

QUESTION TAKEN ON NOTICE

SUPPLEMENTARY BUDGET ESTIMATES HEARING: 19 November 2013

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

(SE13/0312) PROGRAMME – 1.1: Visa and Migration

Senator Carr (Written) asked:

Please provide the precise references to the text in each of the relevant international trade obligations listed below, which justify the claim on the Department's website that: "LMT will not need to occur where it would conflict with Australia's international trade obligations, in any of the following circumstances:

- The worker you nominate is a citizen of Chile or Thailand, or is a Citizen/Permanent Resident of New Zealand.
- The worker you nominate is a current employee of a business that is an associated entity of your business that is located in an Association of South-East Asian Nations (ASEAN) country (Brunei, Myanmar, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand and Vietnam), Chile or New Zealand.
- The worker you nominate is a current employee of an associated entity of your business who operates in a country that is a member of the World Trade Organisation, where the nominated occupation is listed below as an "Executive or Senior Manager" and the nominee will be responsible for the entire or a substantial part of your company's operations in Australia.
- Your business currently operates in a World Trade Organisation member country and is seeking to establish a business in Australia, where the nominated occupation is listed below as an "Executive or Senior Manager".
- The worker you nominate is a citizen of a World Trade Organisation member country and has worked for you in Australia on a full-time basis for the last two years."

Answer:

Australia's international trade obligations, with which the imposition of labour market testing would be inconsistent, are specified in Legislative Instrument F2013/1954. The obligations are contained in several international agreements and are the combined effect of multiple parts of each agreement. The agreements are available on the website of the Department of Foreign Affairs and Trade at www.dfat.gov.au/trade/. References which contain the obligations are specified below.

- *The worker you nominate is a citizen of Chile or Thailand, or is a Citizen/Permanent Resident of New Zealand.*

Chile-Australia Free Trade Agreement: Articles 9.2.1(d), 9.5(a)(i), 9.5(a)(iv), 13.1(c), 13.1(e), 13.1(i), 13.2, 13.4; Annex 13-A Section 2

Thailand-Australia Free Trade Agreement: Articles 809.1, 809.2(a), 809.2(d), 1001(a), 1002(b), 1002(c), 1002(e), 1002(f), 1002(h), 1003(1), 1005; Annex 8 Horizontal Commitments on Temporary Entry

Protocol on Trade in Services to the Australia-New Zealand Closer Economic Relations Trade Agreement: Articles 2(3), 2(4), 3, 4, 5, 7

- *The worker you nominate is a current employee of a business that is an associated entity of your business that is located in an Association of South-East Asian Nations (ASEAN) country (Brunei, Myanmar, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand and Vietnam), Chile or New Zealand.*

ASEAN-Australia-New Zealand Free Trade Agreement: Chapter 8 Articles 4.1, 4.2(a), 4.2(d); Chapter 9 Articles 1(a), 2, 5; Annex 4 Australia's Schedule of Movement of Natural Persons Commitments

Chile-Australia Free Trade Agreement: Articles 9.2.1(d), 9.5(a)(i), 9.5(a)(iv), 13.1(c), 13.1(e), 13.1(i), 13.2, 13.4; Annex 13-A Section 2

Protocol on Trade in Services to the Australia-New Zealand Closer Economic Relations Trade Agreement: Articles 2(3), 2(4), 3, 4, 5, 7

- *The worker you nominate is a current employee of an associated entity of your business who operates in a country that is a member of the World Trade Organisation, where the nominated occupation is listed below as an "Executive or Senior Manager" and the nominee will be responsible for the entire or a substantial part of your company's operations in Australia.*

The General Agreement on Trade in Services at Annex 1B to the Marrakesh Agreement Establishing the World Trade Organization: Articles XVI:1, XVI:2(a), XVI:2(d), XX; Australia's Schedule of Specific Commitments 28 July 1995 (GATS/SC/6/Suppl.2)

- *Your business currently operates in a World Trade Organisation member country and is seeking to establish a business in Australia, where the nominated occupation is listed below as an "Executive or Senior Manager".*

The General Agreement on Trade in Services at Annex 1B to the Marrakesh Agreement Establishing the World Trade Organization: Articles XVI:1, XVI:2(a), XVI:2(d), XX; Australia's Schedule of Specific Commitments 28 July 1995 (GATS/SC/6/Suppl.2)

- *The worker you nominate is a citizen of a World Trade Organisation member country and has worked for you in Australia on a full-time basis for the last two years.*”

The General Agreement on Trade in Services at Annex 1B to the Marrakesh Agreement Establishing the World Trade Organization: Articles XVI:1, XVI:2(a), XVI:2(d), XX; Australia’s Schedule of Specific Commitments 28 July 1995 (GATS/SC/6/Suppl.2)