

11 MOVEMENT OF NATURAL PERSONS

ARTICLE 1

Scope and Definitions

1. This Chapter applies to measures affecting the movement of natural persons of a Party into the territory of the other Party where such persons are:

- (a) business visitors;
- (b) contractual service suppliers;
- (c) independent executives;
- (d) installers and servicers; and
- (e) intra-corporate transferees.

2. This Chapter reflects the Parties' mutual commitment to enhance the mobility of natural persons of either Party engaged in the conduct of trade and investment between the Parties, by facilitating temporary entry and establishing streamlined, transparent immigration clearance procedures for natural persons.

3. For the purposes of this Chapter, the following definitions shall apply:

- (a) "business visitors" means natural persons of a Party who are:
 - (i) seeking to travel to the other Party for business purposes and who must not engage in making direct sales to the general public or in supplying goods or services themselves;
 - (ii) service sellers;
 - (iii) investors of a Party or employees of an investor (who are managers, executives or specialists as defined under Article 1.3(g) (Scope and Definitions)) seeking temporary entry to establish an investment; or
 - (iv) seeking temporary entry for the purposes of negotiating the sale of goods where such negotiations do not involve direct sales to the general public;
- (b) "contractual service suppliers" means natural persons of a Party who have trade, technical or professional skills and experience; and
 - (i) are employees of a service supplier or an enterprise of a Party which has concluded a contract for the supply of a service within

the other Party and which does not have a commercial presence within the other Party; or

- (ii) are engaged by an enterprise lawfully and actively operating in a Party in order to supply a service under a contract within that Party; and

who are assessed as having the necessary qualifications, skills and work experience accepted as meeting the domestic standard in the other Party for their nominated occupation;

- (c) “enterprise” means any entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association or similar organisation;
- (d) “immigration formality” means a visa, employment pass, or other document or electronic authority granting a natural person of a Party the right to reside or work in the territory of the other Party;
- (e) For Australia, “independent executives” means natural persons of a Party whose work responsibilities match the description set out below and who intend, or are responsible for, the establishment in the other Party of a new branch or subsidiary of an enterprise which has its head of operations in the territory of the originating Party and which has no other representative, branch or subsidiary in the other Party. Independent executives will be responsible for the entire or a substantial part of the enterprise’s operations in the other Party, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the enterprise, including directing the enterprise 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 enterprise.

For Singapore, “independent executives” means natural persons of a Party with a local business presence seeking to:

- (i) carry on substantial trade in goods or services principally between the territory of the Party of the natural person and the territory of the other Party into which entry is sought; or
- (ii) establish, develop, administer, or provide advice or key technical services to the operation of an investment to which the natural person or the natural person’s enterprise has committed, or is in the process of committing, a substantial amount of capital, in a capacity that is supervisory, executive, or involves essential skills;

- (f) “installers and servicers” means natural persons of a Party who are installers or servicers of machinery and/or equipment, where such installation and/or servicing by the supplying company is a condition of purchase under contract of the said machinery or equipment, and who must not perform services which are not related to the service activity which is the subject of the contract;
- (g) “intra-corporate transferees” means employees of a service supplier, investor or enterprise of a Party established in the territory of the other Party through a branch, subsidiary or affiliate, who have been so employed for a period of not less than one year immediately preceding the date of the application for temporary entry, and who are:
 - (i) managers – natural persons within an organisation who primarily direct the organisation or a department or sub-division of the organisation, supervise and control the work of other supervisory, professional or managerial employees, have the authority to hire and fire or take other personnel actions (such as promotion or leave authorisation), and exercise discretionary authority over day-to-day operations. This does not include a first-line supervisor, unless the employees supervised are professionals, nor does this include an employee who primarily performs tasks necessary for the provision of the service or operation of an investment;
 - (ii) executives – natural persons within an organisation who primarily direct the management of the organisation, exercise wide latitude in decision-making, and receive only general supervision or direction from higher level executives, the board of directors, or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service or the operation of an investment; or
 - (iii) specialists – natural persons within an organisation who possess knowledge at an advanced level of expertise and who possess proprietary knowledge of the organisation’s service, research equipment, techniques, or management. Specialists may include, but are not limited to, members of a licensed profession;
- (h) “measure” includes any law, regulation, procedure, requirement or practice;
- (i) “natural person of a Party” means:
 - (i) for Australia, a natural person who is an Australian citizen as defined in the *Australian Citizenship Act 2007* as amended from time to time, or any successor legislation;
 - (ii) for Singapore, a person who is a citizen of Singapore within the meaning of its Constitution and its domestic laws; or

