

Primary Agriculture Review
Recommendations
BC Fruit Growers' Association

July 6, 2018

The BCFGA represents about 480 family farms that grow tree fruit (apples, cherries and others) in the Okanagan Valley. Annual farm gate sales in 2016 were \$160 million annually and direct and indirect economic activity is estimated at \$720 million annually. The Okanagan has dry weather, abundant summer heat, and cool fall nights which help to produce high quality tree fruit. Water is also available as high elevation snowpack melts and fills reservoirs for irrigation of crops.

Tree fruit, like some other horticultural crops, is highly labour intensive. Some new technology and horticultural practices help to reduce the labour requirement, but tree fruit still requires a relatively large amount of labour, at 50-70% of the variable cost, compared to most other industries. Domestic labour shortages for horticulture are well known in Canada and the US. The current availability of the 7,000 Seasonal Agricultural Worker Program (SAWP, since 2004) has allowed the cherry industry to expand rapidly and seize on export market opportunities. Apples have halted a long-term decline in acreage, and for the past 4 years, acreage has grown modestly as adequate SAWP labour has helped overcome a significant barrier to growth in the sector.

This brief is to provide some context and specific comments on SAWP delivery, and provide specific answers to the Primary Temporary Foreign Worker Programs - Primary Agriculture Review.

SAWP is different from other TFWP streams.

The SAWP section of the Temporary Foreign Worker Program is one part of the Agriculture Stream. It is different from all other TFW Programs as it involves:

- a. **Annual Negotiation of an agreement** with tripartite interests represented:
 - i. The federal government is represented by Service Canada (upholding Canadian workplace standards and human rights).
 - ii. The governments of Mexico and the Caribbean SAWP countries are represented by their respective Ministries of Labour (upholding worker rights and fair treatment).
 - iii. The employers are represented by the Canadian Horticultural Council (the three named agents in the contract, FARMS, FERMES, and WALI represent their farm members interests).

- b. **A central registry of workplaces and worker accommodation** by Service Canada and the foreign Ministries of Labour.
- c. **A Canadian-based consular/liaison service operated by the Foreign governments to monitor implementation of the SAWP agreements and compliance with workplace regulation.**
- d. **A employer group that promotes the continued improvement in the quality of the program** as a way of maintaining both public and government support for the program.

For tree fruit growers in British Columbia, the TFW - Agriculture Stream (i.e. non-SAWP) Program is not used extensively and is not reviewed in this document.

Labour Market Impact Assessment (LMIA) - Program Performance

The Specialized SAWP / TFWP- Ag Stream Processing Centre provides the ability to provide highly efficient program delivery. While several changes in the Specialized Processing Centre have caused delays in 2018, there are indications that automation and training are improving the situation significantly for future years.

The BCFGA has discovered, through Service Canada's planning for a Migrant Worker Support Network pilot program in BC in 2018 and 2019, that SAWP employer and consular/liaison representatives recognize areas for improvement, but that this capacity is lacking almost completely in the regular TFWP. Sometimes grower associations feel that unannounced administrative changes and a willingness to be open to audit and improvement have placed an undue administrative burden on the SAWP program. The alternatives to SAWP are troubling:

- An increase in regular TFWP, weakening worker protections without involvement and oversight of consular/liaison services and employer associations.
- An increase in undocumented workers (this trend is new and has been noted by the BCFGA in 2018).

Growers and employer representatives have significant insight and involvement into the operations of SAWP. The other TFWP alternatives do not have this level of oversight. SAWP should be seen as a model.

Fees

The SAWP program benefits from substantial investment from foreign governments (recruitment, annual agreement negotiation, and consular/liaison service monitoring, education of employers, communication with provincial employment regulators) and employer groups (annual agreement negotiations, monitoring, education of employers, and communication with provincial employment regulators). These roles are performed by Service Canada for the regular TFWP, or the work is not done at all (and employees are placed at greater risk of workplace regulatory contraventions).

The SAWP program is annual, compared to a multi-year program with the TFWP.

Agriculture needs to be competitive, internationally. The market leader, with 30-50 times the annual sales volume of BC tree fruit production, is located in Washington State. There, industry sources have estimated that 80% of workers are “undocumented”, with no federal/state oversight or workplace protection. Unusually, Washington State also provides substantial grants for worker housing - with most of those workers being undocumented.

The BCFGA does not support any introduction of fees for the SAWP program. Industry is already investing substantial resources in the SAWP program compared to the TFWP-Ag Stream. Industry competitiveness is critical to success. The workplace protections provided by SAWP are not in place in market leading Washington State, and introduction of a fee would further impact competitiveness of Canadian tree fruit production. SAWP provides significant advantages over the regular TFWP-Agriculture Stream, and should be encouraged with incentives from government, not disincentives of fees. Therefore, the BCFGA recommends that there be no change in SAWP processing fee.

Automation

The BCFGA supports the automation of SAWP / TFWP - Ag Stream Specialized Processing Centre, as planned. Properly piloted, the program will yield increased efficiency, the ability to monitor program turnaround times, and for applicants to track their applications.

Simplification

The SAWP program could simplify its operations in two areas:

- a. Transfers and replacement workers. Some improvements to reduce processing requirements for replacement workers and for switching from previously-approved direct arrivals to transfer workers (these SAWP positions previously approved) were announced in the Spring of 2018. Specifically, no advertising and no new housing inspection were required if already approved previously. Unfortunately, an Labour Market Impact Assessment (LMIA) is still required - even though one is already approved for the *position* - and this process takes a minimum of two weeks. In the middle of a growing season, it is not possible to halt the horticultural process for a minimum of two weeks. Replacement workers and reclassifying an application from ‘direct arrival’ to ‘transfer’ needs to be simplified further and specifically exempt from a new LMIA.
- b. Trusted Employer Status. A streamlined process is needed for employers who have had no application and employment issues in prior periods. The trusted employer program could develop over time, but at a minimum should include:
 - i. A reduced frequency of housing inspection, with an annual declaration that no significant housing changes have been made that require a new inspection.

- ii. A simplified LMIA, with reduced advertising requirement in agriculture sectors that have an obvious and demonstrable labour shortage.

Summary

The competitiveness of the tree fruit sector in BC relies on adequate labour availability. It is well-established that local labour supply is inadequate to maintain and grow horticultural production, both in Canada and in the US.

The SAWP program is a model, and several improvements are suggested to increase efficiency and program performance. Industry does not favour introduction of a fee for LMIA processing, as this will not recognize the investment of foreign consular/liaison services and the industry associations in the operation of the program, compared to other TFWP options.

SAWP is essential for the continued growth in economic contribution of the horticultural sector in Canada.