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**FINAL VERSION**

**ANALYSIS OF REFORMS TO CANADA'S IMMIGRATION SYSTEM AND  
ITS IMPLICATIONS ON COMMUNITIES OF THE CANADIAN  
FRANCOPHONIE**

**END OF ANALYSIS PERIOD: MAY 7, 2013**

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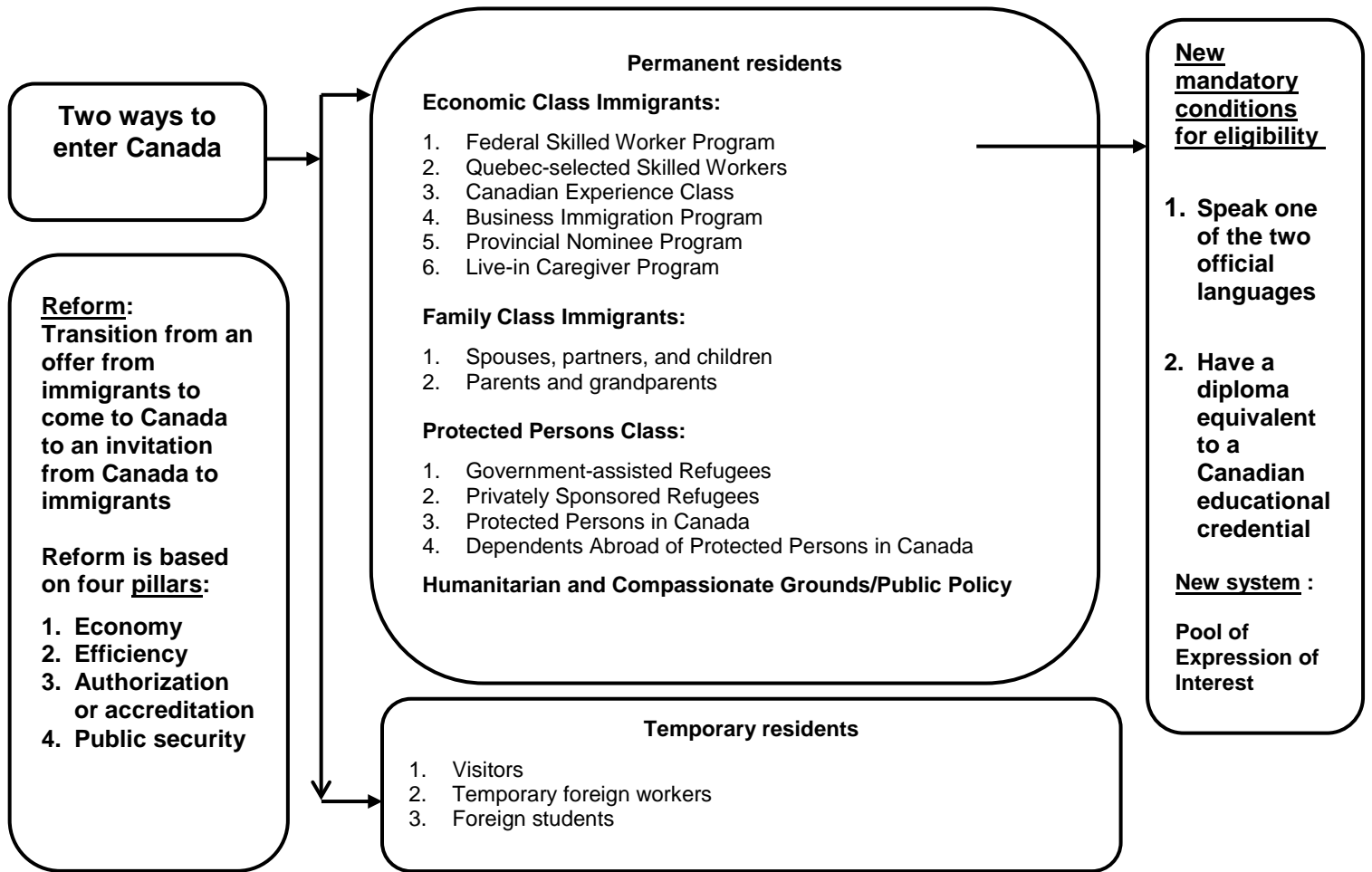
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**This analysis reflects the views of the authors and does not necessarily  
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members of the Ministerial Conference on the Canadian Francophonie.**

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## REPORT SUMMARY: OVERVIEW OF IMMIGRATION REFORM AND EFFECTS ON COMMUNITIES OF THE CANADIAN FRANCOPHONIE



**Authors' analysis:** The reform of Canada's immigration system will have a positive effect overall on Canada's Francophone communities.

1. Communities will have to switch from a reactive approach to the reception and settlement of immigrants who go to organizations and institutions within the community to a proactive strategy implemented abroad and in Canada.
2. Reform will shift the work of communities from a sectoral basis (education, economy, health, settlement) to a geographic basis (municipality, town or village, region, depending on the case).
3. The Canadian Francophonie in targeted countries will have to have a higher profile to increase the number of potential French-speaking immigrants who join the expression of interest pool and want to settle in provinces with an Anglophone majority; hence the increased importance of Destination Canada and pre-departure services.
4. Francophone, bilingual, and Anglophone employers, the provinces and territories, and Francophone post-secondary institutions will be the driving forces that must be mobilized in order to increase the number of French-speaking immigrants who settle in Canada's Francophone communities.
5. We can predict, in four to eight years, a) a decline in language training; b) an increase in the specialization, professionalization, and accreditation of service provider organizations; c) the introduction of a case management and voucher system enabling immigrants to access services according to their needs; d) the establishment of Francophone non-profit organizations and private businesses authorized to provide immigrants with advice, recruit skilled and temporary workers, and offer settlement services to refugees; and e) an increase in the selection of immigrants heading for Francophone communities in Canada through arranged employment offers.

**LIST OF ACRONYMS AND ABBREVIATIONS USED IN THIS DOCUMENT**

ACCC:	Association of Canadian Community Colleges
CEC:	Canadian Experience Class
CIC:	Citizenship and Immigration Canada
CIIP:	Canadian Immigrant Integration Program
CLB:	Canadian Language Benchmarks
EI:	Expression of interest
FSWC:	Federal Skilled Worker Class
HRSDC:	Human Resources and Skills Development Canada
IRPA:	<i>Immigration and Refugee Protection Act</i>
IRPR:	<i>Immigration and Refugee Protection Regulations</i>
LMO:	Labour Market Opinion
NAFTA:	North American Free Trade Agreement
NOC:	National Occupational Classification
PGP:	Parent and Grandparent Program
PNP:	Provincial Nominee Program
TFWP:	Temporary Foreign Worker Program
VAC:	Visa Application Centre
WHP:	Working Holiday Program

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## 1. PRESENTATION OF DOCUMENT

This purpose of this discussion paper is to review all of the changes that have been made to Canada's immigration system since 2006 and to analyze their impact on immigration in the country's Francophone communities.

The first part presents the authors' analysis of the cumulative effects of the changes and the opportunities they represent for the Canadian Francophonie.

The effects and opportunities analysis is based on the facts outlined in the second part of the document. We reviewed all source documents pertaining to the changes made to Canada's immigration system since 2006, including the following:

1. Consolidated Statutes of Canada, published by the Department of Justice of Canada
2. Official announcements published in the *Canada Gazette*:
  1. Regulations
  2. Ministerial instructions
  3. Government notices requesting comments
3. Operational bulletins and official news releases of Citizenship and Immigration Canada.

We also reviewed the decisions made by federal institutions that have an impact on immigration, including Human Resources and Skills Development Canada, the Canada Border Services Agency, and Public Safety Canada.

Two resources accompany this paper and were submitted under separate cover to the Ministerial Conference on the Canadian Francophonie:

1. A document master list in Excel format showing all of the documents reviewed, categorized on the basis of the following:
  1. Relevance of the document for research purposes
  2. Author, date of publication, and title in English and French
  3. Type of document (regulation, Ministerial instruction, act, research, etc.)
  4. Class of immigrants targeted (all, economic immigrants, temporary residents, family class, and refugees)
  5. Immigration process targeted (labour market opinion, refugee claim, pre-departure services, etc.)
  6. Key words (selection grid, language skills, municipalities, etc.)
  7. Hyperlink to the document, in English and in French
2. An Excel spreadsheet containing official CIC data on immigration levels by class and by province and territory, from 2001 to 2011.

## 2. PART 1: ANALYSIS OF EFFECTS AND OPPORTUNITIES FOR THE CANADIAN FRANCOPHONIE

The changes to Canada's immigration system since 2008 are based on four key pillars:

- **THE ECONOMY:** The purpose of immigration is to improve Canada's economic performance. The immigration system creates a very close link between labour needs and the arrival in Canada of skilled immigrants, either as permanent residents or temporary workers. The pre-requisites and the immigrant selection system have been reformed in order to address this first goal more quickly.
- **EFFICIENCY:** The operations of the Canadian immigration system have been completely overhauled. From the expression of interest system, the revised point grid, and the cap on the economic classes to the rationalization of settlement services and the processing of refugee claims, CIC is exercising tight control in order to improve the efficiency of all operations.
- **AUTHORIZATION/ACCREDITATION:** Immigration stakeholders will now have to be designated or authorized by CIC to deliver services to immigrants abroad or in Canada. Accreditation, designation, and calls for proposals for services reduce the number of stakeholders and professionalize services, which are integrated into a controlled-access continuum.
- **SECURITY:** The Canadian immigration system must meet national security requirements and comply with international North American perimeter security agreements. Many preventive and corrective measures have been implemented.

Nine cumulative effects are analyzed in the next section:

1. Canada's commitment to immigration, maintaining global immigration targets, and prioritizing Francophone immigration
2. Facilitating the social and economic integration of immigrants
3. Effects of the new point system
4. Tightening rules for refugees
5. Calling on the services of designated organizations
6. Establishing economic immigration classes by Ministerial instruction
7. Developing an expression of interest system
8. Canadian experience class
9. System integrity, security, and efficiency.

### 2.1. Canada's Commitment to Immigration, Maintaining Global Targets, and Prioritizing Francophone Immigration on Communities of the Canadian Francophonie

The Prime Minister of Canada, the Right Honourable Stephen Harper, issued the following statement concerning Canadian immigration at the World Economic Forum in Davos, Switzerland, on January 26, 2012:

*We will also undertake significant reform of our immigration system. We will ensure that, while we respect our humanitarian obligations and family reunification objectives, we make our economic and labour force needs the central goal of our immigration efforts in the future.*



*As I said earlier, one of the backdrops for my concerns is Canada's ageing population. If not addressed promptly, this has the capacity to undermine Canada's economic position, and for that matter, that of all western nations, well beyond the current economic crises.*

*Immigration does help us address that and will even more so in the future.*

This statement confirms that immigration is a top priority for the Canadian government.

The government is therefore seeking to build an immigration system that is quick and flexible and will make it possible primarily to meet Canada's economic and labour force needs.<sup>1</sup>

Canada remains committed to welcoming about 250,000 immigrants annually. Immigrants to Canada's Francophone communities are included in this pool. The *Roadmap for Canada's Official Languages 2013-2018* gives immigration top priority.

The evaluation of the program done by CIC (July 2012) includes an analysis of immigration targets in Francophone minority communities and three measures for identifying users of French among immigrants in those communities:<sup>2</sup>

1. According to the mother tongue measure, 1,614 immigrants whose mother tongue is French settled in Francophone minority communities in 2011.
2. According to the measure that combines immigrants whose mother tongue is French with immigrants whose mother tongue is not French but whose official language spoken is French (excluding those who speak both French and English), 3,543 immigrants who use French settled in Francophone minority communities in 2011.
3. The third measure adds a third category to those in the second measure: immigrants whose mother tongue is a language other than French or English and whose official languages spoken are French and English, and who are from countries that have been designated "Francophone," i.e. one of 43 countries and territories where French is either an official language or a common language used. According to this measure, 5,279 immigrants who use French settled in Francophone minority communities in 2011.<sup>3</sup>

The table below presents the authors' analysis of the potential targets for the Canadian Francophonie, based on the objective that 4.4% of all immigrants settling outside Quebec are French-speaking. This objective, set by CIC, is to be achieved by 2023. The table does not

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<sup>1</sup> Extract from presentation of the Deputy Minister of Citizenship and Immigration Canada, Neil Yates, at the symposium of the Canadian Association of Community Colleges, September 18, 2012.

<sup>2</sup> CIC, Evaluation division, *Evaluation of the Recruitment and Integration of French-speaking Immigrants to Francophone Minority Communities Initiative* ([N.p.]: Citizenship and Immigration Canada, July 2012), accessed May 3, 2013, <http://www.cic.gc.ca/english/pdf/pub/recruitment.pdf>.

<sup>3</sup> The evaluation used a Wikipedia source and a University of Chicago source to identify these countries: [http://en.wikipedia.org/wiki/List\\_of\\_countries\\_where\\_French\\_is\\_an\\_official\\_language](http://en.wikipedia.org/wiki/List_of_countries_where_French_is_an_official_language); <http://cuip.uchicago.edu/~ddelaney/paysfrancophone.html>, accessed on May 7, 2013. The Organisation internationale de la francophonie is made up of 77 states and governments, of which 57 are members and 20 are observers. See: <http://www.francophonie.org/>, accessed on May 7, 2013.

reflect the actual situation, because the distribution is not equal in each class. However, the table is useful in that it provides an overview of the full picture if this objective were achieved. According to this analysis, every year, some 8,758 French-speaking immigrants would settle in Canada's Francophone communities, including 5,394 in the economic class, 2,419 in the family class, and 941 in the humanitarian class.

**Table 1: Potential Francophone immigration targets according to CIC targets, by category, 2013**

2013 Plan Admissions Ranges	A	B	C	D
Immigrant Category	Low	High	Admissions Target	Target of 4.4% immigration – Canadian Francophonie
Federal Skilled Workers	53,500	55,300	55,300	2,433
Federal Business	5,500	6,000	6,000	264
Canadian Experience Class	9,600	10,000	10,000	440
Live-in Caregivers	8,000	9,300	9,300	409
Provincial Nominee Program	42,000	45,000	42,000	1,848
Quebec-selected Skilled Workers	31,000	34,000	33,400	
Quebec-selected Business	2,500	2,700	2,600	
<b>Total Economic</b>	<b>152,100</b>	<b>162,300</b>	<b>158,600</b>	<b>5,394</b>
Spouses, Partners and Children (including Public Policy on in-Canada spouses/partners without status)	42,000	48,500	48,300	1,594
Parents and Grandparents	21,800	25,000	25,000	825
<b>Total Family</b>	<b>63,800</b>	<b>73,500</b>	<b>73,300</b>	<b>2,419</b>
Protected Persons in Canada	7,000	8,500	8,500	281
Dependents Abroad of Protected Persons in Canada	4000	4,500	4,500	149
Government-assisted Refugees	6,800	7,100	7,100	234
Visa Office Referred Refugees	200	300	200	7
Public Policy-Federal Resettlement Assistance	500	600	600	20
Privately Sponsored Refugees	4,500	6,500	6,300	208
Public Policy-Other Resettlement Assistance	100	400	400	13
Humanitarian and Compassionate Considerations	900	1,100	900	30
<b>Total Humanitarian</b>	<b>24,000</b>	<b>29,000</b>	<b>28,500</b>	<b>941</b>
Permit Holders	100	200	100	4
<b>Total</b>	<b>240,000</b>	<b>265,000</b>	<b>260,500</b>	<b>8,758</b>

\* Percentage of mix is derived using the midpoint of the planning ranges.

