

US - SINGAPORE FREE TRADE AGREEMENT
Excerpts from Trade Advisory Committee Reports

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Advisory Committee for Trade Policy and Negotiations (ACTPN):

The ACTPN...with the exception of one dissenting member, fully endorses the U.S. – Singapore Free Trade Agreement...as negotiated by the President’s U.S. Trade Representative. Our report draws on the views of all ACTPN members, representing a broad spectrum of trade-related industries and interests. We believe the agreement strongly promotes the economic interests of the United States and substantially achieves the overall and principal negotiating objectives set forth in the Trade Act of 2002...[w]e believe that the FTA is a comprehensive and meaningful agreement that benefits American firms and workers and also complements ongoing regional and multilateral trade and investment liberalization efforts.

We believe the FTA will substantially improve market access in Singapore for American industrial and other non-agricultural goods and particularly for services...[i]n the services, investment, and IPR areas, the U.S. stands to gain considerably from a completed free trade agreement with Singapore. With U.S. companies’ investment of \$24 billion in Singapore, and investment in Singapore accounting for 60 percent of total U.S. manufacturing investment in all of Southeast Asia, there is a significant need for impartial investor-state dispute settlement mechanisms and capital control provisions...[t]he ACTPN is particularly concerned that the United States, which is currently the largest exporter to Singapore, could lose market share, especially in services trade, with the number of free trade agreements that Singapore is currently ratifying and negotiating, most notably those with Japan, Canada, China and Korea. American farmers, workers and service providers would be at a distinct commercial disadvantage without such an agreement between the United States and Singapore... A robust agreement with Singapore, the most free-trade-oriented country in the region, sets a high standard for other agreements and encourages significant trade liberalization in the region.

[A dissenting opinion from a labor representative argues that the agreement fails to meet TPA objectives, citing a number of specific concerns with labor rights provisions, dispute settlement, temporary entry of personnel, environmental provisions, and investment provisions.]

Trade and Environment Policy Advisory Committee (TEPAC):

A majority of the committee members believe that the Agreement meets Congress’ negotiating objectives as they relate to environmental matters. Moreover, this majority notes with satisfaction that environmental issues are now integrated into the drafting of a

free trade agreement. This is a singular achievement which should not go unacknowledged.

A majority of the Committee notes that trade agreements create opportunities to enhance environmental protection. Trade opens markets, creates business and employment opportunities, and can increase economic growth. This can lead to increased wealth, which provides opportunities to enhance environmental protection, including the creation of a political will in favor of such protection. It is also noted that trade can create adverse externalities which require enhanced regulatory oversight.

A majority believes that the Agreement's investment protection and dispute resolution provisions are an improvement over those in NAFTA. The Committee believes that these provisions reduce the possibility that there will be successful challenges to attempts to implement more stringent bone fide environmental controls while simultaneously protecting investment. However, TEPAC is concerned about identifying protected interests with the phrase "a tangible or intangible property right or interest." There is a lack of clarity regarding the definition of this term and there is no comparable U.S. jurisprudential concept.

A similar majority of TEPAC believes significant improvements have also been made in the procedures used to resolve disputes in environmental matters. This majority concluded that the "carve-out" for environmental and labor provisions appears to strike a proper balance between the extensive commitments in the Agreement to cooperate on environmental matters and the need to ensure that both countries commit the requisite resources to enforce domestic environmental laws and regulations.

[Several dissenting and additional viewpoints are offered by business, consumer and environmental representatives. A business representative criticizes the investment provisions of the U.S.-Singapore agreement for narrowing the definition of expropriation and establishing an excessively narrow definition of "minimum standard of treatment of aliens." Some environmental and consumer representatives argue that while the investment rules of the agreement contain some incremental improvements over NAFTA and the model Bilateral Investment Treaty, the investment language grants too many rights to foreign investors in the United States and fails to provide a blanket environmental exception. Two representatives partially dissent from the majority report because they believe TEPAC has not given sufficient emphasis to the ways in which trade and economic growth can create wealth and provide opportunities to enhance environmental protection; these representative argue that trade agreements are not the most effective way to deal with environmental problems. Finally, a consumer representative welcomes increased transparency in dispute settlement provisions, but argues that these steps do not go far enough to ensure public participation and access as called for in TPA.]

