

INTERNATIONAL
T R A N S F E R S

TRANSFÈREMENTS
INTERNATIONAUX

**INSTITUTIONAL REINTEGRATION OPERATIONS
OFFENDER PROGRAMS AND REINTEGRATION BRANCH
2006-2007**

TABLE OF CONTENTS

THE INTERNATIONAL TRANSFERS PROGRAM	1
PURPOSE OF THE INTERNATIONAL TRANSFERS PROGRAM	1
INTERNATIONAL TRANSFERS	1
INTRODUCTION	2
1. TRANSFERS TO CANADA FROM FOREIGN COUNTRIES	2
TABLE 1.1: Transfers to Canada	2
TABLE 1.2: Transfers to Canada by Region	3
2. TRANSFERS FROM CANADA TO FOREIGN COUNTRIES	3
TABLE 2.1: Transfers from Canada to Foreign Countries	3
3. TIME BETWEEN RECEIPT OF SENTENCING DOCUMENTATION AND THE MINISTER'S DECISION	3
TABLE 3.1: Processing Timeframes	4
4. TIMEFRAME FOR DECISIONS AND TRANSFERS	4
TABLE 4.1: Timeframe for Minister's decision	4
TABLE 4.2: Timeframe between Minister's Decision and the Transfer	5
5. APPLICATIONS PROCESSED BY THE INTERNATIONAL TRANSFERS UNIT	5
TABLE 5.1: Processing of Applications	5
TABLE 5.2: Denial of Applications received between April 1, 2002 and March 31, 2007	6
6. CASELOAD FLOW-THROUGH	7
TABLE 6.1: Flow-Through of Applications	7
CONCLUSION	7

The International Transfers Program

The International Transfer of Offenders Act (ITOA) is an Act to implement treaties and administrative arrangements on the international transfer of persons found guilty of criminal offences. The ITOA was enacted in 2004 and replaced the Transfer of Offenders Act (TOA), which had been in force since 1978.

The Minister of Public Safety is responsible for the administration of the Act and is the sole authority for decisions. The Director Institutional Reintegration Operations has the delegated authority from the Minister to administer the Act.

Eligibility for transfer is based on citizenship and dual criminality in the receiving country. Decisions are based on criteria enounced in the ITOA and consent from the three (3) parties, i.e. receiving country/of citizenship, sentencing country and the offender, must be obtained prior to effecting a transfer. Special transfers or administrative arrangements can be made for a child or young person within the meaning of the Youth Criminal Justice Act (YCJA) or mentally disordered persons.

The following report on the International Transfer of Offenders provides an overview of the program's activities in the last ten years. The information is pulled from the International Transfers' database. The data is reported by fiscal year (from April 1 to March 31 of the following year).

Purpose of the International Transfers Program

The purpose of this program is to contribute to the administration of justice and the rehabilitation of offenders and their reintegration into the community by enabling them to serve their sentence in their country of citizenship. It also alleviates undue hardships borne by offenders and their families. Once transferred, the offender's sentence is administered in accordance with the laws and the procedures of the country of citizenship. If offenders are not transferred, they may ultimately be deported to Canada at the end of their sentence, without correctional supervision/jurisdiction and without the benefit of programming.

International Transfers

The first transfer of offenders took place in 1978 shortly after the implementation of a bilateral treaty between Canada and the United States of America on the transfer of offenders. This first transfer included the return to Canada of twenty nine (29) Canadian citizens and the repatriation of forty (40) American citizens.

The progress made since the launch of the transfer of offenders program in Canada is considerable. Between 1978 and 2007, 1475 offenders were transferred pursuant to an agreement on the International Transfer of Offenders. Of these, 1351 Canadians were transferred to Canada, whereas the remaining 124 consisted of foreign nationals who were repatriated to their country of citizenship.

