

## 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 (i) of Article 8.1 (Definitions); 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 IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons), to measures by that Party affecting the temporary entry of natural persons of another Party into the territory of the Party, where such persons are engaged in trade in goods, the supply of services, or the conduct of investment. Such persons shall include one or more of the following:
  - (a) business visitors;
  - (b) intra-corporate transferees; or
  - (c) other categories as may be specified in each Party's Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons).
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 nationality, citizenship, 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 another 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 any Party under this Chapter.
4. The sole fact that a Party requires natural persons of another Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to any Party under this Chapter.

### **Article 9.3: Spouses and Dependants**

Each Party may make commitments on spouses or dependants in its Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons).

### **Article 9.4: Grant of Temporary Entry**

1. Each Party shall, in accordance with its Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons), grant temporary entry or extension of temporary stay in accordance with this Chapter to natural persons of another Party, provided that those natural persons:
  - (a) follow prescribed application procedures for the immigration formality sought; and
  - (b) meet all relevant eligibility requirements for temporary entry into, or extension of temporary stay in, the granting Party.
2. In accordance with its laws and regulations, any fees imposed by a Party in respect of the processing of an immigration formality shall be reasonable in that they do not, in themselves, represent an unjustifiable impediment to the movement of natural persons of another Party under this Chapter.
3. A Party may deny temporary entry or extension of temporary stay to any natural person of another Party who does not comply with subparagraph 1(a) or (b).

4. The sole fact that a Party grants temporary entry to a natural person of another 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 9.5: Schedules of Specific Commitments on Temporary Movement of Natural Persons**

Each Party shall set out in its Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons) its commitments for the temporary entry into and temporary stay in its territory of natural persons of another Party covered by Article 9.2 (Scope). These Schedules shall specify the conditions and limitations governing those commitments, including the length of stay, for each category of natural persons included therein.<sup>1</sup>

#### **Article 9.6: Processing of Applications**

1. Where an application for an immigration formality is required by a Party, that Party shall process, as expeditiously as possible, complete applications for immigration formalities or extensions thereof received from natural persons of another Party covered by Article 9.2 (Scope).
2. Each Party shall, upon request and within a reasonable period after receiving a complete application for an immigration formality from a natural person of another Party covered by Article 9.2 (Scope), notify the applicant of:
  - (a) the receipt of the application; and
  - (b) the decision concerning the application including, if approved, the period of stay and other conditions.

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<sup>1</sup> For the purposes of this Article, conditions and limitations include any economic needs testing requirement, which no Party may impose unless specified in its Schedule in Annex IV (Schedules of Specific Commitments on Temporary Movement of Natural Persons).

3. Each Party shall, upon request and within a reasonable period after receiving a complete application for an immigration formality from a natural person of another Party covered by Article 9.2 (Scope), endeavour to notify the applicant of the status of the application.
4. To the extent permissible under its laws and regulations, each Party shall endeavour to accept applications for immigration formalities in electronic format under the equivalent conditions of authenticity as paper submissions.
5. Where appropriate, each Party shall accept copies of documents authenticated in accordance with its laws and regulations in place of original documents, to the extent its laws and regulations permit.

#### **Article 9.7: Transparency**

1. Each Party shall:
  - (a) publish or otherwise make publicly available explanatory material on all relevant immigration formalities which pertain to or affect the operation of this Chapter;
  - (b) publish or otherwise make publicly available in its territory and to the other Parties, the requirements for temporary entry under this Chapter, including explanatory material and relevant forms and documents that will enable natural persons of the other Parties to become acquainted with those requirements;
  - (c) upon modifying or amending any immigration measure that affects temporary entry of natural persons of another Party, ensure that the information published or otherwise made publicly available pursuant to subparagraph (b) is updated as soon as possible; and
  - (d) maintain mechanisms to respond to enquiries from interested persons regarding its laws and regulations affecting the temporary entry and temporary stay of natural persons.
2. Each Party shall endeavour to publish, to the extent practicable, the information referred to in paragraph 1 in the English language.

### **Article 9.8: Cooperation**

The Parties may discuss mutually agreed areas of cooperation to further facilitate the temporary entry and temporary stay of natural persons of the other Parties, which shall take into consideration areas proposed by the Parties during the course of negotiations or other areas as may be identified by the Parties.

### **Article 9.9: Dispute Settlement**

1. Parties shall endeavour to settle any differences arising out of the implementation of this Chapter through consultations.
2. No Party shall have recourse to dispute settlement under Chapter 19 (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.