Labor Advisory Committee (LAC):

It is the opinion of the LAC that the Chile and Singapore FTAs neither fully meet the negotiating objectives laid out by Congress in TPA, nor promote the economic interest of the United States. The agreements clearly fail to meet some congressional negotiating objectives, barely comply with others, and include certain provisions that are not based on any congressional negotiating objectives at all. These agreements repeat the same mistakes of the North American Free Trade Agreement (NAFTA), and are likely to lead to the same deteriorating trade balances, lost jobs, trampled rights, and inadequate economic development that NAFTA has created.

Agricultural Policy Advisory Committee (APAC):

The U.S.-Singapore FTA will benefit America's farmers and ranchers by permanently opening the Singapore market for U.S. agricultural products. Singapore must provide duty-free access for U.S. agricultural products even though duties are not bound at zero under the WTO. Rules of origin will protect U.S. producers for imports of ineligible products from third countries through Singapore. The Agreement achieves overall and principal U.S. negotiating objectives of eliminating tariffs and securing market opportunities for U.S. agricultural products.

Agricultural Technical Advisory Committees for Trade (ATAC)

Animal and Animal Products ATAC:

The Committee commends the Administration and its negotiators for developing an agreement that is comprehensive in scope, and that preserves the U.S. right to continue its domestic support and assistance programs by confining those issues to multilateral discussions at the World Trade Organization. Likewise, the negotiated rules of origin will ensure that the benefits of the FTA will accrue primarily to the parties to the agreement. Finally, the advisory committee believes that tariff concessions are appropriately balanced against concessions that Singapore had sought from other FTA partners.

Fruits and Vegetables ATAC:

The Fruits and Vegetables ATAC elected not to submit a formal report on the Singapore FTA due to the fact that virtually all products already enter the country duty-free and the relatively minor interests for the fruits and vegetables sector.

Grains, Feed and Oilseeds ATAC:

Singapore has few trade barriers and is not a competitor to the U.S. grains, feed and oilseeds. However, the stronger overall economic relationship potentially arising from this agreement enhances the chances of U.S. agricultural exporters better competing in

the Singaporean market. The overall assessment by this ATAC is that the agreement as it relates to grains, feed, and oilseeds appears equitable, provides reciprocity. The committee wholeheartedly endorses this particular agreement.

Sweeteners ATAC:

Our strong preference would have been to exclude sugar from the market access negotiations of this FTA, and the ATAC consistently presented this majority position to the Administration. As the Administration was unwilling to exclude sugar from this FTA, however, the U.S. sugar industry must examine this agreement with a view towards determining whether it will result in any practical harm to our industry... At this point, we are unable to offer a majority opinion as to whether the FTA with Singapore promotes the economic interests of the U.S.

[A minority opinion expresses support for free and open trade and supports the Administration's goal of liberalizing markets for all agricultural commodities, including sugar. This minority expresses understanding for the structural design of the U.S.-Singapore Agreement's sugar provisions, but indicates a desire that these not be used as models for subsequent agreements.]

Tobacco, Cotton and Peanuts ATAC:

The agreement appears to provide reciprocal levels of market access for both the U.S. and Singapore. Members of the committee representing tobacco interests note that the FTA with Singapore appropriately covers all agricultural products including tobacco. The U.S. peanut industry is in transition to a more open, market-oriented program. It would be preferable to that industry if tariff reductions were scheduled so that the majority of such reductions were taken in the later stages of implementation. The Singapore agreement appears to provide for equity and reciprocity in trade in cotton and cotton products between Singapore and the United States...Singapore is not a major market for the seed industry. Singapore mostly acts as a hub for seed traders serving the Asia/Pacific region. The seed industry would support the proposed provisions of the Singapore FTA.

Industry Sector Advisory Committees (ISAC)

ISAC 1 - Aerospace Equipment:

The U.S.-Singapore Free Trade Agreement provides for equity and reciprocity in the aerospace sector. Based on the information available, ISAC 1 supports the agreement as written.

