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Governance of the Seasonal Worker Programme in Australia and sending countries

Richard Curtain and Stephen Howes

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Authors

Dr Richard Curtain is a Research Fellow at and Professor Stephen Howes is Director of the Development Policy Centre, Crawford School of Public Policy, The Australian National University.

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Development Policy Centre
Crawford School of Public Policy
ANU College of Asia and the Pacific
The Australian National University
devpolicy.crawford.anu.edu.au
devpolicy.org

devpolicy@anu.edu.au

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Contents

Figures	iv
Tables	v
Abbreviations	v
Executive summary and recommendations	1
1. Introduction	6
2. Receiving-country governance	8
a. Key players	9
b. The role of approved employers	9
c. SWP regulatory framework	14
d. Comparison with New Zealand's RSE	17
3. Sending-country governance	20
a. Governance requirements and recruitment methods	21
b. The distribution of workers by sending countries	23
c. Early-mover advantages	25
d. The important role of return workers	28
e. Approved employer assessments	32
4. Vanuatu	34
a. Governance arrangements.....	35
b. Assessment	36
(i) Attractiveness to employers.....	36
(ii) In-country compliance	37
(iii) Equity of worker recruitment.....	39
(iv) Oversight of workers and national promotion	41
c. Looking forward	41
5. Tonga	42
a. Governance arrangements.....	43
b. Assessment	44
(i) Attractiveness to employers.....	44
(ii) In-country compliance	44
(iii) Equity of worker recruitment.....	45
(iv) Oversight of workers and national promotion	46
c. Looking forward.....	47
6. Timor-Leste	48
a. Governance arrangements.....	49
b. Assessment	50
(i) Attractiveness to employers.....	50
(ii) In-country compliance	51
(iii) Equity of worker recruitment.....	51
(iv) Oversight of workers and national promotion	52
c. Looking forward.....	52
7. Conclusion	52
a. Sending countries.....	52
b. Australia	57
c. Regional and bilateral relationships and interactions.....	60
d. COVID-19	61
Table A1 Australian SWP stakeholders	64
References	65

Figures

Figure 1: A decade of growth in Pacific seasonal labour mobility: SWP and RSE visas.....	6
Figure 2: SWP approved employers and positions by type of employer, July 2012 to February 2020.....	11
Figure 3: Concentration of approved SWP positions by employer, July 2012 to February 2020.....	12
Figure 4: Distribution by state/territory of SWP positions, July 2012 to February 2020.....	13
Figure 5: Location of SWP worksites in Australia	14
Figure 6: Number of RSE and SWP worker visas approved, 2007/08 to 2018/19.....	18
Figure 7: RSE and SWP combined market shares, from commencement to 2018/19.....	23
Figure 8: RSE and SWP market shares, from commencement to 2018/19	24
Figure 9: Share of women in the SWP workforce.....	24
Figure 10: Ratio of seasonal workers to the male population 20–45 years (%)	25
Figure 11: Shares of Vanuatu, Tonga and Samoa in the RSE	26
Figure 12: Shares of Vanuatu, Tonga and Timor-Leste in the SWP	27
Figure 13: Shares of workers on their first and subsequent SWP visits	28
Figure 14: Return probabilities for the SWP	29
Figure 15: New and returning SWP worker attribute ratings	29
Figure 16: Relationship between reliance on return workers and SWP expansion.....	31
Figure 17: Vanuatu in the SWP and RSE	34
Figure 18: Vanuatu SWP visas vs ESU records, 2018.....	38
Figure 19: Share of Vanuatu’s five main islands in SWP, RSE and the potential seasonal labour workforce, 2018.....	40
Figure 20: Tonga in the SWP and RSE	42
Figure 21: Tonga SWP visas vs LSU records, 2018.....	45
Figure 22: Share of Tonga’s five main islands in the SWP and the seasonal labour population base.....	46
Figure 24: Sending countries in the SWP other than the biggest two, 2012/13 and 2018/19.....	57

Tables

Table 1: Differences in regulation of the backpacker visa and SWP	17
Table 2: Concentration of SWP and RSE employment by employer	20
Table 3: How seasonal workers are recruited	22
Table 4: Visits/workers and reliance on return workers index	31
Table 5: Employer satisfaction with various aspects of the recruitment process (1=very satisfied; 5=very dissatisfied).....	32
Table 6: Approved employer overall satisfaction ratings with SWP recruitment arrangements in the three leading sending countries	33
Table 7: The government-central and government-light approaches	54
Table 8: Classification of sending countries by governance type	54
Table 9: Pros and cons of the government-central and government-light approaches	55

Abbreviations

ABARES	Australian Bureau of Agricultural and Resource Economics and Sciences
ACT	Australian Capital Territory
AEA	Approved Employers of Australia
ATO	Australian Taxation Office
DESE	Department of Education, Skills and Employment
DFAT	Department of Foreign Affairs and Trade
DHA	Department of Home Affairs
ESU	Employment Services Unit
FWO	Fair Work Ombudsman
ILO	International Labour Organization
LSU	Labour Sending Unit
MBIE	Ministry of Business, Innovation and Employment
MOU	Memorandum of Understanding
NSW	New South Wales
PACER Plus	Pacific Agreement on Closer Economic Relations Plus
PLF	Pacific Labour Facility
PLMAM	Pacific Labour Mobility Annual Meeting
PLS	Pacific Labour Scheme
PNG	Papua New Guinea
RSE	Recognised Seasonal Employer
SSCO	Seasonal Solutions Cooperative Limited
SWP	Seasonal Workers Programme
SWPAG	Seasonal Worker Programme Advisory Group
VFF	Victorian Farmers Federation
WA	Western Australia

Executive summary and recommendations

From a slow start in 2008, Australia's Seasonal Worker Programme (SWP) has become a growing source of employment in the Pacific and Timor-Leste, and an important part of the seasonal workforce for Australian farmers.

While research has demonstrated the benefits of the SWP for both workers and farmers, less is known about how the program is governed, especially in sending countries, and about the determinants of national participation. This report analyses these issues, and recommends ways to improve SWP governance, both in Australia and in the sending countries, with the objective of promoting the sustainable growth of seasonal labour mobility from the Pacific into Australia. It is the culmination of years of research, including fieldwork undertaken over nine years in 11 countries.

The report begins with how the SWP operates in Australia, the characteristics of the employers who use it, and a comparison of the SWP to New Zealand's equivalent, the Recognised Seasonal Employer (RSE) scheme. The report then turns to an analysis of SWP participation across sending countries, and to an explanation of why some countries have done better than others. Detailed case studies of the three biggest SWP sending countries – Vanuatu, Tonga and Timor-Leste – are then presented. While most of the research in this report was undertaken prior to the closure of international borders due to the COVID-19 pandemic, the concluding section of the report reflects on the current situation, and its implications.

This executive summary presents our conclusions and recommendations under four headings: sending countries; Australia; interactions between Australia and sending countries; and responses to COVID-19.

Sending countries

The governance of migrant seasonal labour schemes is complex because the arrangements involve different sovereign governments and legal systems, and a range of government agencies. There is intense competition for SWP positions, given the high levels of underemployment in the Pacific, and the high level of SWP pay by Pacific standards. Sending-country governments not only want to maximise opportunities for their workers, they are also concerned about equity and the avoidance of exploitation, often in situations of limited information.

Participation rates vary enormously across sending countries. The SWP is not an aid program, and has no country quotas. If nationality was irrelevant, we would expect SWP participation to be proportional to sending-country size. But nothing could be further from the truth, with Vanuatu and Tonga sending many times more workers than Solomon Islands and Papua New Guinea (PNG), despite their much smaller populations.

Our analysis shows that there are a range of country-specific factors that have disadvantaged some countries and benefited others. In particular, some have benefited from an “early-mover advantage”, with their early participation in the SWP workforce giving them an advantage over latecomers. However, not all early movers have succeeded, and Timor-Leste, a relative latecomer, is now the third biggest sending country.

The more successful sending countries have two things in common. First, they have attracted large employers. The SWP hiring market is extremely concentrated with the top four approved employers hiring 48 per cent of workers between 2012 and 2019, and the top ten hiring 70 per cent. All of the top four employers are labour hire companies, which

can increase their workforces rapidly by signing up more farmers. Attracting one or two of these companies opens up a large and potentially rapidly growing demand for a country's workers. These employers, or their representatives or agents, are also able to take on a lot of the transaction costs associated with SWP hiring and travel.

Second, in general, the more successful sending countries show a higher reliance on return workers. In any one year, fewer than half of SWP workers are working in Australia for the first time. Return workers are key to making the SWP work; the average SWP worker works in Australia for about four seasons. Not only are return workers more productive than new ones, they are also trusted by their employer to recommend new workers. It is a mistake to think of return and new workers from the same country as competing for jobs; rather the evidence suggests that a high reliance on return workers makes it more likely that employers will hire more new workers from the country concerned.

The ways in which sending countries govern labour mobility differ greatly. Most countries set up a "work-ready pool" of eligible workers from which employers can, or in some cases must, select the workers they want. But the two biggest senders – Vanuatu and Tonga – either have no work-ready pool at all, or give it a very marginal role.

More generally, we characterise sending countries as taking either one of three approaches. The "government-light" approach is the one Tonga and Vanuatu have taken. This is one in which the government plays a minimalist role, largely outsourcing to employers or their representatives the responsibility for not only recruitment but also many of the supportive functions, such as helping workers to get a visa or health test, as well as worker welfare. The "government-central" approach is at the other end of the spectrum. Here, although employers make the final recruitment choice, they have to select from the work-ready pool. Timor-Leste, PNG, Kiribati, Tuvalu and Nauru all require hiring from the work-ready pool. Finally, there are three countries – Fiji, Samoa and Solomon Islands – which take a "mixed" or "in between" approach: there is a significant work-ready pool, but employers either do not have to use it, or can nominate the workers they want to hire into it.

The diversity and complexity of country experiences should caution us against nominating any one approach as "best practice". However, there is much that countries can learn from each other, and from their own experience.

Recommendation 1: *Sending governments should avoid exclusive reliance on a work-ready pool.*

Two surveys of employers confirm that they do not like having to hire from the work-ready pool because of the high level of uncertainty they have about workers' reliability. Employers prefer to either directly select workers themselves, or to take advice from a trusted intermediary, such as a selected return worker or agent. In the past, Timor-Leste has allowed employers to hire workers they wanted even if they were not originally in the work-ready pool; recent announcements by government have indicated that this will no longer be possible. If Timor-Leste maintains its stance, we predict this will erode its SWP success. More generally, countries need to bear in mind that limiting the extent to which employers can rely on return workers (both for work and for recruitment) will lead employers to divert their employment efforts to other countries.

Recommendation 2: *Sending governments should use the private sector to help fulfil governance functions.*

The government should take a regulatory and monitoring role, not a processing one. Governments should ensure that briefings are of good quality, that intermediaries are not charging workers, and so on. But much of the actual work of visa facilitation, travel arrangements and briefing delivery can be done by employer representatives or agents. If governments try to take on all these tasks, they risk being overwhelmed, and unable to manage growth in worker numbers. The result might be delays in dispatching workers, or workers travelling poorly prepared.

Recommendation 3: *Most countries need to provide increased resourcing to the governance of labour mobility as numbers grow, both at home and abroad.*

As labour mobility becomes a major business, governments need to treat it as such. With growth, government responsibilities obviously become more expensive to fulfil, but also more important. Critical government functions which are often under-resourced include: record-keeping; pre-departure briefings (the low quality of which is a constant complaint of employers); enforcement of blacklisting rules in response to worker misconduct; and troubleshooting when problems arise abroad. No countries systematically collect and publish feedback from employers and workers, but major sending countries should, regularly.

Recommendation 4: *The main priority for countries that have struggled to break into the SWP market has to be responsiveness to employer needs.*

It will not be easy for countries with small SWP numbers to gain market share. The large firms that dominate the SWP recruit from two, three or at most four countries. Nevertheless, the SWP has been growing rapidly, and the case of Timor-Leste suggests that it is possible to be a latecomer and become a major player. Gaining a positive reputation among employers for responsiveness and reliability is the most important thing that countries sending few workers now can do to gain market share.

Australia

Over time, political and sector-wide changes have contributed to making the SWP more attractive as a source of reliable, productive workers. The result has been rapid growth in SWP numbers, which have increased eightfold since 2012 to reach 12,200 in 2019/20.

Despite the rapid growth, reforms are needed. Seasonal workers are still greatly outnumbered by backpackers, who, as it has been richly documented, are vulnerable to exploitation, especially when seeking a work-based visa extension – some 30,000 backpackers every year get a second-year visa for working in agriculture for three months in their first year. Continued use of illegal workers by growers in some regions is another source of low-cost labour compared with SWP workers

Also, many farmers and farmer associations are still suspicious of the SWP because of the red tape, and, more broadly, the perception that it is an aid scheme, or at least a scheme over which they have no control. While the SWP will always be tightly regulated, failure to address employer concerns could lead to the scheme growing below its potential, or even to losing support altogether.

Two types of reforms are therefore needed: one, to create a level playing field between different migrant labour sources; and, two, to make the SWP more responsive to employers. Our recommendations follow accordingly.

Recommendation 5: *Visa changes to incentivise backpackers to work on farms should be reversed. There should be a national licensing scheme for labour hire companies, with the resources needed to monitor compliance.*

Abolishing the third-year visa extension (or making all visa extensions conditional on any work, not just agricultural) would reduce worker exploitation, and promote fair competition between different horticultural migrant labour sources. While a start has been made, much more needs to be done to counter the use of illegal or “undocumented” workers by many growers. Labour contractors should be nationally licensed, as is now government policy. These reforms would benefit all workers.

Our recommendations regarding the SWP are based on our comparisons with the RSE, which has benefited from a stronger employer voice, and a more collaborative approach to how regulation is implemented.

Recommendation 6: *A reference group consisting of approved employers (growers and labour hire operators), and key industry associations should be established. Together with government representatives, this group would be tasked with developing a more collaborative approach to identifying and resolving key problems.*

The RSE was set up to address the problem of the lack of reliable, trained horticultural workers. New Zealand growers and their peak association played a key role in its design and the changes made to it over time. Horticulture growers in Australia need to take a greater role in ensuring that the SWP better meets their needs.

Recommendation 7: *The SWP should be managed by the federal Department of Agriculture, Water and the Environment.*

New Zealand’s RSE is managed by the Ministry of Business, Innovation and Employment. The arrangement proposed for Australia would be to give a major government agency with strong links to regional Australia a clear brief to identify the labour needs of growers and to address them.

Recommendation 8: *The Australian Government should place relationship managers, with a brief to resolve problems close to where they occur, in each of the main horticultural areas where SWP workers are most concentrated.*

In any scheme, problems will arise, and this is certainly true of the SWP. They need to be addressed more quickly and cooperatively. RSE relationship managers, who are regionally based, take a non-punitive approach to resolve critical incidents involving employers and seasonal workers. Recent initiatives of the Australian Government suggest a more decentralised approach to compliance monitoring and welfare is now being adopted based on where the workers are located.

Interactions between Australia and sending countries

The governance of a labour mobility scheme is more than its separate management by sending and receiving countries. The relationship between the two sets of governments is also critical. While multi-country dialogue opportunities have increased in recent years, what is still missing – and needed – are regular bilateral labour mobility meetings focused on improving each other’s performance.

Recommendation 9: *Australia and New Zealand should initiate (separately or preferably jointly) bilateral or trilateral monitoring mechanisms with each sending country to address a range of operational issues in private.*

A good practice system of labour mobility governance on both sides will only emerge when regular mutual feedback is offered on performance and needed changes made by those with the strongest interest in making the arrangements work well. Annual bilateral or trilateral mechanisms would provide an ongoing forum in which sending countries could raise their concerns about practices in receiving countries, and vice versa.

Recommendation 10: *Approved employers, either individually or jointly, should have an ongoing presence in the three main sending countries, and should take more responsibility for compliance in relation to the recruitment and preparation of workers.*

The largest New Zealand hirer under the RSE has a permanent presence in Vanuatu. To improve equity in how workers are selected, and to make sure workers are well informed, we suggest large Australian approved employers consider following suit. This would enable them to recruit workers directly and/or to work closely with their intermediaries to ensure that new workers are selected from under-represented areas. It would also help them better prepare their workers, and to ensure workers have specific information in their preferred language about the working and living arrangements in their workplace. To the extent that employers work through intermediaries, they should ensure that workers are not being charged fees – and should refuse to work with any intermediaries who do not comply with this requirement.

Responses to COVID-19

The international border closures have created two pressing issues for the SWP. First, some 7,000 seasonal workers have been stranded in Australia. Their situation has exacerbated the problems that already existed with the governance of the SWP, with some workers starting to abscond, and some employers frustrated by the regulatory barriers in the way of finding employment quickly for existing workers. Second, with the summer harvest approaching in Australia, it is widely believed that a special pathway will be needed to bring more Pacific workers to Australia prior to the resumption of normal international travel, which might not be till mid-2021. A first group of some 160 workers arrived in September 2020 to work on mango farms in the Northern Territory. Our final two recommendations relate to the establishment of the special pathway.

Recommendation 11: *The reference group recommended earlier (see Recommendation 6) should be established now, with an initial mandate to solve SWP-related problems arising from the closure of international and state borders.*

Recommendation 12: *New COVID-19 bilateral agreements should be established with willing sending countries.*

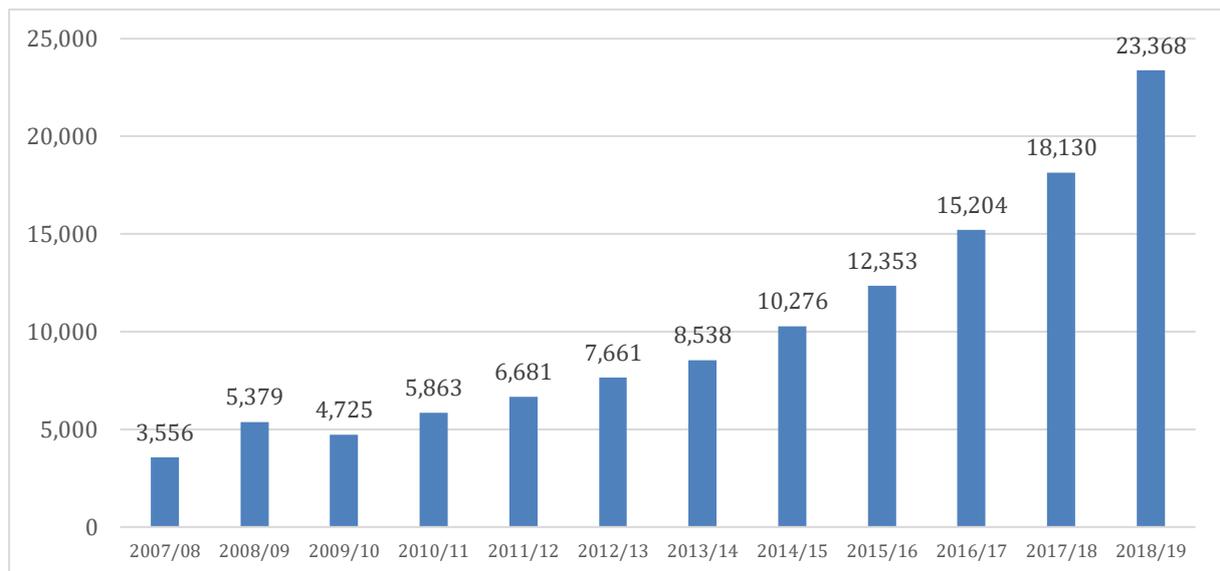
While it is clear that there are many obstacles to restoring the SWP during the pandemic, the governance changes discussed in this report will need to be accelerated. This is needed so that there can be confidence that all workers are recorded and tracked while they are working overseas. The new bilateral agreements could in turn provide the basis for the regular bilateral dialogue advocated in Recommendation 9.

The current pandemic is unprecedented in the modern era, and would have caused problems for even the best-run scheme. But the steps needed to respond in the context of the pandemic are consistent with the broader reforms the program would benefit from, both in Australia and in sending countries. COVID-19 has disrupted the SWP, but it also represents an opportunity to reform its governance to ensure its continued growth.

1. Introduction

Seasonal labour mobility from the Pacific and Timor-Leste to Australia and New Zealand has grown rapidly over the last decade. Visas issued annually under Australia’s Seasonal Worker Programme (SWP) and New Zealand’s Recognised Seasonal Employer scheme (RSE) grew to almost 24,000 in 2018/19 (Figure 1), with further growth in 2019/20 until international border closures.

Figure 1: A decade of growth in Pacific seasonal labour mobility: SWP and RSE visas



Sources: Australian Department of Home Affairs; New Zealand Immigration.

Seasonal labour has become of profound importance to the Pacific. Howes and Orton (2020) show that retained earnings from Tonga’s SWP workers in Australia now exceed the combined value of the aid Australia provides to Tonga, and the exports that Tonga sends to Australia. Other countries have also gained important economic benefits from seasonal work.¹ Seasonal labour is also of increasing importance to Australian and New Zealand horticulture, as discussed in the next section.

With the growth of seasonal labour mobility, a host of questions arise. We know that the scheme is of great benefit to the employers and employees who participate in it (World Bank 2018; Zhao et al 2018). But little has been written about why some countries have sent many more seasonal workers than others, or about how these schemes are managed or how they could be better managed to promote both worker participation and welfare.

The purpose of this report is to analyse the governance of the SWP in both the sending and receiving countries to assess how well it is performing. Governance refers to how an institution, system or network is managed, what the rules are, and how these are applied in practice. Governance arrangements are shaped by each country’s political economy. We are interested in how labour mobility governance varies across countries, how it is linked to participation in the scheme, and how it can be improved.

¹ Curtin (2019a) notes that the export of short-term labour services provided a revenue inflow for Vanuatu of A\$63 million a year. This makes it one of Vanuatu’s largest export earners, with a value of about one-third of Vanuatu’s primary commodity exports. The estimated savings of net income of SWP seasonal workers of A\$37.3 million in 2017/18 was more than half of Australia’s annual aid funding for Vanuatu in the same year (A\$64.3 million).

Australia's SWP is a federal government initiative that began as a pilot in August 2008, graduated from pilot status on 1 July 2012, and was uncapped in 2015. According to the [official website](#), the SWP has two key objectives:

The Australian Government's Seasonal Worker Programme assists employers in the agriculture and accommodation sectors to fill employment gaps unable to be met by the Australian workforce. It also contributes to the economic development of seasonal workers from nine participating Pacific Island countries and Timor-Leste.

The SWP allows employers who have been vetted and approved to employ low-skill workers in agriculture, as well as in accommodation in selected regional locations, from nine countries in the Pacific and Timor-Leste.² The program was the first by an Australian Government since Federation in 1901 to provide access to low-skilled work opportunities for Pacific Islanders. The preference given to the Pacific and Timor-Leste through the SWP is motivated by humanitarian, development and strategic considerations.³ However, the SWP is not an aid program. There have been some aid funds directed to support the SWP, but employers are not given any funding to employ workers through it, and there are no country quotas.

There have been various design changes since inception, and we report here only on the most recent arrangements. Seasonal workers under the SWP can work in Australia for nine months in any 12-month period. Most workers enter on single-entry visas, but multi-entry visas with a three-year validity have recently been introduced. The most common types of work performed are in horticulture, focusing mainly on planting, pruning, picking or packing fruit and vegetables.⁴ Workers are not allowed to bring dependants, and must take out Australian health insurance, and have a medical test prior to departure as well as a police check. Seasonal workers have the same basic work rights and protections as all other farm workers and are entitled to the same pay and superannuation. They are taxed at a flat rate of 15 per cent.

Employers have extensive obligations under the SWP. They must be approved initially by the government to hire seasonal workers on the basis of being registered businesses with a sound financial record and evidence of compliance with immigration legislation, Australian workplace relations, work health and safety legislation, and other relevant laws. Labour hire entities must have been in operation for at least five years. Once approved to participate in the scheme, employers can hire workers after they submit and have approved a detailed recruitment plan, and show that they have been unable to find local workers despite advertising.

Employers are responsible for arranging accommodation for their workers, for ensuring they have access to pastoral care (officially "welfare and wellbeing"), and for paying the first \$300 of international travel costs. Employers must also cover all upfront return international and domestic transfer travel costs. Approved employers are reimbursed for these expenses (apart from the \$300 mentioned above) through pay deductions from the

² The Pacific countries are Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Although Timor-Leste is not normally considered to be part of the Pacific, for convenience, when we refer only to the Pacific, this should be understood as including Timor-Leste.

³ Other countries have similar arrangements: for example, Canada sources its seasonal labour requirements from the Caribbean and Central America.

⁴ Seasonal accommodation is responsible for employment of only about 1 per cent of SWP workers. SWP workers can also be hired for pastoral, aquacultural, cane and cotton work, but very few are.

workers, but they bear the risk that some workers may not complete the season (or in extreme cases even arrive), and so may not repay their debt in full.

Temporary changes introduced on 4 April 2020 as a result of the pandemic allow workers to stay in Australia with a special purpose visa for 12 months (the [Australian Government endorsed events \(COVID-19 Pandemic event\)](#) visa). Under this visa, if an approved employer has no further work available, their workers can be transferred to work with another approved employer.

In 2018, a second labour mobility scheme was introduced targeted at the Pacific (also including Timor-Leste), the Pacific Labour Scheme (PLS), which has a similar design to the SWP, but allows participants to work for up to three years, in virtually any sector outside of Australia's major urban areas. The PLS is still a small scheme (with about 1,000 workers in Australia in June 2020), and is not a focus of this report.

The SWP cannot be analysed without reference to the New Zealand RSE, which came into effect in April 2007 and so predates the SWP. Indeed, the SWP appears to be modelled on the RSE. However, there are key differences between the performance and governance of the two schemes, as discussed in Curtain et al (2018), and in [Section 2d](#). For a long time, the RSE was much bigger than the SWP, but the (uncapped) SWP and the (capped) RSE are now about the same size.

