

**Canada's Seasonal Agricultural Worker Program
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**Session III: Bilateral Approaches to Managing the Movement and Temporary Stay of
Workers**

**Managing The Movement of People: What can be Learned from Mode 4 of the
GATS?**

IOM-WTO-World Bank Seminar on Managing Trade and Migration

October 4-5, 2004

While Canada has fairly liberal policies for the entry of professionals to work on a temporary basis, the ability of employers to engage low skilled foreign workers on a temporary basis is more tightly controlled. The seasonal agricultural worker program is one example of bilateral agreements to facilitate the organized entry of foreign workers to meet specific skill shortages.

What is the Seasonal Agricultural Workers Program (SAWP)?

The SAWP allows for the **organized** movement of foreign workers to meet the temporary **seasonal** needs of Canadian agricultural producers during peak harvesting and planting periods when there are traditionally shortages of qualified Canadian workers.

The program operates in the context of a national labour market policy which ensures, to every possible extent, that job opportunities are protected for Canadians. Employment opportunities should be made available to qualified and reliable Canadian citizens and permanent residents before recourse is made to this program by employers (this is known as the "Canadians first" policy).

The key to this program are the seasonal nature of employment and the organized entry of foreign workers.

The program was first implemented in 1966 following negotiations between Canada and Jamaica. Trinidad-Tobago and Barbados became participants in 1967, and in 1974 an agreement was signed with Mexico. In 1976 the program was extended to include the Organization of East Caribbean States. In other words, the program is a series of bilateral agreements which operate under the umbrella or framework of the SAWP.

The flow of workers has increased over the past 20 years from just under 6000 workers in 1980 to 18,700 in 2003. Of these roughly 10,000 are from Mexico and 8,000 from Caribbean countries. Within Canada workers are destined mainly to Ontario and Quebec, although the program also operates in Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia and Prince Edward Island. Earlier this year an agreement was reached with the Province of British Columbia to extend the program to that province to allow them to hire seasonal agricultural workers from Mexico.

Thus the program is a partnership managed by Human Resources and Skills Development Canada (the federal employment/labour ministry) Citizenship and Immigration Canada, Provincial governments, signatory foreign governments, and employers in Canada.

How is it Managed?

The program is a partnership, with several players. As it has evolved over time, a number of changes have occurred. In Ontario and Quebec, for example, industry representatives have organized to form the Foreign Agricultural Resource Management Services (FARMS) in Ontario, and in Quebec, the Foundation des Entreprises de Recrutement de Main-d'Oeuvre Agricole Etrangere (FERME). In Ontario, FARMS is a private sector, non-profit federally incorporated organization. It assists in processing requests for seasonal agricultural workers and communicating these to the governments of the supplying countries. FARMS collects a user fee to cover the cost of its administrative services.

Using the Ontario program as an example, the partners involved include: the employers and FARMS, the federal employment ministry through its local and regional offices, Citizenship and Immigration Canada through its offices outside Canada, the liaison or consular officer in

Canada, from the sending country and the designated travel agency which arranges for the transportation of the workers to and from Canada.

At a very high level, the process and responsibilities are the following:

- The local employment office:
 - approves the offer of employment to foreign workers;
 - transmits the orders to FARMS;
 - obtains employer signatures on employment contracts;
 - transmits the employer/employee contracts to the liaison office of the foreign government.
- The regional employment office:
 - develops policy and operational guidelines;
 - maintains continuous liaison with senior Mexican and Caribbean governments officials;
 - liaises with immigration officials.
- The industry representative (in the case of Ontario, FARMS):
 - manages the administration of the program;
 - notifies government consular/liaison services of employers requests for workers;
 - communicates with the appropriate Canadian embassy or High Commission regarding these requests;
 - provides agricultural and government agencies with updates as required;
 - facilitates the movement of work orders through effective communications;
 - checks the period of employment and total entitlement of workers.
- The consular or liaison services of the foreign government;
 - recruits workers in conjunction with their Ministry of Labour;
 - coordinates movement of workers with the travel agent;
 - audits pay, attends labour problems on site as required; and
 - works in conjunction with foreign labour, foreign interior and health ministries.
- The Canadian Embassy or High Commission in the sending country:

- prepares the necessary employment authorizations and visas for approved requests, received from FARMS; and
- reviews workers' medical examinations.
- The specified travel agency:
 - books seats, coordinates movements of workers from the airport to the farm or pick-up point, meets workers arriving and leaving the airport as required; and
 - advises liaison and consular services (of the sending country, in Canada) of confirmed flights.

The Employment Contract

The Employer must sign a contract which specifies the roles and responsibilities and terms and conditions of employment. The employment agreement is signed by each employer, worker and the (foreign) government agent.

The agreement specifies: the period of employment and hours of work – typically not less than 240 hours for a period of 6 weeks or less and no more than 8 months within the peak demand time frames identified for the approved commodity sectors. The agreement stipulates the obligations of each party with respect to the provision of free (municipally/provincially inspected) seasonal housing; transportation costs and subsidies; working conditions; wages, meals, and repatriation. Employers are required to pay the greatest of the minimum provincial agricultural wage, the prevailing wage as determined by the federal employment ministry, or the rate being paid by the employer involved to Canadians doing to same work. The contracts include stipulations regarding health insurance and occupational health and safety. The agreements vary slightly by Province and sending country.

The importance of remittances is also reflected in some of the agreements – for example, remittances are facilitated for Mexican workers, through arrangements with Canadian banks – accounts are established for agricultural workers and arrangements are made to facilitate

access by family to earnings of the worker in Canada. The agreement with the Caribbean countries specifies automatic and formal remittances from the worker's earnings to his home country.

If you read the employment contracts, the key role in Canada, of the liaison officer from the sending country is evident. The liaison officer is involved in monitoring the work conditions and pay of the foreign worker, in resolving issues on site, etc.

Sanctions may be applied against the employer in the event of abuse in the area of non-compliance with Canada's immigration laws – particularly prohibition against foreign workers engaging in unauthorized employment while in Canada (Or in the case of the employer, knowingly aiding or abetting or inducing foreign workers to engage in unauthorized employment). In addition, sanctions may be applied against the employer in the event that foreign workers do not return to their home country at the end of their employment contract. In practice, compliance is very high and sanctions are rarely if ever required. (Sanctions would include termination of further assistance to the employer in facilitating intercountry movement of seasonal foreign workers.)

The rate of return workers is high.

Other Similar Programs

Canada's immigration and employment legislation and regulations provide the flexibility for the development of similar program outside of the seasonal agricultural workers program. More specifically, the Province of Quebec and the Government of Guatemala have engaged in a similar program for agricultural workers from Guatemala to the Province of Quebec. The federal employment ministry approves the offers of employment on an individual basis. The IOM provides technical assistance, with respect to the development of a list of qualified Guatemalan workers, the transportation of the workers to Canada and in conjunction with FERME, the return of the workers to Guatemala once their contract has ended. The

objectives and principles of this program are the same as for the seasonal agricultural worker program, but it is managed in a slightly different manner.

Observations

Why has Canada's SAWP been so successful? The program is a partnership where all parties have a stake in its success. But it has specific characteristics which contribute to this success:

- it is seasonal;
- there are no alternative sources of labour for employers (i.e. no illegal populations);
and
- all parties have a vested interest – foreign countries are able to find stable sources of employment for their nationals, employers can continue their farm operations and workers benefit from agreements which respect Canadian labour legislation and wage standards.

Under the SAWP and the Guatemalan project the bilateral nature of the agreements is key.