



Seasonality

Project

For Sustainable Employment Growth

Employment Seasonality: An Overview

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**Commission
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Summary

- The purpose of this profile of seasonal employment, based on a literature review, is to enable partners on the various sectoral committees to gain a common understanding of the situation in seasonal employment. A detailed outline of the report can be found in section 1.
- Section 2, which is the largest section of the report, is built around the three approaches to addressing the issue of seasonal work discussed in the scientific literature: an economic approach, a management approach and a sociological and legal approach. In all cases, we noted a certain scarcity of research on the matter; the focus seems to have been on a broader reality of contemporary work: non-standard work.
- The economic approach described in the publications focusses on measuring seasonal work and its determinants to explain why it has continued decline in developed economies and is now peculiar to certain industries and, more often, certain more remote regions. This decline is owing to the position of certain sectors in the economy, to technological or organizational changes that promote the annual continuation of activities and to a drop in the number of young people participating in the workforce. Also, the seasonal workforce differs from the general workforce in many respects (see box in section 2).
- The economic approach also focusses on the public policy dimension of seasonal work to identify how these policies can help to mitigate the phenomenon through incentives, economic development and income security programs. Employment insurance has been the focal point of numerous publications in Canada. Some comparative analyses and publications have indicated a need to involve all labour market stakeholders to reduce the uncertainty surrounding seasonality, if not seasonality itself.
- Management literature, although it rarely addresses seasonal work, identifies organizational and personal challenges with regard to this reality. How can we resolve the inherent tension stemming from the fact that companies have adopted a long-term business logic to develop a quality product to satisfy its clientele while the core of its business rests on a temporary workforce that often has a short-term relationship with the organization? This tension raises a number of challenges regarding the purpose of the business (how to ensure its sustainability?) and HR management. Issues to consider include paying close attention to the psychological contract between the employer and the employees, the opportunities to develop skills, work conditions and the sense of belonging to the organization.
- Sociological and legal literature focusses more on society and the issues of rights as they relate to seasonal work and non-standard work in general. The issue here is how to reconcile the flexibility needs of the labour market with fairness among categories of workers in a given economy. In this regard, not only do we have to consider the state of labour law but also its actual application and the effective protection that it provides to workers in vulnerable situations vis-à-vis employers.

- Internationally and nationally (sections 3 and 4), the concept of seasonal work is included in discussions about job insecurity and non-standard work, in a broader context. The concept of “decent work,” identified by the International Labour Organization (ILO) at the end of the 1990s, is the principal guiding force in the international, Canadian and Quebec literature that was identified. For example, in Canada (Arthurs report) and Quebec (Bernier report), a number of recommendations were made in recent years to ensure fairness for non-standard workers with regard to legislation and rights dealing with workers occupying traditional jobs, based on the idea that employment status should not include any prejudice with regard to wages, benefits, the social safety net or the legal rights of “regular” workers.
- Section 5 identifies a number of publications already published by the partners of the Seasonality Project that directly or indirectly discusses seasonal employment. The reality in question has already been incorporated into the project that kick-started the Seasonality Project (*Chantier sur la saisonnalité 2010*). It includes an overview of seasonal work and the associated issues for the eight sectors in question.
- The main management and union partners in Quebec (section 6) expressed more concerns about non-standard work and demographic issues (aging, immigration) than about seasonal work. It could be said that while the various associations recognize the flexibility needed on the labour market for organizations and employees alike, management and union positions differ regarding the regulatory measures to adopt with regard to the non-standard workforce (e.g. the support provided by labour organizations in the past few years to recognize the unionization rights of seasonal migrant workers in agriculture).
- Few publications report on the issue of collective agreements (section 7) and seasonal work in Quebec. Those consulted show the variable extent to which casual and part-time employees are covered by these agreements. The differences in treatment, when present, involve a number of aspects of the agreement such as seniority, paid leave, benefits, wages, overtime and other work conditions.
- Federal and Quebec employment legislation (section 8) covers part-time and full-time seasonal work. However, there are exceptions regarding the length of the work week and overtime (e.g. agricultural workers are only paid the regular rate). In addition, there is no legislation that prohibits having different work conditions for different employment statuses. These discriminating conditions could even be the focus of a negotiated agreement.

1. Mandate and structure of the report

Our mandate is primarily to meet the following objectives:

- Contribute to the seasonal work profile with a literature review
- Enable partners to gain a common understanding of the situation in seasonal work
- Produce a research report to facilitate its use by the partners

Considering all the areas that were taken into account to fulfill the mandate, we found it appropriate to structure the report by starting with the more scientific publications and gradually moving on to more practical considerations related to seasonal work in Quebec. The goal is to answer questions as clearly as possible for all of the areas studied: what do we know about the subject? What are the main challenges in seasonal work? In what context does it occur? What encourages workers to seek seasonal work? In this way, we plan on largely contributing to a status report that will benefit the partners.

To fulfill the mandate, this report is structured in seven sections:

- A summary of the scientific literature on seasonal work (Canada, Quebec and elsewhere); this section answers the general question: what literature is available on the subject, and what do we know about seasonal work? (Section 2)
- A summary of the literature published by international organizations about seasonal work (ILO, OECD and others, if applicable); this section contributes to an understanding of the challenges faced in seasonal work and addresses recommendations of a more regulatory nature or those relating to public policies on the matter. (Section 3)
- A summary of reports prepared by the Quebec and Canadian governments that address seasonal work; this section surveys government concerns on the subject and possibly measures to establish a framework for the use of seasonal work. (Section 4)
- A summary report of the publications prepared by partners involved with the project (or prepared for themselves); this section addresses the main concerns of partners and the specific areas in which seasonal work is involved. (Section 5)
- A summary report of the public positions of Quebec's main labour market partners on seasonal work (main management and union organizations); this section outlines the main concerns and positions of social stakeholders on seasonal work. (Section 6)
- Literature on collective agreements in Quebec regarding the clauses pertaining to seasonal work; this section helps identify the factors relating to the use of seasonal work in unionized environments. (Section 7)

- State of the legislation (e.g. labour standards) and taxation measures relevant to seasonal work; this section helps identify the factors relating to the use of seasonal work in Quebec. (Section 8)

A general conclusion will complete the report. It will address the main elements that influence the thinking on seasonal employment, whether it involves established knowledge or questions that remain unanswered on this complex and multidimensional topic. Therefore, the information contained herein may be used by the partners who initiated this project for their own work in this area. The report will also help them identify various ideas that they can develop further, according to their needs.

2. A review of the scientific literature on seasonal work

At first glance, the seasonal work issue seems like a familiar one that can be solved using common sense. However, a review of the scientific literature quickly showed us that this is a rather complex situation that can be addressed using a number of different methods.

First, the concept of seasonal work can refer to the workforce, to its concerns and its needs, and to inconveniences (e.g. occasional or continuous lack of work) as unemployment can sometimes accompany seasonal work. We can also look at it from the point of view of employers, of their own needs for the proper governance of their business, their management practices and their responsibilities regarding this work reality. Obviously, the issue also revolves around public policies, which will help, through a variety of ways, to regulate one aspect or another of the phenomenon (e.g. lowering recurrent unemployment stemming from seasonal work, safeguarding the rights of the workforce in question, helping employers meet their needs, etc.). In short, the reality of seasonal work is seen differently by different entities, such as stakeholders and the labour market.

We can also say that the subject matter is complex simply owing to the evolution of the labour market over the years. Everything indicates that interest in the subject has changed either because we were in a more difficult period in 1980–90 (high level of unemployment especially among young people, wide regional gaps with regard to employment and seasonal work, lack of unemployment or employment insurance funds, etc.) or because we are living in a contemporary reality that involves an aging population and an existing or anticipated shortage of labour, technologies that partially mitigate the phenomenon by enabling activities to continue on a near-annual basis, the short- or long-term migration of workers, etc. In this context, it is the concerns that have changed over the decades.

