

*Article 9.7***Reservations**

1. Articles 9.3, 9.5 and 9.6 do not apply to:
 - (a) an existing non-conforming measure that is maintained by a Party at the level of:
 - (i) the European Union, as set out in its Schedule to Annex I;
 - (ii) a national government, as set out by that Party in its Schedule to Annex I;
 - (iii) a provincial, territorial, or regional government, as set out by that Party in its Schedule to Annex I; or
 - (iv) a local government.
 - (b) the continuation or prompt renewal of a non-conforming measure referred to in subparagraph (a); or
 - (c) an amendment to a non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 9.3, 9.5, and 9.6.
2. Articles 9.3, 9.5, and 9.6 do not apply to a measure that a Party adopts or maintains with respect to a sector, subsector or activity, as set out in its Schedule to Annex II.

*Article 9.8***Denial of benefits**

A Party may deny the benefits of this Chapter to a service supplier of the other Party that is an enterprise of that Party and to services of that service supplier if:

- (a) a service supplier of a third country owns or controls the enterprise; and
- (b) the denying Party adopts or maintains a measure with respect to the third country that:
 - (i) relates to maintenance of international peace and security; and
 - (ii) prohibits transactions with the enterprise or would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.

CHAPTER TEN

Temporary entry and stay of natural persons for business purposes*Article 10.1***Definitions**

For the purposes of this Chapter:

contractual services suppliers means natural persons employed by an enterprise of one Party that has no establishment in the territory of the other Party and that has concluded a *bona fide* contract (other than through an agency as defined by CPC 872) to supply a service to a consumer of the other Party that requires the presence on a temporary basis of its employees in the territory of the other Party in order to fulfil the contract to supply a service;

enterprise means an 'enterprise' as defined in Article 8.1 (Definitions);

independent professionals means natural persons engaged in the supply of a service and established as self-employed in the territory of a Party who have no establishment in the territory of the other Party and who have concluded a *bona fide* contract (other than through an agency as defined by CPC 872) to supply a service to a consumer of the other Party that requires the presence of the natural person on a temporary basis in the territory of the other Party in order to fulfil the contract to supply a service;

key personnel means business visitors for investment purposes, investors, or intra-corporate transferees:

- (a) **business visitors for investment purposes** means natural persons working in a managerial or specialist position who are responsible for setting up an enterprise but who do not engage in direct transactions with the general public and do not receive remuneration from a source located within the territory of the host Party;
- (b) **investors** means natural persons who establish, develop, or administer the operation of an investment in a capacity that is supervisory or executive, and to which those persons or the enterprise employing those persons has committed, or is in the process of committing, a substantial amount of capital; and
- (c) **intra-corporate transferees** means natural persons who have been employed by an enterprise of a Party or have been partners in an enterprise of a Party for at least one year and who are temporarily transferred to an enterprise (that may be a subsidiary, branch, or head company of the enterprise of a Party) in the territory of the other Party. This natural person must belong to one of the following categories:

- (i) **senior personnel** means natural persons working in a senior position within an enterprise who:

- (A) primarily direct the management of the enterprise or direct the enterprise, or a department or sub-division of the enterprise; and
- (B) exercise wide latitude in decision making, which may include having the authority to personally recruit and dismiss or to take other personnel actions (such as promotion or leave authorisations), and
 - (I) receive only general supervision or direction principally from higher level executives, the board of directors, or stockholders of the business or their equivalent; or
 - (II) supervise and control the work of other supervisory, professional or managerial employees and exercise discretionary authority over day-to-day operations; or

- (ii) **specialists** means natural persons working in an enterprise who possess:

- (A) uncommon knowledge of the enterprise's products or services and its application in international markets; or
- (B) an advanced level of expertise or knowledge of the enterprise's processes and procedures such as its production, research equipment, techniques, or management.

In assessing such expertise or knowledge, the Parties will consider abilities that are unusual and different from those generally found in a particular industry and that cannot be easily transferred to another natural person in the short-term. Those abilities would have been obtained through specific academic qualifications or extensive experience with the enterprise; or

- (iii) **graduate trainees** means natural persons who:

- (A) possess a university degree; and
- (B) are temporarily transferred to an enterprise in the territory of the other Party for career development purposes, or to obtain training in business techniques or methods; and

natural persons for business purposes means key personnel, contractual services suppliers, independent professionals, or short-term business visitors who are citizens of a Party.

