

Info Kit

Highlights of Key Liberalisation Elements in the EFTA-Singapore FTA

Trade in Services

- In the Services Chapter, both the EFTA States and Singapore guarantee market access into a wide range of services sectors. Singapore service suppliers would be able to enjoy enhanced market opportunities into the services markets of the EFTA states.
- The Services Chapter gives assurance that the EFTA states would not impose additional barriers to entry for the committed services sectors. This certainty in business regime reduces risks that a Singapore supplier may face when entering the EFTA states' services markets, and also provides assurance for Singapore services which are already being marketed there.
- Due to the small size of our domestic economy, the liberalisation of trade via multilateral or bilateral means like the ESFTA is crucial for securing an external economic space for Singapore companies to expand their operations. With this Chapter, our domestic service suppliers would have an additional market for expanding their businesses globally.

SUMMARY OF THE CHAPTER

- This Chapter has 16 articles, which sets out rules for both the EFTA States and Singapore to follow in relation to trade in services. These rules are based on international WTO standards. The effects of these rules are to keep services markets open for competition, and to eliminate discrimination. A Singapore service supplier would be assured of entry into committed services sectors, and also be assured that it would benefit from the same treatment given by the EFTA states to their own service suppliers.
- Annexed to this Chapter are the services schedules that form the core of the obligations undertaken by the parties. Each country's own services schedule identifies the specific services sectors for which that particular country has agreed to offer market access and non-discrimination. Besides the general rules that apply to all services sectors, there are enhanced disciplines governing the provision of telecommunications and financial services. These disciplines are imposed through two separate annexes.

SALIENT FEATURES

- This Chapter builds on what has been achieved at the multilateral level. The EFTA States and Singapore have expanded on their services commitments in the WTO. The commitments in the ESFTA distinguish between the various modes through which services can be supplied, for example, through the Internet, or by setting up a company in one of the EFTA states.

- Committed sectors in the Chapter are subject to rules that include market access, national treatment and domestic regulation. What this means is that for these sectors, a country cannot impose additional market access restrictions, must accord the same treatment to both local and foreign service suppliers, and must impose measures in a manner that is reasonable, objective and impartial. In addition, there are also provisions against companies that engage in anti-competitive practices. A country can be taken to task if it is found in breach of these rules.
- There are disciplines governing the supply of telecommunication services which provide for Singapore companies to enjoy enhanced commitments on competition safeguards*

*(*The Annex on telecommunication services supplements the trade provisions on market access for telecommunications by elaborating on measures which are relevant or which affect access to and use of telecommunications services. It is based upon, and is wholly consistent with the Infocomm Development Authority of Singapore's (IDA) Code of Practice for Competition in the Telecommunications Sector.)*

The financial services annex endeavors to ensure that Singapore and the EFTA states apply international standards and core principles in the supervision of their banking, insurance and securities industries.

- To facilitate trade in services, the Chapter also includes a section on the movement of business persons. Commitments in this area set out the terms and conditions under which various categories of people can enter the other country's territories for the purpose of doing business. These categories of people include intra-corporate transferees, business visitors, and people responsible for setting up enterprises in another territory.

BENEFITS TO OUR BUSINESSES AND TO SINGAPORE

- The services sector is one of Singapore's key pillars of growth. Every year, services exports make up a key component of our trade. In 2001, Singapore exported about S\$47 billion worth of services.
- This Chapter guarantees Singapore service suppliers access to a wide range of services sectors in the EFTA states. This includes professional services, distribution services, telecommunication services, financial services and transport services. Specific services sectors committed by the EFTA states that would be of particular interest to Singapore companies include Research and Development services, Courier services, Maritime transport services, Freight transport services, and Construction and related services.
- In these committed sectors, Singapore service suppliers will be able to compete on a level playing field. The benefits of this Chapter will be extended to Singapore companies (including start-ups), MNCs based in Singapore, as well as Singapore permanent residents.

Financial Services

- The EFTA states and Singapore made substantial commitments in the financial services sub sectors. Many of these commitments are above existing WTO obligations.
- The EFTA states' financial sectors are generally quite liberal in practice. As with the commitments in the other sectors, the financial services commitments give assurance that the EFTA states would not impose additional barriers to entry in financial services, retreat from their current regime, or unjustifiably discriminate against Singapore financial services suppliers. This provides certainty and reduces business risk for Singapore financial services suppliers in the EFTA states' markets.
- Singapore's financial services commitments in the ESFTA are in line with the phased financial services liberalisation measures that MAS has undertaken over the last few years. Some of these liberalisation measures have been committed in ESFTA, notably the wholesale banking and securities market measures.

