

**Ministry of
Economic Development
and Trade**

**Ministry of
Small Business and
Entrepreneurship**

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January 10, 2008

Lynton Ronald "Red" Wilson, Chair
Competition Policy Review Panel
280 Albert Street, 10th Floor
Ottawa, ON
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Dear Mr. Wilson,

Thank you for the opportunity for the Ministry of Economic Development and Trade (MEDT), on behalf of the Province of Ontario, to provide input to the Competition Policy Review Panel.

The Ministry is supportive of the panel's focus on enhancing Canadian productivity and competitiveness through this review. A changing global economy calls for an economic foundation that both attracts foreign direct investment (FDI) as well as enables Canadian companies to grow and compete successfully. Further, the Ministry recognizes that insulating Canada from Global competition is not the way to do this. Canada's past economic success has been built on openness to both foreign investment and immigrant attraction.

Our response centres on 3 key areas:

- 1) Making Canada more attractive to FDI;
- 2) Increasing the ability of Canadian companies to 'go global'; and
- 3) The *Investment Canada Act* (ICA) review process.

This response should by no means be seen as the comprehensive Ontario position. It instead lays out key issues for consideration. The Ministry will supplement this interim response with a process for engaging key stakeholders (outlined later in this correspondence) to ensure a more comprehensive Ontario review of the key issues raised in the panel's consultation paper "*Sharpening Canada's Competitive Edge*".

ATTRACTING FOREIGN DIRECT INVESTMENT

Regulatory Burden

Regulatory burden has been identified as a barrier to investment attraction and corporate growth, an issue that involves all levels of government. Ontario committed in the March 2007 Ontario Budget to undertake a thorough review of its regulatory environment. It has further committed to streamline approval processes and modernize the regulatory regime, making it more efficient and effective for business in Ontario/Canada.

All levels of government in Canada must continue to make this a priority in order to make meaningful strides in reducing the regulatory burden. The panel should keep this objective in mind as it considers any changes to the investment and competition regulatory environment. We see this as critical, noting that the Organization for Economic Co-operation and Development (OECD), in its report "*Measures of Restrictions of Inward Foreign Direct Investment for OECD countries*", ranked Canada's regulatory environment as the second most burdensome among the OECD countries.

GOING GLOBAL

Understanding Barriers to Competing Globally

Canada is very successful at nurturing and growing small and medium enterprises. Future success however will depend increasingly on the ability of these same companies to compete globally. This can be achieved in a number of ways, including foreign acquisitions or mergers with a global partner. MEDT supports an examination of the dynamics of this growth, of developing a better understanding of the trends and underlying reasons for these trends. This includes examining in more detail the barriers to Canadian companies going global.

Reciprocity

Ontario is supportive of the panel's review of the reciprocity issue. Some Canadian companies are being acquired by companies from jurisdictions that are not as open to similar types of investment, with formal and informal barriers in place. We recommend, however, that as the panel explores this issue that members keep in mind the ultimate goal of securing a more open investment climate for Canada.

INVESTMENT CANADA ACT REVIEW PROCESS

Review Timeframe

One desired outcome of the review is an improved ICA administrative process. While a mandated timeframe for the review process is desirable to ensure that the regulatory process itself is not a barrier to the very investment it is attempting to attract, some flexibility needs to be afforded for adequate consideration at the provincial level. Many ICA reviews involve an inter-ministerial response, which can require some additional time to coordinate. Some flexibility, beyond current levels, should be available as needed.

Proactive Provincial Involvement

Further, the review process and subsequent undertaking negotiations related to large and regionally significant investments should provide for opportunities to dialogue with the provincial government. The Province invests much time and effort in building relationships with these regional economic development partners. The review process is an important opportunity for the Province to begin this same relationship building with the new owners/ownership. In short, the review is an opportunity to be proactive, not reactive as is the current situation.

National Benefits versus Regional Risks

On the subject of regionally significant investments, the ICA's 'net benefit test' is measured and considered primarily on its benefit to Canada and does not weigh the 'national benefit' against the 'regional risks'. Consideration should be given to these regional impacts, particularly where the ripple effect, for example in a large regionally based sector, could result in lasting national economic impacts.

A further issue related to the 'net benefit test' is the lack of specific goals associated with the principles underpinning the test. As noted in the consultation paper, one of the common critiques of the ICA and the net benefit test is the lack of transparency regarding the actual 'test'. Although making public the details of the negotiated undertakings might not be appropriate, a clear understanding of the principles and how these principles directly support the enhanced competitiveness and productivity of Canadian business would be useful.

This also speaks to the opportunity for a more ambitious articulation of Canada's goals. We can be global leaders, as evidenced by our leadership position in the resource and finance, insurance and real estate (FIRE) sectors. The panel should explore how the ICA and *Competition Act* can be used to support the development of leadership positions in other sectors.

Further, regular reporting by Industry Canada of the status and performance of these investments against the promised undertakings would improve the accountability and transparency of the ICA review.

Sectoral Investment Regimes

A last point regarding the ICA process relates to the sectoral investment regimes. There is some evidence that Canada's competition policies have had a positive impact in some sectors. For example, Toronto, Montréal, and Vancouver have approximately twice as many employer business establishments in cultural industries as U.S. metropolitan areas of comparable size.

Ontario encourages the panel to speak directly to the sectors to examine the ongoing relevance for these specific restrictions and controls. Given the changing global environment, specifically the increasing importance of a knowledge-based economy and of advanced technology, are there changes that should be made to these regimes to enhance global competitiveness and at the same time protect Canada's sovereignty, cultural identity, national security and overall economic well-being?

FURTHER CONSIDERATIONS

This correspondence contains a number of recommendations to the panel for further research. In addition to these, in the interests of understanding the head office issue, Ontario recommends further examination of the number, type and quality of head office jobs.

STAKEHOLDER ENGAGEMENT

In February 2008 Ontario will coordinate a number of stakeholder sessions to further explore the issues raised in the panel consultation paper.

We appreciate this opportunity to provide input to the panel. Making Canada more attractive to foreign investment as well as creating an environment that assists more Canadian companies to successfully compete globally is important to Canada's future prosperity and economic competitiveness. We will continue to dialogue with the panel as we explore these issues and opportunities over the next two months with our Ontario stakeholders.

Yours truly,

Fareed Amin,
Deputy Minister

- c. Tom Jenkins, Competition Policy Review Panel Member
- Shelly Jamieson, Chair, Secretary of Cabinet
- The Honourable Sandra Pupatello, Minister of Economic Development and Trade
- Colin Andersen, Deputy Minister of Finance
- David Lindsay, Deputy Minister of Natural Resources
- Gail Beggs, Deputy Minister of the Environment
- George Ross, Deputy Minister of Research and Innovation
- Marg Rappolt, Deputy Minister of Culture
- Matthew Mendelsohn, Deputy Minister of Intergovernmental Affairs
- Suzanne Herbert, Deputy Minister of Northern Development and Mines