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**Temporary Foreign Workers: Recent
Research and Current Policy Issues**

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Canada¹³¹



The Temporary Foreign Worker Program (TFWP)

- Human Resources and Skills Development Canada (HRSDC) and Citizenship and Immigration Canada (CIC) jointly manage the TFWP.
- The TFWP:
 - Provides access to temporary labour to sectors and regions experiencing labour shortages
 - Responsive to economic and labour market changes
 - Employers can hire from any country
 - No numerical limits
 - Supports Canadian interests with key partners via international agreements (e.g., NAFTA, youth mobility agreements)
 - High-skill TFWs can transfer unique skill sets to Canadians, and are increasingly a source of potential permanent residents who integrate well





Economic conditions and labour market needs

- HRSDC forecasts approximately 5.5 million jobs will become available between 2009-2018 – most of these jobs will require post-secondary education or management skills.
- Lower-skilled occupations are forecast to have an excess of labour supply. However, there could be shortages of lower-skilled workers in specific areas and occupations.
- Unemployment of Canadians is still a challenge – in specific areas of the country and for certain populations.



Two Routes to the TFWP

LMO exemption

63%

120,620 entries in 2011

Other LMO-Exempt (e.g. intra-company transferees, researchers, etc.)
30,052

Spouses
10,750

Free Trade and PT Agreements
24,901

Youth Mobility Agreements (e.g. International Experience Canada)
54,917

Labour Market Opinion (LMO)

37%

70,222 entries in 2011

Addresses labour shortages. Employers must demonstrate effort to recruit Canadians first.

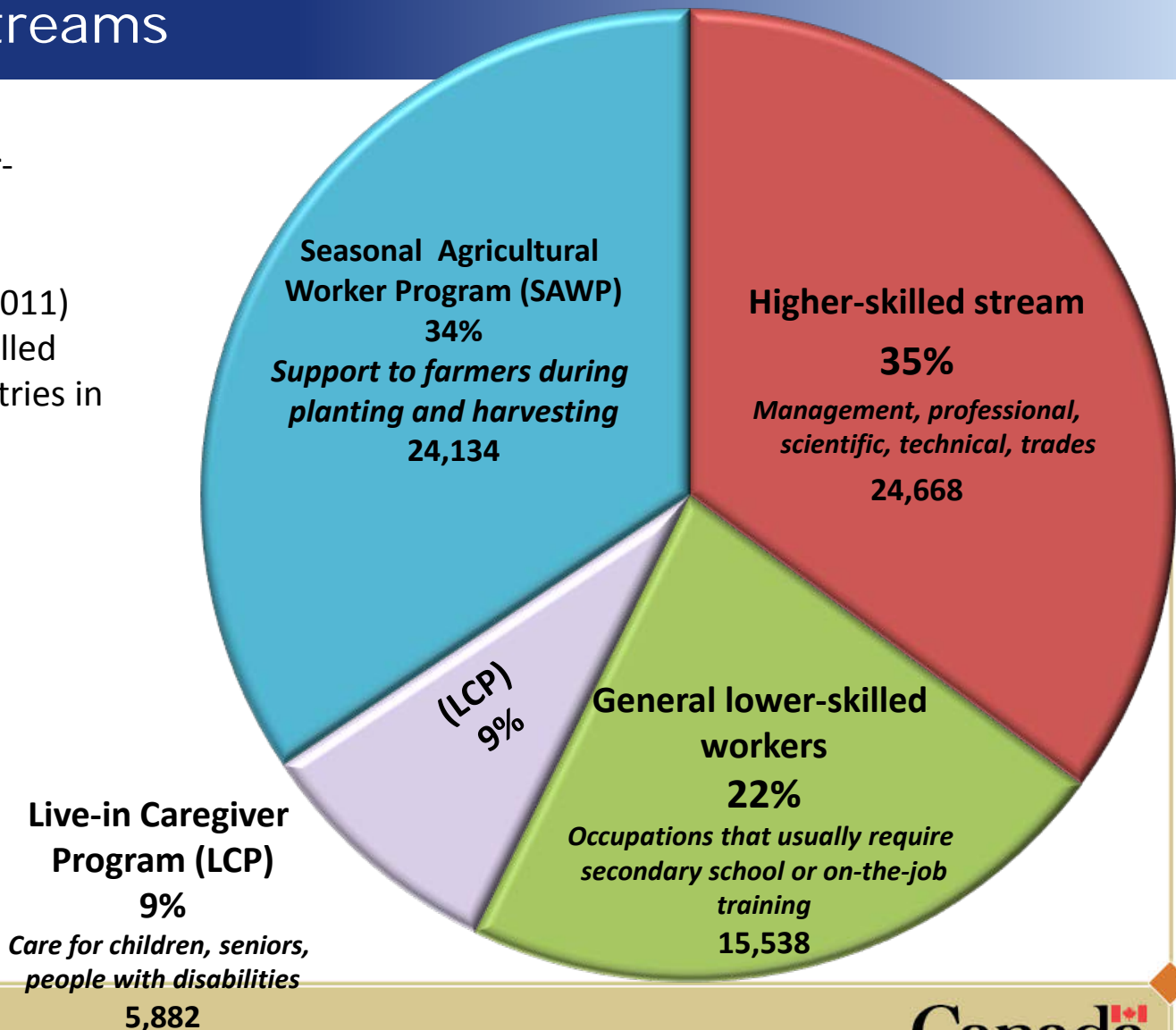
Promotes and facilitates Canadian economic and cultural interests under several categories (e.g. youth mobility agreements, such as IEC; trade agreements).





