



## INTERNATIONAL BROTHERHOOD OF BOILERMAKERS

boilermaker.ca

Joseph Maloney, International Vice-President

VIA EMAIL: [maryannmihychuk@parl.gc.ca](mailto:maryannmihychuk@parl.gc.ca)

February 2, 2016

The Honourable MaryAnn Mihychuk, P.C., B.Sc., M.Sc., P.Geo.  
Minister of Employment, Workforce Development and Labour  
House of Commons  
Ottawa ON K1A 0A6

Dear Minister:

### **Re.: Temporary Foreign Worker Program**

Enclosed please find a response to the Canadian Chamber of Commerce's brief, dated January, 2016, *Immigration for a Competitive Canada: Why Highly Skilled International Talent Is at Risk*.

Our experience with the Temporary Foreign Workers Program is so different from that of the Chamber's that we believe we should respond to the parts of their brief that concern our members.

We strongly believe that the reforms to the program announced in June, 2015 have eliminated many of the problems that were associated with it, and have dealt with the legitimate concerns raised by a large number of Canadians. We therefore urge you to maintain the tightened regulations and stronger penalties that were announced in 2015.

We make this recommendation as users of the Temporary Foreign Workers Program. We have used the Program to bring more than 1,000 qualified Boilermakers and welders to Canada for short periods of time. These workers have allowed us to close the demand gap for our skilled trade. Our enclosed brief contains more details.

Your office had contacted us in a letter dated Dec. 15, 2015 to say that our earlier request for a meeting would be considered. In light of developments in this area, including the labour-importation components of the Trans-Pacific Partnership, I would again ask whether a meeting to discuss these and other concerns would be possible.

Sincerely,

**JOSEPH MALONEY**  
International Vice-President





# Preventing abuses of the Temporary Foreign Workers Program

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# Preventing abuses of the Temporary Foreign Workers Program

## Introduction

In response to justified criticism about misuse, the federal government tightened regulations and enforcement around the Temporary Foreign Workers Program (TFWP) in June, 2015. In January, 2016, the Canadian Chamber of Commerce released a report, *Immigration for a Competitive Canada: Why Highly Skilled International Talent Is at Risk*, that criticized the reforms and the government's compliance and enforcement regime.

While this paper does not attempt to be as comprehensive in scope as the Chamber's report on its members' concerns, it will outline ways in which our own experience with the TFWP has been completely different from the scenario painted by the Chamber. As a user of the program, we believe it is important to maintain the checks and balances which help to prevent the kinds of abuses we saw before June, 2015.

While there undoubtedly are improvements that could be made in the program, we urge the government to maintain strict eligibility standards and continued enforcement of the rules.



## Boilermakers and the TFWP

The International Brotherhood of Boilermakers regularly uses the Temporary Foreign Worker Program to augment our workforce when qualified Canadians are not available to fill the jobs.

In our case, the Temporary Foreign Workers Program allows our current members to continue working on jobs which would otherwise be postponed or prolonged due to a shortage of skilled labour. This would both increase costs to industry and limit the income potential of our members.

Our union represents a strategic workforce, in that our members are essential to the construction, operation and maintenance of large-scale industrial plants, particularly in the energy industry. Our members supervise the installation of huge vessels that frequently contain volatile compounds under pressure. They also install and maintain the complex systems that transport fuel or chemicals from one part of a plant or refinery to another.

Twice per year, normally in Spring and Fall, these plants must shut down for periods of up to six to eight weeks so that workers may perform essential maintenance, inspection and repairs. It is during these times that the labour shortage is most acute in our trade.

Because of the nature of our work, there must be strict standards and training requirements for journeyperson Boilermakers. As a matter of public safety, people who work in our trade must be trained to the highest level. An explosion or leak at one of the facilities we build or maintain would have a significant impact on nearby communities or the surrounding ecosystem.

A journeyperson Boilermaker must complete a four-year apprenticeship program (currently operating at capacity). A network of state-of-the-art training centres, operated by a joint union-management Trust Fund, assists in apprentice training and in the retraining of current members.

It has proven neither advisable nor practical to shorten apprentice training or to in any way lower the qualifications required by journeyperson Boilermakers. While the nature and duration of our training causes a lag in the supply of Boilermakers, public and worker safety demands that current standards be maintained.

