



EU-Japan EPA
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EU – JAPAN EPA

EPA's Impact on Human Resources Mobility

This presentation has been prepared with the sole purpose of simplifying the understanding of some parts of the EU-Japan EPA and bears no legal standing.



EU-Japan Centre
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Table of Contents

Table of Contents

Background

Key Definitions from EPA 8.2

8-B Annex III

8-B Annex IV

Temporary Movement of Company Personnel:

- Intra-Corporate Transferees
- Investors and Business Visitors for Investment Purposes

- Independent Professionals
- Contractual Service Suppliers
- Short-Term Business Visitors

Key Definitions from EPA 8.2

Background: GATS and EPA

Mode Four of GATS may cover a wide range of persons, from high-level engineers to unskilled workers.

Under the EPA, Japan and the EU mainly commit with respect to **highly qualified professionals**.

Those commitments go substantially beyond commitments under the GATS. Japan also has a number of other economic partnership treaties granting access to foreign professionals of various categories

EPA's Impact on Human Resources

Definitions



Key Definitions from EPA 8.2

Chapter 8 Definitions from EPA 8.2:

- (c) "**covered enterprise**" means an enterprise in the territory of a Party established directly or indirectly, by an entrepreneur of the other Party,
- (d) "**cross-border trade in services**" means the supply of a service:
- (i) from the territory of a Party into the territory of the other Party; or
 - (ii) in the territory of a Party to the service consumer of the other Party;
- (f) "**economic activity**" means any service or activity of an industrial, commercial or professional character or activities of craftsmen, except for services supplied or activities of governmental authority;

Key Definitions from EPA 8.21

Section D Definitions from EPA 8.21:

- (a) "**business visitors for establishment purposes**" means persons of a Party responsible for setting up an enterprise, do not offer nor provide services, do not engage in any economic activity **other** than what is required for establishment purposes and do not receive remuneration in the other Party;
- (b) "**contractual service suppliers**" means persons of the EU who are employees of an EU firm that has not established in Japan provided that the following requirements are satisfied:
- (A) A service contract between a Japanese firm and an EU firm that has not established in Japan has been concluded;
 - (B) Japanese immigration authorities determine, that a labour contract between the EU person and the Japanese firm has been concluded
 - (C) The labour contract complies with the relevant Japanese regulations

Key Definitions from EPA 8.2 I

Annex Definitions from Annex 8-B:

"**specialised knowledge**" means technology or knowledge at an advanced level pertinent to natural sciences, including physical sciences and engineering, or to human sciences, including jurisprudence, economics, business management and accounting, or ideas and sensitivity based on culture of a country other than Japan, recognised under the status of residence of "Engineer/Specialist in Humanities/International Services" provided for in the Immigration Control and Refugee Recognition Act.

"**Technology or knowledge at an advanced level pertinent to natural or human sciences**" means sciences acquired by that person, by completing college education or higher education.

"**Short Term Business Visitors**" are professionals who participate in business contacts, including negotiations for the sale of goods or supply of services, or other similar activities on behalf of a home-country employer, but are not engaged in selling goods or services to the general public, nor on their own behalf.

