Free Trade Agreements

Briefing Note

Exporting is a difficult enough task for large companies but more so for SMEs. Governments around the world have recognized the importance of exports and have sought ways of encouraging their firms to enter foreign markets especially the SMEs. It is generally thought that competitively priced products with unique selling properties that are successful in their home country experience few, if any barriers in foreign markets. However, the reality is very different and success at home does not mean that firms will not experience obstacles in foreign markets. The typical obstacles that firms face in foreign markets can range from the transparent tariffs and taxes which impose a price disadvantage compared to the domestic product to the more opaque non-tariff barriers. Various attempts have been made to remove such trade impediments through the World Trade Organization (WTO). Unfortunately, the most recent series of negotiations namely the Doha Round, which began in 2001, has made little progress in removing trade barriers. As a result a number of countries have sought to establish Free Trade Agreements (FTAs) as a mechanism towards a free trade.

A FTA is an agreement between two or more countries to increase the flow of trade and services so as to bring about greater economic integration between them. FTAs seek to encourage and assist trade between the signatory countries through the requirement that their firms have preferential access to each others markets. All FTAs have three strands, namely the liberalization in the trade of goods, services and investment. As such FTAs seek a reduction or removal of tariffs and non tariff barriers including tariffs, taxes, subsidies, regulations, etc. that give domestic firms an unfair advantage. In some cases, the FTA deals with free access to markets of the signatory countries through an end to any domestic government imposed monopoly or oligopoly. In addition, FTAs may also cover protection of intellectual property rights, ensuring equality in government procurement processes and procedures as well as dispute settlement and the free movement of labour and capital. .

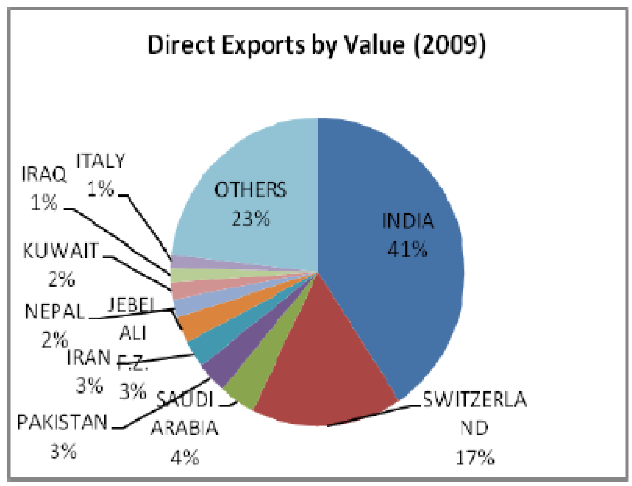
FTAs offer firms an excellent opportunity to not only enter the world of exporting but if they already are to boost their revenues from overseas trade. The reduction in trade impediments means that FTAs provide a faster and more effective market access to signatory countries. Various studies have shown that once a FTA has been signed, the level of trade with the signatory countries tends to increase. However, in some cases, the real benefits may take time as there may be a short term pain that companies could experience in terms of greater competition from imports from signatory countries. Nevertheless, the studies show that over a long term, the benefits outweigh the losses as the end result is low trade barriers and tariffs for both exporters and importers. This is truly a win-win outcome as exporters have improved access to the markets of the signatory countries and domestic producers become more competitive in the international arena due to a lower cost structure as a result of lower home country trade barriers for imports.

Current and Proposed FTAs

The UAE has signed bilateral FTAs such as the one with Morocco however it has been decided that all future ones will be through the GCC Secretariat. As such all new FTAs need to be discussed and approved by the GCC Secretariat before they are discussed with the counterparty. This implies that there may be differing interest among the GCC countries which may make it difficult for the UAE to sign FTAs that support its export strategy. For instance, Dubai which contributes to 94% of the UAE's non-oil exports (2009 data) has a diverse range export partners. Unlike other GCC countries the main export partner for Dubai and the UAE is India with 40% of exports and 20% of re-exports. Interestingly, the UAE has no FTAs with any of the top export destinations except for the GCC and Iraq through GAFTA. This implies that major export destinations such as India, Pakistan and Europe could be better served through a FTA.

