

Annex 7 referred to in Chapter 9
Specific Commitments for the Movement of Natural Persons

Part 1
Specific Commitments of Japan

A. Specific Commitments under Article 117

Japan may require a natural person of Thailand 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

Entry and temporary stay for a period of 90 days, which may be extended, shall be granted to a natural person of Thailand who stays in Japan without acquiring remuneration from within Japan and without engaging in making direct sales to the general public or in supplying services himself, 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

1. Entry and temporary stay for a period of 1 or 3 years, which may be extended, shall be granted to a natural person of Thailand who 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 1 year immediately preceding the date of his application for the entry and temporary stay in Japan, who is being transferred to its branch office or its representative office in Japan, or a public or private organisation constituted or organised in Japan owned or controlled by or affiliated with the aforementioned public or private organisation, and who engages in one of the following activities during his temporary stay in Japan:

- (a) activities to direct a branch office or a representative office as its head;
- (b) activities to direct a public or private organisation as its board member or auditor;
- (c) activities to direct one or more departments of a public or private organisation;

- (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, 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 subparagraph 1(d) and (e) above 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, by completing college education (i.e. bachelor's degree) or higher education, or by having been engaged in the activities for at least 10 years.

Section 3 Investors

Entry and temporary stay for a period of 1 or 3 years, which may be extended, shall be granted to a natural person of Thailand who engages in one of the following activities during his 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.

Note: The term "business" referred to in this Section includes Thai spa service.

Section 4
Natural Persons of Thailand who Engage
in Professional Services

Entry and temporary stay for a period of 1 or 3 years, which may be extended, shall be granted to a natural person of Thailand who is a legal, accounting or taxation service supplier qualified under Japanese law and who engages in one of the following activities during his temporary stay in Japan:

- (a) legal services supplied by a lawyer qualified as "Bengoshi" under Japanese law;
- (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 Japanese law;
- (c) legal services supplied by a patent attorney qualified as "Benrishi" under Japanese law;
- (d) legal services supplied by a maritime procedure agent qualified as "Kaijidairishi" under Japanese law;
- (e) accounting, auditing and bookkeeping services supplied by an accountant qualified as "Koninkaikeishi" under Japanese law; or
- (f) taxation services supplied by a tax accountant qualified as "Zeirishi" under Japanese law.

Section 5
Natural Persons of Thailand who Engage
in Business Activities, which Require Technology
or Knowledge at an Advanced Level or which Require
Specialised Skills belonging to Particular Fields
of Industry, on the Basis of a Personal Contract
with Public or Private Organisations in Japan

1. Entry and temporary stay for a period of 1 or 3 years, which may be extended, shall be granted to a natural person of Thailand who engages in one of the following business activities of supplying services, during his 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 Thai cuisine under the status of residence of "Skilled Labour", whose scope is provided for in the Immigration Control and Refugee Recognition Act, provided that the natural person who engages in such activities satisfies the following requirements:
 - (i) having work experience as Thai cook for at least 5 years, inclusive of the time spent at an educational institution to fulfil the requirements for acquiring the Certification of National Skill Standard issued by the Ministry of Labour of Thailand (hereinafter referred to in this Annex as "NSS") as Thai cook;
 - (ii) having at least level 1 of the Certification of NSS as Thai cook; and
 - (iii) receiving or having received adequate remuneration as Thai cook in Thailand in the 1-year period immediately preceding the date of application for the entry and temporary stay in Japan.

Note 1: For the purposes of this subparagraph, the term "adequate remuneration" means the amount of remuneration or its equivalent in cash, which is more than the amount of the average wage of employees in all industries in Thailand, which shall be calculated on an annual basis by the Japanese authorities, based on the latest available statistical data provided in the Labour Force Survey published by the National Statistical Office of the Ministry of Information Technology and Communications of Thailand.

Note 2: For reference purposes, "the amount of the average wage" referred to in Note 1 above for each quarter of the year 2004 is as follows:

6,754.3 baht for the first quarter;

6,817.9 baht for the second quarter;

7,014.7 baht for the third quarter; and

7,073.7 baht for the fourth quarter.

2. Activities which require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in paragraph 1 above 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, by completing college education (i.e. bachelor's degree) or higher education, or by having been engaged in the activities for at least 10 years.

