Neighbours: making bilateral worker schemes a win-win

Previous chapters in this report have pointed to the urgency of expanding job opportunities for the increasing numbers of youth in the Pacific, as well as the benefits of financial and ‘social’ remittances to the households of migrants. Previous discussion has also made the case for enhanced mobility of the non-elite sections of Pacific populations where permanent settlement using existing migration schemes in industrialised countries is largely irrelevant. For these reasons a study of the design of temporary seasonal worker arrangements has become important and timely.
Section 4.1  Introduction

This chapter attempts to provide some guidance on this issue by drawing on global experiences with seasonal labour programs in the context of a case study of Australian horticulture. The policy recommendations presented here should have broad applicability for bilateral negotiations on seasonal work between the Pacific and any other destination country – within or outside the region. This issue has become topical, and it is very likely that similar issues will occupy the attention of policymakers in the Pacific island states, as well as the industrialised countries in the Region and beyond.¹

The chapter is divided into five sections following this introduction.

Section 4.2  looks at the labour needs of horticultural producers and their attitudes to bringing in temporary foreign labour.

Section 4.3  reviews various models for seasonal labour schemes in operation around the world and provides a close examination of Canada’s long-running Seasonal Agricultural Workers program to see what lessons it may hold for the industrialised nations and islands in the Pacific.

Section 4.4  models the wages, costs, tax obligations, and savings potential of Pacific islanders employed in horticultural jobs in Australia for periods of up to six months at a time to assess whether a scheme is potentially viable for both growers and migrant workers.

Section 4.5  discusses the challenges involved in finding an appropriate model for regulating a temporary labour scheme to achieve the twin objectives of fairness and efficiency.

Section 4.6  summarises the arguments and outlines the contours for a proposed model for Pacific islanders to work in irrigated horticulture in the Murray Valley.

Section 4.2  Assessing the Labour Needs of Australian Horticulture

In the past two decades, Australian farmers have been increasingly exposed to international competition. Tariff protections, subsidies, price controls, and statutory marketing mechanisms have been largely dismantled by government, leaving Australian farmers to compete on an uneven playing field against their more highly protected counterparts in North America, Europe, and North Asia. While quarantine rules and the tyranny of distance provide some de facto protection for a limited range of crops in the domestic market, the Productivity Commission estimates that the ‘effective rate of assistance’ to Australian agriculture has fallen from 13 percent to 5 percent since the mid-1970s (Productivity Commission, 2005). In general Australian farmers have experienced unrelenting, long-term pressure to reduce costs, increase output, and become more export oriented. Overall they have met this challenge through innovation, including mechanisation. This has increased the efficiency of Australian farming, and productivity has grown more rapidly than most other sectors of the economy (Productivity Commission 2005). Over the period 1974-5 to 2003-04, total agricultural output increased by an annual average rate of 2.4 percent per year, even though inputs of both labour and capital declined (Productivity Commission, 2005).

As a result of these pressures, traditional family farms are increasingly giving way to industrial-style agriculture that can produce more efficiently through economies of scale. The number of farms in Australia declined by 25 percent over 20 years to 2002-03, and average farm size increased from 2,720 hectares to 3,340 hectares (Productivity Commission, 2005). More than half of Australia’s farm output is estimated to come from just 10 percent of rural enterprises, while the smallest 50 percent of farms generate only 10 percent of gross production (Productivity Commission, 2005).
The trend towards larger-scale corporate entities is also being accelerated by the growth of managed investment schemes, which provide a tax effective investment vehicle for urban-based, high-income earners, as well as attracting long-term investment from the burgeoning pension funds industry created by Australia’s compulsory superannuation scheme. These schemes were initially encouraged to increase investment in plantation timber (and overcome a perceived shortage of domestic pulpwood production); however, the same investment mechanisms are now being applied to farm products, such as cattle, olives, almonds, wine, and table grapes (Anderson, 2006).

In short, the romantic image of Australian family farmers making a living from their own block of land (epitomised by the soldier-settler farms created for returned servicemen after World War I) is increasingly giving way to a more prosaic reality of corporate investors, professional managers, and low-paid rural workers whose only connection to the land is that it supplies them with a job. Over the 20 years to 2003-4, the proportion of employees in the agricultural workforce has increased from 33 percent to 51 percent, while the combined share of employers, own-account, and contributing family workers has fallen from 67 percent to 49 percent (Productivity Commission, 2005).

The combination of these economic factors, together with long-term demographic changes underway in rural Australia (declining family size, urbanisation, and the ageing of the rural workforce), has led to growing labour shortages. In a national survey of 720 farmers carried out in 2003, more than 80 percent of respondents said that they found the task of sourcing farm staff difficult (Kondinin Group, 2005).

These shortages are most evident in horticulture where many crops are resistant to mechanisation (because of their tender, perishable, and highly seasonal nature), leaving production heavily dependent on low-skilled manual labour, particularly in peak seasons such as harvests.

There is considerable anecdotal reporting of the problems experienced by growers as a result of labour shortages (for example Colman and Korporaal, 2004; Shine 2005); and compliance raids by immigration officials on fields, orchards, and packing sheds to catch illegal workers have become a feature of the harvest period and a source of contention between growers and government (Grattan 2005; Marino 2005). The Victorian Parliament has acknowledged that ‘continuing labour shortages perpetuate the participation of illegal workers in rural industries’ (EDC); and union officials claim that ‘a significant proportion’ of Victoria’s fresh fruit crop is picked by undocumented workers who are highly vulnerable to exploitation and in some cases are offered wages as low as $3 per hour (Hughes and Schwartz, 2004).

Primary producers rely on both undocumented (illegal) and documented (legal) workers to meet seasonal labour market needs. The undocumented workforce consists of unauthorised residents (primarily from Pacific island, Southeast Asian, and Chinese backgrounds); overseas students working in excess of permitted hours; Australians working while in receipt of benefits; and foreign travellers working without authorisation. The documented workforce includes itinerant farm labourers, family members, local casual workers, students, grey nomads (retirees travelling around Australia), and backpackers on the Working Holiday Maker (WHM) Scheme, which allows tourists ages 18 to 30 from certain countries to work in Australia for periods of up to 6 months with any one employer² (Harding and Webster, 2002).

In recent years, this latter category of working holiday makers (often referred to as backpackers) have emerged as an increasingly central component of the seasonal labour supply. A fruit grower on the Murray River in South Australia estimates that backpackers now make up 85 percent of his seasonal workforce (Sims), while a migration adviser in the same region says that the proportion of harvest labour performed by working holiday makers has grown from less than 10 percent in 2000 to more than 50 percent in 2005 ‘with some operations reporting a reliance of more than 90 percent on this labour source’ (Bennett, 2003). An orchardist in Victoria’s Goulburn Valley fruit grower estimates...
that 70 percent of his pickers were backpackers in 2004, and a tomato grower from the same region says his packing shed relies ‘totally on backpackers’ (EDC).

The number of working holiday-maker visas issued annually in Australia has doubled from 52,784 in 1996-97 to 104,350 in 2004-5 (Productivity Commission 2006); and in response to seasonal labour shortages in agriculture, government has created additional incentives for these travellers to take up jobs in rural industries. However despite the growing importance of working holiday makers to agriculture in Australia, primary producers do not regard them as an ideal solution to seasonal labour shortages. Growers complain of working holiday makers ‘drifting in and out’ of jobs (Sims 2006) as they prioritise personal travel plans over earning an income. One of the major drawbacks of backpacker labour is that each season brings a crop of novice pickers. Novice workers are less productive, require higher levels of supervision and are more accident prone; a proportion will simply find the work too arduous and give up before they become proficient. A major table grape grower from Mildura estimates that he could minimise the volume of rejected and wasted fruit by ‘sixty or seventy percent’ if he was able to retain the same workers—and their skills—season after season (Mares, 2006).

The problems associated with the undersupply or unreliability of labour in the Australian horticultural industry has resulted in massive amounts of direct and indirect losses (see Box 4.1). The gross value of horticultural production in Australia in 2002 was estimated by the industry to be AUD$9.65 billion dollars, and by the Australia Bureau of Statistics to be AUD$6.75 billion (HAL, 2004). However, after rapid growth in the late 1990s, the fruit and vegetable industry faces significant challenges:

- Internationally, the high Australian dollar (buoyed by booming resource industries) has significantly increased the price of Australian fruit and vegetables in international trade. Meanwhile, high tariff barriers restrict the penetration of Australian exports into major markets, particularly in Europe and Northeast Asia; while in more open economies, Australian produce must compete with exports from lower-wage countries, like China, South Africa, Brazil, and Chile.

- Domestically, supermarket duopoly; increasing concentration in the food processing sector; cheap imports of canned and frozen food (including subsidised European and low-wage Chinese produce); and rising input costs (like water, fuel, and fertiliser) have placed growers in the grip of a cost-price squeeze.
Some estimates suggest a loss of national gross value product of at least AUD$700 million a year due to labour shortages in the horticulture industry across Australia. This is a rough approximation as the extent of losses is likely to vary significantly across the country (HAL, 2006). More specifically, in 2000 the Queensland Fruit and Vegetable Growers Association estimated that the shortage of casual rural workers had resulted in losses of approximately AUD$90 million, representing 10-20 percent of the gross value of production (National Harvest Trail Working Group, 2000). The Department of Business Industry and Resource Development (DBIRD) Projections estimated that economic losses incurred by the mango industry due to undersupply of labour, range between AUD$5.8 million and AUD$26.1 million depending on seasonal conditions. DBIRD further stated that shortages of labour can potentially limit future growth of the industry (Australian Mango Industry Association Ltd., 2006).

Certainty of labour supply is important to ensure timeliness in fruit-picking. Fruits that are not picked at the right times can be devalued at the marketplace, with requirements on the appearance of fruits becoming more stringent. This is especially challenging for crops that are susceptible to growth spurts, sunburn, or ripening. Fruits not picked in time can also damage the bush and harm future production (Bundaberg Program, 2006). Analysis reveals that the effect of labour supply uncertainty on the potential yield of citrus and tomato crops could contribute to a loss over the life of a citrus orchard of AUD$5778 per hectare and an expected loss of AUD$867 per hectare of a tomato orchard (HAL, 2006).

Various factors influence the undersupply or uncertainty of labour supply, including workers not turning up. Some packers had to close operations for several days, and some growers had to extend operations over a 7-day week to make up for labour shortages (Growcom, 2006; Australian Horticultural Exporters Association, 2006). Other factors include leaving on the job; it is not uncommon that backpackers leave in groups to pursue travel priorities, while some workers quit after a few hours as they were not able to stand the heat (Bundaberg Program, 2006), and unpredictable conditions or overlapping of seasons leading to competition for a limited pool of workers. Many growers have experienced losses due to the need to remove staff from other areas of production in order to harvest crops by the required time (Australian Horticultural Exporters Association, 2006). While the use of backpackers as labour has helped to fill some of the labour gaps, several issues have created costly consequences for growers. These include lack of quality control, lax in following required pruning procedures, lower productivity due to softness to heat, and higher cost of explaining health and workplace safety rights due to continual turnover of workers (Australian Horticultural Exporters Association, 2006).

As with other sectors of agriculture, these pressures are accelerating the trend away from family farms to large-scale corporate investment in horticulture. In addition, the rising price of irrigation water means that capital is moving out of some established rural industries (such as using flood irrigation to create pastures for dairy farming or raising fat lambs) and into intensively cultivated horticulture that employs computer-controlled drip irrigation targeted at the roots of trees to deliver a higher dollar return for a given quantity of water. It is estimated that ‘a litre of water poured onto an olive or almond tree can … generate up to 10 times the profit of the same amount poured into a cow’ (Strong, 2006; Mares, 2004). The pressure to increase the value of agricultural output per litre of water will only increase as water trading is extended across state boundaries and no longer restricted to primary producers.
New water-wise horticultural investment projects also cater to the growing consumer appetite for diversity (boutique products and new varieties) and quality (e.g., tree ripened rather than green-picked fruit) but bring in their wake a need for ever more careful handling of crops. Labour shortages in horticulture are expected to increase over time as farmers move out of commodities (e.g., beef and sugar) into higher value but more labour-intensive crops (like fruits, nuts, and vegetables), including speciality produce (like lychees, durian, walnuts) (National Harvest Trail Working Group, 2000).

A market response to labour shortages would see farmers offer improved wages and conditions to entice workers back to their industry. Agricultural workers are the lowest paid workers in the economy, and their jobs are more likely to be casual and part-time than in most other sectors (Productivity Commission, 2005). However, the cost price squeeze and international competition described above inhibit primary producers from offering substantially improved pay and conditions especially as the booming and well-remunerated mining industry draws off labour in rural and remote Australia. As outlined above, the gaps in horticultural labour markets have largely been plugged by backpacker labour on working holiday-maker visas.

**SURVEYING SEASONAL LABOUR NEEDS**

While the anecdotal evidence of labour shortages in horticulture is strong, there have been few if any attempts to evaluate the extent of that shortage. In an attempt to gain a better understanding of labour needs and attitudes to overseas workers, a survey of growers was carried out in the Swan Hill/Mildura area. The main aims were to assess the growers’ seasonal labour needs (if any), to gauge the extent and duration of labour shortages within the region, and to assess the growers’ attitudes to the idea of a seasonal labour program to bring in overseas workers.

