



# **Entry of Temporary Foreign Workers into Canada**

**Presentation to Ministers of Labour of the  
Organization of American States  
November 28-29, 2006**



## ***Purpose***

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To provide an overview of the general process and relevant information on the entry of foreign workers into Canada:

- Temporary Foreign Worker Program (TFWP)
- Canada's labour market and immigration trends
- Human Resources and Social Development/Service Canada's labour market opinion process
- Citizenship and Immigration Canada's work permit process
- Summary of new/future TFWP initiatives to help alleviate the current labour shortages facing the Canadian economy



## Overview of Canada's *TFWP*

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- The *Immigration and Refugee Protection Act (IRPA)* regulates the entry of all temporary foreign workers into Canada
- Jointly managed by Citizenship and Immigration Canada (CIC) and Human Resources and Social Development Canada/Service Canada (HRSDC/SC):
  - **HRSDC/SC's role** is to review employer applications for foreign workers and issue an opinion on the likely impact on the Canadian labour market (LMO)
  - **CIC's role** is to review applications from foreign workers and issue work permits
- The entry of foreign workers in Canada is driven by employer demand:
  - Process generally starts when HRSDC/SC receives a request to hire a temporary foreign worker from an employer
  - Exemptions from LMOs mean almost half of work permits are issued by CIC without HRSDC/SC involvement
  - No numerical limits/quotas
  - Employers may hire foreign workers in any occupation provided that job offer meets a set of standard criteria (outlined in *IRPA*)
  - All foreign workers who enter Canada to work temporarily are covered by provincial labour standards as are Canadians



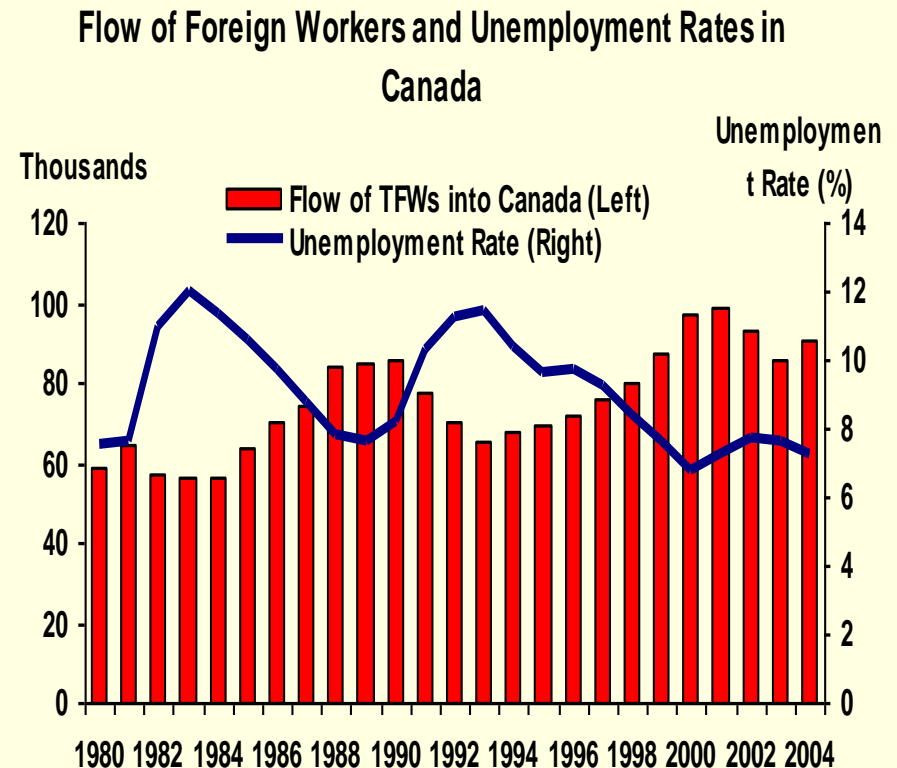
## ***Overview of Canada's Current Labour Market***

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- A decade ago, the Government of Canada was preoccupied with unemployment; today, it is worried about skills and labour shortages, facilitating entry of foreign workers and improving the participation of under-represented groups
- 49% of firms face labour market shortages that restrict their ability to meet demand (Bank of Canada Survey, Winter 2005-06)
- Analysis of labour market conditions in Canada suggest that key occupations, representing about 10% of all employment, are currently facing excess demand pressures. These include:
  - Health professionals, oil and gas sector, management, some occupations in the residential construction and real estate sectors
  - Labour shortages are also anticipated in occupations related to non-residential construction
- According to a Canada West Foundation study, 73 of the 76 major industry associations in the West anticipate moderate to severe worker shortages within the next five years.

