ACCI Submission on the Simplified Trade System

Submission to the Simplified Trade System Implementation Taskforce
February 2022
Introduction

The Australian Chamber of Commerce and Industry (ACCI) welcomes the opportunity to provide input to the Simplified Trade System. ACCI strongly supports the Australian Government's efforts to make the trading system more efficient by simplifying trade regulation, modernising ICT and strengthening economic resilience. Business is hopeful these efforts will make Australia a more conducive place to trade.

Trade is an integral element of Australia's economy and will continue to be of priority to many businesses. Equally, international policy is ever increasingly being linked to trade, with messaging from international forums all following the pathway of 'trade and…'. Given its importance, ensuring an efficient and fit for purpose trade system is of upmost importance.

For Australia to achieve an efficient trade system with simplified processes, systems and regulations, the Simplified Trade System Implementation Taskforce (the Taskforce) should focus on several key areas such as the customs duty and legislation regime, trade barriers, data connectivity, and support for importers.

ACCI therefore makes the following recommendations:

Recommendation 1: Abolish tariffs and redraft the Excise Act, Tariffs Act and Customs Act in alignment with the needs of the contemporary trading environment.

Recommendation 2: Reassign responsibility for customs duty and taxation to the Australian Taxation Office (ATO)

Recommendation 3: Apply a cost-benefit analysis to the anti-dumping system and streamline the application of duties through integration in the taxation or border system.

Recommendation 4: Remove unnecessary delays in the importation process by aligning Government agency intervention timelines at the border or allowing for early lodgement of importation documentation to achieve inter-agency resolutions concurrently. Import information provision requirements should be harmonised across all stakeholders.

Recommendation 5: Review opportunities to modernise and harmonise rules of origin and digital trade provisions in Australia's preferential trade agreements to ensure the agreements are fit for purpose in a contemporary trade environment. Where opportunities are beyond scope, the Taskforce should make recommendations for future action.

Recommendation 6: Broaden the engagement of Government on addressing domestic non-tariff barriers (NTBs) and improve reporting and feedback mechanisms for domestic and international NTBs.

Recommendation 7: Connect and integrate existing Government and commercial trade systems to provide 'single window' access to all trade related systems and functions without the need to create a separate Government platform.

Recommendation 8: Better utilise and integrate trade data monitoring to make strategic security and biosecurity inspections and facilitate end-to-end connection of the trading process by commercialising the Trade Community System as a solution. The trade mindset should be data sharing by default.

Recommendation 9: Update electronic transactions legislation in alignment with modern international standards by adopting the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Transferable Records (MLETR).

Recommendation 10: Fully operationalise and deploy the Intergovernmental ledger (IGL) across all Australian preferential trade agreements. Issuing authorities should be given greater oversight and input to the electronic platform in alignment with the delegated authority for the issuance of trade documentation.

> Recommendation 11: Reassess the structure of the trading system to better support importers and focus on the benefits importers provide to the Australian economy.

> Recommendation 12: The Australian Trusted Trader (ATT) program should be expanded to greater represent Australian traders and provide a source of compliance with trade rules. In its expansion, the program should remove disadvantages, with traders trusted by default.

Trade Regulation

Abolish tariffs and redraft legislation

The Productivity Commission Inquiry into the Compliance Costs of Nuisance Tariffs was a welcome development which ACCI strongly supported and provided recommendations that the harmful and unnecessary tariffs be removed as a step towards trade liberalisation through the abolition of all tariffs. The Simplified Trade System has the capacity to review and act on this recommendation under the scope of reducing trade regulation.

There will be virtually no tariffs applied to imports in Australia following completion of Australia's trade agreements with the EU and India.[1] This is acknowledged in the 2019 Budget Forward Estimates showing that revenue collection after drawbacks will be little more than $500 million. However, both industry and government remain saddled with complex administrative compliance costs through the application of a 0% tariff as opposed to no tariffs. Preferentially applied 0% tariffs require the same compliance and processing costs as priced tariffs e.g. 5% however they don't provide a benefit to outweigh the red tape and tax burden on industry.

