

ANNEX IV
SCHEDULE OF SPECIFIC COMMITMENTS ON
TEMPORARY MOVEMENT OF NATURAL PERSONS

THE PHILIPPINES

1. This Schedule applies to specific sectors covered under the Philippines' Schedule in Annex II (Schedules of Specific Commitments for Services) in Chapter 8 (Trade in Services) and for greater certainty shall not be subject to obligations under Article 8.6 (Most-Favoured-Nation Treatment), paragraphs 3 and 4 of Article 8.7 (Schedules of Specific Commitments), and Article 8.10 (Transparency List).
2. For the categories of natural 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 a natural person of that other 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 on 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 II (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 the 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)
A. Business Visitor	
<p><u>Definition:</u></p> <p>A natural person seeking to enter or stay in the territory of the Philippines temporarily, whose remuneration and financial support for the duration of the visit is derived from outside of the Philippines:</p> <ul style="list-style-type: none"> (i) as a representative of a goods seller or service supplier, for the purpose of negotiating the sale of goods or supply of services or entering into agreements to sell goods or supply services for that goods seller or service supplier, where such negotiations do not involve direct sale of goods or supply of services to the general public; (ii) as an employee of a juridical person for the purpose of establishing an investment or setting up a commercial presence, for the juridical person in the territory of the Philippines; (iii) for the purpose of participating in business negotiations or meetings; or (iv) for the purpose of establishing an investment or setting up a commercial presence in the territory of the Philippines. 	<p>Temporary entry and temporary stay shall be granted to a Business Visitor of another Party, who stays in the Philippines for an initial period of 30 days, which may be extended.</p>
B. Intra-Corporate Transferees	
<p><u>Definition:</u></p> <p>A natural person who is an employee of a juridical person established in the territory of another Party, who is transferred temporarily for the supply of a service through commercial presence</p>	<p>Temporary entry and temporary stay shall be granted to an Intra-Corporate Transferee (i.e., Executive, Manager, and Specialist) of another Party, who stays in the Philippines for an initial period of 30 days, which may be extended.</p>

Description of Category	Conditions and Limitations (including length of stay)
<p>(either through a joint venture, representative office, branch, subsidiary or affiliate) in the territory of the Philippines, and who has been an employee of the juridical person, and who is:</p> <p>(i) an Executive: a natural person within the organisation who primarily directs the management of the organisation and 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 the service or services of the organisation;</p> <p>(ii) a Manager: a natural person within the organisation who primarily directs the organisation, department, or subdivision and exercises supervisory and control functions over other supervisory, managerial or professional staff; does not include first line supervisors unless employees supervised are professionals; does not include employees who primarily perform tasks necessary for the provision of the service; or</p> <p>(iii) a Specialist: a natural person within the organisation who possesses knowledge at an advanced level of expertise essential to the establishment or provision of the service, or possesses proprietary knowledge of the organisation's service, research equipment, techniques or management; may include members of a licensed profession.</p>	