**CHAPTER 10**

**ENTRY AND TEMPORARY STAY FOR BUSINESS PERSONS**

**Article 10.1**

**Definitions**

For the purposes of this Chapter:

**business person** means a natural person of a Party as defined in Article 1.2 (General Definitions – Initial Provisions and General Definitions) who is engaged in conduct as specified under any of the categories listed in that Party’s Annex 10A (Schedules of Specific Commitments on Entry and Temporary Stay for Business Persons);

**entry and temporary stay** means entry into the territory of a Party by a business person of the other Party who does not intend to establish permanent residence;

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

**entry and temporary stay measure** means any measure affecting the entry and stay of foreign nationals.

**Article 10.2**

**Scope**

1. This Chapter applies to measures that affect the entry and temporary stay of business persons of a Party into the territory of the other Party, under any of the categories specified in that Party’s Annex 10A (Schedules of Specific Commitments on Entry and Temporary Stay for Business Persons).

2. This Chapter does not apply to measures affecting natural persons seeking access to the employment market of the other Party, nor does 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 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 those measures are not applied in a manner as to 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 entry and temporary stay formality shall not be regarded as nullifying or impairing the benefits accruing to the other Party under this Chapter.

**Article 10.3**

**Application Procedures**

1. Where an application for an entry and temporary stay formality is required by a Party, that Party shall process, as expeditiously as possible, complete applications for entry and temporary stay formalities or extensions thereof received from business persons of the other Party covered by Article 10.2 (Scope).

2. Each Party shall, on request and within a reasonable period after a complete application by a business person of the other Party covered by this Chapter requesting entry and temporary stay is lodged, notify the applicant, either directly or through their authorised representative, of:

(a) receipt of the application;

(b) the status of the application; and

(c) if the application is approved, the period of stay and other conditions.

3. Each Party shall ensure that fees charged by its competent authorities for the processing of an application for an entry and temporary stay formality are reasonable, in that they do not nullify or impair the benefits accruing to the other Party under this Chapter.

4. To the extent permissible under its laws and regulations, each Party shall endeavour to accept applications for entry and temporary stay formalities in electronic format under the equivalent conditions of authenticity as paper submissions.

5. Where appropriate, each Party shall accept copies of documents authenticated in accordance with its laws and regulations in place of original documents, to the extent its laws and regulations permit.

**Article 10.4**

**Grant of Entry and Temporary Stay**

1. Each Party shall set out in Annex 10A (Schedules of Specific Commitments on Entry and Temporary Stay for Business Persons) the commitments it makes with regard to the entry and temporary stay 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.

2. A Party shall grant entry and temporary stay or extension of entry and 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 entry and temporary stay formality; and

(b) meet all relevant eligibility requirements for entry and temporary stay or extension of entry and temporary stay.

3. The sole fact that a Party grants entry and temporary stay 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 practise a profession or otherwise engage in business activities.

**Article 10.5**

**Provision of Information**

1. Each Party shall:

(a) publish or otherwise make publicly available explanatory material on all relevant entry and temporary stay formalities which pertain to or affect the operation of this Chapter;

(b) publish or otherwise make publicly available in its territory and to the other Party, the requirements for entry and temporary stay under this Chapter, 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 entry and temporary stay measure that affects 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) establish or maintain mechanisms to respond to enquiries from interested persons regarding its laws and regulations affecting the entry and temporary stay of business persons.

2. The information referred to in paragraph 1 shall include, where applicable, the following:

(a) categories of entry and temporary stay;

(b) documentation required and conditions to be met;

(c) method of filing an application and options on where to file, such as consular offices or online;

(d) application fees and an indicative timeframe of the processing of an application;

(e) the maximum length of stay under each category of entry and temporary stay;

(f) conditions for any available extension or renewal;

(g) rules regarding accompanying dependants; and

(h) available review or appeal procedures.

3. Each Party shall endeavour to publish, to the extent practicable, the information referred to in paragraphs 1 and 2 in the English language.

4. With respect to the information referred to in paragraphs 1 and 2, each Party shall endeavour to promptly make publicly available and inform the other Party, through existing mechanisms, of the introduction of any significant new requirements and procedures or of the changes in any requirements and procedures that affect the effective application for the grant of entry and temporary stay.

**Article 10.6**

**Relation to Other Chapters**

1. Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions), Chapter 23 (Administrative and Institutional Provisions), Chapter 25 (Dispute Settlement), Chapter 26 (Final Provisions), Article 22.1 (Publication and Notification and Provision of Information – Transparency), no provision of this Agreement shall impose any obligation on a Party regarding its entry and temporary stay measures.

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

**Article 10.7**

**Dispute Settlement**

1. The relevant authorities of both Parties shall endeavour to favourably resolve through consultations any problems that may arise from the implementation and administration of this Chapter.

2.  If the Parties cannot reach agreement regarding any specific issues raised from the implementation and administration of this Chapter as provided for in paragraph 1, Chapter 25 (Dispute Settlement) shall apply to the issues.

3.  A Party shall not initiate proceedings under Chapter 25 (Dispute Settlement) regarding a refusal to grant entry and temporary stay under this Chapter unless:

(a) the matter involves a pattern of practice; and

(b) the affected business persons have exhausted the available administrative remedies regarding the particular matter.

4. The remedies referred to in paragraph 3(b) 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.