

Chapter 13
Temporary Entry for Business Persons

Article 13.1: Definitions

For the purposes of this Chapter:

- (a) **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;
- (b) **business visitor** means a national of a Party who is seeking to travel to the other Party for business purposes, including for investment purposes, whose remuneration and financial support for the duration of the visit is derived from sources outside the granting Party, and who is not engaged in making direct sales to the general public or in supplying goods or services themselves.

For the purposes of qualifying under this category, a national seeking temporary entry under the present category, shall present¹³⁻¹

- (i) proof of nationality of a Party;
- (ii) documentation demonstrating that the business person will be so engaged and describing the purpose of entry; and
- (iii) evidence demonstrating that the proposed business activity is international in scope and that the business person is not seeking to enter the local labour market.

Each Party shall provide that a business person may satisfy the requirements of subparagraph (b)(iii) by demonstrating that:

- (A) the 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 such territory.

- (c) **contractual service supplier** means a national:

- (i) who has high level technical or professional qualifications, skills and experience and:
 - (A) who is an employee of an enterprise of a Party that has concluded a contract for the supply of a service within the other

¹³⁻¹In addition to the requirements in Article 13.1(b)(i) to (iii), temporary entry will only be granted to business persons who also meet the requirements of a Party’s immigration measures.

第13章 商务人士临时入境

第13.1条：定义

本章所称：

- (a) 商务人士是指缔约方国民，其从事货物贸易、服务供应或投资活动；
- (b) 商务访客是指缔约方国民，其前往另一方进行商务目的旅行，包括投资目的，其访问期间的报酬和财务支持来源于授信方以外的来源，且不从事向普通公众进行直接销售或自行供应货物或服务。

为符合本类别资格，寻求根据本类别临时入境的国民，应提交¹³⁻¹

- (i) 缔约方国籍证明；(ii) 证明文件，证明商务人士将从事此类活动，并描述入境目的；以及 (iii) 证明拟议的商务活动具有国际范围，且商务人士无意进入本地劳动力市场。

每一方应当规定，商务人士可以通过证明以下内容来满足第(b)(iii)款的要求：

- (A)拟进行的商务活动的报酬来源位于临时入境授予权方领土之外；以及(B)商务人士的主要营业地和利润实际发生地，至少主要地，仍位于该领土之外。

- (c)合同服务供应商是指：

- (i) 拥有高级技术或专业资格、技能和经验，并：

- (A) 是缔约方企业的雇员，该缔约方企业已就服务供应在另一方境内签订了合同

¹³⁻¹除第13.1(b)(i)至(iii)条的要求外，临时入境仅授予同时满足一方移民措施要求的商务人士。

Party and which does not have a commercial presence within that Party; or

(B) who is engaged by an enterprise lawfully and actively operating in the other Party in order to supply under a contract within that Party; and

(ii) who is assessed as having the necessary qualifications, skills and work experience accepted as meeting the domestic standard in the granting Party for their nominated occupation.

Nothing in (A) or (B) above shall preclude a Party from requiring an employment contract between the national and the enterprise operating in the granting Party.

(d) **dependent** means:

(i) For Australia, a person who meets the requirements for a dependent or dependent child as defined in the Migration Regulations 1994.

(ii) For Chile, a family member who lives with the business person, including the parents, children and the concubine.

(e) **executive** means a national who primarily directs the management of an enterprise, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the enterprise. An executive would not directly perform tasks related to the actual provision of the service or the operation of the enterprise.

(f) **granting Party** means a Party who receives an application for temporary entry from a national of the other Party who is covered by Article 13.2.

(g) **immigration formality** means a visa, employment pass, or other document or electronic authority granting a national of one Party the right:

(i) in the case of business visitors, to enter and visit the granting Party;

(ii) in the case of executives and their accompanying spouses, intra-corporate transferees and their accompanying spouses and contractual service suppliers and their accompanying spouses, to enter, reside and work in the granting Party; or

(iii) in the case of dependents of executives, intra-corporate transferees and contractual service suppliers, to enter and reside in the territory of the granting Party.

