



Towards a new trade policy on market access for Myanmar: Identifying a positive agenda among challenges and opportunities

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ABSTRACT

Myanmar is relatively a newcomer in the international trade scene after the lift of sanction in 2013. Yet, together with Cambodia, is one of the few LDCs that has been able to dramatically increase exports exploiting the trading opportunities arising from trade preferences, especially those provided by the EU under the Everything But Arms (EBA).

At a first glance the export composition and destination of Myanmar is more diversified than the other ASEAN LDCs such as Cambodia and Laos PDR. Yet, once netted out of the gas exports to China and Thailand and some agricultural crops the reliance on trade preferences for major manufactured export is glaring. Out of 3.3 billion USD of QUAD imports from Myanmar¹ accounting for about 27% of Myanmar total export, around 2.5 billion USD (76% of QUAD imports from Myanmar) benefitted from trade preferences in 2017. Given that 11.8% of QUAD imports from Myanmar are MFN free, only 12.6% of exports were hit by a tariff, either because they are not covered by preferences schemes (6.5%) or not utilized (6.1%).

More specifically Myanmar has been able to draw net gains from the trading opportunities offered by the reform of EU Rules of Origin (RoO) that took place in 2011. This is evident from the trade statistics showing that after Myanmar's reinstatement in 2013, not only it has been able to increase its utilization of the EU preferences but has substantially increased its total exports to the EU.

However, this favorable trading environment will not last due to a series of overlapping and concomitant trade initiatives and developments in the international trade scenario.

The continued eligibility of Myanmar under the EBA due to non-trade related conditionalities² is currently an issue conspicuously present in press headlines.³

In any case, the preferential margin in the EU market will be progressively eroded by the entry into force of the EU-Vietnam FTA scheduled for the end of 2019. As the CP-TPP already entered into force, additional erosion of preferential margin that Myanmar is currently benefitting will take place especially for those CP-TPP members that are granting Duty-Free Quota-Free (DFQF) to LDCs such as Australia, Japan, and New Zealand.

In terms of market access, trade preferences granted under GSP - a building block of the export performance of Myanmar - are of a unilateral nature. In fact, LDC GSP preferences are depending on the LDC status of Myanmar and the conditionalities that Preference-Giving Countries are attaching to unilateral preferences.

¹ Value based on QUAD import data

² According to Article 19 of the 2012 Regulation, EBAs can be withdrawn for a number of reasons. The actual ground for withdrawal mainly concerns articles 19.1 (a) of the above-mentioned EU Regulation *'of serious and systematic violation of principles laid down in the conventions listed in Part A of Annex VIII' (UN and ILO Conventions on core human rights and, respectively, labour rights)*.

³ See for instance: <https://www.phnompenhpost.com/national-politics/final-day-eu-get-eba-withdrawal-views>

As mentioned above, the beneficiary status of Myanmar under EBA has been put under scrutiny⁴ and the country is expected to graduate from LDC status by 2024. At the last triennial review of the LDCs list in 2018 by the Committee for Development Policy (CDP), Myanmar fulfilled the graduation eligibility criteria for the first time, complying with all the three requirements of GNI per capita, Human Asset Index (HAI) and Economic Vulnerability Index (EVI). If found eligible at the next review in 2021, Myanmar will graduate from the LDC status within a maximum period of three years, i.e. at the latest by 2024.

Upon graduation of the LDC status, trade preferences will be phased out after a transitional time period or immediately depending on the provisions of the preference giving country. Thus, under any circumstance, it is time for Myanmar to realize that alternative routes have to be designed and actively undertaken to maintain and improve the present export performance

This horizon calls by itself on how to best strategize a trade policy softening the loss of unilateral preferences following the graduation from GSP LDC status.

Negotiations of the Regional Economic Comprehensive Partnership Agreement (RCEP) are progressing, however, it is still to be proved if any additional market access will be provided in a timely and meaningful manner to Myanmar exports.

Given the export basket of Myanmar of manufactured exports, mainly garments and shoes to QUAD countries, it is unlikely that RCEP could absorb or become a substitute for such exports. To be perfectly clear, RCEP partners are a net competitor to Myanmar rather than a possible importer of garments and shoes originating in Myanmar. The remaining exports crops to RCEP countries, mainly beans to India and rice to China could potentially benefit from RCEP on the condition that the existing trade preferences already available under the Duty Free and Quota Free (DFQF) are locked in terms of predictable market access and improved Sanitary and Phytosanitary (SPS) in RCEP.

