



House of Commons

INTERIM REPORT ON

THE IMMIGRANT INVESTOR PROGRAM

*THE STANDING COMMITTEE ON LABOUR,
EMPLOYMENT AND IMMIGRATION*

ROBERT WENMAN, M.P.
CHAIRMAN

JULY 1992

J
103
H7
34-3
L2
A122

J
103
H7
34-3
L2
A122

HOUSE OF COMMONS

CHAMBRE DES COMMUNES

Issue No. 21

Fascicule n° 21

Tuesday, June 23, 1992

Le mardi 23 juin 1992

Chairperson: Robert Wenman

Président: Robert Wenman

Minutes of Proceedings and Evidence of the Standing Committee on

Procès-verbaux et témoignages du Comité permanent du

**Labour,
Employment and
Immigration**

**Travail, de
l'Emploi et de
l'Immigration**

INTERIM REPORT ON

RESPECTING:

CONCERNANT:

Pursuant to Standing Order 108(2), a Review of the
By
the
Economic

Conformément à l'article 108(2) du Règlement, l'étude
plus
le
programme d'immigration des investisseurs

THE IMMIGRANT INVESTOR PROGRAM

INCLUDING:

Y COMPRIS:

Second Report to the House

Le Deuxième rapport à la Chambre

**THE STANDING COMMITTEE ON LABOUR,
EMPLOYMENT AND IMMIGRATION**

**ROBERT WENMAN, M.P.
CHAIRMAN**



Third Session of the Thirty-fourth Parliament,
1991-92

Troisième session de la trentième-quatrième législature,
1991-92

JULY 1992

HOUSE OF COMMONS

Issue No. 21

Tuesday, June 23, 1992

Chairperson: Robert Wenman

CHAMBRE DES COMMUNES

Fascicule n° 21

Le mardi 23 juin 1992

Président: Robert Wenman

Minutes of Proceedings and Evidence of the Standing Committee on

Procès-verbaux et témoignages du Comité permanent du

Labour, Employment and Immigration

Travail, de l'Emploi et de l'Immigration

RESPECTING:

Pursuant to Standing Order 108(2), a Review of the Business Immigration Program, in particular, the study of the discussion document entitled: "The Ministerial Task Force on the Immigrant Investor Program"

INCLUDING:

Second Report to the House

CONCERNANT:

Conformément à l'article 108(2) du Règlement, l'étude du Programme d'immigration des investisseurs et, plus particulièrement, l'étude du document de travail intitulé: «Groupe de travail ministériel chargé d'examiner le programme d'immigration des investisseurs»

Y COMPRIS :

Le Deuxième rapport à la Chambre

Third Session of the Thirty-fourth Parliament,
1991-92

Troisième session de la trente-quatrième législature,
1991-1992

STANDING COMMITTEE ON LABOUR,
EMPLOYMENT AND IMMIGRATION

Chairperson: Robert Wenman

Vice-Chairman: Harry Chadwick

Members

Warren Allmand
Doug Fee
Dan Heap
Fernand Jourdenais
John Nunziata
Jack Shields—(8)

(Quorum 5)

Monique Hamilton

Clerk of the Committee

Other Member who Participated

Simon de Jong

From McCarthy Tétrault:

Peter D. Fairey
Consultant

From Smith, Lyons, Torrance, Stevenson & Mayer:

Frank N. Marrocco
Consultant

From the Library of Parliament:

Kevin Kerr
Margaret Young

Research Officers

COMITÉ PERMANENT DU TRAVAIL, DE L'EMPLOI
ET DE L'IMMIGRATION

Président: Robert Wenman

Vice-président: Harry Chadwick

Membres

Warren Allmand
Doug Fee
Dan Heap
Fernand Jourdenais
John Nunziata
Jack Shields—(8)

(Quorum 5)

La greffière du Comité

Monique Hamilton

Autre député qui a participé aux délibérations

Simon de Jong

De McCarthy Tétrault:

Peter D. Fairey
Consultant

De Smith, Lyons, Torrance, Stevenson & Mayer:

Frank N. Marrocco
Consultant

De la Bibliothèque du Parlement:

Kevin Kerr
Margaret Young

Attachés de recherche

Published under authority of the Speaker of the
House of Commons by the Queen's Printer for Canada.

Available from Canada Communication Group — Publishing,
Supply and Services Canada, Ottawa, Canada K1A 0S9

Publié en conformité de l'autorité du Président de la Chambre
des communes par l'Imprimeur de la Reine pour le Canada.

En vente: Groupe Communication Canada — Édition,
Approvisionnement et Services Canada, Ottawa, Canada K1A 0S9

THE STANDING COMMITTEE ON EMPLOYMENT AND
IMMIGRATION

ACKNOWLEDGEMENTS

The Committee would like to acknowledge the hard work of its staff. The efforts of the Committee were substantially enhanced through the commitment and tireless support it received from its staff: the Clerk of the Committee, Monique Hamilton, and her colleague, Luc Fortin, who were very helpful in contacting the witnesses, organizing the hearings and producing this Report in this short time frame.

The drafting of this report was the result of many hours of work on the part of the writing team. The Committee thanks the consultants hired for this particular study -- Peter Fairey and Frank Marrocco -- and the researchers from the Library of Parliament -- Kevin Kerr and Margaret Young -- who have served us well and were much appreciated.

We express deep gratitude to the many witnesses who appeared, to those who provided written submissions, and to those with special interests who have followed our deliberations with care. We would also like to extend our thanks to Louis Ferguson, Director of the Ministerial Task Force on the Immigrant Investor Program and to the other Members of the Task Force, who provided the Committee with their assistance and valuable expertise.

Finally, the Chairman wishes to thank his colleagues on the Committee for their perseverance during the lengthy hearings and subsequent deliberations.

THE STANDING COMMITTEE ON LABOUR, EMPLOYMENT AND IMMIGRATION

has the honour to present its

SECOND REPORT

In accordance with its mandate under Standing Order 108(2), your Committee proceeded to review the Business Immigration Program and, in particular, the study of the discussion document entitled The Ministerial Task Force on the Immigrant Investor Program and has agreed to report the following:

1, 2 and 3	5
4	6
5 and 6	7
7, 8 and 9	8
10, 11 and 12	9
13, 14 and 15	10
16	11
17 and 18	12
19, 20 and 21	13
22 and 23	14
24	15
25, 26 and 27	16
28	17
29 and 30	18
31 and 32	19
33	20
34	21
CONCLUSION	22
APPENDIX A — SUMMARY OF COMMITTEE RECOMMENDATIONS	23
APPENDIX B — LIST OF WITNESSES	24
APPENDIX C — WRITTEN SUBMISSIONS RECEIVED	30
REQUEST FOR GOVERNMENT RESPONSE	35

THE IMMIGRANT INVESTOR PROGRAM

PREFACE	ix
INTRODUCTION	1
OBJECTIVES AND ACCOMPLISHMENTS	1
IMPROVING THE PROGRAM	4
TASK FORCE RECOMMENDATIONS AND COMMITTEE RESPONSES	
1, 2 and 3	5
4	6
5 and 6	7
7, 8 and 9	8
10, 11 and 12	9
13, 14 and 15	10
16	11
17 and 18	12
19, 20 and 21	13
22 and 23	14
24	15
25, 26 and 27	16
28	17
29 and 30	18
31 and 32	19
33	20
34	21
CONCLUSION	22
APPENDIX A — SUMMARY OF COMMITTEE RECOMMENDATIONS	23
APPENDIX B — LIST OF WITNESSES	29
APPENDIX C — WRITTEN SUBMISSIONS RECEIVED	33
REQUEST FOR GOVERNMENT RESPONSE	35

THE IMMIGRANT INVESTOR PROGRAM

PREFACE

This Report of the Committee becomes a part of a body of recent input on the Immigrant Investor Program following the discussion document of the Ministerial Task Force on the Immigrant Investor Program (the "Task Force Report"). The Department's own Program Evaluation Branch commissioned internal reports (expected in August 1992) from Ernst & Young and Informetrica which, together with this Report and the Task Force Report, will be considered in the Department's comprehensive Immigrant Investor Program Evaluation Report expected in the Fall of 1992.

