

**The Horticulture Industry and Overseas  
Seasonal Workers:  
Guest Worker Schemes – A Desktop Study**

Richard A. O'Brien

Project Number: VG13063

## **VG13063**

This report is published by Horticulture Australia Ltd to pass on information concerning horticultural research and development undertaken for the vegetables industry.

The research contained in this report was funded by Horticulture Australia Ltd with the financial support of the vegetables industry.

All expressions of opinion are not to be regarded as expressing the opinion of Horticulture Australia Ltd or any authority of the Australian Government.

The Company and the Australian Government accept no responsibility for any of the opinions or the accuracy of the information contained in this report and readers should rely upon their own enquiries in making decisions concerning their own interests.

ISBN 0 7341 3329 4

Published and distributed by:  
Horticulture Australia Ltd  
Level 7  
179 Elizabeth Street  
Sydney NSW 2000  
Telephone: (02) 8295 2300  
Fax: (02) 8295 2399

© Copyright 2014



*Horticulture Australia*

# **The Horticulture Industry and Overseas Seasonal Workers**

## **Guest Worker Schemes – A Desktop Study**

**Project Code: VG 13063**

**Supported by AusVeg**

**Service Provider: Richard A. O'Brien**

30 May 2014

**Horticulture Australia**  
Project Number: VG 13063  
(30 May 2014).

**Provider**  
Richard A. O'Brien  
92, Temperley Street,  
Nicholls,  
ACT 2913  
Mobile: 0432 495 280  
Email: richardaobrien@gmail.com

This report was actively supported by AusVeg.

The central objective of this report is to assist the vegetable industry in further developing policy platforms and strategies regarding the employment of guest workers which meet the requirements and expectations of government and the private sector as well as the advancement of the horticulture industry. This involved surveying guest worker models in selected countries with similar seasonal employment needs to Australia, current Australian policy and practice, and the experience of comparable sectors within Australia that employ guest workers. The report offers observations and recommendations aimed at advancing policy discussions in a key area that can be beneficial to the vegetable industry.

*Note: Any recommendations contained in this publication do not necessarily represent current HAL policy. No person should act on the basis of the contents of this publication whether as to matters of fact or opinion or other content without first obtaining specific, independent professional advice in respect of the matters set out in this publication.*

This desktop study involved consulting a range of publications – books, research documents, working papers, journals, magazine and newspaper articles – listed under 'References' in the final pages of the document. It also involved meetings and conversations with public servants and members of the Canberra based diplomatic community, independent lawyers and professionals working in the hospitality and construction industries as well as agriculturalists and others in the ACT, New South Wales, Victoria, Queensland and South Australia.

~~~~~

HAL and Richard A. O'Brien make no representations and expressly disclaim all warranties (to the extent permitted by law) about the accuracy, completeness, or currency of information in this document. Users of this document should take independent action to confirm any information in this document before relying on that information in any way.

