

Chapter 9 Movement of Natural Persons

Article 115 Scope and Coverage

1. This Chapter shall apply to measures affecting the movement of natural persons of a Party who enter the other Party and fall under one of the categories referred to in paragraph 1 of Article 117.
2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of the Parties, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.
3. This Chapter shall not prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, the former Party, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of a specific commitment.

Note: The sole fact of requiring a visa for natural persons of a certain nationality or citizenship and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.

Article 116 Definition

For the purposes of this Chapter, the term "natural person of the other Party" means a natural person who resides in the other Party or elsewhere and who under the law of the other Party is a national of that other Party.

Article 117 Specific Commitments

1. Each Party shall set out in Annex 7 the specific commitments it undertakes for any of the following categories:
 - (a) short-term business visitors of the other Party;
 - (b) intra-corporate transferees of the other Party;
 - (c) investors of the other Party;

- (d) natural persons of the other Party who engage in professional services;
- (e) natural persons of the other Party who engage in business activities, which require technology or knowledge at an advanced level or which require specialised skills belonging to particular fields of industry, on the basis of a personal contract with public or private organisations in the former Party; and
- (f) instructors of the other Party.

2. Natural persons covered by a specific commitment referred to in paragraph 1 above shall be granted entry and temporary stay in accordance with the terms and conditions of the specific commitment set out in Annex 7, provided that the natural persons comply with immigration laws and regulations applicable to entry and temporary stay which are not inconsistent with the provisions of this Chapter.

3. Neither Party shall impose or maintain any limitations on the total number of visas to be granted in the Parties to natural persons of the other Party under paragraph 1 above, unless otherwise specified in Annex 7.

Article 118 Requirements and Procedures Relating to the Movement of Natural Persons

1. Each Party shall publish or otherwise make available to the other Party on the date of entry into force of this Agreement, with respect to natural persons covered by that Party's specific commitments under this Chapter, information on requirements and procedures necessary for an effective application for the grant of entry into, initial or renewal of temporary stay in and, where applicable, permission to work in, and a change of status of temporary stay in, that Party.

2. Each Party shall endeavour to provide, upon request by a natural person of the other Party, information on requirements and procedures referred to in paragraph 1 above.

3. Each Party shall endeavour to promptly inform the other Party of the introduction of any new requirements and procedures, or changes in any existing requirements and procedures referred to in paragraph 1 above that affect the effective application for the grant of entry into, initial or renewal of temporary stay in and, where applicable, permission to work in, and a change of status of temporary stay in, that Party.

4. Each Party shall ensure that fees charged by its competent authorities on application referred to in paragraph 1 above do not in themselves represent an unjustifiable impediment to movement of natural persons under this Chapter.

5. Each Party shall endeavour, to the maximum extent possible, to take measures to simplify the requirements and to facilitate and expedite the procedures relating to the movement of natural persons of the other Party within the framework of its laws and regulations. Specific commitments on such measures shall be set out in Annex 7.

Article 119 Mutual Recognition

1. For the purposes of facilitating movement of natural persons under this Chapter, a Party may recognise the education or experience obtained, requirements met, or licences or certifications granted in the other Party for the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing or certification of natural persons of the other Party.

2. Recognition referred to in paragraph 1 above, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement between the Parties or may be accorded unilaterally.

3. Where a Party recognises, by agreement or arrangement between the Party and a non-Party or unilaterally, the education or experience obtained, requirements met or licences or certifications granted in the non-Party, the Party shall accord the other Party an adequate opportunity to demonstrate that the education or experience obtained, requirements met or licences or certifications granted in the other Party should also be recognised.

Article 120 Sub-Committee on Movement of Natural Persons

1. For the purposes of the effective implementation and operation of this Chapter, a Sub-Committee on Movement of Natural Persons (hereinafter referred to in this Article as "Sub-Committee") shall be established pursuant to Article 13.

2. The functions of the Sub-Committee shall be:

- (a) reviewing the implementation and operation of this Chapter;

- (b) reviewing the scope of the commitments of the Parties under this Chapter including seeking possibilities for the Parties to make commitments that are not included in the specific commitments under paragraph 1 of Article 117, taking into account the Parties' respective needs and mutual benefits;
 - (c) discussing any issues related to this Chapter as may be agreed upon;
 - (d) reporting the findings of the Sub-Committee to the Joint Committee; and
 - (e) carrying out other functions which may be delegated by the Joint Committee pursuant to Article 13.
3. The Sub-Committee shall work in close consultation with the Special Sub-Committee on Mutual Recognition provided for under subparagraph 6 below and shall take into consideration the findings of the Special Sub-Committee referred to in subparagraph 6(b)(v) below.
4. The Sub-Committee shall be composed of representatives of the Governments of the Parties.
5. The Sub-Committee shall meet at least once a year.
6. (a) For the purposes of the effective implementation and operation of Article 119, the Sub-Committee shall establish a Special Sub-Committee on Mutual Recognition (hereinafter referred to in this Article as "Special Sub-Committee").
- (b) The functions of the Special Sub-Committee shall be:
- (i) reviewing the implementation and operation of the said Article;
 - (ii) seeking possibilities for the Parties to make commitments on matters referred to in the said Article, taking into account the Parties' respective needs and mutual benefits;
 - (iii) identifying areas for and ways of furthering cooperation between the Parties in the matters concerning mutual recognition;
 - (iv) discussing any issues related to the said Article as may be agreed upon; and

- (v) reporting the findings of the Special Sub-Committee, through the Sub-Committee, to the Joint Committee.

Article 121 Further Negotiations

The Parties shall, after the date of the entry into force of this Agreement, enter into negotiations with each other in accordance with Annex 7.

Chapter 10 Intellectual Property

Article 122 General Provisions

1. The Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property, promote efficiency and transparency in the administration of intellectual property protection system, and provide for measures for the enforcement of intellectual property rights against infringement, counterfeiting and piracy, in accordance with the provisions of this Chapter and the international agreements to which both Parties are parties.

2. Intellectual property referred to in this Chapter shall mean all categories of intellectual property:

- (a) that are subject of Articles 130 through 137; or
- (b) that are under the TRIPS Agreement or the relevant international agreements referred to in the TRIPS Agreement.

3. The Parties recognise the importance of the international agreements which provide the international standards of protection of intellectual property.

4. The Parties reaffirm their commitment to comply with the obligations set out in the following international agreements and the cited provisions thereof:

- (a) the TRIPS Agreement;
- (b) the Berne Convention; and
- (c) Articles 1 through 12, and Article 19 of the Paris Convention.