ISAC 2 - Capital Goods:

The U.S.-Singapore FTA, as concluded between the two governments and shared with members of ISAC-2, provides for the elimination of tariff and non-tariff barriers to free

trade between the U.S. and Singapore in a manner that provides for equity and reciprocity with the sectoral area represented by the Committee: capital goods. ISAC-2 members agree that the U.S.-Singapore FTA will increase the export opportunities for U.S. capital goods manufacturers, while fostering improved protection of U.S. intellectual property and market access for American capital goods in Singapore.

ISAC 3 - Chemicals and Allied Products:

[ISAC-3 met for the first time in eleven months on February 19, 2003. The interruption in committee meetings was related to legal issues involving environmental representation on the committee. The committee's report sets out a number of negotiating objectives and states that if these have been met, the committee would support the Agreement. However, the committee felt it has not been allowed sufficient time to comment positively or negatively on most aspects of the agreement. The committee is scheduled to meet again in early March, and if USTR receives additional majority or minority views, it will transmit these to the President and the Congress.

[One member of ISAC-3 expressed the desire to be listed as "concurring in part". This member expressed particular concern about the investment chapters of the Agreement, indicating the view that neither the Singapore nor Singapore FTAs meet congressional mandates with regard to the substantive rights granted to foreign investors in the United States.]

ISAC 4 - Consumer Goods:

ISAC-4 members endorse the U.S.-Singapore FTA. The Agreement ensures that Singapore's market will remain open to U.S. consumer goods products, and improves market access with respect to several specific products of interest to ISAC-4 members. The provisions regarding customs administration should be very helpful in expediting the customs clearance process and providing for fair and impartial adjudication of customs-related disputes. The Committee also generally supports the provisions on technical barriers to trade, investment, intellectual property, and transparency, with a few specific reservations. Overall, the Committee believes that the agreement provides for equity and reciprocity within the consumer goods sector.

ISAC 5 - Electronics and Instrumentation:

On the whole, ISAC-5 applauds the provisions of this agreement and its ability to satisfy many of our ISAC's overall trade negotiating objectives. We believe the improved market access and customs procedures, along with brand new disciplines in areas such as E-commerce, make this agreement of substantive benefit to the industries covered by our committee and that it would serve the U.S. national economic interest for this agreement to be approved by the U.S. Congress as soon as possible.

[The committee also recommends procedural improvements and changes be made with respect to the advisory committee process for reviewing proposed trade agreements, noting that such agreements are lengthy and complex.]

ISAC 6 - Energy:

ISAC 6 has reviewed the U.S.-Singapore Free Trade Agreement and finds no objections to the agreement from the standpoint of the U.S. energy sector. ISAC-6 does note, however, that some of the language found under both the national treatment and foreign investment provisions of the agreement appears to be overly restrictive with respect to power generation, the sale of electricity, power distribution, and gas distribution.

ISAC 7 - Ferrous Ores and Metals:

The Committee finds that this FTA does not provide for any changes in U.S. AD or CVD law; somewhat improves the procedures on safeguards adjudications; and provides for some important (and helpful to steel affiliated companies) sub-federal (state) exclusions from government procurement provisions. Although Singapore's ferrous metals industry has a relatively small role in current global ferrous metal industry trade, the Committee reviewed the FTA with great interest because of the potential for establishing negative precedents for key provisions in future FTA's and the WTO Doha Round. We are pleased to generally support this FTA because it does not set any negative precedents; it does not provide for any weakening in U.S. Antidumping or Countervailing Duty law; it somewhat improves the procedures on safeguard adjudications; and provides for some important (and helpful to steel affiliated companies) sub-federal (state) exclusions from government procurement provisions. Also, we are pleased that the dispute settlement provisions are somewhat improved, although only in a minor way, over the existing WTO dispute settlement system.

ISAC 8 - Footwear, Leather and Leather Products:

The members of ISAC-8 reflect the views of a variety of industries at different stages in their development, which causes each industry represented on the committee, footwear, leather products (i.e., travel goods, luggage, handbags and flatgoods) and leather tanneries, to react differently to the U.S.-Singapore FTA.