(h) **immigration measure** means a measure affecting the entry and sojourn of aliens.

缔约方且在该缔约方境内没有商业存在；或 (B) 受雇于在另一缔约方合法且积极运营的企业，以在该缔约方境内根据合同进行供应；并

(ii) 被评估为具有必要资格、技能和工作经验，并被认为符合授信方对其提名职业的国内标准的商务人士。

(A) 或 (B) 以上任何一项均不得阻止缔约方要求国民与在授信方运营的企业之间签订雇佣合同。

(d) 受抚养人是指：

(i) 对于澳大利亚，符合1994年移民条例中定义的受抚养人或受抚养人子女要求的人。(ii) 对于智利，与商务人士一起生活的家庭成员，包括父母、子女和情妇。

(e) 高管是指主要管理企业事务的国民，在决策方面拥有广泛自由裁量权，并仅从高级高管、董事会或企业股东那里接受一般监督或指导。高管不会直接执行与服务实际提供或企业运营相关的工作。

(f) 授信方是指收到另一缔约方法国籍人士根据第13.2条提出的临时入境申请的缔约方该人士受第13.2条约束。

(g) 移民手续是指授予一方国民进入并访问授信方的签证、工作许可或其他文件或电子授权：

(i) 在商务访客的情况下，允许其进入并访问授信方；(ii) 在高管及其随行配偶、公司内部调任人员及其随行配偶和合同服务供应商及其随行配偶的情况下，允许其进入、居住并在授信方工作；或(iii) 在高管、公司内部调任人员和合同服务供应商的受抚养人的情况下，允许其进入并在授信方领土内居住。

(h) 移民措施是指影响外国人入境和居留的措施。

- (i) **intra-corporate transferee** means an employee of an enterprise of a Party established in the territory of the other Party through a branch, subsidiary or affiliate which is lawfully and actively operating in that Party, who is transferred by that enterprise to fill a position in the branch, subsidiary or affiliate of the enterprise in the granting Party, and who is:
- (i) **a manager** which means a national who will be responsible for the entire or a substantial part of the operations of the enterprise in the granting Party, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the enterprise, including directing the enterprise or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the enterprise; or
 - (ii) **a specialist** which means a national with advanced trade, technical or professional skills. The person seeking entry must be assessed as having the necessary qualifications or alternative credentials accepted as meeting the granting Party's domestic standards for the relevant occupation.

For the purposes of qualifying under this category, a national seeking temporary entry under the present category, shall present¹³⁻²

- (A) proof of nationality of a 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.

- (j) **spouse** means:
- (i) For Australia, a person who meets the requirements for a spousal relationship as defined in the Migration Regulations 1994.
 - (ii) For Chile, a person who meets the requirements for a spousal relationship under Chilean domestic laws and regulations.
- (k) **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.

¹³⁻² In addition to the requirements in Article 13.1(i)(A) to (C), temporary entry will only be granted to business persons who also meet the requirements of a Party's immigration measures.

(i)企业内部转移人员是指缔约方在另一方领土内通过分支机构、子公司或关联公司设立的企业雇员，该分支机构、子公司或关联公司在该方合法且积极运营，该雇员由该企业转移至另一方领土内的分支机构、子公司或关联公司担任职位，并且该雇员：

(i) 经理是指将负责企业全部或大部分运营的国民，其主要监督或指导来自企业的高管、董事会或股东，包括指导企业或其一个部门或分支机构；监督和控制其他监督、专业或管理人员的工作；并有权建立企业部门或分支机构的宗旨和政策；或

