

**Engendering Canadian Trade Policy:  
A Case Study of Labour Mobility in Trade Agreements**

by

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The research and publication of this study were funded by Status of Women Canada's Policy Research Fund. This document expresses the views of the authors and does not necessarily represent the official policy of Status of Women Canada or the Government of Canada.

June 2004

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Status of Women Canada thanks those who contribute to this peer-review process.

### **National Library of Canada cataloguing in publication data**

Main entry under title :

Engendering Canadian trade policy [electronic resource] : a case-study of labour mobility in trade agreements

Issued also in French under title: Intégration des considérations liées à l'égalité entre les sexes dans la politique commerciale du Canada.

Issued also in print format.

ISBN 0-662-36713-8

Cat. no. SW21-111/2004E-PDF

1. Labor mobility – Canada – Case studies.
  2. Sex discrimination against women – Canada – Case studies.
  3. Canada – Commercial policy.
  4. Free trade – Canada.
  5. Canada – Commercial treaties.
- I. Blouin, Chantal, 1971- .
  - II. Canada. Status of Women Canada.
  - III. Title.

HD5717.5C3E54 2004 331.12'791'0971 C2004-980148-1

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## **ABSTRACT**

This study examines Canada's commitments under labour mobility agreements associated with the North American Free Trade Agreement (Chapter 16) and the General Agreement on Trade in Services (mode 4) from a gender equality perspective. First, a gender analysis framework is designed to examine the agreements; second, the content of the agreements and immigration data are analyzed to identify differences in access to, and use of, the agreements by women and men. A more detailed examination of the agreements is provided through case studies of two groups: nurses and women business owners. The case studies illustrate differences in participation in, and impact on, government policy making by the two groups, and inadequacies in the various data sets necessary to evaluate the impact of trade agreements. The studies point to the complex interplay between domestic and international issues embedded in trade agreements.

## TABLE OF CONTENTS

LIST OF TABLES, FIGURES AND BOXES .....	iii
ACRONYMS AND ABBREVIATIONS.....	iv
PREFACE.....	v
ABOUT THE AUTHORS.....	vi
ACKNOWLEDGMENTS .....	vii
EXECUTIVE SUMMARY .....	viii
INTRODUCTION .....	1
Research Methodology .....	1
Content of the Report.....	4
1. LABOUR MOBILITY PROVISIONS IN TRADE AGREEMENTS:	
A GENDER ANALYSIS FRAMEWORK .....	7
Gender and Trade .....	8
Gender Analysis and Trade Agreements .....	9
Why a Gender Analysis of Labour Mobility Agreements?.....	10
A Gender Analysis Framework for Labour Mobility Provisions .....	12
2. ANALYSIS OF LABOUR MOBILITY PROVISIONS IN TRADE	
AGREEMENTS .....	17
Mobility Provisions in NAFTA (Chapter 16).....	17
GATS Provisions on Labour Mobility (mode 4).....	21
Gender Analysis of Labour Mobility Clauses .....	23
Conclusions.....	27
3. DATA ANALYSIS .....	28
Canada–United States: Labour Market Integration Through Temporary Workers? ...	29
NAFTA’s Labour Mobility Provisions Increasingly Used by Canadian and American Professionals .....	29
Gendered Patterns of Temporary Workers’ Movement .....	33
Age and Gender .....	35
Engineers and Nurses: Who Are the Temporary Workers? .....	35
Conclusions.....	37
4. CASE STUDY ON NURSES’ CROSS-BORDER MOBILITY.....	38
The Globalization of the Nursing Labour Market.....	38
Nursing and Mobility in Canada.....	39
Facts and Figures on Nurses’ Cross-Border Mobility in Canada .....	41
Views of Nurses’ Organizations on Labour Mobility Clauses.....	47

Consultations and Participation in Trade Policy Making: Labour Mobility.....	50
Conclusions.....	53
5. WOMEN BUSINESS OWNERS IN CANADA: A CASE STUDY .....	55
Women in the Services Sector .....	55
A “Woman Business Owner” .....	57
Labour Mobility Issues Identified by Women Business Owners .....	58
Perspectives from NAFTA and GATS Travel Data .....	60
Participation in Consultative Mechanisms.....	61
Conclusions.....	62
6. KEY FINDINGS AND RECOMMENDATIONS .....	66
General Recommendations .....	66
Summary of Key Findings and Recommendations by Chapter.....	68
APPENDIXES	
A Interview Questions for Government Officials.....	75
B Interview Questions for Nurses Case Study .....	78
C Interview Questions for Women Business Owners Case Study .....	81
ANNEXES	
A NAFTA Chapter 16 Temporary Entry for Business Persons.....	85
B List of Professions Eligible for NAFTA Treatment .....	91
C Annex 1 of the North American Agreement for Labor Cooperation.....	94
BIBLIOGRAPHY .....	96
ENDNOTES .....	109
ATTACHMENTS	
SAGIT Membership	
Canada Schedule, GATS, mode 4	
Canada –Schedule of Specific Commitments	

## LIST OF TABLES, FIGURES AND BOXES

### Tables

1	Employment in Canada in Professions Covered by NAFTA .....	25
2	Occupation Shares in Canada, Employed Men and Women, 2000 .....	26
3	Foreign Workers in Canada, by Country of Origin and Gender, Annual Flows, 1997 and 2001.....	30
4	Selected Non-NAFTA Visa Issued to Canadian Temporary Workers by the INS, 1996, 1999, 2000 .....	31
5	Canadian Non-Immigrants in the United States, Selected Classes of Admission and Age, Fiscal Year 2001.....	31
6	Foreign Workers in Canada from the United States, December 1, 1987, 1994, 2001 .....	33
7	Foreign Workers in Canada from Mexico, December 1, 1987, 1994, 2001.....	33
8	Top 10 Countries of Origin of Temporary Workers in the United States, Fiscal Years 1987, 1994, 2001 .....	34
9	Canadian Non-Immigrants in the United States Top 10 Occupations, Fiscal Year 2001 .....	36
10	NAFTA Employment Authorizations Issued by CIC to U.S. Citizens .....	37
11	Employed Registered Nurses and Nurses in Supervisory Positions, by Gender, in Canada, 1986–2001 .....	40
12	Canadian RNs Requesting Verification of Credentials and New RN Registrants from Foreign Countries.....	43
13	Age at Registration of Nurses Educated Outside Canada, 2001 .....	43
14	Number of Foreign-Educated RNs Working in Canada, by Place of Initial Graduation, Selected Foreign Countries, 2001 .....	44
15	Age at Registration of Canadian RNs, 2001, by Gender .....	44
16	TN Visas Issued to Canadian RNs by the INS .....	45
17	U.S. Survey of Graduates of Foreign Nursing Schools: Country of Origin of Respondents.....	45
18	Nurses' Reasons for Leaving Ontario.....	46
19	Number of Ontario RNs by Date of Departure.....	46

### Figures

1	TN Visas and other Work Visas Issued to Canadians (1987–2001) .....	32
2	U.S. Visas Issued to Canadians and to Canadian Women (1987–2001).....	32

### Boxes

1	Canadian Mechanisms for the Cross-Border Movement of Labour.....	5
2	Filipino Nurses in Canada .....	47

## ACRONYMS AND ABBREVIATIONS

APEC	Asia-Pacific Economic Co-operation
APFC	Asia-Pacific Foundation of Canada
CAWEE	Canadian Association of Women Executives and Entrepreneurs
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CFNU	Canadian Federation of Nurses Unions
CGFNS	Commission on Graduates of Foreign Nursing Schools
CIC	Citizenship and Immigration Canada
CIDA	Canadian International Development Agency
CNA	Canadian Nurses Association
CNAC	Canadian Nursing Advisory Committee
DFAIT	Department of Foreign Affairs and International Trade
DFID	Department for International Development (UK)
FAFIA	Canadian Feminist Alliance for International Action
FTA	Canada–United States Free Trade Agreement
FTAA	Free Trade Area of the Americas
GATS	General Agreement on Trade in Services
HRDC	Human Resources Development Canada
ICN	International Council of Nurses
IGTN	International Gender and Trade Network
ILO	International Labour Organization
INS	Immigration and Naturalization Services (US)
LCP	Live-in Care Giver Program
MFN	Most-favoured nation
NAALC	North American Agreement on Labour Cooperation
NAC	National Action Committee for the Status of Women, Canada
NAFTA	North American Free Trade Agreement
NFWBO	National Foundation for Women Business Owners
OECD	Organization for Economic Co-operation and Development
ONA	Ontario Nurses' Association
OWIT	Women in International Trade – Ontario
PN	Practical nurse
PRI	Policy Research Initiative
PWC	Philippine Women Center of BC
RN	Registered nurse
RNABC	Registered Nurses Association of British Columbia
RNAO	Registered Nurses Association of Ontario
SAGIT	Sectoral Advisory Group on International Trade
SME	Small and medium-sized enterprises
SWC	Status of Women Canada
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
WBOC	Women Business Owners of Canada
WHO	World Health Organization
WIDE	Network Women in Development Europe
WTO	World Trade Organization

## PREFACE

Good public policy depends on good policy research. In recognition of this, Status of Women Canada instituted the Policy Research Fund in 1996. It supports independent policy research on issues linked to the public policy agenda and in need of gender-based analysis. Our objective is to enhance public debate on gender equality issues in order to enable individuals, organizations, policy makers and policy analysts to participate more effectively in the development of policy.

The focus of the research may be on long-term, emerging policy issues or short-term, urgent policy issues that require an analysis of their gender implications. Funding is awarded through an open, competitive call for proposals. A non-governmental, external committee plays a key role in identifying policy research priorities, selecting research proposals for funding and evaluating the final reports.

This policy research paper was proposed and developed under a call for proposals in August 2001, entitled *Trade Agreements and Women*. Research projects funded by Status of Women Canada on this theme examine issues such as gender implications of Canada's commitments on labour mobility in trade agreements; the effect of trade agreements on the provision of health care in Canada; the social, economic, cultural and environmental impacts of free trade agreements on Canadian Aboriginal women; building Canadian models of integrating gender perspective into trade agreements; the repercussions of the trade agreements on the proactive employment equity measures for women that are applicable to private-sector employers in Canada; and the effects of trade agreements on women with disabilities.

A complete list of the research projects funded under this call for proposals is included at the end of this report.

We thank all the researchers for their contribution to the public policy debate.



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## ACKNOWLEDGMENTS

The research was carried out by Chantal Blouin, Heather Gibb and Ann Weston of The North-South Institute, with assistance from Maire McAdams, Carleton University. The team would like to acknowledge and express its appreciation for the support and guidance offered by members of the Advisory Committee: Kathleen Connors (Canadian Federation of Nurses), Evelyn Drescher (Citizenship and Immigration Canada), Christina Gabriel (Carleton University), Margo Gallagher (Department of Foreign Affairs and International Trade), Paul Henry (Citizenship and Immigration Canada), Dorothy Riddle (Service-Growth Consultants Inc.), Laurell Ritchie (Canadian AutoWorkers) and Allison Young (Department of Foreign Affairs and International Trade), acting in their individual capacities. In addition, many of those interviewed provided ongoing advice and assisted in filling in information gaps. We are very grateful for their assistance. All errors or omissions in this report are the responsibility of the research team.

## EXECUTIVE SUMMARY

This study employs a gender analysis framework to examine Canada's commitments under labour mobility agreements associated with the North American Free Trade Agreement (NAFTA) (Chapter 16) and the General Agreement on Trade in Services (GATS) (mode 4).

At present, trade agreements play a limited role in the broader migration arena. In view of the growing interest in discussing the temporary movement of certain categories of workers through trade agreements, such as the Free Trade Area of the Americas (FTAA) and in the World Trade Organization (WTO), it is timely to take stock of present and potential future implications of Canadian commitments, to consider the processes by which Canadian constituents are engaged, and to ensure the federal government's gender equality commitments are fully integrated into Canadian policy and processes. In addition, a gender analysis of the implications of these labour mobility agreements for Canadians contributes to the growing literature exploring the linkages between foreign trade policy and the broader domestic economy.

Key elements of the gender analysis framework used in this study are:

- a content analysis of the agreements;
- an analysis of the potential impacts of the agreements on women and men;
- an analysis of the availability and use by policy makers and stakeholders of related sex-disaggregated data; and
- an analysis of current mechanisms for consultation in the policy-making process and of participation by women in those mechanisms.

It was beyond the scope of this study to explore all gender dimensions; however, the gender analysis framework is applied to two groups — nurses and women business owners — to examine the impacts of the agreements for those groups. A full analysis would examine the respective issues for women and men in several categories and professions.

The analysis begins with a description of the labour mobility provisions of trade agreements to which Canada is party: NAFTA and GATS. The intent of these provisions is to support increased cross-border trade and investment by facilitating the movement of high-skilled workers, business managers and executives. These provisions may not be used by Canadian women as much as men since women occupy comparatively fewer senior management positions than men. In addition, women are more present in micro firms with no or very few employees, and thus not eligible for these business categories. Canadian women are in a better position to take advantage of NAFTA's clauses for professionals, since the NAFTA list includes categories, such as health professions, where women are strongly represented.

American and Canadian immigration data tracking the cross-border temporary movement of business persons have a number of important weaknesses, but some preliminary observations can be made. First, for Canada, the United States is the main destination and source country

for temporary workers. The NAFTA clauses for professionals have not created a North American labour market for professionals, but there appears to be a steady growth in the number of Canadians entering the United States. Not all these professionals resorted to the NAFTA-facilitated process, but it is now the most common way for Canadian professionals to enter the United States. Second, women represent about a quarter of temporary workers coming to and leaving Canada. This is also true for the movement of professionals under NAFTA, despite the fact that several female-dominated professions are included in the NAFTA list.

The case study on nurses in Canada illustrates the strong interplay between international and domestic issues. Thus, the main explanation for the increased use of the NAFTA labour mobility provisions by Canadian nurses going to the United States is to be found in domestic policy — budget cuts to the health care system, which lead to widespread layoffs of nurses. The analysis suggests that problems of nurse shortages and working conditions in the Canadian health system are better dealt with via a national human resources strategy for nurses. Given its position of not making any commitments on health services, Canada is unlikely to make any commitments under GATS or the FTAA, which would facilitate entry of health professionals to Canada. The feasibility and desirability of a temporary workers program (outside the realm of trade agreements) facilitating mobility of nurses is not demonstrated either.

The case study on women business owners finds that Canadian women business owners do not appear to make much use of the NAFTA and GATS labour mobility provisions. The study, however, reveals how inadequacies in sex-disaggregated data hinder evaluation of the economic benefits of the labour mobility agreements for Canadian women business owners. We are unable to determine whether labour mobility agreements have contributed to any increase in the value or quantity of exports by women business owners, particularly those providing services, or any increase in the number of Canadian women engaged in exporting. The analysis of participation by this group in government consultative mechanisms associated with the labour mobility agreements also suggests that a group that is not well organized (i.e., via trade unions, business or professional associations) will be less visible in government initiatives. We find a dearth of sex-disaggregated data for business-related government programs, and no consistent voice for women business owners in government policy in this arena.

Key findings and recommendations from the analyses and case studies are summarized in Chapter 6. They include the following.

- There are a number of gaps in the data, which present major barriers to a gender analysis. The study recommends that Canada initiate discussion on mechanisms to have the NAFTA partners make data on the movement of temporary workers more uniform, develop consistent terminology, and expand data collected to include the duration of a visa, by sex. There is a need for more detailed sex-disaggregated data on temporary workers coming into Canada, particularly professionals. In addition, better sex-disaggregated data on Canadian firms and exporters are needed to identify where women business owners are located,

evaluate the use of existing government support mechanisms by women and men business owners, and target priority areas for future initiatives.

- The Government of Canada should take steps to enhance the participation of women and gender experts in trade policy making. While the government has made efforts in recent years to open the policy-making process related to trade policy, gender equality has not been at the centre of these changes.
- The approach adopted in this study does not directly address the question of whether international trade policy is a mechanism for economic growth that benefits women and men equally. Our analysis suggests the processes by which policy is now developed do not advance the Canadian government's gender equality objectives. The federal government should establish a formal mechanism to ensure gender equality will be addressed as an ongoing part of the interdepartmental trade policy-making process. Responsibility for gender analysis of trade policy should not rest with Status of Women Canada, but, consistent with the government's own gender equality objectives, with the respective departments involved in the specific policy areas.

## INTRODUCTION

This study examines Canada's commitments under labour mobility agreements associated with the North American Free Trade Agreement (NAFTA) (Chapter 16) and the General Agreement on Trade in Services (GATS) (mode 4) from a gender equality perspective. It was made possible through Status of Women Canada's Policy Research Fund, which in 2002 focussed research on gender and trade.

We recognize that, at present, trade agreements play a limited role in the broader migration policy arena: many factors influence and govern the temporary movement of persons (see Box 1). In view of the growing interest in discussing the temporary movement of certain categories of workers through trade agreements, such as the Free Trade Area of the Americas (FTAA), it is timely to take stock of present and potential future implications of Canadian commitments, to consider the processes by which Canadian stakeholders are engaged, and to ensure the Canadian government's gender equality commitments are fully integrated into Canadian policy and processes. In addition, a gender analysis of the implications of these labour mobility agreements for Canadians contributes to the growing literature exploring the linkages between foreign trade policy and the broader domestic economy.

Governments have acknowledged the gender dimension in international trade agreements. In the Beijing Declaration Platform for Action, they agreed to "seek to ensure that national policies related to international regional trade agreements do not have an adverse impact on women's new and traditional activities" (UNIFEM 1995: 165(k)). In Canada, the government set out its objectives in the Federal Plan for Gender Equality (SWC 1995) to:

- implement gender-based analysis throughout federal departments and agencies;
- improve women's economic autonomy and well-being by, inter alia, encouraging women's entrepreneurship and promoting the economic security and well-being of women; and
- promote and support global gender equality.

The policy framework supporting gender analysis of Canadian trade policy thus appears to be in place. It is hoped this study will contribute to the further implementation of that policy.

### **Research Methodology**

A major challenge for officials tasked with implementing the government's gender equality policy objectives is understanding the "gender dimension" of seemingly gender-neutral policy areas, such as international trade agreements. A key objective of this research project was to develop a simple framework for analysis that could assist Canadian government officials engaged in the Canadian trade policy-making process in identifying and understanding the gender dimensions of those policies. Our analysis focussed on the domestic context within which Canadian trade policy is shaped and implemented. It was beyond the scope of the project to examine the relationship between international law addressing gender equality, for

example, the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) and multilateral economic agreements.<sup>1</sup>

Two case studies were developed to demonstrate the application of the framework and illustrate the richer analysis, as well as the information gaps that may become visible, as a result of this approach, which is consistent with the mandate of Canadian federal government departments to submit policy to a gender analysis.

The project began with desk research. A review of literature on labour mobility provisions in trade agreements (mainly GATS mode 4 and NAFTA) included literature on trade and labour mobility, gender and trade, and gender analysis frameworks, the interface between labour mobility agreements and immigration policy, and employment trends in the Canadian labour market. We then collected and analyzed Canadian and American data tracking the movement of temporary workers under NAFTA. (We were unable to obtain data for the temporary movement of workers into and out of Canada under GATS.)

This supported an analysis of the content of NAFTA (Chapter 16) and GATS (mode 4) and a preliminary gender analysis framework for labour mobility agreements to apply to one or more case studies.

In August 2003, we discussed the proposed scope of the research, the draft gender analysis framework and preliminary observations from the analysis of available data, and the content of the labour mobility provisions in NAFTA and GATS with members of the Advisory Committee. Based on that discussion, we decided to focus on two groups for case studies: nurses and women business owners in the services sector. We recognize that a more detailed gender analysis of the labour mobility agreements would examine more sectors, since the issues and implications may be different in each sector. In addition, such an analysis would compare the experiences of women in a male-dominated sector with those of men in a female-dominated sector. We were constrained, however, by both resources and availability of data to undertake such a wide-ranging study.

We conducted semi-structured interviews with federal government officials in the following departments in October and November 2003: Citizenship and Immigration Canada, Foreign Affairs and International Trade, Human Resources Development Canada, Industry Canada and Status of Women Canada. These provided insights into the policy-making and consultation process, and offered insights into how gender issues are perceived across government departments.

In addition, interviews were conducted with national and provincial nurses' associations and unions, representatives of associations of women entrepreneurs, two women members of federal government consultative mechanisms, two members of the former Trade Research Coalition, and a small sample of women business owners.

Midway in the project, we prepared a draft report for discussion with members of the Advisory Committee and some of those who had participated in the research at a one-day workshop in Ottawa. The purpose of that workshop was to obtain comments on:

- the gender analysis framework and its usefulness for government officials engaged in trade policy;
- our interpretation of the content of the agreements and the data analysis;
- the two case studies;
- our preliminary conclusions and recommendations; and
- the gaps in our research.

We also hoped the workshop would provide a useful opportunity for those actually involved in developing Canadian positions on labour mobility provisions to discuss gender analysis and gender issues in trade policy with gender experts inside and outside government. Unfortunately, not all Advisory Committee members were able to attend. Officials from the Canadian International Development Agency (CIDA), Citizenship and Immigration Canada (CIC), Human Resources Development Canada (HRDC) and Status of Women Canada (SWC) participated in the workshop, along with two academic researchers engaged in work on gender and globalization, representatives from the Canadian Nurses Association and the Registered Nurses Association of Ontario, and one woman business owner who had been interviewed for that case study.

The very lively workshop discussion drew attention to the importance of adequate sex-disaggregated data to support gender impact analysis. The lack of such data, participants felt, could suggest a lack of government commitment to gender equality. The lack of sex-disaggregated data on Canadian exporters, for example, makes it difficult to identify how men and women-owned firms may have benefited from the NAFTA labour mobility provisions. In addition, it is difficult to analyze Citizenship and Immigration Canada and United States Immigration and Naturalization Service (INS) data since they are not comparable. There are also gaps in the data collected. U.S. document counts do not reveal possible differences in duration of work permits issued to Canadians, which might be important for gender analysis. We do not have information showing whether people are changing status, or whether younger workers look on a period of temporary migration as a stepping stone in their careers. While Canada has extended employment rights to spouses, predominantly women, of individuals entering Canada under the labour mobility agreements, we do not have information on where the spouses find employment.

The discussion also highlighted the complexities in the relationship between the domestic economy and trade policy (e.g., changes in business cycles in the domestic market and government trade promotion initiatives for certain sectors, or cutbacks in public funding for hospitals and health care and the NAFTA provisions that facilitated the movement of Canadian nurses). There was also lively discussion on the potential trade-offs involved in addressing labour mobility concerns through trade agreements. In the case of NAFTA, for example, Canada has waived the labour market test. While this provides greater certainty and efficiency for companies, the labour market certification process required for temporary workers entering under other mechanisms offers potential benefits for Canadian workers: it requires employers to train and hire a specified number of Canadian workers for each foreign worker brought in to work.



Following the workshop, the draft report underwent considerable rethinking and revision.

### **Content of the Report**

The report begins with the gender analysis framework (Chapter 1) we have developed for labour mobility agreements. Key elements of the framework include:

- a content analysis of the agreements;
- an analysis of the potential impacts of the agreements on women and men;
- an analysis of the availability and use by policy makers and stakeholders of related sex-disaggregated data; and
- an analysis of current mechanisms for consultation in the policy-making process and of participation by women in those mechanisms.

Chapter 2 presents an analysis of the content of NAFTA (Chapter 16) and GATS (mode 4), drawing attention to areas of the agreements, which may be of particular relevance to women, in light of data on women's participation in the domestic labour market and business activity. Chapter 3 presents an analysis of available Canadian and U.S. immigration data on actual use of temporary worker visas by women and men, focussing on NAFTA visas. (At the time of writing, we were unable to obtain comparable data for business travel under GATS.)

The project then turns to the two case studies: nurses (Chapter 4) and women business owners (Chapter 5). The case studies illustrate the application of our gender analysis to two sectors. A discussion of the process by which Canadian policy with respect to labour mobility provisions is developed is included in Chapter 4. Both chapters then examine the nature and results of the engagement of each group in these processes.

Each chapter concludes with general observations. Chapter 6 summarizes the key findings and recommendations.

The relevant texts from NAFTA and GATS, and the questions that formed the basis for the semi-structured interviews are included in the appendixes.

**Box 1: Canadian Mechanisms for the Cross-Border Movement of Labour**

Labour mobility provisions in trade agreements are only one of an expanding array of mechanisms in Canada for managing the cross-border movement of labour. As outlined below, the bulk of these are unilateral, embedded in domestic immigration legislation and labour market regulations, rather than bilateral or multilateral agreements.

Immigration criteria have increasingly reflected Canada's labour market needs. In recent years, considerable emphasis has been placed on attracting *skilled immigrants* (i.e., people with expertise and experience in certain professions, in management and in high-tech industries). As one government document noted, immigration legislation has had to be adapted to "enhance Canada's advantage in the global competition for skilled workers" (CIC 2002a). The 2001 *Immigration and Refugee Protection Act*, which came into force in June 2002, has given more weight than in the past to *immigrants with skilled trades* (i.e., workers with technical and vocational training and experience). As many as 59,000 skilled workers immigrated to Canada in 2001 (27 percent of total immigrants).<sup>1</sup>

At the same time, the government has sought to facilitate the movement of workers on a temporary basis, with over 90,000 entering Canada each year (CIC 2002). Particular attention has been given to attracting *skilled workers to Canada on a temporary basis*. In evaluating a request for hiring a foreign worker, HRDC will now consider a broader range of issues, notably "labour market benefits" (such as whether that hiring will in turn create jobs for Canadians). Employers will no longer necessarily have their request rejected if a Canadian worker could be trained within 12 months to do the job. After two years in Canada, these temporary skilled workers can apply for landed immigrant status. In addition, the 2001 Act has made it easier for spouses/partners of temporary skilled workers to get "open" employment authorizations (i.e., which allow them to look for any work in Canada).<sup>2</sup>

The Act also expands the scope for *temporary entry of low-skilled foreign workers*.<sup>3</sup> This is in addition to the provisions for agricultural workers, live-in caregivers and sewing machine operators. A two-year pilot project is testing this approach to addressing Canada's low-skilled labour needs. It will involve an accelerated approval process by HRDC. At the same time, particular attention is to be paid to safeguarding the interests of Canadian youth, Aboriginal people, recent immigrants and people in areas of high unemployment, as well as the welfare of the low-skilled workers while they are in Canada, and to ensuring they leave at the end of their employment. Low-skilled foreign workers will be allowed to work in Canada for 12 months at a time, with a four-month waiting period in their country of origin before they are allowed another work permit. They will not be allowed to bring their spouses/families.

*Sectoral agreements* have been signed with the construction industry and tools/ machining trades. The construction agreement allows entry for up to 500 workers (ranging from bricklayers to construction labourers) over a two-year period (with 12-month contracts renewable for 12 months). In parallel, there is a commitment to train and hire Canadians (HRDC 2001a). The provisions under the tools/ machining trade agreement are broadly similar. Both expired in 2003.

Bilateral *memoranda of understanding* have governed the temporary movement of seasonal agricultural labourers from the Caribbean (from 1966) and Mexico (from 1974). A growing number of workers enter Canada each year under these agreements, with some 20,000 entering in 2002, in response to increasing demand from owners of farms and various agro-enterprises. The range of crops covered has expanded over the years, and both Mexican and Caribbean governments would like these arrangements to be extended to other sectors. For instance, it has been suggested that the proposed Canada–Caribbean free trade agreement include labour mobility provisions incorporating agricultural workers and workers in other sectors, such as tourism.

Finally, as noted elsewhere in this report, Canada has signed various trade agreements which allow for the temporary movement of professionals and intra-company transferees.

Notes:

1. PRI (2002: 30). This compares with 42,000 or 21 percent of total immigrants in 1996 (CIC 1999).
2. As in all cases, employment authorization is conditional on an applicant meeting immigration requirements concerning security, criminality and health.
3. Defined as skill levels C and D in the National Occupational Classification Systems (i.e., typically requiring a high school diploma, on-the-job training and/or some course or experience related to the job). See HRDC (2002).

## 1. LABOUR MOBILITY PROVISIONS IN TRADE AGREEMENTS: A GENDER ANALYSIS FRAMEWORK

This study brought together researchers with backgrounds in international trade theory and gender equality to examine the gender equality dimension of labour mobility provisions in trade agreements. If trade agreements are to be of benefit to men and women equally, it is our view that trade officials need a better understanding of the implications of their work for Canada's national and international commitments to promote and advance gender equality. They also need the support of gender experts who have a good understanding of the theory and implementation of trade policy.

An analysis of international trade agreements can be approached from a number of theoretical perspectives. A mainstream *economics perspective* is based on the premise that there are welfare gains to be achieved from the reduction and elimination of barriers to trade. This literature is mostly concerned with designing rules, which maximize liberalization. Another element, which receives much attention in this literature, is the principle of reciprocity, that is, the exchange of mutual concessions in multilateral or regional negotiations. Economic theory on its own cannot explain the necessity for reciprocity, as it predicts that the gains from liberalization are such that all nations should unilaterally adopt such policy.