ICT Services

- Better market access in the EFTA states for Singapore-based businesses supplying ICT products and services

Under the ESFTA, Singaporean ICT investors and companies will enjoy better market opportunities in the EFTA States. While the EFTA states already have very open markets, the new commitments provide additional benefits such as increased protection for ICT investments, the opportunity to offer more ICT services, such as courier services.

- Familiarity with business environment and a more level playing field for businesses dealing in Telecommunication Services*

*(*Contained in the Annex on telecommunication services).*

- a. Suppliers of telecommunication services in Singapore and EFTA states will now find it easier to obtain interconnection services in either country *

*(*In order for a Singaporean operator to supply telecommunications services in the EFTA States, it needs to interconnect its equipment to the local network of an incumbent EFTA State operator or build its own network at considerable expense.):*

- i. The Annex on telecommunication services includes more comprehensive obligations on the relevant regulatory authorities to ensure interconnection and transparency of licensing processes.

- ii. Both Singapore and the EFTA states will also require major telecommunications suppliers in their markets to provide a Reference Interconnection Offer (RIO)*.

*(*A RIO generally refers to a standard interconnection offer containing a comprehensive statement of the prices, terms and conditions on which a telecommunications supplier (usually a major supplier with significant market power) is prepared to provide interconnection related services to other telecommunication suppliers seeking to interconnect their equipment and networks with the former.)*

The RIO will provide greater business operating certainty to Singaporean telecommunication suppliers seeking to interconnect with major telecommunication suppliers in the EFTA states. The ESFTA goes further on to specify that RIOs must include information to suppliers on interconnection services offered, cost-based pricing, operational and technical requirements on foreign operators as well as reasonable timeframes for commencement of interconnection services.

- b. The EFTA States and Singapore must also ensure that major suppliers of telecommunication services cannot discriminate against other suppliers nor engage in anti-competitive activities such as predatory pricing or price squeezes.

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Trade in Goods

- The ESFTA provisions governing trade in goods build on the WTO commitments of EFTA and Singapore. With the ESFTA, both countries have committed to further eliminate their barriers to trade.
- Tariffs eliminated under the ESFTA will reduce cost burdens for Singapore businesses exporting to the EFTA market. Savings from these preferential tariff concessions will make Singapore exports more competitive vis-à-vis other foreign exports to EFTA.

Summary of the ESFTA provisions relating to trade in goods

- Trade in Goods between EFTA and Singapore are governed by
 - i. the Trade in Goods Chapter within the main ESFTA Agreement, which covers HS Chapter 25-97 (i.e. industrial products) and processed agricultural products in HS Chapter 1-24; and
 - ii. Bilateral agriculture agreements which cover basic agriculture products in HS Chapter 1-24. These bilateral agreements form part of the instruments establishing the main ESFTA Agreement.

- iii. Annexes to (i) and (ii) above set out clearly each country's commitments in the area of tariff concessions. These schedules stipulate the products that would be subject to zero-tariff concessions when the ESFTA enters into force.
- The articles in the Trade in Goods Chapter and the bilateral agriculture agreements set out the rules governing trade in goods between EFTA and Singapore. Some of these rules are based on WTO disciplines while others build on the WTO framework.
 - The ESFTA commits Parties to grant preferential tariff-free market access to an extensive range of products. For example, all trade in industrial products and fish and other marine products will benefit from duty-free access to the respective markets as of entry into force of the Agreement.
 - The ESFTA also provides for the elimination of all import and export prohibitions or restrictions on trade in goods between EFTA and Singapore. There is explicit abolition of anti-dumping measures on goods originating in the Parties.
 - The Parties are also committed to strengthening their co-operation in the field of technical regulations, standards and conformity assessment, with a view to increasing mutual understanding and facilitating access to their respective markets.