The survey elicited a wide range of responses. While most growers expressed interest in a scheme to bring in seasonal workers from overseas, the individual responses varied from the extremely hostile to the wildly enthusiastic. Some of the growers display positive views towards overseas workers yet simply do not require their labour; others say that overseas workers are urgently needed but refuse to bear any of the costs of administering such a scheme. There is some correlation between the level of interest in employing overseas workers and the size of the enterprise and the type of crops grown, however personal attitudes also appear to be a major factor in distinguishing those who display interest in employing overseas workers from those who express negative views about such a proposal.

Respondents were asked a range of questions that sought to identify how well they were currently able to meet their seasonal labour needs. The answers reveal a mixed picture. As Figure 4.1 shows, about half of the respondents said that finding sufficient seasonal workers is ‘very easy’ or ‘fairly easy’, while the other half expressed the opposite view that securing adequate numbers of workers was ‘difficult’ or ‘impossible’.
When the question was posed in slightly different terms and in a less personal and direct manner, the evaluation of the local labour market tended to be slightly more negative (Figure 4.2). Only 40 percent of respondents described the supply of seasonal workers as 'plentiful' or 'adequate' while 56 percent said it was 'inadequate' or 'extremely inadequate.'

When asked if seasonal labour shortages had or were likely to prevent the expansion of their enterprise, the majority of respondents said ‘no’ (Figure 4.3). However, a sizeable minority, over one-third of growers, responded that labour shortages were restricting expansion or were likely to restrict expansion in future.
Another indication of the difficulty of securing adequate numbers of seasonal workers came in the response of growers to a question about employing illegal immigrants. More than one in four growers (28 percent) admitted that they had to do this ‘sometimes,’ ‘often,’ or ‘always.’ This is a surprisingly high proportion, and the actual rate of employment of illegal immigrants may be even higher, given that:

(a) it is conceivable that not all respondents who knowingly employ illegal immigrants would admit to the practice (even in an anonymous survey); and

(b) some survey respondents may employ illegal immigrants unwittingly (either via labour hire contractors or when unauthorised workers present false documents and tax file numbers).

These findings suggest that while there are labour shortages in the region, not everyone is experiencing shortages to the same degree. Nevertheless, half of the growers who responded to these questions demonstrate a significant level of dissatisfaction with their current labour supply. This opens up the possibility that seasonal gaps in the horticultural labour market could be filled by temporary offshore workers.

**ATTITUDES TO OFFSHORE LABOUR**

To test growers’ attitudes to the idea of an offshore labour program, respondents were asked if they would be interested in employing seasonal workers from overseas. Again, the responses revealed mixed opinions (Figure 4.4) with almost one-third (31 percent) of growers saying that they would ‘never’ be interested in employing seasonal workers from overseas.
In unsolicited comments, some growers expressed strong disapproval of such a scheme, with several voicing the opinion that the unemployed should be encouraged (or forced) to do seasonal work before such a scheme is considered:

**Dried vine fruits grower:**
‘I don’t think overseas workers should be employed. There are enough workers on the dole.’

**Citrus grower:**
‘I would not like to see workers imported.’

**Dried vine fruits grower:**
‘We do not need bus loads of unemployed temporary foreign workers wandering around with little work available.’

**Table grape grower:**
‘No Chinese slave labour.’

However, a majority (70 percent) of respondents did express interest in employing overseas workers on a seasonal basis. Over one-third or growers (36 percent) said they would be interested in some years. Another 14 percent said they would be interested in most years, while one in five (20 percent) said they would be interested in employing overseas workers every year. Once again, growers’ unsolicited comments indicate that it is an issue that arouses considerable passion:

**Citrus grower:**
‘An essential! Our industry relies completely on the current crop of illegal overseas workers (who have mostly just overstayed their visa’s) to exist. Without them the crop would not get picked.’

**Wine grape grower:**
‘If it is needed I strongly agree to bring in seasonal workers from overseas as locals on the dole don’t work!!’

**Citrus grower:**
‘If people want to work let them come.’

Those growers expressing an interest in employing overseas workers were then asked follow-up questions about the potential number of overseas workers they could employ, the duration of the employment, what they might offer workers in terms of pay, accommodation and training, and what they might be willing to contribute to the cost of administering an offshore scheme. Figure 4.5 shows the total number of seasonal workers who are currently employed by survey respondents.
throughout the months of the year plotted against the number of overseas workers wanted in those months.

Specific tasks identified as requiring seasonal labour were bunch trimming, grafting, nursery work, leaf and shoot thinning, spraying, rack work, packing, planting and harvesting vegetables, flowers and seeds. There are three identifiable peaks in the engagement of seasonal labour:

**Period 1 (January to March) coincides with the harvest of grapes and stone fruit;**

**Period 2 (June to August) coincides with the citrus harvest and vine and stone fruit pruning;**

**Period 3 (September to November) is an important time for thinning stone fruit and grapes.**

**FIGURE 4.5**

SEASONAL WORKERS CURRENTLY EMPLOYED AND SEASONAL WORKERS WANTED BY MONTH

There is a concordance in the peaks and troughs of the first two plot lines—between current seasonal employment and the projected seasonal demand for overseas workers of all growers interested in an offshore scheme. In other words, growers’ projected need for additional workers corresponds to the actual seasonal variations in labour demand. This lends credibility to the survey results as an indication of industry needs: it suggests that responses were a considered response to seasonal variations in the operation of particular enterprises, rather than simply an ambit claim or ballpark figure. The responses indicate that growers believe that in some years they could employ 30-50 percent more seasonal workers if such workers were available.

There is less obvious seasonal variation evident in the third plot line, showing the projected labour needs of only those one-in-five growers who expressed an interest in employing offshore seasonal workers *every year*. This suggests that there is a base-line of unfilled labour demand that exists throughout the year (albeit spread across different farms in different seasons) and indicates that there could be capacity for the region to absorb permanent migrants, as well as temporary seasonal workers, willing to perform horticultural labour. However, Australia’s current migration program has no provision for the migration of workers to perform agricultural work of this nature. In addition, it can be anticipated that foreign workers might well gravitate towards urban areas and
better paying jobs once they were granted permanent residency in Australia, so that the labour shortage in horticulture would re-emerge.

When growers were invited to indicate their preferred region for sourcing overseas seasonal workers, the majority selected the option ‘any country, it doesn't matter which one’. Nor is there any clear gender preference for overseas workers, with most growers saying that it did not matter whether workers were male or female or wanting a mix of male and female workers. Growers did not require that offshore workers would have extensive prior experience in horticulture with most indicating that employees could learn on the job. In general, workers' attitude and fitness appeared to be the main consideration of employers.

As one grower commented:
‘As long as they work, I don’t care where they come from.’

Although survey respondents were not specifically asked about language skills, many volunteered that it would be desirable for overseas workers to speak at least some English. With the exception of one respondent, all growers indicated that they would pay offshore workers at or above the prevailing Australian award wage, and the majority expressed a willingness to attend a half-day information session about foreign workers’ culture and background.

Growers also expressed a clear preference for employing the same seasonal workers in each subsequent season. This emphasises the desire for labour reliability and skills retention, something which is not achieved through the employment of backpackers on working holiday-maker visas.

SHARING THE COSTS

The survey responses show that most growers hold broadly positive attitudes towards the idea of importing seasonal labour. However, when confronted with questions about sharing the costs of such a scheme, respondents exhibit less enthusiasm. The largest group of employers (39 percent) believed that all fixed costs (for such things as visas, health checks, and airfares) should be fully recovered from the workers' wages, while 32 percent said that these costs should be shared between primary producers, workers, and retailers (Figure 4.6).

FIGURE 4.6 HOW ADMINISTRATIVE AND PRACTICAL COSTS SHOULD BE RECOVERED IN RECRUITING OVERSEAS WORKERS

Note. Totals may not add due to rounding
Moreover, the majority of growers (54 percent) said they would not be prepared to pay a levy to cover administrative costs of such a scheme while a further 28 percent said they would be willing to pay a maximum of only $10 per worker per week (Table 4.1).

**TABLE 4.1 LEVY YOU WOULD BE WILLING TO PAY IF REQUIRED**

<table>
<thead>
<tr>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not prepared to pay a levy</td>
<td>57</td>
</tr>
<tr>
<td>Up to $10 per worker per week</td>
<td>30</td>
</tr>
<tr>
<td>Up to $20 per worker per week</td>
<td>15</td>
</tr>
<tr>
<td>Up to $50 per worker per week</td>
<td>1</td>
</tr>
<tr>
<td>Other amount</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>106</td>
</tr>
</tbody>
</table>

The provision of reasonably priced, reasonable-quality accommodation for seasonal workers is already a major concern in the Mildura Swan Hill region, and such accommodation would be in much greater demand if seasonal workers were brought in from overseas. However, when growers were asked if they would be willing to provide onsite board and lodging to overseas workers, the overwhelming response (62 percent) was ‘no’ (Table 4.2).

**TABLE 4.2 WOULD YOU BE WILLING TO PROVIDE ONSITE BOARD AND LODGING TO OVERSEAS WORKERS?**

<table>
<thead>
<tr>
<th>Number</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>45</td>
</tr>
<tr>
<td>No</td>
<td>74</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>119</td>
</tr>
</tbody>
</table>

The reluctance of the majority of respondents to share the inevitable costs involved in an offshore seasonal labour scheme merits further examination. On the one hand, it is unsurprising that farmers should express a preference for minimising their own out-of-pocket expenses, particularly in light of the fact that they are experiencing a long-term cost price squeeze (rising input costs and stagnant farm gate prices). On the other hand, the wording of some of the questions may have tended to magnify the negative response from some farmers. In the survey, respondents were asked whether they would be prepared ‘to pay a levy’ to pay for the administration of an offshore labour scheme. It became apparent that the word ‘levy’ has strong negative connotation for growers who feel themselves to be assailed by a plethora of imposts and charges imposed by government at various levels.

*As one grower commented:*
*I am sick of paying taxes, levies and the lot—don’t even think about it or you’ll start war!!*

**MAJOR INVESTORS**

The negative response to the question may also reflect the numerical bias towards small landholders in the survey sample (which is in turn reflective of the structure of the industry). However, the survey results indicated a correlation between the level of interest in employing overseas workers and farm size, and larger enterprises are likely to employ the largest numbers of foreign workers should a scheme be set up.
In light of these considerations and in response to feedback on the initial survey results received from stakeholders, additional interviews were conducted by telephone with the owners and/or managers of five major enterprises currently engaged in significant plantings of almonds, table grapes, stone fruit, wine grapes, and pistachios. Collectively the five projects were anticipated to account for a total of approximately 12,000 hectares under cultivation by 2010. Future labour needs were difficult to estimate and varied greatly between enterprises. For example, almonds are mechanically harvested requiring about 20 workers per 800 hectares of trees; whereas table grapes are hand-cut and very labour intensive, requiring a much higher number of workers at peak harvest. In broad terms, the managers of these enterprises anticipate that at the busiest times of the year, they will need to employ among them an additional 1,200 seasonal workers.

All five major investors acknowledged that securing a reliable labour supply in the future was a primary concern for their enterprise, and all expressed an interest in principal in gaining access to overseas workers if an offshore labour scheme was to become a reality. All respondents indicated a willingness to pay a levy to cover the administrative costs of such a scheme and to shoulder a proportion of the workers’ travel costs, as long as certain conditions were met: (a) that the required work was performed to a satisfactory standard, and (b) that workers were available for a reasonable length of time.

As an illustration of these points, one farm manager commented:
‘If you asked me to pay an extra $500 to get a worker for just two weeks, I’d tell you to bugger off. If it was three months, I’d look at it.’

Another farm manager put it this way:
‘The biggest disappointment with seasonal workers is that they leave after two days. If you can get them to stay and then spread out the additional costs over a three-month period, then the figures add up.’

And a third commented:
‘We’d look at anything depending on the feasibility.’

DISCUSSION OF SURVEY RESULTS

Overall, the survey responses indicate that there is an identifiable shortage of available workers to meet peak seasonal demands for labour in the horticultural industry along the Murray River between Swan Hill and Mildura. The survey results show that a majority of horticultural producers are interested in employing overseas workers on a temporary basis, with about one in five growers (20 percent) saying that they could offer seasonal jobs to overseas workers every year. While growers are generally reluctant to shoulder the inevitable administrative and organisational costs of such a scheme, the responses from the five major investors interviewed separately by telephone suggest that larger operators appreciate that they would need to contribute to the administrative and practical costs of importing workers and that this investment in a secure labour supply will ultimately pay dividends for their business. A pilot scheme involving larger enterprises, which expressed a willingness to shoulder a share of the costs, could well have a demonstration effect for other more reluctant growers.

However, before proceeding further with consideration of the proposal that growers’ labour needs can best be met through the provision of foreign workers, two further questions arise.

If labour shortages are as severe as growers attest, then why is there continued investment to expand the industry?

One reason is the comparatively long lead time between the establishment of an orchard or vineyard and the achievement of harvest, which can create a lag between the decision to invest and the emergence of a labour market problem. Another factor is the growth of Managed Investment Schemes in horticulture. These schemes offer investors full tax-deductibility within the first 12
months, making them attractive as a tax effective upfront investment and reducing the relative importance of the end return on investment when harvest is finally achieved. The prospectus companies that manage and promote these schemes can turn a profit on the provision of services at the front end (such as fencing, planting, and the provision of irrigation), which can have the effect of disconnecting investment decisions from the future market prospects for a given crop (Clarke, 2006). It should also be noted (as indicated in Figure 4.3) that some growers are postponing investment due to labour market concerns.

