

# **STATEMENT AS TO HOW THE UNITED STATES-SINGAPORE FREE TRADE AGREEMENT SERVES THE INTERESTS OF UNITED STATES COMMERCE**

## **INTRODUCTION**

Singapore is currently the United States' eleventh largest export market. Two-way U.S.-Singapore merchandise trade now exceeds \$38 billion annually, with a \$1.4 billion U.S. surplus, and two-way services trade exceeds \$6 billion, with a \$2.1 billion U.S. surplus. With the implementation of the FTA, this important trade relationship will continue to expand and deepen. Expanding trade is key to the prosperity of both of our countries and serves the interests of American families, workers, consumers, industry, and farmers.

Exports support the jobs of 12 million Americans. Trade is a dynamic part of the U.S. economy, and continuous efforts to open new markets must be part of our strategy to secure new growth and create new jobs.

Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. This FTA will make the United States more competitive with other countries and regional trading blocks that are making strides in the global market. Asia is one of the United States' largest export markets and includes some of the largest and fastest growing economies in the world. This agreement will help prompt other economies within the region to take steps to liberalize their own trade and investment regimes. Open economies support American jobs and income, broaden the foundations upon which democratic institutions can be constructed, and create incentives to settle problems peacefully. This agreement serves not only U.S. economic interests, but also reflects our political goals, in light of Asia's strategic importance in securing global peace and growth.

The FTA anchors the United States in Southeast Asia and will foster closer economic and political ties with the Association of Southeastern Asian Nations (ASEAN). It will also offer Asian governments strong reason to see the advantage in region-wide trade liberalization, thus expanding U.S. trade opportunities. This agreement promotes the broader U.S. trade agenda by serving as a model, breaking new negotiating ground, and setting high standards for international trade, particularly for future agreements in the region. In October 2002, President Bush announced the Enterprise for ASEAN Initiative (EAI). The EAI offers the prospect of FTAs with individual ASEAN nations, leading to a network of FTAs in the region.

This agreement will support global trade liberalization that both Singapore and the United States value. We remain committed to pursuing trade liberalization bilaterally and regionally as well as multilaterally through the World Trade Organization (WTO). The President's regional and bilateral free trade agenda, combined with a clear commitment to reducing global barriers to trade worldwide through the WTO, will leverage the American economy's size and attractiveness to stimulate competition for openness, moving the world

closer, step-by-step, toward the goal of comprehensive free trade. A free and open trading system is critical for global economic development. As President Bush has pointed out, “Open trade fuels the engines of economic growth that creates new jobs and new income. It applies the power of markets to the needs of the poor. It spurs the process of economic and legal reform. It helps dismantle protectionist bureaucracies that stifle incentive and invite corruption. And open trade reinforces the habits of liberty that sustain democracy over the long term.”

America’s trade agenda needs to be aligned securely with the values of our society. Trade promotes freedom by supporting the development of the private sector, encouraging the rule of law, spurring economic liberty, and increasing freedom of choice. Trade also serves our security interests in the campaign against terrorism by helping to tackle the global challenges of poverty and privation. Poverty does not cause terrorism, but there is little doubt that poor, fragmented societies can become havens in which terrorists can thrive. By connecting America to peoples beyond our shores, new U.S. trade agreements can also encourage reforms that will help establish the basic building blocks for long-term development in open societies, including: the rule of law, private property rights, competition, sectoral reform and regional integration.

The FTA locks in Singapore's duty-free treatment of our exports, extends that duty-free treatment to the few items on which Singapore assesses customs duties, and will provide phased-in duty-free entry into the United States for Singapore's exports. It contains groundbreaking provisions on transparency in the area of customs procedures and in the broader government-wide regulatory and rule-making process that will promote efficiency and increase fairness, particularly for small businesses. The agreement’s investment provisions establish a secure and predictable legal framework for U.S. investors in Singapore. The agreement will provide substantial liberalization in Singapore’s services markets, lock in existing commitments on telecommunications and expand access for U.S. financial services providers. The agreement liberalizes access for professional services and distribution services as well.