Chart 1: Dubai's Key export Markets

Country Description	Weight (Kg)	Value (AED)
INDIA	1,277,947,649	21,316,628,584
SWITZERLAND	1,661,041	8,726,779,079
SAUDI ARABIA	91,427,758	2,095,359,161
PAKISTAN	882,056,596	1,734,473,163
IRAN	188,752,542	1,488,044,628
JEBEL ALI F.Z.[4]	220,957,878	1,483,393,909
NEPAL	1,286,323	992,597,446
KUWAIT	137,283,276	896,558,129
IRAQ	260,126,501	805,081,017
ITALY	158,719,857	734,218,537
OTHERS	2,961,407,079	12,146,969,499
GRAND TOTAL	6,181,626,500	52,420,103,151



The GCC has been discussing three FTAs which are at different stages of completion. Some such as the GCC and EU FTA has been at the discussion stage for the last 22 years with little prospect of a final decision. The current talks have stalled because of an inclusion regarding the commitment to human rights and political development. The GCC countries have stated that they essentially have not problem with regard to including this clause. However, the real problem is more to do with the EU holding the right to suspend an agreement if it feels there is a violation on the GCC side on human rights. The GCC is not very keen to allow for a unilateral ability by the EU to suspend the agreement based on vague accusations of human rights. Until a resolution to this issue is obtained it will be unlikely that this Agreement will be signed.

The other two FTAs under discussion are Australia and India. In the case of the former the latest round of negotiations tended to focus on services, investment, intellectual property, government procurement, competition policy, rules of origin as well as legal and institutional issues. In the case of investment both sides had a very different approach and it was agreed that this would be discussed in the next round of negotiations. The negotiations to date have made good progress on the areas relating to dispute settlement and institutional framework provisions. The issue of government procurement has progressed with only a few issues remaining which need to be resolved. Areas where there is still a major difference in views is in the trade of goods good, intellectual property rights and market competition. The timing of the next round is yet to be determined and will depend largely on the ability of the signatories to table a comprehensive goods market access offer so that negotiations on goods, a key element of the negotiations, can resume.

The India-GCC FTA has completed two rounds of discussions and it is expected to evolve further. The FTA is expected to remove restrictive duties, push down tariffs on goods and pave way for more intensive economic engagement between the nations. In the proposed FTA, India is likely to seek greater safeguards for its chemicals and petrochemical industry. This is being done with a view to protect domestic players who would find it difficult to handle competition as the cost of crude oil is extremely low in GCC. Negotiations have stalled several times, and there is no convergence of views, especially in a few sectors, including polypropylene products and labour related issues. The UAE as well as the Saudi government is not ready to include polypropylene in the negative list. This implies that this FTA may take some time before completion.

In terms of the major import markets we find that the USA accounts for almost 13% followed by China at 8% and then German at 8.1%. the USA has signed bilateral FTAs with certain GCC countries such as Bahrain. However, no FTA between the world's largest importer and the UAE has been signed to date. A FTA with the USA will assist the base metal sector, gold and jewellery, chemicals, plastics and textiles. As far as high growth along with reasonable population base is considered we find that the CIS countries such as Turkistan and Kyrgyzstan have import growth rates of over 33% during the period 2005 to 2009. FTAs with these countries would allow the UAE to leverage its position and hence increase exports.