**Before turning to offshore labour, should one consider whether domestic labour supplies could be mobilised instead?**

Economic theory suggests that the labour problems in regional areas should be self-correcting; that the labour shortage will eventually lift wages and conditions to a level where horticultural jobs once again become attractive to potential workers. This theory ignores the cost price squeeze, structural and demographic changes, and the competitive international forces outlined above, which constrain growers options as far as wage rates and source of labour are concerned. It also fails to take account of social and cultural factors, such as the changing role of women in the labour force, the attraction of the urban centre as a place to live and work, and the changing industrial relations system in Australia.

The increasing prosperity of Australian society means that some former categories of potential seasonal workers, such as school teachers and students, no longer see the need to devote their summer holidays to supplementing their income. The growth of the service sector, particularly restaurants and cafes, offer alternative and in many ways more attractive casual employment prospects than agricultural labour. The physically demanding nature of agricultural labour; the separation from friends, family, and familiar entertainment; and the temporary and uncertain nature of the work—rain or hot weather can reduce the hours of work and hence income on any given day—all reduce the incentive to leave the city to take seasonal jobs in horticulture.

As noted above, the survey revealed a division of opinion among growers about the extent to which unemployed Australians should be compelled or encouraged to undertake seasonal work. Despite the relatively low level of unemployment in Australia at the present time, there remain pockets of deep disadvantage and entrenched long-term unemployment.

The simultaneous co-existence of long-term unemployment in some regions and pressing labour shortages in others is evident in other industrialised nations apart from Australia. The provision of a social safety net has probably reduced the pool of unemployed urban workers that might have been encouraged or compelled to seek short-term seasonal work in regional areas. A high effective marginal tax rate (through the loss of government benefits) also acts as a disincentive for unemployed workers to take up casual jobs in horticulture, particularly where long distance travel and extended absence from home is involved.

Seasonal agricultural work is often physically demanding and requires workers who are fit and mobile. Many unemployed Australians will not necessarily meet these requirements:

- Age or physical disability may prevent them from undertaking such strenuous activity.
- The corrosive psychological effect of long-term unemployment may mean that they require intensive assistance to rejoin the workforce.
- They may not have access to transport or may be unable to spend long periods of time away from their primary residence because of family care duties (dependent children or elderly relatives) or study commitments.
- In addition, a proportion of those unemployed at any one time are over-qualified for agricultural labour and it is in their interests (and in the national interest in terms of the most
efficient use of labour power) for them to pursue employment within their field of expertise (HAL, 2000).

A simple equation which attempts to solve labour shortages in regional and rural Australia by forcing the unemployed into seasonal jobs is likely to fail. As Jordan and Düvell (2002) note, efforts to ‘activate’ the unemployed and welfare-dependent into jobs can involve considerable cost for limited return, ‘especially when the claimant population shrinks to a residuum of seriously disadvantaged and disabled people, and those with child care responsibilities.’

On the other hand, the fact that it can be difficult to facilitate the entry of the long-term unemployed into the workforce should not deter us from innovative policy approaches. Cape York Partnerships have initiated a program to bring young Indigenous workers from far north Queensland to pick fruit in Victoria and South Australia (James, 2005). While small in scale, this project proved successful in its early stages and is being expanded.

The initiator of the Cape York scheme (Milton James) has expressed concern that an offshore seasonal labour program for horticulture could swamp his project. Such an outcome would be regrettable. However, the two ideas need not be mutually exclusive. What is evident is that if mobilising long-term unemployed and chronically disadvantaged Australians into seasonal agricultural work is to be a policy priority, then this will require intensive government intervention and assistance.

It is preferable that job vacancies should be filled by Australian residents where possible; and for this reason it is advisable that growers bear a significant proportion of the costs of any offshore scheme. In other words, growers should be required to pay a proportion of the offshore workers’ travel and other costs (in addition to the prevailing award wage) rather than recouping these expenses as deductions from wages. Growers should also be required to pay a flat fee that would go towards administrative costs (such as regulation and oversight of the scheme). These extra costs would act as a disincentive for growers to employ offshore labour when local workers were available.

The introduction of a large-scale, off-shore seasonal labour program is not recommended without first engaging interested growers in a series of small-scale pilot projects to further test the feasibility of bringing in overseas workers. The evaluation of such a pilot program would assist in determining whether an ongoing overseas seasonal workers scheme is desirable and, if so, could provide the basis for developing a realistic model for the administration, cost sharing, and regulation of any such scheme in the longer term. Such a pilot program could also have a demonstration effect, helping to educate sceptical Australian farmers as to the potential benefits to be gained from shouldering a share of the costs of bringing in offshore labour.

If such a pilot program proved successful and the scheme was expanded to Australian horticulture as a whole, then ‘back-of-the-envelope’ calculations based on the survey results suggest that on a national basis the industry has the potential over time to employ between 16,000 and 24,000 offshore seasonal workers in any one month of the year. An alternative calculation (based on a comparison of Australia’s horticultural industry with that of Ontario, Canada) suggests that Australian horticulture has the capacity to employ up to 38,000 offshore seasonal workers for an average period of four months each. (For explanation of how these scenarios were calculated, see Annex H).

As the following sections will indicate, while the apparent symmetry of such proposals is neat—Australia has jobs without workers, the Pacific island states have workers with no jobs—the devil of organising temporary labour migration schemes lies in the detail.
Section 4.3
Comparing Seasonal Agricultural Workers Programs

Since the beginning of the 1990s, there has been a ‘steady upward trend in inflows of seasonal workers’ around the world. For example, each year 500,000 seasonal workers from non-European Union (EU) countries are employed in EU agriculture, especially in Germany, which issued 260,000 seasonal work permits in 2001 (United Nations, 2004; Ratha, 2004). The United States relies heavily on seasonal agricultural workers from outside its borders, both undocumented workers and via the formal H-2A visa system. The United Kingdom has a Seasonal Agricultural Workers Scheme (SAWS) targeted at tertiary students from non-EU countries. Thai labourers toil in the fields of Israel, Moroccans tend the tomatoes in Spain, and Chinese workers pluck apples in Japan. In fact, Australia and New Zealand may be the only industrialised nations that do not import temporary labour for agriculture (Pickering and Barnes, 2005), and even here a significant proportion of seasonal work is carried out by working holiday makers, the backpackers referred to above. Table 4.3 provides an overview of four seasonal agricultural labour schemes: the United Kingdom’s SAWS, the United States’ H-2A, a Germany scheme, and the Canada’s Seasonal Agricultural Workers Program (CSWAP).

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<th>TABLE 4.3 COMPARING SEASONAL AGRICULTURAL LABOUR SCHEMES</th>
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Analysis of the schemes shows that overstay rates are not random or inexplicable, nor are they the result of nebulous ‘cultural’ factors relating to the originating country of workers. Rather, overstay rates reflect the structural characteristics of a given scheme. For example, the UK SAWS produces high overstay rates of between 4 and 10 percent (Home Office, 2002), where as overstay rates in the Canada’s SWAP are negligible. This is explicable when the structure of the two schemes are analysed. Under the UK SAWS, all travel costs are borne by the workers, which means that the fixed costs of entry to the United Kingdom are high and will take longer to recoup. The UK SAWS is targeted at tertiary students, which in theory should provide an incentive for participants.
to return to their home country at the end of the season in order to complete their education. Participants are also able to return to the United Kingdom for seasonal employment in subsequent years provided that they remain students, but the scheme is not designed with such circularity in mind. And after exiting the education system, participants in the scheme have no right of return to the United Kingdom, which increases the incentive to overstay after their final season. The workers hired under the scheme are relatively over-qualified and may find other employment options in the United Kingdom more attractive than returning home. These factors combined make high overstay rates entirely predictable. By comparison, the Canada’s SWAP has low overstay rates because it deliberately recruits low-skilled rural workers, reduces entry costs through a cost-sharing mechanism with employers, and holds out the expectation of a return to Canada in subsequent seasons.

It is worth noting that in relation to the United States’ H2-A scheme there has been anecdotal evidence of abuse—workers having to provide large up-front payments to recruiters in order to get accepted to the scheme in the United States. Recruitment for the scheme is unregulated, with private sector labour hire organisations able to draw workers from any country in the world. This increases the level of competition to get a foothold in the scheme and makes it unsurprising that recruiters can extract large ‘deposits’ from workers.

Of the existing seasonal agricultural workers schemes overseas, the one operating in Canada appears to provide the most useful lessons for Australia, New Zealand, and the Pacific Region for several reasons. The Canadian scheme has been operating for almost four decades and has been subject to extensive study and critique. Canada is a traditional ‘immigration’ country with a legal and political system comparable to Australia and New Zealand. And the Canadian scheme began with the importation of labour from small island states in the Caribbean, providing a useful reference point for the Pacific.

**BRIEF HISTORY OF THE CANADIAN SCHEME**

Canada’s Seasonal Agricultural Workers Program has been bringing seasonal agricultural workers to Canada from the Caribbean since 1966 and from Mexico since 1974. The scheme began in south-western Ontario after years of lobbying by primary producers who had difficulty securing sufficient local labour to work their crops. There is a long history of labour shortages in rural Ontario, and a concomitant history of government programs to encourage or compel workers into the fields.

The so-called ‘Barnardo boys’ sent by Dr. Thomas Barnardo from British urban slums to Canadian family farms at the turn of the 19th century were ‘essentially apprenticeship indentures binding both parties to agreed conditions’ (Wall, 1992). During World War II, gaps in the agricultural labour market were filled using the conscripted labour of ‘German prisoners of war, Japanese Canadian internees, and conscientious objectors,’ as well as numerous voluntary ‘brigades’ of domestic labour made up variously of children living in rural areas, rural school teachers, men rejected for military service on medical grounds, and women from urban areas (Satzewich, 1991).

After 1945, Canada turned to Polish military veterans and refugees from war-ravaged Europe to work its crops. Both groups were admitted to Canada as migrants on the condition that they worked on farms for an initial period of one or two years. If they fulfilled this requirement, they would become eligible to apply for Canadian citizenship. However neither group provided a long-term solution to farm labour shortages: once the compulsory period of agricultural employment had been completed, the migrant workers quickly moved to jobs in urban areas with better pay and conditions (Satzewich, 1991).

In addition to foreign workers, concerted attempts were also made to mobilise internal reserves of labour for agriculture:
... between 1943 and 1966, at different times and with varying degrees of success, the Canadian state and employers have attempted to mobilise temporarily unemployed farm workers by paying for their transportation costs from their place of residence to the harvest. They also attempted to mobilise the urban unemployed ... children between the ages of 10 and 16 with the assistance of the YWCA and YMCA, female household workers, military personnel, aboriginal peoples, high school students, and patients from psychiatric hospitals (Satzewich, 1991, p 69).

However during the post-WWII period, agriculture was competing for workers with other rapidly expanding sectors of the economy (such as industry and construction) which offered better pay and conditions closer to urban centres. Farmers remained dissatisfied with the quantity and quality of the Canadian workers mobilised on their behalf by the Department of Labour. In a report to government, farmers lamented that many of the recruits had ‘never been on a farm before,’ were ‘not physically able to perform the tasks required,’ and lacked ‘experience and dexterity.’ The report went on to complain about the moral probity of the workers, saying there were many ‘drunks, half-drunks and winos, who only work enough to get the price of a couple of bottles of wine’ (Basok, 2002).

While the Canadian state was attempting to solve its rural labour shortage, the island states of the Caribbean were already looking to Canada to help solve the opposite problem—excess labour. As early as 1947, Jamaica and Barbados began lobbying for migrant workers from their countries to be allowed to work in Canadian agriculture (Smart, 1997). Art Smith, chief executive officer of the Ontario Fruit and Vegetable Growers Association, says a scheme to import Caribbean labour finally got off the ground after his late father, fruit-grower Harold Smith, took a vacation in Jamaica:

I remember as a kid him coming home and talking about all these people standing there with nothing to do and we were 2,500 miles away, maybe less than that, and we had all sorts of opportunities and not the people to fill the jobs; they had the people without the jobs, so it was a marriage made in heaven at that point (Smith, 2005).

With the backing of other growers, including Eugene Whelan, a Liberal MP who later became Agriculture Minister (Basok, 2002), Harold Smith convinced the government to grant growers’ permission to bring in 264 farm workers from Jamaica to assist with the harvest (Cecil and Banks, 1991). The Canadian Seasonal Agricultural Workers Program was born.

In its initial years, the CSAWP faced stiff political resistance due to persistent levels of high unemployment in Canada and perceptions that the Caribbean workers were taking jobs from locals (Smith, 2005). In time, however, the scheme gained political acceptance, and soon the number of offshore workers coming to Canada grew. The scheme was expanded from Jamaica to include other island nations in the Caribbean; and in 1974 Canada signed a seasonal labour agreement with Mexico. By 1987, there were 6,124 foreign agricultural workers coming to Canada each year (80 percent from the Caribbean, 20 percent from Mexico); and the size of the scheme almost doubled over the next two years. Through most of the 1990s, numbers remained fairly stable at around 11,000-12,000 workers per year although the balance gradually shifted more in favour of Mexico as a source country. In 1998, when 12,170 foreign seasonal workers were brought to Canada, 43 percent came from Mexico and 57 percent from Caribbean countries (Basok, 2002). In subsequent years, the scheme once again experienced rapid growth, and the numbers coming to Canada each year now approached 20,000. While 85 percent of those workers still go to Ontario, the use of offshore seasonal workers is now expanding into other provinces, such as British Columbia, Manitoba, and Alberta.

