

CHAPTER 12

MOVEMENT OF NATURAL PERSONS

Article 12.1: Definitions

For the purposes of this Chapter:

immigration formality means a visa, permit, pass or other document or electronic authority granting a natural person of one Party the right to temporarily enter, reside or work or establish commercial presence in the territory of the granting Party;

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

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

Article 12.2: Scope

1. This Chapter shall apply, as set out in each Party's schedule of specific commitments in Annex 12-A, to measures affecting the temporary entry of natural persons of a Party into the territory of the other Party.

2. This Chapter shall not apply to measures affecting natural persons 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.

3. Nothing in this Agreement 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 those measures are not applied in such a manner as to nullify or impair the benefits accruing to either Party under this Chapter.

4. 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 either Party under this Chapter.

Article 12.3: Application Procedures

1. After receipt of a completed application for an immigration formality, each Party shall promptly make a decision on the application and inform the applicant of the decision including, if approved, the period of stay and other conditions.
2. Each Party shall, on request and within a reasonable period after a complete application by a natural person of the other Party covered by this Chapter requesting temporary entry is lodged, notify the applicant, either directly or through their authorised representative, of:
 - (a) receipt of the application;
 - (b) the status of the application; and
 - (c) if a decision has been made, the decision concerning the application, including, if approved, the period of stay and other conditions.
3. Each Party shall ensure that fees charged by its competent authorities for the processing of an application for an immigration formality are reasonable and in accordance with its laws and regulations.
4. Each Party shall endeavour, to the extent possible, to provide facilities for online lodgement and processing of immigration formalities.

Article 12.4: Grant of Temporary Entry

1. Each Party shall set out in Annex 12-A the commitments it makes with regard to temporary entry of natural persons, which shall specify the conditions and limitations for entry and temporary stay, including length of stay, for each category of natural person specified by that Party.
2. A Party shall grant temporary 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 1, provided that those natural persons:
 - (a) follow the granting Party's prescribed application procedures for the relevant immigration formality; and
 - (b) meet all relevant eligibility requirements for temporary entry or extension of temporary stay.
3. The sole fact that a Party grants temporary 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 practise a profession or otherwise engage in business activities.

Article 12.5: Business Travel

The Parties affirm their APEC commitments to each other to enhance the mobility of natural persons and their support for efforts to enhance the APEC Business Travel Card programme.

Article 12.6: Provision of Information

Further to Article 19.2 (Publication) and Article 19.3 (Provision of Information) of Chapter 19 (Transparency), each Party shall:

- (a) promptly publish online if possible or otherwise make publicly available, in a consolidated manner, information on:
 - (i) current requirements for temporary entry under this Chapter, including explanatory material and relevant forms and documents that will enable interested persons of the other Party to become acquainted with those requirements; and
 - (ii) the typical timeframe within which a complete application for an immigration formality is processed; and
- (b) establish or maintain appropriate mechanisms to respond to enquiries from interested persons regarding measures relating to temporary entry covered by this Chapter.

Article 12.7: Relation to Other Chapters

1. Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions), Chapter 18 (Institutional Provisions), Chapter 20 (Consultations and Dispute Settlement), Chapter 21 (Final Provisions), Article 19.2 (Publication) and Article 19.3 (Provision of Information) no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.¹

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

¹ For greater certainty, Chapter 17 (General Provisions and Exceptions) applies to this Chapter.

Article 12.8: Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 20 (Consultations and Dispute Settlement) regarding a refusal to grant temporary entry unless:

- (a) the matter involves a pattern of practice; and
- (b) the natural persons affected have exhausted all available domestic remedies regarding the particular matter.

Article 12.9: Future Work Program on Contractual Service Suppliers

Unless the Parties otherwise agree, the Parties may decide to commence negotiations within three years of entry into force of this Agreement with a view to making mutually advantageous commitments on contractual service suppliers. The Parties shall make their best endeavours to complete the negotiations within two years of initiating them.