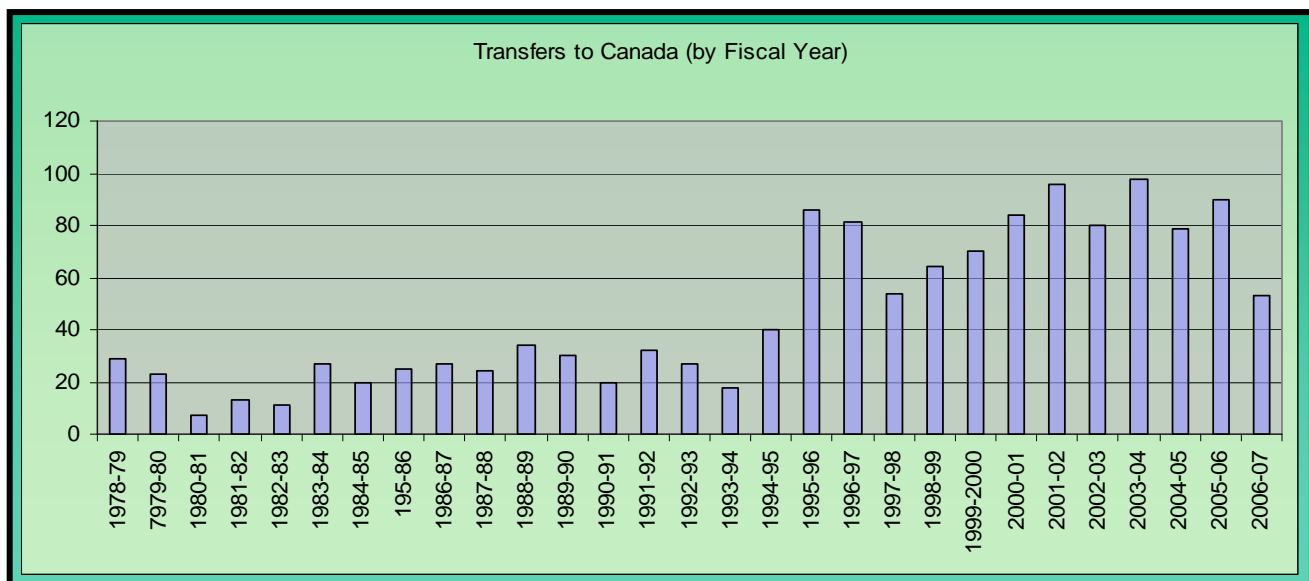
Introduction

At any given time, there are over 2000 Canadian citizens incarcerated throughout the world. Canadians serving a sentence of imprisonment abroad are faced with serious problems such as isolation, culture shock, language barriers and have no means to address the root of their problems because of the lack of programs available to foreign nationals. To help alleviate these undue hardships, Canada has entered into international transfer agreements with over 70 countries. These agreements, along with Canada's implementing legislation (ITOA), are the legal basis for effecting international transfers. Without the benefit of transfers, offenders are deported at the end of their sentence to their country of citizenship, often after having spent years in confinement and being totally unprepared for a safe, secure and successful reintegration into society. Transfers provide offenders with the possibility of becoming productive members of the community, by contributing to the administration of justice and the rehabilitation of offender and their reintegration into society as law abiding citizens.

1. Transfers to Canada from Foreign Countries

The majority of the 1351 Canadian citizens transferred to Canada were effected from the United States, specifically 79% (1069). Consequently, Canada and the United States have agreed to four (4) set transfers per year. The second country from where the most Canadians were repatriated is Mexico with 4.4% (59 offenders). Next, we have the United Kingdom at 2.4% (33 offenders), Peru at 2.3% (31 offenders) and Trinidad and Tobago at 1.5% (20 offenders). The following chart illustrates the number of international transfers to Canada effected since 1978. For detailed information regarding which countries were involved in the international transfers, please refer to [Annex A](#).