Over time, CSAWP has become a core feature of Canada’s rural economy, such that industry figures now insist that horticulture would not survive without it:
If we did not have that program, they would not be on the farm, there would be no labour force on the farm, there would be no horticulture industry in Canada (Smith, 2005).

**Operation of the Canadian scheme**

Initially CSAWP was administered by the government via its then Department of Manpower and Immigration. In 1987 after a government review, responsibility for the scheme was handed over to the private sector, and the Foreign Agricultural Resources Management Service (FARMS) was established. FARMS is a non-profit, private sector agency governed by a board appointed from (and by) horticultural commodity groups (such as the Ontario Fruit and Vegetable Growers Association). FARMS is completely self-financing and operates without public subsidy under the authorisation of a federal government ministry, Human Resources Skills Development Canada (HRDC).

In theory, farmers need approval from local HRDC employment centres to certify that no Canadian workers are available to fill the jobs. However, after the first year of involvement in the scheme, such approval is perfunctory. In practice, farmers notify HRDC of the number of foreign workers they wish to employ at least 8 weeks prior to the start of work. HRDC approves the labour request and sends the information on to FARMS, which then determines how many workers are needed and sends that information to government liaison officers from the Caribbean and Mexico. The liaison officers transmit the information to the Labour Ministry in their home country and details are sent to the Canadian consular officials in the relevant capital (Kingston and Mexico City).

Workers are selected from a pool of applicants who are ‘pre-medicaled’ and readily available to leave for Canada. The Canadian government authorises ‘designated medical practitioners’ to carry out the health checks. The primary concern is active TB. No HIV testing is done for people staying less than 9 months in Canada. If a returning worker has been back in their homeland for less than 6 months after returning from Canada, then they do not need to repeat the medical.

FARMS charges employers an administration fee of C$35 (+ goods and services tax) per worker. The same charge is applied if a worker is transferred between employers within Canada. The workers’ travel from their home country to Canada is organised through CanAg travel services, which is a subsidiary of FARMS. International travel is paid in advance by farmers, with around 40 percent of this cost later recouped via deductions from workers’ wages. Farmers also pay for the visa up front (C$150 per worker), and this amount can be fully recouped through wage deductions. However, in recovering costs from workers, farmers can deduct a maximum of 5 percent of gross earnings per pay period (in the case of Mexican workers) or C$3.50 per day (for Caribbean workers).

Canadian employers are responsible for all domestic travel from the workers’ point of arrival in Canada to their place of work and must provide the migrant workers with free housing (including meals or cooking facilities) for the duration of their employment. They must guarantee each worker a minimum of 240 hours work over six weeks at or above prevailing minimum wage rates (C$8 per hour for fruit picking in 2005). Employers must also take out workers compensation insurance to cover the migrants in the case of industrial accidents.

Farmers can specify the country or region from which they want to employ workers (i.e., Mexico or Caribbean) and can request particular workers by name. In fact, the majority of workers (around 80 percent) are ‘named’ in this way, having already spent at least one season in Canada and been asked by their employer to return the following year. The vast majority of workers are men, although in recent years a small number of women have also come to Canada under the scheme.

Migrant workers enjoy the same tax free threshold as Canadian residents (C$15,000 per annum for a married worker) but must contribute to mandated insurance and pension schemes:
• Workers are covered by the universal health care system while working in Canada and, where required, pay the relevant contributions to provincially based schemes.

• Workers make pension fund contributions and can access their accumulated entitlements and transfer them to their home country after reaching retirement age.

• Workers pay employment insurance but cannot claim unemployment benefits in Canada.

Seasonal agricultural workers come to Canada for an average of 4-months employment. The maximum stay allowable under the scheme is 8 months. Workers must be prepared to work long hours (11-12 hour days are not uncommon) for a 6-day week, and there is no provision for overtime pay or penalty rates. Each worker is tied to a designated employer and must leave Canada at the end of the labour contract. (All CSAWP visas expire on December 15th each year).

Benefits of the Canadian scheme

A major study of CSAWP as a ‘model of best practice and migrant worker participation in the benefits of economic globalisation’ was undertaken by the North South Institute in Canada (Preibisch, 2004a; Griffith, 2004; Downes and Odle-Worrell, 2004). This study and other research, particularly by Basok (2003; 2000a), suggest that CSAWP has benefits at a number of levels (for Canadian growers and Canadian rural communities):

• CSAWP increases labour reliability at times of peak demand and enables growers to plan production increases with greater confidence. In Ontario, where most offshore workers are employed, horticultural output expanded 90 percent between 1994 and 2000 (Ferguson, 2004a).

• Growers build up a skilled labour force with the same workers returning each year, thus improving productivity and quality and reducing industrial accidents and crop spoilage.

• Seasonal employment of foreign workers maintains and expands employment in higher-skilled jobs through the expansion of associated rural industries, such as transport services, construction, and food processing. FARMS estimates that 15,000 offshore seasonal workers coming to Ontario each year generate 84,000 direct jobs and 63,000 indirect jobs within the province. Basok estimates that each horticultural farm worker supports 2.6 jobs in the supply and processing sectors. (Basok, 2002).

• Local spending by seasonal migrant workers provides an economic boost to Canadian country towns and helps to sustain local businesses (e.g., shops) and services (e.g., banks, post offices) that may otherwise be in danger of closing.

• The scheme offers a legal route to farm jobs that would probably otherwise be filled by undocumented workers. Growers need not fear being in breach of the law or suffering the disruption of immigration raids.

There are benefits for migrant workers as well:

• CSAWP provides opportunities for unemployed and underemployed Mexican and Caribbean workers to earn income at pay rates well above those on offer in their home countries.

• Workers return home each year and can use their savings and remittances to improve housing, nutrition, clothing, and health care for their families. Workers and their families enjoy greater income security and increased access to consumer goods.

• The scheme has long-term development outcomes in source countries; in particular, the children of migrant labourers are likely to stay longer in school. Jamaican workers were found to spend up to 35 percent of remittances on children’s education (Russell, 2004), and there was a positive correlation between the number of years workers are employed in CSAWP and their children’s school leaving age (Verduzco and Lozano, 2004). This finding is consistent
with other surveys on the high proportion of migrant workers remittances used to fund spending on children's education (United Nations, 2004).

- Workers are spared the smugglers’ fees and risky journeys required to enter North America without the appropriate papers, and can live free of the corrosive fear that they may be discovered working illegally. Unlike undocumented workers, they return home regularly and are not forced to endure long years of separation from loved ones.

- The scheme is more accessible to the very poor in the source countries, those who do not have the financial resources required to pay the guides or bribes required to engage in cross-border travel as undocumented migrants.

- The scheme creates mechanisms (at least on paper) to protect the rights of foreign workers in terms of wages, health and safety, and regulated work hours—protections that are completely denied to undocumented workers.

For the Canadian, Mexican, and Caribbean governments, there are benefits:

- CSAWP has ‘more or less eradicated the employment of undocumented workers in agriculture’ in Canada.19

- The circular nature of the scheme (with workers returning to Canada in subsequent years) results in low overstaying rates by reducing the incentive for workers to ‘disappear’ into the community at the end of the contract (Basok, 2000b).

- Recruitment of seasonal workers can be targeted at impoverished regions, the unemployed, and the landless, thus ensuring greater equity and spreading the developmental benefits of the scheme to priority areas.20

- Sending governments have the capacity to monitor and protect the rights of their migrant citizens.

Problems with the Canadian scheme

The Canadian scheme is not without its problems however. The United Food and Commercial Workers (UFCW) union in Canada says the exploitation of migrant workers under CSAWP is ‘Canada’s shameful little secret’ (UFCW, 2002), and one researcher refers to it as ‘a revolving door of exploitation’ (Sharma, 2001). There have been protests and strikes by migrant workers, cases of abuse and exploitation, examples of sub-standard or overcrowded accommodations, and industrial accidents due to insufficient training, inadequate safety equipment, or overlong working hours (for examples, see Martin, 2003; Basok, 2002; Ferguson, 2004a; Lee, 2003).

In October 2005, 32 Mexican blueberry harvesters walked off a farm in British Colombia. For 3 months they had lived in unheated construction trailers and cooked on outside propane stoves, and with 44 pickers sharing a single washing machine and no clothes dryer. They had put up with these conditions while earning C$8.30 per hour picking blueberries, but when the summer ended the workers were moved on to picking mandarins at piece-rates. They claim they were earning just C$24 for a 10-hour day (Woodward, 2005).

In Ontario, where most migrants are employed, agricultural workers are effectively prevented from organising in trade unions (although this is currently subject to legal challenge) and are not covered by workplace health and safety legislation. A belated move to incorporate agriculture into the provincial Occupational Health and Safety Act from June 2006 (Canadian Government, 2005) appears to be more form than substance, since employers will be subject only to ‘voluntary guidelines,’ rather than the legally enforceable ‘sector regulations’ that apply to other industries and set down specific rules for workplace safety in particular circumstances.21 Labour activists argue that without enforceable regulations, it is very difficult for agricultural workers to resist pressure to perform work in unsafe conditions.
A distinctive feature of the Canadian scheme is that it operates under umbrella of bilateral (government to government) agreements, which provide for annual review. This means that problems and inadequacies in the scheme can be addressed, and contracts and regulations updated. The agreements also provide a formal mechanism (consular liaison officers) for workers to raise grievances through their diplomatic mission. However, there is also a downside here: the consular liaison officers are seen to be too remote from the workers and to suffer from a conflict of interest—maintaining good relations with Canada and the smooth operation of the scheme versus taking up the fight on behalf of individual workers.

As one former contract worker from Mexico puts it, a complaint to a consular official ‘enters in one ear and goes out the other and he doesn’t do anything’ (Maldonado, 2005). Preibisch argues that genuine representation is compromised by consular officials’ obligation to maintain their country’s ‘market share’ in the Canadian program: ‘When employers are displeased with the behaviour of either their workers or the supply country representatives, they have the option of switching countries’ (Preibisch, 2004b). Union organiser Stan Raper agrees and says that it is simpler for consular officials to replace workers who raise concerns in the workplace than to address the root cause of their complaints (Raper, 2005).

The documentary film *El Contrato* offers evidence to support this view in a scene depicting a meeting between Mexican consular officials and workers at a greenhouse. The workers were upset because a supervisor had grabbed one of them by the throat. The response from the Mexican officials was to tell the workers that the incident was ‘a misunderstanding’ and to urge them to ‘stay away’ if they see such things happen so that there will not be further trouble. ‘We need your cooperation to make things run smoothly’ they tell the workers (Lee, 2003).

But while workers and trade unions see the regulation of the scheme as inadequate, government officials in Canada and Mexico express a degree of frustration at the considerable amount of bureaucratic effort required by a program that employs relatively small numbers of people. Mexico’s response to this problem would be to dramatically expand the scale of the bilateral scheme and extend it to other industries. Within the Canadian government on the other hand, there appears to be a preference for moving to a more laissez-faire system in which the private sector is given a free hand to recruit labour from whatever country it chooses.

A positive feature of the Canadian scheme is that it provides continuity. Growers can request the same workers back each year, which means that they retain the skills that workers have built up and do not need to invest constantly in retraining. This can also be a plus for the migrant workers as they become familiar with their employer, their work, the local community, and each other. Despite this positive aspect, the system has distinct disadvantages for workers since they are essentially bonded to a particular employer for the duration of their stay in Canada. They enjoy neither mobility within the labour market nor geographic mobility within Canada. As Nandita Sharma from York University puts it, migrant workers are ‘indentured to their employers’ and ‘forced to accept conditions that are seen as unacceptable to those with the legal rights to be ‘free’ in Canada’ (Sharma, 2006).

Employers have an almost absolute power to send migrant workers home before their contracts expire on the basis of ‘noncompliance, refusal to work, or any other sufficient reason’ (UFCW, 2003; emphasis added). Workers cannot transfer to a different employer unless the employer initiates the request and gains approval from Canadian government officials. Workers can thus be trapped in exploitative or abusive situations and have very little power to refuse unreasonable demands, such as working excessive hours or in unsafe conditions.

In this sense, migrant workers are ‘unfree’ (Satzewich, 1991). Basok argues this characteristic is more important than other factors (such as a willingness to accept low wages) in making them particularly attractive to employers. Unlike Canadian workers, who ‘are not willing to be chained
to the job; seasonal migrants are removed from their social and familial context. They do not have ‘family obligations, church commitments, friendship ties and personal needs that require them to take time off work’ and can be relied on to do the picking ‘when the produce is ripe’ (Basok, 2003).

Another feature of the Canadian scheme that has advantages and drawbacks is the requirement that farmers provide free accommodation for overseas workers. The advantage here is obvious—it allows workers to reduce their living costs and maximise their savings and remittances to family members at home. However, since the provision of accommodation becomes part of the farmers’ cost of production, this creates an incentive for employers to cut corners. A lax inspection regime has resulted in numerous cases of substandard housing. Smart reports workers living in accommodations where ‘broken windows …were never fixed …makeshift bunk-beds were set up in the basement in the same room where a substandard shower stall was placed … [t]he floor was rough and damp … and kitchen facilities could hardly accommodate the cooking needs of nine people who all cooked their own meals’ (Smart, 1997).

