

Building ASEAN Capacities in Transposition of Tariff Reduction Schedules and Product Specific Rules

-A Case Study -



ASEAN-Australia-New Zealand Free Trade Area (AANZFTA)
Economic Cooperation Support Program (AECSP)

Background

Under the Agreement establishing the ASEAN Australia New Zealand Free Trade Area (AANZFTA), Parties committed to facilitating trade in the region, including establishing regional rules of origin and substantial reduction in tariffs.

Specifically, Parties agreed to improve tariff commitments, as set out in their national tariff reduction schedules (TRS). The AANZFTA tariff reduction schedules originally used the Harmonized Commodity Description and Coding System or Harmonized System (HS) edition 2002, and subsequently updated in accordance with HS amendments by the World Customs Organization (WCO). As of May 2018, all AANZFTA Parties except Cambodia, Lao PDR and Myanmar had already completed the transposition of their TRS into HS 2017 nomenclature.

Rules of origin under AANZFTA include rules for regional value content and change in tariff classification. The HS facilitates the issuance of Certificates of Origin by identifying goods eligible for preferential tariff treatment under AANZFTA subject to AANZFTA product specific rules (PSRs).

To facilitate the implementation of AANZFTA, all rules of origin were consolidated in the PSR list.

In January 2018, AANZFTA Parties agreed updates on all PSR lines in HS 2017.

WCO's periodic amendments to the HS nomenclature require its members, including AANZFTA Parties, to transpose their schedules of commitments into the latest nomenclature in time for implementation without disrupting trade and in the meanwhile ensuring that the product coverage is unchanged and trade commitments are not impaired. Annexes 1 and 2 to this Report present background information about the HS and harmonization efforts in the AANZFTA region.

HS changes can be in the classification and structure of the subheadings, and can take the form of a split, a merge, or in complex cases involve both splitting and merging exercises together with sectoral policy considerations. The complexity of HS nomenclature, the frequency of its amendments and the sequencing in updating TRS as elaborated in annexes 1 and 2 make the process of transposition highly complex, technical and requires effective inter-agency coordination.

Challenges, therefore, are encountered at both technical and policy levels of the transposition

process. For some AANZFTA Parties, challenges included organizational constraints, limited human resources, lack of technical capacity and issues in coordinating among domestic agencies, which contributed to the delays in implementation of TRS and PSR.

To assist AMS with the process, the AANZFTA Economic Cooperation Support Program (AECSP) provided capacity building and technical assistance to AMSs on TRS and PSR transposition through an AECSP-supported project titled: *“Transposition of AANZFTA Tariff Reduction Schedules and Product Specific Rules from HS 2012 into HS 2017”* (or **the Project**).

This Case Study takes stock of the results emerging from implementation of the Project and identifies the lessons learned as well as good practices which could be useful for future transpositions under AANZFTA. Methods of conducting this case study included both desk review of project materials and key informant interviews with project trainers and trainees at the sidelines of the 14th Meeting of the AANZFTA Committee on Trade in Goods (CTG) and 13th Meeting of the AANZFTA Sub-Committee on Rules of Origin (SC-ROO) in Viet Nam in April 2018.

Key Findings

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| • The Project increased knowledge and deepened understanding of around 170 participating officials on both technical and policy aspects of transposition; | • The Project strengthened coordination and engagement among government agencies involved in the transposition; and | • The Project provided an effective venue for policy deliberation and agreement on 513 AANZFTA PSR lines. |
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AECSP supports the implementation of the AANZFTA commitments in trade in goods through efficient and transparent administration of rules of origin requirements and other aspects of implementation of tariff commitments. Capacity building on TRS and PSR transposition was targeted at individual, organizational and institutional levels, aiming to ensure capacity was in place for the implementation of TRS and PSR in line with the latest HS amendments, and facilitating trade within the AANZFTA region.

Under the Project, capacity building was provided through in-country training workshops in Lao PDR, Myanmar, Viet Nam and a Regional Policy Dialogue on transposition

of AANZFTA TRS and PSR for all Parties. While tools and hands-on training sessions were provided in-country for a large number of transposition officials from Lao PDR, Myanmar and Viet Nam, the Regional Policy Dialogue served as a platform for (i) discussions about issues related to inter-agency coordination in transposition exercises; (ii) intensive learning about matters pertaining to transposition of TRS and PSRs through two special break-out sessions; and (iii) deliberation and agreement on most of the remaining PSR lines.

