

CLIENT ALERT

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INTERNATIONAL TRADE

USMCA –ALL QUIET ON THE IMMIGRATION FRONT

By Kathleen Campbell Walker

The U.S. Mexico Canada Agreement (USMCA) [text](#) posted very late on September 30, 2018 heralded hardly any news of note on the immigration front other than that the immigration provisions contained in North American Free Trade Agreement (NAFTA) appear to have survived the renegotiation. It appears that the biggest news of note in the immigration area is the change of the agreement's title from the NAFTA to the USMCA. So, perhaps the biggest question is whether we will have TU nonimmigrant visas versus TN visa under the Appendix 1603.D.1. professions.

The immigration provisions are still housed in Chapter 16 entitled, "Temporary Entry for Business Persons," but they are basically rearranged a little with a few updates tied to prior negotiated revisions/additions. Some of the NAFTA renegotiation fall cleaning results are:

Article 1601	Heading Changed from General Principles to Definitions
Article 1602	Heading Changed from General Obligations to Scope
Article 1603	Heading Changed from Grant of Temporary Entry to General Obligations
Article 1604	Heading Changed from Provision of Information to Grant of Temporary Entry
Article 1605	Heading Changed from Working Group to Provision of Information
Article 1606	Heading Changed from Dispute Settlement to Working Group
Article 1607	Heading Changed from Relation to Other Chapters to Dispute Settlement
Article 1608	Heading Changed from Definitions to Relation to Other Chapters

Annex 1603

Section A	Remains the same as to Business Visitors
Section B	Remains the same as to Traders and Investors (Note paragraph 3 of USMCA basically now tracks the same language as to requiring Party consultation if a visa requirement is imposed.)
Section C	Remains the same as to Intra-Company Transfers
Section D	Remains the same as to Professionals (Note the old provisions as to numerical limits were removed, which basically reflects the previous agreement modification and regulatory change.)

Appendix 1603.A.1.

The language about certain personnel engaging in commercial transactions, public relations and advertising, tourism, tour bus operation, and translation services now have their own headings versus being under General Service for B-1 business visitor admissions.

Appendix 1603.A.3.

This Existing Immigration Measures section from NAFTA appears to be missing in the USMCA.

Appendix 1603.D.1. The Appendix of listed Professions is updated to reflect that the Mathematician profession includes the profession of Actuary, which was approved back in 2003. In addition, the other change is 2003 is noted which includes the Plant Pathologist occupation under the Biologist profession.

Appendix 1603.D.4 was removed since it reflected the outdated limits on Mexican professional visas. Annex 1608 definitions of "citizen" were removed and included in the USMCA Article 1601. Finally, the no longer relevant Annex 1604.2 as to the NAFTA obligations under Article 1604(2) with respect to Mexico was removed.

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Conclusion

So, what are the take aways?

1. The NAFTA immigration provisions were repackaged, but preserved in the USMCA.
2. Maybe, we will have TU versus TN visas for professionals in the future under the USCMA.
3. We may expect approval of the USMCA by Congress after the mid-year elections in November. In addition, the regulatory changes in title 8 of the Code of Federal Regulations appear to be minimal.

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