What is certain is that the EU-Japan FTA has entered into force and the EU-Vietnam FTA is expected to be ratified much earlier than any substantial improvement of regional market access like RCEP could offer market access opportunities to Myanmar in the medium term. In addition, the resumption of the negotiations of the EU-Thailand FTA may be expected under a newly elected Thai Government. Dynamism in joining the CP-TPP has also been recently aired by Thailand.

Furthermore, it is important to realize that graduation is not only concerning Myanmar but also the neighbouring ASEAN countries. In fact, there are different forms of graduation. One of the most traditional is graduation from the LDC status. However, as discussed in this study, other forms of graduations such as graduation from GSP status of other ASEAN partners are of concern to Myanmar since it has a direct effect especially in the case of market access to the EU.

At present, it appears that there has been little progress in Myanmar Government circles and in the private sector to fully realize that being part of the international trading system means be a part of a framework of right and obligations governed by a rule oriented international

⁴ *On Myanmar and Cambodia*, Cecilia Malmström, Innsbruck, Austria, 5 October 2018.

economic order. Many of the issues that are and will be affecting the export performance of Myanmar have been on agenda for years but attracted little attention in terms of seriously mounting an adequate trade policy response. Two glaring examples are the re-imposition of duties on rice following an EU investigation under EBA and the lack of preparation and initiatives for the entry into force of the EU-Vietnam FTA. In both cases, little action has been undertaken to prepare a defense against the re-imposition of duty on exports of Myanmar rice to the EU⁵ and coordinate such defense with Cambodia during the safeguard procedure.

The ongoing and overlapping trade initiatives present in the Asian region, mainly the Regional Comprehensive Partnership (RCEP) and CP-TPP, are offering both prospects and challenges for Myanmar. One of the challenges for Myanmar is to better understand in concrete terms and at sector level what these challenges and opportunities are and to assess:

- (a) The value added to be part or accede to these Mega Regionals and;
- (b) The concessions that Myanmar is expected to make under the respective initiatives.

Given the overlapping and concurrent trade preferences and arrangements of which Myanmar is beneficiary, the analysis carried out in this study is complex due to the different layers of preferential market access already existing, some deriving from the LDC status of Myanmar like EBA or Duty Free Quota Free (DFQF), others deriving from the FTAs that Myanmar, as part of ASEAN, has entered with Australia and New Zealand, China, India, and Japan.

As discussed in this study, the effective market access and utilization rates of the ASEAN FTAs with Dialogue partners (Australia and New Zealand, China, India, and Japan) is rather difficult to assess given the rather opaque status of implementation and the scarce availability of trade data on their effective utilization with the notable exception of the ASEAN FTA with Japan.⁶

Given that Myanmar is benefitting from DFQF schemes granted by a number of RCEP and CP-TPP partners, a preliminary assessment has been carried out in section 3 of this study to evaluate what value added in terms of preferential margin and better rules of origin both RCEP and CP-TPP are offering in comparison with the existing market access conditions that Myanmar is already entitled to under the current preferential arrangements, either as member of ASEAN and/or as a LDC.

In addition to such market access dimension in terms of tariffs and rules of origin, both RCEP and CP-TPP are encompassing a number of additional trade disciplines of WTO plus⁷ and WTO extra⁸ nature that need to be assessed. Such topics deserve separate studies on their own to be carried out under a forthcoming ASEAN LDC regional initiative to coordinate ASEAN LDCs position and provide the necessary research and capacity building activities.

⁵ In comparison Cambodia attempted a defense against re-imposition of duties on Cambodia by hiring legal counsel to submit rebuttal arguments to the EU and to participate in the procedure. Following the decision by the EU commission to impose duties is presently challenging such a measure at the General court.

⁶ As discussed in Section 3.3 in the case of Japan.

⁷ "WTO plus" (WTO+): Commitments building on those already agreed to at the multilateral level, e.g. a further reduction in tariffs, See *Beyond the WTO? An anatomy of EU and US preferential trade agreements*, by Henrik Horn, Petros C. Mavroidis, and André Sapir.

⁸ "WTO extra" (WTO-X): Commitments dealing with issues going beyond the current WTO mandate altogether, e.g. on labour standards. Source: see footnote 7.

