

TRANS-PACIFIC PARTNERSHIP AGREEMENT

OUTCOMES: TEMPORARY ENTRY OF BUSINESS PERSONS

Reciprocal TPP commitments on temporary entry of skilled business persons will support greater trade and investment opportunities in the Asia-Pacific. The ability for business persons to move across borders is an integral feature of modern business and a crucial contributor to the growth of commercial relationships.

Australian citizens and permanent residents who are business persons seeking temporary entry into a TPP country under the following categories will benefit from enhanced certainty on entry and length of stay, reduced barriers to labour mobility, and preferential temporary entry arrangements:

- Intra-corporate transferees;
- Contractual service suppliers, including professionals and technicians;
- Investors and independent executives;
- Installers and servicers of machinery and equipment; and
- Short-term business visitors.

Australia has offered temporary entry commitments only to business persons from those TPP countries that provide similar access for Australian business persons in equivalent categories.

Australia's TPP commitments are consistent with Australia's existing immigration and workplace relations frameworks.

Australia's TPP commitments for intra-corporate transferees, contractual service suppliers and independent executives will be implemented through the 457 visa programme, which allows skilled workers to come to Australia and work for an approved business. In accordance with the 457 visa programme, businesses will still need to sponsor the temporary entry of skilled foreign workers, meet market salary rates and offer employment conditions as required under Australia workplace law, and equivalent to those accorded to Australian workers performing similar duties in the workplace. Skilled foreign workers will be required to meet minimum qualification requirements, including any relevant skills testing and existing professional licensing requirements at the Federal, State and Territory Government level.

Australia's commitments on installers and servicers and short-term business visitors will be implemented through Australia's existing immigration frameworks.



KEY OUTCOMES

Intra-corporate transferees

Australian intra-corporate transferees, being those business persons seeking to work in an overseas branch of their office, will benefit from guaranteed initial lengths of stay in TPP countries of between one and five years, without being subject to quotas or economic needs tests. Commitments offered by other TPP countries include:

- Canada will provide a guaranteed work permit or work authorisation with a waiver from labour market testing (Labour Market Impact Assessment);
- Malaysia has agreed not to include a condition in the Malaysia-Australia Free Trade Agreement (MAFTA) that restricts Malaysia's commitments to three specialists or experts per organisation;
- Japan will provide for a greater length of stay, of up to five years (extendable), an outcome that is an improvement on the equivalent Japan-Australia Economic Partnership Agreement (JAEPA) commitment;
- Brunei Darussalam has agreed to commitments across all sectors, improving on its commitments under the ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA); and
- Vietnam will waive the requirement obtain a work permit, for intra-corporate transferees working in a broad range of service sectors.

In return for TPP Parties offering access for Australian intra-corporate transferees, suitably-qualified intra-corporate transferees from TPP countries will be able to stay in Australia initially:

- For up to four years if they are executives and senior managers; and
- Up to two years if they are specialists.

Contractual service suppliers, including independent professionals and technicians

Australian business persons who possess specialist trade, professional and technical knowledge and offer services on a contractual basis will benefit from guaranteed initial lengths of stay in TPP countries of between three months to five years without being subject to quotas or economic needs tests.

Commitments include:

- Brunei Darussalam offering 2 years guaranteed stay for Australian contractual services suppliers working in the oil and gas sector;
- Canada providing a guaranteed work permit or work authorisation with a waiver from labour market testing (Labour Market Impact Assessment) in a range of key professional and technical occupations;

- Malaysia offering commitments on professional services, education and financial services as well as the removal of organisation-specific quotas. These commitments are an improvement on Malaysia's commitments under MAFTA;
- Vietnam offering a longer period of stay in a broader range of sectors, including the construction, engineering, environmental, legal, accounting, taxation and auditing, services incidental to mining, oil and gas and sporting services sectors. These commitments are an improvement on Vietnam's commitments under AANZFTA;
- Mexico offering commitments on all professionals and on key technical occupations of interest; and
- Japan offering commitments relating to teaching and research positions at universities and technology colleges. These commitments are an improvement on Japan's commitments under JAEPA.

In return for TPP Parties offering access for Australian contractual service suppliers, Australia will offer contractual service suppliers from TPP countries the ability to stay for an initial period of up to 12 months.

