



Trans-Pacific (TPFTA)

On the sidelines of the APEC Ministers Responsible for Trade (MRT) meeting in Jeju, Korea, the ministers of Brunei, Chile, New Zealand and Singapore announced the conclusion of the Trans-Pacific Strategic Economic Partnership Agreement (Trans-Pacific SEP) on 3 June 2005.



The inclusion of like-minded parties such as Brunei to the Agreement demonstrates the potential of the Trans-Pacific SEP to grow into a larger strategic agreement for trade liberalisation.

The Trans-Pacific SEP is Singapore's first FTA with a South American country. It also builds on our existing FTA with New Zealand and both countries have sought, where possible, to improve on the commitments made under the ANZSCEP.

The Agreement was implemented on 28 May 2006.

Benefits to Singapore Exporters Under TPFTA

Singapore exporters would benefit from export opportunities with Singapore's first FTA with a South American country, Chile, and the deepening of commitments with existing FTA partners such as Brunei and New Zealand.

Exporters would also be able to benefit from the regional content value for the Rules of Origin, Outward Processing and Advance Rulings.

Trade in Goods

Except as otherwise provided in this Agreement, no Party may increase any existing customs duty or adopt any customs duty on an originating good.

Except as otherwise provided in this Agreement and subject to a Party's Schedule, each Party shall eliminate all customs duties on originating goods of another Party.

With respect to New Zealand, duties on all tariff lines would be eliminated with immediate effect, as was the case under the ANZSCEP. With regard to Brunei, the market access package will complement Singapore's existing arrangement under the AFTA. With regard to Chile, tariffs on 89.3 per cent of domestic exports would be eliminated upon entry into force, with tariffs on a further 9.57 per cent eliminated in three years. Altogether, 98.87 per cent of all domestic exports would receive duty-free treatment three years from entry into force, that is, starting from 1 January 2009. This figure would increase to 100 per cent in six years.

Key exports that will benefit include processed chemicals, cocoa powder, pharmaceuticals and plastics.

Rules of Origin

A good is considered as originating if one of the following conditions is fulfilled:

- 1) it is wholly obtained or produced entirely in the territory of one Party;
- 2) the good is produced entirely in the territory of one or more Parties, exclusively from materials whose origin conforms to the provisions of the chapter on ROO; or
- 3) the good is produced in the territory of one or more Parties, using non-originating materials that conform to:
 - a) change in tariff classification,
 - b) regional value content or other product specific requirements outlined in Annex II, and
 - c) the good meets the other applicable provisions outlined in the Agreement.

A product will qualify for preferential treatment if it meets the specific rule of origin applicable to it. In many cases, this is a liberal Change of Tariff Sub-Heading rule or where so stipulated, if at least 45 per cent of the cost originates from the Party. Manufacturers that source inputs

from Trans-Pacific SEP parties can include the cost of these inputs towards the 45 per cent, but the total value of non-originating materials must not exceed 55 per cent of the value of the good.

The Parties recognise certain industrial goods produced from recovered goods in the territory of a Party as originating. These goods must have the same life expectancy and meet the same performance standards as new goods.

Each Party shall provide that the regional value content of a good shall be calculated on the basis of the following method:

$$RVC = \frac{TV - VNM}{TV} \times 100$$

where

- 1) RVC is the regional value content expressed as a percentage;
- 2) TV is the transaction value of the good, adjusted on an FOB basis, except as provided in Paragraph 3. If no such value exists or cannot be determined, pursuant to the principles of Article 1 of the Customs Valuation Agreement, it shall be calculated pursuant to the principles of Articles 2 to 7 of that Agreement; and
- 3) VNM is the transaction value of the non-originating materials when they were first acquired or supplied to the producer of the goods, adjusted on a CIF basis, except as provided in Paragraph 4. If such value does not exist or cannot be determined, pursuant to the principles of Article 1 of the Customs Valuation Agreement, it shall be calculated pursuant to that Agreement.

Key sectors that will benefit from the various liberal process rules in the Rules of Origin (ROO) chapter include the chemicals, horticultural, oil, pharmaceuticals and plastics industries.

Outward Processing

A good listed in Annex 4.B shall be considered as originating even if it has undergone processes of production or operation outside the territory of a Party on a material exported from the Party and subsequently re-imported to the Party, provided that:

- 1) the total value of non-originating materials does not exceed 55 per cent of the customs value of the final good for which originating status is claimed;
- 2) the materials exported from a Party shall have been wholly obtained or produced in the Party or have undergone therein, processes of production or operation going beyond the minimal processes prior to being exported outside the territory of the Party;
- 3) the producer of the exported material is the same producer of the final good for which originating status is claimed;
- 4) the re-imported good has been obtained through processes of production or operation of the exported material; and
- 5) the last process of manufacture of the good was performed in the territory of the Party, and this process is the last activity undertaken in respect to a good that finally transforms it into a good different from its component parts or materials and a new good is therefore manufactured.

Customs Documentation

The key facilitative commitment under this chapter includes the 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 declaration of origin on the export invoice in order to claim preferential tariffs on the goods in question. Under the Agreement, the Singapore

exporter or producer can make this declaration of origin without the need for a formal certificate of origin. Furthermore, to facilitate the trade in low-value consignments, the requirement of a declaration of origin is waived if the value of the consignment is below US\$1,000.

Advanced Ruling

Each Party, through its customs administration, shall provide in writing advance rulings in respect of the tariff classification and origin of goods and whether a good qualifies for entry free of customs duty.

