

Annex 7
Referred to in Chapter 7

Specific Commitments for the Movement of Natural Persons

Part 1
Specific Commitments of India

India may require a natural person of Japan 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
Business Visitors of Japan

1. This Section shall apply to natural persons of Japan specified in (a), (b) or (c) below who visit India temporarily for the purposes specified below and who will not receive remuneration from within India ("business visitors"):

- (a) a service seller for negotiating and entering into agreements for supply of services;
- (b) a service seller for preparatory work for establishing a commercial presence in India; or
- (c) an investor or an employee of an investor (who is a manager, executive or specialist as defined under Section 2 of this Part) for establishing investments.

2. Access of business visitors to India under this Section is subject to the condition that the business visitors will not be engaged in making direct sales to the general public or in supplying services or making the investment (except establishing investments) themselves.

3. A visa under this Section shall be granted provided the business visitors:

- (a) comply with immigration measures applicable to entry and temporary stay; and

(b) present proof of nationality.

4. Entry and temporary stay of business visitors shall be granted for a period not more than 180 days, which may be extended at the discretion of India and subject to its laws.

Section 2 Intra-Corporate Transferees of Japan

1. This Section shall apply to natural persons of Japan within the categories of employees listed below who are in the employment of a juridical person of Japan and being transferred temporarily to a branch, a representative office or a juridical person owned or controlled by the aforesaid juridical person in the context of provision of a service in India ("intra-corporate transferees").

(a) Managers

persons who direct a branch office or one or more departments as their head, or supervise or control the work of other supervisory, professional or managerial personnel and have the authority to appoint or remove the personnel and powers to exercise discretionary authority over day-to-day operations;

(b) Executives

persons who are in senior positions within a juridical person including a branch who primarily direct the management, have wide decision-making powers and either are members of the board of directors or receive directions from the board or the general body of shareholders; or

(c) Specialists

persons who possess high qualifications and knowledge at an advanced level relevant to the organisation's activities or of the organisation's research, equipment, techniques or management and may include persons who are members of accredited professional bodies.

2. Entry and temporary stay of intra-corporate transferees, who otherwise meet its criteria for the grant of an immigration visa, shall be granted for an initial period of up to one year or the period of the contract, whichever is less subject to any other condition prescribed under India's immigration regulations. The period of stay may be extended on a year to year basis for a total term not exceeding five years.

Section 3 Contractual Service Suppliers of Japan

1. This Section shall apply to employees of juridical persons ("contractual service suppliers") who are:

- (a) employees of a Japan based company or partnership who travel to India temporarily for short periods of stay of up to one year or the duration of the contract, whichever is less, in order to perform a service pursuant to a contract between their employer and a client(s) located in India; or
- (b) employees of a Japan based company or partnership who travel to India temporarily for short periods of stay of up to one year in order to fulfil qualification and licensing requirements where presence in India is an essential condition for the fulfilment of these requirements.

2. Entry granted in accordance with subparagraphs (a) and (b) of paragraph 1 has to be obtained in one of the sectors listed below and is subject to additional conditions mentioned in relation to the sector or the relevant sub-sector in India's Schedule of Specific Commitments in Annex 6:

- (a) Engineering Services;
- (b) Integrated Engineering Services;
- (c) Architectural Services;
- (d) Urban Planning and Landscape Architectural Services;
- (e) Computer and Related Services;

- (f) R & D Services;
- (g) Management Consulting Services (excluding all services relating to legal consultancy);
- (h) Services related to Management consulting (excluding all services relating to legal consultancy);
- (i) Hotel and Restaurant services;
- (j) Travel Agency and Tour Operator Services; or
- (k) Tourist Guides Services.

3. Access of contractual service suppliers to India under the category of paragraph 2 shall be available only in the specific service sector in which contract has been entered into and employees should have appropriate educational and professional qualifications relevant to the services to be provided.

4. Entry and temporary stay of contractual service suppliers shall be granted for an initial period of up to one year or the period of contract, whichever is less provided all immigration measures applicable are complied with.

5. Further, entry and temporary stay under this Section is subject to a requirement of: requisite visa; the conditions attached to entry and temporary stay under such a visa; and fulfilment of specific requirements regarding information in support of the application such as required documentation including a proof of contract and possession of requisite educational and professional qualifications relevant to the service to be provided including work experience. Entry and temporary stay under this Section is also subject to any other condition prescribed under India's immigration regulations.

