

Standing Committee on Foreign Affairs and International Trade

Hearings on Consular Program in Global Affairs Canada

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Consular Services Fee: Key Issues, Data, and Dates

History of the CSF

1. The Consular Services Fee (CSF) was introduced in the Federal Budget in 1995 as a cost recovery initiative in the Department of Foreign Affairs and International Trade (DFAIT). The Fee was set at \$25/adult passport based on a calculation which produced revenues approximating the annual budget for the DFAIT consular program.

2. The fee has remained in place without any change since 1995. Over more than 20 years the CSF has generated \$1.535 billion dollars. Over the same period, DFAIT consular expenditures amounted to \$1.145 billion. The net surplus of revenue over expenditures was \$390 million (see attached chart based on DFAIT Departmental Performance Reports.)

User Fee Management Practices in Government

3. After widespread introduction of 'user fees' across government in 1995, public criticism of how user fees were defined and implemented was addressed by Parliament. In 2004, the User Fee Act (UFA) was passed

with almost unanimous support. The UFA obliged departments to follow specific steps and accounting standards in setting, revising and managing user fees. The Act also confirmed the principle that service fees which over time were found to exceed reasonable program costs were subject to refunds.

4. In the first 10 years of the CSF, consular revenues and expenditures tracked quite closely. Between FY1996-97 and 2005-06, CSF revenues amounted to \$479.4 million while expenditures ran to \$520.4 million. The shortfall was not considered problematic as it was recognized that costs and revenues would fluctuate year to year. There was also the understanding that a user fee was not intended to cover the entire cost of a government program. Rather a user fee was expected to reflect a fair balance between what an individual should pay for a particular government service vs what the general taxpayer should bear to sustain a network serving all citizens. The Office of the Auditor General (OAG) looks for such considerations in assessing departmental practices relating to user fees.

Impact of U.S. Border Policies on CSF Revenues

5. CSF revenues began to outpace consular program expenditures beginning in 2006 due to policy decisions by our neighbour to the south. The United States implemented the Western Hemisphere Travel Initiative (WHTI) which required all visitors, including Canadians, to carry a valid passport. As a consequence, passport demand in Canada exploded. In the decade FY2006-07 to 2016-17, annual CSF revenues essentially doubled while consular program expenditures remained largely steady.

OAG Study of DFAIT Management of CSF

6. In 2008, the OAG examined user fee programs in several departments, including DFAIT. OAG found several problems with DFAIT management practices, including in tracking revenues, attributing costs to other departments, and miscalculating deficits vs surpluses. DFAIT pledged to improve its user fee regime in future years. Although a number of actions were taken, it is important to note that, in appearing before the Senate Foreign Affairs Committee in 2012, OAG officials reported that they had not

done any followup review of DFAIT practices in CSF management since 2008.

Changes in DFAIT Reporting of Consular and CSF after 2008

7. DFAIT uses the main body of its annual Departmental Performance Report to describe prominent developments in the consular program over the previous year. This section offers descriptive narrative and data on expenditures for the consular financial budget and HR resources. Curiously the CSF does not figure in consular program reporting in the main report. Rather CSF data is relegated to Supplementary Financial Information in DPR appendices. Separating the CSF from program reporting makes it quite difficult to compare consular revenue and expenditures. This disconnect hardly seems in keeping with departmental pledges to be more transparent and accountable in its CSF and program reporting.

8. A subtle but apparently significant change in DFAIT consular reporting did appear in the DPR for 2008-09. DFAIT added a new column next to the CSF data called "Full Cost". This column appears in all DPRs issued after 2008. The figures offered under this rubric all cite amounts greater than CSF revenues. Moreover, "Full Cost" figures represented much more than what DFAIT reported spending on the consular program. DFAIT does not explain how the "Full Cost" figures were calculated. The point seems to be that there were unidentified factors and costs related to the consular program but what they were was left to the reader's imagination.

