



Panama (PSFTA)

The Panama-Singapore Free Trade Agreement (PSFTA) was concluded in April 2005 after three rounds of negotiations and signed on 1 March 2006. This was Singapore's first bilateral FTA with a Latin American country.



The PSFTA is comprehensive, covering market access for cross border trade in services, dispute settlement, e-commerce, financial services, government procurement, investment protection, competition, telecommunications and trade in goods.

Benefits to Singapore Exporters to Panama

As the first bilateral free trade agreement with a Latin American country, the PSFTA opens up opportunities between Singapore and Panama businesses.

It allowed for tariffs on 98 per cent of Singapore's domestic exports to be eliminated upon entry into force of the agreement.

To enhance trade facilitation, the self-certification for the claiming of preferential tariffs was implemented.

The PSFTA also opened up government procurement related opportunities for Singapore businesses even though Panama is currently not a signatory to the WTO Government Procurement Agreement (GPA).

Trade in Goods

Under the PSFTA, each country shall progressively eliminate its customs duties on originating goods. Tariffs on 98 per cent of Singapore's domestic exports were eliminated upon entry into force of the Agreement. Key exports that will benefit include auto parts, beer, chemicals, electronics, engines, orchids, paints, processed foods, refined oil and varnishes.

The following staging categories apply to the elimination of customs duties by each Party pursuant to the Customs Duties Elimination Schedule:

- 1) In staging category A, it shall be eliminated entirely and such goods will be duty-free on the date this Agreement enters into force;
- 2) In staging category B, it shall be eliminated from base rates in five equal annual stages beginning on the date this Agreement enters into force;
- 3) In staging category C, it shall be eliminated from base rates in 10 equal annual stages beginning on the date this Agreement enters into force;
- 4) In staging category D, it shall remain at base rates for years one through 10; thereafter, such goods shall be duty-free, effective 1 January of year 11; and
- 5) In staging category E, it shall remain at base rates.

Customs duties not higher than those effective April 2005 were approved as a base rate when applying the provisions of this Agreement. After the entry into force of this Agreement, if a Party were to lower customs duties below the approved base rate, the new customs duties shall replace the approved base rate as the new base rate.

Rules of Origin

Under the PSFTA, goods shall be deemed originating and eligible for preferential treatment if they conform to the origin requirement under any of the following conditions:

- 1) goods wholly produced or obtained in the territory of the exporting Party; or
- 2) goods not wholly produced or obtained in the territory of the exporting Party, provided that the said goods are eligible under Article 3.3 of the PSFTA; or
- 3) as otherwise provided for under the Rules of Origin (ROO).

A good is considered to have undergone sufficient production in the territory of a Party if:

- 1) it satisfies the Product-Specific Rule; or
- 2) where there is no Product-Specific Rule set, fulfils a qualifying value content of not less than 35 per cent determined in accordance with Article 3.4.

The following formula for qualifying value content shall be applied:

$$\text{FOB} - \text{NQM} / \text{FOB} \times 100\% \geq 35\%$$

where:

- 1) FOB is the Free-On-Board value, which refers to the value of a good payable by the buyer to the seller regardless of the mode of shipment, not including any internal excise taxes, reduced, exempted or repaid when the good is exported; and
- 2) NQM is the non-qualifying value of materials used by the producer in the production of the good.

Outward Processing

Recognition of the concept of outward processing as an integral part of the manufacturing process for certain goods (such as electric irons) has been given. 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 Documentation

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 the two countries.

Key facilitative commitments under this chapter include self-certification for the claiming of preferential tariffs. For Singapore-originating goods, 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. Each Party shall provide that an exporter and a producer in its territory that completes and signs a certification of origin shall maintain in its territory for three years after the date on which the certification of origin was signed.

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.

