

CHAPTER ELEVEN

TEMPORARY ENTRY FOR BUSINESS PERSONS

ARTICLE 11.1: GENERAL PRINCIPLES

1. Further to Article 11.2, this Chapter reflects the preferential trading relationship between the Parties, the mutual objective to facilitate temporary entry for business persons on a reciprocal basis and in accordance with Annex 11A, and the need to establish transparent criteria and procedures for temporary entry, to ensure border security, and to protect the domestic labor force and permanent employment in their respective territories.
2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of the other Party¹, nor shall it apply to measures regarding nationality, citizenship, residence, or employment on a permanent basis.

ARTICLE 11.2: GENERAL OBLIGATIONS

1. Each Party shall apply its measures related to this Chapter in accordance with Article 11.1 and, in particular, shall expeditiously apply those measures so as to avoid unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.
2. Nothing in this Chapter shall be construed to 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 unduly impair or delay trade in goods or services or conduct of investment activities under this Agreement. The sole fact of requiring a visa for natural persons shall not be regarded as unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.

ARTICLE 11.3: RELATION TO OTHER CHAPTERS

1. Nothing in this Agreement, including provisions provided for in Chapter Ten (Cross-Border Trade in Services), shall be construed to impose any obligation on a Party regarding its immigration measures, except as specifically identified in this Chapter, Chapters One (Initial Provisions and Definitions), Twenty-One (Transparency), Twenty-Two (Administration of the Agreement), Twenty-Three (Dispute Settlement), Twenty-Four (Exceptions), and Twenty-Five (Final Provisions).
2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

¹ For greater certainty, this paragraph shall not be construed to nullify or impair the obligations under Section C of Annex 11A.

ARTICLE 11.4: GRANT OF TEMPORARY ENTRY

1. Each Party shall grant temporary entry to business persons who comply with immigration measures applicable to temporary entry such as those related to public health, safety, and national security, in accordance with this Chapter, including Annex 11A and Appendix 11A-3.
2. A Party may refuse to issue an immigration document authorizing employment to a business person where the temporary entry of that person might adversely affect:
 - (a) the settlement of any labor dispute that is in progress at the place or intended place of employment; or
 - (b) the employment of any person who is involved in such dispute.
3. Where a Party, in accordance with paragraph 2, refuses to issue an immigration document authorizing employment, it shall inform in writing the business person of the reasons for the refusal.
4. Each Party shall limit any fees for processing applications for temporary entry of business persons so as not to unduly impair or delay trade in goods or services or the conduct of investment activities under this Agreement and not to exceed the administrative costs normally rendered.

ARTICLE 11.5: PROVISION OF INFORMATION

1. Further to Article 21.1 (Publication), and recognizing the importance to the Parties of transparency of temporary entry information, each Party shall:
 - (a) provide the other Party with relevant materials that will enable the other Party to become acquainted with its measures related to this Chapter; and
 - (b) no later than six months after the date of entry into force of this Agreement, prepare, publish, and make available in its own territory, and in the territory of the other Party, explanatory material regarding the requirements for temporary entry under this Chapter, including references to applicable laws and regulations, in such a manner that will enable business persons of the other Party to become acquainted with them.
2. Each Party shall collect and maintain, and, upon request, make available to the other Party in accordance with its laws, data regarding the granting of temporary entry under this Chapter to business persons of the other Party who have been issued immigration documentation, including data specific to each occupation, profession, or activity.

ARTICLE 11.6: WORKING GROUP

1. The Parties hereby establish a Working Group on Temporary Entry for Business Persons comprising representatives of each Party, which include immigration officials.
2. The Working Group shall meet, when necessary, to consider matters arising under this Chapter, such as:
 - (a) the implementation and administration of this Chapter;
 - (b) the development and adoption of common criteria and interpretation for the implementation of the Chapter;
 - (c) the development and implementation of measures to further facilitate temporary entry of business persons on a reciprocal basis; and
 - (d) any measures of mutual interest.

ARTICLE 11.7: DISPUTE SETTLEMENT

1. A Party shall not initiate proceedings under Chapter Twenty-Three (Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter unless:
 - (a) the matter involves a pattern of practice; and
 - (b) the business person has exhausted the available administrative remedies regarding the particular matter.
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 competent authority within six months of the institution of an administrative proceeding, and the failure to issue a determination is not attributable to delay caused by the business person.

ARTICLE 11.8: TRANSPARENCY IN PROCESSING OF APPLICATIONS

1. Further to Article 21.1 (Publication), each Party shall establish or maintain appropriate mechanisms to respond to inquiries from interested persons regarding applications and procedures related to the temporary entry of business persons.
2. Upon request of the applicant, the Party shall endeavor to provide, without undue delay, information on the status of the application or the decision about the application.