- (iii) a permanent resident of either Party;¹
- (j) “service sellers” means natural persons of a Party who are sales representatives of a service supplier of that Party and are seeking temporary entry to the other Party for the purpose of negotiating the sale of services for that service supplier, where such representatives will not be engaged in making direct sales to the general public or in supplying services directly; and
- (k) “temporary entry” means entry by a business visitor, a contractual service supplier, an independent executive, an installer or servicer, or an intra-corporate transferee, as the case may be, without the intent to establish permanent residence and for the purpose of engaging in activities which are clearly related to their respective business purposes. Additionally, in the case of a business visitor, the salaries of and any related payments to such a visitor should be paid entirely by the service supplier or enterprise which employs that visitor in the visitor’s home country.

4. Nothing in this Chapter shall apply to measures affecting natural persons of either Party seeking access to the employment market of a Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

Section 1: Short-Term Temporary Entry

ARTICLE 2

Business Visitors

A Party shall grant temporary entry to a business visitor of the other Party who otherwise meets its criteria for the grant of an immigration formality for a period of up to three months.

ARTICLE 3

Installers and Servicers

A Party shall grant temporary entry to an installer and servicer of the other Party who otherwise meets its criteria for the grant of an immigration formality for a period of up to three months.

Section 2: Long-Term Temporary Entry

¹ Unless otherwise provided in this Chapter, a Party shall grant the benefits of this Chapter to a permanent resident of the other Party provided that the permanent resident satisfies all the administrative, legal, repatriation and other requirements as may be imposed by the granting Party.

ARTICLE 4

Contractual Service Suppliers

A Party shall grant temporary entry to a contractual service supplier of the other Party who otherwise meets its criteria for the grant of an immigration formality for a period of up to two years with the possibility of further stay.

ARTICLE 5

Independent Executives

A Party shall grant temporary entry to an independent executive of the other Party who otherwise meets its criteria for the grant of an immigration formality for a period of up to two years.

ARTICLE 6

Intra-Corporate Transferees

A Party shall grant temporary entry to an intra-corporate transferee of the other Party who otherwise meets its criteria for the grant of an immigration formality

- (a) in the case of Singapore, for an initial period of up to three years which may be extended for periods of up to three years at a time for a total term not exceeding 15 years; and
- (b) in the case of Australia, for an initial period of up to four years which may be extended for further periods of up to four years at a time for a total term not exceeding 15 years.

ARTICLE 7

Provision of Information

A Party shall:

- (a) publish or otherwise make available to the other Party such information as will enable the other Party to become acquainted with its measures relating to this Chapter; and
- (b) no later than six months after the date of entry into force of this Agreement, prepare, publish or otherwise make available in its own territory, and in the territory of the other Party, explanatory material regarding the requirements for temporary entry under this Chapter in

such a manner as will enable natural persons of the other Party to become acquainted with them.

ARTICLE 8

Dispute Settlement

1. A Party may not initiate proceedings under Chapter 16 (Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter unless:
 - (a) the matter involves a pattern of practice; and
 - (b) its natural persons affected have exhausted the available domestic administrative remedies regarding the particular matter.
2. The remedies referred to in paragraph 1(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the competent authority within one year of the institution of proceedings for domestic administrative remedies, including proceedings by way of review, and the failure to issue a determination is not attributable to delays caused by the natural person.

ARTICLE 9

Immigration Measures

1. Nothing in this Chapter shall prevent a Party from applying measures to regulate the entry of natural persons of the other Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under the terms of this Chapter.
2. The sole fact that a Party requires natural persons of the other Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to any Party under this Chapter.

