

**EXCHANGE OF NOTES CONSTITUTING A TREATY  
BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE  
GOVERNMENT OF THE REPUBLIC OF SINGAPORE  
TO AMEND THE SINGAPORE – AUSTRALIA FREE TRADE  
AGREEMENT (SAFTA) OF 17 FEBURARY 2003  
[SECOND SET]**

**Documents tabled on 28 February 2006:**

**National Interest Analysis [2006] ATNIA 8**

**with attachments on consultation**

**Text of the proposed treaty action**

**and**

**Singapore's legal profession (international services) rules**

**Background information:**

**Singapore political brief and fact sheet**

**List of other treaties with Singapore**

**List of treaties of the same type with other countries**

## **NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY SUMMARY PAGE**

### **Exchange of Notes constituting a treaty between the Government of Australia and the Government of the Republic of Singapore to Amend the Singapore – Australia Free Trade Agreement (SAFTA) of 17 February 2003 [Second Set]**

#### **Nature and timing of proposed treaty action**

1. Article 3 of Chapter 17 (Final Provisions) of the Singapore-Australia Free Trade Agreement (SAFTA), done at Singapore on 17 February 2003, and associated Exchange of Notes [2003] ATS 1 stated that the first review of SAFTA should take place within a year of the date of entry into force of SAFTA and every two years thereafter. SAFTA entered into force on 28 July 2003 and the first Ministerial Review was held in July 2004. The aim of the first review was to consider jointly the implementation and outcomes of the agreement.
2. The provisions of SAFTA allow for the agreement to be amended to ensure it remains relevant and able to offer additional benefits to business. The amendments to SAFTA now proposed represent the second tranche of amendments which Australia and Singapore agreed to work towards at the conclusion of SAFTA negotiations in 2003. The proposed amendments are to Annex 4-I(A), 4-II(A) and 4-III and incorporate Australia's reservations and additional commitments to Chapter 7 (Trade in Services) and Chapter 8 (Investment) and Singapore's additional commitments for financial services and conditions governing joint law ventures and formal law alliances in Singapore. The proposed amendments are in bold in the attached text.
3. An exchange of notes bringing these amendments into force will occur upon completion of the Parties' respective domestic procedures. In Australia, these procedures include completion of the Joint Standing Committee on Treaties' review of the proposed amendments.
4. These proposed amendments follow the first tranche of amendments which were tabled in Parliament in March 2005 (ATNIA 5). Those amendments included a new Sectoral Annex on Horticultural Goods, a new Sectoral Annex on Food Products, a revised list of Australian Government entities subject to national treatment on government procurement under Annex 3A and a revised Annex 4-III-II on recognition of Australian law degrees. In August 2005, the Joint Standing Committee on Treaties recommended that these amendments be brought into force. These amendments will be brought into force through an Exchange of Notes in early 2006. The first package of amendments approved by JSCOT also included revised Article 11 on Certification of Origin. The amendments to Article 11 will be brought into force once required legislation has been passed by the Australian Parliament.

#### **Overview and national interest summary**

5. Singapore was Australia's sixth largest merchandise trading partner in 2005. In 2005, merchandise exports to Singapore were valued at A\$4.00 billion and imports were A\$8.67 billion. Australian services exports to Singapore were valued at A\$2.38 billion in 2005 and services imports were valued at A\$2.78 billion.
6. The SAFTA amendments will deliver additional benefits to Australia above those negotiated in the original Singapore-Australia Free Trade Agreement. Singapore shares Australia's outlook on the value of trade liberalisation and expanding trade and investment links with regional neighbours. The SAFTA amendments represent an ongoing commitment by both countries to the trade liberalisation process.

## **Reasons for Australia to take the proposed treaty action**

7. The aim of the SAFTA review process is to keep SAFTA up to date and relevant to Australian and Singaporean business. The aim of regular reviews is to identify emerging issues for business in the two countries and build on the platform provided by SAFTA. The current amendments represent a balanced package of outcomes for Australia and Singapore.

