

Annex 10
Referred to in Chapter 12 (Movement of Natural Persons)

SPECIFIC COMMITMENTS
ON THE MOVEMENT OF NATURAL PERSONS

PART 1
SPECIFIC COMMITMENTS OF AUSTRALIA

1. Australia requires a natural person of Japan seeking entry and temporary stay in Australia under the provisions of Chapter 12 (Movement of Natural Persons) and this Annex to obtain, prior to entry, an appropriate visa or permit or other document or electronic authority granting entry and temporary stay and comply with any relevant requirements.

2. For the categories of specific commitments in Part 1 of this Annex Australia shall not impose or maintain any limitations on the total number of visas to be granted to natural persons in the form of numerical quotas or the requirement of an economic needs test.

Note: For the purposes of this Part, the term "actively operating" means that the enterprise concerned is engaged in substantive business operations in Australia.

Section 1
Business Visitors of Japan

1. Entry and temporary stay shall be granted to a natural person of Japan referred to in subparagraph 3(a) for a period of up to 90 days.

2. Entry and temporary stay shall be granted to a natural person of Japan referred to in subparagraph 3(b) for a period of up to six months, with the possibility of further stay.

3. A business visitor of Japan means a natural person of Japan who is:

- (a) a natural person seeking to travel to Australia for business purposes, including for investment 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 goods or services themselves; or

- (b) a service seller, who is a natural person not based in Australia whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia, and who is a sales representative of a service supplying enterprise, seeking entry and temporary stay for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service supplying enterprise.

Section 2 Intra-Corporate Transferees of Japan

1. Entry and temporary stay shall be granted to an intra-corporate transferee of Japan referred to in subparagraph 3(a) for a period of up to four years, with the possibility of further stay.

2. Entry and temporary stay shall be granted to an intra-corporate transferee of Japan referred to in subparagraph 3(b) for a period of up to two years, with the possibility of further stay.

3. An intra-corporate transferee of Japan means an employee of an enterprise of Japan established in Australia through a branch, subsidiary or affiliate which is lawfully and actively operating in Australia, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Australia, and who is:

- (a) an executive or a senior manager, who is a natural person responsible for the entire or a substantial part of the operations of the enterprise in Australia, 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; or

- (b) a specialist, who is a natural person with advanced trade, technical or professional skills and experience who must be assessed as having the necessary qualifications, or alternative credentials accepted as meeting the domestic standards in Australia, for that occupation, and who must have been employed by the employer for not less than two years immediately preceding the date of the application for entry and temporary stay.

4. Entry and temporary stay of such a natural person who is seeking entry and temporary stay in accordance with paragraph 1 or 2 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.

Section 3 Investors of Japan

1. Entry and temporary stay shall be granted to an investor of Japan for a period of up to two years.

2. An investor of Japan means an executive of an enterprise headquartered in Japan who is establishing a branch or subsidiary of that enterprise in Australia, and who is a natural person that will be responsible for the entire or a substantial part of the enterprise's operations in Australia, 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.

3. Entry and temporary stay of a natural person who is seeking entry and temporary stay pursuant to paragraph 1 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.

Section 4 Contractual Service Suppliers of Japan

1. Entry and temporary stay shall be granted to a contractual service supplier of Japan for a period of up to one year, with the possibility of further stay.

2. A contractual service supplier of Japan means a natural person of Japan:

(a) who has trade, technical or professional skills and experience and:

(i) who is an employee of an enterprise of Japan that has concluded a contract for the supply of a service within Australia and which does not have a commercial presence within Australia; or

(ii) who is engaged by an enterprise lawfully and actively operating in Australia in order to supply a service under a contract within Australia; and

(b) who is assessed as having the necessary qualifications, skills and work experience accepted as meeting the domestic standard in Australia for their nominated occupation.

3. Entry and temporary stay of a natural person who is seeking entry and temporary stay pursuant to paragraph 1 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.

Section 5
Accompanying Spouse and Dependents

For a natural person of Japan who has been granted the right of entry and temporary stay under this Chapter for a period of longer than 12 months and who has a spouse or dependent, Australia shall, upon application, grant the accompanying spouse or dependent the right of entry and temporary stay, movement and work for an equal period to that of the natural person.

PART 2
SPECIFIC COMMITMENTS OF JAPAN

Japan may require a natural person of Australia seeking entry and temporary stay under the terms and conditions set out in each Section of this Part to obtain an appropriate visa or its equivalent prior to entry.

Section 1
Short-Term Business Visitors of Australia

Entry and temporary stay for a period not exceeding 90 days, which may be extended, shall be granted to a natural person of Australia who stays in Japan without acquiring remuneration from within Japan and without engaging in making direct sales to the general public or in supplying goods or services himself or herself, for the purposes of participating in business contacts including negotiations for the sale of goods or services, or other similar activities including those to prepare for establishing commercial presence in Japan.