Article 10.2

Objectives and scope

1. This Chapter reflects the preferential trading relationship between the Parties as well as the mutual objective to facilitate trade in services and investment by allowing temporary entry and stay to natural persons for business purposes and by ensuring transparency in the process.

2. This Chapter applies to measures adopted or maintained by a Party concerning the temporary entry and stay into its territory of key personnel, contractual services suppliers, independent professionals and short-term business visitors. 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, residence, or employment on a permanent basis.

3. Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons 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 such measures are not applied in such a manner as to nullify or impair the benefits accruing to any Party under the terms of this Chapter. The sole fact of requiring a visa for natural persons of a certain country and not for those of others shall not be regarded as nullifying or impairing benefits under this Chapter.

4. To the extent that commitments are not taken in this Chapter, all other requirements of the laws of the Parties regarding entry and stay continue to apply, including those concerning period of stay.

5. Notwithstanding the provisions of this Chapter, all requirements of the Parties' laws regarding employment and social security measures shall continue to apply, including regulations concerning minimum wages as well as collective wage agreements.

6. This Chapter does not apply to cases where the intent or effect of the temporary entry and stay is to interfere with or otherwise affect the outcome of a labour or management dispute or negotiation, or the employment of natural persons who are involved in such dispute or negotiation.

Article 10.3

General obligations

1. Each Party shall allow temporary entry to natural persons for business purposes of the other Party who otherwise comply with the Party's immigration measures applicable to temporary entry, in accordance with this Chapter.

2. Each Party shall apply its measures relating to the provisions of this Chapter in accordance with Article 10.2.1, and, in particular, shall apply those measures so as to avoid unduly impairing or delaying trade in goods or services or the conduct of investment activities under this Agreement.

3. Each Party shall ensure that any fees for processing applications for temporary entry are reasonable and commensurate with the costs incurred.

Article 10.4

Provision of information

1. Further to Chapter Twenty-Seven (Transparency), and recognising the importance to the Parties of transparency of temporary entry information, each Party shall, no later than 180 days after the date of entry into force of this Agreement, make available to the other Party explanatory material regarding the requirements for temporary entry under this Chapter that enables business persons of the other Party to be acquainted with those requirements.

2. If a Party collects and maintains data relating to temporary entry by category of business persons under this Chapter, the Party shall make this data available to the other Party on request, in accordance with its law related to privacy and data protection.

*Article 10.5***Contact points**

1. The Parties hereby establish the following contact points:

(a) in the case of Canada:

Director

Temporary Resident Policy

Immigration Branch

Citizenship and Immigration Canada

(b) in the case of the European Union:

Director-General

Directorate General for Trade

European Commission

(c) in the case of the Member States of the European Union, the contact points listed in Annex10-A or their respective successors.

2. The contact points for Canada and the European Union, and as appropriate the contact points for Member States of the European Union, shall exchange information pursuant to Article 10.4 and shall meet as required to consider matters pertaining to this Chapter, such as:

(a) the implementation and administration of this Chapter, including the practice of the Parties in allowing temporary entry;

(b) the development and adoption of common criteria as well as interpretations for the implementation of this Chapter;

(c) the development of measures to further facilitate temporary entry of business persons; and

(d) recommendations to the CETA Joint Committee concerning this Chapter.

*Article 10.6***Obligations in other chapters**

1. This Agreement does not impose an obligation on a Party regarding its immigration measures, except as specifically identified in this Chapter and in Chapter Twenty-Seven (Transparency).