Relevant Sections of the Legal Text



Section D: Entry and temporary stay of natural persons

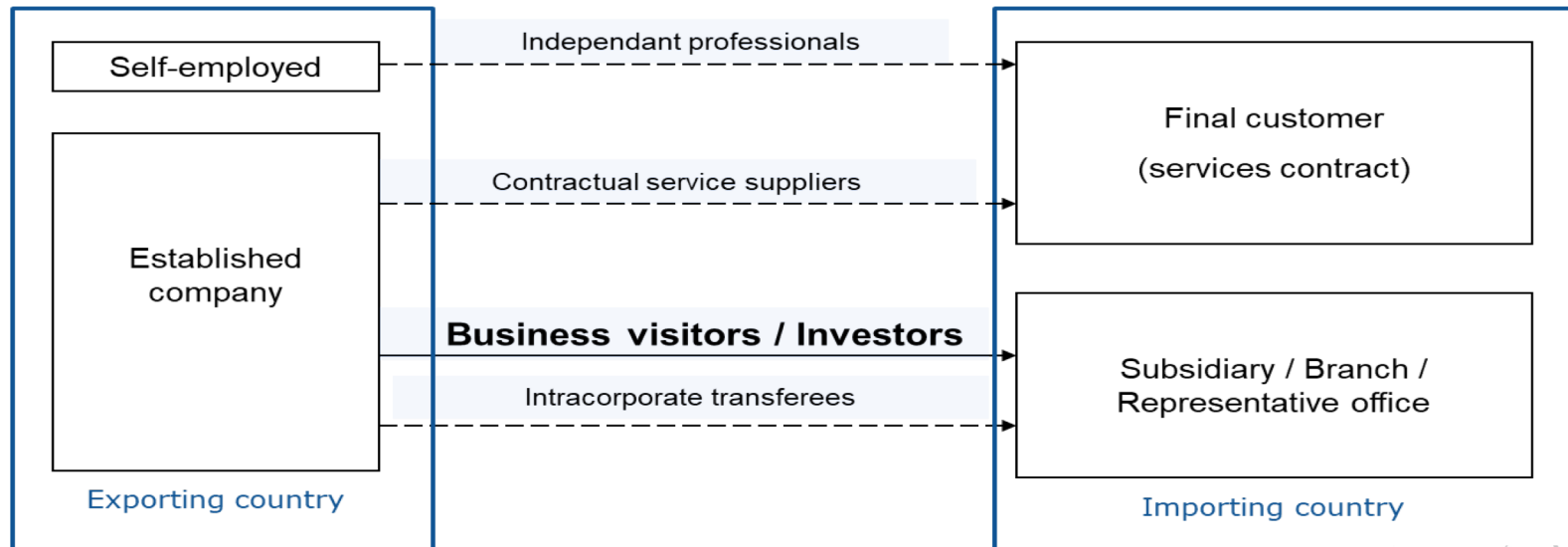
EPA Section D: 8.20 to 8.28

- Establishes definitions for classes of professionals covered by treaty
- Makes references to Annex 8-B (Annex III and Annex IV)
- Outlines details of treaty coverage for covered parties

8-B Annex III: Corporate Business Visitors

8-B Annex III covers business visitors for:

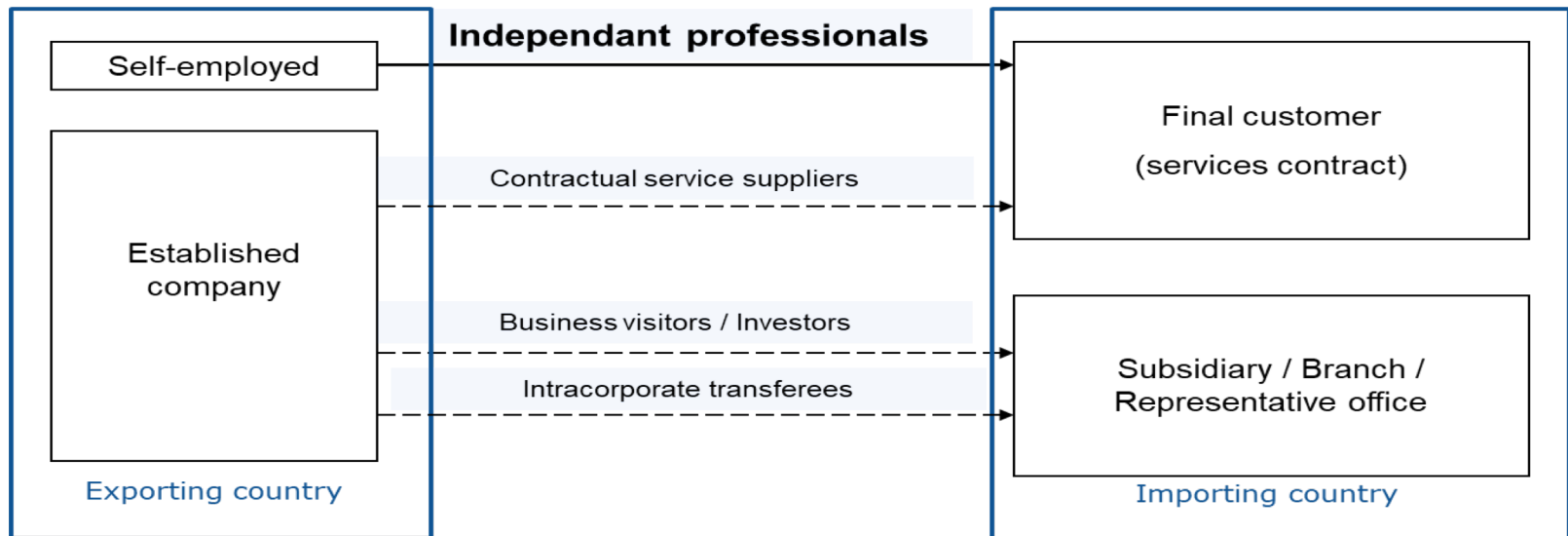
- Business Establishment Purposes
- Intra-Corporate Transferees
- Investors
- Short-term Business Investors



