

**INDIA-SINGAPORE
COMPREHENSIVE ECONOMIC COOPERATION
AGREEMENT (CECA)**

INFORMATION KIT

India-Singapore Comprehensive Economic Cooperation Agreement

Negotiations for the India - Singapore Comprehensive Economic Cooperation Agreement (CECA) were launched on 27 May 2003 in New Delhi. The launch of negotiations followed the signing of the Declaration of Intent on 8 April 2003 by BG(NS) George Yeo, then Minister for Trade and Industry, and Shri Arun Jaitley, then Minister for Commerce and Industry, India. The signing of the Declaration of Intent was witnessed by then Prime Minister Mr Goh Chok Tong, and then Prime Minister of India, Shri Atal Bihari Vajpayee.

The Declaration of Intent followed the completion of the Joint Study Group¹ Report on the CECA. This report was presented to both then Prime Minister Goh and then Prime Minister Vajpayee before the signing of the Declaration. In the Declaration, the Ministers agreed that the Joint Study Group Report on the CECA would serve as a framework for subsequent negotiations.

The ambitious and comprehensive nature of this endeavour was reflected in the multi-faceted and well-represented inter-ministry teams from both sides. India's team was initially led by Shri Deepak Chatterjee, then Secretary, Department of Commerce and subsequently by Shri S N Menon, Secretary, Department of Commerce. Singapore's team was led by Mr Heng Swee Keat, then Permanent Secretary for Trade and Industry and currently the Managing Director, Monetary Authority of Singapore. During the course of the negotiations, Minister Kamal Nath assumed India's Commerce and Industry portfolio and Minister Lim Hng Kiang assumed Singapore's Trade and Industry portfolio. The continued progress towards a substantive CECA is a sign of the strong commitment by India and Singapore to deepening bilateral ties and to economic progress.

After 13 formal rounds of negotiations, India and Singapore have successfully concluded the CECA. The Agreement encompasses trade in goods, trade in services, investment protections and other features. Mutual Recognition Agreements will eliminate duplicative testing and certification of products in specific sectors, and co-operation chapters will

¹ The Joint Study Group (JSG) was formed after then Prime Minister Goh and then Prime Minister Vajpayee met in Singapore on 8 April 2002 and agreed that the group be established to study the benefits of a CECA. The Group was co-chaired by Mr Lim Chin Beng, Member of the Public Service Commission, and Dr Rakesh Mohan, then Deputy Governor of the Reserve Bank of India. The JSG concluded that the CECA between India and Singapore would provide significant benefits for both countries, in terms of the potential for increased trade and investment, and through economic cooperation.

encourage and facilitate bilateral cooperation in several sectors. The CECA process has also encompassed a review of the existing Avoidance of Double Taxation Agreement between India and Singapore.

This landmark agreement is India's first ever CECA and is also the first comprehensive economic pact between Singapore and a South Asian country. The Agreement is a strategic compact between the two countries that will further enhance bilateral ties by catalysing the already growing flows of trade, investment, ideas and people².

The India-Singapore CECA is scheduled to be signed on 29 June 2005, during Prime Minister Lee Hsien Loong's State Visit to India.

² India was Singapore's 14th largest trading partner in 2004 and bilateral trade has nearly tripled within the past decade, from S\$4 billion in 1995 to S\$11.8 billion in 2004. Over the last year, while negotiations were ongoing, bilateral trade with India increased by almost half, from S\$7.8 billion in 2003, making India our fastest growing trading partner among the major economies.

Key Features of CECA

IMPROVED AVOIDANCE OF DOUBLE TAXATION AGREEMENT

An Avoidance of Double Taxation Agreement ("DTA") provides for avoidance of double taxation of income earned in one Contracting State by a resident of the other and makes clear the taxing rights between the two Contracting States on all forms of income from cross-border economic activities between the two Contracting States. The DTA thus helps to facilitate the flow of trade, investment, technical know-how and expertise between the two Contracting States by eliminating double taxation of income.