Each Party shall adopt or maintain procedures for advance rulings, which shall require that an applicant for an advance ruling provide a detailed description of the goods and all relevant information needed to issue an advance ruling. Each Party's customs administration may at any time during the course of issuing an advance ruling request that the applicant provide additional information within a specified period. It shall provide that an advance ruling be issued to the applicant within 60 days of the receipt of all necessary information.

A Party may modify or revoke an advance ruling upon a determination that the ruling was based on an error of fact or law, the information provided is false or inaccurate, if there is a change in domestic law consistent with this Agreement, or there is a change in a material fact or circumstances on which the ruling is based.

Mutual Recognition Arrangement for Goods

The Sanitary and Phytosanitary Measures (SPS) serve to facilitate trade by enhancing cooperation amongst the Parties' regulatory agencies on issues such as standards and technical regulations. They also provide a framework to address the impact of potential barriers to trade posed by such regulations and standards. Under the SPS chapter, the Parties have agreed to put in place eight Implementing Arrangements setting out the details of agreed procedures for trade to take place. These procedures include the determination of equivalence, audit and verification procedures, import checks and certification. The Parties have agreed on a work programme on the mutual or unilateral recognition of standards, regulations and test results, and the harmonisation of standards. The programme includes beef grading, electrical and electronic goods, and shoe labelling.

Trade in Services

The Trade in Services Chapter will bind Parties to their current levels of liberalisation as well as any future liberalisation in most sectors. New Zealand and Chile have significantly improved on their commitments at the WTO, thus granting Singapore service suppliers preferential treatment over their competitors from other countries in sectors such as computer and related services, construction, distribution, medical, private education and real estate services.

The Chapter will initially not apply to Brunei. Instead, it will have two years after entry into force of the Agreement, to prepare, negotiate and finalise its commitments under the Chapter.

The other main features of the Chapter are as follows:

- 1) 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.
- 2) Sectoral coverage—The Chapter takes a negative list approach, which starts from the premise that all sectors are open, except for those measures or sectors that have been expressly reserved. Under this approach, Parties have listed in Annex III existing measures that do not conform to the agreement but which they intend to maintain.

- 3) Domestic Regulation—There are also disciplines on domestic regulation to ensure that Parties impose measures in a manner that is reasonable, objective and impartial.
- 4) Most Favoured Nation—If in the future, a Party grants more favourable treatment in any sector to any other country, that Party will be required to extend the same treatment to the other Parties. This means that Singaporean service suppliers will be able to ride on any further commitments by Chile and New Zealand in their future FTAs with other countries.

Government Procurement

Procuring entities in each Party will grant equal and non-discriminatory access to government tenders in excess of the agreed monetary thresholds to suppliers from other Parties to the Trans-Pacific SEP.

The agreed threshold for goods and services (excluding construction services) is Special Drawing Rights (SDR) 50,000. The threshold for construction services is SDR5 million. The Parties have committed to call for an open tender except for specific situations such as extreme urgency or those connected with the protection of exclusive rights (such as patents or copyrights). In calling for open tenders, the government entities should publish a notice of intended procurement and provide sufficient time for suppliers to respond to the notice.

Under the chapter, most Chilean central government agencies and 13 regional governments have been listed as committed entities. New Zealand has listed all departments under the New Zealand Public Service as covered entities. For Brunei, all central government agencies save for Brunei's Mini-Tender Board* have been listed as committed entities.

*However, Brunei has to give an undertaking to freeze the upper threshold of the mini-tender board at SDR110,000 and to try to bring it down to a lower value in subsequent years.

Dispute Settlement

The Parties shall enter into consultations within a period of no more than 15 days after the date of receipt of the request for matters concerning perishable goods or 30 days after the date of receipt of the request for all other matters.

The consulting Parties shall make every attempt to reach a mutually satisfactory resolution of any matter through consultations. To this end, the consulting Parties shall:

- 1) provide sufficient information to enable a full examination of how the actual or proposed measure or other matter might affect the operation and application of this Agreement; and
- 2) treat any confidential information exchanged in the course of consultations on the same basis as the Party providing the information.

If the disputing Parties so agree, good offices, conciliation and mediation are procedures undertaken voluntarily. If the consulting Parties fail to resolve the matter, then an arbitral tribunal will be established. The reports of the arbitral tribunal shall be drafted without the presence of the Parties and shall be based on the relevant provisions of this Agreement and the submissions and arguments of the Parties.

The arbitral tribunal shall present a final report to the disputing Parties, including any separate opinions on matters not unanimously agreed, within 30 days of presentation of the initial report, unless the disputing Parties otherwise agree.

Intellectual Property

Brunei, Chile, New Zealand and Singapore agreed on provisions that transcend existing obligations under the TRIPS Agreement. All parties are committed to engage in dialogue and cooperation in IP-related matters.

Chile, Brunei and Singapore agreed to accede to the WIPO Internet Treaties, the WCT and the WPPT (WIPO Copyright Treaty and WIPO Phonograms and Performances Treaty), which provide for enhanced copyright protection. On her part, New Zealand agreed to ensure steps to enhance her copyright regime to address the substance of these Treaties.

All parties agreed to reaffirm a range of fundamental IP rights principles, including the paramount need to strike a balance between IP owners on the one hand and the legitimate interests of IP users on the other hand.

In the arena of Geographical Indications (GIs) of special interest to Chile with her many wine and spirit products, all parties acknowledged that GIs would be protected to the extent permitted by and according to the terms and conditions set out in their respective national laws.

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