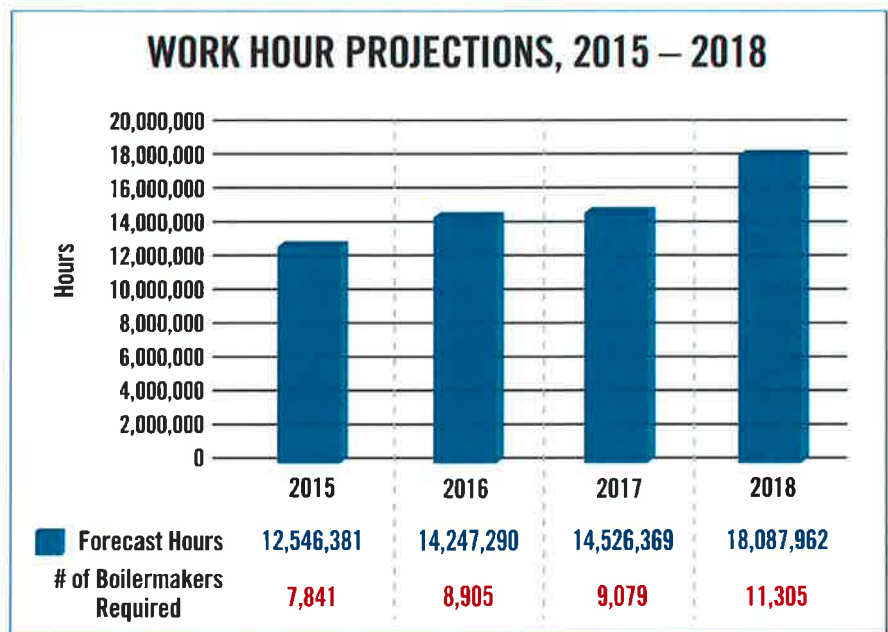


## Demand for skills

Our union, with 10,000 members in Canada, is the major source of qualified Boilermakers for the economic sectors in which we work. We devote considerable resources to forecasting the demand for our services.

Our industry has faced several skills shortages over the past number of years. Despite the recent drop in the price of oil, our detailed workforce projections (see chart below) show that the shortage is likely to continue at least through 2018.

This continued growth of demand in the face of lower commodity prices can be explained by the number of energy facilities still in operation and by the need to maintain these facilities, whether they operate at 100% capacity or not. Even if commodity prices continue to fall, demand for our trade will outstrip supply for at least the next two years.





## Canadians first

In our use of the TFWP, we always advertise to the greatest extent possible to find qualified Canadians. We have done this through a number of means:

- Advertising in newspapers and trade publications.
- Advertising on the Google search and display networks.
- Notifications on our jobs board, available to members on our website.
- Participation in career shows across the country.
- Expansion of intake programs at the local level.
- Membership recruitment drives.

Our recruitment efforts do not stop at union members. Any qualified Canadian is welcome to join us on our worksites. The only requirement is that they are qualified and, if so, they receive the same pay and benefits as a Boilermakers member.

One of the tightened regulations that we supported in the TFWP was that temporary foreign workers could no longer be paid less than Canadians for doing comparable work. Our participation always made this a condition of our use of foreign workers. There is no economic incentive, other than the assurance of getting the job done on time, for a contractor to use temporary foreign workers on Boilermakers jobsites. Since day one, we have always ensured that the foreign workers we employ earn the same in wages and benefits as our Canadian members do and that they work under our collective agreements.



## Comments on the Chamber's positions

With respect to the TFWP, the Chamber's objections seem to rest on three pillars:

- The Labour Market Impact Assessment process is onerous,
- Compliance and enforcement is intrusive and arbitrary, exposing companies to risk far beyond the scope of their TFWP applications, and
- There are issues with staffing levels and operational efficiencies could be achieved within the Program.

Our experience does not bear out the first two of these three claims.

### LMIA experience

The International Brotherhood of Boilermakers and the contractor companies that employ our members form the Boilermaker Contractors Association (BCA). The BCA has a membership of about 300 contractors across Canada. These range in size from national construction companies to local specialty contractors.

We work closely with the contractors in order to help them fill their requirements for qualified Boilermakers. In doing so, we frequently help them prepare the detailed application that must be filed before an LMIA is issued.

