

## Citizenship and Immigration Canada

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### Summary Report: Temporary Foreign Worker (TFW) Program - Consultations with Stakeholders

Calgary, Alberta  
October 11, 2011

#### Overview

In the summer of 2011, the Honourable Jason Kenney, Minister of Citizenship, Immigration and Multiculturalism hosted cross-Canada consultations to discuss overall immigration levels. During these consultations, stakeholders in Alberta especially expressed concerns with the Temporary Foreign Worker (TFW) Program.

The TFW Program is managed jointly by Citizenship and Immigration Canada (CIC) and Human Resources and Skills Development Canada (HRSDC). The program allows for the hiring of foreign workers for temporary employment when Canadians or permanent residents are not readily available or when the entry of foreign workers is likely to have a positive impact on the Canadian labour market.

On October 11, 2011, Minister Kenney, returned to Alberta with the Honourable Diane Finley, Minister of Human Resources and Skills Development, to hold roundtable consultations on the TFW Program with representatives from over 40 organizations from a variety of industries. The Ministers sought to solicit ideas on how the TFW Program could be more responsive to labour market needs and continue to support economic growth in Canada, but still protect employment opportunities for Canadians.

The Ministers hosted four roundtables which were grouped by the following sectors: agriculture (10 participants); manufacturing and construction (11 participants); oil and gas (8 participants); and, business, economic development, hospitality, and health care (25 participants). Prior to the roundtable, participants were sent a background paper (see Annex A) which provided information about the TFW Program.

#### Ministers' Opening Comments

Ministers Kenney and Finley opened the roundtables by stating that the TFW Program is an important program that meets the needs of industry. The Government of Canada is adjusting immigration levels and mixes to better meet the needs of the Canadian economy. Accordingly, the government has taken the following initiatives: including low-skilled workers as TFWs, creating the Canadian Experience Class, allowing students to work, and improving foreign credential recognition. The TFW Program was not meant to be a pathway to permanent immigration, but it could serve as a channel to other immigration options, such as the Canadian Experience Class, the Federal Skilled Worker Program, and the Provincial Nominee Program. Changing the intention of the TFW Program could place undue stress on the Canadian social system and defeat the temporary nature and purpose of the program. Following the Ministers' opening remarks, they opened the floor to discussion.

#### General Findings

Several themes emerged in all four roundtables. Representatives of employers and industry associations indicated that they are unable to meet staffing needs exclusively based on domestic labour sources. Recruiting foreign workers is complex and expensive, so employers do so only as a last resort. However, they noted that low-skilled jobs, particularly in agriculture and hospitality, tend not to be pursued by Canadians. This necessitates employers turning to TFWs to fill shortages. Stakeholders also stated that they believe that the current labour shortage is as chronic as it was in 2007 and that it will grow at an even faster pace in future due to high levels of retirement in all sectors. Therefore, stakeholders advised that different

mechanisms, such as temporary workers, are necessary to maintain Canada's productivity and economic prosperity.

Stakeholders also commented that the Labour Market Opinion (LMO) process is too slow. They wanted to see the return of the expedited LMO (E-LMO) process whereby experienced and reliable employers are pre-qualified and exempt from the regular, time-consuming process.

They also suggested issuing two-year work permits, extending the four-year maximum of work terms, and extending the duration of LMOs. Finally, stakeholders expressed a desire for a program that would allow TFWs within all National Occupational Classification (NOC) codes, including low-skilled workers, to transition to permanent resident status.

## **Industry-Specific Findings**

### **Agriculture**

Stakeholders from the agriculture sector commented that they have a difficult time attracting Canadians to farm-work and that they rely on other sources of labour, including TFWs. They also raised concerns regarding the methodologies employed to determine prevailing wage rates to be paid to foreign workers. They maintain that increased wages are not the answer as this affects the farms' bottom line and impedes their ability to compete with the United States. Finally, stakeholders contend that high turnover of workers, a constant irritant in the agriculture industry, causes bureaucratic problems vis-à-vis bulk LMO caps. Employers submit bulk LMO requests and often – due to employee turnover – more than one person is considered, but not named against an LMO request. This creates the misunderstanding that the employer has used up its allocation when in fact the employer is still trying to fill the initial vacancy.