Finally, other analytical dimensions are possible with regard to the subject, which we will be able to address in an economic or econometric, managerial, sociological, legal or societal way. We should also point out that although part of the literature focusses on the issue of seasonal work in a more universal way, a number of publications portray this through solid geographic or sector studies, often limiting their focus to a more general understanding of seasonal work. Moreover, for a good decade, there has been a strong interest in literature discussing non-standard work, which includes a number of categories of workers (typologies vary in this regard) without specifically addressing seasonal workers. Seasonal workers are somewhat included in analytical categories (part-time, contract, precarious work, etc.), which leaves no room to get into the details of the matter in question.

Faced with all these possible approaches after doing a fairly comprehensive literature review of seasonal work, we chose to base the study on a few different approaches that, although not perfect, are useful for mapping out the issue (literature of a more economic, management-related, sociological and legal nature).

In this regard, we have essentially chosen to consult more contemporary literature that, as a general rule, focusses on a labour market that is similar to the current or future labour market. Also, we will pay little attention to the numerous publications specific to any one

industry, sector or even location, which address environments much different from Quebec and Canada.¹

The obligation to be so specific on such a broad topic also requires us to use knowledge that seems to be more central to the discussion undertaken by the partners, who hired us for this purpose.

2.1 Economic literature

In a Canadian study conducted to compare the seasonal employment situation with that of Nordic countries, the authors interviewed a number of employment experts in Nordic countries and were told that, to their knowledge, they were the first people, in a long time, to research this matter and that none of the experts had been able to name a recent study on the subject! (Grady and Kapsalis 2002: 21)

Although this study is already a few years old, we have found that there is a lack of literature (at least literature with a focus on economics) on seasonal work and employment. Our research, which is fairly comprehensive in terms of databases dealing with scientific literature on economics or those on government sites (e.g. Statistics Canada or the Bureau of Labor Statistics in the United States), left us with interesting, although few, results in this area, especially in more recent publications (2000s). The most likely reason for the lack of literature is no doubt related to the significant decline of the phenomenon itself as is indicated in the literature. This explains why we also consulted literature from the 1990s although it generally refers to a context that is different from the current labour market.

We found that the literature focusses on three types of concerns about seasonal work or employment: the phenomenon itself, its determining (underlying) factors and considerations for public policies. This is an overview of the literature consulted based on these three categories.

2.1.1 Measuring the phenomenon

In most economic publications, seasonal employment or work is generally measured through time in a specific geographic location.² First, the publications indicate that the measurement of seasonal work must be kept separate from that of seasonal unemployment, although the two are linked. To illustrate the importance of distinguishing between the two, Sharpe and Smith (2005) indicated that, in 2003, Canada's seasonal employment was three times higher than that of the United States but both seasonal unemployment rates were equal. This suggests that one can occupy one or more seasonal

¹ For example, a number of publications discuss the subject from a developing economies perspective, whether in Africa or other regions.

² Given that another study focussing on seasonal work in Quebec will be added to this report, we will be brief on this matter, including the definition of seasonal work, which can be interpreted in a variety of ways. The standard definition used in the publications of Statistics Canada is "a non-permanent paid job that will end at a specified time or in the near future, once the seasonal peak has passed." A seasonal worker is defined as "a paid employee who, at the time of the survey, reported having a seasonal job" (Marshall 1999: 17). The investigation in question (on active population) involves both seasonal workers who return to the same job year after year and new seasonal workers, but the statistics do not differentiate between the two. The text by Marshall (1999) can be consulted for other definitions related to the phenomenon such as the seasonal pattern, seasonal adjustment, seasonal variation and weighted seasonality.

jobs without experiencing seasonal unemployment.³ Various indicators are used to establish this seasonality, but they will not be addressed in this report.⁴

In addition, the box below lists some characteristics of seasonal work in Canada identified in a Statistics Canada study focussing on people who have experienced job termination.

Characteristics of Seasonal Work According to HRDC (2001)

According to a survey of 32,000 unemployed Canadians between 1995 and 1997, we have identified the following seasonal employment characteristics:

- Seasonal workers make up 15.5% of job terminations.*
- Of this percentage, most job terminations affect men (almost 2/3). Compared to non-seasonal workers having experienced job termination, those most highly affected in this category are young people (15–24 years old) and those with less education.
- Their weekly wages are 15% lower than for non-seasonal workers, and their annual income is almost 40% lower although they work more hours per week (44.2) than non-seasonal workers (38.9).
- A quarter of seasonal workers are unionized compared to a third of non-seasonal workers.
- They also have fewer benefits: barely 20% have health insurance (versus 45% of non-seasonal workers) and only 14% have a pension (versus 30% of non-seasonal workers).
- They are more likely to find work after a job termination than non-seasonal workers who experienced job termination. This may be because they are more likely to be recalled to their seasonal jobs than non-seasonal workers.
- Regionally speaking, the differences are very noticeable in Canada given that 42% of workers in Prince Edward Island who experienced job termination were seasonal workers compared with only 11% in Ontario (17% in Quebec). (see also P érusse 1997 for a regional analysis of the phenomenon).
- In terms of sectors, agriculture, primary and construction were the biggest sectors employing seasonal workers. Also, Guillemette et al. (2000) indicate that 55% of seasonal jobs in Canada are in sectors other than primary and construction, which indicates that the phenomenon is also a reality in many other industries.

** In this survey, this is a self-declaration of workers regarding their last seasonal job.*

³ As an example, a person can occupy two seasonal jobs throughout the year without being unemployed between the two or at any time during the year in question. It is also possible for a seasonal worker to not actively seek employment during the portion of the year that he or she is not working the seasonal job, meaning that the worker is, at this time, not in the active population and not identified as unemployed.

⁴ In fact, some publications deal specifically with the very technical consideration of the measure in question. See Ghysels (1994) for econometric issues. The study conducted by Guillemette, L'Italien and Grey (2000) specifically discusses measures used to identify the measurement of seasonality. We can also consult De Raaf et al. (2003) for a presentation of the issues related to seasonal work itself.

The main observations on the measurement of seasonality of work point to its significant decline in the past decades. Publications indicate that since the 1970s, in particular, there has been a clear and substantial drop in seasonal work in Canada, the United States, Nordic countries and continental Europe (Rydzewski et al. 1993; Grady and Kapsalis 2002; Sharpe and Smith 2005). Through a number of indicators, Sharpe and Smith (2005: 3) show that the seasonality of the labour market in Canada dropped substantially and continuously between 1976 and 2003 (e.g. seasonal employment dropped by 43% over this period and seasonal unemployment dropped by 21%). According to data in the Labour Force Survey, Marshall (1999) estimated that seasonal employment represented 3.4% of all employment in Canada in 1976 and 2.8% in 1997. Grady and Kapsalis (2002) suggest that the drop was so substantial in Nordic countries that it probably explains the current lack of interest in the phenomenon compared with previous decades. One thing is for sure: the authors indicate that, at least in these countries, the problem went from being one of seasonal unemployment in the last few decades of the past century to one of labour shortages in an aging labour market.

2.1.2 Seasonality factors

To explain the drop in seasonal work, we must look to seasonality factors, which are also discussed in most publications. In this regard, the bulk of the decline in seasonal employment can be summed up by the following factors: the drop in certain economic activities relating to GDP, technological changes and the drop in youth participation in the labour market (Marshall 1999; Sharpe and Smith 2005; de Raaf et al. 2003). Nevertheless, none of the studies consulted established the quantitative contribution of each of these factors to the drop in seasonal work. Instead, they provide an overall explanation of the drop, and, on some level, their interaction could potentially be contributing to the drop.

Regarding economic activity as such, it is obvious that the declining contribution to the economy of some sectors, like agriculture, fishing or other mostly seasonal activities in the primary sector, contributes to having a labour market that is overall less affected by seasonal fluctuations. Also, the rise of the service sector in an economy where annual employment is on the rise (including public services) has contributed to reducing the significance of seasonal work. This is true in Canada and in other industrialized countries.