8. Entry into force of the SAFTA amendments will provide greater certainty on reservations in regard to services trade with and investment in Australia's States and Territories; more generous access to the wholesale banking market in Singapore; and easier establishment of joint law ventures in Singapore. Australia and Singapore undertook substantial negotiations to reach an outcome acceptable to both sides and the successful negotiation of these new commitments signals strong support for ongoing trade liberalisation.

9. Not proceeding with the proposed amendments will send a negative signal to our trading partners about Australia's commitment to trade liberalisation and expanding trade and investment links.

## **Obligations**

### **(Australia)**

10. The proposed amendments to Annexes 4-I and 4-II incorporate the reservations to SAFTA made by Australia's State and Territory governments, which reflect non-conforming measures in trade in services and investment which are maintained at the State and Territory government levels. The proposed amendments extend the range of exceptions to Australia's obligations under SAFTA.

11. Under Chapter 7 (Trade in Services), Article 6 states that the provisions of Articles 3 (Market Access) and 4 (National Treatment) of Chapter 7 will apply to measures affecting trade in services maintained at the State and Territory level, unless non-conforming measures maintained at the State and Territory level are covered by reservations in Annexes 4-I and 4-II. The proposed amendments contain reservations of this type.

12. Similarly, under Chapter 8 (Investment), Article 6 states that the provisions of Article 3 (National Treatment) of Chapter 8 will apply to measures affecting investment maintained at the State and Territory level, unless non-conforming measures maintained at the State and Territory level are covered by reservations in Annexes 4-I and 4-II. The proposed amendments contain reservations of this type.

13. Annex 4-I reservations reserve the right to maintain existing restrictions/ discriminations, but with the proviso that these measures cannot be made more restrictive in the future. Annex 4-II reservations reserve the right not only to maintain restrictions/discriminations for particular sectors but to introduce other restrictive measures for these sectors in the future.

### **(Singapore)**

#### *Wholesale Bank Licences*

14. Under the current SAFTA text in Section V (Note to Singapore's Commitments for Financial Services) of Annex 4-III (Additional Commitments to Chapter 7 (Trade in Services) and Chapter 8 (Investment)), Singapore agreed to lift its numerical quota on wholesale bank

licences in relation to Australian banks four years after the agreement's entry into force, i.e. the quota would be lifted on 28 July 2007. Separately, Singapore agreed to lift its numerical quota from 1 January 2007 on wholesale bank licences under the United States-Singapore Free Trade Agreement (USSFTA). In an exchange of diplomatic notes between Australia and Singapore, Singapore agreed to extend the same commitments to Australia in relation to wholesale bank licences as had been made to the United States. The proposed amendment to Annex 4-III-V gives effect to this commitment, so that the quota will be lifted for Australian banks from 1 January 2007. The granting of wholesale bank licences will still be subject to the relevant admission criteria.

#### *Joint Law Ventures and Formal Law Alliances*

15. The current SAFTA text in Section III (Waiver and Modifications of Statutory Conditions governing Joint Law Ventures and Formal Law Alliances in Singapore) of Annex 4-III (Additional Commitments to Chapter 7 (Trade in Services) and Chapter 8 (Investment)), outlines the modification of Singapore's statutory conditions governing joint law ventures (JLVs) and formal law alliances (FLAs), as they apply to Australia. Under Annex 4-III-III of SAFTA, Singapore specified the requirement that JLVs and FLAs must comprise at minimum four foreign lawyers resident in Singapore, with an aggregate experience of 20 years, and of whom at least two must be equity partners in the foreign law firm or members of the board of directors. SAFTA also provides that a foreign lawyer working in a JLV who wishes to practice Singaporean law must have a minimum of four years expertise or experience in banking or finance work. The text of the rules to which Annex 4-III-III relates is included as a separate attachment.