[The U.S. footwear industry generally supports the U.S.-Singapore FTA because the FTA to some degree reflects a recent agreement reached between two associations in the U.S. footwear industry. The footwear industry, however, is extremely disappointed that the tariff phase-out schedule in the FTA does not reflect this agreement at all. The U.S. travel goods industry is neutral on the FTA. While the U.S. leather industry indicates it would normally be against any FTA, the industry is neutral on the U.S.-Singapore FTA because of the small size of Singapore as a potential export market or import competitor.]

ISAC 9 - Building Products and Other Material:

ISAC-9 concludes that the U.S.-Singapore Free Trade Agreement promotes the economic interests of the United States [and] achieves all the primary objectives set forth in the Trade Act of 2002...[t]he Committee strongly supports the provisions in the Agreement for enhanced cooperation on technical regulations, standards, and conformity assessment procedures. The committee would prefer a longer staging period for an import-sensitive building product, ceramic tiles.

ISAC 10 - Lumber and Wood Products:

We support the FTA with Singapore as it commits Singapore to bilaterally bind tariffs at zero for all wood products when the FTA goes into effect. The consensus opinion of industry representatives on ISAC-10 is to strongly support the FTA with Singapore.

[A minority opinion expresses the view that environmental, safety, labor and other standards should not be considered as non-tariff barriers, urges that U.S. subsidies for forest products be eliminated, urges that environmentally-harmful mechanisms for treatment of wood-borne pests not be adopted, and urges that the environmental consequences of tariff modifications under the agreement be thoroughly analyzed under Executive Order 13141.]

ISAC 11 - Nonferrous Ores and Metals:

Singapore is not a particularly large consumer of U.S. exports of nonferrous metals and metal products, though it is, of course, an important shipping center for trade between the U.S. and Asia. Apart from eliminating remaining duties on imports of nonferrous metals, the FTA addresses other topics of importance to ISAC 11 companies and industries, notably competition policy, environment, labor, customs/rules of origin, dispute settlement, and safeguards.

[The committee expresses satisfaction with the FTA's treatment of these items of interest, but expresses a strong view that environmental issues should have been handled in a separate side agreement rather than the core text of the FTA.]

ISAC 12 - Paper and Paper Products:

The consensus opinion of the Industry Sector Advisory Committee for Paper and Paper Products (ISAC 12) is to strongly support the FTA with Singapore... to the extent that the Singapore agreement may serve as a model for a future agreement with ASEAN or other regions, we would support the implicit concept that the elimination of all tariffs on paper and paper products should be accomplished as soon as possible and, to the extent possible, even before the conclusion and implementation of the agreement.

[A dissenting opinion from one member of the committee raises questions and concerns raised about whether the narrowing of the environment chapter's legal scope, along with its insufficient provisions for public participation, may weaken its ability to be a process

that protects the environment and is equitable to all stakeholders.]

ISAC 13 - Services:

Overall, the Committee believes that the U.S.-Singapore FTA meets the Committee's objective of achieving new and expanded trading opportunities for specific service sectors, including: audiovisual; banking, securities and asset management; distribution; e-commerce; education; energy; express delivery; healthcare; insurance; professional (e.g., accounting, legal, consulting, architectural and engineering services); telecommunications and information technology; transportation; and travel and tourism.

The ISAC strongly supports the negative list approach taken to services negotiations in the Agreement. The Agreement contains several cross-cutting elements worth noting: provisions on investment, transparency, and temporary entry.

An important element of the Agreement is its Chapter on Investment. Foreign direct investment is particularly important for trade in services because many services can only be “traded” by establishing a commercial presence (investing) in a foreign market. The chapter provides rights to invest and procedures for the resolution of disputes. It importantly contains a commitment to unrestricted transfers of capital. However it also provides restrictions on the Agreement’s dispute resolution process in the event either Party imposes capital transfer restrictions. While industry generally opposes strongly restrictions on the free transfer of capital, we believe the formulation contained in the Investment Chapter is acceptable.

Another important element of the Agreement is its provisions for transparency in domestic regulatory processes including licensing decisions. Taken together these provisions are an outstanding achievement which will resonate in other bilateral agreements and in the multilateral GATS negotiations in the WTO.