Similarly, workplace health and safety specialist Mark Parent (2005) describes workers living in a dark cement basement with no electric lighting:

The only light they had was through the window, which was a very shallow one-foot deep window that had a window well and it happened to be located on the farther side of the sun … So any light they had was with candles. Their running water was a hose that ran from the outside of the building and down through that window and they had made a little makeshift kitchen.

Parent says that the workers were reduced to using the basement sump pump as a toilet. The trade union UFCW Canada alleges that some farmers have housed workers in accommodation ‘directly attached to or located directly over greenhouses’ creating obvious dangers to workers health from living in buildings housing chemicals, fertilisers, herbicides, and industrial equipment:

During the 2003 growing season in the Leamington area, two workers were housed in the boiler area of a greenhouse. The boilers malfunctioned, causing a fire. The workers were away from the living quarters at the time of the fire, but all of their clothing and possessions—including passports and other documents—were completely destroyed by the fire. It was near the end of the season, and these workers returned home with just the clothes on their backs (UFCW, 2004).

A less obvious problem associated with the provision of on-site accommodation by farmers is that it ‘gives employers an opportunity to control farm worker’s behaviour’ both on and off the job (Wall, 1992). Preibisch notes that the ‘significant physical distance between farms’ in rural Canada ‘separates workers from their compatriots and reduces social interactions between migrant workers and the community.’ While farmers have no legal power to restrict workers movements off farms during off-work hours ‘some employers prohibited workers from leaving the property.’ The workers’ capacity to travel into town to socialise or shop thus ‘depends ultimately on the subjective goodwill or the individual employer’ (Preibisch, 2004).

While many employers treat workers well, the structure of the CSAWP fosters relations between employer and employee that can be characterised as ‘paternalistic and inequitable’ (Wall, 1992).

**Overstaying in the Canadian scheme**

A frequent objection to the idea of seasonal labour programs in Australia and New Zealand is the fear that temporary workers will overstay their visas and ‘disappear’ into the community (adding to the stock of undocumented migrants). The Canadian experience suggests that this fear is greatly exaggerated. Of the 15,123 workers who entered Ontario under CSAWP in 2004, only 221 (or less
The most important factor in the low overstay rates in the Canadian scheme appears to be that workers can return to their homeland with the expectation that they will be re-engaged to work in Canada under CSAWP the following year. This ‘partly explains the lower number of overstayers compared with those in other similar programs’ in other countries (United Nations, 2004).

Section 4.4
Modelling Workers’ Savings and the Cost to Growers

Any proposed seasonal labour scheme will only be viable if the numbers stack up. In other words, during a limited period of employment in Australia, Pacific island workers must be able to make savings that are significantly greater than they could hope to amass in their homeland, and growers must be able to meet their seasonal labour needs without incurring excessive additional costs. While the establishment of such a scheme may well require some initial seed capital from government, the basic operation should become self-financing over time.

Agricultural Wages in Pacific Island Nations

Any modelling of workers’ potential savings must take into account their potential earning capacity in their homeland. The quality of statistics on wage rates in Pacific island countries vary, but available data shows that unskilled agricultural workers from the Pacific (the target group for recruitment) could achieve significant increases in their annual income by working overseas for even a few months of each year. For example:

- The minimum wage for unskilled adult workers in Papua New Guinea as of 2005 is 150 Kina (US$52) per month.
- The minimum wage in Vanuatu is 20,000 vatu (US$186) per month, raised in September 2005 from 16,000 Vatu (US$149) per month.
- According to the latest available figures, the daily mean wage for agricultural workers in Fiji was FJD$16.77 (US$9.50) in 1999.25 This compares to the award rate of AUD$15.38 (US$11.38) per hour as applicable in Australia under the federal horticultural award as at July 2005.26 (This amount includes a built in loading of 25 percent to compensate casual workers for the absence of entitlements, such as holidays and sick leave that would be available to permanent workers.) In short, Pacific island agricultural workers could gross the equivalent of their entire monthly income with just a few days work in Australia.

However, in order to properly calculate the savings potential for Pacific island seasonal workers, it is also necessary to look at the tax treatment of their earnings and at the costs of working and living in Australia.

TAX TREATMENT OF FOREIGN WORKERS IN AUSTRALIA

Under prevailing Australian taxation arrangements, all Australian citizens and permanent residents enjoy an annual tax free threshold of AUD$6000—no tax is payable on earnings below
this amount. In addition, in an effort to encourage workers to take up jobs in agriculture, seasonal workers engaged in harvest labour enjoy a discounted tax rate of a flat 13 percent for each dollar earned. This compares to the standard 17 percent tax rate on all earnings between AUD$6001 and AUD$21,600, and the 30 percent tax rate on earnings between AUD$21,601 and AUD$58,000.27 By contrast a foreign worker who is considered a ‘non-resident’ for tax purposes28 does not benefit from the tax-free threshold of AUD$6000 and pays a flat rate of 29 percent tax on every dollar earned.29

This raises some obvious problems for the operation of any scheme to employ Pacific islanders in seasonal work in Australian horticulture. First, there are equity issues: Pacific islanders would be contributing almost one-third of their earnings in tax to the Australian government but would be ineligible to access most government services. (In addition of course, Pacific islanders would be paying a 10 percent government services tax on all their purchases of goods and services in Australia). They would be working alongside Australian residents who enjoy much more favourable tax treatment. Second, a 29 percent tax rate with no threshold seriously erodes the potential of Pacific island workers to make significant savings. It is instructive to compare the current Australian tax treatment of non-residents with the taxation of Caribbean and Mexican workers under CSWAP—seasonal migrant worker who is married can earn up to C$15,000 before paying Canadian income tax (although they must still pay unemployment insurance and make pension contributions).

The National Farmers Federation is campaigning to have the discounted tax rate for seasonal agricultural work extended to Working Holiday Makers (National Farmers Federation, 2005). As will become apparent, the modelling below suggests that such tax treatment would be a prerequisite for the viability of a seasonal labour program for Pacific islanders to work in Australian horticulture.30 It also suggests that Pacific island workers should be guaranteed a minimum of 13 weeks employment at 40 hours per week.

The modelling assumes that Pacific island workers would pay the Medicare contribution of 2.5 percent of gross earnings and would have the same access as Australian residents and citizens to the universal healthcare system while working in Australia.

COSTS FOR PACIFIC ISLAND WORKERS EMPLOYED IN AUSTRALIA

The savings potential of Pacific island workers engaged in seasonal horticultural jobs in Australia is contingent on their cost of living and on the proportion of fixed costs (of travel, etc.) that they are expected to bear.

For reasons which are explained more fully below, it is assumed that Pacific island workers will pay for off-farm accommodation in Australia, rather than being housed by their employers. Accommodation costs are estimated at AUD$115 per week, based on the rates currently charged to working holiday makers and itinerant Australian workers staying in backpacker lodges and caravan parks in the horticultural districts of north-west Victoria. Allowance for living costs (food, entertainment, phone calls, etc.) is estimated at AUD$25 per day. No allowance has been made for daily work-related travel costs on the assumption that travel to and from site will be provided by the employer or the accommodation provider (as is frequently the case for working holiday makers).

Total fixed costs for international travel to and from Australia (including airfares, visa fees, health checks, and incidentals) is approximated at AUD$1,672. (For a full break down of cost assumptions and savings calculations, see Annex I).

In attempting to assess the savings potential of Pacific island workers, two different scenarios are modelled in relation to taxation. Under the high tax scenario, the existing tax rules for non-
residents (29 percent flat rate) are applied. Under the low tax scenario, the discounted Australian resident tax rate of 13 percent for seasonal work is applied. In both scenarios, workers also pay the Medicare levy of 2.5 percent. In both cases, it is assumed that the tax-free threshold of AUD$6000 does not apply.31

The assumed living costs of Pacific islanders working in Australia remain constant under all scenarios. However 3 different options for sharing the fixed costs of travel to and from Australia are considered. Under option 1, all fixed costs are paid by the workers; under option 2, costs are split equally between workers and employers; under option 3, employers bear the full costs of workers travel.

Also modelled are two different options for weekly working hours, with scenarios based on both a standard 40-hour week and on the longer 50-hour week often demanded by the nature of seasonal harvest work.

Table 4.4 is a summary of the savings potential of Pacific islander workers using these different assumptions for taxation, cost sharing, and working hours.

### TABLE 4.4 SUMMARY OF SAVINGS POTENTIAL FOR OFF-SHORE SEASONAL WORKERS

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Weekly hours</th>
<th>Tax rate</th>
<th>Workers’ share of fixed costs</th>
<th>AUD$</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>#</td>
<td>%</td>
<td>%</td>
<td>6 weeks</td>
</tr>
<tr>
<td>1</td>
<td>40</td>
<td>29</td>
<td>100</td>
<td>(884)</td>
</tr>
<tr>
<td>2</td>
<td>40</td>
<td>29</td>
<td>50</td>
<td>(48)</td>
</tr>
<tr>
<td>3</td>
<td>40</td>
<td>29</td>
<td>0</td>
<td>788</td>
</tr>
<tr>
<td>4</td>
<td>50</td>
<td>29</td>
<td>100</td>
<td>(251)</td>
</tr>
<tr>
<td>5</td>
<td>50</td>
<td>29</td>
<td>50</td>
<td>585</td>
</tr>
<tr>
<td>6</td>
<td>50</td>
<td>29</td>
<td>0</td>
<td>1,421</td>
</tr>
<tr>
<td>7</td>
<td>40</td>
<td>13</td>
<td>100</td>
<td>(293)</td>
</tr>
<tr>
<td>8</td>
<td>40</td>
<td>13</td>
<td>50</td>
<td>543</td>
</tr>
<tr>
<td>9</td>
<td>40</td>
<td>13</td>
<td>0</td>
<td>1,379</td>
</tr>
<tr>
<td>10</td>
<td>50</td>
<td>13</td>
<td>100</td>
<td>487</td>
</tr>
<tr>
<td>11</td>
<td>50</td>
<td>13</td>
<td>50</td>
<td>1,323</td>
</tr>
<tr>
<td>12</td>
<td>50</td>
<td>13</td>
<td>0</td>
<td>2,159</td>
</tr>
</tbody>
</table>

In Scenario 1, a worker employed in Australia 40 hours per week over a six-week period would be $884 out of pocket if required to pay 29 percent in the dollar tax and reimburse airfares and associated costs of travel to Australia. In Scenario 2, if the worker stayed for the maximum 26 weeks, and if half the travel and associated costs were paid by the employer, then savings would still only amount to AUD$2,581, a relatively modest return for enduring 6-months separation from family and community. However, in Scenario 8, if the more generous 13 percent tax treatment was applied, then the same worker would potentially save twice as much—a total of AUD$5,140. And if that same worker chose to work 50 hours per week instead of 40 (as is common in seasonal agriculture), then the saving potential increases to AUD$8,519 (Scenario 11).

### THE COST TO EMPLOYERS

The viability of a seasonal workers program for horticulture is also contingent on the cost to the employer. If the additional expense of employing offshore workers is too great, then the project is uneconomic. Under the modelling, there are two components of the cost to growers. The first component is a levy to cover the cost of administering the scheme. Under the Canadian scheme, growers pay a one-off fee of CA$35 (plus goods and services tax) to recruit a worker, regardless of whether that worker is employed for the minimum six-week period or the maximum eight months. A more equitable system would see employers pay a levy per worker per week. This would
facilitate greater movement of workers between employers enabling greater flexibility for growers and workers and a more efficient allocation of labour to farms. It also enables different employers to share the fixed entry costs of bringing workers to Australia. The modelling sets an arbitrary levy of C$20 per worker per week, which amounts to an additional cost of C$0.50 per labour hour (assuming a 40-hour week).

The second component of the cost to growers is the employer’s contribution towards defraying the fixed travel expenses of offshore workers. This amount will be contingent on the formula used to share these expenses between employers and workers, but the additional costs per labour hour will also diminish the longer the workers remain in Australia.

As is clear from Table 4.5, a scenario in which growers paid the full costs of workers travel to Australia would impose considerable extra costs on growers, raising the current award wage of AUD$15.38 by almost 50 percent if workers were employed for a minimum of six weeks. However, if the fixed costs of travel are split 50-50 between workers and employers, then additional cost per labour hour quickly reduces over time. Thus, if a worker was employed for 13 weeks, the increased cost to the employer would be AUD$2.11 per hour of labour (and this would reduce further if the worker was employed for more than the standard 40-hour working week). If a worker was employed for 26 weeks, then the cost to the employer falls to AUD$1.30 per hour worked.

