

**DIRECTORATE OF TRADE DEVELOPMENT AND EXTERNAL ECONOMIC
RELATIONS**

**TERMS OF REFERENCE
FOR THE
I MEETING OF THE WORKING GROUP OF THE TRADE
COMMITTEE ON
BUSINESS VISAS**

Association of Caribbean States (ACS)

**I MEETING OF THE WORKING GROUP OF THE TRADE COMMITTEE ON
BUSINESS VISAS**

ACS Secretariat, Port of Spain, Trinidad and Tobago, January 25, 2013



TERMS OF REFERENCE
FOR
THE WORKING GROUP OF THE TRADE COMMITTEE ON BUSINESS VISAS

MANDATE

Emerging from the XXVI Meeting of the Special Committee on Trade, members States agreed to the establishment of a working group of the Trade Committee on Trade facilitation, *“the members established the Working Group of the Trade Committee... in accordance with the terms of reference that will be subsequently circulated.” (Rapporteur Report, XXVI SCT 2011)*

The Work Programme Approved within the XXVI Meeting of the Special Committee on Trade identified that:

“There is a need to facilitate business visas to persons, in order to increase their awareness of markets and facilitate their interest, and participation, as exporters, importers, service providers or investors.” (Rapporteur Report, XXVI SCT 2011)

Further the XXVII Meeting of the SCT agreed:

“...In favour of splitting the issues (business visas and customs facilitation) for their development, the Committee proposed that activities be divided into two working groups: the first for Customs and the second for Business Visas. This was submitted for consideration and was approved by the participants..” (Rapporteur Report, XXVII SCT 2012)

CONTEXT/BACKGROUND

The issue of trade facilitation is an important one for the Member and Associate Member States of the Greater Caribbean Region. It involves the entire trade chain process, including all activities involved at all stages. Trade facilitation is primarily focused on reducing the complexities and barriers to trade, with a view to ensuring that all activities take place in an efficient and transparent manner.

Trade facilitation largely covers all the steps that can be taken to smooth and facilitate the flow of trade. The term has been used widely to cover all sorts of

non-tariff barriers, including product testing and impediments to labour mobility. It is in this regard that the subject of the issuance of business visas to investors and business persons within the ACS Region becomes most vital. The addressing of this issue proves necessary if the mandate of the consolidation of an enhanced economic space for trade and investment is to be realized.

Regional economic cooperation and integration is designed, generally, to strengthen the participating economies through liberalized trade. In recent decades, we have found that some agreements, while still focusing on trade-related movement, have also included chapters on investors and the mobilization of business people.

STATUS WITHIN THE ACS REGION

Within the Greater Caribbean Region a number of trade facilitation concerns relate directly to the strict WTO definition but also extend to cover vital elements, which have proven major difficulties for the Region

- i. Harmonization and Standardization of customs procedures
- ii. Business Visas
- iii. Efficiency of Doing Business

It is in this regard that the XXVI Meeting of the Special Committee on Trade agreed to the establishment of the Working Group to address issues of Trade facilitation, amongst these the issuance of Business Visas.

To date the Directorate of Trade in an effort to initiate this critical process as it relates to business visas in the Region, has compiled data on contact information for immigration divisions and departments across Member states and associate members. Information has also been gathered related to the number of countries which issue or have facility for the issuance of business visas. The information identified, as well as other information related to immigration and trade promotion can be accessed in the Trade Information Booklet on the ACS website.

WHY IS THE ISSUANCE OF BUSINESS VISAS IMPORTANT:

Creates a business environment that is focused on opening and facilitating trade.

Encourages and Promotes greater employment creation

Supports the identification and development of new areas/sectors of Interest,

Promotes the development of better policies for new areas of interest/emerging sectors for opportunity.

Provides a mechanism for better migration control

EXAMPLES OF REGIONAL TRADE AGREEMENTS WHICH CONTAIN COMPONENTS TO FACILITATE THE MOVEMENT OF BUSINESS PERSONS:

According some definitions found in International Trade Agreements which already consider into the negotiations the mobilization of business people, we find that “the term means citizen of a Party who is engaged in trade in goods, the provision of services or the conduct of investment activities” (NAFTA Article 1608).

