



Eddie

attached are two copies (for you  
+ for Gérard) of four questions  
which might be raised in P+P  
on "federal implications" of a  
strengthened 121.

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CONFIDENTIAL

July 2, 1980

Applications of Proposed  
21 for Federal Powers  
Practices

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*we must remove a  
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elements of the regional purchasing provisions  
of DSS, which are designed to identify and  
develop the capability of suppliers in high  
unemployment regions. (However, the general  
policy of decentralizing a portion of DSS  
purchasing to regional operations would not  
likely be affected).

- certain forms of hiring preference provisions  
in manpower and employment activities. The  
intent of the manpower mobility provision will  
be to leave room for affirmative action and local  
hiring, but regulations or practices which  
discriminate at the provincial or territorial  
level would be unconstitutional.

DRAFT

CONFIDENTIAL

July 2, 1980

Questions Concerning Implications of Proposed  
Revisions to Section 121 for Federal Powers  
and Practices

(General)

1. Q. Would current federal activities be constrained significantly by the proposed revision to section 121?

A. There are a variety of federal policies and practices which provide for regional differentiation, usually designed to influence economic decisions or to provide economic support. However, as the bulk of these do not involve discrimination in access to these benefits, they do not appear to be directly affected by the specific anti-discrimination provisions proposed. Possible exceptions to this might be:

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elements of the regional purchasing provisions of DSS, which are designed to identify and develop the capability of suppliers in high unemployment regions. (However, the general policy of decentralizing a portion of DSS purchasing to regional operations would not likely be affected).

- certain forms of hiring preference provisions in manpower and employment activities. The intent of the manpower mobility provision will be to leave room for affirmative action and local hiring, but regulations or practices which discriminate at the provincial or territorial level would be unconstitutional.

2. Q. As proposed, only three specific provisions of section 121 would apply to the federal government (manpower mobility, taxation at provincial borders and procurement). Why should the federal government be bound by the other provisions, dealing with commodities, financial assets, enterprise and subsidies?
- A. The intent of proceeding on a selective basis is to avoid, with careful drafting, the need for derogations applying to the federal government. If coverage were extended to the other categories, it would be necessary to include a broad derogation, to provide latitude for action in the national interest (including, but not limited to, regional development). It could be difficult to reach agreement with provinces concerning the terms of such a derogation and the mechanism to be used to bring it into play.

*This should be sent  
for Barbara Peet for  
Comments*



Nevertheless, this alternative approach (general coverage with broad derogation) has merits as well. It could be seen as treating the two levels of government in a more equitable manner while underlining, by means of the derogation, the importance of having the federal government retain the capacity to act decisively in the national interest. This kind of derogation could be available to provincial governments as well, with the use by either level of government being subject to concurrence by Parliament.

Although the selective approach is advanced in the preliminary proposals, it would be reasonable to pursue the other course if provinces were to indicate a willingness to agree to satisfactory derogation arrangements.

(Specific)

3. Q. Who would be covered by the personal mobility provision?

A. Citizens and landed immigrants, but not persons classified as visitors under the immigration legislation.

4. Q. Would DREE grants be disqualified by the proposed revisions?

A. No. As long as DREE grants are available to Canadian investors residing anywhere in the country who wish to establish, expand or modernize industrial operations in designated regions (as they are currently), they are not considered to be discriminatory.

- elements of the regional purchasing provisions of PSE, which are designed to identify and develop the capability of suppliers in high unemployment regions. (However, the general policy of decentralizing a portion of PSE purchasing to regional operations would not likely be affected).

- certain forms of hiring preference provisions in manpower and employment activities. The intent of the manpower mobility provision will be to leave room for affirmative action and local hiring, but regulations of practices which discriminate at the provincial or municipal level would be unacceptable.

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(General)

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- elements of the regional purchasing provisions of DSS, which are designed to identify and develop the capability of suppliers in high unemployment regions. (However, the general policy of decentralizing a portion of DSS purchasing to regional operations would not likely be affected).
- certain forms of hiring preference provisions in manpower and employment activities. The intent of the manpower mobility provision will be to leave room for affirmative action and local hiring, but regulations or practices which discriminate at the provincial or territorial level would be unconstitutional.

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2. Q. As proposed, only three specific provisions of section 121 would apply to the federal government (manpower mobility, taxation at provincial borders and procurement). Why should the federal government <sup>not</sup> be bound by the other provisions, dealing with commodities, financial assets, enterprise and subsidies?
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