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## **Labour Mobility and Trade Agreements: Canadian vs. American Approaches from NAFTA to TPP**

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*Selected Paper prepared for presentation at the International Agricultural Trade Research Consortium's (IATRC's) 2017 Annual Meeting: Globalization Adrift, December 3-5, 2017, Washington, DC.*

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# Labour Mobility and Trade Agreements:

Canadian vs. American  
Approaches from  
NAFTA to TPP



**Carleton**  
UNIVERSITY

**Canada's Capital University**

# High-skilled temporary foreign workers

## General Agreement on Trade in Services Mode 4

- Business visitors
- Intra-corporate transferees (ICTs)
  - Senior management and specialized knowledge
  - Minimum one year employed with parent firm
- Investors
- Professionals
  - Normally bachelor's degree or higher

# Canada's Temporary Entry Trade Provisions

	NAFTA	GATS	Chile	Costa Rica	Peru	Colombia	Panama	Honduras	Korea	EU
	1994	1995	1997	2002	2009	2011	2013	2014	2015	2016
Business										
Visitors	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Investors	✓	✓	✓		✓	✓	✓		✓	✓
ICTs	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
List of										
Professionals	Moderate	Limited	Broad	Limited	Broad	Broad	Limited	✗	Broad	Broad
Spouse										
Family	✗	✗	✗	✓	✓	✓	✗	✓	✗	✓

Total Canadian FTAs: 13 with 44 countries

Temporary Entry Provisions with 37 countries

Excluded: Ukraine, Israel, Jordan, European Free Trade Association (Iceland, Liechtenstein, Norway and Switzerland)

# American TPP Public Relations Materials

*“While the other 11 TPP Parties have agreed upon country-specific reciprocal commitments on access for each other’s business persons, **the United States is not undertaking any commitments in this area.** Nor will any TPP provision require changes to U.S. immigration law, regulations, policy, or practice, as our system already operates in a manner consistent with the temporary entry chapter. In addition, **TPP will explicitly affirm the ability of TPP Parties to regulate the entry of foreign nationals into their territory”***



★ 12 ★

**Temporary Entry for Business  
Persons**

# What can we learn from TPP moving forward?

- 1. Should the TPP-11 now improve the temporary entry chapter?**
- 2. Can Canada expect to work with the US to modernize temporary entry in NAFTA?**
- 3. What are the implications of neighbours and friends following such divergent paths on temporary entry?**

# Question 1: Should the TPP-11 improve the temporary entry chapter?

**Answer: No.**

Ambitious	Moderate	Minimal
Australia	Brunei	Singapore
Canada	Japan	New Zealand
Chile	Malaysia	
Mexico		
Peru		
Vietnam		



## 2. Can Canada expect to work with the US to modernize temporary entry in NAFTA?

**Answer: Worth a try, but it's a long shot**

### US Temporary Entry Commitments in Trade Agreements

	NAFTA 1994	GATS 1995	Jordan 1999	Chile 2004	Singapore 2004
Business Visitors	✓	✓	✓	✓	✓
Investors	✓	✗	✓	✓	✓
ICTs	✓	✓	✓	✓	✓
List of Professionals	✓	✓	Short	Short	Short
Cap	5,500 Mexico	65,000	✗	1,400	5,400
Spouse/Family	✗	✗	✗	✗	✗