# Foreign Worker Numbers Depend on Employer Demand

- Number of foreign workers in Canada has increased in recent years:
  - From 71,390 in 1996 to 99,141 in 2005
- Number of foreign workers requested by employers varies with economic cycle:
  - Flows of foreign workers increase during “boom” periods when fewer Canadians are unemployed



Source: Facts and Figures, 2004, Citizenship and Immigration Canada

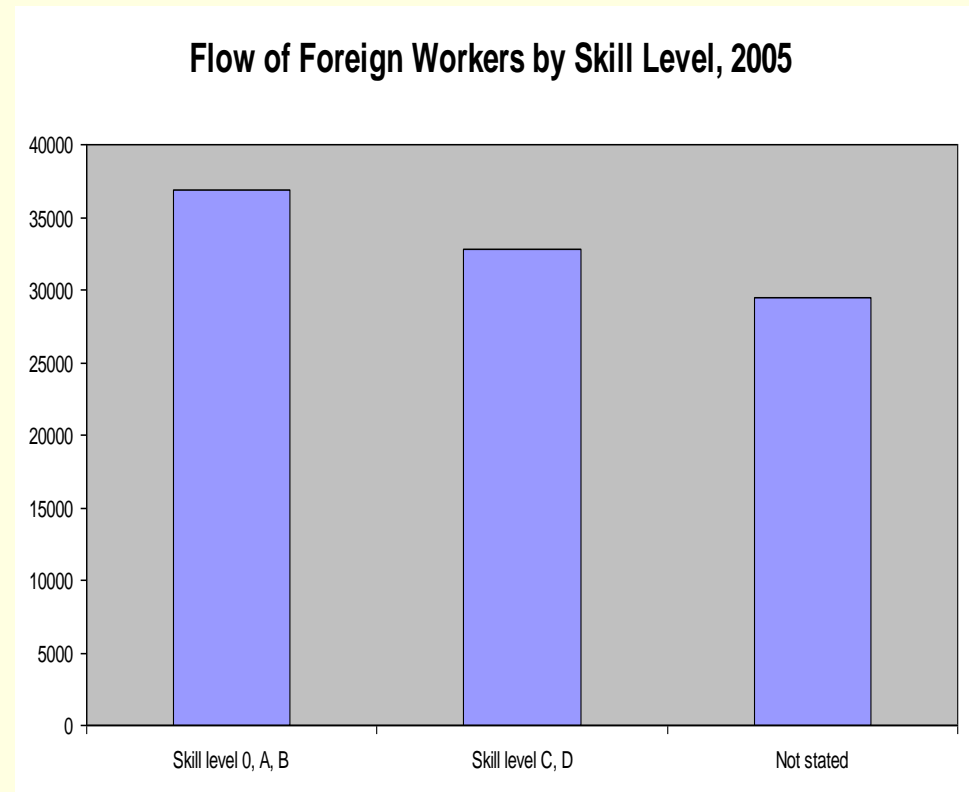
# Canada - Flow of Foreign Workers from Western Hemisphere Source Countries, 2004-2005