On June 16, 1992, during our study, Bill C-86 was tabled in the House of Commons. The Bill would extensively amend the *Immigration Act* and expand the scope of regulatory powers. A number of the proposed changes in the Bill, and in the accompanying material released by Employment and Immigration Canada, bear directly on the Immigrant Investor Program. Some of these proposed changes the Committee supports; with others, we disagree, and these have been noted in our Report. We expect that our comments will be considered carefully during debate on the Bill and before the proposed Regulations are finalized.

This Report is thus timed to contribute to the policy-making process. Its tabling in the House of Commons will inform the Minister of Employment and Immigration and his Department of the Committee's views.

Although we heard from a range of witnesses (mostly from the investment community) and received numerous written submissions, the Committee is of the view that its examination of this subject is incomplete. Many views were not heard, including those of economists and members of the immigrant community other than investors. Indeed, the Committee intends to examine this Program further following the release of the Department's evaluation of the Immigrant Investor Program (including the study by Ernst and Young, commissioned by the Department).

Nonetheless, Committee members feel satisfied that our findings thus far constitute a valuable and timely contribution toward a full evaluation of the Immigrant Investor Program.

THE IMMIGRANT INVESTOR PROGRAM

INTRODUCTION

Considerable interest has focused on the Immigrant Investor Program (the "Program") in recent weeks following the release of the discussion document based on the report of the Ministerial Task Force (the "Task Force") on the Program. In May 1992, the Standing Committee on Labour, Employment and Immigration undertook to study this Program. We heard testimony from a number of witnesses, including members of the Task Force. Together with consultants and staff, we considered other articles and reports with respect to the Program including, for example, Employment and Immigration Canada's *Pre-evaluation Assessment of the Immigrant Investor Program* and the *Evaluation of the Business Immigration Program: Entrepreneur and Self-Employed Categories*, and a study prepared by Roslyn Kunin entitled *The Economic Impact of Business Immigration into Canada*. The Task Force's discussion document (the "Task Force Report") was particularly helpful and your Committee agrees with many of its findings and recommendations.

Your Committee found widespread support for the Program from the witnesses and submissions before the Committee and none supported its cancellation.

It appears to the Committee that the Program is potentially a significant economic development tool which should be maintained and strengthened.

OBJECTIVES AND ACCOMPLISHMENTS

The Program is consistent with the legislative objectives of the *Immigration Act* (the "Act") as set out in section 3(h), which provides that immigration policy and the rules and Regulations made under the Act shall be designed and administered to promote the domestic and international interests of Canada recognizing the need to foster the development of a strong and viable economy and the prosperity of all regions in Canada.

At the time of the creation of the investor category the stated objective of the Business Immigration Program in the 1985 Background Paper was:

*"to promote, encourage and facilitate the immigration of experienced business persons from abroad who will make a positive contribution to the country's economic development by applying their risk capital and know-how to Canadian business ventures which create jobs for Canadians"*¹;

¹ Employment and Immigration Canada, *Business Immigration*, 1985, p. 1.

The 1985 Background Paper further provided that:

“by expanding the program [i.e. to create the investor category], the Commission will have the legal base for accommodating those risk ventures which provinces consider important to their regional economic development plans, while at the same time attracting a select group of individuals who possess the substantial capital necessary to expand the industries and generate the jobs that Canada really needs. This is the group which the current program had thus far been unable to attract. Because this program will be limited to those individuals who have been able to establish higher credentials, it should be attracting a new cadre of highly qualified individuals who can expand their opportunities in Canada”²;

The intent of the Investor Program (as opposed to the Business Immigration Program generally) has been more recently described as:

“to attract successful and skilled business persons who wish to immigrate to Canada and invest their capital in Canadian business ventures (which will create/maintain jobs and contribute to business expansion) but do not wish to participate in the management of the enterprise. The Program is designed to benefit medium and small businesses which are the ones that typically have the most difficulty raising funds”³;

An immigrant investor brings three principal benefits to Canada (in addition to the very important human benefits any other immigrant may bring):

1. direct investment through the Program;
2. net worth, all or a portion of which often gets invested in the Canadian economy; and
3. business skills, experience, attitudes and international networks.

The Committee recognizes that each of these is important and that in the case of any particular investor not all benefits may be present to the same degree. An individual investor with a net worth of \$100 million may be a very passive but significant investor in Canada who is carrying on business in many jurisdictions. Another individual investor with a net worth of \$500,000 may be much more involved in the operations of his or her investments. The business skills brought by each will vary considerably, but both investors can represent a significant economic benefit to Canada. The analysis of the two investors' contributions should weigh in at least these three categories of benefit and not rigidly require a passing grade in each. Some witnesses would prefer that a choice be made between people and money (investment) and, although that would permit easier administration, it is simplistic and ignores the variations between individual investors.

² *Ibid*, p. 3.

³ Employment and Immigration Canada, *A Pre-evaluation Assessment of the Immigrant Investor Program*, 4 March 1991, Chapter 1, p. 1.

Consistent with one of its original objectives, and relying on section 3(h) of the Act, the Program later undertook, for a variety of reasons, to promote regional economic development by a regulatory amendment effective at the beginning of 1990 which created a lower tier (Tier I) of investment for immigrant investors designed to encourage investment in provinces which had not traditionally attracted business immigration and investment. This was successful and, according to the Task Force Report, in 1991 resulted in an approximately equal distribution of investment between Tier I (\$150,000 investment) and Tier II (\$250,000 investment) provinces, (\$171.55 million in Tier I and \$192.5 million in Tier II in 1991).

It is clear from the evidence of the witnesses, the submissions and the Task Force Report that:

1. Qualified business persons in significant numbers have been admitted to Canada under the Program, specifically, according to the Task Force Report, 7,593 investors subscribed under the Program for the period ending December 31, 1991, which represents approximately \$1.5 billion.
2. While not all of these investors have yet been granted a permanent resident visa, the evidence disclosed that, on average, over 90% of those persons applying successfully obtain permanent resident visas.
3. The definition of an investor contained in the Regulations to the *Immigration Act* (the "Regulations") requires all persons granted a visa under the Program to have been found to have successfully operated, controlled or directed a business or a commercial undertaking outside of Canada, and visa officers abroad were rigorous in attempting to ensure this requirement was met.

The record of the proceedings before your Committee establishes that the Program has attracted risk capital investment and that direct employment, in excess of 10,000 jobs⁴, had been created as a result of the investment. The Program is unquestionably an important vehicle for attracting foreign capital. For example, although germane comparisons are difficult to make given the available data, the \$491 million subscribed under the Program in 1990 represents approximately 31% of total net foreign purchases of Canadian corporate securities in the same period.⁵

The Committee recognizes that the majority of offerings have not yet been required to repay the investors their investment. Thus, it is too soon to say whether immigrant investors will need to absorb losses arising from inappropriate risks or deliberate abuse. The improvements recommended in this Report will substantially reduce this possibility with respect to future offerings.

⁴ Roslyn Kunin, *The Economic Impact of Business Immigration Into Canada*, September 1991, p. 26.

