

WORLD TRADE ORGANIZATION

TN/S/W/48
30 June 2005

(05-2824)

**Council for Trade in Services
Special Session**

Original: English

COMMUNICATION FROM AUSTRALIA

Transparency Template - Australia's Revised Horizontal Mode 4 Offer

The following communication, dated 30 June 2005, from the delegation of Australia is being circulated to the Members of the Council for Trade in Services.

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1. Australia promotes greater transparency of horizontal mode 4 commitments through the use of a transparency template as proposed by Canada. The attached template provides electronic links to Australia's immigration laws, regulations, policies and administrative guidelines relevant to Australia's current horizontal commitments and revised offer covering mode 4.
 2. The details collated and included in the template provides links to readily available information that will give a detailed understanding of the comprehensive nature of Australia's horizontal commitments and revised offer in mode 4 as well as details and an understanding of the processes involved in accessing Australia's temporary entry provisions applicable to foreign service suppliers. This information is provided for purposes of transparency and neither interprets nor forms part of Australia's specific commitments.
 3. Australia encourages other Members with horizontal mode 4 commitments to consider completing the transparency template.

<i>Horizontal Mode 4 Commitments and Revised Offer</i>	<i>Law</i>	<i>Regulations</i>	<i>Administrative Guidelines</i>	<i>Other Public Information</i>
4) Unbound except for measures concerning the entry and temporary stay of natural persons in the following categories: ¹				
<p>(a) Intra-corporate transferees as:</p> <p>(i) Executives and senior managers being natural persons who are employees of a company operating in Australia, and who will be responsible for the entire or a substantial part of the company's operations in Australia, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the business, including directing the company or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the company.</p> <p>Entry and stay of such natural persons is subject to employer sponsorship. Employer sponsorship requirements for this category include minimum skill levels in a gazetted occupation and sponsorship by a bona fide business operating lawfully and actively in Australia. Employer sponsorship requirements may change from time to time. Full details of employer sponsorship requirements, including the list of gazetted occupations, are available on the website of the Australian government department responsible for immigration matters. (As at May 2005, the address of that website was www.immi.gov.au).</p>	<p>Migration Act 1958 at http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/FA8C1020B9E2BF26CA2570000126D38?OpenDocument&mostrecent=1 Volume 1 Section 29 (Authority to grant visas) and Section 140D (Employer Sponsorship approval)</p>	<p>Migration regulations at http://www.comlaw.gov.au/comlaw/legislation/legislativeinstrumentcompilation1.nsf/current/bytitle/7FBFD4E9EDC01805CA257026001EE4E0?OpenDocument&mostrecent=1 Volume 4 Schedule 2 (subclass 457)</p> <p>Gazette notice specifying salary threshold and occupations for employer sponsored temporary entrants: See latest Gazette Notice entitled "Specification of Minimum Salary Level for the Purposes of Regulation 1.20b, and Occupations for the Purposes of Subregulation 1.20g(2) and Subparagraph 1.20GA(1)(a)(i) of the Migration Regulations 1994" http://www.immi.gov.au/legislation/gazettals/index.htm</p>	<p>Procedures Advice Manual 3. Available by subscription from http://www.immi.gov.au/legend/index.htm#x</p>	<p>Business Visits to Australia http://www.immi.gov.au/allforms/visitingbusiness.htm</p> <p>Sponsoring a Temporary Overseas Employee to Australia (Booklet 11) http://www.immi.gov.au/allforms/books11.htm</p> <p>Working as a Business Person [in Australia] - Frequently Asked Questions http://www.immi.gov.au/faq/work/work01.htm</p>

¹ These commitments do not apply in cases of labour/management dispute.