Also, technological innovations have also contributed to reducing the seasonality of the labour market by helping extend the annual period of productive activities. This even applies to some of the above-mentioned activities, such as agriculture. However, the economic literature tends to focus more on construction, which remains a significant activity in economies and its annual period of work has been extended significantly over the past few decades owing to the significant influence of technologies (e.g. new types of concrete and materials usable in cold temperatures) and the better planning of activities to reduce seasonality.⁵

In other sectors, the drop seems attributable to organizational changes such as the increasing use of part-time employees rather than only a full-time workforce within the

⁵ In this regard, although written in the 1970s, the article by Dépatie (1978) provides an interesting illustration of the organizational measures adopted by the construction industry in Quebec to mitigate the significance of seasonal work. It identifies the efforts made to better plan and distribute the various construction tasks throughout the year, the development of workforce flexibility and the implementation of a more effective placement management system.

context of longer business hours. Therefore, it is suggested that in retail, the fact that stores are open over a number of days and during a number of different hours gradually encouraged employers to hire more part-time staff during practically the entire year to have more flexible management, which reduced their sporadic needs for seasonal staff or at least the importance of seasonal labour to the overall workforce (Rydzewski et al. 1993: 11; Marshall 1999: 20).

Finally, the demographic aspects of employment seasonality include the traditionally strong presence of young people, who are fewer on the labour market and the drop observed in women occupying seasonal jobs. With regard to youths, particularly students, it is understandable that their activity period on the labour market is essentially seasonal. The participation of youths in the active population dropped significantly owing to the aging observed in industrialized countries, which led to a drop in seasonal employment in general (Rydzewski et al. 1993; Marshall 1999; Grady and Kapsalis 2002; Sharpe and Smith 2005). Some specifically focussed on the differences between students and youths active in the labour market on a full-time basis and whose seasonality is lower (Oettinger 2000). With regard to women, the drop in seasonality is owed in part to, according to Rydzewski et al. (1993), better support measures with regard to women and children (e.g. daycare, maternity leave), which enables women to work a job throughout the year. The result is that, now, seasonal work is a reality that affects more men than women (Sharpe and Smith 2005).

2.1.3 Public policies

A third concern about economic literature has to do with the impacts of seasonality in terms of public policies. Sharpe and Smith (2005: 15) indicate four possible approaches:

- Try to increase the mobility of workers (financial incentives or training programs) to regions with more stable employment, annually speaking.
- Accept seasonality as a phenomenon and simply support the revenue of affected employees by employment insurance. The authors point out that this “passive” approach could be acceptable both to employees (stabilization of earnings) and to employers (assurance of a labour pool and externalization of unemployment costs) in specific regions. However, this is not a long-term solution.
- Try to extend the length of jobs (extension of economic activities) so employees can work for close to a full year and even train workers during less active periods. Government incentives are probably necessary in this matter.
- Annual and seasonal jobs can be created but they should complement existing seasonal jobs through an economic development strategy.

In the same vein, the Chair in Tourism at UQAM suggested various commercial strategies to extend the industry’s activity period. However, these strategies did not specifically address seasonal work as such (Chair in Tourism, UQAM, 1998).

Regardless of the strategy used, the authors indicate that the strategies cannot work without the willingness and involvement of workers, employers, unions, the community and governments. The government cannot resolve the problem alone. The authors even suggest that in some cases, more radical workforce mobility measures might be needed in regions with more regular jobs or the management practices of employers should be changed by making them bear more of the costs of unemployment.⁶

Grady and Kapsalis (2002: 26) point out that Nordic countries have more generous employment insurance plans than Canada for seasonal workers but that these plans are usually demanding in terms of training or searching for jobs, leaving unemployed seasonal workers less free time and getting better results in terms of seasonal employment than Canada. These Nordic plans are said to be more generous but less passive with regard to seasonal workers. The link between employment insurance and seasonal work has been the focus of a number of publications here in Canada especially during the major overhaul of the plan in 1996 and in the following years (e.g. Green and Sargent 1998; Wesa 1995; de Raaf et al. 2003; HRSD 2007).

This report will not discuss this literature on employment insurance other than to say that the multiple changes made to the plan between the late 1960s and the beginning of the 2000s had only a slight effect on employment seasonality according to a recent study (HRSD 2007). As an example, although the employment insurance reform of 1996 had a positive impact on the eligibility of seasonal workers (the plan being based no longer on weeks but rather on cumulative work hours), it also penalized seasonal workers who work less than 30 hours per week because of difficulties meeting the new requirements regarding cumulative hours, if they even met this requirement at all (de Raaf et al. 2003). This conclusion on the effects of the various reforms over 40 years is consistent with previous publications indicating that amendments to the plan had only a slight impact on the length of employment except in regions with a high unemployment rate (Green and Sargent 1998) and that seasonal workers had a higher success rate in finding employment compared to non-seasonal workers after being laid off because they are probably more likely to be recalled to work than non-seasonal workers (Audenrode and Storer 1998, HRSD 2001). It should be pointed out that after a financial penalty (called “intensity rule”) was incorporated during the reform of 1996 for frequent or repeat claimants (including seasonal workers), evaluations of the plan led to the termination of this measure in October 2000, as it had been deemed inefficient and punitive (Canada Employment Insurance Commission 2009, annex 6).

In addition, Grady and Kapsalis (2002) also indicate that Nordic countries have successfully extended the annual length of jobs that used to be seen in a more seasonal context, which corresponds to the third approach suggested by Sharpe and Smith (2005). Whether it is owing to the increased use of new technologies, better planning and distribution of activities throughout the year or measures to retain and train staff during slower periods, highly seasonal industries such as forestry, fishing and fish processing have significantly reduced seasonal fluctuations in employment. In fact, an obvious correlation was observed between the qualification of the workforce and its retention by businesses because it is in the best interest of these businesses to keep a high-quality specialized workforce for productive activities. In any event, the authors suggest that the success of Nordic countries is

⁶ For example, using an “experience rating” approach that determines employers’ employment insurance premiums depending on their use of lay-offs.

attributable to what we could call an integrated approach centred on a government strategy focussed on employment stabilization, economic development (see regional development), related public policies (employment insurance, training, incentives for employers, incentives for the geographic mobility of workers), business management practices (annual distribution of activities, planning of labour requirements, etc.) and benefits for workers (better salary, improved annual income, increased skills and mobility). In short, this is consistent with the statement of Sharpe and Smith (2005) that the willingness and involvement of all parties is needed to successfully mitigate employment seasonality.

2.2 Management literature

The literature includes another way to address the issue of seasonal work: HR management. This approach focusses less on the measure of the phenomenon and its evolution and more on management issues, whether it is by taking into account the interests of the workforce or the needs of businesses. However, literature specific to seasonal work is rare as has been indicated by those who have recently researched the subject (Ainsworth and Purss 2009: 218), and there is even a lack of literature discussing the more general topic of temporary (non-standard) employment and its impact on HR management (*paucity* according to Burgess and Connell 2006: 129). We have taken into account some of these more general publications where they seemed useful to highlight management issues in the seasonal workforce.

Various authors have expressed significant warnings about the sometimes too-hurried amalgamation that affects all non-standard work categories while, in reality, the definition itself poses a problem or suggests multiple realities with regard to both people and organizations (Tremblay et al. 1999; Kalleberg 2000; Bourhis and Wils 2001). Professional self-employed workers who have chosen their status and who have a good income are not in the same situation as involuntary part-time workers who earn minimum wage, but both groups are considered as occupying non-standard jobs, being part of the non-standard workforce and even working for the same business. Therefore, defining management issues in terms of this contemporary reality does not really make sense *in abstracto*. To say that non-standard work is synonymous with job insecurity or a way for employers to save money is too limiting with regard to multiple possible scenarios. Bourhis and Wils (2001), in particular, show that the typologies used in literature to describe non-standard work vary greatly with regard to the various employment statuses considered. In fact, it was found that these typologies are almost never retain seasonal work as a category in itself. Instead, it is forcibly combined with other categories such as term, casual and part-time work, number of jobs, etc. Only one author makes it a separate category (Cooper 1995), but the document in question clearly states that a seasonal worker can work part time, full time, on a term basis, etc. In other words, seasonal work seems to fit in well with the usual categories of non-standard work (*contingent work*), which is also supported by Ainsworth and Purss (2009). However, Tremblay et al. (1999) show that the factors leading to non-standard work are different for each non-standard employment situation (e.g. involuntary part-time work versus self-employment). We should therefore abstain from making generalizations in terms of management about a reality that is extremely fragmented and diversified.