The Agreement also contains provisions for the temporary movement of people. Like investment, movement of persons is one of the most important means by which services are traded (for example, US consultants who must travel in order to provide services to foreign clients).

The Agreement also provides new market opportunities for some of the United States’ most competitive industries. Section V of this Report contains the ISAC’s report advisory opinions on a number of sectors. Committee members agree that the Agreement is a positive step in liberalizing services trade between the United States and Singapore and note some concerns, particularly in education, engineering, healthcare, and legal services.

[The concerns expressed by the committee in Section V seek clarification, additional information, or urge that certain provisions not be precedential in other agreements. In some cases the committee expresses the view that additional liberalization should have

been sought, such as in education, healthcare, engineering, and legal services. The committee also notes that it was challenged by the lack of available final text during the full 30-day period they had to conduct their analysis and write this report.]

ISAC 14 - Small and Minority Business:

The committee, except as noted in the comments in section V below, applauds the efforts of USTR and Commerce to open freer trade with Singapore. [In Section V, the committee expresses the view that the time-frame for Customs release of shipments should be shortened from six to three hours, urges that e-commerce be given high priority and that the committee's resolutions on this issue be fully considered, and recommends that a private trade dispute settlement group be established for the resolution of business-to-business disputes. The committee also requests clarification of off-set provisions in the government procurement chapter, and of certain services provisions.]

ISAC 15 - Textiles and Apparel:

This report transmits input from the Committee, reflecting primarily two divergent opinions held by the different sectors of this industry (the fiber/yarn/textile sector, including textile bag manufacturers, and the apparel sector). The most significant interest revolves around the rules of origin and the issue of whether they might become a precedent for other trade agreements. Here there is a sharp division of opinions.

Regarding rules of origin, the **fiber, yarn, and textile members** largely support the requirements of a yarn forward rule that grants benefits only to the signatories of the agreement, and not to third parties. They believe this condition is most conducive to U.S. economic growth, and is an appropriate precedent for future trade agreements. Because the agreement largely parallels NAFTA, it creates parity amongst our trading partners. The industry did, however, express concerns over the high level of Tariff Preference Levels (TPLs) that were included, which undermine the otherwise favorable origin rules.

In contrast, **apparel members** largely expressed disappointment with the FTA, because the NAFTA rule of origin is restrictive and is made worse by additional complications and burdens. They argue that the rule of origin discourages apparel trade among the beneficiary countries, which will in turn diminish sales opportunities for fabric and trim suppliers. They urge that the rule of origin in this FTA not be seen as a precedent for other FTAs.

ISAC 16 - Transportation, Construction and Agricultural Equipment:

All members of ISAC-16 concluded that the U.S.-Singapore Free Trade Agreement provides for the trade liberalization between the United States and Singapore in a manner that provides for equity and reciprocity within the two primary sectoral areas represented by the Committee: motor vehicles and equipment, and agricultural equipment. ISAC-16 members agree that the U.S.-Singapore FTA will enhance the export opportunities of

these two major U.S. industries, while fostering improved protection of U.S. intellectual property and market access for American transportation and agricultural equipment in Singapore and the ASEAN region.

ISAC 17 - Wholesaling and Retailing:

In general, the members of ISAC-17 support the Singapore FTA. Subject to the issues and concerns discussed below, it is the view of ISAC-17 that the agreement will, on balance, promote the economic interests of the United States, will largely achieve the applicable overall and principle negotiating objectives, and provides for general equity and reciprocity with the distribution services sector.

[The committee expresses concerns with regard to the so-called “yarn-forward” rule of origin for textiles and apparel, which determines origin according to where the inputs used to make the final product are produced. Under this rule, only apparel made from yarn and fabric originating in Singapore or the United States can qualify for duty-free treatment. The members of the committee express the view that a yarn-forward rule is not cost effective and results in a net increase in the cost of apparel production. The committee urges that this rule not be used as model for other FTAs.]

