for the creation of a national water management strategy.
  - Include the Provinces, Territories, Municipalities and other water use stakeholders in the strategy development stage.
  - Obtain comments and feedback from all stakeholders in the development of detailed action plans.
3. Place a high priority on development and implementation of a reporting structure that will inform Canadians on:
  - A comprehensive inventory of the quality and quantity of all Water reserves
  - The uses by activity (e. g. residential water use, agricultural irrigation, enhanced oil recovery, power generation, etc.),
  - The quantity and quality of Water returned, if any, from the various uses.
4. Support research and data collection for proper forecasting of upstream flows and possible long-term changes which may impact activities in the areas of water management.
5. Ensure that water -- apportionment agreements do not unfairly prejudice future developments in the watershed providing the Water.
6. Commit that costs for access to expertise and financial requirements for planning, implementing and measuring are not downloaded as primary responsibilities of municipalities:
  - Take a proactive role with respect to feasibility studies, infrastructure development, water supply, and conservation projects.
  - Support research and data collection for proper forecasting of stream flows and possible long-term flow changes, which may impact development activities in the areas of water management
7. Encourage the associated federal government departments to introduce a national water management strategy developed in concert with the provinces, territories and water use stakeholders.
8. Utilize a cross ministry team approach, which would assist both the federal government and the users in their quest for consolidation of information and resources.
9. Take an active role in communicating and promoting conservation measures (such as watershed protection) and awareness to increase the understanding of the various water management responsibilities of municipalities, irrigation districts, conservation authorities, and provinces and territories throughout the country.
10. Work on water issues in a manner that supports and adds value to the water management activities being undertaken by the provinces [i.e. Alberta, Water for Life; Ontario, Source Water Protection etc.] via partnerships and funding support that will promote regional, place based, stakeholder-driven solutions.
11. Strive to obtain cooperation with United States federal and state governments in these initiatives so that cross-border watersheds Canadian activities are not undermined by conflicting activities in the United States.



## Canadian Environmental Protection Act (CEPA) 1999

The Canadian Environmental Protection Act (CEPA), last revised in 1999, contains provisions for toxic substances management, emergency preparedness, pollution prevention, investigation and assessment of substances, fuels, international air and water pollution, motor emissions, nutrients, environmental effects of government operations, export/import of wastes, and several other environmental areas. It includes powers for gathering of information, creation of a pollutant release inventory, development of objectives, guidelines and codes of practice, and broad enforcement powers.

CEPA needs more flexibility for the creation and implementation of administration and equivalency agreements, based upon effect, to facilitate local control. Environment Canada (EC) has in the past indicated a willingness to move to 'smart regulation' that is performance based, with flexibility on how performance is achieved. However, they will need to develop a CEPA instrument to accomplish this.

The impact of CEPA is far-reaching, overshadowing many environmental areas that are traditionally the domain of Provincial Governments. Now, as many of its provisions are implemented, CEPA commands constant attention; for example, through new programs related to "virtual elimination" of certain toxic substances, priority substances reviews, toxic substance regulation reviews, and the National Pollutant Release Inventory (NPRI).

The current 5-year review of CEPA is now apparently in abeyance, albeit in its final stages. The Federal Government is working to finalize the changes; however, with the current economic issues, minority government situation and uncertainty about US policy on climate change, the schedule for revising CEPA is uncertain.

More recently the Federal government has announced its intention to regulate greenhouse gases (GHG) and criteria air contaminant (CAC) emissions. CACs include particulate matter, sulphur oxides, ozone, carbon monoxide, oxides of nitrogen, etc. GHGs have now been added to Schedule I of CEPA.

Environment Canada (EC) and / or Health Canada may designate substances as "toxic" under CEPA. The Federal Government appears to be attempting to claim authority over many potentially hazardous or toxic substances and activities related to those substances. Upon declaring a substance or related activity to be 'CEPA toxic', Federal control will be added, often over Provincial Government authority.

Under CEPA 1999, the approach to the management of the "Track 1" toxic substances under the 'Toxic Substances Management Policy' has been changed from the accepted, science-based method of risk assessment and management, to the current unrealistic hazard elimination model. This model seeks to achieve 'zero risk' through the "virtual elimination" of these undesirable chemical substances. While this group of man-made, persistent, bio-accumulative and toxic substances is worthy of special attention, the management method that has been chosen is impractical and unachievable.

"Virtual Elimination" of specified toxic substances under EC rules is 'virtually impossible'. By setting the "level of quantification" for virtual elimination at or near the 'detection limit', EC ensures that those wrestling with virtual elimination of such substances in their processes will never reach closure in the effort. As technology allows lower and lower detection limits, the level for meeting virtual elimination targets will be continuously lowered, and the objective can never be fully achieved.

For substances that are deemed to meet the criteria for 'Virtual Elimination', a better approach would be to assess the current detection thresholds vs. a level for practical concern. In cases where the detection thresholds are already sufficiently small, a simple threshold regulation could be used instead of this notion of ever-increasing analytical capability. In this way, business can proceed in a more predictable, compliance-certain, and otherwise practical manner.

EC has taken an approach of forcing the application of the CEPA provisions intended for individual toxics, to broad and heterogeneous groups of substances. Included in this respect are the wide-ranging groups of, e.g., 'road salts' 'particulate matter less than ten microns', and 'precursors of fine particulate matter'. This approach is inappropriate, because the legislation was not developed on that premise, and it does not contain the tools to allow appropriate management of internally diverse groups of substances on the basis of a broad-brush designation of the entire group as 'toxic' under CEPA.

While CEPA facilitates the regulatory implementation of international commitments, there is no mechanism to consult on these beforehand in order to control international commitments before they are made. There is a need to align less with the release control measures of other countries, and more with the requirements for risk

management in Canada, based on risk assessment here. Related to this there is a need for more and better State of the Environment reporting, and to simplify and revise the NPRI to trigger on significant releases rather than primarily on the use of materials or other parameters.

In order to attain Federal control, EC has demonstrated a tendency to treat localized problems (e.g. the road salt issue) as if they are national in scope. Local issues should be handled locally as much as possible, to provide maximum flexibility, ease of discussion, and to ensure that the solution matches the problem. Dealing with a distant Federal Government to resolve localized problems is not an effective approach.

The Provinces have been controlling CACs for many decades including having their own 'Clear Air' acts, regulations and permitting. While the Federal government is rightly concerned with deteriorating air quality, duplicating control of CAC emissions under CEPA is likely not the best approach to correct this trend. It has thus been refreshing to have the Federal government move into the Comprehensive Air Management System (CAMS) through the Canadian Council of Ministers of the Environment (CCME), in place of their initial proposals for regulating CACs under CEPA.

It appears the 'notice' provision in CEPA for data gathering is being overused by Environment Canada. The Notices that are currently extant include the NPRI, GHG emissions, twelve 'Batches' of priority substances, and the reporting for some 550 substances on the Domestic Substances List. Notices that are published do not go through the same rigorous process as regulations but can still have the same effect. As a notice generally requires extensive paperwork for documentation and reporting, Environment Canada needs to increase the coordination of the various notices being released to ensure businesses are not overburdened.

It is interesting to note that although EC has the authority to control unregulated CAC vehicle emissions under CEPA, they have chosen instead to first tackle industrial emissions which are already provincially regulated. Although they have recently committed to the control of vehicle fuel efficiencies, the failure to tackle other vehicle emissions in high traffic air-sheds seems to be an inappropriate setting of priorities.

The above illustrates how Federal expansion into this area through CEPA creates double regulation and reporting. It also shows the lack of federal – provincial coordination and cooperation in these matters.

The potential for dual regulation, and all of the associated negative features, is increased. CEPA needs more flexibility for the creation and implementation of administration and equivalency agreements, based upon effect, to facilitate local control. EC has in the past indicated a willingness to move to 'smart regulation' that is performance based, with flexibility on how performance is achieved. However, they will need to develop a CEPA instrument to accomplish this.

## **Recommendations**

That the federal government:

1. Rectify the lack of a risk management approach in, and especially the following major concerns with, the Canadian Environmental Protection Act (CEPA) during the most current 'review':
  - The approach to the management of the "Track 1" toxic substances under the 'Toxic Substances Management Policy' must be changed back to the accepted, science-based method of risk assessment and management, rather than the current hazard elimination model.
  - The definition of "virtual elimination" must be changed to become achievement of acceptable risk, with closure being achievable by reassessment of risks after control measures have been implemented, using a measure(s) such as a simple threshold regulation. This must replace the current system of ascribing the detection limit as the goal, and having no mechanism to check whether or when measures taken are sufficient to protect human health and the environment.
  - The designation of CEPA-toxic must not be used to address broad, heterogeneous groups or categories of substances, (recognizing that another category or categories may be needed for this).
2. Reduce the documentation / reporting burden of its CEPA notices. Particularly, e.g., the NPRI should be reduced and focused only upon significant releases, and the Section 71 requirements for reporting on other lists of substances should focus only upon what is likely to be significant.

3. Continue with the Comprehensive Air Management System process through the Canadian Council of Ministers of the Environment.

## **Biodiesel Quality**

### **Issue**

With the introduction of a number of biodiesel initiatives occurring in this country, both at provincial and federal levels, the protection of the consumer should be of paramount importance to the Governments of Canada as well as the renewable and petrochemical fuel industry.

### **Background**

Over the last three years many provinces have established or are investigating formal biodiesel mandates. In addition the recently released Federal Gazette Part 1 on renewable fuels indicates a national requirement of 2% of the total pool volume of middle distillate fuel in Canada being biodiesel in the near future. The policy benefits are the potential lifecycle GHG reductions from biodiesel blend use. However, due to the tremendous varieties of potential biodiesel feedstocks, the risks of adverse affects of Canadian cold climate conditions on these different biodiesel blends and the technology limitations of the on-road light duty to medium duty diesel vehicle fleet to use biodiesel blends, there is a need to ensure appropriate biodiesel, biodiesel blend quality and biodiesel blend level specifications are in place and enforced in Canada to ensure the consumer's vehicles and consumer safety is not undermined. Virtually the entire existing on-road fleet of light and medium duty diesel vehicles in Canada is only validated and warranted to use up to a 5% blend (B5) of biodiesel.

There are specifications for biodiesel blendstock issued in Europe under EN14214 and in North America under ASTM D6751. These specifications define unblended 100% biodiesel (B100) used as the blend component with diesel fuel. ASTM has also published standards for the B6-B20 finished blend (ASTM D7467) and B0-B5 finished blend standard (ASTM D975). The Canadian General Standards Board (CGSB) has published a standard for B1-B5 finished blends (CAN/CGSB-3.520-ULS) and is in the process of developing a B100 standard and a B6-B20 standard that both factor in Canadian climate issues as well as any unique aspects of Canadian bio-component feedstocks.

### **Recommendations**

That the federal government:

1. Regulate all biodiesel blends sold in the Canadian market for quality and blend levels:
  - For low level biodiesel blends (B1 to B5) the final blend must meet the latest version of specification CAN/CGSB-3.520 (ULS) and regulate that all retailed diesel for conventional light duty diesel vehicles does not exceed a 5% blend of biodiesel.
  - Until a CGSB B6-B20 specification is available, biodiesel blends containing more than 5% and up to 20% biodiesel must meet the latest version of ASTM specification D7467 S15 (biodiesel blend, B6 - B20).
2. In addition, require that appropriate retail pump labeling be provided for any biodiesel blends of 6% or higher (i.e., high level biodiesel blends between B6-B20) to ensure that consumers with conventional light duty diesel vehicles due not mis-fuel their vehicles with this fuel and potentially damage their vehicles or experience unsafe vehicle operation.

Special Notes: ASTM; American Society for Testing and Materials, now known as ASTM International. This is a group of engineers and scientists that by consensus develop standards that have made products and services safer, better and more cost-effective. The letter and numerical list that follows ASTM designates the standard to be referenced for a particular product. EN is the European Committee for Standardization.

## **Development of a National Power Grid Plan(update preamble to remove references to east-west)**

In 2003, central Canada and the northeastern United States were badly hit by a blackout caused by the disruption in the U.S electricity system. Seven years later; there have been no substantial steps taken by Canada in order to alleviate the severity of a 2003 blackout in the future. Current statistics show that a 2003 blackout in the future is probably inevitable and will occur every 25 years. This incident does not only outline the vulnerability of our country's supply of electricity as a result of power failures south of the border, but it also serves as a reminder of the need to upgrade Canada's electricity infrastructure.

Power supply adequacy and reliability are increasingly important in Canada, with growing electricity demand, increasing prices of fossil fuel, and aging power system infrastructure. Yet, a substantial amount of Canada's power potential is stranded because there is no transmission grid to tap that power and ship it to market.

Canada has a strong stock of energy resources, including sources of clean power in various forms. Most of the more easily accessible oil, natural gas and hydro resources have been developed, meaning that much of the country's future energy potential is located in less accessible areas, such as the north and offshore. Optimizing the development of these to ensure a diverse supply mix should be a priority in Canada's energy plans.

In order to do this, Canada must take action to enhance its energy-related infrastructure. The Government of Canada is in a position to take steps to facilitate the creation and interconnection of critical electricity infrastructure, while producing a made-in-Canada response to greenhouse gases (GHG) emissions that assists in building a greener economy and maintains competitive electricity prices for average Canadians.

### **The Demand for Clean, Reliable Energy**

The availability of reliable, clean, predictably priced electricity is rising in prominence as a veritable cornerstone for a stable economy and a key factor in the competitiveness of many industries in Canada.

In addition to lowering GHG and air emissions and enhancing the national economic landscape, cleaner energy, such as hydro, can reduce dependency on fossil fuel based generation, resulting in Canadians experiencing fewer increases in electricity prices as a direct impact of fuel supply shortages.

### **The Need for Interprovincial Cooperation in Providing Generation and Transmission Infrastructure**

In terms of hydroelectric power, approximately 95% of the installed hydro capacity in Canada is situated in five provinces spanning the country from east to west: Newfoundland and Labrador, Quebec, Ontario, Manitoba and British Columbia. Combined, these provinces produce an estimated 97% of the hydroelectricity generated in Canada. Historically, north-south trade with the US has dominated, particularly for Quebec, British Columbia and Manitoba which export and import in order to optimize production to meet domestic demand and maximize profits from external sales through use of valuable reservoirs and transmission infrastructure. In its June 2005 Outlook for Electricity Markets, the National Energy Board (NEB) recognized that the conditions are ripening for investment in the electricity grid on a national scale.

Furthermore, there is a growing will to expand power networks across provincial jurisdictions. For example, the Province of Ontario has taken action in order to expand its power networks. After its announcements on the electrical transmission interconnect with Manitoba and Quebec, Ontario now reaps the benefits of clean hydroelectric power as well as assistance in its efforts to phase-out coal-fired generating stations thereby reducing carbon dioxide emissions. The benefits of a national power grid will also be felt by provinces like New Brunswick that have suffered tremendously as a result of the challenges they face with Point Lepreau and Mactaquac dam. The people within these areas should not be burdened with the costs of a rebuild or poor power system; rather they should be given an opportunity to reap from the benefits of a national power grid.

Clearly, it is to the benefit of all of Canada to put in place modern power-related infrastructure as valuable assets in the country's energy future. Better integration among all provinces and territories of power projects within a national electricity network would result in synergies and advantages – technical, economic, and environmental. Interprovincial trade of power will allow for:

- increased access to large- and small- scale renewable electricity sources across the country, reducing emissions and reliance on fuel generation;
- diversification of supply, by generation type and by geographic site;

- reduced capacity requirements resulting from increased regional coordination; planning; and
- increased security and reliability

## **Conclusion**

The ongoing discussions between provinces are generating momentum toward the creation of a national power grid.

Facilitating the development of a national grid would:

- unlock new clean and renewable power sources, and maximize the reach of Canada's energy supply by linking areas in demand with sources of surplus power across the country, including those in more remote, northern locations;
- increase reliability and security of power supply;
- enhance the country's electricity infrastructure and generate significant capital investment;
- foster exchanges of energy and enhance overall security of supply for future generations of Canadians;
- facilitate interprovincial trade and transmission of power; and
- contribute to nation-building.

Currently, access to electricity markets is a key barrier to developing clean, renewable resources in Canada. This country has more barriers to energy trade than does the United States. While some physical interconnections do exist, an open, transparent, effective interprovincial electricity market and policy has not yet emerged in Canada.

The development of robust interprovincial trade should be addressed nationally to meet energy supply needs in all of Canada, and allow the country to maintain its competitive advantage in North America and the world. The absence of an effective national regulatory market in Canada encourages a situation whereby its most environmentally-friendly, stable-cost electricity will continue to seek the path of least resistance – into a receptive U.S. market.

It is worth noting that Canada's interest in facilitating more transmission would not be pursued with the aim of supplanting power transfer arrangements with the United States. Simply, expanding interprovincial connectivity is in the national interest in that it would contribute toward optimizing Canada's own energy resource potential and enhancing diversity and security of supply. Furthermore, development of transmission infrastructure and capability within Canada would improve the prospects of cross-border electricity trade with the U.S. as more generation and transmission capacity is created.

## **Recommendations**

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

1. Develop a clear, forward-looking national policy on Canada's electricity energy infrastructure needs in as timely a manner as possible..
2. Work with the provinces, territories, private enterprise and First Nations to put in place the necessary regulatory frameworks to facilitate the creation of a national grid.
3. Remove barriers to and actively encourage and facilitate inter-provincial/territorial trade and transmission of power.

## **Innovative Thinking With Canada's Energy Sector Can Foster Economic Sustainability**

A natural tension exists between encouraging oil and gas utilization and export to support oil and gas producers, and recognizing that Canadians are also consumers. Recent history has driven home to all Canadians the economic impact of international price swings in energy, and yet the oil and gas industries are often not recognized as important to the national economy. There is a need to diversify the economy and protect businesses and consumers from the volatile boom/bust economic cycle related to oil and gas. There are also great opportunities to capitalize on the abundant supply of natural gas to promote a greener, more viable and stable economy.

