

CHAPTER 10
MOVEMENT OF NATURAL PERSONS

ARTICLE 10.1: SCOPE

1. This Chapter shall apply to measures affecting the movement of natural persons of a Party into the territory of the other Party under any of the categories referred to in Annex 10-A.
2. This Chapter shall not apply to measures affecting natural persons of a Party seeking access to the employment market of the other Party, nor shall it apply to measures regarding citizenship, nationality, or residence or employment on a permanent basis.
3. Nothing contained in this Agreement shall prevent a Party from applying measures to regulate the entry or temporary stay of natural persons of the other Party in its territory, including measures necessary to protect the integrity of its territory and to ensure the orderly movement of natural persons across its borders, provided such measures are not applied in such a manner as to nullify or impair the benefits accruing to the other Party under this Chapter.¹

ARTICLE 10.2: DEFINITIONS

For the purposes of this Chapter:

- (a) **immigration measure** means any measure² affecting the entry and stay of foreign nationals in a Party;
- (b) **immigration formality** means a visa, permit, pass or other document or electronic authority granting a natural person of a Party temporary entry to the other Party;
- (c) **natural person of a Party** means a natural person who under the law of the Party,
- (i) for Australia, is an Australian citizen or a permanent resident of Australia; and

¹ The sole fact that a Party requires natural persons of the other Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to that other Party under this Chapter.

² “Measure” means any measure, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form.

第10章 自然人移动

第10.1条 范围

1. 本章适用于影响一方自然人根据附件10-A中所述类别进入另一方领土的措施。
2. 本章不适用于影响一方自然人寻求进入另一方就业市场的措施，也不适用于关于国籍、国籍或永久性就业的措施。
3. 本协议的任何内容均不得阻止一方采取措施以规范另一方自然人进入其领土或临时居留，包括保护其领土完整和确保自然人有序跨境流动所必需的措施，但前提是此类措施不得以使另一方在本章项下产生的利益归于无效或受损的方式实施。¹

ARTICLE 10.2: DEFINITIONS

For the purposes of this Chapter:

- (a) 移民措施是指影响缔约方法国人在缔约方境内入境和停留的任何措施²；
- (b) 移民手续是指向缔约方自然人发放签证、许可证、通行证或其他文件或电子授权，以使其临时入境缔约方另一方；
- (c) 缔约方法人是指根据缔约方法律，
- (i) 对于澳大利亚，是澳大利亚公民或澳大利亚永久居民；以及

¹ 仅因一方要求另一方自然人办理移民手续，不应被视为使该另一方在本章节项下应享有的利益失效或受损。

² “措施”是指任何形式的措施，无论是法律、法规、规则、程序、决定、行政行为或任何其他形式。

- (ii) for China, is a natural person who under Chinese law is a national of China;
- (d) **temporary employment entry** means entry by a natural person of a Party, including a skilled worker, into the territory of the other Party in order to temporarily work under an employment contract concluded pursuant to the law of the receiving Party, without the intent to establish permanent residence; and
- (e) **temporary entry** means entry by a natural person covered by this Chapter, including, where relevant, temporary employment entry, without the intent to establish permanent residence.

ARTICLE 10.3: EXPEDITIOUS APPLICATION PROCEDURES

1. Each Party shall expeditiously process complete applications for immigration formalities received from natural persons of the other Party covered by this Chapter, including further immigration formality requests or extensions thereof.
2. Each Party shall, on request and within a reasonable period after a complete application by a natural person of the other Party covered by this Chapter requesting temporary entry is lodged, notify the applicant, either directly or through their authorised representative, of:
 - (a) receipt of the application;
 - (b) the status of the application; and
 - (c) where a decision has been made, the decision concerning the application, including:
 - (i) if approved, the period of stay and other conditions; or
 - (ii) if refused, the reasons for refusal.
3. The Parties affirm their voluntary commitments established in the *APEC Business Travel Card Operating Framework*.
4. Each Party shall ensure that fees charged by its competent authorities in respect of the processing of an immigration formality are reasonable and do not in themselves represent an unjustifiable impediment to the movement of natural persons of the other Party under this Chapter.
5. Each Party shall endeavour, to the extent possible, to provide facilities for online lodgement and processing of immigration formalities.

