

CHAPTER 10

TEMPORARY MOVEMENT OF NATURAL PERSONS

Article 10.1

Definitions

For the purposes of this Chapter:

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

“natural person of a Party” means a national of a Party as defined in Article 1.4 (General Definitions – Initial Provisions and General Definitions); and

“temporary entry” means entry into and temporary stay in the territory of a Party by a natural person of the other Party covered by this Chapter without the intent to establish permanent residence.

Article 10.2

Objectives

1. The objectives of this Chapter are to:
 - (a) provide for rights and obligations in relation to the temporary movement of natural persons between the Parties;
 - (b) facilitate the temporary entry of natural persons covered by this Chapter who are engaged in the supply of services; and
 - (c) ensure streamlined and transparent processes for obtaining immigration formalities for the temporary entry of natural persons covered by this Chapter.

Article 10.3

Scope

1. This Chapter shall apply to measures by a Party affecting the temporary entry into the territory of that Party by natural persons of the other Party who fall under any of the categories defined in the former Party’s Schedule in Annex 10A (Schedules of Specific Commitments on Temporary Movement of Natural Persons).
2. For greater certainty, Annex 10A (Schedules of Specific Commitments on Temporary Movement of Natural Persons) is an integral part of this Chapter.

3. 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.
4. Nothing in this Agreement shall prevent a Party from applying measures to regulate the temporary 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.
5. 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.
6. For greater certainty, all requirements provided for in the law of each Party regarding employment and social security shall continue to apply, including laws and regulations concerning minimum wages and collective wage agreements, provided that those requirements are consistent with the obligations in this Chapter and in any agreement between the Parties regarding employment or social security measures.

Article 10.4 **Grant of Temporary Entry**

1. Each Party shall set out in its Schedule in Annex 10A (Schedules of Specific Commitments on Temporary Movement of Natural Persons) the commitments it makes for the temporary entry of natural persons of the other Party, which shall specify the conditions and limitations for temporary entry, including length of stay, for the categories of natural persons of that other Party included in that Schedule.
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 those 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. In respect of the specific commitments on temporary entry of natural persons in this Chapter, unless otherwise specified in Annex 10A (Schedules of Specific Commitments on Temporary Movement of Natural Persons), neither Party shall adopt or maintain limitations on the total number of natural persons of the other Party to be granted temporary entry, in the form of numerical quotas or the requirement of an economic needs test.

4. A Party may refuse to issue an immigration formality to a natural person of the other Party covered by this Chapter 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. 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 10.5

Processing of Applications

1. On receipt of a complete application for an immigration formality, or an extension or renewal thereof, each Party shall, as expeditiously as possible, process the application, make a decision on it and notify the applicant of the decision. Such notification shall include:
 - (a) for approved applications, the period of temporary stay and, if practicable, any other relevant conditions; and
 - (b) for refused or denied applications, information on any available review or appeal procedures and, to the extent required by the law of a Party, the reasons for refusal or denial.
2. On request of an applicant, each Party in receipt of a complete application for an immigration formality, or an extension or renewal thereof, shall endeavour to promptly provide information concerning the status of the application.
3. If a Party requires additional information from the applicant in order to process the application, that Party shall endeavour to notify in line with domestic processes, without undue delay, the applicant of the required additional information and set a reasonable deadline for providing it.
4. Each Party shall endeavour to accept applications in electronic format. If an applicant has a choice to submit the application in either paper or electronic format, the Party shall treat electronic applications as equivalent to paper applications.
5. Where appropriate and to the extent its law permits, each Party shall accept copies of documents authenticated, in accordance with its law, in place of original documents.
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 by this Chapter are reasonable, in that they do not unduly impair or delay trade in services under this Agreement.

Article 10.6

Transparency

1. Further to Article 25.2 (Publication – Transparency), each Party shall make publicly available information relating to current requirements for the temporary entry of 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. Further to Article 25.5 (Provision of Information – Transparency), if a Party adopts a new immigration measure or modifies an existing immigration measure that affects temporary entry of natural persons of the other Party covered by this Chapter, that Party shall:
 - (a) update information made publicly available pursuant to paragraphs 1 and 2 as soon as possible; and
 - (b) endeavour to promptly inform the other Party of the measure adopted or modified.
4. To the extent possible, when introducing or changing requirements for the temporary entry of natural persons of the other Party covered by this Chapter, each Party, in accordance with its law, shall provide a reasonable period of time between the date when the relevant measure is made publicly available, including through publication on the internet where feasible, and the date it enters into force.

5. Within 90 days of the date of entry into force of this Agreement, the Parties shall exchange publicly available information on current procedures relating to the processing of applications for temporary entry.

Article 10.7

Cooperation on Return and Readmissions

The Parties shall cooperate on the return and readmission of natural persons of a Party covered by this Chapter staying in the territory of the other Party if that natural person is in contravention of that other Party's measures relating to temporary entry.

Article 10.8

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. The Working Group shall be a subsidiary body of the Subcommittee on Trade in Services.
2. The Working Group shall meet within one year of the date of entry into force of this Agreement, and thereafter as agreed by the Parties.
3. The Working Group's functions shall be to:
 - (a) review and monitor the implementation of this Chapter;
 - (b) consider opportunities to facilitate temporary entry of natural persons covered by this Chapter; and
 - (c) facilitate the exchange of information about each Party's immigration measures relating to the categories of natural persons as defined in each Party's Schedule in Annex 10A (Schedules of Specific Commitments on Temporary Movement of Natural Persons).
4. The Working Group shall report to the Subcommittee on Trade in Services as required.

Article 10.9

Dispute Settlement

1. Neither Party shall have recourse to dispute settlement under Chapter 29 (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.

2. The remedies referred to in subparagraph 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 natural persons concerned.