The FTA is an agreement for the modern economies that Singapore and the United States are developing. As Ambassador Zoellick observed, services are a key feature of a new economy: “Given the fact that both our economies are significant services economies, we think we’ve broken significant new ground.” Trade and investment based on special skills and knowledge form another key element of that new economy, and of the FTA: inventors, performers, authors, and creative enterprises in both countries will benefit from enhanced protection for their intellectual property. The FTA includes state-of-the-art provisions on trade in digital products and electronic commerce and creates incentives for high-tech investment. The agreement provides open and nondiscriminatory treatment for products transmitted electronically.

The FTA also provides a model for addressing issues such as investment and trade-related labor and environment issues and advances environmental protection and worker rights in a credible and responsible manner. Pursuant to this agreement, the United States and Singapore will cooperate bilaterally and regionally to promote environmental protection and the sustainable use of natural resources; and they will work together to protect the environment in concert with strengthening trade and investment relations.

## **NEW MARKET OPPORTUNITIES**

### *Tariff Elimination*

Although the United States already enjoys duty-free access for almost all products entering Singapore's market, Singapore has committed to eliminating all outstanding tariffs on U.S. products (including beer and other alcohol), as well as binding them at zero percent. Since Singapore's market is mostly duty-free, it was essential to improve market access to Singapore's service sectors and ensure that any non-tariff barriers, such as lack of transparency, anti-competitive behavior, and protectionism do not hinder market access for U.S. exports. For Singapore products entering the U.S. market, duties are phased-out at different stages, with the least sensitive products entering duty-free upon entry into force of the FTA and tariffs on the most sensitive products phased-out over a ten-year period. U.S. affiliates operating in Singapore that depend on cross-border trade in goods will also benefit from the elimination of U.S. tariffs, immediate or in the future. U.S. consumers will also see the benefits of free trade reflected in lower prices for a variety of products, as a reduction in tariffs and increased economies of scale allow manufacturers to cut costs.

### *Increased Access to Singapore's Services Markets*

The United States is today the world's premier producer and exporter of services. Defined broadly, the service sector is by far the largest component of the U.S. economy and accounted for a record 95 million jobs in 2001. Services trade and investment are also critical components of U.S. commerce: U.S. commercial services exports of \$276 billion in 2002 accounted for 28 percent of total U.S. exports for the year, for example, and offset 12 percent of the 2002 U.S. trade deficit in goods. The importance of services trade extends beyond simple trade and investment levels, however: services trade helps to create deeper and more dynamic economic ties between nations and their peoples, for example, as well as expanding the gains from trade and investment in other sectors. The FTA provisions affecting U.S. services providers are thus an essential part of the agreement, adding significant, tangible commercial benefits for U.S. firms and workers in some of the most dynamic areas of economic expansion, trade, and investment.

Today, Singapore offers U.S. services exporters and investors some of their most significant regional opportunities for expanded sales. In 2001, Singapore purchased over \$4 billion in U.S. services, which in recent years have accounted for a stable 20-22 percent of Singapore's total services imports. The FTA's provisions guarantee that U.S. services providers will not be disadvantaged by any future agreements that Singapore may reach with its other trade partners, while at the same time creating substantial new opportunities for U.S. firms to expand their presence in Singapore through exports or investment: in 2000 (the most recent year for data on sales of services via foreign branches), U.S. firms' combined sales of services in Singapore via exports and local subsidiaries nearly topped the \$10 billion mark.

In recognition of the service sector's dynamic role in the U.S. and Singapore economies, the FTA reflects a different approach to undertaking services commitments than the WTO's

General Agreement on Trade in Services, or GATS. The FTA uses a "negative list" approach, which has the potential to provide much greater liberalization and access in many services, particularly in sectors characterized by rapid innovation and development. Notably, this approach to services trade negotiations enjoys strong support from U.S. services industries. The FTA also affords state-of-the-art commercial benefits important to U.S. services firms through other provisions relating to investment and transparency, both discussed below.

### *Financial Services*

Some of the key market access commitments for U.S. businesses are found in Singapore's financial services sectors, such as banking and insurance, which will enjoy significant commercial gains. Eighteen months after the FTA takes effect, Singapore will lift its ban on new licenses for U.S.-owned full-service banks to operate in Singapore. Singapore will remove its ban on licenses for U.S. banks that provide only "wholesale" (*i.e.*, large-scale) operations within three years. Once the FTA takes effect, U.S. full-service banks will have authority to open 30 "customer service locations" (branch offices or ATM locations) in Singapore, double the number currently allowed. The FTA will require Singapore to entirely eliminate its cap on customer service locations for qualifying U.S. banks in two years.

