

CHAPTER NINE TEMPORARY ENTRY FOR BUSINESS PERSONS

Article 9.1: General Principles

1. This Chapter reflects the preferential trading relationship between the Parties, the Parties' mutual desire of facilitating temporary entry for business persons in accordance with their legislation and the provisions in Annex 9-A and of establishing transparent criteria and procedures for temporary entry for business persons as well as the need 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 of a Party seeking access to the employment market of the other Party, nor shall it apply to measures regarding citizenship, nationality, 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 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 nullify or impair the benefits accruing to the other Party under this Chapter.

4. The sole fact that a Party requires business persons of the other Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to the other Party under this Chapter.

Article 9.2: General Obligations

Each Party shall apply its measures related to this Chapter in accordance with Article 9.1 and, in particular, shall expeditiously apply those measures so as to avoid unduly nullifying or impairing the benefits accruing to the other Party or delaying trade in goods or services or conduct of investment activities under this Agreement.

Article 9.3: Grant of Temporary Entry

1. The Parties may make commitments in respect of temporary entry of business persons. Such commitments and the conditions governing them shall be inscribed in Annex 9-A.

2. A Party shall grant temporary entry or extension of temporary stay to business persons of the other Party to the extent provided for in those commitments made pursuant to paragraph 1, provided that those business persons:

- (a) follow the granting Party's prescribed application procedures for the relevant immigration formality; and
- (b) meet all relevant eligibility requirements for temporary entry or extension of temporary stay and other related measures, such as those related to public health and safety and national security.

3. Each Party shall ensure that fees charged by its competent authorities for the processing of an application for an immigration formality are reasonable, in that they do not unduly nullify or impair the benefits accruing to the other Party or delay trade in goods or services or conduct of investment activities under this Agreement.

4. The sole fact that a Party grants temporary entry to a business person of the other Party pursuant to this Chapter shall not be construed to exempt that business person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practice a profession or otherwise engage in business activities.

Article 9.4: Transparency

1. Further to Article 19.1 (Publication), each Party shall:

- (a) provide to the other Party such materials as will enable the other Party to become acquainted with its measures relating to this Chapter;
- (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 in a consolidated document regarding the requirements for temporary entry under this Chapter including information on applicable laws and regulations in such a manner as will enable business persons of the other Party to become acquainted with them; and
- (c) upon modifying or amending an immigration measure that affects the temporary entry of business persons, ensure that such modifications or amendments are promptly published and made available in such a manner as will enable business

persons of the other Party to become acquainted with them.

2. Further to Article 19.1 (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 person.

3. On the 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 9.5: Working Group

1. The Parties hereby establish a Working Group on Temporary Entry of Business Persons (hereinafter referred to as the “Working Group”), composed of government representatives of each Party, to consider and review matters pertaining to this Chapter with a view to facilitating temporary entry of business persons between the Parties.

2. The Working Group shall meet, when necessary, to consider matters pertaining to this Chapter, such as:

- (a) the implementation and administration of this Chapter;
- (b) the establishment of procedures for the exchange of information on measures affecting the temporary entry under this Chapter;
- (c) the development of measures to further facilitate temporary entry of business persons;
- (d) any other measures of mutual interest related to this Chapter; and
- (e) any other issues related to this Chapter as determined by the Joint Committee.

Article 9.6: Cooperation

Taking into consideration the principles set forth in Article 9.1, the Parties shall endeavor as far as possible to:

- (a) cooperate to strengthen the institutional capacity and promote technical assistance between the immigration authorities; and

- (b) exchange information and experiences on regulations and implementation of programs and technology in the context of immigration matters, including those related to the use of biometric technology, advanced information systems for passengers and security in travel documents.

Article 9.7: Dispute Settlement

1. The relevant authorities of both Parties shall endeavor to favorably resolve any problems that may arise from the implementation and administration of this Chapter.

2. If both Parties cannot reach agreement with regard to any specific issues raised from the implementation and administration of this Chapter as provided for in paragraph 1, Chapter Twenty (Dispute Settlement) shall apply to the issues.

3. A Party shall not initiate proceedings under Chapter Twenty (Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter unless:

- (a) the matter involves a pattern of practice; and
- (b) the affected business person has exhausted the available administrative remedies regarding the particular matter.

4. The remedies referred to in subparagraph 3(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year 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 9.8: Relation to Other Chapters

1. Nothing in this Agreement shall impose any obligation on a Party regarding its immigration measures, except as specifically identified in this Chapter and Chapters One (Initial Provisions and Definitions), Nineteen (Transparency), Twenty (Dispute Settlement), Twenty-One (Exceptions), and Twenty-Three (Final Provisions).

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

Agreement.

Article 9.9: Definitions

For the purposes of this Chapter:

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

immigration formality means a visa, permit, pass, or other document or electronic authority granting temporary entry;

immigration measure means any law, regulation, procedure, requirement, or practice affecting the entry and stay of foreign nationals; and

temporary entry means entry into the territory of a Party by a business person of the other Party without the intention to establish permanent residence.

Annex 9-A
Temporary Entry for Business Persons

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 9-A-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 9-A-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 subparagraph 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 proof 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 may:

- (a) as a condition for temporary entry under paragraph 1, require prior approval procedures, labor market 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, administer, or provide advice or key technical services to the operation of 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 may:

- (a) as a condition for temporary entry under paragraph 1, require prior approval procedures, labor market 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 an intra-company transferee, who otherwise complies with immigration measures applicable to temporary entry.

