



BRIEFING TO PARLIAMENT

Subject: EU-Singapore Free Trade Agreement and Investment Protection Agreement

Date: last update 4 July 2022

Objective: a. to recommend the ratification of the EU-Singapore Investment Protection Agreement

b. to provide information on the EU-Singapore FTA

1. Background of the EU-Singapore negotiations

In 2007, negotiating directives were adopted by the Council for the Commission to negotiate a Free Trade Agreement (FTA) with Singapore. These were supplemented in 2011 to include investment protection. Negotiations of the trade part of the Agreement were completed in October 2014 while the investment part was finalised in May 2015. The outcome is an ambitious and comprehensive FTA and a separate Investment Protection Agreement (IPA) that should create new opportunities and legal certainty for trade and investment between both partners to develop. This should create new opportunities for the EU and Singapore businesses to grow and create new jobs. (*Internal note: The Agreements were negotiated in parallel to the Partnership and Cooperation Agreement.*)

Objectives and content of the EU-Singapore Free Trade Agreement

The objectives of the Agreement between the EU and Singapore include to:

- remove nearly all customs duties and get rid of overlapping bureaucracy
- improve trade for goods like electronics, food products and pharmaceuticals
- stimulate green growth, remove trade obstacles for green tech and create opportunities for environmental services
- encourage EU companies to invest more in Singapore, and Singaporean companies to invest more in the EU.

2. Key elements of the EU-Singapore Investment Protection Agreement

The Investment Protection Agreement will ensure a high level of investment protection, while safeguarding both parties right to regulate and pursue public policy objectives such as the protection of public health, safety and the environment.

The Agreement contains all aspects of the EU's new approach to investment protection and its enforcement mechanisms that are not present in the 12 existing bilateral investment treaties between Singapore and EU Member States (Malta does not have a Bilateral Investment Treaty with Singapore) thus ensuring a modern common investment protection framework for all EU investors in Singapore.

Under the Agreement, the parties ensure that investment will be granted fair and equitable treatment and not be discriminated against when compared with domestic investment. The Agreement also

protects EU investors and their investments in Singapore from expropriation, unless it is for public purposes, in accordance with due process, on a non-discriminatory basis and against payment of prompt, adequate, and effective compensation according to fair market value of the expropriated investment.

The Agreement sets up a modern and reformed Investment Court System for resolving disputes similar to the one in the EU-Canada Comprehensive Economic and Trade Agreement. This system ensures that investment protection rules are adhered to and seeks to strike a balance between protecting investors in a transparent manner and safeguarding the right of a State to regulate in order to pursue public policy objectives. The Agreement sets up a standing international and fully independent dispute resolution system.

The cornerstones of the new system include: ensuring legal correctness and certainty about the interpretation of the Agreement, ensuring that Tribunal members comply with a code of conduct included in the Agreement, increasing transparency through the publication of documents and opening hearing sessions to the public as well as allowing for submissions to be made by third parties. Furthermore, parallel or multiple proceedings will be prohibited under the Investment Court System, along with the inclusion of provisions to prevent abuses of the system such as re-structuring a business for the purposes of submitting a claim.

3. Key elements of the EU-Singapore FTA

The EU-Singapore FTA is one of the first 'new generation' bilateral trade agreements. On top of the classical removal of customs duties and non-tariff barriers for trade in goods and services, it contains important provisions on intellectual property protection, investment liberalisation, public procurement, competition and sustainable development. The Agreement establishes the conditions for EU businesses to take full advantage of the opportunities created in Singapore as the business and transport hub of Southeast Asia.

Singapore will remove all remaining **tariff barriers** on certain EU products and will commit to keep unchanged the current duty-free access for all other EU products. On the day the FTA enters into force, over 80% of all imports from Singapore will enter the EU duty-free. For the rest, EU tariffs will be removed within three or five years, depending on the product category. Sectors that will benefit from the immediate removal of tariffs are electronics, pharmaceuticals, petrochemicals, and processed agricultural products. Tariffs on certain types of textiles and carpets will be dismantled over three years; tariffs on bikes, fruits, cereals, and sports footwear will be removed over five years.