A *political economy perspective* attempts to explain why reciprocity is crucial and why countries tend to maintain protectionist measures, despite the expected large welfare gains. This literature reveals that the costs associated with elimination of protection against imports are usually concentrated in a few industries, which are able to mobilize against the reforms, whereas the benefits from the reforms are diffuse and difficult to mobilize around. As a result, a reduction in tariffs as a stand-alone policy proposal will not find sufficient political support to move forward. The political dynamics for trade policy change will be very different if the export sectors of an economy are involved in the debate, given their different interests. During negotiations based on reciprocity, countries can gain better access to foreign markets for their exporters in exchange for import liberalization at home. From the perspective of achieving greater liberalization adopted by this body of scholarship, it is important that trade negotiations include a large number of sectors and issues, to facilitate the process of exchanges of concessions and of building pro-liberalization coalitions at home.<sup>2</sup>

The increasing interest of economists in the politics of trade policy brought them closer to the research questions investigated by political scientists on the determinants of trade policy. However, in contrast to economists, "political scientists have tended to see protection as the norm and have puzzled over why a country would ever liberalize its trade policy or adopt free trade. Politically, protectionism seems eminently reasonable. Explaining both protectionist and free trade policies and their change over time has occupied political scientists" (Milner 1999: 92).

One important variable examined as a determinant of trade policy is the preference of domestic groups. Researchers have identified the characteristics of groups that tend to favour or oppose protection, but have been less successful in specifying the conditions under which

groups will be influential and able to achieve their preferences. The reasons for the shift toward free trade observed in the 1980s and 1990s in industrial and developing countries, for instance, are not well understood. Political scientists observed that export-oriented business groups became more influential in domestic trade policy making in many countries and succeeded in embedding the neo-conservative policies they support in trade agreements (Clarkson 2002). Others have pointed to the change in policy preferences of policy makers toward free trade. But, there are few theories about the conditions under which policy makers will abandon previous ideas or ideologies and adopt new ones, and develop new preferences (Clarkson 2002).

Political and other social scientists have also tried to understand the impact of trade liberalization and trade agreements. Economists have focussed on the welfare impact, the impact on growth and development, adjustment costs and distributional impact. Most mainstream theoretical and empirical studies have stressed the net economic benefits of liberalization, but there are still debates about the impact of trade liberalization on economic growth and development. Some researchers focussing on the adjustment costs of liberalization for certain groups and communities have stressed the negative impacts of such agreements and reforms. Other social scientists have also investigated the political and social impacts of trade liberalization and trade agreements. One central question in their work, which is part of the larger international political economy research on globalization, has been the impact on state capacity and sovereignty.

## **Gender and Trade**

A large part of the literature on gender and trade agreements focusses on the economic, political and social impacts of trade agreements. Trade liberalization affects different groups of people in different ways, both positive and negative. Gender-based differences<sup>3</sup> in the implications of trade policies for men and women are a result of the different access women and men have to ownership and control of productive resources (land, credit and their own labour), decision making and participation. The growing literature on gender and trade is contributing to a better understanding of how women and men are affected differently by trade policies, as well as how men and women have a different impact and influence on trade patterns and policies.<sup>4</sup>

The gender implications of trade liberalization have been more extensively studied in developing countries than in industrialized countries.<sup>5</sup> Çağatay and others, however, have drawn attention to how trade liberalization takes place as part of a package of market deregulation, privatization and fiscal austerity, issues that are relevant to both developing and industrialized economies. For example, trade liberalization can reduce customs revenue. Governments may not have the administrative or fiscal capacity to ensure safety nets and other mechanisms will be in place to offset negative impacts for the domestic economy, which can include employment and displacement effects, and transformation of work. They can also include shifts in the production of non-marketed goods and services, as when female children take on the unpaid, care work previously performed by women. A complete understanding of the implications of trade liberalization and related changes

in government policy must address the potential impacts on unpaid work — and the implications of unpaid activities for women’s ability, or choice, to take advantage of potential opportunities presented by trade reform. Research suggests that increases in women’s paid activities have implications for their unpaid activities. Either the unpaid activities are reduced (because that work is not taken up by other providers, for example, through publicly provided day care) with potential negative effects on families and communities, or women’s leisure time is reduced, as women add paid activities to their unpaid workload.<sup>6</sup>

Other studies examine whether or how trade agreements contribute to gender equality<sup>7</sup> and women’s empowerment,<sup>8</sup> timely questions in light of the 2005 review of progress in implementing the Beijing Platform for Action and the Millennium Development Goals. MacDonald (2001) has identified two approaches to feminist analysis of trade agreements. The liberal approach focusses on how women can take advantage of economic opportunities created by trade agreements. This is in opposition to what she calls a “socialist” perspective in which the benefits of trade agreements to women are considered too limited, and attempts to reform current trade policy making are mostly futile.

Research suggests that in the absence of a gender analysis of needs and objectives, opportunities to advance economic sectors in which women are strongly represented may have been missed, or outcomes may have exacerbated existing gender inequalities. Gender-based inequalities in access to productive resources (land, credit, education, skills, time) may constrain productivity and growth improvements anticipated as a result of changes in trade policy (Çağatay 2001; WIDE 2001).

There has been less analysis of the gender implications of GATS. However, many women’s organizations have raised concerns about the implications for access, availability and affordability of food and nutrition, public health, basic social services, such as health and education, and access to critical natural resources, such as water and energy. Other studies have drawn attention to a gendered “transnational economy of domestic labour” in which low-skill women workers from developing countries assume the role of a substitute for (weakened) public services in the developed countries (Young and Hoppe 2003).

This study on the labor mobility clauses in trade agreements contributes to the body of work on the gendered impacts of trade agreements. It adopts a decidedly “liberal” approach, using a gender analysis framework to examine whether Canadian women, in particular those groups identified in the case studies, have been able to advance their economic interests equally with men through those agreements.

### **Gender Analysis and Trade Agreements**

A gender analysis helps reveal the linkages between trade liberalization and the domestic economy: it helps policy makers better understand areas where trade liberalization may advance broader domestic goals, and where trade agreements may actually undermine other public policy priorities. The objective of a gender analysis of trade policy, then, is “to bring about the most favourable results from trade expansion, by compensating for ill effects and

by promoting the sustainability of gender benefits from trade. Unless trade policy specifically addresses gender issues, trade liberalization and expansion may exacerbate gender inequality” (BRIDGE 2001: 41).

Governments recognize that trade agreements have gendered impacts. In 1995, member governments of the United Nations agreed in the Beijing Platform for Action to “seek to ensure that national policies related to international and regional trade agreements do not have an adverse impact on women’s new and traditional activities” (UN 1995, para 165(k)). While gender equality rights are not, at present, explicitly integrated in international trade agreements, such as NAFTA and GATS, multilateral organizations concerned with advancing a trade and investment liberalization agenda are beginning to recognize these are relevant issues. The Asia–Pacific Economic Co-operation (APEC) forum, for example, has recognized the significant role of women in economic development and the potential for gender-differentiated impacts of APEC activities. APEC has invested in gender mainstreaming and capacity building in gender analysis for its working groups and forums with its Framework for the Integration of Women in APEC (APEC 1999, 2002; Gibb 2002). The Trade and Development Board of the United Nations Conference on Trade and Development (UNCTAD) conducted an expert meeting in 2001 on mainstreaming gender to promote opportunities that addressed gender issues in trade in services (UNCTAD 2002). In May 2003, the Commonwealth Secretariat hosted a workshop for Commonwealth missions and gender and trade networks in Geneva, and a discussion on “gender and trade” is under consideration in connection with a WTO outreach event also in 2003.

The Canadian government has contributed substantially to gender mainstreaming initiatives in APEC and at the Organization of American States. In 1998, the then Minister for Foreign Affairs and International Trade, Sergio Marchi, established the Trade Research Coalition. The coalition produced a study of Canadian women exporters, *Beyond Borders: Canadian Businesswomen in International Trade* (Orser et al. 1999), which included recommendations to federal and provincial trade agencies on promoting export development for women business owners. In 2001, Status of Women Canada commissioned a series of studies on gender and trade through its Policy Research Fund. More recently, the Prime Minister’s Task Force on Women Entrepreneurs (2002) has been established to address issues relating to promotion of women entrepreneurs, including challenges faced by women entrepreneurs in exporting their goods and services.

### **Why a Gender Analysis of Labour Mobility Agreements?**

This study looks at how gender equality considerations are addressed in Canadian trade policy, specifically, the labour mobility agreements associated with NAFTA and GATS. The Canadian government’s Federal Plan for Gender Equality (SWC 1995) sets out the federal government’s objectives to:

- implement gender-based analysis throughout federal departments and agencies;
- improve women’s economic autonomy and well-being by, inter-alia, encouraging women’s entrepreneurship and promoting the economic security and well-being of women; and

- promote and support global gender equality.

Constitutional protection for gender equality is established in the *Canadian Charter of Rights and Freedoms*. Equality rights are also supported and advanced in Canada's international obligations and commitments such as the Charter of the United Nations, and the 1979 United Nations *Convention on the Elimination of All Forms of Discrimination against Women*.

Gender equality, according to the Federal Plan for Gender Equality means that:

women and men have equal conditions for realizing their full human rights and potential and to contribute to national political, economic, social and cultural development and benefit equally from the results. Equality is essential for human development and peace.

Attaining gender equality demands a recognition that current social, economic, cultural, and political systems are gendered; that women's unequal status is systemic; that this pattern is further affected by race, ethnicity and disability; and that it is necessary to incorporate women's specificity, priorities and values into all major social institutions (SWC 1995).

The multilateral institutions engaged in negotiating, monitoring and regulating trade policy are social as well as economic. Introducing a gender equality perspective to international trade policy, however, presents many challenges, including perceptions among trade officials that trade liberalization is about economic growth, while "gender" has to do with domestic social policy, such as social safety nets and, therefore is not relevant to trade negotiators. The rationale for trade as a tool for economic growth, however, acknowledges the distributive effect of trade policies (Çağatay 2001: 32), and thus demands examination. More specifically, the inclusion of labour mobility provisions in international trade agreements immediately brings "trade" into the realm of domestic issues related to immigration, labour market development and accreditation,<sup>9</sup> and has implications for other areas of social policy including labour standards and working conditions. Where the temporary movement of workers involves health providers or other social services, there may also be gendered implications regarding access to, and availability of, social services. The case of nurses included in this study illustrates how a trade policy aimed at facilitating trade in services and foreign investment has intruded into an area long considered the domain of social policy in Canada.

A gender analysis of arrangements affecting the cross-border movement of people to provide services is important, since the majority of Canadian women work in the services sector, and the majority of employees in services are women. In addition, studies on self-employment and business ownership indicate that women's businesses are substantially located in the service sector.<sup>10</sup> The greater availability of sex-disaggregated work force data helps support investigations into labour market impacts. However, gaps in the availability of sex-disaggregated data on business ownership and export activity by Canadian firms make it more difficult to evaluate the resulting benefits for women and men exporters.



While multilateral institutional arrangements have been developed to address liberalization of trade and financial flows, political sensitivities associated with liberalizing the movement of people across borders have constrained negotiations on agreements governing the movement of people to a very small group of high-skill professionals and business people. However, this issue may take on increasing significance in the Doha round of trade negotiations under the WTO.<sup>11</sup> Within the WTO, negotiations under GATS will involve increasing consideration of the movement of service providers. Both developed and developing countries are looking for increased liberalization under mode 4, with some developing countries wanting concessions under mode 4 to be extended from the present concentration on skilled professional and business services, to semi-skilled and less-skilled worker categories. The issue is also emerging within the FTAA and other sub-regional trade agreements that Canada is negotiating.

Canada's gender equality commitments are also relevant in other arrangements regarding the temporary movement of people. While it is not within the parameters of this study to explore bilateral arrangements regulating temporary movement of labour into Canada, there are policy-relevant questions about the relationship between commitments on labour mobility grounded in trade agreements, which are extremely difficult to modify, and those achieved through more flexible measures that can respond to changing domestic labour market conditions. The removal of the labour market test by HRDC officials under NAFTA may also have implications for Canadian objectives to advance gender equality in the private sector.<sup>12</sup>

### **A Gender Analysis Framework for Labour Mobility Provisions**

Gender analysis is a method for assessing how policies and programs can have different impacts on women and men, boys and girls.<sup>13</sup> This study develops a gender analysis framework and applies it to the labour mobility provisions associated with NAFTA and GATS. Discussions on services are also being addressed in the negotiations for the FTAA. However, the analysis in this study focusses on NAFTA and GATS. The lessons from this analysis could inform the emerging discussion on labour mobility in the FTAA.

The gender analysis asks several questions.

- Do professional categories in trade-related labour mobility agreements include sectors and professions where women are substantially represented in the Canadian labour market?
- Are there gender considerations in the implementation of existing agreements?
- Were gender considerations addressed in consultation mechanisms?
- What has been, or what potential exists, for gendered impacts or outcomes for Canadian women and men as a result of these trade commitments?

This analysis seeks to:

- illustrate how a gender-sensitive analytical framework and policy-making process could be applied in the context of Canadian trade policy;
- identify a more gender-inclusive process for policy-making in this area; and
- identify alternative policies and complementary measures that could promote gender equality.

The focus of our study is on women: how Canadian women's needs and interests have been reflected in, or affected by, trade-related mobility agreements. A full gender analysis would disaggregate further, inquiring into differences by race, ethnicity and age. However, our inquiry was limited by the availability of relevant data and resources. Through the two case studies, we focus on implications for women primarily in their roles as workers and as owners of businesses. We draw attention to potential implications for women in their role as consumers of services which may be affected as a result of liberalization. A detailed analysis of this dimension was not possible within the scope of the project. Our case studies examine implications for nurses and women business owners. A larger study would expand the selection of sectors to compare a male-dominated sector (for example, engineering) with a female-dominated sector, or the experiences of males in a female-dominated sector with the experiences of females in a male-dominated sector.

It is hoped the analysis will facilitate efforts by federal government departments involved in developing and implementing Canada's trade policy to ensure they are able to fulfill Canadian commitments to integrate gender considerations in policy, program and legislative work.

There are four main elements to the gender analysis framework:

- a gender-based analysis of the actual content of the agreements;
- a gender-based analysis of potential impacts of the agreements;
- a gender-based analysis of the availability and use of relevant sex-disaggregated data; and
- a gender-based analysis of existing consultation mechanisms and actual participation by women in the policy-making process.

### ***Content of Labour Mobility Agreements***

The gender analysis first examines the content of labour mobility provisions in NAFTA and GATS (mode 4). Do they contain any overtly gender-biased provisions? Are there "gender blind" commitments in those agreements that could affect women differently from men? Do implementation or enforcement mechanisms disadvantage, or have the potential to disadvantage, women as compared with men?

The analysis also asks whether there are contradictions between labour mobility commitments and domestic laws or policies relevant to women, for example Canada's gender equality commitments, and the *Canadian Charter of Rights and Freedoms*? Do the mobility

commitments linked with market liberalization have any implications for any Canadian initiatives aimed at supporting women-owned small businesses, or for women's access to education, training, employment or financial services?

### ***Labour Market Impacts***

Could labour mobility commitments result in gender differences in the supply of, and demand for, labour in Canada? Gender segregation persists in the Canadian labour market. The majority of Canadian women continue to work in occupations in which women have traditionally been concentrated: teaching, nursing and related health occupations, clerical or other administrative positions, sales and service (Statistics Canada 2001). Will actual or potential changes in labour market demand or supply resulting from labour mobility commitments have different implications for sectors where women and men are employed? Have they, or could they have implications for the gender composition of employment, wages or working conditions? To what extent do trade agreements ease or exacerbate labour market impacts of other domestic policies?<sup>14</sup>

Are there ethical issues to be addressed when the temporary movement of workers is governed by trade agreements? How should receiving countries respond to concerns about a "brain drain" from sending countries when the movement of scarce high-skill workers but not lower-skilled workers is facilitated through trade agreements? The case study of nurses presents an opportunity to explore these dimensions.

### ***Benefits for Women***

Trade agreements affect women as employees, as self-employed workers and as business owners. The analysis explores whether there are, or could be, differences in responsiveness to the needs and interests of Canadian women compared with men. Questions raised in this case study include the following.

- Who uses labour mobility mechanisms offered by NAFTA and GATS?
- Are there gender considerations in professional and technical qualifications for sectors listed in labour mobility agreements?
- To what extent are categories under "traders and investors" accessible to entrepreneurs in small and micro enterprises, where women entrepreneurs are substantially represented?
- Who can accompany visa holders for temporary residency stays (spouses, dependants)?
- Has the availability and use of these mechanisms contributed to improved competitiveness and export performance of women business owners?
- Are there ethical issues to consider when liberalization of a sector in which Canadian women are substantially present (e.g., nursing or health services more generally) may have potentially negative implications for consumers of that service in a developing country?<sup>15</sup>

### ***Sex-Disaggregated Data***

An analysis of sex-disaggregated data on business travel helps reveal patterns of use of labour mobility provisions negotiated under GATS (mode 4) and NAFTA (Chapter 16). A comparison of sex-disaggregated data on labour markets and business ownership in the services sector should reveal whether women and men are benefiting to the same extent from these provisions. This analysis could potentially identify sectors of opportunity or professions, where women are substantially engaged, to consider for inclusion in future negotiations should the analysis reveal positive results. Time series analysis of sex-disaggregated data on exporters could also assist in identifying impacts of trade agreements on target groups, or identify groups that are not benefiting.

Gender-based analysis is a process that assesses the different impacts of proposed or existing policy on women and men. It compares how and why women are affected by policy issues differently from men (SWC 1998). We were constrained by a lack of sex-disaggregated data that could have revealed differences in the experiences of male and female nurses who migrate or who do not migrate (wages, hours of work, seniority). Similarly, while there is considerable sex-disaggregated data describing the characteristics of the self-employed, we did not find comparable data on business owners, service providers and exporters that might explain why their firms tend to be very small. (For example, does the businesswoman own more than one company? Is the business a part-time venture intended to supplement household income in addition to other full- or part-time employment? What is the age and previous experience of the woman business owner?)

### ***Participation***

The final element of the gender analysis framework addresses gender issues in participation in the decision-making process.

- Who is consulted during Canadian policy deliberations on labour mobility agreements?
- Who participates on related sectoral advisory groups on international trade and industry sector councils?
- How are they selected? What are the criteria for selection?
- Why are certain sectors or professions included in agreements and others excluded? Who decides?
- Who, or what groups, regularly receive information on current government initiatives?
- How is information communicated to the public? (In this case, are women's business, professional, labour, academic, etc. networks included?)

The gender analysis framework is applied to two case studies: nurses and women business owners. The case studies enable us to look at the experiences of women in an organized sector (nurses, through trade unions and professional associations) and an unorganized sector (women business owners and service providers) and as workers (nurses) and

entrepreneurs (women business owners). The study of nurses allows us to inquire into potential implications for labour supply and demand as a result of the trade agreement. The studies highlight some of the complex linkages between trade policy and other areas of the domestic economy, and illustrate different issues with respect to availability and the use of sex-disaggregated data.

## 2. ANALYSIS OF LABOUR MOBILITY PROVISIONS IN TRADE AGREEMENTS

This chapter examines the content of the labour mobility provisions in trade agreements to which Canada is party. We first describe the content of these mobility provisions in NAFTA and GATS. Then, we focus on questions derived from the gender analysis framework set in the previous section. What is the presence of women in the categories of workers and temporary entrants covered by the agreement? Indeed, there are important differences in the employment and occupations of women and men, as sex segregation continues to be an important feature of labour markets. Once we have a clearer picture of the presence of women in the sectors or activities identified in trade agreements, we can better evaluate how women and men can take advantage of their provisions.

### **Mobility Provisions in NAFTA (Chapter 16)**

The provisions relevant to labour mobility in NAFTA are contained in Chapter 16 on temporary entry for business persons. The chapter states the rules facilitating the entry of four categories of workers and business peoples from Mexico, Canada and the United States: business visitors, traders and investors, intra-company transferees and professionals. Such facilitation is achieved by the removal of prior approval procedures or labour certification tests for individuals requesting entry, provided they comply with immigration requirements applicable to temporary entry (public health, security issues). In most countries, the entry of temporary workers is subjected to controls through which domestic authorities evaluate domestic labour market needs before authorizing the entry of foreign workers.<sup>16</sup> In Canada, this approval procedure is called the confirmation process and is performed by HRDC. In this process, HRDC “assesses offers of employment made by Canadian employers to foreign workers and develops an opinion on the likely effect of the employment of the foreign national on the labour market in Canada.”<sup>17</sup> The facilitated procedure for the temporary entry of business persons under NAFTA differs from the usual process with the absence of the confirmation process.

The North American Free Trade Agreement also stipulates a number of specific criteria of eligibility for each of the four categories of business persons it covers. It defines *business visitors* as business people engaged in one of the following seven categories of business activities: research and design, manufacture and production, marketing, sales, distribution, after-sales service and general service (including tourism personnel). The visitor must demonstrate citizenship in a member country, that the proposed business activity is international in scope, that she/he is not seeking to enter the local labour market, and that her/his primary source of remuneration and principal place of business are outside the country to which entry is being sought. Business visitors to the United States can stay for up to six months, and to Mexico for a maximum of 30 days.

*Traders* are defined as business persons who conduct substantial trade in goods or services between their country and the country into which they are requesting entry. In addition to the usual citizenship requirement, the applicant must prove that her/his firm has the nationality of one of the NAFTA countries and show that “the capacity in which he/she will be acting

is executive or supervisory in nature or involves essential skills” (DFAIT nd-a). *Investors* are defined as “seeking to establish, develop, administer or provide advice or key technical services to the operation of an investment to which the business person or the business person’s enterprise has committed, or is in the process of committing, a substantial amount of capital.”<sup>18</sup> The definition of “substantial amount of capital” is clarified in a pamphlet from DFAIT.

“Substantiality” is determined by using a “proportionality” test in which the amount invested is weighed against either the total value of a particular enterprise in question or the amount normally considered necessary to establish a viable enterprise of the nature contemplated. Only the amount already invested or irrevocably committed for investment can be considered in determining substantiality, and this should make up at least 50% of the total investment required.... Mere intent or prospective investment arrangements entailing no current commitment of funds will not suffice (DFAIT nd-a).

To gain entry as *intra-company transferees*, individuals have to show they are employed by an enterprise which is providing services to one of its subsidiaries or affiliates. Those services must be of a managerial or executive nature or involve specialized knowledge. The transferees must have been employed for one year within the three-year period preceding the date of application for admission. Those who are entering under the class of “managers/executives” can stay for up to seven years, and those entering under the “specialized knowledge” class can stay for up to five years.

The labour mobility provisions of NAFTA also remove the labour market test for *professionals* included on the list of 63 professions covered by the agreement (see the list of professions in the annex of the report). To qualify, a professional must be able to show a contract or a letter of offer from an employer in the country to which she/he is seeking entry and to prove her/his professional-level qualifications (in most cases a bachelor’s degree). Self-employed professionals are excluded from these provisions. This category of visa stands out from the others included in Chapter 16, which are clearly aimed at facilitating international trade and investment. Some analysts have suggested that the provisions create a de facto common labour market for Canadians and Americans for a number of high-skilled workers (with some limits for Mexicans), especially since there are no limits on the length of stay of these professionals.<sup>19</sup>

We should also note that the labour mobility provisions of NAFTA do not include a special mechanism to deal with refusals to grant entry. If a party refuses to grant temporary entry to an individual, it must inform in writing the business person and her/his government of the reasons for the refusal, but a party cannot use the dispute settlement mechanism of the agreement to challenge one specific decision on temporary entry. There has to be a pattern of practice by the defendants and the business persons must first use all the available administrative remedies and appeals.<sup>20</sup>

Moreover, NAFTA does not create waivers or special procedures regarding the employment of spouses accompanying persons seeking temporary entry. For example, spouses and dependants of Canadian professionals, transferees, traders/investors and business visitors entering the United States must qualify on their own merit for an employment authorization under NAFTA or must go through the regular job validation process applicable to all temporary foreign workers. On the other hand, in Canada, rules regarding employment of spouses of temporary workers are more generous. In 2001, CIC announced that spouses and partners of all skilled temporary workers (not only from NAFTA countries) would be given an “open” employment authorization that allows them to look for any work in Canada. Facilitated procedures for spousal employment are seen as a way to help the recruitment of skilled temporary workers in Canada. In the context of NAFTA, Canada is promoting the extension of reciprocal employment benefits to spouses and is pursuing this objective in the NAFTA Temporary Entry Working Group. To date, discussions have not made much progress in this forum. We should also note that there has been little discussion or progress at the WTO regarding spousal employment of service providers. Rules on spousal employment have important implications for women, as they are more likely to use them. For instance, in the pilot program Canada ran between 1998 and 2001 which allowed spouses of high-skilled workers to work in Canada, 83.5 percent of the 1,976 spouses taking advantage of the program were women.<sup>21</sup>

Before completing this section on Chapter 16 of NAFTA, we discuss briefly the rationale behind the inclusion of labour mobility provisions in NAFTA.<sup>22</sup> National governments are usually very reluctant to agree to binding measures which can potentially limit their capacity to protect their domestic labour market. A main driver for the inclusion of Chapter 16 was the view of business groups in the region that increased trade in services and increased cross-border investment would necessitate measures to facilitate the movement of business people (Young 2001: 245). For example, Canadian companies had run into problems when entering the United States to offer after-sale service to their clients. However, the rationale for the inclusion of professionals in these provisions has not been clearly expressed by the parties, even if we examine the blueprint for NAFTA, the Canada–US Free Trade Agreement. During these negotiations,

Canada proposed temporary entry for professionals who sought work in either the American or Canadian labour market. It is not exactly clear why this proposal was made and why the United States eventually agreed to accept it. Canadians were far more likely to use this provision to enter the larger American market where more opportunities for employment existed. It is conceivable that the Americans wanted to codify an illegal practice that had been taking place for some time, i.e. highly-skilled Canadians lying at the border in order to gain entry into the United States labour market (Young 2001: 246).

Nevertheless, it remains that the key factor to understanding the inclusion of these provisions is not the will to alleviate labour market needs, but the desire to facilitate trade in goods, services and foreign investment. Codified provisions for the temporary movement of business persons form a complementary aspect of international trade agreements. Hence, the objective



of Chapter 16 is limited. It does not aim at creating a common labour market, or even at creating the basis for such a common market. It aims at facilitating the temporary entry of some highly skilled workers and business people, while reflecting “the need [of NAFTA parties] to ensure border security and to protect domestic labour force and permanent employment in their respective territories.”<sup>23</sup>

In addition to Chapter 16, NAFTA had a side agreement on labour co-operation (North American Agreement on Labour Cooperation, NAALC) which includes provisions relevant to the issues of mobility and gender equality. The side agreement aims to ensure that each of the three parties enforces its own labour laws. The agreement identifies 11 principles they are committed to promote, but within the scope of their own domestic laws and regulations, not through common labour standards. The most relevant for this study are the principle that migrant workers should receive the same legal protection as nationals in respect of working conditions; the elimination of employment discrimination on such grounds as sex, race, religion, age; and the principle of equal pay for women and men (for equal work in the same establishment).

However, the enforcement of these principles through NAALC is quite weak. These three principles are not enforceable by sanctions. (Only rules on child labour, minimum wages and prevention of work injuries and illnesses can ultimately trigger sanctions.) Complaints are subject to discussions between national agencies and if no agreement is reached at that level, among labour ministers. If the issue is not resolved by ministers, it can be referred to an evaluation committee of experts that will investigate and make recommendations on the matter under dispute (Bolle 2001). Between 1994 and 2002, there were 25 complaints under NAALC. The complaints against the United States (11) involved protection of migrant workers, especially workers from Mexico, in four of the cases. These cases led to a number of public forums on migrant agricultural workers in the United States as well as United States–Mexico commitment to collaborate on the protection of migrant workers’ rights. The allegations against Mexico (12) focussed on the right to organize and to bargain collectively.<sup>24</sup> The lack of enforceability of all the labour rights included in NAALC is strongly criticized by unions and other organizations such as Human Rights Watch. The long delays are also subject to criticisms, but the key issue is the outcome of the process and the lack of enforcement mechanisms. The view of national governments varies from one country to another.

Only the Canadian [administration] has sought to interpret the meaning of the NAALC’s obligations; for example, it proposed that labour tribunals, when deciding between different options for structuring union elections, should take account of the NAALC’s obligations to establish high labour standards. The Mexican [administration], by contrast, appears to have adopted the position that it should generally avoid any interpretation of the NAALC and limit its report on individual complaints to simply repeating the information it has received from petitioners, without issuing any findings or conclusions. The United States, meanwhile, appears to have adopted a midway position between that of Canada and Mexico....

The governments have not publicly discussed, clarified or challenged each other's positions related to the NAALC, with the result that the NAALC's potential as a means to effect broad improvements in the labour rights situation in the signatory countries has remained severely under-utilized (Human Rights Watch 2001).

This unfulfilled potential could also be used to address gender inequality and discrimination in the workplace in North America.

#### **GATS Provisions on Labour Mobility (mode 4)**

GATS does not create general obligations or rights for temporary entrants, but provides a framework for WTO members to make commitments on the temporary entry of service providers. Therefore, the presence or absence of such commitments affects labour mobility. GATS identifies four ways international trade in services can take place. In mode 1, there is a cross-border provision of the service; information and communications technologies can allow the supply of the services without physical proximity. Telemedicine services and online health information are two examples in the health sector. In mode 2, the consumer moves across the border and receives the service abroad. Tourism is the most common example. In mode 3, a foreign-owned facility can supply the service. An American-owned auditing firm based in Canada is an example of what is often called "commercial presence."