Singapore and India have agreed on a protocol to improve the existing DTA, which was signed in January 1994. The main improvement to the DTA is that tax residents will enjoy capital gains tax exemption on investments in India. However, a tax resident will not be entitled to the capital gains exemption if its affairs are arranged primarily to take advantage of the benefits of the DTA. In addition, a shell/conduit company with negligible or nil business operations or with no real and continuous business activities in Singapore is disallowed from enjoying the capital gains exemption.

For the purposes of the capital gains tax exemption, a company is not a shell company if:

- It is listed on recognised stock exchanges of the Contracting State
- Its total annual expenditure on operations in the residence State is equal to or more than S\$200,000 or Indian Rs 50,00,000 in the respective Contracting State as the case may be, in the immediately preceding period of 24 months from the date the gains arise.

The capital gains tax exemption regime of a country is an important consideration for investors and this exemption, which was previously only available to Mauritius, will help promote greater investment flows between Singapore and India.

TRADE IN GOODS

The Trade in Goods Chapter provides for tariff concessions that will make Singapore goods more competitive vis-à-vis other foreign imports into India. Tariffs on approximately 75% of Singapore's domestic exports³ will be eliminated or substantially reduced within 5 years. The sectors

³ Estimated trade coverage is based on 2003 figures from International Enterprise Singapore.

benefiting includes electrical and electronics, instrumentation, pharmaceuticals, and plastics.

For Singaporean goods entering India, those that qualify for tariff concessions are classified into one of the following categories: immediate elimination, phased elimination and phased reduction. Goods in the immediate elimination category will have tariffs on them eliminated completely when CECA comes into effect. For goods in the phased elimination and phased reduction categories, the reduction to the final tariffs will be phased in over 5 years and the percentage reduction is expressed as a margin of preference over the Most Favoured Nation (MFN) applied rates. This is shown in the table below:

Timeline for the Phased Tariff Concessions

| | Tariff reduction by date CECA enters into force (1.8.2005) | Tariff reduction by 1.4.2006 | Tariff reduction by 1.4.2007 | Tariff reduction by 1.4.2008 | Tariff reduction by 1.4.2009 |
|---|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Goods qualifying for Phased Tariff Elimination | 10% | 25% | 50% | 75% | 100% |
| Goods qualifying for Phased Tariff Reduction | 5% | 10% | 20% | 35% | 50% |

To illustrate phased tariff concessions, we can use an Indian HS tariff line as an example. If the tariff line has an MFN rate of 10% in May 2009, a 50% reduction under Phased Tariff Reduction means that an import duty of 5% would be imposed on the Singapore-originating good entering India.

For Indian goods entering Singapore, Singapore has committed to grant zero-tariff treatment on all imports from India as of entry into force of the Agreement. For example, tariffs on Indian beer entering Singapore will be eliminated.

RULES OF ORIGIN

Rules of Origin (ROO) identify the “nationality” of a good. They ensure that only Singaporean or Indian goods enjoy the tariff concessions under CECA.

The general rule of origin is a combination of 40% local content and a change in tariff classification at the 4-digit level. CECA also takes into consideration the unique production pattern of Singapore and provides for a list of products that are exempt from the general rule. For each of these products, a specific rule of origin (eg, change in tariff classification only) has been crafted.

CUSTOMS

Good customs procedures are necessary to ensure the free movement of goods traded between both countries. The lack of such procedures can increase compliance costs and diminish the benefits that result from tariff reduction.

Under CECA, the customs authorities from India and Singapore 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.
- Enhance the application of risk management to focus on high-risk goods and facilitate the clearance of low risk consignments. Both authorities will also enhance transparency in regulations so that traders would be fully aware of the requirements and procedures in the respective countries.

STANDARDS AND TECHNICAL REGULATIONS, SANITARY AND PHYTOSANITARY MEASURES

CECA provides a framework for concluding Mutual Recognition Agreements (MRAs) to eliminate duplicative testing and certification of products to facilitate entry of goods for sale in the respective markets. These sectoral MRAs serve to reduce costs and shorten time to market especially useful for products with short life cycle.

Two sectoral annexes for trade in electrical and electronic products, and telecommunication equipment were concluded under the framework chapter. For products in these two sectors, testing and certification to Indian standards and technical regulations can be done at source. They do not have to be further tested or re-certified on arrival in the market.