8-B Annex IV: Individual Professionals

8-B Annex IV covers business visitors for:

- ❑ Contractual Service Suppliers
- ❑ Independent Professionals



Company Personnel



Temporary Movement of Company Personnel

Intra-Corporate Transferees

Main Points

- There are no quotas for business visitors for establishment purposes, intra-corporate transferees or investors from the European Union entering Japan.
- Professionals of the EU covered by 8-B Annex III are tied to EU-based employers.

Coverage for Intra-Corporate Transferees:

- EPA 8.20 and 8.21 establish coverage for Intra-Corporate Transferees as professionals who are temporarily transferred to a firm, which is part of their employer's corporate group.
- Transferees must be **managers** or **specialists** (having **specialised knowledge** or technology).

What does EPA coverage provide in Japan?

- 8-B (Annex III) outlines that professionals can work and reside in Japan for a maximum of five years.
- 8-B (Annex III) provides matching residency rights for accompanying spouses and children.
- EPA 8.7 and 8.24 establish that neither quotas nor economics needs tests shall apply to Intra-Corporate Transferees.

Temporary Movement of Company Personnel

Investors and Business Visitors for Investment Purposes

Main Points

- Access for business visitors for investment purposes (BVIP) is outlined in the treaty for those employed by firms doing business in Japan and the European Union.
- No quotas for business visitors from the European Union entering Japan for investment purposes.
- Professionals of the EU covered by 8-B Annex III are tied to EU-based employers.

Coverage for Investors and Business Visitors for Investment Purposes:

- EPA 8.20 and 8.21 outline that **Business Visitors for Investment Purposes** are professionals working in a senior position, who are responsible for setting up an enterprise during their temporary stay.
- EPA 8.20 and 8.21 outline that **Investors** are persons who invest in, develop, and administer an enterprise in a supervisory or administrative capacity.
- EPA Annex 8-B (Annex III) outlines coverage for spouses and accompanying children (recognised as such under local law).

Temporary Movement of Company Personnel

Investors and Business Visitors for Investment Purposes

Main Points

- Access for business visitors for investment purposes (BVIP) is outlined in the treaty for those employed by firms doing business in Japan and the European Union.
- No quotas for business visitors from the European Union entering Japan for investment purposes.
- Professionals of the EU covered by 8-B Annex III are tied to EU-based employers.

What does this coverage provide in Japan?

- Business Visitors for investment purposes of the European Union are permitted a maximum length of stay on 90 days.
- Investors in are permitted a maximum length of stay of five years.
- There are no quotas for the number of investors or business visitors entering for establishment purposes.

EPA's Impact on Human Resources

Professionals

Independent Professionals

Temporary Movement of Personnel: Independent Professionals

Main Points

1. Contractual Service Suppliers and independent professionals are allowed to supply services and engage in business activities.
2. Professionals specialised in natural sciences (e.g. engineers), humanities or academia can benefit from mobility commitments.
3. The EPA's schedule of Japan lists 38 sectors where specific commitments apply.
4. There are no quotas for those professionals entering Japan.

Coverage for Professionals

- EPA 8.20 and 8.21 outline that professionals engage in business activities on a contractual basis. They white-list the categories of professionals who qualify.
- EPA Annex 8-B (Annex IV) identifies restrictions that apply to each of those professional categories. It also extends benefits to accompanying spouses and children.
- Annex 8-B (Annex IV, **Schedule of Japan**) requires that jurists, accountants, consultants, auditors, and surveyors be licensed and qualified in accordance with Japanese law.

Independent Professionals

Temporary Movement of Personnel: Independent Professionals

Main Points

1. Contractual Service Suppliers and independent professionals are allowed to supply services and engage in business activities.
2. Professionals specialised in natural sciences (e.g. engineers), humanities or academia can benefit from mobility commitments.
3. The EPA's schedule of Japan lists 38 sectors where specific commitments apply.
4. There are no quotas for those professionals entering Japan.

