



# Korea (KSFTA)

The Korea-Singapore Free Trade Agreement (KSFTA) was signed on 4 August 2005. The KSFTA came into force on 2 March 2006 and is Korea's first free trade agreement with an Asian country.

The objectives of this Agreement are as follows:

- 1) Liberalise and facilitate trade in goods and services and expand investment between the Parties;
- 2) Establish a framework for strengthening the economic relations;
- 3) Establish a more favourable environment for their businesses and promote conditions of fair competition in the free trade area;
- 4) Establish transparent rules to govern trade and investment;
- 5) Create effective procedures for the implementation and application of this Agreement; and
- 6) Establish a multi-lateral and regional cooperation and economic integration of Asian economies.

### Benefits to Singapore Exporters to Korea

Through the KSFTA, Korea will substantively remove tariffs on most of Singapore's exports into Korea. Products that can pose a competitive challenge to the Korean industry will have their tariffs phased out over a period of either five or 10 years.

Almost 75 per cent of Singapore's domestic exports to Korea enjoy an immediate tariff elimination, which provides them a cost advantage and first mover advantage into Korea's market.

Products ranging from our freshwater ornamental fish to woven cotton fabrics, as well as some of our exports from key sectors such as chemicals, electrical equipment and electronics stand to benefit from the KSFTA. Other sectors of importance to Singapore such as biomedical sciences, chemicals, consumer electronics and precision engineering are also covered under the KSFTA. Even though agriculture is a sensitive sector in Korea, agricultural products are also included given Singapore's keen interest in the processed food industry. These include chocolate confectionery, flour, tea concentrates and three-in-one coffee mixes which will all benefit from the KSFTA.

Korean manufacturers sourcing for intermediate products such as IT components from Singapore for their finished goods will also benefit from reduced costs resulting from tariff benefits accruing to these imports into Korea. Intra-company trade between Korea and Singapore will thus receive a boost from the KSFTA.

### Trade in Goods

Elimination of the customs duties on originating goods will be carried out in accordance with the KSFTA's Tariff Elimination Schedule. Under KSFTA, 75 per cent of Singapore's domestic exports to South Korea are enjoying immediate tariff elimination, amounting to S\$3 billion. Other goods will have their tariffs reduced over five to 10 years from the date that the KSFTA has been in force.

An agreement by the Parties to accelerate the elimination of customs duties on an originating good or to include a good in the Tariff Elimination Schedule shall supersede any duty rate or staging category determined pursuant to their Tariff Elimination Schedules for such good and shall be treated as an amendment to Annex 3A. It shall enter into force in accordance with the procedure under KSFTA's Article 22.4.

### Rules of Origin

In the KSFTA, an originating good means a good

- 1) wholly obtained or produced entirely in the territory of one or both of the Parties;
- 2) that has satisfied the requirements specified in Annex 4A as well as other applicable requirements under this chapter as a result of the production occurring entirely in the territory of one or both of the Parties;

- 3) otherwise provided as an originating good under this chapter; or
- 4) produced entirely in the territory of one or both of the Parties exclusively from originating materials highlighted in the chapter.

The goods listed in Annex 4B are originating goods when the goods are imported into the territory of Singapore from the territory of Korea. The goods shall also be originating material for purposes of satisfying the requirements specified in this chapter.

When a regional value content is required to determine an originating good, the regional value content of a good shall be calculated on the basis of the following method:

$$RVC = \frac{CV - VNM}{CV} \times 100\%$$

where RVC is the regional value content, expressed as a percentage; CV is the customs value adjusted to an FOB basis; and VNM is the value of non-originating materials used by the producer in the production of the good.

A good that does not undergo a change in tariff classification as highlighted in Annex 4A shall be considered as originating if:

- 1) the value of all non-originating materials used in its production that do not undergo the required change in tariff classification does not exceed 10 per cent of the customs value of the good; and
- 2) the good meets all other applicable criteria set forth in this chapter for qualifying as an originating good.

The value of such non-originating materials shall be included in the value of non-originating materials for any applicable regional value content requirement for the good.