(ii) 专家是指具有先进商业、技术或专业技能的国民。申请入境的人员必须被评估为具有必要资格或被接受为符合授信方相关职业国内标准的替代资质。

为此类资格，寻求临时入境的国民，在根据本类别寻求临时入境时，应提交¹³⁻²

(A) 缔约方国籍证明；(B) 证明商务人士将从事此类活动并说明入境目的的文件；以及 (C) 证明已达到相关最低学历要求或替代资质的文件。

- (j) 配偶是指：
- (i) 对于澳大利亚，指符合 1994年移民条例 中定义的配偶关系要求的人。(ii) 对于智利，指符合智利国内法律和法规中配偶关系要求的人。
- (k) 临时入境是指另一缔约方的商务人士进入缔约方领土，且无建立永久居留的意图。

¹³⁻² 除第13.1(i)(A)至(C)条的要求外，临时入境仅授予符合一方移民措施要求的商务人士。

Article 13.2: Scope and Coverage

1. This Chapter shall apply to measures affecting the movement of nationals of a Party into the territory of the other Party where such persons are:
- (a) business visitors;
 - (b) contractual service suppliers;
 - (c) executives of a business headquartered in a Party, establishing a branch or subsidiary of that business in the other Party; or
 - (d) intra-corporate transferees.
2. This Chapter does not apply to measures affecting nationals seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, nationality, permanent residence, or employment on a permanent basis.

Article 13.3: General Obligations

1. Each Party shall apply expeditiously its measures relating to the provisions of this Chapter 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 Agreement shall prevent a Party from applying measures to regulate the entry of nationals 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 nationals 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 and Chapter 9 (Cross-Border Trade in Services).
3. The sole fact of requiring nationals to meet eligibility requirements prior to entry to a Party shall not be regarded as nullifying or impairing the benefits accruing to the other Party under this Chapter and Chapter 9 (Cross-Border Trade in Services).
4. Any measure regarding temporary entry of business persons adopted and maintained by a Party at its own initiative or as a result of an agreement between the Parties, that provides for more liberal access for and/or treatment of business persons covered by this Chapter, shall be accorded to business persons covered by this Chapter. However, with respect to such measures adopted or maintained by a Party at its own initiative, any more liberal access and/or treatment under such measures shall only be accorded for so long as the measures are in place.

Article 13.4: Grant of Temporary Entry

1. Each Party shall grant temporary entry to business persons, including spouses and dependents of intra-corporate transferees, who are otherwise qualified for entry under applicable measures including those relating to public health and safety and

第13.2条：范围和覆盖范围

1. 本章适用于影响一方国民进入另一方领土的措施，其中这些人包括：
- (a) 商务访客；(b) 合同服务供应商；(c) 总部设于缔约方之一、在该缔约方设立分支机构或子公司的另一缔约方商务公司的高管；或(d) 公司内部调任人员。
2. 本章不适用于影响寻求进入缔约方就业市场的国民的措施，也不适用于涉及公民身份、国籍、永久居留权或永久性就业的措施。

第13.3条：一般义务

1. 每一方应迅速适用其与本章规定相关的措施，以避免不当损害或延迟根据本协议进行的货物或服务贸易或投资活动。
2. 本协议的任何规定均不得阻止一方采取措施，以规范另一方国民进入其领土或在其领土内临时停留，包括为保护其完整性并确保其国民跨越其边界有序流动所必需的措施，但前提是此类措施不得以使本章和第9章（跨境服务贸易）项下另一方应得利益失效或受损的方式实施。
3. 要求国民在进入一方之前满足资格要求这一行为本身，不应被视为使本章和第9章（跨境服务贸易）项下另一方应得利益失效或受损。
4. 一方自行采取或根据双方协议维持的关于商务人士临时入境的任何措施，如果为本章涵盖的商务人士提供了更宽松的准入和/或待遇，则应适用于本章涵盖的商务人士。但是，对于一方自行采取或维持的此类措施，此类措施项下的更宽松的准入和/或待遇仅应持续到措施有效为止。

第13.4条：临时入境许可

1. 每一方应根据本章规定，向商务人士发放临时入境许可，包括企业内部调任人员的配偶和受抚养人，这些人符合适用措施（包括与公共卫生和安全及国家安全相关的措施）规定的入境条件，

national security, in accordance with this Chapter, including the provisions of Annex 13-A.