The most relevant way of supplying services for this study is mode 4, when trade in services takes place through the temporary cross-border movement of suppliers. For instance, a computer specialist from Germany travels to Canada to install custom-made software at one of her/his firm's clients. Independent service suppliers and the self-employed are also covered by the agreement (Nielson 2002).

The General Agreement on Trade in Services calls on WTO members to observe general obligations such as most-favoured-nation (MFN) treatment and regulatory transparency. In addition to general obligations, each country has its own schedule of commitments. National treatment (the commitment not to discriminate between domestic and foreign service providers) and market access apply only in the sectors where governments made specific commitments. As seen in Annex F, Canada has made sector commitments in computer and related services without any limitations on market access and national treatment, except for mode 4. The movement of natural persons is dealt with in the horizontal commitments section of the schedule, which allows for temporary entry of senior computer specialists on a limited basis.

The inclusion of labour mobility provisions in GATS was proposed by developing countries in exchange for including commercial presence (mode 3) in the negotiations. The liberalization of the supply of services through foreign investment (mode 3) was seen as a gain for industrial countries, whereas mode 4 was considered to offer more potential benefits for developing countries. Industrial countries were very reluctant to agree to this proposal, given the immigration, labour market development and professional accreditation issues raised by it. However, "this tension between developed and developing countries was eventually resolved by defining labour mobility as temporary and by creating a scheduling

design which...allowed for market access and national treatment exceptions.”<sup>25</sup> Moreover, the negotiators included the Annex on Movement of Natural Persons Supplying Services, which clearly stated that the Agreement does not apply to persons seeking access to the employment market of a WTO member nor to measures regarding citizenship, residence or employment on a permanent basis.<sup>26</sup>

If we examine the GATS provisions on labour mobility, we observe that they are more limited than what is found in NAFTA. This is in fact the case for the GATS commitments generally: provisions on labour mobility in regional agreements tend to go further in terms of facilitating movement of people than the commitments taken under GATS to date (Nielson 2002). First, NAFTA’s provisions are not limited to service industries; for instance, the intra-corporate transferee provisions apply to all types of businesses, not only service providers. Moreover, there are no general rules or provisions for entry facilitation in GATS. The rules for temporary entry of service providers differs from one country to another, from one sector to another, depending on the commitment taken by each country in its national schedule. Therefore, this paper cannot briefly describe the rights created by GATS for Canadian service providers seeking temporary entry, without undertaking the very large task of examining the schedule of each member. However, in general, mode 4 commitments undertaken by WTO members during the Uruguay round of negotiations are quite limited, as they tend to focus only on intra-company transferees and to be subjected to economic needs tests. They are also limited to higher-skilled service providers, even if the agreement itself does not exclude any skill level (Nielson 2002).

In the Canadian schedule, the commitments to allow market access for foreign service providers in specific sectors are listed in the section on horizontal commitments. As with NAFTA, the temporary entry of a business person is facilitated by the removal of a labour market test. Canada made commitments for three categories of service providers and specific conditions are stated for each category. Thus, the schedule specifies that *business visitors* cannot stay for more than 90 days. They shall engage in activities, such as business meetings, business contacts including negotiations for the sale of services or similar activities including preparation for establishment of a commercial presence in Canada. The visitor cannot receive remuneration from within Canada or engage in making direct sales to the general public. *Intra-corporate transferees* are allowed for a maximum of three years (compared to five and seven years under NAFTA). They must be executives, managers or specialists employed by the corporation for at least one year before their transfer.<sup>27</sup> Finally, Canada also offers entry for a maximum of 90 days to nine categories of *professionals* when they have contracts with a juridical person (i.e., a company) of another member country, provided the professional possesses the necessary academic credentials and professional qualifications, which have been duly recognized by the professional association in Canada. Engineers, agrologists, architects, forestry professionals, geomatics professionals, land surveyors, foreign legal consultants, urban planners and senior computer specialists<sup>28</sup> are covered by these commitments. The education and credential requirements vary from one profession to another, but a baccalaureate degree and a provincial licence is required for most of these professions (WTO 1994, 1995).

## **Gender Analysis of Labour Mobility Clauses**

Do these labour mobility provisions have different implications for women and men? This section focusses on three elements of the provisions: the clauses regarding professionals, intra-company transferees, and traders and investors.

### ***Women as Professionals***

An analysis of participation by women and men in the occupations listed in NAFTA and GATS allows us to determine whether Canadian professional women and men are equally able to take advantage of the opportunities offered by labour mobility provisions of trade agreements, such as NAFTA and GATS. Table 1 on employment by occupation in Canada provides data for 30 categories from Statistics Canada, which cover 41 of the 63 professions on the NAFTA list (see Annex C of this report). Data from the Labour Force Survey of Statistics Canada show that there are still strong gendered patterns of professional specialization. Women are dominant in several health professions, which are included on the NAFTA list, such as registered nurses, pharmacists, physiotherapists, dietitians, occupational therapists and psychologists. Social work and library science are two other sectors where there are more women than men. In other occupations, such as engineering, computer systems analysts, lawyers and university professors, men represent the large majority of workers.

Overall, women represented 48 percent of the workers in the occupations on which we could find information. Indeed, the data in Table 1 do not include all the professions included in the NAFTA list, as it was not possible to find the corresponding occupation in the classification of Statistics Canada for many of the categories.<sup>29</sup> Nevertheless, we believe the available data provide an overall picture of the distribution of employment in the NAFTA-listed professions, as the largest professions such as engineers and health professionals are represented. According to the data, these provisions of Chapter 16 offer opportunities for female professionals. The extent to which women actually use these provisions is the subject of Chapter 3.

The potential de facto common labour market created by the NAFTA provisions for professionals could have important consequences on the national labour markets of each country. What are the potential consequences for female and male workers in Canada and abroad? The literature on the impact of migration on labour markets usually focusses on low-skilled migration (Espenshade and Shin 2001). Evidence from the United States points to the negative impact permanent migration has on the wages of American low-skilled workers, who were competing directly with immigrant workers, whereas skilled-worker wages were not affected (Borjas et al. 1992; Borjas 1994). However, there is very little research and evidence available on the impact of temporary skilled workers on domestic labour markets, even in the United States which has greatly increased its temporary skilled workers program in the last decade. In general, the literature raises concerns regarding some segments of the labour market (academic, post-doctoral research positions) but it does not establish clear adverse effects on wages or employment (Lowell 2001). On the other hand, a committee of the National Academy of Sciences examining the information technology sector concluded that “wages for the most innovative IT [information technology] workers

had risen more slowly than they otherwise would have because of the presence of large numbers of foreign IT workers in the United States” (Espenshade and Shin 2001: 6).

Preliminary research on labour mobility in Canada found that some wage compression and labour displacement occurred in Canada as large numbers of highly skilled (not necessarily temporary workers) entered Canada from the rest of the world. This produced a substantial migration of Canadian highly skilled citizens to the United States (DeVortez and Laryea 1998). Other potential negative effects of mobility are the decrease in bargaining power and the deskilling of the labour market, as mobility and turnover rates increase and employers and employees may lose incentives to participate in training and lifelong learning (Jansen 2000). Therefore, if the labour mobility clauses in trade agreements translate into a large increase in the supply of temporary foreign workers in the Canadian labour market, they could lead to wage deflation for these occupations. At this moment, there is no evidence that the volume of professionals using the NAFTA mobility provisions is sufficient to have an impact, either positive or negative, on the Canadian or American labour markets (DeVortez and Laryea 1998). Moreover, as we see in the next chapter, the data on temporary entry readily available from immigration authorities do not provide detailed enough information by sector/profession to be able to assess the impact of NAFTA temporary workers on specific sectors.

The potential impacts of labour mobility on employment and wages are not very different from those of international trade. By making the supply of certain factors more abundant, trade and migration change the supply and the price of these factors in the domestic market. By increasing or decreasing the supply of certain high-skilled workers, labour migration can affect the wages of these workers. The labour mobility clauses of NAFTA facilitate such migration by decreasing the transaction costs of migration for professionals. Whether or not such temporary migration actually takes place depends on a number of economic and social factors.

The economic impact of labour mobility is not limited to the domestic labour market per se. Broader economic effects also have to be considered and they have been much debated in the brain drain controversy in Canada and in developing countries.<sup>30</sup> If the temporary movement of high-skilled workers becomes permanent migration, the “sending” country loses highly skilled workers whose education is often highly subsidized by public funding. On the other hand, if the migration is truly temporary, there may be welfare-enhancing effects for both sending and receiving countries through a two-way flow of knowledge. The migrant high-skilled worker brings knowledge from her/his home country to the host country and takes new knowledge (scientific, technical, commercial, administrative) back home after her/his stay. However, the debates in Canada regarding the very existence of a brain drain to the United States are still unsettled. Hence, the actual economic consequences of such migration are still unclear. In the literature on brain drain from developing countries to developed countries, the negative impacts of the migration of skilled workers (loss of human capital, public subsidies of education) have been set against the positive impacts, such as remittances and return migration (Lowell and Findlay 2001).

**Table 1: Employment in Canada in Professions Covered by NAFTA**

	Both Sexes ('000s)		Percentage of Women	
	1994	2001	1994	2001
Accommodation service managers	28.0	47.3	38.9	46.5
Financial auditors and accountants	180.4	175.8	47.2	54.3
Physicists and astronomers	0.0	2.3	0	0.0
Chemists	9.0	15.5	30.0	39.4
Geologists, geochemists and geophysicists	9.4	8.6	17.0	0.0
Biologists and related scientists	8.8	10.3	20.5	44.7
Civil, mechanical, electrical and chemical engineers	90.9	104.9	11.1	8.4
Other engineers	59.1	81.7	7.8	11.1
Architects	14.1	11.3	12.8	24.8
Urban and land use planners	8.3	6.1	27.7	32.8
Land surveyors	7.4	8.8	0.0	0.0
Mathematicians, statisticians and actuaries	7.4	4.9	36.5	40.8
Computer systems analysts	105.0	252.6	27.6	27.9
Scientific technicians and technologists	41.4	57.2	14.00	35.3
Specialist physicians	27.5	24.7	30.9	34.0
General practitioners and family physicians	36.3	35.4	26.4	34.2
Dentists	16.5	14.5	21.8	40.7
Veterinarians	5.8	6.7	62.1	50.7
Pharmacists	19.7	22.8	59.9	67.5
Dietitians and nutritionists	7.7	6.3	93.5	96.8
Physiotherapists	15.9	16.3	83.6	81.0
Occupational therapists	6.1	9.6	85.2	82.3
Registered nurses	224.1	224.0	94.4	93.8
Lawyers and Quebec notaries	65.7	71.6	29.8	35.9
Psychologists	12.6	15.7	58.7	72.0
Social workers	33.1	43.3	68.9	80.8
Economists and economic policy researchers and analysts	8.8	9.7	44.3	44.3
University professors	48.4	40.7	27.3	34.2
Post-secondary teaching and research assistants	30.3	45.0	44.6	52.0
Librarians	13.9	11.2	81.3	81.3
<b>Total</b>	<b>1,141.6</b>	<b>1,384.8</b>	<b>45.9</b>	<b>48.0</b>

Note:

“0.0” refers to estimates with less than 1,500 employed.

Source:

Labour Force Survey, Statistics Canada.

For GATS, we do not have a list of the professions and sectors in which Canada’s trading partners took commitments to facilitate entry. However, we know the sectors with

commitments are professions where the Canadian government wants to see liberalization in other countries. In our interviews with government officials, we asked how the nine professions listed in Canada's original GATS schedule were selected. The officials explained that these commitments were made in light of Canada's export interests in these areas. That is, the private businesses involved in these sectors expressed their willingness to compete with foreign providers, as a way to facilitate their own entry in foreign markets, to put pressures on other WTO members to make commitments in these areas. In its preliminary proposals for the current GATS negotiations, Canada identified nine sub-sector services where it seeks improved access: engineering, architectural, urban planning and landscape architectural, accounting, auditing and bookkeeping, taxation and foreign legal consultancy, real estate appraisal, management consulting, and land surveying. Most of these professional services are included in Canada's original GATS commitments.

The professions where Canada is seeking to liberalize access for service providers generally do not include professions with many women (see Table 1). For instance, women represent less than 25 percent of architects, about 10 percent of all engineers, and they are basically absent from the land surveying sector. In the accounting sector, women are relatively more represented, but more disaggregated data would be required to examine in which part of the accounting industry women are located. For example, are they practising in large multinational accounting firms or in small enterprises which do not focus on exporting services?

### *Women as Corporate Transferees*

To what extent do the provisions on entry of intra-company transferees affect women? These provisions focus on managers and executives, where there is generally an underrepresentation of women. As seen in Table 2, women occupy only 20 percent of senior management positions in Canada and about 30 percent of specialist manager positions. On the other hand, there are more women in administrative work, a result of their overwhelming shares in occupations such as secretaries (99 percent) and clerical occupations (more than 70 percent), which are not covered by the transferee clauses. Hence, these clauses are not very relevant for most women, although they may be important for the human resource strategies of multinational firms.<sup>31</sup>

**Table 2: Occupation Shares in Canada, Employed Men and Women, 2000**

	Female	Male	Total
Senior management occupations	20.9	79.1	100
Specialist managers	31.0	69.0	100
Secretaries	99.0	1.0	100
Administrative and regulatory occupations	72.1	27.9	100
Clerical occupations	71.7	28.3	100

Source:  
Labour Force Survey, from Vosko (2002).

### *Women as Traders and Investors*

Are the provisions regarding business visitors, traders and investors described above relevant and useful for the type of business activities in which women are involved? First, as most women-owned enterprises are small-size firms, could the requirement that a NAFTA trader be

“seeking substantial trade in goods and services” be interpreted by immigration officials as excluding small business from expanding abroad? The provisions for investors also raise this question, as they require “substantial investment” to take place for the individual seeking entry to be eligible for the investor status.

Another issue is the capacity for small businesses to resort to the dispute settlement and enforcement mechanisms set out in the agreement. Given their limited resources, small businesses do not usually have the capacity to hire immigration lawyers to handle their mobility and visa questions. Do the current dispute settlement provisions regarding labour mobility provide help for small businesses, where businesswomen are concentrated?

## **Conclusions**

What did we learn from analyzing the content of trade agreements? First, labour mobility clauses in trade agreements are usually targeted toward high-skilled workers (professionals with university degrees), business people, managers and executives. This is the case, because the primary objective of the inclusion of these clauses in trade agreements is to facilitate cross-border trade and investment. However, we then saw that certain provisions go beyond trade facilitation; the NAFTA provisions on professionals may have created de facto a North American labour market in certain fields. Third, in the GATS negotiations, Canada is generally focussing its requests for liberalization in professional services in male-dominated professions, such as engineering and architectural services. On the other hand, the NAFTA rules on mobility have a much wider range of professions, including professions where women represent the majority of the workers. Therefore, a gender analysis of the content of NAFTA’s provisions on mobility of professionals does not reveal a similar bias. However, NAFTA’s provisions do not include a facilitated process for spouses of professionals entering the United States.

We also noted the potential consequences of labour mobility on domestic labour markets. Indeed, as NAFTA creates the basis for a North American labour market for certain professions, we need to track the impact of this NAFTA-facilitated mobility on employment and wages in each labour market. Preliminary evidence points to a potential negative impact for the workers in the receiving country. The impact of mobility clauses on brain drain should also receive special attention, as the loss of high-skilled workers has a number of consequences for the national economy or for specific sectors, such as the migration of health professionals on the national health system (see Chapter 4 on nurses’ migration).



### 3. DATA ANALYSIS

This chapter presents data on the temporary movement of labour from and to Canada, focussing on the mobility of women. Such cross-border mobility can take several forms. A multinational corporation can transfer a Canadian employee to Japan for a limited time. An American businesswoman can enter Canada for a short stay to establish commercial links with potential clients. A Canadian investor can enter Germany for a long stay to direct the operation of the enterprise in which he has a substantial investment. Canadian professionals can also seek temporary employment in the United States. If their profession is listed in Annex 1603 of NAFTA, they can be issued a TN visa once they have found employment. Canadians can also seek entry to the United States under the normal United States procedures for temporary employment which apply to all countries.

We should note that it can be very difficult to find information on some categories of temporary entrants. For instance, as many American businesspeople entering Canada to meet clients will not be issued a visa or a document by the Canadian immigration authorities, there are no ways to count such business visitors. The situation is similar for Canadians entering the United States, as most Canadian business people do not require a visa when entering the United States. Only some groups of business visitors require a B-1 visa, such as after-sales personnel.<sup>32</sup> Categories of entrants, such as intra-company transferees and other temporary workers, are issued a visa and therefore, we have more reliable measurements of the movement of these individuals.

The data described here originate from a number of sources. First, the INS of the United States has provided, on request from The North–South Institute, data on Canadian temporary workers coming into the United States. These data cover the period between 1987 and 2001 and include a gender breakdown of temporary workers, information about the category of admission, as well as the age and the occupation of the workers. However, the data set contains many flaws. One key problem is that these data are not based on a people count, but on a document count. Many documents can be issued to the same person in one given year, as this person comes in and out of the United States. An engineer can go from Canada to the United States for a three-month contract early in the year and go back later for a two-month contract. This leads to inflated numbers. Finally, we should also note that the time series is based on U.S. fiscal years (October 1 to September 30) and has three missing years: 1989, 1990 and 1995. We have complemented this data set with statistics from the *Statistical Yearbook of the Immigration and Naturalization Service*.

Second, the report includes data on the entry of temporary workers to Canada, based on information provided by CIC. This sex-disaggregated data set covers the years 1980 to 2001 and includes only the entry of American and Mexican citizens. The validity of the Canadian data is generally better, as the data are based on a people count, not a document count. The report also uses data from the annual CIC publication *Facts and Figures: Statistical Overview of the Temporary Resident and Refugee Claimant Population*.

### **Canada–United States: Labour Market Integration Through Temporary Workers?**

In what country do most temporary workers in Canada originate? Where are Canadians working abroad usually located? The answer in both questions is the United States. In recent decades, Canada has been an important source of temporary workers for the United States, and actually ranked as the most important source in 2001 with over 145,000 documents issued to Canadians during that year (see Table 1). European countries, such as the United Kingdom and Germany, also provide a large share of temporary workers for the United States, as do Mexico, India and Japan. The majority of temporary workers from industrialized countries, such as the United Kingdom, Germany and Japan, are intra-firm transferees (56, 58 and 68 percent respectively in 2001). For citizens from developing countries like India and Mexico, transferees are only a small group (13 percent for India and 14 percent for Mexico in 2001). Most come under the H1B and H2 visas.<sup>33</sup> These patterns of labour mobility reflect the geographical location of multinational firms in the industrial world.

As for temporary workers coming into Canada, the United States is also a key source of foreign workers. As we can see in Table 3, more than 23,000 American citizens came to work in Canada in 2001 — more than 25 percent of all temporary foreign workers, far ahead of other source countries. Mexico, Jamaica and the Philippines are the key developing countries, which provide temporary labour to Canada. The United Kingdom, France, Australia and Japan are the main sources of temporary workers from the industrialized countries. The data currently available do not provide a breakdown of how many of these workers are intra-company transferees.<sup>34</sup>

The available statistical evidence shows there are a growing number of temporary workers moving between Canada and the United States. The flows are asymmetrical, as there are many more Canadians going south than Americans coming to Canada.<sup>35</sup> Even if we focus on the Canadian flows, the volume of migration is still relatively limited and we cannot talk yet of an integrated labour market for North American high-skill workers.

### **NAFTA's Labour Mobility Provisions Increasingly Used by Canadian and American Professionals**

Trade agreements can include various clauses to facilitate the temporary movement of people; they can aim at facilitating the movement of business people, the movement of the personnel of multinational firms and the movement of certain skilled workers. Some agreements, such as GATS, focus on business people and providers in the service sectors. NAFTA, unlike GATS, created explicit rules for the movement of high-skill foreign workers who are employed by a domestic firm. Thus, Chapter 16 of NAFTA facilitates the employment of professionals from NAFTA countries. What has been the impact of these provisions? Did they lead to increased movement of professionals within the North American continent? If we look at the movement of Canadian professionals, the impact is clear. There has been a sharp increase in the total number of temporary workers from Canada in the United States, from 41,870 people being issued visas in 1994 to over 145,000 in 2001.

**Table 3: Foreign Workers in Canada, by Country of Origin and Gender, Annual Flows, 1997 and 2001**

	1997		2001	
	Number	Women %	Number	Women %
United States	24,589	20.3	23,849	21.3
Mexico	6,078	3.5	11,112	5.4
United Kingdom	5,063	31.0	7,044	30.9
Jamaica	5,288	5.0	5,810	3.3
France	4,144	33.7	4,976	36.5
Japan	4,462	53.3	4,377	54.8
Australia	3,667	45.4	4,878	44.5
Philippines	1,850	---	4,020	88.7
Germany	1,813	25.2	2,528	24.1
India	1,039	19.7	1,944	19.0
Trinidad/Tobago	1,553	---	1,805	3.7
Other countries	14,463	31.0	22,545	28.7
<b>Total</b>	<b>74,259</b>	<b>26.5</b>	<b>93,083</b>	<b>26.7</b>

Note:

Based on people count.

Source:

CIC, Facts and Figures: Statistical Overview of the Temporary Resident and Refugee Claimant Population.

This growth is mostly due to the popularity of the NAFTA provisions, but not entirely. Indeed, many Canadian workers enter the United States without using NAFTA and resort to other procedures for seeking temporary employment authorization. For instance, based on the *Statistical Yearbook of the Immigration and Naturalization Service* (1999 and 2000), 10,235 H1B visas were issued to Canadians in 1999 and 12,929 in 2000 (see Table 4). This category of visas allows American employers to hire foreign professionals for three years (renewable once). The annual ceiling on the number of H1B visas is set at 195,000 for workers of all origin until 2003. Canadians were also issued H2B visas (3,946 in 1999 and 4,741 in 2000). This category focusses on shorter term positions; the employer must prove unusual need and obtain a labour certification that the employment will not adversely affect American workers. The contract must include a specific end date and initially, be for less than one year. (It can be extended for a total stay of three years, but the workers must leave the United States for at least six months.) This category is capped at 66,000 per year for workers of all origin (Nielson and Cattaneo 2002). Other temporary workers include artists, entertainers, athletes, religious workers and individuals with extraordinary ability in arts, sciences, business, education, athletics or the motion picture and television industry.

It remains that Canadian professionals are increasingly using NAFTA provisions to enter the U.S. market (see Figure 1).<sup>36</sup> In 2001, more than 92,000 NAFTA visas were issued to Canadians, compared to fewer than 10,000 visas in 1991 (Table 5).<sup>37</sup> This makes the NAFTA mechanism the most common way for Canadians to enter the United States for temporary work.

**Table 4: Selected Non-NAFTA Visas Issued to Canadian Temporary Workers by the INS, 1996, 1999, 2000**

	1996	1999	2000
Workers with specialty occupations (H1B)	4,192	10,235	12,929
Other temporary workers non-agricultural (H2B)	1,738	3,946	4,741
Workers with extraordinary ability or achievement (O1)	481	885	1,195
Artists, entertainers and athletes (P1, P2, P3)	2,900	5,580	5,718
Workers in religious occupations (R1)	595	1,264	1,424

Source:

*Statistical Yearbook of the Immigration and Naturalization Service*, chapter on temporary admissions, annual, tables 38 and 40.

**Table 5: Canadian Non-Immigrants in the United States, Selected Classes of Admission and Age, Fiscal Year 2001**

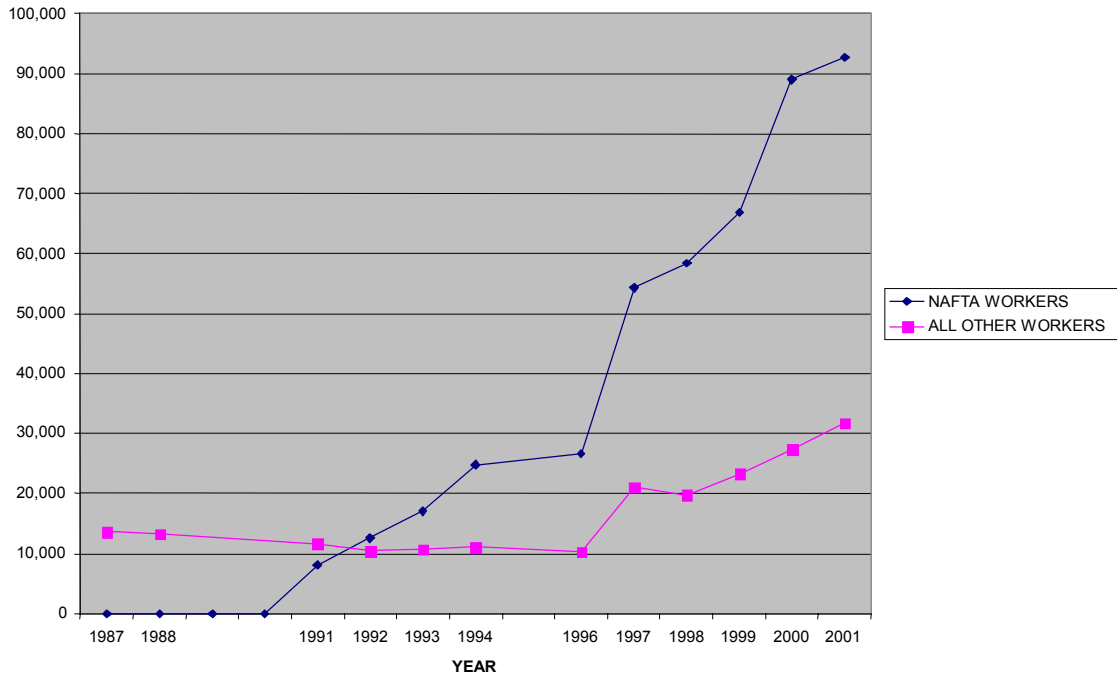
Age Group	Total All Workers	NAFTA Workers	Intra-Company Transferees	All Other Workers	Business Visitors	Treaty Traders and Investors
Total	169,417	92,716	22,838	31,727	18,432	3,704
Female total	42,497	27,846	3,436	7,522	2,438	1,255
0-24 years	4,033	1,731	79	1,282	641	300
25-34 years	20,185	14,425	1,290	3,573	670	227
35-44 years	11,546	7,502	1,330	1,817	566	331
45-54 years	5,217	3,380	608	601	365	263
55+ years	1,476	784	127	241	191	133
Male total	125,098	64,078	19,190	23,738	15,702	2,390
0-24 years	8,097	2,840	355	2,527	2,046	329
25-34 years	42,317	25,197	4,341	8,525	3,927	327
35-44 years	41,219	20,814	7,659	7,458	4,627	661
45-54 years	23,706	10,505	5,280	3,824	3,416	681
55+ years	9,664	4,672	1,542	1,383	1,676	391
Unknown gender total	1,822	792	212	467	292	59

Source:

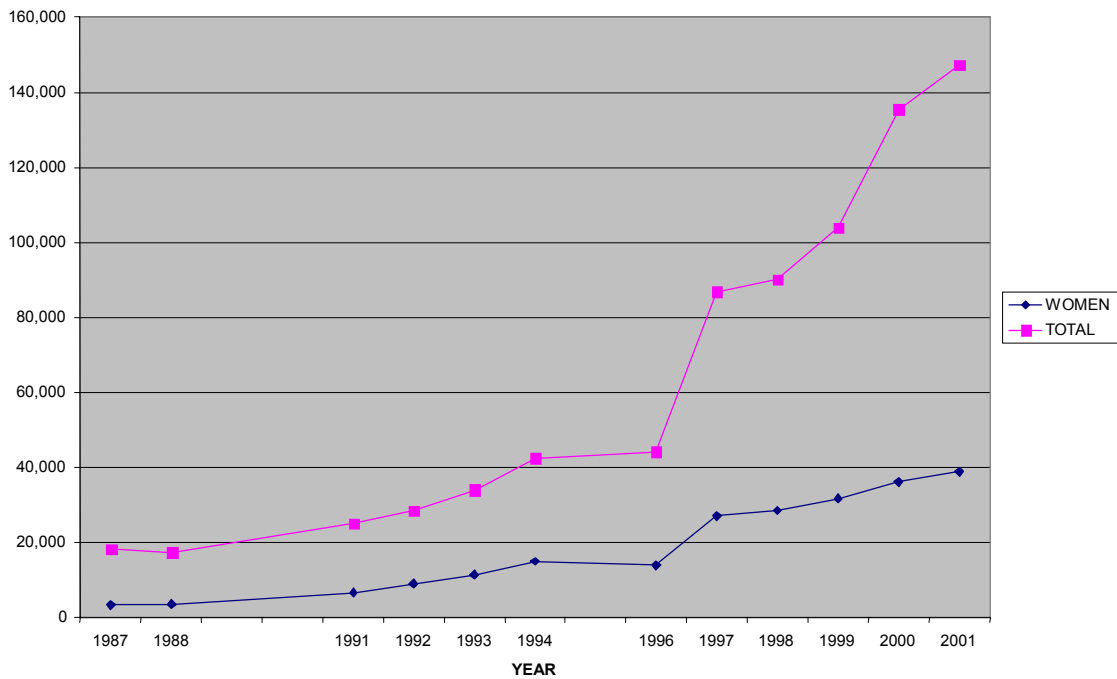
INS data set provided to The North-South Institute on request.

