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 Human Resources and Skills Development Canada / Ressources humaines et Développement des compétences Canada

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# Seasonal Agricultural Worker Program

2010 REGIONAL MEETINGS

Temporary Foreign Worker Program  
Human Resources and Skills Development Canada

## Purpose

- To present an overview of the Seasonal Agricultural Worker Program (SAWP)

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## Overview of Canada's Temporary Foreign Worker Program (TFWP)

- The *Immigration and Refugee Protection Act (IRPA)* regulates the entry of all temporary foreign workers into Canada
- The **Temporary Foreign Worker Program (TFWP)** is jointly managed by Citizenship and Immigration Canada/Canada Border Services Agency (CIC/CBSA) and Human Resources and Skills Development Canada/Service Canada (HRSDC/Service Canada).
  - **HRSDC/Service Canada's role** is to review employer applications for temporary foreign workers (TFWs) and issue a labour market opinion (LMO) on the likely impact of the entry of a TFW on the Canadian labour market;
  - **CIC/CBSA's role** is to review work permit applications from individual foreign workers to see if they meet the criteria for entry into Canada to work.

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## The Entry of Temporary Foreign Workers in Canada is Driven by Employer Demand

- Process generally starts when Service Canada receives a request from an employer to hire a TFW.
- There are no numerical limits or quotas.
- Employers can recruit TFWs from any country in the world (except for employers hiring TFWs under SAWP).
- Employers in any province/city can hire foreign workers.
- Under IRPA, employers can apply to hire workers in any occupation.
- All TFWs who enter Canada are covered by provincial labour standards, as are Canadians.
- Option exists for some TFWs to transition, if desired, to eventual permanent status (e.g. via Provincial Nominee Programs).

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## Role of HRSDC/Service Canada

- When assessing an LMO application, Service Canada currently evaluates six factors listed in section 203 of the *Immigration and Refugee Protection Regulations (IRPR)*:
  - Whether the employment of the TFW will result in direct job creation or retention for Canadian citizens and permanent residents;
  - Whether this employment will result in the creation or transfer of skills to Canadians
  - Whether there is a labour shortage;
  - Whether the wages and working conditions being offered are consistent with the prevailing wage of Canadians in the same occupation;
  - Whether the employer has made reasonable efforts to train or hire Canadians; and
  - Whether the employment of the TFW will adversely affect the settlement of a labour dispute in progress.

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## Role of HRSDC/Service Canada Cont'd

- Once a positive LMO has been issued by HRSDC, the foreign national can then apply to Citizenship and Immigration Canada (CIC) for a work permit.
- In Quebec, *Ministère de l'Immigration et des Communautés culturelles (MICC)* is also involved (as much as HRSDC/Service Canada) in the assessment of the likely impact on the Quebec labour market.

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## Role of CIC

- When a foreign national applies for a work permit, CIC:
  - Verifies that the job offer from the employer has been “confirmed” by HRSDC (i.e., a positive LMO has been issued);
  - Confirms worker has the qualifications required to perform the job ;
  - Ensures that worker meets temporary resident criteria related to criminality and security, and is unlikely to remain in Canada illegally; and
  - Ensures workers meet medical requirements for the positions in Canada.

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## Key Streams of the Temporary Foreign Worker Program (TFWP)

- Arranged Employment Opinions
- LMO for high-skilled workers (NOC 0, A & B)
- Live-in Caregivers
- Seasonal Agricultural Worker Program (SAWP)
- Pilot Project for Occupations Requiring a Lower Level of Formal Training (NOC C & D)
  
- *NOTE: SAWP & NOC C & D pilot both allow for the entry of agricultural workers*

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## **Seasonal Agricultural Worker Program (SAWP)**

- SAWP allows for the organized entry of foreign workers into Canada to meet the temporary seasonal need for labour in the agricultural sector when Canadian workers or permanent residents are not available.
- SAWP operates according to bilateral agreements between Canada and each country party to the agreement (Jamaica-1966, Barbados and Trinidad & Tobago-1967, Mexico-1974, OECS-1976).
- Workers may work in Canada for a maximum of 8 months, from January 1 to December 15
- Currently involves mainly the horticultural sector.