- 2. Each Party shall ensure that fees charged by its competent authorities on applications for an immigration formality do not constitute an unjustifiable impediment to the movement of nationals under this Chapter.
- 3. The temporary entry granted by virtue of 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.

Article 13.5: Provision of Information

- 1. Each Party shall:
 - (a) make publicly available explanatory material on all relevant measures which pertain to or affect the operation of this Chapter, including any new or changed measures;
 - (b) no later than six months after the date of entry into force of this Agreement provide the other Party with a consolidated document describing the requirements for temporary entry under this Chapter in such a manner as will enable business persons of the other Party to become acquainted with them; and
 - (c) maintain appropriate mechanisms to respond to inquiries from the other Party, and interested persons of the other Party, regarding measures affecting the temporary entry and temporary stay of nationals of the other Party.
- 2. Each Party shall collect and maintain, and make available upon request to the other Party in accordance with its domestic law, data respecting the granting of temporary entry under this Chapter to business persons of the other Party who have been issued immigration documents.

Article 13.6: Consultations

- 1. The Parties agree to consult on any issue raised by a Party that relates to this Chapter. Such consultations may include:
 - (a) consideration of suggestions to further facilitate temporary entry of business persons;
 - (b) consideration of the development of common criteria and interpretations for the implementation of this Chapter; and

并包括附件13-A的规定。

- 2. 每一方应确保其主管当局在处理移民手续申请时收取的费用不构成对根据本章规定移动国民的不正当障碍。
- 3. 根据本章授予的临时入境不取代在授权临时入境的该方领土上根据特定法律法规执行职业或活动所需的要求。

第13.5条：信息提供

- 1. 每一方应：
 - (a) 公开提供有关影响本章运作的所有相关措施的说明材料，包括任何新措施或已更改的措施； (b) 在本协定生效之日起六个月内，以使另一方商务人士能够了解的方式，向另一方提供一份综合文件，描述根据本章进行临时入境的要求；以及 (c) 维持适当的机制，以回应另一方及其有关人士关于影响另一方国民临时入境和临时停留的措施的查询。
- 2. 每一方应当收集和保存，并根据其国内法，在另一方的要求下提供本章关于临时入境的授予的数据，以供另一方的商务人士使用，这些商务人士已获得移民文件。

第13.6条：磋商

- 1. 缔约方同意就任何一方提出的与本章节相关的问题进行磋商。此类磋商可能包括：
 - (a) 考虑进一步促进商务人士临时入境的建议； (b) 考虑制定本章实施的相关标准和解释；以及

- (c) any concerns regarding a refusal to grant temporary entry under this Chapter.

2. Consultations shall include officials from the Parties' immigration authorities.

Article 13.7: Dispute Settlement

1. A Party may not initiate proceedings under Chapter 21 (Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter or a particular case arising under Article 13.3 unless:

- (a) the matter involves a pattern of practice;
- (b) the business person has exhausted the available domestic remedies regarding the particular matter; and
- (c) the Parties have undertaken consultations in accordance with Article 13.6.

2. The remedies referred to in paragraph 1(b) shall be deemed to be exhausted where there is undue delay in the remedial process which is attributable to the Party in which the process is undertaken.

Article 13.8: Relation to Other Chapters

1. Except for this Chapter, Chapters 1 (Initial Provisions), 2 (General Definitions), 20 (Institutional Arrangements), 21 (Dispute Settlement), and 23 (Final Provisions), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.

2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

Article 13.9: Application of Regulations

1. To the extent possible, each Party shall, on request, provide to interested persons a concise statement addressing comments received on proposed and existing regulations relating to the temporary entry of business persons.