In addition, locally incorporated, full service U.S. banks will have authority to negotiate access to Singapore's locally-owned ATM networks within 2-1/2 years after the agreement takes effect. All other full-service U.S. banks will have similar rights after four years. This provision of the FTA will allow qualifying U.S. banks to negotiate contracts with local ATM network owners, which could enable their banking customers to use hundreds of existing ATMs in Singapore. Currently, foreign-owned banks are precluded from participating in Singapore's locally-owned ATM networks.

The FTA will also ensure that when U.S. investment firms establish mutual funds in Singapore they can use personnel based in the United States to manage the securities included in those funds. The FTA also commits Singapore to relax its local staffing rules for U.S. asset management and insurance companies that seek to market their investment products under Singapore's mandatory national savings scheme, the Central Provident Fund.

The FTA locks in Singapore's generally open regime for insurance that U.S. firms provide to customers in Singapore through subsidiary or branch offices located there, including life and non-life insurance, reinsurance, insurance intermediation, and insurance auxiliary services. The FTA will provide significant new rights that will allow U.S. insurance companies to provide from the United States to customers in Singapore marine, aviation, and transport insurance ("MAT insurance"), intermediation of reinsurance and MAT insurance, and insurance auxiliary services. The agreement also ensures that U.S. firms will continue to be able to provide Singapore customers reinsurance services from the United States. The FTA also includes an innovative provision that will allow licensed U.S. insurers to provide new insurance products to their business customers in Singapore without prior regulatory approval.

### *Professional Services*

The FTA requires Singapore to ease restrictions on U.S. law firms that seek to form joint law practices in Singapore, and to recognize degrees earned from certain U.S. law schools for admission to the Singapore bar. U.S. engineering and architecture firms seeking to establish offices in Singapore will benefit from Singapore's commitment to require that only 51% of the directors of these firms must be professionally accredited in Singapore. Currently, two-thirds of board members must be accredited there. The FTA will require Singapore to entirely eliminate local ownership requirements for U.S. land surveying firms by 2004.

### *Telecommunications*

U.S. telecom service providers will experience notable benefits under the agreement. In the telecom sector, Singapore's WTO commitment includes a closed list of services and only three basic telecom operators. Under the FTA, the scope of services and number of operators is unlimited. U.S. services firms will enjoy more transparent and non-discriminatory treatment and the right to invest and establish a local presence. Regulatory authorities must use open and transparent administrative procedures, consult with interested parties before issuing regulations, provide advance notice and comment periods for proposed rules, and publish all regulations. Issues such as nondiscriminatory access to networks, transparent rule making by an independent regulator, and adherence to the principles of deregulation and operator choice of technology are addressed in a way that opens Singapore's market, while recognizing the United States' and Singapore's respective right to regulate these sectors.

### *Express Delivery Services*

The FTA includes benefits for U.S. providers of express delivery services and other related services that are part of an integrated express delivery system. In addition to containing important provisions to facilitate customs clearance, which are critical to the efficient operation of express carriers, the FTA carves out express delivery services from Singapore's postal delivery monopoly and prohibits Singapore's postal service from cross-subsidizing express letters.

### *Temporary Entry of Persons*

U.S. businesses face complex, cumbersome and time-consuming requirements to obtain work permits and visas for their workers on short-term assignments to company facilities, projects or assignments in other countries. In some cases it can take months to obtain the necessary authorizations, thus seriously hampering the ability to perform the necessary work in a timely fashion. The temporary entry provisions address this significant problem. They will greatly facilitate the expanded business travel and economic activity the agreement's implementation will bring about.