~~~~~

This project has been funded by HAL using the vegetable industry levy and matched funds from the Australian Government.

~~~~~

## Some Priority Recommendations

- To establish (and seek adequate support for) a permanent Human Resources Committee to monitor and respond to present and future human resources needs across the horticulture sector.
- To develop (with other interested bodies) a properly funded Communications Campaign to inform horticulturalists – as well as other stakeholders – of the benefits of the Seasonal Workers Program (SWP).
- To study (and make recommendations on) the impact of the SWP on the productivity and competitiveness of those properties involved in the program.
- To review the current obligations (including wage payments) of employers operating the SWP (and other seasonal worker programs) and to discuss any suggested changes or adaptations with the appropriate Federal and State Departments.
- To discuss with the appropriate authorities (including AusAid) extending the number of countries in the SWP, with the possible inclusion of some from within ASEAN.
- To discuss with the appropriate authorities – and AusAid – the granting of multi-annual visas to SWP participants who are recommended by individual employers and have spent at least two consecutive seasons in Australia.
- To consider the introduction of a mediation service to assist both growers and workers in resolving differences, especially in circumstances where approval was given to a more flexible recruitment system as, for example, provided for in the US H-2A program.
- To advise on the likely benefits and suggested role for the Australian Pacific Technical Colleges network in the SWP.
- To establish a Special Needs Register – in cooperation with 'The Harvest Trail' and other agencies – to assist with any emergency employment needs that arise across the sector.

# Guest Workers and Horticulture Australia

## INDEX

|       |                                                         |    |
|-------|---------------------------------------------------------|----|
| 1     | INTRODUCTORY OVERVIEW .....                             | 4  |
| 2     | INTERNATIONAL PERSPECTIVES.....                         | 5  |
| 2.1   | Introduction.....                                       | 5  |
| 2.2   | The German-Turkish Program – 1960s & '70s .....         | 5  |
| 2.3   | Temporary Migration Programs In The U.S. ....           | 6  |
| 2.3.1 | The Bracero .....                                       | 6  |
| 2.3.2 | H-1B & H-2A Visas for Temporary Workers.....            | 6  |
| 2.3.3 | H-2A Visas for Temporary Agricultural Work .....        | 7  |
| 2.3.4 | Age Profile - Residency Rights - Dependents.....        | 8  |
| 2.3.5 | H-2A - Participation Costs for Employers.....           | 8  |
| 2.3.6 | Protection for H-2A Workers .....                       | 8  |
| 2.4   | Seasonal Agricultural Workers In Canada .....           | 9  |
| 2.4.1 | The Agricultural Stream.....                            | 9  |
| 2.4.2 | The Stream for Lower Skilled Occupations .....          | 9  |
| 2.4.3 | The Stream for Higher Skilled Occupations .....         | 9  |
| 2.4.4 | The Seasonal Agricultural Workers Program (CSAWP) ..... | 10 |
| 2.4.5 | The Role of Provincial (State) Governments .....        | 12 |
| 2.4.6 | The Canadian Horticultural Council.....                 | 12 |
| 2.5   | Overview Provisions Of The European Union.....          | 13 |
| 2.5.1 | General Provisions.....                                 | 13 |
| 2.5.2 | Conditions for EU Admission .....                       | 14 |
| 2.5.3 | General Procedures .....                                | 14 |
| 2.5.4 | Seasonal Workers Rights .....                           | 14 |
| 2.6   | Practices Across The EU Member States .....             | 14 |
| 2.6.1 | Permission for Absence and Re-entry Conditions .....    | 16 |
| 2.6.2 | Cooperation Agreements with Third-Countries .....       | 16 |
| 2.6.3 | Brief Overview of Seasonal Worker Statistics.....       | 17 |
| 2.6.4 | Germany and Seasonal Workers.....                       | 18 |
| 2.6.5 | The United Kingdom And Seasonal Workers.....            | 19 |

|          |                                                            |           |
|----------|------------------------------------------------------------|-----------|
| 2.6.6    | Spain And Seasonal Workers.....                            | 19        |
| 2.6.7    | Legal Channels for the Recruitment of Foreign Workers..... | 21        |
| 2.6.8    | Some Trends Across EU Member States.....                   | 22        |
| 2.6.9    | Seasonal Workers: A Non-EU European State .....            | 23        |
| 2.7      | NEW ZEALAND.....                                           | 25        |
| 2.7.1    | Recruitment Procedures.....                                | 27        |
| <b>3</b> | <b>WORKING HOLIDAY PROGRAMS .....</b>                      | <b>32</b> |
| 3.1      | INTRODUCTION .....                                         | 32        |
| 3.2      | SOME INTERNATIONAL EXAMPLES.....                           | 32        |
| 3.2.1    | The United States .....                                    | 32        |
| 3.2.2    | Canada.....                                                | 33        |
| 3.2.3    | Germany .....                                              | 33        |
| 3.2.4    | The United Kingdom.....                                    | 33        |
| 3.2.5    | Spain.....                                                 | 34        |
| 3.2.6    | New Zealand.....                                           | 34        |
| <b>4</b> | <b>AUSTRALIA – AN OVERVIEW .....</b>                       | <b>35</b> |
| 4.1      | WORKING HOLIDAY VISA PROGRAMS.....                         | 35        |
| 4.1.1    | WHM (subclass 417) Visa.....                               | 35        |
| 4.1.2    | Second WHM (subclass 417) Visa.....                        | 35        |
| 4.1.3    | Work & Holiday (subclass 462) Visa .....                   | 36        |
| 4.2      | WHMs IN RURAL & REGIONAL AUSTRALIA.....                    | 37        |
| 4.3      | SEASONAL WORKERS PROGRAMS (SWP).....                       | 39        |
| 4.3.1    | Introduction.....                                          | 39        |
| 4.3.2    | Pacific Seasonal Workers Pilot Scheme .....                | 40        |
| 4.3.3    | The Seasonal Workers Program (SWP) .....                   | 42        |
| 4.3.4    | The Special Program (Subclass 416) Visa.....               | 42        |
| 4.4      | SOME OBSERVATIONS AND REACTIONS.....                       | 43        |
| <b>5</b> | <b>SOME INTERNATIONAL ORGANIZATIONS.....</b>               | <b>47</b> |
| 5.1      | THE UNITED NATIONS .....                                   | 47        |
| 5.2      | THE WORLD BANK .....                                       | 48        |
| 5.3      | THE INTERNATIONAL LABOUR ORGANISATION .....                | 49        |
| 5.4      | AMNESTY INTERNATIONAL.....                                 | 49        |

|                                                                                 |           |
|---------------------------------------------------------------------------------|-----------|
| <b>6 AUSTRALIAN AGRICULTURE – CONSTRUCTION &amp; TOURISM INDUSTRIES .....</b>   | <b>51</b> |
| 6.1 A BRIEF NOTE ON EMPLOYMENT.....                                             | 51        |
| 6.2 AGRICULTURE.....                                                            | 51        |
| 6.3 THE CONSTRUCTION INDUSTRY.....                                              | 52        |
| 6.4 THE HOSPITALITY INDUSTRY .....                                              | 53        |
| <br>                                                                            |           |
| <b>7 EXAMPLES OF MINIMUM PAY RATES ACROSS THE INTERNATIONAL COMMUNITY .....</b> | <b>55</b> |
| <br>                                                                            |           |
| <b>8 AUSTRALIA AND REGIONAL ECONOMIC AND SOCIAL DEVELOPMENT STRATEGIES.....</b> | <b>56</b> |
| 8.1 THE AUSTRALIAN PACIFIC TECHNICAL COLLEGE .....                              | 56        |
| 8.2 SEASONAL WORKERS & DEVELOPMENT STRATEGIES.....                              | 56        |
| 8.3 RECRUITMENT AGENCIES & MIGRATION AGENTS .....                               | 59        |
| <br>                                                                            |           |
| <b>9 CONCLUSIONS &amp; RECOMMENDATIONS .....</b>                                | <b>61</b> |
| 9.1 PROGRAMS IN OPERATION ELSEWHERE .....                                       | 61        |
| 9.2 CONCLUDING OBSERVATIONS.....                                                | 63        |
| <br>                                                                            |           |
| <b>10 REFERENCES.....</b>                                                       | <b>65</b> |



# 1 INTRODUCTORY OVERVIEW

The aim of this desktop study is to provide an overview of guest worker programs as they are currently implemented within certain western democracies. Specific examples are drawn from countries across North America, Europe and Oceania – that have similar labor market characteristics and employment needs to those found in Australia. Having a particular regard to the needs and nature of the horticultural industry, a number of relevant models have been cited from across the United States and Canada; Germany, Spain and the United Kingdom (with a more general overview section on policy and practice within the European Union); Norway (an example of a European country outside the EU); and New Zealand. The study also refers to the views of certain International Organizations – in particular the United Nations and the World Bank – as well as to the experience of certain other sectors within Australia that welcome overseas temporary workers – specifically the construction and tourism sectors.

The study also considers the range of schemes currently available in Australia that facilitate the employment of temporary workers within the horticultural industry including 457 visas – the Working Holiday Maker arrangements – student visa holders – and the more recent Seasonal Workers Program. The study concludes with a number of general observations and recommendations that have drawn on a wide number of international as well as local reports and studies – listed in the Reference section at the end of the document - as well as on discussions with a number of individuals in the public and private sectors who are – or have been - involved in recruiting and employing temporary workers within Australia.

## 2 INTERNATIONAL PERSPECTIVES

### 2.1 Introduction

Temporary migration programs as we know them today (as distinct from seasonal migration practices that once existed between neighboring countries: e.g. in potato harvesting between North-West Ireland and rural Scotland) came into their own in the years immediately following World War II. They flourished as guest worker programs across much of Western Europe in the 1950s and 60s but began to undergo structural changes in the 1970s. In 1973 Germany halted its guest worker program and was followed within a year by virtually all other West European Governments, except the UK which had begun to curtail immigration as early as 1962. The experience of economic stagnation (blamed on the 'Oil Crisis' that saw a sharp increase in energy prices following the then Arab Israeli war) that characterised the remainder of the 1970s and much of the '80s saw unemployment deepen across Western Europe with Governments becoming increasingly convinced that guest workers were no longer needed and that unemployment could be reduced by sending some of them home. The Gulf States on the other hand saw a major surge in guest worker numbers following the quadrupling of the price of their oil exports, with the overwhelming majority of those arrivals coming from the Arab Middle East and Asia.

Nonetheless, the classic example of the traditional Guest Worker program – aspects of which remains relevant to a discussion of seasonal employment policies and practices for cautionary as well as constructive reasons – was the German-Turkey Guest Worker Program of the 1960s & '70s.

### 2.2 The German-Turkish Program – 1960s & '70s

This Guest Worker program is regularly cited as the pioneer example from which lessons can be learned since ultimately it did not fully achieve its original objective as a strictly temporary and seasonal arrangement in which workers would rotate between Turkey and Germany – in an easy flow of circular migration. Opposing interests quickly developed between the sending and receiving countries. There was a growing dependency on inexpensive temporary labor in the host country and a growing dependency on emigrant remittances in the country of origin. Tensions arose between seasonal workers and the immigration authorities of the host country – with some seasonal workers demonstrating aptitudes for longer term employment (welcomed by their employers) but with Germany's immigration authorities insisting on adherence to a strictly formulated arrangement of circular movement. There were also tensions between the employers of seasonal workers on the one hand and labor unions on the other. The former showed a reluctance to dispense with trained workers while the latter, with some public and political support, showed an unwillingness to have temporary jobs transformed into permanent positions in a way which could disadvantage local job seekers.

One of the enduring lessons of the German-Turkish program is the impracticality, if not the impossibility, of restricting regional guest worker initiatives to a strictly limited economic profile. The strategies of policy makers within the receiving country in addressing 'in season' labor shortages while simultaneously avoiding 'out of season dependencies' could

conflict with the interests of employers in seeking to ensure the return of trained and competent workers even in the case of the most basic jobs. There were also the challenges for all parties in providing for the ever-present possibilities of local socialization and the associated demands for permanent residence status within the host country. However, it was around this time also becoming clear that the Oil Crisis of the early 1970s had only been a trigger for addressing other inevitable changes. Underlying factors were beginning to surface (including aging populations and movements away from the land) which meant that labor policies and employment practices would have to be re-conceived. Many industries, including agriculture, were becoming more dependent on migrant seasonal labor. Temporary migrants were beginning to fill what were full-time, albeit seasonal, demands. At the same time greater sophistication in achieving agricultural productivity placed a new premium on training and experience – and hence rotation in knowledgeable seasonal workers was also beginning to emerge as increasingly desirable.

## **2.3 Temporary Migration Programs In The U.S.**

Meanwhile important developments were underway in the United States, where over the years, many – including some large scale – temporary migration programs had been implemented but with few receiving the scrutiny and critical analysis to which the early Bracero and both the H-1B and H-2A Visa programs have recently been subjected.

### **2.3.1 The Bracero**

This temporary migration program was agreed between the US and Mexico in 1942 to help address a range of urgent needs across the US labor market (including within US agriculture) following America's engagement in World War II. While initially seen as a highly successful program in coping with some immediate US labor market shortages, it resulted in the longer term in creating a serious dependency within the agriculture sector with up to 450,000 temporary workers crossing from Mexico annually throughout the 1950s – a figure that tapered-off to 200,000 annually in the 1960s. It is estimated that during the 22 years of its operation the program involved some 4.5 million seasonal workers. As a program, it was characterised by poor enforcement on the US side. It depressed farm wages across much of rural and regional America – giving a further impetus to the movement away from agriculture – and in some instances (of which there were not a few) it created and/or heightened racial and inter-community tensions. On the Mexican side an estimated 10% of the workers' earnings which were withheld by the Mexican authorities (to ensure 'circularity of migration') were never returned to them. Some claim that it also served to create networks that continued to facilitate irregular (undocumented) flows of migrants from Mexico to the US.

### **2.3.2 H-1B & H-2A Visas for Temporary Workers**

Over recent years there has been a steady increase in the use of temporary work visas by employers across the US economy who need highly skilled, as well as seasonal, workers in both agriculture and other sectors. H-1B visas are issued to overseas applicants to work temporarily in the US in specialised occupations or in sectors that require specialised knowledge – including in agricultural science and in scientific research. The validity of the visa is initially for a 3 year period that can be extended to a maximum of 6 years and with

the possibility of a further extension. There are in all three categories of H-1B visas with each requiring at least a Bachelor's Degree from a recognised Third Level Institution – the first category has an overall annual ceiling (cap) of 65,000; the second category has an additional ceiling of 20,000 and requires an advanced degree from a US university; and the third category, to which no ceiling applies, is exclusively for temporary work placements within the academic staff of US universities.

### **2.3.3H-2A Visas for Temporary Agricultural Work**

The H-2A is a non-immigrant visa program that permits US employers to employ low-skilled, temporary or seasonal workers to engage in agricultural work for which US citizens are not available. The H-2A is normally granted for a period of up to 10 months at the end of which time the foreign national is required to return to their home country. If the employer wishes to have a particular overseas worker return the following year then an appropriate application can be made to the US Citizenship and Immigration Service (USCIS). It is permissible for a worker to change a H-2A employer while remaining in the US and also possible to have the term of the visa extended for a temporary period.

There is no cap on the number of visas issued annually either to the nationals of a specific country or to the overall program. The number of visas issued annually has grown significantly over recent years with an increase from 45,000 in 2001 to 74,300 in 2013 – a growth rate of just over 65%. The program currently has 63 participating countries:

Argentina – Australia – Austria – Barbados – Belize – Brazil – Bulgaria – Canada – Chile – Costa Rica – Croatia – Dominican Republic – Ecuador – El Salvador – Estonia – Ethiopia – Fiji – Grenada – Guatemala – Haiti – Honduras – Hungary – Iceland – Ireland – Israel – Italy – Jamaica – Japan – Kiribati – Latvia – Lithuania – Macedonia – Mexico – Moldova – Montenegro – Nauru – the Netherlands – Nicaragua – New Zealand – Norway – Papua New Guinea – Peru – the Philippines – Poland – Romania – Samoa – Serbia – Slovakia – Slovenia – Solomon Islands – South Africa – South Korea – Spain – Switzerland – Thailand – Tonga – Turkey – Tuvalu – Ukraine – the United Kingdom – Uruguay – and Vanuatu.

The applicant for a H-2A visa must have a job offer from a US employer. Some US employers send their own recruiters to the participating countries while others work with recruiting agencies within those countries who are aware of the required job specifications. Recruiters typically assist applicants with documentation and the completion of visa application forms – but it is illegal under US law for employers or their recruiting agents to charge fees for job placements. There are three steps in the application process:

First, the US employer files an application with the US Department of Labor confirming that there are no American workers able, willing, qualified and/or available to undertake the work for which the visa is being sought. On approval the employer receives a 'temporary labor certification';

Secondly, the employer then files Form I-129 – 'Petition for Nonimmigrant Workers' – with the USCIS which requests admission for H-2A workers. This Form specifies the countries from which the workers originate and may identify individual workers by name; and,

Thirdly, once Form I-129 is approved the worker can apply at the US Embassy or Consulate in his/her respective country.

### **2.3.4 Age Profile - Residency Rights - Dependents**

Labor laws can vary across individual States but the generally accepted eligible minimum age for applying for a H2-A visa is 18. There are no maximum age stipulations but individual applicants must have the physical capacity to undertake the work required. The H-2A visa is a Nonimmigrant Visa which is valid for a specific period of time – it does not create a pathway towards acquiring Permanent Residency (a Green Card) or towards acquiring American citizenship. The spouse and unmarried children (under 21 years old) of a H-2A visa holder may apply for a H-4 nonimmigrant visa, but employers are not responsible for either the travel or housing costs of accompanying family members. H-4 visa holders are not authorized to work in the US, but they may attend school.

### **2.3.5 H-2A - Participation Costs for Employers**

Employers who participate in the H-2A Visa program make payments to three agencies involved in processing applications. First, the Department of Labor charges a base application fee of US\$100 together with a fee of US\$10 per worker up to a cap of US\$1,000. Secondly, the Department of Homeland Security charges US\$325 for each application regardless of the number of workers listed. Finally, the State Department charges US\$190 per person since each Embassy or Consulate is required to screen workers individually to ensure that their documentation is in order, that they can fulfill the requirements of the visa and do not raise any national security concerns. Employers can claim tax deductions for these fees and are exempt from Social Security and unemployment payments for H-2A workers.

### **2.3.6 Protection for H-2A Workers**

Wages for H-2A workers must equal the highest among the following: (1) the local 'prevailing wage' as determined by the Federal Department of Labor and local State Agencies; (2) the Federal and State minimum wage; and, (3) the 'adverse effect wage rate' – which is the average wage of non-supervising fruit and livestock workers as determined by surveys conducted by the US Department of Agriculture. Domestic recruitment obligations require employers to use the inter-state Employment Services system (involving Federal and State workforce agencies) as well as private recruitment agencies to locate US workers and prevent exploitation of, and discrimination against, foreign workers.

The 'three-fourths minimum work guarantee' requires employers to provide recruited workers with the opportunity to work for at least 75% of the number of hours in their job offer – or to pay the short-fall. (This is largely to prevent any attempt at over-recruitment designed to drive down wages.)

H-2A visa holders, who work for at least half of the season, must be reimbursed the full transportation and subsistence costs of travelling to the place of employment – those who complete the full season must, in addition, be paid the cost of their journey home.

H-2A employers must provide housing for their workers that meets both Federal & State safety standards. They must also provide for workers compensation insurance to cover occupational injuries – but are not obliged to fund general health insurance coverage.

## **2.4 Seasonal Agricultural Workers In Canada**

Temporary overseas workers can be employed by Canadian employers to help meet their labor needs (including within agriculture) in circumstances where Canadian citizens and permanent residents are unavailable. In an effort to balance the temporary employment needs of employers with the protection of overseas workers, the Temporary Foreign Workers Program (TFWP) in the agriculture sector has the following four streams:

### **2.4.1 The Agricultural Stream**

Under which employers are permitted to hire temporary foreign workers from any country for a period of 24 months but on the understanding that they are to be employed in the following specified commodity sectors: apiary products, fruits, vegetables, flowers, Christmas trees, tobacco, bovine, dairy, duck, horse, mink, poultry, sheep and swine. They can also be involved in on-farm canning and processing as well as in greenhouses and nurseries. In addition their work activity must be related to primary agriculture: that is work performed within the boundaries of farms, nurseries and greenhouses and which involves (a) the operation of agricultural machinery; (b) the boarding, care, breeding, sanitation or other handling of animals for the purpose of obtaining animal products for market or for activities related to the collection, handling and assessment of these products; or, (c) the planting, care, harvesting or preparation of crops, trees or other plants for market. The following areas are excluded: landscape architecture – the activities of agronomists and agricultural economists – the provision of feed lot services – the perpetration of vegetable fibers for textile use – activities related to commercial hunting and trapping – and veterinary activities.

### **2.4.2 The Stream for Lower Skilled Occupations**

Under this program an agricultural employer can employ temporary foreign workers for a maximum of 24 months to undertake any lower skilled agricultural position in circumstances where the only educational or formal training that is required would at most be a high school diploma or a maximum of 2 years job-specific training.

### **2.4.3 The Stream for Higher Skilled Occupations**

This program facilitates the employment of temporary overseas workers by agricultural employers in such areas as management, professional, scientific, technical or trade occupations that require a level of education or formal training that might include a university degree – an agricultural college education – a vocational education diploma – or certified apprenticeship training. Under this stream of higher skilled occupations, temporary foreign workers are also able to apply for permanent residence in accordance with the provisions of Canada's Citizenship and Permanent Residency legislation.

## **2.4.4 The Seasonal Agricultural Workers Program (CSAWP)**

For almost half a century, Canadian farmers have been meeting some of their seasonal labor needs by employing temporary workers (at least 18 years old and with some farming experience) from Caribbean countries and – since 1974 – also from Mexico under Canada's Seasonal Agricultural Worker's Program (CSAWP). This Federal program provides for the organised entry into Canada of largely unskilled workers for a period of up to 8 months annually to fill shortages across Canadian farms during the peak periods of planting, cultivating and harvesting.