### **Manufacturing and Construction**

Stakeholders from the manufacturing and construction industry noted that employers hire TFWs because the current FSW points system prevents them from selecting the immigrants they need. Stakeholders offered the following suggestions to improve the TFW Program: allow TFWs to stay in Canada for longer periods of time to remedy labour shortages; recruit foreign workers as "temporary," and - if they perform well - allow them to transition to "permanent resident" status; simplify the process to bring US citizens into Canada's labour force.

Stakeholders in this sector want to see more innovative approaches to meet labour market shortages. One example that was raised is the pilot project in Alberta for pipefitters and steamfitters. This project, announced in May 2011, allows for steamfitters and pipefitters who meet specific program criteria to work in the province as temporary workers. Stakeholders said that they want to be part of the solution, and to help identify and eliminate waste in the TFW Program. For example, they prefer a holistic approach with a single point of contact. In addition, they say that it is difficult to communicate with the CIC Inland Case Processing Centre in Vegreville, Alberta.

The manufacturing and construction industry competes with Australia and New Zealand for TFWs and needs a competitive advantage to recruit, such as reduced processing times and flexible work permits that are not employer-or city-specific. In addition, stakeholders suggested that employers who have demonstrated success in recruiting TFWs should be pre-screened and that their LMO requests and requests for processing work permits should be expedited. Audits done on the back end of the process could be used to ensure that employers meet their obligations. Finally, some stakeholders suggested expanding the Canadian Experience Class to include National Occupational Classification (NOC) levels C and D [Note 1], which would also help meet labour shortages in their sector.

### **Oil and Gas**

Employers from the oil and gas industry maintained that the outlook for their industry has not changed: mega projects are based on long-term planning and pricing. In Alberta, there has been a chronic labour shortage since 2007 which has negatively impacted their booming industry. Stakeholders posit that Alberta drives the Canadian economy and therefore needs increased access to workers. Labour shortages create

problems – some can be resolved through the current immigration system, and some require changes to immigration programs.

Roundtable participants feel that the TFW Program needs to be fast and flexible to meet the diverse needs of the labour market. For example, oil and gas is a global industry and therefore the TFW Program needs to be able to adapt quickly to meet the needs of international companies so that they can remain competitive with other countries. This industry is also cyclical. Operations and employment needs differ in the summer and winter and changing realities necessitate an immigration system that is fast and flexible. According to oil and gas industry representatives, the system must also be more strategic in order to meet the needs of specific sectors and occupations. In addition, selection of immigrants needs to change as the current system results in skills and employment gaps. Similar to manufacturing and construction stakeholders, oil and gas industry representatives maintain that Canada needs to be able to take advantage of the surplus labour pool in the US.

Participants also commented on the National Occupation Classification (NOC) codes. They believe that the current NOC system does not accurately reflect many of the job shortages in Western Canada, especially in the oilfields and the health care industry. They contend that NOC C and D occupations should not be considered low-skilled as most of these occupations require on-the-job technical training. They want NOC codes and the categories of the North American Free Trade Agreement to be updated.

### **Business, Economic Development, Hospitality, and Health Care**

A range of stakeholders from business, economic development, hospitality, and the health care sectors were consulted in the final roundtable. Similar to the previous roundtables, participants want labour shortage issues to be addressed as they are felt across sectors. For example, when the oil and gas industry is booming, other sectors find it difficult to compete with its salary structure. Labour shortages create hardship for small businesses and entrepreneurs and result in them having to limit their hours of operation or close their businesses all together.

Participants offered a variety of suggestions. Firstly, they recommended continued LMO exemptions for software programmers as there is still a great need for such workers. Secondly, stakeholders maintain that the TFW process is too complicated, and as a result, companies have to hire consultants to assist with the paperwork and the bureaucracy. They suggested that the process could be simplified by allowing exemptions for all relevant employers when it is clear that there is a need for workers in a specific sector and occupation. Thirdly, participants suggested that foreign workers' extended work permits should also serve as a temporary resident visa so they do not need to apply for another visa when they return to their home country for a visit. Fourthly, international youth exchange programs have been successful, but Canadian employers have not been able to retain participants at the end of their stay. Finally, stakeholders identified problems coordinating with HRSDC, CIC, and the Canada Border Services Agency (CBSA) and recommend the creation of a working group to better connect these agencies to industry in an effort to resolve issues through better education and communication vis.-à-vis. the TFW Program.

