



THE CANADIAN BAR ASSOCIATION  
L'ASSOCIATION DU BARREAU CANADIEN

February 11, 2008

Ms. Heidi Smith  
Director, Permanent Resident Policy and  
Programs Development Division Immigration Branch  
Citizenship and Immigration Canada  
300 Slater Street  
Ottawa, ON K1A 1L1

Dear Ms. Smith:

**Re: Canada Experience Class**

I write on behalf of the Citizenship and Immigration Section of the Canadian Bar Association (CBA Section). First, let me thank you for the opportunity to have members of the CBA Section attend the Canada Experience Class (CEC) consultations across the country, and allowing me and other members of the Section executive to meet with your staff at the Vancouver consultation.

The Canadian Bar Association is a national association representing 37,000 jurists, including lawyers, notaries, law teachers and students across Canada. The Association's primary objectives include improvement in the law and in the administration of justice. It is in this light that we offer these comments. In general, we support the thrust of the CEC initiative, namely to give priority in processing those applicants who have worked or studied in Canada for a prolonged period. In most cases, these people have shown that they can successfully establish themselves in Canada. Our suggestions for some changes to the technical aspects of the program would better ensure the fulfilment of its objective.

**Making Language Testing Requirements Universal**

We understand from the consultation presentations that a proposed regulatory amendment would make language testing universal for language benchmark points across the spectrum of economic class categories. IELTS testing providers would increase their resources in Canada to deal with an anticipated increase in demand.

We are concerned that this eliminates the exemption commonly used for applicants from the United Kingdom, the United States and other predominantly English or French-speaking countries. While this would ensure the formally equal treatment of all applicants, it does seem unnecessarily cumbersome to require this of applicants who have lived their entire life in an English or French-speaking environment.

It was discussed at one consultation session that the exemption was difficult to put into practice. Despite English or French being the language of commerce in a country, it may not be realistic to assume all residents are fluent. One way to apply the exemption would be to focus on the education system in the country at issue. If the applicant has completed most of their schooling in a country whose language of education is English or French, and whose education system has a similar delivery system and objectives as Canada, then the exemption would apply. We believe this is a fair way of determining English or French fluency that would reduce the need for individualized testing.

At present, the number of IELTS and TEF language testing providers are limited typically to one city per province. We would welcome the addition of other testing providers. If IELTS and TEF are given exclusive monopolies on language testing, CIC should insist that they offer testing in major population centers across Canada.

### **Relaxing Language Requirements to Attract Skilled Trades**

One criticism of the Skilled Worker program is that its criteria exclude many skilled tradespersons at a time when the Canadian economy desperately needs them. The proposed design of the CEC, and in particular the mandatory language and education requirements, would exacerbate this problem. The language bar may be set too high for the skilled trades, who may score lower in certain language benchmarks and higher in others. In effect, it becomes a literacy test. We would encourage considering the aggregate benchmark score rather than individual ones. For many skilled trades, an average total of 5.0 would be a more reasonable threshold on the IELTS scoring rather than achieving this score in each of the four areas. For example, we see no purpose to maintaining a writing standard of 5.0 where the applicant's trade does not require a particular level of writing ability. With the aggregate score taken into consideration, a candidate could qualify, for example, with a 4.5 score on writing ability, but 5.5 for reading. This flexibility would help achieve the government's policy goal of recruiting and retaining skilled trades.

### **Eliminating Minimum Levels of Education in the Worker Stream**

A third area of concern is the requirement of a minimum education level for the worker stream. The purpose of the category is to recognize that people who legally work in Canada for two years in a NOC 0, A or B profession have already successfully integrated into Canadian society. Maintaining a minimum education requirement seems arbitrary, given that the principal focus is not the person's education, but rather their work experience. While we recognize the potential risk to the program's integrity without an education requirement, it eliminates many skilled tradespersons whose education was interrupted, but have worked in their trade for many years without an official diploma.

An example provided in the Vancouver session was that of a US citizen carpenter who emigrated to the US from Bosnia 10 years ago and never completed high school because of an interruption in his studies during the war. After completing English-language training, he worked successfully as a carpenter in the US for a decade before taking a job in British Columbia. He is in Canada on a work permit filling a labour shortage – exactly the kind of applicant that would otherwise fulfill the purpose of the CEC.

### **Providing a Facility for Interviewing and Extending Status in Canada**

In the consultation, the reason provided for not permitting interviews in Canada was that they would not be cleared by Canada's security partners due to security concerns. With respect, this position appears untenable when the applicants are either currently in Canada, or have recently been in Canada.

We recognize that applicants from certain countries obtained work permits at the border, and were therefore subject to only a minimal level of security screening. However, those applicants rarely pose security concerns. As for other applicants, CIC has dedicated extra resources already for security screening on temporary resident applications. Requiring applicants to travel to Buffalo for interviews seems unnecessary, given the travel cost for some applicants. Some potential CEC applicants will also be unable to obtain visas to enter the US, thereby frustrating the true purpose of the CEC class.

If interviews must take place in the US, we recommend conducting interviews at satellite US offices (e.g. Seattle, Los Angeles, Detroit, and New York) that may be closer to the applicant's address in Canada. These offices are already used for interviews for skilled worker and PNP applications and would be more convenient for applicants.

### **Working in Canada During Processing**

It is our understanding from the recent consultations that CIC wishes to use post graduate work visa program changes to assist in implementing the CEC. CIC expects these changes to be announced either slightly before the launch of CEC or at the same time. Some changes mentioned may include longer terms for the work visa (currently 1 to 2 years) and less stringent requirements for the period in which the job offer must be obtained (currently 90 days). We welcome these changes and hope to see them implemented in a timely fashion.

We would ask that some facility be created to allow applicants who hold existing work permits to extend their status further under the CEC category while they await processing. This is particularly important as we were advised that an applicant who has status in Canada when the application is made and subsequently loses that status due to expiry of documents would **not** be eligible to land from within Canada due to loss of status. To fulfill the purpose of the program, we recommend a process which will allow for the temporary extension of status in Canada while the application is being finalized.

### **Conclusion**

Once again, thank you for the opportunity to participate in the consultations on this important initiative. We hope that our comments have been helpful. Members of the CBA Section executive would be pleased to meet with CIC staff in person or by conference call to further explain or clarify our comments.

Yours truly,

*(original signed by Kerri A. Froc for Alex Stojicevic)*

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Chair, National Citizenship & Immigration Law Section

cc. Katherine Pestieau  
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