

## **CHAPTER TEN**

### **TEMPORARY ENTRY FOR BUSINESS PERSONS**

#### **ARTICLE 10.1: GENERAL PRINCIPLES**

1. This Chapter reflects the preferential trading relationship between the Parties, the Parties' mutual desire to facilitate temporary entry for business persons on a reciprocal basis and to establish transparent criteria and procedures for temporary entry in accordance with Annex 10-A, and 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, permanent residence, or employment on a permanent basis.

#### **ARTICLE 10.2: GENERAL OBLIGATIONS**

1. Each Party shall apply its measures related to the provisions of this Chapter in accordance with Article 10.1 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. Notwithstanding paragraph 1, nothing in this Chapter shall be construed to prevent a Party from applying measures to regulate the entry of business persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of its borders, and to ensure the orderly movement of business persons across its borders, provided that such measures are not applied in such a manner as to nullify, delay, or impair the commitments made by a Party under this Agreement. The sole fact of requiring a visa for natural persons of certain countries and not for those of others shall not be regarded as nullifying, delaying, or impairing the commitments made by a Party under this Agreement.

#### **ARTICLE 10.3: 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 and safety and national security in accordance with this Chapter, including Annex 10-A and Appendix 10-A-2.
2. Temporary entry granted pursuant to this Chapter shall not replace the requirements needed to carry out a profession or an activity in accordance with the specific laws and regulations in force in the territory of the Party authorizing the temporary entry.
3. 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.
- 4. When a Party refuses, pursuant to paragraph 3, to issue an immigration document authorizing employment, it shall:
  - (a) take measures to allow the business person to be informed in writing of the reasons for the refusal; and
  - (b) promptly notify the other Party in writing of the reasons for the refusal.
- 5. Each Party shall limit any fees for processing applications for temporary entry of business persons to the approximate cost of services rendered.

#### ARTICLE 10.4: PROVISION OF INFORMATION

- 1. Further to Article 18.1 (Publication), 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 and publish or otherwise 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, in such a manner that will enable business persons of the other Party to become acquainted with those requirements.
- 2. Each Party shall collect, 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 10.5: WORKING GROUP

- 1. The Parties hereby establish a Temporary Entry Working Group, comprising representatives of each Party, including immigration officials and contact points.
- 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 development and adoption of common criteria and interpretations for the implementation of this Chapter;
- (c) the development and implementation of measures to further facilitate temporary entry of business persons on a reciprocal basis; and
- (d) any other measures of mutual interest.

#### ARTICLE 10.6: CONTACT POINTS

1. The Parties hereby establish contact points who shall exchange information as described in Article 10.4 and shall receive and analyze the information mentioned under Article 10.5.

2. The contact points are:

- (a) for Korea,  
Coordinator  
Border Control Division  
Korea Immigration Service  
*Ministry of Justice* or its successor
- (b) for Colombia,  
Coordinator  
Coordination of Visas and Immigration  
*Ministry of Foreign Affairs* or its successor

#### ARTICLE 10.7: DISPUTE SETTLEMENT

1. A Party may not initiate proceedings under Chapter 20 (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 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 10.8: RELATION TO OTHER CHAPTERS

1. Nothing in this Agreement shall be construed to impose any obligation<sup>1</sup> on a Party regarding its immigration measures, except for this Chapter, Chapters 1 (Initial Provisions and General Definitions), 19 (Institutional Provisions), 20 (Dispute Settlement), and 22 (Final Provisions), and Articles 18.1 (Publication), 18.2 (Notification and Provision of Information), and 18.3 (Administrative Proceedings).

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

#### ARTICLE 10.9: TRANSPARENCY IN DEVELOPMENT AND APPLICATION OF REGULATIONS

1. Further to Chapter 18 (Transparency), each Party shall establish or maintain appropriate mechanisms to respond to inquiries from interested persons regarding regulations related to the temporary entry of business persons.

2. Each Party shall, within a reasonable period after an application requesting temporary entry is considered complete under its laws and regulations, inform the applicant of the decision concerning the application. On request of the applicant, the Party shall provide, without undue delay, information concerning the status of the application.

#### ARTICLE 10.10: DEFINITIONS

For purposes of this Chapter:

**business person** means a national<sup>2</sup> of a Party who is engaged in trade in goods, the supply of services, or the conduct of investment activities in the other Party;

**immigration measure** means any law, rule, regulation, decision, procedure, or any other administrative action affecting the entry and sojourn of aliens;

**national** has the same meaning as the term “national” as defined in Chapter 1 (Initial Provisions and General Definitions);

**pattern of practice** means a practice carried out by the immigration authorities of a Party in a repetitive manner during a representative period immediately before the execution of the practice at issue; 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.

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<sup>1</sup> For greater certainty, “any obligation” in Article 10.8 includes Articles 9.2 (National Treatment), 9.3 (Most-Favored-Nation Treatment) and 9.4 (Market Access).

<sup>2</sup> For greater certainty, “national” does not include a permanent resident.