Section 6 Instructors

Entry and temporary stay for a period of 1 or 3 years, which may be extended, shall be granted to a natural person of Thailand who engages in one of the following activities during his 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 Thai classical or traditional dance;

- (b) activities to teach Thai music;
- (c) activities to teach Thai cuisine;
- (d) activities to teach Thai boxing;
- (e) activities to teach Thai language; or
- (f) activities to teach Thai spa service.

B. Specific Commitments under Article 118

A graduation from a university or a college in Thailand may be considered to be equivalent to the graduation from a university or a college in Japan for the purposes of fulfilling the educational requirement for granting entry and temporary stay under the status of residence of "Engineer" and "Specialist in Humanities/International Services", whose scope is provided for in the Immigration Control and Refugee Recognition Act, subject to evaluation by the Japanese authorities in accordance with Japanese law.

C. Issues for Further Negotiations under Article 121

Japan shall enter into negotiations with Thailand under the Sub-Committee on Movement of Natural Persons set up under Article 120 regarding the following issues:

- (a) the possibility of acceptance of Thai certified careworker by Japan, with a view to reaching a conclusion of the negotiations within 1 year if possible, but not later than 2 years, after the entry into force of this Agreement; and
- (b) the possibility of acceptance of Thai spa therapist by Japan, with a view to reaching a conclusion of the negotiations not later than 2 years after the entry into force of this Agreement.

Part 2
Specific Commitments of Thailand

A. Specific Commitments under Article 117

Thailand 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 prior to entry.

Unless otherwise specified, Sections 1 through 6 shall apply to all sectors/activities except the 39 professions stipulated in the Royal Decree Prescribing Works Relating to Occupation and Profession in which an Alien is Prohibited to Engage B.E. 2522 (1979).

Section 1
Short-term Business Visitors

For sectors or subsectors where Thailand undertakes specific commitments in commercial presence or presence of natural persons mode under Article 77 and for all manufacturing sectors, a natural person of Japan who holds a Non-Immigrant visa and intends to stay in Thailand for the purposes of participating in business meetings or contacts, entering into contract to sell or purchase goods or services, visiting business establishments or other similar activities and entering with a purpose to establish a commercial presence in Thailand, where such activities do not involve direct sales to the general public or supply of services, shall be granted entry and temporary stay, and a work permit, when applied for, for an initial period of not more than 90 days and such period may be extended for up to 1 year from the arrival date, provided that the criteria stipulated by the Department of Employment under the Working of Aliens Act B.E. 2521 (1978) and the Immigration Bureau under the Immigration Act B.E. 2522 (1979) have been satisfied.

Section 2
Intra-corporate Transferees

1. For sectors or subsectors where Thailand undertakes specific commitments in commercial presence mode under Article 77 and for all manufacturing sectors, a natural person of Japan who is an employee of the level of manager or executive or a specialist of a juridical person of Japan and who is transferred temporarily for the supply of a service through commercial presence in Thailand, shall be granted entry and temporary stay for an initial period not exceeding 1 year from the arrival date, provided that:

- (a) such natural person has been employed by the juridical person concerned outside Thailand for a period of not less than 1 year immediately preceding the date of his application for admission;
- (b) such person must hold a Non-Immigrant visa; and
- (c) the criteria stipulated by the Immigration Bureau under the Immigration Act have been satisfied.

2. The temporary stay referred to in paragraph 1 above may be extended for a further 3 terms of not more than 1 year each.

3. A work permit for an initial period of 1 year shall also be granted to such person, when applied for, and such period may be extended on a yearly basis for up to a total of 4 years subject to verification of ongoing employment with original employer and compliance with relevant Thai laws and regulations (i.e. the Working of Aliens Act and other labour laws).

4. A branch or affiliate of the juridical person concerned must import not less than 3 million baht of foreign currencies into Thailand for each foreigner. The total number of foreigners is limited to 10 persons per company.

- Note: (a) The term "manager" is defined as a natural person within an organisation who:
- (i) primarily directs the organisation, or a department or sub-division of the organisation, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or recommend hiring and firing, or other personnel actions (such as promotion or leave authorisation), and exercises discretionary authority over day-to-day operations; and
 - (ii) does not include first-line supervisors, unless the employees supervised are professionals, nor does it include employees who primarily perform tasks necessary for the provision of the service.

