



**Canadian Employee Relocation Council**

144 Victoria Street, Suite 1511

Toronto, ON M5C 1Y2

Tel: 416- 593-9812 Fax: 416-593-1139

Toll-free: 1-866-357-CERC (2372)

E-mail: [info@cerc.ca](mailto:info@cerc.ca) [www.cerc.ca](http://www.cerc.ca)

**Submitted via Regulations.gov**

Office of the United States Trade Representative

Trade Policy Staff Committee

ATTN: Mr. Edward Gresser

600 17th Street NW

Washington, DC 20508

June 12, 2017

**RE: Request for Comments on Negotiating Objectives Regarding Modernization of the North American Free Trade Agreement with Canada and Mexico (Docket Number: USTR-2017-0006)**

Dear Mr. Gresser,

The Canadian Employee Relocation Council (CERC) welcomes this opportunity to share our comments with respect to modernizing the North American Free Trade Agreement (NAFTA).

As a Canadian based association of employers, representing the interests of many of Canada's largest employers with operations in both Canada and the United States, we submit our comments in respect to NAFTA's provisions on temporary entry for business persons, a matter central to the trade in services between the United States, Canada, and Mexico.

Renegotiations should retain and modernize NAFTA's temporary entry provisions to enhance and facilitate cross-border labour mobility in North America. It is our view that a new NAFTA, with robust and modern temporary entry provisions, will reduce barriers to the trade in services, bolstering the North America's competitive advantage in the services sectors.

**About CERC**

The Canadian Employee Relocation Council (CERC) is a not-for-profit organization dedicated to improving the mobility and deployment of human capital, which are vitally important to Canada's future prosperity. Established in 1982, CERC represents the interests of its members on workforce mobility matters. Many of CERC's members are listed in Canada's Financial Post Top 500.

To further its objectives CERC offers professional development and education programs to its members and individuals employed in the mobility industry. In addition CERC conducts extensive research on trends that have an impact on workforce mobility.

## **Background**

Over \$2 billion in trade and services pass between the United States and Canada every day. The combined annual trade and investment between our two countries amounts to almost one and a half trillion dollars. From an employment perspective, U.S. exports to Canada support some 8 million U.S. jobs, while about two and half million Canadian jobs (14% of the workforce) are dependent on Canadian exports to the U.S. Canada is the United States' largest customer, and over 400,000 people cross the border every day.

In Washington State for example, goods sold to Canada amount to over \$23 billion per year generating 244,000 jobs. In the state of Michigan 241,000 jobs are dependent on \$75 billion worth of annual trade with Canada. In the State of New York, trade with Canada is almost \$34 billion per year and creates 596,000 jobs.

The United States holds a significant comparative advantage in the global trade in services as evidenced by a surplus of nearly \$250 billion in 2016. This advantage also applies to the services trade in North America, with a surplus of nearly \$25 billion with Canada and \$8 billion with Mexico in 2016.<sup>i</sup>

Temporary entry policies significantly impact on the ability of business to deliver services abroad. The Organisation of Economic Co-operation Development (OECD) notes that "...restrictions on the movement of natural persons significantly hinder trade, particularly in skilled labour intensive-sectors such as computer services and professional services."<sup>iii</sup>

By reducing such restrictions, NAFTA's temporary entry provisions have contributed to U.S. services trade surplus in North America, fueling broad economic growth. NAFTA's temporary entry provisions allow employers to deploy skilled talent to support business growth in the U.S., Mexico and Canada. Moreover, they expand the pool of talent and skills available to employers.

NAFTA's temporary entry provisions also benefit U.S. workers by creating pathways to employment opportunities throughout North America. In 2015, 27,590 U.S. citizens were granted work permits through Canada's International Mobility Program and a significant portion of these were linked to NAFTA provisions.<sup>iii</sup> Benefiting both employers and workers, NAFTA's temporary entry provisions contribute to a fair and competitive immigration system.