Advanced Ruling

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. The customs administrations of both Parties may establish a validity period for an advance ruling of not less than two years from the date of its issuance. The importing Party may modify or revoke an advance ruling:

- 1) if the ruling was based on an error of fact;
- 2) if there is a change in the material facts or circumstances on which the ruling was based;
- 3) to conform with a modification of this chapter; or
- 4) to conform with a judicial decision or a change in its domestic law.

Mutual Recognition Arrangement for Goods

The PSFTA allows for enhancement of their cooperation in the area of sanitary and phytosanitary measures and awareness of their respective systems. The Parties shall cooperate and jointly identify work in the field of sanitary and phytosanitary measures with a view to facilitating trade. The Coordinators' functions shall include:

- 1) monitoring the implementation and administration;
- 2) enhancing communication between the Parties' agencies and ministries with responsibility for sanitary and phytosanitary matters;
- 3) facilitating information exchange so as to enhance mutual understanding;
- 4) promptly addressing any bilateral sanitary and phytosanitary issue;
- 5) promoting the use of international standards by both Parties;
- 6) reviewing progress; and
- 7) convening, as necessary and appropriate, an ad hoc technical working group.

Trade in Services

Adopting a negative list approach, the Cross Border Trade in Services deems all service sectors in Panama and Singapore open unless otherwise listed. In the case of Panama, sectors with reservations include advertising, agricultural, education, fishing, legal, postal, power distribution, radio and television transmission, retail sales, social services and travel agencies.

The Annex on Maritime transport services was included to ensure 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:

- 1) 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.
- 2) Non-discriminatory treatment—Singapore and Panama vessels will enjoy non-discriminatory treatment for port services provided in the other Party's ports.
- 3) Coastwise transportation of equipment—Singapore and Panama vessels will be allowed to transport equipment for their own use, including empty containers, cargo lifts and vans between the other Party's ports.
- 4) 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.

Investment

The investment chapter under the PSFTA aims to foster an open environment for cross-border investment, minimise restrictions, strengthen protection of investments and provide access to each other's markets. The key features are:

- 1) Investors' coverage of the entire lifespan of investments from pre-establishment to sale.
- 2) Opened investment sectors in Panama to Singapore investors unless otherwise listed in the Annexes.
- 3) Safeguards against unreasonable expropriation by both governments. In the event of an expropriation, investors will be entitled to compensation.

- 4) Taking the Panama or Singapore government to an international arbitration tribunal if aggrieved investors who have suffered losses feel either government has acted in breach of its obligations under the PSFTA.
- 5) Agreement against a list of restrictive conditions ('performance requirements') relating to the establishment and management of investments, as well as granting of incentives.

Movement of Business Persons

Intra-corporate transferees for an initial period of up to two years may be given. It may be extended for periods of up to three years at a time for a total term not exceeding eight years. Neither Party shall require labour market testing, labour certification tests or other procedures of similar effect as a condition for temporary entry in respect of natural persons on whom the benefits of this Annex are conferred.

Government Procurement

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.

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.

The agreed threshold for goods and services is Special Drawing Rights (SDR) 130,000 (~\$312,000). The threshold for construction services is SDR5 million (~\$12 million).

Dispute Settlement

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

Consultations shall be held within 30 days after the date of receipt of the request for consultations. Consultations on matters regarding perishable goods shall commence within 10 days after the date of receipt of the request.

If the Parties are unable to resolve, then either Party may in writing refer the matter to the Administrative Commission established under Article 17.1 (Administrative Commission of the Agreement), which shall endeavour to resolve the dispute. If the Administrative Commission has not resolved the dispute, then an arbitral panel can be established.

The arbitral panel shall within 90 days present to the Parties an initial report. If the arbitral panel considers that it cannot provide its report within 90 days, it shall inform the Parties in writing of the reasons for the delay, together with an estimate of the period within which it will provide its report. It should provide the report no later than 120 days.

The arbitral panel shall present a final report to the Parties, including any separate opinions on matters not unanimously agreed, within 45 days of presentation of the initial report. The Parties shall release the final report to the public within 15 days.