The Canadian Chamber of Commerce (CCC) in their May 2009 Policy Brief, *Canadian Energy: A Valuable Resource* highlighted the importance of energy production as a contributor to the Canadian economy. In 2007, the energy sector accounted for 5.6 percent of the Canadian GDP or almost \$70 billion, with almost 55 percent of the total energy produced in Canada exported for a total of \$91.6 billion. The Western Provinces accounted for the bulk of crude oil and natural gas production, with the eastern provinces producing and exporting hydro and nuclear generated electricity. Canada has the world's largest uranium reserves in Saskatchewan and Ontario.

While Western Canada has a vast potential of bitumen sourced oil, including an estimated ultimate recoverable potential of 6,276 billion cubic meters untapped "unconventional gas", its natural gas production peaked in 2001. According to the ERCB, Alberta's marketable production of natural gas declined by about 15% over the past decade, even while the number of active gas wells more than doubled.

The Canadian Chamber projected that North America will consume 20-25 percent more energy by 2030, with the transportation sector accounting for 31.3% of final demand, with the industrial sector at 30.9%, and residential customers at 16.9%. In the industrial sector, manufacturing accounts for 70.7%, mining and oil and gas extraction 26.0 %, construction 2.5% and forestry 0.8%. Ontario is the largest consumer of energy accounting for 32.3% of the total energy use, followed by Quebec at 20.6% and Alberta at 19.9%. (p.2).

The Cambridge Energy Research Associates reported in 2007 that the average global decline in currently producing oil fields around the world is 4.5% per year. Demand growth for this same oil in the rapidly expanding economies of the developing world is following an opposite trajectory. The CERA noted that the last year in which the world discovered more conventional crude oil than it consumed was 1981.

As readily available sources of oil and gas become increasingly difficult to extract with higher input costs, and where world demand outstrips supply, it is reasonable to presume that costs will dramatically increase and that there will be supply issues.

Furthermore, the National Energy Board, in their December 2009, *Energy Briefing Note – Attitude and Behavior: Shaping Energy Use*, recognized the importance of Canadians striking a balance between production and consumerism. Their report identified three key areas:

- Energy conservation – promoting behaviors that conserve energy,
- Efficiency – application of new or better technology to reduce the use of energy, and
- Changing energy sources – replacing one form of energy with another.

The strongest motivator for changing Canadians' energy consumption patterns will be the economy and the price of oil and gas products. As Canadians engage more fully in energy conservation, there is a direct economic benefit, in that more energy is available for export.

## **Recommendations**

That the federal government:

1. Enhance and augment programs that encourage and promote the research, development, and commercialization of new technologies that minimize the environmental drawbacks associated with the extraction, production, and consumption of fossil fuels, while boosting the economic viability of our other energy resources, such as wind, solar, geothermal, hydro, and bio fuels, etc.
2. Wherever possible, progress government policies and encourage private sector practices that support domestic preservation of finite fossil fuels through energy conservation and efficiencies.
3. Take a leadership role in pursuing opportunities to capitalize on Canada's natural resources, grow a more robust energy market and promote improved environmental responsibility through exploring the feasibility of adding alternative energy sources such as natural gas and other viable options to government procurement practices, and market this concept to the Canadian public.

## Built Community Sustainability Platform

The Canadian Chamber of Commerce believes that environmental innovation in our built environments should be encouraged and supported through a series of new initiatives, along with changes to existing policies and regulations. We are convinced that the financial paybacks for sustainable solutions in the built environment will encourage private industry investment if the barriers are removed and appropriate incentives created. Appropriate incentives are those that reward sustainable federal building investment, by giving those investments preference over the current low first cost procurement practices. It is not our expectation that these recommendations will result in a net increase in funding from the federal government.

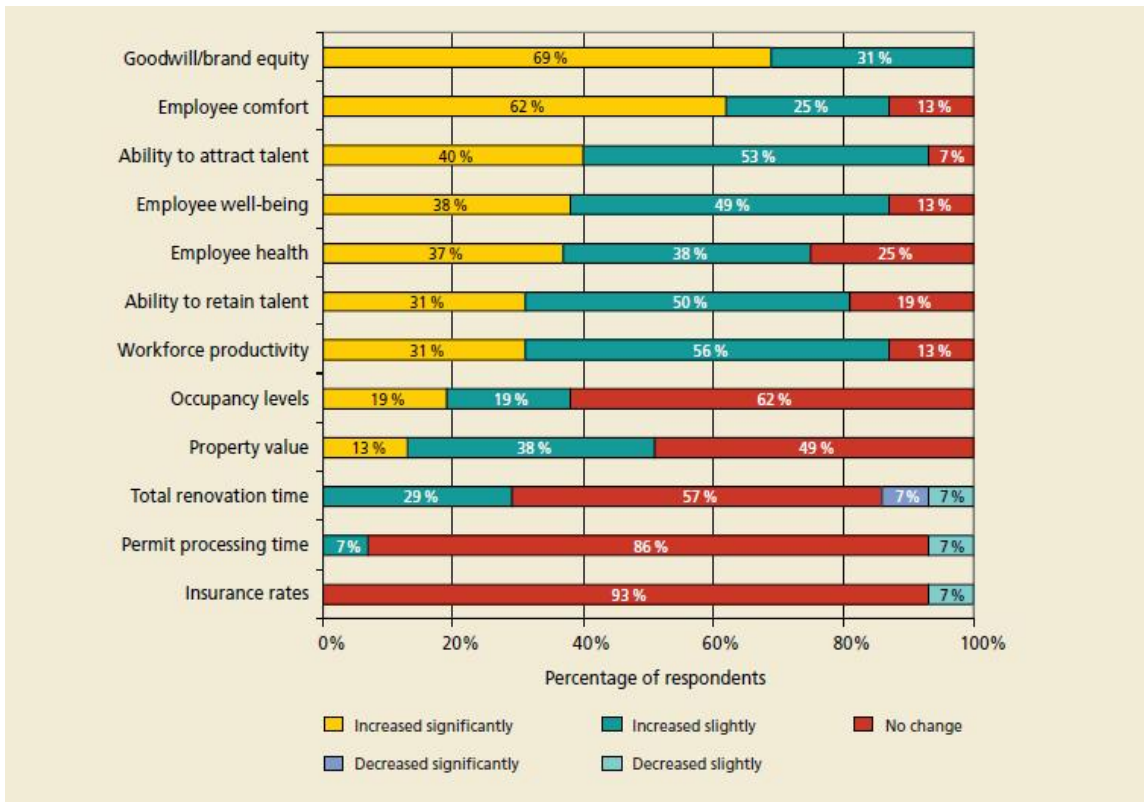
The current federal, provincial, territorial and city policies do not address existing buildings, yet this is the largest and most immediate opportunity to renew and rejuvenate the built environment. It is the federal government's responsibility to lead by example for this initiative. Appropriate environmental regulation is not an anathema to long-term economic prosperity, but rather a prerequisite. Current situation:

- Despite solid evidence of green buildings' lifecycle cost savings, many developers remain resistant to adopting green building practices and techniques. It has been widely reported that investments in building green offer significant lifecycle savings, commercially acceptable return on investment, and substantial greenhouse gas savings. It is proven that the private sector will follow the lead of the federal government in innovation.
- Canada has a regulatory framework that is well-intentioned and crafted to help protect health, safety and public welfare. Unfortunately, these well-intentioned regulations and policy instruments can have the unintended consequence of stifling innovation and discouraging green practices.
- Investing in greening federal buildings will create jobs, reduce energy costs, improve worker productivity, increase the value of the government's portfolio and ultimately save taxpayers money. Just as important, at a time when Canada is struggling to address the effects of climate change, studies show that improving energy efficiency in buildings is truly the "low-hanging fruit" that actually generates positive economic returns over their life-cycle.
- A 2008 study by Deloitte and Charles Lockwood surveyed a number of organizations that had undergone at least one retrofit that was LEED-certified (see chart below). Ninety-three percent of respondents reported a greater ability to attract talent, 81% reported greater employee retention, 87% reported an improvement in productivity, 75% saw an improvement in employee health, and 51% saw an increase in property values.
- Sufficient data has been gathered to show that the value of productivity gains exceed that of the energy savings on a lifecycle cost benefit analysis.

### Recommendations

That the federal government:

1. aggressively work to aggregate incentive programs, streamline application procedures, reduce duplication and dedicate the savings into funding energy efficiency, sustainable projects.
2. Work with the provincial and territorial governments to remove impediments to encourage sustainability by allowing and encouraging greater innovation at the local level.
3. Work with the provincial and territorial governments to develop policies to remove barriers and provide incentives for local governments to improve the building code and encourage innovation in providing sustainable building solutions.
4. amend the Federal Building Initiative to allow energy savings to be retained in their facility capital budgets in order to fund sustainable building improvements.



## Stop the Spread of Another Invasive Freshwater Species

One example of invasive species is the Asian carp, which can grow up to seven feet and weigh 150 pounds. The example of Asian carp is but one example that applies to a number of invasive species. The fish eats 40 per cent of its body weight in food each day.

Currently the Asian Carp, a massive fish with a reputation of jumping into boats, injuring fisherman and endangering natural resource vital to the fishing, boating and tourism industry, only live a few miles from Lake Michigan in the Illinois and Mississippi Rivers. If allowed to migrate into the Great Lakes, wildlife experts believe the hyper-aggressive Asian Carp would breed quickly, dominate food supplies and push precious gaming fish into extinction. That's not a chance the business community is willing to take given the significant economic impact Asian Carp would have on a \$7 billion commercial fishing industry in the Great Lakes region, and other areas across Canada, not to mention the trickle-down on tourism, boating and other related industries.

Ontario and several US states are home to one of the world's largest freshwater coastlines in the world, giving Ontario a unique competitive advantage in attracting jobs and investment. A lawsuit effort launched by the Michigan Attorney General to block the spread by closing the shipping lock at Chicago was defeated in the US Supreme Court in spring 2010. Ontario and neighbouring US states, including Ohio, Wisconsin, Minnesota, had supported Michigan's efforts. The lawsuit had additionally asked for permanent separation between the invaded waters and the Great Lakes.

The U.S. Army Corps of Engineers fears closing the canal locks and dams could lead to flooding and affect water quality. To prevent the invasive migration, officials have at times poisoned more than five miles of the canal waters. Further, three electric fence grids are in place to turn-back the Asian carp before they reach the Chicago shipping lock.

Scientific studies have indicated that Asian Carp have been contained to date with only minor migration beyond the lock being identified. The Obama Administration has allocated \$13 million to block the migration, but the president has not supported closing the locks. A new US Asian Carp harvesting industry is also commencing and may help control the fish.



As a result of learned experiences from sea lampreys the Canadian Department of Fisheries and Oceans has provided expert science and staff resources to assist the US states to understand the invasive species and attempt to control the spread. They also are modeling what would be potential primary location sites should the species get past the physical barriers described above. Recently, rapid response strategies have also been developed by DFO to respond to new invasive species, but remain untested in Canadian waters to date. DFO is also concerned that live bait transportation and inadvertent or malicious importation of Asian Carp to any northern US state lake or directly in Canadian lakes and tributaries could create an enormous problem for any and all freshwater east and west of the Great Lakes and north to the Canadian Arctic.

The Ontario Ministry of Natural resources has acted quickly to assist the DFO in any capacity required. The province of Ontario has also passed an important deterrent to importing the species making it illegal to do so. It is believed that Ontario is the only province with such a statute. The DFO has subsequently trained border crossing agents at the Sarnia-Port Huron international bridge entry point on water tank camera operation and species recognition in trucks that haul live fish into Canada.

In the Sarnia Lambton area, a grass carp, a species of Asian carp, was recently caught by a commercial fishery. Action must take place now to improve success to stop the spread in the Great Lakes and beyond.

### **Recommendations**

That the federal government:

1. Work with the US federal government and Canadian provinces and territories to stop the spread of invasive species like Asian Carp.
2. Obtain US government and Canadian territorial and provincial agreements on rapid response strategies in international waters like the St. Clair River, St. Lawrence Seaway and the Red River basin.
3. Encourage all provinces and territories to pass legislation to ban the importation of invasive fish species like Asian Carp.
4. Encourage all provinces and territories to create rapid response strategies to respond to invasive species in fresh waterways, including business and citizen education on species abatement.

### **Pine Beetle Management in Canada**

The mountain pine beetle (MPB) is the most destructive native insect pest of mature pine forests in North America. British Columbia has experienced a mountain pine beetle epidemic throughout the province. Spreading at an alarming rate, forecasters believe that by 2013, 80 percent of the mature pine in B.C. will be dead.

Alberta is also experiencing an unprecedented expansion of MPB populations. Survey results of the 2009 MPB flight on Alberta's pine forests indicate that the dispersal was more severe than the flight experienced in 2006. Beetles are now being detected farther east, north and south than ever before, with outbreaks into Saskatchewan and in several U.S. states. Should the beetle take hold in the jack pine of the boreal forest, the infestation would go national. The boreal forest is a mixture of deciduous and coniferous trees that covers northern Saskatchewan and extends to Canada's east coast.

The MPB is native to the lodgepole pine forests of western North America, but breed in any species of pine. Normally, forest fires and cold temperatures combine to keep the population low. But in this case, nearly a century of wildfire suppression and recent milder winters have combined to create ideal conditions for the pest. Western forests are full of mature pine, the invaders' preferred host, and the beetle's mortality rate is low. The result: the largest infestation ever recorded in North America.

The boreal, or "northern" forest is Canada's largest biome or environmental community. It occupies 35 percent of the total Canadian land area and 77 percent of Canada's total forest land, stretching between northern tundra and southern grassland and mixed hardwood trees. The boreal forest's animals, plants and products affect each Canadian every day, from paper products, to the jack pine railway ties, through to the air we breathe.

Timing is critical to effectively control MPB infestation. Early detection and treatment of infested trees is a vital method for mitigating the spread of the beetle. If an infestation is not controlled early, the result could be widespread and disastrous as has occurred in B.C.

Funding for research, planning and long-term ecosystem management is of high priority. Issues such as hazard tree management, post epidemic pine deadfall, fuel hazard reduction and wildfire management, maintenance of recreation values and management of adjacent access will require continuing efforts from protected area managers.

Prevention of MPB outbreaks requires a long-term and comprehensive forest management plan to reduce tree and stand susceptibility to MPB. In 2006, the Government of Canada invested \$200 million in British Columbia over three years in the Canada – British Columbia Mountain Pine Beetle Program to reduce the consequences of the beetle infestation and assist in efforts to slow the infestation’s eastward spread. The program focused on controlling the spread, recovering the economic value, and protecting forest resources and communities.

Since that time, however, federal government funding and initiatives to address MPB spread have experienced significant reductions. Only \$18 million in federal funds targeted for surveys and MPB spread control have been invested in Alberta.

Canada is the world’s largest exporter of forest products and has 10 percent of the world’s forests, including 30 percent of the world’s boreal forests. The impact of MPB on Canada’s forest industry and, in turn, the contributions of the industry to our communities and our country, is of significant concern.

In British Columbia, this eco-system altering epidemic is causing widespread mortality of the lodgepole pine forests, the province’s most abundant commercial tree species. In Alberta, of 25 major forest companies (Annual Allowable Cut of 10,000 m<sup>3</sup> or greater) in operation, more than half of them rely on pine to continue operations. Another two medium and 21 small operators would be severely impacted by declines in their AAC, caused by MPB.

Forests play an integral role in our country: they provide jobs and economic benefits for communities from east to west, and contribute to the well-being and health of Canadians and our environment.

## **Recommendations**

That the federal government:

1. In consultation with the affected industries, establish a nationwide Mountain Pine Beetle Strategy with adequate funding required for focusing on early detection and removal of infested trees.
2. Form an alliance with the provinces and territories in a strategic attack to mitigate the impact MPB will have on our country and its economy by using tactical approaches that will help stop the beetle from making its way across the boreal forest.
3. Work with non-governmental fish and game, and environmental associations in addressing this epidemic and its impact on natural resources and its environment.
4. Be proactive in aggressive management of forests in Parks Canada.
5. Assess the impact of the MPB epidemic and its impact on communities in forested areas and assist those communities in the development of strategies that promote economic diversification.
6. Work with provinces to develop strategies to rehabilitate areas affected by MPB.

## **Fisheries Inter-Jurisdictional Issues**

The Department of Fisheries and Oceans (DFO) continues to expand its jurisdiction through the application of the fish habitat protection provisions of the Fisheries Act. This goes beyond Federal jurisdiction, as provided in the Constitution, established case law, DFO policy, and generally through the definitions of “fish habitat” and “waters frequented by fish” as applied under Sections 35(2) and 36(3) of the Fisheries Act.

Fisheries are a vitally important resource in Canada and are under the jurisdiction of the Federal Government. However, for inland fisheries, the Provinces own the water and fish that comprise any given fishery. Many industrial projects in Canada are located in areas that may have some impact on fish habitat or waters that may

contain fish. In many circumstances industry participants have noticed an increased role taken by the Federal Department of Fisheries and Oceans (DFO) in areas where provincial governments have historically taken administrative control. In some circumstances, DFO has actively ignored existing provincial approvals for facilities.

Recent proposals to amend the Fisheries Act contained in Bill C-32, do not significantly alter the habitat protection provisions of the Fisheries Act, but do set out certain principles that may assist in the application of the fish habitat protection provisions, including cooperation with provincial governments, and sustainable development. Bill C-32 does provide for potential provincial equivalency on fisheries management and for agreements with provinces to further the purposes of the Act, but DFO suggests that administration of fish habitat protection will not be delegated. Bill C-32 may be submitted to the House of Commons Standing Committee on Fisheries and Oceans and further consultations are contemplated.

