

INTERNATIONAL  
T R A N S F E R S  

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TRANSFÈREMENTS  
INTERNATIONAUX

**INSTITUTIONAL REINTEGRATION OPERATIONS  
OFFENDER PROGRAMS AND REINTEGRATION BRANCH  
2007-2008**

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## 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 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 mentally disordered persons or with a country where there is no agreement in place.

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 their country of citizenship 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 2008, 1547 offenders were transferred pursuant to an agreement on the International Transfer of Offenders. Of these, 1422 Canadians were transferred to Canada, whereas the remaining 125 consisted of foreign nationals who were repatriated to their country of citizenship.

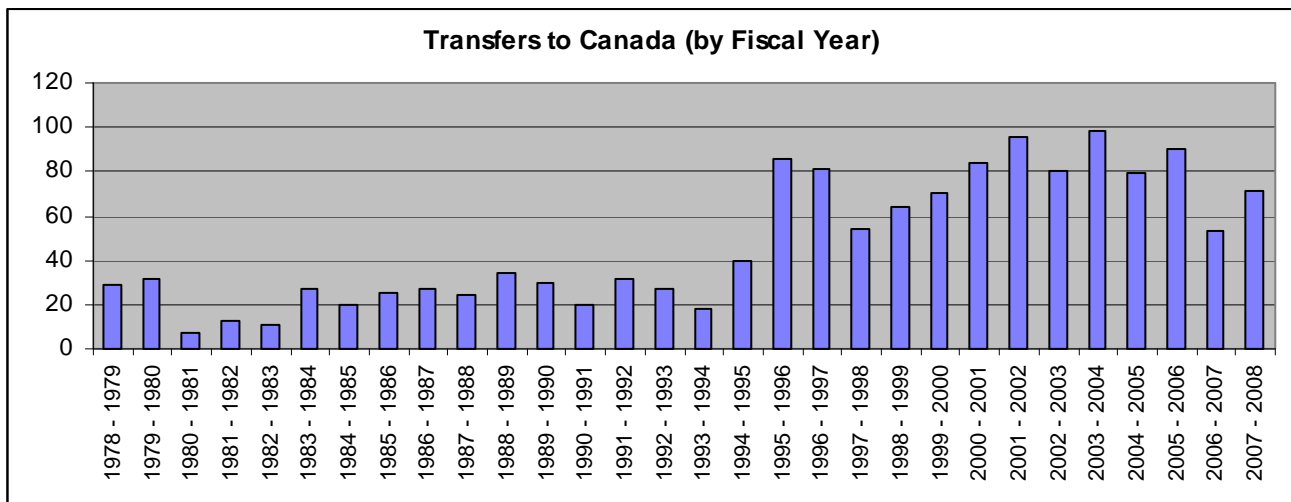
# Introduction

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 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 offenders and their reintegration into society as law abiding citizens.

## 1. Transfers to Canada from Foreign Countries

The majority of the 1422 Canadian citizens transferred to Canada were effected from the United States, specifically 79% (1127). 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 4.2% (60 offenders). Next, we have the United Kingdom at 2.4% (34 offenders), Peru 2.2% (31 offenders), and Trinidad and Tobago at 1.5% (21 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 11, 2008

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% were transferred to the Ontario Region, followed by the Pacific Region at 27%; 26.5% to the Quebec region; 4.3% to the Prairies and 1.8% to the Atlantic Region.



In the last ten years (1997-98 to 2007-08), 839 offenders were transferred to Canada. The following table demonstrates the breakdown of offenders' region of choice.

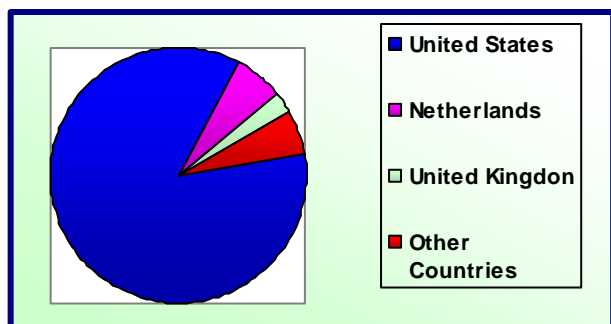
**TABLE 1.2: Transfers to Canada by Region**

From 1997-98 to 2007-08 (by Fiscal Year and Identified Region of Choice)						
Fiscal Year	PACIFIC	PRAIRIES	ONTARIO	QUEBEC	ATLANTIC	Total
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
2007 - 2008	23	3	23	22	0	71
<b>Total</b>	<b>230</b>	<b>36</b>	<b>336</b>	<b>222</b>	<b>15</b>	<b>839</b>

Source: International Transfers Database, June 11, 2008

## 2. Transfers from Canada to Foreign Countries 1978-2008

**TABLE 2.1: Transfers from Canada to Foreign Countries**



Of the 125 transfers from Canada to foreign countries, 86% (107) were American citizens. Transfers to other foreign countries are as follows: Netherlands 6.4% (8), the United Kingdom 2.4% (3) and to other countries 5.6% (7). [Annex B](#) details all transfers from Canada to foreign countries from 1978-79 to 2007-08.