Country of Last Permanent Residence	2004 Total Work Permits Issued	2005 Total Work Permits Issued	Country of Last Permanent Residence	2004 Total Work Permits Issued	2006 Total Work Permits Issued
Antigua and Barbuda	-	7	Guyana	77	65
Argentina	156	158	Haiti	72	53
Bahama Islands, The	6	5	Honduras	14	14
Barbados	563	481	Jamaica	5,935	6,138
Bolivia	14	18	Mexico	11,494	12,610
Brazil	554	565	Nicaragua	36	50
Chile	148	186	Panama, Republic of	6	-
Colombia	111	126	Paraguay	17	5
Costa Rica	28	44	Peru	133	134
Cuba	81	100	St. Kitts-Nevis	22	33
Dominica	124	182	St. Lucia	144	188
Dominican Republic	26	82	St. Vincent and the Grenadines	251	281
Ecuador	52	24	Trinidad & Tobago, Republic of	1,658	1,598
El Salvador	100	358	United States of America	16,207	16,332
Grenada	118	135	Uruguay	69	42
Guatemala	227	452	Venezuela	145	148

*Note: Due to privacy considerations, some cells in this table have been suppressed and replaced with the notation "-". As a result, components may not sum to the total indicated. In general we have suppressed cells containing less than five cases except in certain circumstances where, in our judgment, we are not releasing personal information on an identifiable individual.*

## *What skills are demanded?*

- Foreign workers in managerial, professional, and technical/trade occupations
  - Represented approximately 37% of workers with known occupations in 2005 (36,855 FWs)
- Foreign workers in lower-skilled occupations
  - Represented approximately 33% of the total number of workers with known occupations in 2005 (32,823 FWs), largely live-in caregivers and seasonal agricultural workers



Source: Facts and Figures, Citizenship and Immigration Canada



## ***HRSDC/Service Canada's Labour Market Opinion***

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- Under IRPA regulations, HRSDC/SC reviews individual employer's requests and assesses whether:
  - The wages and working conditions are comparable to those offered to Canadians working in the occupation
  - Employers conducted reasonable efforts to hire or train Canadians for the job
  - The hiring of the foreign worker will not affect a labour disputes or the employment of any Canadian worker involved in such a dispute
- In addition, HRSDC/SC takes into account potential benefits related to the entry of temporary foreign workers and considers whether:
  - The foreign worker is filling a labour shortage
  - The employment of the foreign worker will directly create new job opportunities or help retain jobs for Canadians
  - The foreign worker will transfer new skills and knowledge to Canadians
- When a positive opinion is issued by HRSDC/SC, the foreign national can then apply for a work permit from CIC





## ***Some occupations have specific processes***

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- **The following occupations have specific processes for employers planning to hire foreign workers in Canada, such as :**
  - Seasonal Agriculture
  - Live-in-caregivers
  - Pilot Project for Occupations requiring at most a High-school Diploma or Job-specific Training
- **In these situations, employers are required to sign an employment contract.**



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

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- Allows for the organized entry of TFWs into Canada to meet the temporary seasonal need for labour in the agriculture sector.
- Bilateral MOUs between Canada and Mexico, and several Caribbean countries, set out administrative arrangements and responsibilities (foreign governments, Canada, employers and workers).
- Employers are responsible for providing airfare (a portion can be recovered from TFW) and accommodation (not recoverable) to TFW.
- The number of SAWP workers has increased steadily from 264 in 1966 to 20,081 in 2005. Over 95% of workers go to Ontario and Quebec.



# ***Live-in Caregiver Program (LCP)***

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- Live-in caregivers are individuals who must live in a Canadian private household and are qualified to work without supervision providing care for children, the elderly or people with disabilities.
- LCP facilitates the entry of qualified caregivers into Canada when there is a shortage of Canadians or permanent residents to fill available live-in caregiver positions.
- In addition to meeting the regular LMO factors, employers must also enter into a contract with her/his prospective foreign worker which defines the caregiver's:
  - job duties;
  - hours of work;
  - salary and benefits; and
  - outlines the employer's legal responsibilities to the caregiver.
- A live-in caregiver may apply to CIC for permanent residence after completing a minimum of two years of full-time employment (within a 3 year period) as a live-in caregiver.



