

Chapter Fifteen

Temporary Entry for Business Persons

Article 1501: General Principle

The provisions of this Chapter reflect the special trading relationship between the Parties, the desirability of facilitating temporary entry on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry, and the need to ensure border security and protect indigenous labour and permanent employment.

Article 1502: Obligations

1. The Parties shall provide, in accordance with Annex 1502.1, for the temporary entry of business persons who are otherwise qualified for entry under applicable law relating to public health and safety and national security.
2. Each Party shall publish its laws, regulations and procedures relating to the provisions of this Chapter and provide to the other Party such explanatory materials as may be reasonably necessary to enable the other Party and its business persons to become acquainted with them.
3. Any fees for processing applications for temporary entry of business persons shall be limited in amount to the approximate cost of services related thereto.
4. Data collected and maintained by a Party respecting the granting of temporary entry to business persons under this Chapter shall be made available to the other Party in conformity with applicable law.
5. The application and enforcement of measures governing the granting of temporary entry to business persons shall be accomplished expeditiously so as to avoid unduly impairing or

delaying the conduct of trade in goods or services, or of investment activities, under this Agreement.

Article 1503: Consultation

The Parties shall establish a procedure, which shall involve the participation of immigration officials of both Parties, for consultation at least once a year respecting:

- a) the implementation of this Chapter; and
- b) the development of measures for the purpose of further facilitating temporary entry of business persons on a reciprocal basis and the development of amendments and additions to Annex 1502.1.

Article 1504: Dispute Settlement

1. Subject to paragraph 2, a Party may invoke the provisions of Chapter Eighteen with respect to any matter governed by this Chapter.

2. A Party may not invoke the provisions of Articles 1806 or 1807 of this Agreement with respect to the denial of a business person's request for temporary entry or a matter under paragraph 5 of Article 1502 unless:

- a) the matter involves a pattern of practice; and
- b) available administrative remedies have been exhausted with respect to the particular matter involving a business person's request for temporary entry, provided that such remedies shall be deemed to be exhausted if a final decision in the matter has not been issued within one year of the institution of administrative proceedings and the failure to issue a decision is not attributable to delay caused by the business person.

Article 1505: Relationship to other Chapters

No provision of any other Chapter of this Agreement shall be construed as imposing obligations upon the Parties with respect to the Parties' immigration measures.

Article 1506: Definitions

For purposes of this Chapter:

business person means a citizen of a Party who is engaged in the trade of goods or services or in investment activities; and

temporary entry means entry without the intent to establish permanent residence.

Annex 1502.1
Temporary Entry for Business Persons

United States of America

A. Business Visitors

1. A business person seeking temporary entry into the United States of America for purposes set forth in Schedule 1, who otherwise meets existing requirements under section 101(a)(15)(B) of the *Immigration and Nationality Act*, including but not limited to requirements regarding the source of remuneration, shall be granted entry upon presentation of proof of Canadian citizenship and documentation demonstrating that the business person is engaged in one of the occupations or professions set forth in Schedule 1 and describing the purpose of entry.

2. A business person engaged in an occupation or profession other than those listed in Schedule 1 shall be granted temporary entry under section 101(a)(15)(B) of the *Immigration and Nationality Act* if the business person meets existing requirements for entry.

3. The United States of America shall not require, as a condition for temporary entry under paragraphs 1 or 2, prior approval procedures, petitions, labour certification tests, or other procedures of similar effect.

B. Traders and Investors

4. A business person seeking temporary entry into the United States of America to carry on substantial trade in goods or services, in a capacity that is supervisory or executive or involves essential skills, principally between the United States of America and Canada, or solely to develop and direct the operations of an enterprise in which the business person has invested, or is actively in the process of investing, a substantial amount of capital, shall be granted entry under section 101(a)(15)(E) of the *Immigration and Nationality Act*, and be provided confirming documentation, if the business person meets existing requirements for visa issuance and for entry.

5. The United States of America shall not require, as a condition for temporary entry under paragraph 4, labour certification tests or other procedures of similar effect.

