

FRAGOMEN

Presented to:



IOM International Organization for Migration



THE WORLD BANK



WORLD TRADE ORGANIZATION

S E M I N A R O N T R A D E A N D M I G R A T I O N

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Ellen G. Yost, Partner

eyost@fragomen.com

Fragomen, Del Rey, Bernsen & Loewy, LLP

515 Madison Avenue

New York, N.Y. 10022-5403

Direct Phone: (212) 230-2874

Main Phone: (212) 688-8555

FAX: (212) 371-0750

www.fragomen.com



Who We Are

- Fragomen, Del Rey, Bernsen & Loewy, LLP is a U.S. business immigration law firm with 150 + lawyers and 500+ legal assistants working in 14 U.S. offices and 9 non-U.S. offices.
<http://www.fragomen.com>
- Our clients are multinational corporations, small and medium-sized businesses and highly-skilled individuals located in various countries.

What We Do

- Obtain work permits, residence permits and visas for employees of our clients so they may have the right people in the right place, at the right time, able to do the work that is required.
- Advise regarding U.S.compliance issues, export controls and government relations.
- Monitor and maintain the status of employees and their families
- Inform clients of changes in laws and regulations in jurisdictions where they operate.

The Employers' Perspective

- Types of employee hires and transfers
- Goal: international mobility for highly-skilled workers
- Barriers to global mobility
- Experience under the NAFTA
- Suggestions for negotiations



Types of Employee Transfers

- All are highly-skilled. Employers often uncertain whether temporary or permanent.
- Short-term
 - Less than six months, remain on foreign payroll, no family
 - Need for speed and predictability
 - Need to do productive work
- International assignees (long and short term): traditionally executives, now all levels for training
- High- potential employees (temporary and permanent)
- Shortage workers

International Mobility for Highly-Skilled Workers

- As businesses operate globally, employers want to transfer employees among countries as easily as among cities.
- The movement of skilled business persons is a tool to accomplish business objectives and not an end in itself.
 - Start-up of new business operations
 - Transfer of knowledge or culture to other parts of an organization
 - Build an international group of personnel capable of working anywhere on short notice

International Mobility for Highly-Skilled Workers (cont.)

- It is a competitive business tool to increase customer satisfaction, employee productivity, generate cost-savings and save additional training.
- It is a workforce pipeline to attract and retain top talent, demographics.
- Educating, training, recruiting and placing workers on a global basis is as important as manufacturing, investing and marketing on a global basis.

Barriers to International Mobility

- National immigration laws and procedures.
- Each government puts employees in different categories, but from a company perspective they are just all employees.
- Security issues, visa problems, and numerical limitations may force companies to locate their operations elsewhere.

Experience under the NAFTA

- Canada-US Free Trade Agreement pursuant to the GATT in 1989.
- North American Free Trade Agreement (NAFTA) included Mexico in 1995.
- Facilitates entry for only 4 nonimmigrant categories of business persons: business visitors; intracompany transferees; professionals; and traders and investors. US has many more temporary categories (and one permanent).
- Broader than services.

Experience under the NAFTA (cont.)

- Advantages
 - Border-processing
 - New TN category increasingly useful in time of visa shortages for specialized knowledge (H-1B) category
- Shortcomings
 - Lack of understanding of who qualifies
 - Amending list is difficult
- Overall Experience: Now is more difficult of Canadian business people to enter the US to work than in 1989. This is because of subsequent changes to US immigration law and procedures.

Employers' Suggestions

- Employers are looking for countries to cooperate on the issues:
 - if person is screened in Canada, should be alright for the United States
 - employers like Schengen
- Governments should distinguish between the different types of workers because they have different needs.
 - Global Commission on International Migration (“GCIM”)
- Governments should work with employers when developing policies.

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