The program is run in cooperation with the Governments of Mexico, and the participating Caribbean States: Jamaica, Barbados, Trinidad and Tobago and the Organisation of East Caribbean States (Grenada, Antigua, Dominica, Saint Kitts and Nevis, Saint Lucia, Monserrat and Saint Vincent and the Grenadines). It brings some 20,000 workers to Canada annually – the great majority to Ontario. One of the strengths of the Canadian system is that it operates under the umbrella of individual bilateral (government to government) agreements between Canada and the participating countries each of which provides for an annual review, thus enabling operational problems to be readily addressed and procedures and regulations updated. These agreements also provide a formal mechanism where individual workers can raise issues with their consular representatives. A nominated consular official is appointed by each participating country to fulfill this obligation.

Federally, the program is the responsibility of the Ministry of Human Resources and Social Development Canada (HRSDC). Employers seeking seasonal workers from overseas must first obtain the approval of their local HRSDC Human Resources Centre. In accordance with the 'Canadians First' policy, employers must demonstrate that they have been unable to recruit any suitable local personnel to undertake the work. In Ontario, Nova Scotia and Prince Edward Island applications are sent for processing to FARMS – the Foreign Agriculture Resource Management Service – and in Quebec and New Brunswick to its French language equivalent FERME – *Foundation des entreprises pour le recrutement de la main-d'oeuvre étrangère*. FARMS and FERME then communicate with the labor-supply authorities in the country nominated by the employer. FARMS and FERME will together employ 16,000 CSAWP workers in 2014 – most arriving in April and May.

In their countries of origin in the Caribbean workers are recruited by the Ministries of Labor while in the case of Mexico the State Employment Service undertakes the recruitment. The process normally takes some 20 days to complete in the country of origin. The completed documentation (including a medical report) is submitted to a Canadian Immigration Official who issues a temporary work permit and the related entry visa. Spouses and other family members are not issued with accompanying travel authorization.

Individual workers are sent to specific farms where the property owner (employer) signs an official Employment Agreement which in the case of Mexico can also be signed by a consular official – in the case of Caribbean countries usually by the workers themselves. The Agreement provides for a minimum of 240 hours work and wages over a 6 week period (or less) and an initial probationary period of 14 days as well as the provision of free accommodation usually at a location on or near to the property. Employers are also

responsible for arranging Provincial health coverage and enrolling each worker in the Provincial workplace safety insurance program. These Agreements also cover the rights and responsibilities of each party across a range of issues including local transportation costs, general working conditions, meal allowances and repatriation payments.

The program is widely regarded as having being highly successful both internationally and across Canada's rural communities in the following ways:

- First, by providing labor reliability at times of peak demand and thereby contributing greater confidence to plans for increasing production;
- Secondly, by contributing to the expansion of higher skilled jobs through the development and growth of associated rural industries that provide rural transport, develop construction and infrastructure projects as well as in enhancing food processing operations;
- Thirdly, by contributing to the ongoing viability of locally based businesses from grocery shops and internet cafes to post offices and banks; and,

Finally, by providing a legal route to seasonal employment in rural areas that otherwise might be filled by undocumented workers mainly entering from across Canada's extensive border to the south.

CSAWP offers seasonal workers a range of benefits including: (1) levels of income not readily available in their home countries; (2) the potential to use their earnings and remittances to improve the quality of life and material welfare of their immediate dependents; (3) the opportunity to extend and deepen their children's education – an interesting 2004 Jamaican report found that 35% of the children of seasonal migrants remained longer at school than the children of those in the same domestic socio-economic group; and (4) a legitimate route to an employment destination that could only otherwise be accessed (in Canada as elsewhere) through the undocumented – as well as unprotected – and illegal methods of people-smugglers and/or corrupt officialdom.

Seasonal workers in the horticultural sector spend on average 17 to 20 weeks in Canada annually (typically from the beginning of January until mid-December) working on just over 1,800 farms across 9 Provinces, but with some 1,600 in Ontario. Collectively, these farms produce the most significant share of Canada's fruit and vegetables, flowers, tobacco, honey, nursery tree products and shrubs. Some also work in food processing and packaging plants. Significantly, Canada has shifted from being a net importer to being a net exporter of 6 of the 7 key crops employing CSAWP seasonal migrant workers – apples, tomatoes (including green house tomatoes), cucumbers, peaches, cherries and ginseng. Despite these impressive successes there has been a real decline (of some 30% since 1990) in resident Canadian worker participation in horticulture.

One of the most important attractions of the CSAWP program for farmers is that it provides for the possibility of continuity as they can request the return of individual workers and, thereby, benefit from training and skills retention and avoid or at least minimise the need and expense of an annual investment in training, re-training and up-skilling programs. Between 70% to 80% of workers are re-hired from the previous year and receive priority treatment in immigration processing.



## **2.4.5 The Role of Provincial (State) Governments**

While CSAWP is a Federal program it is also the case that the range of issues concerning seasonal agricultural workers are of immediate and intimate concern to Provincial Governments and Ministries. In the Canadian Federal structure it is the Provincial Governments and Parliaments that formulate and legislate for employment standards, health and safety regulations in the local workplace, provide for the inspection of seasonal workers accommodation and are responsible for a range of other matters that affect seasonal workers' welfare. Provincial Governments also participate as observers at the annual CSWAP reviews conducted by Canada with it's Mexican and Caribbean partners.

## **2.4.6 The Canadian Horticultural Council**

HRSDC consults on a regular basis with the Canadian Horticultural Council on the operation and implementation of CSAWP. The Council has its own Human Resources Committee – which reports annually to its AGM. The Chair of the Committee is an observer at the annual bilateral meetings between Canada and the program's participating countries from Mexico and the Caribbean. A key role of the Human Resources Committee is to provide a forum for interested stakeholders to discuss the sectors human resources issues, to identify the main challenges in the recruiting and training of seasonal workers and to offer timely analysis of the strengths, weaknesses, opportunities and threats that can impact on the membership of the Council from the human resources perspective – in summary to enhance the Council's capacity both to anticipate and to respond effectively to present and future resources needs.

The following are among the issues to have emerged from the bilateral meetings of the CSAWP partner countries and include the need for:

- a more comprehensive pre-briefing of seasonal workers on the various types of farm jobs that are available;
- greater transparency in, and easier (including language) accessibility to, information on CSAWP's objectives, rules and regulations;
- the development of an easier system of transfer between farms;
- a more structured approach – beyond 'on-the-job learning' – to developing a practical understanding of the work situation on Canadian farms, including employers expectations and workers rights;
- the provision of insurance and workers compensation, access to pension schemes – guidance on both paying and reclaiming taxes and the possible applicability of fringe benefits – as well as practical advise on the mechanisms for claiming overall benefits;
- the further development of appropriate tools and mechanisms to assist in on-the-farm human resource management and training, including manuals (hard copy and electronic) on communications, problem solving and on both the guidance and evaluation of personnel. (It may be useful to note that a number of these tools are being made available through the Canadian Agricultural Human Resource Council; and,

- an ongoing review of the operation of the Compulsory Savings Scheme whereby 25% of the wages of seasonal workers are withheld and transferred to their respective home Governments who in turn withhold between 5% to 8%, as a repayment of their overall fees for administering the program, and who also undertook to provide easier access for regular payments to the family dependents of seasonal workers.

## 2.5 Overview Provisions Of The European Union

### 2.5.1 General Provisions

Despite the severe impact of the 2008/09 Global Financial Crisis (GFC) across many of the economies of the Member States of the European Union (both within and outside the Euro Zone) and the accompanying sharp increases in unemployment, it was nonetheless found that labor market shortages continued to persist across a number of key sectors within the broader European economy – including in agriculture. These were also identified as the sectors where shortages are destined to become more acute as demographic challenges increase and the EU's workforce continues to age and contract.

It is also interesting that in the case of two of the three Member States considered below – Germany and the UK – the foreign population as a percentage of total population showed no decline as a result of the GFC. In the case of Germany it stabilized at 8.8%. In the UK it grew from 4.5% to 7.2%. However, Spain's more recent statistics show an overall slight decline. Nonetheless, it is not surprising that while still dealing with the impact of the GFC, European policy makers were also discussing proposals – set out in a European

Commission Document for an EU Directive published in July 2010 – on common EU entry and residency conditions for third-country seasonal and temporary workers (of which there are estimated to be up to a million annually). While wanting neither to distract nor detract from attempts to return the local (particularly the longer-term) unemployed to the workforce by encouraging or incentivising the employment of migrant workers in areas such as the construction industry where there was, and remains, an ample supply of unemployed labor – the Commission Document recognised those seasonal sectors (especially in agriculture, horticulture and tourism – and specifically in harvesting and hospitality) where employers struggle to recruit sufficient numbers of workers.

These sectors were also identified as having the strongest presence of overseas workers and of being among the sectors with the largest numbers of workers who were residing illegally within the Member States. Hence a strategic objective of the Commission Document was to establish swift and flexible admission procedures that would secure legal status for seasonal workers, both to safeguard them against exploitation by rogue employers and simultaneously to protect EU citizens and permanent residents from disadvantageous undocumented competition.

The Commission Document also sought to respect the 'circular' nature of seasonal migration which enables such workers to enter a Member State, return to their own countries and reapply to come back to the same or to a different Member State. Such a process, in addition to meeting real employment needs across the European economy, is

seen as an attempt to facilitate the return of reliable inflows of skills and skilled workers (and the return of remittances) to developing countries. This, it is argued, provides a means of reducing the impact of draining intellectual and human resources away from developing economies while also seeking to remain consistent with the European Union's own millennium development goals.

## **2.5.2 Conditions for EU Admission**

Since the visa application process in this category is necessarily demand driven, a work contract or binding job offer must be submitted with each application. It is also necessary for the contract or binding job offer to specify the level of remuneration payable to each seasonal worker to ensure that it meets the requirements of the wage standards of the Member State involved. It must also specify the working hours per week or per month (as appropriate) and confirm that the seasonal worker will benefit from other key relevant obligations (including insurance) and receive appropriate accommodation throughout her/his stay.

## **2.5.3 General Procedures**

A fast track procedure – of 30 days – is to be available for processing all seasonal worker applications. The period of stay in any calendar year is set at between 5 and 9 months – as confirmed in February 2014. There is however provision for an application to be made within the maximum period for an extension of an individual contract as well as for seeking changes of employer. Multi-seasonal permits for up to three seasons are also available for sectors (identified on a national basis) in circumstances where labor market needs can be anticipated to remain stable over a given period of time (particular examples of where this is a normal practice are in the horticulture and hospitality sectors).

## **2.5.4 Seasonal Workers Rights**

The Directive also discusses working conditions including, pay and dismissal requirements, health and safety regulations and confirms that equal treatment with domestic workers must apply in respect to freedom of association as well as to affiliation with and membership of organisations representing workers. The Directive makes it clear that equality of treatment must also apply across the Member States in respect of their social security and social welfare systems. To make the enforcement of seasonal workers rights more effective and transparent the Directive provides for the establishment of complaints mechanisms at national level across the European Union. The Directive also stipulates certain reporting requirements by the Member States to the European Commission in the areas of General Procedures and Seasonal Workers Rights.

## **2.6 Practices Across The EU Member States**

The overall legislative framework across the Member States contains two visa categories for temporary residents:

those which are valid for a limited period, and do not have provision for the possibility of extension. These are aimed explicitly at enabling temporary/seasonal migration; and,

those which are valid for a limited period, but have a provision for an extension based on a presumption of return and which also inherently constitute a pathway to permanent residence.

While the first category is the one of primary relevance to this paper, it is important to point out that domestic provisions within a few Member States – **Austria, France, Latvia and the Czech Republic** – tend not to make a definitive distinction between categories 1 & 2 above. In each case they have regulations which permit temporary/seasonal workers to transform their short-term visas into longer-term stays and in some cases into permanent residence. Nonetheless, currently 13 of the 28 EU Member States issue visas that are explicitly designed for the purpose of facilitating temporary/seasonal employment – **Austria, the Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Lithuania, the Netherlands, Portugal, the Slovak Republic and Sweden.**

**The Czech Republic** has a Type C Green Card designed specifically for low-skilled workers and is issued for a maximum of 2 years with no possibility of an extension.

**Finland** has a 3 month visa – defined as a permit for the purpose of temporary employment – which is overwhelmingly issued to seasonal workers in the horticulture sector. **Austria, Estonia and Lithuania** issue National D Visas for up to 6 months (12 months in the case of **Lithuania**) largely to seasonal workers in the agricultural and tourism industries. **Portugal** issues a Temporary Stay Visa to overseas workers for the period equal to the duration of a signed and certified work contract and as long as the contract is one that does not exceed 6 months.

**France, Hungary, Italy and the Slovak Republic** issue permits specifically for seasonal employment. They permit seasonal mobility to and from the Member State over a 3 year period. In **France**, the seasonal worker must work for a period of between 3 and 6 months each year during the 3 years for which the visa is valid. It can then be renewed for a further 3 years but on the understanding that the workers' permanent residence is outside France. In **Italy**, an employer may apply for long-term permits of stay, which are valid for a maximum of 3 years for seasonal workers who have worked for the same employer for 2 consecutive seasons.

In the **United Kingdom**, the 'Tier 5' visa (administered under the Points-Based System – PBS) is issued to third country nationals who are allowed to work for a time-limited period to satisfy (primarily) non-economic objectives. That in effect means migrants who are present on a Government Authorised Exchange Program (e.g. medical training), or are resident under the provisions of an International Agreement (in an International Organisation) or are temporarily resident artists and sports persons who wish to engage in part-time; or seasonal work. In other Member States (including **Germany, Ireland and the Netherlands**) it is mainly low-skilled seasonal migrants who apply for temporary migration visas since high-skilled migrants are usually invited to apply for longer-term visas or for permanent residence.

In **Poland**, third country nationals of neighboring states – including Belarus, Georgia, Moldova, Russia and Ukraine – with which Poland has signed Mobility Partnerships, may be granted an entry visa and work for 6 months within a 12 month period without requiring a work permit, although a statement by the worker's employer should be registered at a local District Labor Office. In **Portugal**, relatively recent provisions enable holders of

resident permits (mainly issued for the purposes of study) to engage in seasonal employment especially in jobs linked to the hospitality and horticultural sectors. This was partly intended to reduce an increasingly dependent practice of immediately looking towards 'new' economic (albeit temporary) migrants to fill labor shortages especially in seasonally sensitive sectors.

## 2.6.1 Permission for Absence and Re-entry Conditions

**France, Germany, Estonia, Hungary, Italy, Latvia, Lithuania** and **the United Kingdom** all issue visas that permit temporary workers to depart and return at a later date on effectively the same visa. **Belgium** has legislation in place that provides for the departure and return of temporary/seasonal third country workers. These provisions apply to third-country nationals residing in Belgium on all categories of residency visas of a longer duration than 3 months. Temporary migrants may spend up to 3 months outside Belgium without losing their visa rights to work for a specified period which is of greater duration than the 3 months of their absence. Absences of up to one year are also possible on the understanding that the temporary workers prolong their work permits before leaving Belgium and reports to a local Immigration Office within 15 days of returning. Where a third country national over-runs the permitted period of absence through circumstances that are regarded as 'force majeure' then the Minister for Immigration, or an Immigration Officer so empowered, may restore the previous residency status.

**Germany** and **Hungary** permit third-country nationals to leave the Member State for a period of up to 6 months without risking the expiration of their working permit. In addition third-country nationals who leave **Germany** to complete compulsory military service may retain their temporary residency visas as long as they return within 3 months of the completion of their required service. Third-country nationals who are temporarily working in **Sweden** may leave for up to one year without this affecting their temporary status or indeed their path to permanent residence, if they have properly embarked on that path.

Certain EU Member States – most notably **the United Kingdom** – allow certain migrants to claim benefits (including state pensions and widows benefits as well as industrial injuries disablement benefits) when they have returned home. Conversely, some others can delay for up to 24 months before reimbursing social security payments.

## 2.6.2 Cooperation Agreements with Third-Countries

The majority of EU Countries (Belgium, Bulgaria, the Czech Republic, Germany, Greece, Estonia, Finland, France, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, the Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom) have cooperation agreements and/or joint projects with Third-Countries which are deemed to have a direct impact on temporary and seasonal migration. A number of these Agreements include the following:

**Belgium** – Bilateral Agreements regarding the Diaspora of various African Countries (mainly former colonies) living in Europe.

**Germany** – Agreements on Contract Workers – with Bosnia Herzegovina, Croatia, Serbia including Montenegro and Kosovo, Macedonia and Turkey. Guest Worker Agreements –

with Albania, Croatia and the Russian Federation. Agreement on Seasonal Workers – with Croatia.

**Greece** – Agreements on Seasonal Workers – with Albania and Egypt.

**Finland** – Memorandum of Understanding – with Vietnam.

**France** – Agreements with Developing Countries – Benin, Burkina-Faso, Cameroon, Cape-Verde, Congo, Gabon, Macedonia, Mauritius, Montenegro, the Russian Federation, Senegal, Serbia and Tunisia.

**Italy** – Framework Agreements – with Morocco and Egypt.

**Netherlands** – Bilateral Agreements with Developing Countries – Indonesia and South Africa. Capacity Building Projects – with the Cape Verdean Diaspora and Ghana.

Temporary Employment Programs – with Afghanistan, Bosnia and Herzegovina, Georgia, Sierra Leone and Sudan.

**Poland** – Agreements for Temporary Workers – with Belarus, Georgia, Moldova, the Russian Federation and Ukraine.

**Portugal** – Capacity Building Projects – with the Cape Verdean Diaspora. Bilateral Agreements on Temporary Workers – with Cape Verde, Brazil, Moldova and Ukraine.

**Slovenia** – Agreement on Seasonal Workers – Macedonia.

**Spain** – Labor Migration Agreements – Mali, Niger, Cape Verde, Colombia, Dominican Republic, Ecuador, Gambia, Guinea, Guinea Bissau, Mauritania, Morocco and Senegal.

### **2.6.3 Brief Overview of Seasonal Worker Statistics**

**Belgian** statistics indicate that seasonal workers in it's agriculture and horticulture sectors tend to originate from within other EU countries (largely from the Member States across Central and Eastern Europe) with third-country seasonal workers coming mainly from African and Asian countries and relatively few from Latin America. **Italian** statistics show larger numbers and longer term seasonal stays from India and Bangladesh with shorter term stays from countries in the immediate neighborhood including, Albania, Egypt, Macedonia, Morocco, Tunisia and Serbia. **Germany** and **Italy** receive between them the largest number of seasonal and temporary migrants and together accounting for in excess of 400,000 annually across all temporary migration categories. (Note: the work undertaken by the European Migration Network, especially in it's study document 'Temporary and Circular Migration: empirical evidence, current policy practice and future options in EU Member States', has been of highly valuable assistance in preparing and presenting the above.)

## 2.6.4 Germany and Seasonal Workers

**Germany** has the largest number of annual seasonal workers within the EU – currently sanctioning some 300,000 work permits – with 27,000 participating employers – and a further 30,000 companies seeking advice and assistance, the great majority from within the agriculture sector. Seasonal workers are largely based in the agriculture and tourism sectors – with a special emphasis on horticulture and hospitality – and with the construction industry largely excluded given the present ample supply of labor.

Employers can access seasonal workers by applying to the German Federal Employment Agency (Bundesagentur für Arbeit – BA) for a stated number of required personnel or by naming an individual worker when such a person has been engaged by the employer in seasonal work in the past. A seasonal worker can work for a maximum period of 6 months in any 12 month period – it being left to the employer and the worker to agree on when that period begins and ends. This arrangement currently excludes seasonal workers from using their temporary status to construct a path towards legal residency rights and it similarly excludes the seasonal workers from claiming unemployment benefit or other social welfare benefits.

Regulations also exist to facilitate small and medium sized companies – those who intend to employ 5 or fewer seasonal workers – as well as for new entrants to fast-track the processing of their applications by the BA, which has the responsibility and authority to issue the necessary permits. These permits are explicitly linked to a specific employer but this arrangement can be altered with the approval of the BA. There is also a cap on the number of foreign seasonal workers that can be employed by an individual employer in any 12 month period – that cap is usually set at 90%. Small businesses can also optimize the way in which they utilize the time of seasonal workers and minimize their costs – by for example forming collectives where the time of seasonal workers can be shared, on the understanding that it does not exceed the hours agreed in the approved contract.

There are a range of regulations in place to guard against any abuse of the position of third-country seasonal workers. An employer must offer these seasonal workers conditions and remuneration comparable to those being enjoyed by German seasonal workers. Basic minimum standards of accommodation are also sanctioned and can be inspected by Federal Government Agencies. The BA is also required to provide a conciliation service to mediate in any disputes between a third-country seasonal worker and her/his employer.