The LMO Streams

Consists of a higher-skilled stream (24,668 entries in 2011) and three lower-skilled streams (45,554 entries in 2011).





HRSDC Role: Labour Market Opinion

- HRSDC renders decisions on LMO applications based on:
 - Making sure that Canadians or permanent residents have first chance at job opportunities;
 - consistency of the employer's job offer with Canadian wages and working conditions;
 - the employer's advertisement and recruitment efforts; and
 - whether the entry of the foreign worker will:
 - directly create jobs or lead to job retention for Canadians or PRs;
 - result in the transfer of skills and knowledge to Canadian or permanent residents; and
 - affect an ongoing labour dispute.





Labour Market Opinion Streams

There are four LMO streams employers can use to hire a TFW:

- Higher-skilled stream: employers can hire TFWs in higher-skilled positions such as: management, professional, scientific, technical or trade occupations.
- Lower-skilled streams: including general lower-skilled workers, seasonal agricultural workers and live-in caregivers
- General lower-skilled workers: initially introduced as a pilot in 2002, this stream is increasingly important in certain industries such as meat processing, food service and hospitality sectors.
- Seasonal Agricultural Worker Program (SAWP): SAWP provides temporary support to Canadian farmers during planting and harvesting seasons, when qualified Canadians or permanent residents are not available
- Live-in Caregiver Program (LCP): qualified caregivers to provide live-in care for children, seniors or people with disabilities.





CIC Role: Issuing Work Permits & LMO exemptions

- In order to issue a work permit, CIC:
 - Verifies whether HRSDC has authorized the hiring of the worker with an LMO, or that an LMO exemption applies.
 - Collaborates with Canada Border Services Agency to ensure worker meets temporary resident criteria related to medical tests, criminality and security
 - Ensures worker has appropriate/required skills to work in the occupation in Canada
- LMO exemptions:
 - About two thirds of TFWs who enter Canada do not require an LMO. The main categories of LMO exemptions are:
 - International agreements, such as the North American Free Trade Agreement,
 - PT Annexes to bilateral immigration agreements, and
 - Canadian Interests, including:
 - Youth exchange programs/International Experience Class
 - Spouses of higher-skilled TFWs or international students
 - Intra-company transferees
 - Research, educational, or training exemptions
 - Other Canadian Interests, e.g. charitable and religious workers



