

ANNEX 4

SCHEDULE OF SPECIFIC COMMITMENTS ON THE MOVEMENT OF NATURAL PERSONS

VIET NAM

1. The following sets out Viet Nam's commitments under Chapter 9 (Movement of Natural Persons) in respect of the temporary movement of natural persons of a Party in the territory of Viet Nam.
2. Viet Nam may adopt or maintain any limitations including economic needs testing and labour market testing on temporary movement of natural persons specific commitments in this Schedule, subject to its laws and regulations.
3. References to "CPC" in this Annex refers to the provisional CPC codes as used in 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).

Description of Category	Conditions and Limitations (including length of stay)
A. Intra-Corporate Transferees	
<p>Managers, executives and specialists, as defined hereunder, of a foreign enterprise which has established a commercial presence in the territory of Viet Nam, temporarily moving as intra-corporate transferees to that commercial presence and who have been previously employed by the foreign enterprise for at least one year.</p> <p>Managers and executives are those who primarily direct the management of the foreign enterprises which have established commercial presence in Viet Nam, receiving only general supervision or direction from the board of directors or stockholders of the business or their equivalent, including directing the establishment or a department or subdivision of the establishment, supervising and controlling the work of other supervisory, professional or managerial employees, having the authority personally to hire and fire or recommend hiring, firing or other personnel actions, and who do not directly perform tasks concerning the actual supply of the services of the establishment.</p>	<p>Intra-Corporate Transferees shall be granted entry and a stay permit for an initial period of three years which may be extended subject to the term of operation of those entities in Viet Nam. At least 20 per cent of the total number of managers, executives and specialists shall be Vietnamese nationals. However, a minimum of three non-Vietnamese managers, executives and specialists shall be permitted per enterprise.</p>

Description of Category	Conditions and Limitations (including length of stay)
<p>Specialists are natural persons working within an organization who possess knowledge at an advanced level of expertise and with knowledge of the organization's services, research equipment, techniques or management. In assessing such knowledge, account will be taken not only of knowledge specific to the commercial presence, but also of whether the person has a high level of skills or qualification referring to a type of work or trade requiring specific technical knowledge. Specialists may include, but are not limited to, members of licensed professions.</p>	
<p>B. Other Personnel</p>	
<p>Managers, executives and specialists, as defined in (A) above, who cannot be substituted by Vietnamese and who are employed outside Viet Nam's territory by a foreign enterprise which has established a commercial presence in the territory of Viet Nam with a view to participating in the foreign enterprise's activities in Viet Nam.</p>	<p>Other personnel shall be granted entry and a stay permit in conformity with the term of the concerned employment contract or for an initial period of three years whichever is shorter, which may be extended subject to the employment contract between them and the commercial presence.</p>
<p>C. Service Sales Persons</p>	
<p>Natural persons not based in the territory of Viet Nam and receiving no remuneration from a source located within Viet Nam, and who are engaged in activities related to representing a service provider for the purpose of negotiating for the sale of the services of that provider where: (i) such sales are not directly made to the general public; and (ii) the salesperson is not directly engaged in supplying the service.</p>	<p>The stay of Service sales persons is limited to a 90-day period.</p>

D. Persons Responsible for Setting Up a Commercial Presence	
Managers and executives (as defined in (a) above) within a juridical person, who are responsible for the setting up, in Viet Nam, of a commercial presence of a service provider of a Party when (i) these people are not engaged in making direct sales or supplying services; and (ii) the service provider has its principal place of business in the territory of a Party other than Viet Nam and has no other commercial presence in Viet Nam.	The stay of persons responsible for setting up a commercial presence is limited to a 90-day period.
E. Contractual Service Suppliers (CSS)	
Natural persons who are employees of a foreign enterprise having no commercial presence in Viet Nam.	<p>Contractual service suppliers (CSS) may enter and stay in Viet Nam for a period of 90 days or for the duration of the contract, whichever is less provided that the following conditions and requirements shall be applied:</p> <ul style="list-style-type: none"> – The foreign enterprise has obtained a service contract from a Vietnamese enterprise engaged in business operation in Viet Nam. The competent authority of Viet Nam must be able to establish the necessary procedures to guarantee the bona fide character of the contract. – These persons must possess: (a) a university degree or a technical qualification document demonstrating knowledge of an equivalent level; (b) professional qualifications where this is required to exercise an activity in the sector concerned pursuant to the laws and regulations of Viet Nam; and (c) at least five years of professional experience in the sector. – The number of these persons covered by the service contract shall not be larger than necessary to fulfil the contract, as it may be decided by the laws and regulations and requirement of Viet Nam. – These persons have been employed by the foreign enterprise having no commercial presence in Viet Nam for a period of no less than two years

	<p>and have met the requirements prescribed for "specialist" above.</p> <p>The entry of these persons is allowed for computer and related services (CP 841 845, 849) and engineering services (CPC 8672).</p>
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