Now that these warnings have been expressed, the article by Bourhis and Wils (2001) makes an interesting point that using a non-standard workforce brings with it issues for managers with regard to the development of skills and career management, and it is implied

that short-term or unpredictable employment runs the risk of being seen by organizations as a barrier to investment in these categories of workers. This could also lead to the demotivation (or lack of mobilization) of the workforce with regard to their jobs given the economic and professional insecurity (other authors have identified the same issues; see Burgess and Connell 2006). Employee loyalty depends on the engagement of organizations toward their staff, which is no surprise. When employees of different employment statuses work alongside each other in the same organization (e.g. casual employees and permanent employees), Bourhis and Wils (2001) indicate that management issues become increasingly complex given that different HR management strategies are needed for each category while internal equity rules must be followed in order to treat all employees equally. Finally, the authors identify societal challenges such as the adaptation of the labour law or access to unionization for certain non-standard categories.

Ainsworth and Purss (2009) specifically focussed on the HR management issues of seasonal work, which is rare in literature dealing with this topic. Although their work is based on a single case study in the Australian tourism industry,⁷ their analysis is consistent with the broader literature on the subject of temporary work, and their observations are relevant to this report. In general, the focus remains on the inherent tension brought about by the fact that a business necessarily has a long-term commercial perspective, seeking to develop a quality product to satisfy its clientele, while the core of its business is based on a temporary workforce that often has a short-term relationship with the organization. This tension raises various issues regarding the purpose of the business (how can we ensure survival?) and HR management. Particularly, what we call a psychological contract (i.e. the implicit expectations of each party in terms of their mutual obligations), which is the basis of the employer-employee relationship in an organization, runs the risk of weakening given the unequal expectations of the parties and the treatment of the workforce.

However, the authors point out that it is not impossible to develop an employment relationship during the period of employment (if employees are hired back year after year) and to develop a certain employee loyalty, which implies a more long-term HR management approach by employers. However, the authors mention that, on the basis of the case studied, there is a significant gap between the desire to obtain strong organizational involvement, given the length of the employment, and the attitude of employers who essentially consider their workforce as a cost point, which they will try to limit to reduce the impact on operating costs. Moreover, do employers need to recognize their “loyal” employees, who return year after year, and treat them differently than their more volatile staff? This could affect compensation, various benefits, development and career management in the organization for employees who remain seasonal but that the organization wishes to keep and see return year after year. This is not a simple task, but the authors indicate that the employees interviewed, although seasonal, also see themselves in a more long-term employment relationship not only economically speaking but also with regard to their attachment to the organization, personal interest in the nature of the business’s activity⁸ and even from a social standpoint because they forge relationships with employees that they see season after season.

⁷ Ski resort with more than 700 employees during peak season where the authors interviewed employers and employees.

⁸ In the case studied, the authors indicate that many employees first and foremost love the outdoors and skiing in particular and are therefore easier to attract and happy to return to work at the ski resort.

These non-monetary benefits were also previously identified by Ball (1988), who suggests that employees may also find benefit in an employment relationship characterized by seasonality. In short, even in a seasonal work situation, the organization can build a psychological contract and an employment relationship during the employment, and the organization must be seen not only in terms of its economic purpose but also social involvement. However, businesses may consider their staff as a commodity (Ainsworth and Purss), a cost, and find ways to micro-manage employees in a strict daily engagement, where they expect maximum performance for no other benefit except wage. It is therefore not surprising to find that employees suffer from engagement and motivation issues because they see their contribution purely as a transaction. In this case, seasonal work can be linked to low-quality work, but this is not necessarily the case. Ball (1988) criticizes this generalization, often placed on seasonal work, as being among the worst situations in the labour market by demonstrating that seasonal work can be an attractive option for workers, especially if it is voluntary or even part of a professional strategy based on occupying various seasonal jobs throughout the year.

These elements of the literature could possibly open interesting doors for partners in the Seasonality Project to evaluate how and under what conditions seasonal work can be attractive to certain workers taking into account economic and professional aspects (wage, duration, conditions, access to training, etc.) and more personal and social aspects (preference for various possible combinations of work and personal or family plans, sense of belonging to an organization, a social environment, etc.)

2.3 Sociological and legal literature

There are a certain number of scientific publications that we characterize as sociological and legal literature, but it should be pointed out that they do not specifically focus on seasonal work. In fact, some publications address, in a more general way, the problem of non-standard work focussing on workers in specific industries (e.g. agricultural workers) or with a particular status (migrant workers). Except for agriculture workers (and even then, we must avoid generalizing their situation), there is no evidence of a direct correlation between non-standard work and seasonal work. Therefore, we will only briefly address this type of literature.⁹

Further to the concerns about the rise in non-standard work that have been expressed in the literature since the 1990s, we note certain sociological publications addressing this contemporary reality from very specific perspectives that are often foreign to our environment such as the most ephemeral form of employment relationships in the United States (day labour) (Valenzuela 2003) or the accommodation conditions of seasonal workers in France (Brunet et al. 2005). Others, closer to industrial relations, address the possibility of granting access to unionization to casual workers (all statuses combined) in the Canadian or Quebec representation system, which is mostly aimed at “standard” employment. Suggestions include a new type of community unionism that could enable non-standard workers with different employers to benefit from unionization if a legislative reform of collective unionism took place (Cranford and Ladd 2003). In terms of public policies, some

⁹ We do not want to expand too much on the case of agricultural workers, as it could be the focus of a specific research.

researchers are questioning the Canadian program for temporary workers, which they deem to be not only prejudicial for the majority of the labour force in question but also a short-term program that does not meet the long-term labour needs of the Canadian economy (Nakache and Kinoshita 2010). The authors propose substantial changes to this program, particularly to avoid limiting the mobility of this workforce from one employer to another, which is currently the case, and to better protect the rights of employees and facilitate social integration. As we can see, these publications do not specifically focus on seasonal work although it is relevant in some of the themes discussed (e.g. access to unionization, use of migrant workforce).

We can also find legal publications that discuss the general issue of non-standard work and address the collective agreement coverage of these employees (Bernier 2007) or question the suitability of our labour laws with regard to employees whose status is unclear or has been voluntarily modified (e.g. false self-employed workers) or are involved in an indirect relationship with an employer (placement agencies)¹⁰ (Vallée 1999). These situations do not necessarily correspond to seasonal work although the general idea of tailoring the legal framework to the changes seen in the labour market could be of interest given the various forms of non-standard work. The idea of legal coverage for some workers was developed around the specific situation of agricultural workers in Quebec in order to specifically illustrate the exclusions that apply to them, although this is essentially related to exclusions that are specifically mentioned in certain labour laws and are not related to the seasonal aspect of the work (Moran and Trudeau 1991; Mimeault and Simard 1999). This particular case illustrates the slow adaptation of labour laws in a sector that has seen its activities evolve over more than a hundred years (family farm to industrial farm). This example seems too specific to discuss in this report, which discusses seasonal work in a more general and synthetic way.

3. Publications by international organizations

The main publications of international organizations consulted that discuss seasonal work in a more or less direct way are those of the International Labour Organization (ILO). Since it was created in 1919, the ILO has been recording its ideas and recommendations in a perspective of social justice and respect of human rights to influence countries in their labour policies and practices. The preferred strategy in this case is the adoption of international standards that are established during tri-partite annual meetings. The member countries (currently numbering 178) are invited to include the international standards in their national legislation. In Canada, given the determining role played by provinces in the regulation of labour, the practice in place entails having the federal government and all competent provincial and territorial administrations agree to ratify and implement an ILO standard.¹¹ A little over 150 ILO conventions have led to the various labour standards. These can be general (e.g. child labour or length of employment) or very specific (e.g. the conditions of workers in harbours). None focus specifically on seasonal work but many seem to be related (e.g. length of work, work conditions in agriculture, fishing, tourism and the restaurant industry, etc.).¹² The agreements on length of work or certain non-standard statuses

¹⁰ Many publications have particularly dealt with placement agencies since the 2000s.

¹¹ See www.hrsdc.gc.ca/fra/pt/ait/representation_canada/ratification_OIT.shtml

¹² The list of conventions and their contents can be consulted at

<http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:1:0>.

