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ANU CENTRE FOR EUROPEAN STUDIES

Services trade mode 4 movement of (natural) persons

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Services trade: modes of delivery

Cross-cutting issues:

Mode 3: Commercial presence

(mainly investment issues?)

Mode 4: Movement of (natural) persons

Visa requirements

Qualifications and licensing

(also mode 1: cross-border trade)

Movement of (natural) persons

GATS obligations*:

- Service suppliers (self-employed persons)
- Employees of a service provider

Does not cover permanent employment or residence

Joint Initiative on Services Domestic regulation (Geneva, 2 Dec 2021)#:

- to streamline licensing / qualification requirements
 - indirect impact on access to visas

* https://www.wto.org/english/tratop_e/serv_e/serv_e.htm
https://www.wto.org/english/tratop_e/serv_e/jsdomreg_e.htm

Movement of persons

Recent WTO study

- 183 RTAs covering services (115 WTO members)
 - to end 2021
 - 100 include mode 4 disciplines
 - More frequent after 2004
- But looks only at formalities
 - Mainly re transparency (97%) and application procedures (86%)
 - But also dispute settlement (70%)

Migration background: 2020

- Large **global** labour and refugee migrant flows
 - 281m int'l migrants
 - 3.6% of population
- In Europe (incl Russia)

Western Europe
33m
16.9%

 - 87m int'l migrants
 - 11.6% of population
- In Australia
 - 8m int'l migrants
 - 30.1% of population

Migration issues

- Labour mobility
 - importance of factor mobility in trade theory
 - domestic concerns re “taking jobs”
 - employer concerns re labour supply
- Refugees
(UK’s hostile environment)
- Migrants and their families
 - temporary vs permanent migration
(remittances)
 - spouses and children; aged parents

CPTPP text provisions (AU)

Temporary entry for business purposes
i.e. not re general entry / immigration

Processing and fees

Must also meet MR and licensing requirements

Transparency / publication

Dispute settlement

only if pattern of practice

Various conditions:

not impact on labour disputes

Text is very general; AU schedule (12-A)

CPTPP: Ch 12 – AU commitments

Business visitors	Max 3 month stay
Service sellers	Initially 6 months; max 12 months
Installers and service [*] s _{stay can be extended}	Max 3 month stay
Intra-corporate transferees executives / senior managers specialists	Must be employer sponsored stay up to 4 years* stay up to 2 years* Spouse and dependents for same period
Independent executives	Must be employer sponsored stay up to 2 years Spouse and dependents for same period
Contract service suppliers	Must be employer sponsored stay up to 12 months* Spouse and dependents for same period

* Stay can be extended

Which treaties?

“The CPTPP was notable at the time for going beyond the then existing requirements for services suppliers under Mode 4 of the General Agreement on Trade in Services”

AUKFTA provisions “build on and extend” those in CPTPP.

EU demand presented in October 2018.

EU demands cf AU and NZ

- 4 proposed articles
- Scope: business visitors; contractual service suppliers; independent professionals; intra-corporate transferees
highly specified, e.g. level within company; other sources of income; time with current employer; duration of professional experience; qualifications
- Exception – labour disputes/negotiations
- Visa term:
 - 3 years: managers and specialists;
 - 12 months: trainees; and
 - 6 months: service suppliers and independent professionals (no limits on numbers);
 - 3 months: short-term visitors (establishment)
- Transparency (ie publicly available information)

AUKFTA details

- short-term visitors (establishment): 3 of 6 mths
- installers and servicers: 3 months
- service sellers: 6 of 12 months
- **investors: 12 months**
- transferees - managers and specialists: 4 years
- independent professionals; contract service suppliers: 4 years
limited by positive list of industries, differing between independent executives and contract service suppliers
- Most must be employer sponsored.

AUKFTA details

- short-term visitors (establishment); installers and servicers: 3 months
- service sellers: 6 of 12 months
- transferees - managers and specialists: 4 years
- independent executives; contract service suppliers: 4 years

BUT limited by positive list of industries which differs depending on whether UK has commercial presence in Australia or not.

- Most must be employer sponsored.

Finding your mode 4 AU visa?

Search for working in Australia visas indicates:

- All information designed for Australian employers or potential immigrants
- But corporate transfers must have been going on for decades

AU visa categories

Search for “employer nominated”

- Most visa categories were permanent
- None appeared to reflect CPTPP commitments (or AUKFTA commitments)

Search for CPTPP – no results

Search for United Kingdom – tourist visas (3), working holidays (4), graduates (3), innovation, training

AU reasonable fees: working visas

Temporary:

482 (from \$1,330, \$2,770); 485 (from \$1,730);
476 (from \$425);
489 (from \$375 – but from \$4,240 for family members)
188 (from \$6,270) (for investors)

Permanent:

186, 187, 189, 190 (from \$4,240); 887 (from \$435)

Family members of 457 and TSS – from \$1,330

AU – what about your family?

Join AU citizen/resident spouse:

300 / 801 /820: \$7,850- \$8,085

Parent joining AU citizen/resident child:

103 \$6,625 wait time up to 30 years

114 \$6,625 wait time up to 50 years

143 from \$47,955 + assurance of support

Using Mode 4 treaty commitments

Need for clear guides:

- what visa category to apply for
 - fees
 - family members
- Recognition of qualifications
- Licensing requirements

Analysis:

Comparison of visa commitments in treaties cf normally available visas.

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