Entries of TFWs Authorized to Work in Canada, 2002-11

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	% Change 2002 to 2011
TFW entries with Labour Market Opinion (LMO)	49,831	49,195	52,372	57,187	65,492	84,134	97,226	80,467	71,146	70,222	41%
High Skill (O, A, B)	24,263	23,142	23,883	26,003	28,632	33,287	35,508	29,303	25,545	24,668	2%
Low Skill (C, D)											
<i>General low-skilled</i>	2,268	2,327	2,787	3,769	6,528	15,315	25,665	19,016	14,154	15,538	585%
<i>Live-in Caregiver Program</i>	4,678	5,028	6,650	7,133	9,078	12,952	11,865	8,756	7,544	5,882	26%
<i>Seasonal Agricultural Worker Program</i>	18,622	18,698	19,052	20,282	21,254	22,580	24,188	23,392	23,903	24,134	30%
TFW entries without LMO	60,785	53,737	59,862	65,181	72,969	79,408	93,540	96,333	108,033	120,620	98%
Free Trade Agreements	18,320	15,750	17,178	14,078	15,934	17,202	19,369	18,138	19,677	22,383	22%
Provincial/Territorial Agreement								359	1,573	2,518	
Canadian Interests											
<i>International Experience Canada</i>	15,251	17,044	21,463	28,019	30,844	32,474	41,082	45,277	49,833	54,917	260%
<i>Reciprocal Employment</i>	2,882	2,761	2,072	2,110	2,030	2,159	2,052	2,075	2,704	2,512	-13%
<i>Spouses of Skilled Workers/Int. Students</i>	2,804	3,491	4,391	5,194	6,314	8,159	9,860	9,257	9,127	10,750	283%
<i>Research, educational or training</i>	556	718	756	801	1,253	2,089	2,968	3,338	3,450	5,426	876%
<i>Intra-company transferees (general)</i>	1,590	2,642	2,923	3,400	4,413	4,723	5,689	5,410	7,650	7,354	363%
<i>Other Canadians Interests</i>	14,647	10,345	10,013	10,687	11,229	11,291	11,350	11,092	12,887	13,522	-8%
PR applicants in Canada	490	968	1,063	891	952	1,295	1,133	1,340	1,101	1,232	151%
Others	4,245	18	3	1	-	16	37	47	31	6	-100%
Total TFWs Entries in Canada	110,616	102,932	112,234	122,368	138,461	163,542	190,766	176,800	179,179	190,842	73%

* Tracking codes in CIC's system changed in 2002 as a result of the coming into force of the Immigration and Refugee Protection Act (IRPA) and the associated Regulations. As a result, some temporary foreign workers that entered Canada in 2002 prior to the coming into force of IRPA were classified using old codes and were subsequently reflected under the category "Others."

TFWs Residing in Canada Authorized to Work, 2002-11

(Numbers include TFWs entering + TFWs already in Canada)