Section 2
Intra-Corporate Transferees of Australia

1. Entry and temporary stay for a period of one or three years, which may be extended, shall be granted to a natural person of Australia who has been employed by an enterprise that supplies goods or services in Japan or by an enterprise that invests in Japan for a period of not less than one year immediately preceding the date of his or her application for entry and temporary stay in Japan, who is being transferred to its branch office or its representative office in Japan, or an enterprise constituted or organised in Japan owned or controlled by or affiliated with the aforementioned enterprise, and who will engage in one of the following activities during his or her temporary stay in Japan:

- (a) activities to direct a branch office or a representative office as its head;
- (b) activities to direct an enterprise as its board member or auditor;

- (c) activities to direct one or more departments of an enterprise;
- (d) activities which require technology or knowledge at an advanced level pertinent to physical sciences, engineering or other natural sciences, recognised under the status of residence of "Engineer" provided for in the Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951); or
- (e) activities which require knowledge at an advanced level pertinent to human science, including jurisprudence, economics, business management and accounting, or which require ideas and sensitivity based on culture of a country other than Japan, recognised under the status of residence of "Specialist in Humanities/International Services" provided for in the Immigration Control and Refugee Recognition Act.

Note: For the purposes of this Annex, an enterprise is "affiliated" with another enterprise when the latter can significantly affect the decision making of the former on finance and business policy.

2. Activities which require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in subparagraphs 1(d) and (e) mean activities in which the natural person may not be able to engage without the application of specialised technology or knowledge of natural or human sciences acquired by him or her, by, in principle, completing college education (i.e. bachelor's degree) or higher education.

Section 3 Investors of Australia

Entry and temporary stay for a period of one or three years, which may be extended, shall be granted to a natural person of Australia who will engage in one of the following activities during his or her temporary stay in Japan:

- (a) activities to invest in business in Japan and manage such business;

- (b) activities to manage business in Japan on behalf of a person other than that of Japan who has invested in such business; or
- (c) conduct of business in Japan in which a person other than that of Japan has invested.

Section 4
Natural Persons of Australia Who Engage in Professional
Services

Entry and temporary stay for a period of one or three years, which may be extended, shall be granted to a natural person of Australia who is a legal, accounting or taxation service supplier qualified under the laws and regulations of Japan (as specified in the subparagraphs below) and who, not necessarily obtaining a contract to provide services, will engage in one of the following activities during his or her temporary stay in Japan:

- (a) legal services supplied by a lawyer qualified as "Bengoshi";
- (b) legal advisory services on law of jurisdiction where the service supplier is a qualified lawyer on condition that the service supplier is qualified as "Gaikoku-Ho-Jimu-Bengoshi";
- (c) legal services supplied by a patent attorney qualified as "Benrishi";
- (d) legal services supplied by a maritime procedure agent qualified as "Kaijidairishi";
- (e) accounting, auditing and bookkeeping services supplied by an accountant qualified as "Koninkaikeishi";
- (f) taxation services supplied by a tax accountant qualified as "Zeirishi";
- (g) legal services supplied by a judicial scrivener qualified as "Shiho-Shoshi";

- (h) legal services supplied by an administrative scrivener qualified as "Gyousei-Shoshi";
- (i) legal services supplied by a certified social insurance and labour consultant qualified as "Shakai-Hoken-Romushi"; or
- (j) legal services supplied by a land and house surveyor qualified as "Tochi-Kaoku-Chosashi".

Section 5

Natural Persons of Australia Who Engage in Business Activities, Which Require Technology or Knowledge at an Advanced Level, on the Basis of a Personal Contract with Public or Private Organisations in Japan

1. Entry and temporary stay for a period of one or three years, which may be extended, shall be granted to a natural person of Australia who will engage in one of the following business activities, during his or her temporary stay in Japan on the basis of a personal contract with a public or private organisation in Japan:

- (a) activities which require technology or knowledge at an advanced level pertinent to physical sciences, engineering or other natural sciences under the status of residence of "Engineer" provided for in the Immigration Control and Refugee Recognition Act; or
- (b) activities which require knowledge at an advanced level pertinent to human science, including jurisprudence, economics, business management and accounting, or which require ideas and sensitivity based on culture of a country other than Japan, under the status of residence of "Specialist in Humanities/International Services" provided for in the Immigration Control and Refugee Recognition Act.

2. Activities which require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in paragraph 1 mean activities in which the natural person may not be able to engage without the application of specialised technology or knowledge of natural or human sciences acquired by him or her, by, in principle, completing college education (i.e. bachelor's degree) or higher education.

Note: Activities that meet the requirement specified in subparagraph 1(a) include those related to architectural services, civil engineering services, and urban planning and landscape architectural services. Activities that meet the requirement specified in subparagraph 1(b) include those related to accounting, auditing and bookkeeping services, specialty design services, trade fair and exhibition organisation services, travel agencies and tour operator services, and tourist guide services.

Section 6 Accompanying Spouse and Children

1. Entry and temporary stay shall be granted to a spouse and children accompanying a natural person of Australia who has been granted entry and temporary stay in accordance with Sections 2 through 5, in principle for the same period as the period of temporary stay granted to the natural person, provided that such spouse and children obtain maintenance from the natural person and engage in daily activities recognised under the status of residence of "Dependent" provided for in the Immigration Control and Refugee Recognition Act.

2. A spouse who has been granted entry and temporary stay in accordance with paragraph 1 may, upon application, have his or her status of residence changed to that under which he or she is allowed to work, subject to the approval of the Government of Japan in accordance with the Immigration Control and Refugee Recognition Act.

Note: For the purposes of this Section, the terms "spouse" and "children" respectively mean a spouse or children recognised as such in accordance with the laws and regulations of Japan.