As a result of this AECSP support, about 170 key officials from relevant AMS government agencies handling

the transposition attended the in-country trainings and regional dialogue and became well-equipped with the latest knowledge on the principles and processes of HS transposition. A set of two handbooks was developed and distributed to Lao PDR, Myanmar and Viet Nam, providing the information, conceptual tools and practical Excel skills for undertaking a HS tariff transposition.

To guide Parties further on future transpositions, two key AANZFTA documents were drafted: “*Guidelines for Transposing Tariff Reduction Schedules*” and “*Guidelines for Transposing Product Specific Rules*” which were adopted by all Parties in June 2017.

The Project

Project Code:

AANZ-0065-ROO-11

Project Name:

Transposition of AANZFTA Tariff Reduction Schedules (TRS) and Product Specific Rules (PSR) from HS 2012 into HS 2017

Approval:

By FJC in April 2016

Budget:

AUD 446,980.

Main Components:

- Regional Policy Dialogue on TRS and PSR transposition for all AANZFTA Parties; and
- In-country trainings on TRS transposition for Lao PDR, Myanmar and Viet Nam

Key Outputs:

- Two transposition handbooks were developed for each participating country, providing the information, conceptual tools and practical Excel skills for undertaking HS transposition;
- Guidelines for Transposing Tariff Reduction Schedules and Product Specific Rules discussed and subsequently agreed at the 13th CTG and the 12th SC-ROO meetings, respectively in June 2017;
- 169 officials mainly from AMSs benefited from in-country trainings and the Regional Policy Dialogue facilitating the transposition of their respective TRS and PSR; and
- 72 percent of project participants were female.

Trainers:

Experienced experts from Department of Foreign Affairs and Trade of Australia, Ministry of Foreign Affairs and Trade and Customs Service of New Zealand.

Case Study Findings

Over all, interviewees view the Project as **highly successful at individual, organizational and institutional levels** owing to the following results.

1. Increased knowledge, confidence and work efficiency

Interviewees from Myanmar, Lao PDR and Viet Nam unanimously agreed that the series of in-country trainings provided them with better knowledge and deeper understanding of the TRS transposition process. They appreciated trainers' step-by-step coaching on difficult tasks such as working with excel formulas in analyzing individual tariff lines.

“*I learned a lot especially on excel skills which significantly improved our transposition work efficiency. What we have learned in the training is much more detailed and comprehensive than what we knew before the training*”

- Ms. Shin Shaw Thu, Assistant Director from Myanmar's Ministry of Commerce

At the trainings, excel formulas were taught as an effective tool to ensure that product coverage remains unchanged while the time spent on the transposition and review is significantly reduced. Paul Gibbons, Director of South- East Asia Goods Branch, Free Trade Agreement Division of the Department of

Foreign Affairs and Trade (DFAT Australia) as one of the key trainers added that particular focus was given to excel formulas to give Parties a new way of doing things that could reduce time and increase efficiency.

The significance of the training in increasing efficiency in transposition work was also highlighted by interviewees from Viet Nam.

“*Colleagues who participated in the training gained knowledge and understanding. They were trained on how to make it in practice. If they encounter any problems, they would email the trainer and asked for solution so the support to our transposition officials was very valuable and useful.*”

- Director Tran Ba Cuong from the Multilateral Trade Policy Department, Ministry of Industry and Trade of Viet Nam

The in-country training approach of mixing hands-on activities with theories and basic principles proved to be effective in addressing knowledge and capacity gaps. This approach was particularly beneficial for officials more involved in policy aspects of the transposition.

Director Sonethanou Singdala of the Trade in Goods Division of the Foreign Trade Policy Department of Lao PDR's Ministry of Industry and Commerce shared that since his work mainly involves policies and negotiations, the training provided

him the opportunity to learn on the technical aspects of transposition.

“*I am involved in the transposition at the policy level. The training helped me understand the technical work involved in the process. Now I am more confident to talk about transposition since I know how it is done technically.*”

Interviewees from Myanmar also agreed that understanding transposition from all angles can build the confidence of negotiators. Assistant Director Shin Shaw Thu from Myanmar's Ministry of Commerce who is involved on PSR negotiations said that being part of the project's in-country training gave her the first opportunity to be exposed to transposition's technical work.

2. Improved coordination and engagement among relevant agencies

Challenges pertaining to inter-agency consultation for the transposition were encountered in some AMS. To assist the AMS in addressing these challenges, the Project was designed to accommodate cross-sectoral consultations, encouraging the participation of officials from ministries and agencies involved in the transposition process to attend in-country trainings and the Regional Policy Dialogue. These activities brought together mid to senior level

Project Outcomes

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| <ul style="list-style-type: none"> • Individuals' capacity: The Project increased officials' knowledge, confidence and work efficiency | <ul style="list-style-type: none"> • Organizational capacity: The Project enhanced coordination and engagement among relevant agencies | <ul style="list-style-type: none"> • Institutional capacity: The Project facilitated the successful transposition of the AANZFTA PSRs |
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officials from trade, customs and other relevant offices to discuss issues and ways forward for the transposition of AANZFTA TRS and PSR. All interviewees commended this approach as informative and facilitative for the AANZFTA transposition work especially for PSRs.