C. Professionals

6. A business person seeking temporary entry into the United States of America to engage in business activities at a professional level who meets existing requirements under section 214(e) of the *Immigration and Nationality Act* shall be granted entry, and be provided confirming documentation, upon presentation of proof of Canadian citizenship and documentation demonstrating that the business person is engaged in one of the professions set forth in Schedule 2 and describing the purpose of entry.

7. The United States of America shall not require, as a condition for temporary entry under paragraph 6, prior approval procedures, petitions, labour certification tests, or other procedures of similar effect.

D. Intra-Company Transferees

8. A business person seeking temporary entry into the United States of America as an intra-company transferee shall be granted entry under section 101(a)(15)(L) of the *Immigration and Nationality Act*, and be provided confirming documentation, if the business person:

- a) immediately preceding the time of application for admission has been employed continuously for one year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof;
- b) is seeking temporary entry in order to continue to render services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge; and
- c) meets existing requirements for entry.

9. The United States of America shall not require, as a condition for temporary entry under paragraph 8, labour certification tests or other procedures of similar effect.

Canada

A. Business Visitors

1. A business person seeking temporary entry into Canada for purposes set forth in Schedule 1, who otherwise meets existing requirements under the *Immigration Act, 1976*, shall be granted entry without being required to obtain an employment authorization pursuant to subsection 19(1) of the Immigration Regulations, 1978, upon presentation of proof of United States citizenship and documentation demonstrating that the business person is engaged in one of the occupations or professions set forth in Schedule 1 and describing the purpose of entry.

2. A business person engaged in an occupation or profession other than those listed in Schedule 1 shall be granted temporary entry under the *Immigration Act, 1976*, without being required to obtain an employment authorization pursuant to subsection 19(1) of the Immigration Regulations, 1978, if the business person meets existing requirements for entry.

3. Canada shall not require, as a condition for temporary entry under paragraphs 1 or 2, prior approval procedures, petitions, labour certification tests, or other procedures of similar effect.

B. Traders and Investors

4. A business person seeking temporary entry into Canada to carry on substantial trade in goods or services, in a capacity that is supervisory or executive or involves essential skills, principally between Canada and the United States of America, or solely to develop and direct the operations of an enterprise in which the business person has invested, or is actively in the process of investing, a substantial amount of capital, shall be granted entry under the *Immigration Act, 1976*, and shall be issued an employment authorization pursuant to subsection 20(5) of the Immigration Regulations, 1978, if the business person meets existing requirements for entry.

5. Canada shall not require, as a condition for temporary entry under paragraph 4, labour certification tests or other procedures of similar effect.

C. Professionals

6. A business person seeking temporary entry into Canada to engage in business activities at a professional level who meets existing requirements for entry under the *Immigration Act, 1976*, shall be granted entry and shall be issued an employment authorization pursuant to subsection 20(5) of the Immigration Regulations, 1978, upon presentation of proof of United States citizenship and documentation demonstrating that the business person is engaged in one of the professions set forth in Schedule 2 and describing the purpose of entry.

7. Canada shall not require, as a condition for temporary entry under paragraph 6, prior approval procedures, petitions, labour certification tests, or other procedures of similar effect.

D. Intra-Company Transferees

8. A business person seeking temporary entry into Canada as an intra-company transferee shall be granted entry under the *Immigration Act, 1976*, and shall be issued an employment authorization pursuant to subsection 20(5) of the Immigration Regulations, 1978, if the business person:

- a) immediately preceding the time of application for admission has been employed continuously for one year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof;
- b) is seeking temporary entry in order to continue to render services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge; and
- c) meets existing requirements for entry.

9. Canada shall not require, as a condition for temporary entry under paragraph 8, labour certification tests or other procedures of similar effect.

Schedule 1¹
to
Annex 1502.1

Research and Design

- technical, scientific, and statistical researchers conducting independent research, or research for an enterprise located in Canada/the United States.

Growth, Manufacture and Production

- harvester owner supervising a harvesting crew admitted under applicable law.
- purchasing and production management personnel conducting commercial transactions for an enterprise located in Canada/the United States.

