

Annex 8-D

Temporary Entry and Stay of Business Persons

Definition

1. For purposes of this Annex:

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;

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

immigration measure means any measure 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 who does not intend to establish permanent residence.

Scope

2. This Annex shall apply to measures adopted or maintained by a Party that affect the temporary entry of business persons of the other Party under any of the categories as defined in, and subject to the conditions and limitations inscribed in, each Party's Schedule of Specific Commitment referred to in Article 8.7.

3. This Annex 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, nationality, residence or employment on a permanent basis.

4. 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 those measures are not applied in a manner as to nullify or impair the benefits accruing to the other Party under the terms of specific commitment.

5. 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 a specific commitment.

Application Procedures

6. Where an application for an immigration formality is required by a Party, that Party shall process, as expeditiously as possible, completed applications for immigration formalities or extensions thereof received from business persons of the other Party covered by paragraph 2.

7. Each Party shall, upon request and within a reasonable period after receiving a

completed application for an immigration formality from a business person of the other Party covered by paragraph 2, notify the applicant of:

- (a) the receipt of the application; and
- (b) the decision concerning the application including, if approved, the period of stay and other conditions.

8. Each Party shall, upon request and within a reasonable period after receiving a completed application for an immigration formality from a business person of the other Party, endeavor to notify the applicant of the status of the application.

9. Each Party shall endeavor to ensure that fees charged by its competent authorities for processing of 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 services under this Chapter.

Grant of Temporary Entry

10. Each Party shall set out in its Schedule of Specific Commitments referred to in Article 8.7 the commitments it makes with regard to temporary entry of business persons, which shall specify the conditions and limitations for entry and temporary stay, including length of stay, for each category of business persons specified by that Party.

11. 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 10, 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.

12. The sole fact that a Party grants temporary entry to a business person of the other Party pursuant to this Annex 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.

Provision of Information

13. Further to Article 8.9, 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 Annex;
- (b) publish or otherwise make publicly available in its territory and to the other Party, the requirements for temporary entry under this Annex, including explanatory material and relevant forms and documents that will enable business

persons of the other Party to become acquainted with those requirements;

- (c) upon modifying or amending any immigration measure that affects temporary entry of business persons of the other Party, ensure that the information published or otherwise made publicly available pursuant to subparagraph (b) is updated as soon as possible; and
- (d) maintain mechanisms to respond to inquiries from interested persons regarding its laws and regulations affecting the temporary entry and stay of business persons.

Dispute Settlement

14. A Party shall not initiate proceedings under Chapter Sixteen(Dispute Settlement) regarding a refusal to grant temporary entry, or the extension of temporary stay, under this Annex unless;

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

15. For the purpose of paragraph 14(b), the administrative remedies shall be deemed to be exhausted if a final determination in the matter has not been issued by the other Party within a reasonable period of time after the date of the institution of proceedings for the remedy, including any proceedings for review or appeal, and the failure to issue such a determination is not attributable to delays caused by the business persons concerned.

Relation to Other Chapters

16. Nothing in this Agreement shall be construed to impose any obligation on a Party regarding its immigration measures, except as specifically identified in this Annex, Chapter One (General Provisions), Chapter Sixteen(Dispute Settlement), Chapter Seventeen(Exceptions), and Chapter Eighteen(Institutional an Final Provisions), and Article 15.1(Publication) through 15.3(Administrative Proceedings).

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