“ AANZFTA Parties do their best work when they are together. The Regional Policy Dialogue demonstrated this fact. All Parties strove to understand the concepts, sharing practices and experiences from previous transpositions. The Dialogue allowed us to complete the transposition much quicker than had we relied on intersessional communications. As a result of this activity, our successors will finalize the next transposition more quickly ”

- Paul Gibbons, DFAT.

Socialization of the transposition of TRS and PSR with all relevant agencies is an important step to ensure effective coordination, avoiding inconsistent outcomes which could lead to complaints from industries.

Interviewees further acknowledged that the Project activities, particularly the in-country trainings where senior officials from various agencies were invited, opened communication, facilitated exchanges of opinions and understanding, and subsequently improved the coordination of relevant ministries involved in transposition.

Assistant Director Shin Shaw Thu from the Ministry of Commerce of Myanmar shared that during the in-country training, colleagues from Ministry of Commerce had the chance to get acquainted with officials from other agencies such as the Customs Department. This helped in ‘breaking the ice’ and improving coordination between the government agencies as well as understanding both the technical and policy work each ministry is doing on transposition.



In-country training on transposition of AANZFTA tariff reduction schedules from HS 2012 to HS 2017 and related trade analysis for government officials of Myanmar, 4-7 December 2017, Yangon, Myanmar.

3. Successful Transposition of the AANZFTA PSRs

The process of consultations and agreement among AANZFTA Parties on PSR transposition is often conducted inter-sessionally and takes time until approval is obtained. For example, it took Parties nearly three years to complete the process of transposing the AANZFTA PSRs from HS 2007 into HS 2012. To avoid such delay with the 2017 transposition, the Regional Policy Dialogue, organized in May 2016 in the Philippines, provided all Parties with the opportunity to discuss and deliberate on the remaining AANZFTA PSR lines.

As a result, 513 PSR lines were agreed during the Dialogue with the last 17 lines discussed and agreed afterwards, in late 2017. The outcome was considered to be a significant one for the Regional Policy Dialogue.

Mr. Saba Vallipuram, Senior Policy Analyst from the New Zealand Customs Service commended the agreement of 513 PSR lines in a span of two days and acknowledged how successful the Regional Policy Dialogue was in providing an excellent venue for this important process.

The positive view on the Dialogue’s results was also shared by participants from the AMS.

Mr. Yusdiman Saman, Acting Deputy Director from the Ministry of Foreign Affairs and Trade of Brunei

Darussalam, who is also the ASEAN Chair for the AANZFTA Committee on Trade in Goods viewed the Regional Policy Dialogue as a very valuable contribution to Brunei’s transposition.

“ The dialogue greatly contributed to our process of PSR finalization. For example, we were able to identify the change in a particular PSR line and the appropriate rule to apply. ”

The Regional Policy Dialogue also received appreciation from Singapore who noted it was facilitative in deepening participants’ understanding on PSR issues, leading to the agreement on most of the remaining PSR lines.

“ The most significant outcome of the Dialogue is how it enabled the AANZFTA to be the first of ASEAN’s external FTAs to successfully transpose all of its Product Specific Rules ”

- Mr. Tay Lide, Senior Assistant Director at Singapore’s Ministry of Industry and Trade.

The successful and timely transposition of the AANZFTA PSR into HS 2017 facilitates the certification of origin in identifying goods eligible for AANZFTA preferential tariff rates, and reinforces the strong commitment of all Parties to promoting trade in the region.

Success Factors

AECSP's support contributed significantly to facilitating the transposition work of AMS, owing to the following success factors:

1. Timely provision of useful tools and guidelines

All participants to in-country trainings in Lao PDR, Myanmar and Viet Nam were provided with a set of two handbooks, containing detailed and specific instructions for conducting the transposition. The mode of training (i.e. hands-on training on excel formulas and the opportunity to practice analysing real cases) was considered highly effective by trainees. Presentation materials at the Regional Policy Dialogue and the two Guidelines for Transposing TRS and PSR which were subsequently adopted by the CTG in June 2017 served as important and sustainable source of knowledge and guidance for AANZFTA Parties.