TABLE 1.1: Transfers to Canada



Source: International Transfers Database, June 1, 2007

When applying for a transfer to Canada, offenders are asked to indicate their region of choice on their application. In the last ten fiscal years, 40.7% were transferred to the Ontario Region, followed by the Quebec Region at 26.9%; 25.4% to the Pacific region; 3.2% to the Prairies and 2.3% to the Atlantic Region.

In the last ten years (1996-07 to 2006-07), 849 offenders were transferred to Canada. The following table demonstrates the breakdown of offenders' region of choice.

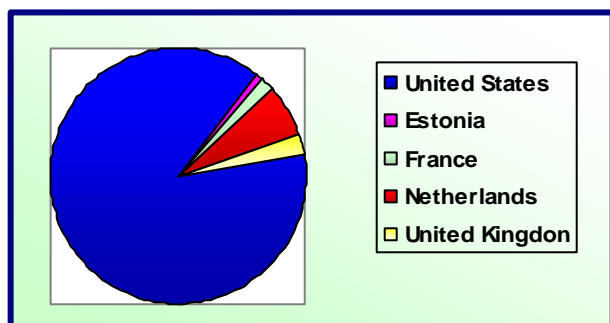
TABLE 1.2: Transfers to Canada by Region

From 1996-97 to 2006-07 (by Fiscal Year and Identified Region of Choice)						
Fiscal Year	PACIFIC	PRAIRIES	ONTARIO	QUEBEC	ATLANTIC	Total
1996 - 1997	9	5	33	29	5	81
1997 - 1998	10	0	13	29	2	54
1998 - 1999	8	3	36	15	2	64
1999 - 2000	11	5	33	20	1	70
2000 - 2001	13	4	44	20	3	84
2001 - 2002	21	4	49	22	0	96
2002 - 2003	25	3	25	26	1	80
2003 - 2004	37	5	38	17	1	98
2004 - 2005	26	3	29	20	1	79
2005 - 2006	37	4	25	21	3	90
2006 - 2007	19	2	21	10	1	53
Total	216	28	346	229	20	849

Source: International Transfers Database, June 1, 2007

2. Transfers from Canada to Foreign Countries

TABLE 2.1: Transfers from Canada to Foreign Countries



Of the 124 transfers from Canada to foreign countries, 85.5% (106) were American citizens. Transfers to other foreign countries are as follows: Netherlands 6.4% (8), the United Kingdom 2.4% (3), France 1.6% (2), and Estonia .08% (1). **Annex B** details all transfers from Canada to foreign countries from 1978-79 to 2006-07.

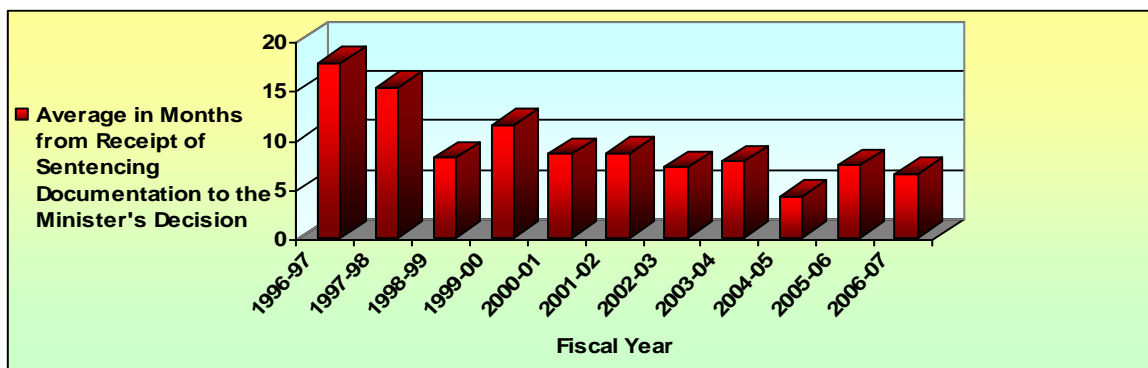
Source: International Transfers Database, June 1, 2007

3. Time between Receipt of Sentencing Documentation and the Minister's Decision

The International Transfers Unit is committed to processing international transfer applications within six (6) to nine (9) months from the date of receipt of the sentencing documentation from the foreign country to obtaining the Minister's decision.