16. Under the USSFTA, Singapore specified that three foreign lawyers, with an aggregate experience of 15 years and at least two of whom must be either equity partners or members of the board of directors of the foreign law firm, must be resident in Singapore. The USSFTA also provides that to practice Singaporean law, a foreign lawyer must have a minimum of three years expertise or experience in banking or finance work. USSFTA also has a commitment allowing a JLV involving a US law firm to practice corporate law in addition to banking and finance law.

17. In an exchange of diplomatic notes between Australia and Singapore, Singapore agreed to extend to Australia treatment no less favourable than that granted to the United States of America under the USSFTA with respect to JLVs and FLAs. The proposed amendments to the text of Annex 4-III-III of SAFTA reflects changes equivalent to the provisions relating to JLVs and FLAs under the USSFTA.

#### **Implementation**

18. The proposed changes to Australia's obligations under SAFTA reflect existing non-conforming measures at the State and Territory level which are not required to change. For Australia to fulfil its new commitments, no changes are required to Australian legislation.

#### **Costs**

19. The proposed amendments will not introduce additional costs above what was associated with SAFTA at the time of entry into force.

20. The Treasury has estimated that the financial cost of SAFTA to the Commonwealth Government will amount to \$30 million a year in 2003-04 and 2004-05, and grow to \$35 million a year in 2005-06 and 2006-07. This estimate is based on the expected loss of tariff revenue

from imports from Singapore, which are assumed to grow steadily over time in line with the domestic economy. The estimates do not take account of the scope for additional lost tariff revenue that could arise if imports from Singapore displaced imports from other countries. At the same time, the estimates do not take into account the potential economic growth that SAFTA may generate and any additional taxation revenue resulting from this growth.

### **Regulation Impact Statement**

21. The Office of Regulation Review (Productivity Commission) has been consulted and confirms that a Regulation Impact Statement is not required.

### **Future treaty action**

22. Article 3 of Chapter 17 (Final Provisions) provides for the regular review of SAFTA. The next review is due in mid-2006.

23. A number of the chapters of SAFTA also contain provision for consultation and review of specific provisions.

24. In Article 22 of Chapter 7 (Trade in Services) both Parties agree to work towards a separate Open Skies Air Services Agreement.

25. Additional reservations or amendments agreed in the course of further reviews of SAFTA would be subject to the Australian treaty process.

### **Withdrawal or denunciation**

26. Under Article 8 of Chapter 17 (Final Provisions) of SAFTA, either Party may terminate SAFTA by giving the other Party six months advance notice in writing. Termination of SAFTA would be subject to the Australian treaty process.

### **Contact details**

South and South-East Asia Division  
Department of Foreign Affairs and Trade

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[Second Set]**

**CONSULTATION**

1. The Department worked closely with State and Territory ministries responsible for trade to finalise the amendments to the reservations list, incorporating Australia's State and Territory reservations. States and Territories were also consulted via the National Trade Consultations, the International Procurement Consultative Group, the State Trade Officials Group and the Standing Committee on Treaties. The Minister for Trade wrote to State and Territory Trade Ministers informing them of the amendments, with copies to State Premiers and Territory Chief Ministers.
2. The Department consulted with other interested Australian Government Departments through an inter-departmental committee process. The Minister for Trade wrote to Federal Ministers whose portfolios were directly affected by the amendments.
3. Prior to the first SAFTA Ministerial Review meeting, the Department also sought business feedback on additional issues to be addressed at the first review of SAFTA and in the SAFTA forward work program. Business consultation meetings were held in all State capital cities, with the exception of Tasmania. Businesses were generally positive about SAFTA. State Governments and universities were interested in seeking recognition of more Australian law degrees, resulting in two extra universities being added to Singapore's list. Concerns were expressed regarding delays in issuing Certificates of Origin in Singapore, resulting in both Singapore and Australia agreeing to revise arrangements concerning Certificates of Origin for Singapore exports to Australia and the amendment of the relevant provisions of SAFTA. These business consultations and the resulting amendments were tabled in March 2005 (ATNIA 5). Other concerns will be addressed in the SAFTA forward work program and ongoing review process, such as Mutual Recognition Agreements between professional bodies.