Given this scenario, Myanmar needs to quickly assess and mature the option of reformulating its overall trade policy as matter of utmost priority. In particular, the following options should be explored:

- 1) Relations with the EU beyond EBA including the possibility of entering into an FTA with the EU
- 2) Assess the value added of RCEP in addition to the existing trading arrangements that Myanmar already enjoys with RCEP countries
- 3) A deep analysis of the cost and opportunities to join the CP-TPP

Some of these options would represent a substantial negotiating challenge for Myanmar since FTAs with the EU and CP-TPP are encompassing many more disciplines than simple trade in goods aspects. This holds especially true for the CP-TPP that is including disciplines on trade environment, IPRs, and Investor/State disciplines that, while debated already in literature, must be related and tailored to the Myanmar case.

This study examines the facts and figures that are underscoring this new vision of Myanmar's trade policy. It provides some initial findings on the following issues:

- 1) An analytical review of the trade performance of Myanmar including a detailed comparative examination of utilization rates of the various trade preferences;
- 2) An assessment of RCEP tariff concession and rules of origin comparing it with the existing preferential tariff arrangements available to Myanmar under the GSP schemes and ASEAN FTAs with Dialogue partners;
- 3) An evaluation of the CP-TPP tariff concession and rules of origin comparing it with the existing preferential tariff and rules of origin arrangements available to Myanmar under the GSP schemes and ASEAN FTAs with Dialogue partners;
- 4) A short review of other components of market access namely SPS measures applicable to Myanmar exports and ways and means to address them.

This study outlines a series of trade policy options to reformulate Myanmar trade agenda in a proactive and in coordination with ASEAN LDCs.

Given the to graduation from LDC status that may be expected in 2024, exclusive reliance on unilateral trade preferences does not seems to be a viable option.

Overall and most importantly, Myanmar needs to become an active player in the regional and multilateral negotiating context to adequately represent its trading interests. It has to mature the consciousness that its future lies beyond the LDC status and has to build the necessary confidence and technical skills to represent its trade interest in regional and multilateral scenario.

On the basis of the abovementioned findings and analysis the following recommendations are made:

Developing inter-ministerial coordination or institutions for a trade negotiating and implementation machinery

The present negotiating machinery of Myanmar should be overhauled and made more effective with a time bound response based on research and constructive negotiating proposals. At the present the different portfolios of negotiations i.e. tariff, rules of origin, services, SPS and TBT appears to be scattered among ministries with little coordination and common strategic vision. Such situation has to be redressed as a matter of priority to develop a common and shared vision of a trade policy strategy in the Myanmar Government and to communicate effectively such a new course to the trading partners at regional and multilateral level.

In particular an adequate mechanism among the MOC, the Delegation of MOC at the WTO in Geneva and the Ministry of Foreign Affairs to ensure that the trade interests at stake for Myanmar are to effectively and timely represent the trade interest of Myanmar at the WTO.

Trade relations with ASEAN

Overall Myanmar should openly discuss and revisit with ASEAN partners its negotiating position to be able to negotiate as an ASEAN LDC in external trade relations and coordinate such stance with other ASEAN LDCs. It should be made clear with ASEAN partners that a new course of action in ASEAN external trade relation should be undertaken with the following priorities:

- a) The implementation of the AEC agenda should be fast-tracked with specific provisions to take into due account the ASEAN LDC position within ASEAN and the deterioration of market access due to different external trade agenda of ASEAN countries with Dialogue Partners and the EU.
- b) Myanmar together with other ASEAN LDCs should initiate a positive agenda aimed at negotiating current and future FTAs as an ASEAN LDC group. It should be made clear that while maintaining the integrity of ASEAN, the ASEAN LDCs should negotiate as distinct subgroup of ASEAN. This means, for instance, that FTA partners adopt a differentiated ASEAN offers, one for ASEAN and a second one for ASEAN LDC to take into account their special and different situation. It is simply anachronistic and self-defeating that ASEAN LDCs are treated in the same league as higher income countries. The on-going RCEP negotiations are the ideal candidate for testing ground to advance this negotiating position.
- c) To this effect MOC should take the lead in conducting internal and external consultations as soon as possible with other ASEAN LDCs at the nearest opportunity and before the next RCEP negotiating session.