It currently takes an average of 6.1 months to obtain a Ministerial decision once the sentencing documentation has been received from the foreign country, a vast improvement over the processing time in the year 1997 (16.48 months). The following chart shows the overall improvement in processing timeframes in the last 10 years.

TABLE 3.1: Processing Timeframes



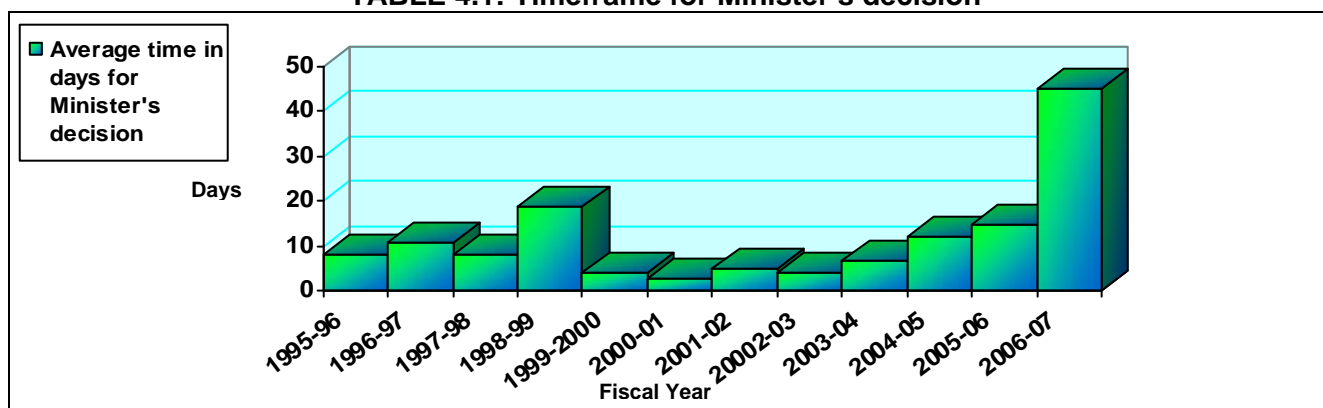
Source: International Transfers Database, June 1, 2007

Of the 544 cases for which the sentencing documentation was received between 2002 and 2007, 80.10% (436 cases) obtained the Minister's decision within the International Transfers Unit's processing guideline of six (6) to (9) months. Of the 544 cases, 67.65% (368 cases) were processed before the minimum processing timeframe. In approximately 20% of the cases, the International Transfers Unit was unable to respect the processing guidelines due to a number of issues such as workload, complexity of the sentence, incomplete sentencing documentation, etc.

4. Timeframe for Decisions and Transfers

Although there are no provisions in the *International Transfer of Offenders Act* pertaining to how long a Minister may take to render a decision, the table below illustrates the number of days taken to make decision on an International Transfer request. This timeframe is based on the number of days elapsed between the date a request is presented to the Minister to the day a decision is rendered.