On the other hand, the impact of NAFTA's Chapter 16 on the movement of American professionals is not as clear, as the growth in the number of visas issued is not as dramatic. As we can see in Table 6, 10,758 Americans received an employment authorization under NAFTA to offer professional services in Canada in 2001 compared with 7,836 in 1994. We also notice that almost half (48 percent in 2001) of American professionals coming to Canada did not use NAFTA procedures. The reasons are diverse. In interviews, Canadian government officials suggested that some professionals may prefer a non-NAFTA visa, because the eligibility requirements and the difference in administrative procedures may suit their needs better.

**Figure 1: TN Visas and Other Work Visas Issued to Canadians (1987-2001)**



**Figure 2: U.S. Visas Issued to Canadians and to Canadian Women (1987-2001)**



As to the mobility of Mexican professionals, there is no evidence that NAFTA provisions led to a large increase of movement to Canada or the United States. In 2001, there were only 235 Mexican professionals authorized to work in Canada under NAFTA rules (see Table 7).

In the United States, the INS issued only 1,242 NAFTA visas to Mexican professionals in 1999, below the quota of 5,500 imposed on Mexico.

**Table 6: Foreign Workers in Canada from the United States, December 1 1987, 1994, 2001**

	NAFTA Workers	Women %	Non-NAFTA Workers	Women %	Total	Women %
1987	389	10	13,511	20	<b>13,901</b>	19
1994	7,843	18.2	9,671	25.4	<b>17,507</b>	22.2
2001	10,758	19.2	9,911	25.3	<b>20,669</b>	22.1

Source:

CIC data set provided to The North–South Institute on request.

**Table 7: Foreign Workers in Canada from Mexico, December 1, 1987, 1994, 2001**

	NAFTA Workers	Women %	Non-NAFTA Workers	Women %	Total	Women %
1987	0	-	1,532	12.3	<b>1,532</b>	12.0
1994	29	20.0	4,927	3.8	<b>4,956</b>	3.9
2001	235	24.7	10,930	5.9	<b>11,165</b>	6.3

Source:

CIC data set provided to The North–South Institute on request.

### **Gendered Patterns of Temporary Workers' Movement**

Examining the data on temporary workers by gender highlights certain patterns. First, women represent a minority of temporary foreign workers. Thus, in all classes of admission as temporary workers, women represent a minority of the Canadians entering the United States during the whole period under scrutiny. In 2001, only 26.6 percent of the Canadians going to the United States for temporary work were women (Table 8). This proportion varied over the years. It has actually declined in the last decade, as female workers represented 35.5 percent of the Canadians going south in 1994.

This downward trend seems to be driven in part by the NAFTA workers category. Indeed, starting in 1996 the gender gap in the use of this procedure began to deepen; now, only 30 percent of the TN visas are issued to women. Before 1995, there were almost an equal number of TN visas issued to women as men. We noticed earlier that women represented almost 50 percent of Canadian professionals who were included in the NAFTA list. One could therefore expect a relatively similar distribution of the use of this labour mobility provision between men and women. One explanation for the increase in the gender gap could be that the sustained growth in the information technology sectors in the United States in the 1990s led to increased demand for Canadian computer scientists, engineers and technicians, professions where men are predominant.

Women also represent a minority of American and Mexican temporary workers coming to Canada. Women represented 22 percent of all American foreign workers and 6 percent of

the Mexicans (see tables 6 and 7). The latter discrepancy is due to the fact that the majority of Mexican temporary workers in Canada are male seasonal farm workers.<sup>38</sup> As for the Americans, we need more detailed information on their occupations. In the United States, as in Canada, women represent a minority of temporary workers from all countries of origin, except for the Philippines.

**Table 8: Top 10 Countries of Origin of Temporary Workers in the United States, Fiscal Years 1987, 1994, 2001**

	1987		1994		2001	
	Total	Women %	Total	Women %	Total	Women %
Canada	17,724	18.4	41,870	35.5	145,810	26.6
India	2,801	12.7	19,900	13.4	123,070	13.7
Mexico	11,600	10.8	20,290	14.0	108,346	10.6
United Kingdom	25,241	13.0	37,645	17.8	106,776	18.7
Japan	11,895	7.2	27,988	10.0	50,716	16.9
Germany	5,884	14.9	12,162	19.3	42,963	18.4
France	8,078	16.3	11,941	20.5	40,492	23.2
Brazil	2,102	13.3	6,493	18.5	22,187	24.3
Australia	3,187	14.7	7,047	21.4	21,100	25.2
Ireland	2,858	40.1	NA*		10,587	26.3
China	2,370	22.9	6,581	24.1	15,170	32.6
Spain	2,339	20.7	3,646	24.8	13,120	25.6
Italy	2,651	11.9	4,868	20.1	13,078	21.2
Korea	1,887	14.5	4,333	14.2	12,686	20.3
Russia	NA***		5,311	25.4	9,372	29.6
Philippines	5,650	68.6	12,282	58.8	NA**	

Notes:

This data set does not include the numbers for people who did not disclose their gender (“unknown”).

The “unknown” gender group typically represents one to two percent of the total for each country. (For example, 1,471 Canadian temporary workers in 2001 did not report their gender.)

\* NA indicates “Not Available.” (The country did not rank in the top 20 countries that year.)

\*\* After 1996, the Philippines does not appear in the top 20 source countries listing.

\*\*\* The former Soviet Union is included in the data set prior to 1993, but does not rank in the top 20 until 1991.

Source:

INS data set provided to The North–South Institute on request.

The stronger demand for workers in some professions, in which women are concentrated, is one variable to explain the lesser mobility of women. Other explanations could include the traditional role of women as family caregivers leading to less interest in moving abroad, fewer women in executive and management positions eligible for intra-company transfer and discrimination from employers. It is beyond the scope of this study to explore all the gender dimensions of this question. However, the two case studies explore some considerations related to nurses and women business owners.

We can also observe gendered patterns regarding the categories of temporary workers. Indeed, the representation of women varies from one category of entrants to another. In 2001, women represented 30 percent of Canadians issued a NAFTA visa but only 15 percent of intra-company transferees to the United States. As for Americans, we note that women are more likely to enter Canada without using NAFTA procedures than men.

### **Age and Gender**

The Canadian women receiving United States visas as temporary workers tend to be younger than their male counterparts (Table 5). Almost half of these women are between 25 and 34 years of age. Men are not so concentrated in this age group, as 33 percent are in the 25 to 34 group and another 30 percent are in the next group (35 to 44). We also note that intra-company transferees tend to be older than other groups of mobile workers. We do not have information regarding the age of the female temporary workers coming to Canada.

### **Engineers and Nurses: Who Are the Temporary Workers?**

When we examine the professions of the Canadians who went to work in the United States, we note another important weakness in the American data set. Information on the occupation of the individuals is often not reported. For 1996 and 1997, data are not available on the occupations of the temporary workers, as this variable is unreported for more than 99 percent of the cases. For 2000, we do not know the occupation of the individual receiving the visa almost 80 percent of the time. In 2001, it is not reported in 40 percent of the cases.

An INS official explained that this situation is due to problems in data collection. At the border, inspectors are supposed to ask for the profession of the candidate and enter it on Form I-94, but they do not always do so. Moreover, the information is handwritten, and the contractor responsible for computerized data entry cannot always read the handwriting or interpret it to match a specific code. The INS is attempting to improve the automation of data collection to address this problem, but any solution is not close to implementation.

Therefore, the information regarding the occupations of those who use NAFTA provisions for professionals should be used for indicative purposes only. Since 2001 is one of the years with the most complete information, we describe some of its results. The most frequent category of professions is a broad one including executives, administrators and managers. In 2001, almost 16,000 TN visas were issued to Canadians under that category, 75 percent of them to men (Table 9). The other categories where we found mostly male workers were engineers, computer scientists and technicians/technologists (33 percent of male NAFTA workers in 2001). For female workers, these three categories were also important; combined they represent almost 13 percent of female NAFTA workers. We do not have information regarding the professions of the temporary workers coming into Canada.<sup>39</sup>



**Table 9: Canadian Non-Immigrants in the United States Top 10 Occupations, Fiscal Year 2001**

<b>Occupation</b>	<b>Total</b>	<b>NAFTA Visa</b>	<b>Intra-Company Transferees</b>	<b>Business Visitors</b>	<b>Treaty Traders, Investors</b>	<b>All Others</b>
Total	169,417	92,716	22,838	18,432	3,704	31,727
Female Total (all 70 occupations)	42,497	27,846	3,436	2,438	1,255	7,522
Women as percentage of total	25.1%	30.0%	15.0%	13.2%	33.9%	23.7%
Top 10 professions listed:						
Unknown/not reported	14,555	10,123	741	2,437	1,254	2,661
Executive, administrative, managerial	5,951	3,947	2,004	-	-	1,003
Registered nurses	3,760	3,759	1	-	-	14
Computer, mathematical, O.R. scientists	1,534	1,470	64	-	-	111
Engineers*	1,445	1,096	99	-	-	250
Technologists and technicians	1,040	1,022	18	-	-	54
Performers	5	4	1	-	-	995
Social, recreation, religious workers	386	378	8	-	-	493
Pharmacists, dietitians, PA, therapists	578	575	3	-	-	67
Life scientists	583	579	4	-	-	58
Teachers, except college	297	291	6	-	-	322
Male Total (all 72 occupations)	125,098	64,078	19,190	15,702	2,390	23,738
Men as percentage of total	73.8%	69.1%	84.0%	85.2%	64.5%	74.8%
Top 10 professions listed:						
Unknown/not reported	42,720	20,768	3,872	15,694	2,386	8,541
Executive, administrative, managerial	26,764	11,873	11,409	2	4	3,476
Engineers*	12,232	8,875	1,238	-	-	2,119
Computer, mathematical, O.R. scientists	8,101	7,771	330	-	-	510
Technologists and technicians	5,230	4,644	586	-	-	313
Performers	10	4	6	-	-	2,699
Marketing and sales personnel	1,239	517	722	-	-	352
Mathematical and computer scientists	968	964	4	-	-	64
Social, recreation, religious workers	138	123	15	-	-	782
Architects and surveyors	866	812	54	-	-	43
Gender unknown	1,822	792	212	292	59	467

Notes:

\* The category of "engineers" has been produced by compiling the data for the following 10 categories: aerospace engineers, agricultural engineers, chemical, nuclear, petroleum engineers, civil engineers, electrical and electronic engineers, industrial engineers, mechanical and marine engineers, mechanical engineers, metallurgical, materials, mining engineers and not specified.

The INS defined non-immigrants as aliens admitted to the United States for a specified purpose and temporary period, but not for permanent residence.

**Table 10: NAFTA Employment Authorization Issued by CIC to U.S. Citizens**

	1994	1995	1996	1997	1998	1999
Traders and investors	38	46	23	32	38	39
Intra-company transferees	2,333	2,243	2,287	2,479	2,818	2,675
Professionals	7,452	7,714	9,066	10,840	12,129	11,233
Total	9,823	100,003	11,376	13,351	14,985	13,947

Note:

These figures are based on a document count.

Source:

CIC data set provided to The North–South Institute on request.

## Conclusions

The limitations of the data available on cross-border labour mobility were a key obstacle for this study. A number of recommendations can be made regarding INS data. Moving toward a person count instead of a document count system would be a first step to improve data quality. Second, the collection of the information on the professions/occupations of the temporary workers should be improved, to avoid a situation where for 40 to 80 percent of cases, we do not know the occupation of the worker. The Canadian government could work with its NAFTA partners in the context of the Temporary Entry Working Group to discuss ways to improve the situation. The CIC data on the professions of temporary workers were not available. Other sex-disaggregated information, which would be useful to make available to the public, includes the age and the length of stay of the temporary workers, as it would help in understanding the patterns of cross-border mobility. Information about the industrial sectors for intra-company transferees would also help in understanding which parts of the industry are using these measures the most. From our interactions with CIC, it appeared the Department was understaffed to deal with data requests both from inside and outside government. One potential way to deal with this problem is to make more statistical information publicly available on its Web site or in annual publications.

Despite these flaws in the data available to us, we can make some basic observations. For Canada, the United States is the main destination and source country for temporary workers. We are still far from an integrated labour market for high-skilled workers, but there has been growth in the level of entry of Canadians into the United States. The labour mobility chapter of NAFTA is an important factor to consider in understanding that growth. Indeed, the volume of Canadian professionals using NAFTA visas to enter the United States has grown steadily.

In general, women represent a minority of foreign temporary workers. This is true for Canadian women going abroad as well as foreign workers coming into Canada. This is also true for the movement of professionals under NAFTA, despite the fact that female-dominated professions are covered by NAFTA. The research conducted for this project does not provide an explanation for the lesser mobility of female workers, but this would be an important avenue for future research.

## 4. CASE STUDY ON NURSES' CROSS-BORDER MOBILITY

### The Globalization of the Nursing Labour Market

A case study of nurses' cross-border labour mobility is best understood in the larger context of global nursing shortages and migrations. The World Health Organization (WHO 2001a) identifies the global shortages of nurses as a key concern, given their central role in all health systems. The problem touches both industrial and developing countries, although it "is particularly acute in developing countries, where unstable and dwindling funding of the health sector, low salaries and poor working conditions have conspired to promote emigration to countries offering better prospects" (WHO 2001a: 1).

Hence, cross-border migration is central to the issue of the global shortages of nurses. Such migration can take a permanent or a temporary form, but the latter is the most relevant for international trade agreements. The debate on the impact on developing economies of the brain drain (i.e., the migration of skilled workers such as health professionals) is not new. A recent study from the International Labour Organization (ILO) and the United Kingdom's Department for International Development stressed that the direct negative impacts of such migration have to be assessed against other effects, which can increase economic growth such as return migration, remittances and transfer of knowledge and technology (Lowell and Findlay 2001). The net effects of migration may vary from one country to another and from one sector to another. The health sector presents special characteristics, which make retention of these skilled workers of particular importance.

The negative impact of active recruitment of nurses and physicians from developing countries has been recognized by many organizations around the world and has prompted remedial actions. For instance, in 1999, the Department of Health of the United Kingdom adopted guidelines on international recruitment of nurses which state that it "is essential that all employers ensure that they do not actively recruit from developing countries that are experiencing nursing shortages of their own" (UK 1999: 10). South Africa has adopted a similar policy regarding the recruitment of physicians from neighbouring countries with even weaker health systems.

Nevertheless, some developing countries have a distinct perspective on the migration of health professionals, as they consider themselves as having surpluses of personnel in this sector. "India, Cuba, and the Philippines are strong 'exporters' of health personnel; as such, they want easier access to developed country labour markets to maintain or increase the flow of workers' remittances" (WHO 2001b).

Why select nurses over other professions to be the subject of our study? This case offers the opportunity to examine the impact of labour mobility clauses in trade agreements. Nursing is still the most feminized of professions, as 95 percent of registered nurses in Canada are women. In recent years, increasing numbers of Canadian nurses have moved abroad to practise their profession. A large part of this mobility may be taking place within the context of NAFTA, as many Canadian nurses are going south to the United States.

Moreover, this is a sector where the interests of women are represented by well-structured regional and national organizations, in contrast to the business owners' case study. This chapter presents the information available from different sources on the actual cross-border mobility of Canadian nurses and the movement of foreign nurses into Canada.<sup>40</sup> Next, drawing on the gender framework, we examine the participation of nurses' representatives in the policy-making process related to trade agreements.

### **Nursing and Mobility in Canada**

There are two key barriers to international mobility for nurses entering Canada on a temporary basis. The first lies with the immigration authority, which has to grant the authorization for temporary entry. Indeed, temporary workers are usually allowed to enter the domestic labour market to address a specific labour shortage. In Canada, the evaluation of the need for foreign workers is established by the confirmation process of HRDC. As mentioned earlier, trade agreements often aim at removing this first requirement and eliminate the labour market test required for the employment authorization for temporary foreign workers. The provisions of Chapter 16 of NAFTA facilitate the movement of nurses by removing the economic need test. Temporary work permits can be issued by immigration officials under the professional category of NAFTA "without reliance on the job confirmation process," in other words, without labour market assessments or economic needs testing.<sup>41</sup>

At the WTO, no member has committed fully on the movement of professionals in the four sub-sectors relevant to health services (medical and dental services; services provided by midwives, nurses, physiotherapists and paramedical personnel; hospital services; other human health services such as ambulance services).<sup>42</sup> This pattern is similar to other service sectors; members took very limited mode 4 commitments and subjected them to very restrictive limitations, such as economic need tests (Adlung and Carzaniga 2001). Therefore, GATS has little impact on nurses' mobility.

The second barrier to international mobility is the recognition of the credentials of the service supplier who seeks entry. This barrier is especially important for skilled workers, as there are specific requirements professionals have to fulfill to practise. Whether in terms of education, certification or testing, most countries have created formal mechanisms to recognize which groups of professionals have the competency to offer specific services and perform certain tasks and to certify which individuals are competent professionals.<sup>43</sup> Nursing is no exception and is regulated through a diversity of mechanisms related to training and accreditation.

In Canada, regulation of the nursing profession is a provincial/territorial responsibility. In all cases (with the exception of Ontario), this responsibility has been delegated to the relevant professional associations and colleges, based on the principle of self-regulation. Ontario has separated the functions of the professional association and regulatory body. The College of Nurses of Ontario is responsible for the protection of the public and the regulation of the profession whereas the Registered Nurses of Ontario is the professional association.

There are three types of regulated nursing professions in Canada: registered nurses (RNs), practical nurses (PNs) and registered psychiatric nurses which each have their national associations (Canadian Nurses Association, Canadian Practical Nurses Association and the Registered Psychiatric Nurses of Canada).<sup>44</sup> In the four western provinces, psychiatric nurses are separately trained and regulated. Practical nurses receive education in one- to two-year post-secondary (community college) programs. There are about 75,000 licensed practical nurses in Canada.

This case study focusses on registered nurses, who are more likely than practical nurses to be included in labour mobility agreements such as NAFTA, given their higher level of education (a diploma or a degree from a college).<sup>45</sup> There are over 231,000 registered nurses in Canada, 95 percent of whom are women. The proportion of male nurses is increasing slowly every year, but still remains small (see Table 11).

**Table 11: Employed Registered Nurses and Nurses in Supervisory Positions, by Gender, in Canada, 1986–2001**

Year	Total RNs	Women %	Female Nurses in Supervisory Positions %
1986	204,579	97.3	n.a.
1987	210,773	97.2	n.a.
1988	210,506	97.0	n.a.
1989	220,999	96.9	n.a.
1990	223,965	96.7	n.a.
1991	227,689	96.6	n.a.
1992	234,128	96.5	n.a.
1993	235,630	96.2	n.a.
1994	234,502	96.1	95.5
1995	228,570	96.0	95.5
1996	228,713	96.0	95.6
1997	228,713	95.8	95.2
1998	227,814	95.5	95.2
1999	228,534	95.4	94.8
2000	232,566	95.2	94.0
2001	231,512	95.0	93.6

Source:

Registered Nurses Database, Canadian Institute for Health Information and Canadian Nurses Association.

Labour mobility across provinces in Canada is regulated by the Agreement on Internal Trade adopted in 1995. The labour mobility chapter of the Agreement states that any worker qualified for an occupation in one province or territory should have access to employment opportunities in that occupation in any other province or territory. “The goal is to see people licensed and registered based primarily on their competency to do the job — not on where they come from — and without having to go through duplicative assessment and training” (HRDC 2001b).

Nurses were some of the first professions to negotiate agreements to facilitate interprovincial mobility. Such negotiations are very labour intensive, as regulators have to analyze carefully the education, testing and examinations used by other regulators and agree on core competencies.<sup>46</sup> There is now a mutual recognition agreement signed by the regulators of all provinces except Ontario, Quebec and Manitoba. Registered nurses are required to write the Quebec exam when wanting to practise in Quebec, and nurses moving from Quebec to another province must take the Canadian exam. Ontario is the only province that does not retest Quebec nurses, and Ontario nurses are exempt from the Quebec exam.

As for international mobility, educational equivalency for registered nurses must first be established, and is determined by the regulatory body receiving the application. Then, applicants are eligible to take the national exam. For those who cannot demonstrate educational equivalence, additional factors (such as on-the-job experience) are evaluated, and these may be considered sufficient, or additional training may be required. There are no differences between temporary or permanent migrants in terms of their right to practise as a registered nurse in Canada. Both have to be recognized by the professional organization as possessing the required competencies to practise and have to go through the same requirements.

### **Facts and Figures on Nurses' Cross-Border Mobility in Canada**

With the globalized market for nurses, Canadian nurses work in many countries, notably the United States, Hong Kong, Saudi Arabia, Switzerland and the United Kingdom. Similarly, there is a large number of nurses in Canada who were educated abroad and later came to practise in Canada. This case study focusses on the temporary mobility of registered nurses taking place within the context of trade agreements. Therefore, we give particular attention, although not exclusively, to the Canada–United States migration taking place in the context of NAFTA.

There is no single source of information for reliable and complete data on how many Canadian nurses are working abroad or how many foreign nurses are practising in Canada. However, there are a number of sources which, when examined together, provide indications of key trends.

First, the Canadian Nurses Association study on the shortage of registered nurses in Canada includes information about international mobility. It explains that the cuts in the health care budgets in the early 1990s led to the elimination of nursing positions as well as to the conversion of many full-time positions into part-time or casual positions (CNA 2002: 10). Therefore, a large number of nurses left the profession or the country. One clear indication of this trend was the increase in the number of requests for verification of credentials for jurisdictions abroad made by Canadian nurses considering leaving the country to go to the United States. Not all these requests to the Canadian Nurses Association led to the migration of Canadian nurses, but one can see a clear trend, in the 1990s, of greater movement of nurses to the United States, peaking in 1996 (see Table 12).

The Canadian Nurses Association report also examines the immigration of nurses educated abroad into Canada. There were over 15,000 registered nurses in Canada in 2001 who received their initial nursing degree abroad. This represents more than six percent of all registered nurses working in Canada. Every year, an additional 600 to 2,000 foreign-educated nurses pass the Canadian RN examination and become registered to practise (see Table 12). The main countries of origin are the Philippines, the United Kingdom, the United States and Hong Kong. (See Table 14 and note that these data do not distinguish between temporary and permanent immigration.)

However, the report stresses that migration of foreign nurses is not a solution to the shortages in Canada.

In the years immediately preceding the nursing crisis, there were relatively large numbers of nurses from abroad being registered in Canada.... Since 1992, it is almost certain that there has been a net loss when comparing the numbers of new registrants gained through immigration and the losses incurred through emigration of RNs [see Table 12]. Because of the worldwide competition for nurses, it will be more difficult than in the past to recruit large numbers of nurses from other countries who can pass the RN examinations. For this reason, in the coming years, Canada will not be able to greatly relieve its nursing shortage by recruiting overseas (CNA 2002: 75).

In addition, we should note that the provincial professional associations and colleges have not observed an increase in the number of nurses coming to Canada from the United States or Mexico since NAFTA came into force.

One source of data on the movement of Canadian nurses to the United States is the INS data on visas issued to Canadian nurses. In Table 16, we see that the INS issued 4,380 visas to Canadian nurses in 2001, with a peak in 1998 of over 9,000 visas issued to nurses from Canada. As discussed in Chapter 2, there are several problems with the collection of these data. For some years (i.e., 1996, 1997), there is no information about the professions of the temporary workers entering the United States. For other years, the information is still partial, as the occupation is not reported for many temporary workers.

A more reliable source of information on the movement of Canadian nurses to the United States is the survey on foreign nurses in the United States prepared by the Commission on Graduates of Foreign Nursing Schools (CGFNS 2002). This survey, conducted in 2000, asked questions on conditions of employment, visa status and country of origin. It was administered by phone to a sample of 789 foreign nurses.<sup>47</sup>

Canada is the main country of origin of licensed foreign nurses in the United States, followed by the Philippines and India. Most of these Canadian nurses received a NAFTA visa to enter the United States. Indeed, 100 of the 110 Canadian respondents identified NAFTA as their method of entry. Unlike Canadian nurses, other foreign nurses often enter the United States under a permanent or immigrant visa: 344 out of a sample of 789 had an immigrant visa. Canadian participants to the survey usually reside in Texas, Florida, North

Carolina and California. The large majority of foreign nurse graduates entering the United States are female: men represent just over seven percent of the sample (compared to five percent of the total American nursing population).

**Table 12: Canadian RNs Requesting Verification of Credentials and New RN Registrants from Foreign Countries**

Year	Request for Verification for the United States	Request for Verification for Other Countries	Total Canadian RNs Requesting Verification	New Foreign-Educated RNs Registered in Canada
1988	930	102	1,032	961
1989	1,218	137	1,355	1,303
1990	1,466	173	1,639	1,680
1991	1,788	143	1,931	2,289
1992	4,653	180	4,833	1,589
1993	2,005	119	2,124	1,205
1994	3,912	185	4,097	928
1995	3,922	338	4,260	875
1996	5,040	383	5,433	653
1997	4,336	458	4,794	654
1998	2,876	360	3,236	764
1999	3,231	372	3,603	653
2000	3,108	440	3,548	1,072
2001	n.a.	n.a.	n.a.	1,502

Source:  
CNA (2002).

**Table 13: Age at Registration of Nurses Educated Outside Canada, 2001**

Age at Registration	Number (2001)	Distribution by Age %
<22	2	0.1
22–25	124	8.3
26–29	391	26.1
30–34	444	29.6
35–39	216	14.4
40–44	183	12.2
45–49	101	6.7
50–54	33	2.2
>54	8	0.5
Total	1,502	100

Source:  
CNA (2002).



**Table 14: Number of Foreign-Educated RNs Working in Canada, by Place of Initial Graduation, Selected Foreign Countries, 2001**

Country	Number
Philippines	4,157
United Kingdom	4,074
United States	1,318
Hong Kong	976
India	736
Poland	455
Jamaica	373
Australia	373
New Zealand	219
France	188
Yugoslavia	186
South Africa	163
Haiti	159
Ireland	156
The Netherlands	132
Others	2,035
Not stated	2,146
<b>Total</b>	<b>15,659</b>

Source:  
Registered Nurses Database, Canadian Institute for Health Information.

**Table 15: Age at Registration of Canadian RNs, 2001, by Gender**

Age	Male	Female
<25	232	3,701
25–29	1,282	16,406
30–34	1,640	23,207
35–39	2,253	31,534
40–44	2,013	34,837
45–49	1,782	41,581
50–54	1,460	36,127
55+	801	32,614
<b>Total</b>	<b>11,463</b>	<b>220,007</b>

Source:  
Registered Nurses Database, Canadian Institute for Health Information, 1994–2001.

**Table 16: TN Visas Issued to Canadian RNs by the INS**

Year	Female	Male	Total
1991	1,998	197	2,195
1992	2,643	303	2,946
1993	3,571	396	3,967
1994	2,927	366	3,293
1996	17	2	19
1997	5	4	9
1998	7,976	1,157	9,133
1999	5,975	834	6,809
2000	957	193	1,150
2001	3,759	621	4,380

Source:

INS data set provided to The North–South Institute on request.

**Table 17: U.S. Survey of Graduates of Foreign Nursing Schools: Country of Origin of Respondents**

	Canada	Philippines	India	Nigeria	Russia/ Ukraine	Other Countries	Total
Licensed foreign nurses	105	79	37	25	18	197	461
Unlicensed foreign nurses	5	133	49	26	10	105	328
Total	110	212	86	51	28	302	789

Source:

CGFNS (2002).

In 2000–2001, the Registered Nurses Association of Ontario (RNAO) surveyed nurses registered with the College of Nurses of Ontario residing outside Canada. The objective of the survey was to understand why nurses had left the province and what factors would make them consider coming back. Indeed, the funding cuts and layoffs in the mid and late 1990s led to shortages of nurses in Ontario, as many left the profession or the province. The need to find nurses to face the current shortage motivated the RNAO to commission the study.

Of the 5,407 nurses still registered in Ontario but working outside the province, 3,272 had contact information available. The majority (80 percent) resided in the United States. The balance lived in Hong Kong (4.9 percent), Saudi Arabia (3.2 percent) and England (3.1 percent). Within the United States, the majority of nurses in the sample were concentrated in a few states: Texas (19 percent), Florida (16 percent), North Carolina (10 percent) and California (8 percent).

The survey reached over 1,000 Ontario registered nurses working abroad and yielded some interesting results. When asked why they left the province, almost 63 percent named downsizing or the lack of job opportunities as the main reasons (see Table 18, based on open-ended questions, unprompted). This is still true for nurses leaving as recently as

January 2000. As one respondent commented: “There were no full-time positions available in Ontario. Only part-time or casual work. Hospitals and long-term care facilities all offered poor staffing, increased workload and nurses–patient ratios” (RNAO 2001a: 4).

The lack of employment opportunities was especially important for nurses who left Ontario in the 1990s, compared to the ones who left earlier. Actually, the majority of the respondents (52.2 percent) left Ontario in the late 1990s, coinciding with the lack of full-time employment opportunities in the province (see Table 19). As many interviewees stressed, domestic labour market conditions are the key to understanding cross-border mobility of nurses.

**Table 18: Nurses’ Reasons for Leaving Ontario**

Reason	Percent of Nurses
Downsizing/lack of job opportunities	62.7
Family/personal issues	28.0
Pay and benefits	13.2
Travel/weather	8.8
Workload/work conditions	7.6
Cost of living	3.8
Work not valued by system	3.0

Source:  
RNAO (2001a).