⁵ Statistics Canada, *Canada's International Transactions in Securities*, (Catalog No. 67-002), February 1992, Tables 7 and 11.

IMPROVING THE PROGRAM

There is clear evidence that, as with many new programs, design and operational problems partially obscured and impaired both the benefits and potential of the Program.

Changes to the Program are essential to accomplish the following purposes:

1. To maintain Canada's position as the pre-eminent jurisdiction for investment-related immigration programs.
2. To ensure proper treatment of prospective immigrant investors, including demonstration of normal business courtesy, cultural sensitivity, timeliness in response to inquiries, respect, recognition and appreciation of economic contribution.
3.
 - a) To enhance enforcement and compliance with federal and provincial investment guidelines as well as the spirit and letter of the Act and Regulations; and
 - b) to minimize opportunities for the misappropriation or misapplication of immigrant investor funds.
4. To ensure that investments are utilized to create or expand business ventures or to create employment, wealth or an expanded tax base and not utilized to reduce risk through artificial schemes.
5. To ensure each permitted investment provides an economic benefit to the host province.
6. To enhance the ability of small and medium-sized businesses to access financing sources under the Program.
7. To ensure the tier levels of immigrant investor investment direct an appropriate proportion of investments to each province.
8. Subject to 7 above, to ensure that all provinces have a fair chance to attract Immigrant Investor Program investment by the creation of national minimum standards regarding the type and manner of investments.
9. To provide for:
 - a) the timely issuance of immigrant investor visas (six months); and
 - b) the efficient and timely approval of immigrant investor offering memoranda.

10. To heighten awareness of the Program within Canada and abroad as well as within federal government departments and agencies with mandates in the area of trade, investment and economic growth by establishing Ministerial reporting requirements.

Changes must be made with great sensitivity as many witnesses expressed a need for stability and simplicity in the Program in order to enhance confidence in it. Improvements to programs in other countries could significantly affect international competition for immigration-related investment.

There is evidence that present demand for visas under the Program is significantly down due to a variety of factors. In addition, as the level of investment required in each tier will effectively increase on January 1, 1993, as will the required period of investment (from three years to five years), the demand will further decrease. It is therefore important to increase the attractiveness of the Program to prospective investors in other ways if Canada is to receive the same level of interest and investment through the Program.

It is also important that an immigrant investor's experience with all aspects of the Program be as positive as possible to increase the likelihood of further investment in Canada.

While Canada has achieved an early advantage in attracting investment through the Program, it is clear that the United States, Mexico and the Bahamas in this hemisphere have, after observing Canada's success, now entered the market for immigration-related investment. While the other North American programs do not, at the date of this Report, appear to have been successful, those programs are in their infancy and may be improved, as may those of other countries such as Australia. Canada has many advantages as a place to live and we must be constantly vigilant to maintain its pre-eminent position.

TASK FORCE RECOMMENDATIONS AND COMMITTEE RESPONSES

TASK FORCE RECOMMENDATIONS 1, 2 AND 3

Establish a new Branch within Immigration Canada with responsibility for the full spectrum of Business Immigration including investors, entrepreneurs, and self-employed persons. The Branch should be headed by an Executive Director at a high enough level to support the type of senior financial, business, marketing, management and administrative expertise required to administer the program efficiently and control it effectively; or

Establish a special operating agency reporting to CEIC to manage the business immigration program; or

Cancel the Immigrant Investor Program, but allow investors to qualify as entrepreneurs on the basis of an investment in a business which they are not required to manage.

COMMITTEE RESPONSE

Your Committee recommends that in order to ensure an ongoing and orderly processing of all business immigrants (investors, entrepreneurs and self-employed persons) that there be nothing less than a Business Immigration Branch within the Department of Employment and Immigration created to manage, administer, monitor and enforce the Business Immigration Program. This branch should be headed by an individual at a level not less than an Assistant Deputy Minister whose qualifications should be no less than public service levels EX 3 or EX 4. Under the Assistant Deputy Minister, there should be a full-time Director General heading the Immigrant Investor Program and a full-time Director General heading the Entrepreneur and Self-employed Programs. The former should have the qualifications of a public service level of EX 2 or EX 3 and the latter of an EX 1. The position of the Director General for the Immigrant Investor Program requires such seniority in recognition of the fact that the individual will be required to deal with senior levels of business and other governments whereas the Entrepreneur Program is less complex and is co-administered with provincial personnel. This branch should be staffed with highly qualified personnel and provided with sufficient resources to deliver the Business Immigration Program effectively and efficiently. The proposed Business Immigration Branch, and particularly the Immigrant Investor Program, should be structured and administered in a manner so as to recover effectively all operating costs through appropriate fees.

Your Committee considers that anything less than a branch with such senior and qualified staff is not acceptable. For reasons discussed below, the Business Immigration Branch needs a high degree of autonomy, as it has an economic development and cultural emphasis which is distinct from the rest of the department. The Committee believes that because of the visa component of the Program this option is preferable to a special operating agency or moving the Program to another Department.

TASK FORCE RECOMMENDATION 4

Widen the tier differential by lowering the disparity tier to \$200,000 from the current \$250,000 and maintain the current \$350,000 tier for other provinces.

COMMITTEE RESPONSE

Your Committee disagrees with this recommendation and recommends instead a return to existing tier levels of \$150,000 and \$250,000 because, at these levels, the Program functioned reasonably well. It is important to maintain Canada's competitiveness.

Your Committee acknowledges that it did not have available the benefit of much evidence on the economic impact of these levels. On the other hand, the evidence available made it clear that it is unlikely that a \$350,000 offering will sell. As the benefit of the Program goes beyond the direct investment it was felt that the tier levels should not reduce significantly the resources of investors.

Further, your Committee suggests that Employment and Immigration Canada should consider giving public notice well in advance (i.e. at least one year) of future regulatory changes to tiers or details which will have a financial impact on business participants. The past grandfathering method has led to a number of problems, the most serious of which is confusion in the marketplace.

Your Committee accepts the view that the Program should have a degree of certainty and stability. Frequent changes in regulation cause uncertainty in the marketplace and make it difficult for immigrant investors to know with certainty what the rules of the game are. Your Committee notes that the Regulations dealing with minimum investments have been changed to provide for two tiers of \$350,000 and \$250,000. These tiers will become effective, for all practical purposes, January 1, 1993 when offering memoranda containing the previous tier levels (\$250,000 and \$150,000) expire. Your Committee notes that the \$100,000 differential that has existed since January 1990 has resulted in a relatively equal distribution of investment between the tier levels. Your Committee sees no reason to widen the differential.

Most immigrant investors reside in Vancouver, Toronto and Montreal, all cities in Tier II provinces. The Tier I provinces argue that the ancillary investment by those persons in their province of residence and the fact that the business skill and experience is most likely applied in the province of residence justifies the two tier system. In short, Tier I provinces feel that Tier II provinces already receive most of the indirect benefits (skill and net worth), not to mention the majority of entrepreneurs.

TASK FORCE RECOMMENDATION 5

Revise the Regulations to enable the use of Indices of Disparity as a basis for qualifying provinces and territories in the disparity tier.

COMMITTEE RESPONSE

Your Committee rejects this recommendation. We accept the view of the Task Force that there are more appropriate ways of determining a province's tier level, but recommend that in the interest of stability and certainty the present membership in the tiers be maintained.

TASK FORCE RECOMMENDATION 6

Review the feasibility of applying the disparity tier on a regional rather than provincial basis.