The potential benefits are reduction in cost due to elimination of duplicative testing and reduction in time to market for these products to enter the Indian or Singapore market. As most of these products have relatively

short life cycles, the result is a reduction in relative cost and improved time-to-market competitiveness of Singapore certified products entering the Indian market and vice versa. India is expected to make the necessary amendments to its legislation to implement these MRA arrangements. This may take another 12 – 18 months. Singapore will also be providing technical training for Indian standards bodies so as to enable them to implement the MRA.

Of immediate benefit is the food sectoral annex where Singapore has facilitated the import of egg products, dairy products and packaged drinking water from India. This will widen the sources of supply for these food products in Singapore.

INVESTMENT

The investment chapter aims to promote and protect investments from both countries. Market access for investments is based on the principle of National Treatment subject to the commitments or reservations undertaken. The chapter contains a number of useful features to protect investments. The key features are highlighted as follows:-

- **Beneficiaries:** Citizens and Enterprises based in Singapore or India. Indian investors are not required to seek foreign investment approval for coverage under the investment chapter.
- **Broad Range of Investment Instruments:** The chapter covers a broad range of investment instruments and assets, such as equity and debt instruments, Intellectual Property Rights (IPR) and, business licenses and permits. Investments in the nature of both Foreign Direct Investment (FDI) and portfolio investments are covered.
- **National Treatment:** The chapter accords National Treatment to investors from both countries. The market access feature of this provision is subject to the commitments and reservations undertaken.
- **Expropriation and Compensation:** Both countries cannot expropriate investments, directly or indirectly, without proper legal safeguards. Expropriation must be premised on public purpose and compensation based on market value. Land expropriation will be governed by the domestic legislation of each country.
- **Investor to State dispute settlement:** To give investors greater confidence in investing in either country, both countries have committed to allowing investors, once the investment is established, to take a dispute relating to an obligation under the chapter to an international arbitration tribunal.

- Free Transfers: Both countries will allow the investors to freely transfer funds related to their investments, such as capital, profits, dividends and royalties.
- Joint-Ventures: India has agreed to bind its recent liberalisation measures regulating the ability of current joint-ventures to enter into new joint-ventures (India's Press Note 1 of 2005).
- Real Estate: India has agreed to bind its new regulations governing investments in the real estate sector (India's Press Note 2 of 2005).
- Others: The Indian government has formally recognised Temasek and GIC as distinct entities. They are allowed to each own up to 10% of a listed Indian company, similar to other Foreign Institutional Investors (FII), as stipulated under current Securities and Exchange Board of India (SEBI) regulations.

TRADE IN SERVICES

The services chapter ensures that service suppliers in India and Singapore are guaranteed access into each other's markets. The key features are highlighted as follows:

- Market Access: Both countries may not restrict access into their services market by imposing quantitative restrictions (eg. numerical quotas on services suppliers that are allowed in the market).
- National Treatment: Services suppliers will be granted the same treatment as local service suppliers, i.e., no discrimination.
- Domestic Regulation: The chapter ensures that domestic regulations governing the provision of services are reasonable, impartial and objective.
- Mutual Recognition Agreements (MRAs): The chapter facilitates the freer movement of people. Professional bodies in the accounting and auditing, architecture, medical (doctors), dental and nursing services sectors in both countries will negotiate agreements, within a year of the signing of CECA, recognising each other's education and professional qualifications. This means that upon the completion of these mutual recognition agreements, Indian and Singaporean professionals from these five professions could be able to practice in Singapore and India respectively. Professional bodies for services sectors not listed above would also be encouraged to enter into negotiations for MRAs.

The services commitments made by each country can be found in the Annexes to the Services Chapter. There are additional disciplines pertaining to Telecommunication Services and Financial Services in their respective Annexes to the Services Chapter.

Generally, the benefits of the CECA will extend to the citizens, permanent residents, local companies as well as foreign MNCs that are constituted or otherwise organised in India or Singapore. Companies wishing to supply audio-visual, educational, financial and telecommunication services, through commercial presence in India or Singapore, would have to meet ownership or control criteria in order to benefit from the CECA.

Both countries have committed to liberalise various services sectors beyond its WTO commitments.