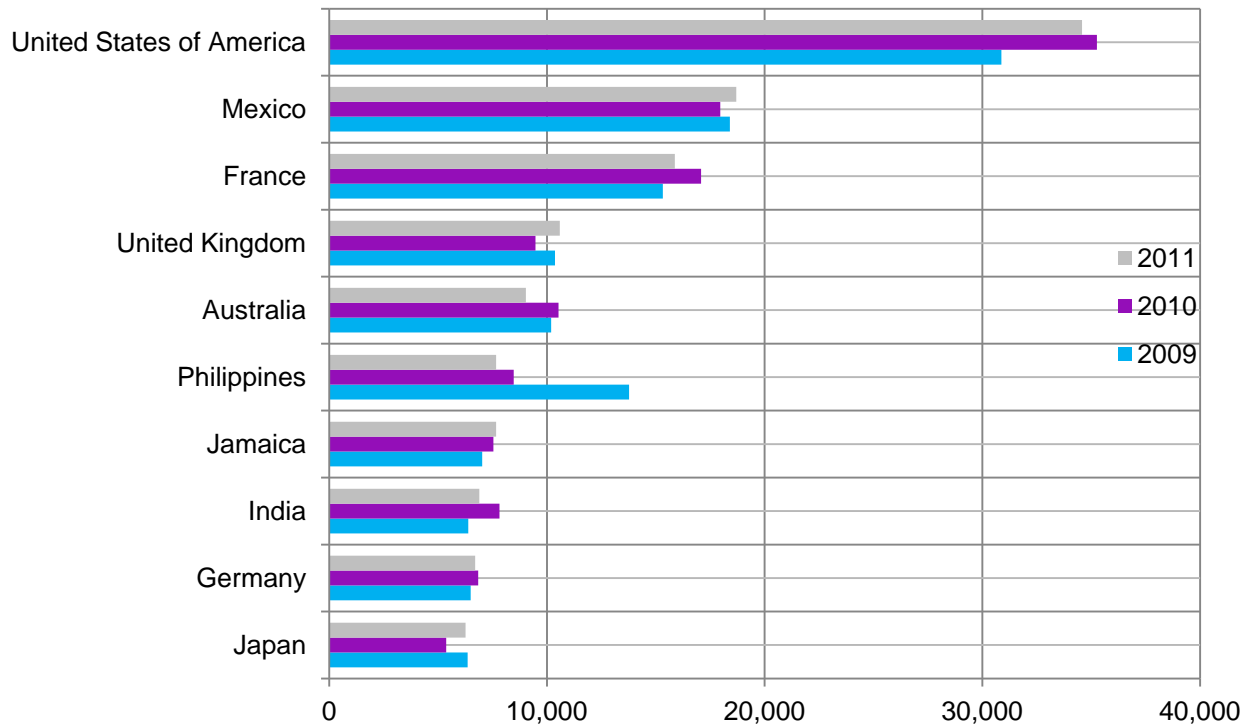
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	% Change 2002 to 2011
TFWs Residing in Cda with Labour Market Opinion (LMO)	48,509	52,202	57,640	64,606	74,756	102,153	134,081	141,983	122,183	104,203	115%
High Skill (O,A,B)	16,619	18,051	19,459	21,687	24,768	32,655	42,037	41,960	33,599	29,242	76%
Low Skill (C, D)											
General low-skilled	1,304	1,579	1,865	2,277	4,308	13,343	29,567	37,242	29,088	26,235	1912%
Live-in Caregiver Program	11,991	13,876	17,405	20,391	24,416	33,688	28,392	39,326	35,550	24,604	105%
Seasonal Agricultural Worker Program	18,595	18,696	18,911	29,251	21,264	22,467	24,085	23,455	23,946	24,122	30%
TFWs Residing in Cda without LMO	52,589	57,474	67,384	76,062	86,024	96,989	115,554	139,090	160,209	196,008	273%
Free Trade Agreements	16,215	15,029	15,524	14,802	16,293	18,349	21,156	21,375	22,368	25,772	59%
Provincial/Territorial Agreement								1,122	5,443	9,948	
Canadian Interests											
International Experience Canada	13,360	15,608	20,450	25,249	27,779	29,457	37,671	49,335	55,953	60,866	356%
Reciprocal Employment	2,321	2,182	2,158	2,182	2,046	2,215	2,068	2,218	2,303	2,542	10%
Spouses of Skilled Workers/Int. Students	5,486	8,129	10,549	12,687	14,774	18,002	21,207	23,400	23,635	26,003	374%
Research, educational or training	472	660	784	879	1,316	2,095	3,028	3,533	3,737	6,145	1202%
Intra-company transferees (general)	3,488	4,566	5,479	6,165	7,434	8,215	9,584	10,357	12,240	14,006	302%
Other Canadians Interests	10,506	9,804	10,508	12,112	14,361	16,073	18,508	25,056	31,045	43,587	315%
PR applicants in Canada	397	1,428	1,919	1,982	2,018	2,564	2,290	2,648	3,452	7,114	1692%
Others	344	68	13	4	3	19	42	46	33	25	-93%
Total TFWs Residing in Canada	101,098	109,676	125,024	140,668	160,780	199,142	249,635	281,073	282,392	300,211	197%



Main Source Countries for TFWs in 2011

- In 2011, the U.S. was the number one source country for foreign workers.
- Followed by Mexico, France, U.K, Australia, Philippines, and Jamaica.

