

Annex 8-C

Movement of Natural Persons Supplying Services

Definition

1. For purposes of this Annex:

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

General Principles

2. This Annex reflects the Parties' mutual desire of facilitating entry and temporary stay in accordance with their laws and regulations and the commitments in their Schedule of Specific Commitments in this Chapter and of establishing transparent measures affecting the entry and temporary stay covered by their respective Schedule of Specific Commitments, while recognizing the need to ensure border security and to protect the domestic labor force and permanent employment in their respective territories.

3. 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, nationality, residence, or employment on a permanent basis.

General Obligations

4. Each Party shall apply its measures related to this Annex in accordance with paragraphs 2 and 3 and, in particular, shall expeditiously apply those measures so as to avoid unduly nullifying or impairing the benefits accruing to the other Party or delaying trade in services under this Chapter.

Grant of Entry and Temporary Stay

5. The Parties may make commitments in respect of entry and temporary stay. Such commitments and the conditions governing them shall be inscribed in Schedule of Specific Commitments referred to in Article 8.7.

6. In accordance with this Annex and subject to each Party's Schedule of Specific Commitments, a Party shall grant entry or extension of temporary stay to natural persons of the other Party to the extent provided for in those commitments made pursuant to paragraph 5, provided that those natural persons:

- (a) follow the granting Party's prescribed application procedures under its relevant laws and regulations; and
- (b) meet all relevant eligibility requirements for entry or extension of temporary stay.

7. Each Party shall ensure that any fees charged by its competent authorities for the processing of an application for the entry and temporary stay do not unduly impair or delay the supply of services under this Chapter.

8. The sole fact that a Party grants entry to a natural person of the other Party pursuant to this Chapter shall not be construed to exempt that natural person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practice a profession or otherwise engage in business activities.

Transparency

9. Further to Article 1.6 (Transparency), each Party shall:

- (a) provide to the other Party such information, to the extent practicable, as will enable the other Party to become acquainted with its measures relating to this Annex;
- (b) no later than one year after the date of entry into force of this Agreement, if possible, prepare, publish, and make available, explanatory information regarding the requirements for entry and temporary stay under this Annex including applicable laws and regulations in such a manner as will enable the categories of natural persons of the other Party specified in the Schedule of Specific Commitments to become acquainted with them; and
- (c) upon modifying or amending a measure that affects the entry and temporary stay of categories of natural persons specified in the Schedule of Specific Commitments, ensure that such modifications or amendments are promptly published and made available in such a manner as will enable natural persons of the other Party to become acquainted with them.

10. Further to Article 1.6 (Transparency), each Party shall establish or maintain appropriate mechanisms to respond to inquiries from interested persons regarding applications and procedures related to the entry and temporary stay.

11. On the request of the applicant, the Party shall endeavor to provide, without undue delay, information on the status of the application or the

decision about the application.

Cooperation

12. The Parties may discuss mutually agreed areas of cooperation to further facilitate the entry and temporary stay in line with their respective laws and regulations, which shall take into consideration areas proposed by either Party during the course of negotiations or other areas as may be identified by the Parties.

Dispute Settlement

13. The relevant authorities of both Parties shall endeavour to resolve any problems that may arise from the implementation and administration of this Annex.

14. Neither Party shall have recourse to dispute settlement under Chapter Fifteen (Dispute Settlement) regarding a refusal to grant entry and temporary stay, or the extension of temporary stay, under this Annex unless:

- (a) the matter involves a pattern of practice; and
- (b) the natural person affected has exhausted all available administrative remedies regarding the particular matter.

15. The remedies referred to in paragraph 14(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, and the failure to issue that determination is not attributable to delays caused by the natural person concerned.