**Table 19: Number of Ontario RNs by Date of Departure**

Year	Number of RNs	Percent of Sample
1956–1960	2	0.2
1961–1965	5	0.5
1966–1970	9	0.9
1971–1975	13	1.3
1976–1980	44	4.3
1981–1985	24	2.3
1986–1990	78	7.6
1991–1995	315	30.6
1996–2000	535	52.2
Total	1,025*	100

Note:  
\* No date of departure was provided for 26 respondents.

Source:  
RNAO (2001a).

### **Box 2: Filipino Nurses in Canada**

The Philippines is the main country of origin for foreign-trained nurses working in Canada. In 2001, there were 4,157 Filipino trained nurses practising in Canada, followed by 4,074 from the United Kingdom and 1,318 from the United States. The relatively large influx of Filipino nurses can partly be explained by the policies of the Philippines government. Indeed, in 1973 the government instituted its Labour Export Program. As a result, around eight million or 10 percent of the population is outside the country working in various trades and professions in over 180 countries. Between 65 and 70 percent of Filipinos who leave the country are women. In Canada, 65 percent of Filipino migrants and immigrants are women.

Until the implementation of the *New Immigration and Refugee Protection Act* (in June 2002), nursing was not one of the listed professions in Canada for which immigration points were awarded. As a result, nurses trained in the Philippines often entered Canada under the Live-in Care Giver Program (LCP) jointly administered by HRDC and CIC. Entrants under the LCP must live in the home of the employer. They had to complete 24 months of employment within a three-year period after entry to Canada, after which they could apply for permanent residency status.

Filipino women's advocacy groups in Canada argue that the LCP is a waste of valuable resources. They argue that, in light of national nursing shortages, more should be done to facilitate the use of nursing skills in professional nursing occupations, and there is an underlying racial bias in the LCP. Furthermore, the program pre-empts demands for a national day-care program. They argue that it forces Filipino nurses with few economic options into undesirable employment and leads to a loss of nursing skills during the two-year contract.

It is not clear why nursing was not included in the list of professions for immigration purposes, but it will be worthwhile to monitor whether the recent changes to the Canadian immigration law will alter this situation, and lead to an increase in the number of nurses from the Philippines immigrating to Canada.

Source:  
PWC (nd).

### **Views of Nurses Organizations on Labour Mobility Clauses**

For Canadian nurses, international labour mobility is an important issue. Labour mobility clauses in trade agreements are seen as one element which can influence the migration of nurses. Recognizing the potential impact of international trade agreements and the mobility of health professionals on accessibility and quality of health services, the Canadian Nurses Association (CNA 2000) recommended that the government monitor and assess the impact of these agreements, and labour migration and immigration trends, and assess their impact on domestic health and social policy.<sup>48</sup> In interviews, nurses' representatives generally expressed the view that the impact of trade agreements on the mobility of nurses was still limited, but that the potential consequences for current or future agreements remained.

The views of the organizations representing Canadian nurses on this topic also recognize that labour mobility clauses can open economic opportunities and new labour markets for Canadian women while opening the doors to the Canadian labour market to workers from abroad, with potential negative impacts for Canadian nurses and for the health system.<sup>49</sup>

Although not focussing on trade agreements per se, the position statement on ethical recruitment adopted at the International Council of Nurses (ICN) acknowledges the need to balance the opportunities and the risks linked to the international mobility of nurses. The statement “recognizes the right of the individual nurses to migrate” while acknowledging “the possible adverse effect that international migration may have on health care quality in countries seriously depleted of their nursing workforce” (ICN 2001: 3/6). Indeed, aggressive recruitment of nurses from developing countries with already fragile health systems can be very damaging to these countries.

Moreover, the ICN and its members, such as the Canadian Nurses Association, expressed the view that bringing these nurses into a dysfunctional nursing system is neither cost effective nor ethical. “Governments and employers faced with the challenges of shortages need to address the contributing factors relevant to their situation” (ICN 2001: 3/6). The Council condemns the recruitment of nurses to countries “where authorities have failed to implement sound human resource planning and to seriously address problems which cause nurses to leave the profession or discourage them from returning to nursing” (ICN 2001: 3/6).

This emphasis on the impact of domestic policy regarding human resources in the health sector was also found in our discussions with representatives from various nurses’ organizations. The labour mobility clauses of NAFTA are not perceived as the key factor in understanding the cross-border mobility of Canadian nurses. The cuts to health care spending in Canada in the late 1990s which caused the layoffs of nurses in many provinces is seen as more crucial in understanding the increase in the number of Canadian nurses going to the United States. The lack of full-time and stable employment is the key factor mentioned by Ontario nurses who have left to practise in the United States (see Table 18).

This link between domestic policies and international migration is crucial. One of the most active Canadian nurses’ organizations on this issue has been the RNAO, which successfully opposed a plan of the federal and provincial governments to rely substantially on foreign temporary workers to address the ongoing nursing shortage in Ontario.<sup>50</sup> As the RNAO explained in a letter posted on its Web site in 2001:

RNAO is very supportive of individual nurses who decide to immigrate to Canada from other countries and make Canada their home. However, this policy direction by the federal and provincial governments to bring in large numbers of temporary workers does not constitute a solution to our national nursing human resources problems.

We are gravely concerned that this very short-sighted approach will allow governments and employers to avoid addressing the underlying causes of the

problems we now face in health care and the nursing professions. Employers must create more full-time positions, improve working conditions, especially adequate staffing and address ongoing education needs of its nursing staff. *Governments must invest adequate, earmarked funds to support employers having adequate staffing, and at least 70% of their nursing staff in permanent, full-time positions....* A large influx of temporary workers is a quick fix that will exacerbate the current crisis and contribute to further destabilization of the health care system and the nursing profession (emphasis added, RNAO 2001b).

As an interviewee stressed, instead of considering ways to increase the number of nurses from abroad, the government should ask itself why people do not want to go into nursing and develop domestic solutions to resolve this problem. This respondent also expressed ethical concerns regarding the recruitment of foreign nurses, if they are coming from developing countries whose health systems are already under enormous strain.<sup>51</sup>

The Canadian Federation of Nurses Union (CFNU) also supports the idea that we need a made-in-Canada strategy to address the human resources needs in the health sector.

Canada must implement sound human resource planning for the nursing workforce and address the factors that have caused nurses to leave the profession or discouraged them from returning. Action on retention issues will assist the recruitment of new individuals into the profession. International recruitment is a short-sighted solution to the nursing shortage (CFNU and CNA 2001).

In their view, the labour shortages in Canada reflect cuts to full-time positions and in training. These working conditions were strong incentives to international migration for Canadian nurses.

Some interviewees also stressed that the need to develop human resources in nursing was especially acute in specific communities, such as First Nations communities. Training of members of these communities was proposed as a better option than trying to convince foreign professionals to migrate to fill remote community needs.

There was no consensus among informants on the extent to which NAFTA facilitated the movement of nurses, as many stressed the importance of domestic labour market conditions to explain fluctuations in the migration of nurses. However, they agreed on the importance of issuing credentials to the foreign nurses in relation to mobility and trade agreements.<sup>52</sup> When NAFTA was being negotiated, there were consultations with professional associations. The key concern of nurses and other professional bodies was that the authority to regulate the foreign providers remained. Once this was established, there was much less concern.<sup>53</sup> However, others expressed concerns that there are pressures to lower the standards and to decrease the capacity of associations to regulate.

In general, the impulse toward greater cross-border mobility of professionals created by trade agreements has led to changes in the process of recognition of foreign nurses.

*It moved the debate on recognition toward the principle of competency instead of specific credentials. This was an important change of regulatory perspective* (Nurses' organization representative, December 2, 2002).

The internal trade agreement on interprovincial trade in Canada is also based on this principle of competence-based evaluation. The recognition of the competence of foreign nurses is very labour intensive, as professional associations have to investigate the content of the education program received by each applicant.

A related issue is the cost of implementing labour mobility clauses for professional associations and regulatory bodies.

The burden of operationalizing international agreements on trade in services falls, in large part, to those agencies responsible for enforcing professional standards. These agencies do not stand to benefit financially from the liberalization of trade in services. While cost-recovery mechanisms can be put in place for assessing and licensing foreign providers of service(s), defending decisions on standards and licensing, will impose potentially significant costs on those agencies (CNA 2000: 2).

One final problem related to the implementation of NAFTA that attracted the attention of nurses' organizations is the adoption by the American government in 1997 of the *Illegal Immigration Reform and Immigrant Responsibility Act* (Section 3.43) which requires the Commission on Graduates from Foreign Nursing Schools to make an additional assessment and test foreign nurses entering the United States on a temporary basis. Canadian nurses complained that these duplicative measures and delays of six to eight months were unnecessary and contravened NAFTA. A waiver was adopted for Canadian nurses. However, in 2002, the INS indicated its intention to eliminate this waiver. The CNA has been in communication with DFAIT on this and has submitted its views to the INS.

### **Consultations and Participation in Trade Policy Making: Labour Mobility**

In recent years, there have been several attempts by the federal government to open the policy-making process in international trade to a wider range of actors and views. Some elements of this policy process have been examined elsewhere.<sup>54</sup> This section examines the policy-making process related to labour mobility issues in trade agreements, focussing on how nurses' representatives have been involved in the process.

In elaborating Canadian policy related to the multilateral negotiations (i.e., mode 4 of GATS), the key governmental agencies involved are the Department of Foreign Affairs and International Trade, Citizenship and Immigration Canada, Industry Canada, Human Resources Development Canada and the Department of Finance. These agencies interact

in a Movement of Persons (mode 4) Working Group. On bilateral and regional issues, such as the FTAA, DFAIT and CIC are the main actors in the interdepartmental community. To formulate Canadian positions, these government actors consult with private and public sector representatives through a number of formal and informal mechanisms.<sup>55</sup> Our discussion focusses on two of these mechanisms:

- Sectoral Advisory Groups on International Trade (SAGITs); and
- the DFAIT cross-Canada consultations.

### ***SAGITs***

Groups of 20 to 22 specialists are brought together by DFAIT to advise the trade negotiators on specific issues. There are 12 sector advisory groups and their members are usually representatives of business groups (Hassanali 2000). One SAGIT focusses on trade in services, and its mandate includes discussions on temporary workers and trade agreements. Other SAGITs have also discussed that issue, as business people report on problems they encounter when crossing borders for work purposes. Given the volume of trade with the United States, most of these problems occur at the United States–Canada border.

The selection process for membership is rather informal. As explained by one interviewee:

*We ask colleagues in DFAIT for names of potential members. ...One of the key criteria is the type of information needed by negotiators. Depending on what are the main issues on the negotiating table, we will adapt the type of members. The members are there as individuals, not representatives of their company or sector. But obviously, it is their expertise on their sector that makes them useful for the negotiators* (Federal government official, October 24, 2002, Ottawa).

Other criteria mentioned are regional, linguistic and gender representation. As of October 2002, there were no representatives from nursing associations, or other health professionals, who were members of the SAGITs for the services or health sectors. (See the lists in Annex C of this report. As we can see from these lists, women are usually in a small minority.)

The key cross-border issue discussed in the SAGITs is the non-uniform implementation of the NAFTA rules. (That is, there are inconsistencies of application of the rules from the United States.)

*Depending upon the point of entry you may be able to enter or not* (Federal government official, Ottawa).

Three professions often encounter problems when they request NAFTA visas to enter the United States: computer system analysts, management consultants and scientific technicians. The problem lies in the lack of clarity in definition of these categories.<sup>56</sup> Nurses or health professionals were not mentioned as professions facing major labour mobility problems.



### ***DFAIT Cross-Canada Consultations***

To take a more active role in consulting the Canadian public, DFAIT conducted a series of face-to-face meetings with business groups and non-government organizations in recent years.<sup>57</sup> In mid-2000 and again in early 2002, officials from the services division of DFAIT conducted pan-Canadian consultations on the negotiations on services at the WTO.<sup>58</sup> During the DFAIT consultations on GATS in 2000, several nurses' organizations were invited to participate in the meetings. It appears the RNAO was the only one that submitted a written brief. The Association expressed many concerns regarding the impact of trade agreements on health and social services in Canada, especially the ability to maintain and enhance the universal, publicly funded health care system. A number of recommendations were made to that effect. Given the importance of regulation and certification for professional organizations, two of these recommendations (5 and 6 below) focussed on ensuring that trade agreements are not impinging on the capacity to regulate.

4. We recommend that Canada condition its further participation in GATS negotiations on the revision of Article I.3 (b), explicitly exempting all health and other critical social services from the agreement, and not just exempting those supplied in the exercise of governmental authority.
5. We urge Canada to oppose any effort to review Article VI.4 on domestic regulation in the negotiations, as well as any other revision of the GATS that will place at risk domestic regulation in health and other critical social areas. Canada should immediately reverse its position as it appears in its communication to the GATS Working Party on Domestic Regulation that would apply the "necessity" and "transparency" requirements to all services without exception.
6. We recommend that Canada ensure that the GATS does not limit the ability of Canadian professional certification and registration agencies to protect the Canadian public, and should fully involve these agencies in the relevant negotiations (RNAO 2000: 6).

In July 2000, DFAIT posted on its Web site and in the *Canada Gazette* a notice inviting comments on the trade in services negotiations. The CNA responded to this call and sent a letter to DFAIT. Three issues are discussed in the letter: employment opportunities, professional self-regulation and accessibility of health information records. The letter stresses regulatory issues (i.e., that foreign-trained nurses need to be treated the same as Canadian nurses and face the same requirements to be licensed as nurses who can practise in Canada).

After the various consultations, the Government of Canada released its initial negotiation proposal for GATS in 2001. On mode 4, Canada's objective is to gain better commitments from other WTO members in all categories of entrants: business visitors, intra-company transferees and professionals. As one official explained, Canada's commitments on mode 4 are quite liberal in comparison to other WTO members who have made few commitments in the previous negotiations and kept restrictions, such as the need for the domestic employers to show economic needs and lack of domestic supply, before granting temporary entry to

foreign service suppliers. Canada's initial request to other countries is to match its current GATS commitments.<sup>59</sup>

However, regarding nurses, the government stated that it did not intend to make commitments on health services.

Canada's objectives at this initial stage of the negotiations are to preserve the ability of Canada and Canadians to maintain or establish regulations, subsidies, administrative practices or other measures in sectors such as health, public education and social services (DFAIT 2001: 2).

Therefore, we should not expect Canada to make concessions on the mobility of health professionals within GATS, even if some developing countries have made requests to that effect.

## **Conclusions**

What are the key conclusions from this case study of nurses' labour mobility? First, it points to the strong interplay between international and domestic issues. Thus, the main explanation for the international migration of Canadian nurses and the increased use of the NAFTA labour mobility provisions is to be found in domestic policy (i.e., budget cuts to the health care system, which led to the layoff of many nurses in Canadian provinces and a general deterioration in the working conditions for those who remained). The Romanow Commission on the Future of Health Care in Canada identified several problems in nursing in Canada. First, there are too few graduating nurses, as there has been a reduction of over 50 percent in graduates from nursing schools in the last 10 years. Second, there are too many nurses leaving the professions or the country due to stress and poor working conditions. An increasing number of nurses in Canada face mandatory overtime, mandatory on-call, and refusal of holidays and time off for education and training. Third, the nursing profession is aging, with the average age of an RN now 43.7 years old; most nurses retire in their mid-50s (see Table 5 on age distribution), which means that a large number of practising RNs will leave the profession in the next 10 years (Romanow 2002: 95-96). To face this challenge, the Commission recommended the Canadian government and the provinces develop and adopt comprehensive human resource policies for nurses and other health professionals.<sup>60</sup> Such a domestic strategy would focus on training, retention, remuneration, skills and patterns of practice.

What should be the role of trade agreement labour mobility clauses in such a human resources strategy? It will be very limited. Given its position on health services, no one expects Canada to make any commitments at the GATS or FTAA negotiations, which would facilitate entry of health professionals to Canada. The existing NAFTA provisions have not led to a significant influx of American or Mexican nurses.

Furthermore, resorting to a special temporary workers program for nurses is not seen as a solution to deal with the nurse shortages in different parts of the country. First, it is not seen as feasible. As the global competition for nurses is already very fierce, Canada would not be

able to recruit a large number of qualified nurses. Second, a large influx of temporary foreign nurses could further destabilize the health system. Third, such a program would probably involve recruitment from developing countries whose health systems are in dire need of nurses and physicians. Such recruitment would go against Canada's international development assistance objectives and commitments in international health. Canada should consider adopting guidelines against the active recruitment of health professionals from developing countries where there is a shortage of nurses and physicians.

Regarding the policy-making process related to trade agreements and labour mobility clauses, nurses' representatives expressed a strong desire to be consulted and involved in the early steps of the policy process. For instance, the idea of creating a temporary workers program to help Canada deal with the shortages of nurses was once considered by government officials.<sup>61</sup> Nurses want to be involved and informed of such discussions. Some nurses' organizations expressed concerns regarding how the participation of citizens is integrated in trade policy making. For instance, in its submission regarding GATS in 2000, the RNAO felt greater transparency in trade negotiations was needed.

We are well aware that "the devil is in the details": the impact of trade agreements depends critically on the detailed language and the specifics of each country's position. Broad, general statements of intention such as the 5 page briefing paper attached to DFAIT's call for consultations and those posted in the Services 2000 website are clearly inadequate to evaluate the positions of the Canadian government and the huge impact that further GATS negotiations could have in Canada.<sup>62</sup>

We should also note that, given the level of institutionalization of the nurses groups, they were able to be involved in the policy process. This allowed them to mobilize when necessary to support or oppose a measure related to cross-border mobility, as the proposal to create a temporary workers program for Ontario. As seen in the next case study, women business owners in the service sectors do not have the same institutional capacity to organize and mobilize around specific issues.

## 5. WOMEN BUSINESS OWNERS IN CANADA: A CASE STUDY

The case study on nurses raised some issues for women as workers, in particular, the experiences of women working in an organized sector. This chapter turns to women as business owners and exporters. We found little information specifically on women business owners in the services sector, and so included the comparatively richer literature on Canadian women business owners and self-employed women in an attempt to fill some gaps. There are risks in extrapolating from employment data to impute characteristics of women owners of micro and very small businesses, however, and difficulties in relying on information derived from surveys.

The discussion begins with a description of women business owners and their significance in the Canadian business sector. The chapter then looks at the labour mobility issues identified by women service providers and business owners more generally to see whether they are addressed in the content of the labour mobility agreements under study. We examine the data on use of the labour mobility provisions under NAFTA to see how women are making use of the trade provisions as compared with men. The chapter then turns to a discussion of inclusion and participation in consultative mechanisms related to trade agreements, and concludes with a discussion of key findings and recommendations.

### **Women in the Services Sector**

Our gender analysis begins with a description of Canadian women service providers.

- How many women-owned firms are there in this sector?
- In what sub-sectors are they most present?
- What is the export performance of women-owned businesses compared with those owned by men?
- Are there differences in the characteristics of the businesses owned by men and women that might be attributable to gender considerations?

The service sector accounts for about 70 percent of gross domestic product (Industry Canada 2003) and almost three quarters of total employment (compared with 15 percent employed in manufacturing). More than two thirds of Canada's self-employed work in the service sector, and women represent approximately 35 percent of all self-employed persons (Statistics Canada 2001). Women also appear to be moving into self-employment at a greater rate than men. From 1976 to 1999, the number of self-employed women increased by 75 percent, while the number of self-employed men increased by 46 percent (Federal/Provincial 2001). The service sector has exhibited stronger employment growth than the rest of the economy in recent years, particularly in self-employment (notably in professional, scientific and technical services, accommodation and food services, and information and cultural industries).

Services are an important export, accounting for about 13 percent of total Canadian exports. According to Industry Canada,<sup>63</sup> markets for services exports are more diversified than for goods. Sixty-three percent of commercial services exports are to the United States, compared with 85 percent of goods exports. Twenty percent of services exports went to non-OECD countries, suggesting that different cultural attitudes to women in business could emerge as a consideration for women exporters of services. According to Industry Canada, the leading commercial services in terms of exports include architectural and engineering services, and research and development services. Aggregated data show strong export growth in these services. Architectural and engineering services are sectors where Canada is seeking commitments by other countries in GATS.

When we try to identify the location of women in the services sector in Canada, we encounter some difficulties with availability of sex-disaggregated data.<sup>64</sup> Sex-disaggregated data on firm ownership is largely based on surveys, which can provide different pictures of women's business activity, depending on methodology and definitions used. A consistent description of the key sectors for women-owned businesses would help identify whether the sectors targeted by Canadian negotiators for liberalization are equally representative of the interests of women and men business owners.

According to the recent survey on financing of small and medium-sized enterprises (SMEs), the highest proportion of majority-female owned SMEs in the services sector are in the wholesale/retail sector (representing 23 percent of all firms), followed by professional services (22 percent of all firms) and "other"<sup>65</sup> (15 percent of all firms). That study resolved the question of what is a women-owned business<sup>66</sup> by identifying three categories of "women-owned business": "majority female owned," "half female owned" and "minority female owned." If the classifications "majority female owned" and "half female owned" are combined, the proportions are wholesale/retail (43 percent), professional services (38 percent) and other (32 percent) (Industry Canada 2002a).

A study by the Women Business Owners of Canada (WBOC) found that 18 percent of WBOC members surveyed (largely sole owners of full-time established business concerns) were in business services, 16 percent in retail trade and 10 percent in manufacturing and construction (NFWBO and IBM 1999). Another study, however, conducted for the Foundation for Canadian Women Entrepreneurs, found that over 86 percent of Canadian businesses owned by women are in services (Riddle 1999).<sup>67</sup>

Statistics Canada's Business Register provides sex-disaggregated data on registered firms in the following categories: self-employed, incorporated with employees, incorporated without employees, unincorporated with employees and unincorporated without employees. Based on an analysis of that data, Riddle found that women own about 32 percent of firms in wholesale/retail trade, 32 percent in finance, insurance, real estate, 33 percent of firms in business services, and about 58 percent of firms in the category "other" services.<sup>68</sup>

## A “Woman Business Owner”

Obtaining a clear description of the characteristics of Canadian women business owners, particularly those engaged in export activity, is a continuing challenge. A 1998 literature review on Canadian businesswomen in international trade drew attention to the absence of sex-disaggregated data on business ownership and the lack of a standard definition of a “woman business owner” (McRae 1998).<sup>69</sup> For this study, a clear description of women business owners is important to identify whether the eligibility criteria of mobility provisions in trade agreements are inclusive of the business and export characteristics and interests of large numbers of women.

The Industry Canada report on SME financing in Canada (2002a) found that “majority female-owned” businesses tend to have fewer employees, representing 15 percent of SMEs with fewer than five employees and only four percent of SMEs with more than 100 employees. Combining all categories of “women-owned businesses,” however, shows a narrower difference between male and female-owned businesses: 87 percent of women-owned SMEs have fewer than five employees, while 81 percent of SMEs owned by men have fewer than five employees (Canadian Heritage 2002, para. 180). This apparently small difference (six percent, depending on definition of “woman-owned business” used) between male and female-owned firms is important, since the comparatively small size of women-owned businesses is often suggested as an explanation for why women-owned firms are less active in exporting compared with male-owned firms. If the difference in firm size, based on the number of employees, is not overwhelming, there may be other explanations for the difference in export activity.

Analyses of women business owners may blur distinctions between business owners, entrepreneurs and the self-employed. This can present difficulties, since the data for each group may not be comparable. We know more about the characteristics of self-employed women, but do not know whether we can extrapolate from that data to make inferences about women business owners. One study of small businesses in Western Canada integrates these categories. It defines a “small business” as an enterprise with fewer than 50 employees, yet also includes enterprises operated by self-employed persons who have no paid employees. Using that definition, the study finds a high proportion of women entrepreneurs and SME owners (Chambers and Rylka 2001).

### *Export Activity*

To what extent are Canadian women service providers and women business owners in general engaged in exporting? Again, sex-disaggregated data are difficult to obtain. The study, *Beyond Borders: Canadian Businesswomen in International Trade* (Orser et al. 1999: Preface), drew attention to the lack of any national database of women-owned firms that export, and estimated there were “8,600 to 34,400 Canadian businesses in which a woman owner makes export decisions.” The WBOC study found that 31 percent of its respondents were involved in international trade; the Industry Canada survey on financing of SMEs (2002a), estimated that eight percent of majority women-owned SMEs export, compared with 11 percent of majority male-owned SMEs. (The report did note this figure falls within the margin of error of the survey.) Studies consulted on self-employment did not inquire into export activity.

While women workers, self-employed women and women-owned businesses are predominately located in the service sector, some studies indicate that women exporters are predominately manufacturers: Beyond Borders (Orser et al. 1999: 10) concluded that 76 percent of respondents were in manufacturing, compared with 22 percent in services, and quoted a Canadian Federation of Independent Business study of its members that found that manufacturers were most likely to be export oriented (more than 50 percent). Riddle, however, estimated that over 44 percent of women in services engage in exporting.<sup>70</sup> The discrepancy may be due to sampling, or different aggregations of sub-sectors.

One potential source of information on women exporters is WIN Exports (World Information Network for Exports), a computerized database of Canadian exporters that can be accessed only by DFAIT trade commissioners and by some Team Canada Inc. partner departments. While it can be searched for women-owned businesses, the database is created through self-registration by firms. Studies and interview reports suggest that women-owned businesses may be less likely to take the time to search government Web sites<sup>71</sup> and, presumably, register on electronic networks, so the sample may be biased. The database has not been used to survey women exporters. WIN Exports has recently been replaced by a “virtual trade commissioner.” While clients are required when registering to designate a “title,” the form does not request sex-disaggregated information.<sup>72</sup>

While DFAIT has taken several steps to address the interests of women exporters,<sup>73</sup> the Department’s virtual consultations with service exporters on GATS did not disaggregate results by sex.

### **Labour Mobility Issues Identified by Women Business Owners**

The perspectives discussed in this study of Canadian women business owners arise from interviews with leaders of two associations of women entrepreneurs, researchers involved in the Trade Research Coalition, which produced the Beyond Borders study (Orser et al. 1999), two women who are members of federal government consultative committees and several women business owners who engage in exporting.

We were not able to find any literature on Canadian women business owners’ views on labour mobility, nor did we find submissions or position papers on this topic that had been prepared by women business owners.<sup>74</sup> One potential source of information is the report on the 2000 GATS virtual consultations conducted by DFAIT (nd-c). However, that mechanism did not provide for sex-disaggregated data. Concerns raised by respondents to that survey included the following.

- They had difficulties getting entry visas to enter export markets once they had a contract in a foreign country (cited by 21 percent of respondents).
- There were difficulties in getting work permits (21 percent).
- Buy-local requirements existed (74 percent).

- The short-term entry of services exporters into foreign markets is key to promoting business activities. The main reasons for temporary business travel cited were meeting with potential clients or partners (26 percent), speaking at or attending a conference or seminar (22 percent), delivering a service to clients (19 percent), reporting to clients on contractual work (13 percent), performing after-sales service (12 percent), setting up a local office (4 percent).<sup>75</sup>

The women interviewed reported that travel was key to their business. They travelled frequently to meet potential and existing clients, build their corporate profile, deliver a service, and participate in conferences and trade shows (networking).<sup>76</sup> One study (Riddle 1999) of women service exporters found that over half said they need at least two visits to a market to develop business or deliver the service. Time is very important for small businesses and is a particularly scarce resource for women. Interviewees reported it can take a long time to get travel clearance. One person felt that establishing common standards for how long it takes to process forms would be helpful.<sup>77</sup>

Most interview subjects reported on business travel to the United States. Almost all mentioned time factors when asked about problems encountered when travelling across international borders on business: time waiting at the border if crossing by land, time to obtain information about travel documents, time away from family. There were no perceptions of gender differences at the border, although most recalled “hassles” with the INS, particularly if they stated they were travelling to the United States as a speaker at a workshop or conference. Several observed that since 9/11, male companions seemed to experience more difficulties at the Canada–United States border. The main complaint was difficulty in obtaining the necessary information: Canadian government Web sites were felt to be confusing, and the language bureaucratic. There were some complaints about arbitrary treatment by U.S. officials. Some interviewees reported receiving conflicting information from Canadian and U.S. authorities on visa requirements. Another cited difficulties in getting clear information on the economic needs test when her company wished to bring in trainers from the United States.

Two respondents reported difficulties with travel to countries other than the United States where their credentials might be questioned, because they were women, or where, as a woman, it was difficult to obtain a letter of introduction. In both cases, they concluded the market was not worth the time to pursue personally.

In general, concerns cited had to do with access to clear, accurate information.<sup>78</sup> Indeed, the interviews revealed a surprising lack of awareness about the temporary entry provisions related to trade agreements, particularly in the case of NAFTA, which has been in place for a decade. Coping strategies of individuals included cultivating networks with government officials through participation in committees and other consultative bodies so they could telephone or e-mail an individual directly for information. Some felt that entrepreneurs who lived far from major urban centres would encounter more difficulties obtaining information (since there would be no consulate or Canadian government office in their area), or obtaining visas (since they would have to send their passports through the mail for visas — considered risky and could be a lost business opportunity).



Linked to the need for easy access to clear, concise information is the issue of time. All women interviewed for the study raised concerns about time constraints that owners of small businesses and, in particular, women, experience. Acute time pressures translate into business owners' desire for clear and concise information on requirements for travel documentation and, ideally, consistency in trade rules on temporary business travel in regional and multilateral regimes. Hunting through government Web sites to obtain visa information was felt to be too time consuming. Women reported they would look first to a trade magazine for information, or would want to know whom to telephone. One reported investing in detailed consultations with border officials before she arrived at the border to ensure that her documentation was correct, thereby avoiding delays.

