

CHAPTER NINE

MOVEMENT OF NATURAL PERSONS

Article 9.1 Definitions

For the purposes of this Chapter:

- (a) **Business visitor** means a natural person of a Party:
 - (i) who is seeking temporary entry to the territory of the other Party for the purpose of:
 - (1) attending meetings or conferences, or engaging in consultations with business colleagues;
 - (2) taking orders or negotiating contracts for an enterprise located in the territory of the Party, but not selling goods or providing services to the general public; or
 - (3) undertaking business consultations concerning the establishment, expansion or winding up of a business enterprise or investment in the other Party, or any related matter;
 - (ii) who is not seeking to enter the labour market of the other Party; and
 - (iii) whose principal place of business, actual place of remuneration, and predominant place of accrual of profits remain outside the territory of the other Party;
- (b) **Immigration formality** means a visa, permit, pass or other document, or electronic authority, granting a natural person of one Party the right to enter, reside or work in the territory of the other Party;
- (c) **Installer or maintainer** means a natural person who is an installer or maintainer of machinery and/or equipment, who is employed or appointed by a supplying company, where such installation and/or maintaining by the supplying company is a condition of purchase of the said machinery and/or equipment; and is not performing activities which are not related to the installing or maintaining activities which is the subject of the contract;

- (d) **Intra-corporate transferee** means a senior manager or a specialist who is an employee of a service supplier or investor of a Party with a commercial presence in the territory of the other Party;
- (e) **Natural person** means a natural person as defined in Article 8.1(g) (Definitions);
- (f) **Senior manager** means a natural person within an organisation of a Party who is:
 - (i) a senior employee of that organisation with responsibility for the entire organisation's operations, or a substantial part of it, in the territory of the other Party; and
 - (ii) having proprietary information of the organisation and receives only general supervision or direction from higher level executives, or the board of directors or stockholders of the organisation.
- (g) **Specialist** means a natural person of a Party within an organisation of a Party who possesses:
 - (i) knowledge at an advanced level of technical expertise; and
 - (ii) proprietary knowledge of the organisation's service, research equipment, techniques, or management; and
- (h) **Temporary entry** means entry by a natural person covered by this Chapter, without the intent to establish permanent residence.

Article 9.2 Objectives

The objectives of this Chapter are to:

- (a) facilitate the movement of natural persons of either Party engaged in the conduct of trade and investment between the Parties through streamlined and transparent immigration procedures for temporary entry; and
- (b) provide for rights and obligations additional to those set out in Chapter 8 (Trade in Services) and Chapter 10 (Investment) in relation to the movement of natural persons between the Parties for business purposes;

while recognising the need to ensure border security and to protect the domestic

labour force and permanent employment in the territories of the Parties.

Article 9.3

Scope

1. This Chapter shall apply, as set out in each Party's commitments in Annex 6 (Schedules of Movement of Natural Persons Commitments), to measures affecting the movement of natural persons of a Party into the territory of the other Party. Such persons may include:

- (a) business visitors;
- (b) contractual service suppliers;
- (c) independent service suppliers/professionals;
- (d) intra-corporate transferees; or
- (e) installers or maintainers.

2. This Chapter does 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.

3. Nothing in this Chapter, Chapter 8 (Trade in Services) or Chapter 10 (Investment) 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 such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of this Chapter. The sole fact of requiring a visa for natural persons of either Party and not for those of others shall not be regarded as nullifying or impairing benefits under this Chapter.

Article 9.4

Application Procedures

1. Where an application for an immigration formality is required by a Party, the Party shall process expeditiously complete applications for immigration formalities, or extensions thereof, received from natural persons of the other Party covered by Article 9.3(1) (Scope).

2. A Party shall within 15 working days of receipt of an application for temporary entry that has been completed and submitted in accordance with its laws and regulations either:

- (a) make a decision on the application and inform the applicant of the decision; or
- (b) if a decision cannot be made in that time period, inform the applicant accordingly.

In the case of subparagraph (b), the decision shall in any case be made and the applicant informed of the decision within 40 working days from the date of receipt of the application.

3. At the request of an applicant, a Party in receipt of a completed application for temporary entry shall provide, without undue delay, information concerning the status of the application.

Article 9.5 **Grant of Temporary Entry**

1. Each Party shall, in accordance with that Party's commitments in Annex 6 (Schedules of Movement of Natural Persons Commitments), grant temporary entry or extension of temporary stay in accordance with this Chapter to natural persons of the other Party, provided those natural persons:

- (a) follow prescribed application procedures for the immigration formality sought; and
- (b) meet all relevant eligibility requirements for entry to the granting Party.

2. Temporary entry granted pursuant to this Chapter does not replace the requirements needed to carry out a profession or activity according to the specific laws and regulations in force in the territory of the Party authorising the temporary entry.

3. Any fees imposed in respect of the processing of an immigration formality shall be reasonable and in accordance with domestic law.

Article 9.6 **Schedules of Commitments for the Entry and Temporary Stay of Natural Persons**

Each Party shall set out in Annex 6 (Schedules of Movement of Natural Persons Commitments) a schedule containing its commitments for the temporary entry and stay in its territory of natural persons of the other Party covered by Article 9.3 (Scope). These schedules shall specify the conditions and limitations governing those commitments, including the length of stay, for each category of

natural persons included in each Party's schedule of commitments.

Article 9.7 Transparency

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) no later than 45 working days after the date of entry into force of this Agreement publish, such as on its immigration website, the requirements for temporary entry under this Chapter, including explanatory material and relevant forms and documents that will enable business persons of the other Party to become acquainted with its requirements; and
- (c) upon modifying or amending an immigration measure that affects the temporary entry of business persons, ensure that the information published pursuant to subparagraph (b) is updated within 30 working days.

Article 9.8 Contact Points

Each Party shall designate a Contact Point to facilitate communication and the effective implementation of this Chapter, and respond to inquiries from the other Party regarding regulations affecting the movement of natural persons between the Parties or on any matters covered in this Chapter, and shall provide details of this Contact Point to the other Party. The Parties shall notify each other promptly of any amendments to the details of their Contact Point.

Article 9.9 Dispute Settlement

1. The Parties shall endeavour to settle any differences arising out of the implementation of this Chapter through consultations.
2. A Party shall not have recourse to Chapter 16 (Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter unless:
 - (a) the matter involves a pattern of practice on the part of the granting Party; and

- (b) the natural persons affected have exhausted all available domestic remedies regarding the particular matters.