

CHAPTER 9

TEMPORARY MOVEMENT OF NATURAL PERSONS

Article 9.1

Definitions

For the purposes of this Chapter:

- (a) **immigration formality** means a visa, permit, pass or other document or electronic authority granting temporary entry;
- (b) **natural person of a Party** means a natural person of a Party as defined in subparagraph (j) of Article 8.1 (Definitions – Trade in Services); and
- (c) **temporary entry** means entry by a natural person of a Party as covered by this Chapter without the intent to establish permanent residence.

Article 9.2

Scope

1. This Chapter shall apply, as set out in each Party's Schedule in Annex 9A (Schedules of Specific Commitments on Temporary Movement of Natural Persons), to measures by that Party affecting the movement of natural persons of a Party into the territory of the other Party, where such persons are engaged in trade in goods, the supply of services, or the conduct of investment.
2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of a 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 a manner as to nullify or impair the benefits accruing to the other 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 the other Party under this Chapter.

Article 9.3

Grant of Temporary Entry

1. Each Party shall set out in its Schedule in Annex 9A (Schedules of Specific Commitments on Temporary Movement of Natural Persons) the commitments it makes with regard to the 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 persons.
2. Each Party shall grant temporary entry or extension of temporary stay to natural persons of the other Party to the extent provided for in its 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 into, or extension of temporary stay in, the granting Party.
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 9.4

Processing of Applications

1. Each Party shall expeditiously process complete applications for immigration formalities, or extensions or renewals thereof, received from natural persons of the other Party covered under this Chapter.
2. On request of an applicant, a Party that has received a complete application for immigration formality shall endeavour to promptly provide information concerning the status of the application. Each Party shall notify the applicant, either directly or through the applicant's authorised representative in accordance with its laws and regulations, of the decision on the application.
3. If an application regarding an immigration formality is refused or denied, 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 is lodged, inform the applicant of the reasons for refusal or denial.
4. To the extent permissible under its laws and regulations, each Party shall endeavour to accept applications relating to immigration formalities in an electronic format under the equivalent conditions of authenticity as paper submissions.
5. Where appropriate, a Party shall accept copies of documents authenticated in accordance with its laws and regulations, in place of original documents to the extent permitted by its laws and regulations.

6. Each Party shall ensure that fees charged by its competent authorities for the processing of an application for an immigration formality by a natural person covered under this Chapter are reasonable, in that they do not unduly impair or delay trade in goods or services or the conduct of investment activities under this Agreement.

Article 9.5 Transparency

1. Further to Article 10.2 (Publication – Transparency) and Article 10.5 (Notification and Provision of Information – Transparency), each Party shall make publicly available information relating to its current requirements for the temporary entry by natural persons of the other Party covered by this Chapter.
2. The information referred to in paragraph 1 shall include, where applicable, the following:
 - (a) categories of immigration formality;
 - (b) documentation required and conditions to be met;
 - (c) method of filing an application and options on where to file, such as consular offices or online;
 - (d) application fees and an indicative timeframe for the processing of an application;
 - (e) the maximum length of stay under each category of immigration formality;
 - (f) conditions for any available extension or renewal;
 - (g) rules regarding accompanying dependants; and
 - (h) available review or appeal procedures.
3. Each Party shall:
 - (a) upon modifying or amending any immigration measure that affects temporary entry of natural persons of the other Party, ensure that the information published or otherwise made publicly available pursuant to paragraphs 1 and 2 is updated as soon as possible; and
 - (b) maintain appropriate mechanisms to respond to enquiries from interested persons regarding measures relating to temporary entry and stay of natural persons covered under this Chapter.

4. To the extent practicable and in a manner consistent with its laws and regulations each Party shall allow reasonable time between the publication of laws and regulations and their effective date affecting the temporary entry and stay of natural persons covered under this Chapter, and such publication can be made electronically available.
5. Each Party shall publish, to the extent practicable, the information in English.

Article 9.6 **Spouses and Dependents**

Each Party shall make commitments on spouses and dependents in its Schedule in Annex 9A (Schedules of Specific Commitments on Temporary Movement of Natural Persons).

Article 9.7 **Dispute Settlement**

1. The Parties shall endeavour to settle any differences arising out of the implementation of this Chapter through consultations.
2. Neither Party shall have recourse to dispute settlement under Chapter 13 (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 administrative remedies regarding the particular matter.
3. For the purposes of subparagraph 2(b), the administrative remedies shall be deemed to be exhausted if a final determination in the matter has not been issued by the other Party within a reasonable period of time after the date of institution of the proceedings for the remedy, including any proceedings for review or appeal, and the failure to issue such a determination is not attributable to delays caused by the natural persons concerned.

Article 9.8 **Working Group on the Temporary Movement of Natural Persons**

1. The Parties hereby establish a Working Group on the Temporary Movement of Natural Persons ("Working Group") composed of representatives of each Party.
2. The Working Group shall meet within one year of the date of entry into force of this Agreement, and thereafter on an annual basis, unless the Parties agree otherwise.

3. The Working Group's functions shall be to:
 - (a) review and monitor the implementation of this Chapter;
 - (b) consider opportunities to facilitate the temporary entry of each Party's respective natural persons into the other Party for business purposes in accordance with this Chapter; and
 - (c) provide a forum for the exchange of information on each Party's immigration measures relating to the categories of natural persons as defined in each Party's Schedule in Annex 9A (Schedules of Specific Commitments to Temporary Movement of Natural Persons).
4. The Working Group shall report to the Subcommittee on Trade in Services, established under Article 8.24 (Subcommittee on Trade in Services – Trade in Services) as required.