According to the International Organization for Migration:

The Caribbean Community (CARICOM) provides for mobility towards the more progressive end of the mobility continuum by allowing the free movement of university graduates, other professionals and skilled persons, and selected occupations, as well as freedom of travel and exercise of a profession. It eliminates passport requirements, facilitates entry at immigration points, and eliminates work permit requirements for CARICOM nationals.

Example: CARICOM

Foreigners generally receive equivalent treatment to nationals (subject to certain reservations made by each country). Exceptions cover activities involving the exercise of governmental authority and measures to protect public morals, human, animal, and plant life, and national security; maintain public order and safety; and secure compliance with the laws of a member State (these basically reflect the exceptions found in the GATS).

The North American Free Trade Agreement (NAFTA) focuses on facilitating the movement of businesspeople. The agreement is limited to temporary entry, defined negatively as being “without the intent to establish permanent residence,” and applies only to citizens of parties to the agreement. Existing general immigration requirements (e.g., related to public health or national security) still apply. Entry can also be refused if it may adversely affect settlement of a labour dispute in progress at the intended place of employment, or the employment of any person who is involved in such a dispute. Dispute settlement provisions cannot be invoked for a refusal to grant temporary entry,

unless the matter involves a pattern of practice and the businessperson has exhausted the available administrative remedies.

Example: NAFTA

Access is basically limited to four higher-skill categories: traders and investors, intra-company transferees, business visitors, and professionals for which detailed definitions are provided. However, these groups are not limited to services and may include persons in activities related to agriculture or manufacturing. Labour certification or labour market assessment/tests are removed for all four groups and work permits are required for traders and investors, intra-company transferees, and professionals, but not business visitors. Although visas are still required, fees for processing applications are limited to the approximate cost of services rendered.

The Asia Pacific Economic Cooperation (APEC) Forum has arrangements that exclude the self-employed and unskilled or semi-skilled labour and are focused on business mobility. APEC arrangements are focused on information exchange; dialogue with business; development and implementation of immigration standards; and capacity building to help streamline temporary entry, stay, and departure processing for businesspeople. In-principle agreements have been reached to improve application processing times for temporary entry permits for executives and senior managers on intra-corporate transfers and for specialists.

Example: APEC

Although APEC does not grant any right of entry, it has established a scheme to facilitate the entry of business visitors under the APEC Business Travel Card Scheme. The APEC Business Travel Card is valid for three years and provides multiple short-term business entries, with stays of two or three months on each arrival. Cardholders are required to present their passports, but receive expedited airport processing and are not required to submit separate applications for business visitor visas. Participating governments commit to implement the scheme on a best endeavours basis and are free to maintain existing visa requirements for business visitors. All governments retain the right to refuse an individual without providing reasons or to refuse entry to APEC Business Travel Card holders at the border.

TERMS OF REFERENCE FOR THE WORKING GROUP ON BUSINESS VISAS

The Working Group will comprise Immigration and Trade Officials at the technical level from each Member State and Associate Member State of the ACS, and or any other relevant Authority. The main expected output from the Working Group on Trade Facilitation is a set of recommendations to the Special Committee on Trade to facilitate the granting of special visas for recognized business persons of the Greater Caribbean.

SPECIFICALLY, THE WORKING GROUP ON BUSINESS VISAS WILL:

1. Undertake review of the facilities available within the ACS Region (in each Member State) for the granting of business visas to business persons of the Greater Caribbean.
2. Identify criteria for the granting of special visa to business persons of the Greater Caribbean.
3. Propose a plan of action towards the possible signing of an agreement for the creation and issuance of a special visa to business persons of the Region.
4. Prepare and submit report to the Special Committee on Trade on its findings and recommendations.

PROCEDURAL DETAILS:

- Timeframe deadlines for submission of draft and final report of the Working Group will be determined and agreed upon.
- The Working Group must agree on dates and venues for its meetings, and the mode of execution of its tasks.