

CHAPTER 10

MOVEMENT OF NATURAL PERSONS

ARTICLE 1001

Objectives

The objectives of this Chapter are:

- (a) to provide for rights and obligations additional to those set out in Chapter 8 and Chapter 9 in relation to the movement of natural persons between the Parties; and
- (b) to enhance the mobility of natural persons of either Party engaged in the conduct of trade and investment between the Parties, by facilitating temporary business entry and establishing simplified and transparent immigration formalities for business persons.

ARTICLE 1002

Definitions

For the purposes of this Chapter:

- (a) “business visitor” means a natural person of either Party who is:
 - (i) a service seller;
 - (ii) an investor of a Party, or a representative of an investor, seeking temporary entry to establish an investment; or
 - (iii) seeking temporary entry for the purposes of negotiating the sale of goods where such negotiations do not involve direct sales to the general public;
- (b) “contractual service supplier” means a natural person of a Party who satisfies any requirements under the laws, regulations and policies of the other Party or satisfies any recognition of standards requirements or criteria agreed by the Parties to provide such services in the territory of that Party, and:

- (i) is an employee of a service supplier or a juridical person of a Party not having a commercial presence or investment in the other Party, which has concluded a service contract with a juridical person registered and engaged in substantive business operations in the other Party; or
- (ii) is a national of a Party and employed under an employment contract by a juridical person registered and engaged in substantive business operations in the other Party;

and is seeking temporary entry to provide a service as a manager, executive or specialist;

- (c) “executive” means a natural person within an organisation who primarily directs the management of the organisation, exercises wide latitude in decision making, and receives only general supervision or direction from higher-level executives, the board of directors, or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service or the operation of an investment;
- (d) “immigration formality” means a visa, work permit, or other document or electronic authority granting a natural person of one Party the right to reside or work in the territory of the other Party;
- (e) “intra-corporate transferee” means an employee of a service supplier, investor or juridical person of a Party established in the territory of the other Party through a branch or affiliate, and who is a manager, executive or specialist;
- (f) “manager” means a natural person within an organisation who primarily directs the organisation or a department or sub-division of the organisation, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorisation), and exercises discretionary authority over day-to-day operations. This does not include a first-line supervisor unless the employees supervised are professionals;
- (g) “service seller” means a natural person of a Party who is a sales representative of a service supplier of that Party and is seeking temporary entry to the other Party for the purpose of negotiating the sale of services for that service supplier, where such a representative will not be engaged in making direct sales to the general public or in supplying services directly;
- (h) “specialist” means a natural person within an organisation who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organisation’s service, research equipment, techniques, or management; or a natural person with high-level technical or professional qualifications and skills and experience; and
- (i) “temporary entry” means entry by a business visitor, or an intra-corporate transferee, or a contractual service supplier as the case may be, without the intent to establish permanent residence and for the purpose of engaging in activities which are clearly related to their respective business purposes. Additionally, in the case of a business visitor, the salaries of and any related payments to such a visitor should be paid entirely by the service supplier or juridical person which employs that visitor in the visitor’s home country.

ARTICLE 1003

Scope

1. This Chapter shall apply to measures affecting the movement of natural persons of a Party into the territory of the other Party where such persons are:

- (a) contractual service suppliers of the first Party;
- (b) intra-corporate transferees of the first Party;
- (c) service sellers of the first Party;
- (d) investors of the first Party in respect of an investment of that investor in the territory of the other Party; or
- (e) natural persons employed by an investor of the first Party in respect of an investment of that investor in the territory of the other Party.

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a Party, or measures regarding citizenship, residence or employment on a permanent basis.

ARTICLE 1004

Short-Term Temporary Entry

A Party shall, upon application by a business visitor of the other Party who meets its criteria for the grant of an immigration formality, grant that business visitor, through the issue of an immigration formality, the right to temporary entry in the granting Party's territory for a period of up to 90 days.

ARTICLE 1005

Long-Term Temporary Entry

A Party shall, in accordance with commitments in Annex 8, grant temporary entry to an intra-corporate transferee or a contractual service supplier of the other Party who meets its criteria for the grant of an immigration formality unless there has been a breach of any of the conditions governing temporary entry, or an application for an extension of an immigration formality has been refused on such grounds of national security or public order by the granting Party as it deems fit.

ARTICLE 1006

Provision of Information

A Party shall publish or otherwise make available to the other Party such information as will enable the other Party to become acquainted with its measures relating to this Chapter.

ARTICLE 1007

Immigration Measures

Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, 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 this Chapter. The sole fact of requiring a visa for natural persons of certain countries and not for those of others shall not be regarded as nullifying or impairing benefits under a specific commitment.

ARTICLE 1008

Expeditious Application Procedures

A Party shall process expeditiously applications for immigration formalities from natural persons of the other Party, including further immigration formality requests or extensions thereof.