(ii)对于中国, 是根据中国法律的中国公民;

(d) 临时就业入境是指缔约方一方的自然人, 包括技术工人, 进入另一方领土, 根据接受方的法律签订雇佣合同, 暂时工作, 且无意建立永久居留权; 以及

(e) 临时入境是指根据本章涵盖的自然人入境, 包括在相关情况下临时就业入境, 且无意建立永久居留权。

第10.3条: 快速申请程序

1. 每一方应迅速处理根据本章涵盖的自然人提交的完整移民手续申请, 包括进一步的移民手续请求或其延期。
2. 每一方应在根据本章涵盖的自然人提交完整申请请求临时入境后, 在合理期限内, 直接或通过其授权代表通知申请人:
 - (a) 收到申请; (b) 申请状态; 以及(c) 如已做出决定, 则包括关于申请的决定, 包括: (i) 如获批准, 则包括停留期限和其他条件; 或(ii) 如被拒绝, 则包括拒绝理由。
3. 各缔约方重申其在亚太经合组织商务旅行卡操作框架中建立的自愿承诺。
4. 每一缔约方应确保其主管当局在处理移民手续方面收取的费用是合理的, 并且本身不构成对根据本章规定另一方自然人移动的不合理障碍。
5. 每个缔约方应尽其所能, 提供在线办理和移民手续的便利设施。

ARTICLE 10.4: GRANT OF TEMPORARY ENTRY

1. Each Party shall set out in Annex 10-A the specific commitments it undertakes for each of the categories of natural persons specified therein. The Parties may make commitments in respect of the temporary employment entry of natural persons.
2. Where a Party makes a commitment under paragraph 1, it shall grant temporary entry or extension of temporary stay to natural persons of the other Party to the extent provided for in that commitment, provided that those natural persons:
 - (a) follow the prescribed application procedures for the relevant immigration formality; and
 - (b) meet all relevant eligibility requirements for such temporary entry.
3. In respect of the specific commitments on temporary entry in this Chapter, unless otherwise specified in Annex 10-A, neither Party shall:
 - (a) impose or maintain any limitations on the total number of visas to be granted to natural persons of the other Party; or
 - (b) require labour market testing, economic needs testing or other procedures of similar effect as a condition for temporary entry.
4. Each Party shall limit any fees for processing applications for temporary entry of natural persons in a manner consistent with Article 10.3.
5. Temporary entry granted in accordance with this Chapter does not replace the requirements needed to carry out a profession or activity according to the applicable laws and regulations in force in the territory of the Party authorising the temporary entry.

ARTICLE 10.5: TRANSPARENCY

Further to the commitments in Chapter 13 (Transparency), each Party shall:

- (a) provide to the other Party such materials as will enable it to become acquainted with that Party's measures relating to this Chapter;
- (b) no later than six months after the date of entry into force of this Agreement, prepare, publish on the internet where possible or, if not, otherwise make publicly available in a consolidated manner, explanatory material, relevant forms and documents, and average processing times

第10.4条：临时入境的授予

1. 每个缔约方应在附件10-A中列明其针对其中所规定的各类自然人类别所做出的具体承诺。缔约方可以对自然人的临时就业入境做出承诺。
2. 当一方根据第1段作出承诺时，应向另一方自然人授予临时入境或延长临时居留，其程度应在该承诺中规定，前提是这些自然人：
 - (a) 遵循与相关移民手续相关的规定申请程序；以及 (b) 满足此类临时入境的所有相关资格要求。
3. 关于本章中关于临时入境的具体承诺，除非附件10-A中另有规定，任何一方均不得：
 - (a) 对授予另一方自然人的签证总数施加或维持任何限制；或 (b) 要求劳动力市场测试、经济需求测试或其他具有类似效果的程序作为临时入境的条件。
4. 每一方应当以符合第10.3条的方式限制对自然人临时入境申请的处理费用。
5. 根据本章授予的临时入境不得取代在授权临时入境的一方领土内有效的适用法律法规中执行职业或活动所需的要求。

ARTICLE 10.5: TRANSPARENCY

根据第13章（透明度）中的承诺，每一方应当：

- (a) 向另一方提供其能够了解该另一方与本章节相关的措施的材料；(b) 在本协议生效之日起六个月内，准备、在可能的情况下在互联网上发布，或若无法发布，则以合并方式以其他方式公开展示说明材料、相关表格和文件以及平均处理时间

regarding temporary entry under this Chapter in such a manner as will enable natural persons of the other Party to become acquainted with them;

- (c) establish or maintain appropriate mechanisms to respond to enquiries from interested persons regarding measures relating to temporary entry covered by this Chapter; and
- (d) upon modifying or amending an immigration measure that affects the temporary entry of natural persons, ensure that such modifications or amendments are promptly published or otherwise made available pursuant to subparagraph (b).