Section 4 Independent Professionals of Japan

1. This Section shall apply to independent professionals of Japan who are:

- (a) natural persons who travel to India temporarily for short periods of stay up to 12 months with permission for extending for a maximum of three months or the duration of the contract, whichever is less, in order to perform a service pursuant to a contract(s) between them and a client(s) located in India for which they possess the necessary academic credentials and qualifications and has obtained, wherever necessary, registration with the professional body and remuneration is to be paid solely to the natural person; and
- (b) natural persons who travel to India temporarily for short periods of stay up to 12 months in order to fulfil qualification and licensing requirements where presence in India is an essential condition for the fulfilment of these requirements.

2. Entry granted in accordance with subparagraphs (a) and (b) of paragraph 1 has to be obtained in one of the sectors listed below and subject to additional conditions mentioned in relation to the sector or the relevant sub-sector in India's Schedule of Specific Commitments in Annex 6:

- (a) Accounting and Book-keeping services;
- (b) Engineering Services;
- (c) Integrated Engineering Services;
- (d) Architectural Services;
- (e) Urban Planning and Landscape Architectural Services;
- (f) Computer and Related Services;
- (g) R & D Services;
- (h) Management Consulting Services (excluding all services relating to legal consultancy);
- (i) Services related to Management consulting (excluding all services relating to legal consultancy);

(j) Hotel and Restaurant services;

(k) Travel Agency and Tour Operator Services; or

(l) Tourist Guides Services.

3. Access of independent professionals to India under the category of paragraph 2 shall be available only in the specific service sector in which contract has been entered into and employees should have appropriate educational and professional qualifications relevant to the services to be provided.

4. Entry and temporary stay of independent professionals shall be granted for an initial period of up to one year or the period of contract, whichever is less provided all immigration measures applicable are complied with.

5. Further, entry and temporary stay under this Section is subject to a requirement of: requisite visa; the conditions attached to entry and temporary stay under such a visa; and fulfilment of specific requirements regarding information in support of the application such as required documentation including a proof of contract and possession of requisite educational and professional qualifications relevant to the service to be provided including work experience. Entry and temporary stay under this Section is also subject to any other condition prescribed under India's immigration regulations.

Part 2
Specific Commitments of Japan

A. Specific Commitments under Article 76

Japan may require a natural person of India 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.

Note: For the purposes of this Part and Appendices 1 and 2 to this Part, the term "CPC" means the Provisional Central Product Classification (Statistical Papers Series M No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, 1991).

Section 1
Business Visitors of India

Entry and temporary stay for a period of not exceeding 90 days, which may be extended, shall be granted to a natural person of India who will stay in Japan without acquiring remuneration from within Japan and without engaging in making direct sales to the general public or in supplying 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 India

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 India who:

- (a) has been employed by a public or private organisation that supplies services in Japan or by a public or private organisation that invests in Japan, for a period not less than one year immediately preceding the date of his or her application for the entry and temporary stay in Japan;
- (b) is being transferred to a branch or representative office of such an organisation in Japan, or another public or private organisation constituted or organised in Japan and owned or controlled by or affiliated with the former organisation; and
- (c) will engage in one of the following activities during his or her temporary stay in Japan:
 - (i) activities to direct the branch office or representative office as its head;
 - (ii) activities to direct the latter public or private organisation as its board member or auditor;
 - (iii) activities to direct one or more departments of the latter public or private organisation;
 - (iv) 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

- (v) 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, a public or private organisation is "affiliated" with another public or private organisation 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(c) (iv) and (v) 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 India

Entry and temporary stay for a period of one or three years, which may be extended, shall be granted to a natural person of India 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
Qualified Professionals of India

Entry and temporary stay for a period of one or three years, which may be extended, shall be granted to a natural person of India who is a legal, accounting or taxation service supplier qualified under the laws and regulations of Japan and who 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" under the laws and regulations of Japan;
- (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" under the laws and regulations of Japan;
- (c) legal services supplied by a judicial scrivener qualified as "Shiho-shoshi" under the laws and regulations of Japan;
- (d) legal services supplied by an administrative scrivener qualified as "Gyousei-shoshi" under the laws and regulations of Japan;
- (e) legal services supplied by a certified social insurance and labour consultant qualified as "Shakai-Hoken-Romushi" under the laws and regulations of Japan;
- (f) legal services supplied by a patent attorney qualified as "Benrishi" under the laws and regulations of Japan;
- (g) legal services supplied by a maritime procedure agent qualified as "Kaijidairishi" under the laws and regulations of Japan;
- (h) accounting, auditing and bookkeeping services supplied by an accountant qualified as "Koninkaikeishi" under the laws and regulations of Japan;

- (i) taxation services supplied by a tax accountant qualified as "Zeirishi" under the laws and regulations of Japan; or
- (j) legal services supplied by a land and house surveyor qualified as "Tochi-Kaoku-Chosashi" under the laws and regulations of Japan.