Trade relations with the EU

Myanmar and other ASEAN LDCs should take the initiative to enter into a trade policy dialogue with the EU to define a new trade relation that goes beyond EBA.

ASEAN LDCs are expected to graduate from LDC status in the near future⁹ and the current market access under EBA that has been a crucial factor in their export performance is going to be progressively eroded by the ASEAN FTAs.

The combined effects of these two looming events requires timely and concrete actions such as

- a) Prepare a short roadmap for a new partnership between ASEAN LDCs and the EU
- b) Convene a meeting at high level among the ASEAN LDC to agree on a roadmap in June or July 2019
- c) Upon nomination of the and EU parliament and EU Trade Commissioner, the ASEAN LDCs should request for a meeting with the new Trade commissioner to discuss such new partnership

In addition, Myanmar will have to undertake actions at technical level to prepare the ground for extended cumulation with Vietnam and explore possible ways to cumulate with Japan.

Such actions should be undertaken as soon as possible to relay a message to garments manufacturers that the Government is actively pursuing a viable trade strategy.

Trade relations with Japan

Trade relations with Japan are governed by the GSP for LDCs and the ASEAN Dialogue FTA with Japan. Trade figures suggest that the Japan GSP for LDCs is mostly used by Myanmar.

In the context of the GSP preferences, Myanmar with other ASEAN LDCs should prepare a document clearly outlining the improvements that Japan may make on the product specific Rules of Origin (PSRO) and on cumulation. This document should be submitted on 29 April 2019 as agreed last November 2018 to the WTO Committee on Rules of Origin (CRO) and discussed during the CRO meeting of 15-16 May 2019. Such action should be followed by an official visit of the ASEAN LDCs to the Ministry of industry and Trade and Ministry of Finance in Tokyo during the fall to secure follow up and commitment in adopting a reform of rules of origin under the Japanese GSP.

In a parallel fashion, Myanmar and ASEAN LDCs should begin to study the possibility to have a series of bilateral FTAs with Japan that are providing better market access than the present Japanese GSP, the ASEAN FTAs and RCEP. A study should be conducted in this regard to compare the different concessions that Japan has made towards other partners to secure and argue for better preferential margins when negotiating as ASEAN LDCs.

Trade relations with India

The analysis of the trade flows carried out in Table 1 clearly shows that India remains an important market for Myanmar even for a single agricultural product, i.e. beans, with 317 million USD exports to India in 2017. In this area there is an urgent issue that needs to be addressed as the utilization rates of the DFQF granted by India to Myanmar shows a close to zero utilization as discussed in Section 3.1.3. This current status of affairs as well as the decision by the Government of India to impose import quotas and to negotiate the price of

⁹ See footnote 50 on page 11.

beans and pulses should be reviewed in the light of India commitment in WTO to verify their consistency. In particular the issue of utilization rates needs to be clarified at the earliest opportunity during the next Committee on rules of origin to be held on 15-16 May 2019.

Myanmar and other ASEAN LDCs should make sure that the RCEP provisions on safeguards and import quotas contain WTO plus elements that permits an enhanced dialogue with India.

With the abovementioned findings and analysis, the following recommendations are made:

- (i) Myanmar with other ASEAN LDCs should raise specific concerns over the close to zero utilization rates of the DFQF measures applied by India on bean imports and other related agricultural products in the next session of the WTO SPS committee scheduled to be held on 18 July 2019.
- (ii) Myanmar should check the WTO consistency of India import quotas and internal prices mechanisms and enter into a bilateral dialogue to address and stabilize the trade relation with India on beans and pulses as well as other agricultural products
- (iii) Myanmar and other LDCs should coordinate negotiating position to mature a common negotiating stance towards India. A document detailing where improvements on the current rules of origin provided by India should be prepared by ASEAN LDC and presented at the above-mentioned WTO committee. Subsequently Myanmar and other ASEAN LDC should launch initiatives to follow up on this matter to obtain better market access and rules of origin.

Trade relations with China

The analysis of the trade flows carried out in Table 1 clearly shows that China could be a potential market for Rice exports and exports of agricultural products and processed foodstuff. On the other hand, non-tariff barriers pose as one of the main obstacles to enter the Chinese market. That is, obstacles faced by Myanmar are not only confined to tariffs but also factors such as the Sanitary and Phytosanitary (SPS) requirements. In the context of the WTO, the SPS committee has been established to provide a forum for discussion and exchange of information. According to the SPS Information Management System (IMS) database, WTO members have raised 31 specific trade concerns on the SPS measures applied by China.