### Temporary Entry Provisions with 5 + 1

**Excluded: Bahrain, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Korea, Morocco, Nicaragua, Oman, Panama, Peru**

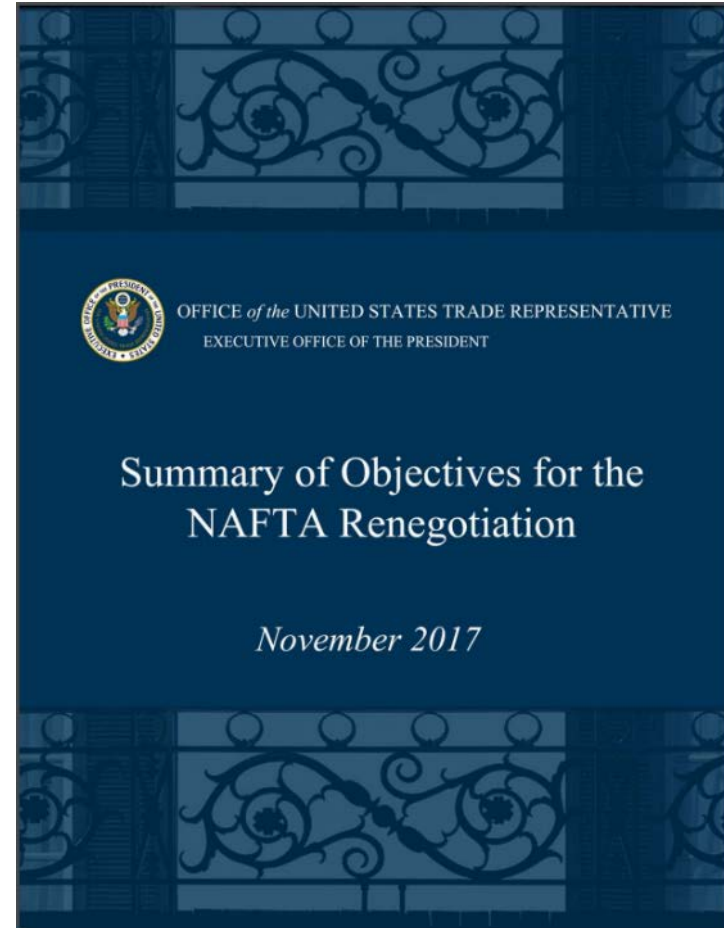
# US FTAs after 2004 explicit in exclusion of TE

KORUS Services Chapter 12.1:

7. “Nothing in this Chapter or any other provision of this Agreement shall be construed to impose any obligation on a Party regarding its immigration measures, including admission or conditions of admission for temporary entry”