**TABLE 4.5 MODELLING ADDITIONAL COSTS TO GROWERS (ALL DOLLAR AMOUNTS IN AUD$)**

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Administrative levy per worker per week AUD$</th>
<th>Fixed travel costs AUD$ (grower’s share)</th>
<th>Workers’ length of stay</th>
<th>Extra cost to grower AUD$</th>
<th>Extra cost per labour hour* AUD$</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>20</td>
<td>1,672 (100%)</td>
<td>6 weeks</td>
<td>1,792</td>
<td>7.47</td>
</tr>
<tr>
<td>2</td>
<td>20</td>
<td>836 (50%)</td>
<td>6 weeks</td>
<td>956</td>
<td>3.99</td>
</tr>
<tr>
<td>3</td>
<td>20</td>
<td>1,672 (100%)</td>
<td>13 weeks</td>
<td>1,932</td>
<td>3.71</td>
</tr>
<tr>
<td>4</td>
<td>20</td>
<td>836 (50%)</td>
<td>13 weeks</td>
<td>1,096</td>
<td>2.11</td>
</tr>
<tr>
<td>5</td>
<td>20</td>
<td>1,672 (100%)</td>
<td>26 weeks</td>
<td>2,192</td>
<td>2.11</td>
</tr>
<tr>
<td>6</td>
<td>20</td>
<td>836 (50%)</td>
<td>26 weeks</td>
<td>1,356</td>
<td>1.30</td>
</tr>
</tbody>
</table>

* assumes a 40-hour week

**Section 4.5 The Challenge of Regulation**

Canada’s Seasonal Agricultural Workers Program has been described as an example of world’s best practise in the importation of temporary foreign labour for agriculture; and as outlined above, the Canadian scheme has many elements to recommend it. However, the continuing problems with the operation of the Canadian scheme suggest that questions of equity and social justice deserve greater attention.

It is also essential to recognise that labour migration entails risks, as well as opportunities; social and economic costs, as well as financial benefits. Children may be raised with one or both parents absent, marriages struggle and sometimes fail under the impact of long periods of separation, and increased mobility accelerates the spread of sexually transmitted diseases (including HIV/AIDS).

Civil society leaders and members interviewed in the Pacific for our research have raised several concerns on the social impacts of a seasonal labour scheme. These concerns revolve around childhood developmental issues, family break-downs leading to stress and depression, burdens on older women who do not have superannuation and may be expected to shoulder additional
responsibility for (unpaid) childcare, possible health risks related to working away from home, and increased vulnerability of women to sexual harassment in the workplace. These problems have been documented in relation to an existing group of temporary migrant workers in the Pacific (Box 4.2).

**BOX 4.2 SOCIAL IMPACTS FOR TUVALUAN AND I-KIRIBATI SEAFARERS**

A crucial source of revenue for the small island developing states of Tuvalu and Kiribati are the remittances of seafarers who crew vessels for international shipping companies from North America and Europe. The Secretariat of the Pacific Community (SPC) has conducted detailed studies of seafarers’ remittance spending and the economic and social implications of seafaring for community development (Dennis, 2003). This research shows that the actions of overseas workers have negative, as well as positive impacts on the social and economic circumstances of dependants and communities. Although the type of work, recruitment and skill levels for sailors, and length of absence are different to seasonal agricultural work, the SPC study provides important pointers on social issues that would be useful in designing pilot programs for temporary agricultural work in Australia.

- The seafarers’ wages were the basis of economic support for many people within the home community, ranging from 1–30 people. The study estimates that 4,200 people in Tuvalu (population 10,000) and 10,200 people in Kiribati (population 85,000) were directly dependant on the seafarers’ income.
- Loss of employment by seafarers due to illness or injury had ‘catastrophic’ effects on the economic circumstances of some families.
- Wives and partners of seafarers reported difficulties maintaining contact with overseas workers, causing stress and depression. This was exacerbated because depression is not considered a real ‘health problem’ in many Pacific cultures.
- Some seafarers engaged in unsafe sexual activity while overseas, often under the influence of alcohol. There is an increased risk of HIV/AIDS and sexually transmitted infections for the workers, but also for wives/partners who find it difficult to refuse fearing violence.
- An increase in violence against spouses was also related to alcohol abuse, with returning sailors engaging in drinking sessions with their mates. Women were reluctant to report domestic violence to police in this case because 70–80 percent are dependant on their spouse/partners’ income. The majority of spouse/partners and children reported difficulties resuming relationships with returning seafarers.
- There are complex gender and childhood development issues when parents communicate largely with their spouse rather than their children while overseas. Children also reported anger or annoyance at their father on his return for disrupting household routines, ignoring their personal development, or diverting their mother’s attention to caring for her spouse rather than her children.

There is some internal migration from outer islands to the main island of Tarawa, as seafarers’ families move to the capital to avail themselves of more time with their spouse or parent in between voyages.

This raises a key question: is it possible to carefully design a program that meets the needs of growers for seasonal labour at a reasonable cost while offering protection to the rights and well-being of temporary migrant workers? A scheme that is laxly administered, in which market forces alone are allowed to determine outcomes, and in which no effort is made to ameliorate the social impacts and risks of labour migration, may produce an outcome in which the social costs remain very high.

The potential development contribution to be made from increased labour market access in industrialised economies has also been raised by island governments during regional trade negotiations—with labour mobility an element of trade in services under the Pacific Island Countries
Trade Agreement (PICTA), the Pacific Agreement on Closer Economic Relations (PACER), and the Economic Partnership Agreement (EPA) being negotiated between the European Union (EU) and Pacific members of the African, Caribbean, and Pacific grouping (ACP) under the Cotonou Agreement.32

New Zealand’s experience with earlier schemes of temporary workers (up to three years) from the Pacific has not been without issues of overstaying and working conditions. Nevertheless, in recent years, the New Zealand Government has introduced a residency quota scheme for Tonga and Fiji, along with skilled migration programs. The New Zealand Government has also recently indicated that it is open to considering additional seasonal programs for unskilled migrants from the Pacific islands and is reviewing the lessons from its previous experience, such as length of tenure to qualify as temporary (three years may be too long), the needs of the domestic private sector, and the role of source-country governments in ensuring compliance.

This section outlines some of the key issues that need to be addressed in the regulation and administration of seasonal work schemes in order to ensure that they operate both fairly and efficiently.

INFORMATION AND COMMUNICATION

The negative social impacts of existing labour migration on sending countries reinforce the need for pre-departure training and information sessions for seasonal workers, as a crucial element of any scheme. This could involve a range of participants, representing governments of the sending and host nations, growers/employers, unions, and church leaders, who could provide accurate and timely information to prospective seasonal workers before they join schemes or travel. Pertinent issues for discussion (Rokoduru, 2005) include:

- wage rates and labour rights and conditions (hours, meal breaks, occupational health and safety);
- cultural issues (Australian social norms);
- visa requirements and consular support;
- banking and remittance procedures;
- mental and physical well-being (the challenges posed by loneliness and isolation from family, substance abuse, gambling and the risk of HIV/AIDS).

Under the Canadian scheme, workers recruited from the Caribbean are required to complete two days of induction training prior to departure. However, research carried out by the North-South Institute suggests that ‘the pre-departure Farm Work Orientation program may be deficient in providing a range of important information on Canada to the migrant workers’ (Russell, 2004). The training makes no distinction between returning workers and those who are travelling to Canada for the first time. For first-time workers, there appears to be inadequate attention paid to such issues as workplace health and safety, the use of protective equipment, and the different hazards that may be encountered on different types of farms (e.g., heat stress in greenhouses, green tobacco sickness on tobacco farms). For long-term workers, issues such as their pension rights in Canada and how to claim them appear to be neglected (Downes and Odle-Worrell, 2004). Similarly, the pre-departure orientation provided to Mexican participants in CSAWP was found to be inadequate in advising workers about ‘the work situation; workers’ rights; fringe benefits (health insurance, pension, reimbursement of taxes, workers’ compensation, etc.); the legal deductions made to workers’ wages; and especially the mechanisms for claiming these benefits’ (Verduzco and Lozano, 2004).
Dr. Rudi Robinson, who coordinated the study of the Canadian scheme for the North-South Institute, believes that more could be done to engage experienced migrant workers in the delivery of pre-departure training to new recruits. He even suggests using experienced returned workers to assist in the process of recruitment itself (Robinson, 2005).

Other support systems could be incorporated in seasonal work schemes to address social impacts. For example, Pacific island communities and churches in Australia can play a support role for seasonal workers, while employers could assist with communication between seasonal workers and their families at home through provision of telephones and computer terminals with Internet and email access in church or community centres in Australia (Kioa, 2005).

**ADMINISTRATION**

The 2003 Senate Committee into Australia’s relations with the region (Australian Government, 2003) recommends a pilot scheme but says that:

…the model developed provides for management and organisational arrangements to be the responsibility of the source country and adequate mechanisms be put in place for training and transfer of skills.

However, such a proposal places a large burden on small island states. A more realistic approach would involve a government-to-government framework or treaty as in Canada’s CSAWP, outlining the responsibilities of both host governments. Forum Secretariat officials have suggested that the Pacific Islands Forum could assist with creating a regional framework agreement, but that individual governments could negotiate formal bilateral treaties that reflected their particular needs, population profiles, etc. 33

One pitfall for a more regulated scheme is that rural villagers from the Pacific Region would have less comfort with a complex bureaucratic scheme, especially where the only High Commission is located in the capital city. Given low levels of literacy in Melanesian countries like Papua New Guinea, Vanuatu, and Solomon Islands, and ‘a cultural aversion to lots of paperwork’ from many islanders, there may be costs and delays in regulation and recruitment procedures (Kioa, 2005; Rokodururu, 2005).

Experience in Canada suggests that complexity can result in migrant workers missing out on their entitlements—for example tax returns or workers compensation—because they do not have the skills to negotiate bureaucratic systems. Similarly, horticultural producers do not have time to deal with complex paperwork at the height of the harvest; so while a scheme must be regulated, it also needs to be user friendly for both workers and employers.

There is also a question of where employment contracts are signed as this has some implications for labour rights or for employees who want the Ministry of Labour to follow up breaches of contract, unpaid or delayed wages, and long-term occupational health problems. 34

**RECRUITMENT**

The need for targeted and ethical recruitment of seasonal workers takes on particular importance given the disparities in wage levels between Australia and most island countries. There is anecdotal information on skilled workers travelling to Australia for fruit picking and unskilled labouring work because they could earn more than their own trade or profession (e.g., school teachers who travel to Australia on a tourist visa during the long summer break and go fruit picking for a couple of months after briefly visiting relatives). Recruitment schemes should be targeting the unskilled rather than taking skilled trades and professional staff away from the workforce and undermining the policy intent of seasonal worker programs.
There is also anecdotal evidence from the Canadian scheme of local politicians intervening inappropriately in the recruitment process in labour supply countries (Russell, 2004), which might suggest consideration of recruitment by private sector agencies. There is a growth in labour hire in Australia; by 2001 more than 160,000 people in Australia worked for labour hire firms (ACTU, 2003). Australian and international companies have already expressed an interested in being engaged if government gives approval for an offshore seasonal labour scheme.\(^{35}\)

However, if recruitment is to be conducted by private sector labour hire agencies, there is a need for closer government regulation of practices. It is not hard to find examples of fraudulent behaviour by recruiters in the Pacific, exploiting the hopes of poor communities for a better life:

- Up to 20,000 people in Fiji paid a registration fee of at least F$150 to a recruitment company in order to be listed for work in Kuwait and Iraq, even though there were only 2,000 jobs on offer (Pareti, 2005).

- Recruiters in Vanuatu promising non-existent jobs in Australia sought ‘administration fees’ of 17,000 vatu (AUD$200) from rural villagers (Vira, 2005).

- In 2003 in Fiji, a US recruiter was collecting US$1,200 payments from Fijian nurses without providing jobs, a fraud exposed when nurses complained to their union, the Fiji Nursing Association (Lutua, 2005).

There is also evidence of abuse in recruitment for temporary labour schemes elsewhere in the world. For example, Thai workers recruited to do agricultural jobs in the United States under its H-2A temporary visa program, report paying up to US$2,000 each to local recruiters in their homeland to secure a place on the scheme (Ward, 2005).

Private sector recruitment is not the only nongovernment option for seasonal labour programs. There are already community organisations in Pacific countries that have links with particular regions of Australia that could co-ordinate the selection of personnel. For example, the National Farmers Association in Tonga has ties with members of the Tongan community in the Victorian town of Robinvale and has already developed detailed proposals for recruitment of Tongans for fruit picking if a government approved scheme could be started (Tatola, 2005; Ramsey, 2005).

There are overseas examples of government, workers, and employers co-operating to develop appropriate standards for seasonal work recruitment and operation; for example, the Temporary Labour Working Group is a consortium of major retailers, growers, suppliers, labour providers, and trade unions in the United Kingdom. The Working Group was set up in September 2002, convened by the Ethical Trading Initiative with co-operation from government. Partly as a result of the Working Group’s lobbying activities, a Private Member’s Bill was enacted in July 2004 as the Gangmasters (Licensing) Act. The Working Group has also developed a code of practice for labour providers to agriculture and the fresh produce trade. While the code is voluntary, one industry group—the Association of Labour Providers—has made compliance with the code a condition of membership. The commitment by other employer groups (like major supermarket chains) is more vague, promising only to ‘actively encourage all suppliers to use only labour providers who are working to comply with the code of practice.’ The code is also seen as a forerunner to compliance arrangements that are to be introduced to the statutory licensing of labour providers sometime in 2006.\(^{36}\)

Policies such as these could be adapted so that recruitment becomes an activity undertaken in partnership with Pacific island governments. Good governance has been an increasing focus of Australia’s international development assistance, and specific attention has been devoted to assisting Pacific island governments to upgrade their immigration processing capacity. Linking the Australian aid program to the recruitment and operation of a seasonal agricultural workers program could provide a practical form of capacity building.
Whichever way recruitment is handled, unions believe that any seasonal workers scheme must involve more than monitoring of conditions for temporary workers; the scheme must be regulated by government, and there must be a system of sanctions for breaches of those regulations. Australian and Pacific unions through the ACTU and SPOCTU would seek collaboration with and involvement in any institutions created to regulate the scheme (Tate, 2005; Matheson, 2005; Singh, 2005).