2. Without prejudice to any decision to allow temporary entry to natural persons of the other Party within the terms of this Chapter, including the length of stay permissible pursuant to such an allowance:

(a) Articles 9.3 (National treatment) and 9.6 (Market access), subject to Articles 9.4 (Formal requirements) and 9.2 (Scope) but not Article 9.2.2(d), are incorporated into and made part of this Chapter and apply to the treatment of natural persons for business purposes present in the territory of the other Party under the categories of:

(i) key personnel; and

(ii) contractual services suppliers, and independent professionals for all sectors listed in Annex 10-E; and

(b) Article 9.5 (Most-favoured-nation treatment), subject to Articles 9.4 (Formal requirements) and 9.2 (Scope) but not Article 9.2.2(d), is incorporated into and made part of this Chapter and applies to the treatment of natural persons for business purposes present in the territory of the other Party under the categories of:

- (i) key personnel, contractual services suppliers, and independent professionals; and
- (ii) short-term business visitors, as set out in Article 10.9.

3. For greater certainty, paragraph 2 applies to the treatment of natural persons for business purposes present in the territory of the other Party and falling within the relevant categories and who are supplying financial services, as defined in Article 13.1 (Definitions) of Chapter Thirteen (Financial Services). Paragraph 2 does not apply to measures relating to the granting of temporary entry to natural persons of a Party or of a third country.

4. If a Party has set out a reservation in its Schedule to Annex I, II or III, the reservation also constitutes a reservation to paragraph 2, to the extent that the measure set out in or permitted by the reservation affects the treatment of natural persons for business purposes present in the territory of the other Party.

Article 10.7

Key personnel

1. Each Party shall allow the temporary entry and stay of key personnel of the other Party subject to the reservations and exceptions listed in Annex 10-B.
2. Each Party shall not adopt or maintain limitations on the total number of key personnel of the other Party allowed temporary entry, in the form of a numerical restriction or an economic needs test.
3. Each Party shall allow the temporary entry of business visitors for investment purposes without requiring a work permit or other prior approval procedure of similar intent.
4. Each Party shall allow the temporary employment in its territory of intra-corporate transferees and investors of the other Party.
5. The permissible length of stay of key personnel is as follows:
 - (a) intra-corporate transferees (specialists and senior personnel): the lesser of three years or the length of the contract, with a possible extension of up to 18 months at the discretion of the Party granting the temporary entry and stay ⁽¹⁾;
 - (b) intra-corporate transferees (graduate trainees): the lesser of one year or the length of the contract;
 - (c) investors: one year, with possible extensions at the discretion of the Party granting the temporary entry and stay;
 - (d) business visitors for investment purposes: 90 days within any six month period ⁽²⁾.

Article 10.8

Contractual services suppliers and independent professionals

1. In accordance with Annex 10-E, each Party shall allow the temporary entry and stay of contractual services suppliers of the other Party, subject to the following conditions:
 - (a) the natural persons must be engaged in the supply of a service on a temporary basis as employees of an enterprise which has obtained a service contract for a period not exceeding 12 months. If the service contract is longer than 12 months, the commitments in this Chapter only apply for the initial 12 months of the contract;
 - (b) the natural persons entering the territory of the other Party must be offering those services as employees of the enterprise supplying the services for at least the year immediately preceding the date of submission of an application for entry into the territory of the other Party and must possess, at the date of the submission, at least three years of professional experience ⁽³⁾ in the sector of activity that is the subject of the contract;

⁽¹⁾ The length of stay permitted under this Chapter may not be taken into consideration in the context of an application for citizenship in a Member State of the European Union.

⁽²⁾ This is without prejudice to the rights granted to Canada under bilateral visa waivers by Member States of the European Union

⁽³⁾ The professional experience must have been obtained after having reached the age of majority.

- (c) the natural persons entering the territory of the other Party must possess,
 - (i) a university degree or a qualification demonstrating knowledge of an equivalent level ⁽¹⁾; and
 - (ii) professional qualifications, if this is required to practice an activity pursuant to the laws or requirements of the Party where the service is supplied;
- (d) the natural persons must not receive remuneration for the provision of services other than the remuneration paid by the enterprise employing the contractual services suppliers during their stay in the territory of the other Party;
- (e) the temporary entry and stay accorded under this Article relate only to the supply of a service which is the subject of the contract. Entitlement to utilise the professional title of the Party where the service is provided may be granted, as required, by the relevant authority as defined in Article 11.1 (Definitions), through a Mutual Recognition Agreement ('MRA') or otherwise; and
- (f) the service contract must comply with the laws and other legal requirements of the Party where the contract is executed ⁽²⁾.