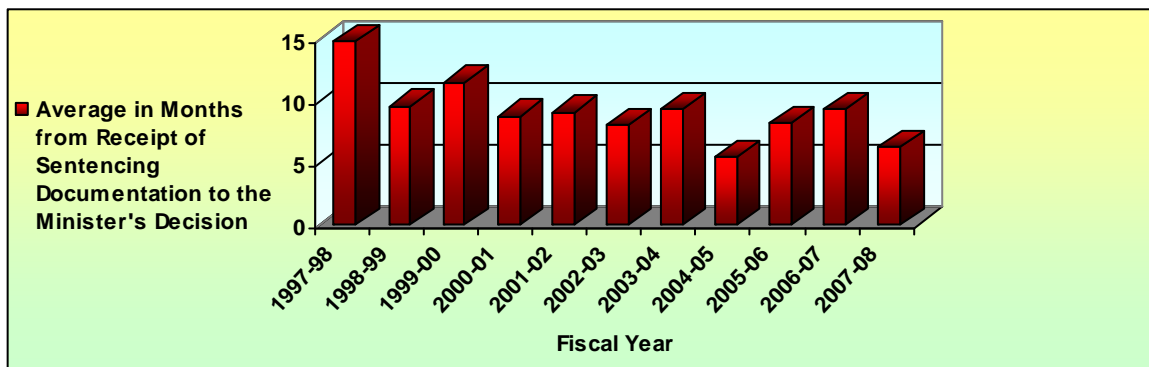
Source: International Transfers Database, June 11, 2008

## 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 6.37 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 1997-1998 (15 months). The following chart shows the overall improvement in processing timeframes in the last 10 years.

**TABLE 3.1: Processing Timeframes**



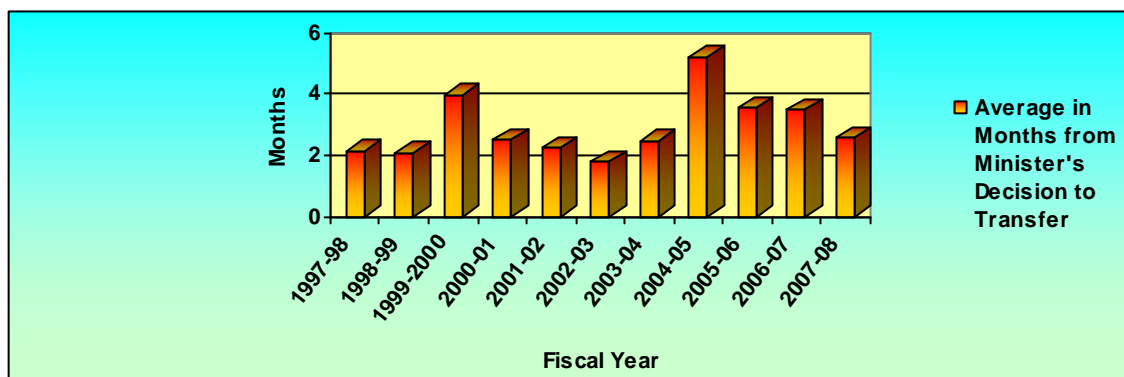
Source: International Transfers Database, June 16, 2008

Of the 1108 cases for which the sentencing documentation was received between 1998 and 2008, 16.43% (182 cases) obtained the Minister's decision within the International Transfers Unit's processing guideline of six (6) to (9) months. Of the 1108 cases, 53.43% (592 cases) were processed before the minimum processing timeframe. In approximately 30.14% of the cases (334 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 from decisions to Transfers

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 1997-98 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 4.1: Timeframe between Minister's Decision and the Transfer**



Source: International Transfers Database, June 17, 2008

## 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 2003-04 to 2007-08, 1243 applications for transfer were received for analysis and processing. Of those applications, to date, 25.66% (319) have resulted in a transfer, while 44.4% (552) 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
		#	%	#	%		
2003-04	287	107	37.28%	125	43.55%	5	120
2004-05	264	95	35.98%	118	44.69%	9	109
2005-06	261	71	27.20%	129	49.42%	24	105
2006-07	226	42	18.58%	111	49.11%	23	88
2007-08	205	4	1.95%	59	28.78%	6	63
<b>TOTAL</b>	<b>1243</b>	<b>319</b>		<b>552</b>		<b>67</b>	<b>485</b>

Source: International Transfers Database, June 11, 2008

Of the applications received between April 1, 2003, and March 31, 2008, 485 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.