ARTICLE 11.9: DEFINITIONS

For purposes of this Chapter:

business person means a national of a Party who is engaged in trade in goods, the supply of services, or the conduct of investment activities;

contractual service supplier means a business person of a Party who:

- (a) possesses appropriate educational and other qualifications relevant to the service to be provided;
- (b) is engaged in the supply of a contracted service as an employee of a juridical person that has no commercial presence in the other Party, where the juridical person obtains a service contract from a juridical person of the other Party;
- (c) should have been an employee of the juridical person for a period of no less than one year immediately preceding the date of application for admission. The contract shall comply with the laws and regulations of the other Party; and
- (d) is required to receive no remuneration from a juridical person located in the other Party;

executive means a business person within an organization who primarily directs the management of the organization, exercises wide latitude in decision-making, and receives only general supervision or direction from higher level executives, the board of directors, and/or stockholders of the business;

independent professional means a business person who:

- (a) possesses appropriate educational and other qualifications relevant to the service to be provided;
- (b) is a self-employed services supplier who is engaged in the supply of a contracted service, where the professional has a service contract from a person² of the other Party. The contract shall comply with the laws and regulations of the other Party; and
- (c) receives remuneration from a person of the Party where the service is supplied;

labor dispute means a dispute between a union and employer related to terms and conditions of employment;

manager means a business person within an organization who primarily directs the organization or a department or sub-division of the organization, supervises, and controls the work of other supervisory, professional or managerial employees, has the authority to hire

² If a Party observes, within two years following the entry into force of this Agreement, that the independent professionals that have entered into its territory pursuant to a service contract between natural persons do not comply with the relevant immigration measures, that Party reserves the right to allow under this Chapter only independent professionals of the other Party pursuant to a service contract with a juridical person. The Party which considers that it is adversely affected may request consultations with the other Party on such matters. Such requests shall be accorded sympathetic consideration. The term “consultations” referred to in this footnote does not mean “consultations” in accordance with Article 23.4 (Consultations).

and fire or take other personnel actions such as promotion or leave authorization, and exercises discretionary authority over day-to-day operations;

professional means a business person of a Party who is engaged in a specialty occupation requiring:

- (a) theoretical and practical application of a body of specialized knowledge; and
- (b) attainment of a post-secondary degree, requiring four years of study, or the equivalent of such a degree, as a minimum for entry into the occupation³;

specialist means a business person who possesses specialized knowledge of the company's products or services and its application in international markets, or an advanced level of expertise or knowledge of the company's processes and procedures. A specialist may include, but is not limited to, professionals; 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.

³ With respect to Korea, the requirements for a Peruvian national seeking temporary entry under Section B of Appendix 11A-2 shall be those defined in the *Immigration Control Act* of Korea and its enforcement decree and guideline.

ANNEX 11A
CATEGORIES FOR TEMPORARY ENTRY

SECTION A: BUSINESS VISITORS

1. Each Party shall grant temporary entry to a business person seeking to engage in a business activity set out in Appendix 11A-1, without requiring that person to obtain an employment authorization, provided that the business person otherwise complies with immigration measures applicable to temporary entry, on presentation of:

- (a) proof of nationality of the other Party;
- (b) documentation demonstrating that the business person will be engaged in a business activity set out in Appendix 11A-1 and describing the purpose of entry; and
- (c) evidence demonstrating that the proposed business activity is international in scope and the business person is not seeking to enter the local labor market.

2. Each Party shall provide that a business person may satisfy the requirements of paragraph 1(c) by demonstrating that:

- (a) the primary source of remuneration for the proposed business activity is outside the territory of the Party granting temporary entry; and
- (b) the business person's principal place of business and the actual place of accrual of profits, at least predominantly, remain outside the territory of the Party granting temporary entry.

The proofs that a Party may require to demonstrate the matters mentioned in subparagraph (b) shall be reasonable and not more burdensome than necessary.

3. Neither Party shall:

- (a) as a condition for temporary entry under paragraph 1, require prior approval procedures, labor certification tests, or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction related to temporary entry under paragraph 1.

SECTION B: TRADERS AND INVESTORS

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to:

- (a) carry on substantial trade in goods or services principally between the territory of the Party of which the business person is a national and the territory of the other Party into which entry is sought; or
- (b) establish, develop, or administer an investment to which the business person or the business person's enterprise has committed, or is in the process of committing, a substantial amount of capital,

in a capacity that is supervisory or executive or involves essential skills, provided that the business person otherwise complies with immigration measures applicable to temporary entry.