In today's global economy, both large and small companies often operate along **global value chains** and their products generally contain domestically produced components as well as inputs sourced from abroad. The rules of origin agreed in the FTA seek to strike a prudent balance between flexibility for companies to source parts from other countries and establishing sufficient clarity on the minimum conditions to be met for products to qualify as European or Singaporean and benefit from preferences under the Agreement. The concept of 'ASEAN cumulation' was also included to ensure that manufacturers can source components from other ASEAN Members. Without compromising on health, safety and the environment, the Agreement addresses **regulatory divergences** in some key sectors that constitute non-tariff barriers to EU-Singapore trade, including electronics, autos and auto-parts, pharmaceuticals and medical devices, and equipment for renewable energy generation.

The EU and Singapore Agreement includes provisions on **trade facilitation** that will enhance customs cooperation to simplify, harmonise, standardise, and modernise trade procedures to reduce transaction costs for business. This will be done without compromising on the safety and security of legitimate trade. The Agreement strengthens cooperation between the parties, including steps towards the mutual recognition of trade partnership programmes (such as the EU 'Authorised Economic Operators' programme).

The Agreement provides extra market access for a wide range of **services** such as in the areas of telecommunications, environmental services, engineering, computing and maritime transport. In financial services, European commercial banks will, under specific conditions, be able to increase the number of customer services locations. In certain sectors, domestic and foreign services providers will be treated alike in terms of rules and regulations, creating predictability and a level playing field.

The EU and Singapore retain the **right to regulate** to establish quality and safety standards and to introduce new regulations to pursue legitimate policy objectives such as security, public health and safety. The Agreement protects certain sensitive sectors (TV, radio and film, public health and education, social services and water distribution) in which no commitments are made.

The FTA will present new opportunities for firms wanting to establish a **commercial presence**, by improving market access in both services and manufacturing sectors as well as providing for new opportunities to attract inward investment.

In the area of **public procurement**, the Agreement goes beyond the WTO Agreement on Government Procurement, as both sides agreed to improve and simplify the tendering process and have committed to expand the number of public contracts available for bidding, notably in the railways sector and for the Singaporean National Environment Agency.

The Agreement also contains beneficial provisions on **intellectual property rights, Geographical Indications and copyrights**.

In line with other Agreements that have been recently concluded by the EU, the Agreement with Singapore also contains a robust, comprehensive and binding chapter on **trade and sustainable development** to ensure trade supports environmental protection and social development.

Procedure in Council

On 18 April 2018, the European Commission presented to the Council the EU-Singapore Trade Agreement and the EU-Singapore Investment Protection Agreement together with draft Council Decisions as follows:

- Proposal for a Council Decision on the signing, on behalf of the European Union, of the Free Trade Agreement between the European Union and the Republic of Singapore;
- Proposal for a Council Decision on the conclusion of the Free Trade Agreement between the European Union and the Republic of Singapore;
- Proposal for a Council Decision on the signing, on behalf of the European Union, of the Investment Protection Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore of the other part;
- Proposal for a Council Decision on the conclusion of the Investment Protection Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore of the other part.

The Commission has split the Council Decisions covering the signature and conclusion of the trade part of the Agreement on the one hand, and the signature and conclusion of the Investment Protection Agreement on the other. This was done to reflect the Court of Justice of the European Union (CJEU) opinion 02/2015 of 16 May 2017 on competences in Trade Agreements that stated that the trade part of the Agreement is Union exclusive competence, while the Investment Protection Agreement is mixed (Union and Member State) competence.

Following this ruling of the CJEU on competence issues on the trade and investment elements the FTA was subject approved by a vote by the Member States by Qualified Majority. On the other hand, in view of the same ruling, the EU-IPA is subject to a Common Accord vote and will require the ratification of all the Member States for the agreement to be ratified. Hence, following a positive vote in the Council by all the Member States, the IPA will also need to be ratified by Malta.

4. Expected Benefits from the EPA and Trade Relations between Malta and Singapore

3.1 Benefits at the EU level

The EU-Singapore FTA and IPA are the first bilateral trade and investment Agreements concluded between the EU and a Member State of the Association of Southeast Asian Nations (ASEAN). These agreements are an important step towards the EU's ultimate goal of a Trade and Investment Agreement with ASEAN, for which negotiations were launched in 2007 and paused in 2009 when they reached a stalemate. The Agreements with Singapore are a good reference point for the other Trade and Investment Agreements the EU is negotiating with other ASEAN Member States.