(e.g. part-time work) essentially aim to prevent the abuse of employees (long hours, few or no breaks, etc.) or to ensure that non-standard workers have equal rights.¹³ (ILO 2009)

ILO's main concern about work, especially with the arrival of globalization, led to a new agenda toward the late 1990s. The "decent work" agenda, which was recently taken up in a Global Jobs Pact on the current economic crisis (ILO 2009):

Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men.¹⁴

This prescriptive guidance by the ILO can be found in more specific publications like those focussing on migrant workers (who can constitute a seasonal workforce), agricultural workers, fishermen and fisherwomen, harbour workers, so they can benefit from the same work conditions and rights protection as full-time workers in other sectors (ILO 2001; ILO 2008; ILO 2009). It is worth pointing out that these ILO concerns are specific to countries with regulatory frameworks that are weak or poor in terms of labour provisions and that have questionable, or downright disrespectful, practices regarding fundamental rights.

With regard to publications by sectors on seasonal work, the ILO awards special attention to agriculture given its high importance in the economy of developing countries, which is very different from the situation in industrialized countries.¹⁵ With regard to the fishing sector, attention is also given to countries where this activity still has a great importance and more than 40 years after the adoption of the last standard (1966), a new agreement (No. 188) was adopted in 2007 to ensure that fishermen and fisherwomen can benefit from decent work conditions (as well as accommodation and food).

Moreover, the hotel, restaurant and tourism sectors were the subject of a discussion in the early 2000s, which addressed length of work and the enhancement of human resources (ILO 2000). It seems to be the most relevant with regard to the present report. It is indicated that employment in these sectors can often be described as non-standard (flexible work schedules, temporary or part-time work) and positions are mostly occupied by youths briefly passing through the labour market (students and those moving on to other sectors) and women. Social partners are invited to find ways to balance the flexibility needs of employers and the security needs of employees (ILO 2000: section 3.6), which has, in fact, been developed in certain European countries under the name of "flexicurity" (ILO 2008). In European countries, between 10% and more than 50% of employees in the tourism sector are hired on a term basis, and the growth of this sector seems to point to a rise in seasonal work in these countries. This workforce flexibility is associated to a weaker control of the workforce by employers, decreased involvement of employees in the organization and

¹³ For example, convention C175 on Part-time Work (adopted in 1994) asks that the United States guarantee part-time workers the same rights and social protections as full-time workers and similar work conditions.

¹⁴ Source : <http://www.ilo.org/global/topics/decent-work/lang-en/index.htm>.

¹⁵ ILO points out that with more than a billion workers worldwide, agriculture is the second biggest employment sector after the services sector (ILO 2008: 32).

decreased qualification of workers. These findings are shared by both employers and unions (ILO 2000: section 3.6.1). These observations are essentially in line with other conclusions previously addressed in the literature review.

The same ILO study on the tourism sector states that [translation] “Not enough thought has been given to using the off-season as a training period during which time workers could acquire new skills, assuming qualified personnel are guaranteed to be rehired in following years, as a means of retaining workers” (ILO 2000: section 4.3.2). The high staff turnover is very expensive for employers that regularly find themselves recruiting new workers to meet their needs. Also, employers indicate that one of the ways to stabilize employment would be to encourage the versatility of the workforce. Such an approach could cut the number of part-time positions occupied by various employees to consolidate full-time jobs. This issue raises the matter of skills development, which is a practice that is much more established in bigger establishments (multinational chains) than in small and medium enterprises. Besides the more beneficial work conditions that promote retention in major establishments, career perspectives are better for workers in these organizations than in small establishments. This suggests that small and medium enterprises should adopt these better practices developed in bigger establishments to stabilize their workforce (ILO 2000: section 4.5.3). It is also indicated that social partners award [translation] “high priority to the creation of full-time jobs and that part-time and term employees should not be discriminated against and should be eligible for all benefits based on the length of employment. These principles should also apply to casual workers.” (ILO 2000: section 6.1)

With regard to the OECD, no particular publications have been identified on seasonal work although some do focus on migrant employees, of which a major percentage occupies positions in sectors with a high percentage of seasonal work (e.g. agriculture, fishing, construction, hotel, restaurant; see OECD 2008). This migrant workforce is seen elsewhere as a normal and necessary phenomenon, economically speaking, to ensure subsistence while meeting national labour market needs. Only a single Canadian economic study on productivity and workforce raises the need to rethink the rules of employment insurance that involve seasonal workers who limit themselves to working only the minimum number of hours required to claim benefits (OECD 2004). In the same vein, it suggests that we penalize employers (through higher premiums) that unduly resort to laying off their seasonal workers to benefit from a subsidy, according to the OECD. This recommendation would help internalize the true cost of the workforce without penalizing workers in question. Essentially, this position is in line with that of Sharpe and Smith (2005), which has already been mentioned in the literature review.

4. Quebec and Canadian government reports

There are very few Quebec or Canadian (federal) government documents or products that have been prepared on their behalf that focus specifically on seasonal work. Once again, it is rather the issue of non-standard work that has retained a certain measure of attention. In fact, two reports on the matter were prepared on behalf of the governments in recent years.

However, there are some government publications that are rather descriptive of seasonal work programs. These will also be discussed. Finally, we should point out that specific publications linking employment insurance and seasonal work were prepared in the mid-1990s during the employment insurance reform and in following years, as mentioned in section 2.

Two major reports were prepared in the last decade to evaluate the suitability of the employment regulatory framework and the contemporary reality of employment. One was prepared on behalf of the Canadian government and discusses federal labour standards¹⁶ (equivalent of the Quebec labour standards). It is known as the Arthurs Report and was submitted in 2006. The other was prepared for the Quebec government and targeted the social protection needs of non-standard workers. It is known as the Bernier Report and was submitted in 2003. In both cases, we can say that, despite the quality of the work (major consultations, expert work, etc.) and the recommendations put forth, neither the Liberal government in Quebec nor the Conservative government in Ottawa have followed up.¹⁷

Although these reports do not specifically discuss seasonal work (it is mentioned in passing as a reality of non-standard work), they generally aim to ensure equity in the treatment of non-standard workers with regard to legislation and rights that cover labour in more traditional employment situations and following the idea that there should be no prejudice in employment status regarding wages, benefits, the social security net and the rights of “regular” employees.

In some ways, these publications are reminiscent of the ILO agenda regarding decent work, including the necessity of taking into account the flexibility needs of organizations and the security of the workforce.

The Arthurs Report even invites social partners to explore the European concept of flexicurity to evaluate whether it could be applied in Canada. In this vein, and considering the management difficulties owing to the small size of organizations and the high mobility of non-standard employees, it recommends that the Canadian government look into the possibility of creating “benefits banks” so employees and employers could purchase employment benefits (recommendation 10.7, p. 260). These banks (in some ways, mutual benefits) could therefore help employers meet the requirement to provide non-standard workers with the same protection in terms of benefits as other workers. It also suggests that

¹⁶ These standards are for employees and employers in private establishments (federal undertakings) (e.g. banks, broadcasting and telecommunications, interprovincial and international transportation, ports and airports, etc.). It is estimated that approximately 10% of the Canadian workforce is affected.

¹⁷ Besides the political directions of these two governments with regard to the labour regulation, neither was in power when these publications were commissioned.

sector employment standards could be defined by social partners as long as they generally meet the equity criterion with regard to the conditions prevalent in other sectors. Some recommendations specifically targeted foreign agricultural workers to ensure that they received the same rights protection and equal treatment as Canadian workers.

Among the 50 or so recommendations in the Bernier Report, none was specific to seasonal work even if it is clearly identified as non-standard work under the subcategory of term or temporary employment. However, both reports (Arthurs and Bernier) assigned special importance to placement agencies to ensure once again that the laws and rights of workers placed by these agencies are respected as they are playing an increasing role in terms of temporary work.