The sectors which Singapore gets preferential access include business services, construction and related engineering services, financial services, telecommunication services, tourism and travel related services and transport services.

India would be able to enjoy preferential treatment for sectors such as business services, distribution services, education services, environmental services and transportation services.

- For Financial Services, Singapore owned or controlled financial institutions have been given greater privileges to access the Indian market. In banking, DBS, UOB and OCBC can each set up a wholly owned subsidiary (WOS) in India to enjoy treatment on par with Indian banks in branching, places of operations and prudential requirements. Alternatively, should they choose to set up as branches, they have been allocated a separate quota of 15 branches (for all 3 banks) over 4 years, over and above the quota for all foreign banks.
- For asset management, Singapore owned or controlled fund managers have the additional privilege of offering Indian investors mutual funds and collective investment schemes (CIS) listed on the Singapore Exchange (SGX) as well as exchange traded funds (ETF). These instruments offered by our asset managers are free from the restriction that they must only invest in entities which have a stake in Indian companies. India has similarly lifted this limitation for India owned or controlled fund managers. Both Singapore and India owned or controlled fund managers can also invest an additional US\$250m in equities and instruments listed on the SGX, including mutual funds, CIS and ETFs. This is in addition to the US\$1 billion cap that all asset managers can invest abroad.

- Indian banks and financial institutions can take advantage of CECA to expand their activities in Singapore. To this end, Indian banks, that satisfy Singapore's admission criteria, will be given Wholesale Bank licences and up to 3 bank licences with Qualifying Full Banks privileges. In addition, India insurers and capital market intermediaries that satisfy our admission criteria will have open access to set up in Singapore.
- For Telecommunication Services, India will bind its foreign equity limit from 25% to 49% for most services including basic, cellular and long-distance services and 74% for internet and infrastructure services. India will also ensure that telecommunication providers from Singapore are treated fairly, transparently, and allowed to obtain access to the necessary public infrastructure in order to offer their services, thereby creating a more level playing field in India for our Singapore's telecom providers. On its part, Singapore has made binding commitments for telecommunication services such as Basic Telecommunication Services (facilities-based), Mobile Services, and Value-Added Network (VAN) Services.

AIR SERVICES

India and Singapore have reaffirmed their rights and obligations under previous agreements and recognise the importance of air connectivity to support the expansion of tourism, trade and investments.

Both countries will review and enhance further air services linkages through the bilateral Air Services Agreement, in future.

MOVEMENT OF NATURAL PERSONS

The cross-border movement of natural persons plays a central role in initiating and supporting trade and investments in goods and services. This chapter enhances trade and investment flows by facilitating easier temporary entry for 4 categories of business persons from India and Singapore:

- Business Visitors who are holders of five year multiple journey visa will be permitted to enter and engage in business activities for a period of up to 2 months, which upon request, may be further extended by up to 1 month.
- Short-term service suppliers will be granted temporary entry to service their contracts for an initial period of up to 90 days in the first instance.

- Professionals employed in 127 specific occupations will be allowed entry and stay for up to 1 year or the duration of contract, whichever is less.
- Intra-corporate transferees (i.e. managers, executives and specialists within organisations) will be permitted to stay and work in India and Singapore for an initial period of up to 2 years or the period of the contract, whichever is less. The period of stay may be extended for period of up to 3 years at a time for a total term not exceeding 8 years.

The Movement of Natural Persons chapter does not apply to measures regarding citizenship, residence or employment on a permanent basis. It also does not apply to immigration measures as long as these immigration measures do not nullify or impair the commitments made by either country.

The chapter will grant Singaporean and Indian Citizens and Permanent Residents guaranteed entry and stay in each other's country as business visitors, short-term service suppliers, professionals and intra-corporate transferees.

Singapore companies will have certainty when they choose to deploy Singapore staff to help manage their Indian operations. Skilled and qualified professionals and service suppliers from Singapore would also gain easier access to the vast Indian market. Similarly, this would also apply to Indian companies when they deploy Indian staff to manage their operations in Singapore.

With freer movement of business persons between countries, bilateral trade and investment flows should be significantly enhanced. Hence, companies from both countries can leverage on the chapter to drive greater economic integration between India and Singapore.

