

# EU-Singapore trade and investment agreements closer to conclusion

## OVERVIEW

On 18 April 2018, the European Commission proposed to the Council of the EU to sign and conclude two agreements with Singapore. These agreements were created by dividing the free trade agreement reached between the EU and Singapore (EUSFTA) in 2014, but not ratified, into separate trade and investment protection agreements. When presenting the agreements, the Commission underlined that they demonstrate the commitment of Singapore and the EU to fair trade and open markets. The Council of the EU is expected to authorise the signature of the agreements in October 2018. The Commission aims to have the trade agreement come into effect before the end of its mandate in 2019, after its approval by the Council and the European Parliament.

Singapore will be the first member state of the Association of Southeast Asian Nations (ASEAN) to sign bilateral trade and investment agreements with the EU. The EU views bilateral agreements with ASEAN members as steps towards achieving the final objective of a region-to-region trade and investment agreement with ASEAN. Therefore, the EU-Singapore agreements are considered a reference as regards the EU's ambition to conclude trade and investment agreements with other ASEAN members.



### Trade Agreement and Investment Protection Agreement between the European Union and its Member States, of the one part, and Singapore, of the other part

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## Introduction

As an [open and trade-dependent](#) economy, Singapore supports the rules-based multilateral trading system, and pursues trade liberalisation. It is an active member of regional groups, such as [ASEAN](#) and Asia-Pacific Economic Cooperation ([APEC](#)), and has established a [network](#) of more than 20 implemented bilateral and regional trade agreements with more than 30 partners. Singapore is also one of the 11 countries that signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership ([CPTPP](#)) in 2018, and it is participating in the Regional Comprehensive Economic Partnership ([RCEP](#)) talks. Since 1987, Singapore's trade to GDP ratio has continuously been over [300 %](#), indicating the country's [trade openness](#).

Singapore is a prime location for trade and finance activities, both in Asia and worldwide, although the country's key hub status is facing a number of [challenges](#). Over 10 000 European companies are established in the country, the majority of which use it as a regional hub. It also has a key position in global value chains (GVCs), [first](#) entering manufacturing GVCs in the late 1960s, and then service-oriented GVCs from the mid-1980s. As Singapore is an open economy with high rates of GVC participation, [concerns](#) have been raised about the impact of the escalating US-China trade conflict.

## Context of the negotiations

In 2007, [negotiations](#) were launched between the EU and a group of ASEAN countries for a region-to-region free trade agreement (FTA). Due to various reasons, such as human rights concerns related to Myanmar/Burma and the lack of consensus among ASEAN members in areas other than trade, talks were suspended in 2009. The EU decided to pursue bilateral trade agreements with the individual ASEAN member countries, although it remained committed to the strategic objective of concluding a bi-regional EU-ASEAN deal. The reasons for choosing Singapore as the first country with which to start negotiations for a comprehensive FTA were, among other things: it was the most developed country among the ASEAN members; it held significant EU foreign direct investment (FDI) stocks; and it had already concluded an FTA with the USA.

## Existing situation

In 2017, Singapore was the EU's [14th](#) largest trading partner in goods, with a 1.4 % share in EU trade. The EU ranked as Singapore's [third](#) largest trading partner in goods, after China and Malaysia, representing 10.4 % of Singapore's global trade in goods. EU exports to Singapore amounted to €33.2 billion and imports to €20.1 billion in 2017. For trade in goods, the surplus for the EU increased significantly from €292 million in 2006 to approximately €13 billion in 2017.

In 2016, the EU exported [€22.4 billion](#) worth of services to Singapore, while imports of services from Singapore totalled €22 billion. The average annual growth rates for the period between 2013 and 2016 for trade in services with Singapore (imports 15.2 % and exports 6.9 %) are considerably higher than those for trade in goods (3.7 % and 2.7 % respectively). In 2016, the EU remained Singapore's [largest](#) services



export destination, and the second largest source of services imports behind the USA. The EU was a major trading partner in [service categories](#) such as transport services and financial and insurance services.

In 2016, Singapore held €99.3 billion inward FDI stocks in the EU (+62.9 % compared to 2015), for instance in the [financial and insurance services](#) sector, constituting approximately 2.7 % of total extra-EU inward stocks. In the same year, it accounted for €168.5 billion outward FDI stocks from the EU (-2.2 % compared to 2015), a share worth 1.3 % of total EU FDI stocks held abroad. In 2016, the EU remained the [leading source](#) of FDI in Singapore.

