

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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CANADA: SUBMISSION ON STREAM-SPECIFIC WORK PERMIT (SECTORAL PERMIT) FOR THE FISHING AND AGRICULTURAL STREAM

Amnesty International welcomes the opportunity to participate in the Canadian federal government consultation to reform the Temporary Foreign Worker Program (TFWP). This document provides feedback to the proposal on the creation of stream-specific work permit, or so-called sectoral permit, for the New Temporary Foreign Worker Agriculture and Fish Processing Stream.¹

REFORMING THE TFWP: THE NEED TO MOVE TO OPEN PERMITS

Amnesty International recently released a report on the TFWP, *“Canada has destroyed me”: Labour exploitation of migrant workers in Canada*, which found that the current design of the TFWP is inherently discriminatory and exploitative.² The report found that the closed work permits issued to low-wage workers under the TFWP, which tie racialized migrant workers to a single employer, put workers at high risk of labour exploitation and other abuses. Workers are subjected to long working hours without breaks or rest, wage theft, inadequate housing and medical care, discrimination, and unsafe working conditions which sometimes lead to serious injuries, as well as verbal, physical, sexual, and psychological abuse. Closed work permits also hamper migrant workers’ access to adequate remedies; they may face reprisals if they report abuses, including unfair dismissal, non-renewal of their contracts, and repatriation to their home country. Many cannot afford to take these risks, and if they do, the reprisals they experience can make pursuing justice out of reach. Amnesty International has called on the Government of Canada to address the inherently exploitative and discriminatory design of the TFWP by issuing open work permits to TFWP workers, so they can enjoy the right to freely choose and change jobs and employers, as Canadians and migrant workers with open work permits do.

Amnesty International regrets the limited ambition of the proposed reform and hopes it is the first initiative towards ending the discrimination and labour exploitation endemic to the TFWP. As such we wish to highlight some of the shortcomings we see in the current proposal.

First, the proposal is limited in scope to the Agriculture and Fish Processing Stream, despite the fact that labour and human rights abuses affect workers across many different sectors within the TFWP. People who work in care, construction, hospitality, domestic service and other jobs outside of agriculture and fish processing will remain trapped in the inherently exploitative closed work permit.

Second, the proposed sectoral permit also fails to adequately address the current shortcomings of the TFWP for the occupations that fall within its scope. Sectoral permits should not be the answer when a perceived labour shortage is in fact due to recruitment difficulties in the domestic labour market that result primarily from poor wages and working conditions. This is particularly the case in lower paid roles, which are often predominantly filled with racialized migrant workers who are disproportionately impacted by systemic racism, exploitation and structural inequalities. Sectoral permits cannot be a means to bind workers to sectors where typically poor wages and working conditions would increase their risk of labour exploitation, abuse and discrimination.

While Amnesty International is not making a submission on the “Wages and Deductions” discussion paper, we support the proposal that the new Stream would require all employers to pay workers the regional median wage, as posted on Job Bank, for the applicable occupation and region. This would help to address some of our concerns regarding sectoral

¹ The organization already provided feedback on the proposal on employer-provided accommodation. Amnesty International, Canada: Submission on Housing Requirements for Migrant Workers, 9 September 2024, <https://www.amnesty.org/en/documents/amr20/8494/2024/en/>

² Amnesty International, *“Canada has destroyed me”: Labour exploitation of migrant workers in Canada* (Index: AMR 20/8807/2025), 30 January 2025, <https://www.amnesty.org/en/documents/amr20/8807/2025/en/>.

permits trapping workers in sectors that face recruitment difficulties due to low wages, and regarding discrimination and the targeting of racialized workers from other countries for low-pay work. While Amnesty International encourages the government to set the regional median wage as the minimum wage for all workers within the TFWP, other concerns about sectoral permits remain, including concerns that sectoral permits trap workers in sectors with poor working conditions.

Finally, as will be addressed in further detail below, sectoral permits, like closed work permits, leave no alternative for workers who are severely injured at work and cannot return to occupations within the sector they were formerly hired, and may not adequately protect against “blacklisting” of employees who leave abusive employers. The proposed sectoral permit does little to address the discriminatory treatment suffered by racialized migrant workers, when compared to Canadians and migrant workers with open work permits.

DISCUSSION QUESTIONS

1. Worker mobility: what impacts (positive or negative) might the proposed stream-specific work permit have for workers?

First, the proposed stream-specific work permit will not enhance the mobility of workers who fall outside the stream, leaving workers in construction, care, hospitality and other sectors outside of agriculture and fish processing tied to a single employer with extremely limited mobility.

Second, for workers within the agriculture and fish processing stream, while the proposal could theoretically improve their mobility compared to workers with a tied work permit, several factors might inhibit their mobility in practice.

