

**National Interest Analysis [2011] ATNIA 5**

**with attachment on consultation**

**Amendments to Singapore-Australia Free Trade Agreement,  
done at Singapore on 27 July 2009**

**[2011] ATNIF 1**



## **NATIONAL INTEREST ANALYSIS: CATEGORY 2 TREATY**

### **SUMMARY PAGE**

#### **Amendments to Singapore-Australia Free Trade Agreement, done at Singapore on 27 July 2009**

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

1. The proposed treaty action is for Australia to bring into force amendments to the Singapore-Australia Free Trade Agreement (SAFTA), done at Singapore on 17 February 2003, arising from the second Ministerial Review of SAFTA on 27 July 2009.
2. The package of SAFTA amendments will enter into force following an exchange of diplomatic notes confirming completion of the Parties' respective domestic procedures to give effect to the amendments. In Australia, this will take place following completion of the Joint Standing Committee on Treaties' (JSCOT) review.

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

3. The second Ministerial Review sought to build upon SAFTA and ensure the Agreement remained up-to-date and consistent with the needs of both countries' business communities, taking account of any changes to related legislation and policy settings in both countries.
4. Bringing into force the proposed amendments arising from the second Ministerial Review is in the national interest. SAFTA underpins bilateral trade relations between Australia and Singapore and is regarded as a high quality free trade agreement (FTA) by both countries. Two-way trade and investment between Australia and Singapore are very high - in 2010 Singapore ranked as Australia's seventh largest two-way merchandise trading partner and largest ASEAN trading partner, and ranked ninth as a destination for Australian investment overseas.

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

5. In order to underpin and support high levels of commercial activity between Australia and Singapore it is important that SAFTA continues to meet the needs of Australia and Singapore business. Bringing into force the proposed amendments arising from the second Ministerial Review will help to ensure that SAFTA remains a high-quality agreement and reflects Australia's most recent FTAs by remaining relevant to Australian and Singaporean businesses. It will also allow Australia and Singapore to build on the platform provided by SAFTA. The proposed amendments represent a balanced package of outcomes for Australia and Singapore.

## **Obligations**

6. Under Article 3 of Chapter 6 (Government Procurement) of SAFTA, certain Australian Government entities are required to accord treatment to Singaporean goods and services and suppliers of goods and services no less favourable than that accorded to domestic goods and services and suppliers. Australian Government entities covered by this provision are listed in Annex 3(A) of SAFTA. The proposed amendments to the list of Australian Government entities in this Annex do not grant Singapore additional access to Australia's government procurement market but reflect changes to the machinery of government, at the Commonwealth level, since the first Ministerial Review was completed in 2004.

7. The proposed amendments to Chapter 8 (Investment) consist of new commitments by Australia and Singapore to accord minimum standards of treatment to each other's investors (Articles 4) and prohibit the imposition of performance requirements (Article 5). These new commitments ensure that SAFTA is consistent with Australia's most recent FTAs, and while they do not constitute market access concessions they provide increased transparency for investors. The proposed amendments to Annexes 4-I(A) and 4-II(A) and 4-I(B) and 4-II(B) ensure that these texts are consistent with the proposed amendments to Chapter 8.

8. Similarly, the proposed removal of footnotes 10, 11, and 12 in Article 9.7 of Chapter 10 (Telecommunications) concerning interconnection with major suppliers does not affect Australia's obligations under SAFTA. The footnotes are of a clarifying nature only.

9. The proposed amendments to Chapter 13 (Intellectual Property) reflect recent changes to legislation in Australia (the Copyright Amendment Act 2006) and Singapore resulting from each country's bilateral FTA with the United States.

## **Implementation**

10. No changes to Australian legislation are required to implement the proposed amendments.

## **Costs**

11. There are no financial costs associated with bringing into force the proposed amendments to SAFTA, as existing Australian legislation complies with the proposed amendments.

## **Regulation Impact Statement**

12. The Office of Best Practice Regulation, Department of Finance and Deregulation, has been consulted and confirms that a Regulation Impact Statement is not required.

## **Future treaty action**

13. Article 7 of Chapter 17 (Final Provisions) provides that SAFTA may be amended by agreement in writing by the Parties and such amendments shall enter into force on such date or dates as may be agreed by them.

14. Article 3 of Chapter 17 provided for Ministerial review of SAFTA one year after entry into force and biennially thereafter. Officials from the Department of Foreign Affairs and Trade (DFAT) are holding public consultations to determine the level of Australian business interest in the Singapore market, and whether business is interested in holding a third Ministerial Review. DFAT will advise the Minister for Trade, the Hon Dr Craig Emerson MP, of the outcomes of the public consultations in early 2011.

15. In Article 22 of Chapter 7 (Trade in Services) both Parties agree to work towards a separate Open Skies Air Services Agreement. No timetable has been agreed for any work in this area.

16. Additional reservations or amendments agreed between Australia and Singapore in the course of further Ministerial reviews of SAFTA would be subject to Australia's domestic treaty-making process, including tabling in Parliament and consideration by JSCOT.

## **Withdrawal or denunciation**

17. Under Article 8 of Chapter 17 (Final Provisions), either Party may terminate SAFTA by giving the other Party six months' advance notice in writing. Termination of SAFTA would be subject to Australia's domestic treaty-making process, including tabling in Parliament and consideration by JSCOT.

## **Contact details**

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Department of Foreign Affairs and Trade



## **ATTACHMENT ON CONSULTATION**

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#### **Consultation with business and industry**

18. The Department of Foreign Affairs and Trade (DFAT) held business consultation meetings in major State capital cities, with the exception of Tasmania and Perth, in the lead-up to the second Ministerial Review of the Singapore-Australia Free Trade Agreement (SAFTA), done at Singapore on 17 February 2003. Industry groups were also consulted through DFAT's regular consultative forums on free trade agreements. In addition, individual companies and industry groups with specific interests were engaged directly through the Australian High Commission in Singapore, Treasury (on financial services) and the Attorney General's Department (on legal services) on an ad hoc basis. Business stakeholders were generally positive about SAFTA. State and Territory Governments and universities were interested in seeking recognition of further Australian law degrees for the purpose of practising law in Singapore. Concerns were also expressed regarding mutual recognition agreements between professional bodies, particularly engineers. These issues remain outstanding and will continue to be raised in the context of the SAFTA review process.

#### **Consultation with State and Territory Governments**

19. State and Territory Governments were also consulted during DFAT's business consultation meetings and were briefed on the progress of negotiations through the Commonwealth-State and Territory Standing Committee on Treaties (SCOT). At the April 2009 SCOT meeting, DFAT sought State and Territory views on Singapore's proposal to extend SAFTA's government procurement coverage to State and Territory entities. The then Minister for Trade, the Hon Simon Crean MP, also wrote to his State and Territory counterparts seeking their views on this proposal. The State and Territory Governments did not agree to extend government procurement coverage of their entities under SAFTA.

#### **Consultation with Australian Government departments**

20. DFAT consulted with other interested Australian Government departments through an inter-departmental committee process, and other regular consultation.