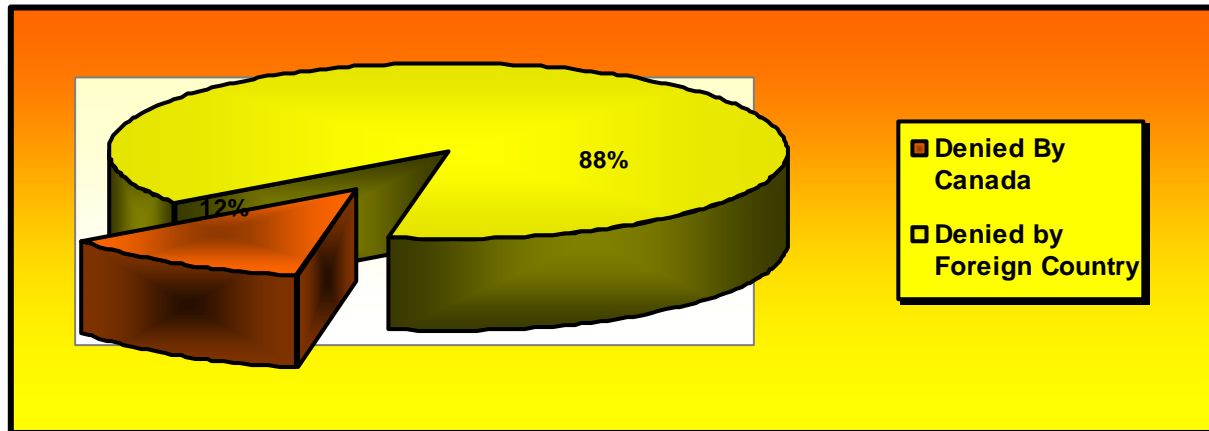
Of the 67 cases that were denied by Canada, the reasons invoked by the Minister of Public Safety were based on his finding that:

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, 2003 and March 31, 2008**



Source: International Transfers Database, June 11, 2008

## 6. Caseload Flow-Through

The following chart identifies the total caseload in the given fiscal year. The statistics include the number of new 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
2003-04	302	287	589
2004-05	346	264	610
2005-06	350	261	611
2006-07	242	226	468
2007-08	298	205	503

Source: International Transfers Database, June 20, 2008

## CONCLUSION

In the 30 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 2007-08 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.

ANNEX "A" - Transfers to Canada by Fiscal Year

COUNTRY	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	2007-2008	Total	
Australia																													1	1	1	3
Austria													1								2											3
Bahamas																						2							1			3
Brazil																					2	1		2	2	1						8
Chile																														1		1
Costa Rica																					1	4	2		1	4				2	1	15
Cuba																						4	5		2	3	1	1				16
Ecuador																														1		1
France									2		2							2	2													8
Germany																			1											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	10
Mexico		9			3	1	2	7	4	4	3	4		1				2		4	5		4	1		1	1	3	1		60	
Morocco																								1								1
Netherlands																		1								2						3
Norway																												1				1
Panama																						2		1	2	3				2		10
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				1	22
UK-Bermuda																														1		1
UK-England									1				1	1	2		1	5	1		4		5	7	3		2				33	
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	58	1127	
Venezuela																			4	2	2			2	2	1	4				1	18
<b>Total</b>	<b>29</b>	<b>32</b>	<b>7</b>	<b>13</b>	<b>11</b>	<b>27</b>	<b>20</b>	<b>25</b>	<b>27</b>	<b>24</b>	<b>34</b>	<b>30</b>	<b>20</b>	<b>32</b>	<b>27</b>	<b>18</b>	<b>40</b>	<b>86</b>	<b>81</b>	<b>54</b>	<b>64</b>	<b>70</b>	<b>84</b>	<b>96</b>	<b>80</b>	<b>98</b>	<b>79</b>	<b>90</b>	<b>53</b>	<b>71</b>	<b>1422</b>	

ANNEX "B" - Transfers from Canada by Fiscal Year

Country	1978	1979	1980	1981	1982	1983	1984	1986	1987	1988	1989	1990	1991	1992	1993	1996	1997	1998	1999	2001	2002	2003	2004	2005	2006	2007	2008	Total	
Estonia	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1
France	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	1	2	
Ireland	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	1	
Israel	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1		
Italy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1		
Netherlands	-	-	-	-	-	-	-	-	-	-	1	-	-	1	2	-	-	1	-	1	1	-	1	-	-	-	-	8	
Poland	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	1		
UK-England	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	-	-	-	-	-	-	-	1	-	3		
United States	40	27	12	5	6	1	2	1	2	1	1	3	1	1	-	-	1	-	-	1	-	1	-	-	-	1	107		
Total	40	27	12	5	6	1	2	1	2	1	2	3	1	2	2	2	2	2	1	2	1	1	1	1	1	4	1	125	