<http://www.cic.gc.ca/english/department/media/notices/notice-levels2013.asp>

5-Nov-12

Authors' analysis – Column D presents the hypothetical number of immigrants to Canada's Francophone communities if the target of 4.4% of all immigrants settling outside Quebec being French-speaking were to be reached in 2013 and if French-speaking immigrants were distributed proportionally in each category.

## 2.2. Facilitating Social and Economic Integration

The purpose of immigration is to improve Canada's economic performance. This approach will facilitate the social integration of immigrants.

*Federal skilled workers (FSW) are chosen as permanent residents based on their level of education, work experience, knowledge of French or English, and other factors that have been shown to help them prosper in Canada.<sup>4</sup>*

The federal government creates conditions so that employers can choose the permanent residents who are most likely to integrate quickly into Canada. "Francophone" employers are mostly small businesses and public institutions. They do not all have the means to organize a selection of immigrants from the expression of interest pool for the federal skilled worker (FSW) class, nor do they all have any interest in doing so. It will be necessary to set up regional or local employer consortiums to facilitate the selection of French-speaking immigrants. Francophone immigration networks will have a key role to play in setting up these consortiums and providing the administrative support employers will need in selecting immigrants. The Ministerial Instructions updated on May 4, 2013, confirm that there is no cap on the number of new FSW applications with an arranged employment offer that will be reviewed for processing purposes.

It will be necessary to approach Anglophone employers to select French-speaking immigrants. The Francophone market alone will not be able to absorb all French-speaking immigrants.

The rules for making an FSW application may change from time to time, without notice. Communities will have to maintain a continuous watch over the regulations in order to keep track of the changes.

Selecting immigrants most likely to integrate quickly into Canadian society (because they will be better matched to the jobs available and will have stronger language skills) will help to gradually reduce the use of settlement services. There will be an increase in pre-departure services, enabling prospective immigrants to be better prepared and enhancing their chances of being selected. The introduction in 2011 of an individualized file management system for services provided for immigrants enables the CIC to analyze paths and costs on a case-by-case basis and to rationalize service delivery. In the medium-term, the federal government will be able to reduce its investments in settlement services (\$600 million in 2013).

The reception infrastructure for Francophone immigrants established by community organizations in Canada's Francophone communities will become vulnerable if it does not adjust to the changes.

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<sup>4</sup> Extract from website of Citizenship and Immigration Canada, accessed on April 15, 2013.

### 2.3. Effects of New Point System

The new point system has a number of advantages over the old system, including clarity and simplification of requirements. The system tightens up eligibility for immigration to Canada. For example, one of the two official languages must be spoken. This promotes French-language immigration.

However, the assessment of foreign credentials could bring about big changes in the source countries for French-speaking immigrants. The Regulations published in the *Canada Gazette* on December 19, 2012, read as follows:

Requiring a foreign educational credential assessment and changing education points. Previously, education points were based on having a credential and the number of years required to obtain it.

Under the revised regulations, two types of organizations are eligible to be designated to authenticate and assess the Canadian equivalency of foreign educational credentials:

- (1) organizations with expertise in authentication and assessment of foreign educational credentials; and
- (2) professional bodies whose assessments of foreign educational credentials are recognized by at least two provincial/territorial regulatory bodies.

Both types of organizations can be designated to provide educational credential assessments and authentication for FSWC purposes, herein referred to as an educational credential assessment report (ECA Report), subject to the organizations meeting CIC requirements through a Call for Service Proposals process.

Designated organizations will work on a case-by-case basis to authenticate diplomas, certificates, or credentials obtained in foreign jurisdictions and determine their equivalent value in Canada. This measure allows CIC to benefit from a better assessment of the value of a foreign educational credential in Canada. Applicants whose credentials are not equivalent to any Canadian programs of study as well as those who do not have a credential equivalent to a completed Canadian credential are not eligible for the FSWC. Points will be awarded according to how an applicant's foreign educational credential equates to a completed educational credential in Canada. (Note: our underlining.)

It should be noted that credential equivalency is established for immigration purposes only and not for the purposes of obtaining a job or a license to practice.

### 2.4. Tightening Rules for Refugees

The rules for refugees have been tightened, but the federal government has stepped up its commitment. Out of a total of 25,000 refugees per year, the federal government is committed to sponsoring about 14,500 of them, compared with 12,000 in previous years. Refugees represent significant human capital for immigration to Francophone communities. However, few communities have tried to set up authorized agencies for the reception and settlement of refugees. To our knowledge, Manitoba's Francophone community is the only one that has taken this step and developed a comprehensive support and integration system, including housing.

The exclusion of Francophone immigrants owing to non-equivalency of foreign educational credentials may lead to an increase in refugee settlement applications in targeted Francophone communities in Canada.

The social cost of refugee integration is greater than the costs associated with economic immigration. The stress on the various systems – school, health, and justice – entails costs for the provinces and territories and requires resilience on the part of the host communities. A strategy for mobilizing the resources available under federal and provincial programs would be necessary to successfully integrate a larger proportion of Francophone refugees.

## **2.5. Calling on “Designated Organizations”**

The reforms privatize a number of functions within the immigration system by calling on “designated organizations,” either by Ministerial instructions or by calls for proposals for services. These designated organizations play a very important official role since their decisions are crucial in the process of evaluating the case of any applicant. Some organizations have had be designated for a long time. In other cases, the designation requirement is recent.

Here is a partial list of categories of designated organizations according to the reforms and the call-for-proposals process launched in 2011:

- Designated angel investor groups or venture capital funds (start-up business class)
- Designated organizations – language testing and assessment of foreign educational credentials
- Refugee sponsorship agreement holders
- Authorized post-secondary learning institutions, with or without agreements with each of the provinces (consultations regarding regulatory changes are currently under way)
- Settlement organizations (chosen through national calls for proposals, plus Manitoba and British Columbia)
- Authorized immigration consultants
- Role of employers (expression of interest system, certification of compliance with rules, temporary foreign worker program, inspection power of CIC and HRSDC).

The provinces and territories will have to forge ties with these designated organizations, either directly or through CIC. The Francophone element is not always at the forefront of the service offer for some of them.

## **2.6. Establishing an Economic Immigration Class by Ministerial Instructions**

The Minister could use the authority conferred upon him by the Act to establish new economic immigration classes for five years, which would make it possible to accept up to 2,750 persons per year with a view to creating a class of French-speaking economic immigrants for catch-up purposes. For example, the target could be 500 additional principal applicants per year for five years. Such an initiative could be combined with an increase in Destination Canada’s promotional measures for the purpose of speeding up the selection of French-speaking immigrants within communities.

## 2.7. Implementing an Expression of Interest System in 2014

The imminent introduction of an expression of interest system will make it possible to identify French-speaking immigrants more readily, including those who are chosen by English-speaking private employers. The provinces and territories are currently participating in the development of an expression of interest system. Communities will be facing a challenge: that of ensuring the presence in the expression of interest pool of prospective French-speaking immigrants wanting to settle in the provinces with an Anglophone majority.

The new guide for immigrants entitled *Welcome to Canada, What you should know*, published by Citizenship and Immigration in April 2013, states the following:

*Most Francophones live in Quebec. However, one million Francophones live in Ontario, New Brunswick and Manitoba, with a smaller presence in other provinces (p. 22). [...] Good English or French language skills are very important to help you settle in Canada. You may choose to focus on learning or improving either English or French. This will likely depend on which of the two languages most people speak in the area where you live (p. 53). (Note: our underlining.)*

The new system increases the importance of pre-departure preparation. When filing an application, the applicant and his or her spouse (or partner) will have to prove their language skills in English or French through standardized testing. The level of language proficiency required varies by occupation or trade.

Applicants will also have to obtain Canadian equivalency for their credentials for immigration purposes, although this equivalency may not necessarily be valid for obtaining a license to practice, if applicable. Information about the Canadian labour market in a number of fields and provinces is available online. Pre-departure referral reinforces the fact that individuals are responsible for preparing for their arrival in Canada. Francophone communities in Canada will have to invest more in promoting their provinces and communities to potential French-speaking immigrants so these immigrants join the expression of interest pool.

## 2.8. Canadian Experience Class

The growing importance of the Canadian experience class represents a major opportunity.

The very large number of foreign students opens the door for post-secondary institutions to play a role as engines of French-speaking immigration. Networking between post-secondary institutions and the community for transitioning from temporary residents to permanent residents wishing to live in Canada becomes crucial, upstream through foreign student recruitment strategies and downstream through work experience acquired while studying and community integration after graduating.

For the employers of temporary foreign workers, the challenges are greater but also represent opportunities. In Australia, 80% of the visas issued under the Employer Nomination Scheme go to temporary foreign workers who change status. The Provincial Nominee Program is already

the second largest class of economic immigration. In several provinces, this program is already functioning in a manner similar to the Australian program:<sup>5</sup>

- The vast majority of nominees in the province of Alberta (more than 80% of cases) are temporary foreign workers; in a number of classes, almost all nominees are temporary workers.
- Most nominees in the province of British Columbia (more than 80% of cases) are already in the province and have a work permit at the time they apply to the program;
- Slightly more than one-third of nominees in the province of New Brunswick (35% of cases) held work permits at the time they applied to the program.
- In Nova Scotia, 44% of nominees held a work permit.

The role of the provincial and territorial governments could be enhanced in order to accommodate Francophone immigration in these two classes.

The Canadian experience class becomes a useful conduit to permanent residency for foreign students who have worked in Canada. The recruitment and selection of foreign students then become critical steps in the social and cultural integration in Canada of eventual permanent residents, above and beyond the financial interests of post-secondary institutions. The representatives of post-secondary learning institutions may offer educational advice only and may not give advice relating to immigration matters, unless they are authorized immigration representatives.<sup>6</sup>

## 2.9. System Integrity, Security, and Efficiency

Public discourse has often referred to “abuses of the system” perpetrated by evildoers and to the chronic difficulties of now ineffective procedures. System reform is presented as a necessary tightening that preserves the Canadian values of being welcoming and open.

Monitoring systems are more numerous: collection and sharing of biometrics about applicants and visitors, monitoring entries to and exits from Canada, increased inspection powers of CIC and RHSDC, acceleration of processes for deporting foreign nationals without status, stricter conditions for the issuing of temporary resident visas, etc.

When it comes to the efficiency of settlement services, Citizenship and Immigration Canada has replaced the data collection tool with a very elaborate *Contribution Accountability Measurement System* (iCAMS). This system will be incorporated into the *Immigration Contribution Agreement Reporting Environment* (iCARE) system in December 2013. Service provider organizations that receive CIC funding must register clients in the database and provide a full range of information about the services used by users, including the time allotted to each user. This will enable the Department to analyze the cumulative effects of its programs on the target population.

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<sup>5</sup> CIC, *Evaluation of the Provincial Nominee Program* ([N.p.]: Citizenship and Immigration Canada, September 2011), accessed March 15, 2013, <http://www.cic.gc.ca/english/pdf/research-stats/evaluation-pnp2011.pdf>.

<sup>6</sup> See: Immigration Consultants of Canada Regulatory Council, “How New Immigration Rules Affect You: Educational Agents and Institutions” [online], *Immigration Interpretation Bulletin #1*, March 1, 2012. See tab “About Us,” subtab “Immigration Advisories” on the website of the Immigration Consultants of Canada Regulatory Council, <http://www.icrc-crcic.ca/AboutUs.cfm?>, accessed on March 20, 2013.



Such a system will enable the Department to gather data from many sources and accurately measure the efficiency of the settlement system for those benefitting from it.

The authors predict that, within four to six years, the Department could implement an individualized case management approach enabling immigrants to access settlement services that meet their specific needs, in a timely manner. Under this approach, the government would do a detailed analysis of the needs of each immigrant or each family of immigrants upon arrival. The services to which immigrants and families would be entitled would be provided by different authorized organizations. Such a system is being used in Australia. Settlement services are not universal; they are available only to those who need them.

Also, the authors predict that the Department could implement a voucher system within four to six years. All immigrants and their families would receive a coupon indicating the services to which they are entitled and the number of hours of services paid for by the government. On the basis of the rules of the market, immigrants might decide to spend their voucher on the authorized provider that best meets their needs at the most reasonable price. Such a system would increase the efficiency of settlement services but reduce or even eliminate access to secondary immigration services for immigrants leaving their province of arrival to settle elsewhere. The service access period could be shortened, because the government wants to quickly integrate immigrants into the labour market and their host communities.

## **2.10. Comprehensive Analysis**

The changes to the immigration system are opening up many opportunities for Francophone immigration:

- The commitment of the various levels of government to immigration remains firm and the reforms to the system will speed up the processing of cases and increase predictability for host communities.
- The economic immigrants chosen will find socioeconomic integration easier. The expression of interest system will make it possible to better identify French-speaking applicants on the basis of the destinations desired.
- The mobilization of Francophone, Anglophone, and bilingual employers in the skilled worker and temporary worker selection process will contribute to the economic development of Francophone communities.
- The Canadian experience class will make it possible to involve post-secondary learning institutions and Francophone communities in the recruitment of foreign students with a view to eventual permanent resident status. Post-secondary institutions within the Canadian Francophonie will become a driving force for immigration.
- The Provincial Nominee Program, which is focusing more and more on temporary workers and foreign students already in the country, offers another, simplified pathway when combined with the special provisions of Destination Canada.
- The Canadian government's humanitarian commitment will continue to play an important role in the selection of French-speaking refugees. Communities will have to implement reception strategies and services that address more complex integration challenges.
- One of the foreseeable impacts of immigration reform as a whole could be a significant change in the countries of origin of immigrants who settle in Canada's Francophone communities. We anticipate few challenges with respect to credential equivalency. Rather, the issue will be identifying employers, both Francophone and Anglophone, that have an interest in offering arranged employment to potential immigrants whose only

official language spoken is French. Canada's Francophone communities will be able to expect to receive more French-speaking immigrants whose credentials are recognized in Canada and who meet the third measure for identifying users of French described in the program assessment done by CIC in July 2012. French will not necessarily be the mother tongue of these people, but French and English will be their official languages spoken. Increased recruitment in countries where French and English are the languages used can therefore be anticipated.

