

Annex 7  
Specific Commitments for the Movement of Natural Persons

Part 1  
Specific Commitments of Japan

A. Specific Commitments under Article 76

Japan may require a natural person of Viet Nam seeking entry and temporary stay under the terms 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 of Viet Nam

Entry and temporary stay for a period not exceeding 90 days, which may be extended, shall be granted to a natural person of Viet Nam who will stay in Japan without acquiring remuneration from within Japan and without engaging in making direct sales to the general public or in supplying services himself or herself, 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 of Viet Nam

1. Entry and temporary stay for a period of one or three years, which may be extended, shall be granted to a natural person of Viet Nam who:

- (a) has been employed by a public or private organization that supplies services or invests in Japan, for a period not less than one year immediately preceding the date of his or her application for the entry and temporary stay in Japan;
- (b) is being transferred to a branch or representative office of that public or private organization in Japan, or another public or private organization constituted or organized in Japan owned or controlled by or affiliated with the former public or private organization; and
- (c) will engage in one of the following activities during his or her temporary stay in Japan:
  - (i) activities to direct the branch or representative office as its head;

- (ii) activities to direct the latter public or private organization as its board member or auditor;
- (iii) activities to direct one or more departments of the latter public or private organization;
- (iv) activities which require technology or knowledge at an advanced level pertinent to physical sciences, engineering or other natural sciences, recognized under the status of residence of "Engineer" provided for in the Immigration Control and Refugee Recognition Act of Japan (Cabinet Order No. 319 of 1951); or
- (v) activities which require knowledge at an advanced level pertinent to human sciences, including jurisprudence, economics, business management, and accounting, or which require ideas and sensitivity based on culture of a country other than Japan, recognized under the status of residence of "Specialist in Humanities/International Services" provided for in the Immigration Control and Refugee Recognition Act of Japan.

Note: For the purposes of this Annex, a public or private organization is "affiliated" with another public or private organization 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 subparagraphs 1(c)(iv) and (v) mean activities in which the natural person may not be able to engage without the application of specialized technology or knowledge of natural or human sciences acquired by him or her by, in principle, completing college education (i.e. bachelor's degree) or higher education.

### Section 3

#### Natural Persons of Viet Nam Who Engage in Professional Services

Entry and temporary stay for a period of one or three years, which may be extended, shall be granted to a natural person of Viet Nam who is a legal, accounting, or taxation service supplier qualified under the laws and regulations of Japan and who will engage in one of the following activities during his or her temporary stay in Japan:

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

#### Section 4

##### Natural Persons of Viet Nam Who Engage in Business Activities Which Require Technology or Knowledge at An Advanced Level on the Basis of a Personal Contract with Public or Private Organizations in Japan

1. Entry and temporary stay for a period of one or three years, which may be extended, shall be granted to a natural person of Viet Nam who will engage in one of the following business activities of supplying services during his or her temporary stay in Japan on the basis of a personal contract with a public or private organization 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 of Japan; or

- (b) activities which require knowledge at an advanced level pertinent to human sciences, 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 of Japan.

2. Activities which require technology or knowledge at an advanced level pertinent to natural or human sciences referred to in subparagraphs 1 (a) and (b) mean activities in which the natural person may not be able to engage without the application of specialized technology or knowledge of natural or human sciences acquired by him or her by, in principle, completing college education (i.e. bachelor's degree) or higher education.

3. Entry and temporary stay shall be granted under subparagraph 1(a) to a natural person of Viet Nam who has not completed college education or higher education, provided that he or she has passed the examinations on information processing technology and will engage in activities referred to in the said subparagraph which require technology or knowledge pertaining to information processing.

4. The examinations referred to in paragraph 3 shall be those that are notified from the Government of Japan to the Government of Viet Nam.

#### Section 5 Natural Persons of Viet Nam Who Engage in Practicing Nursing

Entry and temporary stay shall be granted to a natural person of Viet Nam who has been qualified as a nurse under the laws and regulations of Japan (hereinafter referred to in this Section as "Kangoshi") to practice nursing for a period of one or three years, which may be extended within the period of seven years from the date of obtaining a license of "Kangoshi".