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<p>Entry is for periods of stay up to four years, with provision for an extension.</p> <p>(ii) Specialists, being natural persons with advanced trade, technical or professional skills who are employees of a bona fide business operating lawfully and actively in Australia and who have been employed by that company for not less than two years.</p> <p>Entry and stay of such natural persons is subject to employer sponsorship by the employing company. Employer sponsorship requirements for this category include an assessment that the natural person seeking entry has the necessary qualifications, skills and work experience accepted by the relevant authority as meeting the Australian standards for his or her nominated occupation, which must fall within the list of gazetted occupations. Employer sponsorship requirements may change from time to time. Full details of employer sponsorship requirements, including the list of gazetted occupations, are available on the website of the Australian government department responsible for immigration matters. (As at May 2005, the address of that website was www.immi.gov.au.)</p> <p>Entry is for periods of stay up to two years, with provision for an extension.</p>				

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<p>(b) Independent executives being natural persons whose work responsibilities match the description set out below and who intend, or are responsible for, the establishment in Australia, of a new business of a service supplier which has its head of operations in the territory of another Member and which has no other representative, branch or subsidiary in Australia. Independent executives will be responsible for the entire or a substantial part of the company's operations in Australia, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the business, including directing the company or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the company.</p> <p>Entry and stay of such natural persons is subject to employer sponsorship. Employer sponsorship requirements for this category include minimum skill levels in a gazetted occupation and sponsorship by a bona fide overseas business or by a State or Territory Government of Australia. Employer sponsorship requirements may change from time to time. Full details of employer sponsorship requirements, including the list of gazetted occupations, are available on the website of the Australian government department responsible for immigration matters. (As at May 2005, the address of that website was www.immi.gov.au.)</p> <p>Entry is for periods of stay up to a maximum of two years.</p>	<p>Migration Act 1958 at http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/FA8C1020B9E2BF26CA2570000126D38?OpenDocument&mostrecent=1 Volume 1 Section 29 (Authority to grant visas) and Section 140D (Employer Sponsorship approval)</p>	<p>Migration regulations at http://www.comlaw.gov.au/comlaw/legislation/legislativeinstrumentcompilation1.nsf/current/bytitle/7FBFD4E9EDC01805CA257026001EE4E0?OpenDocument&mostrecent=1 Volume 4 Schedule 2 (subclass 457)</p> <p>Gazette notice specifying salary threshold and occupations for employer sponsored temporary entrants: See latest Gazette Notice entitled "Specification of Minimum Salary Level for the Purposes of Regulation 1.20b, and Occupations for the Purposes of Subregulation 1.20g(2) and Subparagraph 1.20GA(1)(a)(i) of the Migration Regulations 1994" http://www.immi.gov.au/legislation/gazettals/index.htm</p>	<p>Procedures Advice Manual 3. Available by subscription from http://www.immi.gov.au/legend/index.htm#x</p>	<p>Business Visits to Australia http://www.immi.gov.au/allforms/visitingbusiness.htm</p> <p>Sponsoring a Temporary Overseas Employee to Australia (Booklet 11) http://www.immi.gov.au/allforms/books11.htm</p> <p>Working as a Business Person [in Australia] - Frequently Asked Questions http://www.immi.gov.au/faq/work/work01.htm</p>

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<p>(c) Business visitors being natural persons seeking to travel to Australia for business purposes whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia and who must not engage in making direct sales to the general public or in supplying the services themselves. Business visitors comprise:</p> <p>(i) Service sellers, as business visitors being natural persons not based in Australia who are (sales) representatives of a service supplier and are seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service supplier.</p> <p>Entry is for periods of stay up to six months, with provision for an extension.</p> <p>(ii) Business visitors, being natural persons seeking to travel to Australia for the purpose of participating in business negotiations or meetings.</p> <p>Entry is for periods of stay up to a maximum of three months.</p>	<p>Migration Act 1958 at http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/FA8C1020B9E2BF26CA2570000126D38?OpenDocument&mostrecent=1</p> <p>Volume 1 Section 29 (Authority to grant visas)</p>	<p>Migration regulations at http://www.comlaw.gov.au/comlaw/legislation/legislativeinstrumentcompilation1.nsf/current/bytitle/7FBFD4E9EDC01805CA257026001EE4E0?OpenDocument&mostrecent=1</p> <p>Volume 4 Schedule 2 (subclass 456 or subclass 457)</p>	<p>Procedures Advice Manual 3. Available by subscription from http://www.immi.gov.au/legend/index.htm#x</p>	<p>Business Visits to Australia http://www.immi.gov.au/allforms/visitingbusiness.htm</p> <p>Sponsoring a Temporary Overseas Employee to Australia (Booklet 11) http://www.immi.gov.au/allforms/books11.htm</p> <p>Working as a Business Person [in Australia] - Frequently Asked Questions http://www.immi.gov.au/faq/work/work01.htm</p>