2. **Intra-company transferee** means an employee of a firm that supplies services through subsidiaries, branches, or designated affiliates established in the territory of the other Party and who has been so employed for a period not less than one year immediately preceding the date of the application for temporary entry, and who is an executive, manager, or specialist as defined below:

- (a) **executive** means a natural 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, or stockholders of the business. An executive would not directly perform tasks related to the actual supply of a service or services of the organization;
 - (b) **manager** means a natural person within an organization who primarily directs the organization or a department of the organization, supervises, and controls the work of other supervisory, professional, or managerial employees; has the authority to hire and fire or recommend hiring, firing, or other personnel actions; and exercises discretionary authority over day-to-day operations. This does not include a first-line supervisor, unless the employees supervised are professionals, nor does this include an employee who primarily performs tasks necessary for the supply of the service; and
 - (c) **specialist** means a natural person within an organization who possesses knowledge at an advanced level of continued expertise and proprietary knowledge on the services, research, equipment, techniques, or management of the organization.
3. Neither Party may:
- (a) as a condition for temporary entry under paragraph 1, require prior approval procedures, labor market tests, or other procedures of similar effect; or
 - (b) impose or maintain any numerical restriction related to temporary entry under paragraph 1.

Section D: Contractual Service Suppliers

1. Each Party shall grant temporary entry and provide confirming documentation to a business person who is seeking to provide services as a contractual service supplier in a profession as set out in Appendix 9-A-3, 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. **Contractual service supplier** means a business person of a Party who:

- (a) is engaged in a specialized occupation that requires theoretical and practical application of specialized knowledge;
- (b) possesses the necessary academic and professional qualifications and professionally qualified competency-based experience to perform an activity in the sector relevant to the service to be provided in accordance with the laws, regulations or requirements of each Party;
- (c) 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 for a period not exceeding one year from a juridical person of the other Party, who is the final consumer of the services supplied. The contract shall comply with the laws and regulations of that Party;
- (d) has been an employee of the juridical person for a period not less than one year immediately preceding the date of application for admission; and
- (e) is required to receive no remuneration from the juridical person located in the other Party.

3. Each Party may impose numerical restriction related to temporary entry for contractual service suppliers. Neither Party may, however, as a condition for temporary entry under paragraph 1, require prior approval procedures, labor market tests, or other procedures of similar effect.

Appendix 9-A-1 Business Visitors

A business person of a Party who enters the territory of the other Party for the purpose of engaging in the following activities:

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 9-A-2 Duration of Stay

In the case of Korea:

1. Business visitors who enter Korea under Section A of Annex 9-A will be granted a period of stay of up to 90 days.
2. Traders and investors who enter Korea under Section B of Annex 9-A 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 they are based remain in effect.
3. Intra-company transferees who enter Korea under Section C of Annex 9-A 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 they are based remain in effect.
4. Contractual service suppliers who enter Korea under Section D of Annex 9-A will be granted a period of stay of up to one year or the period of the contract, whichever is shorter.
5. Business persons of Ecuador who intend to stay over 90 days in Korea shall register as aliens at the competent immigration office.

In the case of Ecuador:

1. Business visitors who enter Ecuador under Section A of Annex 9-A will be granted a period of stay of up to 180 days and may be granted only once each chronological year from the date of issuance.
2. Traders and investors who enter Ecuador under Section B of Annex 9-A 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 they are based remain in effect.
3. Intra-company transferees who enter Ecuador under Section C of Annex 9-A 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 they are based remain in effect.
4. Contractual service suppliers who enter Ecuador under Section D of Annex 9-A will be granted a period of stay of up to six months in any 12-month period or the period of the contract, whichever is shorter.

5. Business persons of Korea who intend to stay over 90 days in Ecuador shall register as aliens at the competent immigration office.

Appendix 9-A-3
Contractual Service Suppliers¹

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
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)

¹ 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 Ecuadorian nationals as well as Korean nationals, seeking to acquire such license in Korea.

37	Environment Consultant
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, Marketing Management Consultant, Production Management Consultant
41	Computer Hardware Professionals
42	Computer System Supervision Professionals
43	Computer System Designers and Analysts
44	System Software Designers and Analysts
45	System Software Programmers
46	Application Software Designers and Analysts
47	Network Programmers
48	Database Designers and Analysts
49	Database Programmers
50	Database Managers
51	Network System Developers
52	Computer Security Professionals
53	Web Planners
54	Multimedia Planners
55	Web Masters
56	Cosmetics and Soap Professionals
57	Electrical Products Development Professionals
58	Electrical Supervisors and Researchers
59	Industrial Machine Engineers and Researchers
60	Translators and Interpreters
61	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
62	Graphic Designers and Illustrators
63	Interior Designers
64	Cooks
65	Hotel and Tourism Agency Managers
66	Marketing and Advertising Professionals

Appendix 9-A-4
Main Immigration Measures

For Korea:

Immigration Control Act, Enforcement Decree of the Immigration Control Act, Enforcement Regulations of the Immigration Control Act, Guidelines for the Issuance of Visa, etc., or those that modify them, if any.

For Ecuador:

Organic Law of Human Mobility and the Regulations to the Law of Human Mobility, or those that modify them.