9. Despite suggesting cryptically that there were huge disparities in costs and revenues for the consular program, DFAIT made no effort to make a case to Parliament that (a) the obvious surplus in CSF revenues vs annual program expenditures was not what it seemed; (b) "Full Cost" accounting would demonstrate that the surplus concealed a significant deficit; and (c) the manner in which consular user fees have been calculated since 1995 was badly out of date. But, other than offering these "Full Cost" signals, DFAIT has been silent.

New 10 Year Passport Brings More Problems

10. In 2010-12, Passport Canada undertook public and interdepartmental consultations on introduction of a 10-year validity passport. DFAIT declined to participate in public consultations and advised Passport Canada not to include the CSF on its list of consultation topics. DFAIT was not prepared to discuss the substance of the CSF (what one gets from paying the fee) or the fee structure, including whether the fee would have to rise to cover consular services over a longer period. In 2012, the Senate Foreign Affairs Committee invited DFAIT officials to speak to the issue of a 10 year passport but the testimony did not shed any light on DFAIT's thinking beyond assurances that senior officials were looking at various options for dealing with the challenges ahead.

11. The 10 year passport was introduced in 2013. Uptake to date has been running at approximately 80%: more Canadians are opting for the longer duration passport than the traditional 5-year passport. With DFAIT remaining passive with respect to what logically should have been a doubling of the CSF for a passport with twice the validity, there is now a looming revenue crisis for CSF revenues beginning in 2018-19.

DPR CSF Reporting in Wake of 10-year Passports

12. In looking at DFAIT forecasts for the CSF, one might keep in mind how much DFAIT is spending on the consular program. The average annual program expenditures for consular in DFAIT for the past five years have been quite constant at about \$49.54 million.

13. In the 2016-17 DPR, DFAIT has offered the following forecasts:

Fiscal year	CSF Revenues	"Full Cost"
2017-18	\$105.5 million	\$133.1 million
2018-19	\$56.0 million	\$134.9 million
2019-20	\$28.1 million	\$136.8 million

Why No Effort to Address Problems with CSF Funding Regime?

14. It is an open question as to why DFAIT has not acted despite the many troubling signs with funding for the CSF - at least beginning with the trend toward major surpluses since 2006-7. Ominous hints at huge discrepancies between reported spending and "full costs" have created more confusion than clarity. And the 10 year passport situation has simply compounded the problems DFAIT is facing.

15. The explanation may simply lie in reluctance to do the work which was required under the User Fee Act. Treasury Board (TB) officials have been cited in the media bemoaning widespread bureaucratic reluctance to follow the strictures and processes imposed by the UFA. TB representatives have said that public servants considered the accountability, transparency and public consultation obligations too onerous. These reports leave unspoken the fact that the Department of Finance and TB officials have themselves failed to enforce UFA principles and requirements while discharging their oversight responsibilities across departments.

16. It would seem that waiting and doing nothing to revise the CFA has proven an effective bureaucratic strategy for DFAIT. The recent repeal of the UFA and replacement with the Services Fees Act (SFA) in 2017 now offers a far less rigorous process for change than what DFAIT faced with the UFA. With the balance of discretion to set and manage fees put back securely in the hands of the bureaucracy and less deference shown to user input, the CSF is likely to be among the first user/service fee regimes to receive the new and untested process under the SFA.

Timeliness of SCFAIT Review of Consular Program

17. The Committee's decision to review the consular program could not come at a more timely moment. The funding regime for the program is facing major challenges and is long overdue for examination. Many substantive policy issues have been raised by previous witnesses before you and more are likely to emerge as Committee hearings proceed. Tackling those policy issues will in large part be determined by how the program is funded. Program finances will steer decisions as to who reports to Parliament for this program, what principles govern the activities and

goals of the program, and how the program can build and maintain public trust and confidence in how this public service is managed. Hundreds of millions of dollars are at stake and, as we have seen with consular emergencies occurring with alarming frequency around the world, the interests of the Canadian public depend on how well the consular service does its job.