## **Negotiations Should Seek to Retain, Modernize, and Facilitate Temporary Entry**

Recognizing these benefits, renegotiations should prioritize retention of the temporary entry provisions of NAFTA. Many employers depend on NAFTA-linked work permit and visa programs to manage their North American talent operations, particularly in the United States and Canada. The Canadian Employee Relocation Council (CERC) recently conducted a survey of employers about their experiences with the mobility provisions of NAFTA and found one in two respondents have employees that experience delays when traveling between the U.S. and Canada.

In the absence of robust provisions on temporary entry, NAFTA will not be responsive to the needs of employers operating in an integrated complex global marketplace.

We appreciate that recent U.S. trade negotiations have avoided creating new immigration pathways in chapters on temporary entry. However, NAFTA renegotiations present an opportunity to improve existing pathways, particularly by enhancing the NAFTA professionals list. Developed in the 1980s, the existing list is outdated and omits many professions that are in high demand. While mechanisms to update the list exist, they have been underutilized and the list has not kept pace with modern business demands. In fact only two professions have been added to the list since its inception.

This reality leads to inconsistent decision making at ports of entry and a lack of predictability in the adjudication of applications. The CERC survey found that over two thirds of employers attribute delays in processing applications to inconsistent decision making by border officials.

A modernized NAFTA should feature a more contemporary framework for highly skilled professionals and employees with in-demand technical skills. The CERC survey found that almost 60 per cent of employers have employees that are required to travel between Canada and the U.S., in occupations that are not contained in the TN Professional Occupation list. These include senior executives, managers and professionals in marketing, finance and human resources management, specialized knowledge, IT professionals, technologists in sciences, engineering and information technology.

In addition, many in-demand occupations today, do not require a university degree, which is a further barrier to the cross border movement of in-demand talent.

NAFTA renegotiations should also seek to facilitate temporary entry by including provisions to increase the efficiency and predictability of cross-border mobility.

At an administrative level, renegotiations could build upon mobility innovations introduced or tested as part of the Beyond the Border initiative. In March 2016, United States Citizenship and Immigration Services launched a Known Employer Pilot to assess a program of streamlined immigration processes for pre-approved employers.<sup>iv</sup> Ultimately, it aims to reduce paperwork, compliance costs, and processing delays. A modernized NAFTA should include this type of program that creates efficiencies for low-risk, immigration-compliant employers and conserves resources for top government priorities.

In addition there are administrative steps that can be taken to improve the processing of applications. For example in the CERC survey, almost half of respondents (46%) indicated that border officials lack sufficient training to effectively and expeditiously adjudicate applications of entry. Improved training, access to documentation and enhanced on-line portals, could have a positive impact on the processing of applications.

In conclusion we believe our recommendations can deliver significant economic benefits to the citizens of the U.S, Mexico and Canada, and maintain North America's competitive advantage in key industries and sectors.

- Trade NAFTA (TN) Occupations list should be thoroughly updated and expanded to reflect the occupations of a modern economy, including technical and managerial occupations.
- The parties should establish a formal mechanism to review and update the TN Occupations annually.
- Take steps to improve program administration, through training, communication and education initiatives.
- Expand programs such as the 'Known Employer Pilot Program' to improve efficiency and predictability.

We thank the TPSC for the opportunity to comment on USTR's negotiating positions and objectives and would be happy to provide additional information.

Sincerely,



Stephen Cryne  
President and CEO, Canadian Employee Relocation Council

---

<sup>i</sup> U.S. Bureau of Economic Analysis, "[U.S. International Trade in Goods and Services, March 2017](#)," news release (May 4, 2017).

<sup>ii</sup> OECD, "[Services Trade Restrictiveness Index: Policy Brief, May 2014](#)."

<sup>iii</sup> Immigration, Refugees and Citizenship Canada (IRCC), "[IRCC Facts and Figures 2015: IMP work permit holders by top 20 citizenship, sign year](#)," (accessed May 30, 2017).

<sup>iv</sup> U.S. Citizenship and Immigration Services, "[Known Employer Pilot](#)," (accessed May 30, 2017).