WCO Conference on the future direction of the Harmonized System
Brussels, 2 May 2019

The HS and Negotiations at the WTO
Contents of this presentation:

1. When has the HS been used in the WTO?
2. Discussions *during* tariff negotiations
3. What happens *after* those negotiations?
1. When has the HS been used at the WTO?

• The HS has been a **solid foundation** on which trade agreements can be built (*universal; objective; predictable*)

• Some agreements have used it to define covered products (e.g. Agriculture, Textiles and Clothing)

• Other agreements refer to it (e.g. Rules of Origin, Trade Facilitation, Subsidies and Countervailing Measures)

• Trade Statistics (based on the HS) are used to calculate conditions (e.g. “critical mass” and volume of trade covered by exceptions)

• Basis for the **Schedules of concessions**, which reflect the result of tariff negotiations
WTO Schedules of concessions?

• Legal instruments that describe the treatment a WTO Member must provide to the trade of other Members

• Embody the results of multilateral (all Members) and plurilateral (some Members) negotiations

• They include "bound duties", i.e. maximum tariffs that can be applied by a member for a particular product, as well as other non-tariff concessions.

• More information clicking [here](#)
Schedules typically replicate the national tariff structure, which is based on the HS.

### Schedule V - CANADA

#### PART I - MOST-FAVOURED-NATION TARIFF

#### SECTION II - Other Products

<table>
<thead>
<tr>
<th>Tariff item number</th>
<th>Description of products</th>
<th>Base rate of duty</th>
<th>Bound rate of duty</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Ad valorem (%)</td>
<td>Other U/B</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Ad valorem (%)</td>
</tr>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
</tbody>
</table>

#### SECTION 1: LIVE ANIMALS; ANIMAL PRODUCTS

Chapter 3: FISH AND CRUSTACEANS, MOLLUSCS AND OTHER AQUATIC INVERTEBRATES

- **0301** Live fish
- **0301.10.00** Ornamental fish
- **0301.10.00** Other live fish:
  - **0301.91.00** Trout (Salmo trutta, Salmo gairdneri, Salmo clarki, Salmo aquabonita, Salmo gilae)
  - **0301.92.00** Eels (Anguilla spp.)
- **0301.93.00** Carp
- **0301.99.00** Other

Base rate of duty:
- Ad valorem: 0.0%
- Other: B

Bound rate of duty:
- Ad valorem: 0.0%
- Other: B
1994 Uruguay Round Schedules:

+25,000 pages initially, but many more since then!
2. Discussions *during* tariff negotiations

But Members decided to *complement* the HS with alternative approaches in some of them.
Example: ITA (1996)

In 1996, ITA participants could not agree on the HS classification of a number of 55 products

Some of the reasons included *inter alia*:

- Multiple use
- Technological convergence and the fact that some “consumer products” were not covered by the agreement

ITA participants agreed to liberalize them “wherever they are classified in the HS” → Attachment B
“Optical disc storage units, for automatic data-processing machines (including CD drives and DVD-drives), whether or not having the capability of writing/recording as well as reading, whether or not in their own housings.”
With respect to any product described in or for Attachment B to the Annex to the Ministerial Declaration on Trade in Information Technology Products (WT/MIN(96)/16), to the extent not specifically provided for in this Schedule, the customs duties on such product, as well any other duties and charges of any kind (within the meaning of Article II:1(b) of the General Agreement on Tariffs and Trade 1994), shall be bound and eliminated, as set forth in paragraph 2(a) of the Annex to the Declaration, \textit{wherever the product is classified.}

<table>
<thead>
<tr>
<th>Description</th>
<th>HS 1996</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quartz reactor tubes and holders designed for insertion into diffusion and oxidation furnaces for production of semiconductor wafers</td>
<td>7020.00ex</td>
</tr>
<tr>
<td>Chemical vapor deposition apparatus for semiconductor production</td>
<td>8419.89ex,</td>
</tr>
<tr>
<td>Optical disc storage units, for automatic data-processing machines (including CD drives and DVD-drives), whether or not having the capability of writing/recording as well as reading, whether or not in their own housings (...)</td>
<td>8471.70ex</td>
</tr>
</tbody>
</table>
BUT THE END OF A NEGOTIATION IS NOT THE END...
3. What happens after the negotiations?

HSC can work to clarify/improve the HS classification of some of the negotiated products (e.g. ITA)

Schedules of concessions are updated to take account of changes, e.g. those resulting from HS amendments.
Transposition work at the WTO

- Procedure that seeks to “translate” Members’ obligations into a new HS version
- Essential to be able to compare their obligations with the trade regimes that are applied in practice
- Transpositions are approved by consensus
Example of HS2007 84.43 - Multifunctional printers?

WCO Correlation Table

<table>
<thead>
<tr>
<th>HS2007</th>
<th>HS2007</th>
<th>HS2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>8443.31</td>
<td>-- Machines which perform two or more of the functions of printing, copying or facsimile transmission, capable of connecting to an automatic ..</td>
<td>ex8443.51* ex8471.60 ex8517.21 ex9009.11* ex9009.12*</td>
</tr>
</tbody>
</table>

Note: * No consensus for these correlations

ITA Attachment A Section 1

<table>
<thead>
<tr>
<th>HS96</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>8471.60</td>
<td>Input or output units ...</td>
</tr>
<tr>
<td>8517.21</td>
<td>Facsimile machines</td>
</tr>
<tr>
<td>9009.11</td>
<td>Electrostatic photocopying apparatus ...</td>
</tr>
</tbody>
</table>

Member A’s Schedule in HS 2002

<table>
<thead>
<tr>
<th>HS2002</th>
<th>National Code</th>
<th>Duty</th>
<th>ITA</th>
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</thead>
<tbody>
<tr>
<td>8443.51*</td>
<td>8443.5100</td>
<td>20%</td>
<td>No</td>
</tr>
<tr>
<td>8471.60</td>
<td>8471.6000</td>
<td>0</td>
<td>Yes</td>
</tr>
<tr>
<td>8517.21</td>
<td>8517.2100</td>
<td>0</td>
<td>Yes</td>
</tr>
<tr>
<td>9009.11*</td>
<td>9009.1100</td>
<td>0</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Member A’s Schedule in HS 2007

<table>
<thead>
<tr>
<th>HS2007</th>
<th>Duty</th>
<th>ITA</th>
<th>Product Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>8443.31.10</td>
<td>20%</td>
<td>No</td>
<td>Ink-jet printers other than PC printer (HS02 ex8443.51)</td>
</tr>
<tr>
<td>8443.31.20</td>
<td>30%</td>
<td>No</td>
<td>Photocopying machines [indirect process] (HS02 ex9009.12)</td>
</tr>
<tr>
<td>8443.31.90</td>
<td>0</td>
<td>Yes</td>
<td>Other</td>
</tr>
</tbody>
</table>
Current status of transposition of Schedules

The “Notes on methodology” for HS2017 were agreed by the Committee on Market Access on 10 April 2019 (G/MA/366)
Conclusions

1. The HS has played a key role in several WTO negotiations

2. It has been *occasionally* necessary to complement the HS with other approaches/tools

3. The WCO’ HS Committee has helped to *clarify* some outstanding issues

4. WTO Members have been *slow* in updating their Schedules of concessions to reflect the latest HS amendments

5. Detailed and agreed correlation tables are *essential* to correctly transpose/enforce legal obligations
Thank you!