### **Concluding Remarks**

In their final remarks, Ministers Kenney and Finley advised participants that there is no easy way to solve labour market shortages and that immigration is not the singular solution – Canada cannot let everyone in. Greater workforce participation is required from traditionally underemployed populations, such as youth, Aboriginals and people living in regions of high unemployment. The Ministers committed to addressing the concerns raised during the roundtables.

### **Conclusion**

Citizenship and Immigration Canada and Human Resources and Skills Development Canada are taking action to reform our economic immigration system. The Government has since made significant changes to accelerate the LMO process, while improving enforcement and maintaining robust measures to ensure that employers make opportunities available to Canadian workers first.

The Government will continue to examine ways to improve the TFW Program to make it responsive to

employers' needs and provide temporary foreign workers with workplace protection. Both departments will continue to consult with stakeholders to solicit more ideas and feedback to further improve the program.

## **Annex A**

### **Background Paper: Consultations on the Temporary Foreign Worker Program**

#### **Introduction:**

The Government of Canada strives to balance three classes of immigration – economic, family and protected persons. In a context of limited resources and high volumes of applications in all categories, it is a significant challenge to achieve the right balance of immigration for Canadians. Citizenship and Immigration Canada (CIC) also has responsibility for the successful integration of immigrants along with the provinces and territories, and any increase in immigration levels must take into account the capacity of communities to welcome newcomers.

CIC recently undertook consultations across the country on the broader immigration program to seek the views of stakeholders on the right level of immigration to Canada and the right mix of immigration classes to Canada. During the levels consultations CIC also heard many views from stakeholders related to the Temporary Foreign Worker Program.

The purpose of this consultation is to seek your feedback on the effectiveness of the Temporary Foreign Worker Program. CIC and Human Resources and Skills Development Canada (HRSDC) are asking for your input on what works well with the program and what needs to be improved in terms of both immediate and broader concerns that you may have related to the entry, hiring, and stay of temporary foreign workers to/in Canada.

#### **Overview of the Temporary Foreign Worker Program:**

The Temporary Foreign Worker Program enables employers to fill temporary labour and skill shortages when Canadians or permanent residents are not readily available. It is jointly managed by CIC and HRSDC under the authorities of the *Immigration and Refugee Protection Act (IRPA)* and *Regulations (IRPR)*. Provinces and territories also have a role to play in selecting some of the immigrants and temporary foreign workers that arrive in their province/territory.

In order to hire a temporary foreign worker, an employer generally must obtain authorization from HRSDC/Service Canada through a Labour Market Opinion (LMO) before a temporary foreign worker may apply to CIC for a work permit. To obtain this authorization, employers must demonstrate that their job offer is genuine and that no Canadians or permanent residents are readily available for the job.

The Temporary Foreign Worker Program has grown considerably in the last decade. In 2010, 182,276 temporary foreign workers entered Canada compared to 110,861 in 2002. The majority of the temporary foreign workers who come to Canada enter to work in professional, managerial or trade occupations. In 2010 more than 67,500 temporary foreign workers came to work in high-skilled occupations (National Occupational Classification (NOC) 0, A, and B). However, a growing number of temporary foreign workers are also filling shortages in lower skilled occupations (NOC C and D). In 2010 over 50,500 foreign workers came to Canada to work in low-skilled occupations, which is an increase of about 74% over the 2002 numbers.

Some temporary foreign workers come to Canada with open work permits, meaning that they can work in any occupation. In 2010, there were about 58,500 entries by open work permit holders, including young people coming to Canada on a working holiday or exchange; spouses of skilled temporary foreign workers; and so on. The fastest growing category of open work permits is in the youth exchange programs with roughly 50,000 entries in 2010. Participants in youth exchange programs represent about 27% of all temporary foreign workers coming to Canada and a growing share of the temporary worker movement.

