

SINGAPORE- AUSTRALIA

FREE TRADE AGREEMENT



Investment Outcomes

Foreign investment helps Australia reach its economic potential by providing capital to finance new industries and enhance existing industries, boosting infrastructure, productivity and employment opportunities in the process.

Recognising the significant investment relationship between our two countries, Australia and Singapore agreed to update the SAFTA Investment Chapter to incorporate a set of high-quality, modern rules governing the treatment of investors and their investments. SAFTA will continue to provide protection to Australian and Singaporean investors, including a minimum standard of treatment, the right to compensation for certain types of expropriation, and protection against discrimination.

SAFTA's existing investor-state dispute settlement (ISDS) mechanism will be updated to incorporate more explicit safeguards protecting the Government's right to regulate in the public interest. For example, there is explicit recognition:

- that governments have an inherent right to regulate to protect public welfare, including in the areas of health and the environment;
- non-discriminatory regulatory actions to safeguard public welfare objectives do not constitute indirect expropriation, except in rare circumstances;
- government action which may be inconsistent with an investor's expectations does not constitute a breach of the minimum standard of treatment obligation, even if it results in loss or damage to the investment;
- tobacco control measures cannot be challenged;
- Australia's Pharmaceutical Benefits Scheme, Medicare Benefits Scheme, Therapeutic Goods Administration and Office of the Gene Technology Regulator cannot be challenged.
- certain ISDS claims in specific policy areas in Australia cannot be challenged, including:
 - Australia's foreign investment policy, including decisions of the Foreign Investment Review Board;
 - social services established or maintained for a public purpose, such as social welfare, public education, health and public utilities;
 - measures with respect to creative arts, Indigenous traditional cultural expressions and other cultural heritage.

The ISDS mechanism also includes transparency and procedural safeguards to enhance the arbitration process, including a Code of Conduct for arbitrators, a requirement that ISDS hearings will be open to the public, and disincentives to pursue unmeritorious claims.

The SAFTA review will reduce red tape for investors from Singapore, Australia's fifth-highest source of foreign investment, by harmonising the SAFTA investment screening thresholds and rules with those agreed under the Trans-Pacific Partnership (TPP) Agreement. These are \$1,094 million for private investment in non-sensitive sectors, \$15 million for investment in agricultural land, and \$55 million for agribusiness. Australia will continue to examine all proposed investments by Singaporean government entities.

**Singapore is
the 5th largest
source of
investment
for Australia**
(\$98.6 billion, in 2015)

