



FRAGOMEN
WORLDWIDE

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

Geneva, 10 October 2018

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, MERCOSUR, 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



01

ICT



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



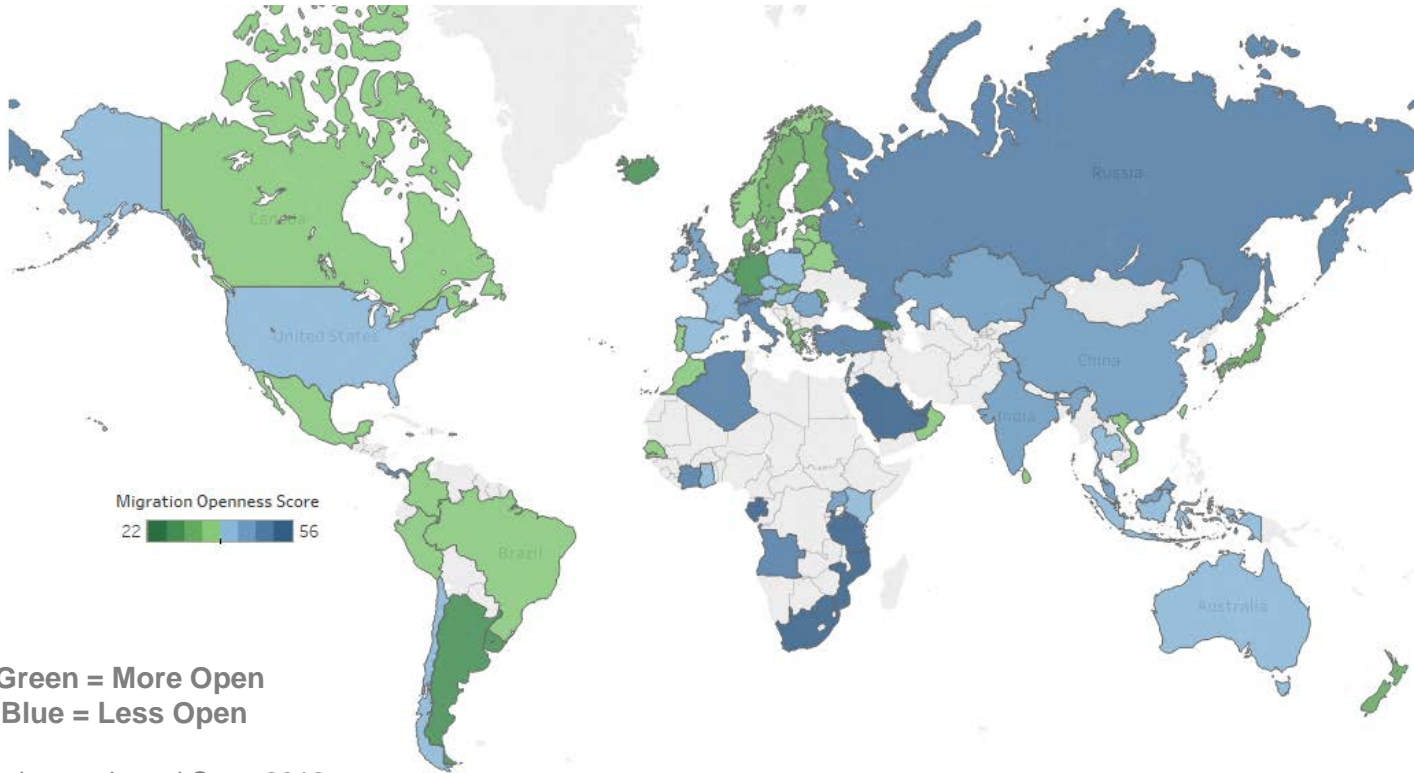
Constant change



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)

AT A GLANCE



*Content for Index last reviewed Sept. 2018

FINDINGS

Americas	38
Europe	38
Asia-Pacific	39
WTO Countries	40
Non-WTO Countries	45
Middle East and N. Africa	47
Sub-Saharan Africa	48

- 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



02

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)

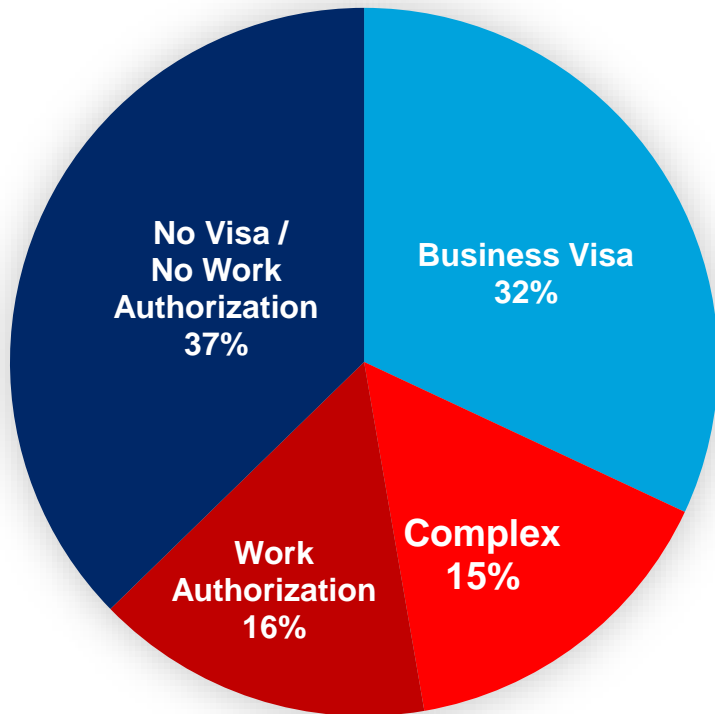


Nationality:

- 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?