2. Training the most relevant officials

The Project was designed to benefit officials who are directly responsible

for the transposition of TRS and PSR at both technical and policy levels, with an aim to ensure both the accuracy of the transposition and institutional support for the implementation post-transposition.

The Project also encouraged the participation of women. Mid to senior level officials were engaged in the training sessions and policy dialogues and afterwards provided significant contribution to the transposition and policy deliberation of both TRS and PSR in their country.

3. Technical expertise of trainers

Interviewees who participated in the case study recognized the significance of trainers' knowledge and technical expertise on transposition which served as a strong motivation for participants to learn and share their experiences.

As Lao PDR, Myanmar and Viet Nam are developing countries where English is not the official language, trainers' awareness of the diversities and language barriers also created

a conducive learning environment for participants. The Project also facilitated knowledge exchange among AMS by engaging a WCO Technical and Operational Advisor from Indonesia for the in-country training in Viet Nam.

“ AECSP is contributing a lot because it gives us the opportunity to get the knowledge and information from experienced experts. ”

– Ms Jamilah Haji Hassan,
Director from Ministry of
International Trade and Industry
of Malaysia.

4. Enhanced inter-agency coordination

The in-country training workshops in Lao PDR, Myanmar and Viet Nam provided an opportunity for various line agencies involved in the transposition process to exchange information, discuss obstacles and ways to address those obstacles collectively. Interviewees from CLM noted that inter-agency coordination in their respective countries significantly improved after the training, facilitating the transposition.

Sustaining the Outcomes

Although the important materials developed under the Project help continue the process and disseminate the knowledge, the sustainability of the capacity developed at individual, organization and institutional levels is a process that requires strong coordination, effective consultation

and commitments at both domestic and regional levels. The participating AMS have been proactive in disseminating the knowledge gained from the Project activities. Follow-up by these AMS included organizing briefing sessions and knowledge sharing workshops for

officials from relevant agencies. Documenting the transposition process including lessons learned as a guiding document for incoming or junior officials would help future transpositions further.

Project Success Factors

- *Useful tools and guidelines*
- *Training the most relevant officials*
- *Technical expertise of trainers*
- *Enhanced inter-agency coordination*

Implementing TRS and PSR following the latest uniform structural framework of HS is critically important in facilitating trade. Transposition of TRS and PSR into the latest HS allows stakeholders, authorities responsible for issuing and receiving Certificates of Origin, as well as trading companies in the AANZFTA region to use one standardized nomenclature. This in turn reduces costs, prevents denials of preferential tariff treatment and minimises delays on the clearance of goods.

“ Indonesia always underscores the importance for all Parties to finalize the transposition of TRS by the agreed timeline, because it’s very important to support our business people in terms of trade facilitation, especially in providing certainty in export and import activities, as well as improving the utilization of AANZFTA agreements ”

- Ms. Marina Novira, Deputy Director of ASEAN - Dialogue Partners Cooperation for Asia and Pacific Region, Ministry of Trade of the Republic of Indonesia.

“ The AANZFTA experience with HS transposition has demonstrated the importance and value of an ongoing program of cooperative engagement by all Parties in making the AANZFTA work well, retain its relevance to business and further economic integration. AECSP has been instrumental in facilitating this engagement and illustrates the importance of good planning, open-minded learning approach, and the need to facilitate cross-agency coordination and collaboration. These are important lessons to build on to help strengthen trade agreements in the current international environment ”

- Milton Church, former Australian Co-Chair of the AANZFTA Committee on Trade in Goods.

The Case Study findings highlight the importance of timely and accurate transposition of TRS and PSR in ensuring transparency of concessions for businesses, encouraging their continued use of AANZFTA preferential tariff, and ultimately maintaining the momentum of trade in the AANZFTA region.

The Harmonized Commodity Description and Coding System

The Harmonized Commodity Description and Coding System or Harmonized System (HS) is an internationally standardized product nomenclature established by the International Convention on the Harmonized Description and Coding System in 1983 and entered into force in 1988. HS at the six-digit level consists of more than five thousand commodity groups and supported by well-defined rules to achieve uniform classification. WTO and WCO member countries including all AANZFTA Parties use HS as the basis for national systems in classifying goods for levying tariffs, application of rules of origin, keeping track of controlled substance and collating import and export statistics.

HS is developed and updated by the WCO every four to six years to maintain its relevance to international trade patterns and needs. Since 1988, WCO has approved six sets of HS amendments in 1992, 1996, 2002, 2007, 2012 and 2017. The latest edition effective on 1 January 2017 includes 233 sets of amendments, divided as follows: agricultural sector 85; chemical sector 45; wood sector 13; textile sector 15; base metal sector 6; machinery sector 25; transport sector 18; other sectors 26.