There were differing views on broadening the list of professions covered by NAFTA and other trade agreements. There were also different perceptions of categories that are actually included. For example, when questioned specifically on whether categories should be expanded, some argued for including trainers, since many women are engaged in that service. Another noted that under NAFTA, if a Canadian supplier has installed a product in the United States, and its expertise is needed to train people to use it, the Canadian supplier is able to enter the United States.

### **Perspectives from NAFTA and GATS Travel Data**

The provisions relevant to labour mobility in NAFTA are contained in Chapter 16 on the temporary entry of business persons. The chapter states the rules aiming at facilitating the entry of four categories of workers and business peoples from Mexico, Canada and the United States: business visitors, traders and investors, intra-company transferees and professionals.

As reported in the discussion on the use of NAFTA "visas," an actual paper document, or visa is not necessary for most Canadian business travellers to the United States. Table 4 (NAFTA visas issued to Canadians by the INS) suggests that about 30 percent of NAFTA visas were issued to women in 2001. However, a closer look at the data, compared against other visa categories, suggests the data are inconclusive. The INS data report that there were 169,417 Canadian "non-immigrants" to the United States in 2001, of which only 2,438 (about one percent) were women business visitors whose entry was facilitated through NAFTA provisions. Even fewer (1,255) were treaty traders and investors (Table 4). While the number of treaty traders and investors is small, women did account for about one third of all visas issued under that category. Since INS data count the number of authorizations, not number of people, we do not know whether more women than men made one trip, or whether a smaller number of women or men made many trips across the border.

While the number of interview subjects was small, none of those interviewed reported being aware of taking advantage of NAFTA business travel facilitation mechanisms. Several reported having dual citizenship (Canada/United States), others stated they simply refrained from stating they were travelling on business. Others reported they found the NAFTA provisions "too big a headache" to use. It is possible that those interviewed were unaware that the questioning they received by border officials was for "visa issuing" purposes, or

they indicated their visit was for less than six months, and it was therefore not documented by U.S. officials.<sup>79</sup> As border crossings become increasingly scrutinized in the post-9/11 period and customs and immigration officials undergo further training, this somewhat relaxed approach may change.

### **Participation in Consultative Mechanisms**

Women service providers and business owners more generally do not appear to be well represented in the Canadian government's consultative mechanisms. For this study, we looked at the Services SAGIT, where four of the 20 members are women, none specifically representing "business women" or a business women's association, or gender expertise. (In an interview, one member volunteered that out of personal interest, she tended to bring this perspective.) The transportation, financial services, engineering and architecture sectors are well represented, as are mainstream business and professional associations (although not nursing associations). One study (Riddle 2002: 2) on services exporters noted that in Canada, "the interests of very small and micro service firms are seldom heard (during negotiations), in part because they don't have staff time for extensive government consultations and in part because they are often assumed not to be exporting." That study found that almost 90 percent of Canadian service firms fall within the category of micro or very small.<sup>80</sup>

The DFAIT consultations (nd-c) on GATS included e-mail questionnaires and cross-country meetings with stakeholders. It is not possible to know how many women business owners participated in the electronic surveys, as the results were not disaggregated by sex. These consultations were held in collaboration with the provincial and territorial governments. An examination of the invitation lists shows that mainstream business umbrella organizations such as the Canadian Chamber of Commerce, Canadian Federation of Independent Business, several municipal boards of trade, and The Alliance of Manufacturers and Exporters, made representations before these meetings. Several businesswomen's organizations were contacted.<sup>81</sup> However, none appears to have attended the sessions (DFAIT nd-f).

There were no representatives or spokespersons from women's business organizations listed among witnesses in the 2002 hearings by the Standing Committee on Foreign Affairs and International Trade on the new round of the WTO negotiations, although larger umbrella business groups, such as the Canadian Chamber of Commerce, the Council for International Business and The Alliance of Canadian Manufacturers and Exporters made presentations. Interestingly, the focus of the discussion on services addressed potential impacts of the new round on public provision of health, education and social services, sectors where self-employed women and women business owners are substantially located.

Industry Canada maintains an ongoing dialogue with stakeholders, such as the Federation of Canadian Municipalities, the Canadian Manufacturers and Exporters Alliance, the Canadian Chamber of Commerce and the Canadian Federation of Independent Business.<sup>82</sup> Women, however, according to interview subjects, tend not to participate in these associations to the same extent as men, perhaps because their business interests are not well represented, or because women may feel uncomfortable in the largely male-dominated environment.<sup>83</sup> Other

interviewees volunteered that women are too busy to participate in business associations unless they address an issue that directly affects their own business.

Some key umbrella businesswomen's associations do not appear to have been contacted: the Foundation of Canadian Women Entrepreneurs, Women in International Trade – Ontario (OWIT) and the Canadian Association of Women Executives and Entrepreneurs (CAWEE). Leaders interviewed from OWIT and CAWEE indicated their organizations were not engaged in policy or advocacy work, partly because these are not priority concerns of their membership. On a more practical note, they emphasized that their members are extremely busy; businesswomen are interested in the networking aspect of associations, not policy. The 1998 literature review on women in international trade also speculated that women may devote less time to networks or business associations than men. The women's business associations contacted for this survey also did not appear to have any staff: most did not return phone calls or e-mail messages. One former association executive said she was able to keep somewhat abreast of policy issues only because a fellow board member had a personal interest in the policy process and would vet voluminous government documents for her.

Participation lists for government consultations suggest that with the exception of the larger umbrella business organizations (Canadian Chamber of Commerce, boards of trade, Alliance of Manufacturers and Exporters), most business interests are represented by their respective trade associations. A separate study would be required to investigate the extent to which women professionals and business owners participate in those bodies and the extent to which gender considerations are reflected in those organizations' briefs. Studies on women's participation in associations suggest some gender differences. A study on self-employment in Canada looked at membership by the self-employed in associations. It found that about one quarter are required to belong to an association (professional, occupational or trade), but proportionately more men than women have this obligation. The incidence of this requirement is much greater for those in managerial or professional occupations, and those who earn \$60,000 or more, categories where men are more present than women (Delgaje 2002).

## **Conclusions**

This case study illustrates the perennial problem of gaps in available sex-disaggregated data to support gender analyses. It also raises questions regarding consultation and participation of women, in particular gender experts, in the government's trade policy-making mechanisms, and the potential for sectors or issues of concern to women business owners to be neglected as a result.

Our conclusions echo recommendations from a 2001 UNCTAD expert meeting that addressed GATS and labour mobility. That report (UNCTAD 2002) called for:

- better collection, classification and analysis of statistics and qualitative data to capture women's work in all the services sector (with and without market value), as well as the interlinkages generated in other sectors;

- promoting productivity in services, as well as negotiating skills (since women are engaged substantially in services);
- in the area of multilateral and regional negotiations, attention to the services sector through the four modes of supply (in particular, health services, education services, and cultural and recreational services);
- enhanced participation of women in policy and decision making; and
- policy-oriented studies on gender impacts of liberalization of the services sector.

### ***Definitions***

In surveying the literature on Canadian women business owners generally, we were struck by the continuing lack of a clear definition of what is meant by a “woman business owner.” The issue is not just semantics: greater precision is needed to capture the characteristics of target populations. We noted a tendency in government documents to blur distinctions between business owner, entrepreneur and self-employed, a problem also noted at a 2001 OECD conference on women entrepreneurs, which pointed to the need to distinguish between:

- all women entrepreneurs and women entrepreneurs in small and medium-sized enterprises of a particular size, and whether “SME” is a fine enough category to capture the characteristics of women-owned businesses, particularly those in the services sector;
- all women business directors and quasi-directors (including associates working in the business, spouses helping with the business, paid or unpaid); and
- women with entrepreneurial values and all women who are the legal owners/managers of businesses (Letowski 2001).

Related to the need for greater clarity is the need for a much better understanding of gender differences in the characteristics of women service providers and women business owners more generally. For example, what are the implications for government support programs targeting women business owners of the greater likelihood of care responsibilities by women business owners (usually for children or parents)?<sup>84</sup> Are there differences in training and prior experience of women and men business owners that might have a bearing on decisions to export: were they employees in larger corporations (with business networks, marketing and perhaps export skills) or mainly engaged in unpaid work?

### ***Data***

Although this case study would benefit from perspectives from a broader sample of women business owners, the key constraint to identifying needs and impacts is the lack of easily accessible data on Canadian women service providers and their export activity. The lack of sex-disaggregated data makes it difficult to identify potential gaps in government services for women-owned firms, ensure equitable representation in consultation mechanisms, and target government services and communications initiatives.<sup>85</sup> In the absence of such data, it is difficult to evaluate the contribution of labour mobility agreements to their export performance, or, indeed, whether further liberalization of these provisions in NAFTA or GATS is a key policy concern for women service providers and business owners. Industry

Canada's Canadian Company Capabilities database collects export data and could include a field asking the sex of the owner, as well as other equity groups, so a finer analysis of data would be possible.<sup>86</sup> One difficulty is that this database is created through self-registration, which may contribute to under-representation of women service providers. The Statistics Canada Business Register could include more fields requesting registrants to identify by sex.

There are concerns with the apparent reliance by federal government departments on survey data on women business owners, particularly when data sets are collected with the aid of public funding, but are not available for further analysis by other researchers.<sup>87</sup> Reliance on survey data also raises problems of potential bias in results when responses by business owners in the goods and services sectors may be disproportionate to the actual size of the sector.<sup>88</sup> In addition, substantial time and financial expenses are incurred to identify and survey individual Canadian women business owners. It might be more efficient to include fields requesting information on the sex of the business owner in all documents filed with the government.

Constraints with respect to comparability of data on NAFTA work authorizations collected by American and Canadian authorities make a gender analysis of actual use of these mechanisms difficult. We do not know whether different groups received authorizations for different lengths of time, or whether women travel to the United States for business purposes as frequently in the year as do men.

### ***Consultation***

Our gender analysis framework ranks participation in consultative mechanisms as an important gender equality indicator. Women service providers and "women business owners" as a category do not appear to be well represented on the Services SAGIT, nor did this group appear to make efforts to participate in cross-Canada consultations or parliamentary committee hearings. We do not know what feedback women business owners may have provided to DFAIT's electronic consultations.

Unlike nurses, whose interests were advanced by professional associations and trade unions, the views of women service providers and women business owners, who are unorganized, were notably absent from official documents. Nor do they appear to be well reflected in government negotiating positions, which emphasize sectors where men are substantially located. In light of the weak infrastructure observed for associations of women entrepreneurs that could generate surveys of members or produce policy documents, and the businesswomen's acknowledged disinterest in participating in electronic surveys or focus groups, how then are issues or gaps pertinent to that group to be made visible?

To begin, analyses are needed based on a good database of sex-disaggregated data on women's economic activities. That data could be further disaggregated by race, ethnicity and other target groups. In light of the increasing trend of women to move into self-employment, more information and analysis are needed on questions related to government programs designed to support businesses. What were the women doing before moving into self-employment? Were they experienced corporate managers and executives, laid-off workers or women re-entering the work force after a leave for child or parental care? What is their export

activity (or intention to export)? Sex-disaggregated data on actual participation in government export promotion and business support programs would reveal the trends.

Government may need to consider alternatives to existing consultation mechanisms that favour established, old-boy networks and may be reinforcing bias. These could include targeting information and queries to sectoral women's business associations (film, communications, technology, for example) and promoting government services in trade, as well as government publications. It could also include proactive nominations of women in sectors that are not well organized for government consultative mechanisms.

As the experience with the Trade Research Coalition and other initiatives in the 1990s seems to suggest, ad hoc approaches to addressing barriers to women entrepreneurs and women in international trade can be difficult to sustain. Lead departments could consider steps to ensure a longer-term approach to promoting women's economic activities. The Prime Minister's Task Force on Women Entrepreneurs drew attention to the need for better co-ordination of government programs for women entrepreneurs and visibility for Canadian women entrepreneurs, recommending creation of an office of women's business ownership and a women's business advocate (Prime Minister's Task Force 2003). While the question of quotas is controversial, the existence of a minimum participation rate by women in trade missions, export awards, etc., could reinforce demand for sex-disaggregated data and databases on exporters, as well as linkages to associations of women in business.

## 6. KEY FINDINGS AND RECOMMENDATIONS

Our gender analysis of the two labour mobility agreements (NAFTA, Chapter 16 and GATS, mode 4), was based on a simplified gender analysis framework we felt could be workable for government departments involved in trade policy making in Canada. Our analyses of the agreements themselves and closer investigation into the use and impact of the provisions on two groups: nurses and women business owners, resulted in three overall recommendations, summarized below. Key findings from each chapter of the study are also summarized.

### General Recommendations

**Recommendation 1:** A recurring constraint the research team encountered was the absence of sufficient sex-disaggregated data to support a rigorous gender analysis. The lack of such data suggests some weakness in the government's commitment to gender equality.

With respect to international statistics, we suggest the following.

- Canada should discuss, with NAFTA partners, mechanisms to make data on movement of temporary workers more uniform, develop consistent terminology, and expand data collected to include the duration of a visa, by sex. These issues could also be discussed in the context of bilateral agreements such as the Canada–Chile Free Trade Agreement and the FTAA.
- More detailed sex-disaggregated data on temporary workers coming into Canada are required, in particular on the professions of men and women who receive “visas” as temporary workers.

Regarding Canadian data, we suggest the following.

- There is a need for better sex-disaggregated data on Canadian firms and exporters to identify where women business owners are located, evaluate the use of existing government support mechanisms by women and men business owners, and target priority areas for future initiatives. These data are necessary to support gender-aware impact assessments of trade agreements over the longer term. In addition, these data are particularly important in light of the low representation of women business owners in government consultation mechanisms. Better data on service providers are especially needed.

**Recommendation 2:** The Government of Canada should take steps to enhance the participation of women and gender experts in trade policy making.

Governments agreed in the 1995 Beijing Platform of Action to “seek to ensure that national policies related to international and regional trade agreements do not have an adverse impact on women’s new and traditional activities.” The Federal Plan for Gender Equality (SWC 1995) elaborates on the Canadian government’s objectives to implement gender-based analysis throughout federal departments and agencies. While the Government of Canada has made

efforts in recent years to open the policy-making process related to trade, gender equality has not been at the centre of these changes.

With respect to women business owners and exporters, the government could be more proactive in seeking views from women's groups, by specifically soliciting input from associations and networks of women business owners and entrepreneurs. Women and men who own their own businesses, almost by definition, are not likely to be much interested in government policy making, unless a policy has a direct impact on their business. Thus, consultation strategies that rely on business owners to engage proactively in Internet-based mechanisms may fail to achieve the desired results. Government departments may need to provide some resourcing for businesswomen's groups and gender experts to provide analyses.

In addition, the membership of sectoral advisory groups (SAGITs) and other consultative mechanisms could include gender experts. More generally, the number of women members with a mandate to represent women business owners could be increased. The newly created Academic Advisory Council, which has a mandate to discuss broad policy issues related to trade, could include members with specific expertise in gender analysis and the gender dimensions of trade.

The research team observed many differences in the engagement strategies with respect to the labour mobility agreements adopted by the nurses and women business owners. Nurses are organized into unions and professional associations, which have some capacity to invest in researching government policy and preparing formal submissions. The associations of women business owners tend to focus on networking opportunities and professional development for their membership. They do not have the capacity to follow policy debates and write briefs. A more detailed gender analysis of the research and lobbying capacity of different sectors in the Canadian economy could contribute to a deeper understanding of the political economy of Canadian trade policy.

**Recommendation 3:** The federal government should establish a formal mechanism to ensure gender equality is addressed as part of the interdepartmental policy-making process.

The approach adopted in this study did not directly address the question of whether international trade policy is a mechanism for economic growth that benefits women equally with men. Our analysis, however, suggests the processes by which policy is developed at present do not advance the Canadian government's gender equality objectives. We found no formal entry point in the policy process where the implications for gender equality are examined. For that matter, there does not appear to be any gender analysis of the impact of trade agreements in general. Such analysis should be undertaken early in the internal process, when the Canadian government's positions and views are being developed. This analysis should be a continuous process, since negotiations under the WTO and in the FTAA processes are ongoing. In addition, an ongoing monitoring of implications of the actual implementation of agreements is key.



A simple gender analysis framework, such as that developed for this project, could be used. Responsibility for the analysis should not rest with Status of Women Canada but, consistent with the government's own gender quality objectives, with the respective departments involved in the specific policy area.

## **Summary of Key Findings and Recommendations by Chapter**

### ***Chapter 1***

The gender analysis framework set out why such analysis is important: it helps to reveal the linkages between trade liberalization and the domestic economy, to inform policy makers how changes in trade policy may both advance and undermine other public policy priorities, and to ensure that trade liberalization and complementary policies consider gender-based differences, so women are able to benefit from new trade opportunities. This analysis is needed to ensure Canadian trade policy will be consistent with gender equality objectives as set out in the federal government's Plan for Gender Equality.

Since the adoption of the Beijing Platform of Action, several international organizations (such as APEC, UNCTAD and the Commonwealth Secretariat) and national governments have taken up initiatives that could help make trade agreements contribute to gender equality. The Canadian government has been involved in several gender mainstreaming initiatives, including funding a series of studies on gender and trade, of which this report is one.

The labour mobility provisions in trade agreements bring trade into the domestic arena of immigration, labour market and social policies. A gender analysis of arrangements affecting the cross-border movement of service providers is important since the majority of Canadian women work in the services sector, and women form the majority of service employees. In addition, women's businesses are substantially located in the services sector. Moreover, such analysis is timely as there is growing pressure from developing countries for further liberalization in this area as part of the ongoing WTO negotiations.

The gender analysis framework sets out four components to consider: the content of trade agreement provisions, the potential impacts of the provisions, available sex-disaggregated data, and the involvement of women in consultation mechanisms and the policy-making process. Several questions and issues related to each component are spelled out for use in the subsequent chapters of this report. For instance, are the provisions overtly gender biased? Are women employed in the sectors covered by the provisions? Who has used the NAFTA and GATS provisions? Who participates on government advisory bodies relating to these areas?

**Recommendation 4:** The government should apply this methodology in ongoing trade negotiations, for example in the current negotiations on trade in services under the proposed Free Trade Area of the Americas.

**Recommendation 5:** For a more comprehensive gender analysis, further work is needed to consider the impacts of trade-induced changes in production, employment and wages on consumption patterns, and on time use, by gender.

## *Chapter 2*

The content analysis of labour mobility provisions in trade agreements involved a review of the provisions in NAFTA Chapter 16 on the temporary entry of business persons and GATS mode 4. The NAFTA provisions remove the prior approval procedures that are otherwise required to obtain a temporary work permit for four categories of business persons: business visitors, traders/investors, intra-corporate transferees and certain categories of professionals.

The NAFTA labour side agreement is a mechanism for promoting 11 principles through national labour laws, for addressing disputes in these areas, and for encouraging more general co-operation on labour issues. Some cases have concerned the treatment of migrant workers and gender discrimination, but the agreement has lacked the tools to enforce any changes. To date, there has been little discussion in the side agreement of the NAFTA labour mobility provisions, though there is clearly potential for it to address instances of gender discrimination that may arise.

The GATS labour mobility provisions and related individual national commitments are more limited than those in NAFTA, as they are confined to services and do not include general provisions for entry facilitation. Where countries have made specific commitments, they tend to be limited to higher skilled, intra-company transferees, and subjected to economic needs tests. For its part, Canada has commitments for three categories (business visitors, intra-corporate transferees and nine categories of professionals) with time periods shorter than under NAFTA. There are no particular provisions for spouses of professionals entering the United States, but the Canadian government has made a number of changes that make this easier for spouses entering Canada.

Using available sex-disaggregated data for employment by occupation, we found that women could benefit as much as men from the list of professionals covered under NAFTA. For some categories of health professionals, women are dominant while, overall, women represented 48 percent of workers in the occupations for which data are available. In the case of GATS, women accounted for about a quarter of the categories on which Canada has made commitments and for which data are available. For categories on which Canada is now seeking concessions from other countries, women account for about a third of the workers in categories for which data are available. However, it would be important to consider whether women are employed in those types of companies that are most likely to take advantage of these provisions. (Women business owners are more likely to operate very small businesses.) In the case of intra-corporate transferees, the focus on management and executive positions, where women are less represented, suggests women will be less likely than men to take advantage of these provisions under NAFTA and GATS. Finally, in the case of traders and investors, the emphasis on substantial amounts of trade and investment might make it more difficult for women entrepreneurs to use these provisions as most of their businesses fall into the smaller categories.

There is little research or evidence on how the increased flow of temporary skilled workers has affected domestic labour markets.<sup>89</sup> Some work suggests there has been wage compression and labour displacement in Canada, with decreased bargaining power and deskilling through lower incentives for training as turnover rises. But there is no available evidence that this has been the

result of increased movement of people as a result of NAFTA or GATS labour mobility provisions, let alone that these movements have affected women more than men.

**Recommendation 6:** It is important to begin tracking the impact of NAFTA- and GATS-facilitated labour mobility on employment and wages in the Canadian labour market, especially for professionals.

**Recommendation 7:** Brain-drain costs (and benefits) resulting from increased outward (and inward) labour mobility need to be monitored.

### *Chapter 3*

The data analysis underlines the need for improvements in data collection including harmonization of methods used by the three countries. For instance, the United States counts the number of visas issued whereas Canada counts the number of people issued visas. Canadians have accounted for the highest number of visas for temporary workers issued in the United States, and this number has grown in the last few years, with the majority being NAFTA professionals. In Canada, the United States is the leading supplier of temporary foreign workers, though levels have not changed much in recent years.

The number of NAFTA visas issued to Canadian professionals in the United States rose sharply in the 1990s to reach 92,000 in 2001. In addition some Canadians took advantage of other visas (they were issued 13,000 H1B and 5,000 H2B visas in 2000.) Some 11,000 U.S. citizens received NAFTA visas in 2001, a 50 percent increase from 1994, and many chose not to apply for NAFTA visas. In Mexico's case, there has been an increased flow of professionals to Canada, though levels are still quite low, and the numbers seeking visas in 2001 in the United States were less than a quarter of the quota allowed.

The sex-disaggregated data show that women account for about a quarter of temporary Canadian workers in the United States — below the third recorded in 1994. In the early years, women accounted for roughly half of all NAFTA visas issued to Canadians; this fell to only 30 percent in 2001. This growing gender gap may reflect increased U.S. demand for Canadian professionals in the information technology sector, in which women tend to be less well represented (as discussed in Chapter 3). Another interesting characteristic is that the majority of Canadian women issued temporary visas in the United States are 25 to 34 years of age, whereas men tend to be older. Among U.S. and Mexican temporary workers in Canada, women are also a minority (there is no information by age).

Data by profession is uneven, with the profession of Canadians working in the United States generally not being reported. For 2001, the available data show that for women the most important category for NAFTA visas was executive, administrative and managerial, followed by registered nurses and computer scientists; men shared the same first and third categories with engineers ranking second.

Recommendations emerging from the analysis include the following.

**Recommendation 8:** There are several ways in which the data on NAFTA visas could be improved — the scope and way the data were collected, and availability to the public. These are issues that could be discussed further in the NAFTA Temporary Entry Working Group. For example:

- The United States should move from a visa count to a head count in its data collection.<sup>90</sup>
- Visa applicants should be required to enter information on their profession. These data should be entered electronically to avoid errors of interpretation.
- Have data on the length of stay, age of workers and industrial sector of intra-corporate transferees.
- Governments should expand the staff available to respond to requests for data from within and outside government. In addition, these data should be made available on official Web sites.

**Recommendation 9:** More research is needed to determine the various reasons why women are less frequent users of NAFTA visas.

#### *Chapter 4*

The case study focusses on nurses' labour mobility for several reasons: this is a sector where there is growing migration globally, raising questions about the impacts on health systems; nursing is the most feminized profession in Canada; the number of Canadian nurses moving to the United States has grown, raising questions about the impact of NAFTA; nurses are represented by well-structured regional and national organizations; and a large number of nurses are moving to Canada from other countries.

Registered nurses are one of the professions included under NAFTA for which the labour market test has been removed, allowing nurses from Mexico and the United States to enter Canada on a temporary work permit, if they have a signed job contract, a provincial licence to work as a nurse, and they pass the usual health and security requirements for immigration. Similarly, it has become easier for Canadian nurses to obtain visas to work in the United States. Canada has not made comparable commitments under GATS mode 4, however.

The cuts to full-time nursing positions and other cuts in provincial health care budgets led to deteriorating working conditions in the early and late 1990s, and resulted in many Canadian nurses seeking employment outside the country. There is no single data source for the number actually working abroad; nonetheless, various indicators suggest this is growing. For example, in the first half of the 1990s, some 2,400 Canadian nurses a year requested verification of their credentials so they could work in the United States; in the second half of the 1990s, this rose to some 3,700 a year.

The data on NAFTA visas issued to professionals are somewhat unreliable, as discussed in Chapter 3. But a survey of Canadian nurses in the United States found the majority used NAFTA visas to enter. Most left Canada, because of deteriorating labour market conditions

(downsizing and a lack of job opportunities). Nurses' associations argue that these domestic factors make it difficult to isolate the impact of the labour mobility provisions.

The NAFTA provisions, however, were not associated with increased numbers of American or Mexican nurses working in Canada. Many foreign nurses have settled in Canada under regular immigration policies, the Live-in Caregiver program and special provincial nominee programs. A proposal for a temporary workers program for nurses was dropped after initial consideration. In the early 1990s, as many as 1,400 foreign nurses registered annually in Canada, though in the later 1990s the number fell to 800 annually.

Despite the importance of nursing mobility to Canadian women and to the health care system, there is no nurses' representative in the SAGIT for the services or health sectors. Some nurses' associations have been involved in ad hoc consultations during which they voiced concerns (for instance that Canada's trading partners might want to put Canadian regulations for health on the negotiating table, which could affect the associations' capacity to certify nurses and protect the public). But some of the groups interviewed perceived these consultations as inadequate given the issues at stake. Most wanted an opportunity for earlier engagement and with more detailed briefing materials being made available to them.

On the basis of these findings, the chapter recommended the following.

**Recommendation 10:** To address the challenges of nursing shortages, the federal and provincial governments should develop a comprehensive human resources strategy (with improvements in training, remuneration, other working conditions, etc.) rather than liberalizing labour mobility provisions.

**Recommendation 11:** A temporary workers program outside the framework of trade agreements will not resolve Canada's needs while it could exacerbate the shortage of skilled health professionals in some developing countries. (In fact, many groups suggest Canada should adopt guidelines against active recruitment of nurses from such countries.)

**Recommendation 12:** The government should not accept any negotiations on domestic regulations in the health area.

**Recommendation 13:** The Department of Foreign Affairs and International Trade and other departments should continue their efforts to develop meaningful consultation mechanisms on trade policy, including the possibility for nurses' groups and other health workers to be represented in the SAGITs. Our study noted a desire by nurses' groups to be involved from an early stage in the policy process.

### ***Chapter 5***

The case study on women business owners in Canada found that a large proportion of women business owners are involved in services: wholesale/retail, professional services, finance/insurance/real estate and business services. Data on distribution among sectors, and the degree of actual or potential interest in trade, are uneven as a result of varying definitions

and survey methodologies. Nonetheless, available evidence makes it clear a significant number of women business owners are involved in exporting services.

For women exporters of services, short-term entry to foreign markets is important to promote their business: at least two visits are often necessary to conclude a contract. However, the extent to which the labour mobility provisions in NAFTA and GATS facilitate this travel is unclear. Immigration data are inconclusive, and sex-disaggregated data on exporters in all sectors, including services, are not easily obtained for evaluation. We also found some confusion in official documents and studies on how “woman business owner” is defined, leading to difficulties in interpreting data.

A number of concerns were identified: a disinclination by women business owners to rely on government Web sites as a source of information, at a time when governments are increasingly looking to Web sites as a timely and cost-effective way to communicate information; reports of arbitrary treatment by American border officials; and conflicting information from American and Canadian authorities on visa requirements. Inconsistencies between terms of NAFTA, GATS and a potential FTAA agreement were also irritants.

In practice, many Canadian women business visitors do not require visas for the United States. This may explain why the data (discussed in Chapter 3) show that there was relatively little use by Canadian women of the NAFTA visas for business travellers and traders/investors. Some interviewees did, however, suggest the inclusion of trainers in the NAFTA list of professionals would be helpful, since this is an area where many women are engaged.

Government capacity to respond to women business owners’ needs in this area is limited by a lack of consistent definitions and sex-disaggregated data, research and consultation with this group. There is still inadequate data on women business owners involved in the production of tradable services. Not only is it important to know who they are, but also their experience (e.g., whether they previously corporate managers, or self-employed) and constraints, particularly time considerations, to ensure policies respond to their needs. There is a dearth of research in the area of health care services despite the importance of this sector to self-employed women.

Consultation with women business owners on services more generally, let alone on mobility issues, is constrained by the absence of input from well-organized associations of women business owners. One difficulty may be that the category “woman business owner” is too general to be genuinely useful. It may be more realistic to turn the focus to women business owners in specific sectors, for example, services. However, women as a group represent a substantial part of the business community. The government could do more to ensure their voices are heard. At present, there are no representatives of business women’s associations in the Services SAGIT, for instance.

Recommendations emerging from this case study include the following.