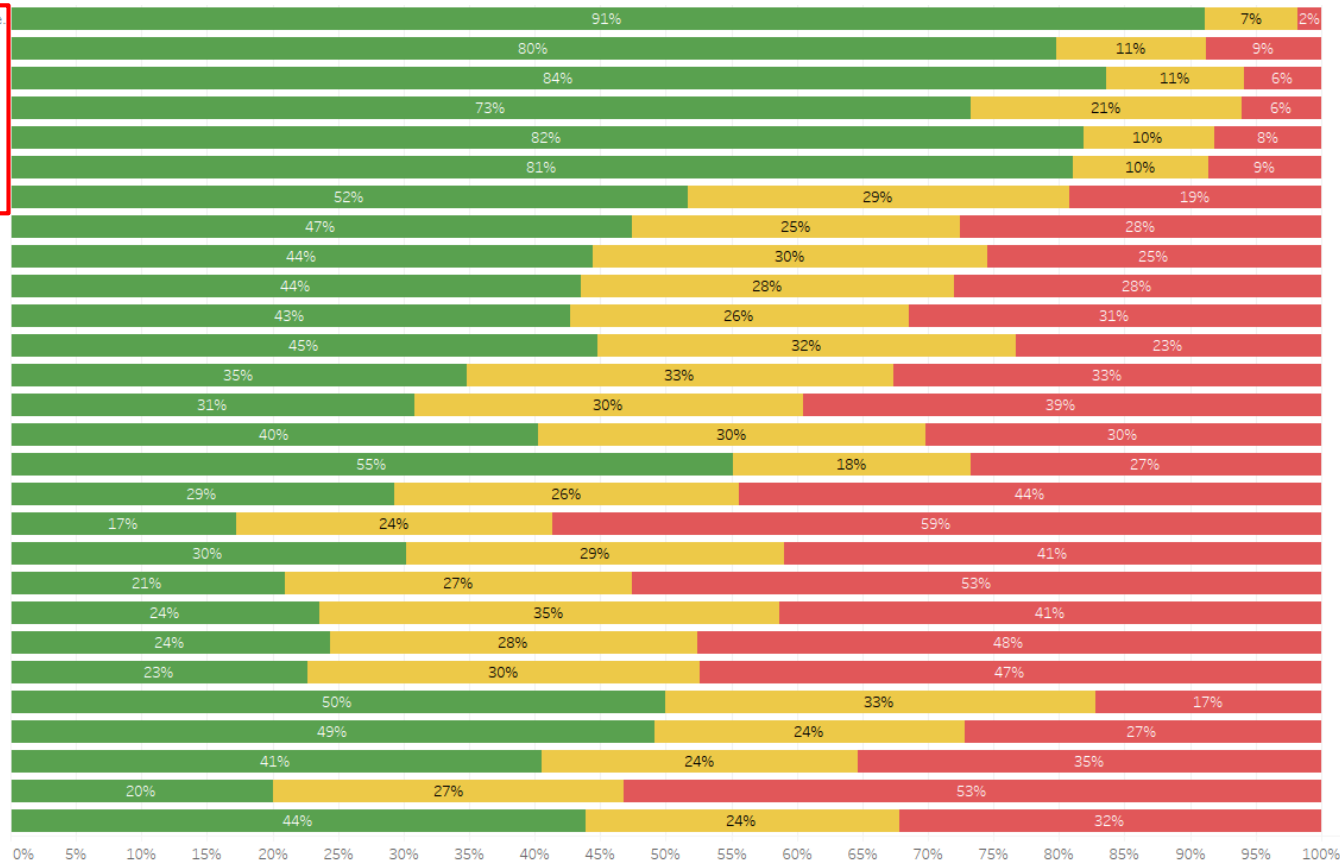
*Based on travel assessments in Fragomen's Business Visa Matrix (2016/2017)



What is Permissible for Business Visitors

ATTEND meetings, interviews, se
PRESENT
EXPLORE OPPORTUNITIES
GATHER facts/data
NEGOTIATE
SIGN/EXECUTE contract
RECEIVE TRAINING
RECRUIT/INTERVIEW
MARKET/SELL
INVEST
RESEARCH
ADVISE/CONSULT
ANALYZE/ASSESS
AUDIT
CONDUCT TRAINING
DELIVER GOODS
DEVELOP/CREATE/PREPARE
Hands-on ENGINEERING
HIRE/TERMINATE staff
IMPLEMENT
INSPECT
INSTALL/BUILD/DISMANTLE
MAINTAIN/REPAIR
PLAN function/project
PURCHASE goods/services
REPRESENT
SUPERVISE/MANAGE
TEST

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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THANK YOU

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