

Goods Issues to be Raised by Singapore at the
2ND USSFTA REVIEW
March 2006

1. For the 2nd USSFTA Review, Singapore is looking to re-surface requests raised during the 1st review and the outstanding issue of Singapore's 2 short supply requests. Further, Singapore is raising additional requests relating to rules of origin and textiles enforcement. We also hope to discuss the diagonal cumulation concept for the US-Singapore, US-Australia and Singapore-Australia FTAs.

REQUEST (Existing): Acceleration of tariff phase-out or improvement in tariff rate quota for two products

2. Singapore's tariff requests are as follows:
 - Nutritionals (HS 1901.10) – Tariff Rate Quota to be expanded to 10,000 metric tons by 2010. Currently, this product is subject to an 8 year phase out.
 - Polycarbonates (HS 3907.40.00) – Tariff phase out over a period of not more than 4 years. Currently, this product is subject to a 10 year phase out.
3. As highlighted in the earlier review, the nutritional request actually comes from a US-based company – Abbott (S) Pte Ltd. It has assessed that the US demand for powdered infant formula will increase and hence intends to export this product to US from its Singapore plant. However, it notes that the quotas for dairy products in the USSFTA are too low and insignificant to be of any commercial sense and significance to manufacturers of nutritionals in Singapore. 6 metric tons (the quota for Year 3) is the output for only about 2 hours of manufacturing operations and is significantly less than the 517 and 1685 metric tons offered for Year 3 under the US-Chile and US-Australia respectively. Abbott opines that a commercially significant figure for the USSFTA would be 10,000 metric tons (by 2010) for export back to the US.
4. For polycarbonates, the current offer under USSFTA is for tariff elimination within a 10 year phase out period. Polycarbonates attract a rather high 5.8% duty upon entry into US, for applications such as the manufacture of CDs. The tariff reduction under USSFTA currently amounts only to about 0.58% annually. In comparison, the US offered Chile and Australia immediate tariff elimination for this product under their respective FTAs.
5. The above two requests were fielded at the 1st review, held in February last year. The US had then informed Singapore that it was examining ways to ensure consistency in tariff phase-in periods for their various FTA partners and instituting the process through which amendments could be introduced to existing FTAs. The US had said that it would only be able to respond to Singapore's requests after completing its internal processes. However, Singapore has yet to receive any updates, even though more than a year has passed.
 - Singapore would request that the Joint Committee agree to start the process to consider the tariff acceleration requests following this meeting and that the process be completed expeditiously.

REQUEST (New): Improved Rules of Origin

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6. We have received a new request from a Singapore company, for improved ROO for its photocopier (HS 90091200) exports to the US. The MFN rate of 3.7% is subject to immediate tariff elimination under the USSFTA. The company is, however, unable to meet the ROO, which it deems “unrealistic for the electronics industry in Singapore”:
- Current ROO is "A change to subheading 900912 from any other subheading except subheading 900990, or a change to subheading 900912 from subheading 900990, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than 35% based on build up method or 45% based on build down method"
 - The company cannot meet the first rule because some of their raw materials fall under HS900990. It is also unable to meet the RVC requirement.
7. The company is therefore desirous for the removal of HS 900990 from the list of disqualified raw materials under the CTS rule. This, in Singapore's opinion, is a reasonable request, as that products falling under HS 900990 are MFN-zero ITA products which form part of the Integrated Sourcing Initiative (ISI). As the US would recall, under the original formulation for the ISI, which included the second limb 'components' element, HS 900990 parts would have been deemed originating, irrespective of actual source. This was the original intent of the FTA, until the second limb was removed from the USSFTA prior to passage through Congress.
8. Our specific request for improved ROO is therefore:
- Photocopiers (HS 900912): To remove HS900990 from the list of disqualified raw materials under CTS rule.

