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WTO Mode 4 Seminar – RTA practices

Canada's Approach

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Overview

- Pursuing Mode 4 liberalization in FTAs
- Entry vs presence
- Presence and entry in FTAs
- Advantages of separating entry from presence in FTAs

Pursuing Mode 4 Liberalization in FTAs

- Connects individuals and businesses to global supply and value chains
- Supports competitiveness and productivity through facilitated movement of key personnel and access to broader talent pools
- Complements gains in other areas of an FTA

Entry vs Presence

ENTRY (at the border)	PRESENCE (beyond the border)
<p data-bbox="117 261 890 496">Examples of measures affecting the ability of a business person to be granted a work authorization in the host country:</p> <ul data-bbox="117 575 929 1196" style="list-style-type: none"><li data-bbox="117 575 668 625">• Economic Needs Tests<li data-bbox="117 704 909 882">• Quotas on the number of foreign workers allowed in the host country<li data-bbox="117 961 929 1196">• Proportionality requirements (e.g., percentage of an employer's workforce allowed to be foreign workers)	<p data-bbox="991 261 1802 439">Examples of measures affecting the treatment of a business person after entering the host country:</p> <ul data-bbox="991 575 1783 1260" style="list-style-type: none"><li data-bbox="991 575 1783 689">• Residency, citizenship/nationality requirements<li data-bbox="991 768 1773 882">• Quotas on the number of service suppliers in a particular sector<li data-bbox="991 961 1715 1075">• Quotas on the value of service transactions<li data-bbox="991 1153 1522 1260">• Commercial presence requirements

Entry and Presence in FTAs

- Entry commitments are addressed in the TE Chapter.
- Presence commitments are captured in the CBTS Chapter, along with the other modes of service supply.
- Each chapter has its own schedule of commitments that are not linked.

Advantages of Separating Presence and Entry in FTAs

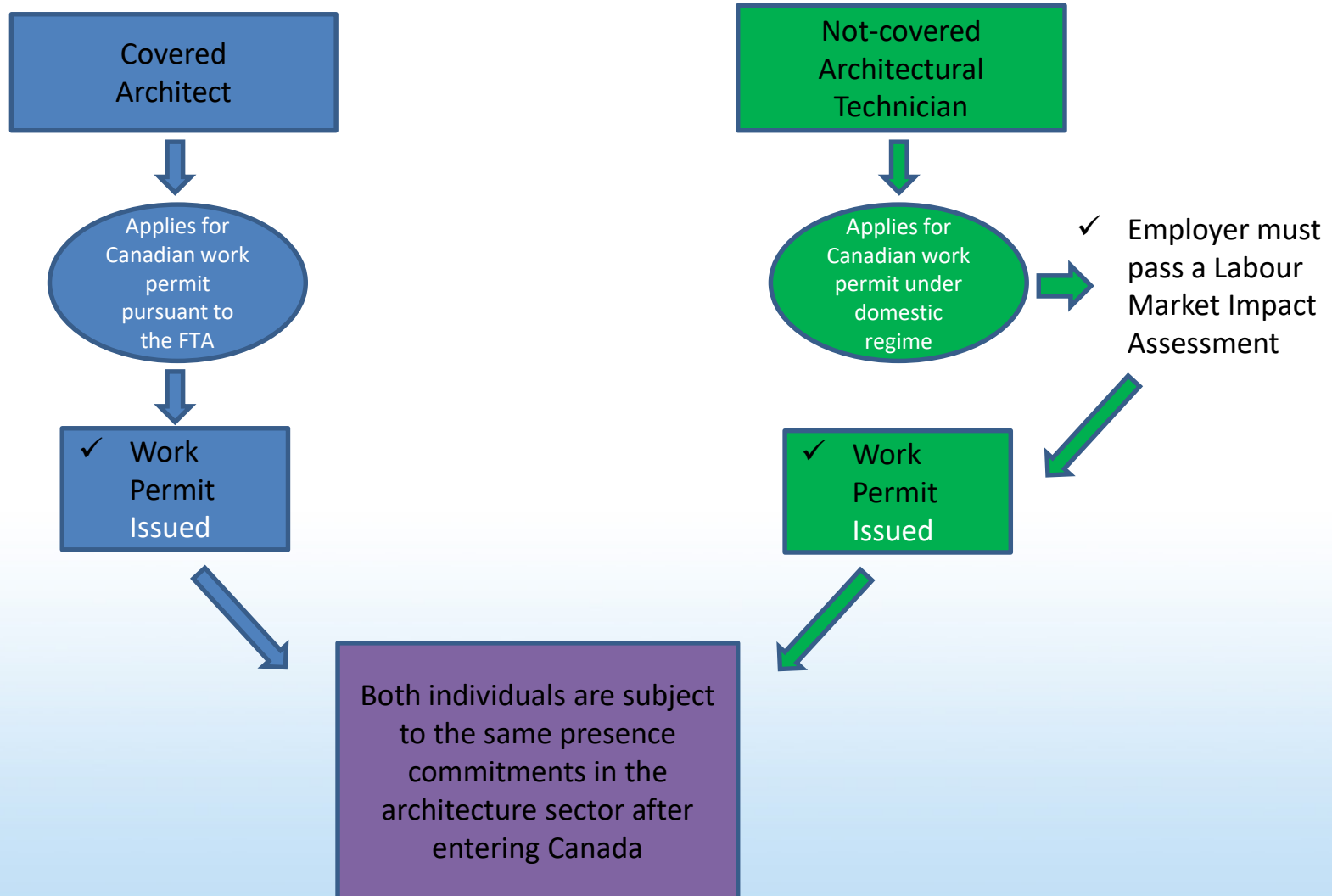
- 1) Ensures that business persons benefit equally from presence commitments, regardless of whether they enter via TE commitments in an FTA or under the domestic regime.
- 2) Increases flexibility when presence and entry commitments are independent.
- 3) Captures a broader scope of activities.
- 4) The nature of the commitments are defined separately.

1) Presence Requirements Apply Regardless of Entry Via Domestic Regime or an FTA

- Ensures that business persons will receive the same level of access/treatment once they obtain their right to work in the host state.
- Better aligned with the applied practices of most states.

Example

In this example, an FTA that has a temporary entry commitment for professional architects but not for architectural technicians



2) Increases Flexibility

- Provides maximum flexibility to the Parties to take commitments according to their level of ambition and sensitivity.
- Even if a Party is unable to undertake a specific entry commitment, they can still make presence commitments and vice-versa.
- This prevents the lowest common denominator effect, allowing for an overall higher level of ambition.

3) Captures Broader Scope of Activities

Separating presence commitments from entry commitments ensures that entry commitments:

- Apply not only to services trade, but also to goods and investment
- Can include a broad set of categories of business persons such as business visitors, investors, intra-corporate transferees and professionals

4) The Nature of the Commitments are Defined Separately

- Presence commitments are subject to traditional services obligations such as Most Favoured Nation and National Treatment.
- Entry commitments are defined specifically to address barriers commonly applied to work authorizations.
- This allows Parties to define and tailor how new access will apply under an FTA.

Conclusion