## SINGAPORE POLITICAL BRIEF

1. Singapore is a republic with a parliamentary system of Government and an elected President as the Head of State. Parliament is unicameral and has 84 elected members, one Non-Constituency Member of Parliament (NCMP) and nine Nominated Members of Parliament. The political scene in Singapore has been dominated by the People's Action Party (PAP) since 1959. The party has won ten general elections in succession. The population of 4.2 million (2004 census data) comprises three major ethnic populations: Chinese (77 per cent), Malay (14 per cent), and Indians (8 per cent). The official languages of Singapore are Malay, Chinese (Mandarin), Tamil and English. Malay is the national language and English is the language of administration.
2. Singapore has an open economy, with strong service and manufacturing sectors and excellent international trading links. Located at the crossroads of international trade routes, Singapore is the most economically successful and prosperous country of South East Asia. Singapore's major industries include petroleum refining, electronics, oil drilling equipment, rubber products, processed food and beverages, ship repair, entrepot trade, financial services and biotechnology.
3. Singapore was a founding member of ASEAN. It is also a member of the United Nations, the Commonwealth, the World Trade Organization, APEC and the Non-Aligned Movement.
4. Singapore and Australia have a strong and productive bilateral relationship based on long-standing political, defence, educational, trade, tourism and Commonwealth links and a shared strategic outlook. Defence links with Singapore are significant and cooperative, based in part on our shared interest in enhancing regional security. A key element of the relationship is the access to Australian-based training areas provided to the Singapore Armed Forces. Singapore and Australia are both members of the Five Power Defence Arrangements.
5. Singapore is our largest trade and investment partner in ASEAN, and our sixth largest merchandise trading partner overall, reflecting Singapore's role in transshipment trade. In 2005, merchandise exports to Singapore were valued at A\$4.0 billion and imports were A\$8.7 billion. Australian services exports to Singapore were valued at A\$2.4 billion in 2005 and services imports were valued at A\$2.8 billion. Singapore was our sixth largest source of short-term visitors in 2005 (265,200 visitors). In 2004, 28,290 Singaporean students enrolled in Australian educational institutions, both on and offshore.
6. As at 31 December 2004, Singaporean investment in Australia was A\$19.1 billion. Notable non real estate investments include Singtel's acquisition of Optus in 2001, Singapore Investment Corporation's acquisition of the Mayne Group's portfolio of private hospitals in 2003, and Singapore Power's purchase of assets in Victoria and South Australia in 2004. Australian investment in Singapore as at 31 December 2004 was almost A\$14 billion. This amount includes QANTAS' joint venture establishing Singapore-based budget airline Jetstar Asia (49 per cent owned by QANTAS), which commenced operations in December 2004 and QANTAS' agreement to pay A\$48 million for Singapore-based Valuair to merge it with Jetstar Asia. The deal, concluded in July 2005, left QANTAS with a majority share-holding of 45.5 per cent.



# SINGAPORE

Fact Sheet

## General information:

Fact sheets are updated biannually; May and September

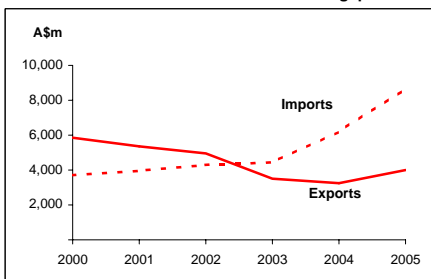
<b>Capital:</b>	Singapore
<b>Surface area:</b>	1 thousand sq km
<b>Official languages:</b>	Malay; Chinese (Mandarin); Tamil; English
<b>Population:</b>	4.2 million (2004)
<b>Exchange rate:</b>	A\$1 = S\$ 1.2818 (Nov 2005)

<b>Head of State:</b>	H.E. President Mr S R Nathan
<b>Head of Government:</b>	H.E. Prime Minister Mr Lee Hsien Loong