Francophone communities will have to make a major adjustment in order to take advantage of these opportunities. They will have to switch from a reactive approach to the reception and settlement of immigrants who go to organizations and institutions within the community to a proactive strategy implemented abroad and in Canada. The foundations of this proactive strategy are as follows:

1. Greater promotion of opportunities offered by Canada's Francophone communities to potential French-speaking immigrants with credentials whose Canadian equivalency is recognized to encourage them to join the expression of interest pool.
2. Establishment of partnerships with employers in their region.
3. Selection, by employers and the provinces and territories, of French-speaking applicants registered in the statement of interest system such that they decide to settle in Canada's Francophone communities. It is important to note that the statement of interest system establishes the relative rank of each applicant in the pool.
4. Development of formal and informal agreements with authorized organizations and gateway services for French-speaking temporary foreign workers and foreign students in their area.
5. Increase in the number of non-profit organizations and private businesses that obtain the authorizations required to offer services to immigrants and refugees.

In our view, this will shift the work of communities from a sectoral basis (education, health, economy, settlement) to a geographic basis. Immigration will no longer be simply the business of settlement organizations working in partnership with Francophone community stakeholders; it will become the business of the Francophone and Anglophone community as a whole, including employers, provinces and territories, and municipalities.

In short, we believe the changes represent a positive transformation for Francophone minority communities.

### 3. PART TWO: PRESENTATION OF THE FACTS

The second part of this paper presents the facts identified following an analysis of all the source documents pertaining to the changes made to the Canadian immigration system since 2006.

It presents the following elements:

1. Powers and roles
2. Levels of immigration
3. Family class
4. Economic class
5. Temporary resident class
6. Refugee class
7. Settlement programs
8. Citizenship.

### 4. POWERS AND ROLES

#### 4.1. Ministerial Instructions

The *Budget Implementation Act, 2008* granted the Minister of Citizenship and Immigration Canada the power to make changes to policies and programs, by order, by amending the *Immigration and Refugee Protection Act* (IRPA).<sup>7</sup> In addition, the IRPA gives the Minister the authority to establish new classes of economic immigrants for up to five years, up to a maximum of 2,750 persons per class, per year.

On March 31, 2013, eight series of Ministerial instructions (MIs) concerning the following were issued or updated and published in the *Canada Gazette*:

- Federal Skilled Workers (MI1) (2008-11-29)
- Federal Skilled Workers, Canadian Experience Class, Immigrant Investor Program (MI2) (2010-06-26)
- Federal Skilled Workers, Immigrant Investor Program, Entrepreneurs (MI3) (2011-07-01)
- Parents and Grandparents, Federal Skilled Workers (MI4) (2011-11-05)
- Ministerial Instruction regarding the Parent and Grandparent Super Visa (2011-12-01)
- Federal Skilled workers, Immigrant Investor Program (2012-07-01)
- Ministerial Instructions protecting vulnerable foreign workers from the risk of abuse and exploitation in sex-trade-related businesses (2012-07-14)
- Federal Skilled Trades Program (MI6) (2013-01-02).

It was by Ministerial instructions that CIC announced moratoriums on the submission of new applications and quotas in certain economic and family classes. Similarly, CIC announced language proficiency criteria, the conditions on the parents' and grandparents' super visa, and classes of foreign PhD students and skilled trade workers.

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<sup>7</sup> *Immigration and Refugee Protection Act*, s. 87.3(6).

## 4.2. Federal-Provincial-Territorial Relations

Federal-provincial-territorial (FPT) relations in the immigration sector concern a number of factors: the Provincial Nominee Program, which enables the provinces to grant a certificate of selection to a certain number of economic immigrants in accordance with criteria adapted to regional needs; immigrant settlement and integration services within the province (including immigrant retention by some jurisdictions); effects of immigration on social services, education, health services, public safety, etc. The FPT governance mechanism in the immigration sector reflects this broad range of topics.

### 4.2.1. Unilateral decisions by the federal government

Since the start of immigration reform, the Canadian government has made certain unilateral decisions, including those regarding the termination of the Canada-Manitoba and Canada-British Columbia immigration agreements and the non-renewal of the Canada-Ontario agreement.

In October 2012, CIC issued a call for proposals for settlement services in Manitoba, previously administered by the Province. The call for proposals, open for a period of five years, specified that these agreements “will allow sufficient time for service providers to prepare for CIC’s national call for proposals in future years.”<sup>8</sup>

### 4.2.2. Elimination of duplication between Provincial Nominee Program and FSWC

The CIC program assessments concerning the Provincial Nominee Program (PNP) noted duplication of efforts as well as difficulties and abnormalities in the delivery of certain components in some jurisdictions. CIC suspended the acceptance of new applications under certain economic immigration program components, at both the federal and the PNP levels.

### 4.2.3. Shared vision of immigration at federal, provincial, and territorial levels

On November 16, 2012, the federal, provincial, and territorial governments established a three-year *Action Plan* to achieve their joint vision of immigration.

*This vision aims to ensure that:*

- *Canada is a destination of choice;*
- *Immigration contributes to increased economic growth, innovation, entrepreneurship, and competitiveness;*
- *The benefits of immigration are shared across Canada;*
- *Communities welcome and support newcomers;*
- *Immigrants participate to their full potential, economically and socially;*
- *The immigration system is trusted and valued; and*

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<sup>8</sup> CIC, News release – Citizenship and Immigration Canada issues Call for Proposals for settlement services in Manitoba [online], *Citizenship and Immigration Canada*, October 29, 2012, accessed April 15, 2013, <http://www.cic.gc.ca/english/department/media/releases/2012/2012-10-29.asp>.

- *Social and humanitarian commitments are strengthened.*<sup>9</sup>

The ministers responsible for immigration made a commitment to develop and implement a statement of interest system in order to create a pool of skilled workers. The Provincial Nominee Program is uniquely positioned to meet regional labour market needs. They agreed to strengthen “the accountability and integrity of all federal, provincial and territorial economic immigration programs.”

#### **4.3. Employers**

The reforms give employers a much greater role in the immigration process. An *offer of arranged employment* plays a central role in the selection of nominees from the expression of interest bank. It is the first step in the new selection process that will be tested in 2013 and deployed in 2014.

Employer participation in the immigrant selection process could be a challenge for small and medium-sized enterprises with no experience in international recruitment.

#### **4.4. Post-secondary Learning Institutions**

The granting of study permits and temporary resident visas (to international students) will be combined with new monitoring responsibilities for authorized post-secondary learning institutions. Foreign students will have to demonstrate their registration and participation in a full-time program of studies, and the learning institution will have to be able to monitor the presence of foreign students. There will be sanctions for using study permits as a subterfuge for economic immigration.

The Canadian experience class becomes a useful conduit to permanent residency for foreign students. The recruitment and selection of foreign students then become critical steps in the social and cultural integration process in Canada of eventual permanent residents, above and beyond the financial interests of post-secondary institutions.

In addition, the representatives of post-secondary learning institutions may offer educational advice only and may not give advice relating to immigration matters, unless they are authorized immigration representatives.

#### **4.5. Assessors (Third Parties)**

The reform of immigration regulations requires potential nominees to demonstrate, at the time of their application, their level of linguistic proficiency and the Canadian equivalency of foreign credentials.

CIC issued a public call for proposals to specialized service providers. Only service providers selected by CIC will be able to issue the authorizations required to complete an immigration application.

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<sup>9</sup> CIC, "Backgrounder – Joint Federal-Provincial-Territorial Vision for Immigration" [online], *Citizenship and Immigration Canada*, November 16, 2012, accessed April 15, 2013, <http://www.cic.gc.ca/english/department/media/backgrounders/2012/2012-11-16.asp>.

The language tests and the organizations<sup>10</sup> designated to administer them are as follows:

- In French, the Test d'évaluation de français is administered by the Centre de langue française of the Chambre de commerce et d'industrie de région Paris Île-de-France. This public organization, also recognized by the Ministère de l'Immigration et des Communautés culturelles of Quebec, administers the tests at more than 1,000 centres around the world.
- In English,
  - The CELPIP test is administered by Paragon Testing Enterprises, a subsidiary of UBC (University of British Columbia). This test is available online as a three-hour session.
  - The IELTS test (International English Language Testing System) is administered by a company of the same name, jointly owned by the British Council, the Cambridge English Language Assessment (University of Cambridge), and IDP: IELTS Australia (owned by Australian universities). This company has more than 800 centres located in 135 countries.

Four organizations were designated to provide educational credential assessments (ECA) in April 2013. The process must “help determine if the foreign educational credential is authentic and equivalent to a **completed** credential in Canada.”<sup>11</sup>. These organizations are as follows:

- Comparative Education Service, University of Toronto School of Continuing Studies
- International Credential Assessment Service of Canada
- World Education Services
- Medical Council of Canada.

#### 4.6. Immigration Consultants

To ensure the integrity of the Canadian immigration process, CIC requires the accreditation of immigration consultants pursuant to paragraph 91(2)(c) of the IRPA.

##### 4.6.1. Authorized professional association - ICCRC

The Immigration Consultants of Canada Regulatory Council (ICCRC)<sup>12</sup> is designated as a body “whose members in good standing may represent or advise a person for consideration – or offer to do so – in connection with a preceding or application under the Act” (SOR/2011-142). On June 24, 2012, the Federal Court of Appeal confirmed the ICCRC’s designation, which had been contested in court by the Canadian Society of Immigration Consultants.

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<sup>10</sup> CIC, “Backgrounder – Information for Applicants to the New Federal Skilled Worker Program” [online], *Citizenship and Immigration Canada*, April 17, 2013, accessed April 24, 2013, <http://www.cic.gc.ca/english/department/media/backgrounders/2013/2013-04-18.asp>

<sup>11</sup> Ibid.

<sup>12</sup> *Immigration Consultants of Canada Regulatory Council* [online], accessed May 7, 2013, <http://www.iccrc-crcic.ca/AboutUs.cfm>.

#### **4.6.2. Accreditation process**

The accreditation process requires having taken training provided by an accredited post-secondary institution (private college, public college, or cégep at a cost ranging from \$3,500 to \$4,900), payment of annual fees of \$1,782.50, and 16 credit hours of continuing professional education per year.

## 5. IMMIGRATION LEVELS

The Immigration Levels Plan is published annually and submitted to Parliament along with the *Annual Report to Parliament on Immigration*. Here is the information for 2013:

**Table 2: 2013 Immigration Plan Targets (CIC)**

<b>2013 Plan Admissions Ranges</b>				
<b>Immigrant Category</b>	<b>Low</b>	<b>High</b>	<b>Admissions Target</b>	<b>% Mix*</b>
Federal Skilled Workers	53,500	55,300	55,300	
Federal Business	5,500	6,000	6,000	
Canadian Experience Class	9,600	10,000	10,000	
Live-in Caregivers	8,000	9,300	9,300	
Provincial Nominee Program	42,000	45,000	42,000	
Quebec-selected Skilled Workers	31,000	34,000	33,400	
Quebec-selected Business	2,500	2,700	2,600	
<b>Total Economic</b>	<b>152,100</b>	<b>162,300</b>	<b>158,600</b>	<b>62.3 %</b>
Spouses, Partners and Children (including Public Policy on in-Canada spouses/partners without status)	42,000	48,500	48,300	
Parents and Grandparents	21,800	25,000	25,000	
<b>Total Family</b>	<b>63,800</b>	<b>73,500</b>	<b>73,300</b>	<b>27.2%</b>
Protected Persons in Canada	7,000	8,500	8,500	
Dependents Abroad of Protected Persons in Canada	4,000	4,500	4,500	
Government-assisted Refugees	6,800	7,100	7,100	
Visa Office Referred Refugees	200	300	200	
Public Policy - Federal Resettlement Assistance	500	600	600	
Privately Sponsored Refugees	4,500	6,500	6,300	
Public Policy – Other Resettlement Assistance	100	400	400	



<b>2013 Plan Admissions Ranges</b>				
<b>Immigrant Category</b>	<b>Low</b>	<b>High</b>	<b>Admissions Target</b>	<b>% Mix*</b>
Humanitarian and Compassionate Considerations	900	1,100	900	
<b>Total Humanitarian</b>	<b>24,000</b>	<b>29,000</b>	<b>28,500</b>	<b>10.5%</b>
Permit Holders	100	200	100	
<b>Total</b>	<b>240,000</b>	<b>265,000</b>	<b>260,500</b>	

\* Percentage of mix is derived using the midpoint of the planning ranges.

The Quebec government published its 2013 Levels Plan after CIC. For 2013, Quebec planned 31,400 to 32,700 admissions for Quebec-selected skilled workers, and 3,400 to 3,700 for Quebec-selected business. Quebec's ranges will be accommodated within CIC's existing total planning range.

Reform does not change the overall immigration target but places more importance on economic immigration. The different classes are subject to caps and sub-caps.

## 6. FAMILY CLASS

Pursuant to subsection 12(1) of the *Immigration and Refugee Protection Act*, “a foreign national may be selected as a member of the family class on the basis of their relationship as the spouse, common-law partner, child, parent or other prescribed family member of a Canadian citizen or permanent resident.”<sup>13</sup> The prescribed “family class” corresponds to Part 7 of the Regulations.

This class does not concern family members who accompany the principal applicant in the other immigration classes, although the definitions of family relations apply and the conditions regarding misrepresentation are the same.

This class defines the members of the applicant’s family who are eligible, the criteria for adopting children, spouses or common-law partners in Canada, and sponsorship conditions. The foreign national is

- the sponsor’s spouse, common-law partner or conjugal partner;
- a dependent child of the sponsor;
- the sponsor’s mother or father;
- the sponsor’s grandparents;
- the surviving children of a deceased relative, including grandchildren, siblings, and nephews and nieces;
- adopted children under the age of 18.

Certain conditions for international adoption are set out in section 117.

The Regulations were tightened in September 2010 for the purpose of clarifying family relationships for all immigration classes<sup>14</sup> and to require the withdrawal of permanent residency obtained through misrepresentation:

*Section 4 (R4) of the Immigration and Refugee Protection Regulations is intended to protect the integrity of the immigration program by preventing individuals from using relationships of convenience to circumvent immigration law. However, the previous formulation of R4 led to difficulties in properly identifying relationships that had been entered into in bad faith. Furthermore, there was overlap between the bad faith assessment for adopted persons entering Canada as accompanying family members and for sponsored adoptions entering under the Family Class, and ambiguity with respect to the assessment of genuineness for adoptions.*<sup>15</sup>

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<sup>13</sup> See: *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, p. 10.