COMMITTEE RESPONSE

Your Committee rejects this recommendation. We accept the view of the Task Force that there are regions of disparity within the provinces; however, we feel that in the interest of stability, simplicity and certainty the present configuration of tier membership, based on entire provinces, should be maintained.

TASK FORCE RECOMMENDATION 7

Establish a strong regional presence for the program and partnerships with economic agencies which can provide useful information, data and intelligence, and private sector individuals who can broaden the scope of knowledge for investment opportunities.

COMMITTEE RESPONSE

Your Committee agrees with this recommendation so long as there is equal provincial, not regional, involvement in establishing a presence for the Program.

TASK FORCE RECOMMENDATION 8

Explore the feasibility of leveraging expertise, financial analysis and matching funds from federal economic agencies through vehicles such as memoranda of understanding.

COMMITTEE RESPONSE

Your Committee agrees with this recommendation and feels provincial involvement is vital in this type of exercise.

TASK FORCE RECOMMENDATION 9

Establish a formal structure to promote a closer relationship with investors who chose to invest in regions of economic disparity in order to encourage their continued interest in the region.

COMMITTEE RESPONSE

Your Committee believes that a structure involving the newly organized branch and the provinces should be established to achieve the objective as stated by the Task Force.

TASK FORCE RECOMMENDATION 10

Set an objective standard for processing times for business immigrants: preferably 100 days but no more than 180 days.

COMMITTEE RESPONSE

Your Committee agrees that processing times for all business immigrants should be decreased, and set at a maximum time of six months. At the same time, it should be recognized that all immigrant categories should benefit from reduced processing time.

No one appeared before your Committee and suggested that the processing delays in Hong Kong and Taiwan were defensible. Over 80% of the immigrant investors have come from those two areas. Your Committee supports the Task Force Report recommendation that processing time be decreased, but believes that a more realistic processing time is six months. This will have the benefit of making immigrant investor funds available to the party seeking to raise or receive immigrant investor funds (hereafter referred to as the "Securities Issuer") in a much more timely way. Your Committee heard evidence which suggested that immigrant investors who have subscribed some \$400 million are waiting in the processing backlog. This delay impairs the flow of investment into the Canadian economy.

TASK FORCE RECOMMENDATION 11

Make a clear projection of the number of Immigrant Investors to be processed and publicize this forecast in the Immigration Plan tabled in Parliament each year.

COMMITTEE RESPONSE

Your Committee supports this recommendation, but thinks that the projection should deal with all business immigrants. Your Committee recognizes the hybrid nature of the Program; it is both an immigration program and an economic development tool. In this regard, in addition to the Minister's annual report on immigration levels, your Committee recommends that the Minister table an annual report to Parliament specifically relating to business immigration. This would allow Parliament a greater opportunity to monitor the Program and would increase awareness of the Program both inside and outside government. In addition, we recommend that an inter-departmental committee be established comprised of departments or agencies with mandates in the area of economic development for the purpose of maximizing the opportunities under the Program.

TASK FORCE RECOMMENDATION 12

Investor immigrants should be processed on demand, under a revamped priority processing system.

COMMITTEE RESPONSE

Your Committee is also of the view that immigrant investor applicants are not a significant source of settlement cost to the provinces and recommends the processing of immigrant investor applicants become a self-financing operation. Further, the Committee thinks that the level of investor immigration should not be subject to a numerical limit, given the low number of immigrants currently in this category. It is estimated that fewer than 8,000 investors have been landed under the Program since its inception. The government should reconsider this proposal should this category expand significantly in the future.

TASK FORCE RECOMMENDATION 13

Serious consideration should be given to including all business applicants in the same stream under a new immigration management system, in order to ensure a uniform approach.

COMMITTEE RESPONSE

Your Committee accepts the recommendation that investors, entrepreneurs and self-employed persons should be placed in the same processing stream. This would recognize that all of the components of business immigration contribute to economic development. In this regard, the Committee disagrees with the government's proposal as outlined in the document entitled *Managing Immigration: A Framework for the 1990s*, released concurrently with Bill C-86. This proposal would place investors, entrepreneurs and the self-employed in three different processing streams.

TASK FORCE RECOMMENDATIONS 14 AND 15

Design specific qualifications for the selection of interviewing officers in the business immigration stream.

Institute a comprehensive training and development program for visa officers with emphasis on investment analysis and an understanding of the current business climate and Canadian economy.

COMMITTEE RESPONSE

Your Committee agrees with these recommendations. In addition, the Committee recommends the establishment of special units to deal with business immigrants at certain high volume posts abroad. In making this recommendation, your Committee is also mindful of the need to ensure that business immigrants are seen as a positive economic benefit to Canada.

Sadly, your Committee heard considerable evidence that the treatment of immigrant investor applicants was entirely inconsistent with the way that a Canadian would expect to be treated by his or her government. We heard many examples of cultural insensitivity in the manner of questioning by visa officers which offended sophisticated business people, questioning which demonstrated not only ignorance of local politics and business practices but which implied that these business persons were being subjected to unwarranted scepticism.

This evidence was heard not only from immigrant investors, but also Canadian business people. Your Committee views this situation as entirely unsatisfactory. It is your Committee's view that the Minister should instruct his officials that immigrant investors are to be treated in a business-like way and to be extended normal business courtesies. They are entitled to timely responses to their inquiries, recognition of their economic contribution and sensitivity to cultural and political realities in the investor's native land. In this regard, your Committee recognizes that this may increase the cost of providing services to the immigrant investor applicant, but as previously mentioned, we recommend that user fees be set at a level which covers the increased cost.

In simplistic terms, the immigration process is generally one of saying no to excess demand. Business immigration, on the other hand, requires a proactive and positive role on the part of Canada to attract the business skills and capital of successful business persons. This fundamental difference must be understood at all levels of the Program.

Notwithstanding the assurances of the Department that visa officers are well trained to address the business and cultural aspects of immigrant investor applications, the overwhelming weight of oral and written evidence received by your Committee is to the contrary. Therefore, the Committee endorses Task Force Recommendations 14 and 15. Your Committee particularly took note of evidence given by persons who had successfully accessed funds under the Program and who nonetheless felt it appropriate to bring to the Committee's attention their sincere distress at the treatment received by the immigrant investors with which they were concerned.

TASK FORCE RECOMMENDATION 16

Ensure that the new identification document being devised for returning residents allows free and unfettered re-entry for such individuals.

COMMITTEE RESPONSE

Your Committee agrees with the intent of this recommendation; however, the proposed elimination of returning resident permits in Bill C-86 means the mechanism of achieving this intent needs to be carefully considered.

Your Committee also recognizes that the immigrant investor will in all likelihood not be interested in and utterly unable to take up permanent residence in Canada within six to twelve months of filing an application for permanent residence. We therefore recommend that business immigrants, after landing, be permitted to be absent from Canada for up to two years without prejudice to their permanent resident status. The goal should be to enable these immigrants to order their affairs in such a way that they can honour their residency requirement to Canada without sacrificing unduly their global business responsibilities. On the other hand, a maximum of six months for processing is important to permit a relatively prompt investment in the eligible Canadian venture. This particular recommendation is referred to elsewhere in your Committee's Report.

Once again, we recognize that other immigrant categories might require similar flexibility.

Your Committee notes that Bill C-86 proposes to eliminate the returning resident permit, currently provided in the Act and Regulations, which helps individuals establish that they have not abandoned Canada. We have serious reservations about this proposal, particularly given our point of reference in this Report as it affects business immigrants.

TASK FORCE RECOMMENDATION 17

Clear existing backlog of business immigration cases before implementing a revised program.

COMMITTEE RESPONSE

Your Committee recommends emphatically that the existing backlog of business immigration cases be cleared forthwith.