With regard to agricultural workers in particular, publications prepared by the Commission on the future of Quebec agriculture and agri-food (2008) emphasize the strong incidence of seasonal work among agricultural producers (estimated at 80% of jobs, according to the Commission) and the issues faced by this sector and many others.¹⁸ The increased competition and demography of businesses to recruit and retain labour, the importance of relying on a skilled workforce, the complexity of jobs, technologies, new management methods, etc. The report specifically discusses (see p. 122) certain regional initiatives to mitigate the difficulties related to seasonal work (*coopératives d'utilisation de main-d'œuvre*) by bringing human resources together to work for various employers. It quotes the *Coopérative d'utilisation de la main-d'œuvre de la Côte-du-Sud*: [translation] “the assurance of having a qualified and experienced workforce at a competitive rate. The company does not have to retain the services of a full-time employee to meet its occasional needs.... Another advantage is improving the quality of life of producers who can take leave by having competent employees.” (p. 122). Without making any formal recommendation, the Commission encourages the development of such initiatives.

Also, the Commission discusses the situation of foreign temporary workers, saying that using these workers is sometimes inevitable, and they would be used more and more given the difficulties of hiring local employees. The Commission makes two recommendations in this regard: first, establishing a government and social partner strategy to interest and select foreign workers based on available jobs both for temporary and permanent jobs, and second, to ensure that seasonal migrant workers benefit from “accommodation and work conditions and social protection that respects their rights” (recommendations 23 and 24, p. 143).

We should also mention a specific study prepared by Quebec’s Ministère du Travail (2003) on the determination of minimum wage for agricultural workers with regard to harvesting vegetables for processing or fruits in non-mechanized operations. This study was further to an amendment adopted in 2002 to the *Loi sur les normes du travail* and aimed to make the minimum wage clauses applicable to agricultural workers. Following submissions by sector associations, it was agreed to go ahead with the application and create a committee to establish a permanent wage standard for these workers, which the committee did in this report.

There are also some government publications that discuss specific seasonal work programs.

¹⁸ The Commission does not provide any overall data on employment seasonality in the sector, but publications prepared on behalf of the *Comité sectoriel de la main-d'œuvre agricole* estimate that 35% of agricultural jobs were occupied by seasonal workers in 1999. See: AGRicarrières 2006, p. 24.

Such is the case of the Seasonal Agricultural Worker Program of Human Resources and Skills Development Canada, which includes a description and a presentation of the conditions that apply to workers and employers on the Department website.¹⁹ The same goes for the *Certificat d'acceptation du Québec* for temporary employment, which is a prerequisite for getting a work permit from the Canadian government. One can access the information on this certificate, which is not only for agricultural workers but also for all foreign workers with a temporary job offer.²⁰

Emploi-Québec also releases information to encourage those who receive social assistance to occupy a seasonal job.²¹ It describes seasonal employment and its benefits for those on social assistance. Finally, Emploi-Québec also offers support for seasonal employment stabilization initiatives as part of its employment stabilization projects²² by specifically considering an alternative to termination by extending employment periods. Financial assistance as a maximum salary subsidy of \$5,000 per year per job is available for employers that meet the requirements.

¹⁹ See: http://www.hrsdc.gc.ca/eng/workplaceskills/foreign_workers/ei_tfw/saw_tfw.shtml

²⁰ See: http://www.formulaire.gouv.gc.ca/cgi/affiche_doc.cgi?dossier=1085

²¹ See: <http://www.mess.gouv.gc.ca/publications/index.asp?categorie=>

²² See: http://emploiquebec.net/guide_mesures_services/05 Mesures progr Emploi Quebec/05 6 Concertation pour emploi/05 CPE projet stabilisation.pdf

5. Publications by project partners

The seasonal work phenomenon affects in one way or another and to varying degrees the different business lines of the eight sector committees involved in this Seasonality Project. Their reality in this matter was synthesized in the project that kick-started the Seasonality Project, and sectoral reports will soon be prepared to present an overview and more specific issues relating to each of these sectors.

Moreover, a consultation of the sites of each of these committees indicates that all conduct regular analyses of the workforce in their respective sector through an assessment of the workforce.

Other than these assessments, which we can consult to obtain more information on each sector, we looked at a number of specific publications discussing seasonal work that we are only identifying for the purposes of this report. The sector committee representatives are in a better position to judge whether it is worthwhile to study these publications in more depth as part of the Project. If there are other publications than those listed below that would be relevant, it would, of course, be appropriate to add them.²³

List of publications consulted relating to seasonal work, by sector committee (other than the sectoral workforce assessments):

AGECO Group. *Analyse d'expériences québécoises et étrangères en matière de stabilisation d'emplois saisonniers*. October 2005. Study conducted for the Comité sectoriel de main-d'œuvre de la production agricole.

Services conseils Berbard Belzile inc. *Étude sur les conditions de travail en production maraîchère (légumes de plein champ)*. September 2005. Study conducted for the Comité sectoriel de main-d'œuvre de la production agricole.

KPMG (chartered accountants). *Étude comparative de la fiscalité française et américaine relative aux travailleurs agricoles saisonniers*. February 2003. Study conducted for the Comité sectoriel de main-d'œuvre de la production agricole.

AGECO Group. *La rareté de main-d'œuvre agricole : une analyse économique*. March 2002. Study conducted for the Comité sectoriel de main-d'œuvre de la production agricole.

Agriculture et agroalimentaire : choisir l'avenir. April 2007. Memorandum by AGRlcarrières - Comité sectoriel de main-d'œuvre de la production agricole presented to the Commission sur l'avenir de l'agriculture et de l'agroalimentaire québécois.

HortiCompétences (Comité sectoriel de main-d'œuvre en horticulture ornementale). *Étude sur la structure des emplois dans le secteur de l'horticulture ornementale au Québec*. (Note: summary document and seven sub-sector studies). 1999.

²³ We did not consult the publications prepared by Canadian sectoral councils to which sectoral committees could have contributed. If necessary, the committees could provide each other with additional information on these publications.

ÉduConseil. *Étude sectorielle sur les métiers manuels de l'industrie de l'aménagement forestier - Version non officielle (2010)*. December 2009. Study conducted for the *Comité sectoriel de main-d'œuvre en aménagement forestier*.

Comité sectoriel de main-d'œuvre en aménagement forestier. *Enquête sur la main-d'œuvre forestière au Québec 1999/2000*. 2002.

Beauchesne, Zins. *Résultats des entrevues avec des entreprises du secteur agroalimentaire utilisatrices du programme concernant les travailleurs étrangers temporaires*. February 2010. Study conducted for the *Comité sectoriel de main-d'œuvre des pêches maritimes*.

Fréchette, Jacques, et al. *Étude sur la main-d'œuvre dans cinq flottilles de pêche au Québec*. September 2008. Study conducted for the *Comité sectoriel de main-d'œuvre des pêches maritimes* and the *Tables des pêches maritimes*.

Fréchette, Jacques, et al. *Étude de la main-d'œuvre et de la relève dans le secteur de l'aquaculture en eau douce au Québec*. January 2009. Study conducted for the *Comité sectoriel de main-d'œuvre des pêches maritimes* and the *Association des aquaculteurs du Québec*.

Larose, Carolle, and Michel Payette. *L'intégration des personnes de 50 ans et plus dans l'industrie touristique, Rapport final et plan d'action*. January 2010. Study conducted for the *Conseil québécois des ressources humaines en tourisme*.

Boulay, Karine, et al. *Étude sur la place de la main-d'œuvre étudiante dans l'industrie touristique*. September 2009. Study conducted for the *Conseil québécois des ressources humaines en tourisme*.

Les métiers reliés au récréotourisme dans une perspective quatre saisons. May 2001. Study conducted as part of the initiative of the Commission scolaire des Premières-Seigneuries (Beauport) in collaboration with various organizations, including the *Conseil québécois des ressources humaines en tourisme*.

AGECO Group. *Analyse des besoins en main-d'œuvre saisonnière dans les entreprises de transformation et de mise en conserve de fruits et légumes (conserveries)*. December 2002. Report produced for the *Comité sectoriel de main-d'œuvre en transformation alimentaire*.

6. The positions of the main labour market partners in Quebec

It is certainly not a surprise that the positions of the main labour market partners in Quebec are generally in line with the contemporary workforce concerns, particularly with regard to what we call labour market flexibility, which is associated with the rise in non-standard work. There are, of course, differing positions on this topic depending on the nature of the organizations involved (e.g. management versus union). Also, the current or anticipated labour shortage is being felt by the partners.