This report is the culmination of years of research into the operation of the SWP and RSE in both the sending and host countries. Relevant research has included fieldwork (involving governments, employers, agents, workers and many other stakeholders) undertaken over a nine-year period from 2012 in 11 countries: Australia, Fiji, Kiribati, New Zealand, Papua New Guinea, Samoa, Solomon Island, Timor-Leste, Tonga, Tuvalu, and Vanuatu. The output of the research has included academic papers as well as reports for the Asian Development Bank, the Australian High Commission to Solomon Islands, the Australian Embassy in Timor-Leste and the Governments of Samoa and Vanuatu, International Labour Organization (ILO), and the World Bank. Reports and publications of particular relevance to this report include: Curtain (2019a) on Vanuatu; Curtain (2018b) on PNG; Curtain (2017) on Samoa, Curtain (2014) on the Solomon Islands; and Curtain (2015) and Curtain et al (2018) comparing the SWP and RSE. It also draws on numerous blogs, presentations, and the research of other colleagues.

Governance is dynamic, and this report will no sooner be written than it will be out of date. This is especially true at the time of publication, given the pandemic. However, it is vital that we document and understand past experience. There is still much to be learnt, but we are confident that our main conclusions are robust, and hope that our report makes a useful contribution.

The next section describes the governance of the SWP in Australia, as well as, more briefly, the RSE in New Zealand. Section 3 looks at the governance of the SWP across sending countries. Sections 4 to 6 take an in-depth look at governance in the three main SWP sending countries, Vanuatu, Tonga and Timor-Leste. Section 7 concludes.

2. Receiving-country governance

This section outlines SWP governance arrangements in Australia, beginning with a map of the key players, and then focuses on the most important Australian stakeholders, the employers. Next it examines the SWP regulatory framework. It concludes with a comparison with New Zealand's RSE.

a. Key players

The key SWP players in Australia include the approved employers – direct employers, labour hire operators or contractors – the five federal government agencies involved, and other non-government stakeholders, as outlined below.

The SWP is managed by the Department of Education, Skills and Employment (DESE). The Department of Home Affairs manages the granting of work visas and requires employers to meet their obligations under a sponsorship agreement. The Fair Work Ombudsman (FWO) is responsible for providing information on relevant employment awards and monitoring pay and working conditions. The Australian Tax Office manages superannuation withdrawals after the workers depart (if requested). The Department of Foreign Affairs and Trade (DFAT) is involved in a liaison role through its Posts in the sending countries, through its responsibility for the PACER Plus process (which has a side agreement on labour mobility) and its role as funder of the Pacific Labour Facility (PLF).

The PLF has a presence in each of the sending countries through a resident country engagement manager. The manager works closely with the Labour Sending Unit (LSU) on both SWP and PLS matters, depending on the priorities assigned by the DFAT Post. The PLF also provides basic training in English, first aid and IT skills for SWP workers, and has recently taken on a broader welfare role for seasonal workers during COVID-19.

Sending countries are also involved in the governance of the SWP in Australia. Some have dedicated liaison officers; others are represented via their diplomatic staff. State governments are involved through their regulation of employment arrangements, such as labour hire, recruitment of workers, and work health and safety. Unions are involved through participating in approved employer briefings on arrival and through membership of the SWP advisory group. Non-government organisations are also involved through membership of the SWP advisory group. Table A1 at the end of the report provides more detail on all stakeholders.

b. The role of approved employers

Doubtless, the most important SWP players in Australia are approved employers, those authorised by DESE to hire workers under the SWP. As noted above, no one is asked to or given a subsidy to hire seasonal workers. Without employer demand, there would be no SWP, and no need for government regulation.

In the first few years of the pilot SWP, there was little promotion of the scheme to farmers, and little use was made of it. A 2011 survey (Hay & Howes 2012) found that only a minority of farmers had even heard of the scheme. Participant numbers remained low, and below the caps that existed, until 2015. Curtain et al (2018) explained this by reference to reforms in working holiday visa arrangements in 2005, which gave working holiday makers (backpackers) a big incentive to work on farms by offering them a second-year visa if they did. These reforms, and the growth in backpacker numbers, created a situation of excess labour supply in the sector.⁵

Absent an actual labour shortage, the farmer's decision whether to take on an SWP worker came down to balancing the additional costs against the expected additional productivity. For example, research by Zhao et al (2018) from ABARES (the Australian Bureau of

⁵ The issue of whether the horticultural sector faces a labour shortage continues to be debated. Howes and Curtain (2019) review the latest evidence and argue that it does not.

Agricultural and Resource Economics and Sciences) found that seasonal workers were on average 20 per cent more productive than backpackers. But it also found that:

non-wage labour costs are significantly higher for seasonal workers than for backpackers: \$1,620 v \$134 per worker. For example, employers have to help with seasonal worker transport costs, whereas backpackers just turn up. Recruitment and administration costs per worker are also much higher under the SWP. However, the average seasonal worker works for almost six times as long on a farm as the average backpacker, so the cost difference per hour worked is less dramatic. Nevertheless, non-wage costs are \$1 per hour higher for seasonal workers than for backpackers: \$1.82 versus \$0.78 (Howes, Dornan & Arbon 2018).

Curtain et al (2018) also drew attention to the low level of regulation around employment in the horticultural sector, and argued that this reduced demand for seasonal workers given the high transaction costs involved in meeting the requirements of the highly regulated SWP. Perhaps the biggest change in the past few years has been a crackdown in horticulture due to well-publicised cases of exploitation. As a result, there is a growing move across states to license all labour hire companies, and the FWO has become much more active in monitoring farms following their report which highlighted the propensity of employers to exploit backpackers (FWO 2018). The SWP has also benefited because the large supermarket chains now require their suppliers to show that their workers' legal right to work can be audited by a third party.⁶

The result has been a rapid increase in the SWP in recent years as shown in Figure 6 in [Section 2d](#). There has also been significant growth in the number of employers hiring SWP workers. At the time of writing, the SWP website [lists](#) 166 unique employers as currently approved to hire SWP workers. This is up from about 40 in 2014 (Doyle & Howes 2015).

These approved employers are categorised by DESE as either direct employers, labour hire companies or contractors.⁷ There is no clear-cut distinction between the latter two, and in the analysis that follows we combine them under the heading of labour hire company. (Six of the 12 listed as contractors are registered as a licensed labour hire operator with the Queensland or South Australian Governments.)

The term 'direct employer' refers to employers who hire SWP workers to work on their own farm. Of course, labour hire companies are also 'direct employers' of SWP workers. They on-hire workers to workplaces such as farms where the host supervises the workers during work hours, but the labour hire company remains the employer of the workers concerned.

There are thus essentially two categories of approved employers. The first is a grower or farmer who not only employs seasonal workers, but also supervises them at work and provides pastoral care (formally called "welfare and wellbeing") after hours. The second is a labour hire company which is responsible for all aspects of being the legal employer such as payment of wages as well as meeting the pastoral care obligations of the SWP, but

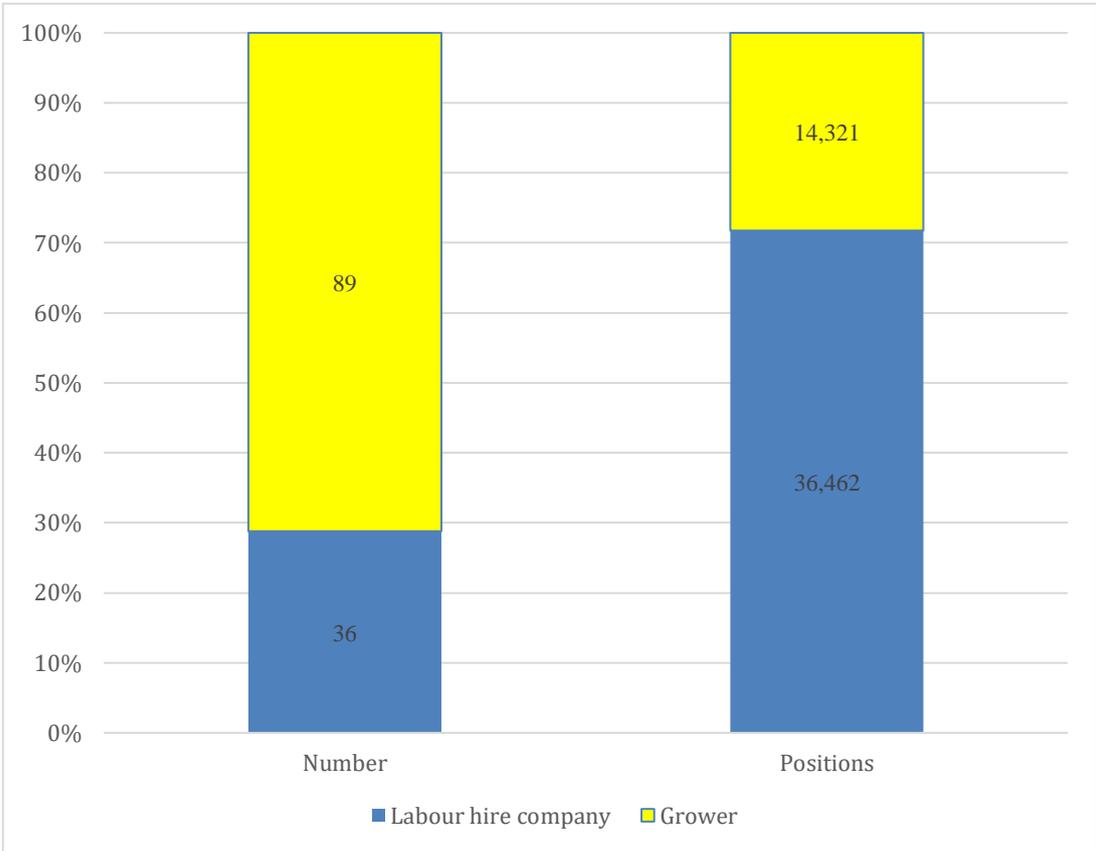
⁶ Coles Supermarket's revised Ethical Sourcing Policy dates from July 2016 and Woolworths Groups Responsible Sourcing Policy dates from July 2018. Woolworths also announced in February 2019 that its horticulture suppliers can only use labour hire firms on their farms that have been "certified" in one of three ways: being listed on the Queensland labour hire register; being an "approved employer" under the SWP; being certified by the third-party vetting scheme StaffSure of the Recruiting, Consulting and Staffing Association (Howes & Curtain 2019a).

⁷ Three approved employers are listed as both direct employers and as labour hire companies. Based on our understanding, we categorise them as (primarily) direct employers.

does not supervise the worker during work hours. The labour hire company or contractor is a labour market intermediary supplying labour services to a host workplace. The advantage for growers of this arrangement is that they can, for a set fee per worker per hour worked, minimise their transaction costs and risks, especially relating to overseas recruiting.

Most approved employers are growers, but most SWP workers are hired by labour hire companies. All workers hired into the SWP have to fill a position approved by the government.⁸ Figure 2 shows that 72 per cent of approved SWP positions are taken by the 29 per cent of those approved employers who are labour hire companies. What this implies is that the average labour hire company employs 6.3 times as many SWP workers as the average grower: 1,013 compared to 161. The biggest five hirers of SWP workers are all labour hire firms.

Figure 2: SWP approved employers and positions by type of employer, July 2012 to February 2020

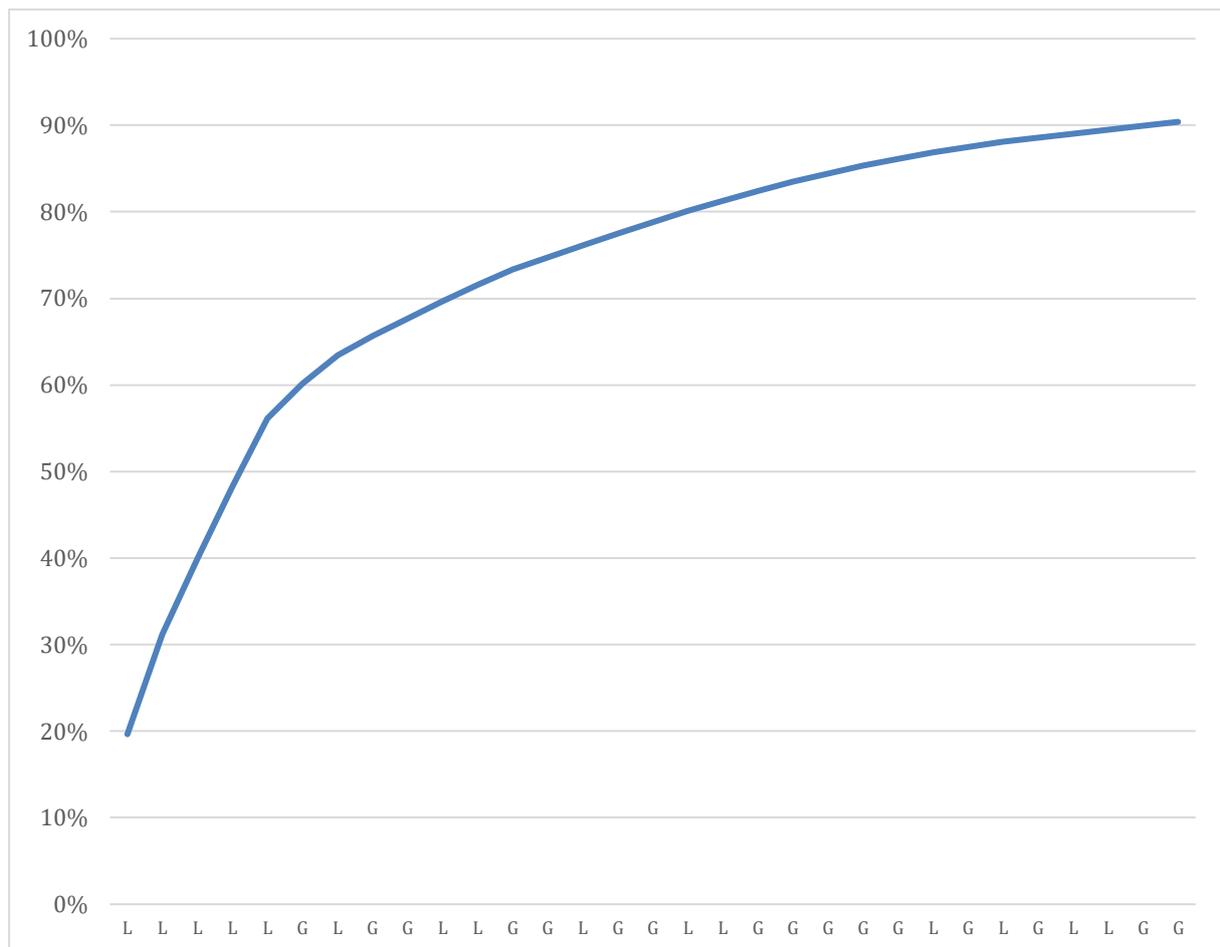


Source: DESE for companies and workers, but categorisation as labour hire companies or growers is our own. Notes: The period is 1 July 2012 to 12 February 2020. Contractors are included with labour hire companies. There are 125 companies in the database, fewer than the 166 AEs mentioned in the text because only those who have hired, and who were approved before 12 February 2020 are included.

⁸ DESE approve SWP positions annually, so Figure 1 is based on the cumulative number of annual approved positions between 1 July 2012 and 12 Feb 2020. The number of seasonal worker positions approved by the department and the number of these positions an approved employer actually fills through the SWP may not be the same, for a variety of reasons. In fact, the number of SWP visas granted between 1 July 2012 and end January 2020 was 46,575 compared with the 50,783 SWP approved positions for the same period (ending 12 February 2020).

SWP approved positions (or jobs) are concentrated among a small number of approved employers, mainly labour hire firms. Figure 3 shows the concentration curve for approved positions by employers for the same 2012-20 period, focusing on the top 30 approved employers, who employ 90 per cent of all workers. The top four employers (all labour hire firms) account for nearly half of all SWP jobs (48 per cent), while the top ten employers (of which seven are labour hire firms) account for 70 per cent.

Figure 3: Concentration of approved SWP positions by employer, July 2012 to February 2020



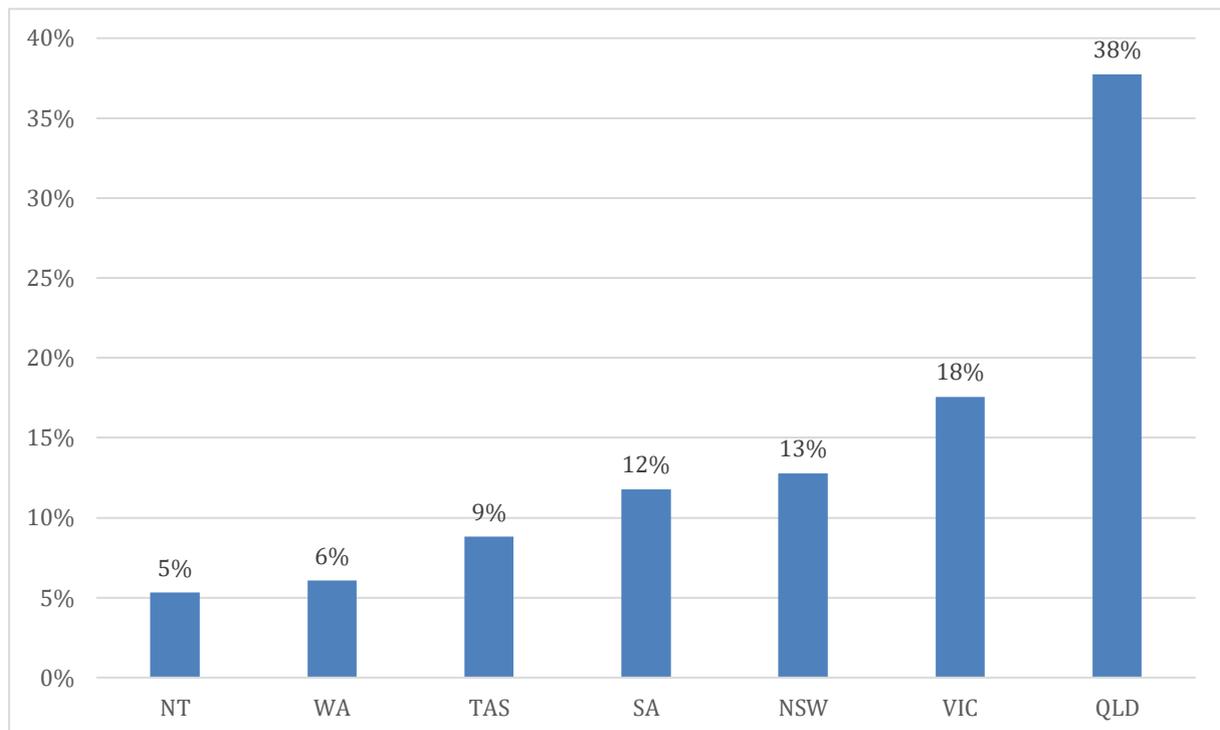
Source: DESE for companies and workers, but categorisation as labour hire companies or growers is our own. Notes: 'L' is a labour hire company, and 'G' is a grower. Only the top 31 hirers are shown.

How to explain both the dominance of labour hire companies and the concentration of employment within a few companies? The SWP has high transaction costs: workers have to be hired from overseas; they require pastoral care and accommodation; and numerous government regulations have to be satisfied. These costs are only worth incurring if they can be spread over a large number of workers, and they are less onerous if the firm has labour market expertise. Labour hire companies are able to hire large numbers of workers, provided they can get a number of farmers interested. They also specialise in understanding the details of often complex labour regulations, so they are well positioned to bear the resultant transaction costs.

The requirement for SWP workers to only work for one employer has also encouraged a concentration of employment with labour hire firms who, unlike growers, can deploy their workers to different farms. The RSE has a lower concentration of workers by employers (see Section 2d). One reason for this is that New Zealand allows growers to jointly recruit workers for several workplaces (Bailey & Bedford 2018). DESE on 1 May 2019 introduced a “Regional Pilot” initially in three regions, later extended to a fourth, to address this inflexibility in SWP (DESE 2020a). In November 2019, this pilot was extended to June 2022. A key feature of the pilot is “worker portability”, that is, SWP workers will be allowed to move between growers (if they are approved employers) without the intermediation of a labour-hire company. Other flexibility features of the regional pilots allow labour-hire companies to move workers across farmers within the pilot region without DESE approval and to do away with the requirement of labour-market testing.

SWP workers are employed in all states and the Northern Territory. Figure 4 shows that Queensland is in the lead with 38 per cent of all SWP placements, followed by Victoria (18 per cent), NSW (13 per cent) and South Australia (12 per cent).

Figure 4: Distribution by state/territory of SWP positions, July 2012 to February 2020

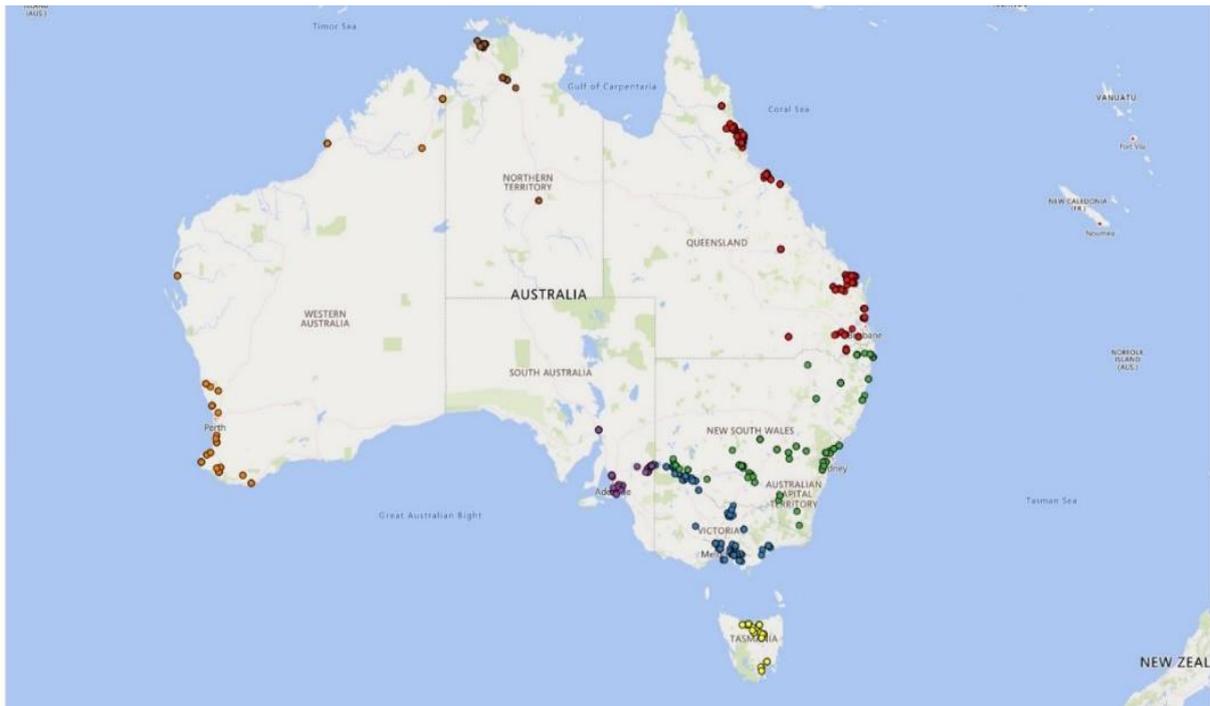


Source: DESE. Note: The period is 1 July 2012 to 12 February 2020.

The wide geographical spread of SWP jobs across and within states (Figure 5) is in marked contrast to the concentration of RSE work in New Zealand.⁹

⁹ Based on 2018-19 data, over half of the RSE workers (53 per cent) were located in two concentrated regions of the North Island (Hawkes Bay and Bay of Plenty), and one third (33 per cent) were located in adjacent regions in the South Island (Marlborough and Nelson).

Figure 5: Location of SWP worksites in Australia



Source: DESE.

These two features of the SWP – a small number of Australian labour hire companies employing most SWP workers and operating across a large number of geographical locations – have important implications for how the SWP operates and is managed, an issue explored later.

Farmer associations have not traditionally been strong supporters of the SWP, which was initiated more as a result of lobbying from the Pacific. However, as the scheme has grown, some have become more supportive, in particular Growcom in Queensland. A recent development has been the creation of the Approved Employers of Australia (AEA), which represents employers of 8,000 of 12,000 SWP workers in 2018/19, including all the largest employers.

So far, the AEA has had a limited voice. DESE does not have regular scheduled meetings with it (or any industry association). An advisory group for the SWP exists, jointly chaired by DESE and AEA. However, AEA is only one stakeholder and is outnumbered by representatives of nine other union, welfare and church organisations who are involved in monitoring the SWP, through both advisory group meetings and direct contacts with DESE staff and SWP workers.¹⁰

c. SWP regulatory framework

As noted in the previous subsection, the SWP is a highly regulated program. This is for two main reasons. One is political pressure to show that low-skill workers from overseas are not taking jobs from locals; another is fears that media stories of exploited Pacific workers will damage the government and the program – even though research shows that backpackers are more likely to be exploited than seasonal workers (Howe et al 2017, 2018; Reilly et al 2018).

¹⁰ Unions are notified whenever SWP workers arrive in Australia.

The obligations and responsibilities of SWP approved employers are spelt out in a legal document called the Seasonal Worker Programme Deed of Agreement, which has recently been substantially revised after a long consultation process. The updated version became effective from 1 January 2020. This [Deed of Agreement](#) covers in 44 pages the approved employer's obligations (DESE 2020b). These obligations relate to: the recruitment and selection of seasonal workers; offer of employment; employment; expenses and deductions; welfare and wellbeing; accommodation and transportation; pre-departure briefing and arrival briefing; banking, taxation and superannuation; departure to the sending country; and reporting.