**Recommendation 13:** Canadian government business databases (e.g., Industry Canada’s Canadian Company Capabilities database, Statistics Canada’s Business Register) should

always request information on the sex of the business owner. So should data on participants in government export promotion and the use of business support programs, including the virtual trade commissioner service. Similarly, any request for inputs to consultations should require this information, to facilitate gender analysis of responses.

**Recommendation 14:** In view of the strong presence of women in these sectors, research is needed on potential exporting interests of women business owners in the health, education and social services sectors, as the future of trade rules governing these sectors (notably the scope of liberalization being requested of others) is under intense debate.

**Recommendation 15:** The government needs to engage in more deliberate targeting of women business owners in its consultations. This could be done by directing queries to sectoral women's business associations where they exist, and through nominating women in sectors that are less well organized onto government consultative mechanisms. The recommendations of the Prime Minister's Task Force on Women Entrepreneurs for an office of women's business ownership and a women's business advocate are testament to the relative invisibility of this group in government policy and structures.

**Recommendation 16:** Setting minimum participation rates for women on trade missions and in export awards, for example, could reinforce demand for sex-disaggregated databases and build linkages to associations of women business owners and entrepreneurs.

## APPENDIX A: INTERVIEW QUESTIONS FOR GOVERNMENT OFFICIALS

### 1. **Identification** of interview subject – government officials

Name

Name of organization

Sex (m/f)

How long in that position

Previous related work experience

Role in labour mobility policy-making process (describe briefly relationship to other government mechanisms)

### 2. NAFTA

#### **Content and implementation of NAFTA's Chapter 16**

What are the **most important issues** related to the implementation of these provisions?

For example, mutual recognition issues.

Has there been pressure from women's business organizations, professional associations, etc. to add categories?

What are the opportunities and/or barriers to adding those categories?

Let's go back in time:

Why were professionals included as a category? What criteria determined which professions are included in the Agreement? What were Canada's objectives when negotiating these provisions? What are they now?

#### **Questions related to the policy-making process**

Which **government agencies** are involved in Canadian discussions on labour mobility issues under NAFTA?

What is the role of your organization in this process?

Outside the government agencies, who are your main **interlocutors** for policy discussions on NAFTA labour mobility agreements?

How is that consultation process managed (e.g., through professional associations, government officials or committees, SAGIT (criteria for selection of SAGIT members)?



## **Mechanisms**

How is information on current government initiatives **disseminated** (government Web site, professional associations, etc.)?

How is input from the consultation process **integrated** into Canadian negotiating positions?

How are Canadian gender equality objectives (commitments) integrated in this process?

## **Mechanisms for gender equality**

Do you think there could be **improvements** in the consultation/communication process? How?

## **3. GATS mode 4**

### **Questions about the content of GATS**

What was the **Canadian objective** on labour mobility during the first negotiations?

What are the objectives for the new GATS negotiations?

What determined which sectors or professions are included in the Canadian schedule of commitments? **Criteria for inclusion.**

The GATS provisions on labour mobility are **more restrictive/narrow** than those in NAFTA (focus on intra-company transferees only; limited to higher skilled services providers). Why? What limitations are placed on who may accompany the eligible business visitor (e.g., support staff, partner, dependants)? Is there scope for improvements?

### **Questions about the policy-making process?**

Which government organizations are involved in Canadian discussions on labour mobility issues under GATS? **Is it different from NAFTA?**

What is the role of your organization in this process?

Who is consulted during Canadian policy deliberations on labour mobility agreements?

How is that consultation process managed, e.g., through professional associations, government officials or committees, SAGIT (criteria for selection of SAGIT members)?

How is information on current government initiatives disseminated (government Web site, professional associations, etc.)?

How is input from the consultation process integrated into Canadian negotiating positions?

How are Canadian gender equality objectives (commitments) integrated in this process?

Do you think there could be improvements in the consultation/communication process? How?

#### **4. FTAA**

What are the Canadian **objectives** in these negotiations? Is **NAFTA the model** for the labour mobility provisions?

Is the **policy process** for designing Canadian positions on this topic different from the one for GATS and NAFTA?

#### **Data questions**

What data are used to support Canadian discussions on labour mobility issues?

Who provides this information?

Are the data disaggregated by sex?

How are sex-disaggregated data used? How do you think they could be used?

#### **General questions**

What do you think are the priority labour mobility issues for Canada?

What would you identify as the key labour mobility issues for Canadian women?

What is the intended role of temporary worker programs in Canada's overall immigration and labour market management strategies?

Do you expect movement toward more inclusion of these programs in trade agreements?

Any other comments/observations regarding labour mobility?

## APPENDIX B: INTERVIEW QUESTIONS FOR NURSES CASE STUDY

### 1. Identification of interviewees

Name

Name of nursing organization(s) you are a member of:

Sex (m/f)

How long in your current position?

Previous related work experience

Where did you initially train to be an RN?

Have you ever worked in another province/territory or country as an RN?

If so, where and for how long?

### 2. NAFTA

#### Questions related to the content of NAFTA's Chapter 16

What, to the best of your knowledge, has been the experience of your organization(s)/your members with the provisions of NAFTA? What are the **positive and negative aspects** of the provisions?

What do you identify as the **key issues** re: international mobility (as opposed to interprovincial labour mobility) in your field? Some possible examples might include domestic labour market impacts, downward regulatory harmonization/licensing issues, staffing levels, meaningful consultation mechanisms, the transparency of the negotiation process, MRA?

What would your organization like to see **changed** in these provisions?

Why were nurses included in the list of professions?

#### Questions related to the policy-making process

Was your organization involved in the design of NAFTA?

Have you been **consulted/involved** since, during the implementation of NAFTA?

How does the consultation/participation take place (e.g., through professional associations, government officials or committees, SAGIT, etc.). Could you describe this process for me? How do you receive information on current government initiatives on labour mobility (government Web site, direct contact, professional associations, etc.)?

Do you consider that your **input was integrated** into Canadian negotiating positions?  
How so, could you provide examples?

How are Canadian gender equality objectives (commitments) integrated in this process?

Do you think there could be **improvements** in the consultation/communication process?  
How?

Have you been **collaborating** with other organizations in or outside Canada on this topic (American, Mexican or transnational, i.e., the Trilateral Initiative on North American Nursing)?

### **3. GATS mode 4**

#### **Questions about GATS**

Is your organization **interested** in the mode 4 (movement of health personnel) aspect of the current GATS negotiations?

What do you identify as the **key issues** for your organization in these labour mobility negotiations?

What are your **views and positions** regarding these negotiations?

#### **Questions about the policy-making process**

Have you been involved in the consultations process for the GATS negotiations?

**If so, is it different from the one used for NAFTA, and how?**

How does the consultation/participation take place (e.g., through professional associations, government officials or committees, SAGIT, etc.)? Could you describe this process for me.

How do you receive information on current government initiatives on labour mobility (government Web site, direct contact, professional associations, etc.)?

Do you consider that your input was integrated into Canadian negotiating positions?  
How so, could you provide examples?

How are Canadian gender equality objectives (commitments) integrated in this process?

Do you think there could be improvements in the consultation/communication process?  
How?

Have you been collaborating with other organizations in or outside Canada on this topic?

#### **4. FTAA**

Is your organization interested in development at the FTAA?

What labour mobility provisions would you like to see included in the FTAA?

Have you been involved in discussions/consultation on the FTAA?

#### ***Data questions***

Do you have/keep information on the labour mobility of nurses and other health professionals?

Do you provide such data to the government in your interactions with officials?

How are sex-disaggregated data used? How do you think they could be used?

Any other comments/observations?

## **APPENDX C: INTERVIEW QUESTIONS FOR WOMEN BUSINESS OWNERS CASE STUDY**

### **1. Identification of interviewee**

Name

Sex (m/f)

Name of business

Type of business

Size of business (number of employees; annual revenues)

Years in operation

Engaged in services exports? (y/n)

To which countries/regions?

Number of years involved in exporting

How do you get service export contracts (referrals, from making presentations or conducting meetings abroad, etc.)?

When you export your services, how important is it to your success to be able to travel to the export market (for service delivery, client meetings, meetings with local partners, etc.)?

### **Participation in government consultative committee(s)**

Please describe your role.

Are there discussions on issues affecting women business owners (statistics available),

What about discussions on business travel – any issues for business women?

### **2. NAFTA**

#### **Questions related to the content of the NAFTA's Chapter 16**

*(Separate United States and Mexico as the border regulations are implemented differently.)*

Do you need to travel to the United States/Mexico for business development – attend conferences, make presentations, finalize contracts?

If you do travel to the United States/Mexico, have you had any difficulties in getting across the border for business development purposes? If yes, please explain.

Do you conduct business in the United States/Mexico?

(If yes) Do you need to travel to the market to deliver your services?

Do you require a visa for travel? If yes, have you had any difficulties in getting or using NAFTA authorization for that business travel?

Do you provide services (e.g., executive training) in Canada for persons from the United States/Mexico?

If so, have your customers had any difficulties getting visas to enter Canada in order to benefit from services from your company?

In providing for professional development for your staff, do you ever have reason to make use of trainers from the United States/Mexico?

If so, have you had any difficulties in getting authorizations for them to come to Canada?

What do you think are the main business travel issues for women business owners (lack of coverage in the “professionals” list, etc.)?

If you were to set up or staff an office in the United States, what do you think the particular issues would be for women business owners and women staff?

What would you/your organization like to see changed in the NAFTA provisions to address those issues?

### **Questions related to the policy-making process**

Were you/your organization involved in discussions with government on the temporary business travel provisions of NAFTA?

What were the key issues/concerns you raised? (If not involved in the discussions, what issues would you like to have seen raised?)

Do you have any background documents or policy positions you could give me?

Have you been consulted/involved since, that is, on implementation or evaluation of the temporary business travel provisions?

How does the consultation/participation take place (e.g., through professional associations, government officials or committees, SAGIT, etc.)? Could you describe this process for me?

How do you receive information now on current government initiatives on temporary business travel (government Web site, direct contact, professional associations, etc.)?

Do you feel your input was integrated into Canadian negotiating positions? Could you give an example?

Do you think there could be improvements in the consultation/communication process?  
How?

Do you collaborate with other organizations inside or outside Canada on temporary business travel issues?

Do you think Canadian gender equality objectives were reflected/integrated in the policy-development process?

Do you think the interests of Canadian women SME business owners were reflected/integrated in the policy development process? In what ways were they addressed or overlooked?

### **3. GATS mode 4**

#### **Questions about the content of the agreement**

Are you/your organization interested in the temporary business travel aspects in the current GATS negotiations?

What are the key issues for you/your organization/members in these temporary business travel negotiations (e.g., recognition of professional credentials, visa requirements and standards for visa issuing for temporary business travellers, gender barriers to visa acquisition in certain countries)? Please describe.

What are your views and positions regarding these negotiations?

Do you have any background documents or policy papers you could provide me?

#### **Questions about the policy-making process**

Have you been involved in the Canadian consultation process for the GATS negotiations?

If yes, is it different from the one used for NAFTA?

How does the consultation/participation take place (e.g., through professional associations, government officials or committees, SAGIT, etc.)? Could you describe this process for me?

How do you receive information on current government initiatives on temporary business travel (i.e., government Web site, direct contact, professional associations, etc.)?

Do you think your input has been integrated into Canadian negotiating positions? How? Could you provide examples?

Do you think that Canadian gender equality objectives have been integrated in this process?



Do you think the interests of Canadian women SME business owners have been integrated in the policy development process? In what ways were they addressed or overlooked?

Do you think there could be improvements in the consultation/communication process? How?

#### **4. FTAA**

Are you/is your organization interested in development of the FTAA?

What temporary business travel provisions would you like to see included/excluded in the FTAA?

Have you been involved in discussions/consultation on the FTAA?

Do you feel there has been adequate and/or meaningful consultation with SME stakeholders in the policy process?

#### **5. Data questions**

Do you have/keep information on temporary business travel of women business owners?

Do you provide this information to the government in your interactions with officials?

How are sex-disaggregated data used? How do you think they could be used?

Any other comments/observations?

Thank you very much for your time.

## **ANNEX A: NAFTA CHAPTER 16 TEMPORARY ENTRY FOR BUSINESS PERSONS**

### **Article 1601: General Principles**

Further to Article 102 (Objectives), this Chapter reflects the preferential trading relationship between the Parties, the desirability of facilitating temporary entry on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry, and the need to ensure border security and to protect the domestic labor force and permanent employment in their respective territories.

### **Article 1602: General Obligations**

1. Each Party shall apply its measures relating to the provisions of this Chapter in accordance with Article 1601 and, in particular, shall apply expeditiously those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.
2. The Parties shall endeavor to develop and adopt common criteria, definitions and interpretations for the implementation of this Chapter.

### **Article 1603: Grant of Temporary Entry**

1. Each Party shall grant temporary entry to business persons who are otherwise qualified for entry under applicable measures relating to public health and safety and national security, in accordance with this Chapter, including the provisions of Annex 1603.
2. A Party may refuse to issue an immigration document authorizing employment to a business person where the temporary entry of that person might affect adversely:
  - (a) the settlement of any labor dispute that is in progress at the place or intended place of employment; or
  - (b) the employment of any person who is involved in such dispute.
3. When a Party refuses pursuant to paragraph 2 to issue an immigration document authorizing employment, it shall:
  - (a) inform in writing the business person of the reasons for the refusal; and
  - (b) promptly notify in writing the Party whose business person has been refused entry of the reasons for the refusal.
4. Each Party shall limit any fees for processing applications for temporary entry of business persons to the approximate cost of services rendered.

### **Article 1604: Provision of Information**

1. Further to Article 1802 (Publication), each Party shall:

- (a) provide to the other Parties such materials as will enable them to become acquainted with its measures relating to this Chapter; and
- (b) no later than one year after the date of entry into force of this Agreement, prepare, publish and make available in its own territory, and in the territories of the other Parties, explanatory material in a consolidated document regarding the requirements for temporary entry under this Chapter in such a manner as will enable business persons of the other Parties to become acquainted with them.

2. Subject to Annex 1604.2, each Party shall collect and maintain, and make available to the other Parties in accordance with its domestic law, data respecting the granting of temporary entry under this Chapter to business persons of the other Parties who have been issued immigration documentation, including data specific to each occupation, profession or activity.

#### **Article 1605: Working Group**

1. The Parties hereby establish a Temporary Entry Working Group, comprising representatives of each Party, including immigration officials.
2. The Working Group shall meet at least once each year to consider:
  - (a) the implementation and administration of this Chapter;
  - (b) the development of measures to further facilitate temporary entry of business persons on a reciprocal basis;
  - (c) the waiving of labor certification tests or procedures of similar effect for spouses of business persons who have been granted temporary entry for more than one year under Section B, C or D of Annex 1603; and
  - (d) proposed modifications of or additions to this Chapter.

#### **Article 1606: Dispute Settlement**

1. A Party may not initiate proceedings under Article 2007 (Commission - Good Offices, Conciliation and Mediation) regarding a refusal to grant temporary entry under this Chapter or a particular case arising under Article 1602(1) unless:
  - (a) the matter involves a pattern of practice; and
  - (b) the business person has exhausted the available administrative remedies regarding the particular matter.
2. The remedies referred to in paragraph (1) (b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

#### **Article 1607: Relation to Other Chapters**

Except for this Chapter, Chapters One (Objectives), Two (General Definitions), Twenty (Institutional Arrangements and Dispute Settlement Procedures) and Twenty-Two (Final

Provisions) and Articles 1801 (Contact Points), 1802 (Publication), 1803 (Notification and Provision of Information) and 1804 (Administrative Proceedings), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

### **Article 1608: Definitions**

For purposes of this Chapter:

business person means a citizen of a Party who is engaged in trade in goods, the provision of services or the conduct of investment activities;

citizen means “citizen” as defined in Annex 1608 for the Parties specified in that Annex;

existing means “existing” as defined in Annex 1608 for the Parties specified in that Annex; and

temporary entry means entry into the territory of a Party by a business person of another Party without the intent to establish permanent residence.

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#### Annex 1603

#### Temporary Entry for Business Persons

#### Section A - Business Visitors

1. Each Party shall grant temporary entry to a business person seeking to engage in a business activity set out in Appendix 1603.A.1, without requiring that person to obtain an employment authorization, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry, on presentation of:

(a) proof of citizenship of a Party;

(b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry; and

(c) evidence demonstrating that the proposed business activity is international in scope and that the business person is not seeking to enter the local labor market.

2. Each Party shall provide that a business person may satisfy the requirements of paragraph 1(c) by demonstrating that:

(a) the primary source of remuneration for the proposed business activity is outside the territory of the Party granting temporary entry; and

(b) the business person’s principal place of business and the actual place of accrual of profits, at least predominantly, remain outside such territory.

A Party shall normally accept an oral declaration as to the principal place of business and the actual place of accrual of profits. Where the Party requires further proof, it shall normally consider a letter from the employer attesting to these matters as sufficient proof.

3. Each Party shall grant temporary entry to a business person seeking to engage in a business activity other than those set out in Appendix 1603.A.1, without requiring that person to obtain an employment authorization, on a basis no less favorable than that provided under the existing provisions of the measures set out in Appendix 1603.A.3, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry.

4. No Party may:

- (a) as a condition for temporary entry under paragraph 1 or 3, require prior approval procedures, petitions, labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1 or 3.

5. Notwithstanding paragraph 4, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

### **Section B - Traders and Investors**

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to:

- (a) carry on substantial trade in goods or services principally between the territory of the Party of which the business person is a citizen and the territory of the Party into which entry is sought, or
- (b) establish, develop, administer or provide advice or key technical services to the operation of an investment to which the business person or the business person's enterprise has committed, or is in the process of committing, a substantial amount of capital, in a capacity that is supervisory, executive or involves essential skills, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry.

2. No Party may:

- (a) as a condition for temporary entry under paragraph 1, require labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry.

### **Section C - Intra-Company Transferees**

1. Each Party shall grant temporary entry and provide confirming documentation to a business person employed by an enterprise who seeks to render services to that enterprise or a subsidiary or affiliate thereof, in a capacity that is managerial, executive or involves specialized knowledge, provided that the business person otherwise complies with existing immigration measures applicable to temporary entry. A Party may require the business person to have been employed continuously by the enterprise for one year within the three-year period immediately preceding the date of the application for admission.

2. No Party may:

- (a) as a condition for temporary entry under paragraph 1, require labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

#### **Section D - Professionals**

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to engage in a business activity at a professional level in a profession set out in Appendix 1603.D.1, if the business person otherwise complies with existing immigration measures applicable to temporary entry, on presentation of:

- (a) proof of citizenship of a Party; and
- (b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry.

2. No Party may:

- (a) as a condition for temporary entry under paragraph 1, require prior approval procedures, petitions, labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction relating to temporary entry under paragraph 1.

3. Notwithstanding paragraph 2, a Party may require a business person seeking temporary entry under this Section to obtain a visa or its equivalent prior to entry. Before imposing a visa requirement, the Party shall consult with a Party whose business persons would be affected with a view to avoiding the imposition of the requirement. With respect to an existing visa requirement, a Party shall consult, on request, with a Party whose business persons are subject to the requirement with a view to its removal.

4. Notwithstanding paragraphs 1 and 2, a Party may establish an annual numerical limit, which shall be set out in Appendix 1603.D.4, regarding temporary entry of business persons of another Party seeking to engage in business activities at a professional level in a profession set out in Appendix 1603.D.1, if the Parties concerned have not agreed otherwise prior to the date of entry into force of this Agreement for those Parties. In establishing such a limit, the Party shall consult with the other Party concerned.

5. A Party establishing a numerical limit pursuant to paragraph 4, unless the Parties concerned agree otherwise:

- (a) shall, for each year after the first year after the date of entry into force of this Agreement, consider increasing the numerical limit set out in Appendix 1603.D.4 by an

amount to be established in consultation with the other Party concerned, taking into account the demand for temporary entry under this Section;

(b) shall not apply its procedures established pursuant to paragraph 1 to the temporary entry of a business person subject to the numerical limit, but may require the business person to comply with its other procedures applicable to the temporary entry of professionals; and

(c) may, in consultation with the other Party concerned, grant temporary entry under paragraph 1 to a business person who practices in a profession where accreditation, licensing, and certification requirements are mutually recognized by those Parties.

6. Nothing in paragraph 4 or 5 shall be construed to limit the ability of a business person to seek temporary entry under a Party's applicable immigration measures relating to the entry of professionals other than those adopted or maintained pursuant to paragraph 1.

7. Three years after a Party establishes a numerical limit pursuant to paragraph 4, it shall consult with the other Party concerned with a view to determining a date after which the limit shall cease to apply.

## ANNEX B: LIST OF PROFESSIONS ELIGIBLE FOR NAFTA TREATMENT

### Appendix 1603.D.1 of NAFTA Professionals

Profession <sup>1</sup>	Minimum Education Requirements and Alternative Credentials
<b>General</b>	
1. Accountant	Baccalaureate or Licenciatura Degree; or C.P.A., C.A., C.G.A. or C.M.A.
2. Architect	Baccalaureate or Licenciatura Degree; or state/provincial license <sup>2</sup>
3. Computer Systems Analyst	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma <sup>3</sup> or Post-Secondary Certificate <sup>4</sup> , and three years experience
4. Disaster Relief Insurance Claims Adjuster (claims adjuster employed by an insurance company located in the territory of a Party, or an independent claims adjuster)	Baccalaureate or Licenciatura Degree, and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims; or three years experience in claims adjustment and successful completion of training in the appropriate areas of insurance adjustment pertaining to disaster relief claims
5. Economist	Baccalaureate or Licenciatura Degree
6. Engineer	Baccalaureate or Licenciatura Degree; or state/provincial license
7. Forester	Baccalaureate or Licenciatura Degree; or state/provincial license
8. Graphic Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
9. Hotel Manager	Baccalaureate or Licenciatura Degree in hotel/restaurant management; or Post-Secondary Diploma or Post-Secondary Certificate in hotel/restaurant management, and three years experience in hotel/restaurant management
10. Industrial Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
11. Interior Designer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
12. Land Surveyor	Baccalaureate or Licenciatura Degree; or state/provincial/federal license
13. Landscape Architect	Baccalaureate or Licenciatura Degree
14. Lawyer (including Notary in the Province of Quebec)	LL.B., J.D., LL.L., B.C.L. or Licenciatura Degree (five years) ; or membership in a state/provincial bar
15. Librarian	M.L.S. or B.L.S. (for which another Baccalaureate or Licenciatura Degree was a prerequisite)
16. Management Consultant	Baccalaureate or Licenciatura Degree; or equivalent professional experience as established by statement or professional credential attesting to five years experience as a management consultant, or five years experience in a field of specialty related to the consulting agreement
17. Mathematician (including Statistician)	Baccalaureate or Licenciatura Degree
18. Range Manager/ Range Conservationalist	Baccalaureate or Licenciatura Degree



19. Research Assistant (working in a post-secondary educational institution)	Baccalaureate or Licenciatura Degree
20. Scientific Technician/Technologist <sup>5</sup>	Possession of (a) theoretical knowledge of any of the following disciplines: agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics; and (b) the ability to solve practical problems in any of those disciplines, or the ability to apply principles of any of those disciplines to basic or applied research
21. Social Worker	Baccalaureate or Licenciatura Degree
22. Sylviculturist (including Forestry Specialist)	Baccalaureate or Licenciatura Degree
23. Technical Publications Writer	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
24. Urban Planner (including Geographer)	Baccalaureate or Licenciatura Degree
25. Vocational Counsellor	Baccalaureate or Licenciatura Degree
<b>Medical/Allied Professional</b>	
26. Dentist	D.D.S., D.M.D., Doctor en Odontologia or Doctor en Cirugia Dental; or state/provincial license
27. Dietitian	Baccalaureate or Licenciatura Degree; or state/provincial license
28. Medical Laboratory Technologist (Canada) /Medical Technologist (Mexico and the United States) <sup>6</sup>	Baccalaureate or Licenciatura Degree; or Post-Secondary Diploma or Post-Secondary Certificate, and three years experience
29. Nutritionist	Baccalaureate or Licenciatura Degree
30. Occupational Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
31. Pharmacist	Baccalaureate or Licenciatura Degree; or state/provincial license
32. Physician (teaching or research only)	M.D. or Doctor en Medicina; or state/provincial license
33. Physiotherapist/Physical Therapist	Baccalaureate or Licenciatura Degree; or state/provincial license
34. Psychologist	State/provincial license; or Licenciatura Degree
35. Recreational Therapist	Baccalaureate or Licenciatura Degree
36. Registered Nurse	State/provincial license; or Licenciatura Degree
37. Veterinarian	D.V.M., D.M.V. or Doctor en Veterinaria; or state/provincial license
<b>Scientist</b>	
38. Agriculturist (including Agronomist)	Baccalaureate or Licenciatura Degree
39. Animal Breeder	Baccalaureate or Licenciatura Degree
40. Animal Scientist	Baccalaureate or Licenciatura Degree
41. Apiculturist	Baccalaureate or Licenciatura Degree
42. Astronomer	Baccalaureate or Licenciatura Degree
43. Biochemist	Baccalaureate or Licenciatura Degree
44. Biologist	Baccalaureate or Licenciatura Degree
45. Chemist	Baccalaureate or Licenciatura Degree
46. Dairy Scientist	Baccalaureate or Licenciatura Degree
47. Entomologist	Baccalaureate or Licenciatura Degree
48. Epidemiologist	Baccalaureate or Licenciatura Degree
49. Geneticist	Baccalaureate or Licenciatura Degree
50. Geologist	Baccalaureate or Licenciatura Degree
51. Geochemist	Baccalaureate or Licenciatura Degree

52. Geophysicist (including Oceanographer in Mexico and the United States)	Baccalaureate or Licenciatura Degree
53. Horticulturist	Baccalaureate or Licenciatura Degree
54. Meteorologist	Baccalaureate or Licenciatura Degree
55. Pharmacologist	Baccalaureate or Licenciatura Degree
56. Physicist (including Oceanographer in Canada)	Baccalaureate or Licenciatura Degree
57. Plant Breeder	Baccalaureate or Licenciatura Degree
58. Poultry Scientist	Baccalaureate or Licenciatura Degree
59. Soil Scientist	Baccalaureate or Licenciatura Degree
60. Zoologist	Baccalaureate or Licenciatura Degree
<b>Teacher</b>	
61. College	Baccalaureate or Licenciatura Degree
62. Seminary	Baccalaureate or Licenciatura Degree
63. University	Baccalaureate or Licenciatura Degree

## Notes:

<sup>1</sup> A business person seeking temporary entry under this Appendix may also perform training functions relating to the profession, including conducting seminars.

<sup>2</sup> “State/provincial license” and “state/provincial/federal license” mean any document issued by a state, provincial or federal government, as the case may be, or under its authority, but not by a local government, that permits a person to engage in a regulated activity or profession.

<sup>3</sup> “Post-Secondary Diploma” means a credential issued, on completion of two or more years of post-secondary education, by an accredited academic institution in Canada or the United States.

<sup>4</sup> “Post-Secondary Certificate” means a certificate issued, on completion of two or more years of post-secondary education at an academic institution, by the federal government of Mexico or a state government in Mexico, an academic institution recognized by the federal government or a state government, or an academic institution created by federal or state law.

<sup>5</sup> A business person in this category must be seeking temporary entry to work in direct support of professionals in agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology or physics.

<sup>6</sup> A business person in this category must be seeking temporary entry to perform in a laboratory chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment or prevention of disease.

## **ANNEX C: ANNEX 1 OF THE NORTH AMERICAN AGREEMENT FOR LABOR COOPERATION**

### **LABOR PRINCIPLES**

The following are guiding principles that the Parties are committed to promote, subject to each Party's domestic law, but do not establish common minimum standards for their domestic law. They indicate broad areas of concern where the Parties have developed, each in its own way, laws, regulations, procedures and practices that protect the rights and interests of their respective workforces.

#### **1. Freedom of association and protection of the right to organize**

The right of workers exercised freely and without impediment to establish and join organizations of their own choosing to further and defend their interests.

#### **2. The right to bargain collectively**

The protection of the right of organized workers to freely engage in collective bargaining on matters concerning the terms and conditions of employment.

#### **3. The right to strike**

The protection of the right of workers to strike in order to defend their collective interests.

#### **4. Prohibition of forced labor**

The prohibition and suppression of all forms of forced or compulsory labor, except for types of compulsory work generally considered acceptable by the Parties, such as compulsory military service, certain civic obligations, prison labor not for private purposes and work exacted in cases of emergency.

#### **5. Labor protections for children and young persons**

The establishment of restrictions on the employment of children and young persons that may vary taking into consideration relevant factors likely to jeopardize the full physical, mental and moral development of young persons, including schooling and safety requirements.

#### **6. Minimum employment standards**

The establishment of minimum employment standards, such as minimum wages and overtime pay, for wage earners, including those not covered by collective agreements.

#### **7. Elimination of employment discrimination**

Elimination of employment discrimination on such grounds as race, religion, age, sex or other grounds, subject to certain reasonable exceptions, such as, where applicable, *bona fide* occupational requirements or qualifications and established practices or rules governing retirement ages, and special measures of protection or assistance for particular groups designed to take into account the effects of discrimination.

**8. Equal pay for women and men**

Equal wages for women and men by applying the principle of equal pay for equal work in the same establishment.

**9. Prevention of occupational injuries and illnesses**

Prescribing and implementing standards to minimize the causes of occupational injuries and illnesses.

