

## **NONIMMIGRANT TREATY TRADER/INVESTOR VISA APPLICATION INSTRUCTIONS**

This form, together with Form DS-160, Online Nonimmigrant Visa Application, constitutes the application for an E-1 Treaty Trader or E-2 Treaty Investor Nonimmigrant Visa. See visa requirements below. Incomplete or undocumented applications will be returned.

All first-time applicants seeking Treaty Trader or Treaty Investor status must complete Parts I and II. Parts I and II must be updated periodically. All individual applicants must complete Part III and Form DS-160. You must answer all relevant questions. Enter "Not applicable" where appropriate. If an enterprise is not yet fully operational, estimates and projections should be made concerning potential income, job creation, volume of sales, etc.

Supporting documents should be submitted in a binder with a table of contents and tabs. The following are examples of supporting documentation which should be attached to first-time applications (*not every type of document is applicable in each case; the consular officer may request additional information if required*): Evidence of possession and control of investment funds (*bank records, financial statements, loans, savings, promissory notes, etc.*); evidence of remittance to the United States (*bank drafts, transfers, exchange permits, receipts, etc.*); evidence of establishment of business in the United States (*articles of incorporation, partnership agreement, organization and staffing charts, shares, titles, contracts, receipts, licenses, leases, etc.*); evidence of the nationality of the investors/traders (*passports, articles of incorporation of parent company, stock exchange listings, etc.*); evidence of trade between the United States and the treaty country (*invoices, bills of lading, customs clearances, warehouse receipts, shipping receipts, sales receipts, contracts, etc.*); evidence of investment in the United States (*titles, receipts, contracts, loans, bank statements, etc.*); evidence of substantiality (*financial statements, audits, U.S. corporate or business tax returns, etc.*); evidence that the enterprise is not marginal (*payroll records, IRS Form 941, personal tax returns, evidence of other personal assets and income*); evidence that the business is a real, operating enterprise (*annual reports, catalogs, sales literature, news articles, and other evidence as appropriate*); curriculum vitae of the proposed visa recipient (*optional*). Specific instructions may vary by post and applicants should refer to post websites for more details.

Use additional sheets of paper, as necessary, to complete responses.

### **TREATY TRADER AND TREATY INVESTOR VISA REQUIREMENTS**

Section 101(a)(15)(E) of the Immigration and Nationality Act provides nonimmigrant visa status for a national of any of the countries with which the United States maintains an appropriate treaty of commerce and navigation, who is coming to the United States to carry on substantial trade, including trade in services or technology, principally between the United States and the treaty country, or to develop and direct the operations of an enterprise in which the national has invested, or is actively in the process of investing, a substantial amount of capital. The requirements for Treaty Trader and Treaty Investor visas are further elaborated in 22 CFR Part 41.51. These requirements are summarized below:

#### **Requirements for a Treaty Trader (E-1) nonimmigrant visa are:**

1. The applicant must be a national of a treaty country.
2. The trading firm for which the applicant is coming to the United States must have the nationality of the treaty country.
3. The international trade must be "substantial" in the sense that it is of a high enough quantum and continuity of trade.
4. The trade must be principally between the United States and the treaty country, which means that more than 50% of the international trade involved must be between the United States and the country of the applicant's nationality. Trade means the international exchange of goods, services and technology. The item of trade, and title of that item, must pass from one party to the other in exchange for consideration.
5. The applicant must be employed in a supervisory or executive capacity, or possess specialized skills essential to the successful and efficient operation of the commercial enterprise. Ordinarily skilled or unskilled workers generally do not qualify.