Your Committee is gravely concerned that it would take up to one year to begin solving this type of problem. It seems to your Committee that a temporary deployment of resources should be able to be mobilised and any backlog eliminated within one year. The Committee does not view the benign neglect of a backlog until it disappears as an appropriate response to the legitimate needs of immigrant investors and the Canadian businesses in which they invest.

TASK FORCE RECOMMENDATION 18

Ensure that the new processing system will enable the swift allocation of additional resources where unexpected surges in demand may occur, so that backlogs can be avoided in the future.

COMMITTEE RESPONSE

Your Committee particularly endorses this recommendation. The evidence suggested that a majority of investors came from Hong Kong and Taiwan and that a significant increase in demand occurred after June 4, 1989. Given that this processing delay persisted at least to the date of the Task Force Report, it is clear that the visa posts in the Asian region failed to respond to the build-up of the backlog within a reasonable period of time.

TASK FORCE RECOMMENDATION 19

Review the feasibility of establishing international business centres abroad, for the processing of business immigrants.

COMMITTEE RESPONSE

Your Committee accepts without qualification recommendation 19 of the Task Force Report and urges the government to examine immediately the feasibility of setting up these centres to carry out all aspects of processing business immigrants abroad.

TASK FORCE RECOMMENDATION 20

Study the feasibility of extending the validity of an immigration visa from the current nine months to two years.

COMMITTEE RESPONSE

The practicalities of obtaining security and medical clearances make extending the validity of an immigration visa difficult, if not impossible, to implement.

As noted in the discussion relating to recommendation 16, the Committee would prefer that the necessary flexibility be achieved by a generous interpretation of the residency provisions of the Act. The necessity of foreign travel by investors and entrepreneurs should be recognized by immigration officers.

TASK FORCE RECOMMENDATION 21

Review the feasibility of enabling investors to enter on a conditional visa for those applicants who may prefer to select an investment vehicle from within the country.

COMMITTEE RESPONSE

Your Committee rejects this recommendation for a number of reasons. The current regime in the Act and Regulations provides enough flexibility in this area. Sufficient motivation for promotional work abroad, which thus far has been critical to the Program's success, would be adversely affected by the conditional visa. The protection a conditional visa might offer an investor by allowing advance on-site inspection of an investment is available under a visitor visa.

Your Committee is also receptive to the suggestion that immigrant entrepreneurs landed in Canada with conditional visas be given the option of removing those conditions by making an appropriate minimum investment in an eligible business pursuant to the Program.

TASK FORCE RECOMMENDATION 22

The current definition applying to investor immigrants should continue to require a business background, but should also allow senior executives to qualify. Consideration should be given to increasing the \$500,000 threshold applying to net worth to \$1 million.

COMMITTEE RESPONSE

While your Committee views changing business immigration regulations as generally undesirable, it does appear that the definition of the immigrant investor is not entirely satisfactory. Your Committee agrees with the Task Force recommendation that the definition be broadened to include senior executives with demonstrated business experience.

Administrative guidelines in the Immigration Manual do not appear to have been effective. Immigrants who own successful businesses or undertakings should be included whether they are operating, controlling, or directing those businesses at the time of their application for permanent residence or not.

Your Committee is of the view that the net worth requirement of \$500,000 currently contained in the Regulations should be maintained.

TASK FORCE RECOMMENDATION 23

Blind syndicates in their present form should be eliminated.

COMMITTEE RESPONSE

Your Committee rejects the Task Force recommendation that blind or non project-specific syndicates be eliminated. We also note that a very significant portion (around 65% was suggested) of the funds raised under the Program were raised by way of these syndicates. Your Committee is of the view that non project-specific syndicates, when adequately regulated, are an effective means by which small and medium-sized businesses can access immigrant investor funds and, therefore, recommends that they be maintained.

Your Committee recognizes that there are risks associated with these syndicates which require stringent controls and monitoring, including appropriate audit and reporting requirements which must be vigorously enforced. This particular requirement is addressed elsewhere in your Committee's Report, but we do not hold the view that the problem of monitoring such syndicates effectively requires that they be eliminated.

Your Committee does not believe that it is feasible to make each blind syndicate contain specific projects which are the only projects in which the syndicate can invest, but rather suggests that the federal guidelines require that before a blind syndicate can invest in a particular venture, the province in which the venture is located must specifically approve the investment. This will ensure primarily that the investment is of economic benefit, and will likely have the ancillary effect of protecting investors from certain abuses.

Your Committee observes that one of the reasons advanced for permitting such syndicates, namely, their ability to make available to small businesses immigrant investor funds that these businesses would have been unable to access on their own, is not only a valid reason for permitting them, but is also consistent with one of the stated objectives of the Program. The cost of accessing investor funds offshore directly can be prohibitive for small business.

TASK FORCE RECOMMENDATION 24

Syndicate managers should be required to meet eligibility criteria, as determined in consultation with the provinces and their respective securities commissions, before being permitted to participate in the program.

COMMITTEE RESPONSE

The Committee strongly supports this recommendation. Many of the offerings under the Program involve the creation of syndicates run by what are hereafter referred to as fund managers. Your Committee recommends that the provinces where these funds are located register or qualify these fund managers. Fund managers should be required to provide the appropriate federal or provincial authority with audited financial statements and immediate access to records on demand. The feasibility of requiring fidelity bonds should be studied. The feasibility of fund managers being required to contribute to a contingency fund to

compensate immigrant investors who are the victims of dishonest fund managers should also be considered. In this regard, your Committee notes that, in Ontario, securities registrants who deal with the funds of Canadian investors have a similar system.

TASK FORCE RECOMMENDATION 25

The business venture category as now specified in the regulations should remain, and the syndicate structure should also allow for project syndication with direct securitization to individual investors.

COMMITTEE RESPONSE

Your Committee agrees with this recommendation.

TASK FORCE RECOMMENDATION 26

Commercial and hospitality real estate investment should be limited to a level of not more than 33% of the cumulative total offerings on the market at any time, in any given province.

COMMITTEE RESPONSE

Your Committee does not support the recommendation of the Task Force that investment in hospitality ventures or commercial real estate be arbitrarily limited. First, in your Committee's opinion, any limitation on this type of investment, or any other type of investment, is a matter better left to the provinces, as they determine whether the investment is of significant economic benefit. This is subject to an exception in cases where it can be demonstrated that a type of investment distorts the marketplace and that the economic benefit is not significant. Second, the mechanics of the Task Force's recommendation do not work; for example, 33% of all "approved" funds could turn out to be 100% of all "sold" funds.

TASK FORCE RECOMMENDATION 27

The restriction on third party guarantees should be retained and the Commission should seek regulatory authority to impose sanctions on offenders.

COMMITTEE RESPONSE

Your Committee is of the view that third party guarantees should be prohibited, save under Tier III, and that as part of the national minimum standards established by the federal government should be standards which prevent secured loan transactions which are risk free and for all practical purposes "guaranteed". Reduction of risk is not bad *per se*, but the deployment of funds to activities which do not create employment or expand business, but simply provide security for the guarantee, should not be permitted under the Program. Third party guarantees are not available for free. Either security must be put up (suggesting existing domestic borrowing capacity) or a portion of the investors' funds go to purchase secure instruments to enable repayment of principal (rather than to the active business). The economic disparity focus of the Program will fail if a higher tier province offers investments which are entirely risk-free where a lower tier province does not.