## ***Low-Skilled Pilot Project***

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- The pilot project was introduced in July 2002 for employers who wish to hire TFWs in occupations which require at most a high school diploma or job specific training (NOC C & D).
- In addition to the application of the regular TFW guidelines, the pilot project imposes several additional requirements on employers, including:
  - Sign an employer-employee contract outlining wages, duties, and conditions related to the transportation, accommodation, health and occupational safety of the foreign worker;
  - Cover all recruitment costs related to the hiring of the foreign worker;
  - Help the worker(s) find suitable, affordable accommodation;
  - Pay full airfare for the foreign worker to and from their home country;
  - Provide medical coverage until the worker is eligible for provincial health insurance coverage;
  - Register the worker under the appropriate provincial workers compensation/workplace safety insurance plans.



# ***Considerations related to Labour Standards***

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- Foreign workers are covered by federal or provincial labour standards
- Communications with temporary foreign workers is key
- Examples of intergovernmental collaborative efforts to improve information
  - *Guide to Labour and Employment Laws for Migrant Workers in North America, NAALC*
  - Proactive information sessions and question and answer kits on agriculture (e.g. Ontario, BC)



## ***CIC Process and Considerations***

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- CIC issues documents necessary for a foreign national to legally enter Canada to visit, study, and work; and makes the final decision as to whether a foreign national may enter or stay in Canada.
- 92% of work permit applications are approved by missions overseas.
- 97% of work permit applications are processed within 28 days.
- Applicants who do not require a visa to enter Canada may apply for a work permit at a Port-of-Entry, provided they do not require a medical exam.



## *Different types of authorizations*

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- To work legally in Canada, a foreign worker must be authorized by CIC to do so:
  - Regulations have exemptions
    - Business visitors, on-campus work for students, performing artists, athletes, etc in very specific situations
  - Almost 50% do not require an LMO
    - International agreements (e.g., NAFTA)
    - Canadian interests (e.g., significant benefit)



## ***Admissibility Factors***

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- Who requires a medical exam?
  - Workers in an occupation where protection of public health is essential
  - Workers entering Canada for more than 6 months from countries with high incidence of communicable disease
- Who can be refused entry on medical grounds?
  - Applicants who pose a risk to public health
  - Applicants whose medical care would place an excessive demand on Canadian health and social services
- Who can be refused entry on safety or security grounds?
  - Anyone who CIC has well founded reason to believe has been involved in the following activities:
    - Espionage or subversion
    - Violence of terrorism
    - Human rights violations
    - Criminal activity
    - Organized crime





## ***Genuineness and bona fides***

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- Have an LMO, if required
- Have a valid job offer
- Are qualified to perform the job for which they are being hired
- Will leave Canada by the end of the period authorized for their stay
- Hold a valid travel document



## ***New/Future FWP initiatives***

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- Occupations Under Pressure List: without undermining opportunities for Canadian job-seekers, this list identifies high demand occupations in a region where the regular obligation on employers to recruit and advertise for workers can be reduced.
- Online Applications: HRSDC/SC are in the process of developing on-line applications for employers wishing to hire foreign workers.
- Regional Solutions: Working groups between federal and provincial officials to identify opportunities for action as well as new approaches to address high demand areas
- Temporary Foreign Worker Guide for Employers: A step-by-step guide to explain in employer-friendly language how to hire a foreign worker
- Outreach Initiatives: Information sessions to employers and foreign delegations to assist with program/policy development. Temporary Foreign Worker Units to assist employers seeking to hire foreign workers in occupations which do not require an LMO.



## *For Additional Information...*

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### **HRSDC's TFWP Internet site:**

[http://www.hrsdc.gc.ca/en/gateways/nav/top\\_nav/program/fw.shtml](http://www.hrsdc.gc.ca/en/gateways/nav/top_nav/program/fw.shtml)

### **CIC's internet site:**

[www.cic.gc.ca](http://www.cic.gc.ca)

### **Guide to Labour and Employment Laws for Migrant Workers in Canada:**

[http://www.naalc.org/migrant/english/mgtabcan\\_en.shtml](http://www.naalc.org/migrant/english/mgtabcan_en.shtml)

*How to hire a Temporary Foreign Worker (TFW): A Guidebook for Employers:*

<http://www.cic.gc.ca/english/work/tfw-guide.html>