The current tariff regime is as administratively complex as possible, with a tariff schedule containing more than 6,000 different product categories and over 84,000 lines of tariff schedule. Upgrades of the Harmonised Commodity Description and Coding System (HS codes) has proven to be an added complexity to the administrative burden with some trade agreements negotiated using archaic systems and having to be upgraded and legislation amended. The Regional Comprehensive Economic Partnership (RCEP) agreement will require two levels of upgrades and legislation reform to bring the negotiated 2012 level codes up to date with 2022 codes.

Where there isn't a preferential agreement, the customs duty applied would typically only be 5% of the customs value. This remaining 5% tariff represents an increase in the cost of inputs for Australian businesses which are passed on to consumers whilst incurring substantial administrative costs and indirectly reducing wages. An ANU working paper estimated Australia's GDP could increase by around 0.4% to 0.6% (or around $7 billion) over time once all remaining tariffs are abolished.[2] There is no fiscal case to keep the remaining tariffs, as they no longer raise significant revenue. Gross tariff revenue in 2017-18 was reported as just $1.9 billion — less than 0.5% of total federal government revenue. In the long run, it is also likely that abolishing Australia's tariff regime would largely pay for itself. A boost to Australian GDP from tariff reform would flow through to higher income tax and GST receipts for the government.

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[1] Noting the UK trade agreement has been completed and is undergoing Parliamentary processing
[2] Paul Gretton; Bilateral and Regional Trade Agreements: Detangling the Noodle/Spaghetti Bowl; https://crawford.anu.edu.au/publication/crawford-school-working-papers/11707/bilateral-and-regional-trade-agreements-detangling

Removal of tariffs also removes other red tape: tariff classifications, tariff concession orders, duty drawbacks, etc. Australia should reduce the administrative cost on Government and compliance cost on business to a minimum by simply offering WTO Most Favoured Nation terms (ie no tariff) to all. There is already precedent for this approach in Singapore's tariff regime which applies MFN terms to almost all tariff lines with the exception of few lines on environmental and social grounds. HS codes are used by a number of agencies and industries and classification of goods will continue to be necessary – as is continued in the Singapore tariff schedule, however the unnecessary burden on business, Government and the economy would be reduced.

The unilateral removal of Australia's remaining tariffs is overdue and would put an end to a complex and costly bureaucratic system. But more importantly, removal of tariffs would generate shared benefits for local businesses and consumers.

Abolishment of tariffs would require legislative redraft of the Excise Act, Tariffs Act and Customs Act in alignment with the contemporary trading environment due to strict liability provisions which require administration and policing of 0% tariffs. Redrafting of these acts is an overdue and necessary practice which will aid in the simplification and modernisation of Australia's trading landscape. This should occur before any attempts are made for technology application where features may be redundant.

Recommendation 1: Abolish tariffs and redraft the Excise Act, Tariffs Act and Customs Act in alignment with the needs of the contemporary trading environment.

Reassign responsibility for customs duty and taxation

The connection between customs duty and tax attaches fiscal liability to the goods, making the importer solely liable for customs duty on payable goods. This may seem unproblematic in an ideal trade world however commercial activity shows this sole responsibility can cause issues, particularly where an importer is dependent on claims made by an unresponsive exporter. Customs duty should be brought into alignment with GST liability and streamlined at the port to discourage sole responsibility for tax and duty liability.

Government responsibility for trade related tax collection should also be reassigned to the Australian Taxation Office (ATO) from the Department of Home Affairs. Regular periodic reporting to the ATO through existing processes such as Business Activity Statements (BAS) would be a better suited location for businesses to report and Government to collect duties and fees in relation to export and import activities. Integration of trade duty collection with the main Department responsible for tax collection is a logical move and will serve to simplify the convoluted trade system.

Recommendation 2: Reassign responsibility for customs duty and taxation to the Australian Taxation Office (ATO)

Review anti–dumping system

Australia's anti-dumping and countervailing system has of late been a key story for the trading community and wider Australian community with reference to anti-dumping action by the Chinese Government on Australian barley and wine. Australia is also a prolific user of the anti-dumping system with 24 current open cases against several countries.