Some of the early and general objectives of the Program quoted above referred to "risk capital" and "risk ventures". There is a fundamental tension in the Program with respect to risk. The primary intent of the program is to create economic benefit for Canada. Risk free or near risk free investments could be financed by conventional means and thus there is little incremental economic benefit in them. On the other hand, too much risk will lead to the Program being unmarketable or will result in losses which will lead to the failure of the Program. The balance is a delicate one, which needs careful monitoring by the provinces and the federal government. The Committee recommends that due to the subjectivity of the terms "risk capital" and "risk ventures", the objective of the Program be focused upon employment creation and business expansion rather than risk *per se*. Business persons always try to reduce risks and should not be penalized for doing so, provided that the goals of employment creation and business expansion are not compromised. On this issue, however, your Committee concludes that third party guarantees preclude those goals and should continue to be prohibited (except under Tier III).

The Committee did not have the opportunity of hearing sufficiently from witnesses from Quebec. This was unfortunate as many witnesses from other provinces heavily criticized the Quebec program as effectively permitting guarantees. Without hearing from the Quebec government or Program participants, the Committee does not deem it appropriate to comment except to note that, if the allegations are true, the Program can be skewed and undermined by such guarantees.

TASK FORCE RECOMMENDATION 28

In light of the almost non-existent investments in Tier III offerings which provide for guarantees, this Tier should be eliminated.

COMMITTEE RESPONSE

The Committee does not support this recommendation. Tier III offerings have been permitted since December 1989. There was no suggestion that their existence impaired the effective operation of the Program and therefore your Committee recommends that they be retained on the basis that the Program should strive to offer as many options as possible to the immigrant investor. Retention is also consistent with your Committee's view that changes to the Program should only be made when necessary to improve its operation or to prevent abuse.

TASK FORCE RECOMMENDATION 29

Participation by major financial institutions should be restricted. A limit not exceeding \$35 million should be set on the total assets of fund managers.

COMMITTEE RESPONSE

Your Committee agrees with this recommendation, but wishes to clarify that the restriction of \$35 million relates to the assets of the fund manager and not the assets under the fund manager's administration.

The Task Force observes and your Committee agrees that well-capitalized entities, such as banks and other financial institutions, will generally apply their own risk criteria to prospective investments, perhaps to the prejudice of small businesses which have difficulty obtaining conventional financing. If a business cannot obtain conventional financing, it will not likely obtain financing under the Program if a bank or other financial institution is involved with an offering.

TASK FORCE RECOMMENDATION 30

Government administered venture capital funds should be eliminated.

COMMITTEE RESPONSE

Your Committee received conflicting evidence on the continuation of government administered venture capital funds. The Task Force Report did not give reasons as to why these funds should be eliminated. There is certainly a perception of less risk and greater credibility associated with government administered funds. There was no evidence that any province had deliberately abused its power to issue immigrant investor guidelines for the purpose of giving government administered venture capital funds any unfair advantage.

In light of conflicting evidence, your Committee recommends that government administered funds be permitted so long as the minimum investment is one tier higher than the lowest tier available for other issuers in the province. For example, given a Tier I level of \$250,000, the minimum investment in a government administered fund would be \$350,000. Similarly, a government administered fund in a Tier II province, with a minimum investment requirement of \$350,000, would need an investment of \$500,000.

TASK FORCE RECOMMENDATION 31

Amend the legislation to enable the revocation of visas for investors who knowingly invest in instruments with third party guarantees, or other investments which are in contradiction of federal regulations.

COMMITTEE RESPONSE

Your Committee does not want to amend the Act and Regulations any further to increase the power of Employment and Immigration Canada to revoke investor visas. The Act already provides for penalties if a visa is obtained by fraud. Further, if the investor invests in a fund which contains a guarantee, but has been approved by a province and Employment and Immigration Canada, he or she should not be penalized if the fund is guaranteed. Finally, if a visa can be easily revoked, it will affect the marketability and viability of the Program.

TASK FORCE RECOMMENDATION 32

Pursue negotiations with provincial Securities Commissions to confirm the feasibility of their participation in the Program.

COMMITTEE RESPONSE

Your Committee agrees with this recommendation and further recommends that as long as the provinces satisfy the minimum standards referred to elsewhere, approval and monitoring should be primarily left to the provinces.

Your Committee recommends that before federal approval is given, the province, when forwarding the offering memorandum, should be required to certify that the investment will create or maintain employment or contribute to business expansion.

The act of approving an investment for immigrant investor purposes carries with it some responsibilities for whichever provincial government is involved and the federal government. Your Committee recommends that both the federal and respective provincial governments, after consulting with competent commercial legal advisors, receive the benefit of a commercial contract with the Securities Issuer. This contractual mechanism would impose no

liability on either level of government and would be only executed by the Securities Issuer. This contractual mechanism would supplement the Regulations, permit greater flexibility and would provide for:

1. quarterly financial reporting;
2. the right to enter the premises of the Securities Issuer for the purposes of auditing;
3. the right to take extracts from the books, records and files of the Securities Issuer; and
4. the appointment of a receiver in defined circumstances.

In this regard, it is essential that the Assistant Deputy Minister for the Business Immigration Program have the responsibility for exercising these powers and that provinces participating in the Program similarly designate a responsible person for the exercise of these powers. This will ensure that in all situations there are two officials representing both levels of government each with the power and responsibility to act in appropriate circumstances to protect the legitimate financial interests of the immigrant investor.

Although it is hoped that the changes recommended in this Report will effectively and significantly improve the Program while Securities Commission participation is being pursued, your Committee views provincial participation in the Program as essential and therefore endorses Task Force Recommendation 32.

TASK FORCE RECOMMENDATION 33

Amend the Immigration Act and Regulations to provide strong enforcement and monitoring powers to ensure program compliance. Amendments should include provision for the following powers:

- **allow recourse to injunction to prevent applicants significantly altering the nature or substance of an approved investment vehicle;**
- **enable recourse to the Courts for specific performance to enforce the terms of undertakings;**
- **provide the legal means to investigate and access information otherwise unobtainable, including powers of search and seizure;**
- **impose a stiff fine of up to \$100,000 for misrepresentation and non-compliance with program requirements;**
- **enable the right to require periodic reporting from program participants, including fund operators, promoters, agents and any other party to transactions governed by the Program;**

- where appropriate, authority to seek from the Court the power to wind-down an investment project which would otherwise result in irreparable harm to the investors or any other affected party.

COMMITTEE RESPONSE

Your Committee endorses this recommendation with one exception. The maximum fine for misrepresentation and non-compliance with Program requirements should be \$500,000 and provide for imprisonment in certain circumstances, consistent with the proposals in Bill C-86.

TASK FORCE RECOMMENDATION 34

Stipulate through Regulations the specific terms upon which the Minister will approve an offering memorandum, including the types of investments to be made, the timing for such investments, the sectors in which investments are to be excluded, and any other corporate and investor matters deemed necessary.

COMMITTEE RESPONSE

Your Committee rejects this recommendation. Employment and Immigration Canada should not be involved sectorally or with respect to timing or other corporate-investor matters, but rather leave the specifics such as these to the provinces. Your Committee views the federal government's role with respect to the nature and type of investments as one which protects the economic development potential of the program by ensuring that all provinces compete on a level playing field. It was very clear from virtually all of the witnesses who appeared before your Committee that inter-provincial competition has the potential to seriously frustrate the second stated objective of the Program, namely, the attraction of investment that will be of economic benefit to the province. The provinces can compete with each other by offering more and more secure investments to the immigrant investor. At the same time, the definition of investor in the Regulations assumes that the investor is sophisticated and able to calculate risk and make intelligent and sophisticated business decisions. It is essential that the Program operate on a level playing field and that all provinces agree to adhere to national minimum standards to ensure that the investment which is attracted is of real economic benefit.