However, besides these rather general concerns about non-standard work or demographic issues (including immigration), there are rather few specific positions on seasonal work as such. It is possible that there are more than those that we have looked at given that our research is limited to the Internet sites of main organizations and public documents.

With regard to the main management associations, we have consulted the sites of the *Conseil du patronat du Québec*, the *Manufacturiers et Exportateurs du Québec*, the Canadian Federation of Independent Business, the *Fédération des Chambres de Commerce du Québec* and some associations that are rather sectoral such as the *Conseil québécois du commerce de détail*. In this regard, there are many other sectoral associations that we have not investigated. Whenever possible, we read their works on the period from 2000 to today. In total, very few publications about seasonal work in particular were identified; the general concerns were instead focussed on labour market flexibility (considered by associations as a contemporary necessity especially for competitive reasons) and on the concerns regarding the shortage of labour. Generally, associations are opposed to broadening labour regulation and instead subscribe to the principle of regulatory flexibility and free market.

The most explicit positions on seasonal work, although limited, were found in the publications of the *Conseil du patronat du Québec* (CPQ). First, to support our previous statement about regulatory opposition, we should mention that the CPQ (it is possible that the other management association identified went in the same direction but we did not identify their positions) particularly referred to the works of the Bernier Commission and the Arthurs Commission, which were mentioned previously, essentially to express their reservations regarding the intentions voiced (or even the recommendations) to better protect the workforce regarding the labour law (non-standard workers, in particular). Although the CPQ bases its positions on what it calls “decent work” (CPQ 2007a; 2005), it does express the necessity of instead adapting the legislation and social protection to the new reality of employment (tertiarization, diverse needs of individuals and businesses, etc.).

With regard to seasonal work in particular, we studied a CPQ position stating that employment insurance hindered the mobility of seasonal workers and did not encourage them to do anything else by treating them differently from other workers (CPQ 2007b). In terms of CSST compensation, a similar position states that it is unjust to calculate the income of seasonal workers (construction workers in particular) in cases of accidents at work on an annual basis rather than on the number of weeks worked. This leads to overcompensation because workers’ income replacement is higher than the actual time worked (CPQ 2008).

With regard to union organizations, we looked into the main publications and interventions of the FTQ (and Canadian Labour Congress), the CSN and the CSD. First, we can say that without denying the existence of a certain labour market flexibility that developed further to the needs of the businesses but also in part by following the needs of the workforce, the general position of organizations, which has been expressed on numerous occasions, is to guarantee that all workers, regardless of their status, are entitled to the same rights, conditions and social protections. This is in line with the recent agenda developed by ILO but is based more broadly on the past position of organizations with regard to equity, solidarity and social cohesion. These positions were again discussed as a supporting topic, for example, for the recommendations identified in the Bernier and Arthurs reports (CSN 2009; FTQ 2009; CTC 2009) and in employment insurance claims, which has been strongly criticized by union organizations since the reform of the mid-1990s.

In terms of seasonal work, union organizations were the most active and critical about migrant workers (including but not limited to agricultural) in government programs supporting their temporary migration, maintaining that this gives employers more power in the labour market (see FTQ 2008). Essentially, the organizations' position is that migrant workers should benefit from the same rights, conditions and benefits as Canadians (see UFCW 2009). In the brief about access to the unionization of the agricultural migrant workforce, organizations supported this particular right and approved of the tribunals' favourable decisions in this matter.

In addition, we found a number of interventions by organizations in collective bargaining cases regarding their members in particular businesses aimed at eliminating all discrimination regarding rights, conditions and benefits based on employment status.

7. Collective agreements and seasonal work in Quebec

Our research on collective agreements and seasonal work in Quebec left us with few results. In fact, we were unable to consult any specific publications on the matter. However, there is a database by the *Ministère du Travail* that is based on the collective agreements tabled annually that results in an annual publication, providing an overview of the collective agreements based on a number of characteristics (*Ministère du Travail* 2009). However, this publication does not analyse collective agreements by employment status. In future Seasonality Project [*Chantier sur la saisonnalité*] publications, a summary of collective agreements in sectors could be provided to evaluate the scope of the clauses specific to seasonal workers (qualitative analysis) or to see if the *Ministère* (through its *Direction de l'information sur le travail*) can conduct a statistical analysis of the agreements by employment status (quantitative analysis) in sectors of interest to Project partners. We should point out that two sector committees have already prepared publications on collective agreements: AGRlcarrières (*Comité sectoriel de main-d'œuvre de la production agricole*) [sectoral workforce committee in agricultural production] published a study in 2006 that included a section on the comparative analysis of the collective agreements of agricultural workers in Quebec, and the sectoral workforce committee in food processing (2008) conducted an analysis of work conditions in the industry's unionized businesses based on the collective agreements.

In its 2006 study, AGRlcarrières focussed on the situation of employment status in collective agreements by pointing out that the collective agreements cover casual and part-time employees (that associate them with seasonal employees in the study) differently in the sub-sectors of agriculture.

[Translation] Depending on the economic activity sector involved, these employees can figure prominently in the convention or be completely left out. (...) In fact, in the majority of cases, the rights and responsibilities of part-time employees are comparable to those of regular full-time employees. The strong presence of part-time or casual employees within these companies is certainly one of the reasons behind the attention awarded to their work conditions.
(AGRlcarrières 2006: 24)

Of course, we cannot make any generalizations regarding the other sectors based on a single study but it does give some indication of the rights of workers depending on their employment status, which Project partners might be interested in for various sectors.

The only other study related to the matter was conducted by Bernier (2007), which consulted 156 collective agreements tabled in 2004 in Quebec, including 14 in accommodation and restaurant, 42 in the food sector and 12 in other businesses (the rest being manufacturers and municipalities). Its research aimed to evaluate the scope of these agreements regarding non-standard work employing part-time and casual workers, students and others, including seasonal workers. It found that differences in treatment were common between non-standard workers and full-time permanent workers on a number of collective agreements issues such as the application of seniority, paid leave, benefits, wages, overtime and other work conditions (Bernier 2007: 6). Referring to another study conducted in the

early 1980s, it found that the situation had barely evolved in Quebec regarding the treatment of non-standard workers in collective agreements.

8. Employment legislation and taxation measures regarding seasonal work

8.1 Employment legislation

The scope of the application of the employment legislation for the various categories of workers was the focus of numerous publications and reports throughout the last decade in particular. The fast development of non-standard work was generally at the core of these publications as a number of exclusions in terms of the legislation were found over the years and raised, de facto, questions about the suitability of the employment legislation regarding the new reality of employment.

The Bernier (2003) and Arthurs (2006) reports, which were previously mentioned, already addressed this issue, and was considered by a number of scholars, including Moran and Trudeau (1991) (specifically on agricultural workers) and Vallée (1999) and Bernstein et al. (2009) (labour standards and new non-standard employment relations). Also, the access to unionization of seasonal migrant workers was the focus of recent major tribunal decisions. The case of seasonal workers can largely be found under the more general designation of non-standard workers in these publications and in some situations; this is specifically mentioned in the legislation. Without going into too many details, which we will be able to consult in government documents in particular (e.g. raspberry, strawberry and apple pickers, *Commission des normes du travail* Internet site), this report will present an overview of the exclusions and particular features involving seasonal workers in Quebec and federal legislation in terms of employment.²⁴

As the *Commission des normes du travail* reminds us: “Despite the temporary nature of their employment, all seasonal workers are covered by the Act respecting labour standards, whether they are full-time or part-time employees” (<http://www.cnt.gouv.qc.ca/en/situations-of-life-at-work/index.html>). Some specific situations include:

- Forest workers for whom normal work weeks are 47 hours instead of 40 (meaning that the premium salary rate can only be applied above this threshold);
- Agricultural workers (including foreign workers²⁵) for whom the premium salary rate does not apply (they are always paid at the regular rate); berry pickers are paid by performance (and have very specific conditions; see the Commission’s site on this topic); workers involved in the canning and packing of products and in the freezing of fruits and vegetables at harvest time (always paid the regular rate);
- Workers in fishing establishments or fish processing or canning;
- Students employed at summer camps (always paid the regular rate).