TABLE 4.1: Timeframe for Minister's decision

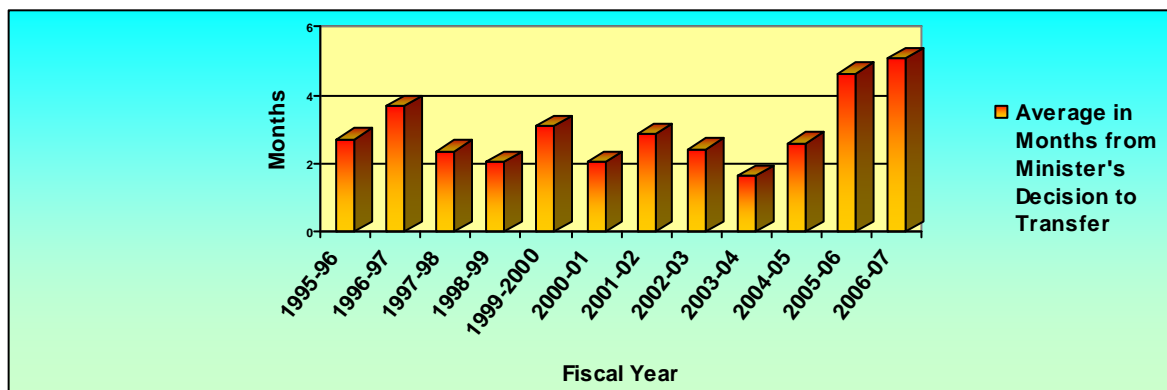


Source: International Transfers Database, June 25, 2007

Once an offender's request to transfer is approved by the Minister, the International Transfers Unit initiates the coordination of the offender's repatriation, provided his request has also been approved by the foreign country. The following chart illustrates the average time required to effect a transfer from the time the Minister gives his approval. The data presented indicates this timeframe has

remained fairly constant since the 1995-96 fiscal year. It should be noted that this timeframe is dependant upon receipt of the foreign country's approval, the offender's consent and the time required to organise the transfer. With the advent of new countries signing agreements, the complexity of the cases and the increasing number of applications being received, these timeframes will fluctuate greatly.

TABLE 4.2: Timeframe between Minister's Decision and the Transfer



Source: International Transfers Database, June 1, 2007

5. Applications Processed by the International Transfers Unit

At any given time, there are anywhere from 200 to 450 applications being processed by the International Transfers Unit.

In the last five years, from 2002-03 to 2006-07, 1314 applications for transfer were received for analysis and processing. Of those applications, to date, 27.9% (367) have resulted in a transfer, while 39.4% (519) were denied. It is important to note that these numbers will fluctuate since some applications are still "in process", i.e., an application received in any of the years for which a decision has not yet been rendered.

TABLE 5.1: Processing of Applications

Fiscal Year	Applications Received	Number/Percentage to date that have resulted in Transfers		Number/Percentage to date that have been denied by either Country		Denied by Canada	Denied by foreign country
		#	%	#	%		
2002-03	265	117	44.15%	101	38.11%	0	101
2003-04	287	104	36.24%	124	43.21%	3	121
2004-05	264	91	34.47%	112	42.42%	4	108
2005-06	259	50	19.31%	106	40.93%	10	96
2006-07	239	5	2.09%	76	31.88%	7	69
TOTAL	1314	367		519		24	495

Source: International Transfers Database, June 1, 2007

Of the applications received between April 1, 2002, and March 31, 2007, 495 denials were handed down by foreign countries; the majority being denied by the United States. As demonstrated in table 5.2, a small percentage of cases were denied by Canada.

In determining whether to consent to the transfer of a Canadian offender, the Minister must take into consideration a number of factors listed in section 10 of the ITOA:

- 10.1(a) whether the offender's return to Canada would constitute a threat to the security of Canada;
- 10.1(b) whether the offender left or remained outside Canada with the intention of abandoning Canada as their place of permanent residence;
- 10.1(c) whether the offender has social or family ties in Canada;
- 10.1(d) whether the foreign entity or its prison system presents a serious threat to the offender's security or human rights;
- 10.2(a) whether, in the Minister's opinion, the offender will, after the transfer, commit a terrorism offence or criminal organization offence within the meaning of section 2 of the Criminal Code; and
- 10.2(b) whether the offender was previously transferred under this Act or the Transfer of Offenders Act, chapter T-15 of the Revised Statutes of Canada, 1985.