From recent DFO administrative decisions in various provinces, it is clear that DFO has expanded application of the Fisheries Act by extensions of the definition of habitat through case law over time, and even beyond established case law. DFO no longer confines its jurisdiction to “fisheries”, but takes jurisdiction over any water that may have fish in it, whether such waters may support or be connected to a viable fishery or not, and over adjacent lands as ‘habitat’.

This expanded jurisdiction is often based on the definition of “fish habitat” and its application under Section 35, and based on the definition of “waters frequented by fish” and its application under Section 36(3) of the Fisheries Act. These definitions are broadly framed and when read literally and outside the context of the Federal fisheries power under Section 91(12) of the Constitution Act, 1867, likely intrude on Provincial jurisdiction over property and civil rights contained in Section 92(13). In current applications of the Fisheries Act, no assessment of the quality of the fishery is made by DFO. DFO appears to take the position that a fish is a fish regardless of its contribution to fisheries as a natural resource. This expanded application of fisheries jurisdiction by DFO is not apparently supported by the Constitution, case law or existing fisheries policy.

DFO continues to expand its jurisdiction through the application of the fish habitat protection provisions of the Fisheries Act. This goes beyond Federal jurisdiction, as provided in the Constitution, established case law, DFO policy, and generally through the definitions of “fish habitat” and “waters frequented by fish” as applied under Sections 35(2) and 36(3) of the Fisheries Act.

This has recently led to obvious distortions, such as the conclusion that a facility approved as a mine tailings system is “fish habitat” simply because a fish was found there, or the classification of some storm sewers as habitat. Timelines for receiving decisions from DFO on issues such as fisheries compensation are also unacceptable. These problems are unlikely to be changed by Bill C-32, an Act respecting the sustainable development of Canada’s seacoast and inland fisheries.

A related issue requiring attention is the provision for changes of the rules, which affect parties after they have operated in good faith under the preceding rules. Rule changes can be expected to be needed to enable better management of the resource as new information is obtained, circumstances change, and development continues. It is key that when such changes are made, existing users with investment and dependency based on past rules be provided time and compensation for the change. The expansion of the definition of ‘fish habitat’ is a recent example of this. New legislation should allow changes to be forced, but also require the provision of time and compensation for the transition.

DFO lacks a policy framework, as it no longer follows the Fisheries Policy or habitat management policies set with significant stakeholder input. As a result the approach DFO will take to many fishery related issues, including habitat protection and compensation issues, is unpredictable.

The approach DFO takes to fisheries issues is ad hoc and often takes a significant period of time, needlessly delaying projects and stalling economic activity. In the current economic climate, DFO has the potential to significantly chill investment.

## **Recommendations**

That the federal government:

1. Amend the Fisheries Act to restrict fisheries jurisdiction to that intended by the Constitution including limiting fisheries jurisdiction to the protection of commercial, recreational, and subsistence fisheries. This

should be accomplished through amendments to the fish habitat protection provisions of the Fisheries Act. The definition of “fish habitat” should exclude provincially licensed industrial facilities and other anthropogenic structures or facilities. The definition of “fish habitat” should also include a qualifier with respect to quality. The definition of “waters frequented by fish” should be similarly limited. New legislation should allow changes to be forced, but also require the provision of time and compensation for the transition.

2. Develop the needed habitat definition changes with stakeholders and include these definitions in the legislation and/or regulation(s), and not set them through changing Department policy and expansion through case law.
3. Require DFO to increase the use of operational statements to more clearly articulate regulatory requirements.
4. Require DFO to more clearly set out binding timeframes in policy for determining whether and how the Fisheries Act applies to a particular project.

## **Electricity Exports: Promote Canadian Hydroelectricity as a Renewable Energy Source to American Legislators**

Hydroelectricity is a clean, renewable, reliable and competitive energy source.

Hydroelectricity produces no air pollution, waste or polluting or toxic by-products. It also generates very few greenhouse-gas (GHG) emissions.

Hydroelectric reservoirs can store energy and absorb any fluctuations associated with intermittent renewable forms of energy, such as wind and solar energy, whose use is increasing. Hydroelectricity helps ensure the future of renewable energies.

At the International Conference for Renewable Energies held in Bonn in 2004, 154 countries recognized hydroelectricity as a renewable energy source.

More recently, in September 2009, New England governments and Eastern Canadian Premiers approved a resolution recognizing hydroelectricity as a renewable energy source and recommended that it be recognized as such in Canadian and American federal legislation.

Finally, the State of Vermont has passed a law recognizing that all forms of hydroelectricity are renewable energy sources.

In the United States, several states adopted RPS (*Renewal Portfolio Standard*) programs recognizing hydroelectricity as a renewable energy source. Certain federal projects proposed by the US Congress under the RES program (*Renewable Electricity Standard*) also recognize this.

Since hydroelectricity is the most important basic renewable energy source available in North America, hydroelectric installations of all sizes that avoid or minimize environmental and social impacts should be treated the same way as other clean energy sources (natural gas, nuclear or carbon storage) in American federal statutes.

This would benefit both countries. On the one hand, hydroelectricity accounts for 60% of electricity generation in Canada and can be a substitute for fossil energies produced in several American states. On the other hand, for Canada’s main producing provinces (Quebec, Newfoundland & Labrador, Ontario, British Columbia and Manitoba), the prospect of exporting more hydroelectricity south of the border in the next few years is a sizable business opportunity.

The recognition of Canadian hydroelectricity as “renewable energy” by Congress and American state legislators is an important step towards increasing our electricity exports to the US and reduce North American GHG emissions.

### **Recommendations**

That Canada’s federal, provincial and territorial governments multiply representations to American legislators to have hydroelectricity recognized as a renewable energy source in states RPS programs and US federal RES programs.

## **Addressing the negative Impact of Regulatory Approval Process on Regional Economic Development**

As Canada looks to cultivate its position as the Gateway to Asia Pacific and to attract new investment we are challenged by a significant infrastructure investment deficit that is the result of a history of underinvestment from all levels of government. Our infrastructure is in need of major investment and development to facilitate trade and economic growth.

While certain jurisdictions have had some notable success in terms of all levels of government coming together to partner on major infrastructure projects, particularly as part of the federal stimulus program this success does not address the central concern of the business community which is that we continue to be challenged by an unduly slow and unpredictable regulatory approval process at the federal level.

While the federal regulatory approval provides a process to address a broad range of environmental, health and safety, socioeconomic, community and First Nation issues, ensuring the issues and concerns of all interested parties are considered together it does not provide what is essential to the business community, certainty and timely decisions.

Prior to taking on large investments in developing infrastructure, investors need assurances as to the costs associated with the project and the time lines in which the project will be completed.

Extensive planning is required in order to accomplish this. A critical component of any infrastructure development process is the regulatory approval process. In the case of the federal, provincial and territorial governments, it is all too often the case that the regulatory approval process is delayed from its original timelines, if such timelines even exist. This in turn causes the entire infrastructure development process to fall behind schedule.

### **Recommendation**

That the federal government ensure that the resources are made available to conduct all regulatory approval processes in a timely manner.

# Industry

## Improving Canada's Intellectual Property Rights System

### Background

The Canadian Chamber of Commerce remains very concerned about intellectual property protection and enforcement in Canada. The Canadian Chamber is also concerned about the significant delays that have occurred in implementing remedial legislation. However, the business community also realizes that governing with a minority parliament does present challenges. Through 2010 and beyond, the Canadian Chamber, and its affiliate the Canadian Intellectual Property Council, looks forward to working with Parliamentarians to improve our IP system. With Bill C-32, the *Copyright Modernization Act*, the government has taken the first step towards updating Canada's copyright laws. The objectives of the bill strike an acceptable balance between various interests and while there are areas where greater clarity is desirable, they provide a solid foundation for future economic growth and job creation in Canada.

While the theft and misappropriation of intellectual property (IP) can lack, for some, the same social stigma as other criminal offences, this illegal activity remains a significant drain on the economy, deceives the public and is harmful in many ways including through the loss of jobs, a reduction in tax revenues for governments and, last but not least, serious consumer health and safety risks due to the poor, inconsistent and often hazardous quality of fake products. Virtually no industry is immune from this illegal activity. In addition, the misuse of a rights holders intellectual property rights not only erodes the value of intellectual property but also discourages investment in innovation and creation. In the rapidly changing global economy that focuses on global trade and digitization, protecting intellectual property is critical to ensuring a competitive Canada.

The Canadian Chamber also looks forward to working with the government towards the conclusion of the Anti-Counterfeiting Trade Agreement that advances Canadian interests.

Reform of our IP related statutes such as the Copyright Act and Trade-marks Act, as well as the IP related provisions of other statutes such as the Criminal Code is urgently needed so that rights holders and the authorities have the tools that they need to efficiently and effectively stop the flow of counterfeit goods and protect IP in Canada. Canada's IP environment must be brought to up the standard of our international trading partners. On a positive note, the government did take a step forward by allowing for the proceeds of crime from copyright crimes to be confiscated.

### Recommendations

That the federal government:

1. Make counterfeiting and piracy a government wide priority and act on appropriate legislative reforms now.
2. Provide resources for the necessary reforms and their implementation. This would enable authorities to search and seize suspected counterfeit goods at Canada's major ports and gateways.
3. Strengthen existing statutes, such as the *Criminal Code*, *Copyright Act* and *Trade-marks Act*, either individually or through a dedicated anti-counterfeiting statute. Initiatives that should be taken in relation to this are:
  - Enacting the long anticipated amendments included in Bill C-32, the *Copyright Modernization Act*;
  - 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 provide for expedited civil proceedings for cases involving counterfeit products and other IP infringement;
  - Ratifying the two outstanding WIPO treaties that specifically deal with enforcement of intellectual property rights over the internet;
  - Enacting amendments to the *Customs Act* to allow for search and seizure of counterfeit and pirated goods and provide customs and law enforcement agencies with the ability to share information with rights holders and licensees;

- Creating a government task force or central resource to oversee the advancement of IP in Canada.

## **Identity Theft, Information Privacy and the Photocopier**

*“Publicized threats (of identity theft) range from mailbox thieves and lost laptops to the higher-tech methods of email scams and corporate data invasions. Now experts are warning that photocopiers could be a culprit as well.”*

That quote came from a media report in 2007. Yet clearly, the problem has been largely ignored, and the public remains generally unaware of this potential threat, which could put the most critical and intimate information of an individual, business or state in jeopardy of loss, theft or compromise.

A television report in March 2010 begins:

*At a warehouse in New Jersey, 6,000 used copy machines sit ready to be sold and almost every one of them holds a secret. Nearly every digital copier built since 2002 contains a hard drive - like the one on your personal computer - storing an image of every document copied, scanned, or emailed by the machine. In the process, it's turned an office staple into a digital time-bomb packed with highly-personal or sensitive data. If you're in the identity theft business it seems this would be a pot of gold. The types of information available on some of these machines are social security numbers, birth certificates, bank records and income tax forms.*

The problem - the captured data is not removed from the hard drive unless the owner/operator is aware of the threat, appreciates the ramifications of the threat and employs special software designed to purge the hard drive of this stored data as photocopiers do not come with a “purge” button to remove the material on demand.

Until this report was broadcast, few people knew about the problem. Since then, through distribution across the internet, a storm of concern has erupted across North America. An investigation has begun in the U.S. Congress and it is hoped some action may result to deal with this problem.

What's being done to protect Canadians and their businesses, which generally remain unaware of this threat? The report revealed that even though software programs (at additional cost) are available to purge information, few lessees or purchasers are aware of the solution, or are electing not to take advantage of them.

When four used machines were purchased at random, in the production of the aforementioned television report, the hard drives were removed and downloaded, yielding sensitive police files, medical records and patient information as well as other data. Many of these used machines are sold offshore with little or no control over where they go. Those hard drives were not purged by the wholesaler.

Further exacerbating the potential for identity theft and critical information to be compromised is the fact that there is an enormous inventory of used equipment on the market due to the financial downturn and the resultant surplus of equipment from failed and down-sized businesses and government operations across the globe.

It is reasonable to assume, that if a person uses a computer, they are aware (or should be aware) that any data they introduce to that machine would be stored until removed and they would be responsible for it.

It is not reasonable to assume that users of digital photocopiers, whether in a public or business setting, would be aware that these machines capture and retain all information introduced to the machine.

The result is that anyone who copies personal or corporate data may be at risk of having that data fall into the wrong hands, within our borders or beyond Canadian jurisdiction, when used machines are shipped out of the country.

Notwithstanding the commercial risk to companies of the exposure of critical private data, research for this document found no information on how many of these companies are aware of the issues around digital photocopiers. It certainly poses some interesting legal questions of where liability lies under the Personal Information Protection Electronic Documents Act and any provincial legislation where applicable, when machines containing potentially sensitive documents are returned, resold or otherwise disposed of.

Some large firms and government agencies, particularly those with IT departments, are aware of the issue, and maintain policies to ensure data is protected. An RCMP member reported that all hard drives on all equipment are destroyed before their office equipment is disposed of.

In the wider world however, there exists the potential that great harm may be occurring, and the federal Office of the Privacy Commissioner should ensure that this problem is brought to everyone's attention along with guidelines to assist both the general public and business sector in dealing with it.

### **Recommendations**

That the federal government:

1. Encourage and work with industry to develop and implement an information program to advise all users and operators of digital photocopiers and other similar devices with data storage capacity of the potential risks to the security of stored information when such equipment is returned following lease termination and/or resold, and
2. Encourage and work with industry to develop and publicize guidelines for users, operators and dealers of such equipment, on how to purge stored data after use.

### **Creating a New Pharmaceutical Industry in Canada – The Thebaine Opportunity**

There is currently a thriving pharmaceutical industry growing poppies for pharmaceutical medicines in the United Kingdom, Europe and Australia, but not in North America.

A new variety of poppy, the thebaine poppy, can be used to produce prescription drugs such as oxycontin and codeine, and does not contain the narcotic properties of traditional poppies.

Canada is the only G8 country that does not grow or process the raw materials for poppy processing, however, Canadians purchased over 500 million dollars worth of prescription medications derived from poppies in 2008.

Several locations have the ideal growing conditions for a high yield thebaine poppy crop in our country.

It is critical for the Federal Government to open the way now for the private sector to innovate so we can find new higher value added opportunities in using our soil, water, processing factories, and research scientists. This is especially important so that national objectives are achieved to replace public sector fiscal stimulus with private sector investment and to enhance farm incomes from the market.

The Canadian Chamber of Commerce supports the creation of a cluster of biological science industries in our nation using farm commodities and biotechnical research, that has the potential to adjust to foreign exchange fluctuations impeding the international competitiveness of many agricultural and manufacturing sectors.

### **Recommendations**

That the federal government:

1. Facilitate the creation of a new pharmaceutical industry by communicating to the federal Minister of Health that when reviewing applications for approval, the Minister recognizes the potential of farming and processing of thebaine poppy in Canada for the pharmaceutical industry; and that these applications be expeditiously reviewed and approved by Health Canada and the Canadian Food Inspection Agency.
2. Support ongoing research at universities which are currently working on projects, including thebaine poppies, that foster a new national pharmaceutical industry.

### **Capitalizing on a Digital Economy Strategy**

With the right plan, Canada can dominate the global digital economy. By building on our strengths and working together with the federal government, Canadian businesses will be in the right position to realize the benefits of digital technologies and achieve a competitive advantage internationally.

The Canadian Chamber of Commerce welcomed the federal government's announcement in Budget 2010 that a Digital Economy Strategy will be developed and implemented. On May 10, 2010, the government announced it would consult widely with the public on the Digital Economy Strategy before taking action. With the introduction of Bill C-32, the *Copyright Modernization Act*, the government has taken the first step towards updating Canada's



copyright laws. The amendments in the bill strike a good balance between various industry and consumer interests and provide a solid foundation for future economic growth and job creation in Canada.

The Canadian Chamber has been leading the charge calling for this digital strategy by working with leading technology companies and by producing policy papers that encouraged a strong partnership between government and business to make this strategy work.

E-business is a key enabler of productivity growth, increasing profit and decreasing costs of Canadian firms. While most enterprises are aware that doing business electronically is a prerequisite for success in today's global economy, many businesses, especially small businesses, remain unaware of the value of e-business.

In 2009, the Canadian Chamber adopted a policy resolution entitled "Ensuring Canada's Economic Success Using Information and Communications Technology". This resolution highlighted the need for the government to establish a national information and communications technology strategy and encouraged the government to once again become a world leader in this field. It also provided policy recommendations that remain relevant and should be incorporated in a digital economy strategy.

It's no secret that productivity is directly linked to innovation and the adoption of technology. Countries like the United States, Britain, Australia and Denmark are pouring resources into the digital economy and in some cases, creating federal ministries to oversee opportunities and challenges. Canada's productivity gap compared to the United States remains problematic. While the business community understands the government's current financial constraints, there are pioneering ways to work together to advance the digital economy strategy.

### **Recommendations**

That the federal government:

1. Under the leadership of the Minister of Industry, lead the implementation of the Digital Economy Strategy across the government and make adoption of information and communications technology (ICT) a government-wide priority.
2. Re-allocate resources toward investments in ICT and ICT-related programs.
3. Develop a pilot project to assist small and medium sized businesses (SMEs) across the country with implementation strategies for ICT.
4. Create an environment that better protects intellectual property rights.

### **Funding Support for Commercialization of New Technology**

The potential for new jobs, through proven new technology is not being achieved in Canada as gaps continue to exist to fund important final stages of commercialization development. There is some government funding available for pure research and applied research. This funding can be applied for bench and pilot scale facilities/testing.

Often provincial programs like the Ontario Innovation Demonstration fund (which covers 50 percent of eligible expenses to a max of \$4 million) provide good funding support for a pilot (small scale) plant. However, they often do not provide sufficient funding to build a demo plant (next step after pilot). Often the fund's existence is not well known in local communities.