<sup>14</sup> *Regulations Amending the Immigration and Refugee Protection Regulations (bad faith)* [online], September 30, 2010, SOR/2010-208, Canada Gazette, Part II, vol. 144, no. 21, October 13, 2010, accessed February 15, 2013, <http://gazette.gc.ca/rp-pr/p2/2010/2010-10-13/html/sor-dors208-eng.html>.

<sup>15</sup> Canada Gazette [online], vol. 144, no. 14, April 3, 2010, accessed February 15, 2013, <http://www.gazette.gc.ca/rp-pr/p1/2010/2010-04-03/html/reg1-eng.html>.

## 6.1. Spouses or Common-law Partners in Canada (Sponsored Spouses)

Spouses and common-law partners are a class prescribed by the Regulations. Sections 123 to 130 of the Regulations define what constitutes a spouse or common-law partner in Canada, as well as the conditions that must be met, specifically:

- cohabitation;
- age of the spouse;
- temporary resident status, if applicable;
- ban on polygamy;
- family members accompanying the applicant in this class.

A sponsor or spouse who is found to have entered into a marriage of convenience is prohibited from sponsoring a spouse for at least five years, unless the person has been a permanent resident or citizen for at least five years.

## 6.2. Sponsorship in Family Class

Sections 130 to 137 of the Regulations set out the conditions for sponsorship, including the following:

- The sponsor is fully responsible financially and is required to reimburse the federal government or the province for any social assistance payments for a period of up to 10 years of permanent residency or until any dependent children reach the age of 22.
- The sponsor must prove sufficient income to meet the needs of the sponsored persons. This proof of income is the Notice of Assessment for the last taxation year, excluding any federal or provincial transfer payments.
- The sponsor has not been convicted under the *Criminal Code* of an offense of a sexual nature or an act of violence, in Canada or elsewhere, or completed his or her sentence at least five years before applying for sponsorship, is not an undischarged bankrupt, and is not in receipt of social assistance.

Also, the spouse class is subject to further regulations:

*One of the objectives of the Immigration and Refugee Protection Act (IRPA) is to facilitate family reunification. Therefore, Canadian citizens and permanent residents may sponsor their spouse, common-law partner or conjugal partner as a Canadian permanent resident. Spousal sponsorship requires an undertaking of financial responsibility for a spouse or partner for three years. If the relationship breaks down, the sponsor remains financially responsible until the end of the three-year undertaking period, irrespective of the causes of the breakdown. As well, a sponsor may not sponsor a subsequent spouse or partner for the duration of the three-year undertaking period.*<sup>16</sup>

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<sup>16</sup> *Regulations Amending the Immigration and Refugee Protection Regulations* [online], March 2, 2012, SOR/2012-20, Canada Gazette, Part II, vol. 146, no. 6, March 14, 2012, accessed February 15, 2013, <http://gazette.gc.ca/rp-pr/p2/2012/2012-03-14/html/sor-dors20-eng.html>.

### **6.2.1. Moratoriums on spouse or common-law and parent and grandparent classes and introduction of a super visa for multiple entries**

In November 2011, the Minister issued Ministerial Instructions<sup>17</sup> placing a 24-month moratorium on the submission of new sponsorship applications. A Ministerial Instruction<sup>18</sup> issued jointly by the Minister of Citizenship and Immigration and the Minister of Public Safety established a super visa for parents and grandparents. This super visa facilitates multiple entry for a period of 10 years and enables the holder to remain in Canada for periods of authorized stay of two years at a time. Super visa holders must take out Canadian private medical insurance.

In February 2012, CIC issued a news release announcing a public consultation concerning the Department's intention to make regulatory changes to the Parent and Grandparent Immigration Program (PGP). The consultation documents are no longer available online. The aim of the proposal was to make the super visa program permanent and to maintain the restrictions on the Parent and Grandparent Immigration Program.

As of March 6, 2013, 15,000 parent and grandparent super visas had been issued since the program was launched in December 2011.

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<sup>17</sup> Canada Gazette [online], vol. 145, no. 45, November 5, 2011, accessed February 15, 2013, <http://gazette.gc.ca/rp-pr/p1/2011/2011-11-05/html/notice-avis-eng.html>.

<sup>18</sup> CIC, "Ministerial instruction regarding the Parent and Grandparent Super Visa" [online], *Citizenship and Immigration Canada*, November 30, 2011, accessed February 15, 2013, <http://www.cic.gc.ca/english/department/mi/supervisa.asp>.

## 7. ECONOMIC CLASS

Pursuant to subsection 12(2) of the *Immigration and Refugee Protection Act*, “A foreign national may be selected as a member of the economic class on the basis of their ability to become economically established in Canada.”<sup>19</sup>

The expression of interest system is the cornerstone of immigration reform and confirms a major philosophical change. Under the old system, applicants applied to immigrate to Canada. Applications were processed in the order in which they were received. That system resulted in an application processing backlog, which was often the subject of media reports. Under the new system, Canada invites candidates who have indicated an interest in working in Canada and who meet the requirements to apply to become permanent or temporary residents.

### 7.1. EXPRESSION OF INTEREST SYSTEM

At the federal-provincial immigration conference held on November 16, 2012, a commitment was made to develop jointly an expression of interest system modelled on the approach used in New Zealand and Australia.

Under an expression of interest (EOI) system, prospective immigrants fill out a form online indicating their “interest” in going to a host country as permanent residents. The form can include contain information relating to, for example, language proficiency, work experience, and assessed educational credentials.

Assigned a points score and ranked, these expressions of interest are then entered into a pool from which candidates that best match a country’s national and regional skills needs can be drawn and invited to submit an immigration application, subject to priority processing.

In effect, the EOI form submitted by a prospective immigrant is not an application itself but only a first stage in the assessment of a potential candidate. Not all candidates who file an expression of interest are invited to apply for a permanent resident visa.<sup>20</sup>

The work on developing an expression of interest system is under way. A prototype will be in place for preliminary trials in early 2014. The system is expected to come into effect by late 2014, according to the intentions announced by the Department.

#### 7.1.1. Accelerated process

According to the information available,<sup>21</sup> the following elements will be part of an expression of interest system:

- submission of a preliminary expression of interest;

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<sup>19</sup> *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 12(2).

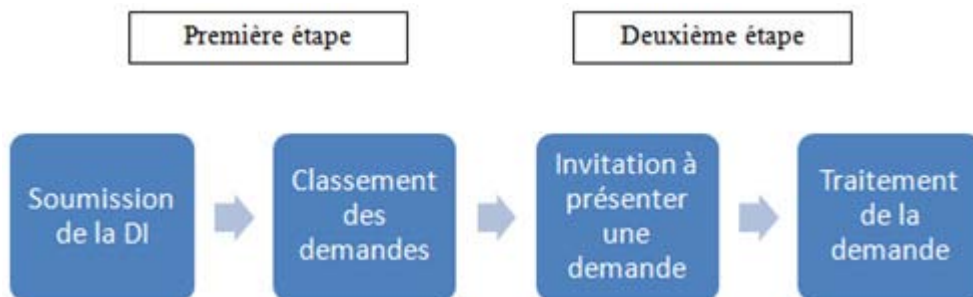
<sup>20</sup> CIC, “Expression of Interest -- Transforming Canada’s economic immigration programs” [online], *Citizenship and Immigration Canada*, December 14, 2012, accessed March 15, 2013, <http://www.cic.gc.ca/english/resources/enewsletter/2012/12/interest.asp>.

<sup>21</sup> CIC, “The role of employers in an Expression of Interest System” [online], *Citizenship and Immigration Canada*, March 6, 2013, accessed March 15, 2013, <http://www.cic.gc.ca/english/department/consultations/eis/index.asp>.

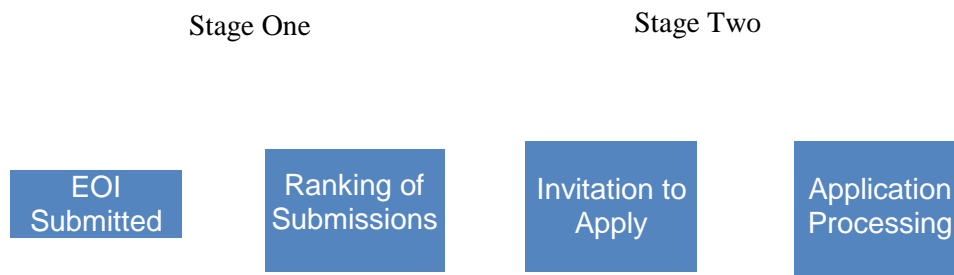
- assessment based on national criteria to be determined;
- registration in a pre-screening pool;
- if selected by an employer or a province, invitation to submit an official application;
- accelerated processing: maximum wait of 12 to 18 months between the submission of an application and arrival in Canada.

*EOI is an automated two-stage process to application management and represents a pre-screening of candidates for immigration. As illustrated below, in the first stage, prospective immigrants fill in a form to indicate their “interest” in coming to Canada. Based on a set of publicly issued criteria that are clear and transparent, the information collected determines whether candidates enter the EOI pool and their relative ranking within the pool. The EOI form is not an application itself but a first stage.*

*In the second stage of the EOI system, candidates with attributes aligned to needs identified by federal and provincial/territorial governments and employers (such as work experience, language proficiency and educational assessment scores) are issued an “Invitation to Apply” (ITA) for permanent residence. Under such a system, there would not be an obligation to review all applications in the order received. Instead, candidates would be identified on the basis of relevant*



*qualifications and experience. Not all candidates who file an expression of interest will be invited to apply for a permanent resident visa.*



*To the degree possible, access to the EOI pool will be an automatic process: assertions made in an EOI form will be verified if and when a candidate is drawn from the pool and invited to submit a visa application with supporting documentation.*

*In the case of skilled immigration categories, a candidate’s expression of interest would include information that can be assigned points, e.g., for language proficiency, age,*

*educational or professional credential assessments, occupation, work experience, a job offer, and/or a willingness to settle in a particular region. Candidates must meet a minimum points threshold for their expression of interest to be eligible for selection out of the EOI pool. Expressions of interest can then be electronically ranked by points scores and sorted (e.g., by occupation or desired destination, etc.) according to criteria informed by needs identified by federal and provincial/territorial governments employers.*

### 7.1.2. New points system

The officer stops reviewing a file once a minimum condition is not met.

Under the new points system, a score of 67 out of a possible total of 100 is still required to pass, but the points are redistributed in accordance with the following selection factors:

- Language skills – this an essential condition:
  - Language skills are worth a total of 28 points.
  - The importance of English or French skills rises from 16 to 28 points. The system establishes that the Canadian Language Benchmarks (CLB) will be used and that the mandatory minimum level is CLB 7.
  - The importance of the second official language is reduced (4 points, and CLB 5).
  - Spouse's knowledge of an official language is now worth 5 points.
- Age:
  - Two additional points are attributed to this factor (12 points). The 18-to-35-year-old age group receives the maximum number of points, and the 47-and-older age group receives none.
- Work experience:
  - This category drops from 21 to 15 points, and the points distribution attaches importance to experience of more than 4 years.
- Education:
  - The number of points does not change (25 points). The Canadian equivalency of foreign educational credentials is determined by an organization designated by CIC. Points are awarded on the basis of Canadian credentials; this is an essential condition.
- Arranged employment:
  - Ten points are awarded for a positive labour market opinion (LMO) and an offer of arranged employment.
  - Note: Under Destination Canada, employers who recruit for Francophone communities may be exempted from applying for an LMO for temporary workers. Obtaining an LMO may be accelerated.
- Adaptability:
  - The maximum number of 10 points for this factor are awarded for having already worked in Canada in certain categories of occupations in the National Occupational Classification (NOC – O, A, B).
  - Otherwise, points may be awarded for a combination of education and past work in Canada by the principal applicant or spouse, relatives in Canada, or arranged employment.

The table below outlines the new FSWC points system. It is taken from the *Canada Gazette*.<sup>22</sup>

**Table 3: Comparison of Previous and New FSWC Grids**

Previous Points System Grid		New Points System Grid	
<b>First Official Language: Maximum 16 points</b>		<b>First Official Language: Maximum 24 points</b>	
<i>No official language ability required</i>		<b>New Mandatory Minimum</b>	
Basic		<b>Threshold in all abilities</b>	
Approx. CLB/NCLC 4 or 5		<b>Initially expected to be set at CLB/NCLC 7</b>	
1 pt per ability to max. of 2		4 pts per ability	
		<i>Understands the main points and important details of a conversation and can write routine business correspondence; able to participate in small group discussions and express opinions and reservations about a topic.</i>	
Moderate		Threshold + 1 CLB/NCLC level	
Approx. CLB/NCLC 6 or 7			
2 pts per ability		5 pts per ability	
		CLB/NCLC 8	
		<i>Understands technical conversations and reading material in their line of work; asks questions, analyzes and compares information in order to make decisions.</i>	
High		Threshold + 2 or more CLB/NCLC levels	
CLB/NCLC 8 +			
4 pts per ability		6 pts per ability	
		CLB/NCLC 9	
		<i>Participates in business meetings and debates; understands a broad range of general and abstract topics; writes formal and informal notes and summary documents.</i>	
<b>Second Official Language: Maximum 8 points</b>	8	<b>Second Official Language: Maximum 4 points</b>	4
		CLB/NCLC 5 in all abilities	
<b>Age: Maximum 10 points</b>		<b>Age: Maximum 12 points</b>	
21 to 49 yrs	10	18 to 35 yrs	12
20 or 50 yrs	8	36 yrs	11
19 or 51 yrs	6	37 yrs	10
18 or 52 yrs	4	Less one point per year	...
17 or 53 yrs	2	46 yrs	1
<17 or >53 yrs	0	47 and over	0

<sup>22</sup> Canada Gazette [online], vol. 146, no. 26, December 19, 2012, accessed March 15, 2013, <http://gazette.gc.ca/rp-pr/p2/2012/2012-12-19/html/sor-dors274-eng.html>.



