

## CHAPTER 11

### TEMPORARY ENTRY FOR BUSINESS PERSONS

#### Article 11.1: Definitions

For the purposes of this Chapter:

**business person** means a national of a Party who is engaged in trade in goods, the supply of services or the conduct of investment activities;

**immigration formality** means a visa, permit, pass or other document or electronic authority granting temporary entry;

**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 business person of the other Party who does not intend to establish permanent residence.

#### Article 11.2: Scope

1. This Chapter shall apply to measures that affect the temporary entry of business persons of a Party into the territory of the other Party under any of the categories referred to in Annex 11-A.
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 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 business 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 11.3: Application Procedures**

1. Each Party shall, as expeditiously as possible, process complete applications for immigration formalities, including further immigration formality requests or extensions, and inform the applicant of the decision including, if approved, the period of stay and other conditions.
2. At the request of an applicant, a Party that has received a completed application for an immigration formality shall endeavour to promptly provide the applicant with information concerning the status of the application.
3. Each Party shall ensure that fees charged by its competent authorities for the processing of an application for an immigration formality are reasonable.
4. If the competent authorities of a Party require additional information from the applicant in order to process the application, they shall, without undue delay, endeavour to notify the applicant.

### **Article 11.4: Grant of Temporary Entry**

1. Each Party shall set out in Annex 11-A the commitments it makes with regard to temporary entry of business persons, which shall specify the conditions and limitations<sup>1</sup> for entry and temporary stay, including length of stay, for each category of business persons specified by that Party.
2. A Party shall grant temporary entry or extension of temporary stay to business persons of the other Party to the extent provided for in those commitments made pursuant to paragraph 1, provided that those business 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 business person of the other Party pursuant to this Chapter shall not be construed to exempt that business person from meeting any applicable licensing or other requirements<sup>2</sup>, including any mandatory codes of conduct, to practise a profession or otherwise engage in business activities.

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<sup>1</sup> For greater certainty, conditions and limitations include any numerical quotas or labour market testing requirement, which neither Party may impose unless specified in Annex 11-A.

<sup>2</sup> For greater certainty, this includes adhering to workplace standards.

4. A Party may refuse to issue an immigration formality to a business person of the other Party if the temporary entry of that person might affect adversely:

- (a) the settlement of any labour dispute that is in progress at the place or intended place of employment; or
- (b) the employment of any natural person who is involved in such dispute.

5. When a Party refuses pursuant to paragraph 4 to issue an immigration formality, it shall inform the applicant accordingly.

#### **Article 11.5: Provision of Information**

1. Further to Article 25.2 (Publication) and Article 25.5 (Provision of Information), each Party shall:

- (a) promptly publish online if possible or otherwise make publicly available, 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 an 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.

2. The information referred to in subparagraph 1(a) shall include, where applicable, the following information:

- (a) types of visa, permit or any similar authorisation regarding entry and temporary stay;
- (b) documentation required and conditions to be met; and
- (c) method of filing an application and options on where to file, such as consular offices or online.

#### **Article 11.6: Committee on Temporary Entry for Business Persons**

The Parties hereby establish a Committee on Temporary Entry for Business Persons, which shall:

- (a) meet on request of the Joint Commission to consider any matter arising under this Chapter; and
- (b) consider opportunities for the Parties to further facilitate temporary entry of business persons, including through the development of activities undertaken pursuant to Article 11.7.

#### **Article 11.7: Cooperation**

The Parties shall consider undertaking mutually agreed cooperation activities, subject to available resources, including by sharing experiences with regulations and the implementation of programmes and technology related to border security, including those related to the use of biometric technology, advanced passenger information systems, frequent passenger programmes and security in travel documents.

#### **Article 11.8: Relation to Other Chapters**

1. Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions), Chapter 26 (Administrative and Institutional Provisions), Chapter 27 (Dispute Settlement), Chapter 29 (Final Provisions), Article 25.2 (Publication) and Article 25.5 (Provision of Information), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.
2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

#### **Article 11.9: Dispute Settlement**

1. Neither Party shall have recourse to dispute settlement under Chapter 27 (Dispute Settlement) regarding a refusal to grant temporary entry unless:
  - (a) the matter involves a pattern of practice; and
  - (b) the business persons affected have exhausted all available administrative remedies regarding the particular matter.
2. The remedies referred to in paragraph 1(b) 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 the institution of 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 business persons concerned.