# NAFTA 2.0? It's The Economy, Stupid!

**SOVEREIGNTY**



# US temporary entry visas 1997-2015

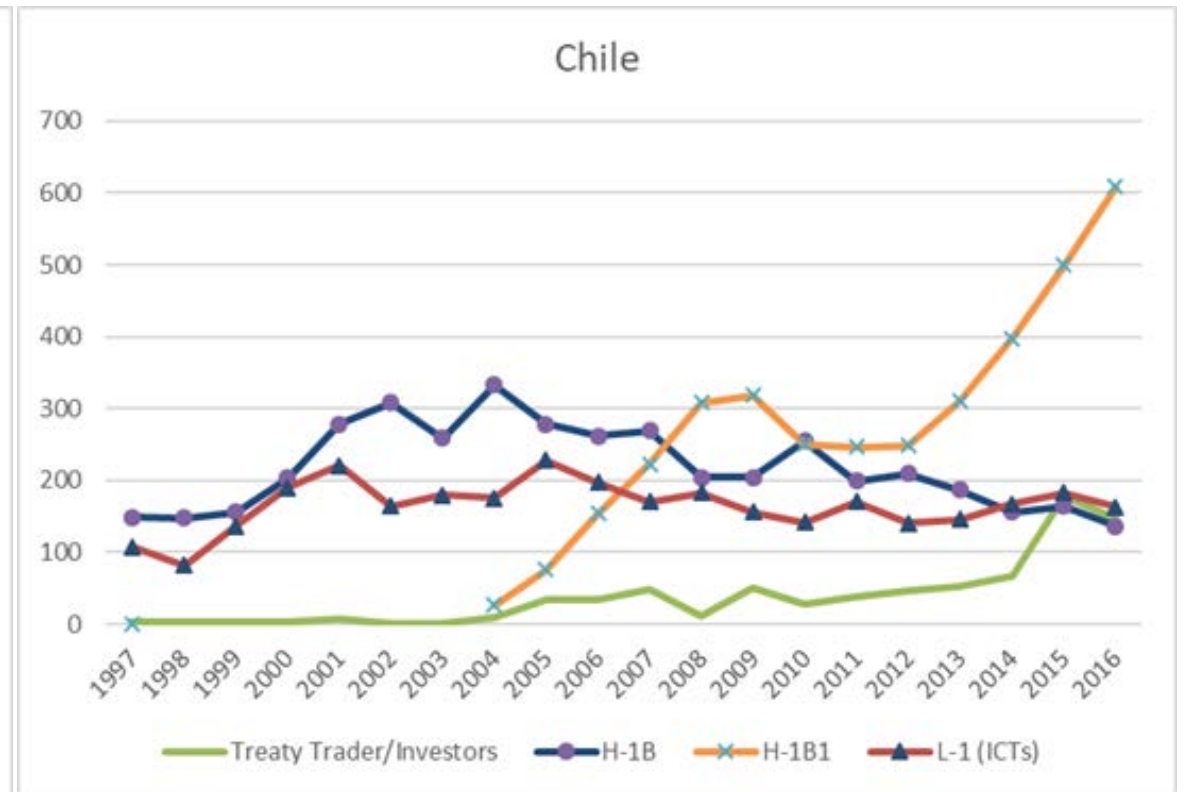
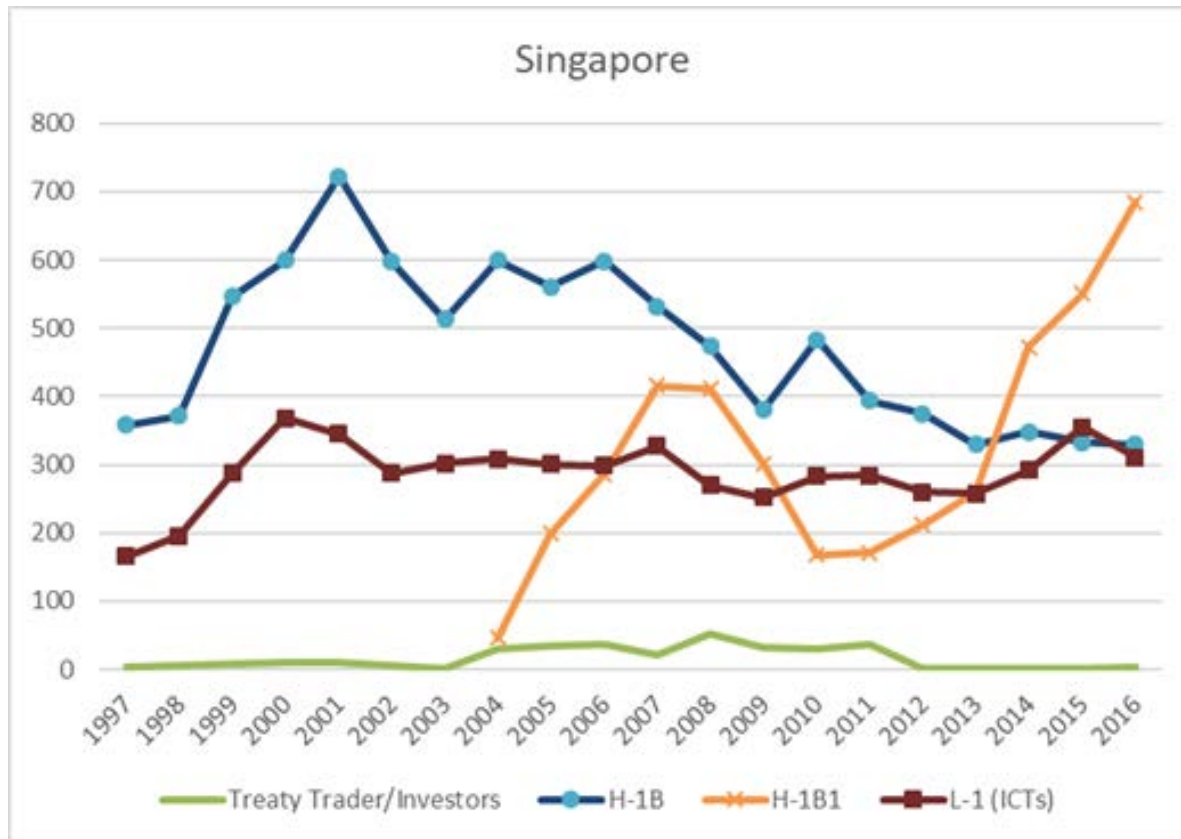
## FTA specific categories