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## **SAWP Cont'd**

- SAWP is active in all provinces except for Newfoundland and Labrador.
- SAWP is formally reviewed at annual intergovernmental review meetings, which are attended by all parties to the bilateral agreements.
- The number of SAWP workers has increased steadily from 264 in 1966 to around 23,300 in 2009.
- The vast majority of workers go to Ontario and Quebec, but the program is growing rapidly in British Columbia.

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## SAWP Cont'd

**In addition to the regular TFWP guidelines, the SAWP imposes several additional requirements on employers, including:**

- Signing of an employer-employee contract outlining wages, duties, and conditions related to the transportation, accommodation, health and occupational safety of the foreign worker;
- Pay for part of transportation to and from the worker's country of origin (except in BC);
- Provide free accommodation (except in BC) for workers that meets provincial standards;
- Ensure the worker is registered to private health insurance until he/she is eligible for provincial health insurance coverage; and
- Register the worker under the appropriate provincial workers' compensation or workplace safety insurance plans.

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## Additional Roles under SAWP

### Role of source country:

- Assist in the recruitment and selection of bona fide agricultural workers;
- Maintain pool of workers who are ready to depart when requests are received from Canadian employers; and
- Appoint agents at consulates to assist the Government of Canada in program administration (re: documentation, health, repatriation of workers) and to serve as contact point for workers (re: working conditions, employer complaints, etc.)

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## Additional Roles Cont'd

### Role of FARMS (Foreign Agricultural Resource Management) and FERME (Fondation des Entreprises en Recrutement de Main d'œuvre agricole Étrangère) in certain regions:

- Overall administration: receives application forms from employers and notifies Service Canada and appropriate liaison service of requests for workers; facilitates air and ground transportation of workers in Canada;
- Communicates with appropriate Canadian Embassy or High Commission regarding work permit requests;
- Provides all government agencies with program updates as required;
- Obtains employer signature on employment contracts; and
- Transmits contracts to the respective liaison offices.

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## Protection of Agricultural Workers

- SAWP workers receive the same protections offered to Canadians working in the agricultural sector.
- Enforcement of labour standards fall under Provincial jurisdiction. All TFWs, including seasonal agricultural workers, have the same rights as Canadian citizens in filing a complaint against an employer under provincial labour standards codes.
- HRSDC continually works with provincial and foreign governments, and employers, to address issues related to working conditions, health coverage, occupational safety and housing.
- Wages in the agricultural sector are in line with the prevailing wage rate that Canadians receive and have increased on an annual basis in recent years.
- Employers and SAWP workers sign an employer-employee contract.

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## Protection of Agricultural Workers Cont'd

### In addition, under SAWP:

- Employers are required to have their seasonal housing inspected and approved by the appropriate provincial or municipal authority prior to confirming the entry of the foreign workers into Canada.
- Issues raised by workers during the season are raised by foreign governments at SAWP annual intergovernmental meetings and, if appropriate, changes are made to SAWP guidelines and contracts to address the concerns of workers.

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## Protection of Agricultural Workers Cont'd

### In addition, under SAWP (cont'd):

- Workers receive additional support and assistance through their respective government's consulate, which serves as representatives to the worker if requested, when dealing with employer-worker complaints or concerns.
- Finally, if an employer is found to be in breach of contract, Mexican/Caribbean consular officials may:
  - (a) remove workers from the situation and assist them in finding employment with another farmer and
  - (b) stop service to that particular employer in future years.

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## For Additional Information...

**HRSDC's TFWP Internet site:**

[www.hrsdc.gc.ca/eng/workplaceskills/foreign\\_workers/index.shtml](http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/index.shtml)

**CIC TFWP Internet site:**

[www.cic.gc.ca/english/work/index.asp](http://www.cic.gc.ca/english/work/index.asp)