Nonetheless, there are a number of features within the operation of the present German scheme which differentiates it from some others elsewhere within the EU and beyond.

There is for example no explicit provision currently for 'worker rotation' – when an employer names a particular worker from previous experience there is nothing within the present system to give either the employer or the worker an advantage from that experience. There is no obligation or expectation that the employer or the local authority should or might provide additional services – such as language training and up-skilling guidance. There is no mechanism to facilitate seasonal workers who wish to liaise with their Diplomatic or Consular representatives – on an issue of legitimate concern – or to facilitate contact between such representatives and their own nationals to discuss living

and working conditions. Neither is there a system for facilitating savings by workers and there is no agreement on contributing to the transport costs of seasonal workers as they journey to and from their home countries.

### **2.6.5 The United Kingdom And Seasonal Workers**

The United Kingdom also established provisions and programs to admit permanent and temporary workers over recent years. The aim was to develop a system of managed migration through a work permit system based mainly on employers demands. On average some 65% of approvals throughout the first decade of the 2000s were of highly skilled migrants working mainly in professional and managerial positions primarily across the health care and education sectors. There is currently a cap of 20,700 places on the Tier 2 Skilled Migrant (General Category). In the case of low-skilled and largely temporary migrant workers a range of possibilities were established – some modified and others removed – including the following:

- the Seasonal Agricultural and Workers Scheme (SAWS) and the more general Sectors Based Scheme (SBS) both of which are being reviewed – and are for the time being at least effectively removed – largely in view of the UK's EU membership obligations to fully accept the free movement of Romanian and Bulgarian citizens (to whom in fact both Schemes had been effectively confined) across all EU Member States from 1 January 2014. Nonetheless, a number of the UK's farming organisations are seeking a continuation of the scheme and its extension to third countries;
- the Working Holiday Program which is open to nationals of British Commonwealth Countries, citizens of British Dependent Territories and British Overseas Citizens who are aged between 17 and 30. The Program enables a young person to travel to the UK for an 'extended holiday' of up to 2 years during which time the holiday-maker can enter employment for up to a maximum period of 12 months. Working Holiday Program participants may be able to apply for a work permit (with an employer's support) at the end of the 12 month period if the job specified in the application for the work permit is on the current skills shortages list; and,
- programs for those who qualify to engage in domestic service, can undertake au pair work, as well as for overseas students who are free to work for up to 20 hours per week during term time.

### **2.6.6 Spain And Seasonal Workers**

Spain's migration story was largely a story of emigration – between 1860 and 1960 an estimated 2.5 million Spaniards emigrated to the Americas (North & South) and some 2 million Spanish guest workers travelled to Germany, Switzerland and elsewhere across Europe between 1950 and 1970. Indeed, prior to 1970 only a very few foreigners entered the country for work purposes. From the mid-1980s the number of foreigners began to grow steadily – but some fifteen years later their number was still modest in comparison with those in most other Western European countries. However, from 2000 on Spain experienced a spectacular increase in foreign arrivals that ushered in what has been referred to elsewhere as a 'prodigious decade' in immigration. Together with Germany, Italy and the United Kingdom, Spain became one of the major labor importing Member



States of the European Union. Boosted by a booming economy, Spain's foreign population surged from 1 million to 6 million in the years between 2000 and 2011 – or to just over 12% of Spain's entire population.

However, the most recent (April 2014) statistics published by the Spanish authorities indicate an overall decline in population – also in the immigrant sector. The number of legal immigrants on 1 January 2014 was at 5million (a reduction of 9.8% over the previous year) in a total population of 41.75million. While a large number of migrants continue to arrive from Latin America, these are outnumbered by Romanians from within the EU and Moroccans from neighboring North Africa – despite the fact that migration from the latter 2 countries also declined:

- Romania: 795,000 (reflecting a reduction of 8.6%); and,
- Morocco: 771,000 (reflecting a reduction of 2.6%).

The more general breakdown of Spain's current foreign population is 2million from EU countries and 2.95million from the rest of the world. (It is anticipated that the Spanish population will continue to decline to some 44million by 2025.) However, the average age of non-migrants within the population is 43 – compared to resident Romanians with an average age of 35 and Moroccans with an average age of 28. (The average age of UK residents is 52.) The fact that Spain is seen to be managing it's intake of seasonal workers is widely interpreted as one of the reasons why intolerance towards migrants has not so far fed into the Euro-skepticism which is evident elsewhere, particularly in France, the Netherlands and the UK – where it is reported as having had an impact on the most recent (May 2014) elections to the European Parliament. Nonetheless, there is sensitivity to illegal entry from across the southern shores of the Mediterranean and Spain has been to the forefront of those seeking to advance an EU 'regional solution' to the issue.

However, despite the dramatic increase in the arrival of foreign workers from 2000, the Spanish Government arrived rather late in the day in attempting to impose order in what had become a migration regime characterised by informal arrangements – occasional back-door deals – toleration of irregular residency arrangements as well as questionable employment registrations. Hence there is a freshness – and therefore a particular relevance – in considering Spain's approach to establishing a range of immigration policies that combine quotas with individual recruitment approvals, temporary employment visas, seasonal workers and fast channeling for the highly skilled. In addition, Spain's transition from an emigrant to an immigrant nation coincided not only with an economic but also with a major political transformation from dictatorship to democracy – and these deep structural changes affected all aspects of the development of the country including the organisation of labor relations and the emergence of new labor marked demands, both of which had a substantial impact on the transformation and modernization of Spanish agriculture – which over time recognised the need for outside seasonal employment across the sector. However, initially the national political and public discourse on this issue tended to be dominated by concerns about border security (the fear of a surge of migrants from across the southern shores of the Mediterranean) rather than the structural needs of a vitally important part of the domestic economy. Nonetheless, over time it became both politically

and publicly clear that economic growth – and therefore national prosperity – was being hampered by the absence of a strategically conceived labor market strategy which included foreign workers and a well structured arrangement for the employment of seasonal migrants. It is however also of central importance to recognize that Spain's current migration regime is demand driven – one dominated by the labor needs of the market place – and therefore one in which market tested needs are to the fore and are constantly scrutinized by official institutions both at Federal level and across the Regions.

### **2.6.7 Legal Channels for the Recruitment of Foreign Workers**

**General Regime:** under the General Regime individual Spanish employers who want to recruit foreign workers apply initially for a 'negative certification' which is granted by the Public Employment Service (established in each Autonomous Region) on the basis of a National Catalogue listing of occupations (usually requiring low to medium level skills) which identifies market-tested shortage across the Spanish economy – or within the economy of the particular Region. The National Catalogue system was reformed in 2011 to facilitate a greater flexibility across the regions in issuing an urgent negative certification for all those sectors for which training courses were not available during the previous year. Furthermore, an employment offer – based on the employers application – must be published across the Public Employment Service to test local – and in some instances EU wide – worker availability with a period of 5 working weeks required to facilitate responses in advance of engaging an overseas worker. However, even prior to the increased liberalization measures of 2011 – the employment numbers of foreign agricultural workers grew rapidly from 9,046 in 2005 – to 17,061 in 2006 – to 23,434 in 2007.

**Contingente system:** in contrast to the Catalogue regulated General Regime (which provides for individual recruitment), the Contingente allows Spanish companies to recruit groups of individuals to specific businesses and to undertake particular work. However, such general recruitment is possible only in those third-countries with which Spain has entered into bilateral employment agreements – although particular exceptions can be made in the case of acute shortages as happened some years ago when it was found that sheep-shearers were urgently required. In any such cases the company is only obliged to formulate a request which is approved on a fast-track basis once the shortage is confirmed by the Public Employment Service. A Ministerial Directive listing the occupations confirmed in the Contingente is published annually. The recruitment and selection processes take place in the countries of origin – with panels of selectors drawn from both Spain and including representatives of the countries of origin. On accepting employment the foreign worker signs a pre-contract which is confirmed on arrival in Spain. The pre-contract sets out salary conditions, training courses in specific sectors, welfare undertakings and transportation payments. The numbers recruited under this system in agriculture are relatively low (averaging some 200 annually) with numbers being significantly higher in other sectors including construction, tourism and services.

**Recruitment of Temporary Workers:** the great majority of temporary overseas workers are employed in the agricultural sector and normally for a maximum period of 9 months annually. The numbers approved are based on requests from farming organisations and overseas workers are usually employed to undertake a variety of on-the-farm tasks so that

they can easily be transferred between farms or even moved to different regions to enable farming organisations to maximise the usefulness of their presence in Spain. The large Spanish farming association – Coordinadora de Organizaciones de Agricultores y Ganaderos (COAG) – manages the annual recruitment of some 15,000 overseas seasonal workers who are typically employed on small farms. The overall number in this category averages some 64,000 overseas seasonal workers annually. Farmers – and farm organisations – can employ the same workers annually – thus reducing the time and cost of training – a practice also welcomed by the Immigration Service since it both triggers and encourages a circular pattern of temporary seasonal migration which strengthens the employers interest in ensuring that workers return to their countries of origin at the end of their work contracts.

Constructing a network of Bilateral Agreements has also played a central role in enabling the Spanish authorities to develop a flexible and reliable model for recruiting and managing seasonal migration and helping to meet the shortages of the domestic labor market. Spain has four categories of such Bilateral Agreements:

**Seasonal Workers Readmission Agreements:** with Guinea-Bissau, Morocco, Macedonia and Mauritania; (2) **Agreements on the Regulation of Migrant Flows:** with the Dominican Republic, Mauritania, Morocco, Ecuador, Colombia and Ukraine; (3) **Framework Cooperation Agreements on Immigration;** with Mali, Guinea, Gambia, Guinea-Bissau; Cape Verde and Niger; and, (4) **Agreement on Operative Cooperation** with Peru.

This network of Bilateral Agreements has also helped to stem the flow of illegal migrants – especially from Africa.

## 2.6.8 Some Trends Across EU Member States

The establishment of networks of third-country bilateral agreements that provide for flexible and longer term recruitment arrangements are increasingly viewed as the best way of meeting the employment needs of the EU's domestic markets and do so in a manner which is rewarding for all the interests involved. This entails – although still a work in progress – looking beyond the immediate benefits of payments and remittances to the strategic interests of individual seasonal workers – especially in the areas of training, skills and portable knowledge. For employers it entails participating in systems which can ensure the annual return of the same seasonal workers so that their investment in training and skills development can have a longer term return. There is also a growing sense that seasonal worker programs are more likely to succeed if they can be shown to be consistent with – and supportive of – the development priorities of the workers countries of origin and generate a sense of shared benefits and ownership by both the sending and receiving nations – in other words there are major benefits to both the host and sending countries in establishing seasonal migration programs within the context of donor country development policies. In the development context such programs are seen as vehicles that can assist in promoting support for the funding of overseas development, can help calm public anxieties about over-staying and undocumented migrations while

simultaneously addressing concerns about any negative impact that seasonal migration can have on the economic and social development of third-country economies.

While EU Member States can have different ways of conceptualising seasonal migration – reflected in their range of policies, regulations and practices – there is a growing awareness of the need to work together:

- to develop an agreed understanding of key migration concepts and of improving data collection;

- to formulate targeted recruitment programs as opposed to facilitating spontaneous (reactive) initiatives; and,

- to sharing experiences and discussing best practice.

Work is underway to establish links between national database systems across the EU with proposals to link databases in countries of origin to those in host countries to help better track employment movements. There are also moves to measure temporary as well as permanent residence in ongoing host country census collections.

There is a view that the encouragement of targeted migration requires the creation of a legal framework which could necessitate formal agreements with third-countries that go beyond recruitment issues and move towards the regulation of remittances as well as the portability of pensions and other benefits at the end of the season. Others – while supporting targeted recruitment – see the relationship between the country of origin and its diaspora as being of no specific concern to the country of destination.

Many of the discussions on exchanging information and on best practice have largely focused on the management of national public debates across the Member States and especially on popular perceptions of seasonal and temporary migrants, irregular immigrants and overstayers as well as on the impact of these debates on the broader migrant community and on their countries of origin. There are those who argue that ongoing public presentations highlighting the benefits to the domestic economy of seasonal workers should be a much more targeted priority on individual host-country agendas while others argue for balanced political presentations that differentiate between labor market needs and overseas development objectives.

## **2.6.9 Seasonal Workers: A Non-EU European State**

**Norway's** immigration legislation describes seasonal work as that which 'can only be carried out during limited parts of the year because of climate variations or fluctuations in the availability of raw materials or other circumstances'. Agriculture, forestry, fish processing, plant nurseries as well as the restaurant and tourism sectors are seasonal industries. No formal qualifications are required for a seasonal work permit but the applicant must be at least 18 years old and be in possession of a specific job offer. The offer of employment must contain a detailed job description, state the number of hours to be worked each week and the hourly wage as well as the duration of the offer of employment. A seasonal worker cannot remain in Norway for a period longer than 6 months in any 12 month period. While the work must in general be continuous full-time employment it can be divided between several employment offers from the same or different employers, but if a worker wants to change employers after the work permit has

been issued that worker must apply for a new work permit. Where there is a collective pay agreement or a determined pay scale in a particular industry, the pay and conditions of seasonal workers must comply fully with such agreements and scales. Where there are no specific agreements or scales, seasonal workers must be treated in a manner consistent with other workers in that sector and each worker must be guaranteed a minimum hourly wage in the employment offer. Seasonal workers permits are not renewable and permit holders must apply for an extension before the expiry date of their current permits.

The consent of the Norwegian Labor and Welfare Administration (NAV) is normally required for the granting of a residence permit to a seasonal worker. The NAV consent is obtained at the local (county) level having taken into account whether or not the position could be filled by a domestic worker or a worker from the European Economic Area (EEA) – which comprises the EU Member States, Iceland, Liechtenstein and Norway. However, NAV consent is no longer required for seasonal workers in the agricultural and forestry sectors because the Agency has established an annual quota of 2,500 permits for such seasonal work. There are also simplified rules for persons applying for short-term seasonal work in the agricultural and horticultural sectors, although these can be complicated for persons applying from abroad since visa requirements have to be met. In 2012 the five main countries of origin outside the EEA were India, the Philippines, US, Vietnam and Russia.

**Table of European and North American Countries with Specifically Designed Temporary Migration Programs:**

| <b>3 MONTHS</b> | <b>6 MONTHS</b> | <b>12 MONTHS</b>            | <b>LONGER</b> |
|-----------------|-----------------|-----------------------------|---------------|
| Finland         | Austria         | Lithuania                   | Belgium       |
|                 | Estonia         | Canada (to 8months)         | Hungary       |
|                 | France          | United States (to 10months) | Italy         |
|                 | Germany         | Spain (to 9months)          | Slovenia      |
|                 | Norway          |                             | Sweden        |
|                 | Poland          |                             |               |
|                 | Portugal        |                             |               |

## 2.7 New Zealand

New Zealand's **Recognised Seasonal Employers Scheme (RSE)** was initially introduced as a Seasonal Workers Permit Scheme (SWP) in 2005 – and revised and recast in its present form in 2007. It enables employers in the horticulture and viticulture sectors to hire unskilled guest workers (having failed to meet their employment needs from within the local workforce) on a strictly regulated and temporary basis during peak periods of annual demand. Seasonal workers are mainly recruited from a selected number of neighbouring Pacific Island nations (Samoa, the Solomon Islands, Tonga, Kiribati, Tuvalu and Vanuatu) – and are employed under contract in planting, maintaining, harvesting and packing crops. Prospective employers must be registered by the Department of Labor as Registered Seasonal Employers, meet a number of stated requirements and take responsibility for the guest workers compliance with the terms of their work permits.

In order to be registered, an employer must be a recognised New Zealand company in a sound financial position with a capacity for human resource management and with acceptable standards of practice that can meet the welfare needs of their workers and have a record of complying with employment and immigration legislation.

Once registered by the Department of Labor, employers must apply for an Agreement to Recruit (ATR) under the terms of which an employer must (a) have made reasonable attempts to recruit and train workers within New Zealand; (b) undertake to pay employees at the current market rate for at least 30 hours per week; (c) pay 50% of the air ticket between the workers home country and New Zealand – if they pay the full cost they can recoup up to 50% from the workers salaries; (d) ensure that workers have access to accommodation, food and health services; (e) take responsibility for the supervision of workers; (f) inform the Department of Labor of any breaches by workers of their permit conditions and/or of any disputes between them and any of their workers; (g) pay the repatriation costs (up to NZ\$3,000) of any guest workers who break the terms or conditions of their permits; and, (h) avoid using any recruitment agency that charges a guest worker a fee for helping to secure an employment agreement. The ATR specifies the number of workers authorised for employment under the application – the type of positions they can fill – the length of time for which those positions are available – the terms of the employer-worker contract – and the countries from which the employer will recruit these workers.

Having met these requirements, an employer can make a job offer and sign a contract with a guest worker that has a validity of up to 7 months (in the cases of Kiribati and Tuvalu this is now extended to 9 months) in an 11 month period. Provisions also exist under which employers and workers can extend their work contracts when such extensions are deemed necessary and are authorised following a reasoned and successful submission to Immigration New Zealand. The countries on the New Zealand preferred list include: Kiribati, Marshall Islands, Micronesia, Nauru, Palau, Papua New Guinea, Solomon Islands, Tonga, Tuvalu and Vanuatu (Fiji was removed from the list following the military coup in December 2006.) Workers can be hired from other countries if the employer can demonstrate an existing relationship with that country and that reasonable attempts had been made to hire suitable workers from countries on the preferred list. (The three main countries in this category are Indonesia, Malaysia and Thailand.)

Initially the RSE had an annual cap (not a quota) of 5,000 visas which was increased to 8,000 in 2009 – the numbers are based on the financial year (1 July to 30 June). The following statistics give an indication of the overall annual upward movement (with some fluctuations) in both the general figures as well as the individual country figures (with the exception of Tuvalu):

**Financial Year:** (2007/08) – **4487**; (08/09) – **6281**; (09/10) – **6216**; (10/11) – **7091**; (11/12) – **7009**; (12/13) – **7456**.

**Tonga:** (2007/08) – **805**; (08/09) – **1355**; (09/10) – **1142**; (10/11) – **1411**; (11/12) – **1398**; (12/13) – **1573**.

**Samoa:** (2007/08) – **642**; (08/09) – **1228**; (09/10) – **1021**; (10/11) – **1219**; (11/12) – **1163**; (12/13) – **1337**.

**Vanuatu:** (2007/08) – **1698**; (08/09) – **2342**; (09/10) – **2137**; (10/11) – **2352**; (11/12) – **2412**; (12/13) – **2829**.

**Kiribati:** (2007/08) – **69**; (08/09) – **38**; (09/10) – **48**; (10/11) – **149**; (11/12) – **142**; (12/13) – **138**.

**Tuvalu:** (2007/08) – **99**; (08/09) – **49**; (09/10) – **54**; (10/11) – **51**; (11/12) – **88**; (12/13) – **56**.

**Solomon Islands:** (2007/08) – **238**; (08/09) – **311**; (09/10) – **256**. (10/11) – **252**; (11/12) – **407**; (12/13) – **423**.

**Other:** (2007/08) – **930**; (08/09) – **1498**; (09/10) – **1558**; (10/11) – **1657**; (11/12) – **1499**; (12/13) – **1300**.

Once they receive an offer of employment workers apply to Immigration New Zealand for a limited purpose visa. These visas prevent seasonal workers from applying for any other category of visa or work permit during their stay and they are also prevented from lodging an appeal in the event that they overstay their visa. Workers are also obliged to pass health and character checks as part of the visa approval process and those who are found to be HIV-positive are not eligible for a visa under the RSE scheme.

New Zealand has put in place a series of bilateral **Inter-Agency Understandings** between its Department of Labor and the counterpart Ministries/Departments in each of the 7 Pacific Island nations with which it operates the RSE scheme: **Kiribati** (2007); **Samoa** (2007); **Tonga** (2007); **Tuvalu** (2007); **Vanuatu** (2007); **Solomon Islands** (2010); and, **Papua New Guinea** (2013). These Inter-Agency Understandings set out the principles and practices which govern participation by the citizens of the seven signatory countries in New Zealand's RSE scheme which provides seasonal workers to its horticultural and viticultural industries. Each Inter-Agency Understanding provides that the implementation of the program be consistent with a set of key guiding principles: (a) provide equity of access and opportunity for all applicants; (b) ensure transparency both of

process and decision making; (c) enforce accountability; (d) have a development focus; and (e) mitigate against risk.

The Inter-Agency Understandings list their '**critical success outcomes**' which from the New Zealand perspective typically include – **achieving** the success of the RSE scheme – **avoiding**: the exploitation and overstaying of seasonal workers; displacement within New Zealand's domestic workforce; and, the suppression of wage growth in the horticultural and viticultural industries – and **furthering** New Zealand's commitment to the economic development of each of the signatory countries as well as to economic growth and development across the Pacific region. From the perspective of the partner countries the '**critical success outcomes**' include **securing** a fair proportion of the regional work opportunities for their citizens within the scheme – **establishing** suitable arrangements to maintain the integrity of the scheme – and **ensuring** that practical circumstances (e.g. transport costs) do not become barriers for their citizens to access opportunities under the scheme.

