

ANNEX 8-C

MOVEMENT OF NATURAL PERSONS

1. Scope

- (a) This Annex shall apply to measures affecting the movement of natural persons of a Party falling under the categories specified in Annex 8-D by the other Party into the territory of the other Party.
- (b) This Annex shall not apply to measures affecting natural persons of a Party seeking access to the employment market of the other Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.
- (c) Nothing in this Annex 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 a manner to nullify or impair the benefits accruing to the other Party under this Annex.
- (d) The sole fact that a Party requires natural 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 Annex, or as unduly impairing or delaying trade in goods or services or the conduct of investment activities under this Agreement.

2. Objective

The objective of this Annex is to provide for rights and obligations additional to those set out in this Chapter in relation to the movement of natural persons between the Parties for business purposes.

3. Application Procedures

- (a) As expeditiously as possible after receipt of a complete 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.
- (b) Upon request of an applicant, a Party in receipt of a complete application for an immigration formality shall promptly provide, without undue delay, information concerning the status of the application. Each Party shall notify the applicant for temporary entry, either directly or indirectly through his/her employer, of the outcome of the final determination, including the period of stay and other conditions. In the case of an incomplete application, the Party

shall notify the applicant of all the additional information that is required to complete the application and provide the opportunity to remedy deficiencies.

- (c) If an application is denied, each Party shall, to the maximum extent possible, inform the applicant of the reasons for such action in writing and without delay. The applicant will have the possibility of resubmitting, at its discretion, a new application.
- (d) Any fees imposed in respect of the processing of an immigration formality shall be reasonable and in accordance with domestic laws and regulations of each Party, so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.

4. Conditions and Limitations for the Movement of Natural Persons

- (a) Each Party shall set out, in Annex 8-D, its specific commitments with regard to the movement of natural persons of the other Party into its territory, which shall specify the conditions and limitations for entry and temporary stay, including length of stay, for each category of natural persons.
- (b) Each Party shall ensure natural persons covered by a specific commitment referred to in subparagraph (a) above to be granted entry and temporary stay in accordance with the terms and conditions of the specific commitments set out in Annex 8-D, provided that the natural persons comply with immigration laws and regulations applicable to entry and temporary stay.
- (c) The sole fact that a Party grants temporary entry to a natural person of the other Party pursuant to this Annex shall not be construed to exempt that natural person from meeting any applicable licensing or other requirements, to practise a profession or otherwise engage in business activities.

5. Transparency

- (a) Each Party shall publish or otherwise make available to the other Party on the date of entry into force of this Agreement, information on application requirements and procedures relating to its specific commitments with respect to movement of natural persons of the other Party for the grant of entry into, temporary stay in or renewal thereof, the former Party.
- (b) Each Party shall maintain or establish contact points or other mechanisms to respond to inquiries from the other Party regarding regulations affecting the movement of natural persons.
- (c) In accordance with its domestic laws and regulations, each Party shall allow a reasonable period of time between publication of regulations affecting the movement of natural persons and their effective date.

- (d) Within three months from the date of entry into force of this Agreement, the Parties shall exchange information on current procedures relating to the processing of applications for temporary entry.
- (e) Each Party shall endeavor to promptly inform the other Party of the introduction of any new requirement and procedure, or change in any existing requirement and procedure referred to in subparagraph (a) that affects the effective application by natural persons of the other Party for the grant of entry into, initial temporary stay in or renewal thereof, the former Party.

6. Dispute Settlement

- (a) A Party shall not have recourse to Chapter 15 (Dispute Settlement) regarding a refusal to grant temporary entry under this Annex unless:
 - (i) the matter involves a pattern of practice; and
 - (ii) the natural persons affected have exhausted all available domestic administrative remedies regarding the particular matter.
- (b) The remedies referred to in sub subparagraph (ii) of subparagraph (a) 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 proceeding for review or appeal, and the failure to issue such a determination is not attributable to delays caused by the natural persons concerned.

7. Committee on Movement of Natural Persons

- (a) The Parties hereby establish a Committee on Movement of Natural Persons (hereinafter referred to as the “Committee”) comprising representatives of each Party, including immigration officials. Unless otherwise agreed by the Parties, the Committee shall convene once a year.
- (b) The Committee shall:
 - (i) establish procedures to exchange information on measures that affect the temporary entry of natural persons under this Annex;
 - (ii) consider the development of measures to further facilitate temporary entry of natural persons under this Annex;
 - (iii) consider the implementation and administration of this Annex;
 - (iv) share information, upon request of a Party and based on agreement between the Parties, on the issues relating to the entry and temporary stay of natural persons subject to respective domestic laws and regulations; and

- (v) discuss any other issue of interest raised by a Party, as mutually agreed.

8. Cooperation

Recognizing that the Parties can benefit by sharing their diverse experience in developing and applying procedures related to visa processing, border security and administration of the natural persons, the Parties shall consider undertaking mutually agreed cooperation activities, subject to available resources, including by:

- (a) providing advice on the development and implementation of electronic processing systems for visas;
- (b) sharing information on the regulations and technology as well as experiences on the implementation of programs with respect to border security and administration of the natural persons; and
- (c) cooperating in multilateral fora to promote processing enhancements, such as those listed in subparagraphs (a) and (b).

9. Definitions

For the purposes of this Annex:

immigration formality means a visa, permit, pass or other document or electronic authority granting a natural person of one Party entry into and temporary stay in, the territory of the other Party; and

movement of natural person means temporary entry into the territory of a Party by a natural person of the other Party without the intent to establish permanent residence.