

## CHAPTER 13

### TEMPORARY ENTRY OF BUSINESS PERSONS

#### Article 13.1 Definitions

For the purposes of this Chapter:

**“business person”** means a national, who is engaged in trade in goods, the supply of services, or the conduct of investment activities;

**“immigration formality”** means a visa, permit, pass, or other document, or electronic authority, granting temporary entry;

**“immigration measure”** means any measure affecting the entry and stay of foreign nationals; and

**“temporary entry”** means entry into and temporary stay in the territory of a Party by a business person of the other Party who does not intend to establish permanent residence.

#### Article 13.2 Objectives

The objectives of this Chapter are to:

- (a) facilitate temporary entry of natural persons for business purposes on a reciprocal basis; and
- (b) ensure an expeditious and transparent process to facilitate the temporary entry of natural persons for business purposes,

while recognising the need of a Party to ensure its security and to protect its domestic labour force and employment.

#### Article 13.3 Scope

1. This Chapter shall apply to measures that affect the temporary entry of business persons of a Party into the territory of the other Party who fall into the scope of the categories set out in Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons).

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of the other Party, nor to measures regarding citizenship, nationality, residence, or employment on a permanent basis.
3. Nothing in this Agreement shall prevent a Party from applying measures to regulate temporary entry, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across, its borders, provided that those measures are not applied in a manner as to nullify or impair the benefits accruing to the other Party under this Chapter.
4. The sole fact that a Party requires business persons of the other Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to the other Party under this Chapter.
5. For greater certainty, all requirements provided for in the law of each Party regarding employment and social security measures shall continue to apply, including laws and regulations concerning minimum wages as well as collective wage agreements.
6. Commitments on the temporary entry of business persons as set out in Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons) shall not apply in cases where the intent or effect of the temporary entry is to interfere with or otherwise affect the outcome of a labour or management dispute or negotiation, or the employment of a natural person who is involved in that dispute or negotiation.

#### **Article 13.4 Application Procedures**

1. As expeditiously as possible after receipt of a completed application for an immigration formality, each Party shall make a decision on the application and inform the applicant of the decision including, if approved, the period of stay and other conditions.
2. At the request of an applicant, a Party in receipt of a completed application for temporary entry shall endeavour to provide, without undue delay, information concerning the status of the application.
3. Each Party shall ensure that fees charged by its competent authority for the processing of an application for an immigration formality are reasonable, in that they do not unduly impair or delay trade in goods or services or the conduct of investment activities under this Agreement.

**Article 13.5**  
**Grant of Temporary Entry**

1. Each Party shall set out in Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons) its commitments for the temporary entry of business persons in its territory. Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons) shall specify the conditions and limitations for temporary entry and stay, including length of stay, for each category of business persons specified by that Party.
2. A Party shall grant temporary entry or extension of temporary stay to business persons of the other Party to the extent provided for in those commitments made pursuant to paragraph 1, provided that those business persons:
  - (a) follow the granting Party's prescribed application procedures for the immigration formality sought; and
  - (b) meet all relevant eligibility requirements for temporary entry into, or extension of temporary stay in, the granting Party.
3. The sole fact that a Party grants temporary entry or extension of temporary stay to a business person of the other Party pursuant to this Chapter shall not be construed to exempt that business person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practise a profession or otherwise engage in business activities.
4. A Party shall not adopt or maintain limitations in the form of numerical quotas on the total number for each category of business persons of the other Party granted temporary entry in accordance with Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons). A Party shall not maintain or adopt the requirement of an economic needs test, except as provided for in Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons).

**Article 13.6**  
**Provision of Information**

1. Further to Article 29.2 (Publication – Transparency) and Article 29.5 (Provision of Information – Transparency), each Party shall make publicly available information relating to the current requirements for temporary entry by business persons of the other Party, permitted in accordance with Annex 13A (Schedule of Commitments for Temporary Entry of Business Persons).
2. The information referred to in paragraph 1 shall include, where applicable, the following information:
  - (a) categories of immigration formality;

- (b) documentation required and conditions to be met;
  - (c) method of filing an application and options on where to file, such as consular offices or online;
  - (d) application fees and an indicative timeframe of the processing of an application;
  - (e) the maximum length of stay under each category of immigration formality;
  - (f) conditions for any available extension or renewal;
  - (g) rules regarding accompanying dependents;
  - (h) available review or appeal procedures; and
  - (i) relevant measures of general application pertaining to the temporary entry of business persons of the other Party.
3. With respect to the information referred to in paragraphs 1 and 2, each Party shall endeavour to promptly inform the other Party, either through existing mechanisms or the Services and Investment Sub-Committee, of the introduction of any new requirements and procedures or of the changes in any requirements and procedures that affect the effective application for the grant of entry into, and where applicable, permission to work in, its territory.

### **Article 13.7 Institutional Arrangements**

The Services and Investment Sub-Committee will review and monitor the implementation and operation of this Chapter and perform other functions in accordance with Article 9.14 (Services and Investment Sub-Committee – Cross Border Trade in Services).

### **Article 13.8 Relation to Other Chapters**

1. Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions), Chapter 30 (Institutional Provisions), Chapter 31 (Dispute Settlement), Chapter 33 (Final Provisions), Article 29.2 (Publication – Transparency), and Article 29.5 (Provision of Information – Transparency), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

### **Article 13.9 Dispute Settlement**

1. The Parties shall endeavour to settle any differences arising out of the implementation of this Chapter amicably through consultations or negotiations.<sup>1</sup>
2. Neither Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) regarding a refusal to grant temporary entry unless:
  - (a) the matter involves a pattern of practice; and
  - (b) the business persons affected have exhausted all available administrative remedies regarding the particular matter.
3. The remedies referred to in subparagraph 2(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the other Party within a reasonable period of time after the date of the institution of proceedings for the remedy, including any proceedings for review or appeal, and the failure to issue such a determination is not attributable to delays caused by the business persons concerned.

### **Article 13.10 Cooperation on Return and Readmissions**

The Parties acknowledge that the temporary entry of business persons requires the Parties' full cooperation to support the return and readmission of business persons staying in a Party in contravention of its law for temporary entry.

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<sup>1</sup> For greater certainty, this includes by way of the mechanisms set out in Article 31.3 (Cooperation – Dispute Settlement).