

CUSMA review: Cross-border mobility now a planning risk for Canadian employers

By **Sergio R. Karas**

Law360 Canada (July 14, 2026, 2:52 PM EDT) -- The formal *Canada–United States–Mexico Agreement* (CUSMA /USMCA) joint review process officially started on July 1, 2026. Leading up to this date, governments accepted public comments and held hearings through late 2025, and the United States and Mexico officially launched bilateral preparatory discussions on March 5, 2026.

The review should not be misunderstood as a technical trade-law exercise with limited immigration consequences. For Canadian employers, professionals, and immigration counsel, it marks a meaningful shift in the way cross-border mobility must be assessed. The CUSMA remains in force, and existing temporary-entry categories continue to operate. But the review has transformed CUSMA mobility from a settled planning tool into a recurring source of legal and operational uncertainty.



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The review is not an expiry date, it is a statutory clock



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CUSMA entered into force on July 1, 2020, and Article 34.7 provides that the agreement terminates 16 years after entry into force unless each party confirms it wishes to continue for a new 16-year term. The first mandatory joint review had to occur on the sixth anniversary, July 1, 2026, when the Free Trade Commission was required to review the operation of the agreement, consider recommendations submitted by parties and decide on appropriate actions.

That structure matters. If all three parties confirm renewal, CUSMA is extended for another 16 years and returns to a six-year review cycle; if one party does not confirm renewal, the Commission must conduct annual reviews for the remainder of the term, while the parties may still extend the agreement at any time by written confirmation through their heads of government. This review mechanism is legally distinct from withdrawal, which any party may initiate by giving six months' written notice.

That distinction is critical. The July 1 outcome did not invalidate existing CUSMA-based immigration categories. It did, however, create annual political checkpoints that may shape how governments administer, interpret, or eventually modify the agreement.

Chapter 16 remains the operative mobility framework

For immigration lawyers, the operative provisions are in Chapter 16, "Temporary Entry for Business Persons." Chapter 16 applies to measures affecting the temporary entry of businesspersons, but expressly does not apply to access to another party's employment market, nor to citizenship, nationality, residence, or permanent employment. It also preserves each party's authority to regulate entry, temporary stay, border integrity, public health, safety and national security, provided those measures are not applied to nullify or impair Chapter 16 benefits.

The chapter preserves the four core mobility categories familiar to Canadian practitioners: business visitors, traders and investors, intra-company transferees, and professionals. It also maintains reciprocal market-access commitments and removes barriers such as economic needs tests and quotas for specified categories, while making clear that temporary entry does not exempt a businessperson from licensing or professional qualification requirements.

In Canadian practice, these categories operate through the International Mobility Program (IMP). The IMP allows employers to hire certain temporary foreign workers without a Labour Market Impact Assessment, but in most employer-specific cases the employer must submit an offer of employment through the Employer Portal and pay the \$230 employer compliance fee before the worker applies. At the port of entry, where eligible, a CBSA officer assesses both the work permit category requirements and admissibility before issuing the work permit.

The categories most exposed to review uncertainty

The professional category is the most visible because it turns on a closed list of professions and corresponding credentials in Appendix 2 to Annex 16-A. That list includes, among others, accountants, architects, computer systems analysts, engineers, lawyers, management consultants, medical and allied professionals, scientists and teachers, with specific education or credential requirements. For counsel, the recurring issue is not merely whether the job title sounds professional, but whether the duties, credentials and Canadian assignment align with the listed category and the purpose of temporary entry.

Intra-company transferees are also central to cross-border operations. CUSMA requires the transferee to render services to the enterprise, subsidiary or affiliate in an executive, managerial or specialized-knowledge capacity, and permits a party to require one year of continuous employment within the three years immediately preceding the application. Traders and investors, meanwhile, require substantial trade principally between the parties or a substantial capital commitment in the destination country, in a supervisory, executive or essential-skills capacity.

Business visitors are the easiest category to misunderstand. Canada's public guidance requires that business visitors not enter the Canadian labour market, keep their main place of business and source of income and profits outside Canada, and bring supporting documentation. Permitted activities include meetings, trade fairs, taking orders and after-sales service under a warranty or sales agreement. This category is therefore useful for short-term commercial activity but risky where the facts look like direct Canadian work rather than international business activity.