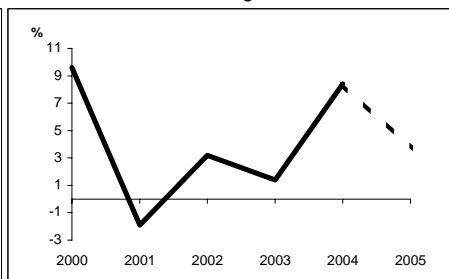
## Recent economic indicators:

	2000	2001	2002	2003	2004(a)	2005(b)
<b>GDP (US\$bn):</b>	92.6	85.8	88.5	92.4	106.8	116.3
<b>GDP per capita (US\$):</b>	23,040	20,780	21,210	22,070	25,170	27,180
<b>Real GDP growth (% change YOY):</b>	9.6	-1.9	3.2	1.4	8.4	3.7
<b>Current account balance (US\$m):</b>	13,257	16,086	18,909	28,184	30,331	25,378
<b>Current account balance (% GDP):</b>	14.3	18.7	21.4	30.5	28.4	21.8
<b>Goods &amp; services exports (% GDP):</b>	193.1	189.6	190.4	208.9	223.2	224.7
<b>Inflation (% change YOY):</b>	1.4	1.0	-0.4	0.5	1.6	1.0
<b>Unemployment rate (%):</b>	4.4	3.4	5.2	5.4	5.3	5.1

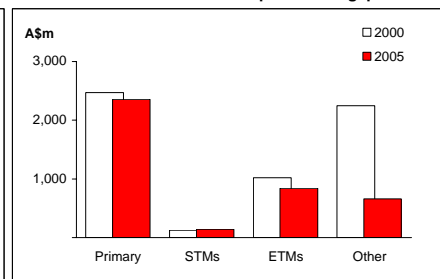
Australia's merchandise trade with Singapore



Real GDP growth



Australia's merchandise exports to Singapore



## Australia's trade relationship with Singapore:

### Major Australian exports, 2005 (A\$m):

Crude petroleum	1,290
Refined petroleum	481
Non-monetary gold	280
Milk and cream	142
Meat (excl. bovine)	97

### Major Australian imports, 2005 (A\$m):

Refined petroleum	4,538
Non-monetary gold	689
Computers	364
Telecommunications equipment	269
Musical instruments	221

### Australian merchandise trade with Singapore, 2005:

		<b>Total share:</b>	<b>Rank:</b>	<b>Growth (yoy):</b>
Exports to Singapore (A\$m):	4,001	2.9%	10th	23.2%
Imports from Singapore (A\$m):	8,673	5.6%	5th	39.8%
Total trade (exports + imports) (A\$m):	12,675	4.3%	6th	34.1%
Merchandise trade deficit with Singapore (A\$m):	4,672			

### Australia's trade in services with Singapore, 2005 (c):

		<b>Total share:</b>
Exports of services to Singapore (A\$m):	2,384	6.5%
Imports of services from Singapore (A\$m):	2,782	7.3%
Services trade deficit with Singapore (A\$m):	398	

## Singapore's global merchandise trade relationships:

### Singapore's principal export destinations, 2004:

1	Malaysia	15.2%
2	United States	12.4%
3	Hong Kong	9.8%
4	China	8.6%
5	Japan	6.4%
9	Australia	3.7%

### Singapore's principal import sources, 2004:

1	Malaysia	15.2%
2	United States	12.5%
3	Japan	11.7%
4	China	9.9%
5	Taiwan	5.7%
17	Australia	1.4%

Compiled by the Market Information and Analysis Section, DFAT, using the latest data from the ABS, the IMF and various international sources.

(a) all recent data subject to revision; (b) EIU forecast; (c) Preliminary.