Myanmar and other ASEAN LDCs should make sure that the RCEP provisions on SPS contains WTO plus elements that permits an enhanced dialogue with China and, where possible, equivalence and mutual recognition agreements.¹⁰

With the abovementioned findings and analysis, the following recommendations are made:

- (i) Myanmar joined with other ASEAN LDCs should raise specific concerns over the SPS measures applied by China on rice imports and other related agricultural products in the next session of the WTO SPS committee scheduled to be held on 18 July 2019.

¹⁰ For instance the EU-Vietnam SPS provisions contain a number of passible suggestions on how develop some WTO plus disciplines

- (ii) Myanmar should develop a negotiating strategy with other ASEAN LDCs to ensure that the RCEP provision on SPS contains WTO plus elements that could facilitate market access to China.

Negotiating RCEP

The RCEP negotiating text has not been made available in the course of this study. Only limited information could be retrieved from other sources. On the basis of the preliminary information and a preliminary examination of tariff offers, RCEP does not seem to provide substantial improvements with respect to the market access that Myanmar is already being granted as part of the LDC, or ASEAN and ASEAN FTA network with dialogue partners.

The crippling factor of RCEP is the architecture of the tariff offer since the RCEP partners have made a single offer for all the ASEAN countries or towards all RCEP partners. This means that Myanmar is treated in terms of market access as Singapore or Malaysia while there is a clear divide in terms of export capacity and level of development between these countries and Myanmar. This element alone casts serious doubts over the value added of RCEP in terms of market access granted to Myanmar with respect to previous agreement and LDC arrangements that Myanmar is already benefitting.

Added to this, the RCEP draft main text on rules of origin is 111 pages long and the excel texts of product specific rules of origin is over 6000 lines. These figures alone provide a glimpse of the complexities of the negotiations. Once again there is no provision, at first reading, for LDCs special and preferential treatment in the area of rules of origin for LDCs.

Unless substantial progress is made in the last rounds of negotiations, the current reading of the RCEP provides little scope for increased market access for Myanmar. The only advantage of RCEP would be to “lock-in” in a contractual agreement unilateral trade preferences.¹¹ Even this assumption would have to be further assessed.

The fact that Myanmar may graduate from LDC status in a foreseeable future should not mean to forfeit in advance its negotiating position as LDC during the current round of negotiations in RCEP

On the basis of the abovementioned findings and analysis the following recommendations are made:

1. As a matter of priority, Myanmar with other ASEAN LDCs should insist that other RCEP partners make a differentiated offer on tariffs and rules of origin for ASEAN LDCs in RCEP that is more generous than the offer made to other RCEP partners
2. In taking informed negotiating positions during the RCEP negotiations, an overall and product specific assessment has to be made using the methodology adopted in Table 9 to measure what additional market is granted under current RCEP and setting negotiating objectives accordingly. For instance, it seems that the common ASEAN

¹¹ These unilateral trade preferences are those granted under DFQF and related rules of origin by Australia, Japan, China, India, South Korea and New Zealand. However, it would have to be assessed if the tariff offers and rules of origin in RCEP are equivalent or better than those granted under the current DFQF granted by these preference giving countries.

negotiation position on rules of origin for garments is more stringent than those of other RCEP partners.

3. An overall assessment should be made of the value of RCEP with respect to trade in goods, services and other trade related aspects. As the text has not been made public it is not possible to provide even an initial assessment.

Negotiating CP-TPP accession

The CP-TPP agreement is a modern FTA encompassing a series of WTO plus and WTO extra disciplines both in terms of coverage and in depth. The preliminary analysis of the CP-TPP with respect to market access and rules of origin is similar to RCEP in the sense that the CP-TPP may not bring to Myanmar additional market access to what has been already been granted under different arrangements thanks to the current LDC status or as member of the ASEAN FTAs with dialogue partners. The complex rules of origin of the CP-TPP, especially in the garment sector, does not reflect the present capacity of the Myanmar's garment industry.