Annual Flow of Foreign Workers by Top 10 Source Countries





Transitions to Permanent Residence

- In 2011, 29,908 former TFWs immigrated to Canada through one of the pathways to permanent residence.
 - Pathways include the FSWP, CEC, PNP, FSTP and LCP.
- Limited options for lower-skilled TFWs to transition to permanent residence
 - Live-in Caregiver and certain PNP
- When it comes to permanent residents, the level of education and training are an indicator of their labour market outcomes. Higher educated immigrants perform better than lower-skilled/less educated immigrants.





Worker protection

- TFWs have the same rights and protections as all Canadians.
- PTs are responsible for enforcing labour standards for 90% of occupations across Canada.
- The remaining 10% of occupations are federally regulated and are monitored and enforced by Labour Canada.
- HRSDC or CIC conduct an assessment of the genuineness of the job offer and whether the employer met their commitments to any TFWs they previously hired.





Worker Protection (cont.)

- **Regulatory improvements – *Immigration and Refugee Protection Act and Regulations***
 - Increased protection for live-in caregivers (2010)
 - Employer failure to meet commitments in their previous employ of TFWs can result in two-year suspension from program (2011)
 - In Economic Action Plan 2012, the Government announced that it will review the Temporary Foreign Worker Program to ensure that it supports Canada's economic recovery and growth.
 - Temporary foreign workers have access to the same protections as Canadian workers when it comes to labour standards. Some provinces and territories have taken additional legislative or regulatory action to reduce exploitation and abuse of TFWs (i.e. Ontario, Manitoba, Saskatchewan, and Nova Scotia)





Worker protection (cont.)

- **Specific employer requirements in low-skill programs**
 - Employers of lower-skill TFWs have additional responsibilities in the areas of transportation costs, accommodation, health insurance, and workers' compensation
- **General**
 - TFWs must be paid the same wages as Canadian workers for same job in same location.
 - Employers can pay wages that are less than the median wage for the same job in a specific region (up to 15% less for high-skill jobs; up to 5% less for lower-skill jobs). To do so, employers must show that the wage being paid to a TFW is the same as that being paid to their Canadian employees in the same job and location.
 - Same federal and provincial employment and labour laws that apply to Canadians apply to TFWs





Program Improvements

- **Strengthening the temporary nature of the program**
 - Four-year limit on stay in Canada
 - Applies mostly to low-skill workers
- **More efficient LMO processing**
 - Assessments for certain high-skill workers completed within 10 days for employers with good track records.
- **Connecting Canadians with Available Jobs**
 - Qualified EI claimants made aware of local jobs
- **2013 Review of the Temporary Foreign Worker Program**





Review of the Temporary Foreign Worker Program

- Through the Economic Action Plan 2012, the Government announced a review of the TFWP to ensure that the Program supports Canada's economic recovery and growth.
- The review is intended to identify areas where the Program can be improved by aligning better with labour market needs and by ensuring that more employers hire Canadians before hiring TFWs.
- CIC and HRSDC are undertaking consultations with provinces and territories and other stakeholders to gather input on what works well for the Program and what needs improvement.





TFWP issues most often raised

- Growth of TFWP, namely in lower-skilled jobs.
- Recruitment efforts of employers.
- Insufficient worker protections.
- Limited options for lower-skilled TFWs to transition to permanent residence.
- Lengthy processing times for both LMOs and WPs.
- Complexity of TFWP process, namely LMOs.
- Lack of LMO application fees for employers.





Annex A: Additional Requirements under the Low-Skilled Stream

- In cases where an employer is interested in hiring a foreign worker in any lower skilled occupation (including agriculture), there are additional conditions that the employer must be prepared to meet:
 - 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.
 - Consult with the local union if the position is covered under a collective agreement.
 - Help 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 worker(s) under the appropriate provincial workers compensation/workplace safety insurance plans.
- Except for live-in caregivers, there are no legislated language requirements for TFWs in general.
- Language ability is only assessed if it is expressly stated in the job description provided by the employer.