2. Neither Party shall:

- (a) as a condition for temporary entry under paragraph 1, require labor certification tests or other procedures of similar effect; or
- (b) impose or maintain any numerical restriction related to temporary entry under paragraph 1.

SECTION C: INTRA-COMPANY TRANSFEREES

1. Each Party shall grant temporary entry and provide confirming documentation to a business person who has been employed by an enterprise of a corporation for a period of no less than one year immediately preceding the date of the application for temporary entry, and who is being transferred to an establishment, including the subsidiary, branch, or designated affiliate, of that corporation as an executive, manager, or specialist, provided that the business person otherwise complies with immigration measures applicable to temporary entry.

2. For greater certainty, nothing in this Section shall be construed to affect the labor legislation of each Party, including labor contract approval as a prior requirement for temporary entry.

3. For purposes of this Section, **establishment** means:

- (a) the constitution, acquisition, or maintenance of a juridical person;⁴ or
- (b) the creation or maintenance of a branch or representative office,

within the territory of a Party for purposes of performing an economic activity.

⁴ The terms “constitution” and “acquisition” of a juridical person shall be understood as including capital participation in a juridical person with a view to establishing or maintaining lasting economic relations.

SECTION D: PROFESSIONALS

1. Each Party shall grant temporary entry and provide confirming documentation to a business person seeking to engage in a business activity at a professional level in accordance with Appendix 11A-2, either as an independent professional or as a contractual service supplier, provided that the business person otherwise complies with immigration measures applicable to temporary entry, on presentation of:

- (a) proof of nationality of the other Party;
- (b) documentation demonstrating that the business person will be so engaged and describing the purpose of entry; and
- (c) documentation demonstrating the attainment of the relevant minimum educational requirements or alternative credentials.

2. For greater certainty, a Party may require a business person seeking temporary entry under this Section to comply with the requirements of the specific legislation for the practice of a profession or activity.

3. For greater certainty, nothing in this Section shall be construed to affect the labor legislation of each Party.

APPENDIX 11A-1 BUSINESS VISITORS

The business activities covered under Section A of Annex 11A include:

Meetings and Consultations

Business persons of a Party attending meetings, seminars, or conferences, or engaged in consultations with business associates.

Research and Design

Technical, scientific, and statistical researchers of a Party conducting research for an enterprise located in the territory of the other Party.

Growth, Manufacture, and Production

Purchasing and production management personnel of a Party, conducting commercial transactions for an enterprise located in the territory of the other Party.

Marketing

Market researchers and analysts of a Party conducting research or analysis for an enterprise located in the territory of the other Party.

Trade-fair and promotional personnel of a Party attending a trade convention.

Sales

Sales representatives and agents of a Party taking orders or negotiating contracts for goods or services for an enterprise located in the territory of the other Party but not delivering goods or providing services.

Buyers of a Party purchasing for an enterprise located in the territory of the other Party.

Distribution

Customs brokers of a Party providing consulting services regarding the facilitation of the import or export of goods.

After-Sales Service

Installers, repair and maintenance personnel, and supervisors of a Party, possessing specialized knowledge essential to a seller's contractual obligation, performing services or training workers to perform services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located outside the territory of the Party into which temporary entry is sought, during the life of the warranty or service agreement.

General Service

Management and supervisory personnel of a Party engaged in a commercial transaction for an enterprise located in the territory of the other Party.

Public relations and advertising personnel of a Party consulting with business associates, or attending or participating in conventions.

Tourism personnel of a Party (tour and travel agents, tour guides, or tour operators) attending or participating in conventions or conducting a tour that has begun in the territory of the other Party.

Cook personnel of a Party attending or participating in gastronomic events or exhibitions, or consulting with business associates.

Translators or interpreters of a Party performing services as employees of an enterprise located in the territory of the other Party.

Information and communication technology service providers of a Party attending meetings, seminars, or conferences, or engaged in consultations with business associates.

Franchise traders and developers of a Party who seek to offer their services in the territory of the other Party.