Industry Functional Advisory Committees (IFAC)

IFAC 1 - Customs Matters:

The Committee reviewed that part of the agreement that covers customs procedures or is otherwise required to be administered by the customs administrations of the parties. The Committee has not reviewed or commented on the other provisions in the agreement such as the agriculture and non-agriculture market access provisions. The Committee found the agreement to be fair and balanced. It provides many benefits to U.S. traders. As a result of these positive provisions, the Committee believes the agreement does provide equity and reciprocity in the customs functional area...From the results included in the Agreement it is apparent that the negotiators accepted the Committee’s advice and sought to achieve all of the objectives of the Committee...[t]he Committee reviewed the customs section of the agreement and is pleased that so many of the current best practices have been included in those provisions. From the 48 hour release of goods standard to the need to make the rules and procedures available to the public, the lists of agreed to practices implements many of the international customs guidelines.

IFAC 2 - Standards:

The IFAC 2 has deliberated over the final text of the U. S. - Singapore FTA, and the committee has limited its comments to the sections that specifically address Technical Barriers to Trade. To the extent that the TBT text reflects WTO provisions it is acceptable, but IFAC-2 would not recommend the Singapore FTA text as a model for

future FTAs.

IFAC 3 - Intellectual Property Rights:

IFAC-3 believes that, taken as a whole, this agreement is very strong and commends the U.S. negotiators for a job well done. This agreement is broadly consistent with the negotiating goals and objectives contained in the Trade Act of 2002 and those of the U.S. intellectual property-based industries, creators and innovators. IFAC-3 strongly supports the chapter on intellectual property and believes that, on the whole, it establishes key precedential provisions to be included in the other FTAs now being negotiated, including the FTAA.

IFAC 4 - Electronic Commerce:

The IFAC-4 views the electronic commerce provisions of the U.S. Singapore Free Trade Agreement as a benchmark for future bilaterals and a catalyst for e-commerce negotiations in the CAFTA and the FTAA. IFAC-4 applauds USTR's establishment of the concept of digital products in terms of trade. Our assessment of the e-commerce provisions in the Agreement indicates that they meet our negotiating objectives and addresses particular concerns we have shared with USTR. IFAC-4 believes the e-commerce provisions promote the economic interests of the United States and provide equity and reciprocity for electronic commerce firms.

Intergovernmental Policy Advisory Committee (IGPAC):

[The IGPAC recently lost numerous members after state elections. The committee is presently being reconstituted and new members will be appointed. USTR pro-actively solicited comments from IGPAC members including the Council of State Governments, the National League of Cities, and the National Council of State Legislatures.]

The Council of State Governments (CSG) appreciates the opportunity to comment on the Chile and Singapore Free Trade Agreements through the Intergovernmental Policy Advisory Committee (IGPAC). We applaud the U.S. Trade Representative for including state and local associations in IGPAC deliberations. CSG has been informed that the USTR will soon be reconstituting the IGPAC to include new members and additional staff liaisons. CSG strongly supports this effort...

Both agreements endeavor to open new markets for U.S. businesses by liberalizing trade in services, including banking and insurance. States support efforts to increase market access for U.S. service firms. However, the independent exercise of legislative and regulatory power is essential for safeguarding the interests of state citizens and preserving the freedom of action inherent in the federal system. While the USTR has clearly worked hard to identify individual state laws that may not conform to the provisions of these

agreements and to exclude these statutes from coverage by listing them in annexes of non-conforming measures, these annexes should not be assumed to be comprehensive... CSG encourages the USTR to work closely with state governments and state associations to ensure that these [independent regulatory and legislative powers of states] are protected in all trade agreements.

The National League of Cities (NLC) enthusiastically supports trade and investment because they generate jobs and economic growth in our local communities. Our ardent support for free trade is balanced by our commitment to fair laws that respect the authority of states and municipalities to regulate land use, health, safety, welfare and environmental issues... NLC applauds the efforts of USTR to increase market access for U.S. businesses. Specifically, NLC appreciates USTR's effort to accommodate the interests of local government by exempting key state laws and existing local measures from conforming to the Agreement. Nevertheless, we remain concerned that the exemptions provided in the annexes are not exhaustive... [and] that areas of laws not yet identified may become subject to the trade agreement. NLC would appreciate additional clarification of the scope of these exclusions so that we may ascertain the full scope of exemptions under the treaty.

[Similar comments were received from the National Council of State Legislatures.]