Previous Points System Grid		New Points System Grid	
<b>Work Experience: Maximum 21 points</b>		<b>Work Experience: Maximum 15 points</b>	
1 yr	15	1 yr	9
2 yrs	17	2-3 yrs	11
3 yrs	19	4-5 yrs	13
4+ yrs	21	6+ yrs	15
<b>Education: Maximum 25 points</b>		<b>Education: Maximum 25 points</b>	
		<i>Points will be awarded based on an assessment of educational credentials by a designated organization, indicating the foreign educational credential's equivalent in Canada.</i>	
Master's or Doctoral level (+17 yrs)	25	Doctoral level	25
		Master's level or professional degree	23
Two or more credentials at the Bachelor's level OR 3-year post-secondary credential (+15 yrs)	22	Two or more post-secondary credentials, one of which is a three-year or longer post-secondary credential	22
		Three-year or longer post-secondary credential	21
Bachelor's (2 years or more) OR 2-year post-secondary credential (+14 yrs)		Two-year post-secondary credential	19
	20	One-year post-secondary credential	15
Bachelor's (1 year) OR 1-year post-secondary credential (+13 yrs)		Secondary school	5
			0
One-year post-secondary credential (+12 years)	15		
Secondary school			
Secondary school not completed	12		
	5		
	0		
<b>Arranged Employment: 10 points</b>		<b>Arranged Employment: 10 points</b>	
		<i>In order to receive points for arranged employment, applicants will need to have an LMO from HRSDC, plus an indeterminate job offer. In some cases, applicants will be LMO exempt and will only require the indeterminate job offer. New measures, including introducing a labour market assessment and genuineness elements in the regulations, are expected to increase program integrity, improve labour market responsiveness, and streamline processing for employers.</i>	

Previous Points System Grid		New Points System Grid	
Adaptability: Maximum 10 points		Adaptability: Maximum 10 points	
Spousal/partner education	5	PA Previous work in Canada (min. 1 yr at NOC 0, A, B)	10
Previous study in Canada PA or spouse/partner	5	<b>Or a combination of...</b> Previous study in Canada – PA	
Previous work in Canada PA or spouse/partner	5	Previous study in Canada – accompanying spouse/partner	5
Relative in Canada		Previous work in Canada – accompanying spouse/partner	5
Arranged employment:	5	Arranged employment	5
	5	<b>Revised:</b> Rel. in Canada (18 years or over)	5
		<b>Added:</b> Accompanying spouse/partner's official language (CLB/NCLC 4)	5
		<b>Eliminated:</b> Accompanying spouse/partner education	
			3 to 5
<b>Pass mark</b>	67	<b>Pass mark</b>	67

Here is an important note taken from the summary of the Regulatory Impact Analysis Statement published in the *Canada Gazette* on December 19, 2012:

***Requiring a foreign educational credential assessment and changing education points.***

*Previously, education points were based on having a credential and the number of years required to obtain it.*

*Under the revised regulations, two types of organizations are eligible to be designated to authenticate and assess the Canadian equivalency of foreign educational credentials:*

- (1) organizations with expertise in authentication and assessment of foreign educational credentials; and*
- (2) professional bodies whose assessments of foreign educational credentials are recognized by at least two provincial or territorial regulatory bodies.*

*Both types of organizations can be designated to provide educational credential assessments and authentication for FSWC purposes, herein referred to as an educational*

*credential assessment report (ECA Report), subject to the organizations meeting CIC requirements through a Call for Service Proposals process.*

*Designated organizations will work on a case-by-case basis to authenticate diplomas, certificates, or credentials obtained in foreign jurisdictions and determine their equivalent value in Canada. This measure allows CIC to benefit from a better assessment of the value of a foreign educational credential in Canada. Applicants whose credentials are not equivalent to any Canadian programs of study as well as those who do not have a credential equivalent to a completed Canadian credential are not eligible for the FSWC. Points will be awarded according to how an applicant's foreign educational credential equates to a completed educational credential in Canada. (Note: our underlining.)*

### **7.1.3. Elimination of inventory and backlog**

On March 29, 2012, CIC announced the elimination of the inventory of applications received prior to February 28, 2008, under the Federal Skilled Worker Program. A class action initiated in Federal Court was dismissed in a decision handed down by Mr. Justice Rennie on April 18, 2013, stating that section 87.4 of the IRPA was “unambiguous and constitutionally valid.”<sup>23</sup>

### **7.2. Federal Skilled Workers**

The Minister may prepare a list of priority occupations, defined as follows:

*“Restricted occupation” means an occupation designated as a restricted occupation by the Minister, taking into account labour market activity on both an area and a national basis, following consultation with the Department of Human Resources and Skills Development, provincial governments and any other relevant organizations or institutions.<sup>24</sup>*

Pursuant to article 74 of the *Immigration and Refugee Protection Regulations*, the Minister may set a quota.

Skilled workers must be awarded not less than the minimum number of points indicated in the selection grid in section 5.1.2. The officer stops evaluating the case once a minimum condition is not met. Skilled workers who do not have an offer of arranged employment must also have in the form of transferable funds “an amount equal to one half of the minimum necessary income.”

On December 19, 2012,<sup>25</sup> the CIC minister announced that the new selection system for the Federal Skilled Workers Program was coming into effect on May 4, 2013, at which time the moratorium would be lifted and the acceptance of new applications would resume. The systems for assessing language proficiency and foreign educational credentials according to Canadian standards by designated bodies will come into effect on that date.

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<sup>23</sup> *Tabingo v. Canada (Citizenship and Immigration)*, 2013 FC 377, <http://decisions.fct-cf.gc.ca/en/2013/2013fc377/2013fc377.pdf>, accessed April 20, 2013.

<sup>24</sup> *Immigration and Refugee Protection Regulations*, SOR/2002-227, s. 73(1), p. 81, <http://laws-lois.justice.gc.ca/PDF/SOR-2002-227.pdf>, accessed April 20, 2013.

<sup>25</sup> CIC, “News Release – An Immigration System that Works for Canada” [online], *Citizenship and Immigration Canada*, December 19, 2012, accessed April 15, 2013, <http://www.cic.gc.ca/english/department/media/releases/2012/2012-12-19.asp>.

### 7.2.1. Caps and sub-caps

On April 18, 2013, CIC announced a list of 24 new priority occupations and set a cap of 5,000 new applications with an offer of arranged employment,<sup>26</sup> including a sub-cap of 300 new applications for each occupation.<sup>27</sup> The Ministerial Instructions issued on May 4, 2013, state that *“there is no limit on the number of new applications with offers of arranged employment that will be considered for processing.”*

### 7.2.2. List of priority occupations

The priority occupations, according to the National Occupational Classification (NOC) (2011), are as follows:

- 0211 Engineering managers
- 1112 Financial and investment analysts
- 2113 Geoscientists and oceanographers
- 2131 Civil engineers
- 2132 Mechanical engineers
- 2134 Chemical engineers
- 2143 Mining engineers
- 2144 Geological engineers
- 2145 Petroleum engineers
- 2146 Aerospace engineers
- 2147 Computer engineers (except software engineers and designers)
- 2154 Land surveyors
- 2174 Computer programmers and interactive media developers
- 2243 Industrial instrument technicians and mechanics
- 2263 Inspectors in public and environmental health and occupational health and safety
- 3141 Audiologists and speech-language pathologists
- 3142 Physiotherapist
- 3143 Occupational therapists
- 3211 Medical laboratory technologists
- 3212 Medical laboratory technicians and pathologists' assistants
- 3214 Respiratory therapists, clinical profusionists and cardiopulmonary technologists
- 3215 Medical radiation technologists
- 3216 Medical sonographers
- 3217 Cardiology technicians and electrophysiological diagnostic technologists, n.e.c. (not elsewhere classified).

### 7.3. New Class: Federal Skilled Trades

The regulations establish a new skilled trades class that meets adapted criteria.

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<sup>26</sup> Canada Gazette [online], vol. 147, no. 18, May 4, 2013, accessed May 7, 2013, <http://gazette.gc.ca/rp-pr/p1/2013/2013-05-04/html/notice-avis-eng.html>.

<sup>27</sup> CIC, "Backgrounder – Information for Applicants to the New Federal Skilled Worker Program" [online], *Citizenship and Immigration Canada*, April 18, 2013.

**87.2 (1)** *In this section, “skilled trade occupation” means an occupation, unless the occupation has been designated a restricted occupation by the Minister, in the following categories listed in Skill Level B of the National Occupational Classification matrix:*

- a) *Major Group 72, industrial, electrical and construction trades;*
- b) *Major Group 73, maintenance and equipment operation trades;*
- c) *Major Group 82, supervisors and technical occupations in natural resources, agriculture and related production;*
- d) *Major Group 92, processing, manufacturing and utilities supervisors and central control operators;*
- e) *Minor group 632, chefs and cooks; and*
- f) *Minor Group 633, butchers and bakers.*

Federal skilled trades workers must have at least two years of full-time work experience and have met the relevant employment requirements, except the requirement to obtain a certificate of qualification issued by the province if they are already in Canada because they hold a work permit and/or already have their provincial certificate of qualification and/or an offer of arranged employment subject to a labour market opinion (LMO). Lastly, they must also have, in the form of transferable funds, “an amount equal to one half of the minimum salary income” to meet their own needs and those of their family.

On January 2, 2013, CIC began accepting applications under the new Federal Skilled Trades Program (FSTP), capped at 3,000 applications between January 2013 and January 2014, from a list of 43 eligible occupations, including 26 in-demand trades that are not subject to sub-caps and 17 trades with a moderate labour market need, each with a sub-cap of 100 applications.

The minimum level of language proficiency required is 5 for speaking and listening and 4 for reading and writing (compared to level 7 for federal skilled workers).

**Group A: Jobs with sub-caps of 100 applications each (and their corresponding 2011 NOC code)**

- 7202 Contractors and supervisors, electrical trades and telecommunications occupations
- 7204 Contractors and supervisors, carpentry trades
- 7205 Contractors and supervisors, other construction trades, installers, repairers and servicers
- 7271 Carpenters
- 7301 Contractors and supervisors, mechanic trades
- 7302 Contractors and supervisors, heavy equipment operator crews
- 8211 Supervisors, logging and forestry
- 8221 Supervisors, mining and quarrying
- 8222 Contractors and supervisors, oil and gas drilling services
- 8241 Logging machinery operators
- 8252 Agricultural service contractors, farm supervisors and specialized livestock workers
- 9211 Supervisors, mineral and metal processing

- 9212 Supervisors, petroleum, gas and chemical processing and utilities
- 9214 Supervisors, plastic and rubber products manufacturing
- 9231 Central control and process operators, mineral and metal processing
- 9241 Power engineers and power systems operators
- 9243 Water and waste treatment plant operators

**Group B: no sub-caps (2011 NOC code)**

- 7231 Machinists and machining and tooling inspectors
- 7233 Sheet metal workers
- 7235 Structural metal and plate work fabricators and fitters
- 7236 Ironworkers
- 7237 Welders and related machine operators
- 7241 Electricians (except industrial and power system)
- 7242 Industrial electricians
- 7243 Power system electricians
- 7244 Electrical power line and cable workers
- 7245 Telecommunications line and cable workers
- 7246 Telecommunications installation and repair workers
- 7251 Plumbers
- 7252 Steamfitters, pipefitters and sprinkler system installers
- 7253 Gas fitters
- 7311 Construction millwrights and industrial mechanics
- 7312 Heavy-duty equipment mechanics
- 7313 Refrigeration and air conditioning mechanics
- 7314 Railway carmen/women
- 7315 Aircraft mechanics and aircraft inspectors
- 7318 Elevator constructors and mechanics
- 7371 Crane operators
- 7372 Drillers and blasters - surface, mining, quarrying and construction
- 7373 Water well drillers
- 8231 Underground production and development miners
- 8232 Oil and gas well drillers, servicers, testers and related workers
- 9232 Petroleum, gas and chemical process operators

**7.4. Provincial Nominees – Economic Immigrants**

The Provincial Nominee Program (PNP)<sup>28</sup> “allows for the eleven participating provinces and territories to nominate potential immigrants whom they believe will meet particular provincial/territorial needs, and who intend to settle in the PT of nomination. In addition, PNP is a mechanism that facilitates economic immigration to Canada. As such, the PNP has four main objectives:

- To increase the economic benefits of immigration to PTs, based on their economic priorities and labour market conditions;
- To distribute the benefits of immigration across all PTs (regionalization);
- To enhance Federal-Provincial/Territorial collaboration; and

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<sup>28</sup> CIC, *Evaluation of the Provincial Nominee Program*, September 2011.

- To encourage development of official language minority communities.”

#### **7.4.1. PNP: Main source of immigration for certain jurisdictions**

The Provincial Nominee Program is the primary tool used by the provinces and territories to recruit immigrants considered most likely to settle and remain in their area.

Four provinces recruit a high proportion of economic immigrants under this program: Prince Edward Island (94.7%), New Brunswick (74.0%), Manitoba (91.1%), and Saskatchewan (79.9%).

Three provinces recruit more than 70% of their economic immigrants under the Federal Skilled Workers Program: Ontario (94.2%), Alberta (75.8%), and British Columbia (69.1%).

Ontario and British Columbia are the only two provinces that attract an appreciable number of economic immigrants in the entrepreneur, self-employed, and investor classes.

The Provincial Nominee Program covers skilled workers, as well as the investor, entrepreneurs, and self-employed classes.

The Provincial Nominee class is part of the economic class. The existing Regulations reiterate the restrictions already described. Assessments done by CIC officers take precedence over nomination certificates issued by a province, pursuant to subsection 83(3), after consultation with the provincial government. This subsection concerns skilled workers only.

The Evaluation of the Provincial Nominee Program<sup>29</sup> showed considerable variations in how the program is applied in each jurisdiction, specifically notable anomalies in the investor immigrant classes. The Regulations standardize the criteria for investment immigrants and set the minimum capital investment at \$1 million or 33% of the enterprise's capital.

#### **7.4.2. Change in status of temporary foreign workers and foreign students under the PNP**

A number of provinces and territories select their provincial nominees from a pool of temporary foreign workers and foreign students.

A number of provinces and territories require that prospective nominees have worked in their jurisdiction before being eligible for their Provincial Nominee Program. In such cases, the provincial nominees arrived in the province under the temporary foreign worker class or as foreign students, and they were then selected as provincial nominees. This means that few proactive steps are taken abroad directly under the Provincial Nominee Program. The information available shows that

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<sup>29</sup> Ibid.

- the vast majority of candidates in the province of Alberta (more than 80% of cases) are temporary foreign workers; in a number of classes, almost all nominees are temporary workers;
- most nominees in the province of British Columbia (more than 80% of cases) are already living in the province and have a work permit at the time they apply to the program;
- slightly more than one-third of nominees in the province of New Brunswick (35% of cases) held work permits at the time they applied to the program;
- in Nova Scotia, 44% of nominees held a work permit.

One of the recommendations in the evaluation report<sup>30</sup> was that the Provincial Nominee Program focus more on the federal government's objective of encouraging the development of official language minority communities. According to certain analysts, the program should concentrate on the short-term needs of the labour market and react quickly to local or regional variations.

### **7.4.3. Minimum language requirements**

Semi-skilled and low-skilled applicants (skill levels C and D of the National Occupational Classification) must take a language proficiency test and obtain a minimum standard of CLB 4, the basic level. Temporary workers who arrived in Canada prior to July 1, 2012, who are designated provincial nominees and those designated prior to July 1, 2013, are exempt.