2. In accordance with Annex 10-E, each Party shall allow the temporary entry and stay of independent professionals of the other Party, subject to the following conditions:

- (a) the natural persons must be engaged in the supply of a service on a temporary basis as self-employed persons established in the other Party and must have obtained a service contract for a period not exceeding 12 months. If the service contract is longer than 12 months, the commitments in this Chapter shall only apply for the initial 12 months of the contract;
- (b) the natural persons entering the territory of the other Party must possess, at the date of submission of an application for entry into the other Party, at least six years professional experience in the sector of activity which is the subject of the contract;
- (c) the natural persons entering the territory of the other Party must possess,
 - (i) a university degree or a qualification demonstrating knowledge of an equivalent level ⁽³⁾; and
 - (ii) professional qualifications, if this is required to practice an activity pursuant to the laws, or requirements of the Party where the service is supplied;
- (d) the temporary entry and stay accorded under the provisions of this Article relate only to the supply of a service which is the subject of the contract. Entitlement to utilise the professional title of the Party where the service is provided may be granted, as required, by the relevant authority as defined in Article 11.1 (Definitions), through an MRA or otherwise; and
- (e) the service contract must comply with the laws and other legal requirements of the Party where the contract is executed.

3. Unless otherwise specified in Annex 10-E, a Party shall not adopt or maintain a limitation on the total number of contractual services suppliers and independent professionals of the other Party allowed temporary entry, in the form of numerical restrictions or an economic needs test.

⁽¹⁾ If the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether it is equivalent to a university degree required in its territory. The Parties shall apply Annex 10-C, subject to the reservations in Annex 10-E, for the purposes of assessing such equivalence.

⁽²⁾ For greater certainty, the natural person must be engaged by the enterprise for the fulfilment of the services contract pursuant to which temporary entry is sought.

⁽³⁾ If the degree or qualification was not obtained in the Party where the service is supplied, that Party may evaluate whether it is equivalent to a university degree required in its territory. The Parties shall apply Annex 10-C, subject to the reservations in Annex 10-E, for the purposes of assessing such equivalence.

4. The length of stay of contractual services supplier or independent professionals is for a cumulative period of not more than 12 months, with extensions possible at the discretion of the Party, in any 24 month period or for the duration of the contract, whichever is less.

Article 10.9

Short-term business visitors

1. In accordance with Annex 10-B, a Party shall allow the temporary entry and stay of short-term business visitors of the other Party for the purposes of carrying out the activities listed in Annex 10-D, provided that the short-term business visitors:

- (a) are not engaged in selling a good or a service to the general public;
- (b) do not on their own behalf receive remuneration from a source located within the Party where the short-term business visitors are staying temporarily; and
- (c) are not engaged in the supply of a service in the framework of a contract concluded between an enterprise that has no commercial presence in the territory of the Party where the short-term business visitors are staying temporarily, and a consumer in that territory, except as provided in Annex 10-D.

2. Each Party shall allow temporary entry of short-term business visitors without the requirement of a work permit or other prior approval procedures of similar intent.

3. The maximum length of stay of short-term business visitors is 90 days in any six-month period ⁽¹⁾.

Article 10.10

Review of commitments

Within five years following the entry into force of this Agreement, the Parties shall consider updating their respective commitments under Articles 10.7 through 10.9.

CHAPTER ELEVEN

Mutual recognition of professional qualifications

Article 11.1

Definitions

For the purposes of this Chapter:

jurisdiction means the territory of Canada, and each of its provinces and territories, or the territory of each of the Member States of the European Union, in so far as this Agreement applies in these territories in accordance with Article 1.3 (Geographical scope of application);

negotiating entity means a person or body of a Party entitled or empowered to negotiate an agreement on the mutual recognition of professional qualifications ('MRA');

professional experience means the effective and lawful practice of a service;

⁽¹⁾ This is without prejudice to the rights granted under bilateral visa waivers by Member States of the European Union.