In addition, a supplementary legal document of 68 pages called the [Seasonal Worker Programme Approved Employer Guidelines](#) (the Guidelines) "form part of the Deed, as specified in clause 2.2 of the Deed, and **must** be complied with [emphasis in original]" (DESE 2020c). These guidelines can be amended by DESE at any time without prior consultation with approved employers (clause 2.4(a) of the Deed).

The guidelines state in considerable detail the approved employers' obligations and responsibilities. However, the guidelines do not limit the discretionary rights of DESE to take action or to approve or not approve a document under the Deed of Agreement. The one-sided nature of the arrangements is expressed well in the statement in para 1.1 of the Guidelines that: "[DESE] is not obliged to exercise its discretion under the Deed for the benefit of You, Your Personnel, Providers or Subcontractors" (DESE 2020c, p. 9).

The documents governing approved employers use a regulatory approach based on threats of enforcement of penalties, on the assumption that at least some approved employers will not meet their obligations.¹¹

The emphasis is on controlling risks by detection. This has traditionally been done by DESE contract managers based in Canberra through desktop assessments of core documents related to recruitment, accommodation and welfare and wellbeing. However, DESE recently funded four regional coordinators as part of the Regional Pilot mentioned in the previous subsection. While their stated role is to "ensure workplace health and safety obligations during the placements are met", they could potentially play a more facilitative role (DESE 2020a). In November 2019, an accommodation broker was funded for one area within the Regional Pilot, Wimmera Mallee in Victoria, to work on innovative accommodation solutions, based on partnerships with local councils, state governments, industry and community.¹²

Australia's 2020 budget announced a three-year \$9 million "[Pacific Labour Mobility Safeguarding the Welfare of Workers](#)" package to fund the employment of Pacific Labour Mobility Officers, based in states and territories, to "undertake additional welfare, monitoring, compliance and accommodation checks". The package also includes funding for not-for-profit sector organisations such as diaspora groups to connect SWP workers with local community groups.

Other assessment activities include desktop monitoring of trends and anomalies, reporting by approved employers and announced and unannounced monitoring visits. The FWO also has been particularly active recently in visiting farms and packing houses

¹¹ See the introduction to Section 5.

¹² The SWP website provides information about the [SWP Regional Pilot](#) (from 1 May 2019 to end June 2022) in the areas of Sunraysia (NSW/Victoria); Goulburn/Murray (Victoria); Riverina (NSW) and Wimmera Mallee (Victoria).

to monitor compliance with Australian workplace regulations. The [Harvest Trail Inquiry](#) involved 747 visits to 236 harvest region locations between 2013 and 2018 (FWO 2018).¹³

The SWP Guidelines state that the detection of non-compliance will make use of tip offs and complaints, sourced via emails to the SWP, and the 24/7 information line. The Guidelines also note that complaints may be received from seasonal workers; other approved employers; participating country representatives; family members of seasonal workers; unions; community members; community organisations; accommodation providers; and/or government departments/agencies and authorities (DESE 2020c, pp. 58, 59–60).

Corrective action options specified in the SWP Guidelines include education, additional reporting, increased monitoring, a show cause notice, breach notice, remedies, suspension, termination, and other specified actions. An “assurance pyramid”, shown in the Guidelines, outlines the range of enforcement options (DESE 2020c, p. 55). There is no matching pyramid of support offered to approved employers, as is commonly used in a responsive regulation approach (see Braithwaite 2016; Wood et al 2010).

Suspension is not an idle threat. In fact, an approved employer risks being suspended from the SWP at the beginning of the investigation of a formal complaint pending the outcome. This happened in 2018 with the suspension of Agri Labour due to a complaint made about the pay and working conditions of SWP workers on a farm in the Shepparton area (Brooks 2018).

Two surveys of horticultural employers (Doyle & Howes 2015; Hay & Howes 2012) highlighted employers’ concerns with the SWP’s level of red tape. Some reforms have been made since then to make it more employer-friendly, particularly in 2015, through the release of the White Paper on Developing Northern Australia (Howes 2015). It was then that the SWP cap was removed, that the minimum work period was abolished, and that the full cost of domestic travel was shifted to workers. Further changes were announced in 2018, with the reduction of the international travel payment obligation on employers from \$500 to \$300, and an increase in the maximum stay from six to nine months (Howes 2018b).¹⁴ The 2015 announcement also included a promise to reduce red tape. Some positive changes have been made, such as the introduction of multi-year visas for workers, the introduction of the Regional Pilot ([Section 2b](#)), and the introduction of the SWP Online system in 2020 to make it easier for approved employers to interact with DESE.

At the same time, some reforms have gone in the other direction. The greater detail and even more prescriptive nature of the new (2020) Deed of Agreement is one instance of this. Moreover, the fact that the recently formed AEA has as one of its goals the reduction of red tape suggests that there is still a long way to go.

Certainly, by comparison to other horticultural labour supply sources, the SWP is highly regulated. A comparison in Table 1 below of the regulatory framework in relation to backpackers and SWP workers shows the range of obligations an employer must meet to engage a SWP worker compared with the minimal obligations the employment of a backpacker involves.

¹³ See Harvest Trail Inquiry [list of locations visited](#).

¹⁴ The upper age limit on workers (previously 45) was removed in January 2014. For reforms prior to 2012, see Doyle and Howes (2015).

Table 1: Differences in regulation of the backpacker visa and SWP

Condition	Seasonal worker	Backpacker
Employer required to meet contribution to air fare?	Yes (\$300)	No
Employer required to make advance payment of travel costs for each worker?	Yes (amount above \$300 recouped from worker)	No
Employer sponsorship required for worker to obtain visa?	Yes	No
Government approval required to be eligible to hire?	Yes	No
Employer required to submit to labour market testing?	Yes	No
Government approval required on an ongoing basis for each recruitment application by an approved employer including contingency plans?	Yes	No
Employer required to notify Australian Government in case of worker leaving job?	Yes (regarded as a visa violation)	No
Employer obliged to report to Australian Government post-employment?	Yes	No
Employer obliged to arrange accommodation and transport?	Yes	No
Employer obliged to provide welfare and wellbeing support?	Yes	No
Employer obliged to provide correct industry required (award) wage rate to worker?	Yes	No
Employer obliged to provide an average of 30 hours work per week over the duration of the job?	Yes	No
Requirement to invite the Fair Work Ombudsman and a relevant union to meet with employees at the arrival briefing or within seven calendar days of arrival in Australia.	Yes	No

Source: Adapted from Howes (2018b).

Despite the undoubtedly high level of regulation of the SWP, complaints of exploitation and poor treatment of workers are heard from time to time. Some workers earn less than they expect. The requirements imposed on SWP approved employers, specifically to provide accommodation and transport, also give rise to complaints around the standard and cost of these services.

d. Comparison with New Zealand's RSE

It is instructive to compare Australia's SWP with the RSE, and the way in which the two schemes are managed. Although the two schemes are similar, there are a number of design differences.

First, unlike the SWP, the RSE allows recruitment from a number of Asian countries, 9 per cent of the total in 2018/19.¹⁵ The RSE analysis in this report excludes these Asian workers.

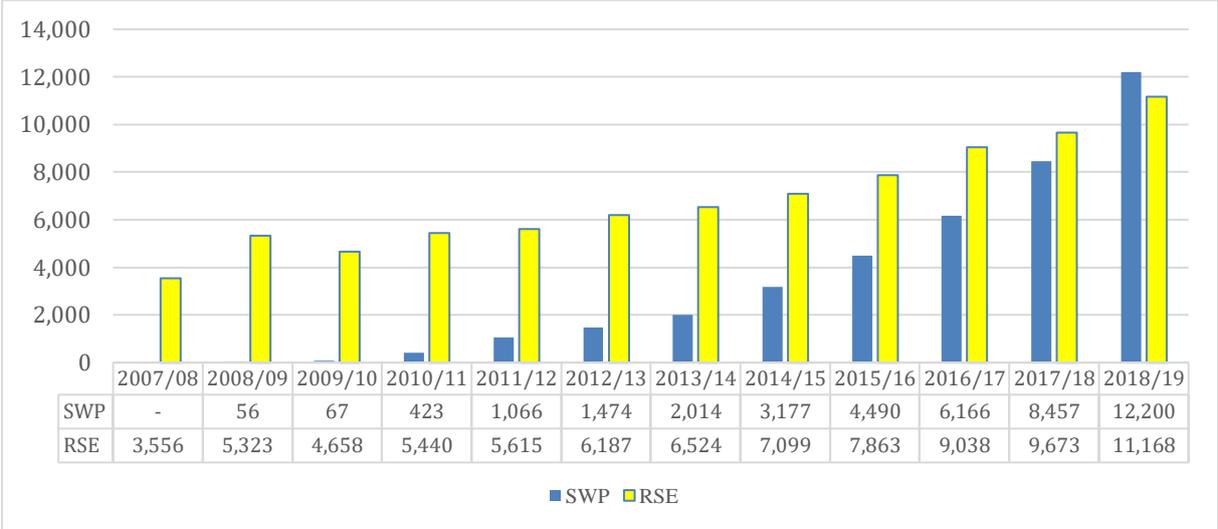
Second, the RSE is capped, and the SWP is uncapped. The RSE cap has typically been increased by less than 1,000 places a year. Following lobbying from industry, the New Zealand Government [announced](#) in October 2019 that the cap would increase by 3,150 over two years, initially by 1,550 to 14,400 places for 2019/20 and then by 1,600 to 16,000 places in 2020/21 (though with COVID-19, this second increase has been deferred). The two-year approach is designed to give RSE employers more certainty and allow them to

¹⁵ The RSE in 2018/19 had 11,168 workers from nine Pacific countries and another 1,413 workers, mostly from Thailand (628), Malaysia (335) and Indonesia (326). The RSE workers from Asia are return workers and no new RSE workers can be recruited from countries other than the Pacific (not including Timor-Leste).

better plan their workforces. It is conditional on the industry proving it is making the horticulture and viticulture sectors easier and more attractive for Kiwi workers to work in, and is reducing its use of residential housing by building more accommodation for seasonal workers.

The most striking difference in the performance of these schemes, which were introduced one shortly after the other, is their contrasting trajectories (Figure 6).¹⁶ The New Zealand scheme grew very quickly in the early years, and then slowed due to the cap. The Australian scheme took longer to take off, but now, uncapped, is growing rapidly.

Figure 6: Number of RSE and SWP worker visas approved, 2007/08 to 2018/19



Sources: Australian Department of Home Affairs; New Zealand Immigration. Note: The small number of RSE visas provided to non-Pacific Islanders is excluded (see footnote 15).

A number of factors explain these different trajectories. First, New Zealand employers have long made use of managed temporary migration programs for workers from the Pacific to solve its rural labour shortages in horticulture (Lovelock & Leopold 2008, p. 218; Ramasamy et al 2008). This background meant that many employers embraced the RSE from the start.

Second, the RSE is industry- and employer-driven. It was a proposal from employers to government rather than, in Australia, the other way around (Bedford et al 2017; Whatman, Bedford & Bedford 2017).

Horticulture New Zealand represents 21 product associations as well as sector, regional and district groups. Its National Labour Steering Group, through Horticulture New Zealand administrative and field staff, organises a network of regional labour groups, and coordinates both domestic and immigration programs such as the RSE scheme. Since the beginning of the RSE, Horticulture New Zealand has had a dedicated staff member (who is also a grower) working on the RSE, currently four days a week. There has been no parallel, unified industry ownership of the SWP in Australia.

¹⁶ These are numbers of worker visas approved. However, we variously refer to them as jobs and/or workers, noting that, since many are return workers, they are not counts of unique participants in the two schemes.

Third, New Zealand growers are more export oriented than their Australian counterparts. In 2012 there were 10 times more accredited producers in New Zealand under the Global GAP – an international agricultural quality standard – than in Australia (Curtain et al 2018, p. 472). These export-oriented growers were more prepared to accept the higher costs of a managed program that delivered a reliable and experienced labour force due to pressure from their international markets for high-quality horticultural produce (Curtain et al 2018; Whatman et al 2017). New Zealand growers' greater export orientation also led to a concern about reputational damage from the use of illegal workers. Growers were concerned that the use of illegal workers could result in bad publicity in European markets if there were reports of workplace accidents or mistreatment of workers (Curtain et al 2018, p. 472; Whatman et al 2017, p. 1). In marked contrast, Australian growers are less focused on meeting the more stringent requirements of international markets, and more on competing on price to supply one of the major domestic supermarkets (Curtain et al 2018, p. 473).

Fourth, the RSE is managed by the Ministry of Business, Innovation and Employment (MBIE). This ministry is focused on the needs of business and has the advantage of including Immigration New Zealand and the labour inspectorate. The separate Ministry of Social Development is responsible for advocating that domestic jobseekers have first priority for available job vacancies when the New Zealand cabinet sets a new cap for RSE numbers each year.

The RSE unit plays a more facilitative role and takes less of a punitive approach than its SWP counterpart in Australia. In the previous section, we discussed the SWP Deed of Agreement and Guidelines, two documents that run to 112 pages and contain 37,600 words. The equivalent RSE document, the [Recognised Seasonal Employer \(RSE\) Instructions](#), runs to 17 pages, and contains close to 8,500 words.

RSE relationship managers are regionally based, and take a non-punitive approach to resolve critical incidents involving employers and seasonal workers (Curtain 2019b). The RSE Employer Survey 2019 found that 9 out of 10 RSE employers were either satisfied (35 per cent) or very satisfied (53 per cent) overall with their RSE relationship manager (MBIE 2019). RSE employers reported in particular high levels of satisfaction in terms of the RSE relationship manager's understanding of their business, their responsiveness, and the consistency of their support (Curtain 2019b).

All of these factors explain why the RSE, unlike the SWP, was immediately constrained by its cap. The good news for the SWP though is that in many ways its operating environment, as outlined in [Section 2a](#), is changing to make it more like the RSE. Employer groups are getting used to the SWP and indeed seeking to take more ownership of it; some employer groups are becoming more focused on compliance; and the SWP is moving to a less centralised mode of regulation.

There are also important differences in the way employers use the SWP and RSE. Labour hire companies play a much less prominent role in New Zealand. The largest RSE employers are large companies (such as Mr Apple and T&G Fresh) and grower-led labour cooperatives (such as Seasonal Solutions Cooperative Ltd and Pick Hawkes Bay). The latter operate like labour hire companies in that they employ workers who work on the farms of the growers in the cooperative. However, their grower ownership means that they are more geographically focused. This ownership structure also provides stronger incentives to invest in ensuring a stable and reliable supply of workers. For example, Seasonal Solutions Cooperative, which recruited one-in-four RSE workers in 2017/18, has

funded an office in Port Vila, with a resident [ni-Vanuatu operations manager](#) and supporting staff. In contrast, large Australian labour hire companies service horticultural areas in a number of states, and none fund resident staff in any of the major sending countries.

Out of the top five RSE hirers in the four-year period from July 2013 to June 2017, four are growers and/or packhouses, and one is a grower co-operative. All five top SWP hirers for the 2012–2020 period, by contrast, are labour hire companies. Out of the top ten RSE hirers, seven are growers and/or packhouses, two are grower co-operatives, and only one is a labour hire company. Out of the top ten SWP hirers, seven are labour hire companies.

The RSE displays lower concentration of hiring than the SWP. This is partly because labour hire companies are less prominent, and partly because, as noted earlier, New Zealand allows growers to jointly recruit workers for several workplaces (Bailey & Bedford 2018).

Table 2 shows the share of SWP and RSE workers, respectively, hired by the biggest 5, 10, 20 and 50 per cent of SWP and RSE employers. For example, the biggest 5 per cent of employers hire 60 per cent of SWP workers, but only 41 per cent of RSE workers.

Table 2: Concentration of SWP and RSE employment by employer

Share of employers, ranked from biggest	Share of employment	
	Australia	NZ
5%	60%	41%
10%	73%	57%
20%	87%	73%
50%	97%	92%

Sources: For Australian data, see source to Figure 2; NZ data from Bedford (2020a). Note: Whereas Australia data is for the 2012–2020 period, NZ data is for the period 1 July 2013 to 30 June 2017.

3. Sending-country governance

The supply of seasonal labour far exceeds the demand for it. The combined SWP and RSE Pacific workforce totalled about 24,000 in 2018/19 (Figure 1). Dornan, Howes and Curtin (2018) estimate under their most conservative assumptions that Timor-Leste and the eligible Pacific countries other than PNG could supply 140,000 seasonal workers a year, and that PNG could easily supply another 400,000. Clearly there is no shortage of workers willing to travel to Australia or New Zealand to work on a farm. Levels of unemployment and underemployment in the Pacific and Timor-Leste are extremely high, seasonal labour wages are much higher than domestic alternatives, and skill requirements are low.

Sending-government authorities need to make their country’s labour supply attractive without competing on the wage. This requires promotion and marketing, a smooth recruitment process for employers, and liaising with receiving-country government agencies. But governments are also concerned about worker protection. Supply is so far above demand because of the prevalence of large “economic rents”: there are many Pacific workers prepared to work for far less than the Australian minimum wage.¹⁷ The attractiveness of these rents as well as problems of limited information about how to

¹⁷ Rents are income provided to economic agents (workers, companies) above their opportunity cost, that is, above the minimum they require as compensation for what they are doing (working, selling).

connect with employers leads to a high potential for scams, both prior to and post departure. Workers face a range of other risks of concern to sending governments: they might be injured or even die, or abscond or otherwise misbehave.

Governments are also concerned about equity (giving all citizens a reasonable chance of being selected). Some governments also want to help return workers “reintegrate” into society and invest their earnings.

All of these issues make the governance of seasonal labour by a sending country a lot more complex than it might at first appear. It is especially challenging given that government effectiveness in the sending countries is often low, and political clientelism often high.

If countries are competing against each other to supply seasonal labour to Australia and New Zealand, why do some do better than others? How is seasonal labour governed by different sending countries? How much of the governance is done by the sending government, and how much by the private sector? How do governments manage issues related to ensuring equal treatment and a fair distribution of the benefits generated? How much variation is there between sending countries? And can this variation be linked to differences in performance of the sending countries, not only in terms of numbers of workers sent but also in terms of worker welfare? These are the questions that this and the next three sections focus on.

Our main focus is the management of the recruitment process for workers in the sending countries. This is the most important role of sending-country governments. Other activities of the sending countries such as marketing and reintegration of workers on their return are less central to both the scheme and to government efforts.

This section provides a general analysis of SWP performance and governance across sending countries. It starts with the formal governance requirements that (weakly) constrain all countries, and summarises the various recruitment methods used by different sending countries. It then examines the performance of sending countries in terms of numbers of workers sent. The third subsection explains how early-mover advantage is one factor that can help explain relative success, and the fourth examines the critical role played by return workers. The final subsection concludes with some views from approved employers. All this provides much needed background and context for the detailed analyses which follow in the next three sections on the biggest SWP labour-sending countries: Vanuatu, Tonga and Timor-Leste.

a. Governance requirements and recruitment methods

The foundation documents that underpin the governance of the SWP in sending countries are the [Memorandum of Understanding \(MoU\)](#) between the Australian Government and each sending country,¹⁸ and the [SWP Implementation Arrangements](#) (DESE 2018), which apply to all sending countries, and which underpin the MOUs.

A design feature of seasonal work programs is to promote competition between sending countries to create a level playing field and maximise employer choice (Preibisch 2010). The SWP Implementation Arrangements specify three possible recruitment pathways, leaving it to the discretion of each sending country to choose their own. The three options are:

¹⁸ Only the [Tongan MoU](#) is public.

- (1) job seekers pre-register for a work-ready pool and government officials select workers directly according to the criteria nominated by the employer;
- (2) employers engage a licensed recruitment agent in-country to select workers; or
- (3) employers recruit workers directly.

It should be noted that even when a worker is required to be selected from a work-ready pool, the final choice of who to pick from the pool normally rests with the employer (for example, choosing from a shortlist). Likewise, even if recruitment is direct, those selected still have to meet various receiving government requirements, detailed in the SWP Implementation Arrangements, relating to registration, health, police checks and pre-departure briefings.¹⁹

Based on our research, the recruitment pathways allowed by governments are somewhat different to that specified by the SWP Implementation Agreements. Table 3 summarises (by rank order of sending country) which of the three possible recruitment methods are used. A star (*) indicates that a different verdict is given in the assessment of the Australian Government (DESE 2018). This may reflect changing or inaccurate information. An X indicates the option that dominates, where one does.

As can be seen from Table 3, all sending countries except Vanuatu retain a SWP work-ready pool.²⁰ Vanuatu is also the only country to rely on licensed agents; Solomon Islands introduced licensed agents, but no longer uses them.

Table 3: How seasonal workers are recruited

Sending country	Work-ready pool	Direct employer recruitment	Licensed agent
Vanuatu	*	X	X
Tonga	X	X	
Timor-Leste	X		
Samoa	X	X	
Fiji	X	X*	
Solomon Islands	X	X	*
Kiribati	X	*	*
PNG	X		
Tuvalu	X		
Nauru	X		

¹⁹ According to the SWP Implementation Arrangements (DESE 2018), sending-country governments are responsible to: “offer AEs eligible candidates, taking account of employer requirements, development objectives and gender equity; assist AEs to interview and/or screen candidates; assist candidates to obtain health checks and police clearances; assist candidates to understand the recruitment process; assist selected candidates to understand their offer of employment; assist selected candidates to lodge fully completed visa applications; provide a pre-departure briefing for selected candidates; and arrange Seasonal Workers’ travel arrangements.”

²⁰ As discussed in Section 4, Vanuatu has a small work-ready pool for the selection of workers for the PLS.

Of the nine countries that have an SWP work-ready pool, five require employers to use it: Kiribati, Nauru, PNG, Tuvalu and, recently, Timor-Leste. (In Kiribati, in theory, employers can hire directly if they are licensed, but in practice all hiring is from the work-ready pool, and employers cannot nominate workers for that pool (Bedford 2020a). The selection process for PNG’s work-ready pool has recently been decentralised, but it has retained its central role.)

In the other four countries – Tonga, Samoa, Fiji and Solomon Islands – there is a work-ready pool, but employers are not constrained by it. They or their representatives can also hire directly. In the case of Fiji, if employers want to hire a worker not in the work-ready pool, that worker has to be added to the pool and pass the fitness and medical tests Fiji imposes.

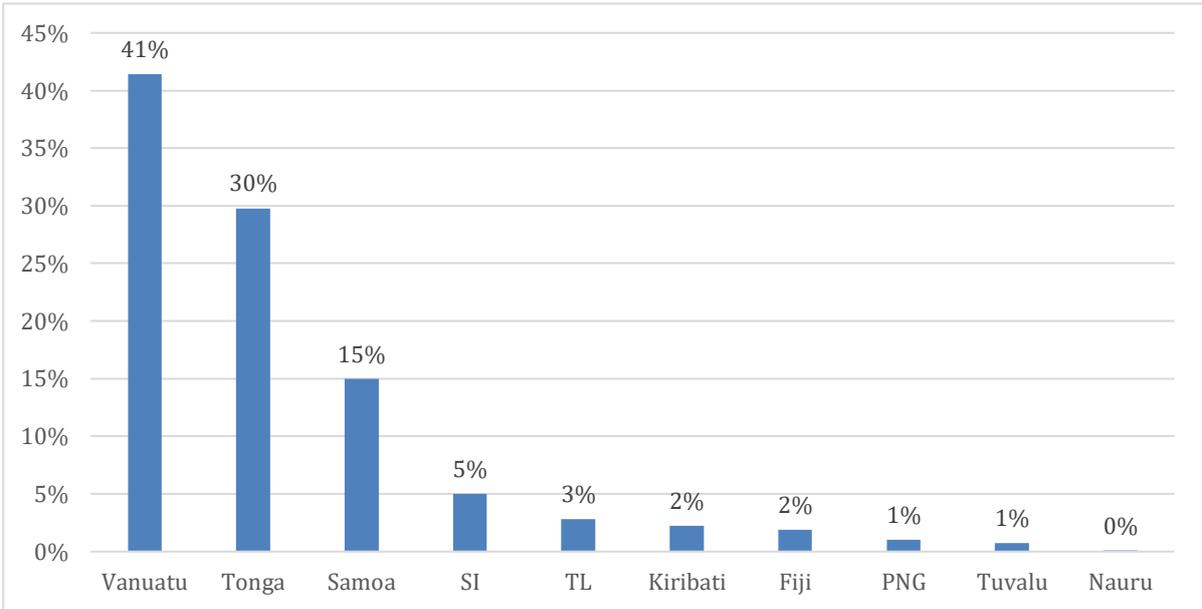
Sending countries do not have legislation governing the SWP, relying instead on the bilateral MoU and its implementation requirements. Vanuatu’s *Seasonal Employment Act 2007* refers only to the RSE but its provisions are applied in practice to both seasonal work programs. Tonga plans to introduce legislation for both the SWP and RSE. Most countries only recently have developed or are developing labour mobility policies.

In summary, formal governance requirements place few constraints on sending countries, and recruitment methods vary a lot from country to country. The performance of sending countries also varies greatly. This is the subject of the next subsection.

b. The distribution of workers by sending countries

The countries that have sent the most seasonal workers to both Australia and New Zealand are, in descending order: Vanuatu, Tonga, Samoa, Solomon Islands (SI), Kiribati, Timor-Leste (TL), Fiji, PNG, Tuvalu and Nauru (Figure 7). Note that in this and other Figures participation in seasonal labour is measured by the number of visas issued. While we equate visas with workers, in practice there can be small discrepancies. As discussed in Section 3d, the same person may work in several seasons, so workers should not be equated with unique individuals.