## EU negotiation objectives

Because of the low or zero tariffs already applied by Singapore in most manufacturing sectors, one of the EU's main areas of interest was obtaining better market access for a range of services sectors, such as financial and banking services, telecommunication, engineering and architectural services, maritime transport and postal services.

Another core issue for the EU was geographical indications (GIs). As Singapore applied a US-inspired system of GIs, there was a significant difference between the systems used by the two parties. Regarding copyright, Singapore again applied a US-style regime.

Rules of origin was also a priority for the EU. Although the EU did not consider exports from Singapore a risk to its sensitive sectors, it was concerned that third countries, such as China, may seek to export their goods to the EU duty free via Singapore.

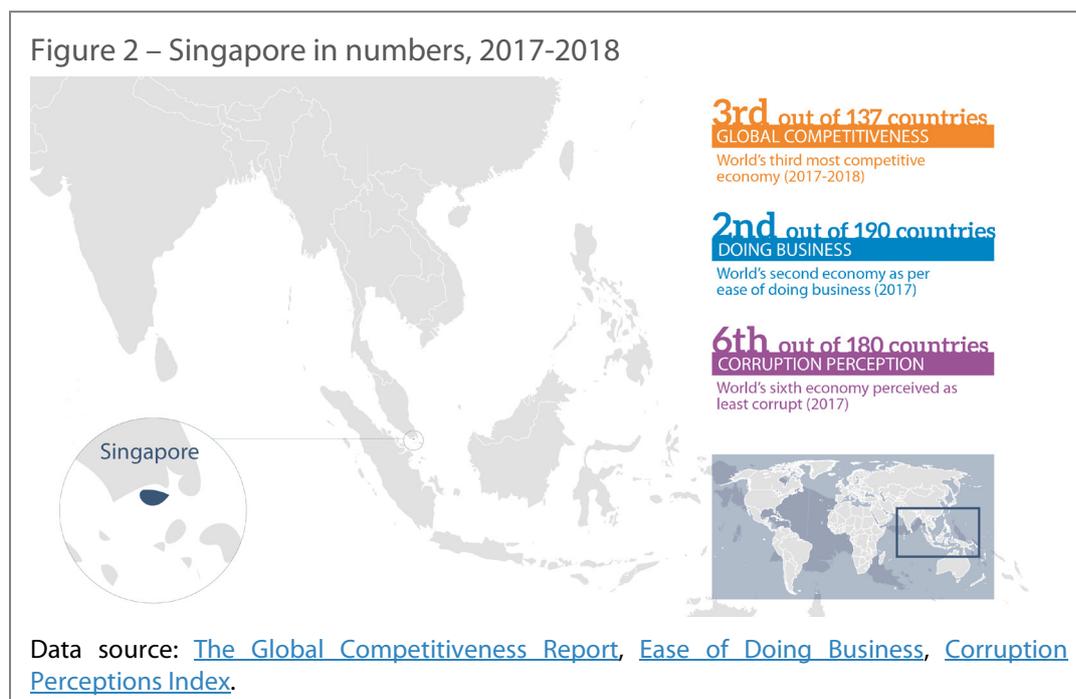
## Singapore's position

Exports from Singapore contain a very high content of imported components. Therefore, one of Singapore's key objectives was to reach a favourable agreement on the rules of origin relating to its key exports to the EU, for instance machinery, petrochemicals and electronics. The EU's objectives to push for service liberalisation and an agreement on GIs strengthened Singapore's bargaining position on the rules of origin. A key player in the worldwide service market, Singapore also had a key interest in gaining better access to the EU's services market. Moreover, it was also keen to obtain comparable market access commitments on goods and services to those granted in the EU-South Korea FTA.

## Parliament's position

The European Parliament's 2008 [resolution](#) on trade and economic relations with ASEAN states that 'a Partnership and Cooperation Agreement (PCA), containing enforceable human rights clauses, is a prerequisite for the Union to conclude an FTA with any country'. Negotiations for a PCA were [concluded](#) with Singapore in 2013; the signature of the agreement is [expected](#) in October 2018, alongside that of the new trade agreement.

The European Parliament [resolution](#) of 5 July 2016 on a new forward-looking and innovative future strategy for trade and investment stressed the need for successfully concluded trade negotiations to be ratified as swiftly as possible; more specifically, it called for the conclusion of the deal with Singapore.