**LABOUR RIGHTS AND WORKING CONDITIONS**

Naturally there would be concerns from trade unions about the possible exploitation of foreign temporary labour by unscrupulous employers. Leaders of trade unions from the Pacific and Australia have stressed that any seasonal work scheme must not be used to undercut wages and conditions for Australian workers and must adhere to core labour conventions and standards (Singh, 2005; Tate, 2005; Matheson, 2005). In particular, the evidence of the abuses in the temporary employment of skilled foreign workers has contributed to the opposition of the Australian trade union to such initiatives. The Australian trade union has maintained that they would only support schemes that respect the right to join the relevant trade union. There is considerable support for pilot programs of a seasonal work scheme from a range of employers’ and business organisations in Australia (including the National Farmers Federation and the Australia-Pacific Islands Business Council) and from some nongovernment development agencies, such as Oxfam Australia (Oxfam Australia, 2006).

Pacific governments have pledged to uphold core labour rights under Article 50 of the EU-ACP Cotonou Agreement, but specific International Labour Organisation (ILO) conventions covering migrant workers have not been ratified by Australia, New Zealand, or any Pacific island governments. The ILO Office for the South Pacific in Suva has a program to encourage Pacific governments to sign and ratify core labour standards (Zakaria, 2005). As labour mobility increases in the region, Pacific Island Forum member governments will need to develop policy and legislation to extend this to the relevant conventions covering migrant workers.

The World Council of Churches (Office for the Pacific) and the Pacific Conference of Churches have also called on Pacific governments to sign, ratify, and implement the provisions of the Migrant Workers Convention (Tevi, 2005; Vea, 2005). The Convention entered into force in July 2003, but thus far it has not been signed or ratified by Australia, New Zealand, or any Forum island state. All of the 21 states that have acceded to the Convention are primarily migrant-sending rather than migrant-receiving nations, and as such the Convention remains largely aspirational in nature.

Under existing temporary labour programs around the globe, a migrant worker is ‘usually required to work only for the employer specified in the work permit’ (Ruhs, 2005). This restriction often leaves migrant workers vulnerable to exploitation and abuse, since protests against dangerous working conditions, underpayment, or unreasonable demands by a particular employer can lead to the dismissal and consequent expulsion from the country of employment. It should be possible to design a seasonal labour scheme where workers are not tied to individual employers but can circulate more broadly within an industry sector (such as horticulture).

However, any seasonal labour scheme needs to recognise the weak bargaining position and relative lack of legal rights of temporary non-citizens in the Australian labour market. In response, safeguards must be built in to protect workers’ rights and guarantee freedom of association. There must also be mechanism of independent dispute resolution to manage conflicts when they arise.

Together with sectors, such as construction and mining, farming and agricultural work are among the most hazardous industries for workers; compliance with occupational health and safety laws will be essential. There could be complex legal and practical issues for workers to claim treatment and compensation for workplace injuries after they return home. There is also a need to develop training programs for health and safety issues, such as use of pesticides, which could have positive spin-offs for farm safety when the worker returns to farming and fishing in the Pacific.
CREATING INCENTIVES TO LIMIT OVERSTAYING

A frequent objection to temporary labour programs is that workers will overstay their visa and fail to return home when their seasonal work is ended, at great expense to the host government. As noted above, the Canadian experience suggests that this fear is greatly exaggerated. In fact, it is the very lack of legal avenues to enable non-residents to be employed in low-skilled jobs, like fruit-picking, that generates the problem of overstaying in the first place.

The paradox of tough border controls is that they induce undocumented migrants to stay in the host nation much longer than they might otherwise have chosen to do by raising the financial cost and personal risk of movement. In the 1980s the average estimated length of stay of undocumented Mexican migrants in the United States was three years; but by the late 1990s, after the major fortification of the border, it had blown out to nine years. Migrants fear that if they leave, then returning may be impossible (Constant and Zimmermann, 2003).

It can be contended that the most powerful factor in ensuring that workers return home at the end of the season would be the secure knowledge that they can be re-engaged to work in Australia for a similar amount of time in subsequent years. There is also potential for both ‘carrot and stick’ to reduce overstaying, which would involve governments developing policy that could assist seasonal workers to return to their home country.

There has been a proposal for a form of trust scheme by which a proportion of wages would be transmitted home (Narsey, 2004); though if compulsory savings are to be deducted from the workers’ wages, then it is imperative that at least some of this money would be immediately available to family members in the home country for necessary living expenses. There are existing schemes when employers transmit funds home on a regular basis on behalf of the seasonal worker, such as the Kiribati and Tuvalu seafarers program (Dennis, 2003).

There are other ways to maximise the likelihood of return, for example, by providing incentives such as reduced application fees or bonuses for returning workers who abide by visa requirements. It could be a feature of the program that workers who return home can claim an automatic refund on taxes paid in Australia, or gain early access to superannuation contributions made by them or on their behalf. As in Canada, the recruitment criteria for seasonal workers could be skewed to select migrants deemed most likely to return to their homeland—that is, workers who are married with children still at home (Basok, 2000b).
GOVERNMENT POLICY TO SUPPORT MIGRANT WORKERS AND REMITTANCE FLOWS

As well as developing ‘negative’ incentives, there is also a need for Pacific governments to develop positive policies that encourage remittances and legal return. At present, few Pacific governments have comprehensive legislation or regulations to assist migrant workers with:

- roll-over of any superannuation or pension rights,
- reduced freight costs to bring home goods,
- tax benefits for repatriated funds,
- maintenance of seniority and leave entitlements for former government workers.

One of the problems for Pacific island governments in developing policy in this area is the lack of hard data. For long-term development of skilled migration and temporary work programs, there is a need to develop better statistical and monitoring capability of labour market shortfalls and surpluses. As part of its reporting on the Millennium Development Goals, the Secretariat of the Pacific Community has highlighted the need for better statistical collection, analysis, and monitoring; and governments could extend this to labour market studies (UNDP/SPC, 2004).

One suggestion for monitoring the flow and usage of remittances is to incorporate a series of questions in national censuses, which could provide a regular and comprehensive database of changes to national remittance patterns (Brown, 2005). The March 2005 Forum Secretariat Remittance Roundtable also recognised a number of steps that Pacific island governments could take to enable increased remittance flows. These include development and promotion of innovative and appropriate savings and investment instruments for overseas migrants and seasonal workers; development of a more affordable and secure remittance systems; adjustment of tax policies for remitted funds; development of government, nongovernment, and church programs to look after the needs of migrant workers (information, social, consular assistance, human rights, etc) and of family members left behind; and improving financial literacy with advisory and training schemes to encourage returning seasonal workers to invest their earnings (e.g., business set-up advisory programs, micro-credit schemes, investment matching funds) (Pacific Islands Forum Secretariat, 2005).

Innovative programs elsewhere in the world have attempted to enhance the developmental impact of workers’ remittances by offering counterpart funds from official sources. The Philippines government has a similar program (*Lingkod sa Kapwa Pilipino*) encouraging migrants abroad to support development projects in their home region ‘in such areas as infrastructure, education and health care’ and many Latin American migrants in the United States have started ‘hometown associations’ in which they commit a proportion of their savings to a common pool for community development projects in their home countries (United Nations, 2004). In what is known as the 3 x 1 program in Mexico, federal, state, and local governments each match such investment flows on a dollar-for-dollar basis (Taparia, 2005). These programs seem to have had success in combining private-public capital to deliver essential services to migrant-sending communities, although there are concerns that singling out remittance money for matching with public funds could divert government investment flows away from other priorities and in favour of a particular group or region.

Government policy settings can facilitate (or hinder) the sending of remittances through regulations on taxation, investment, and inter-country movement. A problem in expanding remittances to the Pacific is that costs of transferring funds are relatively high and sometimes insecure. There is potential for banks and other private sector financial organisations to expand services that assist in remittance flows. For example, the National Bank of Fiji has posted an officer in the United Kingdom to act as an advisor on savings, investment, and remittances for more than 2,000
Fijians serving in the British Army; and the ANZ Bank has expanded its rural banking program to encourage rural islanders to establish bank accounts. An estimated 300,000 people in Fiji, out of a population of 850,000, do not have a bank account (Bhai, 2005).

Gibson, McKenzie, and Rohorua (2006) have found that the cost of remitting funds from New Zealand to Tonga is substantially higher than in more competitive markets (up to 3 times more expensive than remitting funds between the United States and Mexico for example). Most funds are remitted in small amounts (average size is NZ$250) resulting in high transaction costs. Their survey of remittance behaviour suggests that if the high costs of remitting funds to Pacific island nations could be reduced, then the savings would be passed on in the form of an increase in the value of funds remitted. They calculate that:

…lowering the fixed cost of sending money through banks and money transfer operators from New Zealand to Tonga to levels close to that found in the most competitive world markets would result in a 28 percent increase in remittances from existing remitters. Lowering this fixed cost may additionally induce some non-remitters to start remitting (Gibson, et al., forthcoming).

Within Australia and New Zealand, there are two key areas where policy change would assist in the effective implementation of seasonal work programs. First, any seasonal labour program will need to take account of taxation agreements (or the lack of them) between Australia and the Pacific to avoid double taxation. As noted above, non-residents who perform harvest labour in Australia (working holiday makers) are currently taxed at a higher rate (29 percent) than resident workers (13 percent) and do not benefit from the tax-free threshold. Unless this provision is altered, Pacific islanders performing seasonal work could find themselves subject to an excessive tax burden.

Second, there will be political issues relating to undocumented workers from Pacific island countries currently living or working in Australia and New Zealand in breach of their visa conditions. The creation of a regulated temporary work program could be accompanied by an amnesty, which would give time for undocumented workers to regularise their position, either as permanent migrants or as temporary workers. The issue of residency rights for workers is of crucial concern for Australian unions and Pacific communities in Australia, and migration policy would need to be co-ordinated with the introduction of seasonal work programs.

SHARING THE COSTS

Any seasonal labour scheme for Pacific islanders to work in Australia will involve costs—bureaucratic costs of regulation, administration, and oversight; and the practical costs of airfares, visas, medical checks, and accommodation. Increased numbers of Pacific workers in Australia will also place new burdens on Pacific High Commissions, consular staff, immigration, and labour ministries. A key question in the design of the scheme arises: how will those costs be shared between growers, workers, and governments without sacrificing equity or efficiency?

There has been a decline in the role of no-fee public sector employment services and a rise in the role of for-profit private sector recruitment agencies. As a result, ‘the general trend in the migrant recruiting business has been for costs to be shifted from employers to workers’ (Martin, 2005).

In an unregulated environment, the North-South disparity in wealth and opportunity creates conditions in which recruitment agencies can extract exorbitant ‘application fees’ from would-be migrant workers who are hungry for jobs, and then drive down the conditions and pay under which they are expected to work:

In most cases, migrants, who have incurred debts to go abroad, wind up being forced to make the adjustments from the promises to the realities, not employers (Martin, 2005, p 3).
This trend is objectionable because it imposes the greatest costs on the most disadvantaged actors.

It is reasonable that employers should share the costs of any seasonal workers scheme in Australia. Equity is only one consideration here; another is that there should be a monetary incentive for employers to look first to the local labour market to secure workers.

While Canada’s scheme has been tailored much more heavily to the needs of employers than workers, it does provide a reasonable model of cost sharing. As noted above, growers provide workers with free accommodation in addition to wages and pay a non-recoverable administration fee of C$35 per worker to FARMS. Workers’ travel is organised through CanAg travel services, which is a subsidiary of FARMS; and farmers pay the cost of all transport within Canada. International travel is paid in advance by farmers, with around 40 percent of this cost later re-couped via deductions from workers’ wages. Farmers pay the worker’s visa fee of C$150 up front, and this amount can be fully recouped through wage deductions. However, in recovering costs from workers, farmers cannot deduct a maximum of 5 percent of gross earnings per pay period (in the case of Mexican workers) or C$3.50 per day (for Caribbean workers). The cost-sharing arrangements used in the Canadian scheme could be used as the basis for any similar scheme involving Pacific island nations. The significant increase in the aid envelope for the Pacific could also provide the context and resources to provide some services, such as pre-departure training and visa fees for applicants, in the source countries.

Section 4.6. Conclusion

The rights and choices of temporary non-citizen workers will be more limited than those available to Australian citizens and permanent residents working in the same industry. Australian workers can always seek employment in a different industry or seek access to the Australian social welfare system. In this sense, Australian workers are too ‘free’: they can turn down the work on offer in the horticultural industry unless pay and conditions radically improve. However, growers are constrained in their ability to offer workers a better deal, since their farming operations are subject to international competition and a severe cost price squeeze.

THE TRADE OFF

As stated, this is why offshore schemes become necessary in the first place: growers need a reliable supply of workers who will remain in fields and orchards until time-sensitive harvests are completed. Offshore seasonal workers are ‘unfree’—or at least ‘less free’ than their Australian counterparts—to walk off the job or demand significantly higher wages (Satzewich, 1991). In other words, from the workers’ perspective, any scheme to bring in short-term seasonal labour from overseas will involve some trade off between their individual rights and access to economic opportunities in the Australian labour market.46 Pacific islanders, denied jobs in their own societies, will be only too willing to cut such a deal; though they may lack the bargaining power to protect their own interests and fundamental rights.