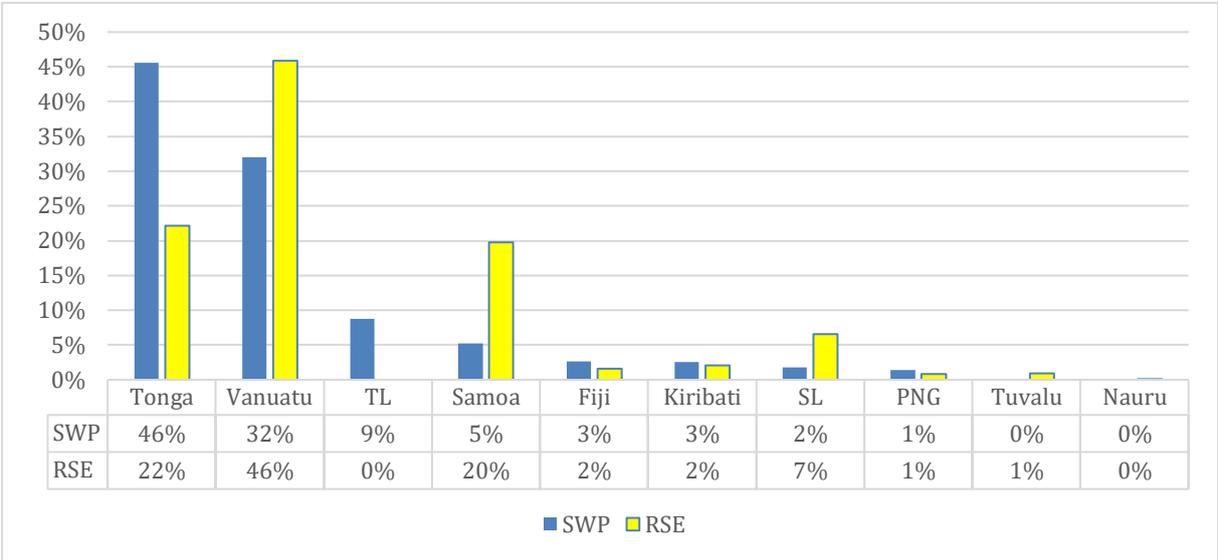
Figure 7: RSE and SWP combined market shares, from commencement to 2018/19



Sources: Australian Department of Home Affairs; New Zealand Immigration.

Figure 8 below breaks down the results by the two destination countries: Australia (SWP) and New Zealand (RSE). For Australia, the top four sending countries are Tonga, Vanuatu, Timor-Leste and Samoa, in that order based on cumulative data. However, Vanuatu has now overtaken Tonga as the leading sending country to Australia (see Figure 12). For New Zealand, the top four sending countries are Vanuatu, Tonga, Samoa and Solomon Islands.

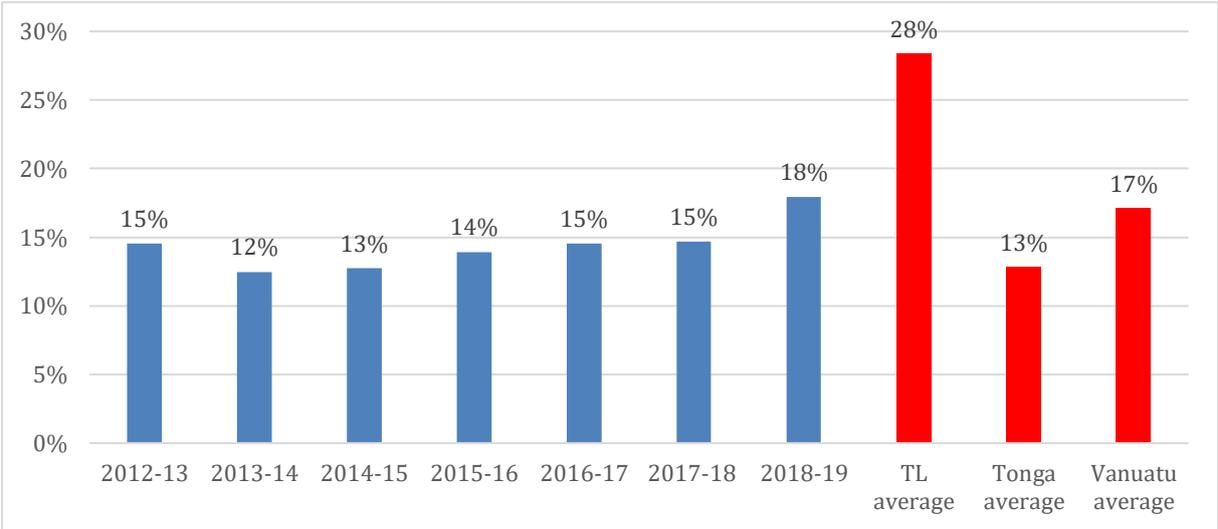
Figure 8: RSE and SWP market shares, from commencement to 2018/19



Sources: Australian Department of Home Affairs; New Zealand Immigration.

Men dominate the Pacific seasonal labour force. Fewer than one in five SWP workers are women, though the share is rising (Figure 9).²¹ This is in part because of the growing share of workers from Timor-Leste, which has a more gender-balanced SWP workforce. The share of women in the Vanuatu workforce is broadly constant over time at about 15 per cent. However, Tonga’s SWP female share has grown from 10 per cent in 2012/13 to 17 per cent in 2018/19.

Figure 9: Share of women in the SWP workforce

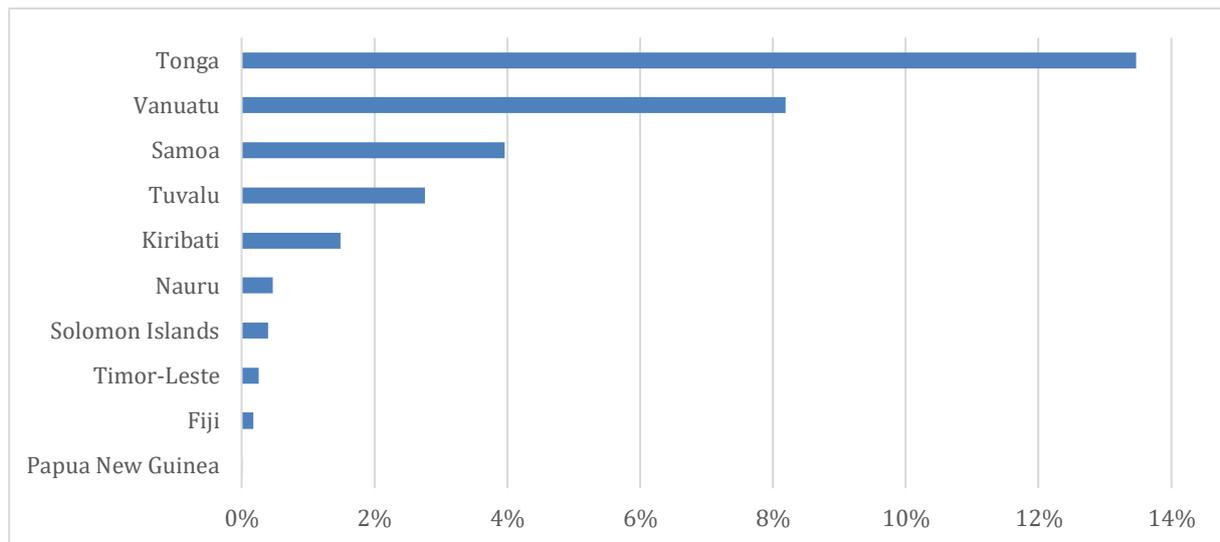


Sources: Australian Department of Home Affairs; Lawton (2019). Note: Country averages are for the entire period shown.

²¹ By contrast, the share of women in the RSE workforce (counting Pacific workers only) has fallen from 13.5 per cent in 2014-15 to 9.8 per cent in 2018-19 (Bedford 2020b).

Country success in engaging with the SWP and RSE is highly variable. This point is made most strongly by looking at participation rates relative to population. If seasonal labour mobility opportunities were spread evenly over the eligible sending countries, all countries would participate at the same rate. As Figure 10 shows, the actual situation is markedly different. Tongan workers who went overseas to work on a farm in 2017/18 represented an astonishing 14 per cent of the Tongan male population aged 20 to 45. In Vanuatu in the same year, the ratio was 8 per cent of the adult male workforce aged 20 to 45, in Samoa 4 per cent, and so on, down to PNG on 0.0 per cent.

Figure 10: Ratio of seasonal workers to the male population 20–45 years (%)



Source: Dornan et al (2018); 2017–18 RSE and SWP numbers and recent census data are used. Note: We use the male population since the great majority of seasonal workers are men.

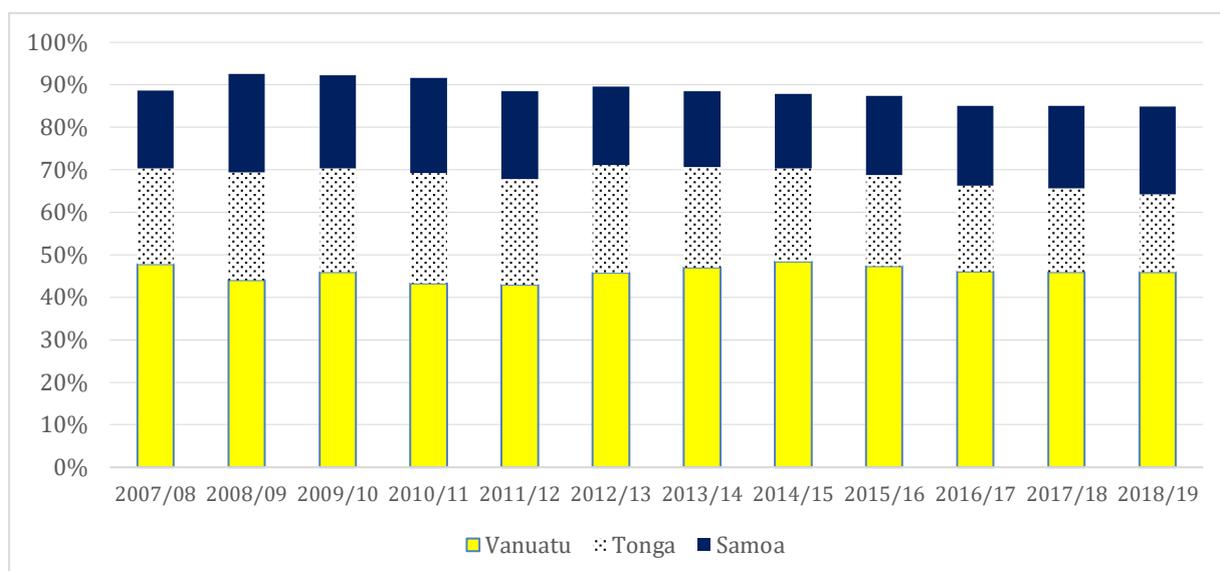
Why have some countries been so much more successful than others? To begin with, there are a range of country-specific factors that have nothing to do with SWP governance. In Nauru, there has been relatively little unemployment until recently, due to the boom associated with regional processing of asylum seekers who sought to come to Australia. Nauru, Tuvalu and Kiribati are relatively more urbanised, and flights from the latter two to Australia are indirect and expensive. PNG suffers from a high cost of doing business, including a reputation for crime, and particularly poor governance. For example, some PNG workers have found it impossible to acquire passports in time to take up their offer of seasonal work.

While these factors are no doubt important, how sending countries manage seasonal labour is also critical. We start linking governance and performance in the next three subsections by looking at early-mover advantages and return workers, and by examining employer views.

c. Early-mover advantages

Three countries have dominated the RSE from the start: Vanuatu, Tonga and Samoa. As Figure 11 shows, their individual and combined shares have been remarkably constant over time. Vanuatu’s share has been steady at about 45 per cent. Tonga’s share has slowly declined from a high of 26 per cent to 18 per cent, and Samoa’s share has remained steady at around 20 per cent. The aggregate share of these three countries has only slightly fallen over the period from 89 per cent in 2007/08 to 85 per cent in 2018/19.

Figure 11: Shares of Vanuatu, Tonga and Samoa in the RSE



Source: NZ Immigration. Note: shares of RSE Pacific workers only (see footnote 15).

Clearly, these three countries all had a first- or early-mover advantage.²² The advantage for Tonga and Samoa was the large diaspora communities from these two countries in New Zealand (some members of which already worked in horticulture). With regards to Vanuatu, there was a deliberate strategy by New Zealand growers supported by the World Bank to recruit from a country that did not have a diaspora in New Zealand. New Zealand growers were concerned that the reputation of the new scheme would be damaged and political support disappear if seasonal workers absconded to stay with relatives already resident in New Zealand. Growers judged this was a high risk for workers recruited from Samoa and Tonga.²³ There was also a desire by the New Zealand Government to ensure other Pacific countries were included (Bedford 2013). Hence, the early decision to diversify to Vanuatu, which was included alongside Tonga and Samoa (as well as Kiribati and Tuvalu) in the “five original kick-start states” for the RSE (Bedford 2020a, p. 7).²⁴

In Vanuatu, two New Zealand private sector intermediaries selected workers from disadvantaged rural areas such as Ambrym and Tanna. With World Bank support, Seasonal Solutions, a grower-led labour co-operative, travelled to meet community leaders and to seek their help to select productive workers (Bailey 2013, p. 4; McKenzie, Garcia Martinez & Winters 2008, p. 7). Big Toe, a New Zealand private sector foundation with a focus on community development in developing countries, acted as an intermediary between Vanuatu and employers in the Bay of Plenty region of New Zealand (McKenzie, et al 2008, p. 8). Big Toe worked with World Vision in Vanuatu to target areas with limited employment or income-generating opportunities from which to recruit workers. Tanna was identified as one area to recruit workers from, together with some other smaller island groups. Seasonal workers were also recruited from other areas, mainly Port Vila and its surrounding area (McKenzie et al 2008, p. 8).

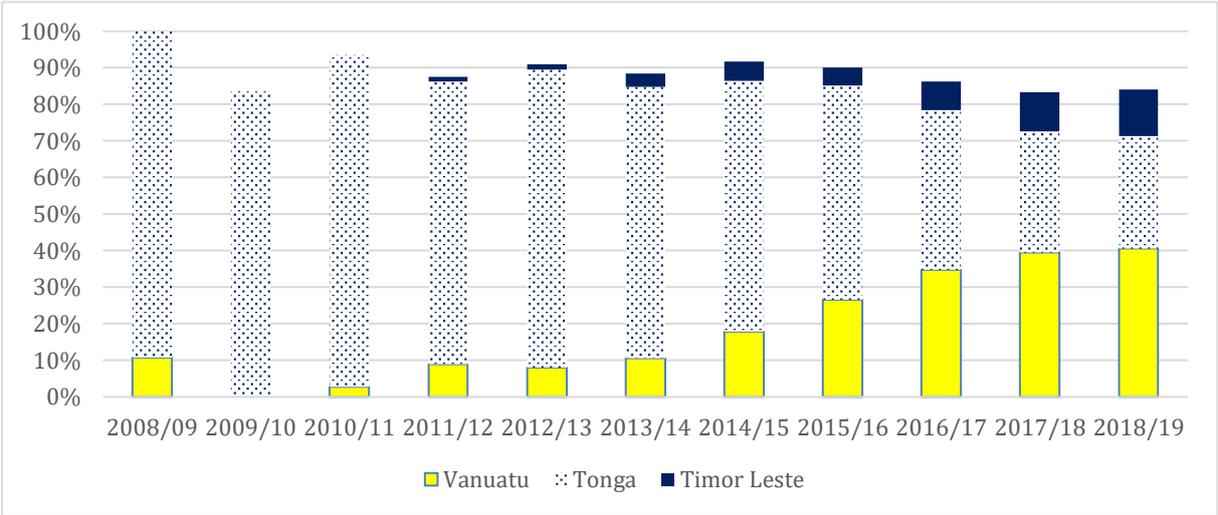
²² See http://en.wikipedia.org/wiki/First-mover_advantage for a discussion of the concept of the first-mover advantage, originally applied to marketing.

²³ Jerf Van Beek, personal communication, September 2013.

²⁴ Solomon Islands was admitted to the RSE in 2010, PNG in 2013, Fiji in 2014 and Nauru in 2015 (Bedford, Bedford & Nunns 2020, p. 16)

The situation in Australia is somewhat different. Tonga had the first-mover advantage in Australia, due to the Tonga diaspora. In particular, [Australian residents from Tonga](#) who lived and worked in horticulture in regional Victoria (Robinvale) acted as early intermediaries for growers. Employer word of mouth about the reputation of Tongans as good workers and Tonga’s organised recruitment process spread to other growers. Up to 2012/13, Tonga had 80 per cent of the market, but over time it lost market share, especially to Vanuatu and to a lesser extent, Timor-Leste (Figure 12).

Figure 12: Shares of Vanuatu, Tonga and Timor-Leste in the SWP



Source: Australian Department of Home Affairs.

Countries can obtain a first- or early-mover advantage from a well-managed initial worker selection process, and from sending reliable and productive workers. The initial selection of workers to meet the employer’s needs is crucial. An employer’s bad experience with a small group of workers results in a negative message to other employers to avoid workers from that country or intermediary. Several countries, including PNG, Solomon Islands and Nauru, have suffered this fate (Curtain 2014; Curtain & Uera 2014a, 2014b). On the other hand, once workers have shown they are productive and reliable, the employer is likely to ask them to return the following season and to select other reliable workers. This locks in the hold of the initial country, and sometimes the same group of workers from that country, on future jobs for that and other employers.

This recommendation from a fellow grower is one of the most effective marketing tools a sending country has. Recall also that most recruitment into the SWP is done by labour hire companies. These companies can expand recruitment quickly if there is the demand for it. They will expand in countries where they have found initial recruitment has worked well. Their clients (farmers) will be happy to know their workers will be coming from a particular country if, as mentioned earlier, they have heard another grower has had a positive experience with workers from that country. With increasing numbers coming through, incidents of bad behaviour by workers may be overlooked if small numbers are involved compared with the total number of workers from that country. However, for a country with few workers in total, incidents of worker bad behaviour or poor productivity have a major damaging effect on that country’s chances of winning employer interest.

Remember too how concentrated the SWP is, with just four companies making up 48 per cent of the demand for workers. For these large labour hire companies, there are economies to be gained from recruiting in just one country. At the same time, risk is

reduced by recruiting from more than one country. Balancing these considerations, a large employer may recruit mainly from just one, two or three countries. After that it is difficult for other countries to make a case. Our research presented in [Section 3e](#) suggests that most companies, including the large recruiters, recruit mostly or entirely from one, two or at most three countries.

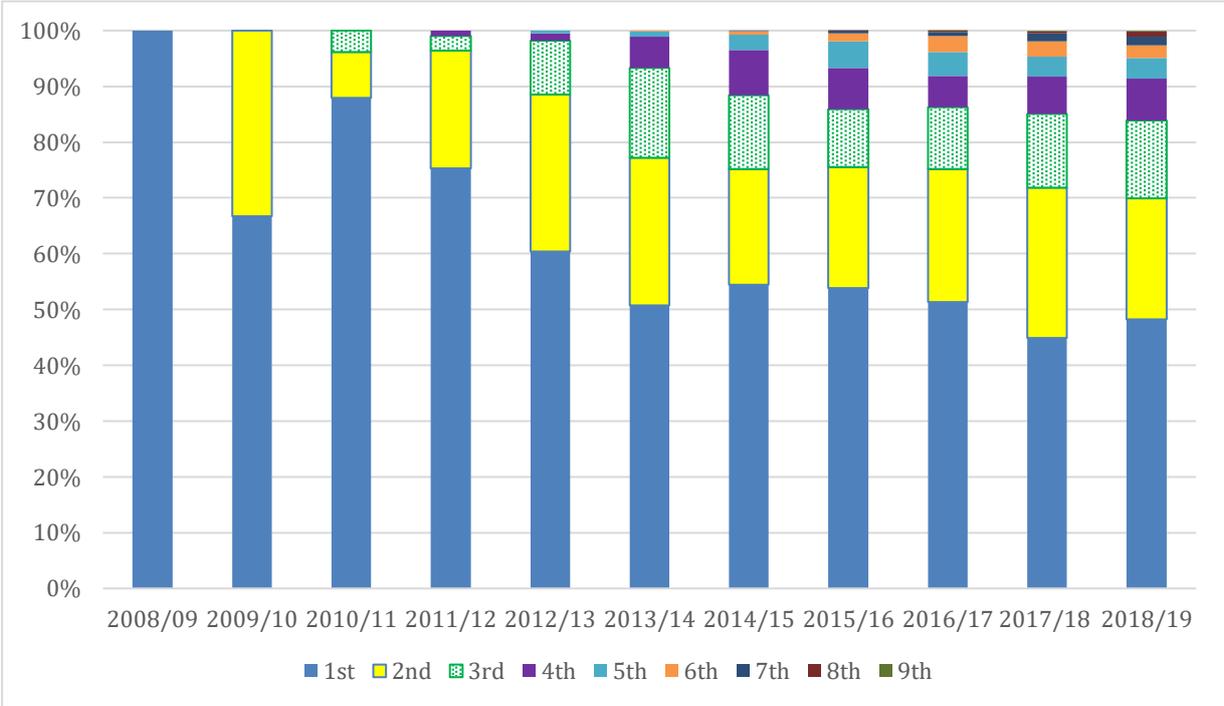
The New Zealand experience shows just how important the early-mover advantage is. It has been difficult to take market share from any of the top three sending countries. The Australian experience, however, shows that the early-mover advantage cannot be taken for granted.

Tonga’s numbers in the SWP in fact stabilised over the three years to 2017/18 at between 2,600 and 2,800 workers each year, a period in which total SWP workers almost doubled from 3,200 to 6,200. It is difficult to know why Tonga became less attractive to employers. It may have been due to some high-profile cases of workers absconding, or employers may have judged that the quality of workers had declined, with up to one-in-five young men recruited for seasonal work in both countries. As other countries established their reputation, employers switched to them, and away from Tonga. Vanuatu did especially well because it was able to leverage the reputation its workers had established in New Zealand and offer employers the services of experienced agents. Timor-Leste was also a beneficiary due to active promotion by its first labour attaché who travelled widely through rural areas.

d. The important role of return workers

The number of first-time workers coming to Australia under the SWP has fallen over time, and now is less than half the total in the most recent year, 2018/19 (Figure 13).

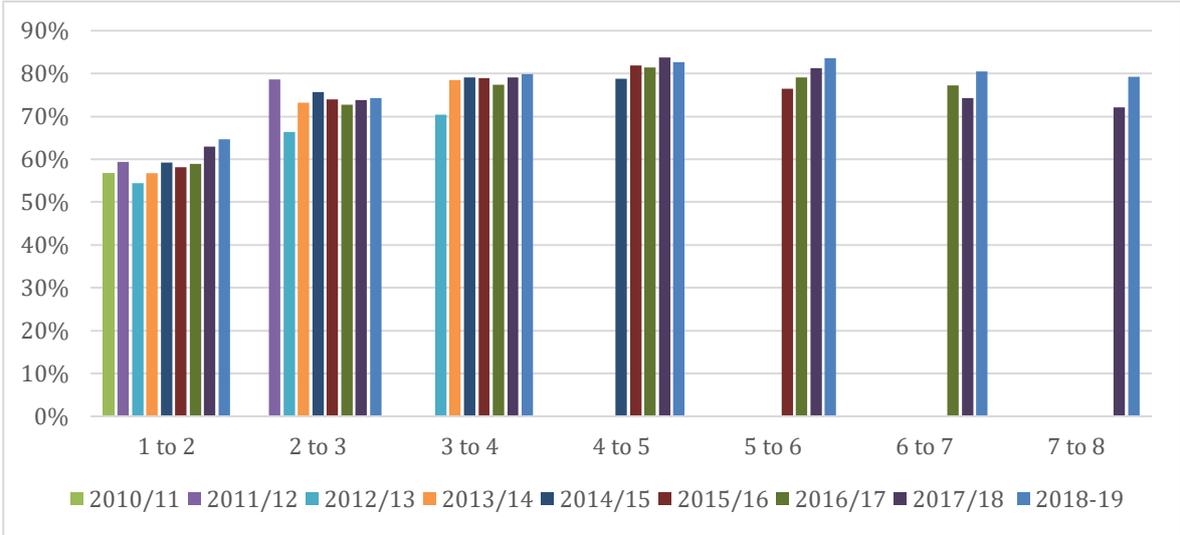
Figure 13: Shares of workers on their first and subsequent SWP visits



Sources: Australian Department of Home Affairs; Howes (2018a).

So far SWP workers have on average visited Australia twice (up to and including 2018/19). However, we can see from Figure 13 that some have visited up to nine times. We can calculate return probabilities for SWP workers (Figure 14). While they vary slightly from year to year, they are surprisingly constant over time. Only about 60 per cent of workers return for a second time. Some workers decide the SWP is not for them and some employers decide the worker is not for the SWP. Once a worker graduates to a second year, they have a 70–80 per cent chance of staying on for a third, fourth, fifth and even sixth year. It is only perhaps in the seventh and eighth year that these return probabilities start to fall.