#### **Requirements for a Treaty Investor (E-2) nonimmigrant visa are:**

1. The investor, either a real or corporate person, must be a national of a treaty country.
2. The investment must be substantial. It must be sufficient to ensure the treaty investor's commitment to the successful operation of the enterprise. The percentage in investment required for a low-cost business enterprise is generally higher than the percentage of investment required for a high-cost enterprise.
3. The investment must be in a real operating commercial enterprise. Speculative or idle investment does not qualify. Uncommitted funds in a bank account or similar security are not considered an investment.
4. The investment may not be marginal. It must have the capacity to generate significantly more income than just to provide a living to the investor and family, or it must have a significant economic impact in the United States.
5. The investor must have control of the funds, and the investment must be at risk in the commercial sense. Loans secured with the assets of the investment enterprise are not considered to be at risk.
6. The investor must be coming to the United States solely to develop and direct the enterprise. If the applicant is not the principal investor, he or she must be employed in a supervisory, executive, or specialized skills capacity. Ordinarily skilled and unskilled workers generally do not qualify.

### **CONFIDENTIALITY AND PAPERWORK REDUCTION ACT STATEMENTS**

**Confidentiality Statement** - INA Section 222(f) provides that visa issuance and refusal records shall be considered confidential and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States. Certified copies of visa records may be made available to a court which certifies that the information contained in such records is needed in a case pending before the court.

**Paperwork Reduction Act Statement** - \*Public reporting burden for this collection of information is estimated to average 4 hours per response, including time required for searching existing data sources, gathering the necessary documentation, providing the information and/or documents required, and reviewing the final collection. You do not have to supply this information unless this collection displays a currently valid OMB control number. If you have comments on the accuracy of this burden estimate and/or recommendations for reducing it, please send them to: PRA\_BurdenComments@state.gov



10. To measure the amount of international trade with the United States, please complete the following. (For trade in merchandise, exports and imports, refer to shipment and sale of goods across international boundaries. For trade in services and technology, exports and imports, refer to the sale of services by treaty-country nationals to nationals of the United States and other countries.)

Gross International Trade of the U.S. Enterprise in \_\_\_\_\_ (year)  Calendar Year  Fiscal Year Ending \_\_\_\_\_

	DOLLAR VALUE	NO. OF TRANSACTIONS (Optional)	PERCENT OF TOTAL TRADE
Imports from treaty country to U.S. business	_____	_____	_____
Exports from U.S. business to treaty country	_____	_____	_____
Imports from third countries to U.S. business	_____	_____	_____
Exports from U.S. to third countries	_____	_____	_____
Domestic U.S. production/manufacturing	_____	_____	_____
Total:	_____	_____	100%

11. Type of Investment (Check one)

Creation of a new business  
Total Start-up Costs: \_\_\_\_\_

Purchase of an existing business  
Purchase Price: \_\_\_\_\_

Continuation of an existing business  
Fair Market Value of Business: \_\_\_\_\_

12. Total Investment from Abroad Made in the United States (Attach documentation)

FOR YEAR \_\_\_\_\_  Calendar  Fiscal

	INITIAL INVESTMENT	TOTAL CUMULATIVE INVESTMENT
Cash	_____	_____
Inventory	_____	_____
Equipment	_____	_____
Premises	_____	_____
Other (describe)	_____	_____
TOTAL	_____	_____

13. Source of Investment Capital (personal funds, corporate funds, loans, stocks, debentures, bonds, etc.); Evidence of Possession and Control of Funds in the United States (Attach full documentation)

**PART II - STAFF**

14. Type of Personnel in the United States (Attach staffing chart)

Specify:  Calendar Year  Fiscal Year

	MANAGERIAL EXECUTIVE		SPECIALIZED ESSENTIAL		ALL OTHER EMPLOYEES	
	This Year	Next Year	This Year	Next Year	This Year	Next Year
Nationals of Treaty Country on E, H, & L Visas:	_____	_____	_____	_____	_____	_____
U.S. Citizens and Legal Permanent Residents:	_____	_____	_____	_____	_____	_____
Other (Third-Country Nationals):	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	_____	_____	_____	_____

15. List all personnel of U.S. business holding executive, managerial and/or specialist positions by subsidiary/branch office. If aliens, indicate nonimmigrant visa status or lawful permanent resident (LPR) status.

NAME AND POSITION/TITLE/DIVISION	NATIONALITY	TYPE	U.S. VISA	
			DATE (mm-dd-yyyy)	PLACE OF ISSUANCE
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