However, reading a complex agreement such as the CP-TPP uniquely through the lenses of tariff and RoO offers a very limited perspective of the trading opportunities and challenges that the CP-TPP agreements may bring to Myanmar. First of all, as in the case of the RCEP, the trade preferences granted under an FTA are not unilateral and are more permanent and stable in nature.

The CP-TPP is based on a series of a rule-based, market-oriented system that offer predictability for investors but also challenges for countries like Myanmar. The situation is further exacerbated by the fact that some of the main competitors of Myanmar, like Vietnam, is on a triple track¹² scenario since the country a) participates to RCEP, b) is member of the CP-TPP and c) has entered an FTA with the EU. It follows that such multiple track route shared by other ASEAN countries attracts investors to such location since it provides multiple access to markets with respect other locations, such as ASEAN LDCs that are only engaged in RCEP.

Overall the main challenge of Myanmar is to put more resources on assessing the values of the various options and conducting a series of consultations to assess the terms and condition for acceding to the CP-TPP.

On the basis of the abovementioned findings and analysis the following recommendations are made:

- 1) Conduct a deeper and comprehensive assessment of the CP-TPP and initiate consultations with other ASEAN LDC for a possible joint initiative to accede to the CP-TPP as ASEAN LDC group
- 2) Initiate informal consultations either directly or indirectly to identify the possible flexibilities and carve out that may be discussed upon accession, especially on ISDS provision and other aspects.

¹² Vietnam is member of 1) CP-TPP, 2) RCEP, 3) is part of the network EU-ASEAN FTAs. In addition, Vietnam has entered a series of bilateral FTAs like the Vietnam-Japan FTA.

Preparing for WTO Ministerial Conference in Astana

It is highly recommended that Myanmar and ASEAN LDCs make full use of the opportunities offered by the multilateral trading system to flag their issues and undertake parallel initiatives to those undertaken at regional level. Every opportunity to show that Myanmar and ASEAN LDCs are engaged in the multilateral track should be exploited to show to partners that Myanmar is an active player in the international trade.

More precisely it is recommended the following actions should be undertaken:

- 1) Establish a consultation mechanism among the ASEAN LDCs delegations at WTO and in Capitals to coordinate negotiating positions and initiatives on the issues to be discussed in Astana, namely E-Commerce, Investment facilitation, Micro Small and Medium Enterprise (MSME) and other themes.
- 2) Prepare intensively for the next CRO of on rules of origin for May 2019 and October and initiate consultations for the possible launching on a plurilateral initiative to simplify rules of origin.
- 3) Coordinate with other ASEAN LDCs to raise joint concerns over SPS measure adopted by China on rice and other products of export interest at the WTO SPS committee of 18 July 2019 and follow up initiatives.

Research and capacity building

It is of paramount importance that Myanmar invests resources in further developing and studying the challenges and trading opportunities that are highlighted in this section and build the necessary capacity in the different ministries and private sector. It is highly regretted that in spite of numerous Aid for Trade initiatives present in the country there are very few resources dedicated to establishing a trained pool of highly capable trade negotiators and researchers. Such research and capacity building should assist the Government in taking informed decisions on trade policy at large and in carrying out related trade negotiations.

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ABBREVIATIONS AND ACRONYMS

ACFTA	ASEAN-China Free Trade Agreement
AEC	ASEAN Economic Community
ASEAN	Association of South East Asian Nation
ATIGA	ASEAN Trade in Goods Agreement
CDP	Committee for Development Policy
CP-TPP	Comprehensive and Progressive Trans-Pacific Partnership
CRO	Committee on Rules of Origin
DFQF	Duty-Free Quota-Free
EBA	Everything But Arms
EVI	Economic Vulnerability Index
FTA	Free Trade Agreement
GSP	Generalized System of Preferences
HAI	Human Asset Index
IMS	Information Management System
IPR	Intellectual Property Rights
ISDS	Investor-State Dispute Settlement
LDC	Least Developed Countries
MFN	Most Favoured Nation
MOC	Ministry of Commerce
MSME	Micro Small and Medium Enterprise
RCEP	Regional Economic Comprehensive Partnership Agreement
ROO	Rules of Origin
SPS	Sanitary and Phytosanitary
TPP	Trans-Pacific Partnership
WTO	World Trade Organization

1 A NEW TRADE POLICY AND A POSITIVE AGENDA FOR MYANMAR

1.1 Overview of Myanmar trade performance and export pattern

The main recommendation of the 2016 DTIS was as follows: *“Diversifying away from the current over-dependence on natural resources towards other sectors with high potential, such as light manufacturing, services and sustainable agri-business. Only through such a diversification can the economy provide the employment and sources of rural income to share the benefits of increased trade”*

The analysis of the trade flows a few years later reveal that albeit some progress has been recorded there are not yet significant changes in the export composition and destination.