**10. Compensation in cases of occupational injuries and illnesses**

The establishment of a system providing benefits and compensation to workers or their dependents in cases of occupational injuries, accidents or fatalities arising out of, linked with or occurring in the course of employment.

**11. Protection of migrant workers**

Providing migrant workers in a Party's territory with the same legal protection as the Party's nationals in respect of working conditions.

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## ENDNOTES

<sup>1</sup> There has been growing interest by some feminist organizations in investigating a human rights approach in addressing the WTO and trade liberalization. See for example, FAFIA (1999) and Maclean et al. (2003).

<sup>2</sup> For a overview of the economics literature, see Anderson and Hoekman (2002).

<sup>3</sup> Status of Women Canada defines “gender” as the “culturally specific set of characteristics that identifies the social behaviour of women and men and the relationship between them. Gender, therefore, refers not simply to women or men, but to the relationship between them, and the way it is socially constructed. Because it is a relational term, gender must include women and men. Like the concepts of class, race and ethnicity, gender is an analytical tool for understanding social processes.” A gender-based analysis of a policy or program involves assessing the differential impact of proposed and/or existing policies, programs and legislation on women and men. That analysis “should not be just an add-on, to be considered after costs and benefits have been assessed, but an integral part of good policy analysis” (SWC 1998).

<sup>4</sup> See, for example, UNDP (2003), William (2003), Grown et al. (2000), El-Kogali and Nizalova (2002), UNCTAD (2002), WIDE (2002), UNIFEM (1998) and Çağatay (2001); see also gender and trade resources compiled by Blouin (2002), IGTN (2002) and Thorin (2001).

<sup>5</sup> See reviews in Çağatay (2001) and Fontana et al. (1998).

<sup>6</sup> “Unpaid work” is sometimes referred to as domestic work, “reproductive work” or “work in the care economy.” This is work whose monetary value is not included in national accounting systems. It is carried out in the home, or relates to the maintenance of the household and household members. It is overwhelmingly performed by women. There is often a blurring between paid and unpaid work, as when a woman produces goods for sale in the marketplace from the house while simultaneously engaging in household tasks. For a discussion on linkages between paid and unpaid work, see Gibb (1999b).

<sup>7</sup> See for example, Cohen (1996).

<sup>8</sup> A World Bank analysis of empowerment employs a definition offered by Naila Kabeer (2001: 6): “The expansion in people’s ability to make strategic life choices in a context where this ability was previously denied to them.” See Malhotra et al. (2002).

<sup>9</sup> See, for example, Young (2001).

<sup>10</sup> See, for example, Sawchuk and Whewell (1999); Riddle (1999).

<sup>11</sup> The Doha round takes its name from the Doha Declaration, the document agreed to by trade ministers representing member governments of the WTO at their Fourth Ministerial

Conference held in Doha, Qatar, in 2001. That Declaration provides the mandate for negotiations on a range of subjects and other work. For further details, see WTO (nd).

<sup>12</sup> Interview with government officials, December 2002; workshop discussion, January 2003.

<sup>13</sup> Gender analysis is a methodology for understanding the differences in the lives of women and men; to assess how policies, programs or projects may impact differently on women and men, girls and boys; to compare how and why women and men are affected through the collection and use of sex-disaggregated data, and integrate gender considerations throughout the planning, design, implementation and evaluation processes (APEC 1999; SWC 1998).

<sup>14</sup> A complete gender analysis would also attempt to trace impacts further, to include changes in consumption patterns by individuals and households resulting from actual or potential changes in employment or wages, as well as changes in time use by women and men. However, this level of analysis is beyond the scope of this study.

<sup>15</sup> For a discussion on the implications of GATS for developing countries, see UNDP (2003: 255-285).

<sup>16</sup> There are a number of terms used to describe the documents issued to foreign temporary workers. In the United States, one often refers to the TN visa (NAFTA visa for professionals), whereas technically a successful applicant will “be issued a I-94 (record of entry document) indicating the classification code TN, which serves as an employment authorization” (DFAIT 2003). In Canada, the term employment authorization has been replaced recently by “work permit.” For the sake of this paper, we use these terms interchangeably, as they all refer to documents issued to temporary workers.

<sup>17</sup> HRDC (nd). The labour market opinion is based on several criteria. 1) Is the work likely to result in direct job creation or job retention for Canadians? 2) Is the work likely to result in skills and knowledge creation or transfer for the benefit of Canadians? 3) Is the work likely to fill a labour shortage? 4) Are the wages and conditions offered sufficient to attract Canadians to, and retain them in, that work? 5) Has the employer made reasonable efforts to hire or train Canadians? 6) Is the employment of the foreign national likely to affect the settlement of any labour dispute in progress or the employment of any person involved in the dispute?

<sup>18</sup> NAFTA, Article 1603, Section B – Traders and Investors (DFAIT nd-d).

<sup>19</sup> This mobility regime is strengthened by the fact that these professionals (as well as transferees and investors) have immediate access to social programs of the host country. “Curiously, although the NAFTA is silent about such access, nationally controlled immigration and labour market development policy allows temporary entrants to access social security once entry has been achieved through Chapter 16.... In this way, labour market integration is inadvertently facilitated by national immigration and labour market development policies although this is not their intended effect” (Young 2001: 290).

<sup>20</sup> DFAIT (nd-d); NAFTA, Article 1606.

<sup>21</sup> Information provided to The North–South Institute by CIC.

<sup>22</sup> Temporary entry of business persons was also included in the Canada–United States Free Trade Agreement which preceded NAFTA.

<sup>23</sup> DFAIT (nd-d); NAFTA, Article 1601.

<sup>24</sup> One case focussed particularly on gender-based discrimination. In 1997, the United States examined allegations of employment discrimination based on pregnancy in certain *maquiladoras* in Mexico. The case highlighted that many employers in Mexico require women to undergo pre-employment pregnancy screening as a condition of employment and pregnant women are fired or pressured to resign from their jobs. The outcomes of the process were government-to-government discussions on pregnancy discrimination in the workplace and legal avenues available to Mexican women to seek redress. A conference on the rights of women in North America was held in 1999 in Merida, Mexico and four outreach sessions were held in 1999-2000 on the rights of women workers and protection from pregnancy discrimination (two in the United States and two in Mexico).

<sup>25</sup> Young (2001: 234). Moreover, to ensure their right to regulate was untouched by the agreement, a provision was added in the GATS preamble which reads:

Recognizing the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives, and given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right.

<sup>26</sup> Despite this attempt to clarify what is covered by mode 4, there are still uncertainties regarding the definition of temporary movement of services suppliers. A key ambiguity relates to the status of the service supplier. “Must a service supplier necessarily be a firm or a self-employed supplier who obtains their remuneration directly from customers rather than *an individual providing labour services by offering themselves (sic) for employment?*” (Winters et al. 202: 29, emphasis added). In a background note, the WTO Secretariat argued that a service supplier must be a firm or a self-employed supplier (WTO 1998). But some analysts dispute this interpretation.

If the WTO secretariat’s interpretation is an accurate assessment of the GATS’ coverage, then a service delivered by a foreign worker under employment contract to a local provider may be treated differently *from precisely the same service provided by precisely the same person* acting as an unattached service provider or under contract to a foreign company (Winters et al. 2002: 30, emphasis in text).

They argue that the distinction should be based on the nature of the service, the length and nature of the contract of supply and the duration of the supplier's stay. However, they recognize that based on such a definition, GATS would become a tool to open domestic employment markets (on a temporary basis) which could have profound political and economic implications.

<sup>27</sup> These positions are defined as follows.

Executives direct the management of the company, establish goals and policies for the company or for one of its major components or functions, and have wide decision-making powers with little senior supervision.

Managers direct the company or one of its departments or subdivisions; supervise the work of other supervisory, professional or managerial employees; have discretionary control of the company's daily affairs and can make employment decisions.

Specialists possess advanced levels of expertise and proprietary knowledge of the company's product, service, research equipment, techniques or management (CIC 1996).

<sup>28</sup> There is a limit of 10 entrants per project for senior computer specialists.

<sup>29</sup> The 22 professions missing from Table 1 are disaster relief insurance claims adjuster, forester, graphic designer, industrial designer, interior designer, landscape architect, management consultant, range manager/conservationist, silviculturist, technical publications writer, vocational counsellor, medical technologist, recreational therapist, agriculturalist, animal breeder, apiculturist, biochemist, horticulture, poultry scientist and soil scientist.

<sup>30</sup> On the debate in Canada, see for example DeVoretz and Laryea (1998), Globerman (1999: 12) and Helliwell (1999).

<sup>31</sup> A study of intra-corporate transfer practices by foreign and local multinational companies in Taiwan pointed to some gender considerations in this area. That study, based on a survey of multinational firms, found that service firms were more likely to employ and relocate female professionals than manufacturing firms. Women were more likely to be present among U.S.- or EU-bound intra-company transferees than Asia-bound transferees. Concerns over "personal safety," "personal interests and motivations" and "personal or family factors" were major barriers for women's participation in intra-company transfers (APEC 2001).

<sup>32</sup> Interview with Canadian federal government official, Ottawa, November 7, 2002.

<sup>33</sup> Almost 55,000 Mexican temporary workers entered with an H2 visa in 2000, half of them were agricultural workers. Most Indian workers received the visa for workers with specialty occupations (H1B) and focus on computer or engineering-related work (INS 2002b).

<sup>34</sup> All temporary workers coming into Canada receive a similar employment authorization at entry.

<sup>35</sup> However, these numbers reflect the asymmetrical sizes of the American and Canadian economies. In fact, on this basis there are relatively more Americans working in Canada than vice versa.

<sup>36</sup> The tables in this report use the terminology of the INS for the categories of admissions. Therefore, the tables refer to “NAFTA workers,” even though “NAFTA professionals” would be a more appropriate term.

<sup>37</sup> The year 1997 saw the greatest growth, with 30,000 additional visas issued in one year. This sudden growth may have been caused by changes in the data entry and the database management of the INS non-immigrant information system in 1997. Indeed, the Statistical Yearbook for that year reported that these changes made the data for that fiscal year unreliable (INS 1999: 10).

<sup>38</sup> Note that the seasonal farmworker program is not covered by NAFTA.

<sup>39</sup> The data collection of CIC includes the information regarding the occupations of the temporary workers. However, the constraints in terms of human resources did not allow CIC to produce tables with this information in time for this report.

<sup>40</sup> This movement of nurses from and to Canada includes both temporary and permanent migration. We try as often as possible to clarify which type of migration is included in the available data.

<sup>41</sup> Entrants must seek temporary entry, be U.S. or Mexican citizens and meet all other relevant immigration criteria (such as health and security regulations). They must seek to enter for the purposes of working as a nurse (which is certified by a letter from a potential employer), meet their domestic minimum education requirements (state licence, provincial licence, licenciatura degree) and they must obtain a provincial licence *before* entry into Canada under this category. Nurses *must* have a signed contract of employment indicating the proposed employer, the position/duties of the job, the purpose of entry, educational qualifications and the arrangements of remuneration. Fulfillment of these obligations will result in a temporary work permit from CIC. There is an applicable cost recovery fee of C\$150. Work permits have a maximum duration of one year, and are annually renewable “for as long as the temporariness of the situation remains bona fide” (HRDC 2002).

<sup>42</sup> Canada has taken no commitments in these four sub-sectors.

<sup>43</sup> For discussion on professionalization see Freidson (1986) and Larson (1977).

<sup>44</sup> The professional associations are not collective bargaining units. There are separate nursing unions as well as membership of nurses in larger government employee unions. The umbrella organization of Canadian nursing unions, the Canadian Federation of Nurses’ Unions, was created in 1981, and includes six provincial unions.

<sup>45</sup> A registered nurse is a nurse who is licensed or registered to practise within her/his province or territory. Registration or licensing occurs after completion of adequate education and success with the national examination. Indeed, in 1982 all provinces adopted the Canadian Nurses Association Testing Services exam.

<sup>46</sup> Interview with representative from nurses organization, November 25, 2002.

<sup>47</sup> The population for the study was composed of 18,754 foreign-educated nurses who had taken the National Council Licensure Examination for Registered Nurses between 1997 and 1999.

<sup>48</sup> Note that the Association is in the process of revising this statement.

<sup>49</sup> (CNA 2000: 2).

Trade in services facilitates the provision of services by Canadian-trained professionals, to other countries. At the same time it opens up the possibility of foreign-trained professionals, offering services to Canadians. Trade in services agreements will ease access to Canada's health sector of foreign providers of services. This possibility challenges Canadian organizations, including professional associations, to be clear on whether they are in business to attract candidates or whether they are in business to protect jobs. The answer will determine how each profession addresses four issues: assessing competence, awarding temporary or other licensure, assuring accountability and recognizing liability.

<sup>50</sup> This proposed plan regarding the influx of temporary workers was presented to nurses in a meeting with various provincial and federal government officials in early 2001. We do not have official policy documents presenting the details of this proposal.

<sup>51</sup> Interview with nurses' organization representative: December 18, 2002.

<sup>52</sup> Interviews with nurses' organization representatives: November 7, 2002, October 18, 2002, December 2, 2002.

<sup>53</sup> Interview with nurses' organization representative, November 25, 2002.

<sup>54</sup> See for example Hassanali (2000).

<sup>55</sup> Information received during interviews with federal government officials: interview on November 7, 2002, Ottawa; interviews on October 21, 2002, Ottawa; interview on October 24, 2002, Ottawa.

<sup>56</sup> Regarding computer system analysts, the problem is also linked to the fact that there are many new high-tech professions that are not on the list. Moreover, computer programmers

are not on the NAFTA list and the U.S. immigration authorities are vigilant not to let this category be used by all information technology workers. As for management consultants, it is one of the rare professions on the list which does not require a university degree and, therefore, many people have tried to use it when they do not fit in other categories. Immigration authorities follow specific interpretations of what is a management consultant. The Canadian government can learn about problems professionals and business people run into when entering foreign markets through the telephone service established by DFAIT. There are archives kept on the use of this mobility “hotline,” but officials confirmed that it was mostly used by Canadians entering the United States. Interview with federal government officials, October 20, 2002.

<sup>57</sup> Interview with federal government official, October 20, 2002, Ottawa.

<sup>58</sup> The meetings lasted one or two days and were organized by the provinces (i.e., the provincial governments sent the invitations to officials and groups they thought were representative and interested in participating). Interview with federal government official, October 20, 2002, Ottawa.

<sup>59</sup> Interview with federal government official, November 7, 2002, Ottawa.

<sup>60</sup> See also the report of the CNAC (2002).

<sup>61</sup> Temporary workers programs allow the entry of a number of workers for a specific period, for specific jobs. These programs are not embedded in trade agreements and can be cancelled once the need for foreign workers in a sector has vanished.

<sup>62</sup> RNAO (2000: 2). The Association adds specific recommendations.

Transparency requires the availability of agendas and minutes of key meetings, detailed background and negotiations documents, as well as draft position papers for Canadian negotiators in Geneva. For example, DFAIT has prepared a paper on domestic regulation and the GATS, but only made it available to the public on June 28, when the week of the consultations was all but completed.

<sup>63</sup> (2001). The data in this report are not sex disaggregated.

<sup>64</sup> The Prime Minister’s Task Force on Women Entrepreneurs drew attention to the need for a better understanding of the service sector throughout the federal government, and the role of women entrepreneurs within that sector (Prime Minister’s Task Force 2003: 109). Obtaining a complete picture of service exports across all four modes of delivery is challenging. Statistics may not fully reflect the value of exports through the wholesale/retail sector, for example (where women are strongly represented), where sales to tourists (mode 2) may not be fully accounted for (Dorothy Riddle, personal communication, February 17, 2003).



<sup>65</sup> “Other services” contains all the traded services other than transportation and travel, using the following categories: communications services (telecommunications, postal, courier), construction services, insurance services (freight insurance, life, non-life, reinsurance), financial services (fees for intermediation and asset management services), computer and information services (computer services, news agency services, direct subscriptions to periodicals), royalties and licence fees, other services (merchandising and other trade-related services, operational leasing without operators, business, professional, and technical services), personal, cultural and recreational services, and government services (Service-Growth 2003a).

<sup>66</sup> What exactly is a “woman business owner”? There appear to be several working definitions. The SME financing in Canada study (Industry Canada 2002a), which focusses on firm characteristics, has three categories, based on percentage of ownership of the firm. Another study, *Myths and Realities: the Economic Power of Women-Led Firms in Canada*, sponsored by the Bank of Montreal’s Institute for Small Business (1996), describes a “woman-led firm” as a firm owned and/or operated by a woman. Presentations by the Department of Foreign Affairs and International Trade and Industry Canada to the Prime Minister’s Task Force on Women Entrepreneurs tend to use terms such as “woman entrepreneur,” “woman business owner,” “woman owned and/or led business,” interchangeably (see Industry Canada 2002b; DFAIT 2003).

<sup>67</sup> “Services” is a broad classification that includes transportation, storage, telecommunications, postal and courier services, wholesale and retail trade, financial, insurance and real estate services, business and professional services, community and social services, personal services and public administration. Some classifications also include utilities (electricity, gas, water, with the primary value added in the “service” of providing the utilities), construction, value added from project management and renovation/repair (Service-Growth Consultants 2003b).

<sup>68</sup> Dorothy Riddle, personal communication, March 25, 2003.

<sup>69</sup> As in all cases, employment authorization is conditional on an applicant meeting immigration requirements concerning security, criminality and health.

<sup>70</sup> Dorothy Riddle, personal communication, February 17, 2003.

<sup>71</sup> McRae (1998) and interviews with women business owners, November and December 2002.

<sup>72</sup> Among options offered for clients to select under “title” is the gender blind term “doctor.” Clients are not required to indicate sex. <<http://www.infoexport.gc.ca/ie-en/login.jsp>>. Accessed December 2003.

<sup>73</sup> For example, see DFAIT’s Businesswomen in Trade Web site <<http://www.dfait-maeci.gc.ca/businesswomen/menu-en.asp>>. Accessed January 7, 2004.

<sup>74</sup> A study on business mobility and gender issues conducted for APEC’s Business Mobility Group covered three key issues: the role of spousal work rights in overseas work assignments

or postings, the professional conduct of visa/immigration/customs officers, and access to and/or participation in APEC's travel facilitation programs. That survey did not yield any conclusive data in the area of perceived barriers related to overseas work assignments or spousal work visas, nor is it possible to disaggregate Canadian responses from total responses. Interestingly, some themes noted in this study are raised in the APEC study: a desire for harmonization of business visa requirements, a lack of awareness of some programs intended to assist business travellers, frustration with user-unfriendly Web sites and programs that may be too costly for very small producers. (The APEC fast-track programs, for example, are for first and business class travellers.) See APFC (2003).

<sup>75</sup> Unfortunately, the report does not include the number of responses, nor are results disaggregated by sex, size of firm or type of activity.

<sup>76</sup> One businesswoman, however, reported relying almost entirely on the Internet to market and service her firm's product line.

<sup>77</sup> Interview, November 2002.

<sup>78</sup> Government officials acknowledge they receive many complaints about difficulties in obtaining information. The Department of Foreign Affairs and International Trade offers two brochures on-line: "Cross-Border Movement of Business Persons." <<http://www.dfait-maeci.gc.ca/nafta-alena/cross-en.asp>>; "Temporary Entry to the United States: A Guide for Canadian Business Persons." <[http://www.dfait-maeci.gc.ca/nafta-alena/temp\\_entry-en.pdf](http://www.dfait-maeci.gc.ca/nafta-alena/temp_entry-en.pdf)>. Accessed January 9, 2004.

<sup>79</sup> Interview with United States Homeland Security official, March 28, 2003.

<sup>80</sup> That study classified "micro" firms as having fewer than 5 employees, and firms with between 5-9, and 10-19 employees as "very small."

<sup>81</sup> The list of invitees shows the following identifiable businesswomen's associations or networks were contacted: Canadian Federation of Business and Professional Women's Clubs (Calgary), Women Entrepreneurs of Saskatchewan (Regina), Women in Capital Markets (Toronto), Women's Business Council (Yukon), Women Entrepreneurs of Canada, BC Chapter (Vancouver), Newfoundland and Labrador Organization of Women Entrepreneurs (St. John's), Canadian Federation of Business and Professional Women's Clubs, New Brunswick Federation of Women's Business Networks (Fredericton), Réseau des femmes d'affaires du Québec (Montréal).

<sup>82</sup> Interview with government official, September 2002.

<sup>83</sup> Studies on women's participation in business networks suggest that women may prefer to participate in smaller networks, or in large groups that have subgroups related to their business interests. However, we did not investigate the committees of the mainstream business associations to see whether they reflected sectors of importance to women business owners. See Moore and Buttner (1997). An earlier study (Belcourt et al. 1991: 18-19) for the

Canadian Advisory Council on the Status of Women reported that “some observers of the business community believe it runs on an old boys’ network” and did not find evidence of the emergence of an “old girls” network developing naturally. While many in the sample believed that belonging to business groups was important, “they cited lack of time as the principle reason for not joining.”

<sup>84</sup> See Sawchuk and Whewell (1999); also Prime Minister’s Task Force (nd).

<sup>85</sup> Interviews with officials and women business owners, November and December 2002.

<sup>86</sup> The database does have an Aboriginal field.

<sup>87</sup> Interview, February 2003. One study on researchers and their agencies “capturing” data sets recommends that research funders set dates for publication of data sets, so other researchers may access them for further analysis in a timely manner. See Hulme (2003).

<sup>88</sup> The Beyond Borders study (Orser et al. 1999), for example, reported that 22 percent of respondents owned firms in the services sector, two percent in retail and wholesale, and 76 percent in manufacturing. This is in contrast with employment data that shows 74 percent in services and 15.3 percent in manufacturing (Industry Canada 2001) and data on self-employment showing the ratio of self-employment in services (at 15.8 percent), wholesale trade (13.4 percent) and retail trade (14 percent) to be greater than self-employment in manufacturing (4.7 percent) (see Sawchuk and Whewell 1999).

<sup>89</sup> See, however, DeVoretz (1999) and Helliwell (1999).

<sup>90</sup> Canadian government officials have indicated that Canada collects information on professions or occupations, but there is not yet a direct correspondence between, or method of comparing, the NAFTA Chapter 16 professional titles and the professions or occupations coded. Further, data on length of stay, age of workers and industrial sector of intra-corporate transferees would be possible if problems concerning lack of resources and access/ confidentiality issues were solved. These constraints, while understandable, raise questions about the strategy of using trade agreements as mechanisms to govern the movement of people when parties to those agreements are unable to provide sufficient data to permit analyses of the actual impacts of those agreements.

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Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<p><u>Movement of natural persons providing services</u></p>	<p>4) Unbound, except for the entry or temporary stay of a natural person who falls in one of the following categories:</p> <p><u>Business visitors</u></p> <p>A natural person who stays in Canada without acquiring remuneration from within Canada and without engaging in making direct sales to the general public or supplying services, for the purposes of participating in business meetings, business contacts including negotiations for the sale of services and/or other similar activities including those to prepare for establishing a commercial presence in Canada: Entry and stay shall be for a period of no more than 90 days</p>	<p>Unbound, except for the entry or temporary stay of a natural persons who falls in one of the categories included in the market access column</p>	

CANADA (continued)

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
	<p><u>Intra Corporate Transferees</u></p> <p>Natural persons of another Member who have been employed by juridical persons of another Member for a period of not less than one year and who seek temporary entry in order to render services to (i) the same juridical person which is engaged in substantive business operations in Canada or (ii) a juridical person constituted in Canada and engaged in substantive business operations in Canada which is owned by or controlled by or affiliated with the aforementioned juridical person</p> <p>None, other than:</p> <ul style="list-style-type: none"> <li>- Entry and stay shall be a maximum period of three years</li> </ul>		



Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
	<p>These comprise:</p> <p>a) <u>Executives</u></p> <p>Natural persons employed by a juridical person who primarily direct the management of the juridical person or establish goals and policies for the juridical person or a major component or function of the juridical person, exercise wide latitude in decision-making, and receive only general supervision or direction from higher-level executives, the board of directors, or stockholders of the juridical person</p> <p>b) <u>Managers</u></p> <p>Natural persons employed by a juridical person who direct the juridical person, or department or subdivision of the juridical person, supervise and control the work of other supervisory, professional or managerial employees, have the authority to hire and fire or recommend hiring, firing, or other personnel actions and exercise discretionary authority over day-to-day operations at a senior level</p>		

CANADA (continued)

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
	<p>c) <u>Specialists</u></p> <p>Persons in the employ of a juridical person who possess knowledge at an advanced level of expertise and who possess proprietary knowledge of the juridical person's product, service, research equipment, techniques, or management</p> <p><u>Professionals</u></p> <p>Natural persons seeking to engage, as part of a services contract obtained by a juridical person of another Member (other than agencies as defined by CPC 872) in the activity at a professional level in a profession set out in Chart A below, provided that the person possesses the necessary academic credentials and professional qualifications, which have been duly recognized, where appropriate, by the professional association in Canada</p> <p>None, other than:</p> <ul style="list-style-type: none"> <li>- Temporary entry and stay shall be for a period of up to 90 days or the time necessary to complete the services contract, whichever is less. Such persons may not engage in secondary employment while in Canada.</li> </ul>		

CHART A

Occupation	Minimum educational requirements/alternative credentials	Other requirements
<u>Engineers</u>	Baccalaureate degree*	Provincial licence**
<u>Agrologists</u>	Baccalaureate degree in agriculture or related science plus four years of related experience	Licensing is required in New Brunswick, Alberta and Québec. Temporary licensing is required in British Columbia.
<u>Architects</u>	Baccalaureate degree in architecture	Provincial license and certificate required to practice
<u>Forestry Professionals</u>	Baccalaureate degree in forestry management or forestry engineering, or a provincial license	Licensing as a forester or forestry engineer is required in Alberta, British Columbia and Québec
<u>Geomatics Professionals</u>	Baccalaureate degree in surveying, geography or environmental sciences plus three years related experience	
<u>Land Surveyors</u>	Baccalaureate degree	Provincial license

\* The term "Baccalaureate degree" means a degree from an accredited academic institution in Canada or equivalent.

\*\* The term "provincial licence" means any document issued by a provincial government, or under its authority, which permits a person to engage in a regulated activity or profession.

WORLD TRADE  
ORGANIZATION

RESTRICTED

GATS/SC/16/Suppl.2/Rev.1

4 October 1995

(95-2933)

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**Trade in Services**

**CANADA**

**Schedule of Specific Commitments**

**Supplement 2**

**Revision**

(This is authentic in English and French only)

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This text supplements the entries relating to the Movement of Natural Persons section contained on pages 10 to 14 of document GATS/SC/16.

## CANADA - SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
<b>I HORIZONTAL COMMITMENTS</b>			
	<p>(4) Unbound except for the entry or temporary stay of a natural person who falls in one of the following categories:</p> <p><b>PROFESSIONALS (b)</b></p> <p>Natural persons seeking to engage, as part of a services contract granted by a juridical person engaged in substantive business in Canada and obtained by a juridical person of another Member, (other than agencies as defined by CPC 872) which has no commercial presence in Canada in the activity at a professional level in a profession set out in Chart B below, provided that the person possesses the necessary academic credentials and professional qualifications, which have been duly recognized, where appropriate, by the professional association in Canada.</p>	<p>(4) Unbound except for the entry or temporary stay of a natural person who falls in one of the categories included in the market access column.</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
	<p>None, other than:</p> <p>Temporary entry shall be granted for a single period of the lesser of ninety (90) days or the period necessary to complete the contract. Such entry shall be granted once during a twelve (12) month period. Such persons may be permitted multiple entries within the period of authorized entry. They may not engage in secondary employment while in Canada. There will be a limit of ten (10) entrants per project in the case of senior computer specialists.</p>		

Occupation	Minimum educational requirements/alternative credentials	Other requirements
<u>Foreign Legal Consultants</u>	Baccalaureate degree in law	Provincial licence
<u>Urban Planners</u>	Baccalaureate degree in urban planning	Provincial licence
<u>Senior Computer Specialists</u>	Graduate degree * in computer sciences, or related discipline; and ten (10) years of experience in computer science.	

\* The term "Graduate degree" means at least a Masters degree from an accredited academic institution in Canada or equivalent. Academic equivalencies will be determined by the relevant equivalencies services in Canada.

**Projects Funded Through Status of Women Canada's Policy Research Fund  
Call for Proposals Trade Agreements And Women \***

*Protecting Canada's Proactive Employment Equity Measures in the Context of the Trade Agreements*

Lucie Lamarche

*Trade Agreements, Home Care and Women's Health*

Olena Hankivsky and Marina Morrow with Pat Armstrong, Lindsey Galvin and Holly Grinvalds

***Engendering Canadian Trade Policy: A Case-Study of Labour Mobility in Trade Agreements***

**Chantal Blouin, Heather Gibb, Maire McAdams and Ann Weston  
The North-South Institute**

*Trade Agreements, the Health Care Sector, and Women's Health*

Teresa Cyrus, Lori Curtis

*Women with Disabilities: Accessing Trade*

Deborah Stienstra, Colleen Watters, Hugh Grant, Hui-Mei Huang and Lindsey Troschuk

*Integrating Gender Perspectives Within the World Trade Organization: A Canadian Advocacy and Analysis Model*

Dana Peebles

*From the Fur Trade to Free Trade: Forestry and First Nations Women in Canada*

Darlene Rude, Connie Deiter

\* Some of these papers are still in progress and not all titles are finalized.