

CHAPTER 11

TEMPORARY ENTRY OF BUSINESS PERSONS

ARTICLE 11.1 : SCOPE

1. This Chapter shall apply, as set out in each Party's Schedule of specific commitments in Annex 11-A or 11-B, to measures affecting the temporary entry of business persons of a Party into the territory of the other Party. Such business persons may include:

- (a) business visitors; or
- (b) intra-corporate transferees.

ARTICLE 11.2 : GENERAL PRINCIPLES

1. This Chapter reflects the preferential trading relationship between the Parties, their 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 11-A or 11-B.

2. This Chapter shall not apply to measures affecting natural persons 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.

ARTICLE 11.3 : GENERAL OBLIGATIONS

1. Each Party shall apply its measures relating to this Chapter in accordance with Article 11.2 and, in particular, shall apply those measures as expeditiously as possible 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 natural persons 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 natural persons across its borders, provided that such measures are not applied in such a manner as to nullify 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 unduly impairing or delaying trade in goods or services or conduct of investment activities under this Agreement.

ARTICLE 11.4 : GRANT OF TEMPORARY ENTRY¹

1. Each Party shall, in accordance with that Party's Schedule of specific commitments in Annex 11-A or 11-B, grant temporary entry to business persons of the other Party who are otherwise qualified for entry in accordance with this Chapter.
2. Each Party shall set out in Annexes 11-A and 11-B a Schedule containing its commitments for the entry and temporary stay in its territory of business persons of the other Party. These Schedules of specific commitments shall specify the conditions and limitations for entry and temporary stay, including the requirements and length of stay, for each category of business persons included in each Party's Schedule of specific commitments.
3. Where a Party makes a commitment under paragraphs 1 and 2, that Party shall grant temporary entry or extension of temporary stay to business persons of the other Party, provided those business persons:
 - (a) follow prescribed application procedures for the immigration formality sought; and
 - (b) meet all relevant eligibility requirements for entry to the granting Party.
4. Temporary entry granted pursuant to this Chapter shall 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.
5. Each Party shall ensure that fees charged by competent authorities for the processing of applications for entry and temporary stay do not unduly impair or delay trade in services under this Agreement.
6. Neither Party shall, except as provided for in its Schedule of specific commitments in Annex 11-A or 11-B, require labour market tests or other procedures of similar effect, or impose or maintain any numerical restriction relating to temporary entry as a condition for entry.

ARTICLE 11.5 : PROVISION OF INFORMATION

Each Party shall:

- (a) to the extent practicable provide the other Party with relevant materials that will enable the other Party to become acquainted with its measures related to this Chapter;
- (b) publish, such as on its immigration website, no later than six months after the date of entry into force of this Agreement, the requirements for temporary entry

¹ The commitments made by each Party under this Chapter shall be subject to any terms, conditions, reservations or limitations it has scheduled in Annex I or Annex II.

under this Chapter, including explanatory material and relevant forms and documents that will enable business persons of the other Party to become acquainted with its requirements;

- (c) upon modifying or amending an immigration measure that affects the temporary entry of business persons, ensure that the information published pursuant to this Article is updated by the date of entry into force of that modification or amendment; and
- (d) establish or maintain appropriate mechanisms to respond to inquiries from interested persons regarding applications and procedures related to the temporary entry of business persons.

ARTICLE 11.6 : EXPEDITIOUS APPLICATION PROCEDURES

1. The competent authorities of each Party shall expeditiously process, in accordance with its domestic law, applications for an immigration formality or extension thereof submitted by business persons of the other Party, in accordance with its schedule of specific commitments.

2. Upon receipt of an application for an immigration formality that has been completed and submitted in accordance with its domestic laws and regulations, a Party shall, as expeditiously as possible, make a decision on the application and inform the applicant of the decision including, if approved, the period of stay and other conditions. Where the competent authorities of the Party require additional information from the applicant in order to process his or her application, they shall notify the applicant, or his or her legal representative in the territory of the Party providing the notification, without undue delay.

3. On the request of an applicant, a Party in receipt of a completed application for an immigration formality shall provide, without undue delay, information concerning the status of the application.

ARTICLE 11.7 : CONTACT POINTS

1. The Parties hereby establish contact points who shall exchange information as described in Article 11.6.

2. The contact points are:

- (a) for Korea,
Director
Visa and Residence Division Korea Immigration Service
Ministry of Justice or its successor
- (b) for Israel,
Manager

Regional PIBA Office
Population and Immigration Authority,
Ministry of Interior or its successor

ARTICLE 11.8 : DISPUTE SETTLEMENT

1. The Parties shall endeavour to favourably resolve, through consultations or negotiations between the Parties, any differences or dispute arising out of the implementation of this Chapter.
2. A Party shall not initiate proceedings under Chapter 20 (Dispute Settlement) regarding a refusal to grant immigration formality under this Chapter unless:
 - (a) the matter involves a pattern of practice; and
 - (b) the business person has exhausted any available administrative remedies regarding the particular matter.
3. The remedies referred to in paragraph 2(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the relevant 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.
4. Notwithstanding paragraph 2, a Party shall not initiate proceedings under the Chapter 20 (Dispute Settlement) regarding visa, pass or other document or electronic authority allowing a natural person of a Party to enter, reside or work in the territory of the granting Party.