Country	In force	Visa Categories
Mexico	1994	TN
Canada	1994	Excluded
Singapore	2004	H-1B1
Chile	2004	H-1B1
Australia	2005	E-3
Spousal visas excluded for all countries		

## Other trade and high-skill visas

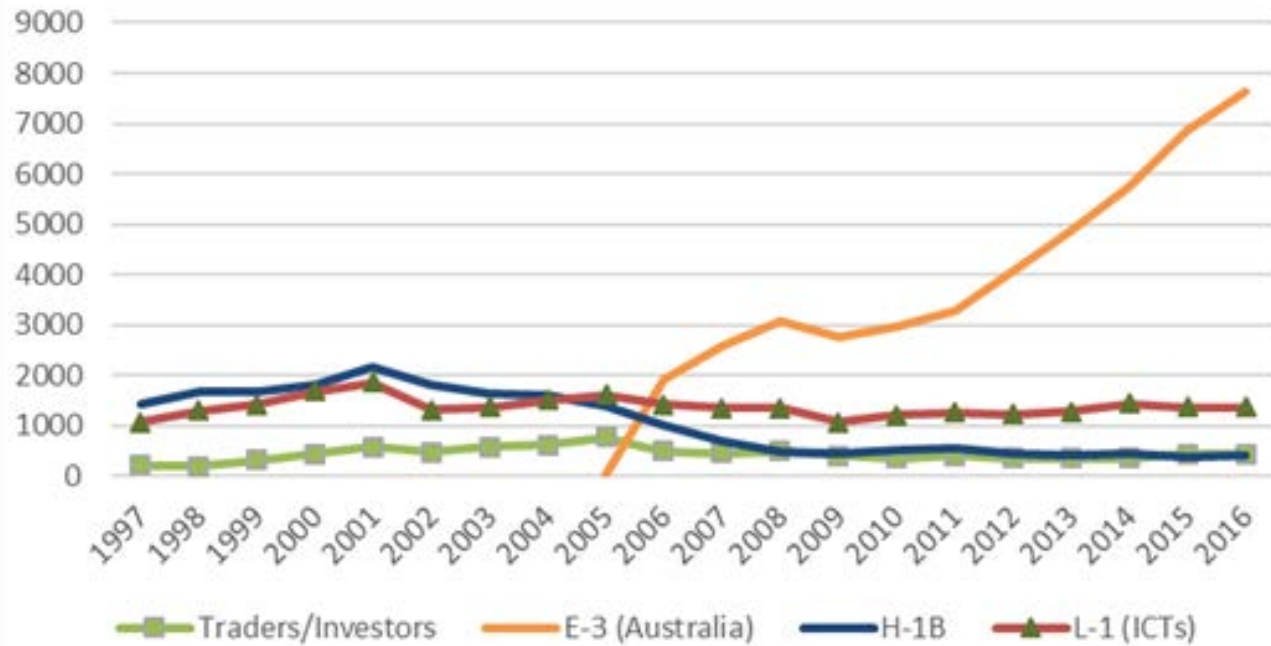
Visa Category	Criteria
L-1	Intra-corporate transferees
E1 and E2	Treaty traders and investors
H-1B	High-skilled professional

