

Information Paper on the Panama-Singapore Free Trade Agreement

OVERVIEW

1. The Panama-Singapore Free Trade Agreement (PSFTA) was signed in Singapore on 1 March 2006 by Singapore's Minister of State for Trade and Industry and for Education Mr Chan Soo Sen and Panama's Vice Minister of Commerce and Industry Ms Carmen Gisela Vergara. The agreement was concluded in April 2005 after three rounds of negotiations. Singapore's first bilateral FTA with a Latin American country, the PSFTA was initially launched in February 2004 in Singapore.

2. Panama ranks as Singapore's largest trading partner in Latin America. Bilateral trade amounted to \$3.26 billion in 2005, an increase of 47.1% from 2004. Home to the Panama Canal, major container ports and the Colon Free Zone (the second largest Free Trade Zone in the world after Hong Kong's), Panama is a major trading and transshipment hub for the Americas. By providing Singapore traders and investors with a more favourable operating environment in Panama, the PSFTA will enhance trade and investment flows between Panama and Singapore. Singapore companies can also use Panama as a gateway to the rest of the Latin American region.

PANAMA-SINGAPORE FREE TRADE AGREEMENT – KEY ELEMENTS

3. The PSFTA is comprehensive, covering market access for trade in goods, cross border trade in services, financial services, telecommunications, e-commerce, investment protection, competition, government procurement, transparency and dispute settlement. The key features of the PSFTA are:

Trade in Goods

4. The Trade in Goods chapter provides for tariff concessions that will enhance the competitiveness of Singapore goods vis-à-vis other foreign imports into Panama. This will strengthen the position of Singapore producers intending to penetrate the Panamanian market.

5. Tariffs on 98% of Singapore's domestic exports (by 2004 value) will be eliminated upon entry into force of the agreement. Key exports that will benefit include orchids, beer, processed foods, refined oil, chemicals, paints and varnishes, auto parts, engines and electronics. On its part, Singapore has committed to providing duty-free access to all Panamanian goods immediately upon the entry into force of the FTA.

Rules of Origin (ROO)

6. The ROO determine the products that are eligible for preferential treatment. Only products that have been substantially transformed in Singapore qualify for preferential treatment under the PSFTA. The provisions in the ROO chapter include various progressive elements that reflect Singapore's unique production patterns. These include:

- a. Provisions allowing a product to qualify if at least 35% value add has taken place, or if the product satisfies a product-specific rule (in many cases, this is a generous Change in Tariff Sub-Heading rule);
- b. Recognition of the concept of outward processing as an integral part of the manufacturing process for certain goods (such as electric irons). These goods will qualify for preferential treatment even if they have undergone processes of production or other operations outside the territory of a Party, provided they are returned to the Party before export.

Customs Procedures

7. In parallel with the removal of tariffs under the PSFTA, Singapore and Panama have agreed to simplify their customs procedures to facilitate the flow of goods between our two countries. Key facilitative commitments under this chapter include:

- a. Self-certification for the claiming of preferential tariffs: Using the case of Singapore-originating goods as an example, an importer would have to prove that the goods are of Singapore origin via the presentation of a certification of origin in order to claim preferential tariffs on the goods in question. Under the Agreement, the Singapore exporter or producer can make this certification of origin on the export invoice without the need for a formal certificate of origin. Furthermore, to facilitate the trade in low-value consignments, the requirement of a certification of origin is waived if the value of the consignment is below US\$1,000.
- b. Risk Management: Panama and Singapore have agreed to enhance the application of risk management to focus on high-risk goods and facilitate the clearance of low risk consignments.
- c. Advance Rulings: The customs authorities in each country will, on the request of the trader, prior to the importation of the good into its country, provide an advance ruling on the eligibility of originating

goods for preferential tariffs, providing traders with greater certainty on the status of their goods at the country of import.

8. The PSFTA will also enhance bilateral customs co-operation through the sharing of best practices on customs procedures.

Cross Border Trade in Services

9. The Cross Border Trade in Services Chapter is a comprehensive chapter that binds the Parties to their current levels of liberalization as well as any future liberalization in most services sectors. This chapter guarantees service suppliers from Panama and Singapore access to each other's markets, and provides Singapore companies with an edge over their competitors from other countries when supplying services to the Panamanian market in sectors like computer & related services, real estate services and distribution services.

10. The key features of the Chapter are as follows:

a. Beneficiaries. Singapore service suppliers with business operations in Singapore, provided they are not shell companies, will be able to take advantage of the benefits under this agreement;

b. Non-discriminatory treatment. The chapter ensures that in Panama, Singapore service suppliers will be granted the same treatment as local Panamanian service suppliers. In Singapore, Panama service suppliers will be granted the same treatment as local Singaporean service suppliers.

c. Most Favoured Nation. The chapter also contains a Most Favoured Nation clause, which ensures that service suppliers from both Parties will not be discriminated vis-a-vis service suppliers from each other's future FTA partners in all sectors except the following: Air Services, Environmental matters, Maritime and services auxiliary to maritime, Land Transport matters, Telecommunications and Information Technology matters, Postal and Courier matters and Professional Services (Legal Service).

d. Market Access. Both countries may not restrict access into their markets by imposing quantitative restrictions (eg. numerical quotas on service suppliers that are allowed in the market).

e. Domestic Regulation. The chapter ensures that non-discriminatory regulations governing provision of services are reasonable, impartial and objective.

11. Adopting a negative list approach, the Cross Border Trade in Services chapter deems all service sectors in Panama and Singapore open unless otherwise listed in the Annexes. This approach creates a more transparent and predictable business environment for Singapore and Panama's businessmen, who would have a better market knowledge of the sectors before entering the other Party's market.