The anti-dumping system should be reviewed with the application of a cost-benefit analysis to the wider system as well as current and future cases. The global trading landscape has seen a move towards greater protectionism tendencies with the pandemic at a time when we should be removing trade barriers and embracing global cooperation. Review of this protectionism system should be a feature of simplifying the Australian trade landscape.

Where the benefit of a case outweighs the costs, and duties are imposed they should be managed at the border or within the tax system to streamline the process. Further, the number of transactions and firms involved in anti-dumping cases are significantly small and should be managed discretely without the need to overburden the wider trading community and draw extensive public attention without justification.

Recommendation 3: Apply a cost-benefit analysis to the anti-dumping system and streamline the application of duties through integration in the taxation or border system.

Review asymmetries in Import Declaration process

As the key document for providing information on imported products, the Import Declaration is integral for importation, however the timeframe for processing the Import Declaration is longer for some agencies than others. The asymmetries in Government agency processing timeframes at the point of import are leading to unnecessary delays in the importation process which could be better harmonised. Though the current procedure whereby all documentation is presented together may make the process more streamlined, however heterogenous intervention and processing timeframes for Government agencies are resulting in the entire import process being delayed unnecessarily. Intervention by the Australian Border Force is often resolved within 24 hours however the Department of Agriculture can take up to 7 days for complete resolution. This may result in the importation process being delayed for 6 days where intervention began at the same time for ABF and the Department of Agriculture despite the importer being able to lodge necessary documentation with the Department of Agriculture 6 days before ABF.

Further, there are asymmetrical regulatory requirements for the provision of information by importers and customs brokers compared to shipping lines, freight forwards, overseas suppliers, and overseas Government agencies. Importers and customs brokers are required to submit accurate information on an Import Declaration; however, shipping lines, freight forwarders and local government agencies have no obligation to provide such information, nor must it be in a timely manner. The asymmetry between reporting requirements of all parties involved in the importation process should be brought into alignment to simplify the trade system.

Recommendation 4: Remove unnecessary delays in the importation process by aligning Government agency intervention timelines at the border or allowing for early lodgement of importation documentation to achieve inter-agency resolutions concurrently. Import information provision requirements should be harmonised across all stakeholders.

Modernise Australia's preferential trade agreements

Australia's preferential trade agreements should be updated and modernised with two key outcomes.

1. All relevant agreements should be modernised to accommodate and plan for digital integration such as electronic verification of trade documentation
2. All relevant agreements should be modernised to harmonise overlapping rules of origin.

Digital integration

The Singapore-Australia Digital Economy Partnership provided the foundation for the intergovernmental ledger pilot which successfully tested the use of a blockchain-supported platform to verify Australian certificates of origin going to Singapore. This was a welcome initiative and ongoing expansion of the intergovernmental ledger pilot is supported; however, the need for a separate agreement to facilitate the work will be costly and burdensome if required of all trade agreement partners. The Taskforce should therefore assess and initiate modernisation of existing trade agreements to facilitate further technological partnerships and advancements.

Harmonise rules of origin

ACCI has often commented on the growing 'noodle bowl' caused by Australia's overlapping trade agreements. Recognising the diplomatic importance of retaining bilateral and regional agreements which may overlap, these agreements should be modernised to harmonise the rules of origin and market access conditions. Modernisation in this form will address the high compliance and administrative cost of numerous overlapping agreements for business and Government. Provisions which should be reconsidered include those on transhipment through third parties – particularly where transhipment is by road.

Recommendation 5: Review opportunities to modernise and harmonise rules of origin and digital trade provisions in Australia's preferential trade agreements to ensure the agreements are fit for purpose in a contemporary trade environment. Where opportunities are beyond scope, the Taskforce should make recommendations for future action.

Remove non-tariff barriers

Despite the Government's focus on addressing non-tariff barriers (NTBs) through the Economic and Commercial Diplomacy Agenda and the NTB Action Plan, Australia maintains a complex system of barriers to entry for both our domestic and international economy. ACCI is regularly engaged with Government on addressing NTBs and recognise progress – especially internationally – can be slow. However, not enough attention is devoted to resolving these barriers and preventing new barriers from being imposed.