Depending on the technology or process being considered, funding for a demonstration plant may or may not be available. The size and magnitude of a demonstration plant often is a barrier to successful funding. Demonstration level funding could be found for an innovative manufacturing process that was limited to a single machine for a few \$100,000. However, the problem many communities face is trying to replace multi-billion dollar facilities.

A demo plant could cost several \$10's of millions. Something like a new waste gasification to chemicals or new bio based power generation technology or a next generation bio-diesel plant or a next generation chemical pulp mill has a huge chasm to bridge between funding for a bench/pilot scale plant which might be available and funding for a demonstration plant.

All businesses that supply products or services to present day facilities could be affected. If Canada cannot replace present day traditional technology facilities, and replacement new technology facilities are built elsewhere in the world Canada will lose all of the support businesses as well as lose work for the businesses that would be involved in building the facilities - fabrication, construction etc.

This is a broad based sector issue. This issue is not limited to one sector; rather it includes industries having similar characteristics re: complexity, scale up, economic size of facilities. Refining, petrochemical, pulp & paper, mineral processing and their potential replacements e.g. bio-fuels, chemicals/fuels from waste and innovative power generation technologies that are bio-based are a few examples.

The first step in moving from a lab/pilot scale to a demo facility is to perform the detailed engineering to develop a commercially viable plant design and the detailed work required to prepare an accurate estimate of the capital cost of the facility. To do this could cost more than \$1 million. This level of information is required before the proponent can approach any 'commercial' funding bodies (bank, angel investor, larger company, etc).

### **Recommendations**

That the federal government:

1. Work with other levels of government, private sector lenders, innovator companies, trade associations and venture capital firms to develop a strategy/action plan to promote and finance the development of new technologies.
2. Work with provinces and territories to expand the awareness of existing innovation funds.

### **Positive changes to the Canadian Wheat Board can promote economic growth in Canada**

The Canadian Wheat Board (CWB) has held a monopoly on the marketing of wheat grown in Western Canada for export or domestic consumption since 1943. At that time the Government of Canada made selling wheat through the CWB mandatory in order to guarantee a steady supply of food to Europe during a time of war. In 1949, barley and oats were added to the monopoly, although oats were eliminated in the 1980s.

Innovation and increased secondary and tertiary processing are key components in developing strong value chains in the wheat and barley industries for the benefit of producers, processors, and the country as a whole. The current single-desk model restricts valued added investment in wheat and barley, significantly diminishing the ability of farmers and industry to respond to market demands and earn a premium return in recognition of the innovation provided, including innovation in value-added processing.

The removal of single desk marketing systems in other countries has led to new investment and growth in value-added activities, benefiting all members of wheat and barley value chains from consumers to processors to farmers. Argentina, Australia, Ukraine, Russia are among many examples. Removal of delivery constraints into the Canadian grain handling system has benefited the entire Canadian Canola industry.

Chambers of Commerce strives to help foster growth in cities and across the province business and industry productivity and competitiveness, thereby raising the standard of living for all Albertans. This mission is based on a person's ability to enjoy the liberty associated with running a business in a free and open economy – a liberty that should not be denied Western Canadian farmers and industry.

### **Recommendations**

That the federal government:

1. Amend the Canadian Wheat Board Act to provide Western Canadian farmers and value-added\* processors the voluntary option to participate in the Canadian Wheat Board. This amendment would give all farmers the right to market their own production of wheat and barley to any buyer they choose.
2. As a first step, have the Minister Responsible for the Canadian Wheat Board immediately use his powers under the Canadian Wheat Board Act to instruct the CWB to issue no-cost licenses for all Inter-Provincial and Export shipments of value-added products of wheat and barley to allow present and new processors to work directly with growers and thereby encourage an expansion of value-added processing of wheat and barley in the Prairie provinces.

\*Value Added Product is defined as any change from the Harmonized Standards (HS) code from the grain code to a value added product code at the 2 digit level. E.g.: from cereals (codes starting with 10) to Milling industry Products (codes starting with 11 or to consumer food products codes starting with 16-24). Reference: <http://www.exportcanada.com/HscodeSearch.aspx>

# International Affairs

## Enhancing and Diversifying Canada's International Trade and Investment

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

While the G20 has recognized the importance of open markets for global economic recovery, protectionist measures have emerged in certain countries, including in key trade partners such as the U.S. Protectionism is a slippery slope of tit-for-tat measures and countermeasures; it is a lose-lose proposition. It is vital that Canada continue working with its trading partners and through multilateral fora and institutions such as the G20, WTO, OECD and APEC, to buttress free, rules-based trade and to counter protectionism and trade-distorting practices.

For Canada, nothing is more crucial than to maintain strong, open and transparent trade and investment ties with the U.S., which represents 75% of our exports and \$1.6 billion in daily two-way trade. Given how integrated our two economies are, protectionism in the U.S. is a serious concern of business communities on both sides of the border. Canada and the U.S. must collaborate to roll back protectionist measures on procurement such as "Buy American" and similar measures in individual U.S. states and cities. We must work together to deepen mutually beneficial economic integration.

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

The E.U. is our second largest trade and investment partner after the U.S. Steady progress is being made in the negotiation of a Canada-EU Comprehensive Economic and Trade Agreement (CETA), projected to generate some \$40 billion in annual trade and investment gains. We must continue vigorously working to achieve an ambitious Canada-EU CETA by 2011.

In 2009, the PM made milestone visits to India and China, two of Asia's most dynamic economic heavyweights. With India we are scoping for a Canada-India Comprehensive Economic Partnership Agreement (CEPA), and are working to overcome hurdles standing in the way of the ratification of our Foreign Investment Protection Agreement (FIPA). With China we have renewed leadership ties, signed MoUs on cooperation and are negotiating a FIPA. Building on these ties and concluding the FIPA are vital for the broadening and deepening of the Canada-China economic partnership.

As Canada deepens its engagement with its Asia-Pacific partners, it is crucial that it keep pace with multilateral efforts in the region. The Trans-Pacific Partnership Agreement (TPP) is a multilateral FTA whose signatories include Chile, New Zealand and Singapore. Many see it as a building block toward an eventual APEC FTA. Australia, the U.S. and others have stated their intention to join the TPP bloc as full-fledged members, and have begun negotiations for accession. It is important that Canada follow-up on its recent signal of interest and possible intention to join the TPP, and that it work to begin negotiations for accession at an early date. Without such a definitive indication of Canada's participation, our members fear that Canada's voice will be diminished in defining the rules-of-trade in the Asia-Pacific region.

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

As we expand trade ties with other jurisdictions, it is critical that we continue to focus resources on the booming economies of Asia.

Recently concluded FTAs with the European Free Trade Association, Jordan and Panama are important achievements. The next step is to have Parliament approve completed agreements. Canada should focus its negotiating resources on future initiatives that maximize opportunities for Canadian businesses.

Negotiations on the WTO Doha Development Agenda remain stalled and the G20 pledge to achieve an ambitious and balanced agreement in 2010 appears unachievable. An agreement is needed to boost the principles and rules of

free trade at a time of protectionist pressures. This remains important for Canada, and support must be voiced for all involved parties to resolutely overcome differences and bring the Doha Round to a successful conclusion at an early date.

The cumulative benefits of trade negotiations should be apparent to all major sectors of the Canadian economy, and we should seek ambitious and balanced outcomes to all trade and investment negotiations. The Canadian government and business community needs to remain mindful of the limits to the current government's capacity to manage a large number of negotiations and we therefore encourage the Government and relevant Ministries to be strategic, selective and flexible enough to switch course as required.

It is also crucial that the federal government work with the provinces and territories to implement an overarching Canadian brand under which Canada's entire cross-sector value proposition can be consistently marketed abroad.

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

### **Recommendations**

That the federal government, in consultation with the business community:

1. Strengthen Canada-U.S. relations as our primary bilateral trade policy priority, and work vigorously to roll back protectionism in the U.S. where it exists.
2. Work vigorously to conclude an ambitious and balanced Canada-E.U. CETA by 2011.
3. Overcome outstanding issues to ratify the Canada-India FIPA, and begin Canada-India CEPA negotiations.
4. Strengthen the Canada-China economic partnership by concluding the Canada-China FIPA and building on recently renewed leadership ties and MoUs on cooperation.
5. Signal Canada's intention to join the Trans Pacific Partnership (TPP) Agreement and work to begin accession negotiations.
6. Work toward a balanced outcome on tariff and non-tariff barriers to conclude Canada-Korea FTA negotiations
7. Implement signed FTA's and focus remaining resources on current and proposed negotiations that provide the greatest value to Canada.
8. Continue to ensure that the government has the necessary financial and human resources to proactively advocate and defend the interests of the Canadian business community.
9. Combat protectionist pressures and strengthen the principles and mechanisms of rules-based free trade and investment via bilateral ties and multilateral fora and institutions (G20, WTO, OECD, APEC).
10. Work with the provinces and territories to implement the Canadian brand.

### **A Canadian Services Strategy**

The services sector is a vital component of the Canadian economy, accounting for 70% of GDP and 75% of employment. As much as ninety percent of the new jobs created in recent years were in the services sector. In 2008 alone, 231,000 new jobs were created in services industries. The service sector also represents the fastest growing section of international trade and investment with annual growth rates close to 8%.

Moving forward, the Canadian economy is expected to become more services-based, as the sector is projected to be the dominant driver of job creation and economic growth. A dynamic and competitive services sector enhances the competitiveness of the entire economy.

The services sector is comprised of a wide range of industries and activities, including government, finance, insurance, education, information and communication technology, transportation/logistics, research and

development, marketing, media, professional and engineering services. These industries require a highly-skilled, multi-disciplinary workforce and, in turn, offer high-wage, high-value employment for Canadians.

Beyond the quality of employment, services are an essential input in the production of virtually all industrial and agricultural goods, as well as other services. According to the OECD, services account for 25% of value-added manufacturing. A firm's competitiveness and productivity is not merely a function of its employees and capital stock, but also of the quality and cost of the services it procures. Increasingly, these services can be sold and procured on a global basis.

Information and communication technologies are globalizing markets for information-based and knowledge-based services. In 2008, Canada exported nearly \$70 billion in services internationally. While services represent the majority and a growing share of Canada's economy, there are important challenges facing the Canadian services sector that must be addressed, such as labour skills shortages and continued barriers to trade both domestically and internationally. There is also room for growth internationally. Currently, 20 percent of global trade is services-based and this number is growing. In Canada, services represent only 13% of our international trade and it is important that ambitious services market access continues to be a part of Canada's international trade deals.

Given the integral role that services play in the Canadian economy and the possibility of expanding our presence in international markets, it is imperative that Canada increase its strategic focus on services.

Canada needs a comprehensive services strategy.

### **Recommendations**

That the federal government develop a services strategy that focuses on five pillars:

1. Awareness:
  - Create a formalized working group comprised of senior government representatives of federal and provincial departments with a mandate in services. The group will focus on increasing information sharing, in-depth policy reviews and the promotion of services sector growth. Collaboration with industry and academia will ensure adequate communication of services related initiatives.
2. Metrics:
  - Statistics Canada needs to develop a comprehensive survey of services both domestically and internationally to circulate among services industries and throughout government departments with a mandate in services. Canada does not compile sufficient statistics or data related to the services sector. This is a systemic problem that must be fixed as the ability to craft good public policies or allocate resources requires proper metrics.
3. Research:
  - We recommend that the Canadian government develop incentives to encourage more services sector R&D, and the removal of regulatory barriers to foreign direct investment. The SR&ED program needs to be improved to make it more accessible to small and mid-sized Canadian businesses and the refundability of the SR&ED Tax Credit should be expanded to include all R&D performers.
4. Education:
  - We recommend that the government identify current and future labour market gaps and develop a nationwide strategy for identifying how to meet these needs within the current educational system. A dedicated task force should be created to examine Canada's education system in relation to services. The examination of the actual educational system should also look for "best practice" multidisciplinary courses and support ways to leverage these across the country.
5. To ensure the domestic free-flow of services, the removal of inter-provincial trade barriers needs to be a priority. We also recommend that federal and provincial governments ensure that temporary entry barriers to labour mobility be as least trade restrictive as possible and that Canada seek to harmonize regulations with countries with similar regulations to our own.

## **Cross-Border Business Travel Facilitation for Executive, Professional and Technical Specialists (XPT Program)**

With the growth of cross-border business, the increasing demand for qualified personnel and the increasing scarcity of skilled personnel, there is an accelerating need for travel between the United States and Canada by executives, professionals and technical specialists. Labour market conditions and skills shortages are quite different now than when current arrangements were established for cross-border travel by these categories of individuals.

For example, an individual who needs to travel between Canada and the United States cannot obtain the required visa in advance. The individual must present themselves at the border or more likely at United States Immigration at an international airport immediately prior to departure, bearing original university degrees (not copies), specific written material identifying the purpose of the trip, and an offer of short-term employment from an employer in the United States. This requirement must be met for something even as simple as traveling to the United States to make a paid speech.

There is no assurance that the qualified individual will be granted entry to the United States, due to inconsistent treatment by inspecting officers. The least irregularity may trigger a refusal from the inspecting officer, a refusal that in effect cannot be appealed. The business traveler then must cancel their obligations in the United States on very short notice.

Qualified residents of the United States can face similar challenges on seeking entry to Canada. This situation impedes the normal conduct of business between the two countries. There is a need for a solution to this that will ensure that qualified individuals can know in advance that they will be able to cross the border, while ensuring at the same time that the need for security has been met.

It is proposed that a mechanism be established for multiple entries by security cleared executive, technical and professional citizens and permanent residents of the United States and Canada for travel between the two countries. This would be a broadly based arrangement covering all executive, professional and technical personnel who are able to demonstrate their qualifications as members of the qualified occupational categories.

It is proposed that qualified personnel would apply under the trusted traveler program(s) that have been established for travel between Canada and the United States. This would ensure that all identity and security requirements are met. However, in addition to the information and background checks involved in enrolment as a trusted traveler, the essential background information required for border crossing and the issuance of permission for multiple entries would also be recorded. The applicant, at the time of the interview for enrolment in the trusted traveler program, would produce the required documentation satisfying qualification under the executive, technical or professional categories.

The free movement of executive, professional and technical specialist personnel between the United States and Canada would be a desirable outcome. Over time, the program would involve not only those four categories already specified under NAFTA, but also the more broadly qualified group of personnel actively engaged in these areas in the United States or Canada. In essence, this would be a much more open labour market for these increasingly sought after occupations.

Some of these categories would require the recognition of their credentials in the states or provinces where they might work if they intend to practice a regulated occupation. That would be no different than the situation that now exists.

To facilitate the trial of this type of arrangement, it would be useful to mount a pilot program, which has been a key ingredient in the successful deployment of the trusted traveler programs that increasingly are being used to expedite the travel of individuals whose identity and trustworthiness has been verified.

### **Recommendations**

1. That the federal government work with the government of the United States to establish a pilot program to facilitate the movement of executive, professional and technical specialist categories of business travelers between Canada and the United States.
  - Qualified citizens and permanent residents would apply under the established trusted traveler program(s) to ensure all security requirements are met.
  - Establish an optional pre-approval process for qualified individuals to obtain necessary visas/approvals

- In addition to trusted traveler data, essential information for border crossing under the new program would be added to the electronic records.
  - Recognition of professional credentials by provinces or states would operate as at present.
2. That the federal government move quickly to expand this program in order to apply to all qualified personnel actively engaged in the United States and Canada, so as to create a much more open labour market for executive, professional and technical specialists.

## **Enhance Domestic Markets and Recapture Closed International Markets for Agricultural Products**

Agriculture is a huge industry in Canada, yet most sectors within the industry are facing obstacles that represent serious impediments to its ability to capture any significant level of international market share:

The transmissible spongiform encephalopathy (TSE) diseases affecting agricultural livestock of the last several years have had a serious negative impact on the agricultural industry. The TSE diseases include bovine spongiform encephalopathy (BSE) in beef cattle, chronic wasting disease (CWD) in cervids (elk and deer) and scrapie in sheep.

Country of Origin Labeling (COOL) adopted by the United States is market protectionist in nature. The agricultural sector in Canada has relied heavily on the export market for its domestically raised products. There are many instances of Canadian agricultural exports hampered by non-tariff barriers that are not based on sound science, and that do not accord with existing bilateral and multilateral agreements, and international norms. In addition, Canada has not done an adequate job of broadening and deepening established ties with international markets or of pursuing and developing new trade opportunities.

What is not widely known is that the closure of markets has affected not only the beef industry but also cervid, sheep and many other livestock industries, such as bison, goat and alpaca. Canadian livestock producers suffer from limitation or loss of access to key international markets.

Canada imports more foreign livestock products than it exports. Domestic markets for Canadian-raised products are underdeveloped because of a variety of issues including the following: inefficient transportation networks; foreign subsidization of livestock exports; inadequate processing capacities; limited resources for market development initiatives, especially for smaller industries; and legal or regulatory norms that hamper market access and expansion. These are only a few of the problems encountered.

Canada has an excellent track record of respecting its international trade agreement obligations. This cannot be said of a number of its trading partners. Governments must ensure that the playing field in international trade is level through adherence to bilateral free trade and investment agreements, World Trade Organization (WTO) obligations and international norms. A balance between international market dependence and domestic markets is necessary for greater long-term stability for livestock producers.

### **Recommendations**

That the federal government:

1. Immediately proceed to work with the provinces and industry stakeholders to foster the development of new products, support marketing initiatives, enhance transportation infrastructure and processing capacities;
2. Work with industry organizations to remove the encumbrances of restrictive legislation that inhibit trade and growth of international and domestic markets;
3. Work with countries that have restrictions in place on Canadian agricultural products to remove those restrictions and open closed international markets;
4. Improve marketing of domestic agricultural products in Canada to achieve a more balanced and sustainable Canadian marketplace for livestock industries.