12. In particular, an annex on Maritime transport services is attached to the cross border trade in services chapter. This ensures that vessels of Singapore and Panama are guaranteed access to and enjoy non-discriminatory treatment in each other's ports. Under the annex, vessels of Singapore and Panama are defined as any vessel under the national flag of either country, registered in the territory of either country, or any vessel under the flag of a third country that is owned or operated by a shipping company of either Singapore or Panama. The key elements are as follows:

- a. Taxes, port access fees and levies: Singapore vessels will enjoy the same treatment as Panama vessels in Panamanian ports, and vice-versa, with respect to taxes assessed on tonnage or freight value, and other taxes, port access fees or levies.
- b. Non-discriminatory treatment: Singapore and Panama vessels will enjoy non-discriminatory treatment for port services provided in the other Party's ports.
- c. Coastwise transportation of equipment: Singapore and Panama vessels will be allowed to transport equipment for their own use, including empty cargo vans, empty cargo lifts and empty containers between the other Party's ports.
- d. International maritime transport and feeder services: Singapore and Panama vessels will be allowed to operate between each other's ports for the purposes of pre or onward carriage of their own international cargo.

Financial Services

13. Through the Financial Services Chapter, the PSFTA establishes a level playing field for our financial sector players in Panama. In the Chapter, Panama has committed to bind its current level of financial sector liberalisation for all financial institutions in Singapore. This means that Singapore's financial institutions will not be subject to any future restrictions imposed by Panama. As such, financial institutions in Singapore seeking to set up operations in Panama can enjoy open access to Panama's banking, capital market and insurance sectors.

Investment

14. The PSFTA Investment Chapter aims to foster an open environment for cross-border investment, minimize restrictions, strengthen protection of investments and provide access to each other's markets. The key features of the Chapter are highlighted as follows:

a. Coverage: The Investment Chapter ensures investors coverage of the entire lifespan of investments from pre-establishment to sale.

b. Non-discriminatory treatment: Based on a negative-list approach, the Chapter deems all investment sectors in Panama as open to Singapore investors unless otherwise listed in the Annexes. Thus, in committed sectors such as the ship repair sector and telecoms sector in Panama, a Singapore investor will enjoy the same level of treatment which is accorded to local companies, at both national and provincial levels. The Panamanian investor will also benefit likewise in Singapore.

c. Expropriation and Compensation: The Chapter contains strong safeguards against unreasonable expropriation by both the governments of Singapore and Panama. In the event of an expropriation, investors will be entitled to compensation.

d. Investor to State dispute settlement: Should an aggrieved investor who has suffered losses feel that the Panama or Singapore government has acted in breach of its obligations under the PSFTA, it can take the Panama or Singapore government to an international arbitration tribunal. This right of the investor is in addition to and independent of any other contractual rights. Such an undertaking sends a strong signal that both countries are committed to maintaining open economies with attractive investment regimes.

e. Non-application of "performance requirements": Significantly, both sides have agreed not to impose a list of restrictive conditions ("performance requirements") relating to the establishment and management of investments, as well as to the granting of incentives.

15. The Investment Chapter will protect investments from Singapore into Panama, and vice-versa. For Singapore, investments owned by either (a) Singapore citizens or permanent residents or (b) Singapore-incorporated companies with substantive business operations here, will benefit from this chapter. This means that a foreign-owned company with substantive business operations in Singapore will enjoy the protection and liberalization benefits of the Investment Chapter when investing in Panama. (Shell

companies without substantive business operations and not owned by Singaporeans are not included.) This broad coverage of beneficiaries is important for Singapore to help enhance our role as a hub from which foreign investments based in Singapore can invest in Panama.

InfoCommunication Technology

16. Under the Telecommunications Chapter, both private and government-linked telecommunications companies are now allowed to operate in Singapore and Panama. Previously, only wholly private telecommunications companies had access to the Panamanian market. Both parties also strengthened their commitment to ensure telecommunications companies operating, or intending to operate in the other parties' market are accorded fair and non-discriminatory treatment, with specific obligations on the dominant suppliers in both countries. The agreement also provides operators a recourse mechanism to resolve telecommunications disputes through the relevant telecommunications regulatory bodies from each country.

Government Procurement

17. Unlike Singapore, Panama is currently not a signatory to the WTO Government Procurement Agreement (GPA). However, under the PSFTA, Panama has committed to maintaining an open and transparent system of procurement similar to the requirements under the GPA. This will maximise competitive opportunities for companies and will also reduce costs of doing business for both government and industry.

18. Under the chapter, procuring entities in Panama will grant equal and non-discriminatory access to government tenders in excess of the agreed monetary thresholds to Singapore suppliers. In the same way, procuring entities in Singapore will grant equal and non-discriminatory access to government tenders in excess of the agreed monetary thresholds to Panamanian suppliers. The agreed threshold for goods and services is Special Drawing Rights (SDR) 130,000 (~S\$312,000). The threshold for construction services is SDR 5 million (~S\$12 million).

19. The coverage of the GP chapter is extensive. Under the chapter, most Panamanian and Singaporean central government agencies have been listed as committed entities.

Competition Policy

20. These provisions outline general principles of competition that Panama and Singapore will abide by and encourages cooperation between the respective competition authorities. By committing to proscribe anti-

competitive business conduct that would restrict the market access of foreign competitors into their respective domestic markets, Panama and Singapore can ensure that the gains from trade and investment liberalization achieved by the FTA are maximized.

Dispute Settlement

21. Under the FTA, both Parties agreed to a robust dispute settlement system that first seeks to reach mutually satisfactory resolutions through consultations.

Ministry of Trade and Industry
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