As of November 2020, Australia has imposed 839 technical barriers to trade measures with the World Bank reporting 61.8% of products imported to Australia were subject to a non-tariff measure in comparison to the 43% of other countries. These barriers can take many forms including trade clearance processing, carbon border pricing, shipping issues, domestic logistics, and market access, which often contributes to low reporting on the basis of not knowing what the scope of an NTB is.

Government has a dedicated website for industry to report international NTBs however there is no feedback mechanism for public reporting of raised NTBs or status updates to their resolution. Further, there is no pathway for industry to report domestic NTBs

Recommendation: Broaden the engagement of Government on addressing domestic non-tariff barriers (NTBs) and improve reporting and feedback mechanisms for domestic and international NTBs.

ICT and Data Modernisation

Create a single window

Connect existing government systems

Ownership and oversight of systems relating to trade are split across various Government agencies which is in directly conflict with the Government's 'tell us once' edict. These include (but are not limited to):

- o Integrated Cargo System
- o My Gov
- o Single touch payroll
- o ATO data gathering and verification systems
- o Modernising business registers program
- o Freight data hub etc.

The Government already has the frameworks for general interaction between trading businesses and Government and should therefore utilise these existing frameworks to encompass trade compliance needs which are current responsibility of other areas. Once details of the entities, their staff, financial transactions, trade processes etc are all linked then the concept of "single window" (tell us once) will become part of the overall Government architecture without the need for a separate system for trade.

Therefore, existing Government systems which operate in the business of trade should be connected in a single window without the need for complex and costly investment in a separate system.

Harmonise government ruling system

With several Government departments and agencies involved in the trade system, there are different ruling systems which don't connect with each other. The ABF has a non-binding rulings system, and the ATO has a binding rulings system, however the Department of Agriculture and other government agencies don't have any rulings systems at all.

Harmonisation of these various Government Rulings Systems which is legally binding on both the applicant and Government agency will promote consistency of decision making and clarity on the requirements to be met by both the importer and the relevant government agency. This holistic ruling system would unite all areas of trade rulings such as whether goods are subject to dumping or countervailing duties; what BICON case(s) cover imported goods for Quarantine purposes; what imported foods requirements apply to a particular good; what the Department of Health requirements are for a particular product; and whether a product a restricted import.

Disjointed trade systems should be united and harmonised to create a single window which encompasses all relevant trade systems and houses a central, binding rulings system to ensure full trade connectivity and easy of access for exporters and importers.

Recommendation 7: Connect and integrate existing Government and commercial trade systems to provide 'single window' access to all trade related systems and functions without the need to create a separate Government platform.

Trade data monitoring

Security & Biosecurity

Trade data is used to a degree in the current border system however there are many opportunities for better utilisation and integration of data in the end-to-end trade journey with the mindset of data sharing by default.

Australian Border Force (ABF) needs to monitor incoming cargo for security and biosecurity purposes including illicit trafficking and pest inspections. This monitoring should be pushed to international jurisdictions as much as possible with export data to be received before loading, not at time of arrival in Australia. By accessing big data before the goods reach Australian ports, border officials will have a better understanding of incoming goods and will be better equipped to target ships or containers for inspection or screening based on data anomalies. This can include ship delays or route anomalies at destinations known for illicit products, or container tracking to identify characteristics consistent with illicit activities. The lifecycle of any shipment should be recoverable in the system including cargo and container trips.

In return Australia also needs to undertake outbound compliance activities for exports and work collaboratively with international ports and shipping lines. There is a precedent for this use of cross-border data monitoring in passenger movements and tracking via the Sabre and Amadeus systems as well as a maritime shipping precedent. In 2018, IBM and Maersk launched a collaborative digital platform in concert with the shipping industry to develop a supply chain platform using blockchain technology. This platform – *TradeLens* - is designed to connect the supply chain ecosystem including traders, freight forwarders, land transport, ports, ocean carriers, and government authorities through a single data-sharing and collaboration platform.