REQUEST (Existing; with modifications): Improved TPL

9. After more than 2 years of the implementation of the USSFTA, the Singapore textile and apparel (T&A) manufacturers have given feedback that they are unable to extract the full benefits from this agreement because the rules of origin for T&A are too onerous, uncertain and make no commercial sense. This is reflected in the relatively low utilization of the Tariff Preference Level (TPL) and exports under the USSFTA.

The TPL Mechanism under US' various trade arrangements

10. Singapore was given a TPL of 25 million SME under the USSFTA. The TPL will be reduced over 8 years in equal annual reductions and tariffs will be phased out over 5 years. Whilst the rollback in TPL appears to make sense, the companies find that this, in fact, creates uncertainty as business planning is not done on an annual basis. The tariff phase out is also minimal. Both these onerous requirements are in addition to the requirement that all operations have to be done in Singapore.

Singapore's Request

11. The current textiles and apparel Chapter in the USSFTA does not confer any benefit to the industry, in return for the obligations that the Singapore industry and Government have to undertake in terms of enforcement.
12. Neither the US industry nor the US consumers are gaining anything from the USSFTA agreement under this Chapter as anticipated during the negotiations. This seems to be reflected in the change in the US Government policy when its later agreements such as

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the US-Bahrain showed that there has to be increased flexibilities in the T&A chapter of an FTA if it is to be a mutually operationally practical and beneficial FTA.

13. Singapore would therefore like the US to review our current TPL arrangement to see how this can be made more flexible. Singapore requests that the US:

- Extends the TPL for another 2 years till 2013;
- Maintains the TPL of 25 million SME static for the remaining 8 years with a review in Year 8 by both parties to determine the provisions related to the TPL after Year 10; and
- Eliminates tariffs immediately for products exported within the TPL limit.

14. In exchange for the above, the industry is willing to consider the following options for trade-offs:

i) To change the existing rules of origin for pocketing fabrics under the yarn forward rules. Currently under the yarn forward rules, the pocket fabric is allowed to be made from non-party fabrics. The industry is willing to adopt a more stringent rule for pocketing fabrics i.e. using fabrics knitted in Singapore (from 3rd country yarn) to make up the pockets; and/or

ii) To have TPL capped at category level.

REQUEST (Existing): Singapore's 2 Short Supply Requests

15. Singapore had separately submitted 2 short supply requests to the US on 16 March 2004 and 8 April 2005. The requests were subsequently published by CITA to seek public comments on 11 May 2004 and 4 May 2005 respectively. Since then, CITA has not provided Singapore an update on the outcome of their publication for comments, though the two notices have passed their submission deadline for comments.

16. Specifically with regards to our first short supply request, the US International Trade Commission (ITC) had also released its impact assessment in May 2005, which analyzed that "the proposed SFTA rules changes...would likely have no effect on domestic producers or their workers...and, thus, have a negligible effect on overall U.S. trade in the affected goods...and on U.S. apparel production." The next step would be for submission of the ITC report to Congress for a decision to be made. To our knowledge, this has not been done despite more than half a year having elapsed.

- Singapore would like to express our profound disappointment with the delay. We have yet to hear back from the US despite repeat requests from our Embassy in Washington. We therefore urge the US to expedite the process and provide us with an update on both requests as soon as possible.

REQUEST (New): Customs Request for reduction in number of on-site inspections of registered textiles and apparel goods enterprises without prior notice

17. Article 5.3.4 of the USSFTA reads:

"Singapore shall establish and maintain a program to verify that textile and apparel goods that a person claims as originating goods or marks as products of Singapore and that are exported to the United States are produced by registered enterprises. This program shall include on-site government inspections of such enterprises at least twice a year and without prior notice to verify that they comply with laws of Singapore relating to trade in textile and

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apparel goods and that their production of and capability to produce such goods are consistent with claims regarding the origin of such goods. Under this program, Singapore shall provide to the United States:

(a) within 14 days of the completion of each such inspection, a written report regarding the results of that inspection, including any conduct discovered as a result of the inspection that Singapore believes to be a violation of either Party's laws relating to circumvention, and

(b) each year, a written report summarizing the results of all such inspections on an enterprise-by-enterprise basis.