The Inter-Agency Understandings also enable the RSEs to recruit in the respective partner countries and assist local citizens to avail of the opportunities offered by the program. They also provide for the allocation of responsibilities for mitigating risk and ensuring compliance as well as for developing cooperative arrangements in areas such as information sharing (consistent with their respective legal and legislative frameworks) as well as for marketing and promoting the program. New Zealand invariably offers – within the terms of each agreement – to assist the participating countries in marketing themselves as sources of reliable seasonal workers to the RSEs. The participants in the agreements also pledge to monitor and evaluate the implementation of the program and to cooperate in conducting random surveys of the stakeholders to ensure both efficiency and transparency in the recruitment process. The Inter-Agency Understandings also provide for regular reviews of their provisions and for the implementation of the RSE scheme in the respective jurisdictions and regionally.

## 2.7.1 Recruitment Procedures

From the outset a particular preoccupation in implementing the RSE Scheme (shared across all the main Stakeholders – i.e. Governments, employers and seasonal workers) has been the establishment of transparent and efficient recruitment systems characterised by operational integrity and ultimately containing the promise of a return (in revenue and skills) to the participating homelands.

There are 3 forms of recruitment under the Scheme: **First**, was an initiative across most of the participating countries to establish a 'work-available pool' of assessed individuals to be drawn on by employers from New Zealand. In the case of Tonga – which contributed 805 workers to the Scheme's first year of operation (2007/08) – an initial pool of some 5,000 prospective workers was established. Town and District officials, together with Church and Community leaders pre-selected and screened candidates – (and still do so). The Tongan Ministry of Labor published selection guidelines in advance together with an indication of the number of local candidates that could be nominated to the national 'work-available' pool (to ensure a fair distribution of nominations across the regions). Those who were



successful were then checked to ensure that there was no official reason (e.g. court order or criminal record) that would prevent a nominee from being included in the pool from which the employer – or the employer's representative – would select. While selections were mainly made on the basis of individual qualities and qualifications, some employers expressed a preference for workers to be assigned from the same district on the basis that community familiarity might assist workers in adapting to working and living conditions in a new and distant environment.

**Secondly**, where recruitment is undertaken by an appointed agent who has responsibility for sourcing, screening and selecting the seasonal workers. This method was used initially in Vanuatu and has since been adopted by the Solomon Islands where both Governments license the agents on the strict understanding that all payments they receive must come from the employers and not from the workers. The agents normally rely on community contacts and local councils to help pre-screen applicants.

**Thirdly**, in some instances there is now direct recruitment by employers. In the early stages of the RSE scheme employers would have had little knowledge of – and few existing links with – an overseas recruiting area and hence a reliance on local systems was essential. However, participation in the RSE scheme over the last 6/7 years has developed a strong understanding among some employers of local conditions which combines with an informed reliance on their former workers whom many engage to help in identifying and screening new and promising workers.

Recruitment policy is important for both the efficiency and effectiveness of the program. In some countries too strong a development focus in the early stages of the program led to the recruitment of workers from poorer families many of whom struggled to cope with the loss of a working family member. Meanwhile in New Zealand some guest workers found it especially stressful to integrate into a new and very different cultural environment. This led to a strengthening of the advice to remain sensitive to the wider needs of individual workers families as well as to the international aspects of the scheme which a number of households and individual workers found new and demanding. It also emerged that some employers only needed seasonal workers for the peak harvest period and not for long enough periods to meet the requirements of the scheme or the employment needs of guest workers. This has led to arrangements where it is possible for employers with different challenges across the cycle to join together in providing employment at different times – whether in planting, maintaining, harvesting or packaging.

One of the interesting – if not yet defining – features of the RSE scheme is the extent to which it has developed into a circular seasonal guest worker model. By enabling guest workers to return for subsequent seasons at the end of their designated visa periods the scheme has both discouraged overstaying – in 2012/13 the number of overstayers was less than 1% – and encouraged employers who gain a greater return on their investments in the training and up-skilling of workers – statistical surveys indicate that over 50% of seasonal guest workers return for the subsequent season and of these on average 85% return to the same employer.

New Zealand also has a **Supplementary Seasonal Employment Scheme (SSE)** – to assist the horticulture and viticulture industries. The scheme involves (a limited number of)

work visas that are only granted to people already in New Zealand and are valid for a period of no longer than 6 months. To qualify a person must be at least 18 years of age – have an offer of work in planting, maintaining, harvesting or packaging from a recognised employer in the horticulture or viticulture sectors – and be in possession of a return air ticket to their home country (or demonstrate the financial capacity to purchase one) at the end of the 6 month period.

## Some Examples Of International Seasonal Worker Schemes In Agriculture

| Country                            | Canada (CSAWP)       | NZ (RSE)        | U.S. (H-2A) |
|------------------------------------|----------------------|-----------------|-------------|
| <b>Maximum Stay</b>                | 8 months             | 7/9 months      | 10 months   |
| <b>Recruitment</b>                 | Caribbean & Mexico   | Pacific Is      | 63 Partners |
| <b>Transport Costs</b>             | 50/50 share          | 50/50 share     | Employer    |
| <b>Free Housing</b>                | Yes                  | No              | Yes         |
| <b>Worker tied to one Employer</b> | Yes                  | No              | Yes         |
| <b>Age Profiles</b>                | 18 & farm experience | 18 & work offer | 18          |
| <b>Numbers</b>                     | 16,000               | 8,000           | 75,000      |
| <b>Visa Costs</b>                  | Employer             | Mixed           | Employer    |

## Some Examples Of International Seasonal Worker Schemes In Agriculture (Cont'd.)

| Country         | Germany            | Spain           | Norway     |
|-----------------|--------------------|-----------------|------------|
| Maximum Stay    | 6 months           | 9 months        | 6 months   |
| Recruitment     | Bilateral AGMTs    | Bilateral AGMTs | Bilateral  |
| Transport Costs | Negotiable         | Employer        | Mixed      |
| Free Housing    | No – but inspected | No              | No         |
| Worker ties to  | Yes                | No              | No         |
| One Employer    |                    |                 |            |
| Age Profiles    | 18 minimum         | 18 minimum      | 18 minimum |
| Numbers         | 300,000            | 90,000          | 2,500      |
| Visa Costs      | Worker             | Mixed           | Mixed      |

## 3 WORKING HOLIDAY PROGRAMS

### 3.1 Introduction

A **Working Holiday Visa** is a temporary resident permit – usually valid for one year but which in certain countries can under specific conditions be extended to a second year – to enable travelers usually between the ages of 18 to 30 (but in some places up to 35) to supplement their travel funds by engaging in short term employment (in certain instances to undertake study) within the country they are visiting. For the great majority of holiday-makers securing a working holiday visa enables them to explore and experience the life and culture of another country without going through the more complex routes of securing advance employment and/or sponsorship in order to satisfy the requirements of seasonal employment visas or of meeting the often heavy expenses of university exchange programs. Most Working Holiday Maker visas are issued under the umbrellas of the range of reciprocal agreements that are now in place between some 60 countries across the international community. While details of these agreements will vary from country to country, they all share a number of common features including:

- the fact that they are invariably targeted at younger people usually between the ages of 18 to 30 – although in a few cases the upper age limit is 35;
- there are normally restrictions on the types of employment that can be undertaken as well as on the length of time that can be spent with any one employer (this can vary between 3 and 6 months);
- visa holders are invariably expected to have sufficient savings on their arrival to enable them to be self-supportive until they find employment – in some countries specific sums are identified normally in the range of A\$3,000; and,
- visa holders should have some form of health or travel insurance for the duration of their stay, unless they are covered either by the provisions of the health care system in their own country or by a reciprocal Health Agreement in force between their country of origin and their country of temporary residence.

(In the Australian context it is important to note that the descriptions of 'working holiday maker' and 'backpacker' are not interchangeable – working holiday makers are part of the group known as temporary residents.)

### 3.2 Some International Examples

#### 3.2.1 The United States

The J-1 Visa available in the **United States** is basically a non-immigrant visa which is available for those approved to participate in work and study visitor programs. Internships are offered in Agriculture, Forestry and Fishery but cannot involve work in unskilled or casual positions. However, in September 2008 the US and Ireland agreed to introduce an ***Intern Work and Travel (IWT) Pilot Program*** which is broadly similar to the traditional working holiday program – although somewhat more restrictive. The Program provides that

Irish citizens can participate in internship programs and travel and work independently within the United States for a maximum of 12 months – having first contacted their internship sponsor and informed that sponsor of the travel and employment they intend to undertake.

### **3.2.2 Canada**

**Canada's Working Holiday Visas** are now known as **IEC (International Experience Canada) Work Permits** and are available on a country specific basis for those aged between 18 and 30/35 who are citizens of the following: Australia, Belgium, Chile, Costa Rica, Croatia, Czech Republic, Denmark, Estonia, France, Germany, Greece, Hong Kong, Ireland, Italy, Japan, Latvia, Lithuania, Mexico, the Netherlands, New Zealand, Norway, Poland, Slovakia, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine and the United Kingdom. There is also a country specific quota scheme in which France and Ireland have recently secured the largest numbers. However, in 2014 the Irish quota of 10,700 places will be divided with 7,700 being allocated to the 2 year traditional working holiday program and 3,000 to a new category for young professionals and interns. The latter category is also seen as a route towards permanent residency. In Canada each Province retains the right to run it's own IEC program (in many respects they do so independently of the Federal Government) – thus the system involves 11 immigration authorities in all – the 10 Provinces and the Federal Ministry which sets out general guidelines. In practice this means that resources rich Provinces like Alberta, Newfoundland and Saskatchewan tend to target (with more attractive pay and conditions) specific types of workers, many of whom are in the construction industry.

### **3.2.3 Germany**

**Germany** has Working Holiday Agreements with Australia, New Zealand, Chile, Japan, Hong Kong and Taiwan for citizens between the ages of 18 to 30 and with Canada for citizens up to 35. The German Working Holiday Visa is for a maximum of 12 months – with employers being changed every 90 days – and with a required €3,000 available for self-support at the outset. Citizens of Australia, New Zealand, Canada and Japan can apply for permanent residence during their working holiday if they find employment for which their employer certifies that they are uniquely qualified and available. (This facility is also extended to citizens of Israel and the United States – although separate from the Working Holiday Program.)

### **3.2.4 The United Kingdom**

A Working Holiday Maker (WHM) may spend up to two years in the **United Kingdom** if a citizen of a Commonwealth Country, of a British Dependent Territory or is a British Overseas citizen or a citizen of Monaco, Japan or Taiwan. However, the 'clock starts ticking' on arrival and the visa terminates 24 months from the day on which it is activated at first entry – the 24 month period cannot be extended nor can it be put on hold. In addition a WHM is permitted to work for only 12 of the 24 months and certain professional (skilled) categories – including working as a professional sports person – are excluded.

### 3.2.5 Spain

**Spain** has Working Holiday Agreements with Canada and New Zealand which are valid for one year for WHMs between the ages of 18 and 30. Since these Agreements were concluded under the auspices of the EU Schengen Agreement – which governs access by citizens of third-countries to certain EU Member States – those who are granted Spanish WHM Visas are also permitted to visit within the EU Schengen (25 country) area for a period of 90 days in each of the 180 day periods of the one year visa.

### 3.2.6 New Zealand

**New Zealand** has bilateral Working Holiday Agreements with the following countries: Argentina, Austria, Belgium, Brazil, Canada, Chile, China, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hong Kong, Hungary, Ireland, Israel, Italy, Japan, Korea, Latvia, Malaysia, Malta, Mexico, the Netherlands, Norway, Peru, the Philippines, Poland, Singapore, Slovakia, Slovenia, Spain, Sweden, Taiwan, Thailand, Turkey, the United Kingdom, the United States, Uruguay and Vietnam. (Australians do not require working holiday visas since all bilateral movement is provided for in the Trans-Tasman Agreement.)

The official New Zealand Immigration website lists in all 28 links (recommend – although not endorsed – by the NZ Ministry of Business, Innovation and Employment and/or by Immigration New Zealand) to a range of seasonal and temporary work providers. However, in the general context of this paper it is relevant to note that 16 of the 28 links are to the agriculture sector (2 to agriculture generally and 14 links – or 50% of the overall total – to the horticulture sector). Of the remaining 12 links 2 are to the hospitality industry while 10 are dedicated to more general opportunities in employment including one especially dedicated to jobs on the South Island. The horticultural websites range from job – opportunities in thinning, picking and packing apples – to positions in kiwi fruit and avocado cooperatives – placements in work combinations involving adventure tourism, harvest trails and English language courses – jobs in organic farming – as well as in vineyards and across fruit picking and harvesting sectors more generally.

New Zealand has also made provision for a **Working Holiday Extension Visa** – if a WHM can establish that she/he has undertaken 3 months or more seasonal work in the horticulture and/or viticulture industries. Successful applicants can extend their stay in New Zealand for a further 3 months from the date of the expiry of the original working holiday visa – the extension has the same conditions as the original visa, including travel conditions.

## 4 AUSTRALIA – AN OVERVIEW

### 4.1 Working Holiday Visa Programs

#### 4.1.1 WHM (subclass 417) Visa

Australia's **Working Holiday Maker Visa Program (WHM)** – first introduced in 1975 – was conceived as a means of fostering ever closer cultural exchanges and people-to-people friendships (with a specific emphasis on young adults) between Australia and a number of selected international partner countries. Canada, Ireland and the United Kingdom were Australia's three foundation partners to be followed 5 years later in 1980 by Japan.

However, it was to be a further 15 years before the fifth country – the Republic of Korea – joined the scheme in 1995.

The WHM program is now comprised of the Working Holiday (subclass 417) and the Work and Holiday (subclass 462) visa programs both involving 29 partner countries and regions (Hong Kong) across the international community. Australia has a formal bilateral and reciprocal Agreement – usually in the form of a Memorandum of Understanding – with each of the 29 partners. These include 19 Working Holiday (subclass 417) Agreements with the 5 countries mentioned above as well as with Malta (1996); Germany (2000); Sweden (2001); Norway (2001); Denmark (2001); Hong Kong (2001); Finland (2002); Cyprus (2002); Italy (2004); France (2004); Taiwan (2004); Belgium (2004); Estonia (2004); and, the Netherlands (2006). There are 10 Work and Holiday (subclass 462) Agreements with Thailand (2004); Chile (2006); Turkey (2007); United States (2007); Malaysia (2009); Indonesia (2009); Bangladesh (2010); Argentina (2013); Uruguay (2013); and, with Papua New Guinea (signed in 2011) which has yet to enter into force. Negotiations are currently underway to conclude reciprocal bilateral Work and Holiday (subclass 462) Agreements with the following 13 countries: Andorra, the Czech Republic, Greece, Hungary, Israel, Latvia, Mexico, Poland, Portugal, San Marino, Slovakia, Spain and Vietnam.

#### 4.1.2 Second WHM (subclass 417) Visa

All WHM visa applicants must hold a passport from an eligible partner country and be aged between 18 and 30 at the time of submitting the application. They must also meet character, health and financial requirements and may not be accompanied by dependent children during their stay in Australia. Each applicant is also required to have a functional knowledge of English, to have completed 2 years of undergraduate university study and to have a letter from their home authorities supporting their visa application. All WHM visa holders may work throughout their 12 month stay but may not remain with any one employer for a period longer than 6 months. The most recent statistical survey from the Department of Immigration and Citizenship indicates that in the year 2012/13 it granted a total of 258,248 WHM visas – representing an increase of 15.8% over the previous year and also an increase across all the WHM visa categories. First WHM (subclass 417) visa numbers increased by 14.2% to 210,369 – the Second WHM (subclass 417) visa

**(explained below)** numbers increased by 27.4% to reach 38,862 – while the Work and Holiday (subclass 462) were also up by 8% to 9,017. There were 160,503 WHM



(subclasses 417 and 462) visa holders in Australia on 30 June 2013 – representing an increase of 17.5% on 30 June 2012.

On 1 November 2006 Australia introduced an important modification to its WHM (subclass 417) visa with the introduction of a **Second WHM (subclass 417) Visa**. This Visa enables those holders of the WHM (subclass 417) Visa who undertake 88 days of specified and certified work in regional Australia to apply for a second WHM (subclass 417) Visa. This facility does not apply to those who hold a Work and Holiday (subclass 462) Visa.

'Specified' work includes work in the agriculture, mining and construction industries and there are in addition 'specified' areas across regional Australia (agricultural employers in certain areas including Canberra are excluded) to which the modification alone applies – the specified areas are identified in the website of the Department of Immigration and Citizenship. There has been a rapid growth in the take-up of Second Working Holiday visas since their introduction in late 2005 – an increase from 2,692 visas granted at that time to the 38,862 visas granted in 2012/13 – an annual growth rate of some 165%.

Second Working Holiday Visas now constitute some 15% of the entire WHM Visa Program (compared to 3.3% in June 2006) – and in 2012/13 some 20% of those with a First WHM visa were granted a Second WHM visa.

It is also relevant to note that in 2012/13 the five countries whose citizens were granted the most First WHM (subclass 417) Visas were: the United Kingdom (up 8.6% to 38,782); Korea (up 8.1% to 29,614); Taiwan (up 56.6% to 28,599); Germany (up 17% to 24,687); and, France (up 22.6% to 22,539). In the same financial year (2012/13) the five countries whose citizens were granted the most Second WHM (subclass 417) Visas were: the United Kingdom (up 22.2% to 7,349); Ireland (up 15.2% to 7,300); Taiwan (up 68.7% to 7,162); Korea (up 7.7% to 5,606); and, France (up 32.4% to 2,249). Again in 2012/13, 86% of the applicants for a Second Working Holiday Visa stated that they had engaged in agricultural work to acquire eligibility – 9% stated that they had worked in construction – while 2% indicated mining (the remaining 3% have not been aggregated since they indicated various mixes of the above).

### **4.1.3 Work & Holiday (subclass 462) Visa**

With regard to **Work and Holiday (subclass 462) Visas** it is relevant to note that all countries in this category – with the exception of the United States – have an allocated quota (or cap) on the number of places: Thailand – 500; Chile – 1,500; Turkey – 100; Malaysia – 100; Indonesia – 1,000; Bangladesh – 100; Argentina – 500; Uruguay – 200; and, Papua New Guinea – 100 (not yet operational). Nonetheless, a total of 9,017 Work and Holiday (subclass 462) Visas were granted in 2012/13. The five countries whose citizens were awarded the most visas in this category were: the United States (up 0.7% to 6,878); Chile (up 26.4% to 808); Thailand (up 34.1% to 464); Argentina (up 59.8% to 417); and, Indonesia (up 77.8% to 176). (The Indonesian program was extended in the course of 2012/13 from 100 to 1,000 and therefore Indonesian participation is likely to expand substantially during the 2012/13 year of operation.) On 30 June 2013 there were 5178 Work and Holiday Visa recipients in Australia. This number represents an increase of 15.4% over the number (4523) present on 30 June 2012.

The Australian Working Holiday program is widely regarded as having been highly successful in meeting most of its key objectives. Occasional surveys, internet comments and anecdotal evidence all indicate that the great majority of WHM participants leave Australia greatly enriched by their experience. There are also indications that as a group 'they spend more than they save' and thus contribute (however marginally or otherwise) to demand for local employment. They do however contribute significantly to the labor market and help to meet supply shortages, including in the agriculture sector. (Many mentioned the usefulness of 'The Harvest Trail' as a valuable resource in sourcing employment opportunities.) Beyond agriculture there is a sense (largely based on random and anecdotal information) that their overall contribution – while welcome – is largely confined to medium and lower skilled jobs in city based enterprises in which they regularly compete with local labor, especially with local students who are interested in similar positions while studying. WHMs are of course more flexible in their approach to employment generally – less concerned about longer-term labor market issues such as predictability and continuity in employment, as well as with future payment structures and overall career development.

## 4.2 WHMs In Rural & Regional Australia

In March 2009 a team from Monash University under the leadership of Dr. Jeff Jarvis and Dr. Vicki Peel conducted a highly informative benchmarking study on the impact of international working holiday makers – involving 171 Working Holiday Maker Visa holders – in the regional Victorian City of Mildura. Mildura was selected because it provides a superb example of a destination which offers virtually year-round employment for WHMs, primarily in the agriculture sector and with a strong emphasis on the fruit and vegetable industry. A number of highly significant findings emerged from the study, including the following: (1) that as relatively long stay visitors, WHMs contributed significantly to the economy of Mildura and its immediate hinterland. With WHMs normally remaining for up to 14 weeks (to meet the requirements of the Second Working Holiday Visa) it was estimated (on the basis of expenditure assessments undertaken by the Monash team) that each contributed in the region of \$5000 to the local economy, with 35% being spent on accommodation; 25% on supermarket shopping; and, some 12% in local cafes and restaurants. (2) of those interviewed 36% felt 'strongly' that Australia's WHM Visa program provided a significantly attractive inducement to undertake an extended trip away from home. In addition 81% of those interviewed either intended to – or already had – applied for the Second Working Holiday Visa; (3) participants confirmed that a variety of information sources were used to find employment – large numbers relied on advice from fellow WHMs while others consulted employment web-sites including 'the harvest trail' and 'the hostel'; (4) when asked (in multiple choice selections) about future jobs, 65% favored fruit-picking while 48% were also interested in bar and retail work. Nonetheless, an interesting finding of the study was that only 26% of those interviewed found it easy to find work and only 35% found it easy to search for work; and, (5) the overwhelming majority of WHMs followed the traditional backpacker routes across Australia and tended to concentrate their visits along the Eastern seaboard in NSW, Victoria and Queensland. There was a sharp contrast between the time spent in Australia by the two groups with the WHMs remaining for 365 days while backpackers averaged 73 days. It is also of some interest that 46% of WHMs mentioned that they were visited by relatives or friends during their year in Australia.

