

CHAPTER 8

MOVEMENT OF NATURAL PERSONS

Article 1: Definitions

For the purposes of this Chapter:

temporary entry means entry into the territory of a Party by a natural person covered by this Chapter, without the intent to establish permanent residence; and

immigration formality means a visa, permit, pass or other document or electronic authority granting a natural person of a Party the right to enter, reside or work in the territory of the granting Party.

Article 2: Objectives

1. The objectives of this Chapter, which reflect the preferential trading relationship between the Parties, are to:

- (a) provide for rights and obligations additional to those set out in Chapter 7 (Trade in Services) and Chapter 9 (Investment) in relation to the temporary entry of natural persons;
- (b) facilitate the temporary entry of natural persons;
- (c) establish transparent criteria and streamlined immigration formality application procedures for the temporary entry of natural persons to whom this Chapter applies; and
- (d) protect the integrity of the Parties' borders, and protect the domestic labour force and permanent employment in the territories of the Parties.

Article 3: Scope

1. This Chapter shall apply, as set out in each Party's schedule of specific commitments in Annex 8-A (Schedules of Commitments on Movement of Natural Persons), to measures affecting the temporary entry of natural persons of a Party into the territory of any other Party.

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of another Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

3. Nothing in this Agreement shall prevent a Party from applying measures to regulate the entry or temporary stay of natural persons of any other Party in its territory, including those

measures necessary to protect the integrity of its territory and to ensure the orderly movement of natural persons across its borders, provided such measures are not applied in a manner so as to nullify or impair the benefits accruing to any other Party under this Agreement.¹

Article 4: Grant of Temporary Entry

1. Each Party shall set out in Annex 8-A a schedule containing the specific commitments it undertakes for each of the categories of natural persons specified therein. These schedules shall specify the conditions and limitations² governing those commitments, including the requirements and length of stay, for each category of natural persons included in each Party's schedule of specific commitments.

2. If a Party makes a commitment under paragraph 1, that Party shall grant temporary entry to natural persons of another Party provided that those natural persons:

- (a) follow the prescribed application procedures for the immigration formality sought; and
- (b) meet all relevant eligibility requirements for entry to the granting Party.

A Party may deny temporary entry to natural persons of another Party who do not comply with paragraph 2(a) and (b).

3. Temporary entry granted pursuant to this Chapter does not replace the requirements needed to carry out a profession or activity according to the domestic laws and regulations, and any applicable mandatory codes of practice made pursuant to domestic law, in force in the territory of the Party authorising the temporary entry.

Article 5: Requirements and Procedures Relating to the Movement of Natural Persons

1. In relation to the natural persons covered by Article 3, each Party shall endeavour to:

- (a) establish or maintain immigration formalities, which can be granted prior to arrival in its territory, to allow natural persons of another Party entry into and temporary stay in its territory;
- (b) expeditiously process complete applications for immigration formalities received from natural persons of another Party, including further immigration formality requests or extensions thereof;

¹ The sole fact of requiring a visa for natural persons of a Party and not for those of non-Parties shall not be regarded as nullifying or impairing trade in goods or services or conduct of investment activities under this Agreement.

² For greater certainty, the terms 'conditions and limitations' include limitations on the total number of visas or the requirement of a labour market test.

- (c) on request, and within a reasonable period after an application by a natural person of another Party requesting temporary entry is lodged, notify the applicant of:
 - (i) receipt of the application;
 - (ii) the status of the application; and
 - (iii) the decision concerning the application, including:
 - (A) if approved, the period of stay and other conditions; or
 - (B) if refused, the reasons for refusal and any avenues for review.

Article 6: Mutual Recognition

If the requirements for an immigration formality include requirements relating to authorisation, licensing or certification of natural persons, Article 11 of Chapter 7 (Trade in Services) shall apply, *mutatis mutandis*, to such authorisation, licensing or certification, but that obligation shall only apply to a Party in relation to the commitments they have made under Article 4.

Article 7: Contact Points

Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Chapter, and shall provide details of that contact point to the other Parties. The Parties shall notify each other promptly of any amendments to the details of their contact point.

Article 8: Application of Chapter 14 (Consultations and Dispute Settlement)

1. The Parties shall endeavour to settle any differences arising out of the implementation of this Chapter through consultations.
2. A Party shall not have recourse to Chapter 14 (Consultations and Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter unless:
 - (a) the matter involves a pattern of practice on the part of the granting Party; and
 - (b) the natural persons affected have exhausted all available domestic remedies regarding the particular matter.
3. The remedies referred to in paragraph 2(b) shall be deemed to be exhausted if a final determination in the matter has not been issued within one year after the date of the institution of proceedings for such remedy, and the failure to issue a determination is not attributable to delays caused by the natural persons concerned.

Article 9: Review of Commitments

The Parties shall review commitments for the temporary entry of natural persons, with the first review taking place within three years of entry into force of this Agreement and periodically thereafter as determined by the Joint Committee, with the aim of improving the overall commitments undertaken by the Parties under this Chapter so as to progressively liberalise the movement of natural persons among the Parties.