**ANNEX 10-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 10-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 10-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. Each Party shall include in the explanatory material described in Article 10.4.1(b) a non-exclusive list of examples of such proof.

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 10-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) has attained a bachelor's degree relevant to the service to be provided as a minimum for entry into the occupation;
- (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.



## **SECTION E: SPOUSES AND DEPENDANTS**

1. Each Party shall grant temporary entry and employment authorization to a spouse and dependants of a business person qualifying for temporary entry under Section B, Section C, or Section D, if the spouse and dependants otherwise comply with respective immigration measures applicable to temporary entry and meet the relevant employment qualifications, if necessary.

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 F: MANAGEMENT TRAINEE**

1. Each Party shall grant temporary entry and provide confirming documentation to a management trainee in professional development who has been employed by a juridical person of a Party for at least one year and who possesses a university degree and is on a temporary work assignment intended to broaden that employee's knowledge of and experience in a company<sup>3</sup> in preparation for a senior leadership position within the company, provided that the management trainee complies with respective immigration measures applicable to temporary entry.

2. Each Party may impose numerical restriction related to temporary entry for management trainees. 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.

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<sup>3</sup> For greater certainty, "company" is confined to subsidiaries, branches, or designated affiliates established in the territory of the other Party.

**APPENDIX 10-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: market, technical, statistical, and scientific research; business liason; on-site visit; meeting and consultations; negotiating contracts; installing or repairing imported/exported machinery; attending seminars or conferences; loading and transporting goods or persons; and other similar business purposes.

**APPENDIX 10-A-2**  
**DURATION OF STAY**

In the case of Korea:

1. Business visitors who enter Korea under Section A of Annex 10-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 10-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 10-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 10-A will be granted a period of stay of up to one year or the period of the contract, whichever is shorter.
5. Management trainees who enter Korea under Section F of Annex 10-A will be granted a period of stay of up to one year.
6. Business persons of Colombia who intend to stay over 90 days in Korea shall register as aliens at the competent immigration office.

In the case of Colombia:

1. Business visitors who enter Colombia under Section A of Annex 10-A will be granted a period of stay of up to 90 days.
2. Traders and investors who enter Colombia under Section B of Annex 10-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 Colombia under Section C of Annex 10-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 Colombia under Section D of Annex 10-A will be granted a period of stay of up to one year or the period of the contract, whichever is shorter.
5. Management trainees who enter Colombia under Section F of Annex 10-A will be granted a period of stay of up to one year.

6. Business persons of Korea who received a visa with duration longer than three months and who intend to stay over 15 business days in Colombia shall register as aliens at the competent immigration office.

**APPENDIX 10-A-3**  
**CONTRACTUAL SERVICE SUPPLIERS<sup>4</sup>**

- 1 Computer Hardware<sup>5</sup> Design Engineers
- 2 Computer network products developer
- 3 Recorder developer
- 4 Hard disk developer
- 5 Controller developer
- 6 Computer products Engineers
- 7 Computer control system developer
- 8 Disk drive developer
- 9 Computer main board developer
- 10 Input/output products developer
- 11 Telecommunication Machinery Engineers and Researchers
- 12 Telecommunication Equipment Engineers and Researchers
- 13 Telecommunication Technology Engineers and Researchers
- 14 Telecommunication Network Operation Engineers and Researchers
- 15 Mobile circuit developer
- 16 Modem development Design Engineers
- 17 Interphone or phone developer
- 18 DMB receiver developer
- 19 HFC network operating Engineers
- 20 SMS products operator
- 21 Wireless communication network manager
- 22 Electrical circuit manager
- 23 Switchboard developer
- 24 Fiber optic node-products developer
- 25 VMS products developer
- 26 RF communication research developer
- 27 Wire communication network planner
- 28 Communication line Design Engineers
- 29 Artificial satellite TV receiver development Design Engineers
- 30 Optical communication products Design developer
- 31 Letters service products operator
- 32 Transmission developer
- 33 Wireless phone developer
- 34 Digital receiver developer
- 35 DMB phone developer
- 36 ADSL products developer
- 37 VMS products operator

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<sup>4</sup> This list is based on the International Standard Classification of Occupations (ISCO) and the Korean Standard Classification of Occupations (KSCO).

<sup>5</sup> “Computer hardware” includes computer chips, circuit boards, computer systems, and related equipment such as keyboards, modems, and printers.

