

## CHAPTER 12 : TEMPORARY ENTRY FOR BUSINESS PERSONS

### ARTICLE 12.1 : GENERAL PRINCIPLES

1. This Chapter reflects the preferential trading relationship between the Parties, the mutual desire of the Parties to facilitate temporary entry of business persons under the provisions of Annex 12A (Temporary Entry for Business Persons), on a comparable basis; the necessity of establishing transparent criteria and procedures for temporary entry; and the need to ensure border security and to protect the domestic labor force and permanent employment in their respective territories.
2. This Chapter does not apply to measures regarding citizenship, nationality, permanent residence, or employment on a permanent basis.

### ARTICLE 12.2 : GENERAL OBLIGATIONS

1. Each Party shall apply its measures relating to the provisions of this Chapter in accordance with Article 12.1 (General Principles) and, in particular, shall apply expeditiously those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.
2. For greater certainty, nothing in this Chapter shall be construed to prevent a Party from applying measures to regulate the entry of natural persons 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 unduly impair or delay trade in goods or services or conduct of investment activities under this Agreement. The sole fact of requiring a visa, or other document authorizing employment to a business person for natural persons shall not be regarded as unduly impairing or impediment in the trade of goods or services or investment activities under this Agreement.

### ARTICLE 12.3 : DEFINITIONS

For purposes of this Chapter:

1. **business person** means a national of a Party who is engaged in trade in goods, the supply of services, or the conduct of investment activities;
2. **immigration measure** means any law, regulation, or procedure affecting the entry and sojourn of aliens, including the issuance of immigration documents authorizing employment to an alien; and

3. **temporary entry** means entry into the territory of a Party by a business person of the other Party without the intent to establish permanent residence.

#### ARTICLE 12.4 : GRANT OF TEMPORARY ENTRY

1. Each Party shall grant temporary entry to business persons who are otherwise qualified for entry under applicable measures relating to public health and safety and national security, in accordance with this Chapter, including the provisions of Annex 12A (Temporary Entry for Business Persons).

2. Each Party shall set any fees for processing applications for temporary entry of business persons in a manner consistent with paragraph 1 of Article 12.2 (General Obligations).

#### ARTICLE 12.5 : ONLINE LODGEMENT AND PROCESSING

1. Where possible, after the date of entry into force of this Agreement, the Parties shall provide facilities for online lodgement and processing:

- (a) in the case of Singapore, of employment passes which shall be applied for by the prospective employers; and
- (b) in the case of Peru, of labour contracts<sup>12-1</sup>.

2. In order to facilitate the implementation of this Article as soon as possible, Parties shall encourage their respective authorities to share their experience in establishing such facilities.

#### ARTICLE 12.6 : PROVISION OF INFORMATION

In addition to Article 15.3 (Publication), each Party shall:

- (a) provide to the other Party such materials as will enable it to become acquainted with its measures relating to this Chapter; and
- (b) no later than six (6) months after the date of entry into force of this Agreement, prepare, publish, and make available in its own territory, and in the territory of the other Party, explanatory material, including references to applicable laws and regulations, in a consolidated

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<sup>12-1</sup> Peru's implementation of its obligations to provide facilities for online lodgment and processing shall take into account resource and budget constraints.

document, regarding the requirements for temporary entry under this Chapter in such a manner as will enable business persons of the other Party to become acquainted with them.

#### ARTICLE 12.7 : IMPLEMENTATION

Parties shall establish appropriate mechanisms to facilitate the implementation and administration of this Chapter and to consider other matters of mutual interest affecting the temporary entry of business persons, such as:

- (a) establishing procedures to exchange information;
- (b) considering the development of measures to further facilitate temporary entry of business persons.

#### ARTICLE 12.8 : DISPUTE SETTLEMENT

1. A Party may not initiate proceedings under Article 17.6 (Request for a Panel) regarding a refusal to grant temporary entry under this Chapter or a particular case arising under paragraph 2 of Article 12.2 (General Obligations) unless:

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

2. The remedies referred to in paragraph 1(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

#### ARTICLE 12.9: RELATION TO OTHER CHAPTERS

1. Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions), Chapter 16 (Administration of the Agreement), Chapter 17 (Dispute Settlement), and Chapter 19 (Final Provisions), and Article 15.2 (Contact Points), Article 15.3 (Publication), Article 15.4 (Notification and Provision of Information), and Article 15.5 (Administrative Proceedings), 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 12.10: TRANSPARENCY IN DEVELOPMENT AND APPLICATION OF REGULATIONS<sup>12-2</sup>

1. Further to Chapter 15 (Transparency), each Party shall establish or maintain appropriate mechanisms to respond to inquiries from interested persons regarding regulations relating to the temporary entry of business persons.

2. Each Party shall, within a reasonable period of time after an application requesting temporary entry is considered complete under its domestic laws and regulations, inform the applicant, either directly or through their prospective employers, of the decision concerning the application, including the period of stay and other conditions. At the request of the applicant, the Party shall provide, without undue delay, information concerning the status of the application.

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<sup>12-2</sup> For greater certainty, “regulations” includes regulations establishing or applying to licensing authorization or criteria.