## Preparation of the agreement

In 2006, at the Commission's request, a [report](#) focusing on the economic impact of the EU-ASEAN FTA was drawn up as part of the preparation of the negotiating authorisation. The report stated that both the EU and ASEAN member states would gain from the FTA, although benefits would be significantly higher for the latter. In 2009, while negotiations with ASEAN were ongoing, a Trade Sustainability Impact Assessment ([Trade SIA](#)) was published which evaluated the likely economic, social and environmental impacts of the future FTA. It predicted significant gains in terms of GDP, income, trade and employment for all ASEAN members, and small but positive effects for the EU (a 0.2 % GDP gain plus over a percentage point in export value under the most ambitious long-term scenario).

## Negotiation process and outcome

The EU-Singapore negotiations were launched in 2010, on the basis of the ASEAN negotiating directives adopted in 2007. In fact, these directives had already envisaged the possibility of negotiating with ASEAN member countries on a bilateral level. As the Treaty of Lisbon came into force after the Commission's negotiation mandate was approved by the Council, the 2007 negotiating directives were [modified](#) in July 2011, to authorise the Commission to open negotiations on investment protection provisions within the FTA with Singapore. After the conclusion of talks on investment protection, negotiations were completed in October 2014, with other parts of the FTA already having been initialled in September 2013.

The negotiations were mainly focused on [services](#) and particularly on knowledge-intensive business services. In this context, great emphasis was placed on the issue of non-tariff barriers (NTBs) and technical barriers to trade (TBTs). Other particularly relevant issues included public procurement and investment. Moreover, a marked divergence in the positions of the parties on GIs and rules of origin emerged during the talks.

Although the negotiations were concluded in 2014 and the text of the proposed agreement was initialled, the process leading to the entry into force of the EUSFTA has been delayed, as in 2015 the Commission [sought the opinion](#) of the Court of Justice of the EU (CJEU) regarding which provisions

of the EUSFTA fall within the EU's exclusive or shared competences and which ones remain within the exclusive competence of the Member States. In its [opinion](#) of 16 May 2017, the CJEU stated that the EUSFTA, in its 2014 form, also covered shared competences, especially with respect to investment dispute resolution. Therefore, the agreement could only be concluded as a 'mixed agreement', requiring ratification by both the EU and its Member States.

On the other hand, as the negotiations had ended prior to the decision on the EU's [updated approach](#) on investment protection, which established a [new investment court system](#), Commission and Singapore experts started to explore how to adapt the investment protection provisions in the draft agreement to this new approach.

To take into account both the new investment approach and the CJEU opinion, the negotiations between the Commission and Singapore led to the splitting of the EUSFTA. Consequently, the Commission [presented](#) two agreements on 18 April 2018, as follows:

- The EU-Singapore [Trade Agreement](#) deals with trade and FDI liberalisation. Having been separated from the investment protection agreement, it includes only provisions that are within the exclusive competence of the EU, and can be concluded by the EU on its own.
- The EU-Singapore Investment Protection Agreement covers investment protection and investment protection dispute resolution. According to the 2017 CJEU opinion, the agreement falls under shared competence and should therefore be ratified by both the EU and its Member States.

## Key elements of the trade agreement

**Trade in goods.** The agreement removes virtually all tariffs, at the latest five years after the date of entry into force. For the EU, tariffs on over 80 % of all imports from Singapore will be eliminated immediately upon entry into force. An exemption from liberalisation for some fisheries and processed agricultural products was granted; however, the amount of trade in these products is very small. For [fruits and vegetables](#) under the EU entry price system, such as tomatoes and oranges, the *ad valorem* tariffs will be phased out, while the specific tariffs will be kept. For Singapore, 100 % of the tariffs will be eliminated when the agreement enters into force (currently, specific duties are imposed only on a [few tariff lines](#), covering, for instance, alcoholic beverages). In addition, Singapore has committed to maintain tariffs at zero for all EU goods which already enter the country duty free. The agreement also includes a list of tariff lines for manufactured goods for which some degree of [regional ASEAN cumulation](#) will be allowed under certain conditions. This means that inputs sourced from other ASEAN member states will be considered as domestic content for the determination of the origin of the final product made in Singapore. Moreover, should the EU conclude additional FTAs with other ASEAN member states, regional cumulation will be further facilitated under specific conditions.

The agreement includes commitments on the reduction of TBTs, for instance, removal of double testing requirements for motor vehicles and electronics, in several key EU export sectors, such as automotive manufacturing, electronics and pharmaceuticals. As regards sanitary and phytosanitary (SPS) measures, to facilitate trade in products of animal origin, Singapore will evaluate the national inspection and certification systems, rather than the individual establishments.