Consular, Parliament and the Crown Prerogative

18. The Committee has heard in earlier testimony that DFAIT carries out the consular program under the Crown Prerogative. Several witnesses have expressed concern with the suggestion that the prerogative gives the executive the widest possible discretion in managing the program.

19. It is important for the Committee to note that (a) several court cases and judicial inquiries have recognized numerous limits and indeed have imposed obligations on the government notwithstanding the asserted prerogative; (b) natural justice requires that a monopoly service provider, government in this instance, cannot declare service fees and then blithely decide what the service is, how much it costs, who gets it and when it begins and ends; and (c) no government activity, whether or not rooted in a claim of crown prerogative, is exempt from the fundamental obligations of how to spend taxpayer monies: transparency, evidence-based policies, and full accountability.

20. Finally, the most important point to recognize with respect to assertions of the power of the prerogative is the simplest: a prerogative under the Constitution exists only for as long as Parliament allows it to.

Recommendations

21. In reviewing the consular program and a new funding model, SCFAIT should insist on:

- * transparency in calculating the costs of the consular program;
- * robust procedures to solicit and accommodate user interests;

- * accountability commitments which reflect the contractual principles implicit with a payment-for-service relationship between service provider and client;
- * policies which are geared to client needs and are based on analysis of trends, data, and other objective evidence and studies, all to be made available to the public;
- * public complaint procedures to hear objections concerns and recommendations to improve consular services;
- * recruitment and training programs to ensure consular personnel have the required skills, dedication and empathy to assist Canadians in distress abroad and their families back home;
- * regular and open review procedures for any new funding model to avoid problems such as have arisen with the current funding model;
- * program funding that limits inclusion of costs related to corporate overhead, administration, and all other such 'back-office' costs;
- * a single Minister who leads in reporting to Parliament for all activities under the consular program;
- * consideration of Special Operating Agency status for the consular function to achieve 'whole-of-government' coherence and clear cost reporting;
- * regular (semi-annual) appearances by the Minister and senior officials before the Committee for updates on activities, priorities and achievements; and
- * recognition that SCFAIT will maintain ongoing oversight of the program, including through its own enquiries with the public, academic community, NGOs, and foreign parliamentary bodies with similar oversight responsibilities for national consular services

Appendix

Consular Financial Data from DFAIT Departmental Performance Reports 1996 - 2017

FY	Program Expenditures	CFS Revenues	Full Cost
1996-97	\$41.1 million	\$35.2 million	-----
1997-98	\$41.6 million	\$38.8 million	-----
1998-99	\$45.6 million	\$40.6 million	-----
1999-2000	\$46.0 million	\$44.0 million	-----
2000-01	\$49.1 million	\$48.1 million	-----
2001-02	\$51.6 million	\$48.7 million	-----
2002-03	\$58.9 million	\$47.6 million	-----
2003-04	\$59.1 million	\$53.5 million	-----
2004-05*	\$78.6 million	\$58.0 million	-----
2005-06	\$48.8 million	\$64.9 million	-----
2006-07*	\$107.9 million	\$76.2 million	-----
2007-08	\$49.0 million	\$96.3 million	-----
2008-09	\$49.9 million	\$89.2 million	\$76.6 million
2009-10	\$55.4 million	\$97.6 million	\$92.9 million
2010-11	\$54.8 million	\$88.8 million	\$94.0 million
2011-12	\$60.6 million	\$97.5 million	\$95.6 million
2012-13	\$54.5 million	\$104.7 million	\$98.3 million
2013-14	\$46.6 million	\$100.8 million	\$?
2014-15	\$49.5 million	\$104.2 million	\$124 million

2015-16	\$48.4 million	\$96.3 million	\$137 million
2016-17	\$48.7 million	\$104 million	\$131 million

* Notes

2004-05 covered period of Canadian response to Asian Tsunami Disaster

2006-07 covered period of the Evacuation Canadians from Lebanon