This points to the importance of regulation and the key question for this research: is it possible to design a seasonal workers program for Pacific islanders where this trade off can be seen as reasonable, where the benefits of the economic opportunity on offer through work in Australia outweigh the disadvantages of giving up certain rights? Or as Ruhs (2005) puts it, the aim is ‘a balanced approach that is both realistic, by taking account of existing realities in labour immigration policymaking; and idealistic, by striving to improve existing labour migration policies and outcomes for all involved, especially for the migrant workers and their countries of origin.’
With this thinking in mind, it should be possible to lay down some basic ground rules to ensure that foreign seasonal workers have some basic protections:

- receive the same pay and conditions as Australian or New Zealand workers in the same industry;
- are free to join local trade unions and to withdraw their labour;
- are not tied to a particular employer but can seek alternative employment, at least within the horticulture industry in the same geographic area;
- are protected by the same health and safety legislation and industrial accident compensation arrangements as Australian or New Zealand workers;
- pay Australian or New Zealand taxes, are treated on equal terms as residents for tax purposes and are eligible for medical treatment under the universal health care system;
- are guaranteed a minimum length of stay and a minimum amount of work in Australia or New Zealand (enough to cover their expenses and generate reasonable savings);
- have a reasonable expectation of being re-employed in subsequent years;
- can bring complaints to an independent monitoring authority, which oversees the operations of the scheme;
- do not bear the full costs of the scheme but share these costs with their employer (and are not subject to onerous deductions from their pay);
- can expect sanctions to be applied to employers who fail to honour employment contracts, offer substandard accommodation, or create unsafe workplaces.

While the policy emphasis should remain on designing a temporary scheme, which is circular in nature, it is important to bear in mind that importing 'labour' involves people not goods. Over the course of time, there will no doubt be some Pacific island workers who will form personal attachments with local citizens or residents and have strong reasons to remain in the host country. Equally there may be employers who desire that particular workers remain in permanent full-time employment for 12 months of the year and who are willing to sponsor those employees and their family as permanent migrants. Such a balance between policy emphasis and individual choice is entirely consistent with many prevailing temporary worker schemes in the world. It would be unfortunate to duplicate the situation that exists under the Canadian scheme, in which workers may spend the majority of their time in Canada (up to 8 months per year) over a period of decades and yet gain no residency rights whatsoever—a status that Sharma describes as ‘permanently temporary’ (Sharma 2001).

BEYOND TRADE AND ECONOMICS

Policymaking in the area of labour migration is 'an inherently moral exercise that involves a discussion of values and ethics, not just of facts' (Ruhs, 2005). If the issue of labour market access is presented as a trade issue or purely in terms of an economic exchange, then this removes the development focus of the process and downplays individual rights and the potential for adverse social impacts.

If Australia or New Zealand are to introduce a seasonal employment scheme and open up its labour markets to Pacific island workers, then the starting point should be a series of small-scale pilot projects. However, the scheme should not be conceived solely in economic terms or seen as a bargaining chip in trade negotiations intended to further liberalise Pacific island economies. Rather, it should be regarded as a development opportunity: a mechanism to advance, however modestly, sustainable economic and social development in the communities from which the
workers come, and to encourage the expansion of ‘people-to-people’ contacts between Australia, New Zealand, and the Pacific.

A model for this approach can be found in Agricultores Solidarios (Farmers for Solidarity) in Spain. The Farmers Union of Catalonia, the Livestock and Produce Farmers of Valencia, and the Farmers Union of Majorca have set up a program to meet their need for additional seasonal labour while also encouraging human, economic, and social development in less-favoured agrarian societies (Peix, no date). Under the program, seasonal migrant workers are recruited from Colombia, Morocco, and Romania. There is a strong emphasis on training and on encouraging positive interaction between the migrant workers and their host communities in Spain. Program coordinator Maria Peix describes it as ‘a two-way exchange that involves civil society,’ with the temporary workers becoming ‘development agents that boost new processes led by themselves in their countries of origin.’  

The ‘sister city’ relationships that exist between some local councils in Australia and towns or regions overseas could provide a model here. Under this scenario, a specific Australian municipality might develop a seasonal labour program with a particular island or region in a Pacific nation. The Australian government and the Pacific Islands Forum would create the framework and lay down minimum rules and standards for the scheme, and would approve any specific arrangement before it commenced, but it would be up to local communities to initiate the project and make it happen. For example, the town of Robinvale in Victoria, which has a significant Tongan-born and Tongan-descended population, might seek to develop a seasonal labour program with a particular region or island in Tonga, building on pre-existing links and personal connections and indeed harnessing social capital to lower the costs and increase the benefits of labour mobility. In addition to recruiting seasonal workers for horticulture, community organisations (perhaps church groups) could take a lead role in organising social events and cultural activities to welcome the workers into the community. Tonga-related educational activities could be devised for local schools, and information evenings could be convened to help prepare locals for the seasonal workers arrival. Workers would be engaged in some level of formal training—for example in first aid, chemical safety, and handling—to ensure that they go home with useful skills as well as money in their pockets. Service clubs (Rotary, Lions), churches, and other groups might engage in fund-raising for the sister community (helping to purchase books for Tongan schools or equipment for a medical clinic), while volunteer programs (Australian Volunteers International and Australian Business Volunteers) might co-ordinate development activities (e.g., visits to Tonga by surgeons or other health professionals for special clinics). Community-based organisations in both countries could co-operate to develop ways for remittances to contribute to general development activities through micro-finance schemes, small business programs, and the education of young women. Linking specific localities in this way would help to create a bond between communities in Australia and the Pacific and foster people-to-people links: each community would have an investment in the success of the other and in the success of the seasonal labour scheme. Seasonal employment programs for Pacific Islanders to work in Australian horticulture are not a panacea for the challenges of unemployment and underemployment in Forum member countries. Nor will such schemes transform the economic development prospects of small island states. Nevertheless, a seasonal labour program does have the potential to make a material difference to the well-being of significant numbers of Pacific island workers and their families and communities, especially those living in rural areas and outer islands. It also has the potential to significantly ease the seasonal labour shortages that hold back the horticultural industries in Australia and New Zealand, and to add symbolic value as a gesture of goodwill by the region’s two major powers towards their Pacific neighbours.
In conclusion, it is worth noting that inaction is also a policy decision. As outlined above, current labour shortages in seasonal horticulture result in relatively high rates of illegal employment. Unless there are initiatives to increase the supply of legitimate workers, the existing problems will continue and potentially worsen. This is a lose-lose-lose situation for employers, workers and government. Employers run the risk that raids will interrupt their peak harvest and be fined for breaking the law; undocumented workers remain vulnerable to exploitation, arrest, and detention; legitimate workers run the risk that their wages and conditions will be eroded by illegal employment; and government must continue to finance expensive immigration compliance activities that foster ill-feeling in the horticultural industry and local communities.
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Notes

1 This research was part of a broader program of work carried out for the Pacific Labour and Australian Horticulture project at the Institute for Social Research at Swinburne University of Technology. This project is funded by the Australian Research Council as an industry linkage grant. The industry partners are the Sunraysia Mallee Economic Development Board, the Swan Hill Rural City Council and Oxfam/Community Aid Abroad. However the views expressed in this paper are those of the authors and do not necessarily represent the views of the industry partners.

2 The original length of time to work with one employer was 3 months, but this period was doubled in May 2006. Australia has reciprocal working holiday maker relationships with Britain, Canada, the Netherlands, Ireland, Japan, South Korea, Malta, Germany, Sweden, Denmark, Norway, Finland, Hong Kong, Taiwan, Cyprus, Italy, Belgium, France and Estonia. Under Australia's free trade agreement with Thailand, young Thai citizens can also apply to work in Australia but they are subject to the additional requirement that they hold tertiary qualifications.
In April 2005, the government offered a second 12-month visa to travellers who engaged at least 3 months of ‘harvest work’, and in May 2006, the government included fishing, pearlaring, shearing, abattoir work and forestry in the list of jobs that would qualify for a second visa.

See Annex G for details on the survey design and methodology and Mares (2006) for a more detailed report.

Under the Australian Standard Classification of Occupations (ASCO) agricultural and horticultural labourers are categorised as skill level 9 (the lowest point on the scale), which is insufficient to meet the points test for migration to Australia regardless of any other circumstances (such as offers of work, age or English language proficiency).

The general categorisation of horticultural work as ‘low skilled’ or ‘unskilled’ is misleading since it downplays the knowledge required for handling specific crops and tasks (incorrectly pruned vines produce table grapes that are less attractive to consumers in size and shape; stone fruit that is handled roughly or picked when it is too hot will spoil before it gets to market; inexperienced orange harvesters are more likely to injure themselves in falls from ladders).

One perceived shortcoming of the survey data identified in that meeting was its failure to adequately capture the implications of major agricultural investments currently being undertaken in the Swan Hill-Mildura region. While responses were received from 16 growers with landholdings of 100 hectares or more, our industry partners and other industry figures familiar with the region were aware that there were a number of major projects in development.

A distinction is made between the Working Holiday Maker Scheme in Australia and New Zealand and seasonal agricultural labour schemes elsewhere for two reasons. Firstly, the Working Holiday Maker program is not limited to agricultural; secondly, it was never designed to be a labour market program but was intended to be ‘experiential’, allowing young travellers to ‘supplement’ their travel funds through ‘incidental employment, and to experience closer contact with a local community’. (Australian Government, n.d.)

In one case, Thai farm workers reported paying US$2000 to a recruiter to join the H-2A program (Ward, 2005).

15,123 workers came to Ontario in 2004 (FARMS statistics http://www.farmsontario.ca/index.htm.)

Private interview with Human Resources and Skills Development Canada; Toronto, June 2005.

HRSC recently merged with Social Development Canada; Toronto, June 2005.


Foreign Agricultural Resource Management Service Ontario (FARMS) Employer Information Booklet 2005


The exception is British Columbia, which does not admit migrant workers to its health care system – see: http://www.justicia4migrantworkers.org/bcviolating.pdf

‘Discover Ontario: work opportunities in agriculture’ FARMS promotional video supplied to the author.

Private meeting with Human Resources and Development Canada, Toronto, June 2005

For example, Leigh Binford writes, Mexico’s Ministry of Labour ‘seeks out males from rural areas who are in good physical condition, possess little or no land, resources, or non-agricultural marketable skills, and who are generally married and responsible for maintaining several dependants’ Binford also notes that these selection criteria favour people ‘whose desperation to work ensures that they will form a relatively docile and pliable labour force’ (Binford, n.d.).

A news article cites the example of a construction worker who must use breathing apparatus and a body harness in a confined space. The harness must be attached by a rope to a worker equipped with an alarm standing outside the confined space. There are no such requirements for an agricultural worker in similar circumstances, such as cleaning out a tank or silo (Richmond, 2006).


For example in 2002 the Canadian Government implemented a pilot program to provide temporary visas to workers from any country in any low-skilled occupation, which has produced some notable scandals, involving worker exploitation. See, for example, Ferguson (2004b).,

FARMS (Foreign Agricultural Management Service) Regional Report: Caribbean/Mexican Seasonal Agricultural Workers Programs as of 31/12/2004.


For a definition of residency rules for tax purposes, see http://www.ato.gov.au/individuals/content.asp?doc=/content/64131.htm


An alternative would be to retain the 29% tax rate but provide an automatic 16% tax refund to workers after they leave Australia, and so reduce the total tax take to 13%. This would have the added effect of creating an additional incentive to return home.
Obviously there is a strong equity argument that Pacific island workers should also benefit from the tax-free threshold and this would obviously increase their savings potential further. However, it would also introduce a requirement for all Pacific island seasonal workers to complete annual tax returns in order to reclaim tax paid on their initial AUD$6,000 in earnings, which would render the system far more complex.

PACER entered into force in October 2002 and PICTA entered into force in April 2003 after six countries ratified it. The text of the two agreements can be found on the Forum Secretariat website at www.forumsec.org.fj. The EPA negotiations are scheduled to be completed by December 2007

Iosefa Maiava, Deputy Secretary General of the Pacific Islands Forum Secretariat, World Bank seminar Suva, November 2005.

For example, under Fiji’s Employment Act, signing a contract in Fiji allows provisions of the Act to apply, while signing a contract overseas does not.

One US-based labour hire firm made direct contact with the authors to inquire about our research. Labour contractors have also made submissions to the inquiry into Pacific Region Seasonal Contract Labour being conducted by a committee of the Australian Senate. See http://www.aph.gov.au/Senate/committee/eet_ctte/contact_labour/submissions/sublist.htm

For details of the Temporary Labour Working Group and their code of practice for labour recruiters in the agriculture and fresh produce sector, see http://www.lpcode.co.uk/index.asp

In one case, Filipino chefs were working up to 60 hours per week but receiving pay that was below the award wage for a standard 38 hour week (McLennan, 2006).


Article 50 of the EU-ACP Cotonou Agreement: ‘the Parties reaffirm their commitment to the internationally recognised core labour standards, as defined by the relevant ILO Conventions, and in particular the freedom of association and the right to collective bargaining.’ [http://europa.eu.int/comm/development/body/cotonou/agreement/agr21_en.htm]

ILO C. 97 Migration for Employment Convention (Revised), 1949 and ILO C. 143 Migrant Workers (Supplementary Provisions) Convention, 1975.

The states that have acceded to or ratified the Convention are Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Cape Verde, Colombia, Ecuador, Egypt, El Salvador, Ghana, Guatemala, Guinea, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Uganda and Uruguay. (United Nations press release 19 March 2003). http://www.unhchr...