APPENDIX 11A-2
PROFESSIONALS⁵

SECTION A

1	Telecommunication Machinery Engineers and Researchers
2	Telecommunication Equipment Engineers and Researchers
3	Telecommunication Technology Engineers and Researchers
4	Telecommunication Network Operation Engineers and Researchers
5	IT Consultants
6	Web Engineers and Programmers
7	Petroleum and Chemical Engineers and Researchers
8	Rubber and Plastic Engineers and Researchers
9	Pesticide and Fertilizer Engineers and Researchers
10	Paint Products Engineers and Researchers
11	Metal Engineers and Researchers
12	Ceramic Engineers and Researchers
13	Cement Engineers and Researchers
14	Electrical Power Plant Engineers and Researchers
15	Electrical Power Distribution and Transmission Engineers and Researchers
16	Electrical Measurement and Control Engineers and Researchers
17	Electrical Safety Engineers and Researchers
18	Electronics Product Development Professionals
19	Semi-Conductor Engineers and Researchers
20	Electronic Measurement and Control Engineers and Researchers
21	Electronic Medical Equipment Development Engineers and Researchers
22	Mold Engineers and Researchers
23	Plant Engineers and Researchers
24	Cooling, Heating, and Air-Conditioning Engineers and Researchers
25	Construction Machine Engineers and Researchers
26	Automobile Engineers and Researchers
27	Ship Engineers and Researchers

⁵ With regard to Certified Public Accountants (CPA), Architects, and Lawyers, the CPA examination, the national architect license examination, and the national bar examination of Korea allow applications from Peruvian nationals as well as Korean nationals, seeking to acquire such license in Korea.

28	Aircraft and Railroad Vehicle Engineers and Researchers
29	Textile Material Development Engineers and Researchers
30	Textile Process Development Engineers and Researchers
31	Dyeing Engineers and Researchers
32	Gas and Energy Engineers and Researchers
33	Construction Work Engineers
34	Civil Construction Engineers
35	Biologist (Doctoral degree or equivalent is required)
36	Biochemist (Doctoral degree or equivalent is required)
37	Environment Consultant, exclusively for contractual service suppliers
38	Mining Engineers and Researchers, exclusively with respect to Gas and Energy Industry
39	Geologist Engineers and Researchers, exclusively with respect to Gas and Energy Industry
40	General Management Consultant, excluding consulting services on law, Financial Management Consultant, exclusively for contractual service suppliers, Marketing Management Consultant, Production Management Consultant

SECTION B

1	Computer Hardware Professionals
2	Computer System Supervision Professionals
3	Computer System Designers and Analysts
4	System Software Designers and Analysts
5	System Software Programmers
6	Application Software Designers and Analysts
7	Network Programmers
8	Database Designers and Analysts
9	Database Programmers
10	Database Managers
11	Network System Developers
12	Computer Security Professionals
13	Web Planners
14	Multimedia Planners
15	Web Masters
16	Cosmetics and Soap Professionals

17	Electrical Products Development Professionals
18	Electrical Supervisors and Researchers
19	Industrial Machine Engineers and Researchers
20	Translators and Interpreters
21	Machine Computer-aided Designers, Electrical and Electronic Equipment Computer-aided Designers, Motor Vehicles Designers, Furniture Designers, Textile Designers, Clothes Designers, Accessory Designers, Bag and Shoes Designers
22	Graphic Designers and Illustrators
23	Interior Designers
24	Cooks ⁶
25	Hotel and Tourism Agency Managers
26	Marketing and Advertising Professionals

⁶ For Peru, the requirements for a Korean cook seeking temporary entry shall be those defined in the immigration legislation of Peru.

APPENDIX 11A-3
LENGTH OF STAY

For Korea:

1. Business visitors who enter Korea under Section A of Annex 11A will be granted a period of stay of up to 90 days.
2. Investors and traders who enter Korea under Section B of Annex 11A will be granted a period of stay of up to two years. The period of stay may be extended provided that the conditions on which their entry is based remain in effect.
3. Intra-company transferees who enter Korea under Section C of Annex 11A will be granted a period of stay of up to two years. The period of stay may be extended provided that the conditions on which their entry is based remain in effect.
4. Professionals who enter Korea under Section D of Annex 11A will be granted a period of stay of up to one year or the period of the contract, whichever is less.
5. Business persons of Peru who intend to stay over 90 days in Korea shall register as aliens at the competent immigration office.

For Peru:

Category	Migratory Condition	Length of Stay
Business Visitor	Business (Negocios)	Up to 183 days
Traders	Business (Negocios)	Up to 183 days
Investor (in the process of committing investment)	Business (Negocios)	Up to 183 days
Investor (Independent)	Investor (Independiente-Inversionista)	Up to one year, renewable for consecutive periods, the number of times that it is requested, to the extent that the conditions which motivated its granting are maintained.
Intra-Company Transferees	Worker (Trabajador)	Up to one year, renewable for consecutive periods, the number of times that it is requested, to the extent that the conditions which motivated its granting are maintained.
Professionals (Independent)	Independent - Professional (Independiente - Profesional)	Up to one year, renewable for consecutive periods, the number of times that it is requested, to the extent that the conditions which motivated its granting are maintained.
Professionals (Contractual Service Supplier)	Appointed Worker (Trabajador Designado)	Up to six months