Benefits to our Business and to Singapore

- This Chapter entails the removal of tariffs on 99.8% of Singapore's domestic exports to EFTA. Currently, only about 23.6% of Singapore's exports enter EFTA tariff-free.
- Tariff elimination will reduce cost burdens for Singapore businesses exporting to the EFTA market. Savings from these preferential tariff concessions will make Singapore exports more competitive vis-à-vis other foreign exports to EFTA.
- Exporters to EFTA will enjoy such preferential tariff treatment for a wide range of products, in particular, Singapore businesses will benefit from zero-tariff concessions in the following key sectors:
 - i. Chemicals & petroleum products
 - ii. Electrical & electronic products
 - iii. Plastic products
 - iv. Pharmaceuticals
 - v. Instrumentation equipment
 - vi. Transport equipment
 - vii. Fabricated metal products

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Investment

- Singapore's economy thrives with a mix of foreign and local investments. Investments will continue to play a key role in our economy. The Chapter on Investment under the ESFTA, which contains comprehensive provisions on investment promotion and protection, aims to foster an open international environment for cross-border investment, minimise restrictions, strengthen protection of investments and provide access to each other's markets.
- The provisions in the Investment Chapter will increase Singapore's attractiveness as an investment location to investors from EFTA member states as the investment regime and protection for their investments will be enhanced. In addition, since the chapter also serves to encourage mutual investment flows between EFTA and Singapore, it will also encourage Singapore investments into EFTA member states to access their markets and leverage on their technological progress.

SUMMARY OF THE CHAPTER

- The chapter consists of thirteen articles that prescribe the general disciplines governing the investment regimes in the EFTA member states and Singapore for investors from these countries. The chapter is comprehensive in terms of scope of coverage and depth of disciplines. It covers the various stages of investment, ranging from the pre-investment stage to the post-investment stage. Investors who can benefit from this chapter are also not limited to only nationals of Singapore or companies owned by Singaporeans but include permanent residents and enterprises with substantial business activities in Singapore.
- The chapter provides a comprehensive set of disciplines, including non-discriminatory treatment, free transfers, movement of key personnel, among others. Only a total of 23 reservations were taken by the five countries. Except for these limited areas, investors from both countries will enjoy the liberal investment regimes that both countries will be binding under the chapter.

SALIENT FEATURES

- The salient features of this chapter include:

Who is covered?

- a. Beneficiaries: Investors from Singapore who are either Singaporean citizens, permanent residents, or an enterprise having substantial business activities in Singapore are covered under the agreement when they invest into any of the EFTA member states. Similarly for EFTA investors investing into Singapore. The fact that enterprises in Singapore are covered is important as it enhances our role as a hub from which MNCs can invest into the EFTA member states.

What is covered?

- b. Broad range of investment instruments: For investments, the chapter includes both traditional investment instruments, such as stocks and equities, as well as intellectual property rights, debentures, and rights conferred by contracts.

Preferential Treatment

- c. National Treatment and Most Favoured Nation Treatment: This article ensures that non-discriminatory treatment will be accorded to the investor. This means that a Singapore investor will enjoy treatment that is no less favourable than that which an EFTA member state gives to its own nationals or other foreign nationals. Exceptions are taken where reservations have been tabled, or where the more favourable treatment is as a result of another agreement. National treatment and Most Favoured Nation Treatment ensures that Singapore investors will be given a level playing field when they invest in EFTA states.
- d. Expropriation & Compensation: No Party can unduly expropriate investments unless the expropriation is premised on public purposes as defined in the Agreement. In the event that such expropriation occurs, the governments are required to afford compensation for the expropriated investment. For example, if the government takes over land of an investor to upgrade or expand a vital road system, then the government is obliged to pay compensation to the investor.
- e. Free Transfers: The EFTA member states and Singapore will allow the investors to freely repatriate and transfer funds related their investments (such as capital, profits, dividends and royalties) into and out of the country.
- f. Key Personnel: Investors and their key personnel will be allowed to enter and stay in EFTA member states or Singapore to undertake the investment, subject to the laws and regulations regarding such entry and stay of each state.
- g. Investor to State Dispute Settlement: Investors, aggrieved of government actions that violate their benefits under this chapter, have the possibility of taking the

dispute to an international arbitration tribunal for resolution with the agreement of both parties to the dispute. The investor has several international arbitration platforms to choose from, including that of the International Centre for Settlement of Investment Disputes (ICSID) and the United Nations Commission on International Trade Law (UNCITRAL).