The Monash study also revealed that some 36% of those interviewed were on 'career-breaks' which in turn raised the issue of the new 'flashpacker' group identified by Hannam and Diekmann in their superb 2010 publication 'Beyond Backpacker Tourism: Mobilities and Experiences' which described the new 'flashpacker' as an emerging constituent of international travel which in turn highlights 'the changing demographics in Western societies where older age at marriage, older age of having children, increased affluence, and new technological developments, alongside increased holiday and leisure time have all come together'. Their important study leaves one with the suggestion that consideration might be given to extending the upper age limit of the WHM Visa to enable members of this group to remain for an extended period of one year – although there is no data as yet on what type of work such a group might be willing to undertake or indeed if it would vary significantly from the practices of the 18 to 30 age group.

The Monash study also gives rise to the interesting suggestion that given the high level of satisfaction among WHMs (with 73% of participants keen to recommend the scheme to their friends – and only 11% unlikely to return at some later date) consideration might be given to offering a second WHM Visa to those who leave at the end of the first year and following a period of some 12 to 24 months – should they wish to return on a working holiday to Australia – that a further WHM visas might be available to those who had not yet reached their 35th birthday.

Among the other important findings of the study was the fact that the introduction of the Second WHM Visa had enticed a significant number of WHMs away from the gateway city locations and into rural and regional Australia. The study also suggests that destinations across Australia can be categorized – from a WHM's perspective – as locations that are (1) primary work destinations; (2) both work and leisure destinations; and, (3) primary leisure destinations. It recommends that further consideration of these destinations would be helpful in the overall task of promoting and ensuring WHM mobility. In addition to the issue of pay in regional and rural Australia further thought needs to be given to enabling the WHM community to enjoy their leisure time in the countryside – in the first instance by advertising – or where possible broadening – the leisure options available to WHMs within local areas or across the immediate region. (An area perhaps for discussion with the highly effective Tourism Australia.)

In December 2013 the Australian Department of Agriculture published a report entitled 'Measuring the Efficiency of Horticultural Labor' which compared the relative efficiency of workers hired under the WHMs programs and the Seasonal Workers program (which commenced on 1 July 2012) using the payroll data of a horticultural property in Queensland. The survey found that seasonal workers are, on average, significantly more efficient than WHMs. However, it warned against drawing any conclusion from this finding when calculating the overall impact of these two labor sources on the important issue of profitability.

## 4.3 Seasonal Workers Programs (SWP)

### 4.3.1 Introduction

Australian agriculture faces ongoing challenges both domestically and internationally as it seeks to innovate and to modernise – and where possible to further mechanise – in the battle (in which it has consistently engaged with considerable levels of success) to increase its local and global competitiveness, contain costs, maximize outputs and increase exports. All of these targets are being impressively implemented as mentioned in reports by the Australian Productivity Commission – with productivity levels achieving more than twice the rate of improvement in Australia's market sector as a whole. This has been achieved in circumstances where grants and subsidies – tariff protections and price controls – to Australian farmers have been substantially withdrawn leaving them to compete on the tilted-playing-field against their much more protected counterparts across Europe, North America and North Asia. There is also strict regulation of overseas investment in agricultural infrastructure. As a result of these cumulative pressures the family farm has increasingly had to make way for a more industrial style agriculture that produces more efficiently through economies of scale. The industrial style – and sized – farm has necessarily increased the rural workforce (through more employees) while the decline in the number of family farms (brought on by both demographic changes as well as farm modernization and enlargement processes) has seen a marked reduction in the number of farm owners and employers on the land.

The combination of these factors – ownership restructuring, economic modernization and demographic changes – has resulted in increasing labor shortages across the rural workforce. (A Kondinin Group national survey conducted as early as 2003 revealed that 80% of farm owners and managers were experiencing difficulty in meeting their employment needs.) These shortages were also reported to be most severe in the horticulture sector where many of the crops are resistant to mechanisation because of their tender and often quickly perishable as well as highly seasonal nature. The Lowy Institute Conference in 2008 noted that up to 20,000 seasonal workers were then needed in horticulture. However, despite the ever increasing participation of significant numbers of Working Holiday-makers in the rural and regional workforce (as outlined above) – as well as their required involvement in order to participate in the Second WHM Visa scheme – it is evident from a number of documented sources – as well as from considerable anecdotal evidence – that primary producers do not regard them as the ideal solution to meeting shortages in the rural labor market.

It is equally the case that seasonal workers – from across the Pacific or indeed elsewhere – will only meet the needs of the horticultural (or of any other) sector if they are convinced to make themselves available, if their conditions of employment are attractive to themselves and contribute both to the welfare of their families as well as the overall development objectives of their home countries and most crucially if Australian employers can offer them work without incurring substantial additional costs that could put at risk the competitiveness, effectiveness and profitability of their own enterprises. Hence, at the

heart of any successful seasonal workers program there must exist strict rules of governance relating to pay, conditions and performance that simultaneously meet the needs and requirements of rural employers and ensure proper protection for the employment rights and general well-being of temporary workers. These considerations in particular highlight the need for per-departure briefings and training sessions for seasonal workers in their home countries that directly involve representatives of horticultural employers in the receiving country and that comprehensively cover such issues as: pay and conditions (including occupational health and safety); cultural differences (social values and norms of the host country); consular support (access to consular officials of the home country); savings and remittance procedures; and, issues of personal well being (including loneliness – risks of substance abuse – availability of counseling services).

The need for a well targeted and responsible approach to recruitment is also essential given the normal disparity in the relative levels of pay between developed and developing economies. There is for example some anecdotal evidence of developing country professionals (mainly in education) undertaking better paid seasonal farm work in Australia – a not improper development in its own right but one – which could be viewed as being inconsistent with Australia's understandings with developing third-countries that envisage the targeting of unskilled workers in their economies. Some studies make the point that recruitment undertaken by private-sector agencies should be carefully monitored to ensure that inappropriate local political interference (jobs for friends and supporters) is avoided and that exorbitantly high registration and recommendation fees are prohibited. It is noteworthy that in the UK a statutory Working Group was established to make recommendations in this area which, inter alia, established a code of practice to be followed by recruiting agencies in the agriculture sector. While the code is voluntary some representative associations and organisations have made adherence to its provisions a requirement of membership. The voluntary code remains in existence and is in addition to the statutory provisions governing the recognition of labor providers.

### **4.3.2 Pacific Seasonal Workers Pilot Scheme**

During the period of its operation from February 2009 to June 2012, a total of 1,631 seasonal workers (337 of whom returned for up to 3 subsequent seasons) entered Australia under the provisions of the Pacific Seasonal Workers Pilot Scheme (PSWPS). Of the 1,631 an overwhelming 1,331 (148 women – 1,183 men) came from Tonga; 116 (21 women – 95 men) from Vanuatu; 82 (28 women – 54 men) from Papua New Guinea; 52 (5 women – 47 men) from Kiribati; 38 (all men) from Samoa; and, 12 (5 women – 7 men) from Timor Leste. Of those who returned for subsequent seasons 300 were from Tonga; 19 from Kiribati; and 9 each from both Papua New Guinea and Vanuatu. 22 organisations qualified as Approved Employers for the Pilot Scheme and seasonal workers were placed in 35 locations across all the States as well as the Northern Territory.

A number of impressive reports have been published on the operation of the PSWPS. These include the ANU's Development Policy Research Centre (by Danielle Hay and Stephen Howes); the TNS Australia Report prepared for the Department of Education, Employment and Workplace Relations and the Report managed by AusAid and completed under the auspices of the World Bank. A number of their findings & recommendations are worth highlighting:

- the usefulness and relevance of the technical assistances provided by AusAid in helping partner countries to develop and deepen their institutional capacities to supervise and manage the recruitment, employment, briefing and transfer of seasonal workers;
- the overall satisfactory participation of both employers and seasonal workers in the pilot scheme;
- the satisfactory productivity outcomes which reflected the overall effectiveness of the seasonal workers employed;
- the adequate outcomes for individual seasonal workers which saw an average contribution of up to \$13,000 in the case of participating workers with some \$5,000 in remittances in each case to their home countries;
- the success of the refinements undertaken in a systematic way to the original arrangements (including improvements to marketing and communications, employment arrangements and cost sharing between employers and workers);
- the strong commitment to labor market testing which was central in helping to allay concerns about the displacement of local labor – and which is seen as important to continue;
- the coherent attempt (which the pilot represented) to help meet labor needs across the horticultural industry;
- the need to ensure that participation in the scheme is open and sensitive to providing equality in gender opportunity;
- the recommendation that – despite its clear attractions the market did not immediately embrace the pilot scheme (reflected in the modest number of participating workers) and hence – consideration be given to better targeted and funded communications campaigns to promote the benefits to both the horticultural industry and to other community based stakeholders as well as through a more generally conceived information strategy to inform public opinion with a view to creating a wider and more informed understanding of the need for such a scheme;
- the introduction of a regular and systematic measurement of the 'return on investment business case' would not only support the general marketing of a low-skilled seasonal workers mobility scheme but would also further incentivize participation by employers across the horticultural industry;
- an effectively implemented scheme can both encourage and facilitate ongoing visa compliance activities focused on addressing illegal and undocumented workers just as increased compliance across the horticultural industry would in turn increase demand for properly documented seasonal workers; and,
- into the future it will be important to recognise that further enhancing the development benefits for participating countries (an important objective of the program) will involve increasing the numbers of low-skilled workers being recruited to the scheme – a process that will be assisted by those who participated and who indicated a strong commitment to recommending it in their local communities.

### **4.3.3 The Seasonal Workers Program (SWP)**

The Seasonal Workers Program (SWP) came into effect on 1 July 2012 immediately following the conclusion of 'The Pacific Seasonal Worker Pilot Scheme' on the previous day – 30 June. It thus facilitated an efficient continuation of the arrangement (consolidated over the previous 3 years) which enabled growers from across the horticultural industry to source employment in designated Pacific Island nations as well as in Timor Leste – on the understanding that such employment needs could not have been met from within the local labor market. As established in principle by the Pilot scheme, the SWP remains committed to the key objective of providing access to reliable and well-motivated seasonal workers by horticultural growers throughout their peak harvest period and to enable the same workers to return for subsequent seasons – thus strategically developing over time a trained and increasingly efficient workforce that also contribute to the development of their home countries. This commitment to circular migration situates the Australian program within the mainstream of similar programs elsewhere which aim at the 'triple-win' of benefiting the seasonal worker in acquiring additional and portable skills and financial resources, the developing country of origin in gaining much needed remittances and the developed host country in accessing valuable human resources in meeting seasonal employment needs.

Under the new arrangements seasonal workers will continue to undertake the range of horticultural tasks set out in the Pilot scheme including: sowing, harvesting, pruning, thinning, packing, treating and sorting; – as well as in work related to the preparation of land for the forthcoming harvest season including: clearing, fencing, trenching, draining and generally readying the soil for the efficient and effective planting and raising of horticultural crops.

### **4.3.4 The Special Program (Subclass 416) Visa**

The Special Program (subclass 416) Visa was introduced to give effect to the Seasonal Workers Program by enabling its holders to remain temporarily in Australia for a maximum period of 7 months (depending on individual placements) and during the approved period to engage in employment (invited by 'a special program sponsor' from among the approved employers list) as seasonal workers for a minimum of 14 weeks and a maximum of 6 months.

To participate in the Seasonal Workers Program a worker must be at least 21 years old and have been recruited in accordance with the rules set down by the worker's home Government and its agencies. The Special Program (subclass 416) Visa is currently restricted to citizens (who are also residents) of Kiribati, Nauru, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu, Vanuatu or Timor Leste. Workers must continue to be employed by their initial sponsors; must only work in the industry specified in their individual visas; must maintain their health insurance coverage which it is their responsibility to arrange; and, must not be accompanied by family members.

Following the successful completion of their seasonal employment (and having returned to their home countries in accordance with the provisions of the Visa) each worker has the right – and indeed the encouragement – to apply for a visa to return for employment (preferably with the same approved employer) on the following year (the application having to be made from outside Australia). Since its introduction the Special Program (subclass

416) Visa has been extended to include employment in sugar cane farming, cotton farming and aquaculture as well as to restricted roles in the tourism sector (accommodation).

The responsibilities of the sponsors (employers) of seasonal workers is also elaborated in some detail on the website of the Department of Immigration and Border Protection and clearly indicates that the sponsor's organization must be lawfully established and operating in Australia and have an approved Special Program Agreement with the Department – which sets out the terms and conditions of the program as well as its monitoring procedures and reporting obligations. Sponsors can be approved for up to three years.

There are a number of obligations attached to each sponsorship which include:

- arranging flights, transport and accommodation for workers and ensuring a minimum of 30 hours work per week;
- cooperating with inspectors appointed to ensure that seasonal workers are properly treated and that sponsors have not engaged in hiring undocumented workers;
- informing the Department if a worker fails to attend the workplace – decides to depart prematurely – is unable (for whatever reason) to continue to work – or is unable to meet the requirements of the workplace. Should a seasonal worker overstay their visa the sponsor may be required to meet the costs of their removal from Australia;
- employers are obliged to maintain records of their sponsorship which demonstrate that they complied with the obligations – including welfare support – of the program; and,
- a sponsor must not charge, transfer or seek to recover any payments (including migration agent costs) from any other person including the sponsored visa holder or members of their family.

## 4.4 Some Observations And Reactions

A number of interesting articles and analysis as well as more detailed commentaries and reports on the Pacific Seasonal Workers Pilot Scheme (in addition to those above is a most insightful document prepared for AusAid by Clear Horizon) and all of which contain numerous and relevant comments, a number of which are of particular interest, including the following:

- provide assistance to the relevant Agencies within each of the partner countries to ensure effective communication as well as marketing mechanisms and strategies by utilizing (where appropriate) the resources of domestic Australian Agencies, relevant officials from within horticultural (and other sectoral) representative bodies in Australia as well as volunteer groups such as Australian Youth Ambassadors for Development (AYAD) and/or Australian Volunteers for International Development (AVID);
- put in place mechanisms to ensure that pre-departure training programs and briefing sessions are provided to all;



- establish consultative arrangements to ensure that a recruitment balance is achieved and maintained between returning and first time seasonal workers;
- establish a broadly based domestic monitoring and discussion forum to include representatives of the main Australian stakeholders as well as a 'program evaluation framework' for representatives of all of the participants;
- continue to review and where necessary to reform the cost sharing arrangements between sponsors and workers – consider mechanisms whereby the burden of transportation costs can be eased both by tax reliefs or other methods – and introduce sensible flexibility into the possible movement of seasonal workers between employers, especially in circumstances when weather conditions (or other unanticipated developments) curtail the employment earnings of individual workers;
- keep under review the cap on the overall program – and give consideration to the argument that the cap should be discarded since the scheme is by definition demand driven and employers can only seek overseas workers when the local market has been properly tested and the job vacancy cannot be filled domestically;
- consider ways of improving recruitment (through a series of special programs or incentive schemes) from some countries that are trailing in the number of their seasonal workers joining the program – including, Papua New Guinea; the Solomon Islands; Samoa; Kiribati; and Timor Leste;
- review the impact of the three Working Holiday Programs on the Seasonal Worker Program – and specifically the impact of the incentivised requirement of working for 88 days in regional and rural Australia to access a Second Working Holiday Visa – an incentive which has tended to flood the horticulture sector in particular with large numbers of holiday makers who will rarely return for a second year and in all likelihood will not return to the agriculture sector at all. Some sources have suggested a gradual capping of the numbers of placements made available to Working Holiday Visa holders who seek jobs in the horticultural sector simply to access a Second WHM Visa; and,
- consider the suggestion that the Work and Holiday (subclass 462) Visa be extended to a number of Pacific Island countries so as to facilitate a longer stay – over a one year period – to include more intense (and portable) training and skills development.

## Bilateral Seasonal Workers Agreements With Countries In Asia & The Pacific

| United States   | Europe                | New Zealand      | Australia       |
|-----------------|-----------------------|------------------|-----------------|
| Fiji            | Bangladesh/Italy      | Kiribati         | Kiribati        |
| Japan           | India/Italy           | Marshall Islands | Nauru           |
| Kiribati        | India/Norway          | Micronesia       | P.N.G.          |
| Nauru           | Indonesia/Netherlands | Nauru            | Samoa           |
| P.N.G.          | Philippines/Norway    | Palau            | Solomon Islands |
| Philippines     | Vietnam/Norway        | P.N.G.           | Tonga           |
| Samoa           | Vietnam/Finland       | Samoa            | Tuvalu          |
| Solomon Islands |                       | Solomon Islands  | Vanuatu         |
| Korea           |                       | Tonga            | Timor-Leste     |
| Thailand        |                       | Tuvalu           |                 |
| Tonga           |                       | Vanuatu          |                 |
| Tuvalu          |                       |                  |                 |
| Vanuatu         |                       |                  |                 |

## Bilateral Working Holiday Agreements With Countries In Asia

| <b>Canada</b>      | <b>Germany</b>              | <b>United Kingdom</b> |
|--------------------|-----------------------------|-----------------------|
| Hong Kong          | Hong Kong                   | Japan                 |
| Japan              | Japan                       | Taiwan                |
| Taiwan             | Taiwan                      |                       |
| <b>New Zealand</b> | <b>Australia</b>            |                       |
| China              | Bangladesh                  |                       |
| Hong Kong          | Hong Kong                   |                       |
| Japan              | Indonesia                   |                       |
| Korea              | Japan                       |                       |
| Malaysia           | Korea                       |                       |
| Philippines        | Malaysia                    |                       |
| Singapore          | Taiwan                      |                       |
| Taiwan             | Thailand                    |                       |
| Thailand           | Vietnam (under negotiation) |                       |
| Vietnam            |                             |                       |

# 5 SOME INTERNATIONAL ORGANIZATIONS

## 5.1 The United Nations

The interest and activities of the United Nations in regard to migrant workers flows from the more general provisions of the Universal Declaration on Human Rights and are set out in the International Convention on the Protection of the Rights of All Migrant Workers and of Their Families which was adopted by the UN General Assembly on 18 December 1990 and entered into force on 1 July 2003. It has been ratified by 44 countries: Albania, Algeria, Argentina, Azerbaijan, Bangladesh, Belize, Bolivia, Bosnia-Herzegovina, Burkina-Faso, Cape-Verde; Chile, Colombia, Ecuador, Egypt, El-Salvador, Ghana, Guatemala, Guinea, Honduras, Indonesia, Jamaica, Kyrgyzstan, Lesotho, Libya, Mali, Mauritania, Mexico, Mozambique, Nicaragua, Niger, Nigeria, Papua New Guinea, Philippines, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Senegal, Seychelles, Sri Lanka, Syria, Tajikistan, Timor Leste, Turkey, Uganda and Uruguay. A further 18 countries have signed (but not yet ratified) the Convention: Armenia, Benin, Cambodia, Cameroon, Chad, Comoros, Congo, Gabon, Guinea-Bissau, Haiti, Liberia, Montenegro, Palau, Sao Tome and Principe, Serbia, Sierra Leone, Togo and Venezuela.

While none among the main host countries from across North America, the European Union, the Gulf States and Oceania have to-date either signed or ratified the Convention many – in their domestic practice – implement and respect a number of it's provisions, including the following:

- Article 37 which sets out the right of migrant workers to have proper documentation and to be informed (at least prior to their entry into the host country) of the conditions applicable to their admission as well as of the employment requirements which they will be expected to satisfy in the host country – together with the contact details of the authority within the host country they can approach should they wish to secure any modifications to those requirements. The provision indicates that ideally all migrant workers should – prior to departure – be able to acquire a basic understanding of the language, culture, legal, social and political structures of the host country;
- Article 25 which provides that migrant workers should enjoy working conditions no less favorable than citizens or permanent residents of the host country. The authorities of host countries are also encouraged (echoed during the 2001 South Africa UN Conference on Racism, Racial Discrimination, Xenophobia, and Related Intolerance) to pro-actively promote public information programs which draw attention to the important contributions of migrant workers to the overall prosperity of the host society;
- Article 27 which calls on host countries to extend the same social security benefits to migrant workers as are enjoyed by their own citizens and insofar as these meet the legal provisions of each country; and,
- Article 28 which calls on host countries to provide medical care to migrant workers where there is an immediate threat to their life or the risk of irreparable harm to their health.