Main Aspects of the FTAs Signed by the UAE

Gulf Cooperation Council (GCC)

Agreement name:	Gulf Cooperation Council (GCC)		
Coverage:	Goods	**Type:**	Customs Union
Status:	In Force	**WTO Legal Cover:**	GATT Art. XXIV
Date of signature:	31-Dec-2001		
Date of entry into force:	01-Jan-2003		
Current signatories:	Bahrain; Kuwait; Oman; Qatar; Saudi Arabia; United Arab Emirates		
Original signatories:	Bahrain; Kuwait; Oman; Qatar; Saudi Arabia; United Arab Emirates		
All Parties WTO members?	Yes		

Main Aspects of the Agreement

The GCC Customs Union sought to build on the achievements made to date and enhance as well as strengthen the ties among member countries. As a part of this the Customs Union sought to harmonise their economic, financial and monetary policies, their commercial and industrial legislation and customs laws. The Customs union also sought to lay the steps towards building an a Common Market and an Economic and Monetary Union among Member States. From a social viewpoint the Customs Union sought to respond to the aspirations and expectations of GCC citizens towards achieving Gulf citizenship, including equality of treatment in the exercise of their rights to movement, residence, work, investment, education, health and social services.

Export Benefits of the Agreement

The FTA lays down a number of key benefits for UAE’s exporters which are as follows:

- A common external customs tariff (CET).
- Common customs regulations and procedures.
- Single entry point where customs duties are collected.
- Elimination of all tariff and non-tariff barriers, while taking into consideration laws of agricultural and veterinarian quarantine, as well as rules regarding prohibited and restricted goods.
- Goods produced in any Member State shall be accorded the same treatment as national products.
- Unify import and export rules and procedures.

- Adopt unified standards and specifications for all products, according to the Charter of the GCC Standardization and Metrology Organization.
- Eliminate all procedural obstacles encountering joint projects and according them, at a minimum, the same treatment given to similar national projects.
- No Member State may grant to a non-Member State any preferential treatment exceeding that granted herein to Member States, nor conclude any agreement that violates provisions of this agreement.

Investment Benefits of the Agreement

- Unify all investment-related laws and regulations.
- Accord national treatment to all investments owned by GCC natural and legal citizens.
- Integrate financial markets in Member States, and unify all related legislation and policies.

Greater Arab Free Trade Area (GAFTA)

Agreement name:	Greater Arab Free Trade Area (GAFTA)		
Coverage:	Goods	**Type:**	Free Trade Agreement
Status:	In Force	**WTO Legal Cover:**	GATT Art. XXIV
Date of signature:	19-Feb-1997		
Date of entry into force:	01-Jan-1998		
Remarks:	The current signatories stated below are "as notified by the parties" to the WTO. However, please note that the current membership also includes Algeria and the Palestinian Authority.		
Current signatories:	Bahrain; Egypt; Iraq; Jordan; Kuwait; Lebanon; Libyan Arab Jamahiriya; Morocco; Oman; Qatar; Saudi Arabia; Sudan; Syrian Arab Republic; Tunisia; United Arab Emirates; Yemen		
Original signatories:	Bahrain; Egypt; Iraq; Jordan; Kuwait; Lebanon; Libyan Arab Jamahiriya; Morocco; Oman; Qatar; Saudi Arabia; Sudan; Syrian Arab Republic; Tunisia; United Arab Emirates; Yemen		
All Parties WTO members?	No		

Main Aspects of the Agreement

The Greater Arab Free Trade Area (GAFTA) was established so as to create an Arab economic block that could effectively compete with other countries while ensuring that each country increased trade with each other. The GAFTA's has had a long history with formal existence on January 1, 1998. The idea of an Arab free trade agreement (FTA) was first conceived at the Arab League Summit in 1982 however very little effective action took place. Later at the Arab League Summit in 1997, the plan was revisited and formalised with 17 member countries agreeing to the plan. The agreement stated that GAFTA would be supervised and managed by the Arab Economic Council which is part of the Arab League. The most important aspect of the 1997 agreement was that over the next 10 years or so each member country would seek to carry out a 10% reduction in customs fees per annum as well as the gradual elimination of trade barriers. In March 2001, the member countries decided to reduce the period over which the reductions in tariffs could be made so as to speed up the process, and on 1 January 2005 the elimination of most tariffs among the GAFTA members was enforced.