E-COMMERCE

Both India and Singapore reaffirm their commitment to promote a liberalised environment for electronic commerce. The chapter on electronic commerce addresses fair treatment of digital products, such as software, e-books and e-movies, coming from Singapore.

The Agreement also prohibits any imposition of customs duties on digital products delivered electronically. In addition, both sides commit to ensuring transparency by making publicly available all relevant laws and regulations affecting electronic commerce.

INTELLECTUAL PROPERTY

The Chapter on Intellectual Property (IP) Cooperation is focused on collaboration and cooperation between the Parties.

The Parties agreed to undertake and promote mutually beneficial cooperation in the fields of IP and Plant Variety Rights. These forms of cooperation could include the joint organisation of training programs, and collaboration on projects to promote the effective use and application of IP. The Parties have specifically identified their leading training centres: the IP Academy, Singapore, and the Intellectual Property Training Institute (Nagpur), as initial partners for cooperation.

The provisions on cooperation and collaboration in IP and training arrived at under the Chapter paves the way forward for collaboration between the Parties in the development of key IP programmes and IP infrastructure. Singapore and India benefit mutually in terms of potential exchange on IP and IP-related training and education programmes. In addition, the mutual recognition of the importance of plant variety rights means that both Singapore and India will be able to consider cooperation activities in this field.

SCIENCE & TECHNOLOGY

The Science and Technology cooperation chapter will allow for the fostering of closer collaboration in research and development and commercialisation of technologies between the scientific and research communities from the two countries. It expands an earlier agreement on science and technology signed in 1995.

The agreement is geared towards harnessing the complementary capabilities available in the two countries. The areas of focus that have been identified for possible cooperation are marine and agricultural biotechnology, space research, advance materials and information technology.

EDUCATION

The education cooperation chapter is aimed at combining the strengths of the education system in India and Singapore to the mutual benefit of the two countries.

One of its key mandates is to facilitate joint post-graduate programs between the world-renowned Indian Institutes of Technology (IIT) and Institute of Science (IISc) with the Singapore universities. These programs will focus on research and education with clear industrial linkages to

companies from both countries. Arising from this, NUS and IIT Bombay have recently signed an MOU to establish a joint graduate engineering programme. The NUS-IIT-B tie-up is the first alliance by any IIT with a foreign university in a significant manner. The programme will draw heavily on existing NUS and IIT-B infrastructure and course modules. Both IIT-B and NUS professors will participate in joint teaching and supervision of projects. The partnership is expected to yield some 40 MS and eight Ph.D graduates annually.

The chapter also provides that degrees specified by the University Grants Commission of India or an Institution of National Importance of India, and by universities in Singapore, shall be recognised for the purposes of admission into the universities of both countries. This is in addition to all other admission criteria that must still be satisfied.

A Joint Committee on Education will be established to emphasise the key role that education will play in fostering the relationship between the two countries. Its members will be drawn not only from government but from the private sector as well.

MEDIA

The media cooperation chapter offers a platform for the regulatory agencies from both sides to work closely together. This will allow focus not only on regulatory issues of mutual concern, but more importantly on promoting greater industry and private sector collaboration. Some of the areas of collaboration that could be looked into are digital media and convergent services, intellectual property rights, education and training, co-production of film and television content, distribution and marketing, and research and development.

DISPUTE SETTLEMENT

In any international agreement, whilst we do not expect nor hope for disputes between the Parties as to what the agreement means, it would nevertheless be prudent to prepare for such an eventuality. In this connection, Singapore and India have negotiated a comprehensive set of dispute settlement procedures. Disputes are subject to consultations, negotiations, conciliation and arbitration just like in the WTO, thereby enhancing the rule of law in international trade.

REVIEW

The Ministers of India and Singapore, who are responsible for trade negotiations, will meet within a year of the date of entry into force of CECA

for a review. Subsequent reviews will be done biennially or otherwise as appropriate.

Please contact the following officer at the Ministry of Trade and Industry should you have further queries:

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For further information on concluded FTAs or FTAs in general, please refer to the FTA website, <http://www.fta.gov.sg> or email mti_fta@mti.gov.sg