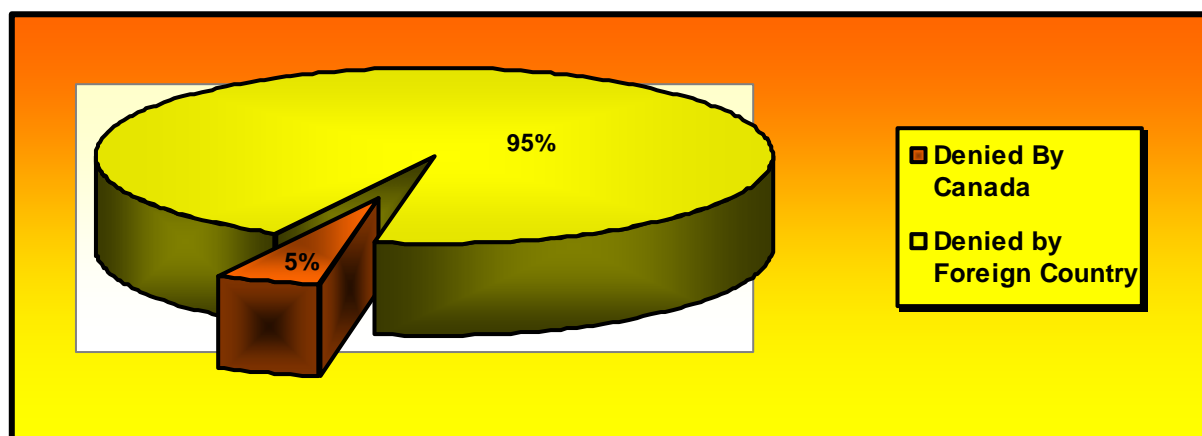
Of the 24 cases that were denied by Canada, the reasons invoked by the Minister of Public Safety were based on his finding that:

1. the offender's return to Canada would jeopardize the safety of Canadians and the security of Canada; and/or
2. that in his opinion, the offender had left or remained outside Canada with the intention of abandoning Canada as his place of permanent residence.

The majority of these denials were based either on section 10.1(a) of the ITOA, that the return of offenders convicted of sexual offences, burglary with assault and murder and drug related offences would constitute a threat to the security of Canada and/or section 10.1(b) where in the Minister's opinion the offenders had abandoned Canada as their place of permanent residence as they had been living in the other country for a number of years.

Denials by the foreign countries were also based on a series of factors such as dual citizenship, law enforcement concerns, lack of a removal order (for deportation), discrepancies in the administration of the sentence and unpaid restitution.

TABLE 5.2: Denial of Applications received between April 1, 2002 and March 31, 2007



Source: International Transfers Database, June 1, 2007

6. Caseload Flow-Through

The following chart identifies the total caseload in the given fiscal year. The statistics include the number of applications received per fiscal year in addition to the number of applications carried over from the previous fiscal year, for which a final decision had not yet been rendered.

TABLE 6.1: Flow-Through of Applications

Fiscal Year	Carried over from previous year	New applications received	Caseload for given fiscal year	Completed
2002-03	243	265	508	206
2003-04	302	287	589	243
2004-05	346	264	610	260
2005-06	350	259	609	274
2006-07	335	239	574	312

Source: International Transfers Database, June 1, 2007

CONCLUSION

In the 29 years since the first international transfer took place with the United States, there has been a steady increase in the number of agreements in place with foreign countries, thereby increasing the number of applications received for processing and of the number of offenders transferred to and from Canada.

An analysis of the information contained in this report doesn't only demonstrate that the purpose and the principles of the International Transfer of Offenders Act have been fulfilled; it supports that the International Transfer of Offenders program is consistent with the Mandate of the Correctional Service of Canada (CSC) and its Mission Statement in that the program contributes to public safety by actively encouraging and assisting offenders to become law-abiding citizens, while exercising reasonable, safe, secure and humane control. It ensures that offenders are gradually returned to society and that they have the opportunity to participate in programming that targets the factors that may have led to their offence.