The implementation of the Convention is monitored by the UN Committee on Migrant Workers which is composed of 14 independent experts each appointed in their personal capacity for a 4 year term (The Chairperson of the current Committee is Francisco Carrion Mena from Ecuador and the Vice Chairperson is Jose Brillantes from the Philippines). The Committee holds two public sessions annually at the Offices of the United Nations in Geneva where it considers implementation issues and takes evidence (written and oral) from a range of individuals and organizations (domestic and international) that monitor the treatment and circumstances of migrant workers.

## 5.2 The World Bank

One of the most interesting – and relatively more recent – transformations in efforts to meet the seasonal shortfalls in domestic employment policy (across a number of OECD countries) through temporary worker migration programs has been the relocation of these programs within the broader provisions of development cooperation agreements between these OECD countries and their partners across the developing world. This transformation has necessarily implied that the more traditional and narrowly focused preoccupations with meeting seasonal employment needs (particularly in agricultural) have been subsumed and pursued within the more constructive and comprehensive focus of country-to-country arrangements on development cooperation. The employment provisions of these cooperation agreements invariably commit both countries to arrange and to guarantee seasonal employment policies that compliment their agreed development goals and that are in themselves orderly, fair and circular.

These more strategic links between the recruitment of temporary low-skilled migrant workers and bilateral development agreements has led the World Bank to promote a number of studies which measure the impact of these agreements on the role of employers and on their implications for local workers – and the relationships between the two – as well as on their impact on the skills acquisition and financial contributions of such seasonal workers to their families and to the broader development objectives and outcomes within their home countries.

New Zealand's 'Recognised Seasonal Employers (RSE) scheme (Section 2.7) is regularly cited as a successful development and seasonal employment model in World Bank studies (see the impressive work of David McKenzie and John Gibson) and statements where attention is drawn to a number of its features, including:

- the fact that it has been carefully designed with a number of important characteristics – from the registration of employers to the recruitment of workers; the establishment of clear conditions of employment and of on-the-job training; the development of a comprehensive 'pastoral care' package to guide employers and to benefit workers; through to the effective discouragement of overstaying and the mitigation of local worker displacements;
- while the New Zealand scheme is employer-led, central and critical roles are played throughout by both the New Zealand and Pacific Island Governments in establishing, administering and monitoring its ongoing implementation;
- seasonal workers from across the participating countries of the Pacific have experienced real gains in income as well as in their overall well-being while New

Zealand growers have gained much needed access to a more stable and increasingly productive workforce;

- both the recorded and suspected overstayer rates have been low and there is no available – or it seems emerging – evidence of significant displacements of local workers;
- the growing evidence that exists of more enduring benefits (however modest in scale at this still relatively early stage in the scheme) from the flow of remittances to families and into local communities within the participating countries; and,
- the fact that from the very outset the New Zealand scheme was effectively designed to ensure an open attitude among all its participants – official agencies, employers, recruiters and workers – to being interviewed, tested and questioned about all aspects of its operation: measuring its impacts and evaluating its progress; facilitating necessary changes; and deepening support for the scheme among politicians and policy makers and other interested community stakeholders.

### **5.3 The International Labour Organisation**

The ILO has long taken a direct interest in seasonal workers strategies (which has included the adoption of two ILO Migrant Workers Conventions – in 1949 & 1975) and – supported by AusAid – is currently engaged in a research project entitled 'Strengthening Capacity to Implement Australia's Seasonal Worker Program in Papua New Guinea and Nauru' which will address the development potential of the SWP for both partner countries as well as the constraints which both are seeking to address, including:

- the need for both countries to formulate and implement legislative frameworks to protect the rights of seasonal workers during the recruitment process and while overseas;
- to put in place systems and mechanisms for the proper recruitment of seasonal workers and to ensure the provision of advise and support systems prior to departure;
- to increase visibility and communication links between the authorities, social partners and local communities in PNG and Nauru with those authorities, agencies, organisations and approved employers within Australia who have a direct interest in the employment of seasonal workers. A central concern of this aspect of the project will be to propose how best to build close relationships in promoting the program and in fostering confidence in its potential across the workforce in both partner countries.

### **5.4 Amnesty International**

Amnesty International has long been active in monitoring the rights and treatment of seasonal workers in a number of host countries across the world. In its 2014 presentation to the UN Committee on Migration it raised concerns about the treatment of seasonal workers in China (Hong Kong); Italy; Korea; and, Qatar. The concerns have focused on four main areas:

- migration and/or employment policies on arrival that give an individual employer excessive control over the residence status of a migrant worker;
- the vulnerabilities that can arise when recruitment policies or practices tie a specific migrant worker exclusively to an individual employer;
- that an important concern of national monitoring arrangements should be to ensure that migrant workers are employed in the positions for which they were recruited and on which they were briefed prior to arriving in the host country; and,
- that mechanisms are available – and understood by seasonal workers – through which they can raise legitimate grievances and seek remedies where appropriate.

# 6 AUSTRALIAN AGRICULTURE – CONSTRUCTION & TOURISM INDUSTRIES

## 6.1 A Brief Note On Employment

There are some 11,553,000 people currently at work across Australia with just over 713,000 people (5.8%) reported as unemployed (the Federal Government's April 2014 statistics). However, it is important to add that within the overall employment statistic there has been a an increase in part-time employment of slightly in excess of 40,000 jobs – and a decrease of some 22,000 in full time positions. It was also reported that the largest increases in seasonally adjusted employment were in Queensland (up by 30,700) and in New South Wales (up by 13,700) whereas the largest decrease in the seasonally adjusted figures was in Victoria (down by 5,300). In addition, Australia's population on 30 September 2013 was estimated at 23,238,800 – an increase of 405,400. This increase was made up of a natural growth of 164,400 and the remaining 241,000 of net overseas migration – in percentage terms a growth of 1.8% within the year to 30 September 2013, with 41% recorded as natural growth and the remaining 51% resulting from net overseas migration. The percentages living in rural and regional areas showed some decline with larger falls recorded in the Wagga Wagga region of New South Wales, Glenelg in South Australia, Moe and Newborough in Victoria, and Burdekin in Queensland. Australia's current minimum wage is set at \$622.20 per week or \$16.37 per hour based on a 38 hour week and \$20.46 for a casual worker. (It is worth noting that President Obama has to date failed to persuade Congress to raise the US minimum wage from \$7.50 to \$10.10 – which is less than half of the Australian minimum casual rate. And it is also worth mentioning that New Zealand's minimum wage is currently set at NZ\$13.00 – a differential of some 25%.)

## 6.2 Agriculture

In it's most recent submission to Fair Work Australia the Australian Farmers Federation (AFF) makes the case for containing any increase in the minimum wages payable to agricultural workers to no more than 1.1% and further argues that any increase should be tied to improvements in productivity. In it's submission the AFF sets out the sector's overall benefits to the Australian economy – the fact that 135,692 farms employ some 278,000 agricultural workers; that together they generate approximately 3% of the nation's GDP with an estimated value in 2012/13 of \$47.9 billion; and, the fact that also in 2013/13 agricultural exports were valued at \$37.97 billion. Nonetheless, with competition in the international market place ever intensifying domestic producers should not be disadvantaged in their reasonable and well reasoned efforts to increase output and improve productivity. Hence wage restraint will remain central to improving competitiveness both at home and abroad and therefore any suggested increases in costs – including in wages – should necessarily be viewed in the context of the forecast decline in the export value of farm commodities throughout 2013/14. In a recent survey – partnered by the AFF – 45% of the 459 respondents to a question on the greatest obstacle



to employing additional rural and seasonal workers identified 'affordability' – indicating that they could not afford to meet the costs of the minimum wage. (In a few conversations on this subject with growers, I was told of the urgent need to link payments – specifically in the case of WHMs – to productivity rather than to time, to the number of baskets filled rather than the number of hours filling them.)

In addition, the present performance of Australian farms is likely to vary across the country with those in Queensland and Northern New South Wales being disadvantaged by drought conditions – with some estimating cash income in average farms in Queensland declining to \$39,000 per holding. By contrast cash incomes in average farms holdings across Western Australia is forecast to reach \$317,000 per farm and to be at \$231,000 per farm in South Australia. (However it should be noted that significant numbers of farms – especially in the dairy sector – in Western Australia and in the Northern Territory continue to carry substantial farm debt from the past.) A decline in production levels has been forecast across virtually all summer crops in 2013/14. It has also been reported that in 2012/13 the below average rainfall throughout the winter period could have effectively restricted the areas normally relied on to grow vegetables (and other crops) in all states.

## 6.3 The Construction Industry

Reviews of the current state of Australia's construction industry tend to depict two contrasting realities – first, a strong boom in the industry in the resources rich States of Western Australia (iron ore) and Queensland (with rich coal deposits) where employment continues to rise (although now more moderately) – and secondly, across the rest of the country where employment in the sector has largely stabilized or in some instances declined. (In neither case however has there been a decline in demand for temporary and/or seasonal workers – although the sector's greatest need remains with the recruitment of skilled labor.) Overall, the construction industry continues to grow at a national average of 5.4% (in comparison with hotel and hospitality at 3.2% and Agriculture at 3.1%) – although in certain areas growth is likely to moderate to just above 2% – with clear implications for employment. The engineering construction industry remains strong with the value of current projects estimated at \$135.6 billion largely in oil and gas – roads and highways – bridges and railways – as well as in electricity generation, transmission and distribution. It is also relevant to note that Australia currently has the highest rate of labor productivity growth internationally – followed by Ireland, Japan, Austria, the US, Finland, Brazil and the UK.

Despite the high value of current projects, labor market conditions weakened somewhat across the sector in the year to July 2013 with employment rising by 0.9% (as opposed to a strong growth of 6.5% in the previous year) although the number of on-site employees increased by over 2% and the number of sub-contractor tradesmen was up by over 0.5%. The projection to the end of June 2014 is for a modest reduction in employment of just over 1% with the main impact being felt in off-site employment. (It is therefore difficult to draw any specific employment conclusions from the reported increase in labor productivity.)

Any considered assessment of the industry's likely recruitment of temporary and casual workers is somewhat complicated (although helpful to the industry as a whole) by the existence of the very large numbers of sub-contractors who are responsible for the on-the-ground delivery of significant aspects of individual construction projects. From conversations with a number of WHMs it is clear that much casual recruitment takes place by word-of-mouth – information and recommendations from and by friends – contacts in hostels – as well as through recruitment agencies and internet-sites. While relatively strong levels of recruitment are expected to continue into the immediate future, expectations are likely to soften in some activities, including within the mining sector where a number of large scale projects will reach completion and some others appear likely to be deferred. On the other hand – as indicated above – growth will continue in other sectors, especially in oil and gas, ports and terminals and in telecommunications with the ongoing roll-out of the NBN.

## 6.4 The Hospitality Industry

The Hospitality Industry is also facing some significant challenges – at least in the short term – including those posed by the continuing high value of the Australian Dollar which weakens the attraction of the country as an affordable holiday destination for overseas customers while simultaneously making international travel more attractive to domestic tourism consumers. Nonetheless, even in the Asia-Pacific market place which has seen a decline in the once highly lucrative Japanese market there has been a significant rise in the increasingly valuable Chinese market. In the short term, however, a major preoccupation for many tourism retailers will be to stimulate the domestic market while not ignoring promotional opportunities overseas. Within this overall environment of challenging competition and the need to maximize competitiveness and affordability there is a particular emphasis on the need to source affordable labor across all sectors within the industry from the highly-skilled to the less-skilled categories. Staff training and staff retention – as well as ready access to workers-on-demand – are critical even in highly seasonal locations where year-round employment is an unattractive and even (in some situations) an unaffordable option for employers.

The industry currently avails of a range of migration programs to attract overseas workers, including from: the employer sponsored 457 Visa (which enables skilled workers to accept sponsored positions – for which they are specifically qualified – from an approved employer or organization and to work in Australia for up to 4 years); the more recently introduced Temporary Graduate (subclass 485) Visa which has two streams: the Graduate Work stream and the Post Study Work stream; the provisions of which enable graduates to work in Australia for a period of up to 18 months; the provisions which permit overseas students to work without limitation during their holiday periods (and for up to 40 hours per fortnight during term time); the range of Working Holiday Maker Visas; and the Seasonal Worker arrangements with certain Pacific Island nations and Timor Leste. The latter two provide workers for a range of jobs from restaurant and cafe waiters, bar and pub staff, hotel receptionists, housekeepers and gardeners to kitchen hands and cleaners – with most of these jobs now well serviced by the significant growth in WHMs which has reduced shortages overall as well as the level of demand for seasonal workers in the sector more generally.

Over the years the industry has also made proposals aimed at strengthening their access to overseas workers which have included:

- attempts to persuade the Federal Authorities to include certain skills relevant to the industry on the Migration Occupations in Demand List (MODL) including such roles as certain front of house occupations and food and beverage managers (in the agriculture sector: agricultural consultants, agricultural scientists and foresters are MODL listed);
- review 457 (employer sponsored) Visas to consider their applicability to certain registered employers and/or regions;
- encourage the establishment of fast-track visa processing and approval systems through an extended use of seasonal worker employment agreements between the Federal and/or State Government and those registered on the Approved Employer and Organization list and to maximizing efficiency in the immigration and visa processing areas;
- review existing overseas educational visa programs as well as the role of migration agents to ensure that they are aware of – and sympathetically disposed towards – the needs of the hospitality industry; and,
- contribute to the development of closer relationships with those countries with which Australia has developed seasonal worker arrangements and agreements – a specific area in which this could be effected by the hospitality industry is in assisting with skills and training courses in the Australian Pacific Technical Colleges established in various locations across the Pacific by AusAID.

## 7 EXAMPLES OF MINIMUM PAY RATES ACROSS THE INTERNATIONAL COMMUNITY

|          |                        |                |
|----------|------------------------|----------------|
| <b>1</b> | <b>Australia .....</b> | <b>\$16.00</b> |
| 2        | Luxembourg .....       | \$13.80        |
| 3        | France.....            | \$12.00        |
| 4        | New Zealand ...        | \$11.20        |
| 5        | Belgium.....           | \$11.10        |
| 6        | Ireland.....           | \$11.00        |
| 7        | U.K.....               | \$9.80         |
| 8        | Canada .....           | \$9.75         |
| 9        | Japan.....             | \$8.20         |
| 10       | Austria .....          | \$7.40         |
| 11       | U.S .....              | \$7.10         |
| 12       | Israel .....           | \$5.90         |
| 13       | Spain .....            | \$5.55         |
| 14       | Greece .....           | \$5.10         |
| 15       | Korea.....             | \$4.35         |
| 16       | Portugal .....         | \$4.20         |
| 17       | Hong Kong .....        | \$3.90         |
| 18       | Turkey .....           | \$2.70         |
| 19       | Poland .....           | \$2.50         |
| 20       | Estonia.....           | \$2.10.        |

(The Germany Government announced in April 2014 that early next year (2015) Germany will introduce a minimum wage of €8.50 per hour – currently valued at approximately US\$11.65 or A\$12.60 per hour.)

# 8 AUSTRALIA AND REGIONAL ECONOMIC AND SOCIAL DEVELOPMENT STRATEGIES

## 8.1 The Australian Pacific Technical College

The Australian Pacific Technical College (APTC) – an Australian Government initiative – announced at the Pacific Islands Forum in 2006 has established campuses in Fiji, Papua New Guinea, Samoa and Vanuatu – with agreement on a further campus just announced for the Solomon Islands. This impressive skills development network provides courses in a range of subjects to the level of Australian Diploma standards in the following areas: Children's and Community Services (disability, home and community care, aged care and youth services); Hairdressing and Hospitality (commercial cooking, patisserie, food and beverage); Tourism; Automotive; Construction; (carpentry, painting and decorating, wall and floor tiling); Electrical; General Engineering (diesel fitting, fabrication and welding, fitting and machinery, refrigeration and air conditioning); as well as Plumbing.

The Australian National Farmers Federation has suggested that courses in Agriculture should also be included in the curricula offered by the APTC. Such an expansion would not only be of direct benefit to the Island States of the Pacific but would also assist in preparing seasonal workers – who wished to participate in the SWP – for both living and working in the world of Australian agriculture. It seems nonetheless that there are a number of issues that remain to be addressed in considering this suggestion including how such a process might privilege the APCT over other existing institutions in individual Island States and risk marginalizing or undermining them. It is also relevant to mention that AusAid is working closely with the World Bank (and with the International Labor Organization in Timor Leste) in developing and delivering pre-departure courses; in establishing 'work ready' groups of applicants; in monitoring the work of licensed recruitment agents and in engaging in direct recruitment; and in establishing and/or strengthening the capacities of individual Labor Departments (or their equivalents) across the region both in managing the recruitment of seasonal workers and in marketing their capacities to potential employers.

## 8.2 Seasonal Workers & Development Strategies

As already discussed it has in recent years become increasingly the practice for partnership strategies for development between donor and recipient countries to include agreed provisions on seasonal migration. Indeed their inclusion is seen by respective national partners as an important vehicle in helping to achieve poverty reduction as well as economic and social development. However, migration policy has long been a sensitive issue across both emigrant and immigrant countries – with the former regarding the loss (even temporarily) of their domestic population as a tragic phenomenon – for individual families who experiences the heartbreak of the 'emigrate ship' and for societies who saw the departure of promising talent and great energy. On the other hand immigrant countries have generally been keen (beyond providing for humanitarian migration) to put in place arrangements that combined national self interest (largely to protect employment) with good international citizenship.

In some of the more traditional immigrant countries – including Australia – a view had emerged which considered that migration (outside the important area of educational mobility) should be – at least in principle – for the purpose of enabling permanent residence. This resulted over time in a reasoned resistance to seasonal migration which was seen by some as un-Australian and risked being exploitative. It was also argued – with justification – that migration policy could not be a substitute for development policy which was seen largely as helping to provide excellence in governance and effectiveness as well as transparency in economic and social development across the aid recipient world. Today most of the proponents of seasonal migration (including such institutions as the World Bank) insist that as developed economies focus on migration – and specifically on seasonal migration – that the validity of some of these concerns be respected – and that seasonal migration be seen as one (however important) among many means of assisting with economic and social development within partner countries.

From a migration perspective the pre-eminent characteristic of today's complex set of international relationships is the ever increasing mobility of people within continents as well as across borders and oceans – and the Pacific region is no exception. In addition, the research work undertaken at both national and international levels (by the World Bank and others) has confirmed that mobility – and in particular the seasonal and circular movement of workers – makes a positive contribution to efforts aimed at eliminating poverty and raising national living standards across developing countries. It is also the case that higher levels of economic progress and general well being add immeasurably to national as well as regional stability and security. In an important key-note address to the Development Policy Centre in June 2013 – and in advance of the last year's Australian Federal election – Ms. Julie Bishop, now Australian Foreign Minister, spoke of 'Australian Aid, the Pacific and PNG' and called for 'a strengthening of Australia's existing guest worker program to enable greater numbers of Pacific Islanders to undertake seasonal work in this country'. In the course of her remarks Ms. Bishop also spoke admiringly of New Zealand's Recognised Seasonal Employer (RSE) scheme, mentioned in more detail above.

There is no doubt that the New Zealand scheme – and others operated elsewhere – reveal the important gains that can be realized by increasing temporary worker mobility. One of the largest gains (superbly outlined in the ANU study by Hay and Howes) is in the important area of seasonal workers remittances which, inter alia, – are shown to have improved family access to education and health; developed portable farming and vocational skills; stimulated entrepreneurial activity; and, provided an important source of foreign exchange to their home countries and thus helped improve macro-economic stability – with high levels of remittances recorded in some countries, in Tonga at some 30% of national GDP and an estimated 26% in Samoa.

Against the background of Foreign Minister Bishop's remarks on the New Zealand scheme, it is worth recalling a number of the valuable observations contained in the impressive ANU assessment – by Danielle Hay and Stephen Howes – of the Pacific Workers Pilot Scheme which continue to resonate, including both of the following:

- the fact that the initial take-up of seasonal workers from the Pacific Islands in the Australian Pilot Scheme was less than anticipated was due – at least partly – to the ample supply of WHMs actively seeking seasonal work following the offer of a second WHM year visa for those who work for at least 88 days in rural Australia. (Indeed, the high numbers of available WHMs was regularly mentioned in discussions undertaken in connection with this paper as effectively limiting any sense of urgency among growers to pro-actively look beyond WHMs and engage with the SWP); and,