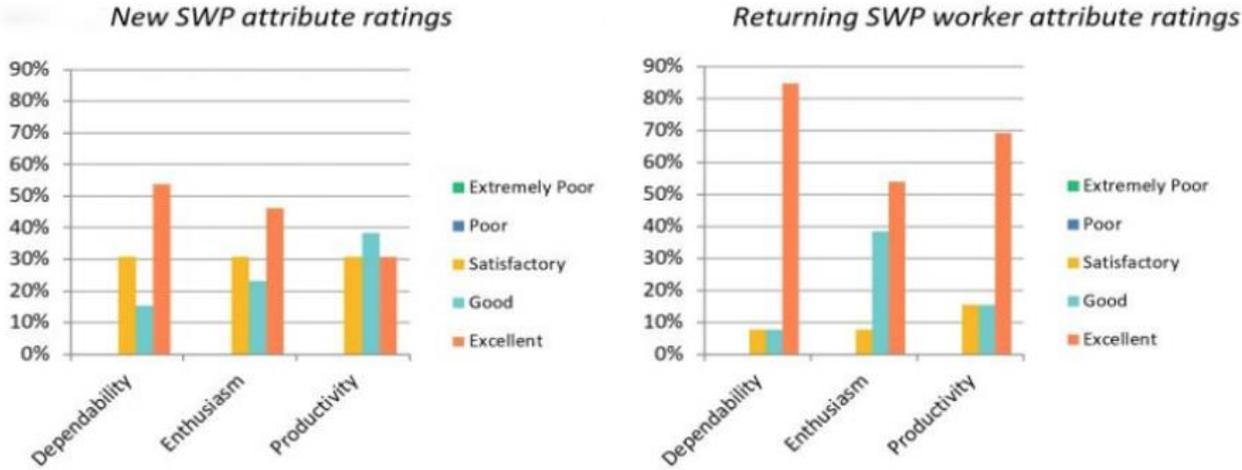
Figure 14: Return probabilities for the SWP



Sources: Australian Department of Home Affairs; Howes (2018a). Note: Only calculated when n>30.

These “return workers” (those who come back for a second stint or more) are at the heart of the SWP, for two reasons. First, they are invited back because they are productive and reliable. Employers have very different views about the dependability, enthusiasm and productivity of return and new workers as shown in Figure 15, drawn from a small survey of employers undertaken by Cardno in 2017 (discussed further in Section 3e). Returning workers were rated much more positively for their dependability, enthusiasm and reliability.

Figure 15: New and returning SWP worker attribute ratings



Source: Peterken & McKay (2018).

Quantitative research has confirmed this finding. As noted in [Section 2b](#), one study found that seasonal workers are 20 per cent more productive than backpackers, but that returning seasonal workers are 15 per cent more productive than new seasonal workers (Zhao et al 2018).

Second, return workers are invited back because they are known and respected, and have proven their worth. They are also trusted, and are often asked to nominate other workers, who can be similarly trusted. Return workers know that they will have to answer to the employer if their choices are not good ones. In summary, return workers convert the SWP from a one-shot to a multi-shot game, and thus bring into play such positive forces as trust and reputation.

To be clear, workers do not make a career out of the SWP. When surveyed, some 85 per cent say that they want to work on the SWP for “as many years as possible” (World Bank 2018, p. 43, Figure 5.12). But events conspire against this continued employment. We calculate that the expected number of visits per SWP worker is just short of four (Howes 2018a).²⁵

Even if workers are not in fact making a career out of seasonal work, the preference of employers to hire experienced workers can be problematic for sending-country governments. It seems inequitable: the same workers from the same locations keep getting access to the best jobs. This is a tension several countries have experienced. Some governments have talked of, but none have actually imposed, “term limits”. One compelling argument against imposing term limits is that it casts the competition for jobs between return and new workers, whereas it is more helpful to think of competition between countries. In fact, if workers do well, and are asked to return, that will make the employer (and other employers) more likely to hire more workers from that country. As they hire workers for new assignments, they have to turn to new workers.

To examine this, we need an index of reliance on return workers. This cannot be proxied by the average number of return trips since it will simply be higher for countries that have been sending workers for longer. The Howes (2019) “reliance on return workers” indicator takes a value of zero if all workers from a particular country only visit Australia once, and one if maximum reliance is made of return workers (that is, all workers are repeatedly invited back). As Table 4 shows, Timor-Leste is the country that is most reliant on return workers. Vanuatu is very reliant, but Tonga is in the bottom half. Note also how reliance on the ratio of visits to workers can be misleading as an index of reliance on return workers. Tonga leads on this index, but that just reflects its early dominance of the SWP, not its reliance on return workers.

²⁵ Bedford (2020b) conducts a similar analysis on New Zealand workers. Although most of his results are not directly comparable, Bedford concludes that on average, seasonal workers return for three to four seasons.

Table 4: Visits/workers and reliance on return workers index

	Visits/ workers	Reliance on return workers (0 to 1)
Timor-Leste	1.8	0.66
Vanuatu	1.8	0.52
Kiribati	1.7	0.42
Fiji	1.5	0.37
Samoa	1.7	0.36
Tonga	2.3	0.33
Papua New Guinea	1.9	0.27
Solomon Islands	1.3	0.26
Tuvalu	1.1	0.16
Nauru	1.0	0.00
All	2.0	0.43

Source: Howes (2019). Notes: The index of reliance on return workers is equal to zero if the average of visits to workers is one, that is, if there is no reliance on return workers. It is equal to one if the average of visits to workers indicates that new workers are brought in only when the scheme expands, that is, if there is maximum reliance on return workers. A linear transformation of the actual average of visits to workers is then used to create this zero-to-one index.

Figure 16 below suggests that countries with the highest reliance on return workers also have the greater opportunity for expansion – that is, for new workers to join. Timor-Leste and Vanuatu, the two countries that rely most on return workers, are in the top three for providing opportunities to first-time workers. Tuvalu, Nauru, Solomon Islands and PNG – all countries that have struggled to gain traction with the SWP – are at the other end. Other countries are in the middle on both rankings.

Figure 16: Relationship between reliance on return workers and SWP expansion

Source: Howes (2019). Note: The vertical axis ranks countries by absolute number of first-time workers in 2018/19.

This analysis both underscores the importance of return workers for the SWP and echoes the earlier discussion of the early-mover advantage. An early-mover advantage is only realised, and sustained, if the same workers are invited back repeatedly. If they are invited back, it means that the country is getting a good reputation, and if not, the converse.

Vanuatu has been able to sustain its good reputation from the start, Timor-Leste has been able to build one somewhat later, but Tonga, despite its good start, has struggled. Other countries have found it difficult to get a look in: either employers have felt no need to source workers from another country, or they have got off to a bad start. The first workers from Solomon Islands absconded, and most from PNG were workers from urban settlements selected for their English-language skills, but not used to rural work (Curtain 2014; Curtain & Uera 2014b). Fiji, only allowed into the scheme in 2014, suffered from a similar urban bias for its initial worker selections (Curtain & Sherrell 2017).

e. Approved employer assessments

As noted in Section 2a, the most important Australian stakeholders in the SWP are the employers. After all, they are the ones who decide where to recruit from: there are no country quotas. What do employers think of sending-country arrangements?

To answer this question, an email survey of approved employers was conducted by one of the authors (Curtain) in February 2020 for presentation at the AEA workshop held in Brisbane on 6–7 March 2020. The purpose of the survey was to gauge the satisfaction of approved employers with existing arrangements for recruiting seasonal workers. Approved employers were asked to rate their satisfaction with sending countries on tasks performed by sending-country governments, recruitment agents, organisations, and the workers themselves.

The survey was sent by email to 80 approved employers and 32 responses were received from 15 growers and 10 labour hire companies, with the two large labour hire companies providing responses from managers in different regions. Respondents included representatives of the major labour hire companies, as well as medium-sized and small growers. Employers were asked about various aspects of the recruitment process and asked to rate them on a scale from 1 (very satisfied) to 5 (very dissatisfied) (see Table 5).

Table 5: Employer satisfaction with various aspects of the recruitment process (1=very satisfied; 5=very dissatisfied)

Aspect of the recruitment process	Rating
Recruitment process – selection of workers according to our request	2.4
Recruitment process – use of return workers to select new workers	2.1
Recruitment process – despatch of workers on agreed dates	2.2
Recruitment process – other aspects	2.5
Briefings – length of time taken	2.2
Briefings – coverage of the issues?	2.1
Briefings – effectiveness?	2.8
Briefings – workers’ understanding of their conditions of work	2.9

Most aspects received a score between 2 and 2.5, indicating a basic but not high level of satisfaction. The average approved employer rating of the “recruitment process –selection

of workers according to our request” was neither satisfied nor dissatisfied (2.4 out of 5). Approved employers were most dissatisfied with the effectiveness of the pre-departure briefings for workers (2.8 out of 5) and the workers’ understanding of their conditions of work (2.9 out of 5).

One respondent noted about the effectiveness of the briefings for workers: “too much, too hard to concentrate”. Another stated: “mixed standard of English-speaking ability, ranging from very poor to basic. My Australian/Tongan employee translates to them.” An approved employer comment in relation to the workers’ understanding of their work conditions was: “unsure but very keen”. One respondent commented: “[LSU] lack of response to communications was appalling. Had to withdraw the contract with the client as [name of country] were unable to supply on time.”

The approved employer rating of “recruitment process – other aspects” was 2.5 out of 5 and attracted feedback such as:

[Rating] 2–3 Medicals & X-rays Inefficiencies.

Workers had been in the ‘work-ready pool’. Given to us for selection. After selection THEN asked if they wanted to come over. Highly disappointing they weren’t ‘ready’ at all and delayed the process significantly.

[Name of country] – Everything was a battle. Unorganised in country recruitment. Incorrect worker information into VEVO (Visa Entitlement Verification Online system). Late medicals. No updates on medicals or visas. AE [approved employer] having to request information all the time.

[Name of country] selection and final paperwork a problem.

Employers were also asked to rate their overall satisfaction with arrangements in various sending countries. There were only sufficient responses to give an average rating for the three most important sending countries. Vanuatu and Tonga were rated in the middle – neither satisfied nor dissatisfied. The rating for Timor-Leste was higher at 3.5 out of 5, showing a higher level of dissatisfaction (Table 6).

Table 6: Approved employer overall satisfaction ratings with SWP recruitment arrangements in the three leading sending countries

	Vanuatu	Tonga	Timor-Leste
Satisfaction rating 1–5 (1=very satisfied; 5=very dissatisfied)	2.4	2.4	3.5
Number of responses	19	16	13

Another interesting finding from this survey is that ten respondents said they recruited only in one country, seven in two countries, five in three countries, and only four in more than three countries. Even the large companies recruit or mainly recruit from only a couple of countries. For example, Owen Pacific Workforce, a large labour hire operator under the SWP, recruits only from Tonga and Vanuatu. Employers might want to diversify beyond one country, to manage risks and also to maintain leverage, but they rarely recruit from more than two or three countries. This reinforces the early-mover advantage.

Further insight into employer views can be gained from the earlier survey of approved employers by Cardno (2017). Although the Cardno survey only covered 14 employers,

they included the larger ones, which together were responsible for 40 per cent of all SWP workers in 2016/17. Cardno’s findings on governance arrangements in general were similar, with most scores slightly better than neutral. The Cardno survey also asked about recruitment methods and found that:

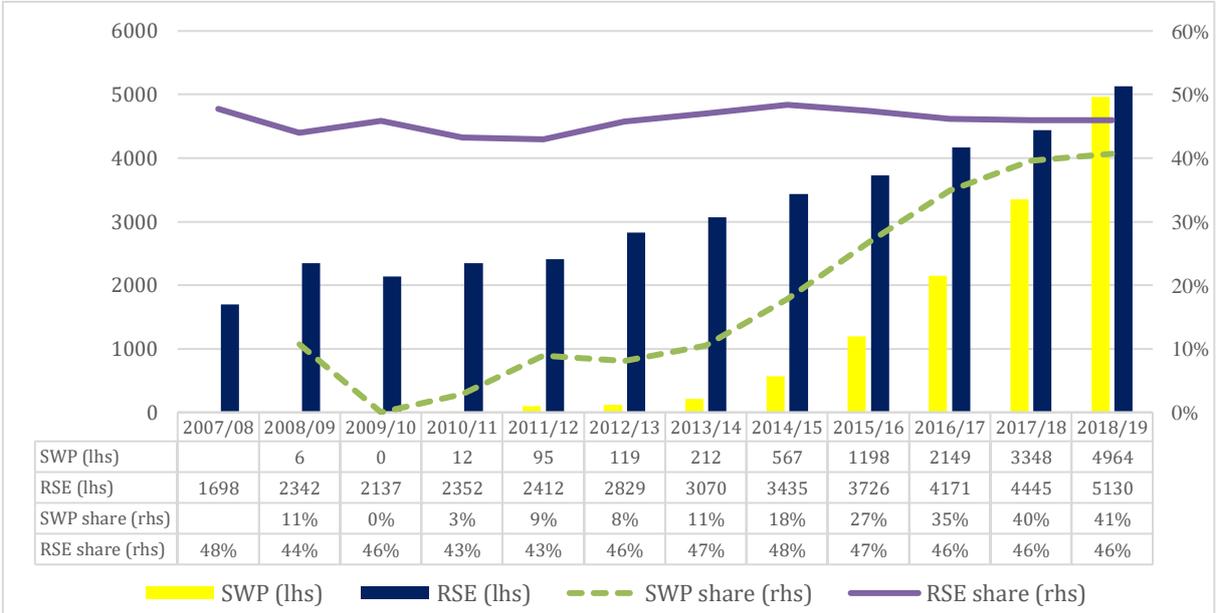
Once a recruitment pipeline is identified in a particular country, employers prefer direct recruitment, an arrangement under which the employers themselves select the workers. 58 per cent of those surveyed preferred this model, whilst a further 33 per cent preferred recruitment through paid agents. No respondents indicated the work-ready pool as their preferred method of recruitment, although some noted that when the work-ready pool was well managed, using it was an appropriate method for first-time employers (Peterken & McKay 2018).

We examine the situation on the ground in Vanuatu, Tonga and Timor-Leste in the next three sections. We explain why employers are currently unhappy with Timor-Leste (see Table 6 above). But it is also noteworthy that levels of satisfaction are not high with any of the three main sending countries.

4. Vanuatu

Vanuatu does not have a recent history of extensive migration, temporary or permanent. Nevertheless, the country is the biggest cumulative and current supplier of seasonal labour to both Australia and New Zealand. It has shown growth in its supply of labour to both New Zealand and Australia every year, almost without exception (Figure 17). It has been successful in protecting its large market share in New Zealand and has done phenomenally well in gaining market share in Australia.

Figure 17: Vanuatu in the SWP and RSE



Sources: Australian Department of Home Affairs; New Zealand Immigration.

Vanuatu continued to grow its SWP numbers up to the time international borders were closed in March 2020. Visas were granted to 6,277 workers in the 12 months to the end of January. This was a 35 per cent increase on the previous 12 months, much greater than Tonga’s 12 per cent and Timor-Leste’s 22 per cent increase over the same period.

a. Governance arrangements

Vanuatu's overall approach to the governance of the SWP is an example of what we refer to as "government-light".²⁶ Vanuatu is also unique in its reliance on licensed agents. Overall, the government plays a minimal role, with most responsibilities delegated to the private sector.

Vanuatu's Seasonal Employment Act actually governs only RSE recruitment but is implicitly used to manage the SWP as well. It specifies two ways of recruiting seasonal workers. The first method is through a licensed seasonal employment agent, defined by the Seasonal Employment Act, as "a person ready to act for reward for the provision of services relating to the engagement of persons for seasonal employment outside of Vanuatu". Agents have to be licensed annually, and separately for the two schemes. The second method is direct recruitment, whereby an employer or their representative makes an offer of employment to a worker. Anyone engaged in direct recruitment is required to obtain a permit from the Commissioner of Labour which has to be renewed annually. As of late 2019, the permit fee is the same as the fee licensed agents are required to pay, to ensure agents are not disadvantaged.

There is no work-ready pool for seasonal work (there was one but it was abolished in around 2010), though one has recently been set up for PLS worker selection. The Employment Services Unit (ESU) manages the SWP and RSE on behalf of the Vanuatu government. The ESU sits within the Vanuatu Department of Labour and Employment Services, which is headed by the Labour Commissioner. The ESU is meant to be responsible for record-keeping, visa applications and pre-departure briefings, but is generally agreed to be under-resourced.

ESU administrative records for the period January to October 2018 (the ESU 2018 database) show that, of 1,012 workers recruited for the SWP in 2018, only 66 (7 per cent) were recruited directly. The other 93 per cent were recruited by licensed SWP agents. Direct recruitment by RSE employers or their representatives such as team leaders is more important, accounting for 78 per cent of the 1,953 RSE workers recorded by the ESU for 2018, with the remaining 22 per cent being recruited by licensed RSE agents. In other words, Australian employers use agents; New Zealand employers use direct recruitment.

The ESU 2018 database also shows that four out of five SWP workers (81 per cent) were recruited by labour hire companies, with the rest recruited by growers (who also mostly used licensed agents). A few employers dominate the SWP market in Vanuatu. The ESU recorded that in 2018, the top four approved employers of SWP workers accounted for two-thirds of SWP workers hired. They were all labour hire companies: MADEC Labour Hire, a not-for-profit; Jobs Australia Enterprises Ltd; Top of the Crop Labour Hire; and NQ Powertrain Pty Ltd.

In the same year, nearly half (44 per cent) of the RSE workers were recruited directly by five large RSE employers: two grower cooperatives (Seasonal Solutions Cooperative Limited (SSCO) and EastPack); two large, integrated producers (Crasborn Fresh Harvest Ltd, and Turners & Growers New Zealand Ltd, now T&G Fresh); and Hortus Ltd, a vineyard management services and labour supplier for viticulture and horticulture. SSCO alone accounted for nearly one-quarter (23 per cent) of all RSE workers recruited in that period.

²⁶ As with all of the report, our main focus is on the SWP, but we also cover the RSE where relevant.

The Vanuatu Government plays a minimal or no role in relation to worker welfare, trouble-shooting and promotion in Australia. Unlike the other two big sending countries, Timor-Leste and Tonga, Vanuatu does not have a labour attaché, relying on the Vanuatu High Commission to Australia to deal with serious matters involving SWP workers.²⁷ Promotion is left to agents.

b. Assessment

Four criteria are used to assess Vanuatu's governance arrangements: (i) attractiveness to employers; (ii) in-country compliance; (iii) equity in recruitment; and (iv) oversight of workers and promotion in Australia.

(i) Attractiveness to employers

Vanuatu now dominates both the SWP and RSE (Figures 11 and 12), and to this extent its recruitment arrangements must be regarded as a success. In the case of the SWP, large labour hire operators from Australia have relied on a small number of licensed agents who they have found responsive to carry the administrative burden of recruiting, preparing, and sending off workers. Agents and employer representatives not only recruit workers, but help them get their medical and police checks, visas and air tickets, and assist with pre-departure briefings. Some agents, with Australian residence, travel to Australia to assist and check on workers.

This method has delivered considerable cost savings to labour hire operators by minimising their recruitment costs. Instead of incurring the cost of travel to Vanuatu, the employer pays an agent a low recruitment fee per worker.²⁸ The small number of agents who the employers have engaged have understood their requirements well, as demonstrated by the rapid growth in SWP ni-Vanuatu numbers: an eightfold increase from 1,066 in 2011/12 to 8,457 in 2017/18.

Recently, there has been a large increase in the number of agents that Vanuatu has licensed. For political reasons, in 2018, restrictions on the number of SWP agents were removed and the number increased from 35 to 92 (Benko 2018; Dornan 2018). Employers report that they have been harassed by agents through frequent calls wanting to provide them with workers.

However, the 2018 ESU database shows that most SWP workers are still recruited by only a few agents. In 2018, four out of five ni-Vanuatu workers were recruited by only six agents, one of whom accounted for a third of SWP workers recruited by licensed agents. In the case of the RSE, six licensed agents were involved in recruiting workers. Most of the larger agents recruit for both schemes. Again, one agent dominated RSE recruitment, accounting for four out of five workers recruited via agents.

The Vanuatu government has recently taken measures to limit the number of licensed agents, based on denying licence renewals to agents who had not recruited any workers in the previous year. A November 2019 [communication](#) to agents from the Labour

²⁷ This support for workers usually applies to only serious problems such as the death of a worker or the laying of criminal charges. However, during COVID-19 international border closure, the High Commission has taken on a more proactive role in supporting workers.

²⁸ Based on an email survey of licensed SWP and RSE agents (response rate for SWP agents 57 per cent and RSE agents 35 per cent), agents complained about their lack of finance to carry out their role due to the low fees paid by employers in response to an open-ended question about difficulties experienced in recruiting workers. In follow-up interviews, agents indicated that the going rate was A\$100 per new worker recruited and that some employers only paid \$50 per return worker (Curtain 2018c).

Commissioner explicitly states that “[w]e are ... seeking to reduce the number of agents”. Applicants “unable to demonstrate ... a solid agreement with employers and/or the systems and experience to be an agent; and [who]... cannot provide references from employers ... will be submitted to the Licensing Panel with a recommendation not to approve [their] application”. The [2020 list](#) of SWP licensed agents shows that the number has been brought down from 92 to 65.

(ii) In-country compliance

The relationship between approved employers and licensed agents is often informal. Few employers provide agents with a formal contract, specifying set charges and their obligations (Curtain 2019a, pp. 16–17). According to one account:

Traditionally, there is no formal contract between approved employers and the licensed agents in Vanuatu. Supplier agreements are now required by the Vanuatu government, but are rarely used in practice. There are no rules of good practice, no code of conduct, and no mechanism for dispute resolution (Wade 2020).

Concerns that agents do not comply with national and each receiving country’s rules are long-standing in Vanuatu. The ESU has commented:

It’s difficult for ESU to have oversight. Agents don’t give the required data they should to ESU. Agents (without adequate monitoring) have a lot of power over workers who are desperate to travel with SWP. This power has been abused (illegal charging of workers) (Employment Services Unit 2020).

It has been known for some time in Vanuatu that some recruitment agents have been charging workers fees. The issue of agents charging workers fees was noted at Vanuatu’s Labour Mobility Summit in March 2018 and again at the RSE Employers Conference held in Port Vila on 17–19 July 2019.

It is sometimes argued, including by the licensed agents themselves, that payments from workers to agents are akin to customary gifts. However, the generally accepted case against agents charging workers recruitment fees is a strong one, based as it is on the high risk that low-skill workers will be exploited by an intermediary who controls the access to highly-paid jobs with a long queue of job seekers with the same skills (International Labour Organization 2014).

In 2018, legislation was mooted by the Government of Vanuatu to allow agents to charge workers fees. However, not only is charging workers expressly prohibited by existing Vanuatu legislation, it is also prohibited by New Zealand national law, Vanuatu law (the Seasonal Employment Act, though this applies only to the RSE) and the laws of four Australian States, as well as the bilateral agreement on the SWP between Australia and Vanuatu.²⁹

Some agents are successful businesspeople and are politically powerful. One was recently elected to parliament. While it will remain a difficult issue, government policy now seems to be firming against charging workers fees. A key factor has been pressure from the New

²⁹ Candidate fees are prohibited in Queensland, NSW, ACT and WA under employment agent and fair-trading legislation. The Seasonal Employment Act allows registered recruitment agents to charge a fee to the employer, but not to workers. The Vanuatu Employment Act, however, would appear to allow employment agents, as licensed businesses operating in the domestic labour market, to recover their costs through fair charges for services, charges that could be paid by the employer or the worker. This is a point that has been emphasised by agents, and reduced legal clarity (Bedford, Bedford & Nunns 2020, p. 158).

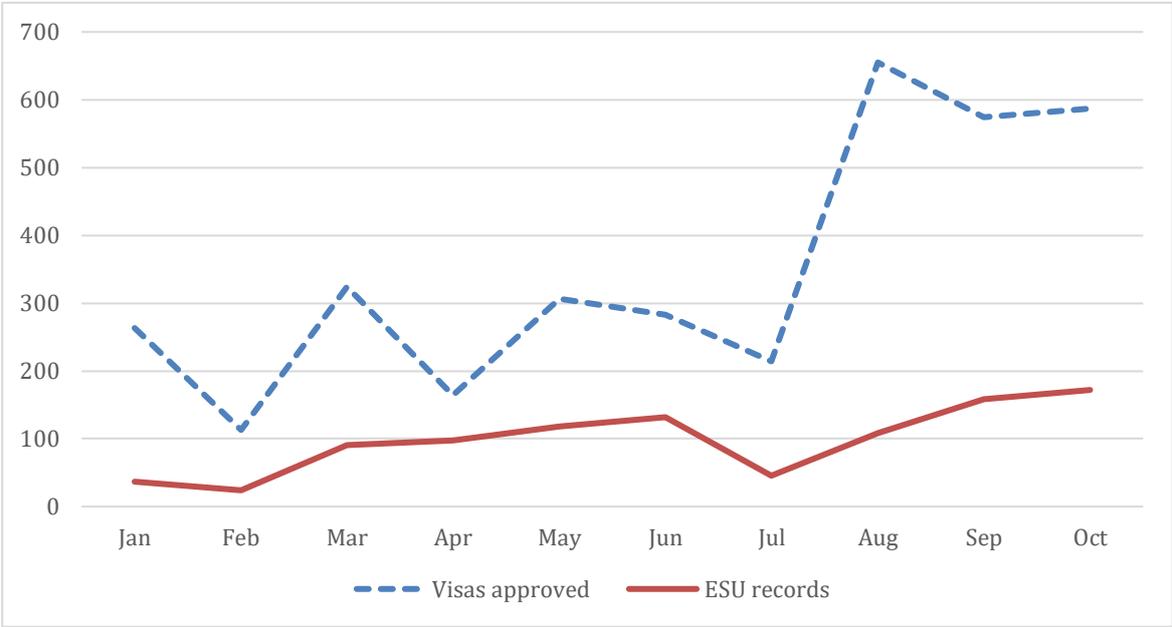
Zealand Government which has told RSE employers they are responsible for breaking New Zealand law if RSE workers are charged fees. Vanuatu’s new labour mobility policy discussed below requires that fees are to be charged to employers: “These fees are final, chargeable to and payable by an approved employer for the services related to identifying, selecting, recruiting and deploying the employees.”

Annual licensing requirements administered by the Department of Labour have also been changed, with agents applying for a licence now required to declare that they “do not charge workers for any services [they] provide or to obtain work” and “do not demand a payment from workers when they return from seasonal work”.

