

CHAPTER 11

TEMPORARY ENTRY FOR BUSINESS PERSONS

Article 11.1: Definitions

For the purposes of this Chapter:

business person means a natural person who has the nationality of a Party according to Article 2.2 (Party-Specific Definitions), who is engaged in trading goods, providing services or conducting investment activities;

immigration formality means a visa, permit, pass or other document or electronic authorisation 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 without the intent 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.

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 any Party under this Chapter.

Article 11.3: Application Procedures

1. Each Party shall, as expeditiously as possible following receipt of a complete application for an immigration formality, issue its decision to the applicant. If the application is approved, the decision shall specify the period of stay and other conditions as needed.
2. At the request of an applicant, a Party that has received a complete application for an immigration formality shall endeavour to promptly provide 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, in that they do not unduly impair or delay trade in goods or services or conduct of investment activities under this Agreement.
4. Each Party shall endeavor to accept and process applications in electronic format.

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 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) comply with 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, including any mandatory codes of conduct, to practise a profession or otherwise engage in business activities.
4. A Party may refuse to issue an immigration formality to a business person of the other Party in cases where the temporary entry of that business person might adversely affect:
 - (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 21.2 (Publication) and Article 21.3 (Notification and 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 immigration formality or any similar authorisation regarding temporary entry and temporary stay
- (b) documentation required and conditions to be met; and
- (c) methods of filing an application and options on where to file, such as consular or visa offices or online.

Article 11.6: Administration of the Chapter

Matters relating to the administration of this Chapter shall be considered by the Parties through the Services, Investment and E-Commerce Committee established under paragraph Article 22.5(b) (Establishment of Cross-Cutting Committees) in consultation with the competent authorities.

Article 11.7: Cooperation

The Parties shall consider undertaking mutually agreed cooperation activities subject to available resources including by sharing experiences on regulations and the implementation of programs for expediting of certain categories of applicants, and technology related to border security, including security of travel documents.

Article 11.8: Relation to Other Chapters

1. Except as provided in this Chapter, Chapter 1 (Initial Provisions), Chapter 2 (General Definitions), Chapter 22 (Administration of the Agreement), Chapter 23 (Dispute Settlement), Chapter 25 (Final Provisions), Article 21.2 (Publication) and Article 21.3 (Notification and Provision of Information), this Agreement shall not impose any obligation on a Party regarding its immigration measures.
2. This Chapter shall not be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

Article 11.9: Dispute Settlement

1. No Party shall have recourse to dispute settlement under Chapter 23 (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 refusal of temporary entry.
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.