With regard to linkages to permanent residence, in 2010, close to 33,000 former temporary foreign workers immigrated to Canada permanently, a considerable increase from the 9,500 that made the transition in

2002. The number of temporary foreign workers transitioning to permanent residence in Alberta grew from 1,129 in 2002 to 7,155 in 2010, an increase of 534%. Research shows that skilled permanent residents with previous Canadian work experience more often have positive economic outcomes and can contribute quickly to the Canadian economy and labour market. For instance, immigrants who worked in Canada for at least one year in a skilled occupation prior to applying under the Federal Skilled Worker Program earned 27% more than those who did not have Canadian work experience prior to migration.

In Alberta, there are some notable differences in the trends of temporary foreign workers when compared to those across Canada as a whole. During the economic boom, the number of TFWs entering in lower-skilled occupations increased from 1,626 in 2002 to 16,583 in 2008, an increase of over 920% in 6 years, and surpassed the number of higher skilled temporary foreign workers. While the number of skilled temporary foreign workers also increased during this period from 6,293 in 2002 to 15,935 in 2008, the growth was significantly less marked than for temporary foreign workers in lower-skilled occupations. It is also important to note that during the recent economic slowdown, the number of lower skilled temporary foreign workers entering Alberta dropped to 7,070 in 2010, a decrease of 56% in two years, which suggests that employer demand for temporary foreign workers in lower-skilled occupation varies more widely when economic conditions change.

In terms of the processing of employer and worker applications by HRSDC and CIC, in 2010, the average length of time for issuing an LMO was approximately 18 calendar days. However, due to increasing employer demand in Alberta, in June 2011, the average time had risen to 33 days, versus approximately 18 days in the rest of Canada. In 2010, the average processing time for work permits processed overseas decreased significantly, with 80% of cases being processed in 6 weeks or less, compared to 11 weeks in 2009. In-Canada processing times (representing work permit extensions, renewals and amendments) also fell slightly, from 12 to 11 weeks.

### **Government of Canada Initiatives to Improve the Temporary Foreign Worker Program:**

The Government of Canada is constantly seeking ways to improve the Temporary Foreign Worker Program for employers and temporary foreign workers, and to respond to issues raised by stakeholders. To this end, CIC and HRSDC have implemented a number of initiatives in recent years to increase efficiencies in the program and to enhance worker protections, including:

- The Government of Canada introduced new regulations in April 2011 that include a more rigorous assessment of the genuineness of job offers; a two-year prohibition on hiring temporary foreign workers for employers who fail to meet their commitments to temporary foreign workers with respect to wages, working conditions and occupation; and a limit on the length of time a temporary foreign worker may work in Canada before being required to return home.
- CIC and provinces and territories introduced further pathways to permanent residence for qualified temporary foreign workers through the Canadian Experience Class and Provincial Nominee Programs.
- CIC and provinces and territories introduced pilot projects to facilitate the entry of workers to assist with regional economic priorities. For example, Alberta has implemented pilots for the working-age dependents of skilled temporary foreign workers; the spouses/partners of long-haul truck drivers; and steamfitters/pipefitters seeking their accreditation.
- CIC established Temporary Foreign Worker Units in Vancouver, Calgary, Toronto, Montreal, and Moncton to provide information to employers on the process of hiring temporary foreign workers in Canada, including on eligibility for exemptions from the HRSDC/Service Canada LMO process.
- CIC established Visa Application Centres overseas to assist temporary foreign worker applicants in the process of filing a work permit application to CIC.
- HRSDC and CIC introduced a Group of Employers Pilot Project for the purpose of allowing mobility of high-skilled temporary foreign workers between recognized employers. This pilot aims to provide flexible HR management, quicker access to temporary foreign workers in needed occupations, and a reduced number of total LMO and work permit applications. Employers wishing to use the Group of Employers pilot must demonstrate a defined, joint project or initiative, carried out in a restricted geographical area, and a demonstrated need for mobility of workers.