The TradeLens platform has attempted to actualise the idea of a connected supply chain data system across countries, however it does not integrate broader Australian systems, nor does it support competition between shipping lines and supply chain providers. For example, if you were shipping via Maersk for part of the sea journey and via China COSCO Shipping for the second part, you wouldn't be able to connect the China COSCO Shipping portion in the same supply chain data. Further, it does not integrate all aspects of the trade journey such as logistics, border processes, finance, and insurance. The Trade Community System does.

Trade Community System

In 2018, ACCI collaborated with the Port of Brisbane and PwC to develop the blockchain supported *Trade Community System (TCS)* proof of concept to

- Integrate commercial trade, logistics, finance, and insurance systems
- Provide end-to-end visibility of containers and goods throughout the supply chain, and
- Engender trust in the authenticity of that information using modern technologies

The TCS sought to demonstrate the importance of bringing to together disjointed trade support services to create a single window for trade without the need for Government to create a new, separate system for data ingestion. Rather, regulators should be able to access the data and existing systems as occurs in other aspects of our economy such as the tax system, passenger movements, anti-fraud, etc

The TCS proof-of-concept used real supply chain data including purchase orders, carrier bookings, pre-receival advice and shipping line information to track the export of goods safely and accurately from purchase order through to transit.

Upon completion of the proof-of-concept the TCS was intended to be launched as a pilot, followed by a period of engagement growth across the supply chain, before being commercialised.

Commercialisation was not reached during the project but should be relaunched under the simplified trade agenda.

As a fully operational system, the TCS would improve supply chain planning and efficiencies by optimising physical movements, modal choice and node location through the connection of independent digital infrastructure providers. The TCS aims to provide a solution to the problem of unnecessary trade costs, excess inventory, and loss of sales due to international competition.

The Trade Community System requires two key inputs:

1. Port Community System – an electronic platform which connects the multiple systems operated by a variety of organisations that make up a seaport, airport or inland port community. It is shared in the sense that it is set up, organised and used by firms in the same sector.
2. Engagement by all Australian ports and the wider trade ecosystem.

At its optimal design, the TCS would connect six key actors and systems to unite the trade system from end to end without sacrificing competition:

Trade Community System						
Actors	Exporters and Importers	Transport Operators	Terminal Operators	Shipping Lines	Government Agencies	Container Parks
Systems	Various ERPs	Various logistics systems	Jade, Navis, Patrick etc	Maersk, ANL etc.	ICS etc.	Container Chain etc.

Further, the TCS would allow for blockchain linkages to external product traceability systems and other community systems such as TradeLens. The TCS can be viewed here: www.tradecommnunitysystem.com.au

The Simplified Trade System should review the TCS proof-of-concept and collateral with the aim of advancing the proof-of-concept to a fully commercialised and trade facilitative Trade Community System.

Recommendation 8: Better utilise and integrate trade data monitoring to make strategic security and biosecurity inspections and facilitate end-to-end connection of the trading process by commercialising the Trade Community System as a solution. The trade mindset should be data sharing by default.

Update electronic transactions legislation

The legality of electronic documentation is a barrier to trade digitalisation which Australia faces due to outdated legislation. Australian regulation on digital documentation is contained in the Electronic Transactions Bill 1999 which requires upgrading to deal with modern systems – particularly with exponential technology growth in the last few years.

The Electronic Transactions Bill 1999 is based on the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Commerce of 1996, with some modification. This was an adequate foundation for the time, however current international standards follow the 2017

United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Transferable Records (MLETR) which underwent extensive negotiation and was unanimously adopted by the United Nations General Assembly and associated discussions in the World Trade Organization. Australia is yet to adopt the UNCITRAL MLETR.

With considerable impacts to the trade environment, now is the time for Australia to adopt MLETR and enable the trade market to function in alignment with modern regulation on electronic transactions. The Simplified Trade System Taskforce should therefore consider the adoption of MLETR within the scope of data modernisation to simplify trade.

Recommendation 9: Update electronic transactions legislation in alignment with modern international standards by adopting the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Transferable Records (MLETR).

Operationalise the intergovernmental ledger

The Intergovernmental Ledger (IGL) was successfully piloted in December 2020 to host certificates of Australian origin on a blockchain for Singaporean customs officials to electronically verify. Following completion of the pilot which involved Government, industry and the banking sector, the IGL underwent budgeting processes to advance from pilot to operational. The operational phase however has yet to be confirmed, clarified or actioned, with industry and issuing authorities unclear of the next step.

