

. I am a corporate immigration lawyer and I have had a very strong involvement many software companies involved in the new economy. My observations are based on the premise that insofar as the movement of skilled workers is concerned, there should be no real borders in a traditional sense. It is difficult to protect a local labour market and for that matter it is difficult to justify. What leading edge employers require is the knowledge, resources and expertise to turn software around in four weeks, not 12 months. Their competitors down south are doing it in 12 weeks and time is critical to survival in the technology industry. It is therefore fundamental for HRDC to appreciate the need to articulate a policy and a practice that attracts the best, brightest and the highly skilled, which addresses labour market shortages.

In this marketplace the immigration game is a very simple to understand. It's premised on push/pull factors. The pull factor is what Canada offers skill workers abroad; a vibrant economy, which has leading edge technology and employers that are willing to seek out expertise. In this context, my first recommendation is for HRDC to play a more prominent role outside of Canada. This process should not be left immigration officials, for the simple reason that their role is that of delivering an immigration program. They have no qualitative understanding of the substance of the Canadian workforce and the skills shortages.. HRDC must seek out and target appropriate candidates.

My second point is the need for transparent and efficient immigration process. How can we possibly compete in a marketplace in which we process permanent immigration at some visa posts in periods ranging from one to three years? How could you logically expect that somebody would put his or her life on hold and make a long-term decision to come to Canada that could take three years to complete. That can't be reasonable in a global, competitive environment.

The third point is need to embrace determinations made by an employer in a selection process concerning the identification of and appropriate foreign worker. If an employer recruits utilizing its knowledge and expertise, what review process by immigration or HRDC is appropriate. The employer is in the best position to understand its needs.

My fourth point is HRDC has to clarify its policy, articulate its policy in a meaningful way. There's appears to be a Canadian first policy in place in this country in which HRDC screens foreign workers based on prejudicial impact to the labour market. There is also a net benefit policy, articulated at a National level, which does not look at determining if a Canadian worker is available as the only factor, but instead weighs up all the factors relevant to deciding whether the foreign workers presence has an adverse impact on the labour market. These factors include technology transfer, the ability of the foreign worker to train Canadian, and the uniqueness of the skills possessed by the worker. The net benefit test evaluates the totality of benefits which accrue in bringing the foreign worker as against the direct labour market implications to Canadians. If a

hardware designer will design a leading edge product that may create five other job opportunities or at least transfer the technology, is it important to evaluate whether if a Canadian worker may not have the opportunity to access this position? The HRDC's internal policy is presently in conflict. Accordingly, HRDC must clarify its policy inside Canada so employers understand what the rules of the game are.

We've all have read newspaper headlines in the last couple of weeks about changes in the new economy. We must understand that a labour market policy is a long-term policy. There will be have bumps and grinds along the way. But at the end of the day it should not attempt to address or have regard to short-term changes in the labour market. In order for companies to remain competitive they will have to pare down core operations and become more competitive by shifting the focus of their workforce. And if some employers are not as competitive as they could be, they will restructure. Workers will leave one employer and likely be absorbed in other parts of the marketplace. HRDC should observe and comment on this process but it should not react by changing its entry requirements or validation policy. This HRDC policy must, in fact, be a long-term policy for meeting long terms skills shortages.