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

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Labour Mobility and Trade Agreements:

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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

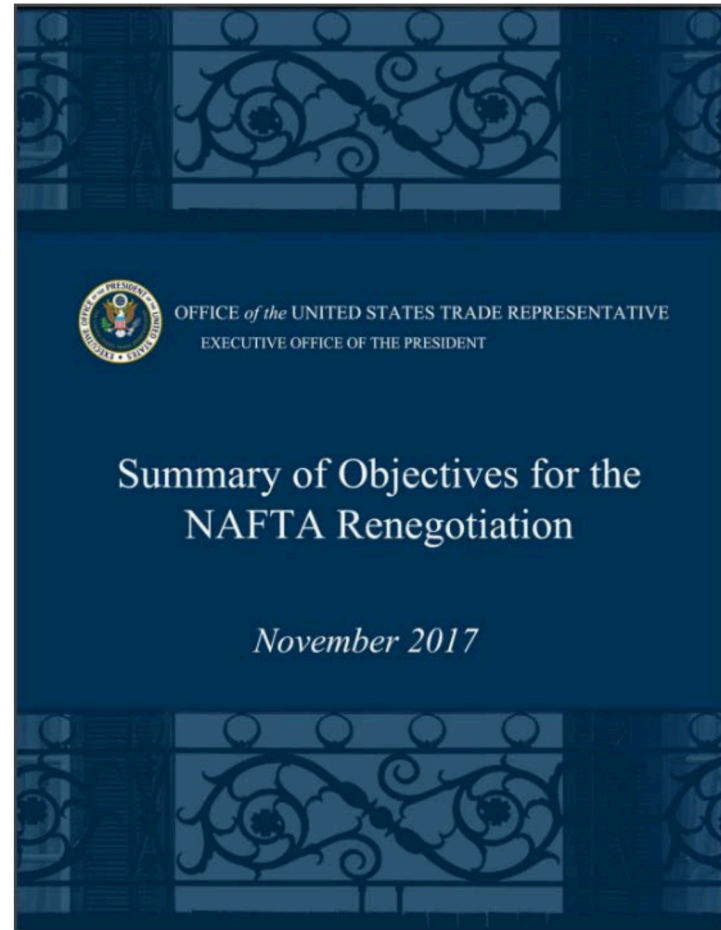
US FTAs after 2004 explicit in exclusion of TE