Action has also been taken against agents charging workers fees. The *Daily Post* reported that the Labour Commissioner did not renew a prominent recruitment agent’s licence, though the decision was later overturned after a judicial review. The agent concerned has been in business for 14 years and claimed to have recruited 10,000 seasonal worker positions over that time. Workers had lodged written complaints that the agent in question and three other agents had been charging fees.³⁰

While these measures to scrutinise the behaviour of agents more closely are commendable, the difficulties the ESU faces in ensuring in-country compliance is illustrated by the difficulty it has in simply keeping track of workers. Figure 18 compares the ESU records on a spreadsheet database with the number of SWP visas approved for the same months in 2018 and shows that 72 per cent of the SWP workers for that period have not been recorded. (The greatest gap between visas granted and the ESU records is in the harvest months of August to October.) RSE workers are better covered, but up to one-third of RSE workers’ records are missing for the same period.

Figure 18: Vanuatu SWP visas vs ESU records, 2018



Sources: Australian Department of Home Affairs; Vanuatu ESU 2018 database.

³⁰ The [written complaints alleged](#) that between A\$600 and A\$1,200 had been collected from individual workers on their return from either New Zealand or Australia. Vanuatu’s Minister of Internal Affairs is also quoted as saying that the Ministry had received a complaint letter from employers stating their disappointment that agents are charging workers excessive fees.

These inconsistencies do not necessarily mean that workers are being mistreated. However, it would seem that the ESU has been in the dark about a large number of workers who leave to work in Australia under the SWP. The situation may be improving, as the Vanuatu ESU is moving to an online database, and is now somewhat better resourced than in the past.

One important consequence of poor ESU record-keeping concerns the ban and stand-down lists of workers who have been permanently excluded or temporarily suspended from either the SWP or RSE. Once workers are selected, the ESU should complete screening and compliance checks to make sure all applications are complete and that the selected worker is not on the stand-down list. However, interviews with agents and workers show that the information on the blacklist is incomplete.

Bailey (2018) discusses the limitations of the blacklisting process in Vanuatu. Interviews with agents and employers revealed that employers who direct recruit seldom report back to the ESU on workers who have been returned home early due to misbehaviour or committing a criminal offence. Another limitation is that workers stood down from one program can seek employment on the other, due to poor record-keeping. Bailey recommends that employers and team leaders should be required to provide standardised reports at the end of each season on workers who have either not worked satisfactorily or have conducted themselves inappropriately during their time overseas.

Finally, Vanuatu could consider introducing a rating system for its agents, based on their past performance, as assessed by approved employers and workers, and their compliance with government requirements (see Curtain & Howes 2018).

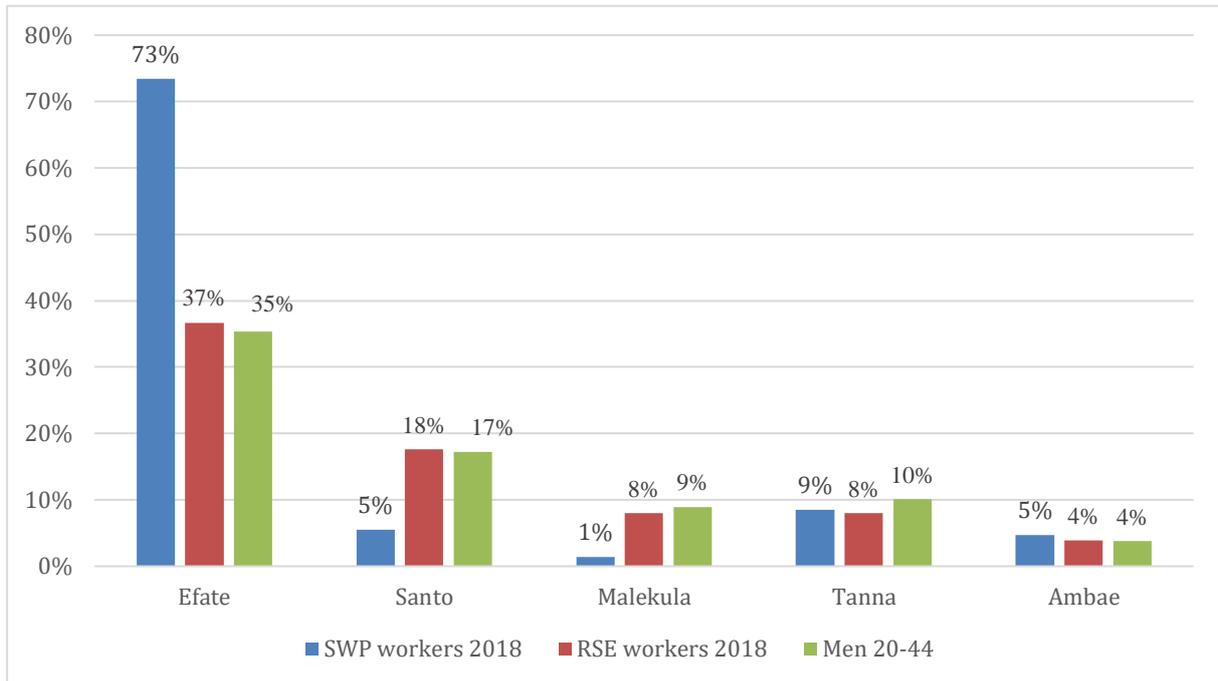
(iii) Equity of worker recruitment

According to an interview with Vanuatu's former Labour Commissioner, Lionel Kaluat, Vanuatu focused in the early days on selecting people from rural areas for seasonal work (Dornan 2018). However, data from the ESU 2018 database questions the extent to which this is still the case.³¹ Figure 19 shows Vanuatu's five most populous islands. It gives the share of each of the islands in Vanuatu's male population, aged 20–44, and the share of the SWP and RSE workforce who give that island as their "usual residence". An equitable distribution would match the share of a particular area in the actual SWP or RSE workforce with the share of that area in the potential seasonal workforce.

For Efate, the main island and home to Vanuatu's capital, Port Vila, the SWP has only 35 per cent of the population from which seasonal workers are recruited, but it supplies 73 per cent of all workers (Figure 19). Other major islands, Santo and Malekula, are correspondingly under-represented. The RSE shows a much more equitable recruitment distribution.

³¹ A caveat is that this is the same database used in the previous subsection, which showed it was incomplete. ESU records for the period January to October 2018 number 1,071, which is just less than a third of the SWP visa approvals of 3,483 for the same period.

Figure 19: Share of Vanuatu’s five main islands in SWP, RSE and the potential seasonal labour workforce, 2018



Sources: Vanuatu ESU 2018 database; Vanuatu Census. Note: Since the seasonal workforce is overwhelmingly male, we take the male 20–44 population as representing the potential seasonal labour workforce.

A closer look at the “usual residence” for each worker in the ESU 2018 database shows that most SWP workers are residents of the urban and peri-urban areas of Port Vila. Nearly all licensed agents reside in Port Vila. They have a strong incentive to recruit workers from close to where they live to minimise their costs. Australian labour hire companies also seek to minimise costs by not funding licensed agents to travel beyond Efate to recruit workers from the other islands. Port Vila as well provides access to a population with better English-language skills. Recruiters may also prefer to recruit from Port Vila because workers do not have to incur travel expenses to come to Port Vila for medical and other checks. Not least, urban residents may have the money to pay the fees some recruiters may be demanding.

The incompleteness of the ESU data might itself bias the results in favour of Port Vila workers. However, other data sources confirm the greater propensity of SWP workers to come from the island that includes Port Vila. The 2016 Mini Census for Vanuatu collected data on RSE and SWP workers and where they live. Efate, where Port Vila is located, accounted for 34 per cent of the population aged 15 years and over. However, 44 per cent of RSE and 64 per cent of SWP workers said they lived on Efate (Vanuatu National Statistics Office 2016a, 2016b). Similarly, information provided by a licensed agent shows that of 2,589 SWP and RSE workers they recruited up to April 2020, 61 per cent came from Port Vila or the immediate peri-urban area around Vila and 67 per cent in total came from Efate.

Of course, it may be that many of the workers who join the SWP from Port Vila may have themselves migrated to the capital from an outer island, perhaps specifically in order to find seasonal work. Some might be staying in Port Vila in between trips to Australia, rather than returning home. Bailey and Rereman (2019), analysing the same data, but looking at “island of origin” instead of “place of usual residence”, find an “even distribution [of RSE

and SWP workers] throughout provinces per head of population”. Vanuatu also has a relatively low level of SWP workers who were in paid work prior to departure: only about 25 per cent compared to the Pacific average of 35 per cent (World Bank 2018, p. 33). Nevertheless, the comparison between the SWP and RSE results indicates that Vanuatu could do better in terms of its goal of achieving equitable participation outcomes.

(iv) Oversight of workers and national promotion

Overall, Vanuatu workers have done well in Australia, with relatively few cases of absconding prior to the border closures this year although the situation has changed since (see [Section 7d](#)). There have been some isolated cases of employer exploitation (Dobson & Tuffield 2019).

However, given the large numbers now involved, it is inevitable that problems affecting workers will continue to crop up. Unlike the other two big sending countries, Vanuatu does not have a liaison officer in Australia (Roberts 2019). There is certainly a strong case for at least one. Trusted intermediaries can respond to the needs of workers, especially new workers. They can quickly identify potential problems that workers or employers may have in a particular workplace and help those involved to resolve the issue early. Liaison officers can also help with promotion.

The fact that Vanuatu does not have a liaison officer in either Australia or New Zealand reflects the way in which the government has outsourced SWP governance to agents and to large companies, who are expected to be able to trouble-shoot any problems that might arise with workers in Australia. The new National Labour Mobility Policy, discussed below, has recommended to government it appoint overseas liaison officers.

c. Looking forward

In November 2019, the Government of Vanuatu published the country’s first [National Labour Mobility Policy](#). Its aim is to “address the challenges that have emerged and embrace the opportunities for labour mobility as they arise”. The policy seeks to “address many uncertainties such as worker welfare and performance, recruitment practices, employer relations and government-to-government arrangements for the benefit of Vanuatu”.

Vanuatu’s new National Labour Mobility Policy is structured around eight key policy statements and within these, 13 policy priorities. Significantly for this report, a key objective is “to improve how labour mobility is governed and operated”. The policy reflects a number of the concerns raised in the previous section, with a commitment to make “labour mobility opportunities available to a wider range of people”, to greater resourcing, to the appointment of liaison officers overseas, and to “[i]mprove the integrity of Vanuatu’s recruitment process and increase protection for workers by ensuring high levels of compliance with the legislated and regulatory requirements for labour mobility”.

The national policy proposes that the Council of Ministers should formally establish a Labour Mobility National Committee with the mandate to implement the national policy and make changes to the Seasonal Employment Act to reflect the national policy. Also proposed is that the government increase funding to the Department of Labour to strengthen the delivery of labour mobility programs.

The national policy requires that copies and records of signed employment agreements between employers and workers be filed with ESU in the Department of Labour and that second copies be held by the recruiters. Finally, the national policy stipulates that an

official registry be set up with the details of all approvals and endorsements from villages and communities supporting the recruitment of their workers to labour mobility locations overseas.

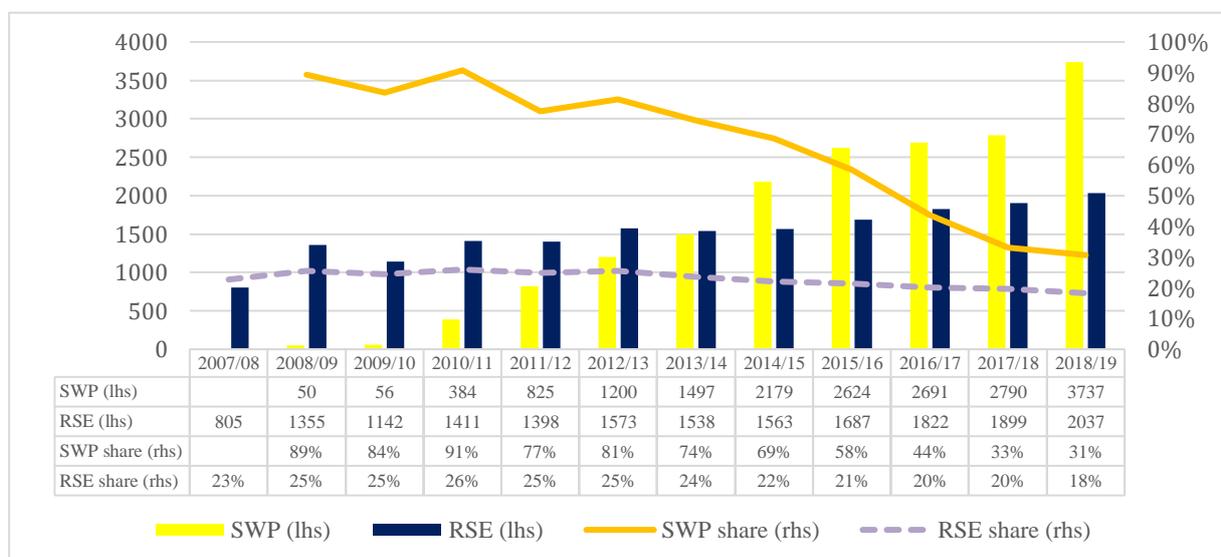
Overall, Vanuatu’s future successful engagement with the SWP will require a number of changes. Many of these are spelt out in the new National Labour Mobility Policy, but are yet to be implemented. The challenge for Vanuatu is to muster the political will to reform a system in which powerful agents are capable of mounting successful legal challenges and behind the scenes pressure to minimise scrutiny of their actions. Close monitoring of the breadth and depth of reforms will be needed through regular bilateral meetings (Section 7c). These meetings, in turn, will enable the Government of Vanuatu to monitor and provide feedback about the performance of DESE’s management of the SWP.

Just as this report was being finalised, Vanuatu’s Deputy Prime Minister announced that recruitment agents would be abolished, and that recruitment would instead become a government responsibility (Kalsakau & Willie 2020). The justification provided is to ensure there are fair opportunities for every province and to remove "politicisation" from the seasonal worker programs. This policy change would need to be approved by the Vanuatu parliament to come into force, and this has not yet happened. By way of response, we have argued that such a drastic reform would drive employers to recruit from countries other than Vanuatu (Howes & Curtain, 2020). A better approach would be to reform the current system along the lines of the new national labour mobility policy, and as advocated in this section.

5. Tonga

Tonga is the most remittance-dependent country in the world. However, despite extensive long-term outward migration, it has still been a major participant in the SWP and RSE. Tonga has sent more workers to Australia under the SWP than any other country (see Figure 8). However, over time it has lost significant market share to Vanuatu and Timor-Leste, and currently holds second place among SWP sending countries (Figure 20). Tonga has also been an important supplier of seasonal labour to New Zealand, though with a market share that has been gradually declining.

Figure 20: Tonga in the SWP and RSE



Sources: Australian Department of Home Affairs; New Zealand Immigration.

Growth in the supply of Tongan workers to Australia virtually halted between 2015/16 and 2017/18 but resumed in 2018/19. Prior to the pandemic, 2019/20 showed further growth but also further loss of market share to Vanuatu, with 3,906 workers or 28 per cent of all SWP workers for the year to the end of January 2020.

As per the Vanuatu section, we begin with a description of governance in Tonga, move on to an assessment, and conclude with a discussion of Tonga's new (though still draft) labour mobility policy.

a. Governance arrangements

Tonga's governance model is similar to that of Vanuatu; indeed, in some ways Tonga's "government-light" approach is even more hands-off. Although no agents are licensed, Tonga relies heavily on direct recruitment facilitated by a number of intermediaries. A small work-ready pool (until recently with only 200 workers, but now somewhat larger) is maintained by the LSU. According to the Tonga LSU, only 2 per cent of SWP workers are recruited from the work-ready pool "usually when there is a need for replacement of workers" (Ministry of Internal Affairs 2020). More recently, however, with the adoption of a new labour mobility policy which emphasises the value of employers recruiting through the work-ready pool, more effort is now going into registering workers for this method of employer selection.

Direct recruitment also takes place through an approved or recognised employer's team leaders or other return workers who are asked to select new workers. They select workers from their own community, or from a nearby community. The Tongan diaspora also plays an important role in recruitment (as intermediaries and employers), as discussed in [Section 3c](#) and further below.

In earlier years, local government officials (town and district officers) were involved in the worker selection process, but are no longer, though there has been a recent attempt to reinvigorate community selection as part of the work-ready pool strengthening discussed above.

Regulation of the SWP and RSE is the responsibility of Tonga's Labour Sending Unit or LSU, which sits within the Ministry of Internal Affairs. LSU records for 2018 for 1,556 SWP workers recruited in 2018 (the LSU 2018 database) show that 66 per cent were employed by labour hire operators and the rest by growers. Out of the top five SWP employers, four were labour hire companies: Plant Grow Pick Pty Ltd; SA & TK Namoa Pty Ltd; MADEC Labour Hire; and Job Australia Enterprises Ltd. The grower in the top five employers was Hillwood Berries Pty Ltd in Tasmania.

Despite the leading role Tonga has played in sending workers to Australia and New Zealand, no legislation governing the recruitment of seasonal workers for the SWP or RSE has been in place over the decade to March 2020. Nor have there been any government regulations spelling out the responsibilities of those recruiting workers and requiring measures to safeguard Tonga's reputation as a sending country. A new labour mobility policy was endorsed by Cabinet in early 2020, but has not yet been published. In 2017, Tonga appointed a labour liaison officer to Australia, resident in Tasmania, to match the long-established position of liaison officer in New Zealand.

b. Assessment

The assessment uses the same four criteria applied to Vanuatu: (i) attractiveness to employers; (ii) in-country compliance; (iii) equity in recruitment; and (iv) oversight of workers and promotion in Australia.

(i) Attractiveness to employers

Assessed against the numbers, the Tongan approach must be judged successful. Tonga is the second-largest supplier of seasonal labour to Australia and New Zealand. And, per head, it is by far the best represented country in both of the two schemes. The clear attractiveness of Tonga to employers has a lot to do with the government's relaxed approach to recruitment. In the words of a senior Tongan government official:

Giving employers the liberty to select their own workers with facilitation support from the LSU is one of the positive aspects of Tonga's SWP recruitment (Ministry of Internal Affairs 2020).

Specifically, Tonga's private sector oriented approach has enabled the emergence of responsive labour market intermediaries from a regionally based diaspora who can provide support services in both Tonga and in Australia and who, as discussed in Section 3c, helped Tonga gain the first-mover advantage in Australia.

The top two SWP employers in 2018, according to the LSU 2018 database, were two labour hire businesses with strong Tongan connections. Plant Grow Pick Pty Ltd, a Queensland registered labour hire company, accounted for 27 per cent of all SWP workers recruited, as per the 2018 database. The business is owned and operated by Walter Fangatua, a Tongan resident in Australia and his Australian-born wife Melissa. S.A. Namoa & T.K. Namoa, a labour hire business owned by Siale and Talahiva Namoa, Tongan-born residents of Bowen, Queensland, accounted for 9 per cent of 2018 SWP workers.

Other labour hire companies use Tongan intermediaries. MADEC Labour Hire, the SWP's biggest employer, engages Tree Minders Pty Ltd, owned by a Tongan resident family based in Robinvale in northwest Victoria, to provide recruitment services. Owen Pacific Workforce, the second biggest, uses the services of a Tongan-based agent to recruit workers.

Other Tongan intermediaries provide recruitment and pastoral care services to approved employers. For example, Tongan-born Martin Tindell, who is based in Sydney with extended trips to Tonga, has for over 12 years provided such services to medium to large growers who are approved employers.

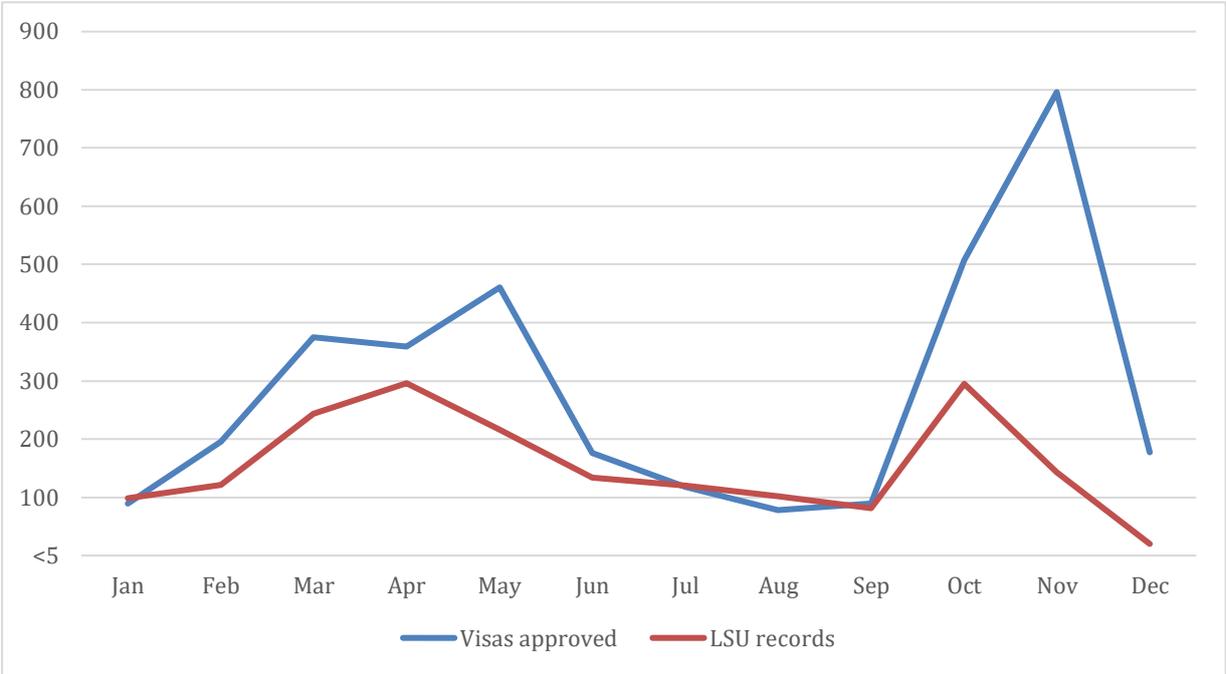
Other Australian resident Tongans are also involved in bringing much smaller numbers of SWP workers to Australia. For example, one Tongan resident in Australia places family members from Tonga with SWP approved employers, using the same returning workers for up to eight seasons.

(ii) In-country compliance

In theory, the LSU is responsible for the final vetting process for workers to obtain their visas. As with Vanuatu, however, the Tongan LSU has been under-resourced, and has found it difficult to keep track of workers. Comparing visa and LSU records for 2018 shows that 45 per cent of the SWP workers granted a visa during this time are not in the LSU 2018 database. As with Vanuatu, the gap between visas granted and the LSU records is greatest during the summer harvest season from September to November (Figure 21). It is likely

that many visas are arranged by employers and their informal agents. It is suspected that small recruiters and employers, with weak administrative capacity, may be responsible for this gap.

Figure 21: Tonga SWP visas vs LSU records, 2018



Sources: Australian Department of Home Affairs; Tonga LSU 2018 database.

The LSU is also responsible for providing pre-departure briefings, and for ensuring that workers understand and have signed their offers of employment. However, as in Vanuatu, approved employer satisfaction ratings have showed that they have been unsatisfactory (Section 3e). They have been delivered to often large groups of workers over three hours, by a trainer with no experience of living and working in Australia.

Although the LSU is now putting more effort into ensuring that all workers are registered on its database, this lax record-keeping has been costly in the past. There was an accident in New Zealand which caused four deaths. The workers had been recruited and processed by a direct employer, without the knowledge of the LSU and so they had no information on these workers. However, the LSU had to get involved to deal with the deaths.

However, there are also examples of the LSU and workers cooperating. One Australian labour hire company recruited up to 600 workers. The LSU agreed to share the costs of sending the medical officer and a visa officer to Vava’u, from where the workers had been recruited. This saved money for workers as they did not have to come to the capital early and incur additional accommodation and transport costs.

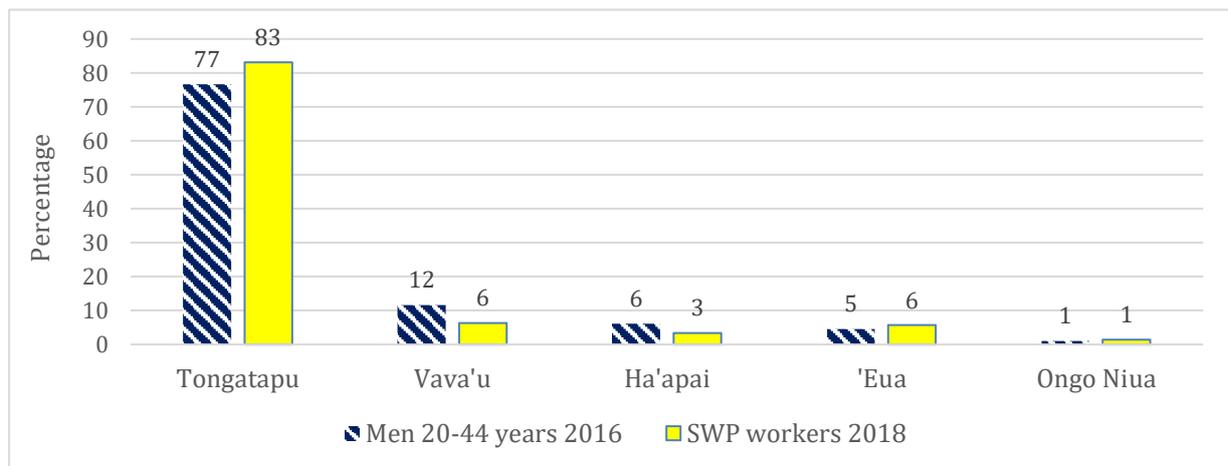
The practice of charging workers recruitment fees does not seem to be as widespread in Tonga as it is in Vanuatu. This may be because agents have a less formal role, and so perhaps less power. However, feedback has suggested that some recruiters charge workers a fee for lodging online visa applications (\$100 pa’anga per person).