**Trade in services.** Under the agreement, both the EU and Singapore committed to the liberalisation of a [wide range](#) of services sectors, going beyond WTO commitments in a number of areas. EU commitments have also surpassed the commitments included in the EU-South Korea FTA in certain areas, such as on postal services. As for Singapore, compared to the treatment offered bilaterally to other partners, in many sectors, it provided [better commitments](#) to EU services providers. In certain areas of financial services, wholesale and investment banking for instance, the EU obtained commitments which are at least equal to those granted to its global competitors. As regards the retail banking market, under certain conditions, EU banks will be able to open further customer services locations. The agreement also addresses licensing requirements in a cross-cutting manner,

preventing them from hindering market entry. Furthermore, it establishes detailed procedures concerning mutual recognition of professional qualifications. No commitments have been made in certain sensitive sectors, such as audiovisual, education and public health. The agreement follows a [positive-list](#) approach, meaning that liberalisation commitments that apply to service suppliers from the other party have been made only for the listed services sectors.

**Intellectual property rights.** The agreement provides stronger protection for certain GIs than required in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), based on a register of GIs. Once registered, around 190 GIs will have the same level of protection in Singapore as they currently do in the EU. The agreement also includes provisions that will enable producers of sound recordings to receive broadcasting and performance royalties in Singapore.

**Public procurement.** The agreement provides improved access to government procurement opportunities. The EU has, for example, granted access to tendering opportunities in the railway procurement market; similarly, Singapore has included in the trade agreement some of its key procuring entities in certain utilities sectors, such as the Public Utilities Board.

**Trade and sustainable development (TSD).** Among its objectives, the TSD chapter sets out civil society's involvement in the implementation and monitoring of the chapter, and establishes a mechanism for reconciling differences on the implementation of the provisions included. However, this chapter is [excluded](#) from the general dispute settlement mechanism. Moreover, Singapore has not yet ratified [two](#) International Labour Organization (ILO) core conventions relevant for the agreement ([one](#) further convention was denounced in 1979). The agreement also includes a chapter on renewable energy generation.

## Key elements of the investment protection agreement (IPA)

The investment protection agreement will replace the existing bilateral investment agreements between Singapore and EU Member States. It will also cover all those aspects of the EU's new investment approach that are not included in these agreements.

While preserving the parties' right to regulate in the interest of the public, the IPA offers a high level of investment protection. It will also protect EU investors in Singapore from expropriation, unless conditions for legal expropriation are fulfilled; for instance, in case expropriation happens for public purposes and prompt, adequate, and effective compensation is paid.

The traditional arbitration framework (investor-state dispute settlement (ISDS) mechanism) included in the 2014 version of the EUSFTA has been replaced by the new investment court system (ICS). One of the main elements of this new system is a permanent Investment Tribunal of First Instance and an Appellate Tribunal. Second, the EU and Singapore will appoint the tribunal members in advance, as opposed to the former system in which parties to the dispute made the selection. To be appointed, tribunal members have to demonstrate expertise in public international law, hold appropriate qualifications, and comply with a binding code of conduct included in the IPA. Tribunal proceedings will be fully transparent; case documents will be publically available and hearings will be held in public. Moreover, interested third parties will have the opportunity to put forward submissions in proceedings before the Tribunal; parallel or multiple proceedings will be prohibited.

## The changes the agreement would bring

Around [50 000](#) EU companies export to Singapore, of which 83 % are small and medium-sized enterprises (SMEs). A 2013 [economic impact assessment](#) of the outcome of the EUSFTA predicted that, among other things, over a ten-year period EU exports to Singapore would grow by approximately 3.6 %, and that in absolute terms the FTA would boost EU GDP by nearly €550 million. Over the same period, Singapore's exports to the EU would grow by around 10.4 %, and its economy

would gain €2.7 billion. The lower benefits for the EU are due to the fact that tariffs are cut asymmetrically because Singapore already applies zero tariffs on almost all goods. An ex-post evaluation would be carried out after the agreement becomes operative.

A 2018 [study](#) prepared for the European Parliament, based on the EUSFTA text as of May 2015, estimated that, over the first five years, trade volumes between the EU and Singapore would grow by 10 %; based on the combined effect of trade and FDI increases, EU and Singaporean GDP would grow by 0.06 % and 0.35 % respectively.