## **Common Sense Approach to Livestock Product Identification and Food Safety**

Country of Origin Labeling (COOL) legislation, as adopted by the USA, is market protectionist in nature, constitutes a technical barrier to trade, and may be inconsistent with international trade rules, including NAFTA and the WTO. COOL legislation adds huge implementation and enforcement costs throughout the supply chain. These additional costs are being levied against Canadian producers in the form of huge price discounts applicable to livestock exported into the USA.

There appears to be a growing disconnect between Canada and the U.S.A. regarding the recognition of the integrated nature of the North American agricultural/agri-food industry. COOL legislation provides an example of this, and has broad implications to every industry/market sector, not just agriculture and the red meat sector. In the absence of increased political pressures to challenge this legislation, business and trade relations will deteriorate between our countries. In this regard the Chamber commends the government of Canada for its continued initiatives through the WTO to pressure the USA to amend its COOL legislation.

COOL legislation has negatively and profoundly impacted prices paid to Canadian producers on exports into the USA, such that our entire red meat industry, particularly the pork industry, is at a serious competitive disadvantage, and potentially on the verge of collapse. Speedy resolution of the issues caused through the COOL legislation is imperative to prevent the marginalization or complete collapse of the Canadian red meat industry.

This legislation also fails to adequately address food safety issues, and is not uniformly applied to trade in all perishable foods and food products, and to all retailers of perishable foods and food products.

The USA acknowledges that the instituted COOL legislation was never intended to address food safety; rather this legislation governs "marketing issues", and was only developed to give consumers the right to make informed purchasing decisions based upon the "country of origin".

Canadians are concerned about food safety as a priority to be held above the origin of the food, and as such, "Food Safety Policy" and "Country of Origin Labeling - Marketing Policy" should be treated as two separate issues, each with distinct rules to better protect and inform the consumer.

Canada has some of the most stringent food production standards in the world, and as a result, Canadian consumers benefit from some of the safest food in the world. Furthermore, Canadians are demanding that labeling not lead to a discounting of prices paid on the export of Canadian products.

### **Recommendations**

That the federal government:

1. Support trade action by Canada's beef/pork production and processing sectors, to combat the market protectionist aspects of COOL legislation.
2. Work collaboratively with Canada's beef/pork producers, producer associations and processors to apply the utmost pressure, on a continuous basis through NAFTA and WTO until such time as the USA eliminates the protectionist aspects of its COOL legislation.
3. Take a leadership role in promoting the highest level of International Food Safety Standards & Practices applicable to international trade.

## **Restructuring the FCTIP for Increased Tourism Competitiveness**

Tourism is a \$74.9 billion industry in Canada. In 2008, more than 1.8 million people in Canada were employed in tourism jobs. Keeping the industry healthy and competitive requires that governments address a number of concerns that pressure its viability.

One such concern is the way in which Canada exercises its value added tax (VAT) rebate program. Value added tax rebates are common internationally in the tourism industry. These programs allow for out of country visitors to be rebated the value added taxes for purchases during their visits to the country. VAT rebates are used as a competitive factor in the marketing efforts of tourism organizations.

VAT rebates are common because international tourism is seen as an export industry, the same as manufacturing. Export industries are rarely able to pass on consumption taxes to overseas consumers since those consumers will simply divert their consumption to another source. Spending on international tourism is highly subject to this sort of consumer elasticity, which in Canada is 2.7-2.8 percent. An effective VAT rebate system in Canada is needed to remain competitive.

Up to 2007 Canada's VAT rebate program was called the Visitor Rebate Program, which applied to both individual travelers as well as tour and convention travelers. That program was cancelled in 2007 and the government of Canada introduced a new program called the Foreign Convention and Tour Incentive Program (FCTIP). The primary reason for the cancellation of the former program was due to administrative cost inefficiencies and concerns from government about accountability.

The new FCTIP has different rules for rebate application and applies only to tour organizers and conventions. A limited number or type of group tours are eligible for a only 50 percent GST/HST rebate. It does not apply to individual travelers. It is meant to keep tourist packages competitive with other countries and encourage foreign tour operators to sell Canada as a tourism destination. It is also meant to be delivered in a more cost effective manner while at the same time increasing the accountability of government tax rebate expenditures.

However, the changes in process have resulted in a program that is too cumbersome to benefit the industry. Despite best intentions, the FCTIP is not meeting its objectives due to the program complexities, and the administrative burden it places on international tour operators. The Tourism Industry Association of Canada (TIAC) has found through a commissioned survey of US tour operating companies that "those who regard the rebate process as burdensome outnumber those who do not by a ratio of more than 7:1." Further one in four operators claim that they will simply absorb the GST and adjust their price of Canadian tours upwards to recoup the GST costs rather than be bothered with the rebate process. This makes Canadian tour options less competitive.

The tendency to price in a further 5 percent on the tour cost to avoid the rebate process is significantly concerning, and especially so as the introduction of a Harmonized Sales Tax (HST) will be introduced to two of the country's major tourism destination provinces in the summer of 2010. There is concern that a move from 5 percent tax to 12 percent and 13 percent respectively in British Columbia and Ontario will have an immediate negative effect on a system that is already not being embraced by users. The concern of industry is that, upon introduction of the HST, tour packages to British Columbia and Ontario will essentially increase as operators "cost in" the additional tax, making BC and Ontario even less competitive in the international tourism market.

A second concern of the industry is that the new FCTIP program does not apply to individual visitors to Canada, rather only to convention and tour travelers and operators. The industry asserts that in disqualifying individual visitors from the Canadian VAT rebate program, Canada is placing itself at a considerable disadvantage to other attractive locations across Europe and South America that offer tax rebate programs to their independent travelling visitors. Independent travelers are a growing segment of the travel market. The substantial increase in the price of tourism goods and services to this market with the introduction of the HST will reduce independent travel to Canada, and negatively impact on the sale of retail goods such as accommodation, meals, attractions, and recreational activities.

A study by CRA International in 2007 on the estimated impacts of the cancellation of the GST rebate to individual visitors projected the following:

- an estimated decline in tourism spending of \$213 million per year
- a decline in GDP of \$114 million per year
- the loss of 1,900 jobs

Using similar elasticity estimates, one could assume a similar loss in revenues and jobs with the increase is cost of tourism product and services by 7 percent and 8 percent respectively in BC and Ontario.

A tourism industry coalition called the Visitor Rebate Program Coalition has outlined an industry led approach to a revised program. It is proposed that the new program become a self-regulated and financed industry program subject to certification and regular audit by the appropriate federal agencies. The documentation and rebate processing system would be secure from fraud, transparent and simple to use. Operationally, the federal government would license one reputable, national not-for-profit organization to oversee operation of the new program. The main licensee would be responsible for submitting a summary statement of eligible VRP claims to

the federal government and receiving funds for allocation to the claimants. The main licensee would work with a controlled list of sub-licensees, such as CBSA, who would act as the point of contact for visitors. This model would create a viable rebate program and would incent foreign visitors to spend dollars in Canada while removing the overhead expense to government of processing the rebates.

The Canadian Chamber acknowledges the importance of the tourism industry to Canada's economy. Adjusting Canada's GST/HST rebate system for foreign travelers is imperative to attracting a higher share of the global tourism market and placing international inbound tourism on equal footing with other Canadian export markets.

### **Recommendations**

That the federal government:

1. Eliminate the excessive administrative burden on international tour operators that hampers the uptake of the FCTIP program.
2. Develop an individual traveler GST/HST rebate program.

## **Arrivals Duty Free at Canadian Airports**

### **Issue**

The federal government should permit Arrivals Duty Free at major Canadian airports as it will result in many positive economic benefits.

### **Background**

At present, federal legislation allows the sale of duty-free goods only to passengers departing Canada, but prevents the sale of duty-free goods to passengers arriving in Canada. As a result, sales that should be made in Canada are forced abroad.

Currently, more than 50 countries in the world have Arrivals Duty Free and many other countries are actively considering implementing Arrivals Duty Free due to the economic and other benefits that it generates. Over the past five years, there has been major growth and interest in Arrivals Duty Free globally including a recently signed Arrivals Duty Free accord in Switzerland.

This creates a clear competitive disadvantage for major Canadian airports and reduces the potential revenues that could be generated from international arriving passengers.

Arrivals Duty Free presents a significant opportunity for Canada to repatriate sales that Canadians traveling abroad would normally make on departure at foreign airports prior to their return flights.

Allowing Arrivals Duty Free would also not only increase passenger convenience and direct revenue currently spent abroad, but would also offset the losses currently experienced by Canadian duty free businesses due to increased security measures, including the current restrictions on liquids, aerosols and gels allowed on flights.

Duty Free sales are a significant revenue generator for airports. The introduction of Arrivals Duty Free would: significantly enhance the non-aeronautical revenues of major Canadian airports, helping to offset airline and security costs as well as the costs of travel; create additional employment directly at airports as well as through increased sales of local goods; better promote domestic products; reduce baggage loads for aircraft; be more convenient for travellers; promotion of tourism; and provide additional tax revenues to the Federal Government.

It is estimated that the introduction of Arrivals Duty Free in Canada would mean as much as \$88 million a year in additional revenue for the sector, 500 new Canadian jobs and \$4.6 million in additional federal tax revenue.

The experiences of other countries that allow Arrivals Duty Free have been extremely positive and Canada could expect the same, particularly at the major airports throughout the country that already provide duty free sales. Experience internationally has been that Arrivals Duty Free has "insignificant" or "minimal" impact on domestic sales.

There is broad support for Arrivals Duty Free from Canadian airports, Canadian businesses and Canadian travelers.

## Recommendation

That the federal government amend the following sections of the *Customs Act* and the *Duty-Free Shop Regulations* in order to introduce Arrivals Duty Free at airports in Canada:

- Customs Act, s. 24(1)(c)
- Duty-Free Shop Regulations, s. 18(1)

## Bringing Fairness and Transparency to Importing

International trade is critical to Canada's economy and important to our businesses participation in global supply chains. Important to Canadian businesses including manufacturers and importers, is having the confidence that the rules to import goods into Canada are fair, clear and transparent.

The following two policies of the Canada Border Services Agency (CBSA) need to be addressed by the Government of Canada.

- The CBSA's policy with respect to an importers' "reason to believe" that its import declarations are in error; and
- The CBSA's re-assessment policy with respect to importers being allowed to enjoy the preferential tariff treatment accorded under the North American Free Trade Agreement (NAFTA).

### "Reason to believe"

Under Section 32.2 of the Customs Act, importers have a four year legal obligation to correct errors contained in past import transactions/entries filed with the CBSA. The provision requires an importer to make a correction within 90 days of having "reason to believe" there is an error in a prior import transaction(s). There is no legal definition of "reason to believe" in the Customs Act. While the CBSA has an administrative policy (Memorandum D11-6-6), it has no legal basis, and the CBSA staff are free to determine whatever definition they see fit in order to levy monetary penalties to the importer. The specific provision within Memo D11-6-6 is found in paragraph 22(a) and reads as follows:

- (a) legislative provisions that are evident (obvious, apparent) and transparent (clear, self-explanatory), such as specific tariff provision, specific valuation provision, specific origin provision, etc.;

Penalties associated with the application of paragraph 22(a) of Memo D11-6-6 are often substantial and administrative appeals are often denied. Further, legal costs associated with appeals of these administrative decisions are often too costly to warrant perusing any further.

Since all tariff provisions are evident (obvious, apparent) and transparent (clear, self-explanatory) this paragraph should be restricted in use by the CBSA to instances where descriptions on invoices used for customs clearance purposes contained sufficient descriptive information to allow assigning the correct tariff item.

### CBSA's Reassessment Policy and NAFTA

Article 502 of the NAFTA allows importers to apply for a "refund of any excess duties paid" where an importer paid duties at time of importation into Canada. The time limit to apply for the refund is within one year after the date on which the good was imported.

It is now the practice of the CBSA to audit importers and identify situations where the importer imported a product(s) under a tariff item with a "Most Favoured Nation" (MFN) duty rate of "free". The CBSA reclassifies that product(s) under section 59 of the Customs Act to a dutiable tariff item and reassesses duties going back four years while denying the duty free NAFTA rate for a bona fide NAFTA eligible product by invoking the one year time limit to apply for a refund under Article 502 of the NAFTA.

Instead, the CBSA should allow the importer to produce a NAFTA Certificate of Origin to benefit from the duty free rates accorded under the NAFTA for the entire period covered by the change in tariff classification rather than wrongly manipulating a provision in the NAFTA to the detriment of Canadian importers. A read of appeals before the Canadian International Trade Tribunal involving Editions Gallery (AP-2005-017) and Wolseley Engineered Pipe Group (AP-2009-010) and an appeal before the Federal Court involving C.B. Powell (T-1376-08 and A-245-09)

illustrates the lack of transparency Canadian manufacturers/importers are confronted with in the application of Article 502 of the NAFTA.

More recently and subsequent to an appeal before the Federal Court involving C.B. Powell (T-1376-08 and A-245-09), the CITT issued a decision (AP-2010-007 and AP-2010-008 dated August 11, 2010) where it distinguished why they allowed the Editions Gallery appeal and decided to disallow the C.B. Powell appeal. While both cases are almost identical, in the Editions Gallery appeal the CBSA stated it had issued a decision with respect to tariff classification and origin (i.e. "were subject to an MFN duty rate of 6.5 percent") where in the C.B. Powell appeal the CBSA stated it had issued a decision with respect to tariff classification. Thus a simple insertion of the words "and origin" by the CBSA allows the importer to retain the "duty free" NAFTA rate.

In summary, the CBSA may be acting in ways that increase costs for Canadian manufacturers/importers. In light of this, the Canadian Chamber offers the following recommendations.

### **Recommendations**

That the federal government:

1. Through the CBSA, amend the application of the "reason to believe" provision in paragraph 22(a) of Memorandum D11-6-6 to limit its application to instances where there is evidence of deliberate intent to evade compliance.
2. Provide that where the CBSA (or an importer) is changing the tariff classification of a product that was imported into Canada under a "duty free" Most Favoured Nation (MFN) duty rate, that the CBSA acknowledge that when the CBSA makes a re-determination of "tariff classification" by definition the CBSA is also making a "decision on origin" or a "decision on tariff treatment", so as to permit the importer the right to request a further re-determination of either or both "tariff classification" as well as "origin/tariff treatment".

# Social Policy

## First Nations Education Gap

Canada's labour force is aging and there is concern that a significant shortage of skilled workers will be available to replace those that will leave the workforce in the near future. While there is a potential shortage, the First Nations' peoples potential share of the Canadian labour force is expected to triple over the next twenty years as their populations are growing.

According to the Association of Universities and Colleges of Canada, an estimated 400,000 Aboriginal Canadians will reach the age to enter the labour market over the next decade. Lower levels of education remain a major obstacle to the full participation of Aboriginal Canadians in the workforce. More than one-third have not completed high school, and less than 10 percent have a university degree compared to the national average of 23 percent. The full participation of Aboriginal peoples in Canada's education system is crucial to meeting future labour market challenges.

In a report in 2007, the Centre for the Study of Living Standards (CSLS) estimated that by 2017 Canada would benefit to the tune of an additional \$31 billion in GDP over the period 2001-2017 if half the educational gap were closed. If the entire educational gap were closed by 2017, the gain would be an additional \$62 billion. In 2017 alone, Canada's GDP would be approximately \$4.2 billion or \$8.3 billion higher respectively. The CSLS further estimated that if, in addition, the First Nations / non-First Nations employment rate and employment income gap was eliminated, the potential contribution of First Nations Canadians to Canadian GDP over the 2007-2017 period would increase to \$160 billion.

Notwithstanding the need to close the education gap, the education gap between First Nations and non-First Nations continues to increase. This fact has been emphasized in both the 2000 and 2004 reports of the Auditor General of Canada. The Auditor General for Canada appeared before the Standing Senate Committee on Aboriginal Peoples on May 12, 2010 and advised that she is beginning a follow-up audit that will include First Nations education to re-visit some of their observations and look at Indian and Northern Affairs Canada's (INAC) progress in implementing some of their past recommendations. The plan is to table this report in April 2011. The Auditor General confirmed that the time estimated that is required to close the education gap has increased slightly, from about 27 to 28 years.

A significant source of concern with respect to the education gap is the current Band Operated Funding Formula (BOFF). The current BOFF was developed in 1988 and was originally designed to apply to all First Nations schools in Canada. The BOFF provides funding on the basis of a multiplication of the number of units (number of students) times a given unit cost (tuition rate) for instructional services. This amount is then enhanced by a number of additional factors, including teachers, administrative support, professional development and other costs. There is no fixed amount identified for such items. The student base rate is expected to support the majority of the formula services including teachers' salaries, books and supplies, instructional materials and core curriculum requirements.

An INAC internal audit in 2009 found that the tendency has been to apply provincial comparability as a prescriptive rule and that provincial curricula and provincially certified teachers be employed by band operated schools, rather than as a description of education outcomes such as literacy and numeracy skills and cultural competency. The terms and conditions of INAC funding agreements with First Nations specifically identify that First Nations schools must deliver provincial curriculum with provincially certified teachers. However, in her 2004 report, the Auditor General concluded: "At present, the Department does not know whether the funding provided to First Nations is sufficient to meet the education standards it has set and whether the results achieved, overall and by the different delivery mechanisms, are in line with the resources provided".

While many studies have been completed, it is difficult to fully ascertain whether there is funding parity between First Nations schools and the provincial schools which First Nations schools are to be comparable to, however many suggest that there is a significant gap. For example, education funding analyses conducted by the Assembly of First Nations indicate that for each student living on-reserve, band schools receive an average of \$2,000 less than provincial schools. Parity in funding for First Nations schools that are to adhere to provincial schools is a reasonable criterion for federal funding, where parity is understood to mean funding sufficient for a similar quality of education taking into consideration the specific geographic, cultural and support needs.