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

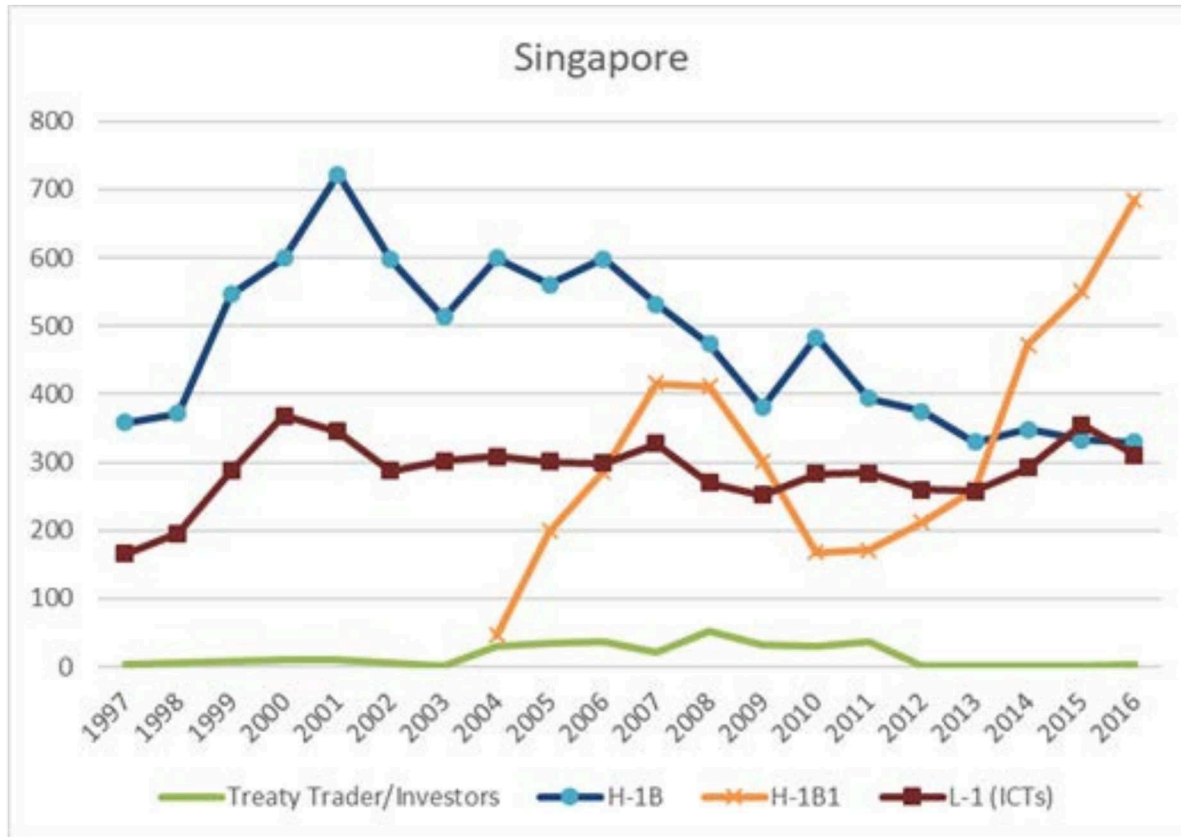
FTA specific categories

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

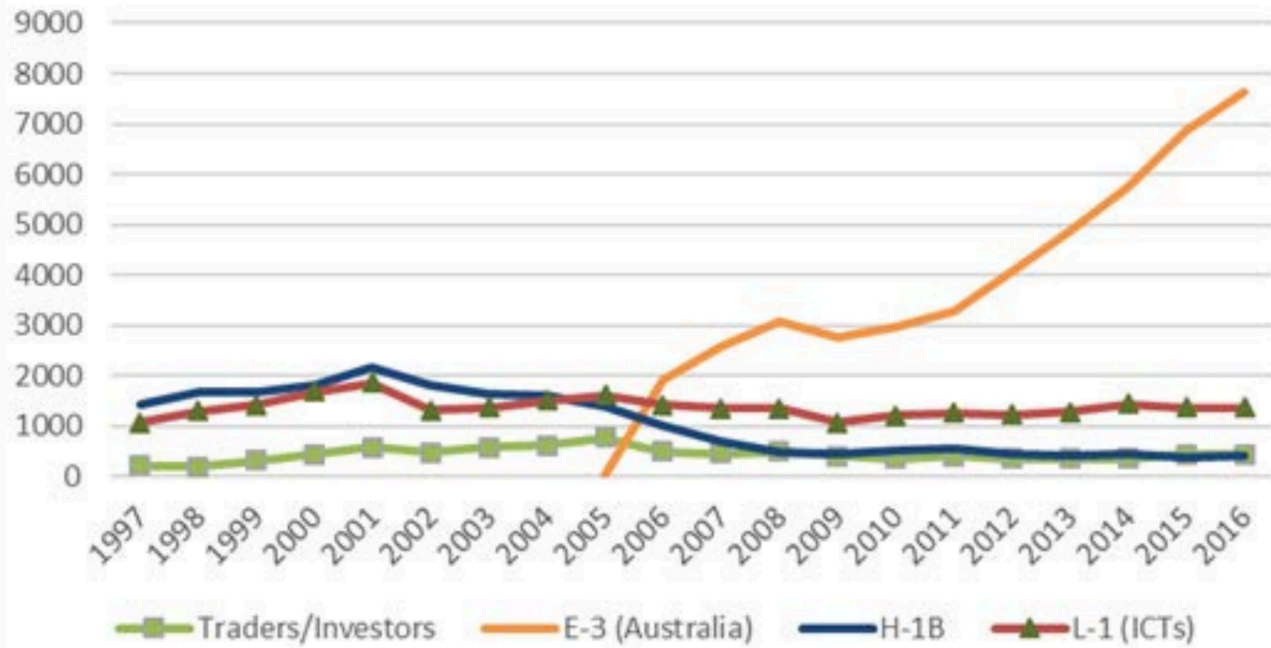
Visa Category	Criteria
L-1	Intra-corporate transferees
E1 and E2	Treaty traders and investors
H-1B	High-skilled professional