Singapore is by far the EU's largest ASEAN partner. With total bilateral trade in goods of €53.3 bn in 2017 and trade in services of €44.4 bn in 2016, Singapore accounted for just under one-third of EU-ASEAN trade in goods and services. At the same time, with bilateral investment stocks of €256 bn in 2016, Singapore accounted for roughly two-thirds of investments between the two regions. Over 10,000 EU companies are established in Singapore and use it as a hub to serve the whole Pacific Rim.

3.2 Benefits for Malta

The Agreements should support the trade relations that already exist whilst offering opportunities extending the present ties.

The Investment Protection Agreement (IPA) will provide certainty for potential Maltese investors wishing to invest in Singapore and Singaporean investors wanting to set up business in Malta. The Agreement is based on modern disciplines that respect the right to regulate of the State on key public issues. Moreover, an Investment Court System (ICS) will be setup between the EU and Singapore to address the disputes between investors and the State. The ICS addresses certain key concerns expressed by the EU public with the older investor-to-State dispute settlement (ISDS), namely related to the conflict of interest of arbitrators.

From the trade in goods perspective, it is noted that the majority of Maltese imports from and exports to Singapore are already duty free. Hence, the added value of zero or lower duties resulting from this agreement is not particularly high. However, the Agreement goes beyond a simple tariff reduction initiative and addresses barriers that exist behind borders, opens up services and investment sectors and creates an important connection to a number of other ASEAN economies, ensuring that the value of the Agreement is significantly higher.

In relation to regulatory and non-tariff barriers, commitments on certain specific areas of interest to Malta have been made. In particular, for the sectors of **electronics, automotive, pharmaceutical and medical devices**, the EU and Singapore agreed to use international standards to base their standards, technical regulations and conformity assessment procedures to avoid duplicative and unnecessarily burdensome conformity testing procedures with respect to product safety and compatibility of standards. This will allow products produced in the EU to satisfy the standards (including safety standards) and to be exported and marketed in Singapore.

The Agreement provides for greater market access to service providers in the different modes of supply, including cross border trade and temporary movement of persons to provide a service/s.

Among other areas, opportunities for potential economic gains exist in the financial sector (banking and insurance services) and maritime services, while noting that Singapore is a maritime hub in the South Asia sea. The Agreement also opens the market for investment, with new opportunities to increase Foreign Direct Investment (FDI) flows.

While trade with Singapore is sizable, an important concept in the EU's approach to the region is that of cumulating the trade and production in the ASEAN region. Hence, once the Trade Agreements with the other economies are finalised, one expects liberalised trade to be significantly larger. The completed project of FTAs with the countries in the region would provide access to a market with a population that is currently over 600 million people.

To summarize, the IPA will create added security for FDI, while ensuring that the high level of public policy and standards of the parties are respected. While the benefits from the tariff elimination / reduction from the Trade Agreement with Singapore should be very limited due to the very openness of the two economies, other elements will contribute to deepen the trade relations between the two countries. Addressing regulatory and non-tariff barriers, opening up the services and investment market and importantly, linking the FTAs within the region, should have an overall effect of reducing trade costs between Malta and Singapore and increase the potential for new FDI flows.

5. Recommended Malta position

In April 2018, the European Commission issued and submitted to the Council of the European Union the following texts:

- a. The text of the EU-Singapore Free Trade Agreement (Union competence agreement);
- b. The text of the EU-Singapore Investment Protection Agreement (mixed – Union and Member State competence agreement);
- c. The Proposal for a COUNCIL DECISION on the conclusion of the Free Trade Agreement between the European Union and Singapore;
- d. The Proposal for a COUNCIL DECISION on the signing of the Free Trade Agreement between the European Union and Singapore;
- e. The Proposal for a COUNCIL DECISION on the conclusion of the Investment Protection Agreement between the European Union and the Member States on the one hand and Singapore on the other hand; and
- f. Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, of the Investment Protection Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore of the other part.

The Council has examined the texts of the Agreements and the Council Decisions on the EU-Singapore Free Trade Agreement and Investment Protection Agreement which were concluded in October 2014 and May 2015, respectively. Decisions were taken by the Council to authorise the Commission to sign the two Agreements on behalf of the EU (on 15 October 2018). The European Parliament gave its consent to the agreements on 13 February 2019, while the Council took a decision to conclude the Free Trade Agreement on 8 November 2019. The FTA entered into force on 21 November 2019.

In view of the CJEU ruling on competence of the Member States on investment dispute settlement issues in Investment Protection Agreements, the respective national parliaments of all EU Member States have to ratify the agreement for its entry into force.