The U.S. and Singaporean governments provide for temporary entry of business persons who conduct trade and investment in the two countries. The provisions included in the chapter are intended to allow for the movement of personnel necessary to conduct the business activities

permitted under the agreement. Key beneficiaries of temporary entry provisions are:

- after-sales service providers - it is critically important that U.S. manufacturers be able to offer rapid service and warranty repair as well as training on equipment they provide, particularly high-value machinery.
- sales representatives/agents, buyers, market researchers and financial service personnel- such individuals involved in commercial transactions on behalf of companies in the United States have to be able to travel to do their jobs.
- company executives and managerial personnel - a Board Chairman attending meetings in Singapore, a manager engaging in commercial transactions for his or her company, or an intra-company transferee may be able to use the temporary entry provisions.
- professionals: temporary entry provisions allow qualified individuals to enter to provide services covered by the U.S.- Singapore FTA services provisions. The professional will still have to meet any applicable licensing or certification requirements.

## **WORLD-CLASS PROTECTION FOR INTELLECTUAL PROPERTY**

The U.S. competitive edge in many industries depends on strong intellectual property rights (IPR) protection. With better legal tools for enforcing IPRs in Singapore, the FTA could save U.S. companies millions of dollars in lost revenue. Almost every U.S. firm has a patent, a trademark, or a copyrighted computer program, publication, or audio-visual work that is fundamental to its business. Under the U.S. Singapore FTA, all of these forms of intellectual property will be provided world-class standards for protection.

Singapore's commitment to enhance intellectual property protection will also apply in the realm of the Internet, where small and medium sized companies are making phenomenal marketing strides. The FTA provides strong protection for new and emerging technologies and reflects standards of protection similar to those in U.S. laws, thus enhancing the ability of U.S. IPR owners to protect their rights in Singapore. FTA provisions are based on the standards in the WIPO Internet treaties and provisions of the Digital Millennium Copyright Act, which are key for effective implementation and protection of copyrights over the Internet. The FTA also bolsters domestic procedures for enforcing IPR, including a requirement that Singapore provide criminal penalties for end-user piracy. The agreement also obligates Singapore to adopt measures that prohibit the tampering of technology designed to prevent copyright piracy. The FTA also requires the Parties to extend the minimum term of copyright protection from 50 to 70 years.

The agreement provides for Singapore to recognize U.S. geographical indications as types of trademarks. The FTA commits Singapore to make patent rights available, with certain exceptions, for inventions and provides for extension of the patent term if there are unreasonable delays in issuing the patent or granting regulatory approval for marketing the patented product. The agreement requires Singapore to enable patent owners to prevent unauthorized imports of

their patented pharmaceutical products if a contract is breached. The FTA will also require Singapore to protect against unauthorized disclosure or unfair commercial use of test data and other information that pharmaceutical and agricultural chemical companies submit to government regulators in order to secure regulatory approval for their patented products. Under the agreement, Singapore will protect for five years product information generated in connection with pharmaceutical product approvals and will protect similar information for agricultural chemicals for 10 years.

## **AN AGREEMENT FOR THE DIGITAL AGE**

The agreement breaks new ground on issues regarding electronic commerce by establishing for the first time explicit guarantees that the principle of non-discrimination will be applied to digital products delivered electronically (*e.g.*, software, music, videos). It also underscores the principle of avoiding barriers that impede the use of electronic commerce and affirms that service disciplines cover all services delivered electronically. This chapter also prohibits application of tariffs to digital products delivered electronically and where these products are stored on physical media, *e.g.*, on a CD or DVD, tariffs will be assessed on the value of media rather than the content, *i.e.*, the movie or software. This chapter serves as an important model for future free trade agreements by recognizing the importance barrier-free electronic commerce.

## **A NEW LEVEL OF TRANSPARENCY**

Enhanced transparency is another important feature of this FTA that is critical for U.S. exporters and business persons. Smooth and transparent access to Singapore's market is paramount to the welfare and growth of small and medium enterprises (SMEs). Many of the FTA's chapters contain specific provisions to ensure regulatory transparency, *e.g.*, in the chapters on services, financial services, competition, government procurement, customs administration, investment, telecommunications, and dispute settlement. Transparency in regulatory processes is absolutely essential for service industries, because they generally are the most highly regulated. Without a high standard of transparency, the benefits of any trade agreement can be lost in non-transparent and confusing government regulations.

The FTA calls for greater cooperation in the areas of technical regulations, standards, and conformity assessment procedures to avoid an increasingly complex and growing array of technical barriers to trade that hinder U.S. companies from taking advantage of open markets. Although U.S. companies rarely confront transparency problems in Singapore, it is critical to recognize the importance of transparency in all free trade agreements. Improved transparency is an effective deterrent to combat corrupt business practices and provides a fair playing field for U.S. businesses. In addition, the United States and Singapore expressly affirm in the FTA their strong commitments to effective measures against bribery and corruption in international business transactions.

