

AMENDMENTS FROM THE 2ND REVIEW FOR SINGAPORE-AUSTRALIA FREE TRADE AGREEMENT

Singapore companies and investors in Australia will now have greater certainty in their investments and protection of their Intellectual Property Rights, among other benefits, following a review and amendments to the Singapore-Australia Free Trade Agreement (SAFTA). Singapore and Australia have completed the 2nd review of the Singapore-Australia Free Trade Agreement (SAFTA) with amendments to ensure that the agreement remains be relevant and beneficial to businesses. The amendments have entered into force on 2 September 2011.

2 SAFTA is a comprehensive Agreement covering the trade in goods and trade in services such as telecommunication and financial services, movement of business persons, government procurement, intellectual property rights, competition policy, e-commerce and education cooperation. The Agreement was signed on 17 February 2003 and came into force on 28 July 2003. The first review entered into force in March 2009.

3 The key updates to the Agreement, arising from the 2nd review, are as follows:

Chapter 8: Investment

Article 4 (Minimum Standard of Treatment) - Singapore companies operating in Australia will now have greater certainty that their investments will receive fair and equitable treatment and the full protection and security as required under international law. This includes the right to due process in legal proceedings as well as the provision of police protection required under customary international law.

Article 5 (Prohibition of Performance Requirements) - Both Singapore and Australia have committed to ensuring that investors will not be imposed with any requirements or commitments on minimum performance levels in its territory, including restrictions on the volume, value or sales level goods or services, achieving a given level of domestic content, or transfer of technology or propriety knowledge¹.

The corresponding **Annexes 4-I(A) and 4-II(A)** and **Annexes 4-I(B) and 4-II(B)** have been updated to reflect Australia's and Singapore's respective reservations to Article 5 (Prohibition of Performance Requirements). Reservations are the specific measures, sectors, sub-sectors or activities in which Article 5 does not apply to.

¹ The complete list of commitments can be found in Article 5.1 and 5.2 of Chapter 8 (Investment). This article excludes performance requirements for the purposes of compliance, and does not apply to Australia's and Singapore's reservations as set out in Annexes 4-I(A) and 4-II(A) and Annexes 4-I(B) and 4-II(B) respectively.

Chapter 13 : Intellectual Property

Investors in Singapore and Australia will now have the assurance that their Intellectual Property (IP) Rights will have broader protection. The amendments to the IP chapter will expand the cooperation between Singapore and Australia on issues relating to the enforcement of IP rights as well as information exchange for the protection, management and exploitation of IP. Specifically, eight new Articles have been introduced to reflect the changes to Australia's and Singapore's domestic IP legislations over the last few years:

- **Article 4 (Term of Protection for Copyright)**
- **Article 5 (Effective Technological Measures)**
- **Article 6 (Rights Management Information)**
- **Article 7 (Protection of Encrypted Programme-Carrying Satellite Signals)**
- **Article 8 (Presumptions for Copyright)**
- **Article 9 (Civil Enforcement of Intellectual Property Rights)**
- **Article 11 (Criminal Procedures and Remedies)**
- **Article 12 (Limitations on Liability of Service Providers)**

The new Articles will provide investors with greater clarity on the specific IP Rights accorded to their property and assets. For example, Article 5 introduces measures to protect against the wilful removal or alteration of rights management information for the purpose of facilitation or concealment of an infringement of any copyright. Article 9 and Article 11 further spells out the civil enforcement and criminal procedures and remedies available to investors who have been subjected to IPR infringement.

Annex 3A: List Of Entities For Australia under Chapter 6 (Government Procurement)

Annex 3A has been updated to reflect the changes to Australia's Machinery of Government following the 2007 Federal Elections. The changes are administrative and do not have any impact on the existing level of coverage available to Singapore companies under the Government Procurement chapter.

4 For further information on SAFTA, please visit IE Singapore's FTA website at: http://www.fta.gov.sg/fta_safta.asp.

Ministry of Trade and Industry
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