Annex B: Additional Requirements for the Seasonal Agricultural Worker Program (SAWP)

- SAWP operates according to bilateral agreements between Canada and select countries (Jamaica – 1966, Barbados and Trinidad & Tobago, 1967, Mexico, 1974, OECS, 1976)
- In cases where an employer is interested in hiring a worker under the SAWP, there are additional conditions that the employer must be prepared to meet:
- Signing 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;
- Provide free accommodation for workers that meet provincial standards;
- Ensure the worker is registered to private health insurance until he/she is eligible for provincial health coverage; and
- Register the worker under the appropriate provincial workers' compensation or workplace safety insurance plans.
- Canada no longer enters into bilateral agreements, and agricultural workers from other countries can be hired under the provisions of the Low-skilled Stream





Annex C: Additional Requirements for Live-in Caregivers

- To be eligible for the LCP, foreign nationals must demonstrate:
 - Education equivalent of Canadian secondary school
 - At least six months' training or one year of work experience in care-related field
 - Good knowledge of English or French
- The employer must be prepared to sign an employer-employee contract outlining wages, duties, and conditions related to the transportation, accommodation, health and occupational safety of the foreign worker. The employer is to:
 - Cover all recruitment costs related to the hiring of the foreign worker, and the costs of transportation from the caregiver's country of current residence to the work location in Canada
 - Provide adequately furnished and private accommodations
 - Provide medical coverage until the worker is eligible for provincial health insurance coverage, and register worker(s) under the appropriate provincial workers compensation/workplace safety insurance plans
 - Demonstrate genuine need for care for children, elders or persons with disabilities, and sufficient funds to pay wages for a live-in caregiver





Annex C: Additional Requirements for Live-in Caregivers

- Unique LCP pathway to permanent residence (PR) – those who meet the work requirement (full-time LCP work of two years or 3,900 hours within four years) may apply for PR.
 - As of December 2011, caregivers are being issued open work permits valid for up to four years immediately after they apply for PR (instead of waiting until their application has received approval-in-principle - about eighteen months sooner)
 - In 2011, Canada admitted 11,247 people from the Live-in Caregiver class as permanent residents
 - The annual levels plan provides for 9,000 admission spaces for the Live-in Caregiver class for 2013





Annex D: Cumulative Duration (Four-Year Limit)

- 2011 regulation sets out a ‘cumulative duration’ limit on the length of time many TFWs can work in Canada.
 - Goal is to reinforce temporary nature of the TFWP, and encourage workers and employers to use appropriate pathways to permanent residence, instead of using work permits to remain here with temporary status for an indefinite period.
- The following are exempt from the regulation:
 - Managerial (NOC 0) and professional (NOC A) occupations
 - TFWs approved in principle for permanent residence
 - TFWs employed under an international agreement such as NAFTA or the Seasonal Agricultural Worker Program (SAWP)
 - TFWs exempt from the LMO process (e.g., spouses of high-skilled TFWs; charitable/religious workers; refugee claimants; entrepreneurs, researchers etc. providing significant benefits to Canada beyond the four-year limit)





Annex D: Cumulative Duration (Four-Year Limit)

- Only periods of work are counted toward the four-year maximum.
 - *Example:* For a TFW working in Canada six months of the year, it would take eight years to reach the four-year limit.
 - Once the limit is reached, no permit is granted for an additional four years. After that time has elapsed, the worker may again be permitted to work in Canada.
- TFW work performed prior to April 1, 2011 is not counted toward the four-year cumulative period.





Annex E: Further Information

- http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/index.shtml
- <http://www.cic.gc.ca/english/work/index.asp>
- <http://www.cic.gc.ca/english/resources/publications/employers/temp-foreign-worker-program.asp>
- <http://www.cic.gc.ca/english/resources/publications/work-temp.asp>
- <http://www.cic.gc.ca/english/resources/research/2012-migrant/sec06.asp#a6.3>

