

1 August, 2014

Ms. Sushma Swaraj
Hon'ble Minister, External Affairs
Government of India
New Delhi

Dear Ms. Swaraj,

Subject: Right to work of spouses of expatriate intra-corporate transferees

Permits Foundation extends greetings and best wishes to you on your assuming charge as the External Affairs Minister.

We are a non-profit organization, supported by 40 international companies and public sector organizations, campaigning globally for the right to work of spouses of highly skilled intra-corporate transferees. Over the past five years, we have been promoting this for the spouses of employees on assignment to India. Though few in number, these employees are very important to India as organisations make their investment plans while having in mind the international skills that they need to complement local talent.

Today, highly skilled employees generally prefer to relocate to countries where their spouses also have an opportunity to work. In India, however, it is difficult for accompanying spouses to work as they need to meet various employment visa requirements.

The Ministry of Home Affairs has acknowledged that spouses of intra-company transferees need to be treated differently to facilitate international mobility of highly skilled resources. Currently, the spouses are allowed to change status from a dependent visa (X Visa) to an employment visa (E visa), if they meet the conditions for an E visa. However, this falls short of the best practice in a growing number of countries where a spouse may take up employment or self-employment during the assignment, once they have their dependant's visa.

As many as 30 countries including Australia, Canada, France, Hong Kong, Germany, Netherlands, New Zealand, the UK and the USA now grant a right to work for spouses of intra-corporate transferees or other highly skilled staff. So Indian families benefit from these provisions in these countries.

Having been in dialogue with the Foreigners Division of the Ministry of Home Affairs, we seek your support for the implementation of a simple visa category for intra-corporate transferees and their spouses, outlined below:

1. NEW VISA CATEGORY FOR INTRA-CORPORATE TRANSFEREES

- i. A specific visa category (E1) for established skilled employees who are transferred to work in India by a company or international organisation.

- ii. The E1 visa would be a non-immigrant visa, valid for the period of employment up to three years, renewable for an additional two years, i.e. the maximum validity is 5 years.
- iii. The E1 visa would be applicable to employees of an international company which has offices in both another country and India, or which intends to open a new office in India while maintaining their other country interests. The relationship between the two organisations would be either parent, subsidiary, branch or affiliate.
- iv. Expatriate employees of Indian multinational companies, approved by the Ministry of Corporate Affairs or equivalent authority, with offices abroad would also be eligible for this category of visa.
- v. The intra-corporate transferee must have been employed continuously by the company that plans to transfer him or her, outside India for at least six months immediately preceding the date of application.
- vi. The E1 Visa would cease to be valid when the employment ends. Should the employee wish to move to a new employer in India, outside the same group of companies, he or she would need to return to the home country to apply for a new Employment visa.

2. NEW CATEGORY FOR SPOUSE OF INTRA-CORPORATE TRANSFEREE

- i. A specific visa category (XE1) for the spouse of E1 visa holders.
- ii. The spouse with an XE1 visa would be allowed to take any employment subject to:
 - a. Registration with the FRRO within 14 days of arrival in India for stays in excess of 180 days.
 - b. Intimation to FRRO within 14 days of change in location within India.
 - c. Securing approval from FRRO for employment in companies or sectors where special permission is required from MHA for all E visas.
 - d. Will not take up employment in any sector treated as restricted and disallowed to all E visas by the MHA.
- iii. An XE1 Visa would be co-terminus with the E1 Visa.
- iv. An XE1 Visa would cover all types of legal employment, paid or voluntary, full-time or part-time, work from home, work with NGOs, research fellowships, guest programs, project assignments and offshore work.

The Foreigners Division is well conversant with the issue and we believe that policy support from your office would enable this positive transition in a short time.

We believe that enabling international assignments is key to the flow of investments and entry of global companies. This small but significant move will enable companies to bring in highly skilled employees who can propel further growth and investment.

We look forward to your urgent attention on this matter and seek your assistance in making India a preferred destination for the global talent pool.

Yours faithfully,



Kathleen van der Wilk-Carlton

Executive Director, Permits Foundation