

AGREEMENT ESTABLISHING THE ASEAN-AUSTRALIA NEW ZEALAND FREE TRADE AREA

CHAPTER 9

MOVEMENT OF NATURAL PERSONS

Article 1 Objectives

The objectives of this Chapter are to:

- (a) provide for rights and obligations additional to those set out in Chapter 8 (Trade in Services) and Chapter 11 (Investment) in relation to the movement of natural persons between the Parties for business purposes;
- (b) facilitate the movement of natural persons engaged in the conduct of trade and investment between the Parties;
- (c) establish streamlined and transparent procedures for applications for immigration formalities for the temporary entry of natural persons to whom this Chapter applies; and
- (d) protect the integrity of the Parties' borders and protect the domestic labour force and permanent employment in the territories of the Parties.

Article 2 Scope

1. This Chapter shall apply, as set out in each Party's schedule of specific commitments in Annex 4 (Schedules of Movement of Natural Persons Commitments), to measures affecting the temporary entry of natural persons of a Party into the territory of another Party. Such persons may include:

- (a) business visitors;

- (b) installers and servicers;
- (c) executives of a business headquartered in a Party establishing a branch or subsidiary, or other commercial presence of that business in another Party;
- (d) intra-corporate transferees; or
- (e) contractual service suppliers.

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of another Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

Article 3 Definitions

For the purposes of this Chapter:

- (a) **granting Party** means a Party who receives an application for temporary entry from a natural person of another Party who is covered by Article 2.1 (Scope);
- (b) **immigration formality** means a visa, permit, pass or other document or electronic authority granting a natural person of one Party the right to enter, reside or work or establish commercial presence in the territory of the granting Party;
- (c) **natural person of a Party** means a natural person of a Party as defined in Article 2(j) (Definitions) of Chapter 8 (Trade in Services); and

- (d) **temporary entry** means entry by a natural person covered by this Chapter, without the intent to establish permanent residence.

Article 4

Grant of Temporary Entry

1. Each Party shall, in accordance with that Party's schedule of specific commitments in Annex 4 (Schedules of Movement of Natural Persons Commitments), grant temporary entry or extension of temporary stay in accordance with this Chapter to natural persons of another Party provided those natural persons:

- (a) follow prescribed application procedures for the immigration formality sought; and
- (b) meet all relevant eligibility requirements for entry to the granting Party.

2. Any fees imposed in respect of the processing of an immigration formality shall be reasonable and in accordance with domestic law.

3. A Party may deny temporary entry or extension of temporary stay to natural persons of another Party that do not comply with Paragraph 1(a) and (b).

Article 5

Schedules of Commitments for the Entry and Temporary Stay of Natural Persons

Each Party shall set out in Annex 4 (Schedules of Movement of Natural Persons Commitments) a schedule containing its commitments for the temporary entry and stay in its territory of natural persons of another Party covered by Article 2.1 (Scope). These schedules shall specify the conditions and limitations governing those commitments, including the

length of stay, for each category of natural persons included in each Party's schedule of commitments.

Article 6

Processing of Applications

1. Where an application for an immigration formality is required by a Party, that Party shall process promptly complete applications for immigration formalities or extensions thereof received from natural persons of another Party covered by Article 2.1 (Scope).

2. Each Party shall, upon request and within a reasonable period after receiving a complete application for an immigration formality from a natural person of another Party covered by Article 2.1 (Scope), notify the applicant of:

- (a) the receipt of the application;
- (b) the status of the application; and
- (c) the decision concerning the application including, if approved, the period of stay and other conditions.

Article 7

Immigration Measures

1. Nothing in this Chapter, Chapter 8 (Trade in Services) or Chapter 11 (Investment) shall prevent a Party from applying measures to regulate the entry of natural persons of another 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 another Party under this Chapter or to unduly impair or delay trade in goods or services or the conduct of investment activities under this Agreement.

2. The sole fact of requiring persons to meet eligibility requirements prior to entry to a Party shall not be regarded as nullifying or impairing benefits accruing to another Party under this Chapter, or of unduly impairing or delaying trade in goods or services or the conduct of investment activities under this Agreement.

Article 8 Transparency

Each Party shall:

- (a) publish or otherwise make publicly available explanatory material on all relevant immigration formalities which pertain to or affect the operation of this Chapter;
- (b) no later than six months after the date of entry into force of this Agreement publish, such as on its immigration website, or otherwise make publicly available in its own territory and to persons in the territory of the other Parties, the requirements for temporary entry under this Chapter, including explanatory material and relevant forms and documents that will enable natural persons of other Parties to become acquainted with those requirements; and
- (c) upon modifying or amending any immigration measure that affects the temporary entry of natural persons, ensure that the information published or otherwise made available pursuant to Subparagraph (b) is updated as soon as possible within 90 days.

Article 9
Application of Chapter 17 (Consultations and Dispute Settlement)

1. The Parties shall endeavour to settle any differences arising out of the implementation of this Chapter through consultations.
2. A Party shall not have recourse to Chapter 17 (Consultations and Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter unless:
 - (a) the matter involves a pattern of practice on the part of the granting Party; and
 - (b) the natural persons affected have exhausted all available domestic remedies regarding the particular matters.