## **7.5. Canadian Experience Class**

The Canadian experience class (CEC) enables temporary foreign workers and foreign students to transition from temporary to permanent residence. In 2012, 9,353 applicants were approved in this class, which is experiencing the fastest growth in the Canadian immigration system. The target for 2013 is 10,000.

### **7.5.1. Temporary foreign workers**

The regulations define the conditions that must be met by temporary foreign workers in order to become permanent residents (section 87.1) as follows:

- Have acquired in Canada, within the past three years, the equivalent of at least one year of full-time work experience in an occupation other than a restricted occupation;
- Have had their language proficiency evaluated and have met the applicable threshold;
- Have met the threshold for language proficiency for their occupation.

Seasonal agricultural workers and low-skilled workers are excluded from the CEC.

### **7.5.2. Foreign students**

The regulations do not identify specific conditions for foreign students. Work experience serves as a bridge to the CEC, not studies in Canada. Foreign students must therefore have worked in Canada during or after their studies to access permanent residence through the Canadian experience class.

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<sup>30</sup> CIC, *Evaluation of the Provincial Nominee Program*, September 2011.



### **7.5.3. PhD student/graduate class**

In the federal skilled workers class, 1,000 spots reserved for foreign students pursuing doctoral studies at Canadian educational institutions have been created each year through Ministerial Instructions.<sup>31</sup> These spots are in addition to the caps set in any other class of new skilled worker applications.

### **7.5.4. Australian experience**

In Australia, 80% of permanent visas under the Employer Nomination Scheme are granted to people already in the country who have a temporary employer-sponsored visa.<sup>32</sup>

## **7.6. Investor Class**

The Regulations (sections 90 to 96) state that a foreign investor must have experience in running a business, have a net worth of at least \$1.6 million, and intend to make or have made an investment of at least \$800,000. Investors must transfer their investment to a fund approved by the Minister and the Province, which delivers a debt obligation to investors, enabling them to invest in an eligible Canadian business.

Evaluations of the federal investor program indicated several anomalies in its application and concluded that it is no longer functioning properly. CIC placed a moratorium on this class on July 1, 2011, and does not plan to remove it for the time being.

## **7.7. Entrepreneur Class**

Pursuant to the Regulations (sections 97 to 99), entrepreneurs must control at least 33% of the equity of a qualifying Canadian business, provide active and ongoing management of that business, and create at least one full-time job equivalent for Canadian citizens (other than family members). They must have a net worth of at least \$300,000 (federal).

If the province that issues a selection certificate has not set out conditions in its own PNP, the federal entrepreneur conditions do not apply.

## **7.8. Self-employed Persons Class**

According to the Regulations (subsection 88(1), a “self-employed person” means a foreign national who has relevant experience and has the intention and ability to be self-employed in Canada and to make a significant contribution to specified economic activities in Canada.

## **7.9. Adjusted Selection Grid/Moratorium**

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<sup>31</sup> Canada Gazette [online], vol. 145, no. 45, November 5, 2011, accessed February 15, 2013, <http://gazette.gc.ca/rp-pr/p1/2011/2011-11-05/html/notice-avis-eng.html>.

<sup>32</sup> Kruno Kudoc, "Australia's skilled migration programs: from strength to strength and beyond Department of Immigration and Citizenship" (speech to the German-Australian media dialogue, October 17, 2002), p. 6, accessed March 15, 2013, [http://www.immi.gov.au/about/speeches-pres/\\_pdf/2012/german-australian-media-dialogue-speech.pdf](http://www.immi.gov.au/about/speeches-pres/_pdf/2012/german-australian-media-dialogue-speech.pdf).

The Regulations (sections 102 to 108) set out the selection criteria, requirements, and selection process for the investor, entrepreneur, and self-employed persons classes.

A permanent resident visa shall not be issued to an investor selected by a province, or to that investor's accompanying family members, if the Minister is engaged in consultations with the province in respect of the interpretation or implementation of the agreement, referred to in subsection 9(1) of the Act and entered into under subsection 8(1) of the Act, between the province and the Minister in respect of the selection of investors and the consultations have not been successfully completed (subsection 108(5)).

### **7.10. Live-in Caregivers Class**

The Regulations (sections 110 to 115) establish live-in caregivers as an economic class leading to permanent residence. This class is unique in that it requires the applicant to have a temporary resident visa and a live-in caregiver work permit.

Resident live-in caregivers are eligible if they have obtained a diploma equivalent to a high school diploma in Canada; if they have at least one year of full-time work experience, including six months of continuous employment with one employer; if they have the ability to speak, read, and listen to English or French at a level sufficient to communicate effectively; and if they have an employment contract with their future employer. They may apply for permanent resident status after completing two years of work over a maximum of four years.

### **7.11. Establishing a New Economic Class by Ministerial Instructions**

The Minister may establish, by Ministerial Instructions,<sup>33</sup> new classes of economic immigration. These classes may be subject to specific rules established by Ministerial Instructions and may be exempt from the Regulations. The class may not exceed 2,750 applications per year for a period of no more than five years. A class thus established may not be renewed by Ministerial Instructions.

### **7.12. Start-up Business Class**

The start-up business class was established by Ministerial Instructions published in the *Canada Gazette* on March 30, 2013.<sup>34</sup>

Established as part of the economic class, this new class is limited to 2,750 immigrants per year until March 31, 2018.

- Applicants must
  - have obtained a commitment from a designated angel investment group or a designated venture capital fund;

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<sup>33</sup> See: *Jobs, Growth and Long-term Prosperity Act*, S.C. 2012, c. 19, s. 703.

<sup>34</sup> Canada Gazette [online], vol. 147, no. 13, March 30, 2013, accessed April 20, 2013, <http://www.gazette.gc.ca/rp-pr/p1/2013/2013-03-30/html/notice-avis-eng.html>; CIC, "Backgrounder – The new Start-Up Visa Program: An Innovative Approach to Economic Immigration" [online], *Citizenship and Immigration Canada*, January 24, 2013, accessed April 20, 2013, <http://www.cic.gc.ca/english/department/media/backgrounders/2013/2013-01-24.asp>.

- demonstrate a level of proficiency of at least benchmark level 5 in French or English;
  - have completed at least one year of post-secondary education (whether or not a credential was obtained);
  - have the funds necessary to support their needs and those of their families (in accordance with the usual CIC standards).
- The maximum number of applicants who can be part of the same eligible business is five. If an applicant considered essential to the business is refused a visa, the other applicants' visas will also be refused.
  - A group of angel investors from among the three groups designated in the MIs must confirm its commitment to invest at least \$75,000 in the qualifying business, or a venture capital fund from among the 25 funds designated in the MIs must confirm its commitment of at least \$200,000.
  - The Minister may enter into an agreement with an industrial association representing angel investor groups or venture capital funds for the establishment of peer review panels to independently assess commitments, recommend the designation of entities, or establish criteria and best practices for the making of commitments. Canada's Venture Capital and Private Equity Association and the National Angel Capital Organization will be active partners in the start-up business visa program from the outset, according to the news release issued in this regard.

## 8. TEMPORARY RESIDENTS

Part 9 of the Regulations deals with temporary residents.

A temporary resident visa allows a foreign national to stay in Canada for a set period of time, according to special conditions. The foreign national agrees to leave Canada by the end of the authorized period of stay, the foreign national must not work or study unless authorized to do so, and the foreign national must have a means of support. Under certain conditions, foreign nationals must request authorization to re-enter Canada prior to leaving the country.

The specific conditions of a temporary resident visa that may be imposed, varied, or cancelled by a CIC officer include the following:

- the period authorized for their stay;
- the work they are permitted to engage in (type of work, employer, location of work, periods of work), or are prohibited from engaging in;
- the studies they are permitted to engage in (type of studies or course, educational institution, location of studies, times and periods of studies), or are prohibited from engaging in;
- the area within which they are permitted to travel or are prohibited from traveling in Canada;
- the obligation to report for a medical examination or treatment or monitoring of compliance of the visa conditions.

### 8.1. Temporary Foreign Workers

According to the proposed amendments to the *Immigration and Refugee Protection Regulations* (IRPR),<sup>35</sup> after providing proof of compliance with the requirements of the Temporary Foreign Worker Program (TFWP), employers will be able to hire temporary foreign workers after they obtain a work permit and a temporary resident visa issued by CIC. The service standard for issuing a labour market opinion (LMO) will be 10 business days. CIC and HRSDC will have inspection and sanction authorities.

**UPDATE:** On April 29, 2013 the Minister of Human Resources and Skills Development Canada and the Minister of Citizenship, Immigration and Multiculturalism announced reforms to the Temporary Foreign Worker Program. The government was reacting largely to media reports concerning the replacement of Canadian workers by temporary foreign workers hired by a computer services subcontractor under contract to several large banks.

*“The government is introducing legislative, regulatory and administrative changes that will:*

- *effective immediately, require employers to pay temporary foreign workers at the prevailing wage by removing the existing wage flexibility;*
- *effective immediately, temporarily suspend the Accelerated Labour Market Opinion process;*
- *increase the Government’s authority to suspend and revoke work permits and Labour Market Opinions (LMOs) if the program is being misused;*
- *add questions to employer LMO applications to ensure that the TFWP is not used to facilitate the outsourcing of Canadian jobs;*
- *ensure employers who rely on temporary foreign workers have a firm plan in place to transition to a Canadian workforce over time through the LMO process;*
- *introduce fees for employers for the processing of LMOs and increase the fees for work permits so the taxpayers are no longer subsidizing the cost; and*
- *identify English and French as the only languages that can be used as a job requirement.”<sup>36</sup>*

To date, no draft regulatory amendment has been published in the *Canada Gazette*.

In February and March 2013, CIC and HRSDC conducted targeted consultations with the provinces and territories, as well as with stakeholders to determine their views on the improvements to be made to the Temporary Foreign Worker Program. The themes of those consultations were as follows:

1. **Protecting the integrity of the Canadian labour market** by adopting measures to ensure that employers hire Canadians first and introducing an inspection regime to verify

<sup>35</sup> See: CIC, “Changes to the Temporary Foreign Worker Program” [online], *Citizenship and Immigration Canada*, February 28, 2013, accessed May 3, 2013, <http://www.cic.gc.ca/english/department/acts-regulations/forward-regulatory-plan/changes-tfwp.asp>.

<sup>36</sup> HRSDC, “Harper Government announces reforms to the Temporary Foreign Worker Program – Ensuring Canadians have first chance of available jobs” [online], *Canada News Centre*, April 29, 2013, accessed May 3, 2013, <http://nouvelles.gc.ca/web/article-eng.do?crtr.sj1D=&crtr.mnthndVI=1&mthd=advSrch&crtr.dpt1D=420&nid=736729&crtr.lc1D=&crtr.tp1D=1&crtr.yrStrtVI=2008&crtr.kw=&crtr.dyStrtVI=26&crtr.aud1D=&crtr.mnthStrtVI=2&crtr.page=1&crtr.yrndVI=2015&crtr.dyndVI=4>.

compliance with the terms in the offer of employment, the LMO, and the work permit up to six years after work permit expires.

2. **Protecting temporary foreign workers** by providing CIC and HRSDC with new verification and sanction authorities, including deterring non-compliant employers from accessing the TFWP.
3. **Creating a more responsive and flexible program** by implementing a more efficient LMO process with an average service standard of up to 10 business days. Employers would be asked to attest (i.e., self-declare) that they have complied with and will comply with the Program requirements on the application form.

The results of this consultation are not yet known, and the amendments to the IRPR have not yet been published.

Part 11 of the Regulations pertains to workers with temporary resident status.

#### **8.1.1. Four classes**

There are four subclasses of temporary foreign workers:

- seasonal agricultural workers
- live-in caregivers governed by a standard contract
- lower-skilled occupation stream
- skilled occupation stream.

#### **8.1.2. Demonstration by employers of a regional shortage and recruitment efforts at the national level**

CIC must determine whether a job offer is genuine (section 200(5)) before issuing a work permit. The issuing of a work permit does not automatically confer temporary resident status.

The officer must rely on an opinion provided by the Department of Human Resources and Skills Development (note: the labour market opinion, or LMO, referred to in subsection 203(1)). LMOs remain in effect for a period of two years, or for a period determined by HRSDC, and can be requested by an officer for job offers that an employer or group of employers have made or intend to make.

Pursuant to subsection 203(3) of the Regulations:<sup>37</sup>

*An opinion provided by the Department of Human Resources and Skills Development with respect to the matters referred to in paragraph (1)(b) (note: have a neutral or positive effect on the labour market in Canada) shall be based on the following factors:*

- (a) whether the employment of the foreign national is likely to result in direct job creation or job retention for Canadian citizens or permanent residents;*
- (b) whether the employment of the foreign national is likely to result in the creation or transfer of skills and knowledge for the benefit of Canadian citizens or permanent residents;*

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<sup>37</sup> See: *Immigration and Refugee Protection Regulations*, p. 240-241.

- (c) whether the employment of the foreign national is likely to fill a labour shortage;*
- (d) whether the wages offered to the foreign national are consistent with the prevailing wage rate for the occupation and whether the working conditions meet generally accepted Canadian standards;*
- (e) whether the employer has made, or has agreed to make, reasonable efforts to hire or train Canadian citizens or permanent residents; and*
- (f) whether the employment of the foreign national is likely to adversely affect the settlement of any labour dispute in progress or the employment of any person involved in the dispute.*

### **8.1.3. Maximum period of four years**

Foreign workers may work in Canada for up to four years and must wait four years to be eligible again, unless their work provides social, cultural, or economic benefits for Canadians or if their work is covered by an international agreement between Canada and certain countries (which also concerns seasonal agricultural workers). If the foreign national was studying in Canada on a full-time basis, the time spent studying is not included in the calculation of the maximum four-year period as a foreign worker.

### **8.1.4. Opportunity for employers to pay a lower wage than the average Canadian wage**

A new wage structure has been adopted by Human Resources and Skills Development Canada for the Temporary Foreign Worker Program.<sup>38</sup>

*Under the new wage structure, employers can pay wages that are up to 15% below the median wage for a high-skilled occupation, and 5% for a low-skill occupation, in a specific region.*

However, employers must provide documentation that clearly demonstrates that the wage being paid to a temporary foreign worker is the same as that being paid to their Canadian employees in the same job and in the same region. The wage for a low-skill occupation cannot be below minimum wage. The new wage structure does not apply to the Seasonal Agricultural Worker Program, the Agricultural Stream, or the Live-in Caregiver Program.

### **8.1.5. International agreements**

Pursuant to section 204 of the Regulations,

*A work permit may be issued under section 200 to a foreign national who intends to perform work pursuant to*

- (a) an international agreement between Canada and one or more countries, other than an agreement concerning seasonal agricultural workers;*
- (b) an agreement entered into by one or more countries and by or on behalf of one or more provinces; or*

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<sup>38</sup> HRSDC, New wage structure, accessed on April 20, 2013, [http://web.archive.org/web/20130115103125/http://www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/communications/wage.shtml](http://web.archive.org/web/20130115103125/http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/communications/wage.shtml). Note: This provision was updated on April 29, 2013.