Granted, we have gained a certain amount of experience in the process. We have submitted enough forms to be aware of the mistakes that can delay processing. Even so, we have never found the application process to be an onerous burden that would prevent us from using the Program.

Nor have we or our contractors had any problems with the Program's enforcement provisions. This may be because we have never tried to use the TFWP as a way to import lower-paid labour to cut costs or increase profits. In our view, the TFWP was set up to alleviate temporary shortages of skilled workers and we have confined our use of the program to exactly that. We make it very clear to the workers themselves that their stay in Canada will be a limited one. To our knowledge, a complaint has never been filed against any of our contractors and no investigations have been conducted on any of our projects in which we have used temporary foreign workers.

We suspect that the Chamber's real problem with the LMIA process, and one which is not mentioned in their brief, is the \$1,000-per-worker processing fee, up from \$275 before the reforms were instituted.



Insofar as the fee is concerned, again we have heard not one objection from our contractors who use the TFWP. The difference in cost of \$725 per worker is substantial but is not a huge consideration when we consider the maintenance costs of a plant which could be worth literally billions of dollars, or indeed, the costs of not maintaining that plant for lack of qualified workers.

The \$1,000 fee and other restrictions have helped to end the reprehensible practice of bringing foreign workers to Canada without actually having real jobs lined up for them. Companies that indulge in this practice try to form a pool of workers that can be assigned as needed. In some cases, these workers are even sent home when the promised job does not materialize. This was an abuse of both the program and the affected workers, but it seems the \$1,000 fee has been a deterrent in this case.

There are, of course, some legitimate difficulties that deserve to be brought to the attention of the government.

One such issue is that of a foreign worker who is approved to work in Canada, but then changes his or her mind. Our contractors have found several of these situations where, through no fault of their own, they have paid the \$1,000 fee but have no recourse when the worker decides not to come. In these cases, we believe it would be fair to refund all or part of the fee to the applicant company.

Another possible consideration for the future is to streamline the application and administration process for companies which have been pre-cleared. Much as travellers to the US get through customs faster if they've signed up for Nexus, companies which have a good record on using the TFWP could have their applications fast tracked. A process of this nature could help in reducing wait times for all participants in the program.

## Staffing and operational efficiencies

The Chamber's brief complains of processing delays and is particularly critical of the handling of incorrectly completed forms, which are returned to the sender and placed at the bottom of the processing list when they are returned. As we have gained experience with the application forms, we have had fewer problems with this particular issue. However, we agree in principle that further operational efficiencies could only help the Program and the applicants.



Staffing levels are one issue which deserves attention. Under the former government, there were staffing cuts in many areas and existing staff were often told to do more with less. Often, such cutbacks have proven to be penny-wise and pound-foolish. We would hope that a program that was set up to help business is staffed adequately enough that it is able to deliver that help.

## Conclusion: Stay the course

We must admit surprise at reading some of the criticisms and language contained in the Chamber's report.

It was somewhat ironic to observe the organization headed by former Conservative Party luminary Perrin Beatty accuse his one-time colleagues of bowing to "hyper-political reaction over temporary foreign workers."

The Chamber's aggressive approach ignores the fact that some of its own members were among the most egregious violators of the spirit and the letter of the regulations and legislation. It would not have been unreasonable to expect that the Canadian Chamber would have assumed a leadership position in a movement to prevent such activities in future. Instead, its shrill criticisms seem designed to hide its problems in this respect and sweep them under the rug. This stance weakens its voice and does no favours for its members.

We in the Boilermakers firmly believe that the Temporary Foreign Workers Program has its place. But that place is to help us build a bridge to a time when there are enough qualified Canadians to take on the available jobs as Boilermakers and other skilled tradespeople. It's not to act as a permanent source of cheap labour for companies who make plenty of money in Canada but say it's too expensive to hire our citizens.

The other issue that the Chamber's lobbying document ignores is the national anger that arose over the way big companies exploited the TFWP while Canadians languished on the unemployment line. That reaction of millions of Canadians represented valid concerns that deserve respect.

It is in that spirit of respect for hard working Canadians that we urge the government to retain strict regulations on the use of the TFWP.

**International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers**

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