Outbound mobility also matters for Canadian employers. In the United States, the TN classification permits qualified Canadian and Mexican citizens to seek temporary entry to engage in business activities at a professional level and Canadian citizens do not need a TN visa at a U.S. consulate, while Mexican citizens do.

What could change, and what has not been shown to change yet?

At this stage, there is no public basis to advise clients that eligibility under the CUSMA professional, trader/investor or intra-company transferee categories have changed. The public record instead points to a broader trade-policy contest: the United States has cited agreement "shortcomings" and

trade deficits; Canada has supported renewal while identifying sectoral tariffs on steel, aluminum, autos and lumber as essential parallel issues; and Mexico has emphasized continued validity to 2036, annual reviews, regional content and investment certainty.

Still, immigration categories cannot be treated as insulated from trade politics. The United States Trade Representative Office (USTR) consultation notice invited comments on any aspect of the treaty implementation, compliance, recommendations for action, investment climate, economic security and North American competitiveness. Canada has identified a variety of trade and border/security issues as pressure points.

Chapter 16 itself contains a built-in mobility forum. The Temporary Entry Working Group must meet at least annually and may consider implementation, administration, measures to facilitate reciprocal temporary entry, waiving labour-certification-type procedures for certain spouses, proposed modifications, or additions to Chapter 16, and technology-related processing issues. That means mobility reform could occur through targeted modernization rather than wholesale renegotiation, although no official source reviewed confirms a settled proposal to amend the temporary-entry categories.

Practical implications for applicants and employers

The practical conclusion is that applicants should proceed, but with caution. CUSMA remains fully operative, but annual review uncertainty increases the importance of clean records, complete documentary packages and careful category selection. Applications should be built around the treaty elements: citizenship, temporary purpose, listed category, qualifying duties, credentials, pre-arranged employment or contract, remuneration arrangements, employer compliance and licensing where applicable.

Employers should be equally careful. The risk is operational, not merely theoretical. The IMP evaluation found that Labour Market Impact Assessment (LMIA) exemptions have grown in complexity, that employers and workers face difficulty understanding exemption codes, that Employer Portal issues are common, and that officers reported difficulty assessing some eligibility requirements and program integrity concerns. A CUSMA-based hire should therefore not be treated as easy simply because it is LMIA-exempt. It remains a treaty-based application that must withstand document review, border questioning, compliance obligations, and evolving policy scrutiny.

The business visitor category warrants caution. Employers should not use a visitor strategy to disguise unauthorized work. Canada's guidance requires that business visitors avoid entering the Canadian labour market and carry supporting documents such as support letters, invitation letters, warranty or service agreements, contracts, and Canadian host contact details where relevant. In a climate of annual CUSMA reviews and broader border-security negotiations, unsupported "meeting" or "after-sales" entries are no substitute for a properly framed work permit strategy.

Recommendations for Canadian immigration counsel and businesses

First, CUSMA should be treated as valid law, but not static law. Employers and counsel should calendar the annual review cycle, monitor Article 34.7 developments and advise clients that renewal can still occur at any time, but that annual reviews may continue until 2036 absent consensus.

Second, employers should audit CUSMA-dependent workforces now. They should identify which workers rely on professionals, intra-company transferees, traders/investors or business visitor entries, then assess alternatives such as non-CUSMA IMP exemptions, LMIA-based work permits, other free trade agreements, permanent residence strategies or redesigned assignments where appropriate.

Third, counsel should draft submissions around duties, not labels. Appendix 2 is occupation-specific, and officers look beyond job titles to the actual duties and professional nature of the role. Chapter 16 is built around listed categories, credentials and temporary professional activity and submissions should address those issues.

The larger lesson is straightforward: immigration advice cannot be separated from trade reality. The July 1 review did not terminate CUSMA mobility, but it made mobility planning more contingent on

trade, labour, industrial policy, and border-security negotiations. Canadian businesses should therefore avoid both alarm and complacency. They should continue using CUSMA where the facts support eligibility, while building documentary strength, alternative pathways, and review-cycle awareness into every cross-border mobility plan.

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