We should also point out that provisions in Quebec standards do not apply to workers employed under the Canada Labour Code (federal undertakings); the Canada Code applies to them.

²⁴ For a comprehensive analysis of the issue, which also affects public programs in occupational health and safety, retirement and employment insurance, chapter 3 of the Bernier Report (2003) can be consulted.

²⁵ These are also subject to labour standards. A pamphlet specific to them has been prepared. See *Commission des normes du travail* (2010a).

Despite this general rule, its application is not always effective in the workplace. Therefore, in an investigation conducted by the *Commission des normes du travail* (2005) with non-unionized workers, it was found that the non-compliance of employers regarding the increase of overtime was more common when seasonal workers were involved (38.6% were paid the regular rate while they should have been paid the premium rate) than regular workers (26.9% in this case), which led the Commission to talk about the greater vulnerability of certain workers, including seasonal workers (*Commission des normes du travail* 2005: 24). We should also mention that the Commission conducted an initial preventative experiment in 2009 with agricultural workers and employers to educate and raise awareness among the parties involved about the standards in place. Although only one violation was identified among employers, the Commission noted that foreign workers had a very poor understanding of their rights (*Commission des normes du travail* 2010b: 5).

Moreover, Bernstein et al. (2009: 20) indicates that no labour law explicitly prohibits, in Quebec, discrimination based on employment status except clauses in Quebec's *Loi sur les normes du travail*, which protects certain part-time workers.²⁶ This means that employers could apply different conditions to different workers such as permanent versus temporary workers, including seasonal workers. These discriminating conditions could even become the focus of a negotiated agreement. These authors specifically refer to research conducted by Bernier (2007) on 156 collective agreements in the hotel, restaurant, food, retail and manufacturing industries and in municipalities where wage gaps were identified in practically one out of every two collective agreements (see section 7 of this report).

For all intents and purposes, it seems that the situation is essentially identical with regard to the Canada Labour Code. Bernier (2005) indicates that

Despite the universal nature of the standards set forth in Part III (at least as reflected by their original intention), and despite their applicability to most employees irrespective of status, they are still designed primarily to take account of the situation of full-time permanent employees. As a result, individuals whose employment status is not in question, but who are nonstandard workers and unable to meet certain conditions to qualify for such protection, are not covered to the same degree as workers who do the same work full-time in the same company.

The Code does not make it mandatory for employers to accord equal treatment to all employees who do the same work and have the same qualifications, but have different employment status (Bernier 2005: 25)

Also, the author indicates that some provisions in the Code could even work against some non-standard workers when, for example, a specific continuous length of employment is needed with the same employer to be entitled to specific benefits (e.g. sick leave, bereavement leave, etc.)²⁷.

²⁶ Two clauses on rates of pay and vacation of part-time employees versus other workers doing the same duties. See articles 41.1 and 74.1 (*Loi sur les normes du travail*, L.R.Q., Chapitre N-1.1)

²⁷ Although it will not be discussed here, we should mention that comparative works regarding labour standards throughout Canada were prepared recently by Quebec's *Ministère du Travail*. See Boutet (2009).

The *Code du travail du Québec* made headlines over the last few months regarding an explicit exclusion with regard to the right of association that particularly targeted workers at a farm where there was not a minimum of three workers throughout the year (article 21-5 of the Code). In April 2010, the *Commission des relations du travail* declared this provision inoperative and indicated that the nature of agricultural activities had substantially evolved since the Code was adopted in the 1960s (family farm to industrial farm). Moreover, seasonal workers have the same right to unionization and collective bargaining as other workers although it has been observed, in a number of publications, that non-standard workers had a harder time accessing unionization than permanent workers.

8.2 Taxation measures and seasonal work

Research conducted on the sites of the two departments concerned regarding personal taxation (Revenu Québec and the Canada Revenue Agency) failed to identify taxation measures specific to seasonal workers.

Only a recent measure implemented by Revenu Québec (2006) imposing a deduction for foreign seasonal agricultural workers was found, making half of the earnings in question non-taxable. Federally, there are tax treaties in place with some of the countries of seasonal agricultural workers to avoid double taxation. Section 4 of this report mentions employment subsidies for employers to stabilize employment.

Furthermore, there has been a specific study prepared by the sectoral workforce committee in agricultural production (2003) comparing taxation in France and in the United States for seasonal workers. This study led to certain solutions that the committee wanted to see implemented in Quebec, particularly to reduce moonlighting. The above-mentioned measure announced in 2006 by Revenu Québec largely aimed to reduce moonlighting.

Conclusion

By contributing to the profile overview of seasonal work through a literature review, this report enables partners to gain a common understanding of the seasonal work situation to continue their work and develop their ideas in this matter. In this vein, it was decided to adopt a multidimensional approach to seasonal work. If this phenomenon was previously thought about as complex, everything in this report indicates much more clearly that this is effectively the case! Moreover, we were faced, on a number of occasions, with the lack of publications on the topic itself, and the contemporary literature and even government publications (including commission reports) are more focussed on the more general issue of non-standard work. Nevertheless, this report provides a number of clarifications regarding seasonal work, of which the main aspects are identified in this conclusion.

Even though the importance of seasonal work has decreased within developed economies, it continues to occupy a major part of the labour market in specific sectors in specific provinces or regions. For these industries and those involved, the phenomenon is indeed a very real issue that could become more prevalent in a new context of the labour market (aging and perceived lack of workforce). In this regard, the literature provides less information because it is generally more focussed on the issues of previous years or even decades. The parties involved will therefore have to show more initiative and adaptation to have the workforce necessary for the smooth operation of their industries, and their activities, even if they can be better distributed throughout the year, will inevitably maintain a seasonal cycle in some cases.

Like some of the publications that were consulted, we are here talking about “those involved” because everything indicates that no entity alone can resolve the situation, even more so in a tight labour market, which is anticipated in the near future. Employers (including when there is direct competition in a sector or region), unions (that have to deal with equity between seasonal and permanent work), workers (whose paths are varied with regard to seasonal work) and governments (via labour legislation and income security programs as well as workforce migration and support for skills development) will all have to work together in what none would call a “win-win” approach. Such a collaborative approach among the stakeholders is crucial given that no party alone can resolve the problem.

On the spectrum between considering the seasonal workforce as a “commodity,” as was stated in some American publications, and considering it as a workforce with particularities but also with rights and that brings real value to the organization, that has aspirations and security needs, it seems that the Quebec and Canadian tradition and the recent thinking of stakeholders are leaning more toward the latter (consistent with ILO’s goal of decent work).

Although this report is not specifically focussed on researching solutions or particular experiences, we can suggest that the experience of joining efforts and resources in section 4 (see the *coopératives d’utilisation de main-d’œuvre*), the measures of the Arthurs Commission regarding “benefits banks,” industry standards or the European flexicurity (section 4), obtaining workforce flexibility through the investment in skills development, specifically through a more effective use of off-season as suggested by ILO (section 3), all require reflection by anyone seeking to reduce uncertainties in terms of seasonal work. In the same vein, organizations’ ability to mitigate the seasonality of activities (see section 2)

rests on HR management that combines flexibility in the use of its resources and the sustainability of the business's commercial activities (section 2), and the recognition of rights and the equitable treatment of the non-standard workforce (sections 3, 4, 7 and 8) are part of the solution sought by stakeholders. The numerous publications already prepared by sector committees consulted in section 5 are in line with this.

We have stated on numerous occasions in this report that seasonal work is a large part of a broader idea surrounding non-standard work, which in itself is multidimensional, but seasonal work no doubt has numerous features and characteristics that depend on the industries and sectors and regions. Also, we must avoid making non-standard work generalities about seasonal work and the latter should always be evaluated based on its own merits and the environment of the industry, sector and region. Based on certain publications or issues mentioned in the report, the issue of the seasonal migrant workforce is more or less a fact in agriculture (although it is not exclusive to this sector) rather than in other sectors. It will remain a challenge, in our opinion, for Project partners to identify what they have in common with regard to this issue, including the research of solutions and identifying their respective features. This report is a contribution to their reflective and strategic approaches regarding seasonal work and we hope that all Project stakeholders will find it helpful in their common approach and in their respective sectors.

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