Investors and independent executives

Australian investors and independent executives will benefit from guaranteed lengths of initial stay in TPP countries of between three months to five years without being subject to quotas or economic needs tests. Commitments include:

- Canada providing a guaranteed work permit or work authorisation with a waiver from labour market testing (Labour Market Impact Assessment); and
- Japan and Malaysia offering commitments on length of stay that are an improvement on their commitments under our respective bilateral free trade agreements.

For TPP countries that have offered access for Australian investors and independent executives for a total stay of at least one year, Australia will offer investors and independent executives of TPP countries the ability to stay for up to two years.

Installers and servicers (after-sales, after-lease services)

Australians offering services relating to installation and servicing of machinery or equipment will benefit from the following temporary entry commitments offered by other TPP countries:

- Guaranteed lengths of stay for up to three months in Brunei Darussalam (extendable for up to 12 months), Chile, New Zealand, Peru (renewable for one year); and
- Guaranteed lengths of stay for up to six months in Canada (with the possibility of extensions), Malaysia and Mexico.

Commitments relevant to Australia would allow, consistent with Australia's existing immigration framework, TPP countries' installers and servicers of machinery and equipment pursuant to a warranty or contract to stay for up to three months.

Short-term business visitors

Australian business persons who wish to stay in a TPP country for a short period of time to pursue business opportunities, including to attend a conference, trade fair or meetings, explore investment opportunities or engage in negotiations, will benefit from greater certainty on length of stay:

- For up to three months in Chile (extendable), Japan (extendable), Malaysia and Singapore;
- For up to six months in Canada (extendable), Mexico, and Peru and Vietnam; and
- For up to 12 months in Brunei Darussalam.

In return for TPP Parties offering access for Australian short-term business visitors, Australia is offering commitments for business visitors and service sellers from TPP countries:

- To stay for up to three months, if they are business visitors; and
- To stay for an initial period of up to six months and up to a maximum of 12 months, if they are service sellers.

Spouses and dependants

Recognising the importance of certainty for the spouses and dependants of a business person, some TPP countries have offered commitments which will enable spouses and dependants of Australian intra-corporate transferees, contractual service suppliers and investors to enjoy greater certainty in relation to entry and the ability to work, including the following:

- Entry and work rights in Canada, Mexico and Brunei Darussalam; and
- Entry rights in Chile (with the ability to transition to a work visa without leaving Chile), Japan, Malaysia (for intra-corporate transferees) and Peru (for intra-corporate transferees and investors).

The periods of stay offered to a spouse and dependants are equivalent to the length of stay of the business person.

Australia will offer entry and work rights to spouses and dependants of business persons from those TPP countries who have extended benefits to spouses and dependents of Australian business persons.

Table 1: Guaranteed length of stay for Australian Business Persons in TPP countries

	Intra-Corporate Transferees	Contractual Service Suppliers	Investors
Brunei Darussalam	3 years, extendable for up to 5 years in total	For oil, gas and resources sector: 2 years For all other sectors: 1 year	Up to 1 year
Canada	3 years, extendable	1 year, extendable	1 year, extendable
Chile	1 year, extendable	1 year, extendable	1 year, extendable
Japan	5 years, extendable	5 years, extendable	5 years, extendable
Malaysia	For senior managers: 2 years, extendable to total of 10 years For specialists and experts: 2 years, extendable to total of 5 years	1 year	Up to 90 days
Mexico	1 year, extendable for up to 4 years	1 year, extendable to total of 4 years	1 year, extendable to total of 4 years
New Zealand	Existing preferential access under Australia-New Zealand Closer Economic Trade Relations Agreement (ANZCERTA)		
Peru	1 year, extendable [*]	For independent technicians: 1 year, extendable For contractual service suppliers: 90 days, renewable to up to 1 year	1 year, extendable
Singapore	2 years, extendable for up to total of 14 years [*]	3 months [#]	3 months [#]
US[†]	2 years	2 years	-
Vietnam	3 years, extendable	6 months	1 year

^{*} Provided foreign nationals comprise not more than 20 per cent of employees in enterprise in Peru.

[#] Under existing bilateral arrangements with Singapore under the Singapore-Australia Free Trade Agreement

[†] Under E3 visa arrangements.