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<p>(d) Contractual service suppliers (including independent professionals/specialists).</p> <p>Contractual service suppliers (CSS) being natural persons with trade, technical or professional skills.</p> <p>Entry and stay of such natural persons is subject to employer sponsorship. Employer sponsorship requirements for this category include sponsorship by a bona fide overseas business or business operating lawfully and actively in Australia and a contract for the supply of a service within Australia. That business must have engaged the natural person seeking entry and must intend that person to assist in fulfilling its Australian services contract. The natural person seeking entry must be assessed as having the necessary qualifications, skills and work experience accepted as meeting the Australian standards for his or her nominated occupation, which must fall within the list of gazetted occupations. Employer sponsorship requirements may change from time to time. Full details of employer sponsorship requirements, including the list of gazetted occupations, are available on the website of the Australian government department responsible for immigration matters. (As at May 2005, the address of that website was www.immi.gov.au.)</p> <p>Entry is for periods of stay up to 12 months, with provision for an extension.</p>	<p>Migration Act 1958 at http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/FA8C1020B9E2BF26CA2570000126D38?OpenDocument&mostrecent=1</p> <p>Volume 1 Section 29 (Authority to grant visas) and Section 140D (Employer Sponsorship approval)</p>	<p>Migration regulations at http://www.comlaw.gov.au/comlaw/legislation/legislativeinstrumentcompilation1.nsf/current/bytitle/7FBFD4E9EDC01805CA257026001EE4E0?OpenDocument&mostrecent=1</p> <p>Volume 4 Schedule 2 (subclass 457)</p> <p>Gazette notice specifying salary threshold and occupations for employer sponsored temporary entrants: See latest Gazette Notice entitled "Specification of Minimum Salary Level for the Purposes of Regulation 1.20b, and Occupations for the Purposes of Subregulation 1.20g(2) and Subparagraph 1.20GA(1)(a)(i) of the <i>Migration Regulations 1994</i>"</p> <p>http://www.immi.gov.au/legislation/gazettals/index.htm</p>	<p>Procedures Advice Manual 3. Available by subscription from http://www.immi.gov.au/legend/index.htm#x</p>	<p>Business Visits to Australia http://www.immi.gov.au/allforms/visitingbusiness.htm</p> <p>Sponsoring a Temporary Overseas Employee to Australia (Booklet 11) http://www.immi.gov.au/allforms/books11.htm</p> <p>Working as a Business Person [in Australia] - Frequently Asked Questions http://www.immi.gov.au/faq/work/work01.htm</p>

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<p>(e) Other: Spouses of temporary entrants covered by (a), (b) and (d) are accorded full working rights where stay of those temporary entrants is greater than 12 months</p> <p>For such spouses, entry and stay is for the same period as for the temporary entrant.</p>	<p>Migration Act 1958 at http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/current/bytitle/FA8C1020B9E2BF26CA2570000126D38?OpenDocument&mostrecent=1 Volume 1 Section 29 (Authority to grant visas)</p>	<p>Migration regulations at http://www.comlaw.gov.au/comlaw/legislation/legislativeinstrumentcompilation1.nsf/current/bytitle/7FBFD4E9EDC01805CA257026001EE4E0?OpenDocument&mostrecent=1 Volume 4 Schedule 2 (subclass 457 - Secondary Criteria)</p>	<p>Procedures Advice Manual 3. Available by subscription from http://www.immi.gov.au/legend/index.htm#x</p>	<p>Business Visits to Australia http://www.immi.gov.au/allforms/visitingbusiness.htm</p> <p>Sponsoring a Temporary Overseas Employee to Australia (Booklet 11) http://www.immi.gov.au/allforms/books11.htm</p> <p>Working as a Business Person [in Australia] - Frequently Asked Questions http://www.immi.gov.au/faq/work/work01.htm</p>