Figure 1.1: Myanmar Export Destination 2010 (left) and 2017 (right), excluding HS Chapter 27

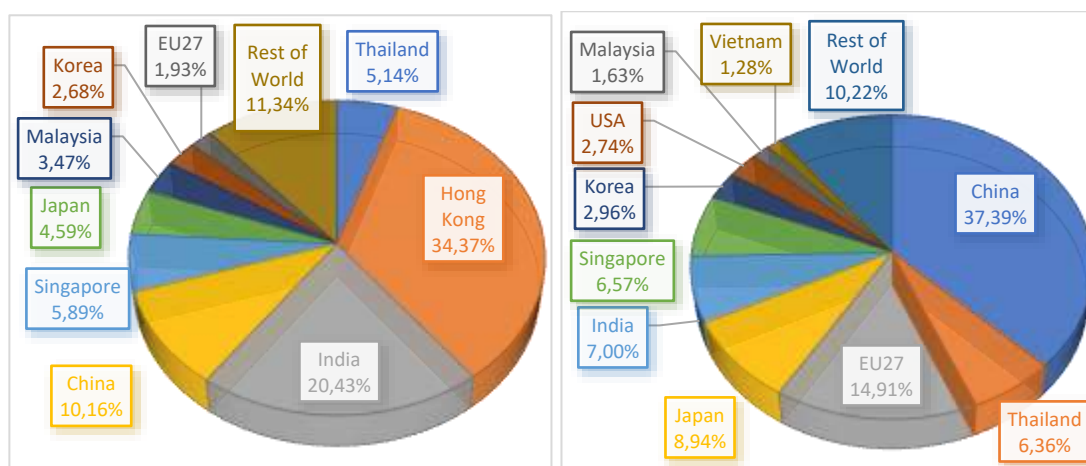


Figure 1.1 above¹³ shows the change in export shares on a seven-year time horizon and summarizes important implications. Two salient features could be observed. First, there was a drastic decrease in the export share of Hong Kong between 2010 and 2017 which corresponds to the drastic decline in exports of precious stones (HS 71) reported in Figure 1.3. Indeed, a significant amount of precious stones used to be exported to Hong Kong in the past have disappeared over the years¹⁴.

Second, there is a considerable jump of export share both to the EU and to China. In the case of the EU this is due to the reinstatement of EBA in 2013 and in the case of China following the signing of the bilateral agreement of 2008 for the supply of gas to China for the next 30 years.

From 2010 to 2017 ASEAN markets have increased from 4.4% to 8.6% still not making a significant difference in overall destination basket while China has significantly increased its market share from a meager 10% to above 37%, showing a shift from ASEAN (mainly Thailand) to China, albeit exports of HS 27 to Thailand still occupies a higher share than China.

¹³ In most export figures presented in this section, export values of HS Chapter 27 reported under Figure 1.2 have been excluded from the analysis. As explained under section 1.2, despite its high values, this trade flow appears not directly linked to any industrial activity and are solely reliant to specific markets.

¹⁴ This issue has to be further investigated to find an adequate explanation

The shift of exports from ASEAN to China is almost exclusively due to liquefied gas as contained in Figure 1.2 and is mainly due to a series of foreign investment projects led by South Korea and supply contracts entered by the Government of Myanmar with China.¹⁵

Apart from this trend, it is most important to point out that immediately after the lifting of the sanction there has been a consistent increase of volume of exports to QUAD countries and as outlined below, the composition of these exports are largely garments showing a recent diversification trend of export composition.

Exports to QUAD countries like Japan, EU and US increased their shares from 4.02% to 19.08%. That is, the share to EU rose from 1.93% to almost 15%, and the export share to Japan rose from 4.59% to 8.94%. In comparison to Cambodia's goods export, the US market does not occupy a strategic position in the Myanmar export destinations with only 2.74%.