In addition to its economic importance, the EU-Singapore FTA also gained attention because of the CJEU opinion, which sets the parameters for the division of competences between the EU and its Member States in similar trade and investment agreements. Further to the CJEU opinion, the [Council conclusions](#) of 22 May 2018 on the negotiation and conclusion of EU trade agreements outlined the key principles of the Council's approach towards trade negotiations in the future. In its conclusions, the Council noted the Commission's intention to present draft negotiating mandates for FTAs and separate investment agreements in the future. However, it stated that it will be up to the Council to make a decision regarding the launch of negotiations on this basis. Similarly, it will be 'for the Council to decide, on a case-by-case basis, on the splitting of trade agreements'.

## Stakeholders' views

In 2010, the European Commission conducted a [public consultation](#) on the future agreement. It received [contributions](#) mainly from exports-oriented sectors interested in the ASEAN market. Companies active in the automotive and energy industries called for the most extensive liberalisation of bilateral trade. Negotiations also mobilised European investors, particularly those in the services sectors, which pushed for the liberalisation of the investment sector.

As a [study](#) on the EU's preferential trade agreements with Singapore and Vietnam pointed out, the consultation carried out by the Commission revealed that negotiations did not trigger specific protectionist reactions. Another [study](#) analysing the results of a survey among EU services providers operating in Singapore found that although the agreement was favourably received by most of the companies, these companies would nonetheless welcome the re-launch of the EU-ASEAN talks.

The aforementioned 2018 European Parliament study presented the [results](#) of a survey conducted among various stakeholders on both sides. A significant number of stakeholders consider that the EUSFTA has the potential to further improve trade relations. The EU trade unions consulted raise concerns related to the lack of sanctions mechanisms in case of labour rights violations, and to the non-enforceability of the TSD chapter. Some concerns raised by SMEs include the competitive advantage Singaporean goods could have because of lower production costs.

## Signature and ratification process

A number of steps need to be taken on the EU side for the trade agreement to be concluded. The signature of the agreement will take place once the Council [adopts](#) the decision [to sign](#) the agreement. The Council must send the agreement to the European Parliament for its approval ('consent') before its conclusion. In the Parliament, the request for consent is [referred](#) to the Committee on International Trade (INTA). INTA will then submit to the Parliament its recommendation to approve or reject the agreement. The Parliament will subsequently decide by a [single vote](#) in plenary, regardless of the INTA committee's recommendation. If the majority of votes required to get the Parliament's consent is not obtained, the agreement cannot be concluded. Only after the Council receives the Parliament's consent, can it proceed with the conclusion of the FTA.

Compared to the trade agreement, which requires only the completion of the EU ratification procedure, the EU-Singapore IPA must be ratified by both the EU and the individual Member States, following their own national procedures. Therefore, for that agreement to enter into force, the Council needs to approve it, after the Parliament has given its consent and all Member States have ratified it.

The Council of the EU is expected to authorise the signature of the agreements on 15 October; the signing of the agreements is planned to happen during the ASEM Summit in Brussels, on 18-19 October 2018. In view of the forthcoming consent procedure, the European Parliament's Committee on International Trade (INTA) held a general [debate](#) on both agreements on 10 July 2018. The Commission aims to have the trade agreement come into effect before the end of its mandate in 2019.

According to the draft Withdrawal Agreement currently under negotiation, should the EU-Singapore FTA be ratified before the UK's planned exit from the EU on 29 March 2019, or during the transitional period, the FTA would remain [fully applicable](#) to the UK until the transition period ends (31 December 2020). However, Singapore will have to agree that the UK continues to be subject to the terms of the agreement during the transition period and until the establishment of a new FTA. During the transition period, the UK would be able to negotiate and ratify a bilateral FTA with Singapore, but that agreement cannot enter into force before the transition period ends.

## EP SUPPORTING ANALYSIS

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Roussou E., [Free Trade Agreement between the EU and the Republic of Singapore – Analysis](#), Directorate-General for External Policies, European Parliament, March 2018.

Eeckhout P., [Future trade relations between the EU and the UK: options after Brexit](#), Directorate-General for External Policies, European Parliament, March 2018.

## OTHER SOURCES

European Parliament, Legislative Observatory, [Procedure file 2018/0093\(NLE\)](#).

European Parliament, Legislative Observatory, [Procedure file 2018/0095\(NLE\)](#).

[The economic impact of the EU-Singapore Free Trade Agreement](#), European Commission, September 2013.

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Second edition. The 'International Agreements in Progress' briefings are updated at key stages throughout the process, from initial discussions through to ratification.

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