2. Where an application for an immigration formality is required by a Party, the Party shall process expeditiously complete applications for immigration formalities received from nationals of the other Party covered by Article 13.2, including further immigration formality requests.

3. Each Party shall upon request, and within a reasonable period after a complete application by a national covered by Article 13.2 requesting temporary entry is lodged, notify the applicant of:

- (c) 关于本章拒绝批准临时入境的任何关切。

2. 磋商应包括缔约方移民当局的官员。

第13.7条：争端解决

1. 任何缔约方不得启动第21章（争端解决）的诉讼程序，除非：

- (a) 该事项涉及惯例模式；(b) 商务人士已穷尽与该特定事项相关的国内救济措施；以及(c) 缔约方已根据第13.6条进行磋商。

2. 第1(b)段所述的救济措施，在采取救济程序的缔约方导致不合理的延迟时，应被视为已穷尽。

第13.8条：与其他章节的关系

1. 除本章外，第1条（初始条款）、第2条（一般定义）、第20条（机构安排）、第21条（争端解决）和第23条（最终条款），本协议的任何规定均不得对缔约方就其移民措施施加任何义务。

2. 本章的任何内容均不得解释为对本协议其他章节施加义务或承诺。

第13.9条：法规的适用

1. 在可能的情况下，每一方应根据要求向有关人员提供一份简明声明，说明收到的关于与商务人士临时入境相关的拟议和现有法规的评论。

2. 如果一方要求提交移民手续申请，该方应迅速处理从第13.2条所述的另一方的国民收到的移民手续申请，包括进一步的移民手续申请。

3. 每一方应当在收到第13.2条所述国民提交的临时入境完整申请后，并在合理期限内，通知申请人：

- (a) receipt of the application;
- (b) the status of the application; and
- (c) the decision concerning the application, including, if approved, the period of stay and other conditions; or if refused, the reasons for refusal and any avenues for merits review.

(a) 收到申请；(b) 申请的状态；以及(c) 关于申请的决定，包括，如果批准，则包括停留期限和其他条件；或者如果拒绝，则包括拒绝的原因和任何申诉途径。

Annex 13-A
Temporary Entry for Business Persons

Section 1

1. In the case of Chile:
- (a) Business persons who enter Chile under any of the categories set out in Article 13.2, including spouses and dependants of intra-corporate transferees, shall be deemed to be engaged in activities which are in the country's interest.
 - (b) Business persons who enter Chile under any of the categories set out in Article 13.2 and are issued a temporary visa shall have that temporary visa extended for subsequent periods provided the conditions on which it is based remain in effect, without requiring that person to apply for permanent residence.
 - (c) When a national:
 - (i) has been granted the right to temporary entry under Article 13.4 for longer than 12 months; and
 - (ii) has a spouse;

Chile shall, upon application by an accompanying spouse of a national of Australia who meets Chile's criteria for the grant of an immigration formality, grant that accompanying spouse the right of temporary entry, stay, work and movement, for an equal period to that of the national.
 - (d) Business persons who enter Chile may also obtain an identity card for foreigners.

Section 2

2. In the case of Australia:

For the purposes of this Section of the Annex:

service seller means a national who is a sales representative of a service supplier of that Party who is seeking temporary entry to the other Party for the purpose of negotiating, or entering into, agreements for the sale of services for that service supplier, where such a representative will not be engaged in making direct sales to the general public or in supplying services directly.