(iii) Equity of worker recruitment

One claimed strength of the Tongan approach is that recruitment of workers has come from all island groups and rural areas. Figure 22 compares the share of SWP workers from

each geographical region of Tonga with that region's share of the adult male population aged 20 to 44 years. (As with Vanuatu, Tonga's seasonal work force is overwhelmingly male – see Figure 9.) There is a bias towards Tongatapu (the main island which includes the capital), and the second and third largest regions have a share in the SWP that is only half their population share. For the two smallest regions, the share of SWP work is close to that expected if distributed equitably. Overall, recruitment does not seem fully equitable, but the situation is better than that in Vanuatu. Tonga's share of workers in prior paid employment was also lower than Vanuatu's: about 15 per cent compared to Vanuatu's 25 per cent (World Bank 2018, p. 43, Figure 5.3).

Figure 22: Share of Tonga's five main islands in the SWP and the seasonal labour population base



Sources: Tonga 2018 LSU database; Tonga Census. See note to Figure 19.

Whereas the share of female SWP workers (from all countries) only increased from 14.5 per cent in 2012/13 to 17.9 per cent in 2018/19 (see Figure 9), Tonga's share increased from 11.5 per cent to 17.3 per cent over the same period. More work is needed to understand why recruitment in Tonga has become more gender equitable. One reason might be the large share of men already working as seasonal workers. Another might be shifts in the horticultural work Tongans are being recruited for towards crops where employers are more favourable to women, such as berries. Another reason might be changes in social attitudes.

Tonga also stands out for having the highest share of seasonal workers to population – by a long way (see Figure 10). It may be that employers have adjusted to a scarcity of younger workers by recruiting more women, and also by recruiting older workers aged 46 and above. The LSU 2018 database shows that 8 per cent of workers were aged between 46 and 59 years.³²

(iv) Oversight of workers and national promotion

As mentioned in [Section 3c](#), a major problem for Tonga's management of the SWP has been a high number of absconding workers. In the period December 2017 to July 2018, some 99 workers had absconded from their employer.³³ The response of the LSU has been to seek greater involvement of local government officials and the revived Village Councils in the vetting of workers for the work-ready pool to ensure that workers in the pool are

³² The [age range](#) for SWP workers was 20 to 45 until January 2014 when the upper age limit was removed.

³³ Based on the analysis of the Tongan liaison officer in Australia.

reliable workers. Recruitment of workers from other island groups, perhaps selected by community leaders, is one way to minimise the risk of workers absconding. One labour hire operator with the largest number of absconding workers (one in three of the absconding workers) started recruiting in November 2018 from other island groups, relying on community involvement to select workers. The problems that Tonga has had with absconding workers is reflected in its low score on the index of reliance on returned workers compared to the other two big senders (see Table 4).

Part of the problem lies within Australia. Informed observers suggest that workers who abscond do so often at the urging of and support from their extended family in the Tongan diaspora, and in response to unsubstantiated offers by diaspora members of better paid jobs in Brisbane or Sydney.

In response to the problems with absconding, the Tongan Government, which had for some time funded a liaison officer in New Zealand, funded a liaison officer in Australia, resident in Tasmania, who was expected to cover Victoria, South Australia and Tasmania. The case for an additional liaison officer position in Australia located in Queensland where there is a concentration of Tongan workers has been made and accepted. However, the Ministry of Finance has not approved the allocation of funds for the position.

Absconding seems to have become less of a problem in the last two years, and the numbers of Tongans coming to Australia under the SWP is on the increase again.

c. Looking forward

Tonga's new labour mobility policy was approved by the Tongan Government in early 2020, but has not yet been published. A draft of the policy acknowledges that issues such as exploitation of workers, absconding, and misconduct by recruiters and contractors are real threats that affect not only the workers and their families but also Tonga's reputation and continued participation in labour mobility programs.

To address these problems, the policy proposes the rehabilitation of the work-ready pool. While the policy would still allow direct recruitment, it expresses a preference for employers to select via the work-ready pool to provide greater control over the selection of workers.

It is unlikely that employers will accept a government requirement to select workers through a revamped work-ready pool. SWP and RSE employers will continue to insist that they or their team leaders should select the workers from the communities they know. Any changes in recruitment will require a strategy that employers have helped to design so it has their full support.

Speaking at a workshop in early 2020, the CEO of Tonga's Ministry of Internal Affairs, where the LSU is located, acknowledged that there had been "limited resources invested [by the government] in worker welfare and mitigation of negative social impacts". The presentation noted the "need for improved worker welfare services in Australia and a dedicated worker welfare capacity within the LSU to provide support to families as well as workers" (Ministry of Internal Affairs 2020). Whether the government will act on these insights remains to be seen.

While the presentation acknowledged the problems Tonga had been facing, it made no mention of wholesale change. The presentation argued that the new liaison officer in Australia had a critical role to play in "building good relationships with employers and addressing issues which may affect [the] welfare of Tongan workers in Australia or

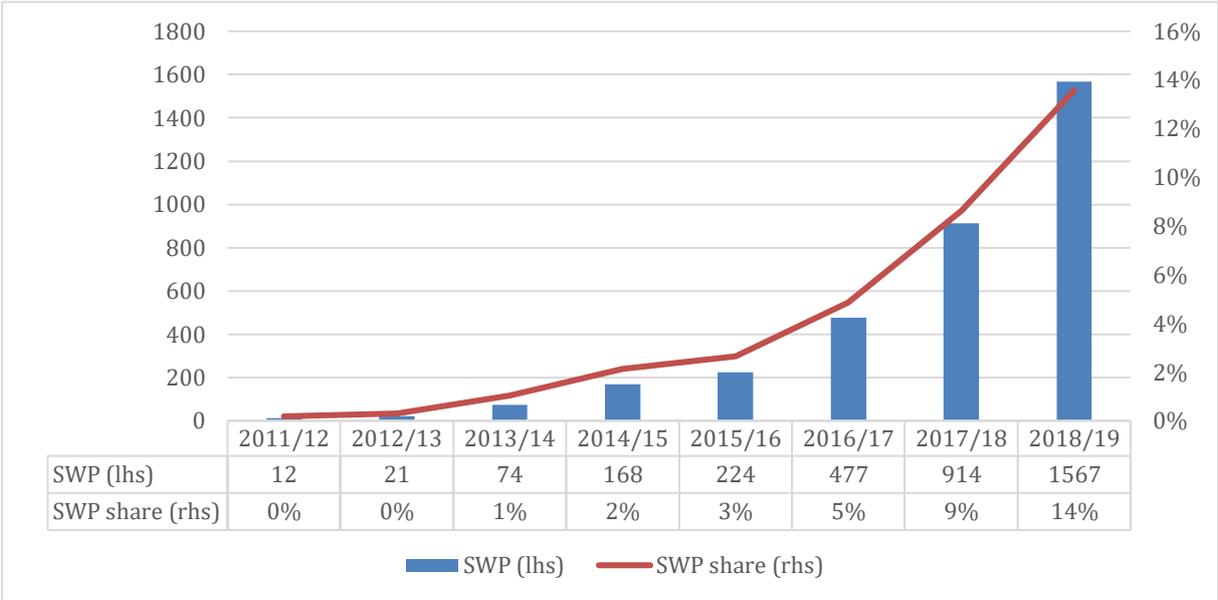
behavioural issues which may affect demand for Tongan workers” and noted the “need to regulate recruitment to avoid opportunities for corruption by contractors and local agencies” (Ministry of Internal Affairs 2020).

6. Timor-Leste

Labour mobility is becoming increasingly important for Timor-Leste’s economy, as shown by the size of a growing diaspora living in Ireland and England, accessible via their Portuguese passports available to Timorese born before Independence in 2002 (Wigglesworth 2017, 2018). Since 2006, the country has sent 300 to 400 workers to Korea each year via the Korean Employment Permit system for three-to-five years of low-skill work (Curtain et al 2016, p. 17). Remittances are now Timor-Leste’s third most important source of foreign exchange after oil and aid (Curtain 2018a).

Timor-Leste does not participate in New Zealand’s RSE, but is a SWP success story, with rapid growth in numbers and market share, despite its late admission (Figure 23).³⁴ Timor-Leste overtook Samoa to claim third place in the SWP in 2015/16, and now sends more than double Samoa’s numbers.³⁵

Figure 23: Timor-Leste in the SWP



Source: Australian Department of Home Affairs.

Timor-Leste’s case is also interesting because its approach is so different to that of Vanuatu and Tonga. Whereas the latter two countries have taken a “government-light” approach, Timor-Leste’s approach is “government-central”. Timor-Leste, with a population of 1.3 million in 2020, is also a much bigger country than either Vanuatu (population 300,000) or Tonga (population 100,000). Timor-Leste, again unlike all Pacific countries, had a long, traumatic, and hard-won path to independence, the effects of which

³⁴ Even before the SWP, a program was started in 2008, with support from a prominent WA politician, to send workers on an occupational training visa to work in the Kimberley with an accommodation provider. Information based on interviews with Kimberly Accommodation in July 2018 by Richard Curtain. See also Kalmar (2012).

³⁵ Interestingly, there was no growth in Timor-Leste’s share of SWP workers in the year to end January 2020 (13.4 per cent). It is too early to say whether this is a sign of trouble to come.

have shaped current politics and institutions. All these factors have influenced Timor-Leste's response to the opportunity for their low-skill citizens to get work in Australia.

a. Governance arrangements

The Timor-Leste LSU (officially, the National Directorate for External Employment), which also manages the Korea scheme, plays a more central role than its counterparts in Tonga and Vanuatu. It has had up to 27 staff, a number of whom are funded by the PLF though with recent budget cutbacks, staff numbers have been reduced.³⁶ By contrast, the Tonga LSU and Vanuatu ESU have typically had four to five staff each.

Timor-Leste is also different to the other two main sending countries in that it puts a lot more emphasis on its work-ready pool. Recruitment of SWP workers in Timor-Leste via the work-ready pool is carried out under government control in five stages (see National Directorate for External Employment 2020b, Factsheets 1–3). Job seekers apply to be registered. If they have the necessary documents and meet the program's eligibility criteria, potential workers are screened (for fitness, and English) and if successful are selected for the work-ready pool. A shortlist of workers is then provided to interested employers, according to the selection criteria they specify based on fitness, English-language ability and prior experience. Those selected by the employer are then asked to pay for and undergo a medical check-up. The LSU provides pre-departure briefings and assists with visa applications.

The work-ready pool was historically largely constituted by Dili residents, but a recent reform and campaign by the National Directorate for External Employment to enable jobseekers to apply to register for the work-ready pool in each district has led to its reconstitution with participation from throughout the country. As of March 2020, there were 5,900 people in the work-ready pool. The target is 8,000.

The traditional strengths of the SWP in Timor-Leste have been the responsiveness of the LSU to employers, and the country's strong presence in Australia. Timor-Leste has long had a labour attaché in Australia. It was the first country to fund such a position, and it has been an effective way to promote Timorese participation. Until recently, there has also been an Australian-based assistant labour attaché responsible for administration of the scheme, liaison with employers and trouble-shooting. In fact, until mid-2019, the assistant labour attaché's role, working from the Timor-Leste Embassy in Canberra, was to provide employers with a shortlist of workers for them to choose from, to ensure that medicals and police checks were completed and to apply for visas for workers. In July 2019, however, these functions were handed to new and less experienced LSU staff in Dili (National Directorate for External Employment 2020a). The position of the labour attaché was relocated to Darwin. The other Canberra-based position of assistant labour attaché has been vacant since the end of 2019.

We know from [Section 3e](#) that employers do not like to be constrained to hire from a work-ready pool. Nevertheless, Timor-Leste's approach to mid-2019 worked well. In part, this was because the Australian-based staff worked closely with employers to ensure their needs were met. Employers of Timor-Leste workers also make more use of return workers than employers of any other SWP nationals (see Table 4). When they wanted to expand,

³⁶ The Timor-Leste presentation at the AEA workshop, 6 March 2020, noted that the 27 staff comprised public servants (6), contract staff (9), interns (3) and DFAT-funded program personnel (10), with various contract ending dates (National Directorate of External Employment 2020a). Two coordinators and four administrative staff have been funded by the PLF. However, many of these positions by July 2020 had been made redundant or are vacant.

employers were able to ask their return workers to suggest new candidates who were processed by the LSU. In other words, in practice Timor-Leste's model has in the past functioned as a mix between work-ready pool for an employer's initial recruitment, managed by the Canberra-based labour attaché, and direct recruitment for subsequent recruitment rounds, facilitated by the LSU.

Following elections and a change of political leadership, Timor-Leste stated in mid-2019 that it was unhappy with this practice from an equity perspective. Initially the LSU flagged that it would stop employers from re-employing return workers at all. However, after protests from employers, the LSU position now is that all new workers must be recruited from the work-ready pool. If an employer asks for a specific worker, and that worker is not already in the work-ready pool, then that person has to go through the steps required to register and be tested for entry to the work-ready pool. This often involves an extended delay which means that employers have to forgo their choice. Indeed, the Timor-Leste Government has indicated that one of the factors that they want to take into account in selecting new workers into the SWP is how long they have been in the work-ready pool: in other words, the employer has no guarantee of being able to select the workers they have inducted into the pool. This has become a major point of dispute between employers and the LSU, discussed below.

b. Assessment

(i) Attractiveness to employers

As can be seen from the numbers, Timor-Leste has been an attractive source to employers for hiring. Its LSU, under different staff now dismissed, was seen as responsive, and to value its partnership with employers. In the past, it has organised visits by prospective employers to Timor-Leste. However, for the future its system faces two major challenges.

First, because there is so little outsourcing of key roles, there is a risk that the LSU will become a bottleneck. The LSU has itself admitted that it is "not fully prepared to perform their administrative tasks as they are still learning on the job and are not resourced to cope with increased recruitment workloads" (National Directorate for External Employment 2020a). The same presentation noted that "the lack of leadership inside the LSU is a problem", and that it is struggling to meet employer turnaround demands.

While the LSU was seen by approved employers as relatively competent, this changed with a complete staff clean-out in 2019 due to corruption charges (discussed further below), and a temporary drastic reduction in staff in the same year due to non-approval of the national budget by parliament.

The risk of the LSU becoming a bottleneck has also increased recently due to various factors: a growing number of workers; the transfer of core functions from the embassy in Australia to Timor-Leste; and a more geographically dispersed work-ready pool. The latter means much greater difficulties for the LSU in communicating with selected workers to get quick answers and to organise to bring them to the capital.

There is also the contentious issue of return workers, discussed in the previous subsection. The dissatisfaction of approved employers is evident from the survey results of [Section 3e](#), where they rated their satisfaction with the Timor-Leste LSU well below that of Tonga or Vanuatu. Employers are being forced to use their least preferred recruitment method: mandatory selection from a shortlist over which they have no control. Employers would rather hire someone nominated by a return worker (a trusted intermediary) even if the nominee has not passed a fitness or English test. Major employers of Timorese

workers have indicated by interview that if they could not use return workers to select workers they can trust, they will not recruit any new workers from Timor-Leste.³⁷

The government is also unhappy, noting that “Employers trying to select family and friends of existing workers as new workers [are] causing big challenges for LSU by bypassing selection criteria to WRP process” (National Directorate for External Employment 2020a). The government is driven by equity considerations, and the expectations it has created by telling some 8,000 workers that they have been selected into the SWP work-ready pool. In 2018/19, 1,568 Timorese were given SWP visas, but only 861 workers had never had one before. At that rate, it would take more than a decade for everyone in the work-ready pool to be selected.³⁸

It is unclear how the stand-off will be resolved once recruitment resumes after the current disruption.

(ii) In-country compliance

Reflecting its government-centric approach, Timor-Leste would seem to have an excellent and comprehensive worker record. But that is not to say that compliance has been a non-issue. Rather, the problems have been internal to government. There have been many claims that workers in Dili have had to pay bribes to be selected. In March 2020, the old LSU team was removed *en masse* due to serious allegations of corruption and nepotism in the system. In April/May, a new LSU team was appointed, including a new head who lacked previous experience in labour mobility. While the details of the allegations are unclear, it is likely that the more powerful the government regulator in any sector, the greater the risks of corruption. (This is certainly a problem that has faced PNG, another country that has given its work-ready pool a monopoly: see Curtain 2018b.)

(iii) Equity of worker recruitment

We lack the data available for Vanuatu and Tonga concerning the recruitment location of Timorese SWP workers. But it is well known that recruitment to date has been Dili-centric.³⁹ Indeed, this is the motivation for the government’s recent reforms to decentralise recruitment into the work-ready pool and give it nationwide coverage. It is also apparent from the fact that, of the countries surveyed, Timorese SWP workers had the highest rate of paid employment prior to recruitment: slightly more than 50 per cent (World Bank 2018, p. 43, Figure 5.3).

On the positive side, Timor-Leste has the highest rate of female participation in the SWP of the big sending countries (see Figure 9). This is in small part due to a special connection established with resorts in Broome (now supported by Australian aid funded hospitality

³⁷ One large approved employer of Timorese workers provided this comment (30 August 2020): “[T]hey do almost anything to not allow requested workers. They basically give the employer a list from which the employer can select. This has been a very contentious issue because a recommendation from a valued seasonal worker is much better to us than a person put on the list because he or she has been waiting a long time. It may even be a favourite of the [LSU] worker. This is annoying because we invest a lot of money to bring this worker to our business, airfares, visa costs, accommodation and if they are not competent we have wasted time and money.”

³⁸ The government’s own estimate is that it can take up to five years in the pool to be selected (see National Directorate for External Employment 2020b, Factsheet 1), but this seems over-optimistic. While Timor’s total SWP numbers can be expected to increase over time, the share of first-time workers will fall.

³⁹ Anecdotally, it appears that many of these are young people who have come to the capital from rural areas to pursue education and employment.

training), but more importantly to employment in the harvesting of particular crops such as berries and mushrooms where employers often favour women.

(iv) Oversight of workers and national promotion

Of all the participating countries, Timor-Leste has probably done the best job of promotion and oversight in Australia, with a labour attaché and an assistant labour attaché resident in Australia since 2014 until 2020. It is unclear why Timor-Leste seems to have done away with the Canberra-based position of assistant labour attaché which was widely seen as working well (Section 6a). However, the changing political conditions in Timor-Leste may have played a part in asserting control from Dili, even at the expense of good relations with employers.

While Timor-Leste has not traditionally had a problem with absconding workers, workers have started to abscond following the international closure of borders this year. See the concluding Section 7d for further discussion.

c. Looking forward

While Timor-Leste has been a successful SWP participant to date, its continued success is far from assured. It currently faces dissatisfaction both from employers (Section 3e) and from the thousands whose expectations have been raised by selection into the work-ready pool, but whose prospects of actually being selected for the SWP are minimal.

How Timor-Leste will resolve this dilemma remains to be seen. If it sticks to its current work-ready-pool-only policy, employers will look elsewhere for workers. If it relaxes it, it risks creating antagonism and protests among those who have been selected for the work-ready pool, but tire of waiting for the opportunity to go to Australia.

7. Conclusion

This section brings the threads together of all the preceding sections. We return first to the governance of labour mobility in sending countries, and then its governance in Australia. We conclude by looking at the interactions between the two sets of countries, and with some observations in relation to the current COVID-induced crisis.

While we cover a lot of ground, it should be kept in mind when reading the conclusion that the purpose of this study is not to look at every issue that governments confront in their management of the SWP. For example, concerns have been raised by some governments about the impact of participation in seasonal work on agricultural production and on family welfare, and about whether remittances are being used effectively (Dornan 2018). These issues are beyond the scope of this report. We do note, however, that existing evaluations do not support many of the concerns raised, for example that there is a negative impact on agriculture (see World Bank 2018). Moreover, these are often not concerns that relate to the governance of labour mobility. Rather, they are ones that need to be addressed through other policy instruments, such as improvements to the business environment so that returning workers are more likely to make successful investments with their seasonal worker income.

a. Sending countries

Managing seasonal labour is not an easy task for sending countries. On the one hand, they must worry about competition from other countries. On the other, seasonal labour jobs are very attractive, and there is intense domestic competition for them. There is also

limited information about how workers are selected, and genuine concerns for worker welfare and for equity.

Perhaps the most striking feature across the countries of the Pacific and Timor-Leste when it comes to seasonal labour mobility is their varying levels of participation. If all countries participated to the same extent, they would all have the same ratio of workers to population. But, as we saw in [Section 3](#), in fact these ratios vary by orders of magnitude: from 14 per cent in Tonga to almost zero in PNG (Figure 10). This is indicative of the fact that the SWP operates not as an aid program but as a private sector, employer-driven scheme. There is massive excess supply of seasonal workers in the eligible sending countries, and therefore employers can be choosy. Clearly, they find some countries are a lot more attractive to recruit from than others.

Of course, seasonal labour success cannot be reduced to numbers. But, in the long term, quantitative and qualitative performance go together. Workers who have a good experience will be asked to return and will want to go back. So, explaining this huge variety in participation rates is indeed a good proxy for broader labour mobility performance.

In [Section 3](#), we outlined some factors favouring some countries, in particular the early-mover advantage ([Section 3c](#)), and other factors disadvantaging others, such as overall poor governance. [Section 3d](#) also highlighted that a common characteristic of the most successful countries is their high reliance on return workers, who are a critical glue in seasonal labour mobility: boosting productivity, taking on more senior roles, and becoming trusted intermediaries asked to select new workers.

An additional conclusion from the analysis of Vanuatu and Tonga is that the largest sending countries attract the largest employers of seasonal workers. Similar data are unavailable for Timor-Leste, but we know from [Section 2b](#) that SWP demand is concentrated among just a few employers, with only four responsible for almost half the authorised SWP positions since 2012. We also saw in [Section 3e](#) that approved employers rarely recruit from more than two or three countries. Having one of these large employers recruit from your country is a great asset. Not only do they hire a significant number of workers, but, if they are a labour hire company (as most are), they have the potential to hire many more, as their capacity to hire is not limited by their land holdings, but by the number of farmers they can recruit to their service. Also, these large companies have the capacity to make a fragile system work, and to help take on, either directly or indirectly, governance functions such as worker selection, visa processing and contributing to pre-departure briefings.

But why are some countries successful in having a higher ratio of return workers, and at attracting large employers? While factors external to the performance of the sending country, such as an early-mover advantage ([Section 3c](#)), no doubt play a role, our analysis also reveals the critical role played by sending-country governance.

Our discussion of the three major sending countries in [Sections 4 to 6](#) made a fundamental distinction between Tonga and Vanuatu on the one hand, with their “government-light” approach to labour mobility governance, and Timor-Leste on the other with its “government-central” approach.

[Table 7](#) develops this typology, showing how the different aspects of labour mobility governance are managed by a sending country under these two different approaches.

Table 7: The government-central and government-light approaches

Governance aspect	Government-central	Government-light
Recruitment	By employer but from government-selected work-ready pool	By employer (or their agent) without constraint
Visa processing	By government	Employer/agent also helps
Promotion	Strong role for government	Weak role for government
Welfare and wellbeing	Strong role for government	Weak role for government
Receiving-country presence (liaison officer)	Yes	No

Note: All references to government are to the sending-country government.

Vanuatu meets all the criteria for being classified as government-light, and Tonga all except the last criteria (now that it has a liaison officer in Australia, resident in Tasmania). The approaches of Vanuatu and Tonga are in fact similar. The main difference is that agents are required to be licensed in Vanuatu, whereas in Tonga intermediaries play a more informal role.

Timor-Leste, by contrast, meets all the criteria to be classified as government-central. This is particularly the case since the recent government announcement that any workers recommended by employers have to first be inducted into the work-ready pool and that even then there is no guarantee that they be hired. That requirement has meant that recruitment from a pre-formed work-ready pool is no longer an option but is now mandated.

Of course, the two classifications are ideal types, and there is plenty of room to fall between these two extremes. We attempt a classification in Table 8. We classify PNG, Kiribati, Tuvalu and Nauru with Timor-Leste as government-central since they too mandate hiring through a work-ready pool. Recently, PNG has introduced reforms to decentralise the work-ready pool to various provinces, but employers are still not allowed to hire directly.

The other three countries are classified as being in between the two extremes. Fiji has a work-ready pool of workers selected through a village-based nomination process. However, return workers are allowed to nominate workers for the following season at the request of the AE, provided they are inducted into the work-ready pool by passing the relevant tests. Solomon Islands and Samoa likewise maintain a work-ready pool, but also allow employers to recruit directly.

Table 8: Classification of sending countries by governance type

Country	Classification
Vanuatu	Government-light
Tonga	Government-light
Timor-Leste	Government-central
PNG	Government-central
Kiribati	Government-central
Nauru	Government-central
Tuvalu	Government-central
Fiji	In between
Solomon Islands	In between
Samoa	In between

Finally, Table 9 spells out the costs and benefits of the two approaches.

Table 9: Pros and cons of the government-central and government-light approaches

Government-central	Government-light
More of a burden on government	Less of a burden on government
Only works if governments responsive	Employers prefer direct recruitment
More risk of public sector corruption	Risk of corruption within the private sector
May be more equitable and reduce brain drain (though depends on selection method)	Employers prefer to select new workers through return workers.
No need for agents	Reliance on agents comes with risks
Receiving-country presence enables more worker problem-solving	More difficult to manage the workforce in-country
Stronger government promotion effort	The private sector promotes on your behalf

We draw out three lessons from the above analysis. First, we would caution against sending governments insisting on employers using a work-ready pool to select workers. Employers do not like it, and it fails to exploit the potential of return workers to make seasonal labour mobility work better. It is also too exposed to the risk of governance failures: this is what has undone PNG in the past.