Section 5
Independent Professionals of India

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 India who will engage in one of the following business activities of supplying services, 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", whose scope is provided for in the Immigration Control and Refugee Recognition Act;
- (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", whose scope is provided for in the Immigration Control and Refugee Recognition Act;
or
- (c) activities which require specialised skills relating to Indian cuisine under the status of residence of "Skilled Labour", whose scope is 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 defined in subparagraph 1(a) include those related to services listed in the Appendix 1 to this Part and those defined in subparagraph 1(b) include those listed in the Appendix 2 to this Part. The application for entry and temporary stay in connection with subparagraphs 1(a) and (b) will be examined in accordance with the provisions of those subparagraphs.

Section 6 Contractual Service Suppliers of India

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 India who is an employee of a public or private organisation in India having no commercial presence in Japan (hereinafter referred to in this Section as "the Indian organisation") and who will engage in one of the following business activities of supplying services during his or her temporary stay 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", whose scope is provided for in the Immigration Control and Refugee Recognition Act;

- (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", whose scope is provided for in the Immigration Control and Refugee Recognition Act; or
- (c) activities which require specialised skills relating to Indian cuisine under the status of residence of "Skilled Labour", whose scope is provided for in the Immigration Control and Refugee Recognition Act.

2. Entry and temporary stay referred to in paragraph 1 shall be granted, provided that:

- (a) a service contract between a public or private organisation in Japan (hereinafter referred to in this Section as "the Japanese organisation") and the Indian organisation has been concluded; and
- (b) it is recognised, in the context of the service contract referred to in subparagraph (a), that a labour contract between the natural person and the Japanese organisation has been concluded.

3. 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 1: Activities defined in subparagraph 1(a) include those related to services listed in the Appendix 1 to this Part and those defined in subparagraph 1(b) include those listed in the Appendix 2 to this Part. The application for entry and temporary stay in connection with subparagraphs 1(a) and (b) will be examined in accordance with the provisions of those subparagraphs.

Note 2: The service contract for the placement and supply services of personnel (CPC872) shall be excluded from the service contract referred to in subparagraph 2(a).

Note 3: Such a labour contract as referred to in subparagraph 2(b) shall comply with the relevant laws and regulations of Japan.

Section 7 Instructors of India

Entry and temporary stay for a period of one or three years, which may be extended, shall be granted to a natural person of India who engages in one of the following activities during his or her temporary stay in Japan under the status of residence of "Instructor", whose scope is provided for in the Immigration Control and Refugee Recognition Act:

- (a) activities to teach Indian Yoga;
- (b) activities to teach Indian cuisine;
- (c) activities to teach Indian classical music and dance; or
- (d) activities to teach English language.

B. Issue for Further Negotiations under Article 82

Japan shall enter into negotiations with India under a Sub-Committee to be established under Article 14 regarding the acceptance of Indian qualified nurses and certified careworkers by Japan, with a view to reaching a conclusion of the negotiations within one year if possible, but not later than two years, after the entry into force of this Agreement.

Appendix 1

	CPC	
1	84	Computer and related services
2	8499	Other computer services n.e.c.
3	8510	Research and experimental development services on natural sciences and engineering
4	8530	Interdisciplinary research and experimental development services
5	8671	Architectural services
6	8672	Engineering services
7	8673	Integrated engineering services
8	8674	Urban planning services and landscape architectural services
9	8675	Engineering related scientific and technical consulting services
10	8676	Technical testing and analysis services

Appendix 2

	CPC	
1	7471	Travel agency and tour operator services
2	7472	Tourist guide services
3	8520	Research and experimental development services on social sciences and humanities
4	8530	Interdisciplinary research and experimental development services
5	8621	Accounting and auditing services
6	8622	Bookkeeping services, except tax returns
7	8640	Market research and public opinion polling services
8	8650	Management consulting services
9	8660	Services related to management consulting
10	8711	Sale or leasing services of advertising space or time
11	8712	Planning, creating and placement services of advertising
12	8719	Other advertising services
13	87907	Specialty design services
14	87909**	Trade fair and exhibition organisation services

Note: The (**) indicates that the services specified constitutes only a part of the total range of activities covered by the CPC concordance.