BENEFITS TO OUR BUSINESS AND TO SINGAPORE

- In a nutshell, when a Singapore-based company, (either locally-owned or foreign-owned with substantial business activities), invests in an EFTA member state, it will enjoy the same treatment as that which is accorded to the local companies or other foreign companies, (with certain exceptions) and it will have the right to freely transfer in and out its funds relating to this investment. The government will not take over the assets of the company unreasonably, and in cases where there are legitimate reasons, compensation will be paid. If the company is for any reason aggrieved, it can seek recourse at an international arbitration tribunal with the agreement of that government. The same treatment is enjoyed by a company from an EFTA member state investing in Singapore.
- As a small economy with no natural resources, it is imperative for Singapore to be plugged into the global economic system. One of the ways is through the promotion of foreign investments in Singapore. Foreign investments bring in jobs, technology, management expertise and access to international markets.
- With the ESFTA, investors from the EFTA member states will have stronger confidence in investing in Singapore as the Agreement has secured enhanced protection, with ease of entry and operation for investors. Likewise, investments from Singapore into EFTA will also be accorded similar protection.
- The benefit to Singapore is not limited to investments from EFTA member states. Investments made out of Singapore into EFTA member states will be covered under the Investment Chapter (except where these are not Singaporean/PR owned and without substantive business activities here). This means that if a foreign company has substantial business activities in Singapore, it is also considered a beneficiary under the ESFTA when it invests in EFTA member states from Singapore. This broad coverage of beneficiaries is important for Singapore as, indirectly, it can attract investments from other countries and enhance our role as a hub from which MNCs can invest in EFTA member states.

HOW DO YOU TAKE ADVANTAGE OF THIS AGREEMENT?

- Interested parties could contact the International Agreements Department at the Economic Development Board, 250 North Bridge Road #24-00 Raffles City Tower, Singapore 179101, telephone 63362288 for further information

Intellectual Property

SUMMARY OF THE CHAPTER

- EFTA states and Singapore are both signatories to the World Trade Organisation (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) which sets out the minimum standards of intellectual property rights (IPR) protection for WTO member countries. The IP chapter under ESFTA seeks to provide an enhanced standard of IPR protection beyond that which is required under the TRIPS Agreement in areas that are of mutual benefit to both the EFTA states and Singapore.
- This chapter also aims to increase dialogue and co-operation between the EFTA states and Singapore on IPR-related matters and to review areas of co-operation with a view to expanding them.

SALIENT FEATURES

- EFTA states and Singapore have committed to accede to the World Intellectual Property Organisation (WIPO) Copyright Treaty (hereafter called WCT) and the WIPO Performances and Phonograms Treaty (hereafter called WPPT) by 1 Jan 2005. The WCT and WPPT (commonly called "WIPO Internet treaties") clarify existing ambiguities in the provisions relating to copyright under the TRIPs Agreement and also address copyright protection issues raised by the digital revolution by enacting clear and appropriate legal provisions which are not found in any of the existing international agreements and conventions on copyright.
- EFTA states and Singapore have committed to adopt a common standard of patent protection, namely the standard set out under the European Patent Convention (EPC) which substantially mirrors the substantive provisions of the Singapore Patents Act.
- EFTA states and Singapore have committed to give effect to the WIPO Joint Declaration on Well-Known Marks (the Joint Declaration) which will ensure that the trade mark law with regard to well-known marks in both EFTA states and Singapore is uniform and conforms to that in other countries which have also adopted the Joint Declaration such as the US and the EU.
- The enhanced copyright protection brought about by acceding to the WCT and WPPT would establish a clear and secure legal framework for e-commerce to flourish between the EFTA states and Singapore.
- The adoption of the substantive provisions of the EPC as a common reference and uniform standard of patent protection would assure Swiss pharmaceutical giants that Singapore maintains the same standard as they do and would thereby encourage them to set up operations in Singapore, thus advancing Singapore's vision of becoming both a science hub and an IP hub.
- Apart from patent protection, Swiss pharmaceutical companies are also concerned with trademark protection as their products are usually distinguished by the trademarks that are affixed on the products themselves or on their packaging. By giving effect to the Joint

Declaration on well-known marks, such companies will be further assured that Singapore has a sound and secure legal framework which confirms to international standards to protect their well-known marks from possible infringement.

