

ANNEX 4

SCHEDULE OF SPECIFIC COMMITMENTS ON THE MOVEMENT OF NATURAL PERSONS

THE PHILIPPINES

1. This Schedule applies to all sectors covered under the specific commitments of the Philippines in the Trade in Services Chapter of the AANZFTA. For greater certainty, this Schedule is not subject to obligations under Article 9 (Most-Favoured-Nation Treatment) of Chapter 8 (Trade in Services), and Article 11.3 and 11.4 (Schedules of Specific Commitments) of Chapter 8 (Trade in Services).

2. For the categories of persons set out in this Schedule, the Philippines specifies the following terms, conditions, limitations or qualifications in relation to the supply of a service by a service supplier of another Party through the presence of natural persons of a Party in the territory of the Philippines:

- a. The Philippines shall require a covered natural person of another Party seeking temporary entry and temporary stay under the terms and conditions set out in each category below to obtain an appropriate visa prior to entry pursuant to the Commonwealth Act No. 613 (*Philippine Immigration Act of 1940*), as amended.
- b. Pursuant to Article 40 of the Presidential Decree No. 442 (*Labor Code of the Philippines*), as amended and its Implementing Rules and Regulations, non-resident aliens may be admitted to the Philippines for the supply of a service after a determination of the non-availability of a person in the Philippines who is competent, able and willing at the time of application, to perform the services for which the alien is desired.
- c. Pursuant to Section 14, Article XII of the *1987 Philippine Constitution*, the practice of all professions in the Philippines shall be limited to Filipino citizens, save in cases prescribed by law. If the activity or undertaking of the natural person constitutes the practice of a regulated profession under the Philippines' laws and regulations, the natural person must secure a special permit to practice the regulated profession from the Professional Regulation Commission pursuant to Section 7(j) of the Republic Act No. 8981 (*PRC Modernization Act of 2000*), and obtain an alien employment permit (AEP) from the Department of Labor and Employment (DOLE) pursuant to Article 40 of the *Labor Code of the Philippines*, as amended. The natural person shall likewise comply with the requirements relative to the practice of profession by a foreign national as provided for in the appropriate professional regulatory law.
- d. In activities expressly reserved by law to citizens of the Philippines, (i.e. foreign equity participation is limited to a minority share) all executive and managing officers must be citizens of the Philippines. The number of non-Filipino citizens in the Board of Directors of an entity shall be proportionate to the aggregate share of foreign capital to that entity.

- e. For the telecommunications sector, individual service suppliers must be Filipino citizens. The number of non-Filipino citizens in the Board of Directors of an entity shall be proportionate to the aggregate share of foreign capital to that entity. All executives and managers must be citizens of the Philippines.
- f. For banking services, unbound except as indicated in the Philippines' Schedule in Annex 2 (Schedules of Specific Commitments for Services). A non-Filipino citizen employed as officer or assigned to do technical functions shall have two Filipino citizens as understudies.
- g. For all insurance and insurance related services, only aliens qualified to hold technical positions may be employed within the first five years of operation of the enterprise, and their temporary stay not to exceed five years upon entry. Each employed alien shall have at least two Filipino citizens as understudies.
- h. For transport services, only aliens qualified to hold technical positions may be employed within the first five years of operation of the enterprise, their temporary stay not to exceed five years upon entry. Each employed alien shall have two Filipino citizens as understudies. For specialised vessels, aliens may be employed as supernumeraries only for a period of six months.
- i. All measures relating to permanent residents are unbound. The Philippines reserves the right to enact laws on the treatment of permanent residents of foreign countries. Until such time as the Philippines enacts the said laws, the obligations of the Philippines with respect to permanent residents of the other Parties shall be limited to the Philippines' obligations under GATS.
- j. In this Schedule, reference is made to the *1987 Philippine Constitution*, hence, commitments are to be construed in accordance with the *1987 Philippine Constitution*.

Description of Category	Conditions and Limitations (including length of stay)
<p>1. Business Visitors</p> <p>Natural persons who enter the Philippines for the purpose of participating in business contracts including negotiations for the sale of goods or services, or other similar activities including those to prepare for establishing commercial presence in the Philippines, without acquiring remuneration from the Philippines and without engaging in the supply of services.</p>	<p>Entry and temporary stay shall be granted to a natural person of each Party, who stays in the Philippines for an initial period of 59 days, which may be extended every two months thereafter for a total period of stay of one year.</p>
<p>2. Intra-corporate Transferees</p>	

Description of Category	Conditions and Limitations (including length of stay)
<p>A natural person of each Party who is a manager, executive or person with specialized technology or knowledge, who has been employed by a juridical person that supplies services and/or has established commercial presence in each Party's territory and who is being transferred to its branch, subsidiary, affiliate, representative office or joint venture partner in the Philippines.</p>	<p>Entry and temporary stay for one year, which may be extended.</p>
<p>3. Investors engage in the following:</p> <p>(a) activities to invest in business in the Philippines and manage such business;</p> <p>(b) activities to manage business in the Philippines on behalf of a person other than that of the Philippines who has invested in such business; or</p> <p>(c) conduct of business in the Philippines in which a person other than that of the Philippines has invested.</p>	<p>Entry and temporary stay for a period of one year, which may be extended, shall be granted to a natural person of each Party who engage in any of these activities.</p>

Description of Category	Conditions and Limitations (including length of stay)
<p>4. Natural Persons of each Party who Engage in Supplying Services, which Require Technology or Knowledge at an Advanced Level or which Require Specialized Skills belonging to Particular Fields of Industry, on the Basis of a Contract with Public or Private Organizations in the Philippines.</p> <p>Technical, Advisory or Supervisory position does not include skilled labor, and does not involve the practice of regulated profession as defined under the laws and regulations of the Philippines except for professionals covered in the schedule of commitments under the professional services in the Trade in Services Chapter, subject to the issuance of Special Permit by the Professional Regulation Commission and Alien Employment Permit by the Department of Labor and Employment pursuant to Section 7(j) of the PRC Modernization Act of 2000 and the applicable regulatory laws for each profession.</p>	<p>Entry and temporary stay for a period of one year, which may be extended, shall be granted to a natural person of a Party who occupy a technical, advisory or supervisory position on the basis of a personal contract with a public or private organization in the Philippines.</p>

Description of Category	Conditions and Limitations (including length of stay)
<p>5. Natural Persons of Each Party who Engage in Professional Service under a Twinning or Bridging Program Done Through an Accredited Higher Education Institution in the Philippines by a Foreign Higher Education Provider</p> <p>A natural person of each Party who is a Specialist with knowledge at an advanced level in the fields of agriculture, industrial, environment and natural resources management, engineering, architecture, science and technology, nursing and midwifery, curriculum development and enhancement, library and laboratory enrichment and cultural exchange in the fields of agriculture, industrial, environment and natural resources management, engineering, architecture, science and technology and health-related programs on the basis of a contract with public or private Higher Education Institution in the Philippines.</p>	<p>Entry and temporary stay for a period of one year, which may be extended.</p>