## Recommendations

That the federal government:

1. Review the funding formula for education in First Nations communities with the goal of parity with each provincial funding model where the First Nations schools in such province are expected to adhere to the provincial curricula.
2. Ensure that any revised funding model is comprehensive and equitable in its construction and transparent in its application so that all education needs are considered equitably to include First Nations communities and that the formula is made public.
3. Recognize the need for First Nations to keep pace with new implementation funding and education initiatives in the provinces, and that any new funding formula for First Nations schools is adaptable to address specific education initiatives established by the Provinces so that First Nations schools are funded at the same level.

## First Nations Property Rights and Economic Prosperity

### Issue

Many First Nations people in Canada seek a higher quality of life and to participate fully in the economy. However, members of First Nations communities are limited in their ability to own land in fee simple title on-reserve. This limitation precludes First Nation members from owning their homes and leveraging land equity to invest in business opportunities, which places them at a disadvantage relative to the population at large.

### The Importance of Property Rights

Property rights are fundamental to create wealth. In a study of wealth creation in the West, Peruvian economist Hernando de Soto explains: “By making assets fungible, by attaching owners to assets, assets to addresses, and ownership to enforcement, and by making information on the history of assets and owners easily accessible, formal property systems converted the citizens of the West into a network of individually identifiable and accountable business agents.”<sup>5</sup>

The absence or poor quality of property rights on many reserves results in higher rates of poverty, lower property values, and less commercial development. Indeed, according to the Auditor General of Canada, an investment project on-reserve can cost up to four to six times more than off-reserve, because investors must first establish tradable property rights on-reserve in order to do business.

### The Current Situation on Reserve

Currently, the crown owns the vast majority of reserve land, and First Nations are only able to exercise limited rights over it, these include:<sup>6</sup>

- *Customary Rights*, which recognize traditional family and/or individual control over sections of land. These rights, however, lack security of tenure, are neither surveyed nor enforceable in a court of law, and can be subject to arbitrary decisions by the band council.
- *Certificates of Possession*, which are authorized under the *Indian Act* and are enforceable in a court of law. These certificates, however, are limited as a wealth creation tool since the holder must be a band member (which renders a small market and a low real estate value) and cannot be mortgaged.
- *Lease Agreements*, which enable First Nations to enter into long-term contracts for the use of reserve lands because they can be sold to non-band members and are enforceable in a court of law. The agreements, however, are limited in that they are temporary in nature, there is no consistency in the terms across First Nation communities, and leases are susceptible to issues of non-renewal based on the terms (or lack thereof) in the lease. Leases also involve high transaction costs (e.g., gaining band/government approval) relative to non-reserve land.

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<sup>5</sup> De Soto, Hernando. 2000. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*.

<sup>6</sup> For a more complete discussion of property rights on reserve, see Flanagan, Tom. Alcantara, Christopher. Le Dressay, André. 2010. *Beyond the Indian Act: Restoring Aboriginal Property Rights*.

- The *First Nations Land Management Act*, which allows the signatory First Nations bands (fifty-eight since 1999) to opt out of thirty-four economically restrictive land-administration codes of the *Indian Act* and to develop their own. The challenge with the FNLA is that it did not establish a technical assistance agency, thus the signatories are left alone to develop their own property rights systems, which could lead to a multitude of unsupervised and disconnected systems that would only accentuate the uncertainty, the lack of consistency, and the high transaction costs of doing business with First Nations.

As a result of these limited forms of on reserve property rights, First Nation communities are at a disadvantage in terms of their ability to leverage land to enable home ownership and business development. In order to address this challenge, an enforceable property rights system needs to be in place. Ideally, such a system would allow transfers of ownership of reserve land from the crown and enable the creation of property title for band members. Four elements would be then critical to the success of this system:

- land title
- certainty of title in the registry
- prioritization and ranking of competing interests
- assurance that the registered owner is the true owner<sup>7</sup>.
- Moreover, signing into the system would be voluntary and transitional provisions would be put in place to ensure governance capacity, infrastructure, and tax and land administration systems.

### **The First Nation Tax Commission Solution**

To resolve this challenge the First Nation Tax Commission (FNTC), which has overall responsibility for maintaining the integrity of First Nation taxation, is proposing the *First Nation Property Ownership Legislation* (FNPOL). This legislation envisions a property rights structure similar to the rest of Canada which, incidentally, operates under the principles of the broadly adopted Torrens land registration title system. The FNPOL would be optional for First Nations; would ensure that the underlying title or reversionary right remains under First Nation control; and that First Nations would retain the land management and the property tax jurisdiction regardless of who resides on their land.

The FNPOL would give band members the right to grant individual property rights so that their residents can purchase their homes, build equity and leverage property for business development. The economic benefits of this would be significant. The FNTC estimates that if sixty-eight First Nations in British Columbia converted their lands using this legislation, the benefits from increased property values, employment opportunities and increased revenue potential would be over \$4 billion.

### **Recommendation**

That the federal government work with the *First Nations Tax Commission*, interested First Nations communities, the provinces and other stakeholders to develop a voluntary legal framework and support structure to enable First Nations to have access to full, unrestricted fee simple ownership of reserve land.

## **Support for Employers Employing Military Reservists**

### **Issue**

Military reservists (in essence part-time soldiers) have become a vital; indeed also an extremely cost effective, component of Canadian Forces at home and abroad; and like their counterparts in the regular forces (full time soldiers), provide an essential service for all Canadians. However, while strongly supporting our Canadian Forces generally, many employers who actively employ reservists, face an inequitable burden in guaranteeing their employment; as now required under law, for those who have volunteered for temporary full-time service, particularly for such longer-term engagements as Afghanistan, which often exceed 12 months or more.

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<sup>7</sup> Flanagan et al 163



## **Background**

Canadian employers and the Canadian Forces need to work together to keep reservists engaged and to develop their potential for the benefit of all three parties. Given increasing security demands, policymakers need to rethink employer costs from the temporary loss of an employee and how this, in turn, affects a reservist's smooth transition away from – and back to – civilian life.

Skilled reservists must balance obligations to two employers. Should they choose to take on full-time military duties, their civilian employer's search for a temporary replacement worker of equal skill represents a genuine, and potentially significant, cost. Though civilian employers of reservists gain from the skills reservists learn from military duties, job-protection legislation shifts a significant portion of military operations' personnel costs to a reservist's employer. The unintended consequence of the current framework is that employer-employee relationships may erode. And the cost of using reservists, from the perspective of the Department of National Defence, is artificially low which may cause an overuse of reserves versus regular forces. A more robust system of employer supports would ensure a proper balance of interests among reservists, civilian employers and the Canadian Forces.

For a detailed discussion on this matter, including detailed comparisons of models of employer support currently in place by our allies, reference to the January, 2010 C. D. Howe Report entitled: Supporting Employees who Deploy: The Case for Financial Assistance to Employers for Military Reservists ([www.cdhowe.org/pdf/backgrounder\\_123.pdf](http://www.cdhowe.org/pdf/backgrounder_123.pdf)) is highly commended, particularly the recommendations included therein.

However, in summary, a Canadian system of financial assistance for employers would minimize the risks of reservists facing employer hostility. It would also more equitably distribute the costs of national defence actions that benefit all Canadians. Extending financial assistance to employers of reservists is fair to both employers and the general public.

## **Benefits and Costs**

Although data does not exist to accurately cost out this proposed program, calculations are based first on the assumption that students are slightly more likely to deploy than other reservists, given what is known about reserves force activation, pre-deployment and deployment length. Assuming that 70 percent of all non-student reservists are employed, earning an average weekly wage of \$821, and that all employers of these reservists qualify for benefits up to a cap of 16 months., program estimates would have cost some \$7 million in 2006, \$19 million in 2007, \$21 million in 2008, and about \$19 million in 2009. Looking ahead, costs can be estimated based on future deployment levels. Annual costs should be roughly \$26 million in 2010 and roughly \$8 million in 2011.

Such a program would help employers by lowering their competitive losses. As a result, employers would lend more support to the decisions of their employee-reservists, thus improving their civilian working conditions. Such a program of employer compensation that targets higher levels of support to firms generally less able to cope with losses can also be cost-effective for taxpayers, because benefit levels would fluctuate with firm size – shrinking for large companies and expanding for smaller ones. With a better understanding of true reservist costs, military planners can achieve more informed personnel decisions, minimizing the level of resources diverted from the civilian workforce. An improved mix of policies to support the reserve force would also ensure that the realities of distant military engagements continue to be transmitted to communities across Canada.

## **United Kingdom and Australia Models**

With a similar reliance on reservist personnel as in Canada, the United Kingdom and Australia offer employer compensation programs in addition to job protection legislation.

While these programs reduce employer losses associated with reservist service within easily understood frameworks, they differ in important ways. Whereas Australia provides one stream of weekly compensation to employers, the UK effectively has three different compensation packages:

- one to assist employers with the hiring costs of finding a new employee
- a second to cover overtime costs as a consequence of the employee's absence
- a third to compensate employers for any retraining necessary upon the reservist's return

- Both international examples have advantages and disadvantages.

The Australian system of employer supports, established in 2001, does not require employers to release much sensitive information, making the application and approval process relatively easy. Yet the level of compensation to all employers is the same, regardless of the actual costs incurred. On the downside, this tends to make the compensation unrelated to firm-specific factors. For instance, some firms may not even want to replace a reservist while he/she is activated, making government assistance for them largely unnecessary.

In the United Kingdom, a system of financial assistance has been in place since 1997. Companies can, without financial limits, claim one-off costs, such as recruiting agency fees for replacement and advertising costs. Recurring expenses, such as the overtime costs of other employees and temporary replacement fees, can be claimed up to about \$200 per day per lost employee. And additional training costs, above and beyond what is normally required in relation to the activation period, can be claimed upon a reservist's return, without limit. Though the advantage of the United Kingdom's assistance package is that it attempts to tailor the size of benefits to costs, isolating the total costs in terms of lost output, productivity and additional expenses from the loss of an individual employee is a nearly impossible task. As well, trying to determine such costs places a burden on both the administrative body and the employer – and may encourage fraudulent claims. The United States, perhaps owing to a reliance on job protection laws and an emphasis on patriotic spirit among employers, does not offer a program of employer supports.

Canadian reservists, their employers and the general public would benefit by adopting a hybrid of the above compensation schemes. From the perspective of simplicity and administrative ease, a financial support program should limit the administrative burden for both employers and administrators. And although it is unclear which international example is the more expensive of the two above, the UK program's attempts to limit costs should be incorporated in a Canadian context.<sup>8</sup>

### **Recommendation**

That the federal government, fiscal conditions permitting, provide reasonable financial assistance for employers to reimburse them for material costs incurred by them in protecting the jobs of reservists who choose to serve full-time in the military. Without limiting the generality of the forgoing, costs to be compensated under such a program should include:

1. Recruiting, hiring and training for replacement employees;
2. Overtime as a consequence of reservists' absences; and
3. Retraining necessary upon reservists' returns. **Submitted by the Hamilton Chamber of Commerce**

## **The Aging Workforce: Removing Disincentives and Creating Incentives to Continue Working**

A growing body of research clearly indicates that Canadian businesses will face a shortage of skilled workers, if they are not already. While there are many elements that must be considered to fully address this complex issue, the Canadian Chamber of Commerce believes that one element should be the removal of tax and other disincentives that discourage older workers who wish to stay employed, and whose employers wish to retain them, from continuing to work past age 65.

These changes are needed in a workforce that is not replacing itself and where demographers predict ever-increasing shortages of skilled and professional workers. Indeed, within the next five years more workers will be leaving the workforce than entering if there are no changes in the system. This potentially places a heavier burden on younger men and women to pay the taxes to support the pensions and benefits required for a growing population of seniors, adversely impacting the Canadian economy.

For these reasons The Canadian Chamber of Commerce welcomes the resolutions made by the Expert Panel on Older Workers in 2008, which echo those made by the Chamber in 2007, urging the federal, provincial and territorial governments to: 1) move to eliminate the work cessation clause in the Canada Pension Plan; 2) allow

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<sup>8</sup> [http://www.cdhowe.org/pdf/background\\_123.pdf](http://www.cdhowe.org/pdf/background_123.pdf)

eligible individuals to work and receive benefits while still contributing to a pension plan; 3) minimize work disincentive effects associated with the Guaranteed Income Supplement clawback provisions; and 4) continue to promote phased retirement through facilitated changes in the tax and pension systems.

The Chamber also welcomes the proposal made by the federal, provincial and territorial Ministers of finance in Ottawa on May 25 2009 to remove the work cessation test. This change would allow seniors to take-up their CPP pension while continuing working either full or part-time and, in that way, phase into retirement or supplement their earnings. By the same token the Chamber welcomes the Budget 2008 increase in the guaranteed income supplement earnings exemption, from \$500 to \$3,500, which further removes disincentives to work for seniors.

The Chamber continues to recognize that there is room for improvement and believes that the government's *Old Age Security* program, tax-assisted private savings policies, and public pension plans provide disincentives for people to continue to work past age 65. Brief descriptions of some of these disincentives are as follows:

### **Old Age Security**

The *Old Age Security* (OAS) program is an extremely important benefit and has become an essential part of the income for people with low and inadequate sources of income at retirement. No consideration should ever be given to eliminating it. However, it is also true that the OAS pension available to people when they reach age 65 is progressively clawed back. The April - June 2010 clawback starts at individual net income levels above \$66,733 and OAS is fully clawed back at income levels of \$108,090. At the threshold where the OAS payments are reduced, a potentially employable older person has to think twice about working, knowing that the net result is a lower per hour paycheck based on this clawback.

### **Tax-Assisted Private Savings**

Under current federal policy, a person must withdraw his or her Registered Retirement Savings Plan (RRSP) funds, transfer them into a Registered Retirement Income Fund (RRIF), or use them to purchase an annuity, before the end of the year containing his/her 71st birthday. This is a further disincentive to work, as these funds, which must be taken out of the tax-sheltered status, are then taxed at one's marginal rate. Some people at age 72 would and could work, but fail to see the value in working when they stand to lose large amounts of the money they previously saved for retirement.

### **Part-Time Pensions**

The current pension system in many provinces/territories does not effectively allow for part-time worker pensions. In some provinces/territories, the amount of pension that a retired eligible employee can withdraw while still working is very small. Other jurisdictions do not even provide this flexibility. Many people would continue to work, but at ages 60 plus, many also want to have more time to pursue personal interests after a lifetime of working. Legislation needs to be developed to enable workers to transition to full retirement by providing them with the flexibility to receive a portion of their employer pension plan benefits while working part-time. This will undoubtedly keep some experienced people in the workforce longer.

### **Financial Implications**

These proposed changes will have fiscal implications for the federal government. Reducing the OAS clawback could increase total federal government OAS liabilities (in 2002, 7% of seniors were subject to the clawback), and raising the mandatory age of RRSP withdraw could defer the payment of associated income tax revenues and/or decrease the marginal rate at which these incomes are taxed.

That said, with increasing life expectancies, removing financial disincentives for older workers to participate in the labour force could increase the age at which people choose to retire, thereby increasing federal employment income tax revenues and reducing overall government retirement program liabilities. The net effect of these changes will likely be positive.

### **Recommendations**

That the federal government:

1. Work with the business community to amend the *Old Age Security* thresholds to encourage Canadians to continue working after age 65.

2. Work with the business community to amend the tax-assisted private savings system to allow Canadians to continue saving for retirement after age 72.
3. Work with the business community and the provinces/territories to develop harmonized and flexible part-time pension policies that provide incentives for Canadians to gradually transition out of the labour force after age 65.

## **Acknowledgement of the Base Principles of Pension Reform**

### **Statement of the Problem**

While some Canadians are prepared and will be sufficiently funded for retirement either through private or public service pension plans or through their own prudent planning, it is generally acknowledged that many are not. Within the next decade Canada will see millions of baby boomers enter retirement, many without sufficient savings to sustain a reasonable standard of living.

Although the impact of this shortfall is unclear the risks to our economy and the stability of government-funded old age benefits is so significant to warrant immediate action.

The Canadian Chamber agrees that the fundamentals of the retirement income system are strong. However, there are significant challenges that, unless addressed, will challenge the viability of many retirees' ability to live out their retirement with dignity. The Canadian Chamber believes that government must continue to engage business in developing recommendations to ensure that it can provide for seniors without putting stress on government budgets and forcing business and younger Canadians to carry the burden through increased taxes.

### **Details of the Problem**

Over the next two decades, Canada will see an unprecedented number of people enter retirement. Dealing with shortfalls for under-funded senior citizens is a complex problem and one that requires government attention immediately.

Not every Canadian has had an opportunity to participate in a private or public sector pension plan and the Canada Pension Plan will not meet the needs of many seniors. The stock market upheaval of 2008 saw many Canadians sustain heavy losses in their personal retirement portfolios.

Asking Canadians to endure a tax hike in order to close the gaps is rightly seen as unfair and represents an excessive burden to younger generations.

The Canadian Chamber congratulates the federal government for recognizing the importance of this issue and their efforts to solicit input through the *Ensuring the Ongoing Strength of Canada's Retirement Income System* consultation

The Canadian Chamber was particularly pleased to see that this consultation process was underpinned by a set of principles:

- "The system should remain affordable for individuals and businesses
- Costs incurred by governments should be appropriate and affordable, as well as sustainable over the long-term
- The system should function so that it does not transfer costs from one generation to another
- There should continue to be an appropriate balance maintained between individual and government responsibility for retirement savings, and an appropriate level of individual choice
- The system should remain accessible to all Canadians."

The Canadian Chamber endorses these principles as the foundation of any recommendation for change and is also pleased to see that efforts are being made to find solutions on a partnership basis with the provinces and territories.

However, the Canadian Chamber is concerned that there is a lack of clarity regarding next steps and timelines. The Canadian Chamber believes it is critical to ensuring this process moves forward in an expeditious manner that a clear and binding timetable be developed for the publication of recommendations for change, that these

recommendations be open for public and stakeholder input and that a timetable for legislative changes be introduced.