- Blacklisting could occur, whereby employers refuse to hire workers who are partway through the duration of their two-year stream-specific work permit and are looking to change jobs. This concern is especially relevant where workers are working in remote areas and small towns, and where the employers are likely to know and talk to one another. An employer may believe that an employee who is partway through their permit was terminated by their previous employer for being a bad worker or that the employee may have left a job where they were unsatisfied with the conditions and thus will be more likely to complain, speak out, “cause trouble”, and assert their rights.
- For workers in remote locations or small towns, there may be no other employers within the stream that are hiring, and if a worker cannot afford transportation to another part of the country, they might be unable to leave an abusive employer, even if there are nearby employers interested in hiring them to work in an occupation that does not fall within the stream.
- Finally, workers who are injured and can no longer work in any occupation within the stream would not benefit from increased labour mobility.

Granting open work permits to all people within the TFWP would be far more effective at increasing workers’ labour mobility and would ensure that migrant workers in the TFWP are not disadvantaged compared to Canadian nationals and migrant workers with open permits.

2. Work permit for up to two years: the stream-specific work permit, as proposed, would be valid for up to two years. Seasonal workers with two periods of employment (e.g. from March to October for 2 consecutive years) would get a stream-specific work permit with two periods of authorized stay that would align with the periods of employment. Workers would be required to return to their home country during the off-season. Those who would be able to secure a job offer within the stream during the off-season could be eligible to vary their period of authorized stay and remain in Canada until next season.

A. What are the benefits and risks associated with the alignment of the periods of employment (i.e. the job offer) with periods of authorized stay?

B. What are the benefits and risks associated with allowing seasonal workers to vary their period of authorized stay in Canada if they are able to secure a job offer after their initial contract?

Amnesty International has documented the barriers that workers under the Seasonal Agricultural Worker Program (SAWP) experience because of the short duration of their work permit. While all workers within the TFWP face barriers in accessing effective remedies for abuses or injuries, workers in the SAWP simply do not have time to engage in complaint procedures or seek effective remedies. The short duration of their permit also hampers their access to benefits that can only be collected while the worker is in Canada, including Employment Insurance and adequate continuous medical care.

Workers within the SAWP should not be required to return home during the off-season. While workers should be able to choose to go home and then return to Canada for the following season, they should also have the ability to remain within Canada, to ensure they can access effective remedies and benefits. Requiring workers to secure off-season employment in order to vary their period of authorized stay and remain in Canada makes people vulnerable to predatory recruiters or abusive employers. Tying the entitlement to remain in Canada to a job offer reproduces the power imbalance between employers and employees; if an employer hires many workers for the season and only needs to retain a few workers for the off-season, they could use the prospect of securing one of the limited off-season positions available to discourage workers from speaking out or asserting their rights. Under the current system, employers use the threat of early termination and repatriation, as well as of not being rehired for the following year to discourage workers from speaking out and reporting abuses.

Workers who are seriously injured would likely be unable to secure off-season employment within the Stream because of their injury and would instead be forced to return home, thereby inhibiting their ability to access the Employment Insurance benefits they paid into, continuous medical care and other remedies. For all workers, including those who do not carry out seasonal work under the TFWP, being forced to return home at the end of their permit can also inhibit their ability to access remedies if they experience labour exploitation, other rights abuses, or injuries.

Rather than forcing workers to return home during the off-season unless they can secure an offer within the stream, workers should be allowed to remain in Canada for the duration of their permit.

All workers (regardless of whether they come for seasonal work) who are injured or who experienced labour exploitation or other human rights abuses should have access to health care coverage and an open work permit, and should be able to maintain their immigration status for a duration that enables them to seek and obtain effective remedies.

3. Availability of jobs: the ability for temporary foreign workers to change jobs with a stream-specific work permit depends on employers having open positions on their LMIA/TFWEA. An open position may exist because an employer has not yet hired a temporary foreign worker for the position, or because a temporary foreign worker left the position early.

A. What factors would employers consider before hiring a temporary foreign worker from within Canada who is looking to change jobs?

B. Within the proposed new stream, do employers expect that they would work together to hire only one worker together for two separate, consecutive work periods (one work contract immediately following another)? For example, if employer 1 needs a worker from March to July and employer 2 from August to October.

C. Will foreign workers be able to benefit from increased labour mobility?

D. What are the experiences of foreign government representatives and migrant worker support organizations supporting temporary foreign workers to transfer to/find an employer looking to hire a temporary foreign worker? How would the proposed stream-specific work permit and refillable LMIA/TFWEA impact this process?

A. Factors that employers might consider:

Amnesty International is concerned that employers may be unwilling to hire workers from the TFWP who are looking to change jobs, as they may perceive these workers as “uncooperative” or “troublemakers” who assert their rights. This concern is especially relevant where workers are working in remote areas and small towns, and where the employers are likely to know and talk to one another (which is more likely for employers within the same sector). This could leave these workers more vulnerable to abuse and less able to assert their rights.

