

REGIONAL MOVEMENT OF NATURAL PERSONS & LABOUR MOBILITY WORKSHOP

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Session 4: PACER Plus MNP Schedules



Richard Braddock
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www.lexbridgelawyers.com

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Overview

- I. Overview of commitments
- II. Detailed examination MNP Schedules
- III. Implications and opportunities

I. MNP Schedules: Overview of commitments

I.1 Overview of commitments

- PP Parties commitments on similar categories of persons
- All PIC Parties have made commitments on:
 - Business visitors
 - Intra-Corporate Transferees
 - Contractual service supplier
 - Independent Service Supplier
 - Installers or Servicers
 - Skilled or semi-skilled workers
- Some PICs have commitments in additional categories (trainees)
 - Very similar definitions of categories – some different conditions
- ANZ commitments similar categories – except not semi-skilled workers
 - AUS: not “installers and servicers”; NZ: not CSS

I.1 Overview of commitments

Labour market testing / economic needs test

- For many Parties, at least some commitments are subject to consideration of whether there are qualified local workers available to perform the activity
- Varies between Parties / categories
 - not generally for business visitors or installers & servicers
- Common for labour market testing requirement for:
 - Skilled or semi-skilled workers
 - Independent Service Supplier
 - Contractual service supplier
 - (Sometimes) Intra-Corporate Transferees
- Common for *extensions* of stay to be subject to availability local workers

I.1 Overview of commitments

What sectors do commitments cover?

- Variation between Parties whether commitments apply to:
 - All sectors
 - Only sectors subject to Services (and Investment) Commitments
 - Sectors subject to Services commitments with change (sectors added or removed)
- Most commitments business visitors & installers & servicers: all sectors
- Common for commitments to be limited (to bound Service sector) for:
 - Intra-Corporate Transferees;
 - Independent Service Supplier;
 - Contractual service supplier;
 - (Sometimes) Skilled or semi-skilled

I.2 Who do commitments apply to?

Business visitors

- Travel for business purposes
 - i. Service sellers: sales reps negotiating agreements
 - ii. Investor
 - iii. Negotiating sale of goods
(AUS: business negotiations / meetings)
- Service / goods sellers not selling directly to public (not paid in receiving country)
- Varies whether applies to all sectors or only sectors where Party made specific commitments
- Usually short term stay

**ANNEX 8-A SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)
SCHEDULE OF THE COOK ISLANDS**

1. The Cook Islands' commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. ..

Category of natural person	Sector or subsector	Conditions and Limitations (including length of stay)
<p><u>Business Visitors</u></p> <p>Business visitor means a natural person of another Party who is:</p> <p>(a) a service seller ... who is a sales representative of a service supplier of that Party and is seeking temporary entry ... for the purpose of negotiating the sale of services for that service supplier, ... not be engaged in making direct sales to the general public or in supplying services directly;</p> <p>(b) an investor of another Party, as defined in Chapter 9 (Investment), ... seeking temporary entry ... to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, ... seeking temporary entry ... to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>	<p>All sectors</p>	<p>Period of stay of one month, with possibility of extension for an additional two months</p>

I.2 Who do commitments apply to?

Intra-corporate transferees

- Person employed by enterprise of other Party - transferred to fill position in parent, branch, subsidiary or affiliate in receiving Party
- Applies to executives & senior managers + specialists
- Conditions vary: some subject to employer sponsorship requirements / non-availability local workers
- Duration varies: generally minimum 1 yr.

**ANNEX 8-A SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)
SCHEDULE OF KIRIBATI**

1. Kiribati's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Article 4 (Grant of Temporary Entry) of Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. ..

Category of natural person	Sector or subsector	Conditions and Limitations (including length of stay)
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another party that has been established in Kiribati through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Kiribati and who corresponds to the following categories:</p> <p>Executives: ...</p> <p>Managers: ...</p> <p>Specialists: ...</p>	<p>All sectors listed in Kiribati's schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment)</p>	<p>Entry and stay of such a natural person is subject to employer sponsorship.</p> <p>Employer sponsorship requirements for this category include minimum skills levels and sponsorship by a bona fide business operating lawfully and actively in Kiribati. Approval is conditional on the non-availability of Kiribati citizens or permanent residents with the requisite skills and professional experience for such employment.</p> <p>Entry is for an initial period of stay for one year with possibility of renewal.</p>

I.2 Who do commitments apply to?