#### B. Issue for Further Negotiations under Article 79

Japan shall enter into negotiations with Viet Nam under the Sub-Committee on Movement of Natural Persons set up under Article 78 regarding the possibility of acceptance of Vietnamese qualified nurses and certified careworkers by Japan, with a view to reaching a conclusion of the negotiations within one year if possible, but not later than two years, after the entry into force of this Agreement.

Part 2  
Specific Commitments of Viet Nam

Note: For the purposes of Sections 1 through 4 of this Part, commitments of Viet Nam are limited to the sectors/sub-sectors included in the Schedule of Specific Commitments of Viet Nam in Annex 5.

Section 1  
Short-term Business Visitors of Japan

Entry and temporary stay shall be granted to natural persons of Japan who enter and stay in Viet Nam without receiving remuneration from a source located within Viet Nam, and who are engaged in activities related to representing a service supplier for the purpose of negotiating for the sale of the services of that supplier where: (i) such sales are not directly made to the general public; and (ii) the salesperson is not directly engaged in supplying the service. The duration of stay of these salespersons is limited to a 90-day period.

Section 2  
Intra-corporate Transferees of Japan

1. Managers and executives, and specialists, as defined in paragraphs 2 and 3 respectively, of an enterprise of Japan which has established a commercial presence in Viet Nam, temporarily moving as intra-corporate transferees to that commercial presence and who have been previously employed by the enterprise of Japan for at least one year, 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 that commercial presence in Viet Nam. At least 20 percent of the total number of managers and executives, and specialists shall be Vietnamese nationals. However, a minimum of three non-Vietnamese managers and executives, and specialists shall be permitted per enterprise.

2. Managers and executives are those who primarily direct the management of Japan's enterprises which have established a 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 commercial presence or a department or subdivision thereof, 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.

3. 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 natural 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.

4. Managers and executives, and specialists, as defined in paragraphs 2 and 3 respectively, who cannot be substituted by Vietnamese and who are employed outside Viet Nam by an enterprise of Japan which has established a commercial presence in Viet Nam with a view to participating in the Japanese enterprise's activities in Viet Nam, 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.

### Section 3

#### Natural Persons of Japan Who Engage in Business Activities on the Basis of a Contract with Public or Private Organizations in Viet Nam

Natural persons who are employees of a Japan's enterprise having no commercial presence in Viet Nam may enter and stay in Viet Nam for a period of 90 days or for the duration of the contract, whichever is shorter, provided that the following conditions and requirements shall be applied:

- (a) The Japan's enterprise has obtained a service contract from a Vietnamese enterprise engaged in business operations 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;
- (b) These natural persons must possess: (i) a university degree or a technical qualification document demonstrating knowledge of an equivalent level; (ii) professional qualifications where this is required to exercise an activity in the sector concerned pursuant to the laws and regulations of Viet Nam; and (iii) at least five years of professional experience in the sector;
- (c) The number of these natural persons covered by the service contract shall not be larger than necessary to fulfill the contract, as may be decided by the laws and regulations and requirement of Viet Nam;
- (d) These natural persons have been employed by the Japan's enterprise having no commercial presence in Viet Nam for a period of no less than two years and have met the requirements prescribed for "specialist" in paragraph 3 of Section 2; and
- (e) The entry and temporary stay of these natural persons is allowed for computer and related services (CPC 841-845, 849) and engineering services (CPC 8672).

Note: For the purposes of this paragraph, the term "CPC" and numbers that follow are references to 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).

Section 4  
Natural Persons of Japan Responsible for Setting Up  
a Commercial Presence

Entry and temporary stay shall be granted to managers and executives, as defined in paragraph 2 of Section 2, within a juridical person that is a service supplier of Japan, who are responsible for the setting up, in Viet Nam, of a commercial presence of the service supplier when (i) these people are not engaged in making direct sales or supplying services; and (ii) the service supplier has its principal place of business in Japan and has no other commercial presence in Viet Nam. The stay of these natural persons is limited to a 90-day period.

Section 5  
Natural Persons of Japan Who Engage in Practicing Nursing

Entry and temporary stay shall be granted to a natural person of Japan who has been qualified as a nurse under the laws and regulations of Viet Nam to practice nursing for an initial period of three years which may be extended in accordance with Viet Nam's relevant laws and regulations.