Geneva, 10 October 2018

MODE 4 COMMITMENTS IN ACTION
WTO Seminar “Mode 4 at Work”
WITH YOU TODAY

JO ANTOONS
Managing Partner Fragomen Global LLP
Brussels
ABOUT FRAGOMEN

GLOBAL FIRM
With more than 40 offices in over 20 countries, Fragomen is the largest global immigration firm.

INTERNATIONALLY LOCAL
Professional staff who understand cultures and realities in countries of destination and origin.

ORGANIZATIONAL MINDSET
Create tailored immigration programs for the world’s leading organizations across all industries.

COMPLIANCE ORIENTED
Compliance focused approach through a comprehensive offering of services.

RESPECTED
Recognized worldwide as the thought leaders in immigration law.

DEPTH OF EXPERTISE
Over 3,200+ professionals including 550+ attorneys and solicitors providing services into 170+ countries.

CLIENT DRIVEN
Innovative professionals provide flexible and client tailored strategic solutions.

ONE FIRM
Organizational and leadership structure ensures consistent quality and delivery.
INTRODUCTION

Barriers to International Trade are lowered and regional trade blocks are created: ASEAN, EU/EFTA, MERCORSUR, NAFTA, AfCFTA (recently).

Facilitated international migration for trade migration categories (GATS Mode 4)?

Mode 4 commitments have limited impact on legal migration rules and visa policy.

Generally no specific immigration legislation resulting from Trade Agreements and lack of comprehensive and harmonised regional schemes -> problematic for multinational companies in respect of their ICTs and their business travellers.
When moving their staff across borders, Multinational Companies face **COMPLEXITY**

- Many types of visa and work authorization
- Age, Qualifications, Nationality
- Quotas & Ratios
- Occupation lists, Minimum Salary Levels, Labor Market Testing
- Discretionary decision making
- Compliance & Corruption
- Constant change
Fragomen Migration
Openness Index

• Measures the level of openness of a country towards the company’s ability to move talent across borders

• High-level comparative immigration process overview based upon at least 47 “impact factors”

• Scores – ranging from 1 (facilitates entry) and 100 (quite restrictive) – averaged and normalized at country-level for overall score

• Limited to comparing countries with each other – not objectively define what is open vs. restrictive

• Analysis reflects Fragomen’s general client base and their interests – primarily multinational companies interested in skilled migration (mainly ICT but also local hire)
Lower Score = Green = More Open
Higher Score = Blue = Less Open

*Content for Index last reviewed Sept. 2018
### FINDINGS

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- Most countries in our Index are WTO member states (79 of 84)
- As a result, the WTO average score is the same as the overall worldwide average of 40
Business Travel
What determines which visa is needed?

There are no universal rules of what is “business visit” and what is “work”.

Activity:
- What is the purpose of the trip and what will the person be doing?
- Compensation? Travel Expenses?
- “Management” of traveler’s activities
- Who benefits from traveler’s visit? Will anyone bill for his/her activities?

Length of Stay:
- Generally stays of more than 90 days (some as little as 30 days) trigger a work permit
- Some countries have cumulative stay rules (e.g. Schengen Area)

Nationality:
- Visa-exempt vs. visa-required nationalities for entry into each country
- Nationality-specific work authorization exemptions (e.g. Australia ↔ New Zealand)
What visa do they need?

*Based on travel assessments in Fragomen’s Business Visa Matrix (2016/2017)
A majority of countries allow visitors to engage in many typical “Mode 4” activities.
What is a Typical “Business Trip”?  
*Based on travel assessments in Fragomen’s Business Visa Matrix (2017/2018)

64% of business trips are shorter than one week

Nearly all business travelers are paid in home country

Typical “business” activities:
• 25% attend a meeting
• 1% fact find
• 1% conduct marketing or sales
• 5% attend conferences and seminars
What is a Typical “Work Trip”? *Based on travel assessments in Fragomen’s Business Visa Matrix (2017/2018)

54% of work trips were 10 days or longer BUT that means 46% of work trips were for short stays

Local pay = Strong indicator of work BUT not always the determining factor

Typical “work” activities:
- Managing Staff
- Financial auditing
- On-the-job training
- Preparing/Developing/Designing work product (strategies, documents, roadmaps, etc.)
- Hands-on work - repairing machinery & equipment

Exceptions and exemptions (entry visa may still be required)
- Regional Agreements: EU, NZ-Australia, MERCOSUR
- Post-sale repairs: Belgium, Canada, Germany, Netherlands, Chinese Taipei
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