Timor-Leste has made a work-ready pool work in the past by a reliance on staff in Australia, and by allowing employers to nominate workers into that pool. Now that Timor-Leste has discontinued its utilisation of Australian-based staff and removed employer flexibility (by shifting from an “in-between” to a “government-central” model in the words of Table 8), its prospects for growing its worker numbers are not bright.

There is also no guarantee that use of a work-ready pool will promote equity: while Timor-Leste has done well in terms of reliance on female workers, it has done poorly in terms of providing opportunities for rural workers. Managing a large pool based on a wide geographical spread is a challenging task for any government, and, as the Timor-Leste experience shows, can create unrealistic expectations among potential workers. The need to promote equity can be better approached by encouraging or incentivising employers to recruit more women and rural residents, and making sure communities are aware of the opportunities available.

Second, we would argue in favour of using the private sector to take on governance functions, not only to recruit workers directly but to help with other required functions, such as visa facilitation and pre-departure briefings (see footnote 19 for a full list). It is important that new workers understand their rights and obligations as well as the specific conditions of their work, such as whether they will be paid by piece rate or an hourly rate, and the difference between the two.

The government should take a regulatory and monitoring role, not a processing one. Governments should be ensuring that briefings are of good quality, that intermediaries are not charging workers, and so on. But much of the actual work of visa facilitation, travel arrangements and briefing delivery can be done by employer representatives or agents. If governments try to take on these tasks, they risk being overwhelmed, and unable to manage growth in worker numbers. The result might be delays in dispatching workers, and workers travelling poorly prepared.

Third, most countries need to provide increased resourcing as numbers grow, both at home and abroad. As labour mobility becomes a major business, governments need to treat it as such. With growth, government responsibilities obviously become more expensive to fulfil, but also more important. Critical government functions which are often under-resourced include: record-keeping; pre-departure briefings (the low quality of which is a constant complaint of employers – see [Section 3e](#)); enforcement of blacklisting rules in response to worker misconduct; and trouble-shooting when problems arise abroad. No countries collect and publish feedback from employers and workers, but major sending countries should, regularly.

To summarise, it would be a mistake to think there is a single best way to regulate labour mobility in a sending country. One striking example of this is that Solomon Islands adopted the same licensed-agent model as Vanuatu, which failed completely when employer demand collapsed due to an early bad experience (Curtain 2014). Success is rather the result of a complex mix of factors, with history playing a critical role. While it would be a mistake to highlight any particular model of governance as “best practice”, we can conclude that any sensible model is likely to be in between the two extremes of government-central and government-light.

Another way to group sending countries is to divide them into those that have been successful in sending a large and/or growing number of workers, and those that have struggled. Clearly, the three we have focused on – Vanuatu, Tonga and Timor-Leste – are in the former group. PNG, Solomon Islands, Kiribati, Tuvalu and Nauru are in the latter. Fiji, due to its late entry, and Samoa fall somewhere in between.

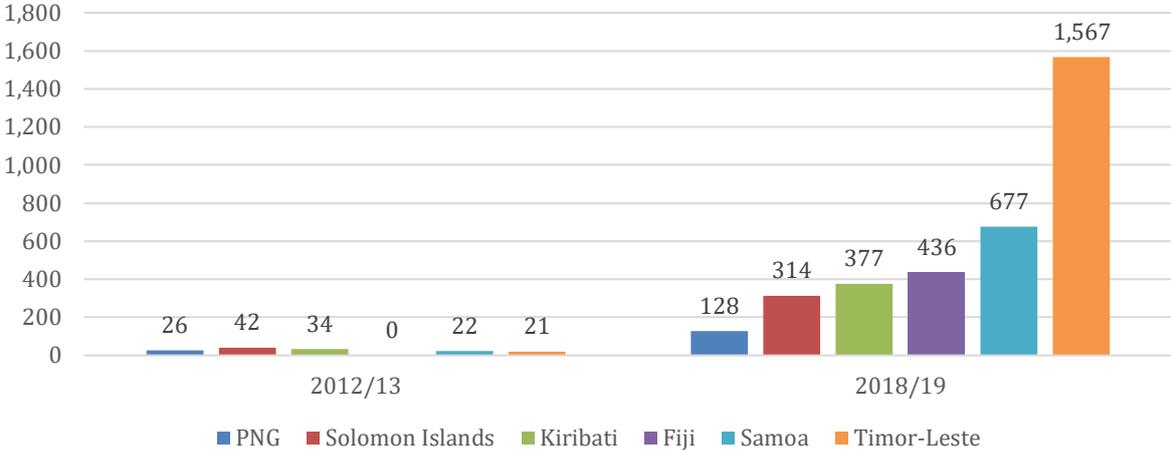
Each group of countries faces its own challenges. The challenges of success facing the big three are about dealing with larger numbers, and with claims that opportunities for labour mobility are not equitably spread, or are having adverse economic or social consequences (Dornan 2018). Clearly with growth comes the need for governments to provide increased resourcing, both at home and abroad. The broader concerns that come with success can lead to calls for or attempts by government to assert greater control, by reducing employer recruitment choice or imposing limits on the number of times a worker can participate in labour mobility.

Such moves are counterproductive, however, since they will reduce overall recruitment, and therefore opportunities for new workers ([Section 3d](#) and Figure 16). The labour mobility market is highly competitive, employers have a lot of choice between countries, and they have made it clear that they want to be able to rehire returned workers who have proved themselves, and hire new workers who are recommended by someone they trust. A better approach for sending governments is to meet with approved employers regularly, discuss issues of concern through an ongoing dialogue and implement changes as needed.

Turning to the countries that have struggled, if they want to grow their participation, their priority has to be greater responsiveness to employer needs. This is the only way they can grow their reputation. That said, it will not be easy for these smaller sending countries to break into the ranks of the top three. While all should benefit from aggregate growth, even large firms are unlikely to recruit from more than two or three countries ([Section 3e](#)). Smaller countries need to have realistic expectations and accept that it will be difficult for them to gain market share. But it is not impossible. Figure 24 shows that PNG, Solomon Islands, Kiribati, Fiji, Samoa and Timor-Leste all sent less than 50 workers to the SWP in

2012/13.⁴⁰ While all have grown, it would have been difficult to predict then that Timor-Leste should be the one to benefit from Tonga’s difficulties, able to break away from that group of small senders, and increase its numbers from just 21 in 2012/13 to almost 1,570 in 2018/19.

Figure 24: Sending countries in the SWP other than the biggest two, 2012/13 and 2018/19



Source: Australian Department of Home Affairs.

Our recommendations regarding sending governments certainly apply as much to the small senders as they do to the big. In particular, Kiribati and PNG should reconsider their exclusive reliance on their work-ready pools and how to become more responsive to prospective employers. In addition, governments could negotiate with Australia for aid assistance to build their SWP numbers. Solomon Islands utilises an Australian-based liaison officer employed through the SWP Boost Program, funded by DFAT (Curtain 2018b, pp. 17–18).⁴¹

b. Australia

As discussed in Section 2b, political and sector-wide changes have contributed to making the SWP more attractive as a source of reliable, productive workers. FWO audits of the harvest trail workforce have shown the high risks of worker exploitation that a minimally regulated labour market creates for backpackers and other migrants such as international students and asylum seekers (FWO

2018). The incentives for growers to employ workers via the SWP regulated pathway have come from government and community concerns about working conditions for the harvest workforce.

The result has been rapid growth in SWP numbers, which have increased eightfold since 2012 to reach 12,200 in 2019/20, and by one-quarter over the year to end January 2020. Approved employers, and the labour hire companies in particular, have successfully

⁴⁰ Nauru and Tuvalu sent no workers in either period. Solomon Islands and Samoa are interesting in that they are more successful with the RSE than the SWP. In the case of Samoa, this reflects its early-mover advantage with the RSE (Section 3c). In the case of Solomon Islands, this may reflect the difficulties it had in Australia in its first attempt (Curtain 2014).

⁴¹ The continuing relatively low numbers from Solomon Islands probably reflect what seems to be a preference by its government for its citizens to work for growers rather than labour hire companies.

managed this rapid increase in SWP numbers. The formation of the AEA in early 2019 reflects the emergence of the SWP as a major source of reliable workers for Australian horticulture. But it also shows the concerns of approved employers that they lack a collective voice.

Reforms are needed despite the rapid growth in SWP worker numbers. Seasonal workers are still greatly outnumbered by backpackers: some 30,000 backpackers every year get a second-year visa for working in agriculture for three months in their first year (Orton & Howes 2020).⁴² Now the government has introduced a third-year backpacker visa option by which someone arriving under one of the working holiday maker (417 and 462) visas can work on one farm for three years without any government oversight. Many farmers and farmer associations are still suspicious of the SWP because of the red tape, and, more broadly, the perception that it is an aid scheme, or at least a scheme over which they have no ownership or control. While the SWP will always be tightly regulated, failure to address employer concerns could lead to the scheme growing below its potential, or even losing grower support altogether.

Two sorts of reforms are needed. First, while a start has been made, much more needs to be done to counter the use of illegal or “undocumented workers” by many growers. This practice both creates the conditions for worker exploitation and hinders the demand for the closely monitored SWP workers. MADEC recently noted to the Inquiry into the Working Holiday Maker program that a “significant cohort of the horticulture workforce consists of illegal workers” (MADEC 2020, p. 4). The organisation’s submission cited the results of a Victorian Farmers Federation (VFF) survey of a quarter of the farming area in the Sunraysia region. This area is centred on Mildura in north-western Victoria, reaching into NSW, and is [known](#) for its intensive horticulture including grapes and oranges. The VFF survey found that virtually all (96 per cent) growers used a labour contractor to source labour and that 7 out of 10 growers (71 per cent) said that they had knowingly or unknowingly had undocumented workers on their property. The MADEC submission went on to note that:

the use of such large numbers of illegal workers is not indicative of all horticulture industries. However, it does indicate that their presence in some areas is significant, and that particular industries have developed employment models that incorporate use of illegal labour as a standard practice (MADEC 2020, p. 5).

Some states have started requiring labour hire companies to be licensed, and this is also now national government policy though is yet to be implemented. It is also important that the Australian Government reverse the trend to incentivise working holiday makers (backpackers) to work on farms by offering them visa extensions. Since 2005, backpackers have been able to get a second-year visa by working on a farm for three months in their first year. Since last year, they have been able to get a third-year visa by working on a farm for six months in their second year. It is well established that backpackers are vulnerable to exploitation, especially when seeking documentation to support their visa extension (FWO 2016).⁴³ Licensing all labour hire companies, and abolishing the third-year visa extension (or making all visa extensions conditional on any work, not just agricultural)

⁴² The second-year visa is given in return for regional work, but the great majority (about 90 per cent) get this in return for farm work.

⁴³ Howe et al (2017) conclude in their major report that “The SWP results in **less** exploitation of workers ... when compared with other low-skilled visa pathways [authors’ emphasis]”, especially backpackers.

are critical reforms that will benefit all workers, and promote fair competition between different horticultural migrant labour sources (Orton & Howes 2020).

Second, reforms to the SWP itself are needed.⁴⁴ In this regard, it is useful to look to the RSE which, as explained in [Section 2d](#), has three major design features that differ from the SWP. First and foremost, the RSE is industry- and employer-driven. Second, it is administered by a government ministry that is focused on the needs of business (Ministry of Business, Innovation and Employment) and which includes Immigration New Zealand. A separate ministry is responsible for promoting and protecting employment for New Zealanders. Third, the RSE has a non-punitive approach to dealing with critical incidents involving seasonal workers, based on the use of relationship managers.

The original impetus for the RSE was the problem of a lack of reliable, trained workers to harvest apples. New Zealand growers and their peak association have played a key role in its design and the changes made to the RSE over time. A central challenge for the SWP is to focus on the same issue, namely to work out ways to meet the needs of growers for reliable and experienced workers.

One way to give horticulture growers in Australia a greater role in ensuring that the SWP better meets their needs would be to set up a reference group representing those who provide the jobs, that is the growers and their intermediaries, the labour hire operators. This body should include not only approved employers, but also one or two key industry associations embedded in the areas which have a high demand for SWP workers. The function of this reference group would be to work with government officials to develop a more collaborative approach to identifying and resolving key problems. Following Sparrow's (2011, p. 131) recommended process for problem-solving related to managing regulatory compliance, the reference group should be resourced to identify the problems or major risks affecting the operation of the SWP. The group should rank each problem in terms of its priority for resolution, and use a project-based approach to design and implement creative, tailor-made solutions for each selected risk. The solutions should make use of a broad range of preventive and enforcement tools to develop effective responses to each specific risk. The process should also include an evaluation of the outcomes or impacts of the designed interventions.

The current multi-stakeholder reference group ([Section 2c](#)) may have value but is unwieldy and too far removed to deal with the problems employers face in managing a complex program such as the SWP.

Following the New Zealand model would also mean providing a new home for the SWP, one with closer ties to regional Australia such as the federal Department of Agriculture, Water and the Environment. DESE has done little to actively promote the scheme to new employers; its mandate – to promote the interests of Australian workers – bears little relevance to a program such as the SWP. The SWP needs a home within a federal department aligned with agriculture and with a strong government brief to identify the labour needs of growers, in terms of both numbers and worker reliability, and to address them.

⁴⁴ Some argue that the SWP should be still more tightly regulated to further reduce the risk of worker exploitation. However, given that it is the most tightly regulated segment of the horticultural labour market, regulatory reforms should address that labour market as a whole to reduce the incentives for farmers to avoid the SWP due to a comparatively excessive regulatory load.

In any scheme as complex as the SWP, especially in a country as large as Australia, it is inevitable that problems will arise, and that workers will have complaints. The aim should not be to eliminate such problems and complaints. That would be unrealistic. Rather, what is needed is a responsive mechanism to deal with them promptly and, wherever possible, cooperatively. As noted above, a key feature of the New Zealand approach that recommends itself in this regard is the utilisation of relationship managers, resident in the areas where RSE workers are most concentrated. Their brief is to act as problem-solvers, at arm's-length from the regulatory compliance function (Curtain 2019b).

As discussed in Section 2, some positive steps in this regard have recently been taken in Australia, culminating in the announcement in the 2020 budget (brought down this year on 6 October) of a three-year \$9 million "Pacific Labour Mobility Safeguarding the Welfare of Workers package" to fund the employment of Pacific Labour Mobility Officers. However, the official announcement, cited above, suggests a strong compliance focus, similar to the role of DESE's existing contract managers. It is important that the new officers prioritise problem solving rather than contract enforcement.

c. Regional and bilateral relationships and interactions

The governance of a labour mobility scheme is more than its separate management by sending and receiving countries. The relationship between the two sets of governments is also critical. Dialogue opportunities have increased in recent years. In March 2020, Australia's AEA, with PLF support, invited the SWP LSUs to Brisbane for a two-day workshop. While that was a one-off, the Pacific Labour Mobility Annual Meeting (PLMAM) provides an annual opportunity for a wide range of discussions at the official level (Curtain 2019c).

PLMAM is a product of a side agreement under the Pacific Agreement on Closer Economic Relations Plus (known as PACER Plus) called the Labour Mobility Arrangement. The meeting brings together PACER Plus signatories,⁴⁵ observers, industry and civil society representatives, and other relevant stakeholders such as researchers "to discuss the opportunities, challenges and actions on Pacific labour mobility" (Ministry of Foreign Affairs and Trade 2020).

While it is a useful discussion forum, PLMAM is not effective as a regional labour mobility governance body (Curtain 2019c). Non-PACER Plus signatories, namely Timor-Leste, Fiji and PNG, are invited because they are eligible to take part in labour mobility programs, but are excluded from key discussions because they are not parties to the treaty. More importantly, PLMAM lacks the mechanisms to evaluate the performance of both the sending and host countries. The blandness of the final PLMAM communiqué, which is required to be a consensus document, avoids any discussion of sensitive issues and fails to set up an agreed process to identify and make changes.

What is lacking is an annual bilateral monitoring mechanism to address a range of operational issues in and concerns of each major sending country. Issues vary from country to country, and criticisms will never be made in public, so this mechanism has to be private (though an agreed communiqué could be released) and regular. Importantly, it

⁴⁵ The PACER Plus signatory countries are: Australia, Cook Islands, Federated States of Micronesia, Kiribati, Nauru, New Zealand, Niue, Palau, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.

also needs to be bilateral – or trilateral: perhaps the ideal would be for Australia and New Zealand to meet together with individual sending countries.

These bilateral or trilateral discussions should review performance in both sending and receiving countries. We know that sending countries have concerns around the treatment of workers (especially regarding deductions for transport and accommodation) and that receiving countries want to see a strengthening of sending-country governance of labour mobility. There needs to be regular meetings – annually or more frequently if needed – at which these issues can be thrashed out. A good practice system on both sides of the labour mobility equation will only emerge where there is repeated, frank feedback on performance by and engagement between those with the strongest interest in making the arrangements work well.

So far, Australia has taken a “level playing field” approach to sending countries, not providing any with preferential treatment. A recent report on the RSE argues that the New Zealand Government should give large employers an incentive to diversify their employment away from the major sending countries (Nunns, Bedford & Bedford 2020). Whatever the merits of this idea for the RSE, the Australian context, where SWP workers still only make up a small share of the horticultural workforce, is quite different. The risk of increasing the regulatory burden on Australian employers is that they will turn away from the SWP to make greater use of backpackers and/or undocumented workers.⁴⁶

Employers also need to step up their role in sending countries. If Australian employers entered into formal contracts with licensed agents, they could bar them from charging workers fees. Australian employers should also consider establishing a permanent presence in the biggest sending countries, as one large New Zealand counterpart has done. This would help improve the equity of recruitment, make it more likely that workers are well prepared for work in Australia, and reduce the scope for subsequent problems.

d. COVID-19

Most of the research for this report was done before the onset of the current pandemic. COVID-19 has temporarily brought labour mobility to a halt, has added to the management challenges in relation to workers currently abroad, and has highlighted key governance weaknesses, in both sending and receiving countries.

There are two pressing issues. First, some 7,000 seasonal workers have been stranded in Australia. Their situation has exacerbated the problems that already existed with the governance of the SWP. Second, with the summer harvest approaching in Australia, it is widely believed that a special pathway will be needed to bring more Pacific workers to Australia prior to the resumption of normal international travel, which might not be till mid-2021 (Curtain 2020). Recognising that the issue is a rapidly evolving one, and that much commentary will quickly be out of date, we deal briefly with each issue below.

On the difficulties being faced by stranded workers, many stakeholders – including employers, embassies, government staff, diaspora communities and other community organisations and welfare groups – have worked hard in exceptional circumstances to find employment for and to extend care to stranded workers. By early September 2020,

⁴⁶ Another interesting recommendation from Nunns et al (2020) is that return workers, being more experienced and productive, should be paid more. A full consideration of this proposal is beyond the scope of this report. However, a key difference between the Australian and NZ schemes in this regard is that the former is uncapped, and the latter capped. Anything that adds to the cost of the SWP will undermine the growth of the scheme, and thus opportunities for poor Pacific Islanders.

approved employers had moved up to 4,900 SWP workers to new workplaces as their current jobs ended. This task has been made more difficult by various state border closures. It has also involved extended negotiations with SWP contract managers over the finer details of the accommodation and other requirements of the program.

The Australian Government has introduced greater flexibility into the SWP during the COVID-19 period, extending visas and allowing greater movement between employers. Approved employers can now transfer SWP workers to other approved employers – or to other workplaces, in the case of labour hire companies – even if this was not part of their original recruitment plan. However, SWP workers are still restricted to only working for approved employers. Separate plans related to recruitment, accommodation, and welfare and wellbeing (pastoral care) have to be approved before workers can be assigned to new workplaces or new approved employers. In post-lockdown communications with approved employers, some employers have indicated that approval had been withheld by the relevant DESE contract manager in a number of cases when moving to a new approved employer to ensure that even minor changes have been made.

While, of course, workers should be well looked after, the costs of delay are felt by workers and employers alike. Approved employers have had to support workers without work due to the extended delays some of these negotiations have caused. Moreover, a pattern of absconding by some seasonal workers has now become evident.⁴⁷ This could have serious repercussions if not attended to, and places a premium on finding work for those who want it, and quickly.

In post-lockdown communications from approved employers, some indicated a loss of trust, or even a “total mistrust” in how SWP is being managed. Clearly a more collaborative approach, with, as advocated in the previous subsection, regular high-level engagement between employers and DESE, would help promote a more productive relationship and better outcomes. The recent move by DESE to have a greater presence in the field, discussed in [Section 7b](#), is a positive step in this regard.

On the second issue of seasonal workers returning to Australia, some progress has also been made. The September Northern Territory mango SWP pilot has brought in around 160 ni-Vanuatu workers (Bedford & Bailey 2020). As of late August, the federal government had announced a broader agreement to resume the PLS and SWP that states can opt in to (Littleproud et al 2020).

Nevertheless, it is clear that there are many obstacles to developing a broader pathway, including: ongoing infections in Australia; the complexities introduced by Australia’s federal system; and the ultra-cautious approach being taken by many Pacific Island countries as well as Australian states. At the same time, it is unclear how the summer harvest will be picked without more SWP workers. Any new arrangements will have to embody an additional set of requirements related to worker and community health and safety (as the NT pilot does). These new arrangements will require a collaborative mode

⁴⁷ According to [statistics](#) of the Department of Home Affairs, the number of Timorese applying for an onshore protection visa (Subclass 866) increased from zero from November 2019 to March 2020 to 16 and 19 in April and May 2020 rising to 53 in June, 29 in July, 48 in August and 23 in September 2020. The number of ni-Vanuatu applying for such a visa increased from zero in previous months to 21 in July, 15 in August and 10 in September 2020. The number of Tongans applying for onshore protection visa (Subclass 866) has also reached 46 in September 2020. We know from various communications that many of these applications are from SWP workers.

of working, better understanding of the context, and actively listening to approved employers as a collective group to work out mutually agreed outcomes.

A special pathway would also have implications for sending-country governments. The governance changes we have been discussing in this report will need to be accelerated so that, in particular, there can be confidence that all workers are recorded and tracked while they are working overseas. A Pacific labour mobility pathway would also require the introduction of new bilateral agreements, at least to cover the pandemic period, and provide an opportunity for the sort of regular bilateral dialogue we advocated for earlier.

The current pandemic is unprecedented in the modern era, and would have caused problems for even the best-run scheme. But the steps needed to respond in the context of the pandemic are consistent with the broader reforms the program would benefit from, both in Australia and in sending countries. COVID-19 has disrupted the SWP, but it also represents an opportunity to reform its governance to ensure its continued growth.

Table A1 Australian SWP stakeholders

Australian stakeholders	Role
Approved employers	Employ the seasonal worker and are responsible for a broad range of welfare and wellbeing obligations, as specified in the Seasonal Worker Programme (SWP) Deed of Agreement required to employ workers. May be a grower or labour-hire company/contractor.
Approved Employers Association (AEA)	Formed in February 2019, the AEA represents the interests of approved employers on SWP operational and policy issues. In June 2020, its members employed 8,000 out of 12,000 SWP workers annually.
Growers who are clients of labour hire companies	In the case of labour hire operators or contractors, workers are on-hired to growers.
Department of Education, Skills and Employment (DESE)	Employers have to apply and be approved by SWP by entering into a Deed of Agreement with attached detailed guidelines (revised January 2020).
Department of Home Affairs (DHA)	Employers have to enter into a Temporary Activity Sponsorship with DHA for each seasonal worker and undertake to keep DHA informed of any changes such as a seasonal worker absconding.
Fair Work Ombudsman (FWO)	FWO is invited to brief new seasonal workers on arrival on their workplace rights and obligations in Australia. FWO has also conducted audits of working arrangements on the Harvest Trail.
Australian Taxation Office (ATO)	The ATO manages the process which allows a seasonal worker to claim their “Departing Australia Superannuation Payment” once the worker leaves the country.
Department of Foreign Affairs and Trade (DFAT)	DFAT Post in each sending country monitors SWP-related issues and liaises with the labour sending unit at the request of DESE for issues raised by an approved employer. DFAT Canberra supports appropriate governance and has oversight of Timorese and Pacific government labour mobility arrangements and takes a role in the Pacific Labour Mobility Annual Meeting to review issues raised under the PACER Plus side agreement on labour mobility arrangements.
The Pacific Labour Facility (PLF)	The PLF facilitates seasonal and longer-term work opportunities for Pacific workers in Australia. It connects Australian employers with Pacific workers, supports the administration of the Pacific Labour Scheme and provides some support to the SWP. DFAT, through the PLF, funds and delivers the Add-On Skills Training component of the SWP, which provides basic training including in first aid, English and IT skills for seasonal workers. PLF has also provided limited marketing and in 2020 welfare support to DESE and SWP. The PLF has a resident country engagement manager in each sending country who supports the labour sending unit to lift its capacity to carry out functions related to the SWP.
Unions	Unions are invited to take part in the arrival briefing for workers together with the FWO.
Approved employers, unions, welfare and government departmental representatives on the Seasonal Worker Programme Advisory Group (SWPAG)	SWPAG is run by SWP to inform stakeholders of program performance, and how to maintain program integrity. SWPAG is co-chaired by DESE and the AEA and provides a mechanism for stakeholders to: identify, discuss and assist in the resolution of program issues; focus on operational, policy and strategic program matters; and share information and ideas for program improvements. Welfare/community representatives also have a monitoring role. Other government departments with a role in the SWP are also represented.
Sending-country representatives	Some sending countries have SWP liaison officers in Australia. Others ask their diplomatic staff to represent them to support their SWP workers in Australia. The latter have been especially important during the COVID-19 international border closures.
State-based regulatory agencies such as labour hire authorities	Labour hire operators must register in the ACT, South Australia, Queensland and Victoria.

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