Your Committee's support for active and vigorous enforcement does not carry with it the recommendation that the federal government intrude into the nature and merits of a particular investment due to the fact that the immigrant investor is, by definition, an experienced business person who can assess the merits of an investment and that a province has previously determined that the nature of the investment is of significant economic benefit.

Rather than attempting to analyze the merits of a proposed transaction, the provincial and federal government representatives should ask themselves whether the proposed investment will create or maintain employment or contribute to business expansion. Depending on the answer the offering memorandum should be approved or rejected.

CONCLUSION

The Program represents an innovative attempt by Employment and Immigration Canada to foster economic development through an immigration program.

The Program represents an enormous economic development opportunity for Canada. Rather than abandoning or stifling the opportunity due to difficulties in its realization, there is an obligation to address the problems and improve the Program for the economic benefit of Canada.

APPENDIX A

SUMMARY OF COMMITTEE RECOMMENDATIONS

The Immigrant Investor Program represents an innovative attempt by Employment and Immigration Canada to foster economic development through an immigration program.

The Program represents an enormous economic development opportunity for Canada. Rather than abandoning or stifling the opportunity due to difficulties in its realization, there is an obligation to address the problems and improve the Program for the economic benefit of Canada.

To that end the Committee recommends the following:

Organizational Options

Your Committee recommends the creation of a branch within the Department of Employment and Immigration to manage, administer, monitor and enforce the Business Immigration Program. The branch would be headed by an Assistant Deputy Minister with qualifications at a public service level of EX3 or EX4. Beneath the head would be a full-time Director General heading the Immigrant Investor Program and a full-time Director General to head the Entrepreneur and Self-Employed Programs. The former should have the qualifications of a public service level of EX2 or EX3 and the latter of an EX1. This branch would be staffed with highly-qualified personnel and provided with sufficient resources to deliver the Business Immigration Program effectively and efficiently. The proposed Business Immigration Branch, and particularly the Immigrant Investor Program, could be structured and administered in a manner so as to recover effectively all operating costs through appropriate fees.

Economic Disparity

Your Committee recommends a return to tier levels of \$150,000 and \$250,000 because, at these levels, the Program functioned well. In future, your Committee advises that Employment and Immigration Canada consider giving public notice well in advance (i.e. at least one year) of future regulatory changes. Your Committee notes that the \$100,000 differential that has existed since January 1990 has resulted in a relatively equal distribution of investment between the tier levels. Your Committee sees no reason to widen the differential.

Your Committee believes it unnecessary to change the current method of determining a provinces tier level. While the Committee accepts the view of the Task Force that there are regions of disparity within a province, in the interest of stability and certainty your Committee recommends that the present provincial configuration of tier membership be maintained. Your Committee recommends that a strong provincial presence for the Program, in partnership with economic agencies, be established. This partnership could provide useful information, data and intelligence and private sector individuals who can broaden the scope of knowledge for investment opportunities. Moreover, your Committee recommends that provinces, together with federal agencies, explore the feasibility of leveraging expertise, financial analysis and matching funds via vehicles such as memoranda of understanding.

The newly organized branch and the provinces should establish a formal structure to promote a closer relationship with investors who choose to invest in regions of economic disparity in order to encourage their continued interest in the region. As well, so long as provinces satisfy the minimum standards referred to in the Report, approval and monitoring should be primarily left to the provinces.

The Immigration Process

With respect to processing times for business immigrants, your Committee feels that all three categories of business immigrant should be kept in one stream and processing time should be decreased to six months. This will ensure the prompt availability of funds to the Canadian securities issuers.

The projection of the number of immigrant investors to be processed should pertain to all business immigrants and should be publicized in the Minister's annual report on immigration levels tabled in Parliament each year. In addition to this, your Committee recommends that the Minister table an annual report to Parliament specifically relating to business immigration. This would enable Parliament to monitor the Program and would increase awareness of the Program both inside and outside government. In addition, we recommend that an inter-departmental committee should be established comprised of departments or agencies with mandates in the area of economic development for the purpose of maximizing the opportunities under the Program.

The level of investor immigrants should not be numerically limited, given the current low levels within this category. Further, the government should recover as fully as possible the cost of processing immigrant investors.

Sadly, your Committee heard considerable evidence that the treatment of immigrant investor applicants was entirely inconsistent with the way that a Canadian would expect to be treated by his or her government. Your Committee endorses Task Force Recommendations 14 and 15, that is, to design specific qualifications for the selection of interviewing officers in the business immigration stream and to institute a training and development program for visa officers, with an emphasis on investment analysis and an understanding of the current business climate in the Canadian economy.

Your Committee recommends that business immigrants be permitted to be absent from Canada for up to two years without prejudice to their permanent resident status. The goal should be to enable these immigrants to order their affairs in such a way that they can honour their residency requirement to Canada without sacrificing unduly their global business responsibilities.

With respect to the backlog of business immigrants, it seems to your Committee that a temporary deployment of resources should be mobilized so as to eliminate the backlog within one year. The Committee does not view the benign neglect of a backlog until it disappears as an appropriate response to the legitimate needs of immigrant investors and the Canadian businesses in which they invest.

Your Committee particularly endorses Recommendation 18 in the Task Force Report, that is, to ensure that the new processing system enables the swift allocation of additional resources where unexpected surges in demand may occur, so that backlogs can be avoided in the future.

Your Committee urges the government to examine immediately the feasibility of setting up centres to carry out all aspects of processing business immigrants outside Canada.

The practicalities of obtaining security and medical clearances make extending the validity of an immigration visa from nine months to two years difficult, if not impossible, to implement.

Your Committee feels that motivation for promotional work abroad, which has thus far been critical to the Program's success, would be adversely affected by a conditional visa enabling investors to select an investment vehicle from within Canada.

Your Committee agrees with the Task Force recommendation that the definition of investor be broadened to include senior executives with demonstrated business experience. Moreover, applicants who own successful businesses or undertakings should be included whether they are operating, controlling or directing those businesses at the time of their application for permanent residence or not. Your Committee is of the view that the net worth requirement of \$500,000 currently contained in the Regulations should be maintained.

The Investment Process

Your Committee is of the view that blind syndicates, when adequately regulated, are an effective means by which small and medium-sized businesses can access immigrant investor funds and therefore recommends that they be maintained. Your Committee recognizes that there are risks associated with these syndicates; consequently, they require stringent controls and monitoring, including appropriate audit and reporting requirements which must be vigorously enforced.

Your Committee recommends that provinces where funds are located register or qualify fund managers. Fund managers should be required to provide federal or provincial authorities with audited financial statements and immediate access to records on demand.

The feasibility of requiring fidelity bonds should be studied as should the possibility of requiring fund managers to contribute to a contingency fund to compensate in some way immigrant investors who are the victims of dishonest fund managers.

Your Committee does not support the recommendation of the Task Force that investments in hospitality ventures or commercial real estate be arbitrarily limited.

Your Committee is of the view that third party guarantees should be prohibited, save under Tier III, and that as part of the national minimum standards to be enforced by the federal government should be standards which prevent secured loan transactions which are risk free and for all practical purposes "guaranteed."

Tier III offerings have been permitted since December 1989. As there was no suggestion that their existence impaired the effective operation of the Program, your Committee recommends that they be retained on the basis that the Program should strive to offer as many options as possible to the immigrant investor.

The Committee agrees with the Task Force recommendation that participation by major financial institutions should be restricted by imposing a limit of \$35 million on the total assets of fund managers.