- HRSDC implemented an expedited LMO process in Alberta and British Columbia during the economic boom (2007-2009) to ensure faster processing of LMOs and to meet the increased employer demand for workers.
- HRSDC has also implemented various changes such as online application forms, standardized minimum advertising requirements for employers to ensure clarity and consistency in LMO requirements, and a website link to under-represented groups (aboriginals, immigrants, youth, persons with disabilities, older workers) to help employers in recruiting Canadians and permanent residents.
- HRSDC began a monitoring initiative in which employers voluntarily participate in an employer compliance review, allowing HRSDC to collect ongoing data on employer labour force needs and helping employers to understand and better comply with program requirements; and
- HRSDC works with provinces to share information to help in efficient LMO decision making.

### **Economic Conditions and Labour Market Needs:**

Similar to other countries, Canada is facing significant demographic challenges such as an aging population and slowing labour force growth over the long-term. Immigration will be an increasingly important source of population and labour force growth, accounting for all labour force growth in the not so distant future.

Alberta has experienced boom economic conditions in the past, and labour forecasts anticipate a shortage of 77,000 workers in the coming decades in a range of occupations, including certain low-skilled jobs. Nevertheless, recent unemployment rates for Albertans without a post-secondary degree varied from 6.9% to 13.7% as recently as 2010. It seems that even though there are vacancies in low-skilled jobs, there are also relatively large numbers of unemployed Canadians and permanent residents with lower levels of training.

Furthermore, while there are shortages projected in certain occupations, sectors and regions, the current economic uncertainties in the United States, in Europe and elsewhere could have an impact on the Canadian economy and labour market. This is something that the Government of Canada will need to monitor and take into account in adjusting its policies and programs.

### **Challenges to the Temporary Foreign Worker Program:**

Based on ongoing input received by CIC and HRSDC from provinces and territories, employers, industry associations, labour representatives and worker advocates, some of the concerns most often raised include:

- Lengthy processing times and delays in relation to the entire process to hire a temporary foreign worker. Employers and workers have also raised concerns related to the length of time that it takes to extend Labour Market Opinions (LMOs) and work permits for foreign workers that are already in Canada.
- Complexity in the process, particularly with regard to LMOs and LMO-exemptions, noting that while there might be options for simplifying the overall process, there are certain requirements that need to be maintained by the government concerning labour market impacts, worker protections, and program integrity.
- Insufficient worker protections. While federal and provincial governments have introduced measures to improve worker protections through legislation, regulation, service delivery and information provision, some stakeholders argue that gaps in worker protection remain.
- The limited options for low-skilled temporary foreign workers to transition to permanent residence. While workers and employers often advocate for additional pathways to permanent residence for low-skilled temporary foreign workers, issues around long-term labour market needs, adaptability of low-skilled temporary foreign workers, the optimum mix of future immigrants to Canada, and government capacity to support integration all need to be considered.

Another concern is that while the Temporary Foreign Worker Program was created to fill temporary shortages, an increasing number appear to be used to address long-term, structural labour gaps. Some stakeholders have raised concerns that some employers are using the Temporary Foreign Worker Program as

a substitute for necessary adjustments such as investments in capital and (re)-training workers, or adjustments in wages. Temporary foreign workers are one source of labour to fill labour and skills shortages, but questions have been raised as to whether we are making enough effort to hire unemployed or underemployed Canadians and permanent residents.

### Questions For Stakeholders:

- How can the overall process of hiring a temporary foreign worker be made more efficient while ensuring that labour market protections, worker protections and program integrity are maintained?
- What is the right balance between protecting the Canadian labour market and ensuring temporary foreign workers can be hired when they are needed?
- What should be the role of temporary foreign workers versus other potential sources of workers in addressing labour shortages?
- What are the sources of vulnerability for temporary foreign workers, in particular those at lower skill levels, and how can they best be addressed?
- Should there be additional pathways to permanent residence for low skilled workers? If so, on which criteria should their selection be based?

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### Footnote

[1] NOC levels C and D are entry-level occupations. NOC Level C occupations require secondary school education or occupation-specific training; Level D requires on-the-job training. Refer to the [NOC matrix](http://www5.hrsdc.gc.ca/NOC/English/NOC/2011/html/Matrix.html) for the full list: <http://www5.hrsdc.gc.ca/NOC/English/NOC/2011/html/Matrix.html>. [report posted online will include a hyperlink to the matrix]  
[\[back to note 1\]](#)

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