38 Communication network operation Engineers  
39 Internet network operation Engineers  
40 Communication construction manager  
41 Wireless relay equipment development Design Engineers  
42 Communication application service equipment developer  
43 CDMA technology research developer  
44 Wireless data network developer  
45 Communication intelligent network research developer  
46 Network communication equipment development Design Engineers  
47 Communication equipment development Design Engineers  
48 Switchboard development Design Engineers  
49 Digital broadcasting equipment developer  
50 Communication network Design Engineers  
51 IT Consultants  
52 Computer System Supervision Professionals  
53 Computer System Designers and Analysts  
54 Network Consultants  
55 Database Consultants  
56 Information security Consultants  
57 Information system Consultants  
58 System Software Designers and Analysts  
59 System Software Programmers  
60 EMBEDDED program developer  
61 Linux developer  
62 MICOM control Engineers  
63 OS developer  
64 FIRMWARE developer  
65 Application Software Designers and Analysts  
66 Network Programmers  
67 Application Software Programmers n.e.c.  
68 Data management application programmer  
69 Financing management application programmer  
70 Information process application programmer  
71 Protocol Developers  
72 Database Designers and Analysts  
73 Database Programmers  
74 Database Managers  
75 Database professional  
76 Network Engineers  
77 Network system analysts  
78 Intranet Engineers  
79 LAN Engineers  
80 VAN Engineers  
81 WAN Engineers  
82 Network server building operation Engineers  
83 Web Masters

- 84 Web Engineers and Programmers
- 85 Information System Operators
- 86 General management consultant<sup>6</sup>
- 87 Financial management consultant
- 88 Marketing management consultant
- 89 Human resources management consultant<sup>7</sup>
- 90 Production management consultant
- 91 Public relations consultant
- 92 Distribution and Transmission Engineers and Researchers
- 93 Electrical Measurement and Control Engineers and Researchers
- 94 Electrical Supervisors and Researchers
- 95 Cement Engineers and Researchers
- 96 Press mold Design Engineers
- 97 Plastic Molding Design Engineers
- 98 Cast Mold Design Engineers
- 99 Aircraft Engineers
- 100 Diesel machine Engineers
- 101 Gas turbine Engineers
- 102 Aircraft machine Engineers
- 103 Satellite Engineers
- 104 Injection molding Design Engineers
- 105 Ventilation equipment Engineers
- 106 Ventilation machine Engineers
- 107 Refrigerator Engineers
- 108 Heat exchanger designer
- 109 Clean room air conditioning equipment Design Engineers
- 110 GHP developer
- 111 Heat exchanger developer
- 112 Air conditioning purgation Design Engineers
- 113 Public works construction machine design development Engineers
- 114 Pavement of a road construction machine design development Engineers
- 115 Transportation construction machine design development Engineers
- 116 Crusher, drill piledrivers and pile-extractors design development Engineers
- 117 Farming machine(design) Engineers
- 118 Mining machine(design) Engineers
- 119 Fiber machine(design) Engineers
- 120 Food machine(design) Engineers
- 121 Machine tool (design) Engineers
- 122 Oil pressure machine(design) Engineers
- 123 Industrial robot design Engineers
- 124 Special Engineering Design Service for automobile (automobile designer)

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<sup>6</sup> For greater certainty, consulting services on law are not included.

<sup>7</sup> For Korea, the consulting services included in the scope of duties of Certified Labor Affairs Consultants under the *Certified Labor Affairs Consultant Act* are not included. The duties of Certified Labor Affairs Consultants include consulting on labor-management relations and remuneration strategies.



- 125 Aircraft designer
- 126 Automobile machine Engineers
- 127 Car electronics Engineers
- 128 Automobile engine design Engineers
- 129 Petroleum and Chemical Engineers and Researchers
- 130 Rubber and Plastic Engineers and Researchers
- 131 Pesticide and Fertilizer Engineers and Researchers
- 132 Paint Products Engineers and Researchers
- 133 Cosmetics and Soap Engineers and Researchers
- 134 Natural gas Chemical Engineers
- 135 Tire production Engineers
- 136 Gasoline Engineers
- 137 Natural gas production and distribution Engineers
- 138 Brewage production Engineers
- 139 Metal Engineers and Researchers
- 140 Electrical Products Development Engineers and Researchers
- 141 Power Plant Engineers and Researchers
- 142 Electronic equipment Engineers
- 143 Mold Making Engineers and Researchers
- 144 Plant Engineers and Researchers
- 145 Cooling, Heating and Air-Conditioning Engineers and Researchers
- 146 Construction Machine Engineers and Researchers
- 147 Industrial Machine Engineers and Researchers
- 148 Automobile Engineers and Researchers
- 149 Ship Engineers and Researchers
- 150 Aircraft and Railroad Vehicle Engineers and Researchers
- 151 Marine engineering Engineers
- 152 Exploration Engineers
- 153 Oil Engineers
- 154 Market and Public Opinion Survey Manager
- 155 Survey Specialists
- 156 Biologist<sup>8</sup>
- 157 Biochemist<sup>9</sup>
- 158 Construction Work Engineers
- 159 Civil Construction Engineers
- 160 Advertising Professionals
- 161 Computer Game Programmers
- 162 Game Graphic Designers
- 163 Architects<sup>10</sup>

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<sup>8</sup> Doctoral degree or equivalent is required.

<sup>9</sup> Doctoral degree or equivalent is required.

<sup>10</sup> For Korea, architectural services are subject to collaboration with architects registered under the Korean law in the form of joint contracts.

**APPENDIX 10-A-4**  
**PRIMARY 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 Colombia:

- *Decree 4000 of 2004, Decree 2622 of 2009, Resolution 5707 of 2008, and Resolution 4700 of 2009*, or those that modify them.