

The Role of the HS in Trade Agreements



Carlos Halasz
May 2019

Types of HS-Based Trade Agreements

Global (WTO)

Multilateral Trade Agreements (e.g., pharmaceuticals, chemicals, Information Technology Agreement)

WTO tariff commitments are made on the basis of HS codes

No rules of origin

WCO



*Harmonized System
Nomenclature*



Bilateral / Regional

FTA coverage expressed through HS codes

Rules of origin needed for preferential trade:

Classification based origin determinations (“Tariff Shift”) are common



WTO Information Technology Agreement

ITA is a plurilateral trade agreement in which participating governments agreed to eliminate tariffs

Today the ITA includes 82 WTO members and covers 97 per cent of world trade in covered IT products:

- ITA coverage defined primarily by HS codes in the 1996 nomenclature, but commitments carry forward with HS changes

- Global agreements require no rules of origin

- WTO refers ITA classification disputes to the WCO (e.g., LAN equipment, multi-function printers, monitors, etc.)

- WTO Dispute Settlement to litigate disputes

- The WTO and WCO can collaborate to ensure proper maintenance of the HS and ITA



WTO Agreements: Recommendations

The WCO should be mindful of tariff commitments under ITA and other global trade agreements when they examine impacted products:

The WTO and WCO Secretariats could jointly adopt a rollup of ITA classification codes translating the 1996 version of ITA into the current version of the HS

The WCO should coordinate with the WTO when it considers structural nomenclature changes or takes decisions which may impact commitments in global trade agreements

The WCO could implement faster HS review cycles for technology products since they evolve rapidly rendering certain HS codes obsolete or outdated

The WTO should accelerate its work to update the Members' schedules of concessions to reflect amendments to the HS so that tariff commitments are clear

The WTO could collaborate with the WCO to accelerate and inform the work of updating tariff commitments (i.e., invite WCO Secretariat to present agreed to HS amendments to WTO Members at the end of each review cycle)



Bilateral & Regional FTAs

Reciprocal trade agreements between two or more countries.

Rules of origin required for preference programs and HS classification based origin determinations commonly used in FTAs

Communication between FTA and WCO Secretariats:

- The rules of origin in FTAs negotiated under one version of the HS are almost never updated to current version of HS
- Applicable coverage and / or FTA rules of origin for certain products become more opaque over time



Bilateral & Regional FTAs: Recommendations

FTAs could incorporate a mechanism for technical rectification of HS codes and rules of origin and the WCO Secretariat could be empowered to provide assistance

Enhancing communication between WCO HS Committee and the Rules of Origin Committee may enable a coordinated approach on rules of origin issues



Future of the HS and Trade Agreements:

The HS remains a powerful tool for implementing global, regional and bilateral trade agreements, but there is an issue with keeping the agreements up to date:

- The HS nomenclature evolves slowly because it must be implemented through national legislation; and FTAs do not keep up with the HS review cycle
- These problems can be mitigated through better coordination between the WCO and the impacted stakeholders (WTO and FTA Secretariats) with a view to better defining the relevant product coverage and trade commitments