The first report under subparagraph (b) shall be submitted no later than 12 months after this Chapter takes effect. Singapore shall designate any information in reports under subparagraph (a) or (b) that it considers to be confidential."

18. This means that Singapore Customs has to conduct on-site inspections of registered textile and apparel goods enterprises at least twice a year and without prior notice, to verify that the goods produced are consistent with claims of Singapore origin.

19. Singapore would like to request for a reduction in the number of on-site inspections without prior notice to "at least once a year" because the registered enterprises have had a high compliance rate. In 2004 and 2005, the compliance rate amongst enterprises inspected was 91.2% and 92% respectively, with all violations (with one exception), being technical breaches.

20. Due to commercial reasons, the Principal Manufacturer (PM) would be holding on to the production records of the registered subcontractor. Each time the registered subcontractor of a PM is inspected, SC would be referred to the PM to furnish part or most of the production or exportation records for verification purposes. The PM would be audited through this conduit as well. Compounded with the mandatory "at least twice a year" inspections on it, the PM is *de facto* inspected up to four times or more yearly.

21. A number of registered subcontractors have no United States production orders to fulfill in the 6 months preceding an inspection. However, in order to retain their current registered status in anticipation of future US orders, these subcontractors would subject themselves to the mandatory on-site inspections, during which Singapore's textile inspectors only conduct a physical count of the number of sewing machines and workers present. In retrospect, Singapore's limited resources could have been better deployed elsewhere in more pressing cases.

22. With the revision to at least one on-site inspection without prior notice on registered textile and apparel goods, Singapore Customs maintains both the flexibility to conduct more than one on-site inspection a year on some companies with lesser than desired compliance records and one inspection on those enterprises with good records of compliance with the law, PM which have been *de facto* inspected multiple times through inspections of their many subcontractors, or registered subcontractors with limited US production orders to be fulfilled.

23. As such, Singapore requests that:

- The US allow for on-site inspection to take place once a year, rather than the currently mandated minimum of twice a year.

FOR DISCUSSION: Concept of Diagonal Cumulation

26. In a bilateral FTA, only raw materials sourced in either of the parties may be considered originating. As countries sign more and more bilateral FTAs, each with its own set of ROO, compliance and operational costs become higher as the business community has to restructure its whole procurement pattern in order to meet ROO.
27. With the concept of diagonal cumulation, the problem is alleviated as each FTA is weaved into a real network. Such a concept has already been utilized by the EU in their FTAs, and other countries such as the GCC, Israel and Jordan are also keenly looking at it.
28. Singapore would like to propose that this concept also be applied between Singapore, US and Australia, which have a series of bilateral FTAs amongst them (US-Australia FTA, Australia-Singapore FTA, and the US-Singapore FTA).
29. The concept of diagonal cumulation works as such: A US manufacturer exporting product A to Australia sources raw materials from within the US, Australia and Singapore. Product A is offered tariff concessions under the US-Australia FTA. In addition to US and Australian raw materials, Singapore inputs may also be counted towards meeting the US-Australia FTA rules of origin, as opposed to the present situation where only US and Australian inputs are counted. This would definitely give a boost to the US manufacturer exporting to Australia under the US-Australia FTA, as he would have a choice of being able to source from Singapore to boost the local content of Product A.
30. Harmonized ROO and common elements such as the RVC formula can be worked out to jumpstart the implementation of this concept. As a start, parties could apply the concept to products covered by Chapter 84 to 90 where the ROO in the three FTAs are largely common and preferential tariff rates are mostly zero.
- Singapore would like to place the concept of diagonal cumulation between the US-Australia, Australia-Singapore and US-Singapore FTAs on the table for further discussion by parties involved.

Date Prepared: 6 March 2006