ARTICLE 10.6: COMMITTEE ON MOVEMENT OF NATURAL PERSONS

1. The Parties hereby establish a Committee on Movement of Natural Persons that shall meet within two years of entry into force of this Agreement, or as agreed by the Parties or on the request of the FTA Joint Commission, to consider any matter arising under this Chapter.

2. The Committee's functions shall include:

- (a) reviewing the implementation and operation of this Chapter; and
- (b) identification and recommendation of measures to promote increased movement of natural persons between the Parties; and to improve the commitments undertaken by the Parties under this Chapter, on a mutually advantageous basis.

ARTICLE 10.7: DISPUTE SETTLEMENT

1. The Parties shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect the operation of this Chapter.

2. The dispute settlement procedures in Chapter 15 (Dispute Settlement) shall not apply to this Chapter unless:

- (a) the matter involves a pattern of practice; and
- (b) the natural persons of a Party concerned have exhausted administrative remedies, where available, regarding the particular matter.

关于本章节下的临时入境，以使另一方的自然人能够了解这些内容；

(c) 建立或维持适当的机制，以回应有关本章节涵盖的临时入境措施的相关方提出的询问；以及 (d) 在修改或修订影响自然人临时入境的移民措施时，确保此类修改或修订按照第 (b) 段的规定及时公布或以其他方式提供。

第 10.6 条：自然人移动委员会

1. 缔约方特此设立自然人移动委员会，该委员会应在本协议生效之日起两年内召开，或经缔约方同意，或应自由贸易协定联合委员会的要求召开，以审议在本章节下出现的任何事项。

2. 该委员会的职能应包括：

(a) 审查本章节的实施和运作；以及 (b) 确定并建议促进缔约方之间自然人增加流动的措施；并在互利基础上，改善缔约方在本章节下所做的承诺。

第10.7条：争端解决

1. 缔约方应通过合作和协商，尽一切努力就任何可能影响本章运作的事项达成双方均满意的解决方案。

2. 第15章（争端解决）中的争端解决程序不适用于本章，除非：

(a) 该事项涉及一种惯常做法；以及 (b) 有关缔约方的自然人已就特定事项穷尽行政救济措施（如有的话）。

3. The remedies referred to in paragraph 2(b) shall be deemed to be exhausted if a final determination in the matter has not been issued within one year after the date of the institution of proceedings (not including any review or appeal) for such remedy, and the failure to issue such a determination is not attributable to delays caused by the natural persons concerned.

ARTICLE 10.8: RELATION TO OTHER CHAPTERS

1. Except for this Chapter, Chapters 1 (Initial Provisions and Definitions), 13 (Transparency), 14 (Institutional Provisions), 15 (Dispute Settlement), 16 (General Provisions and Exceptions), and 17 (Final Provisions), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures within the scope of this Chapter.

2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

3. 第2(b)段所述的救济措施应被视为已穷尽，如果在启动诉讼（不包括任何复审或上诉）之日起一年内未就该事项作出最终裁决，且未作出该裁决是由于有关自然人造成的延误所致。

第10.8条：与其他章节的关系

1. 除本章外，第一章（初始条款和定义）、第13章（透明度）、第14章（机构条款）、第15章（争端解决）、第16章（一般条款和例外）和第17章（最终条款），本协议的任何规定均不得在任何方在本章范围内的移民措施方面对其施加任何义务。

2. 本章任何内容均不得解释为对本协议其他章节施加义务或承诺。

ANNEX 10-A
SPECIFIC COMMITMENTS ON THE MOVEMENT OF NATURAL PERSONS

Section A: Australia’s Specific Commitments

1. Australia requires a natural person of China seeking temporary entry to its territory under the provisions of Chapter 10 (Movement of Natural Persons) and this Annex to obtain appropriate immigration formalities prior to entry. Grant of temporary entry in accordance with this Annex is contingent on meeting eligibility requirements contained within Australia’s migration law and regulations, as applicable at the time of an application for grant of temporary entry. Eligibility requirements for grant of temporary entry in accordance with paragraphs 5 through 11 of this Annex include, but are not limited to, employer nomination and occupation requirements.

BUSINESS VISITORS OF CHINA

2. Entry and temporary stay shall be granted to business visitors of China referred to in paragraph 4(a) for a period of up to 90 days.