B. Employers jointly hiring workers:

Amnesty International is concerned that the opportunity for employers to jointly hire workers within one stream-specific work permit could lead to control, coercion, and manipulation, and in practice resemble two separate, consecutive tied work permits. The two employers would necessarily be in contact about the worker’s work permit, conditions and performance.

C. Will workers be able to benefit from increased labour mobility?

As noted above, Amnesty International is concerned that several factors might inhibit workers' effective mobility within the agriculture and fish processing stream.

- Workers may experience blacklisting, particularly in remote areas and small towns, where employers are more likely to know one another.
- Workers in remote areas and small towns might also face difficulties in finding another employer hiring for an occupation within the stream that is nearby, but might be unable to afford transportation costs to travel to another part of the country where an employer is hiring within the stream.
- Finally, workers who are injured and unable to carry out tasks associated with jobs within the stream will be unable to benefit from increased mobility.

Experts have reported that in other countries that have implemented sectoral permits for labour migration programs, such as the UK and Israel, migrant workers in practice face numerous challenges in accessing labour mobility.³ These challenges often directly relate to the power imbalance between workers on the one hand, and employers and the intermediaries (such as recruiters and employer associations) who play a role in job transfers on the other hand.

D. Foreign Government Representatives

Involvement by foreign government representatives should not be required for workers to switch jobs. Workers should be able to fully enjoy their right to freely choose and change jobs and employers, as Canadians and migrant workers with open work permits do.

These potential shortcomings should be addressed through the provision of open work permits for all workers within the TFWP.

4. Impact on existing programs and services: how would a shift from an employer-specific work permit to a stream-specific work permit impact existing practices, programs, services, and provincial or territorial legislation? For example, is the employer-specific work permit a qualification for temporary foreign workers to receive existing services, benefits, or designations? What impact would labour mobility between provinces have on workers' access to social services?

While Amnesty International is not providing a submission on the "Health Care Provisions" discussion paper, it wishes to raise the concern that workers who leave an employer before they are covered by provincial or territorial health insurance could remain without access to healthcare.

In such situations, where workers within the TFWP do not have healthcare coverage through a province, territory, or private insurance paid for by the employer, the federal government must ensure they have access to essential healthcare. It could consider providing coverage through the Interim Federal Health Program.

5. Support for workers to change jobs: temporary foreign workers under the new stream would be authorized to change employers provided that the employer has a valid TFWEA with a position available within the stream.

A. What is the likelihood that workers would leverage the mobility of the SSWP and change jobs?

B. Would temporary foreign workers under the stream require support to change jobs such as seeking job opportunities, connecting with future employers, transport between job location, etc.?

Workers within the stream-specific work permit (SSWP) may face the barriers to changing jobs outlined above, including blacklisting, difficulties in finding a nearby employer that is hiring within the stream, and being unable to find employment within the stream if they are injured.

³ Amnistie internationale Canada francophone & Droits des travailleurs de maison et de ferme (3 October 2024) Permis de travail sectoriels et droits des travailleuses et travailleurs migrants : perspectives internationales [Webinar] https://www.youtube.com/watch?v=oh_tqAwZd9I

Of serious concern is the opportunity that the SSWP perpetuates for predatory recruitment and intermediary practices. It would be important that the government provide resources for workers to learn about available jobs and potential employers.

While the government could put in place supports to help workers cover transportation costs from one employer to another within Canada, open work permits would better address the barriers that workers face in changing jobs.

6. Fair distribution of costs to employers: some employers have expressed concerns that the proposed stream-specific work permit could lead to a practice whereby an employer attempts to hire temporary foreign workers who are already working for another employer, to avoid the investment of time and money to recruit workers and pay for their transportation to Canada.

A. How frequently do employers experience this happening today?

B. To encourage fair distribution of transportation-related costs among employers in cases where a temporary foreign worker changes jobs, the government of Canada is proposing cost-sharing options in a separate discussion paper on transportation requirements. Would cost-sharing of transportation costs among employers address employers' concerns, even partially?

Employers who hire Canadians invest resources into recruiting and are incentivized to treat them well and respect their rights in order to retain them, so they do not need to incur further costs to recruit other workers. There should be no difference for workers under the TFWP; employers invest funds to recruit them and should retain them through rights-respecting treatment.

7. Other considerations: what other considerations should the government of Canada be aware of in designing and implementing a stream-specific work permit?

All workers who are injured or who experienced labour exploitation or other human rights abuses should have access to immigration status which allows them to continue residing in Canada, health care coverage and an open work permit for a duration that enables them to seek and obtain effective remedies.

Racialized migrant workers should not be excluded from Canada's permanent immigration programs based on skill level or the type of position they are filling. The significant and ongoing demand for migrant workers in agriculture, fish and seafood processing and food and beverage processing, along with the other sectors for which the TFWP is used show that the demand in these sectors is anything but temporary. Canada's permanent immigration programs should value applicants coming to fill "low-skilled" jobs rather than excluding them through selection criteria that Amnesty International has concluded is discriminatory and racist.