- (b) The term "executive" is defined as a natural person within an organisation who primarily directs the management of the organisation, establishes the goals and policies of the organisation, exercises wide latitude in decision-making, and receives 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 a service or services of the organisation.
- (c) The term "specialist" is defined as a natural person within an organisation who possesses knowledge at an advanced level of continued expertise and who possesses proprietary knowledge of the organisation's services, research equipment, techniques, or management.

Section 3
Investors

1. For sectors or sub-sectors where Thailand undertakes specific commitments in commercial presence mode under Article 77 and for all manufacturing sectors,

- (a) a natural person of Japan who is making or has made investments in the Area, as defined in paragraph (b) of Article 73 or paragraph (a) of Article 91, of Thailand; or
- (b) a natural person of Japan who is a representative or employee of a juridical person of Japan that is making or has made investments in the Area of Thailand except,
 - (i) a representative or employee of a branch located in the Area of Japan of a juridical person of a non-Party;
 - (ii) for all manufacturing sectors, a representative or employee of a juridical person of Japan which is owned or controlled by persons of a non-Party and has no substantive business operations in Japan; or
 - (iii) for all service sectors, a representative or employee of a juridical person of Japan which is owned or controlled by persons of a non-Party, in case the benefits of Chapter 7 are denied to such a juridical person in accordance with Article 87,

shall be granted entry and temporary stay for an initial period not exceeding 90 days and such period may be extended for up to 1 year from the arrival date, provided that such person holds a Non-Immigrant visa and intends to stay in Thailand for the purposes of investment activities, and the criteria stipulated by the Immigration Bureau under the Immigration Act have been satisfied.

2. A work permit shall also be granted to such person, when applied for, for an initial period of not more than 90 days and such period may be extended for up to 1 year from the arrival date, provided that the criteria stipulated by the Department of Employment under the Working of Aliens Act have been satisfied.

Section 4
Natural Persons of Japan who Engage
in Professional Services

No commitment.

Section 5
Natural Persons of Japan who Engage in Business
Activities, which Require Technology or Knowledge at an
Advanced Level or which Require Specialised Skills
belonging to Particular Fields of Industry, on the Basis of
a Personal Contract with Public or Private Organisations in
Thailand

1. For the following subsectors:
 - (a) Consultancy services related to the installation of computer hardware (CPC 84100);
 - (b) Software implementation services (CPC 84210+84220+84230+84240+84250);
 - (c) Data processing services (excluding those provided over public telecommunications network) (CPC 84310+84320+84330+84390);
 - (d) Data base services (excluding those provided over public telecommunications network) (CPC 84400);
 - (e) Other computer services: Software training services for staff of clients (part of CPC 84900);
 - (f) General management consulting services (CPC 86501);
 - (g) Engineering services (CPC 86721 to 86727+86729) (except civil engineer);

- (h) Hotel lodging services (CPC 64110); and
- (i) Restaurant services (CPC 64210),

a natural person of Japan, who is employed under an employment contract by a juridical person in Thailand and holds a Non-Immigrant visa, shall be granted entry and temporary stay for an initial period of not more than 90 days or the duration of the employment contract, whichever is less, and a work permit, when applied for, to be valid during such period, provided that the criteria stipulated by the Department of Employment under the Working of Aliens Act and the Immigration Bureau under the Immigration Act have been satisfied.

2. The juridical person referred to in paragraph 1 above must be a registered limited liability company under Thai law and engaged in substantive business operations in Thailand and have at least fully paid up capital of 2 million baht per 1 foreigner employed. The total number of foreigners is limited to 10 persons per company.

3. Specific commitments under this Section are subject to the following conditions and, where applicable, those in Thailand's Schedule of specific commitments under Chapter 7.

- (a) The natural person concerned has met the requirements prescribed for "Specialist" under Note of Section 2 and been engaging in the activity concerned for a period of not less than 1 year immediately preceding the date of his application for admission.
- (b) The natural person concerned must possess the necessary academic qualifications and professional experience as specified for the activity concerned.
- (c) The employment contract has to be obtained for a supply of the relevant service without conferring entitlement to practice as a licensed professional in Thailand.