3. Entry and temporary stay shall be granted to business visitors of China referred to in paragraph 4(b) for a period of up to six months, with the possibility of further stay for up to one year.

4. A business visitor of China means a natural person of China who is:
- (a) seeking to travel to Australia for business purposes, including for investment purposes, whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia, and who must not engage in making direct sales to the general public or in supplying goods or services themselves; or
 - (b) a service seller, who is a natural person not based in Australia whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia, and who is a sales representative of a service supplying enterprise, seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service supplying enterprise.

附件10-A 自然人移动的具体承诺

第A节：澳大利亚的具体 承诺

1. 澳大利亚要求根据第10章（自然人移动）和本附件的规定寻求临时入境其领土的中国自然人，在入境前必须获得适当的移民手续。根据本附件授予临时入境，取决于在申请授予临时入境时澳大利亚移民法和法规中包含的资格要求。根据本附件第5至11段的条款授予临时入境的资格要求包括但不限于雇主提名和职业要求。

中国的商务访客

2. 应根据第4(a)段所述，向中国的商务访客发放入境许可和临时居留许可，期限最长为90天。

3. 应根据第4(b)段所述，向中国的商务访客发放入境许可和临时居留许可，期限最长为六个月，并有可能进一步居留最长一年。

4. 中国商务访客是指：
- (a) 希望因商业目的（包括投资目的）前往澳大利亚旅行，其访问期间的报酬和财务支持必须来源于澳大利亚境外，且不得从事向普通公众进行直接销售或自行提供商品或服务的行为；或
 - (b) 服务销售者，即非澳大利亚居民的自然人，其访问期间的报酬和财务支持必须来源于澳大利亚境外，并且是服务供应企业的销售代表，为该服务供应企业谈判销售服务或签订服务销售协议而寻求临时入境。

INTRA-CORPORATE TRANSFEREES OF CHINA

5. Entry and temporary stay shall be granted to intra-corporate transferees of China referred to in paragraph 6(a), (b) and (c) for a period of up to four years, with the possibility of further stay.

6. An intra-corporate transferee of China means an employee of an enterprise of China established in Australia through a branch, subsidiary or affiliate which is lawfully and actively operating in Australia, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Australia, and who is:

- (a) an executive or a senior manager, who is a natural person responsible for the entire or a substantial part of the operations of the enterprise in Australia, receiving general supervision or direction principally from higher-level executives, the board of directors or stockholders of the enterprise, including directing the enterprise or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the enterprise; or
- (b) a specialist, who is a natural person with advanced trade, technical or professional skills and experience who must be assessed as having the necessary qualifications, or alternative credentials accepted as meeting Australia's standards, for that occupation, and who must have been employed by the employer for not less than two years immediately preceding the date of the application for temporary entry.
- (c) a manager, who is a natural person within an enterprise who primarily directs the enterprise or a department or subdivision of the enterprise, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorisation), and exercises discretionary authority over day-to-day operations. This does not include a first-line supervisor unless the employees supervised are professionals.

INDEPENDENT EXECUTIVES OF CHINA

7. Entry and temporary stay shall be granted to independent executives of China for a period of up to four years.

8. An independent executive of China means an executive of an enterprise headquartered in China who is establishing a branch or subsidiary of that enterprise in Australia, and who is a natural person that will be responsible for the entire or a

中国内部调动人员

5. 对第6(a)、(b)和(c)段所述的中国内部调动人员，应授予其最长四年的入境和临时居留资格，并有可能进一步居留。

6. 中国内部调动人员是指在中国通过分支机构、子公司或关联公司在澳大利亚合法且积极运营的企业中工作的雇员，该雇员被调派到该企业在澳大利亚的分支机构、子公司或关联公司担任职位，并且该雇员是：

(a) 高管或高级管理人员，作为自然人，负责企业全部或大部分在澳大利亚的运营，主要接受来自高层高管、董事会或企业股东的监督或指导，包括指导企业或其一个部门或子部门；监督和控制其他监督、专业或管理人员的工作；并有权建立企业部门或子部门的目标和政策；或

(b) 专家，作为自然人，拥有先进的商业、技术或专业技能和经验，必须被评估为具有该职业所需的资格，或被接受为符合澳大利亚标准的替代资质，并且必须在申请临时入境之日起至少两年内受雇于雇主。