There may be reforms related to estate issues, or the Employment Insurance program or other initiatives to reduce government overhead that could mitigate the pension funding issues. There may be a need for a retirement education program to help Canadians prepare for retirement costs or there may be a need to create a mandatory individual retirement plan directed by accredited planners.

There may be some immediate reforms that can be made, and there may be some longer-term solutions to be found. The important fact is that we begin to approach the situation.

### **Recommendations**

That the federal government:

1. And provincial/territorial governments continue to work to create an affordable pension environment for the benefit of all stakeholders.
2. Create a balanced approach to private sector options within the Canada Pension Plan (CPP) environment.
3. Create legislative measures to direct recommendations within one year that fall within the guidelines of the “Base Principles of Pension Reform”.

### **Reallocating federal funding to develop a national plan to end homelessness**

Homelessness is bad for business and the federal government does not have a national plan to end homelessness in Canada.

Homelessness has a direct financial impact on businesses as it deters customers, damages employee recruitment and retention, harms tourism and discourages companies from setting up offices in areas with a visible homeless population.

For many municipalities and business communities in Canada, homelessness is a real problem that requires expenditures on security upgrades to maintain the safety of staff and property. Businesses cannot realize their full potential while homelessness exists in their areas, due to reduced revenues through lost sales.

Since the federal government needs to contain spending on programs, and because it would not be socially and economically prudent to cut funding for homelessness initiatives, a viable course of action would be to reallocate funds from the federal budget to develop a national plan to end homelessness.

While solutions to homelessness exist and efforts are being made by communities to implement solutions across the country, the government has been unable to reduce the total number of homeless in Canada. In fact, over the past two decades, the federal government has spent considerable tax dollars to address the national crisis, but the problem continues to grow. Significant federal spending on homelessness has not yielded a positive return on investment.

A national plan to end homelessness will clearly set the goals, objectives, metrics and outcomes for all homelessness initiatives and will provide the proper mechanisms to more effectively address the issue. Without a clear strategy to direct national efforts to end homelessness, businesses will continue to be negatively impacted by the growing crisis.

For these reasons, the federal government needs to develop a new approach which includes the reallocation of resources to develop a national plan that mandates the federal government to end homelessness within a reasonable timeframe.

- Canada is the only G8 country without a national housing strategy.

- It is estimated that homelessness costs Canadian taxpayers between \$4.5 and \$6 billion annually, inclusive of health care, criminal justice, social services and emergency shelter costs.<sup>9</sup> Between 1993 and 2004, homelessness cost Canadian taxpayers an estimated \$49.5 billion, across all services and jurisdictions.<sup>10</sup>
- It is estimated that the homeless population in Canada ranges between 150,000 and 300,000.<sup>11</sup> Local surveys in communities like Calgary, Vancouver, Edmonton, Ottawa and Victoria all report that homelessness continues to be on the rise.<sup>12</sup>
- A 2008 homelessness count in Metro Vancouver indicated a 22 percent increase since 2005; a 2009 count in Toronto indicated an 8 percent increase since 2006; a 2008 count in Calgary indicated a 15 percent increase since 2006; a 2008 count in Halifax indicated a 370 percent increase since 2004; a 2007 count in Victoria indicated a 16 percent increase since 2005.<sup>13</sup>

Homelessness is a business deterrent that negatively affects commercial activity, harms tourism and deters investment. In fact, many businesses have incurred extra costs in response to increased homelessness activity in their area.

- The Downtown Vancouver Business Improvement Association (DVBIA) references aggressive panhandling, open drug use, trespassing, and sleeping on private property as business deterrents.<sup>14</sup> More specifically, the DVBIA estimates that Vancouver hotels have lost convention contracts worth \$500,000 due to increased homelessness and visible poverty. Vancouver civic theatres, the City of Vancouver and local businesses have had to spend money to increase private security to guard against aggressive panhandling.<sup>15</sup>
- Hotel Vancouver has spent \$60,000 to upgrade hotel security systems and increase outdoor lighting. Bathrooms available to the public have been closed after dark due to homeless people using them as a place to sleep or use drugs.<sup>16</sup>

A national plan to end homelessness will provide the necessary leadership to allow the federal government to measure the success of investments on homelessness programs.

- In 2009, the federal government invested a total of \$3.57 billion in direct spending on homelessness and affordable housing initiatives, but Canada lacks a framework to assess the overall value and impact of these investments.<sup>17</sup>
- Without a national homelessness plan, efforts to meet the needs of the 1 in 4 Canadian households at risk of becoming homeless remain fragmented and uncoordinated.
- Effective performance management and accountability begin by setting a clear direction and assigning accountability for results. Defining goals and objectives to address homelessness establishes a frame of reference where programs can be appropriately designed and integrated, and roles and responsibilities can be defined. These are typically set out in a comprehensive plan.<sup>18</sup>

<sup>9</sup> Gordon Laird. "SHELTER: Homelessness in a Growth Economy: Canada's 21st century paradox." Sheldon Chumir Foundation for Ethics in Leadership, Calgary, Alberta, 2007 p. 87.

<sup>10</sup> Ibid.

<sup>11</sup> Homelessness Partnering Strategy, <http://www.hrsdc.gc.ca/eng/homelessness/index.shtml>. Last accessed May 31, 2010.

<sup>12</sup> UN Human Rights Council, Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context, Miloon Kothari : addendum : mission to Canada (9 to 22 October 2007), 17 February 2009, A/HRC/10/7/Add.3

<sup>13</sup> Data gathered from the Metro Vancouver Homelessness Secretariat, 2010. Differences in methodology may vary between different cities and year the count took place; these are typically one-time counts performed in a 24-hour period and may not represent the true extent of homelessness nor does it track the 'hidden homeless'.

<sup>14</sup> Downtown Vancouver Business Improvement Association. Study referenced by The Vancouver Sun. Crime declines when shelters open: study. April 15, 2010.

<sup>15</sup> Vancouver Sun. Beggars, drug dealers kill convention. August 18, 2006.

<sup>16</sup> Ibid.

<sup>17</sup> Wellesley Institute. Canada needs a national housing strategy that engages key partners from the community up. November 2009. p. 2-3.

<sup>18</sup> Auditor General of British Columbia. Homelessness: Clear Focus Needed. March 2009.

- The Conference Board of Canada insists that Canada must engage in more precise targeting and establish more achievable objectives in addressing homelessness. In 2009, the Board called for a reduction of the homeless from approximately 150,000 to 100,000 by 2015.<sup>19</sup>

Housing the homeless as a first priority is a cost-effective approach to reducing homelessness. Case study evidence shows that vulnerable and at-risk homeless families are more responsive to interventions and social services support after they are in their own housing, rather than while living in temporary/transitional facilities or housing programs. A national plan to end homelessness should adopt a housing-first approach as a best-practice model for reducing homelessness.

- On average, each homeless person in British Columbia costs the public system in excess of \$55,000 per year, while the provision of adequate housing with supportive services is estimated to reduce this cost to \$37,000 per year. This results in an overall cost avoidance of about \$211 million per year in BC alone.<sup>20</sup>
- The cost avoidance in health care and provincial corrections institution costs are more than sufficient to offset the capital costs and the costs of providing housing supports to those who are absolutely homeless.<sup>21</sup>
- In the absence of a purposeful, planned response, chronically homeless individuals consume services in the emergency and institutional systems: police, ambulance, psychiatric hospitals and emergency wards. Costs of these emergency responses are four-to-ten times higher per day than the cost of providing transitional or supportive housing.<sup>22</sup>
- A cost analysis on the effectiveness of emergency, institutional, shelter, supportive and permanent housing services for the homeless in Vancouver, Toronto, Halifax and Montreal indicate a consistent pattern of cost-avoidance; that acute emergency, tertiary psychiatric care and incarceration involves significantly higher costs than various forms of transitional, supportive and permanent affordable housing.<sup>23</sup>

Federal leadership involves providing a clear vision about what government aims to accomplish with respect to Canada's homelessness issue. Without a clear direction that outlines what the federal government wants to achieve for the homeless, we can only expect limited progress.

The sooner the federal government commits to ending homelessness in a reasonable time frame, the sooner Canadian businesses and citizens will benefit from the resulting increase in Canada's economic productivity and quality of life.

The development of a national plan to end homelessness is the necessary first step toward fulfilling this commitment.

## Recommendations

That the federal government:

1. Reallocate funds, from within the existing federal budget envelope, to develop federal benchmarks for a national plan to end homelessness.
2. Establish a reasonable target for the reduction of homelessness in Canada and set a reasonable timeframe to accomplish this goal.
3. Maintain the housing-first approach of creating and sustaining affordable and supportive housing as a first priority, in the development of the national plan.
4. Consult with other levels of government and community partners in the development of federal benchmarks for a national plan.

<sup>19</sup> Conference Board of Canada. *Building From the Ground Up: Enhancing Affordable Housing in Canada*. March 2010.

<sup>20</sup> Michelle Patterson and Julian Somers, *Housing and Support for Adults with Severe Addictions and/or Mental Illness in British Columbia*, Centre for Applied Research in Mental Health & Addiction, October 2007, p. 10-11.

<sup>21</sup> Ibid.

<sup>22</sup> Federation of Canadian Municipalities. *Sustaining the Momentum: Recommendations for a National Action Plan on Housing and Homelessness*. Jan 2008, p. 12.

<sup>23</sup> Steve Pomeroy, Regional Municipality of Waterloo. *Pro-Active Versus Reactive Responses: The Business Case for a Housing Based Approach to Reduce Homelessness in the Region of Waterloo*. 2007. p. 5.

5. Support provincial, territorial and lower-tier governments in their implementation of a nationally benchmarked plan.

## A Realistic Approach to Reducing Crime in Canada

Over the past few years crime and its impact on businesses and communities) has become one of the most important issues for Canadian Chamber members across the Canada.

While it is recognized that crime in Canada as a whole has seen a decline in crime –recent years, some regions have witnessed increased criminal activity, and a overall remains a significant issue for the business community. One prominent concern is the lack of a focused, coordinated national approach to both the impact of crime and its effective . The Canadian Chamber believes that there are two primary goals on which government should focus to have a significant and lasting impact on reducing crime rates:

- Identifying and tackling the root causes of crime
- Identifying and correcting capacity and inefficiencies in the application and prosecution of justice on a national level.

Improving Canada’s record with respect to crime will require a concerted effort among all levels of government; police; prosecutors; the judiciary; those responsible for the treatment of drug addiction, mental health, housing the homeless; health authorities, and educators. There is a need for a consultative and cooperative approach involving all of these parties in a national effort, with a corresponding commitment of adequate resources.

These are significant challenges that cannot be addressed by one level of government, but rather by a coordinated, truly national strategy.

While the administration of the court system, (for example, the need for Crown Counsel to lay charges and the delays in disposing of cases) is only within the jurisdiction of the provincial/territorial governments, the challenges with regards to sentencing and the other substantive provisions of the *Criminal Code* are under federal jurisdiction. Without a collaborative approach, we will not be successful.

The Canadian Chamber believes these types of issues can best be addressed effectively through the creation of a Criminal Justice Task Force with a focused, mandate. While the Canadian Chamber recognizes that significant changes to the *Criminal Code* have been introduced and many resources dedicated to this issue, without a more structured approach these changes and investments could very well prove to be limited in their impact on the wider, more national stage. The creation of a Task Force would be a cost-effective reordering of existing resources (a key concern for the Canadian Chamber given the current fiscal situation) that would allow for a more coordinated approach to government spending. This would lead to better outcomes and a more fiscally-effective use of government resources across the treatment, prosecution and incarceration spectrum.

The key to the success of the Task Force will be the level to which the individuals, and the Task Force as a whole, are free from political interference. The Task Force should be comprised of senior individuals from all levels of government and the criminal justice community. They need to be charged with a specific outcome and timetable to ensure that goals are met in an efficient manner and predictable timeframe.

While the recommendations of the Task Force will be the result of substantive consultation and research, the Canadian Chamber believes that a cornerstone of a national strategy must be measures to address certain critical areas including but not be limited to:

- Increased levels of policing
- Adequate prosecution resources
- Improved sentencing guidelines, including escalating sentences for chronic offenders
- Revision of public policy underlying the *Criminal Code* to re-emphasize the protection of society and the responsibility of individuals for their criminal behaviour
- Improved treatment for addictions and mental health



- Addressing of the underlying social conditions and influences that contribute to the severity of the problem.

Cities are beginning to develop crime reduction strategies in an effort to address the root causes of crime in individual communities. We applaud their efforts, however, in order to reach its maximum effect and sustainability, a national crime reduction strategy is required that will be implemented in every province, territory and region in Canada.

**Recommendation**

That the federal government work with other levels of government to create a Criminal Justice Task Force, isolated from political interference, that is responsible for the development and implementation of a comprehensive national integrated crime reduction strategy to address the core issues and challenges facing the criminal justice system across the local, provincial and federal levels.

# Transport and Infrastructure

## Canadian Air Transport Funding – Security

### Background

Established in 2002 as a response to post 9/11 security concerns, the Canadian Air Transport Authority (CATSA) holds the responsibility of screening passengers and baggage at airports across the country. In 2009, CATSA staff members were responsible for the screening of over 48 million passengers and 62 million pieces of luggage. CATSA is in essence Canada's frontline of defence for our secure aviation system. The scope of CATSA's business and the manner in which it is conducted affects the security and efficiency of airports across the nation.

Since its inception, CATSA has faced many challenges that have hindered its ability to function in a cost effective manner. Due to the fact that CATSA plays an integral role in the functionality of Canadian airports it is critical that its operations are managed effectively and efficiently. Without proper management, CATSA operations hold the potential to stifle trade and tourism opportunities in the communities served by the aviation industry.

Given the critical role that CATSA plays in the efficient air movement of people and goods, it is important that Canada's airports have the opportunity to play a key role in influencing its developments.

### Context

The major concern to airports for national security regulations and CATSA operations remains financial. Security for international and regional airports should be considered an issue of national defence since terrorist attacks are directed against the state and the population as a whole. It is the view of many in the aviation industry, that funding for all counter-terrorism measures are the responsibility of the federal government.

There is no question that the terrorist attacks of September 11, 2001 have had a significant effect on the security needs of air travellers. However, air travel has not been the only target of terrorist attacks. Governments across the globe have adopted measures to improve security for all public modes of transportation.

The Canadian government has introduced the Air Travellers Security Charge (ATSC) to recover security costs from users of the air transportation system but has not attempted to treat other modes of transportation in a consistent manner. The use of the Air Travellers Security Charge raises concerns in the aviation industry as the generated revenues are not tied to specific security costs.

Following the December 25, 2009 attempted terrorist attack, both the Canadian and American governments took additional steps to increase airline security. Within Canada these initiatives included the adoption of measures to improve the detection of explosives, the introduction of full body screeners and the development of behaviour profiling. The Canadian government has recently announced \$1.5 billion over five years to ensure that CATSA and Transport Canada are able to maintain a secure aviation system in Canada and to better align Canadian standards with international security measures, including those adopted by the US.

Unfortunately the funding for these projects will come from a 50% increase to the Air Travellers Security Charge (ATSC). While we recognize the growing costs associated with air transport security, the increasing amount of additional taxes and service fees are hindering Canada's ability to compete internationally. This is especially true for the travel and tourism industry which is already hindered by the appreciating Canadian dollar and after-effects of the global economic crisis.

The Canadian Chamber of Commerce supports the injection of these additional funds being coupled with a full review of CATSA. This review must examine ways to improve the efficiency and structure of the CATSA organization and ensure that funds are allocated in an effective and transparent manner. It is important that CATSA funding is transparent; cost-based; and not subsidize other modes of transportation.

### Recommendations

That the federal government:

1. Acknowledge that counter-terrorism measures are an issue of national security concern and assume responsibility for funding all of these measures through general tax revenue.
2. That the federal government ensures that the provision of air transport security should be effective, efficient and transparent whether through CATSA or other models.

3. That the federal government examines the feasibility of a trusted traveler program where participants – under audit - are not subjected to 100% screening.

## **Capital Funding Stability for Canada's International Airports**

As Canada's economy continues to grow and mature, international and regional airports in the provinces and territories will play an increasingly vital role in providing the essential air connectivity to the major central hub airports.

While Canada's major international hubs have invested significant funds into upgrades and improvements there is a demonstrable and consistent need for investment in Canada's smaller international and regional airports to support Canada's ability to move goods and people by air.

These "feeder" airports, post federal devolution, now run under a variety of systems and ownership with the predominant commonality being a free enterprise model.

Depending on the size and scope of the airport, a number of outside funding sources are available.

The ACAP (Airport Capital Assistance Program) processes requests from airports far in excess of funding available each year. In addition, ACAP is a line-budget item and, as such, is subject to changes of government and ministers, budget constraints and capital funding burden shift between government priorities.

Federal provincial infrastructure grants are available that generally offer \$0.66 funding for each capital dollar of expenditure. The criterion varies for each program. These programs have no predictability or guarantee for future years.

It is essential that the entirety of Canada's airport network have the ability to operate within generally accepted business practices. This includes multi-year capital expenditure program planning.

Currently these airports are forced to institute business plans based on, at best, uncertain levels of capital funding to complete their planning process. The object of running an airport in a generally accepted free-enterprise business model becomes extremely onerous under this funding model.

### **Recommendation**

That the federal government create a long term, consistent, and predictable capital funding model for Canada's international airports including local, regional and small National Airport System (NAS) airports where traffic is less than 400,000 passengers per year.