Below are major features of the 2017 amendments:

- * environmental and social issues that require specific goods to be monitored for food security purposes, and for better management of resources;
- * to enhance the coverage of specific goods to obtain a better picture of trade patterns;
- * to provide detailed information on several categories of products that are used as life-saving products;
- * to facilitate the collection and comparison of data on the international movement of certain substances controlled under the Chemical Weapons Convention;
- * to facilitate the collection and comparison of data on the international movement of hazardous chemicals controlled under the Rotterdam Convention and for certain persistent organic pollutants controlled under the Stockholm Convention;
- * to monitor and control of pharmaceutical preparations that are precursor for drugs; and
- * other amendments result from changes in international trade patterns, some old products, such as photographic film, are rarely traded while new products such as “selfie sticks” have come on the market.

To assist member countries in the implementation of the HS amendments and to ensure common interpretations, every new amendment of HS is followed by a HS correlation table published by the WCO Secretariat which correlates the subheadings between the old and new versions of HS, determining how commitments in the existing nomenclature shall be relocated in the new nomenclature without causing a structural change.

WCO publishes their amendments to the HS and correlation table approximately two years before the amended nomenclature become effective, to allow sufficient time for WCO member countries in completing their transposition in time for implementation of the amendments. For HS 2017, WCO published the accepted amendments to the HS in June 2014 and the correlation table in January 2015.

** Sources: WCO and Guidelines for Transposing PSRs under AANZFTA adopted in June 2017.*

ASEAN Efforts in HS Harmonization

All ASEAN Member States (AMS) are members of WTO and WCO therefore adopt HS for their WTO's Most-Favored Nation (MFN) Tariff as well as for commitments under ASEAN and other trade agreements.

ASEAN Harmonized Tariff Nomenclature

At the ASEAN regional level, ASEAN established in 2003 an eight-digit ASEAN Harmonized Tariff Nomenclature (AHTN) based on the WCO's HS, with an aim to create a common nomenclature that conforms to international standards, establishing uniformity of application and enhancing transparency in the classification of goods in ASEAN. AHTN is updated with the latest HS every four to six years according to the WCO's HS amendment schedule, adding two additional subheadings for each product line. Due to the additional product disaggregation, an AHTN correlation table is provided to AMS to ensure common interpretation of the amendments.

Following WCO's issuance of the HS 2017, ASEAN reviewed and revised the region's integrated hierarchy of goods classification, description and codification of ASEAN subheadings and the AHTN Supplementary Explanatory Notes. AHTN 2017 was endorsed by ASEAN Director General of Customs in May 2016 with more than 10,000 commodity lines.

National tariff nomenclature

At the national level, each AMS maintains a tariff nomenclature based on the AHTN, which is updated according to the schedule of amendments of the HS and AHTN, following AHTN correlation table. The process of transposing TRS and PSR into the new HS require Parties to undertake a comprehensive review of their draft transposed schedules and PSR lines in close coordination and consultation with relevant domestic agencies for finalization. Some AANZFTA Parties engage industries in the consultation process to raise their awareness of the possible effects of the transposition on business. Due to the stratification of commitments and differences in the level of product disaggregation, the process of transposing TRS and PSR for AMS is sequential, as follows:

TRS transposition: MFN tariff nomenclature shall be updated first and serve as the structure for tariff commitments under other agreements, including the AANZFTA. It is only after the amended HS and AHTN have become effective and their correlation tables are made available by the WCO Secretariat and subsequently by ASEAN Secretariat, that AMS is able to start their individual transposition exercise at domestic level.

The sequencing in TRS transposition process has contributed to the delays experienced in some AMS. WCO usually publishes the amendments to the HS approximately two and a half years before the amended nomenclature become effective to allow time for transposition at country level. At ASEAN level, the process of updating AHTN involves sequentially obtaining approval of Director Generals of the General Departments of Customs in all AMS, acknowledgement of AFTA Council, domestic ratification by each AMS and notification to the ASEAN Secretariat.

PSR transposition: an AANZFTA Party will be nominated by the Sub-Committee on Rules of Origin (SC-ROO) to draft the transposed PSR using the WCO correlation table, which will then be verified by each Party after domestic consultation process is completed. The verified PSR shall be agreed by AANZFTA Sub-Committee on Rules of Origin (SC-ROO), AANZFTA Committee on Trade in Goods (CTG) and adopted by the AANZFTA Joint Committee (JC) prior to its implementation.



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