Section 6 Instructors

1. For the following subsectors:

- (a) International and National School Education Services (excluding adult and other education services) (part of CPC 9219 + CPC 9221+9222);

- (b) Technical and Vocational Education Services (CPC 9223+9224);
- (c) Higher education services (CPC 923);
- (d) Professional and/or Short Courses Education Services (CPC 92400); and
- (e) Other education services (CPC 92900),

a natural person of Japan, who is invited or to be employed by an educational institution duly established and registered in Thailand and holds a Non-Immigrant visa, shall be granted entry and temporary stay for an initial period not exceeding 6 months from the arrival date or the duration of the employment period, whichever is less, and a work permit, when applied for, to be valid during such period, provided that the criteria stipulated by the Department of Employment under the Working of Aliens Act and the Immigration Bureau under the Immigration Act have been satisfied.

2. The person referred to in paragraph 1 above must possess qualification and experience set by the educational institution that invites or employs such person and the Ministry of Education of Thailand, where applicable.

3. The conditions in Thailand's Schedule of specific commitments under Chapter 7 shall apply, where applicable. The employment contract has to be obtained for a supply of the relevant service without conferring entitlement to a licence to teach in Thailand.

B. Specific Commitments under Article 118

1. Application for work permit and visa

Proof of visa application is not required when the employers apply for a work permit in Thailand under Section 8 of the Working of Aliens Act and, in normal circumstances, proof of work permit application under Section 8 of the Working of Aliens Act is not required when natural persons of Japan apply for a Non-Immigrant B visa in Japan.

2. Access to One Stop Service Centre for Visa and Work Permit

- (a) (i) Japanese intra-corporate transferees of a branch or affiliate importing foreign currencies into Thailand not less than 3 million baht;

- (ii) Natural persons of Japan who are employed under an employment contract by a public or private organisation registered and engaged in substantive business operations in Thailand with fully paid up registered capital not less than 2 million baht; and
- (iii) Japanese investors having at least fully paid up capital of 2 million baht,

will have access to the one stop service centre for visa and work permit.

- (b) To obtain temporary stay and work permit, natural persons of Japan under any of the above-mentioned categories will have to fulfil the documentary requirements of Thailand as notified to Japan from time to time.

3. Income Requirement

Thailand shall not require more than 50,000 baht of monthly income as a condition for granting extension of temporary stay to natural persons of Japan.

Note: The amounts of money referred to under paragraphs 2 and 3 may be subject to review under the Sub-Committee on Movement of Natural Persons set up under Article 120, as necessary, to reflect appropriate inflation or deflation adjustments.

C. Issues for Further Negotiations under Article 121

Thailand shall enter into negotiations with Japan under the Sub-Committee on Movement of Natural Persons set up under Article 120 on the following issues:

- (a) the immigration requirement on hiring four Thais for each foreigner in granting stay, aiming at easing such requirement, with a view to reaching a conclusion of the negotiations not later than 3 years after the entry into force of this Agreement;
- (b) the quantitative restriction of maximum 10 foreigners for 1 company as a requirement for issuing work permit, aiming at easing such restriction, with a view to reaching a conclusion of the negotiations not later than 2 years after the entry into force of this Agreement;

- (c) the possibility of reducing the level of requirement for a natural person of Japan that intends to be transferred from a Japanese public or private organisation to its branch or affiliate in Thailand, with a view to reaching a conclusion of the negotiations not later than 2 years after the entry into force of this Agreement; and
- (d) the possibility of further facilitating and expediting the procedures of making notification to the Ministry of Labour under Section 7 of the Working of Aliens Act, with a view to reaching a conclusion of the negotiations not later than 1 year after the entry into force of this Agreement.

Note: Nothing in C shall prejudice the Chapter of this Agreement into which the result of such negotiations, if any, may be incorporated.

D. Specific Commitments relating to the Certification of NSS as Thai cook, referred to in subparagraph 1(c)(i) of Section 5 of A of Part 1 of this Annex

1. Thailand shall, upon request, communicate through diplomatic channels to Japan a list of persons who have the Certification of NSS as Thai cooks and wish to work in Japan, bearing their photograph.

2. In case of modifications of the requirements for acquiring the Certification of NSS as Thai cook, Thailand shall notify Japan through diplomatic channels of such modified requirements in advance.