(c) an agreement entered into by the Minister with a province or group of provinces under subsection 8(1) of the Act.<sup>39</sup>

The North American Free Trade Agreement (NAFTA) is an example of an international agreement that has an impact on the movement of temporary workers. There are a number of bilateral youth mobility arrangements and agreements between Canada and countries such as Belgium, France, and Australia, and they take the form of working holiday visas (WHV) for youth aged 18 to 30.

#### **8.1.6. Bridging open work permit**

As of December 20, 2012,<sup>40</sup> qualifying foreign nationals whose work permits are about to expire and who have applied for permanent residence under the Federal Skilled Worker Program, Canadian Experience Class, Provincial Nominee Program, or the Federal Skilled Trades Program may be considered for a bridging open work permit, valid for one year.

#### **8.1.7. Canada-Alberta Pilot Project**

A pilot project launched in June 2011 enables temporary foreign workers in a specific occupation to move freely between employers, without requiring a labour market opinion.

Applicants must be approved by Alberta Apprenticeship and Industry Training under the Alberta Qualification Certification Program for one of the trades included in the pilot project:

- Steamfitter/pipefitter
- Welder
- Heavy-duty equipment mechanic
- Ironworker
- Millwright and industrial mechanic
- Carpenter
- Estimator.

### **8.2. International Students**

In 2012, Canada welcomed more than 100,000 foreign students, a 60% increase since 2004. According to a report published by the Minister of Foreign Affairs and International Trade,<sup>41</sup> foreign students inject more than \$8 billion per year into the Canadian economy.

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<sup>39</sup> See: *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, p. 6 : “8(1) The Minister, with the approval of the Governor in Council, may enter into an agreement with the government of any province for the purposes of this Act. The Minister must publish, once a year, a list of the federal provincial agreements that are in force.”

<sup>40</sup> CIC, “News Release – Cutting Red Tape for Skilled Immigrants” [online], *Citizenship and Immigration Canada*, December 21, 2012, accessed April 15, 2013, <http://www.cic.gc.ca/english/department/media/releases/2012/2012-12-20.asp>.

<sup>41</sup> Foreign Affairs and International Trade Canada, *International Education: A Key Driver of Canada's Future Prosperity* [online] ([N.p.]: Foreign Affairs and International Trade Canada, 2012), accessed April

Study permits do not provide their holders with temporary resident status or a short stay visa. Also, study permits are subject to specific conditions:

- Students must obtain a study permit before entering Canada. They may apply for a study permit when entering Canada if they are residents of the United States, Greenland, or St. Pierre and Miquelon.
- Work permit holders may apply for a study permit after entering Canada.
- A family member of a foreign national living in Canada may apply for a study permit after entering Canada if the foreign national holds a study permit, a work permit, or a temporary resident permit valid for at least six months or is subject to other specific circumstances.
- Students must present written documentation that they have been accepted by an educational institution or, in the case of a study permit renewal, they must have successfully completed the requirements for their diploma or certificate of qualification.
- A study permit may not be issued if the foreign national has engaged in unauthorized work or has failed to comply with a condition of the permit.

The family members of the study permit holder may obtain a study permit after entering Canada.

Foreign nationals may study in Canada without a study permit if the duration of their course or program of studies is six months or less and will be completed within their authorized period of stay. However, a student may apply for a study permit for a program of a duration of six months or less.

Study permit holders may apply for a work permit after entering Canada (pursuant to subsection 199(c) of the Regulations).

### **8.2.1. Authorized post-secondary institutions only**

The government's intention is to amend the *Immigration and Refugee Protection Regulations* for the purpose of "ensuring that study permit holders are genuine students who will study in Canada and that they are attending educational institutions that are eligible for this purpose."<sup>42</sup> A study permit may not be issued unless the student provides written documentation of having been accepted into a designated educational institution.

CIC and the Canada Border Services Agency would be given clear authority to take enforcement action against a foreign national who fails to comply with the conditions of a study permit. Foreign students would have to prove they are in compliance with the conditions of their study permit to a CIC officer or during a random assessment. It is likely that educational

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15, 2013, <http://www.international.gc.ca/education/report-rapport/strategy-strategie/index.aspx?lang=eng>.

<sup>42</sup> "Notice requesting comments on a proposal to introduce new requirements and conditions for foreign nationals who seek to study in Canada" [online], *Canada Gazette*, vol. 146, no. 26, June 30, 2012, accessed March 15, 2013, <http://gazette.gc.ca/rp-pr/p1/2012/2012-06-30/html/notice-avis-eng.html>.



institutions will be responsible for monitoring the conditions of study permits, although these responsibilities remain to be defined.

A draft amendment to the Regulations was published in the *Canada Gazette* on December 29, 2012.<sup>43</sup> The proposed amendments would come into effect in January 2014:

- Limit issuance of study permits to students attending designated learning institutions, including those designated by a PT ministry of education to host international students, except in the case of visitors who wish to undertake courses or programs of study of six months or less for which a study permit is not required;
- Establish new study permit conditions requiring all students to enroll in and actively pursue a course or program of study after arrival in Canada;
- Provide exemptions to protected persons, refugee claimants, and certain family members from the proposed conditions on study permit holders;
- Allow issuance of removal orders in circumstances where students are not complying with their study permit conditions;
- Authorize temporary residents already in Canada to apply for a study permit from within Canada if they are studying at the preschool, primary or secondary level, or have completed a course or program of study that is a condition for acceptance at the designated learning institution;
- Limit access to international student work permit programs to eligible study permit holders attending a designated learning institution; and
- Authorize international students attending designated institutions to work part-time during their studies provided they hold a valid study permit and are enrolled full-time in an academic, vocational, or professional training program of the duration of at least six months.

According to the analysis in the *Canada Gazette*, the proposed amendment to the Regulations “would also harmonize and strengthen overall policy pertaining to temporary residents, which include international students and temporary foreign workers. For example, 2010 amendments to the Regulations pertaining to temporary foreign workers increased Temporary Foreign Worker Program integrity through measures that included employer monitoring and compliance measures, as well as measures that strengthened worker protection.”

The issuance of study permits would be limited to foreign nationals attending authorized institutions only. A new section 209.1 defines a designated learning institution as follows:

- a learning institution that is administered by federal department or agency;
- a learning institution that hosts international students and is designated by a province and recognized under an agreement between the province and CIC.
- If there is no designation agreement between the province and CIC,
  - a public post-secondary learning institution in Canada that is recognized by the province;
  - a private post-secondary learning institution that is recognized by the province and authorized by the province to confer degrees;

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<sup>43</sup> *Regulations amending the Immigration and Refugee Protection Regulations* [online], Canada Gazette, vol. 146, no. 52, December 29, 2012, accessed March 15, 2013, <http://gazette.gc.ca/rp-pr/p1/2012/2012-12-29/html/reg1-eng.html>.

- a learning institution within the public school board or district that is funded by and accountable to the province;
- an independent or private learning institution in Canada that delivers provincial curricula.

A learning institution may lose its designation by reason either of the termination of the agreement between the province and CIC or the revocation of the designation by the province. In such case, the study permit is not revoked.

### **8.2.2. Work permits for students**

Foreign students are not required to obtain a work permit if they are employed on the campus of the college or university where their study permit authorizes them to study and where they are full-time students.

The maximum four-year period for work permit validity does not apply to the period during which a foreign national was studying on a full-time basis – a student with both a study permit and a work permit may work for up to four years after earning a degree.

It should be noted that eligibility for the Canadian experience class is based on work in Canada. Foreign students who wish to take this path in order to obtain permanent residence will have to obtain a work permit in addition to their study permit.

### **8.3. Visitors**

Visitors are subject to the same conditions concerning their stay as those that apply to temporary residents. Citizens of the following countries are not required to obtain a temporary resident visa:

- Andorra, Antigua and Barbuda, Australia, Austria, Bahamas, Barbados, Belgium, Brunei, Darussalam, Croatia, Cyprus, Denmark, Estonia, Finland, France, Federal Republic of Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Latvia, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Papua New Guinea, Portugal, St. Kitts and Nevis, San Marino, Singapore, Slovakia, Slovenia, Solomon Islands, Spain, Sweden, and Switzerland.
- British citizens (including British overseas citizens);
- American citizens and permanent residents of the United States.

### **8.4. Biometric Information Required Starting in 2013**

Canada has signed an international information sharing agreement with the United States, the United Kingdom, Australia, and New Zealand, establishing that the member countries of the Five Nations Passport Group share immigration data, including biometric information. The data of a temporary visa holder will be destroyed after five years.

*Starting in 2013, travellers, students and workers from certain visa-required countries and territories<sup>44</sup> will be required to provide their fingerprints and have their photo taken before*

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<sup>44</sup> Starting in 2013, persons from the following countries and territory who apply for a visitor visa, study permit or work permit will be required to provide their fingerprints and photograph at the time of application: Afghanistan, Albania, Algeria, Bangladesh, Burma (Myanmar), Cambodia, Colombia,

*they arrive in Canada. When a visa holder arrives at a Canadian port of entry, the Canada Border Services Agency (CBSA) will use this information to verify that the visa holder is the person to whom the visa was issued and to determine if they are admissible to Canada.*

*Using biometrics will strengthen the integrity of Canada's immigration program by helping prevent known criminals, failed refugee claimants, and those deported in the past from using a different identity to obtain a visa. Biometrics will also make legitimate travel easier by readily confirming identity.<sup>45</sup>*

In December 2012, Canada and the United States signed an immigration information sharing treaty, as part of the *Perimeter Security and Economic Competitiveness Action Plan*, to ensure better monitoring of immigrants and visitors. No information about citizens or permanent residents will be communicated. The sharing of biographic information will start in 2013, and the exchange of biometric information will start in 2014.

A call for proposals was issued in March 2012 (\$55 million over five years) to open a global visa application centre network (VAC) to facilitate the enrollment of applicant biometric identifiers. In January 2012, CIC had 60 VACs in 41 countries, and it intends to expand the network to 150 VACs by the end of 2014.

## **9. REFUGEE CLASS**

Canada welcomes about 25,000 refugees per year, and 14,500 of them will be sponsored by the government, for an increase of 2,500 following the changes made to the refugee system.

### **Claims made abroad**

There are two categories of refugees selected abroad: government-assisted refugees and privately sponsored refugees. Resettlement services for government-assisted refugees are provided by non-governmental organizations funded by CIC and are available for up to one year after arrival in Canada.

Privately sponsored refugees can be assisted by

- sponsorship agreement holders, which are organizations that are incorporated and have signed an agreement with CIC to support refugees for one year;
- a group of five Canadian citizens or permanent residents; or
- a community sponsor, which can be an organization, an association, or a company, whether incorporated or not.

These individuals or organizations agree to provide support for the refugees they sponsor, but they may sponsor only persons designated as refugees by the office of the United Nations High Commissioner for Refugees or by a foreign government.

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Democratic Republic of Congo, Egypt, Eritrea, Haiti, Iran, Iraq, Jamaica, Jordan, Laos, Lebanon, Libya, Nigeria, Pakistan, Palestinian Authority, Saudi Arabia, Somalia, Sri Lanka, Sudan, South Sudan, Syria, Tunisia, Vietnam, and Yemen.

<sup>45</sup> CIC, "Biometrics" [online], *Citizenship and Immigration Canada*, October 17, 2012, accessed April 20, 2013, <http://www.cic.gc.ca/english/refugees/reform-biometrics.asp>.

CIC is proposing a joint assistance program to support the partners working to resettle refugees with special needs. This assistance may be provided for up to 24 months, depending on the case, or 36 months for sponsors in the private sector.

### Claims made within Canada

A person already in Canada may also apply for refugee protection. The system for processing these applications was changed on December 15, 2012, to speed up the process and send home ineligible claimants more quickly.

#### 9.1. Two Legislative Reforms, Several Ministerial Instructions

The *Balanced Refugee Reform Act* (2010-06-29) and the *Protecting Canada's Immigration System Act* (2012-06-28) profoundly changed the way in which refugee status is granted in Canada. The adoption of those acts was followed by a series of regulations, including the new *Refugee Protection Division Rules*, which came into force on December 15, 2012 (SOR/2012-256-2012-03-04).

#### 9.2. Refugee Claimants

##### Designated countries of origin

Designated countries of origin are the 35 countries that do not normally produce refugees but do respect human rights and offer state protection to their citizens. To prevent abuse of the refugee protection system, any asylum claimants from these designated countries of origin will have their claims processed within 30 to 45 days after filing it with the Immigration and Refugee Board of Canada. Failed claimants do not have access to the Refugee Appeal Division and may not apply to work in Canada.

**Table 4: List of designated countries of origin, asylum claim**

Germany	Australia	Austria
Belgium	Cyprus	Croatia
Denmark	Spain	Estonia
United States	Finland	France
Greece	Hungary	Ireland
Iceland	Israel (excluding Gaza and the West Bank)	Italy
Japan	Latvia	Lithuania
Luxembourg	Malta	Mexico
Norway	New Zealand	Netherlands
Poland	Portugal	Slovakia
Czech Republic	United Kingdom	Slovenia
Sweden	Switzerland	

According to CIC analyses, the changes to the asylum system will generate, over five years, an estimated \$1.6 billion in savings related to social assistance and education.

#### 9.3. Limited Right of Appeal

The system for processing refugee claims has been changed. The Canadian Immigration and Refugee Status Board (IRSB) continues to hear claims. If the IRSB renders a negative decision concerning a claimant from a designated country of origin, the claimant does not have the right to appeal.

The new Refugee Appeal Division (RAD) was set up to hear the appeals of claimants from countries “that have a history of producing genuine refugees.”

#### 9.4. Sanction on Human Smuggling

Only the Minister can designate an “irregular arrival” and invoke the measures set out below.