Contractual Service Suppliers

- Person who is:
 - (a) employee of enterprise of another Party - contract to supply service in receiving Party;
 - (b) Sponsored by enterprise in receiving Party
 - (c) No com. Presence in receiving Party
 - (d) Remuneration from employer (outside receiving Party)
- Generally requires post-secondary degree
- Conditions vary: some subject to non-availability local workers
- Note: Aus CSS includes independent service suppliers
- Duration of stay: generally: 12 mths

**ANNEX 8-A SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)
SCHEDULE OF NIUE**

1. Niue's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below ..

Category of natural person	Sector or subsector	Conditions and Limitations (including length of stay)
<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural person of another Party who: (a) is an employee of an enterprise of another Party, ... who enters ... to perform a service pursuant to a contract between his or her employer and an enterprise in the territory of Niue; (b) is employed by an enterprise of another Party, which has no commercial presence in the territory of Niue ...; (c) receives his or her remuneration from that employer; (d) is sponsored by that enterprise in Niue; (e) has a qualification resulting from three or more years of formal post-secondary school education and has the appropriate experience to provide the service.</p>	<p>All subsectors listed in Niue's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of one year. This may be extended for another year, if there are no Niue citizens or permanent residents with the requisite skills and professional experience for such employment.</p>

2. Who do commitments apply to?

Independent Service Supplier

- Independent service supplier with contract to perform service in receiving Party
- Advanced skills
- Conditions vary: some subject to non-availability local workers
- Duration of stay varies – generally min. 12 months
- Note: AUS ISS combined with CSS

**ANNEX 8-A SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)
SCHEDULE OF SAMOA**

1. Samoa's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below ..

Category of natural person	Sector or subsector	Conditions and Limitations (including length of stay)
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self- employed natural person with advanced technical or professional skills, working under a valid contract to perform a service in Samoa, and being the sole recipient of remuneration for the service supplied under the contract.</p>	<p>All sectors listed in Samoa's schedule under Annex 7-A (Schedule of Specific Services Commitments), except:</p> <ul style="list-style-type: none"> - International maritime transport in Samoan flagged vessels. 	<p>Admission will be granted after consideration of Samoan citizens or permanent residents with requisite technical skills or professional experience available for such employment.</p> <p>Entry and stay of persons named in this category is one year maximum.</p>

2. Who do commitments apply to?

Installers & Services

- Installer or servicer of machinery or equipment, where installation or servicing is a condition of purchase
 - must not perform any other services
- Period of stay: generally short term

**ANNEX 8-A SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)
SCHEDULE OF SOLOMON ISLANDS**

1. Solomon Islands' commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. ..

Category of natural person	Sector or subsector	Conditions and Limitations (including length of stay)
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person of another Party who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>	<p>All sectors</p>	<p>Period of stay up to a maximum of 90 days within any one year period. Stay beyond 90 days is conditional on the non-availability of Solomon Island citizens or permanent residents with the requisite skills and professional experience available for such employment.</p>

2. Who do commitments apply to?

Skilled or semi-skilled workers

- person who enters territory another Party to work temporarily under employment contract with enterprise in receiving country
 - Requires degree of equivalent post-secondary qualifications
- Conditions vary: most PICs - subject to non-availability local workers
 - Note: ANZ not make commitments in this category
- Period of stay: generally at least 1 yr

**ANNEX 8-A SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)
SCHEDULE OF TONGA**

1. Tonga's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. ..

Category of natural person	Sector or subsector	Conditions and Limitations (including length of stay)
<p><u>Skilled or semi-skilled workers</u></p> <p>Skilled or semi-skilled worker means a natural person of another Party who enters the territory of Tonga in order to work temporarily under an employment contract with an enterprise in Tonga, that is sponsored by an enterprise in Tonga, and who has a qualification resulting from three or more years of formal post-secondary school education and appropriate experience for that employment.</p>	<p>All sectors</p>	<ul style="list-style-type: none"> - Period of stay of six months, which can be extended for an additional six months. - Further stay, up to two additional years, may be granted where there are no Tongan citizens or permanent residents with the requisite skills and professional experience for such employment.

II. Detailed examination MNP Schedules: Implications & opportunities

Thank you