In view of the potential economic benefits that could derive from the Investment Protection Agreement as indicated in Section 3.2 above, the Parliament of Malta is requested to consider a position in favour of and to ratify the EU-Singapore Investment Protection Agreement.

Annex: Trade relations between Malta and Singapore

With total trade almost amounting to €1billion, Singapore has already proven to be a very important trade partner to Malta. Malta has registered a significant trade surplus with the Asian city state throughout the last 5 years. Average imports lie at €58 million whilst the average export figures lie at €139 million.

Total trade between Malta and Singapore, 2012 – 2017

YEAR	IMPORTS	EXPORTS	TOTAL TRADE	SURPLUS
2017	114,766,263	132,131,703	246,897,966	17,365,440
2018	41,944,680	152,305,477	194,250,157	110,360,797
2019	44,903,885	145,992,644	190,896,529	101,088,759
2020	38,130,717	147,136,254	185,266,971	109,005,537
2021	52,260,064	117,008,688	169,268,752	64,748,624

Source: NSO data

Major Imports from Singapore (2017-2021)

HS CODE	VALUE	DESCRIPTION
89012010	81,642,884.00	Sea-going tankers
85423990	54,046,214.00	Electronic integrated circuits (excl. in the form of multichip integrated circuits and such as processors, controllers, memories and amplifiers)
27101943	28,278,450.00	Food preparations, n.e.s., containing, by weight, >= 1,5% milkfat, >= 5% sucrose or isoglucose, >= 5% glucose or >= 5% starch
39073000	25,076,006.00	Epoxide resins, in primary forms
85423190	20,066,908.00	Electronic integrated circuits as processors and controllers, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing circuits, or other circuits (excl. in the form of multichip integrated circuits)
71081310	12,907,219.00	Bars, rods, wire and sections, plates, sheets and strips of a thickness, excl. any backing, of > 0,15 mm, of gold, incl. gold plated with platinum
89011010	7,245,774.00	Sea-going cruise ships, excursion boats and similar vessels principally designed for the transport of persons, and seagoing ferry-boats of all kinds
84864000	5,902,703.00	Machines and apparatus specified in Note 9 (C) to chapter 84
84869000	5,638,190.00	Parts and accessories for machines and apparatus of a kind used solely or principally for the manufacture of semiconductor boules or wafers, semiconductor devices, electronic integrated circuits or flat panel displays, and for machines and apparatus.
90309000	4,969,588.00	Parts and accessories for instruments and apparatus for measuring or checking electrical quantities or for detecting ionising radiations, n.e.s.

Source: NSO

Major Exports from Singapore (2017-2021)

HS Code	Value	Description
85423190	272,610,432.00	Electronic integrated circuits as processors and controllers, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing circuits, or other circuits (excl. in the form of multichip integrated circuits)
85423111	263,551,214.00	Electronic multi-component integrated circuits "MCOs" as processors and controllers as specified in note 9 (b) (4) to chapter 85, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing circuits, or other circuits
85423990	73,564,827.00	Electronic integrated circuits (excl. in the form of multichip integrated circuits and such as processors, controllers, memories and amplifiers)
30049000	11,319,405.00	Medicaments consisting of mixed or unmixed products for therapeutic or prophylactic purposes, put up in measured doses "incl. those for transdermal administration" or in forms or packings for retail sale (excl. containing antibiotics, hormones or steroids)
27101966	9,995,032.00	Food preparations, n.e.s., containing, by weight, \geq 1,5% milkfat, \geq 5% sucrose or isoglucose, \geq 5% glucose or \geq 5% starch
85423119	9,660,629.00	Electronic multi-component integrated circuits "MCOs" as processors and controllers as specified in note 9 (b) (4) to chapter 85, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing circuits, or other circuits
85423919	6,900,487.00	Electronic multi-component integrated circuits "MCOs" as specified in note 9 (b) (4) to chapter 85 (excl. such as processors, controllers, memories and amplifiers)
27101967	5,820,614.00	Food preparations, n.e.s., containing, by weight, \geq 1,5% milkfat, \geq 5% sucrose or isoglucose, \geq 5% glucose or \geq 5% starch
85362010	5,349,023.00	Fuses for a current \leq 10 A, for a voltage \leq 1.000 V
82057000	3,002,001.00	Vices, clamps and the like (excl. accessories for and parts of machine tools)

Source NSO