The competition chapter of the FTA is critical for ensuring that SMEs receive equal opportunities to compete in the open market. While Singapore has welcomed foreign investment and treated it fairly since independence, the government has also played a far-reaching role in the

economy through investments in state-owned enterprises, known in Singapore as government-linked companies (GLCs). The FTA commits the Singapore Government to divest its interest in most of these GLCs, over time and depending on market condition. The FTA also contains certain protections for U.S. firms relating to sales to, and purchases from, these companies. In particular, the FTA ensures that GLCs, in which the Government of Singapore could have effective influence, act in accordance with commercial considerations and do not discriminate against U.S. goods, services and investments and do not engage in anti-competitive practices. Finally, the FTA commits Singapore to enact a new law by January 2005 that will proscribe anti-competitive business conduct and establish an authority to enforce such laws.

## **INNOVATIVE CUSTOMS INITIATIVES**

The FTA contains specific, concrete obligations on customs procedures. It will facilitate customs processing of goods, which will benefit the many U.S. companies that incur significant additional costs due to inefficient customs procedures in export markets. Singapore has committed: -to providing administrative and judicial review of customs decisions; to employing risk-management systems to facilitate the movement of low-risk goods; to providing for the release of goods within a period of time no greater than that required to ensure compliance with its customs laws and, to the extent possible, to allowing goods to be released within 48 hours of arrival; and, to the extent possible, to make all new and amended customs regulations available for public comment prior to promulgation. These commitments will facilitate trade and ensure the highest level of transparency possible for U.S. exporters.

The FTA contains a number of provisions to ensure that the United States and Singapore are the actual beneficiaries of the tariff treatment provided under the agreement. First, the FTA uses strong but simple rules of origin designed to ensure that it is U.S. and Singaporean firms that benefit from the FTA, and that Singapore does not become an indirect export platform to the United States for components originating in nearby Asian countries, countries which impose high tariffs on U.S.-origin goods. Second, the chapter on customs administration improves the exchange of customs information between United States and Singapore authorities, which is also critical to modern risk management practices. Third, the FTA requires the Parties to provide for civil or administrative penalties and, where appropriate, criminal penalties, for violations of customs laws and regulations governing classification, valuation, country of origin, and eligibility for preferential treatment under the FTA. These provisions will enable U.S. and Singapore customs to combat illegal transshipments of goods, including on products that violate intellectual property rights -- such as pirated compact discs.

The FTA customs provisions are designed to protect the U.S. textile and apparel industry by preventing circumvention and encouraging the use of U.S. fabric. The FTA includes specific rules on monitoring Singapore's production of textiles and apparel, as well as extensive anti-circumvention commitments in areas such as customs cooperation and enforcement. These provisions are designed to ensure that only FTA textiles and apparel receive tariff preferences and that U.S. textile quotas are not circumvented. Singapore is required to penalize companies engaged in such circumvention and to report on such actions to the United States. U.S. authorities are allowed to conduct site visits in Singapore and to deny entry to textile and apparel

goods from factories that are circumventing the agreement. The FTA also provides for a textile-specific safeguard to allow the Parties to address damaging imports. In addition, the FTA's yarn-forward rule will promote the U.S. textile industry by providing a strong incentive for apparel companies in the United States and Singapore to use U.S. fabric whenever possible. It could also provide new export opportunities for U.S. manufacturers of fibers, yarn, and fabric.

## **ENHANCED ENVIRONMENT FOR INVESTMENT**

U.S. foreign direct investment in Singapore as of 2001 was more than \$27 billion. Although Singapore has an open investment climate, the FTA provides important protection for U.S. investors. This agreement ensures a secure and predictable legal framework for such investment, including direct ownership of companies, real estate, intellectual property rights, concessions, permits, and debt instruments. Except for certain specified exceptions, the FTA assures U.S. investors opportunities to establish, acquire and operate investments in Singapore on the same basis as Singaporean investors or any other foreign investor. Other rights guaranteed to U.S. investors under the FTA include protections related to expropriation and due process that are consistent with U.S. legal principles and practice, protection against certain performance-related restrictions and requirements, and the right to make international transfers related to an investment. These investor rights are backed by effective and impartial procedures for dispute settlement. The dispute settlement procedures include increased transparency and accountability.