Singapore and Chile

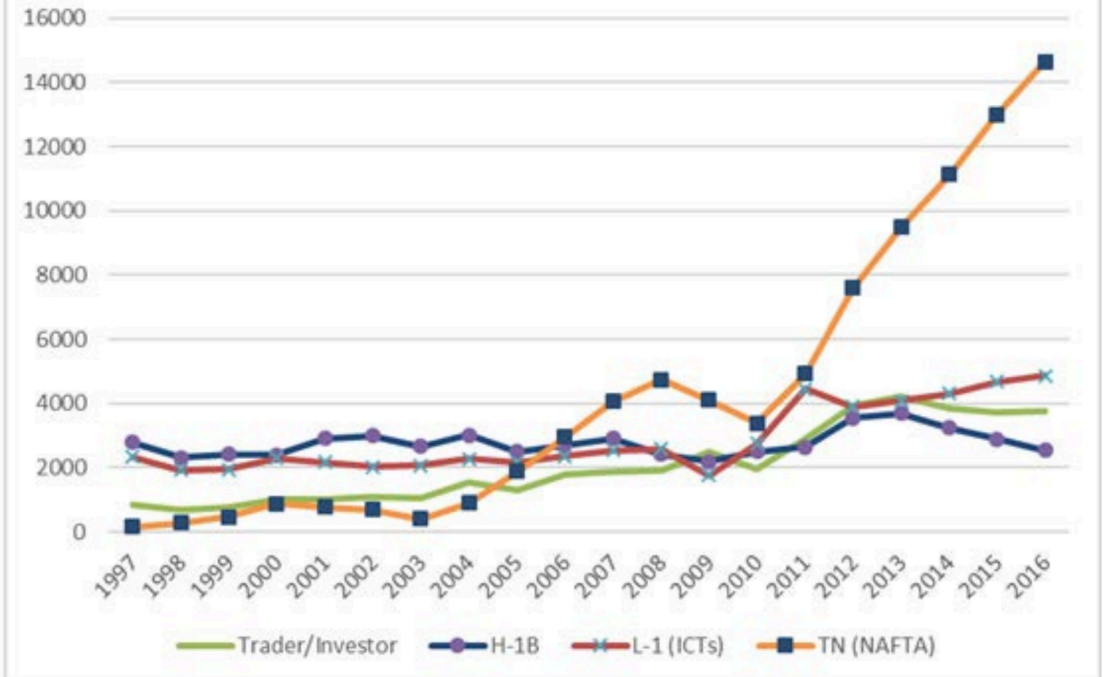


Australia and Mexico

Australia

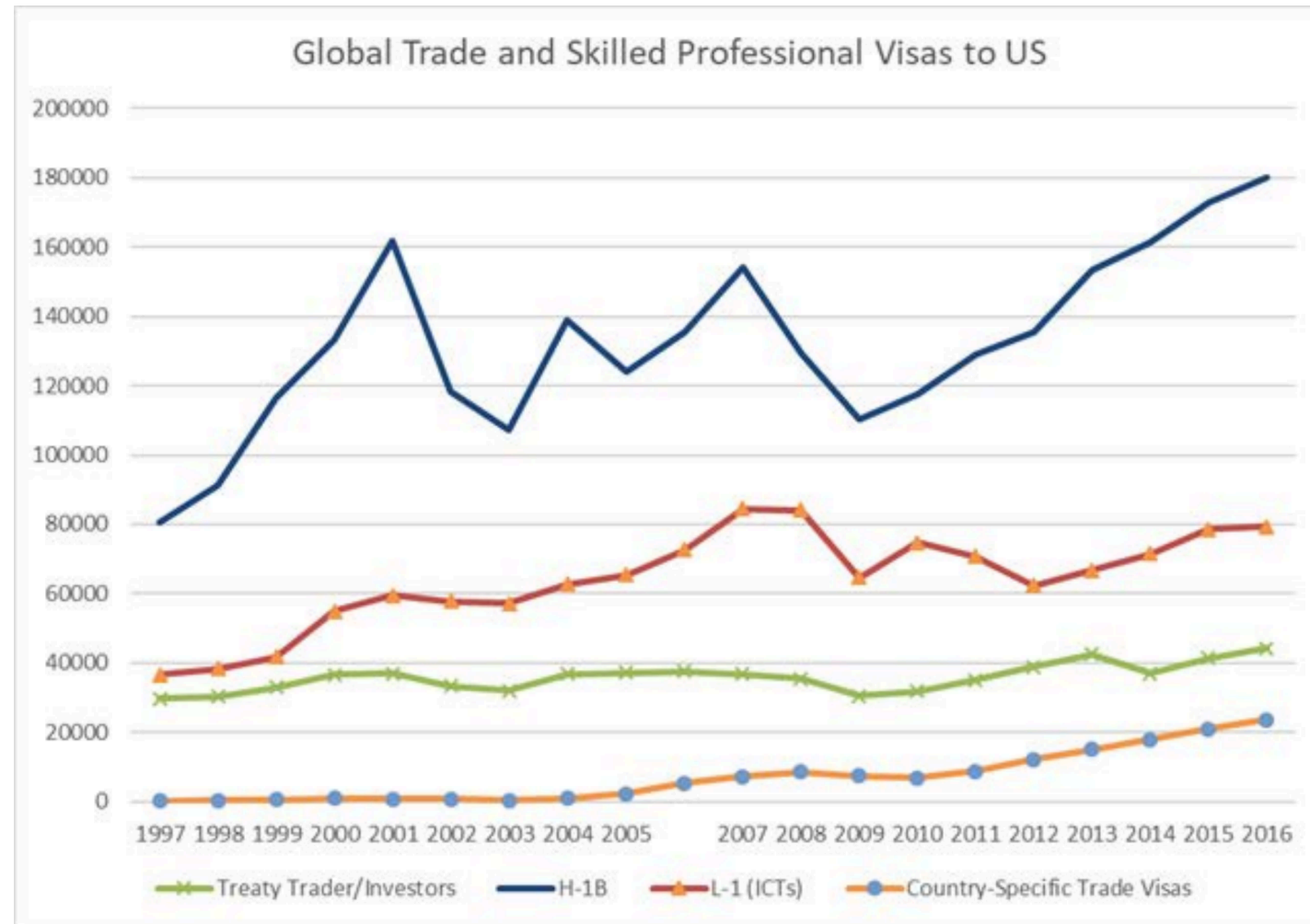


Mexico



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 ENFORCEMENT & TOUGHER 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 