What EPA coverage provides:

- EPA Annex 8-B (Annex IV) outlines that EU professionals can reside in the host country for a maximum of five years.
- EPA Annex 8-B (Annex IV) also provides matching residency rights for accompanying spouses and children of those professionals.
- Spouses have the right to apply for work.
- EPA 8.15 and 8.24 establish that there are no quotas on the number of service suppliers, limits on value or volume of transactions, or assets.

Independent Professionals

Temporary Movement of Personnel: Independent Professionals

White-listed services-providers:

Annex 8-B (Annex IV)'s **Schedule for Japan** identifies 38 distinct professional sectors. Broadly speaking, these are:

1. Activities requiring advanced knowledge and technology in natural sciences or human sciences, such as architects, surveyors, engineers, and scientists
2. Business services, such as advertising, accounting, auditing, market research, and management consulting.
3. University academic personnel
4. Lawyers and jurists qualified in Japan
5. Engineering, construction & equipment maintenance services
6. Translation services
7. Radio and TV broadcasting (not entertainers)
8. Language teaching
9. Environmental & waste-disposal services
10. Travel agency and tourism services

Contractual Service

Suppliers

Contractual Service Suppliers

Main Points

1. The EPA specifies whitelisted 38 sectors
2. Contractual Service Suppliers depend on EU-based employers.

Coverage for Contractual Service Suppliers:

- EPA 8.20 and 8.21 outline that contractual service suppliers must be EU persons who will engage in business activities on a contractual basis during their stay in Japan.
- EPA Annex 8-B (Annex IV) outlines and white-lists categories of contractual service suppliers who qualify, as well as identifying restrictions that apply to each of the professional categories.
- **Annex 8-B (Annex IV) requires that jurists, accountants, consultants, auditors, and surveyors be licensed and qualified in accordance with Japanese law.**

Contractual Service Suppliers

Contractual Service Suppliers

Main Points

1. The EPA specifies whitelisted 38 sectors
2. Contractual Service Suppliers depend on EU-based employers.

What EPA coverage provides:

- EPA Annex 8-B (Annex IV) outlines that European Union professionals can reside in Japan for a maximum of five years.
- EPA Annex 8-B (Annex IV) also provides matching residency rights in Japan for accompanying spouses and children of those professionals.
- Spouses have the right to apply for work.
- EPA 8.15 and 8.24 establish that there are no quotas on the number of service suppliers, limits on value or volume of transactions, or assets.

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Short Term Business Visitors

EPA 8.27: Short-term business visitors: Definition

Party in accordance with Annex III to Annex 8-B, subject to the following conditions:

- (a) the short-term business visitors are **not engaged** in selling their goods or supplying services to the general public;
- (b) the short-term business visitors do not, on their own behalf, **receive remuneration** from within the Party where they are staying temporarily; and
- (c) the short-term business visitors are not engaged in the supply of a service in the framework of a contract concluded between a firm who has not established in Japan where they are staying temporarily, and a consumer there.

Short Term Business Visitors

Short Term Business Visitors

Main Points

- Access for short term business visitors (STBV) is outlined in the treaty for those employed by firms doing business in the host country.
- There are no quotas for STBV.
- STBV are tied to EU-based employers.

Coverage for Short-Term Business Visitors:

- EPA 8.27 and EPA Annex 8-B (Annex III, Schedule of Japan) define STBVs

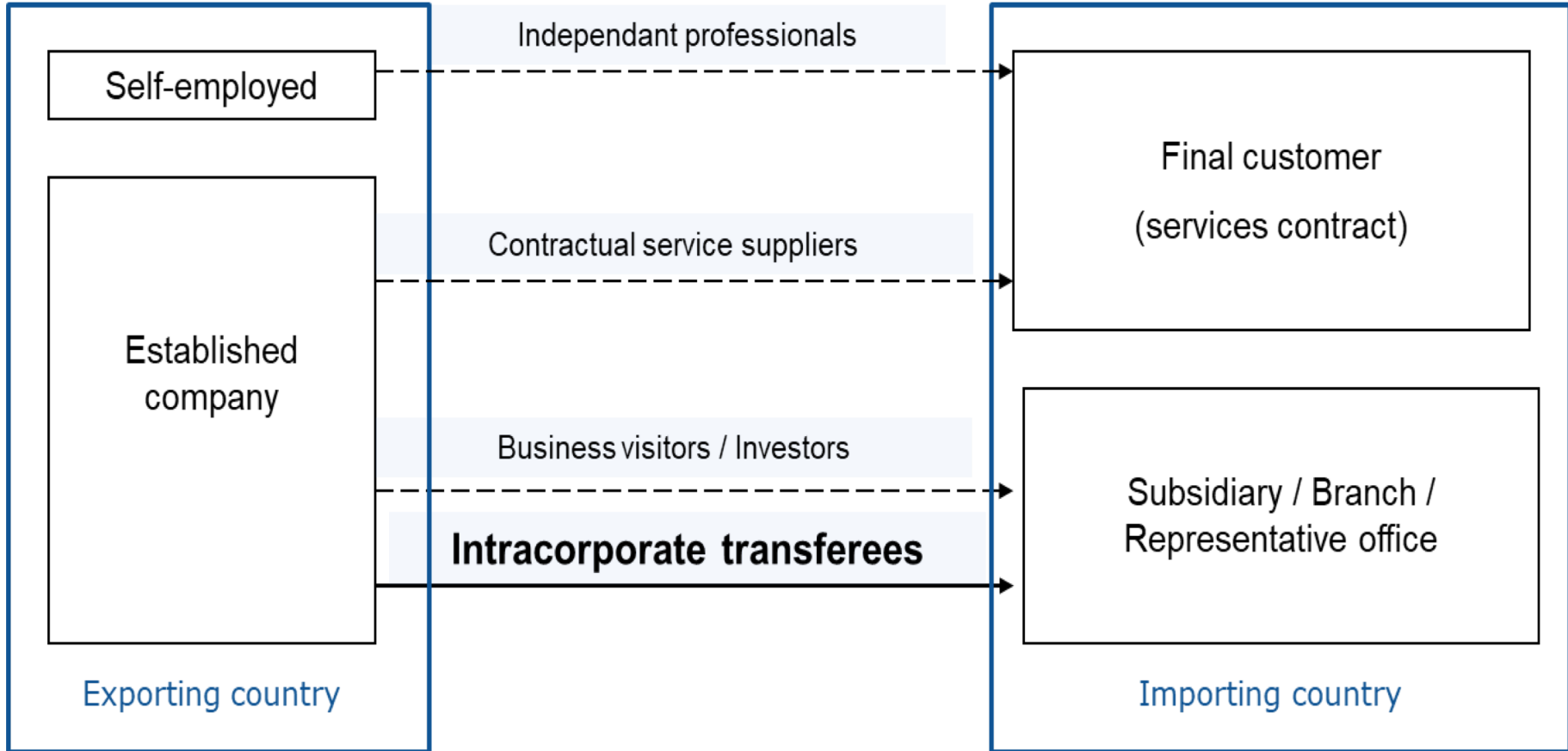
What does EPA coverage provide in Japan?

- The legal length of stay in Japan for European Union STBVs is a maximum of 90 days.
- European Union STBVs participate in business contacts, including negotiations for the sale of goods or services, during their temporary stay in Japan.
- European Union STBVs are allowed access to Japan without the requirement of a work permit, economic needs test or other prior approval procedures of similar intent.

EPA's Impact on Human Resources

Summary

Main Points



Main Points

<u>Category</u>	<u>Administrative procedures</u>	<u>Concerned Persons</u>	<u>Length of stay</u>
Intra-corporate transferee (ICT)	No Economic Needs Test	Managers, Specialists	5 Years
Business Visitor for Investment Purposes (BVIP)	No Sector, Subsector, or Geographic Limitations	Senior position responsible for setting up an enterprise	90 Days
Short-Term Business Visitor (STBV)	No Work Permit or Economics Needs Test needed	Negotiations, Contracts, Interfirm coordination	90 Days
Investor	No Sector, Subsector, or Geographic Limitations	Supervisor or Executive	5 Years
Contractual Service Providers (CSPs)	No Numerical Limits or Economic Needs Test	38 White-listed Professions	5 Years
Independent Professionals (IPs)	No Numerical Limits or Economic Needs Test	38 White-listed Professions	5 Years
Spouses and Children	Spouses may apply for work permit	Spouses and children of ICTs, Investors, CSPs. IPs	5 Years



Any Questions?

Thank you for your attention



Max Berre



QUESTIONS ?

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