### Customs Documentation

A valid Certificate of Origin (CO) is required for request of tariff preference by importer. Each Party shall:

- 1) require an exporter in its territory to complete and sign an application for CO for any good that an importer may claim preferential tariff treatment on importation of the good into the territory of the other Party; and
- 2) provide that where an exporter in its territory is not the producer of the good, the exporter may complete and sign an application for a CO on the basis of
  - a) the exporter's knowledge that the good qualifies as an originating good; or
  - b) the exporter's reasonable reliance on the producer's written representation that the good qualifies as an originating good.

The issued certificate of origin shall be valid for 12 months from the date of issue. The certificate should be kept up to five years from date of issuance.

The following bodies are authorised to issue COs for the purposes of Chapter 5 (Customs Procedures):

- 1) For Korea: Korea Customs Service, Korean Chamber of Commerce and Industry, any body authorised by the Government of Korea in accordance with its laws and/or regulations, terms and conditions; and
- 2) For Singapore: Singapore Customs, any body authorised by the Government of Singapore in accordance with its laws and/or regulations, terms and conditions.

### Advanced Ruling

Under the KSFTA, the importing customs authority will provide an advance ruling on the eligibility of originating goods for preferential tariffs and tariff classification upon the request of the trader. This will provide traders with greater certainty on the status of their goods at the country of import.

Before exporting, the exporter seeking an advance ruling should, through the Singapore Customs, submit an application for tariff classification and provide details on country of origin so as to determine whether the good qualifies as an originating good. The provision of advance ruling is based on the facts and circumstances presented by the person requesting the ruling.

The importing Party may modify or revoke the issued 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 an amendment to the KSFTA; or
- 4) to conform with a judicial or administration decision or a change in its domestic laws and regulations.

The importing Party shall apply the advance ruling for three years from the date of issuance of the ruling.

### Mutual Recognition Arrangement for Goods

The mutual recognition of conformity assessment procedures to assess that products from Singapore destined for Korea meet with the standards and technical regulations of Korea and vice versa.

The chapter provides for sectoral annexes for specific product sectors that are subjected to mandatory requirements. Both countries have agreed to two sectoral annexes and the details will be worked out at the first KSFTA Review.

When fully implemented, products in the two sectors, that is, telecommunications equipment and electrical and electronic goods, will not be subject to duplicative testing and certification in the market place. They can be sold immediately on entry into the market without having to be re-tested and/or re-certified in the destination country. This will ensure market access, reduce cost as well as shorten time to market. Such benefits are particularly important for products with a short life cycle. As a result, products from Singapore for the Korean market are likely to be more cost competitive than competing products from a non-FTA partner. The same applies to products coming into the Singapore market from Korea.

### Trade in Services

KSFTA's services commitments are based on a negative-list approach, where all sectors are a priori committed except for those sectors or measures listed down in Annex 9. For Singapore companies, KSFTA provided improved commitments in the following sectors:

- 1) Education sector, in particular, in the areas of language education, certified language programmes such as TOEFL and TOEIC, corporate training and service quality programmes.
- 2) The environmental services market is open in the areas of environmental testing and assessment services, industrial waste treatment and refuse disposal services, and recycling services.
- 3) Contract manufacturers could engage in services that support the manufacture of communications equipment, machinery (computing, electrical, office), medical precision and optical instruments, plastics and rubber products.
- 4) Singapore service suppliers are given access to Korea's courier services sector to complement each other as hubs in their respective regions for courier and logistics services.

### Investment

The KSFTA entitles investors to national treatment in all sectors of the other country except for those explicitly listed. Thus, in liberalised sectors, a Singapore investor will enjoy the same level of treatment that is accorded to local companies at both national and provincial levels. Further details are provided for the sectors that have improved benefits especially for sectors such as courier, education, environmental services and contract manufacturing.

Investment protection: The chapter contains provisions allowing the right to freely transfer funds relating to investment between the two countries. Both sides have also agreed not to take over the assets of the company unreasonably without proper compensation.

If an aggrieved investor that has suffered losses deems that Korea or Singapore has acted in breach of its obligations under the KSFTA, it can take Korea or Singapore government to an international arbitration tribunal. This right of the investor is in addition to and independent of any other contractual rights. This highlights that both countries are committed to maintaining open economies with attractive investment regimes.