*Under the Protecting Canada's Immigration System Act, individuals who legally enter Canada as part of a designated irregular arrival will face the following action:*

- *If an individual is successful in obtaining protected person status, they can be re-assessed within five years to determine whether they still need protection or can be returned to their country of origin. During this five-year period:*
  - *the individual will not be provided with a refugee travel document and will not be able to apply to immigrate to Canada through other means. As a result, they will not be eligible to sponsor family members into Canada or become Canadian citizens;*
  - *the individual will be required to report regularly to officials; and*
  - *the Minister of Citizenship, Immigration and Multiculturalism may apply to have their continued need for protection reassessed if conditions change in their country of origin;*
- *If an individual is unsuccessful in obtaining protected person status, they will not have access to an appeal at the Immigration and Refugee Board of Canada (IRB), would be removed from Canada, and would be barred from applying to immigrate Canada through other means for a five-year period; and*
- *The individual will have access to health benefits that are similar to, but not more generous than, what most Canadians are entitled to through government-funded programs, while protecting public health and public safety.*

*As part of the new legislation, individuals coming to Canada as part of a designated irregular arrival will be ineligible to apply for permanent residence for a period of five years. This differs from current practice whereby those determined to be Convention refugees or persons in need of protection may apply for permanent residence immediately. As these individuals will not be able to become permanent residents, they cannot sponsor family members.*

*During this period, the Minister could apply to the Refugee Protection Division (RPD) at the IRB to re-assess the individuals' country conditions to determine if they should return to their country of origin or determine if they have returned to their country of origin and are no longer at risk there. In addition, individuals will not be provided with travel documentation to support their travel outside of Canada unless authorized by the Minister in exceptional circumstances.*

## 10. SETTLEMENT PROGRAMS

The “modernized approach” of the settlement program of Citizenship and Immigration Canada, adopted in 2008, consolidates all settlement and integration services. All jurisdictions take a mixed service delivery approach, i.e., public funds are allocated to third parties that deliver services directly to immigrants, and some services are delivered directly by government officers. A number of provinces and territories have adopted a continuum of services model, while others have adopted a single-window and individualized-referral model. Service categories include the following:

- Information and orientation
- Language training and skills development
- Labour market access
- Welcoming communities
- Support for official language minority communities.

The regionalization of immigration, outside the metropolitan areas of Vancouver, Toronto, and Montreal and outside regional urban centres, remains a challenge for all provinces and territories. This challenge is even greater in the Francophone regions.

### **10.1. Support for the Economic Integration of Immigrants**

The socio-economic integration of immigrants is the primary concern, in terms of both policies and programs and individual and community dynamics. Statistical studies point to a new phenomenon: stagnation of the economic mobility of immigrants. Whereas the historical trend showed that first-generation immigrants were economically disadvantaged, the second generation was able to improve its economic status and achieve the national average. The most recent data indicate an ‘intergenerational transfer of poverty.’

Barriers to employment were noted in the *Longitudinal Survey of Immigrants to Canada 2005* (LSIC), which presents the perspective of immigrants to Canada. *Canadian Social Trends*<sup>46</sup> outlines their perspectives of the difficulties encountered four years after their arrival, i.e., in 2005 for a cohort that arrived in Canada in 2001.

The table below is taken from an analysis of LSIC data. The percentage of immigrants who did not experience job search difficulties is our calculation and is not part of the original analysis. According to these data, 6 immigrants in 10 aged 25 to 44 do not experience a job search problem between six months and two years after arriving in Canada, and this proportion increases to 7 immigrants in 10 between two and four years after their arrival. Immigrants in the family class are at an advantage compared with economic immigrants and refugees, illustrating the important contribution of social capital and pre-departure networking for immigrants.

**Table 5: Job search experiences of new immigrants aged 25 to 44, by immigration category and time since arrival**

	7 to 24 months	25 to 48 months
	percentage	
<b>All immigrants aged 25 to 44</b>		
% of who looked for a job	62.0%	52.5%
% of job seekers who experienced a problem	70.9%	62.3%
<i>% who did not experience a problem</i>	<i>56.0%</i>	<i>67.3%</i>
<b>Economic immigrants aged 25 to 44</b>		
% of who looked for a job	63.3%	53.3%
% of job seekers who experienced a problem	73.1%	63.6%
<i>% who did not experience a problem</i>	<i>53.7%</i>	<i>66.1%</i>
<b>Family class immigrants aged 25 to 44</b>		
% of who looked for a job	55.0%	46.3%
% of job seekers who experienced a problem	57.8%	54.3%
<i>% who did not experience a problem</i>	<i>68.2%</i>	<i>74.9%</i>
<b>Refugees aged 25 to 44</b>		
% of who looked for a job	61.4%	58.0%
% of job seekers who experienced a problem	71.6%	63.1%
<i>% who did not experience a problem</i>	<i>56.0%</i>	<i>63.4%</i>

According to the LSIC analysis, one-third of new immigrants aged 25 to 44 said they had experienced a problem while searching for a job. Here are the problems reported most often:

<sup>46</sup> Source: Grant Shellenberg and H el ene Maheux, "Immigrants' perspectives on their first four years in Canada: Highlights from three waves of the Longitudinal Survey of Immigrants to Canada," *Canadian Social Trends* [online], April 2007, accessed May 6, 2013, <http://www.statcan.gc.ca/pub/11-008-x/2007000/pdf/9627-eng.pdf>.

**Table 6: Job search difficulties encountered by immigrants aged 25 to 44, according to the LSIC**

<b>Difficulties encountered</b>	
Not enough Canadian job experience	50%
<i>Most serious problem</i>	<i>19%</i>
No connections in the job market	37%
<i>Most serious problem</i>	<i>9%</i>
Foreign qualifications not accepted	37%
<i>Most serious problem</i>	<i>9%</i>
Foreign experience not accepted	35%
<i>Most serious problem</i>	<i>12%</i>
Language problems	32%
<i>Most serious problem</i>	<i>16%</i>

The new immigrant selection criteria emphasizing the offer of arranged employment, credential equivalency, and language proficiency eliminate the main barriers to employment of immigrants identified in the LSIC. In addition, selecting permanent residents from among temporary foreign workers and foreign students in the Provincial Nominee Program and Canadian experience class reduces these integration difficulties even more.

The foreseeable consequence of the tightening of the selection process will be a reduction in the settlement services required in Canada, because the immigrants selected will join the workforce within a few days of arriving in Canada.<sup>47</sup>

In 2012-2013, CIC invested more than \$600 million in settlement services in Canada, for an average of nearly \$2,400 per immigrant, compared with nearly \$950 in 2005.<sup>48</sup>

*Settlement allocations have more than tripled, from less than \$200M for 2005-06 to almost \$600M for 2012-13 to support newcomers' settlement needs in provinces and territories outside Quebec. This amount includes the CIC's 2009 Strategic Review reduction of \$6 million.*

*Settlement funding allocations are determined by the national settlement funding formula, which is based on the number of immigrants in each province and territory,*

<sup>47</sup> Globe and Mail, interview with Minister of Citizenship and Immigration, the Hon. Jason Kenney, on January 1, 2013. *If the candidates meet immigration qualifications, Ottawa would process their applications within months. "They would arrive in Canada as permanent residents with prearranged jobs and literally be going to work at their skill level within a few days of arrival."*  
<http://www.theglobeandmail.com/news/politics/ottawa-to-play-matchmaker-for-foreign-workers/article6840232/>.

<sup>48</sup> CIC, "Backgrounder – Government of Canada 2012-13 Settlement Funding Allocations" [online], *Citizenship and Immigration Canada*, November 25, 2011, accessed May 6, 2013, <http://www.cic.gc.ca/english/department/media/backgrounders/2011/2011-11-25.asp>.



*outside Québec, (giving additional weight for refugees to account for their unique settlement needs), along with a capacity-building amount added for each jurisdiction.*

The table below, taken from a CIC backgrounder, compares the funding allocated for settlement services in the provinces and territories, outside Quebec, for the 2011-2012 and 2012-2013 fiscal years.

**Table 7: CIC funding allocations for provincial and territorial settlement services**

Provinces and Territories	2011-2012	2012-2013
	Net Allocation	Net Allocation
Newfoundland and Labrador	\$2,223,039	\$2,512,975
Prince Edward Island	\$3,946,142	\$5,218,024
Nova Scotia	\$7,012,146	\$7,078,944
New Brunswick	\$5,179,369	\$5,664,069
Ontario	\$346,521,868	\$314,950,874
Manitoba	\$32,027,618	\$36,539,512
Saskatchewan	\$14,255,519	\$17,995,061
Alberta	\$64,071,989	\$74,978,539
British Columbia	\$105,558,092	\$109,813,233
Northwest Territories	\$672,976	\$723,998
Nunavut	\$463,377	\$469,800
Yukon	\$709,534	\$932,632
<b>Total</b>	<b>\$582,641,669</b>	<b>\$576,877,662</b>
<b>Innovation Fund managed by CIC NHQ (*)</b>	<b>\$16,028,557</b>	<b>\$15,850,289</b>

\* The Innovation Fund was established to support national projects, overseas initiatives, departmental priorities and activities related to the Foreign Credentials Referral Office.

## 10.2. Repatriation of Settlement Programs

### 10.2.1. Termination of Canada-Manitoba and Canada-British Columbia agreements and non-renewal of Canada-Ontario agreement

The government of Canada announced that it was resuming direct responsibility for the settlement services of Manitoba and British Columbia, previously administered by the provinces under contribution agreements signed in 1996 and 1998, respectively. Those agreements will expire by 2014. Also, the Canada-Ontario agreement that expired in 2011 will not be renewed.

### 10.2.2. Calls for proposals for settlement-related projects

On August 1, 2012, CIC issued a call for proposals for settlement services of a local, regional, national, or international scope. The provinces of Manitoba and British Columbia were not affected by the call for proposals, since they were subject to agreements that were still in effect at the time.

On October 29, 2012, CIC called for proposals for settlement services, including “language training, information and referrals, help finding employment that matches their skills and education, and help establishing networks and contacts in their communities.” The design, delivery, and management of services used to be administered by the province of Manitoba and funded under the Canada-Manitoba Immigration Agreement. The targeted period is five years, with the stipulation that the agreements signed directly with service providers will “allow sufficient time for service providers to prepare for CIC’s national call for proposals in future years.”

### 10.3. Pre-departure Services

CIC funds a referral program for immigrants who have received their permanent resident visa prior to their departure for Canada. Designed and delivered by the Association of Canadian Community Colleges, the Canadian Immigrant Integration Program (CIIP)<sup>49</sup> is currently delivered in English only. The CIIP currently offers its services in a number of cities in China, India, the Philippines, and the United Kingdom. Services may also be delivered in the following countries: Bahrain, Bangladesh, Bhutan, Finland, Indonesia, Ireland, Japan, Kuwait, Malaysia, Nepal, Norway, Oman, Qatar, Saudi Arabia, Singapore, Sri Lanka, Sweden, United Arab Emirates, and Yemen.

A one-day orientation workshop provides participants with information about job prospects, job search, job readiness, and job retention. Personalized planning makes it possible to clarify key job and integration decisions and actions to be taken before and after arrival in Canada. Canadian partners take over from CIIP once the immigrant arrives in Canada.

Manitoba and Nova Scotia have collaboration agreements with CIIP, which organizes specific referral sessions for selected immigrants in their Provincial Nominee Programs.

### 10.4. New iCAMS System for Service Provider Organizations (SPOs)

The following information is taken from the document entitled *Entering Data in iCAMS under the Modernized Approach, Interim Guidelines*, July 2011.

*Citizenship and immigration Canada (CIC) has modernized the Settlement Program to make its programs more flexible, coordinated, and responsive. The new approach is activity and outcomes-based, with six theme-based streams that let SPOs mix-and-match elements of former programs for a more tailored approach to help meet your client's needs. The goal is to give clients and SPOs better results than ever before. The existing database, the*

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<sup>49</sup> CIC, "Canadian Immigrant Integration Program" [online], *Citizenship and Immigration Canada*, February 12, 2012, accessed May 3, 2013, <http://www.cic.gc.ca/english/department/partner/bpss/ciip.asp>.

*Immigration Contribution Accountability Measurement System (iCAMS), is still the system where SPOs record client service data.*

Service provider organizations that receive CIC funding must register clients in the database and provide a full range of information about the services used by users, including time allocated to each user. This will enable the Department to analyze the cumulative effects of its programs on the target population.

The Immigration Contribution Agreement Reporting Environment (iCARE) system will replace iCAMS in December 2013.<sup>50</sup> Between now and December 2013, iCARE will be modified to incorporate data currently being collected in iCAMS.

Such a system will enable the Department to gather data from many sources and accurately measure the efficiency of the settlement system for those benefitting from it.

The authors predict that, within four to six years, the Department could implement an individualized case management approach enabling immigrants to access settlement services that meet their specific needs, in a timely manner. Under this approach, the government would do a detailed analysis of the needs of each immigrant or each family of immigrants upon arrival. The services to which immigrants and families would be entitled would be provided by different authorized organizations. Such a system is being used in Australia.<sup>51</sup> Settlement services are not universal; they are available only to those who need them.

## **11. CITIZENSHIP**

The requirements for obtaining Canadian citizenship have not changed, except for the introduction of a minimum language skill measurement.<sup>52</sup> An applicant must

- be a permanent resident;
- be 18 years of age or older;
- have resided in Canada for at least 1,095 days in the four years prior to the date on which the application is made;
- have an adequate knowledge of either English or French, having as proof the results of a test administered by a CIC designated organization or proof of completion of secondary studies or post-secondary studies in French or English in Canada or abroad, or proof of having achieved language benchmark 4 in courses funded by the government;
- have an adequate knowledge of Canada and the responsibilities and privileges of citizenship.

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<sup>50</sup> CIC, "Settlement Program Pending Replacement of Data Collection Tool (DCT) by iCARE/iCAMS," *Operational Bulletin 507* [online], March 15, 2013, accessed May 3, 2013, <http://www.cic.gc.ca/english/resources/manuals/bulletins/2013/ob507.asp>.

<sup>51</sup> See the 98 Fact Sheets on the website of the Australian Department of Immigration and Citizenship, <http://www.immi.gov.au/media/fact-sheets/>, accessed on May 3, 2013.

<sup>52</sup> *Regulations Amending the Citizenship Regulations* [online], September 20, 2012, SOR/2012-178, Canada Gazette, Part II, vol. 142, no. 2, October 10, 2012, accessed May 7, 2013, <http://gazette.gc.ca/rp-pr/p2/2012/2012-10-10/html/sor-dors178-eng.html>.

The guide to preparing an application for citizenship has been revised, and the topics covered have been changed.

### **11.1. Elimination of Conditions for Automatic Citizenship**

The reforms to the system have eliminated the automatic granting of citizenship to children born in Canada of foreign parents to eliminate “birth tourism.” In addition, marriage to a Canadian citizen no longer automatically grants citizenship - spouses must apply for and obtain permanent resident status and then apply for Canadian citizenship, in accordance with the usual criteria.

The automatic withdrawal of citizenship obtained fraudulently and loss of citizenship for foreigners who commit a crime in Canada have been simplified and accelerated.

## **12. CONCLUSION**

The title page indicates that this analysis covered the time period ending on May 7, 2013. Citizenship and Immigration is pursuing the reform to Canada's immigration system.

Interested parties wanting to remain up to date on the federal government's future policy directions will find relevant information on the Department's Website, notably in the section on public consultations and in the section presenting the Minister's speeches. Furthermore, it is essential to regularly consult the Canada Gazette.