Marketing

- market researchers and analysts conducting independent research or analysis, or research or analysis for an enterprise located in Canada/the United States.
- trade fair and promotional personnel attending a trade convention.

¹ Where Schedule 1 refers to "Canada/the United States" the applicable reference is to:

- a) Canada, if the business person is seeking temporary entry into the United States of America; or
- b) the United States of America, if the business person is seeking temporary entry into Canada.

Where Schedule 1 refers to "the United States/ Canada" the applicable reference is to:

- a) the United States of America, if the business person is seeking temporary entry into the United States of America; or
- b) Canada, if the business person is seeking temporary entry into Canada.

Sales

- sales representatives and agents taking orders or negotiating contracts for goods or services but not delivering goods or providing services.
- buyers purchasing for an enterprise located in Canada/the United States.

Distribution

- transportation operators delivering to the United States/Canada or loading and transporting back to Canada/the United States, with no intermediate loading or delivery within the United States/Canada.
- customs brokers performing brokerage duties associated with the export of goods from the United States/Canada to or through Canada/the United States.

After-Sales Service

- installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to the seller's contractual obligation, performing services or training workers to perform such services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located outside the United States/Canada, during the life of the warranty or service agreement.

General Service

- professionals: with respect to entry into the United States of America, otherwise classifiable under section 101(a)(15)(H)(i) of the *Immigration and Nationality Act*, but receiving no salary or other remuneration from a United States source; and, with respect to entry into Canada, exempt from the requirement to obtain an employment authorization pursuant to subsection 19(1) of the

Immigration Regulations, 1978, but receiving no salary or other remuneration from a Canadian source.

- management and supervisory personnel engaging in commercial transactions for an enterprise located in Canada/the United States.
- computer specialists: with respect to entry into the United States of America, otherwise classifiable under section 101(a)(15)(H)(i) of the *Immigration and Nationality Act*, but receiving no salary or other remuneration from a United States source; and, with respect to entry into Canada, exempt from the requirement to obtain an employment authorization pursuant to subsection 19(1) of the Immigration Regulations, 1978, but receiving no salary or other remuneration from a Canadian source.
- financial services personnel (insurers, bankers or investment brokers) engaging in commercial transactions for an enterprise located in Canada/the United States.
- public relations and advertising personnel consulting with business associates, or attending or participating in conventions.
- tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in Canada/the United States.
- translators or interpreters performing services as employees of an enterprise located in Canada/the United States.

**Schedule 2
to
Annex 1502.1**

- accountant
- engineer
- scientist
 - biologist
 - biochemist
 - physicist
 - geneticist
 - zoologist
 - entomologist
 - geophysicist
- (baccalaureate)
 - epidemiologist
 - pharmacologist
 - animal scientist
 - agriculturist (agronomist)
 - dairy scientist
 - poultry scientist
 - soil scientist
- research assistant
(working in a post-secondary educational institution)
- medical/allied professional
 - physician (teaching and/or research only)
 - dentist
 - registered nurse
 - veterinarian
 - medical technologist
 - clinical lab technologist
- architect
- lawyer
- teacher
 - college
 - university
 - seminary
- economist
- social worker
- vocational counselor
- mathematician
- hotel manager (baccalaureate and 3 years experience)
- librarian (MLS)
- animal breeder
- plant breeder
- horticulturist
- silviculturist (forestry specialist)
- range manager (range conservationist)
- forester
- journalist (baccalaureate and years experience)
- nutritionist
- dietitian
- technical publications writer
- computer systems analyst

- psychologist
- management consultant (baccalaureate, or equivalent professional experience¹)
- scientific technician/technologist ²
- disaster relief insurance claims adjuster ³

¹ Standards for equivalence to be developed prior to entry into force of this Agreement.

² Must

- a) work in direct support of professionals in the following disciplines: chemistry, geology, geophysics, meteorology, physics, astronomy, agricultural sciences, biology, or forestry;
- b) possess theoretical knowledge of the discipline;
- c) solve practical problems in the discipline; and
- d) apply principles of the discipline to basic or applied research.

³ Standards for qualification to be developed prior to entry into force of this Agreement.