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April 27, 2016

Via email: MaryAnn.Mihychuk@parl.gc.ca

The Honourable MaryAnn Mihychuk, P.C., M.P.
Minister of Employment, Workforce Development and Labour
165 Hôtel de Ville Street
Gatineau, QC K1A 0J2

Dear Minister:

On behalf of the Immigration Law Section of the Canadian Bar Association (the CBA Section), I would like to congratulate you on your appointment as Minister of Employment, Workforce Development and Labour. I will be in Ottawa with other officers of the CBA Section on Friday, May 13, 2016. We would appreciate a brief meeting with you or your staff that day to discuss several important issues and how we might best work together on them.

The CBA is a national association representing over 36,000 jurists, including lawyers, notaries, law teachers and students across Canada. Our primary objectives include improving the law and the administration of justice. The CBA Section has members across Canada practising in all areas of immigration and refugee law. They are dedicated to ensuring a fair and efficient system reflecting Canadian interests and the principles of natural justice.

Recent years have seen sweeping changes to Canada's immigration system, including those to the Temporary Foreign Worker Program (TFWP). Many of these changes have raised serious concerns for our members and the people we represent. There is now an opportunity to improve a system vital to Canada. We are pleased that your Government has committed to address many issues of mutual concern. We are looking forward to working with you and your officials to convey the perspective of the legal profession.

The TFWP is critical to the Canadian economy. The CBA Section would like to work with you and your department to ensure that the TFWP helps companies to achieve strategic business objectives and fill gaps in their workforces. At the same time, we want to ensure the protection of Canadian and foreign workers and prevent abuse of the program. We have several suggestions to achieve these goals and would appreciate the opportunity to discuss them with you:

- Ensuring that officers are trained to adhere to legislation and case law when assessing files, and that they do not fetter their discretion or treat guidelines or policy as obligations, rather than useful benchmarks for interpreting regulatory requirements.

- In line with Immigration, Refugees and Citizenship Canada's current policies of transparency and openness, making officers' manuals, guidelines and operational instructions available to employers and the public. These materials would include a description of expectations and guidelines for compliance reviews and audits.
- Ensuring a processing environment focused on high service standards and effective communication, including:
 - an understanding of the interests of businesses using the TFWP
 - ending the policy to destroy or return applications for minor flaws
 - establishing a process for employers to advise of changes in terms of conditions of work
 - establishing a maximum response time from the TFWP so that employers will know whether they can proceed with the changes or whether a new application and LMIA are required.

We hope that you will be available for a brief meeting and look forward to hearing from you.

Yours truly,

(original letter signed by Eugene Oscapella for Stéphane Duval)

Stéphane Duval
Chair, CBA Immigration Law Section