## LIST OF OTHER TREATIES WITH SINGAPORE

- Agreement between the Governments of the Federation of Malaya and the State of Singapore and the Government of the Commonwealth of Australia concerning the Exchange Postal Parcels subject to Trade Changes between Malaya and Christmas Island [1962] ATS 15
- Agreement between the Governments of the Federation of Malaya and the State of Singapore and the Government of the Commonwealth of Australia concerning the Exchange of Parcels by Parcel Post between Malaya and Christmas Island [1962] ATS 15
- Agreement with the Republic of Singapore relating to Air Services [1967] ATS 25
- Agreement with the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income [1969] ATS 14
- Exchange of Notes constituting an Agreement with the Republic of Singapore regarding External Defence under the Five Power Defence Arrangements [1971] ATS 21
- Exchange of Letters constituting an with the Republic of Singapore Extending the Operation of Article 18 (3) of the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income of 11 February 1969 [1975] ATS 18
- Cultural Agreement with the Republic of Singapore [1975] ATS 34
- Exchange of Notes constituting an Agreement amending the Agreement relating to Air Services of 3 November 1967 [1976] ATS 6
- Exchange of Notes constituting an Agreement to further extend the operating of Article 18(3) of the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income of 11 February 1969 [1981] ATS 31
- Exchange of Notes constituting an Agreement with the Republic of Singapore amending the Agreement concerning the Provision of Treatment in Singapore Hospitals for Asian Residents of Christmas Island, 1968 [1982] ATS 16
- Exchange of Notes constituting an Agreement with the Republic of Singapore to Terminate the Agreement concerning the Provision of Treatment in Singapore Hospitals for Asian Residents of Christmas Island of 27 June 1968 [1985] ATS 31
- Exchange of Notes constituting an Agreement with the Republic of Singapore concerning the Status of Forces [1988] ATS 6

- Exchange of Notes constituting an Agreement to Further Extend the Operation of Article 18(3) of the Agreement with the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income of 11 February of 1969  
[1989] ATS 26
- Exchange of Notes with the Republic of Singapore constituting an Agreement concerning Cooperation on the Physical Protection of Nuclear Material  
[1989] ATS 34
- Protocol amending the Agreement with the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income of 11 February 1969  
[1990] ATS 3
- Agreement with the Republic of Singapore concerning the Use of Shoalwater Bay Training Area and the Associated Use of Storage Facilities in Australia  
[1995] ATS 14
- Agreement with the Republic of Singapore for the Reciprocal Protection of Classified Information Transmitted between the Australian department of defence and the Singapore Ministry of Defence  
[1997] ATS 18
- Agreement with the Republic of Singapore concerning the Location of the RSAF Helicopter Squadron at the Army Aviation Centre, Oakey (Queensland)  
[1997] ATS 25
- Exchange of Notes constituting an Agreement to amend the Agreement with the Republic of Singapore concerning the Use of Shoalwater Bay Training Area and the Associated Use of Storage Facilities in Australia of 17 February 1995  
[1999] ATS 5
- Agreement with the Republic of Singapore concerning the Use of Shoalwater Bay Training Area and the Associated Use of Storage Facilities in Australia  
[2000] ATS 7
- Mutual Recognition Agreement on Conformity Assessment with the Republic of Singapore  
[2001] ATS 9
- Singapore-Australia Free Trade Agreement  
[2003] ATS 16
- Agreement with the Government of the Republic of Singapore concerning the Use of Shoalwater Bay Training Area and the Use of Associated Facilities in Australia  
[2006] ATS 7

## **TREATIES OF THE SAME TYPE WITH OTHER COUNTRIES**

- Australia New Zealand Closer Economic Relations - Trade Agreement (ANZCERTA)  
[1983] ATS 2  
and amendments:  
[1988] ATS 17  
[1988] ATS 18  
[1988] ATS 20  
[1988] ATS 27  
[1992] ATS 27  
[1994] ATS 39
- Agreement on Trade and Commercial Relations between the Government of Australia and the Government of Papua New Guinea (PATCRA II)  
[1991] ATS 37
- Australia-US Free Trade Agreement  
[2005] ATS 1
- Australia-Thailand Free Trade Agreement (TAFTA)  
[2005] ATS 2

February 2006