Export Benefits of the Agreement

- Goods produced by any member country shall be treated as national goods as far as the rules of origin, specifications and measurements, health and security safeguard clauses as well as local charges and taxes are concerned. However, each member country would need to observe international rules and provisions for setting safeguard measures as well as subsidies.
- International rules and practices will be observed as far as defining and dealing with cases of dumping are concerned.
- The ability to facilitate "the funding of inter-Arab trade and settlement of payments resulting from such trade" (GAFTA, Article II – as reported on the official website of the Arab League).
- The removal of all non-tariff barriers for member country products.
- Allowing member countries to implement agricultural calendars so as to be able to suspend tariff reductions on a maximum of 10 agricultural commodities during the months of peak production.

Country of Origin Rules

The rules of origin have been established to ensure that the benefits accrue only to products from member countries. As such the benefits are not available to products which are important by a member country and then re-exported to another. Therefore, all exports to member countries need to be accompanied by a Certificate of Origin whereby they will be considered as member country products i.e. local if 40% or more of the value added of a product is generated in a member country.

Investment Benefits of the Agreement

The GAFTA does not have any explicit clause relating to investment however member countries established sub-agreements which seek to foster greater investment between them. So far two such sub-agreements have been signed which are as follows:

1. Investment Promotion and Protection Agreement, signed on June 7th 2000. Members up to date are: Jordan, Sudan, Egypt, Syria, Iraq and Libya.
2. Investment Dispute Settlement in Arab countries, signed on Dec 6th 2000. Members are: Jordan, Egypt, Syria, Iraq and Libya.

Gulf Co-operation Council and the European Free Trade Area FTA (GCC-EFTA FTA)

Agreement name:	Gulf Co-operation Council and the European Free Trade Area FTA (GCC-EFTA FTA)		
Coverage:	Goods and Services	**Coverage:**	Goods and Servioces
Status:	In Force	**Status:**	In Force
Date of signature:	June 22, 2009,		
Date of entry into force:			
Remarks:	The current signatories stated below are "as notified by the parties" to the WTO.		
Current signatories:	GCC Countries which include UAER, Kuwait, Oman, Bahrain, Saudi Arabia and Qatar and the EFTA countries which are Switzerland, Norway, Iceland and Liechtenstein		
Original signatories:	GCC Countries and Switzerland, Norway, Iceland and Liechtenstein		
All Parties WTO members?	Yes		

Main Aspects of the Agreement

The provisions contained in this Agreement are applicable to both the trade in goods and services. In doing so the signatories to the FTA seek to liberalise their markets so as achieve conformity with Article XXIV of the General Agreement on Tariffs and Trade. And to achieve the liberalisation of trade in services, in conformity with Article V of the General Agreement on Trade in Services. In addition, to this the Agreement seeks to promote competition in the respective signatory countries. At the same time the Agreement hopes to ensure adequate and effective protection of intellectual property rights. In the area of government procurement the Agreement looks to liberalise the markets so that companies in the signatory countries are treated as national. The final aspect of the Agreement is to increase the level of investment opportunities in the respective countries. The non-trade aspects seek to enhance the economic relations between the member countries.

Export Benefits of the Agreement

The FTA lays down a number of key benefits for UAE's exporters which are as follows:

1. No new customs duties shall be introduced in trade between the EFTA States and GCC, except for those contained in the Agreement.
2. Both parties that are the GCC countries and the EFTA countries shall, on entry into force of this Agreement, abolish all customs duties on imports of originating products from the other party country.
3. Under the terms of the FTA a signatory country is permitted to introduce or keep an existing import duty or measure if it feel that it is important. However, the signatory country needs to inform the Joint Committee of all export duties applied. In this case a customs duty is defined as any duty or charge of any kind imposed in connection with the importation of a product, including any form of surtax or surcharge, but does not include any charge imposed in conformity with Articles III and VIII of the GATT 1994.
4. The signatories to the Agreement have sought to provide adequate, effective and non-discriminatory protection of intellectual property rights, including effective means of enforcing such rights against. In this regard each signatory shall treat companies no less favourably than that it accords to its own nationals. The only exception is that provided for under Articles 3 and 5 of the TRIPS Agreement.
5. The Agreement provides that companies in the signatory countries shall:
    a. Be liable all laws, regulations, procedures and practices regarding government procurement as national entities.
    b. Countries do not treat a locally-established supplier less favourably than another locally-established supplier on the basis of the degree of foreign affiliation to, or ownership by, a person of another Party;

GCC Singapore Free Trade Area (GSFTA)

Agreement name:	GCC Singapore Free Trade Area (GSFTA)		
Coverage:	Goods and Services	**Type:**	Free Trade Agreement
Status:	In Force	**WTO Legal Cover:**	GATT Art. XXIV
Date of signature:	31st January 2008		
Date of entry into force:	1st January 2009		
Current signatories:	GCC Countries and Singapore		
Original signatories:	GCC Countries and Singapore		
All Parties WTO members?	Yes		

Main Aspects of the Agreement

The GCC and Singapore agreed to launch negotiations on a free trade agreement in November 2006. After four rounds of talks, the GSFTA negotiations were concluded on 31 January 2008. The GCC-Singapore FTA (GSFTA) is a comprehensive free trade agreement between Singapore and the GCC countries that includes the trade in goods and services under the articles GAT and GATS. The Agreement also includes provision to foster greater investment between the signatories. In the case of trade the rules of origin and customs procedures for goods between the countries have been simplified. Furthermore, the Agreement seeks to create a level playing field as far as government procurement is concerned.

Export Benefits of the Agreement

The FTA lays down a number of key benefits for UAE's exporters which are as follows:

6. No new customs duties shall be introduced in trade between the GCC States and Singapore, except for those contained in the Agreement.
7. Singapore shall, on entry into force of this Agreement, abolish all customs duties on imports of originating products from the GCC.
8. Each Party shall, in accordance with its respective domestic laws, grant temporary admission free of customs duties goods intended for display or use at exhibitions, fairs or other similar events, including commercial samples for the solicitation

9. The Parties shall strengthen their co-operation in the field of technical regulations, standards and conformity assessment procedures, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.
10. For the purposes of the fulfilment of its standards or criteria for the authorisation, licensing or certification of services suppliers, a Party may recognise the education or experience obtained, requirements met, or licenses or certifications granted in another signatory country.
11. The signatories to the Agreement have sought to provide adequate, effective and non-discriminatory protection of intellectual property rights, including effective means of enforcing such rights against. In this regard each signatory shall treat companies no less favourably than that it accords to its own nationals.
12. The Agreement provides that countries do not treat companies on an equal basis as far as government procurement is concerned.

Country of Origin Rules

For the purposes of this Agreement, goods shall be deemed as originating goods from a signatory country and eligible for preferential treatment provided that they:

- are wholly obtained or produced in the territory of the exporting country

or

have undergone sufficient working or production that attains a qualifying value added of not less than thirty five percent (35%) based on the ex-works price using the following formula:

Ex-Works Price – N.O.M. x 100% ≥ 35%

where:

Ex-Works Price means the price paid for the good ex-works to the manufacturer in the Parties in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the good obtained is exported.

N.O.M. is the value of the non-originating materials.

Investment Benefits of the Agreement

Under the GSFTA, Singapore and GCC countries that have yet to sign bilateral IGAs with Singapore have committed to complete negotiations within 2 years. Bahrain, Oman and Saudi Arabia have signed bilateral IGAs with Singapore. Kuwait, Qatar and the UAE are committed to completing negotiations for bilateral IGAs with Singapore within 2 years from the commencement of negotiations.