### Movement of Business Persons

The chapter lays out the terms and extent to which citizens and permanent residents of one country can enter into the other country's territory for the purpose of doing business. It will facilitate the movement of four major categories of businesspersons:

- 1) Intra-corporate transferees who are employed as managers, executives or specialists;
- 2) Service sellers;
- 3) Short-term service suppliers; or
- 4) Traders and investors who are managers, executives or specialists.

Under the chapter, citizens from Korea and Singapore in all the above categories will be granted 90 days upfront stay when they visit each other's country. Intra-corporate transferees, traders and investors will be granted entry for a period of up to two years, which may be extended for subsequent periods up to a total of eight years. Further extensions beyond eight years may be possible.

### Government Procurement

KSFTA has lowered its threshold for government procurement opportunities that will allow more companies to benefit from this area. Companies in Singapore will be treated on equal terms as Korean companies in supplying such goods and services and vice-versa. Singapore companies can find more information on procurement opportunities via three sources:

- The Korean e-Procurement System: G2B (<http://www.g2b.go.kr>)
- Daily Press
- Internet Home Page of respective entities

Table of Thresholds:

|                              | Central Government Entities (SDR) | Sub-Central Government Entities (SDR) |
|------------------------------|-----------------------------------|---------------------------------------|
| <b>Goods</b>                 | 100,000                           | 200,000                               |
| <b>Services</b>              | 100,000                           | 200,000                               |
| <b>Construction Services</b> | 5,000,000<br>(no change from GPA) | 15,000,000<br>(no change from GPA)    |

### Dispute Settlement

A Party may request in writing consultations with the other Party on any matter affecting the implementation, interpretation or application of the KSFTA or whenever a party considers that any measure or any other matter that is inconsistent with the obligations of this Agreement. This could have led to nullification or impairment of any benefit accruing to it directly or indirectly under the following chapters:

- a) Chapter 3 (National Treatment and Market Access for Goods),
- b) Chapter 4 (Rules of Origin), and
- c) Chapter 9 (Cross Border Trade in Services).

If a request for consultation is made, the Party to which the request is made shall reply to the request within 10 days after the date of its receipt and shall enter into consultations within a period of no more than 20 days after the date of receipt of the request, with a view to reaching a mutually satisfactory solution.

The Parties shall make every effort to reach a mutually satisfactory resolution of any matter through consultations. To this end, the Parties shall provide sufficient information to enable a full examination of how the measure might affect the operation of the Agreement.

The Parties may at any time agree to conciliation or mediation. They may begin at any time and be terminated by either Party at any time. A Party may request in writing for the establishment of an arbitral panel if the matter has not been resolved. The arbitral panel shall present a final report to the Parties within 30 days of presentation of the initial report unless the Parties otherwise agree.

Upon receiving the final report of an arbitral panel, the Parties shall agree on the means to resolve the dispute, which normally shall conform with the recommendations, if any, and the reasonable period of time which is necessary in order to implement the means to resolve the dispute.

### Intellectual Property

Both Singapore and the Republic of Korea are focused on mutual collaboration and cooperation in identified arenas of intellectual property (IP). What is covered is the commercialisation or exploitation, including patent technology and licensing, the promotion of awareness and education, and the exchange of technical expertise, knowledge and training for all genres of IP, including the field of plant variety protection (PVP).

Citizen and resident inventors that seek to secure patent protection now have available a broader framework that would translate into time and cost savings and render Singapore a more attractive location for research and development investments from Republic of Korea.

Firstly, Singapore has added the Korean national IP office (KIPO) to its approved pool of competent international search and preliminary examination authorities (ISA and IPEA). This means that a citizen or resident of Singapore who makes an international patent filing under the Patent Cooperation Treaty (PCT) with IPOS as a receiving office has an additional option to choose KIPO to conduct the International Search & Examination for his international application.

Secondly, Singapore granted KIPO the status of prescribed patent office (PPO), adding it to its current pool of recognised patent offices. This means an applicant for a patent in Singapore can rely on the search and examination results of a similar patent application that has been filed with KIPO (with requisite English translations to be furnished).