Furthermore, CSC has set specific priorities for 2006-07 and beyond, which includes the safe transition of offenders into the community. The International Transfer of Offenders program is a meaningful example of how CSC can meet its objectives.

TRANSFERS TO CANADA
From 1978 to 2007 (by Fiscal Year)

Country/ Fiscal Year	1978 - 1979	1979 - 1980	1980 - 1981	1981 - 1982	1982 - 1983	1983 - 1984	1984 - 1985	1985 - 1986	1986 - 1987	1987 - 1988	1988 - 1989	1989 - 1990	1990 - 1991	1991 - 1992	1992 - 1993	1993 - 1994	1994 - 1995	1995 - 1996	1996 - 1997	1997 - 1998	1998 - 1999	1999 - 2000	2000 - 2001	2001 - 2002	2002 - 2003	2003 - 2004	2004 - 2005	2005 - 2006	2006 - 2007	TOTAL BY COUNTRY	
AUSTRALIA																													1	1	2
AUSTRIA													1								2										3
BAHAMAS																							2							1	3
BERMUDA																														1	1
BRAZIL																					2	1		2	2	1					8
CHILE																														1	1
COSTA RICA																				1	4	2			1	4				2	14
CUBA																						4	5			2	3	1	1	16	
ENGLAND								1					1												1					3	
FRANCE								2		2								2	2											8	
GERMANY																			1											2	
GRENADA																							1								1
HONG KONG															1			1		2											4
HUNGARY																								1							1
ITALY														1	1								1	3	1				1	1	9
JAPAN																													2	3	5
MEXICO		9			3	1	2	7	4	4	3	4		1					2		4	5		4	1		1	1	3	59	
MOROCCO																									1						1
NETHERLANDS																		1									2				3
NORWAY																													1		1
PANAMA																							2			2	3				8
PERU				1	1	6			2	4	2				1	6					1		2	2	1		1	1			31
PORTUGAL																								1							1
ROMANIA																														2	2
SPAIN														1		2							1		2	1					7
SWEDEN									1										1					1							3
SWITZERLAND																								1							1
THAILAND													1	1			1	2			3		5	2	1	1					17
TRINIDAD & TOBAGO																			5	6		1		1	2		1	4			20
UNITED KINGDOM													1		2		1	5	1			4		5	7	2		2			30
UNITED STATES	29	23	7	12	7	20	18	18	17	16	27	26	17	27	22	10	38	70	63	47	47	51	63	63	67	85	60	82	37		1069
VENEZUELA																				4	2	2			2	2	1	4			17
TOTAL BY FISCAL YEAR	29	32	7	13	11	27	20	25	27	24	34	30	20	32	27	18	40	86	81	54	64	70	84	96	80	98	79	90	53	1351	

TRANSFERS FROM CANADA
From 1978 to 2007 (by Fiscal Year)

Receiving Country/Fiscal Year	1978 - 1979	1979 - 1980	1980 - 1981	1981 - 1982	1982 - 1983	1983 - 1984	1984 - 1985	1986 - 1987	1987 - 1988	1988 - 1989	1989 - 1990	1990 - 1991	1991 - 1992	1992 - 1993	1993 - 1994	1996 - 1997	1997 - 1998	1998 - 1999	1999 - 2000	2001 - 2002	2002 - 2003	2003 - 2004	2004 - 2005	2005 - 2006	2006 - 2007	
ESTONIA																									1	
FRANCE																		1								1
IRELAND																	1									
ISRAEL																										1
ITALY																										1
NETHERLANDS											1			1	2			1		1	1			1		
POLAND																			1							
UNITED KINGDOM																2										1
UNITED STATES	40	27	12	5	6	1	2	1	2	1	1	3	1	1			1			1		1				
Total by Fiscal Year	40	27	12	5	6	1	2	1	2	1	2	3	1	2	2	2	2	2	1	2	1	1	1	1	4	