QUERIES

Please address all queries to:

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Rules of Origin

- Rules of origin (ROO) identify the "nationality" of a product. In the context of the ESFTA, they ensure that only Singaporean or EFTA products enjoy the tariff preference negotiated under the Agreement.
- The ESFTA ROO were negotiated taking into consideration current and future production trends in Singapore. Most notably, the ROO acknowledge the unique production pattern of Singapore whereby certain stages of the production of the goods are outsourced to lower cost centres (ie. parts and components are shuttled to and from Singapore at various stages of production).
- Each product has at least one specific rule of origin. For some products, there is more than one specified rule of origin. With this additional flexibility, many of our companies will be able to take advantage of the ESFTA and export products manufactured in Singapore to EFTA under preferential tariff rates.

SALIENT FEATURES

- the origin criteria that identify products manufactured in Singapore for tariff preferences, and
- the documentary requirements to claim such preferences.

Origin Criteria

Products are divided into two categories:

i. Wholly Obtained Products

Wholly obtained products mainly refer to commodity products, such as orchids grown in Singapore. Such products are automatically accepted as originating in Singapore.

ii. Manufactured Products

- a. Products made from exclusively Singaporean or EFTA materials; or

- b. Products made from Singaporean, EFTA or imported materials or a combination of any materials from these sources.

Most of the products of export interest to Singapore belong to this category, i.e. the products are manufactured in Singapore from materials, components or parts. Examples of these products are:

- a. petroleum refined in Singapore from imported crude oil, and
- b. electric smoothing irons assembled in Singapore from both imported and locally produced components and parts.

These products will be considered originating in Singapore if they meet the product-specific rules in the Agreement as follows:

1. *Change in tariff classification (CTC)*

Essentially the ROO require that the products be substantially transformed in Singapore. Such transformation is deemed to have occurred if there is a change in tariff classification (CTC).

The Harmonized System of Classification categorizes products into chapters (2-digit), headings (4-digit) and subheadings (6-digit). The CTC rule in the ESFTA requires the final product to have a different 4-digit heading from the materials used in its production.

For example, motor spirit is refined in Singapore from imported crude oil. The final product, motor spirit (HS 2710), has a 4-digit heading different from that of the raw material, crude oil (HS 2709), used. Thus, the motor spirit is considered a Singapore product and can qualify for preferential tariff treatment when exported to EFTA.

2. *Value-add*

For some products, a value-add rule is provided for in the ROO. Under this rule, products will qualify for preferential tariff treatment if their Singaporean content meets a specified percentage of the ex-works price. Manufacturers that source inputs from overseas can include the EFTA or Singapore component of these inputs towards the specified percentage. Depending on the product, the specified local content ranges from 40% to 80% ex-works price.

3. *Process definition*

For some products, a process definition is provided for in the ROO. Under this rule, products which undergo the specified manufacturing process or processes in Singapore will be considered Singapore origin.

For example, motor spirit is refined in Singapore from imported crude oil. Under the manufacturing process definition, the process of refining crude oil into motor spirit in Singapore is considered Singapore origin. Thus, the motor spirit is considered a Singapore product and can qualify for preferential tariff treatment when exported to EFTA.

Documentary Requirements

The ESFTA also sets out a set of administrative procedures for the implementation of the ROO. We have negotiated rules that are easy to implement and trade facilitating.

1. Declaration of Origin - An EFTA importer of a Singapore originating product has to produce a declaration of origin made by the Singapore exporter or manufacturer of the good as proof of the Singapore origin of the product when claiming preferential tariff treatment. This system of certification is a trade facilitative procedure that simplifies documentation procedures and will help Singapore exporters to EFTA.
2. Origin Verification - Singapore will assist EFTA in verifying whether an exporter has accurately declared a product as Singapore origin.

Benefits to our Business and to Singapore

The benefits obtained are as follows:

1. The ESFTA ROO take into account operational patterns of companies in Singapore, including the shuttling of parts and components to and from Singapore during various stages of production.
2. The rules of origin allow greater flexibility in determining the qualification for Singapore origin with either the CTC rule, value-add rule, process definition rule or depending on the product in question, a combination of two or more of these rules. For products which have more than one rule, Singaporean manufacturers can choose the rule which best suit their manufacturing operations. This gives our manufacturers additional flexibility to qualify for preferential tariff treatment under the ESFTA.

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