## **TRANSPARENCY AND DISPUTE SETTLEMENT**

The FTA includes extensive transparency commitments in general rule-making and in specific chapters of the agreement. These provisions are set out in a specific chapter of the agreement dealing with regulatory transparency as well as in provisions of the agreement addressing services, competition, government procurement, customs administration, investment, telecommunications, and dispute settlement.

The FTA includes innovative procedures for settling disputes that may arise between the two governments over the implementation of the agreement. The agreement's dispute procedures rely principally on consultations and compliance rather than on the imposition of trade sanctions or penalties. The procedures set new, higher standards of openness and transparency. The FTA calls for dispute settlement proceedings to be open to the public, for the two governments to release their legal briefs and other filings to the public, and for dispute panels to have authority to receive submissions from interested nongovernmental groups.

The FTA's dispute settlement rules also provide equivalent remedies to enforce panel decisions under the agreement, regardless of whether they address the agreement's commercial, labor, or environmental provisions. The FTA achieves this result through an innovative enforcement mechanism that provides for the use of monetary assessments if a government fails to comply with a panel's decision. Enforcement through the suspension of trade benefits provided under the agreement is also available for all types of disputes. The agreement is designed to use remedies that will enhance compliance with the agreement, rather than restrict trade, which could adversely affect sectors and consumers that do not have a direct stake in the

dispute.

## **LABOR AND THE ENVIRONMENT**

Free trade promotes free markets, economic growth, expanded employment opportunities, and higher incomes. As countries grow wealthier, their citizens demand better working conditions and a cleaner environment. Economic growth gives governments more resources and incentives to promote and enforce strong standards in these areas. In the FTA, Singapore and the United States reaffirm their obligations as members of the ILO and will strive to ensure that their domestic laws provide for labor standards that are consistent with internationally recognized labor rights as described in the agreement. The agreement makes clear that it is inappropriate to waive or derogate from domestic labor laws in a manner that weakens or reduces adherence to internationally recognized labor rights as an encouragement for trade or investment with the other Party. A key element of the agreement's labor provisions, which is enforceable through the agreement's dispute settlement procedure, is a commitment by each government regarding the effective enforcement of its domestic labor laws. The agreement also commits Singapore and the United States to cooperate on labor issues and activities.

Environmental commitments are also included in the core text of the FTA. The Agreement includes an enforceable commitment by each government regarding the effective enforcement of its environmental laws. The agreement also commits Singapore and the United States to ensure that their domestic environmental laws provide for high levels of environmental protection and to strive to continue to improve these laws. Through the agreement, Singapore and the United States expressly recognize that it is inappropriate to waive or derogate from their environmental laws in a manner that weakens or reduces protections under those laws in order to seek investment or encourage trade with the other country. In addition, the United States and Singapore will establish, pursuant to a "memorandum of intent" negotiated in parallel with the FTA, a mechanism for developing a joint environmental work plan. This work plan will in turn enhance and create demand for U.S. environmental goods and services.

## **CONCLUSION**

The U.S.-Singapore FTA will economically benefit the United States in numerous ways. It will increase U.S. exports, generate higher paying jobs, improve U.S. competitiveness around the globe, secure a U.S. presence in Southeast Asia, and provide a standard of free trade that encourages a high level of liberalization.

Doing business in Singapore will now be easier, faster, cheaper, and more transparent. The FTA will give U.S. businesses and exporters even more access to Singapore's market, which is a gateway for tapping into one of the world's biggest markets, Southeast Asia. Without the FTA, U.S. businesses will be at a disadvantage as Singapore concludes FTAs with its other trading partners. The FTA will anchor the U.S. economically in a growing, vibrant region, where many opportunities are to be found.

The economic advantages of the FTA are numerous and the opportunity to align our

economies with one another should not be missed. Equally important is the political partnership that will be further solidified with a free trade agreement. Singapore's friendship and cooperation are reliable and valuable resources. Clearly, a free trade agreement with Singapore serves our national interest.