Your Committee recommends that government administered funds be permitted so long as the minimum investment is one tier higher than the lowest tier available for other issuers in the province.

Enforcement

Your Committee does not want to amend the Act and Regulations any further to increase the power of Employment and Immigration Canada to revoke investor visas. The Act already provides for penalties if a visa is obtained by fraud. Moreover, if the investor invests in a provincially approved fund, he or she should not be penalized if the fund is guaranteed. Your Committee feels that if a visa can be easily revoked, it will affect the viability of the Program.

Your Committee views greater provincial participation in the Program as essential and endorses the Task Force Recommendation 32, that is, to pursue negotiations with provincial securities commissions to confirm the feasibility of their participation in the Program. Your Committee also recommends that the federal and respective provincial governments receive the benefit of a commercial contract with the party seeking to raise and receive immigrant investor funds. This contractual mechanism would supplement the Regulations and provide for quarterly financial reporting; the right to enter the premises of the securities issuer for the purposes of auditing; the right to take extracts from the books, records and files of the securities issuer; and the appointment of a receiver in defined circumstances. Both levels of government should be responsible for exercising these powers.

With one exception, your Committee endorses Task Force Recommendation 33, that is, to amend the *Immigration Act* and Regulations to provide strong enforcement and monitoring powers to ensure Program compliance. Your Committee believes that the maximum fine for misrepresentation and non-compliance with the Program requirements should be \$500,000 rather than the \$100,000 recommended by the Task Force.

Your Committee's support for active and vigorous enforcement does not carry with it the recommendation that the federal government intrude into the nature and merits of a particular investment. The immigrant investor is an experienced business person who can assess the merits of an investment that a province has previously determined to be of significant economic benefit. Your Committee views the federal government's role as one which protects the economic development potential of the Program by ensuring that all provinces compete on a level playing field.

Rather than attempting to analyze the merits of a proposed transaction, provincial and federal government representatives should determine whether the proposed investment will create or maintain employment or contribute to business expansion. Depending on the answer, the offering memorandum should be approved or rejected.

Associate Lawyer
Canadian Bar Association
Howard Greenberg
CBA (Ontario) Vice-Chair
Carter Hopps
CBA Vice-Chair
Ken Zaitman
CBA (Western Canada) Vice-Chair

Canadian Bar Association (Ontario)
Stephen Green
CBA (Ontario)
Business Immigration Committee
Iqbal Dewji
CBA (Ontario) Vice-Chair
Bill Wong
CBA (Ontario)
Business Immigration Committee

Canadian Maple Leaf Group
Steven Fink
Chairman
Douglas A. Horne
Vice-President
Corporate Relations

APPENDIX B

LIST OF WITNESSES

Organizations and Individuals	Issue	Date
Atlantic Canada Chinese Business Council, Inc. Zoue Lam President	16	Tuesday, June 9, 1992
Baker Stewart Roper Barristers and Solicitors Christopher J. Roper Partner David Lesperance Associate lawyer	16	Tuesday, June 9, 1992
Canadian Bar Association Howard Greenberg CBA (Ontario) Vice-Chair Carter Hoppe CBA Vice-Chair Ken Zaifman CBA (Western Canada) Vice-Chair	15	Tuesday, June 9, 1992
Canadian Bar Association (Ontario) Stephen Green CBA (Ontario) Business Immigration Committee Iqbal Dewji CBA (Ontario) Vice-Chair Bill Wong CBA (Ontario) Business Immigration Committee	15	Tuesday, June 9, 1992
Canadian Maple Leaf Group Steven Funk Chairman Douglas A. Horne Vice-President Corporate Relations	17	Wednesday, June 10, 1992

Organizations and Individuals	Issue	Date
Citizen's Choice Corporation Patrick Shanahan Ernie Shanahan Garnett Palmer	17	Wednesday, June 10, 1992
City of Calgary Bill Walton Director International Relations Calgary Economic Development Authority	18	Thursday, June 11, 1992
Clark Consultants International Colin Clark Managing Director	18	Thursday, June 11, 1992
Coopers and Lybrand Consulting Group J. Camille Gallant	17	Wednesday, June 10, 1992
Department of Employment and Immigration Peter Harder Associate Deputy Minister Immigration	18	Thursday, June 11, 1992
Brian Davis Director Immigration Coordination Division	18, 19	Thursday, June 11, 1992 Tuesday, June 16, 1992
André Juneau Executive Director Immigration Policy	18	Thursday, June 11, 1992
Laura Chapman Director General Policy and Program Development	18	Thursday, June 11, 1992
Chris Taylor Director Immigrant and Visitor Program	18, 19	Thursday, June 11, 1992 Tuesday, June 16, 1992
Millie Morton Director Immigration Policy	19	Tuesday, June 16, 1992
Dyne Holdings Ltd. M.H. Arnold President	16	Tuesday, June 9, 1992

Organizations and Individuals	Issue	Date
Government of Ontario Ministry of Industry, Trade and Technology Claudette MacKay-Lassonde Assistant Deputy Minister Trade and International Relations Division Chantal G. Ramsay Manager Business Immigration Rudy Hakala Secretary, Ontario Business Immigration (Investor Program) Committee	17	Wednesday, June 10, 1992
Government of Saskatchewan Department of Economic Development Bob Perrin Manager Business Immigration Program Elaine Burnett Program Manager Business Immigration Program	17	Wednesday, June 10, 1992
Green and Spiegel Barristers and Solicitors Mendel Green	15	Tuesday, June 9, 1992
Lakeview Development of Canada Keith Levit Vice-President Jack McJannet Legal Counsel	18	Thursday, June 11, 1992
Ministerial Task Force on the Immigrant Investor Program Louis Ferguson Director Nicole Chénier-Cullen Member Michael MacDonald Member Lionel Bonnell Member	14	Monday, June 8, 1992
Overseas Investment Consultants Jim Humphries	17	Wednesday, June 10, 1992

Organizations and Individuals	Issue	Date
P.W. Lorch and Associates Wayne Lorch President	18	Thursday, June 11, 1992
President Canada Syndicates Inc. Jack A. Lee President	16	Tuesday, June 9, 1992
Royal Trust Guy Racine Managing Partner and Manager Immigrant Investors Services	15	Tuesday, June 9, 1992
Saskatchewan Government Growth Fund Garry Benson President	18	Thursday, June 11, 1992
Taiwan Entrepreneurs and Investors Association in B.C. Jason Lee	15	Tuesday, June 9, 1992
United Rayore Gas Ltd. Robert L. Bell President	18	Thursday, June 11, 1992

WRITTEN SUBMISSIONS RECEIVED

Beacon Group of Companies

Canada Laurier Holdings Limited

Denro Holdings Ltd./Denro Fund Management Ltd.

First Canadian Capital Corporation

Pearl Group of Companies

Preview Business Network Inc.

Province of Manitoba

Province of New Brunswick

REQUEST FOR GOVERNMENT RESPONSE

Your Committee requests that the Government table a comprehensive response to this Report within 150 days of its tabling, in accordance with the provision of Standing Order 109.

A copy of the relevant Minutes of Proceedings and Evidence (*Issues Nos. 14 to 21 which includes this report*) is tabled.

Respectfully submitted,

ROBERT WENMAN, M.P.

Chairman

REQUEST FOR GOVERNMENT RESPONSE

Your Committee requests that the Government table a comprehensive response to this Report within 150 days of its tabling, in accordance with the provision of Standing Order 109.

A copy of the relevant Minutes of Proceedings and Evidence (Issues Nos. 14 to 21 which includes this report) is tabled.

Respectfully submitted,

ROBERT WHIMAN, M.P.

Chairman