ARTICLE 10

Immigration Requirements and Procedures

1. For Australia, temporary entry of a natural person who is seeking temporary entry pursuant to this Chapter is subject to employer sponsorship. Full details of employer sponsorship requirements, including the list of eligible occupations for sponsorship, are available on the website of the Australian government department responsible for immigration matters. Employer sponsorship requirements and eligible occupations may change from time to time.

2. For Singapore, temporary entry of a natural person who is seeking temporary entry pursuant to this Chapter is subject to employer sponsorship. Full details of employer sponsorship requirements, including the list of eligible occupations for sponsorship, and the requirements for Dependant's Passes, are available on the website of the Singapore government department responsible for immigration matters. Employer sponsorship requirements and eligible occupations may change from time to time.

ARTICLE 11

Licensing Requirements

The sole fact that a Party grants temporary entry to a natural person of the other Party pursuant to this Chapter shall not be construed to exempt that natural person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practise a profession or otherwise engage in business activities.

ARTICLE 12

Expeditious Application Procedures

1. A Party shall expeditiously process complete applications for immigration formalities from natural persons of the other Party, including further immigration formality requests or extensions thereof, particularly applications from members of professions for which mutual recognition arrangements have been concluded.

2. In relation to a complete application for an immigration formality covered by paragraph 1 the granting Party shall both make a decision and notify the natural person or its representative of that decision prior to the natural person's arrival in its territory subject to the granting Party's immigration formality processing time service standards.

ARTICLE 13

Notification of Outcome of Application

A Party shall notify the applicants for temporary entry, either directly or through their prospective employers, of the outcome of their applications, including the period of stay and other conditions.

ARTICLE 14

Online Lodgement and Processing

As soon as possible after the date of entry into force of this Agreement, Parties shall provide facilities for online lodgement and processing:

- (a) in the case of Australia, of immigration formalities; and
- (b) in the case of Singapore, of employment passes which shall be applied for by the prospective employers.

ARTICLE 15

Resolution of Problems

The relevant authorities of both Parties shall endeavour to favourably resolve any specific or general problems (within the framework of their domestic laws, regulations and other similar measures governing the temporary entry of natural persons) which may arise from the implementation and administration of this Chapter.

ARTICLE 16

Labour Market Testing

Neither Party shall require labour market testing, labour certification tests or other procedures of similar effect as a condition for temporary entry in respect of business visitors, contractual service suppliers, installers and servicers, independent executives and intra-corporate transferees on whom the benefits of this Chapter are conferred.

ARTICLE 17

Immigration Formality Requirements

1. Australia shall accord to natural persons of Singapore conditions of entry and processing requirements relating to its Electronic Travel Authority (“ETA”) no less favourable than those accorded to natural persons of any other country eligible under the ETA or equivalent processing system for immigration formalities.
2. Singapore shall waive visa requirements for natural persons of Australia, provided that such persons are not natural persons of a non-Party for which visa-requirements are imposed for entry into Singapore.
3. This Article shall not apply to permanent residents of either Party.

ARTICLE 18

Employment of Spouses and Dependants

For natural persons of either Party who have been granted the right to temporary entry under this Chapter as contractual service suppliers, independent executives or intra-corporate transferees and who have a spouse and dependant, a Party shall, upon

application, grant the accompanying spouse or dependant who otherwise meets its criteria for the grant of an immigration formality the right of temporary entry, movement and work for an equal period to that granted to the natural person. For greater certainty, grant of temporary entry and work under this Article is subject to the accompanying spouse or dependant meeting the granting Party's prescribed application procedures and requirements for the relevant immigration formality and meet all relevant eligibility requirements for temporary entry and work or extension of temporary stay and work.

ARTICLE 19

Relation to Other Chapters

1. Except for this Chapter, Chapter 1 (Objectives and General Definitions), Chapter 16 (Dispute Settlement), Chapter 17 (Final Provisions) and Article 9 (Transparency) of Chapter 7 (Cross-Border Trade in Services), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.
2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.