Business is at the forefront of trade document issuance. Some issuing chambers independently host electronic verification platforms for non-preferential certificates of origin in response to continual requests from customs officials in both developed and developing countries. Electronic verification is swiftly becoming the international norm and Australia can't fall behind.

The Intergovernmental ledger (IGL) should be fully operationalised and deployed across all Australian preferential trade agreements. The IGL should then be reviewed to support additional trade documentation involved in the trade process such as bills of lading. Authorised bodies including ACCI have been delegated the authority to issue trade documentation including the certificate of origin and should play a bigger role in the operation of their electronic verification via the IGL. Chambers already host non-Government verification platforms for non-preferential certificates of origin and are equipped to manage the entire certificate of origin issuance and verification process.

Recommendation 10: The Intergovernmental ledger (IGL) should be fully operationalised and deployed across all Australian preferential trade agreements. Issuing authorities should be given greater oversight and input to the electronic platform in alignment with the delegated authority for the issuance of trade documentation.

Strengthening Economic Resilience

Focus on importers

The current trading system is largely built around improving exports, but there is often little attention on the import side of trade. Australia has over 380,000 importers compared to 53,000 exporters. Consumers and exporters rely on imports, yet importers are largely forgotten in policy.

In commercial trade, it is the importer who is liable for customs duties and processes which can often only be addressed by the exporter. The importer is therefore liable for the claims of exporters to which they have little oversight or guarantees. Focus is often on improving the system for exporters, with little support for the importation side of trade, however streamlining the system for importers will assist exporters who rely on imports.

Recommendation 11: Reassess the structure of the trading system to better support importers and focus on the benefits importers provide to the Australian economy.

Australian Trusted Trader

The Australian Trusted Trader (ATT) program is a good concept that we should build upon. The current system targets 1000 traders, yet Australia has over 53,000 exporters and over 380,000 importers. Hence the systems actively discriminates against SMEs. The system also discriminates fast moving or high-risk products with entrants directly discouraged from applying. The ATT program should revert to the Authorised Economic Operator model of the World Customs Organisation.

The ATT program automatically makes most firms engaged in international trade "untrusted" by naming less than 0.003% traders as "trusted". ACCI has proposed a solution to this and a dramatic expansion of the scheme using tiers and connecting with the existing registration system for preferential trade agreement rules of origin compliance.

The ATT program should be expanded to include:
- o 'Known Consigner' which is a concept for airfreight but isn't joined to the ATT system.
- o A demerits basis that applies "trust" to all prime face and then removes the status if offenses occur. Not the reverse onus of proof as is the current system which discriminates and disadvantages many traders.
- o A Registered Exporter system where provisions exist in preferential trade agreements. The ATT system currently provides benefits associated with trade agreements but does not have the capacity to manage compliance functions of a registered exporter system. Expansion of the ATT system for this purpose should involve extensive training to ensure exporter compliance with rules of origin.

Recommendation 12: The Australian Trusted Trader (ATT) program should be expanded to greater represent Australian traders and provide a source of compliance with trade rules. In its expansion, the program should remove disadvantages, with traders trusted by default.

Summary

The Australian Chamber strongly supports the Simplified Trade System agenda. Simplifying Australia's trading system is a critical process. Outlined in this submission are several recommendations for the Taskforce to focus on to achieve a simpler and fairer Australian trading system.

Just as ACCI represents a diverse range of businesses, our recommendations represent many areas of the trading system which business needs improved to trade in the most efficient and supported manner. Action in the suggested areas of tariffs, customs duty responsibility, the anti-dumping system, importation delays, rules of origin, non-tariff barriers, single trade window, data monitoring and sharing, electronic transactions, certificate of origin verification, supporting importers, and the Australian Trusted Trader (ATT) program will require commitment at a senior level with collaboration across all areas of Government. The Simplified Trade System Implementation Taskforce is therefore well suited to address business' concerns and make Australia a better place to trade.

We look forward to working with the Government on pursuing a simplified trade system.

About the Australian Chamber