# Singapore and Chile

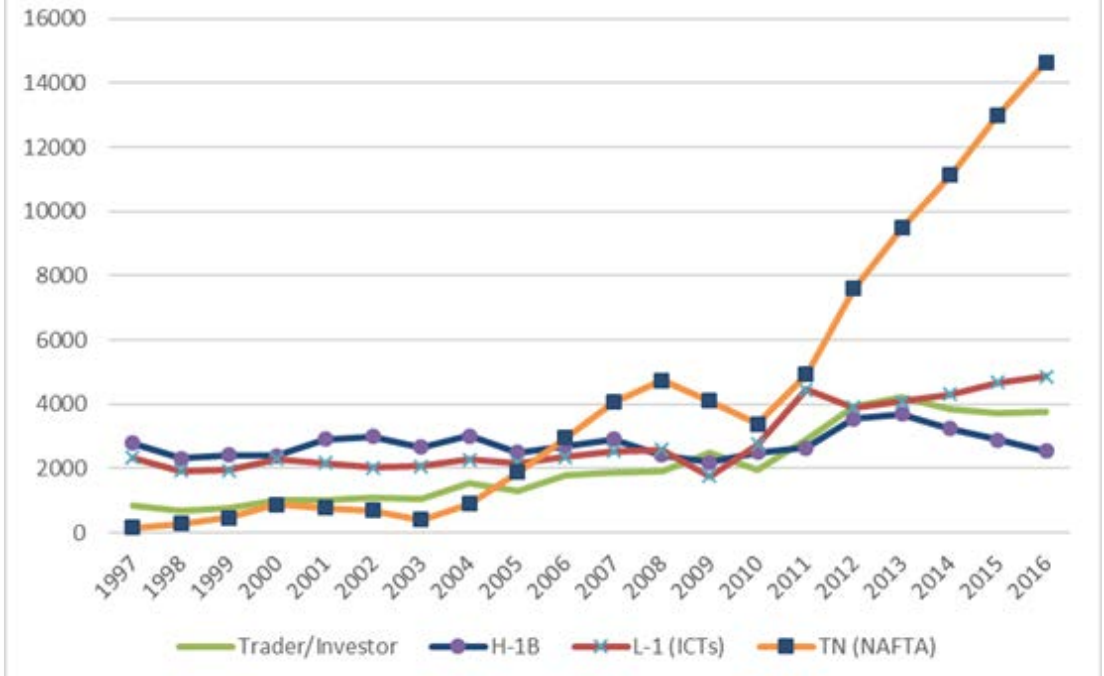


# Australia and Mexico

## Australia

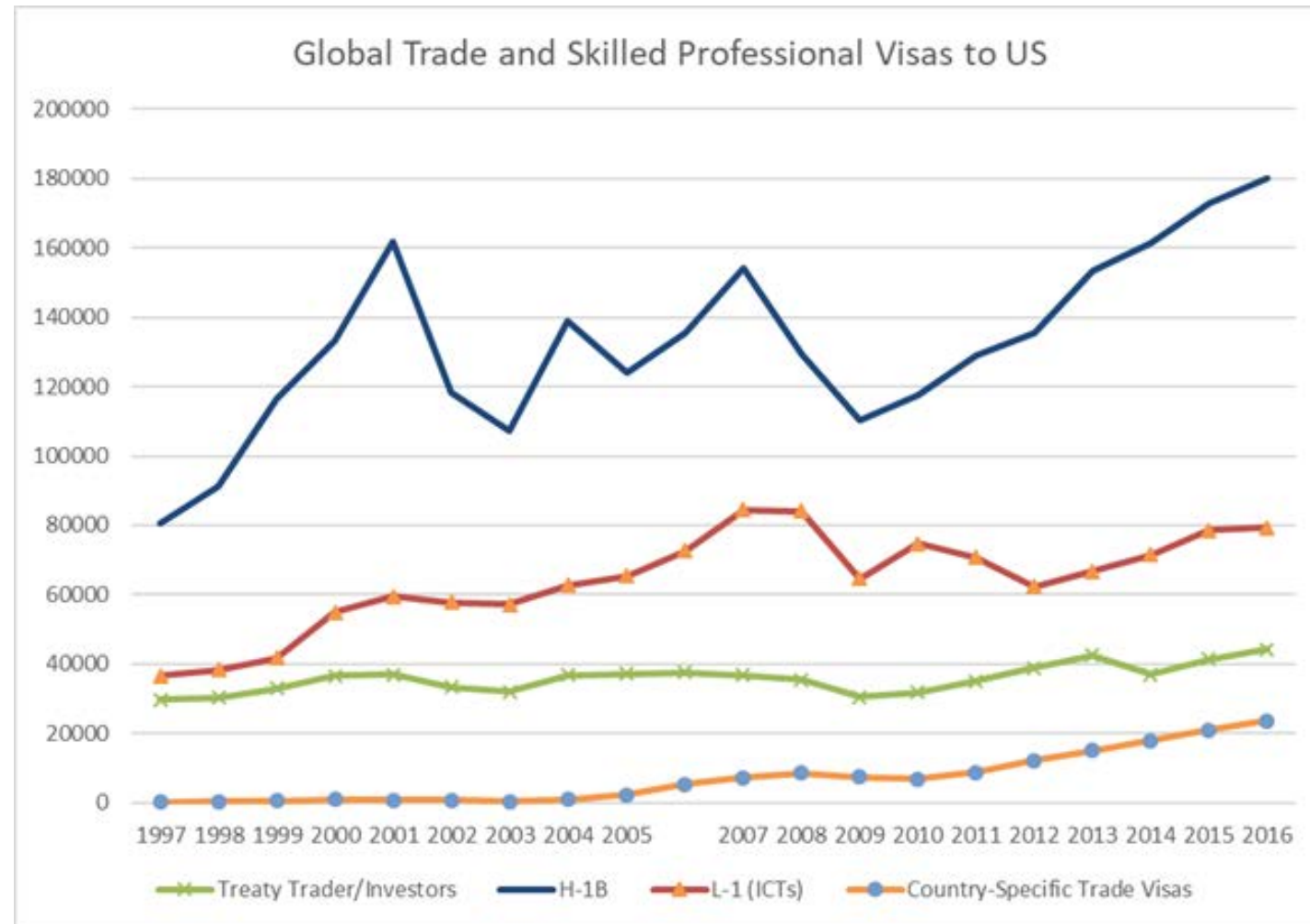


## Mexico



Note: Differences in scale

# US trade and high-skilled visas issued globally



### 3. What are the implications for Canada-US of such divergent policies?

Answer: Uncertain and ongoing





# Come to Canada



# OVERHAULING THE TEMPORARY FOREIGN WORKER PROGRAM



#canadiansfirst

LIMITING ACCESS

**CANADIAN WORKERS**  
COME **1st**

**New** Labour Market Impact Assessment  
**Cap** on Low-Wage TFWs per Work Site  
**Reduced** duration of Work Permits

**BETTER LABOUR MARKET**  
**INFORMATION**

**New Quarterly Job Vacancy Survey**  
**New Annual National Wage Survey**  
**Enhanced Job Matching Service**

**STRONGER & TOUGHER**  
**ENFORCEMENT & PENALTIES**

**More Investigations & Detection of Abuse**  
**Blacklist, Suspension & Revocation**  
**Fines** for Employers who Break the Rules

**New Application Fee : \$1,000**

 Government of Canada

Gouvernement du Canada

**Canada** 