附件13-A 商务人士临时入境

第一部分

1. 智利情况：

- (a) 根据《第13.2条》规定的任何类别入境智利的商务人士，包括公司内部调任人员的配偶和受抚养人，应被视为从事符合智利国家利益的活动。
- (b) 根据《第13.2条》规定的任何类别入境智利并获发临时签证的商务人士，如其基于的条件仍然有效，其临时签证可续期，无需申请永久居留权。
- (c) 当一个国民：
 - (i) 根据《第13.4条》获得临时入境权超过12个月；
 - (ii) 有配偶时，智利应在国民的随行配偶（澳大利亚国民，符合智利移民手续授予标准）提出申请时，授予该随行配偶临时入境、停留、工作和行动的权利，期限与国民相同。

智利将授予该随行配偶临时入境、停留、工作和行动的权利，期限与国民相同。

- (d) 进入智利的商务人士也可以获得外国人的身份卡。

第 2 节

2. 在澳大利亚的情况下：

根据本附件本节的条款：

服务销售者是指寻求临时入境另一缔约方以谈判或签订服务销售协议的缔约方中，为其服务供应商的销售代表，该代表将不会从事向普通公众进行直接销售或直接提供服务的工作的国民。

Short Term Temporary Entry

- (a) Australia shall, upon application by a business visitor of Chile who meets Australia’s criteria for the grant of an immigration formality, grant that business visitor, through a single immigration formality, the right of temporary entry to, and stay and movement in, Australia, consistent with the purpose of the visit, for a period of up to 90 days. A business visitor of Chile who is a service seller may stay for a period of up to 12 months.

Long Term Temporary Entry

- (b) Australia shall, upon application by a contractual service supplier, an executive or an intra-corporate transferee, who is a national of Chile who meets Australia’s criteria for the grant of an immigration formality, grant that person, through a single immigration formality, the right of temporary entry to, and stay, work and movement in, Australia. These rights shall be granted for an initial period of time, sufficient to supply relevant services and consistent with the purpose of the visit, for:
 - (i) an intra-corporate transferee, who meets the definition of an intra-corporate transferee and who is a manager, for a period of up to four years, with the possibility of further stay;
 - (ii) an intra-corporate transferee, who meets the definition of an intra-corporate transferee and who is a specialist, for a period of up to two years, with the possibility of further stay; and
 - (iii) a contractual service supplier for a period of up to one year, with the possibility of further stay.
- (c) When a national:
 - (i) has been granted the right to temporary entry under Article 13.4 for longer than 12 months; and
 - (ii) has a spouse;

Australia shall, upon application by an accompanying spouse of a national of Chile who meets Australia’s criteria for the grant of an immigration formality, grant that accompanying spouse the right of temporary entry, stay, work and movement, for an equal period to that of the national.

短期临时入境

- (a) 澳大利亚应根据智利商务访客提出的移民手续申请，如果该访客符合澳大利亚的移民手续授予标准，应通过一次移民手续，授予该商务访客临时入境澳大利亚、在澳大利亚停留和移动的权利，与访问目的一致，期限最长为**90**天。智利商务访客中的服务销售者可停留最长**12**个月。

长期临时入境

- (b) 澳大利亚应当，在合同服务供应商、高管或企业内部转移人员提出申请时，如果其为智利国民且符合澳大利亚授予移民手续的标准，则通过一次移民手续，授予该人员进入澳大利亚、停留、工作及在澳大利亚活动的临时入境权利。这些权利应当授予一个初始期限，足以提供相关服务并与访问目的一致，具体为：
 - (i) 符合企业内部转移人员定义且为企业经理的企业内部转移人员，最长不超过四年，并有可能进一步停留；
 - (ii) 符合企业内部转移人员定义且为企业专家的企业内部转移人员，最长不超过两年，并有可能进一步停留；以及
 - (iii) 合同服务供应商，最长不超过一年，并有可能进一步停留。

- (c) 当一个国民：

- (i) 已根据第**13.4**条获得临时入境权超过**12**个月；并且
- (ii) 有配偶；

澳大利亚应当事人提出申请，由智利国民的随行配偶（符合澳大利亚移民手续授予标准），澳大利亚将授予该随行配偶临时入境、停留、工作和行动的权利，期限与该国民相同。