## **Moving Beyond Blue Skies Into Truly Open Skies**

Airports and the services they provide are critical to the economy of Canada. Canadian air policies need to be brought into the 21st century; current air policies encourage secrecy and unfair agreements. Specifically, the federal government must be called on to recognize that the current approach to air agreements is having a negative impact on regional and local economies across Canada. This in turn is hampering the rate of our collective economic recovery. While the Canadian Chamber has consistently focused on the need for improvement in terms of Canada's air agreements (most recently by calling for an expedited process for the implementation of the Blue Skies policy) the extent of the challenge and the pace of movement towards truly open skies in other jurisdictions now means that it is imperative that the federal government must move beyond the current Blue Skies policy and embrace a true open skies approach to air agreements. Included in this approach should also be a focus on allowing right of establishment for foreign domiciled carriers in Canada.

In November, 2006, the federal government announced the Blue Skies International Air Policy. Further to this Canada negotiated an Open Skies treaty with the US which while concluded in November 2005 was not fully implemented until March of 2007. Both of these announcements were welcomed by the business community. The benefit of both these agreements is seriously impaired by the limited number of truly Open Skies that Canada has negotiated.

It should be noted that air agreements alone are not the panacea in terms of growing international markets. The one-off agreement with China in 2007 was relatively liberal, but the lack of Transit-Without-Visa (TWOV) for Chinese Nationals, coupled with other visa issuance issues initially contributed to China withholding Approved Destination Status (ADS) for Canada, thus seriously undermining the potential market.

Further complicating the issue is the lack of alignment of the federal government departments to deal with an Open Skies policy. For example, there are very few airports in Canada that offer 24/7 Canada Border Services for the arrival of an international passenger or cargo flight.

In establishing negotiating priorities and mandates the government should take into account the needs of the broader stakeholder community. Over the past year, the federal government placed its focus to an Open Skies agreement with the European Union, which while concluded the implementation structure remains challenging given that implementation is structured in four phases with open skies not coming into existence until phase 3 of the agreement. While the restrictions remain concerning the agreement does move us forward in that it does remove all previous restrictions on direct service between the 27 EU member countries and Canadian markets. The Chamber welcomes the opportunity with the EU, but is concerned that the benefits will be not be uniform and will lead to distortions on a regional basis. This in turn undermines Canada's ability to move forward on the Asia Pacific agenda, which is an important avenue for Canada's economy.

It was originally stated that the agreements would cover the following elements for all scheduled passenger and cargo service:

- Third, fourth, fifth and sixth freedom rights
- Seventh freedom rights will apply to stand alone, all-cargo service
- No limit to the number of airlines permitted to operate
- No limit on the permitted frequency of service or type
- Openness and flexibility of code-sharing services

The Chamber continues to agree that these are foundations to all air agreements. Given that, however, the conditions that are placed on the negotiating priorities of the federal government are a concern. In particular, the negotiating calendar and the process itself, with two exceptions are problematic. With respect to the U.S. and E.U. negotiations, two representatives of the Canadian Airport Council have been afforded the opportunity to participate as observers. Canadian observers have been limited to Canadian airlines and in certain situations the pilots union. The Chamber believes that this policy needs to evolve similar to the U.S., whereby any airport may sit as an observer/representative of its community.

The Chamber is also concerned with the lack of transparency in the Open Skies policies. Canada has, as of March 2007, adopted an Open skies agreement with the US, in addition Canada claims 9 Open Skies agreements with Barbados, Costa Rica, Dominican Republic, El Salvador, Iceland, Ireland, South Korea and the United Kingdom. However these treaties are confidential with access granted only to government officials, airlines and airports. Business stakeholders and the general public do not have access to the details. An example of this is the agreement with China, signed in April 2005. Details such as frequency entitlements and destinations served are still confidential. As well, Iceland has signed an Open Skies agreement with Canada, the details of which have never been disclosed to the airport community, stakeholders or the general public. As Iceland's agreement was not totally disclosed and most of the expanded freedoms did not occur for many years to come, this is not truly an Open Skies agreement. The Chamber is concerned as bilateral agreements are still being negotiated that are never made public. By contrast, the U.S. is not legally permitted to enter into such agreements without public disclosure.

A lack of urgency placed on the need to immediately enter negotiations with key markets is also of concern to the Chamber. Many regions have a history of suffering under the legacy of restrictive agreements with some of our most important markets for tourism and trade, The Chamber believes it is incumbent on the federal government to move beyond the current Blue Skies International Air Policy and develop a 21st century true open skies policy, placing significant emphasis on the Asia Pacific region.

The Chamber is also disappointed by the lack of action on the issue of rights of establishment in Canada's approach to air policy. It must be recognised that the airline industry is very capital intensive and to have arbitrary barriers to foreign investment in an age of increasing integration of the global economy is anachronistic to say the least. The

Chamber continues to believe that rights of establishment are the most effective way to immediately introduce significant new investment and competition into the market. The granting of rights of will increase competition and choice as companies look to establish a Canadian presence.

The granting of rights of establishment will bring increased competition and choice as companies look to establish a Canadian presence. This increased investment will inevitably bring increased employment, as the sector grows and foreign carriers establish operations in Canada they will by definition employ Canadians.

It seems clear that the Canadian approach to international aviation is not providing our economy with the opportunities being experienced in jurisdiction after jurisdiction around the world. More worrying, it is clear that unless immediate action is taken Canada will continue to fall behind and our local, regional, provincial and national economy will suffer as a result.

### **Recommendations**

That the federal government:

1. Move beyond the current Blue Skies International policy and aggressively pursue true open skies agreements in all bilateral transport negotiations, both in passenger and cargo.
2. Focus efforts on key markets as identified by community and industry stakeholders.
3. Adopt a balanced approach to stakeholders, recognizing the needs of Canada's air carriers as well as taking into consideration community stakeholders. Individual airports on behalf of these communities must be granted equal observer status to that of the airlines, thus ensuring against confidential addendums and MOU's in the process.
4. Adopt a policy of negotiating open, transparent air agreements.
5. Allow the establishment of foreign-owned but Canadian-domiciled carriers (the right of establishment) in Canada.
6. Undertake a proactive, aggressive and unified strategy across all departments and jurisdictions in order to fully leverage the gateway potential of Canada's airports.

## **Canada's Gateways**

### **Background**

As a trade dependent country, Canada's prosperity is closely tied to its international commerce. Exports and imports account for more than half of our GDP.

Historically the United States (US) has been the destination for over three-quarters of Canadian merchandise exports. This number has been decreasing in recent years and in 2009, for the first time countries other than the US accounted for more than a quarter of Canada's export revenues. The relative decrease in our trade with the US has been attributed to increased competition, the thickening border and the effects of the global financial crisis. While the US will remain our largest trading partner, maintaining Canada's prosperity and high quality of life demand we diversify our trade.

### **Context**

Canada is moving to enhance its trade relations with the world's largest single market - Europe - and high growth markets in Asia. The ongoing Canada-EU negotiations and the beginning of comprehensive economic partnership agreement negotiations with India have put us on the right track. In order for Canada to fully take advantage of international trade opportunities with key markets, it must also ensure that our ports and transportation networks, from infrastructure to operations, are optimal in efficiency, reliability and safety. This will allow Canada to position itself as a gateway into and out of North America.

Canada's trade-dependency requires that the effective movement of people and goods be done more efficiently and cost effectively than our competitors. The efficiency and reliability of our transportation infrastructure forms the backbone of our economic prosperity and is critical to the competitiveness of our businesses.

In recent years there has been good progress in planning and investment into Canada's border, transportation and logistics infrastructure. For example, since 2006 over \$1 billion has been allocated by the Asia-Pacific Gateway and Corridor Initiative (APGCI) towards improving and expanding Canada's Asia-Pacific gateway infrastructure. Among the major projects that have benefited from this investment are the South Fraser Perimeter Road; North and South Shore Trade Corridors, infrastructure in the Port of Prince Rupert; improvements to the Trans-Canada highway and the establishment of the Winnipeg International Airport as a major transportation hub.

While milestones have been achieved, more needs to be done to meet the needs of our expanding trade network. The prioritization of infrastructure investment – both physical and technological, the reduction of operational setbacks and improvements to our regulatory framework are all necessary to ensure that the main ports of entry are able to adapt to increasing and shifting trade flows. In the future, shipping companies may shun low productivity container terminals to avoid long port layover time

Infrastructure constraints can prove to be a major setback in the creation of effective gateways. Expansion of existing infrastructure is inevitable. The Canadian government must work with the provinces and territories to ensure the optimization of physical and technological infrastructure that supports our airports, seaports, roadways and railways. The recent support to the Pacific gateway is a welcome initiative which should be enhanced with increased investment in other gateways including Asia-Pacific, Ontario-Quebec Continental and Atlantic.

It is vital that there be investment in research and innovation in logistics systems to significantly increase the productivity of the Canadian supply chain. If Canada is to create a more competitive supply chain, we need to have an integrated and efficient transport network for rail transport, feeder transport, and inland transport by truck, as well as the vertical and horizontal cooperation which provides value added service to users.

Improvements to Canadian transportation and logistics networks must also be coupled with modifications to Canada's regulatory framework. Before committing to large investments, investors need to be assured of the costs and timeliness of the projects. Canada needs to ensure that we have a competitive regulatory and fiscal environment which would encourage private sector and foreign investment, particularly in transportation infrastructure. New and expanded infrastructure investments should have a one project – one environmental assessment policy. Policy makers should also implement foreign trade zones, physical or virtual areas that are outside of Canada for customs-purposes, which will increase Canada's ability to add value to goods moving through our gateways.

Furthermore, the nature of Canada's transportation network means that a singular inefficiency can negatively affect the entirety of the supply chain. Regulatory delays run the risk of hindering investment into future projects and can compromise the establishment of Canadian gateways. To limit such inefficiencies, the Canadian government must work with the provinces and territories to develop a national, non-discriminatory, transparent and predictable regulatory framework. To be effective, this framework must not favour one mode over another.

Finally, operational challenges continue to hinder the establishment of Canada as a gateway into North America. Bottlenecks caused by operational inefficiencies can seriously hinder the competitiveness of our gateway strategy. Among the most significant operational setbacks are problems with border customs clearance, which can result in costly delays and setbacks at all major ports of entry. While actual labour disruptions in Canada's gateways are similar in frequency to competing ports in the US, Canadian ports have a poor reputation for labour reliability. This is a result of posturing that often accompanies the collective bargaining process in Canada. For example, in early 2009 several large shippers diverted cargo to US ports as a result of the "threat" of a strike by the ILWU foreman in British Columbia.

## **Recommendations**

That the federal government:

1. Actively and intensely promote all of Canada's major gateways.
2. Continue to invest in transportation, logistics and border infrastructure to ensure Canada is prepared for increasing and shifting trade flows.
3. Recognize that investment in physical infrastructure must also be coupled with investment in technology designed to improve the efficiency of our transportation system.
4. Commit to the creation of a competitive regulatory framework which encourages investment and promotes regulatory alignment across jurisdictions.

5. Optimize customs operations at ports of entry as an imperative for Canada to function as a successful gateway into North America. Customs clearance must be done in a timely, cost effective and predictable way.
6. Take steps to improve its reputation with regard to labour stability by supporting policy reform in this area. Shippers must be assured that labour issues cannot hinder the functionality of our supply chain.
7. Work with the US to reduce the thickening of the Canada-US border to facilitate the movement of legitimate people and goods.
8. Support programs designed to encourage trade with Canada, including – at minimum – the creation of foreign trade zones.

## **Rural and Small Community Transit – The Missing Piece in Canada’s Transport Plans**

The lack of a coherent focus on planning and investment in transportation services for rural and small communities is having a significant impact on their ability to grow, attract new workers, as well as on their ability to be proactive partners in reducing the Canada’s greenhouse gas emissions.

Strong rural and small communities are an essential part of a vibrant nation. Canada’s rural and small communities are characterized by several critical elements - committed people with a strong sense of community; creators of wealth; and guardians of our natural resources. In fact the economic success we enjoy as a country is a direct result of the strength and vitality of our rural and small communities.

Transportation, more specifically transit connection between communities and regions, has increasingly come to be recognized as a primary responsibility of government at all levels, given its role as an integral part of community stability, growth and economic prosperity. Added to this is the increased recognition that transit services and the choices these alternatives provide to individuals will play a critical role in Canada’s ability to achieve greenhouse gas reduction targets.

The challenge we collectively face is that rural and small town Canada is characterized by a combination of low population densities and large distances between towns as well as limited, or no, provision of public transport services.

Some services do not connect with the nearest local service centre, and what services there are generally are so infrequent, that they require an alternative form of transport for individuals, to meet all essential needs. A new model of public transport is needed to support rural populations, particularly as the proportion of elderly people in rural and some regional areas will continue to increase. Funded, flexible transportation needs to be provided around smaller regional communities which do not currently have any adequate public transport service.

The Chamber recognizes that transit services are divided between a number of bodies, and a variety of services. In terms of responsibility, provinces and territories, in conjunction with local bodies are the primary level of government that has responsibility for transit within their jurisdiction. Indeed, for this very reason the Canadian Chamber has focused its efforts on the challenge facing urban areas. The Chamber has recognition that the primary challenge facing our transportation infrastructure is the growing trend towards urbanization and the need to ensure the efficient movement of people and goods within Canada’s urban areas.

However, it must be noted that our urban areas are extremely well served by transportation, both in terms of infrastructure and transit services. Indeed, significant revenue streams have been made available through targeted programs such as the Building Canada Infrastructure Fund, the Gas Tax Program, Public Transit Capital Trust Public Transit Agreements.

Despite what is an unprecedented level of investment by senior levels of government, Chamber members are concerned with the lack of two key elements in government programming; a lack of a coherent plan for communities of all sizes and a seeming inherent bias against providing transit service to rural and small communities

Throughout many rural communities, there are private companies that financially support and offer a transit option to the residents and tourists of the community. By way of private partnerships within the community, there are some transit options available; however, these options are often not adequate enough to address all the transit needs of the community due to the limited amount of funds private partners are able to contribute.

If perceptions are reality, the reality is that many people continue to disregard public transport as within their consideration of travel modes. Many people still view public transport as a provision for disadvantaged people that is unreliable, unsafe, overcrowded and dirty; these views are mostly outdated and ill-informed.

Positive and constructive work could be done to change these perceptions, for the benefit of customers and the transport system. Culturally, we need to move to a European model of provision and regard for the role of public transport in our society.

This might not be the primary issue raised by transport planners and engineers, but the social relationship to transport is an essential key to building ongoing investment in public transport across the political cycle.

### **Recommendations**

That the Federal Government works with the provinces and territories to:

1. Develop a fully costed rural transport plan and to look into the creation of partnerships with private companies/organizations that will financially contribute to the success of the plan.
2. Work with municipalities to develop an implementation model.

## **St. Lawrence Seaway**

### **Issue**

Transport Canada and the U.S. Transportation Department signed a Memorandum of Cooperation on May 1, 2003 to promote the concept and benefits of short sea shipping and by extension ensure the ongoing success of the Great Lakes and St. Lawrence Seaway transportation system. Specifically, the document further enhanced bi-national collaboration on a comprehensive transportation study of the Great Lakes St. Lawrence Seaway waterway.

With increased awareness among the general population, and policy initiatives adopted to facilitate development of the Seaway's potential, the stated objective of alleviating congestion and improving the efficiency of Canada's transportation network is within our grasp.

### **Background**

The Great Lakes St. Lawrence Seaway System represents the world's largest inland waterway stretching some 3,700 km inland. Over 150 million people live within an eight hour drive of a major port within the system, representing 45 per cent of the combined U.S. - Canadian population.

Cargo volumes on the Seaway remain almost 20 per cent ahead of the pace set in 2009. In 2010, total cargo shipments on the Seaway for the period of March 25 to May 31 amounted to 6,888,000 tonnes as compared to 5,840,000 tonnes for the same period the preceding year.

With trade as a share of GDP growing in prominence to account for nearly 30 per cent of overall economic activity today, the Great Lakes states and provinces together account for nearly 39 per cent of U.S.-Canadian trade with the world. The Seaway is responsible for approximately 75,000 direct and indirect jobs in Canada and 150,000 in the U.S. and annually generates more than \$4.3 billion in personal income, \$3.4 billion in transportation-related business revenue, and \$1.3 billion in federal, state and local taxes, according to the latest Seaway research.

Within the Seaway's existing locks and channels, the potential exists to accommodate a further increase of much larger cargo volumes. The future points to a Great Lakes / Seaway System - 'Hwy H2O' - playing a key role as a complement to heavily congested road and rail links within the intermodal cargo network.

An opportunity also exists to promote the study and pursue the benefits of increased trade as a result of the marine mode viability becoming further enhanced by the potential introduction of year round operation. At the outset the St. Lawrence Seaway Management Corporation (and its US counterpart the St Lawrence Seaway Development Corporation) should achieve coordination with the U.S. Corps of Army Engineers (USACE) regarding the Sault Ste Marie locks.

The Seaway, an engineering marvel at its inception in 1959, is today yet again on the vanguard of technology. Improvements underway include the testing of a hands-free vessel mooring system, a vessel self-spotting system to enable crewmembers on the bridge to precisely judge their approach into a lock, and a sophisticated 3D charting



system that provides an accurate model of the channel bottom, with the potential to enhance navigation and available vessel draft.

With a navigation season that coincides with seasonal peaks in North American freight volumes, the St. Lawrence Seaway via short sea shipping holds the potential to greatly alleviate congestion and increase the efficiency of Canada's intermodal transportation network.

### **Recommendations**

That the federal government:

1. Develop policies to ensure the Seaway/Great Lakes System is utilized to the maximum economic benefit for coastal and inland ports by supporting and encouraging the transport of all appropriate cargo inland through links to the multi-modal system.
2. Propose a fair and equitable cost sharing formula to work with U.S. administrators and the Canadian government providing contribution by Ontario toward the US\$20M US Army Corps of Engineers Feasibility Study phase ensuring Canadian interests are considered in the next step in the Great Lakes St. Lawrence Seaway waterway review.
3. Provide appropriate funding to promote and develop this vital transportation resource and to establish its viability year round.