ARTICLE 11.9 : WORKING GROUP

1. The Parties hereby establish a Temporary Entry of Business Persons Working Group, comprising representatives of each Party including immigration officials, to consider and review matters pertaining to this Chapter with a view to facilitate temporary entry of business persons between the Parties.
2. The Working Group shall meet within the first year after the entry into force of this Agreement, and as otherwise decided by the Parties, in person or by any other technological means available, to consider any matter arising under this Chapter.
3. The Working Group shall:
 - (a) identify and recommend measures to facilitate temporary entry of business persons between the Parties, including measures with regards to fees for processing applications for temporary entry of business persons and specific commitments for more categories of business persons;

- (b) review the implementation and operation of this Chapter; and
- (c) consider other issues of mutual interest with respect to temporary entry of business persons.

ARTICLE 11.10 : RELATION TO OTHER CHAPTERS

Except for this Chapter, Chapters 1 (Initial Provisions and General Definitions), 19 (Administration of the Agreement), 20 (Dispute Settlement) to the extent permitted by Article 11.8, 21 (Exceptions) and 22 (Final Provisions), and Articles 16.1 (Publication), 16.2 (Notification and Provision of Information) and 16.3 (Administrative Proceedings) of Chapter 16 (Transparency), nothing in this Agreement shall impose any obligation on a Party regarding measures affecting the temporary entry of business persons.

ARTICLE 11.11 : DEFINITIONS

For the purposes of this Chapter:

business person means a natural person of a Party who is engaged in trade in goods, the provision of services or the conduct of investment;

immigration formality means a visa, permit, pass or other document or electronic authority allowing a natural person of a Party to enter, reside or work in the territory of the granting Party; and

temporary entry means entry into the territory of a Party by a business person covered by this Chapter of the other Party without the intent to reside permanently.

ANNEX 11-A
KOREA'S SCHEDULE OF SPECIFIC COMMITMENTS ON TEMPORARY ENTRY
OF BUSINESS PERSONS

1. Korea requires a business person of Israel seeking temporary entry into its territory under the provisions of this Chapter and this Annex to obtain appropriate immigration formalities prior to entry.

2. Korea may refuse to grant temporary entry to a natural person who is likely to be involved in any labour dispute that is in progress and adversely affect the settlement of such labour dispute.

Business Visitors of Israel

3. Entry and temporary stay shall be granted to a business visitor of Israel for a period of not more than 90 days without requiring that person to obtain an employment authorisation, provided that such person otherwise complies with immigration measures applicable to temporary entry.

4. **A business visitor of Israel** means a natural person of Israel:

- (a) who is:
 - (i) a service seller who enters the territory of Korea for the purpose of negotiating sale of services or entering into agreements for such sale;
 - (ii) seeking temporary entry for negotiating sale of goods, where such negotiations do not involve direct sales to the general public; or
 - (iii) an investor or an employee of an investor, who is a manager, executive or specialist as defined in paragraph 6, seeking temporary entry to establish an investment; and
- (b) whose primary source of remuneration for the proposed business activity, principal place of business and the actual place of accrual of profits, at least predominantly, remain outside Korea.

Intra-Corporate Transferees of Israel

5. Entry and temporary stay shall be granted for a period of up to three years, which may be extended for subsequent periods provided the conditions on which it is based remain in effect, to an intra-corporate transferee of Israel, provided that such person otherwise complies with immigration measures applicable to temporary entry.

6. **ICT** means an employee of a service supplier, juridical person, an investor or enterprise of a Party established in the territory of Korea referred to below as an organization, through a branch, subsidiary or affiliate, 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 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 operation of an investment.
- (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 or operation of an investment; 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.

ANNEX 11-B
ISRAEL'S SCHEDULE OF SPECIFIC COMMITMENTS ON TEMPORARY ENTRY
OF BUSINESS PERSONS

1. The following sets out Israel's commitments in accordance with Article 11.4 in respect of the temporary entry of business persons.

Intra-Corporate Transferees of Korea

2. Israel shall permit, without requiring compliance with labour market tests, the temporary entry of Korean intra-corporate transferees in the following categories:

- (a) **Executives:** persons who primarily direct the management of the organization, establish its goals and generally have wide decision making authority;
- (b) **Managers:** persons who direct the organization or a department therein and are in a senior level position responsible for the service providing functions of the organization by supervising and controlling and having also authority to hire and fire personnel or recommend such and other personnel actions.²

3. **Intra-corporate specialists:** a work permit will be issued in compliance with the labour market tests to those intra-corporate specialists, who possess knowledge at an advanced level of expertise or otherwise essential or proprietary to the organization's service, research, equipment, techniques or management.

4. Entry and temporary stay for intra-corporate transferees of Korea is permitted for a period of up to 63 months.

5. Subject to the discretion of PIBA and after fulfillment of all prescribed conditions:

- (a) Employment permits for a Korean ICT may be issued for an initial period of up to two years, upon the request of an applicant.
- (b) After issuance of the initial employment permit and subject to payment of the relevant yearly fees by the employer, the B/1 visa and work license issued by the Israeli consulate in Korea may be extended for an initial period not exceeding the validity of the employment permit, and for no longer than two years, after the arrival of the Korean ICT in Israel, upon the request of the applicant.
- (c) Extensions of employment permits may be requested for periods of up to two years, up to the maximum set out by Israeli law. Additional extensions of B/1 visas and work licenses may be issued for periods of up to one year.

² In this paragraph, "service providing functions" includes investment operations carried out in sectors other than services.

Business visitors of Korea

6. Business visitors of Korea mean natural persons of Korea seeking temporary entry into Israel for general business purposes, such as participating in business negotiations and meetings, which do not include engaging in direct sales, providing services to the general public, or employment in Israel.

7. The period of stay for business visitors of Korea is determined by the Border Control Agency. Entry and temporary stay is permitted for a period of up to 90 days during a calendar year.