(c) 一名经理，作为企业内的自然人，主要负责指导企业或企业的一个部门或分支机构，监督和控制其他主管、专业人员或管理人员的工作，有权招聘和解雇或采取其他人事措施（如晋升或休假授权），并对日常运营行使自由裁量权。这不包括一线主管，除非所监督的员工是专业人员。

INDEPENDENT EXECUTIVES OF CHINA

7. 应向中国独立高管授予最长四年的入境和临时居留许可。

8. 独立高管是指在中国总部设立的企业，在澳大利亚设立分支机构或子公司的高管，并且是自然人，该自然人将负责该企业在澳大利亚全部或大部分的运营，主要接受企业高管、董事会或股东的监督或指导，包括指导企业或其部门或子部门；监督和控制其他监督、专业或管理人员的工作；并有权制定企业部门或子部门的目标和政策。

substantial part of the enterprise’s operations in Australia, receiving general supervision or direction principally from higher-level executives, the board of directors or stockholders of the enterprise, including directing the enterprise or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the enterprise.

CONTRACTUAL SERVICE SUPPLIERS OF CHINA

9. Entry and temporary stay shall be granted to contractual service suppliers of China for a period of up to four years, with the possibility of further stay.

10. A contractual service supplier of China means a natural person of China who has trade, technical or professional skills and experience and who is assessed as having the necessary qualifications, skills and work experience accepted as meeting Australia’s standards for their nominated occupation and is:

- (a) an employee of an enterprise of China that has concluded a contract for the supply of a service within Australia and which does not have a commercial presence within Australia; or
- (b) engaged by an enterprise lawfully and actively operating in Australia in order to supply a service under a contract within Australia.

11. Entry and temporary stay shall be granted for a period of up to four years, with the possibility of further stay, for up to a combined total of 1,800 per year, of Chinese chefs, Wushu martial arts coaches, Mandarin language tutors and Traditional Chinese Medicine practitioners, entering as contractual service suppliers of China.

INSTALLERS AND SERVICERS OF CHINA

12. Entry and temporary stay shall be granted to installers and servicers of China for a period of up to three months.

13. A natural person of China is an installer or servicer of machinery and/or equipment where such installation and/or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer must abide by Australian workplace standards and conditions and cannot perform services which are not related to the installation or servicing activity which is the subject of the contract.

监督和控制其他监督、专业或管理人员的工作；并有权制定企业部门或子部门的目标和政策。

中国合同服务供应商

9. 应向中国合同服务供应商授予入境和临时居留许可，期限最长为四年，并有可能进一步居留。

10. 中国合同服务供应商是指具有商业、技术或专业技能和经验的中国自然人，并且被评估为具有必要资格、技能和工作经验，这些资格、技能和工作经验被接受为符合澳大利亚对其提名职业的标准，并且是：

- (a) 中国企业的雇员，该企业已就澳大利亚的服务供应签订合同，并且在该国境内没有商业存在；或 (b) 由在澳大利亚合法并积极运营的企业雇用，以根据合同在澳大利亚内提供服务。

11. 应为最多不超过每年1,800人次的中文厨师、武术教练、普通话教师和中医从业者授予入境和临时居留许可，期限最长为四年，并有可能进一步居留，作为中国合同服务供应商入境。

中国安装和维修人员

12. 入境和临时居留将授予中国安装和维修人员，期限最长为三个月。

13. 中国自然人是指为机器和/或设备供应商提供安装或维护服务的人员，且该安装或维护活动是购买所述机器或设备的一个条件。安装或维护人员必须遵守澳大利亚工作标准和条件，并且不能提供与合同所涉及的安装或维护活动无关的服务。

ACCOMPANYING SPOUSES AND DEPENDANTS

14. For a natural person of China who has been granted the right of entry and temporary stay under this Chapter for a period of longer than 12 months and who has a spouse or dependant, Australia shall, upon application, grant the accompanying spouse or dependant the right of entry and temporary stay, movement and work for an equal period to that of the natural person.

随行配偶和受抚养人

14. 对于根据本章获得入境权和临时居留权，且停留时间超过12个月的中国自然人，如果其有配偶或受抚养人，澳大利亚在申请时，应授予其配偶或受抚养人入境权和临时居留权、行动权和工作权，期限与中国自然人相同。

Section B: China’s Specific Commitments

(See China’s Schedule of Specific Commitments in Annex III.)

Section B: 中国的具体承诺

(详见附件III中的中国具体承诺时间表。)