- the relatively risk-free and cost-free availability of WHMs contrasted with the more complex – bureaucratically demanding and seemingly more expensive – hiring of Pacific Island workers – who, however dedicated and well motivated, may not be so easily capable of being dismissed should an individual worker prove unsatisfactory in a particular farming situation. In essence WHMs are seen in comparison as both 'less of a financial risk and less of an employment bother' – sentiments (however less prevalent) that still exist as overall compliance costs and administrative governance continue to be perceived as high – and indeed higher than in neighboring New Zealand.

Nonetheless, the contrast with New Zealand should be seen in the context of the relatively fewer WHMs (currently less than 30% of the Australian number) which New Zealand receives and with even fewer working in the horticultural sector – in a 2004/5 survey only 6% of WHMs reportedly worked in fruit-picking with some 20% in agriculture while in Australia the number in agriculture was at 40% (a percentage that will undoubtedly have increased in Australia following the introduction of the Second WHMs visa).

In addition, while most of the literature on the issue presents the horticulture industry in New Zealand as more uniform than in Australia (and with a wide range of well established links to its counterparts across many of the Pacific Islands), the contrast between the Australian and New Zealand seasonal workers schemes that most regularly arises in conversations with Australian growers is their perception (and even in circumstances where 'perceptions differ from fact' they tend to take on their own authority) that the level of official governance within the New Zealand system is less managed and less onerous than in Australia.

Within Australia there are a range of Government Departments and Agencies with a direct involvement in the scheme – the Department of Foreign Affairs and Trade; the Department of Immigration and Border Protection; the Department of Education, Employment and Work Place Relations; and, the Department of Agriculture – in addition to the Fair Work Commission and AusAid – all playing different roles but ultimately overseeing processes designed to ensure that standards are met (including agreed wages and proper treatment) and that the risks of adverse outcomes are minimized. However, this network is again perceived (however unfairly) by some within the employer community as constituting an unattractive web of regulation and micro-management with which they feel it best to avoid engaging. Some point to what they see as more flexible arrangements in the New Zealand scheme and among these there are a number of admirers of PICKNZ (a service offered on the website of Horticulture New Zealand) which has a network of eight regional coordinators to assist individuals in finding employment in the horticultural industry. They point to the role of Master Contractors Incorporated (NZMCI) – the voice and mentor of

approved contractors across New Zealand – which was established by the Horticultural and Viticultural industry in association with the NZ Department of Labor to help provide employers with a reliable labor force and to improve sustainability and productivity across the industry – the current value of the horticulture/viticulture industry is some NZ\$5 billion, making it the sixth largest in the country.

### 8.3 Recruitment Agencies & Migration Agents

The Australian Department of Employment has a comprehensive and helpful web-site with detailed guidance for employers on how to recruit seasonal workers. Among the strong arguments brought forward by the supporters of the Seasonal Workers Program – in addition to the virtues of it's circular movement and the likely return of trained workers – is that it reduces (some argue that it virtually removes) the risk of over-staying and the associated legal vulnerability of employing undocumented workers. Since 2007 it has been a criminal offense under the Migration Act to employ (or to refer for employment) a person who is not permitted to work in Australia. These provisions were further strengthened in 2013 with the introduction of a range of penalties and sanctions for businesses that employ undocumented workers – including fines which range from a minimum of \$3,060 to a maximum of \$76,500 per worker.

These new penalties were introduced following the publication of 2012 statistics indicating that there were an estimated 61,000 undocumented persons within Australia (with 85% between the working ages of 18 to 65) and that some 2,000 business across Australia were employing numbers of these undocumented workers. The industries found to be most vulnerable and/or amenable to employing undocumented workers included agriculture, forestry and fishing; construction; and hospitality. There were also found to be considerable hourly wage differences – with SWP participants earning on average some \$2/3 per hour more than backpackers and WHMs, but with both earning up to \$10 per hour more than undocumented workers. Hence, if operating a business within one of the high-risk sectors the Department of Immigration and Border Protection advises employers to take precautionary measures including:

- availing of its Visa Entitlement Verification Online (VEVO) which provides visa holders, employers and other registered organisations with information on visa entitlements and status information on a 24hour daily basis;
- advising employers who have a high turnover of seasonal workers to enter into contractual relationships with recruitment companies which oblige those companies to check the documentation of the workers they are supplying to the horticultural properties;
- noting nonetheless that individual employers in horticulture remain responsible for the seasonal workers they hire, even when a worker is referred by a recruitment company unless they have taken steps to specifically 'contract-out' their obligations to the recruitment company; and,
- recommending that all such agreements should impose a series of obligations on the recruitment company including; (a) responsibility for visa checks and for Work Health & Safety (with employers confirming the Hort Card pre-employment training



program to ensure protection against WH&S liabilities); (b) confirming workers skills in the use of equipment; (c) meeting all payments obligations and quality control requirements as well as Fair Work obligations.

Seasonal workers must be recruited in compliance with the regulations of their home Governments – in Timor Leste the State Secretariat for Vocational Training and Employment; in Kiribati the Ministry of Labor and Human Resource Development; in Nauru, P.N.G. and the Solomon Islands the Ministry of Foreign Affairs and Trade; in Samoa the Office of Prime Minister and Cabinet; in Tonga the Ministry of Internal Affairs; in Tuvalu the Ministry of Foreign Affairs, Trade, Tourism, Environment and Labor; and in Vanuatu the Department of Labor. While officials in the participating countries assist workers with the required documentation, advice by migration agents working with the Approved Recruitment Agency remains desirable. The Migration Institute of Australia has a network of members, speaking some 68 languages in 70 countries, who are a source of invaluable advice on all immigration matters.

# 9 CONCLUSIONS & RECOMMENDATIONS

## 9.1 Programs In Operation Elsewhere

While all of the seasonal worker programs surveyed in the study have their own background and particular challenges, those of more immediate relevance and interest to Australia are the programs operated by both Canada and New Zealand. The US program is largely preoccupied with meeting the challenges of undocumented arrivals and the serious risks posed by unlawful employment practices. Many of the European models have been shaped or influenced by broadly similar considerations although the UK program (presently suspended) and the Spanish program (more recently constructed) have aspects that are of interest to ongoing discussions concerning refinements and adjustments to programs elsewhere, including in Australia.

Hence, before focusing on the broader European as well as the Canadian and New Zealand programs it is worth drawing attention to limited aspects of other models (specifically in the US and Germany) that are of potential interest to discussions in Australia:

- the degree of flexibility in the US H-2A visa program (Section 2.3.3 above refers) which permits growers to select workers from a list of 63 countries (including Japan, Korea, Thailand and the Philippines in Asia and most Pacific Island nations) could be of interest to Australian growers especially in circumstances where they can identify benefits (for reasons of specialization or training) in recruiting from a specific country – or in the case of horticultural exporters who identify opportunities to strengthen their overseas business relationships by facilitating access by local workers to seasonal job opportunities on their or neighbouring farms. It is however important to keep in mind – as is evident from experiences in the US and elsewhere – that vulnerabilities in employment practices tend to emerge more frequently in 'sponsorship programs' where employers can assert a level of control over workers that is unavailable to them in officially administered and more carefully monitored programs;
- the provisions within the US system for the calculation of payments to workers within the horticulture sector (including minimum wage requirements – see comparative table on Page 55) – are also issues which are relevant to Australian growers (at least those interviewed in this research – many of whom pay seasonal workers on a contract basis related – in the case of fruit-picking – to the quantity collected on an hourly basis. They would clearly welcome a discussion on mandatory payments which – while seeking neither to disadvantage locally recruited nor overseas seasonal workers – could ensure that SWP benefits are not offset or counterbalanced by the costs of implementation);
- the provisions in the German Program (Section 2.6.4 above) that are designed to meet the needs of small and medium sized growers by enabling them to make optimum use of their access time to seasonal workers and by reducing their costs through an agreed sharing of workers with other SMEs; (a discussion of this practice revealed that in one Australian location an Australian-based company recruits seasonal workers from a South East Asian country (in which the company's owner was born) and accommodates them in a regional centre during the season's

peak period from where they are available to growers. Growers pay the company (some \$26 per hour per worker) and the company assumes responsibility for the wages, accommodation and welfare needs of the workers.)

The Canadian program raises a number of issues for possible discussion including:

- the possibilities raised by 'The Agricultural Stream' and the 'Stream for Lower Skilled Worker Occupations' which enable approved employers to hire temporary foreign workers from any country for up to 2 years (although in the 'Agricultural Stream' workers can only fill jobs restricted to specified commodity sectors within primary agriculture). While there are (at least in aspects of the 'Agricultural Stream') certain similarities with Australia's 457 Visa – there are nonetheless other aspects which could justify consideration of a program that might focus (at least initially) on possible arrangements with a number of Australia's near Asian neighbors – perhaps within members of the Association of South East Asian Nations (ASEAN) – and taking into account the fact that the United States and some European countries (Table on Page 45 refers) already have arrangements with some ASEAN countries (most notably Indonesia, the Philippines and Vietnam) as well as with Bangladesh, India and Japan;
- the gains in productivity and competitiveness experienced by employers in CSAWP – which are now seen as highly beneficial outcomes of Canada's rural seasonal employment strategy – are worthy of further study and comparison with the experience of the Seasonal Workers Program (SWP) in rural and regional Australia;
- the potential usefulness of a more formal and structured engagement by representatives of the horticulture industry in the further development – as well as in the ongoing monitoring – of the SWP and in particular (in that context) to consider the role and responsibilities of a possible Human Resources Committee along the lines of the Committee that has been established within Canada's Horticulture Council (as outlined in Section 2.4.6 above); and,
- the potential benefits (including consolidating ongoing working relationships with seasonal workers) of establishing a voluntary savings scheme (compulsory in Canada – see Section 2.4.6) which could facilitate the transfer of funds to the family dependents of workers in their home countries.

In the case of general European Union practices it may be useful to consider promoting the following ideas:

- the introduction of multi-seasonal visas and work permits (for up to 3 to 5 years) for individual seasonal workers whom individual horticultural employers would especially wish to see return to their properties (Section 2.5.3 above refers);
- the introduction of a voluntary conciliation mechanism to assist in mediating – and where possible resolving – any disputes or disagreements similar to those mentioned in Section 2.5.4 above; and,
- the introduction of occasional and well timed public information presentations on the benefits of seasonal workers to the Australian economy – as well as to individuals and growers – including the beneficial 'return on investment business case' mentioned in Section 4.3.2 above.

Consideration might also be given to the establishment of a 'Register of Special Needs' which could highlight particular or emergency requirements in specific regions or properties and/or simply any acute shortages of seasonal workers (again in regions on a specific property) with particular qualifications – a system which could also help fast track both the domestic certification of special needs in the region or property as well as the approval of permits and visas for seasonal workers along the lines of the Spanish model mentioned in Section 3.2.5 above.

As already indicated New Zealand's RSE program contains a number of relevant provisions – in terms of both organization and outcomes – that are worthy of consideration in the Australian context including:

- regular exchanges of information on New Zealand's 'pastoral care' package which has been a succinct and effective means for providing guidance to employers as well as in ensuring proper benefits to workers;
- to consider aspects of the structured dialogue between New Zealand and its partner countries across the Pacific (which involve consultation with New Zealand's horticulture industry) and where appropriate to seek similar dialogue and consultative arrangements within Australia; and,
- to consider the valuable work of Australia's National Harvest Trail and in New Zealand of both PICKNZ (a service offered by Horticulture New Zealand) and of Master Contractors Incorporated (NZMCI) in the recruitment of suitable seasonal workers for the horticulture sector – a to examine what supportive role could be undertaken by a peak organisation such as AusVeg to further help in the promotion seasonal employment in the horticulture sector.

## 9.2 Concluding Observations

The survey of a variety of official web-sites, desk-top studies, reports and articles combined with a number of conversations with individual growers (as well as with representatives from the construction and hospitality industries) did not reveal a serious under-supply of available seasonal workers across rural and regional areas of Australia. However what they all – directly or indirectly – confirmed is the existence of a wide range of views (together with observations and recommendations) on existing arrangements which (while avoiding any duplication of those already mentioned) included:

- the need to further consider how representative bodies within the horticulture sector can contribute to the relationship (including the provision of technical assistance) being developed between AusAid the SWP partner countries, especially in helping the latter to deepen their awareness of circumstances in the host country when arranging for the recruitment, pre-briefing and transfer of suitable seasonal workers to Australian farms;
- the desirability of a possible role (as suggested by the Australian National Farmers Federation) for the network of Australian Pacific Technical Colleges (APTC) in providing courses in agriculture that would also assist with the pre-departure training of likely seasonal workers to Australia – in the course of conversations in

preparing this paper there were others who supported an appropriated role for the APTC network in the SWP;

- the somewhat surprising low level of awareness of the SWP that was found in preparing this paper confirms the views of others on the desirability of establishing a well funded and effectively targeted information campaign highlighting the benefits of the SWP and – from a domestic perspective – in emphasizing its capacity to provide a steady, reliable and increasingly better trained seasonal workforce across rural and regional Australia;
- the desirability mentioned in conversations with some employers – of seeking to engage an authoritative body such as the Australian Productivity Commission – or a Research Institute within an Australian University with access to cross-discipline experts – to assess both the 'return-on-investment-case' and the productivity benefits to the sector as a whole of a well developed and managed SWP. Such a study might also look – from a productivity perspective – at such issues as the need or otherwise of maintaining the current cap on the SWP as well as of contrasting and comparing the operation of the WHMs program and the SWP in providing reliable seasonal workers to the horticulture sector;
- to keep cost sharing arrangements under review and in particular to address the views that the SWP is too frequently perceived as 'too costly as well as too risky and bureaucratically burdensome';
- to establish access for all horticultural growers to both WHM programs and SWP participants irrespective of whether or not their properties are close to major urban areas (some are currently not permitted to certify WHMs for participation in the Second WHM Visa program because of their location); and,
- to develop an appropriate program within the sector (in consultation with the relevant Federal and State Authorities) which would help address the issue of undocumented seasonal workers.

## 10 REFERENCES

Amnesty International: 'Abusive Labour Migration Policies'. Submission to the UN Committee on Migrant Workers – April 2014.

Asian Development Bank: 'Empowering Women through Rural Infrastructure'. August 2011.

AUSAID: Independent Progress Report of Labour Mobility Initiative in the Pacific: Management Response – June 2013.

Australian Federal Parliament – Joint Standing Committee on Migration: 'Working Holiday Makers – More Than Tourists' – August 1997.

Australian Federal Parliament – Department of Parliamentary Services (research brief): 'A seasonal guest-worker program for Australia?' – 5 May 2006.

Australian Government – Department of Immigration and Citizenship: 'Working Holiday Maker Visa Program Report' – 30 June 2013.

Australian Migration Alliance: 'Implications of Illegal Employment'. Website – 22 February 2013.

Australian Productivity Commission: Trends in Australian Agriculture – July 2005; and more general recent reports.

Balch, Alex; Department of Politics, University of Sheffield: 'Managing Labour Migration in Europe: ideas, knowledge and policy change'. Centre for Contemporary Immigration Studies – January 2010.

Baruah, Nilim; & Cholewinski, Ryszard: 'Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination'. Organisation for Security and Cooperation in Europe; International Organisation for Migration; and, International Labour Office, Geneva – 2006.

Bloemraad, Irene; University of California, Berkley: 'Re-imagining the Nation in a World of Migration'. Centre for Comparative Immigration Studies – March 2014.

Canadian Horticultural Council: 'A Call to Action to Develop the Workforce for the Future of Horticulture in Canada' – April 2004.

Castles, Stephen; International Migration Institute: 'Back to the Future? Can Europe meet its Labour needs through Temporary Migration?' Oxford University – 2006.

Doyle, J. & McDonnell, D. 'Too Many Backpackers: Working Holiday Makers and the Australian Horticultural Industry.' Dev Policy Blog from the Development Policy Centre – 17 December 2013.

European Commission: 'Proposal for a Directive of the European Parliament and of the Council of the conditions of entry and residence of third-country nationals for the purposes of seasonal employment'. – 2010.

European Committee on Migration – Council of Europe: 'Temporary Migration for Employment and Training Purposes'. Strasbourg – 1996.

European Migration Network: 'Temporary and Circular Migration: empirical evidence, current policy practices and future options in EU Member States' – October 2011.

Ferguson, Nelson; University of Montreal: 'The Seasonal Agricultural Workers Program: Considerations for the Future of Farming and the Implications of Managed Migration'. An article from Our Diverse Cities: Rural Communities – Volume 3 Summer 2007.

Finotelli, Claudia; Complutense University of Madrid: 'Labour Migration Governance in Contemporary Europe. The case of Spain.' A publication of FIERI – the International Forum for Research on European Immigration – April 2012.

Gibson, John & McKenzie, David: 'Development through Seasonal Worker Programs: the Case of New Zealand's RSE Program'. The World Bank Development Research Group – January 2014.

Gibson, J.; McKenzie, D. & Halahingano, R.: 'Development Impacts of Seasonal and Temporary Migration: a Review of Evidence from the Pacific and South East Asia'. Centre for Research and Analysis of Migration (CReAM) – 2013.

Government of New Zealand: 'Final Evaluation of the First Two Sessions (2007/08 & 2008/09) of the Recognised Seasonal Employer (RSE) Policy'. NZ Ministry of Business, Innovation and Employment Website.

Government of Papua New Guinea: 'Recognised Seasonal Employment Inter-Agency Understanding' – August 2013.

Government of the United Kingdom: 'Migrant Seasonal Workers – the impact on the horticulture and food processing sectors of closing the Seasonal Agricultural Workers Scheme and the Sectors Based Scheme'. The Home Office Migration Advisory Committee Report – May 2013.

Government of the Federal Republic of Germany – 'Employment of Foreign Workers in Germany'. Federal Ministry of Employment – July 2013.

Hannam, K. & Diekmann, A: 'Beyond Backpacker Tourism – Mobilities and Experiences'. Channel View Publications a February 2010.

Hay, Danielle & Hoews, Stephen: 'Australia's Pacific Seasonal Worker Pilot Scheme: Why has the take-up been so low' – Development Policy Centre at the Australian National University – April 2012.

Hofmeister, W; Rueppel, P; Pascouau, Y; Frontini, A; (editors): 'Migration and Integration – Common Challenges from Europe and Asia' – Konrad Adenauer Institute; East Asia Institute (NUS – Singapore) ; European Policy Centre; and the EU Centre Singapore – 2014.

Hughes, H. & Sidhi, G: 'Should Australia and New Zealand Open Their Doors to Guest Workers from the Pacific? Costs and Benefits'. The Centre for Independent Studies – 2006.

Hugo, G. Professorial Research Fellow at the University of Adelaide: 'Migration between the Asia-Pacific and Australia – a Development Perspective'. Paper prepared for a Conference on Migration in Mexico City in January 2009.

Jarvis, Jeff & Peel, Victoria: 'Long Term Tourists or Short Term Migrants?' The National Centre for Australian Studies, Monash University – Research Summary: July 2009.

Karler, Albert; Cernei, Tatiana; and Noack, Marion: 'Climate Change and Migration: What is the role for Migration Policies'. International Centre for Migration Policy Development. May 2012.

Koser, Khalid: Geneva Centre for Security Policy – 'Study of Employment and Residents Permits for Migrant Workers in Major Countries of Destination'. International Labour Organisation – 2009.

Lazarowicz Alex: 'A Success Story for the EU and Seasonal Workers Rights – without reinventing the wheel'. European Policy Centre – 28 March 2014.

Leith. R. & Davidson, A: 'Measuring the efficiency of horticultural labour – Case study of Seasonal Workers and Working Holiday Makers'. Australian Department of Agriculture – December 2013.

Mares, Peter: 'Seasonal Migrant Labour: A Boon for Australian Country Towns'. La Trobe University – July 2005.

Mares, Peter: 'Can Pacific Islanders fill seasonal jobs in Australia? Canada has had such a scheme for 40 years'. The Diplomat – July/August 2006.



Mares, Peter & Maclellan, Nick; Swinburne University of Technology: 'Pacific Seasonal Workers for Australian Horticulture: a Neat Fit?' (A Research Note) *Asia and Pacific Migration Journal* – Volume 16, Number 2, 2007.

Maclellan, Nick: 'Australian Worker Program Up and Running'. *Island Business* – November 2012.

McLoughlin, S. & Muntz, R. 'Temporary and Circular Migration: opportunities and challenges'. *European Policy Centre* – March 2011.

Migration Policy Institute: 'Mexico: The New Migration Narrative' by Professor F. Alba – 24 April 2013.

National Farmers Federation Submission to the Fair Work Commission in the Australian Annual Wage Review 2013/14 – 28 March 2014.

Opeskin, B. & MacDermott, T. 'Enhancing Opportunities for Regional Migration in the Pacific'. *Pacific Institute of Public Policy* – April 2010.

TNS Consultants: Reed, Cheryl; Southwell, Angela; Healy, Mandy; & Stafford, Neill: 'Final Evaluation of the Pacific Seasonal Worker Pilot Scheme'. *The Department of Education, Employment and Workplace Relations* – September 2011.

National Institute of Labour Studies (NLS); Dr. Yan Tan; Professor Sue Richardson; Dr. Lawrence Lester; Dr. Tracy Bai; Ms. Lulu Sun: 'Evaluation of Australia's Working Holiday Maker (WHM) Program'. *Flinders University* – 27 February 2009.

The North South Institute: 'Migrant Workers in Canada – A Review of the Canadian Seasonal Agricultural Workers Program'. *A policy brief* – 2006

Pascouau, Yves: 'EU Immigration Policy – act now before it's too late'. *European Policy Centre* – 20 June 2013.

Preibisch, Kerry L: *University of Guelph, Ontario*: 'Local Produce, Foreign Labour: Labour Mobility Programs and Global Trade Competitiveness in Canada'. *Rural Sociological Society of Canada* – 2007.

Ruhs, M. *University of Cambridge*: 'Temporary Foreign Workers Programs: Policies, Adverse Consequences, and the Need to Make the Work'. *The Centre for Comparative Immigration Studies – University of California, San Diego* – June 2002.

Sheffield International Development Network: 'Global Governance and the Rights of Economic Migrants'. *University of Sheffield, Public Services Academy* – February 2011.

The World Bank: 'Neighbors – Making Bilateral Worker Schemes a Win-Win'. Updated in early 2014.

Wickramasekara, P; Global Union Research Network: 'Circular Migration: a Triple Win or a Dead End?' Published by the International Labour Office in Geneva – 2011.