

FOREIGN AFFAIRS AND TRADE

Joint Standing Committee on Treaties Singapore – Australia Free Trade Agreement Questions on Notice

A. The following questions were taken on notice during the Committees hearing on the Singapore – Australia Free Trade Agreement and other proposed treaties on 24 March 2003.

1. **Senator Mason** asked (p.15 of draft Hansard) whether the requirements that Australia sought from Singapore in relation to certification of rules of origin similar to the requirements that the United States have sought from Singapore in relation to their free trade agreement?

Answer:

The US-Singapore FTA provides that claims by an importer for preferential treatment under the Agreement be based on the importer's knowledge that the good qualifies as an originating good, or be based on information in the importer's possession that the good qualifies as an originating good. The importer must submit, on request, a statement setting forth the reasons that the good qualifies as an originating good, including pertinent cost and manufacturing information.

The US-Singapore FTA does not have an additional provision, of the kind contained in SAFTA requiring an exporter to have a valid Certificate of Origin for a specified category of goods, which must be issued by a designated authorised body.

2. **Senator Tchen** asked (p.17 of draft Hansard record) whether the Department could provide an indication of the benefits and costs to Singapore from SAFTA.

Answer:

The Government of Singapore has not published any quantitative studies of the impact of SAFTA of which the Department is aware. The only assessment of the benefits to Singapore business published by Singapore of which the department is aware is contained in a Media Information Kit issued by Singapore Ministry of Trade and Industry (available on its website at http://www.mti.gov.sg/public/PDF/CMT/FTA_SAFTA_Mediakit.pdf)

This document provides an analysis of the benefits to Singapore in relation to each chapter from the perspective of the Singapore Government. It should be noted that the Australian Government would see many of these benefits working in reciprocal fashion. The Department does not necessarily share the assessments contained in the document in all respects.

B. In addition to the questions taken on notice at the hearing, the Committee requested that information be provided on the following points:

1. During the hearing, reference was made to the first review of SAFTA (12 months after ratification), and the fact that there have already been some issues identified that will be included in this review. Can the department provide a list (or similar) of all issues that are currently prioritised for consideration during the review process?

Answer:

The Singapore-Australia Free Trade Agreement (SAFTA) includes provision for its review “within a year of the date of entry into force and then biennially or otherwise as appropriate” (Chapter 17, Article 3).

During the negotiation of SAFTA, certain issues were identified for the first review. Some of these issues are included within SAFTA itself while others are recorded in an agreed Third Person Note (TPN) that will be exchanged at the time of entry into force of SAFTA. The text of the TPN was tabled in Parliament together with the text of SAFTA.

a. Issues identified within SAFTA

i. As per Article 6 of Chapter 7 (Trade in Services), the Market Access and National Treatment obligations of this chapter will not apply to measures maintained by the Parties at the regional level until the first review. Article 6 of Chapter 8 (Investment) provides for a similar transition period for regional governments with respect to the National Treatment obligation of this chapter. (Regional governments in this context include State and Territory Governments in Australia.)

Accordingly, at the first review, Australia will incorporate into the annexes to these two chapters (Annex 4-I(A) and Annex 4-II(A)) additional reservations for non-conforming measures applied at the State and Territory levels. This process of incorporation is subject to consultations between the Parties which may involve adjustments to the existing annexes of reservations to preserve the “overall balance of benefits” under the Agreement.

ii. As per Article 22 of Chapter 7 (Trade in Services), the Parties will review on-going work towards an Open Skies Agreement at the first review of SAFTA.

iii. As per Article 18 of Chapter 6 (Government Procurement), at the first review and at subsequent reviews of SAFTA, the Parties will update, where appropriate, the lists of entities covered by the chapter (as set out in Annex 3A (for Australia) and Annex 3B (for Singapore)). They will also consider extending the scope of this chapter by adding entities to the Annexes (including, in the case of Australia, by encouraging States and Territories to list their entities at the first review).

Issues to be recorded in the exchange of Third Person Notes

- i. The Parties shall consider the inclusion in Chapter 8 (Investment), of a provision relating to performance requirements. Negotiation of such a provision will use as a guide the illustrative list in the WTO Agreement on Trade-Related Investment Measures or similar provisions in other international agreements.
- ii. The Parties shall consider the inclusion in Chapter 8 (Investment), of a provision relating to “taxation measures as expropriation”. The negotiating text on this provision at the conclusion of SAFTA negotiations will be used as the basis for future discussion.
- iii. The Parties will consider the incorporation of commitments on non-discriminatory treatment of “digital products” and consider the application of such commitments to the procurement practices of entities covered by Chapter 6 (Government Procurement).
- iv. At the initiation of either Party, the Parties will review the scope and operation of Article 9.8 (Resolution of Interconnection Disputes) of Chapter 10 (Telecommunications Services) within six months of the passage of any laws relating to the interconnection dispute resolution process in Australia.
- v. Singapore will consider Australia’s request to add a further two Australian universities to the eight recognised law degrees (provided for under SAFTA) for admission as qualified lawyers in Singapore (Annex 4-III, Part I.B). Singapore will also review the stipulation in Annex 4-III that only those graduates from these universities ranked in the highest 30 per cent will be regarded as qualified persons.
- vi. The Parties will review the use of measures covered by Article 16 (Industry Development) of Chapter 6 (Government Procurement), in the light of the objectives of the Chapter, and consult on ways of addressing any concerns raised by either Party.

2. If changes to the agreement arise as a result of the initial review (or subsequent biennial reviews) of the treaty, will JSCOT be involved in reviewing those changes as part of the process of scrutinising proposed treaty actions?

Answer:

DFAT expects that, under current treaty-making arrangements, any changes to SAFTA as a result of future reviews would be submitted for review by JSCOT.