As can be seen comparing Figure A. 2 and Figure A. 3 located in the Annex to this study, exports to ASEAN members consists mostly of natural gas to Thailand as further documented in the next subsection. Between 2010 and 2017, exports to ASEAN regional partners have fluctuated between a minimum of 3.3 billion USD in 2012 and a maximum of 6.5 billion USD in 2013. Excluding HS Chapter 27, the data on exports to ASEAN members show a progressive increase over the years but with values that are significantly lower -- a minimum export value of 799 million; in 2010 and a maximum value of 1.7 billion in year 2013 and 2017, with a slightly higher export values in the former (2013) than the latter (2017).

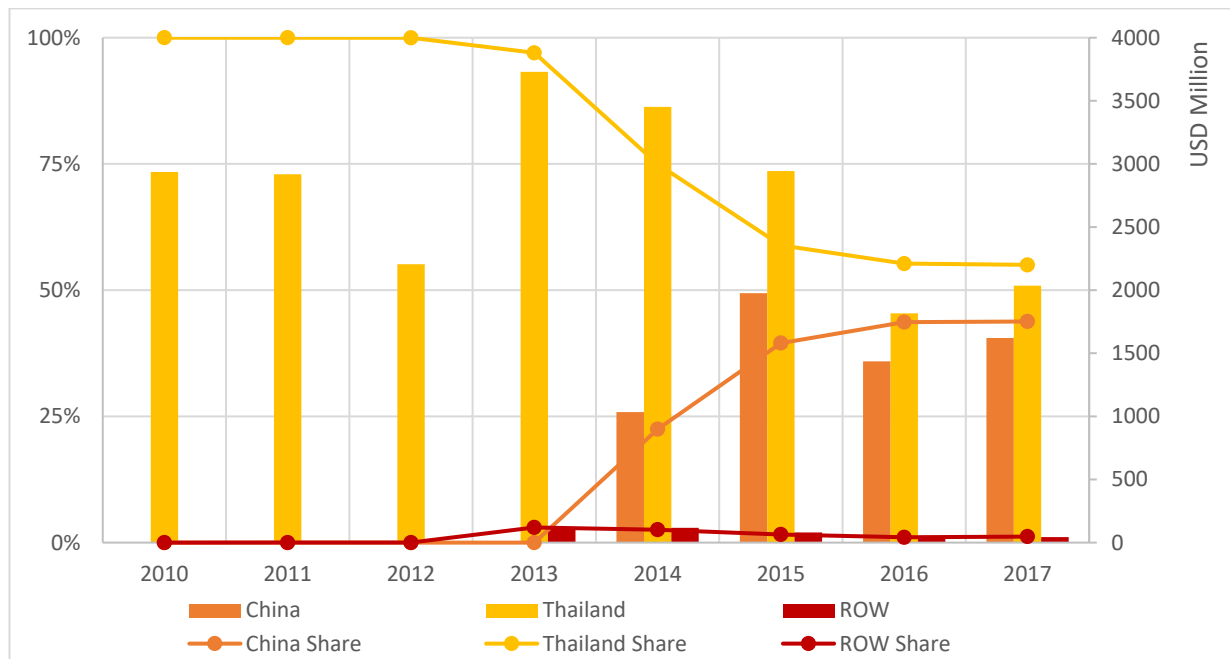
Figure A. 1, Figure A. 2 and Figure A. 3¹⁶ also confirm the significant expansion of Myanmar total exports to China even after excluding HS Chapter 27. We observe a progressive rise from 476 million USD in 2010 to 3.7 billion USD in 2017,). Such export increase is to be attributed to agricultural products including rice, seeds, and sugar. Ores and precious stones also contributed to the increase of exports to China .In contrast, exports to India, albeit of a considerable size have been constant for the last decade with the exception of a peak observed in 2012.

¹⁵ See <https://www.mmtimes.com/news/myanmars-gas-production-dilemma.html>: "most of the gas produced is immediately exported to Myanmar's neighbours at an agreed price. For example, gas produced at the offshore Shwe and Zawtika fields is exported to China and Thailand under 30-year contracts. This is because most of Myanmar's gas contracts date back to the late 1990s, when the country was under US sanctions. At the time, cheap gas produced onshore was sufficient for domestic consumption, so the country resorted to selling the additional gas produced under long-term contracts for income.

¹⁶ See Annex B: Figures

1.2 Overview of exports of selected sectors

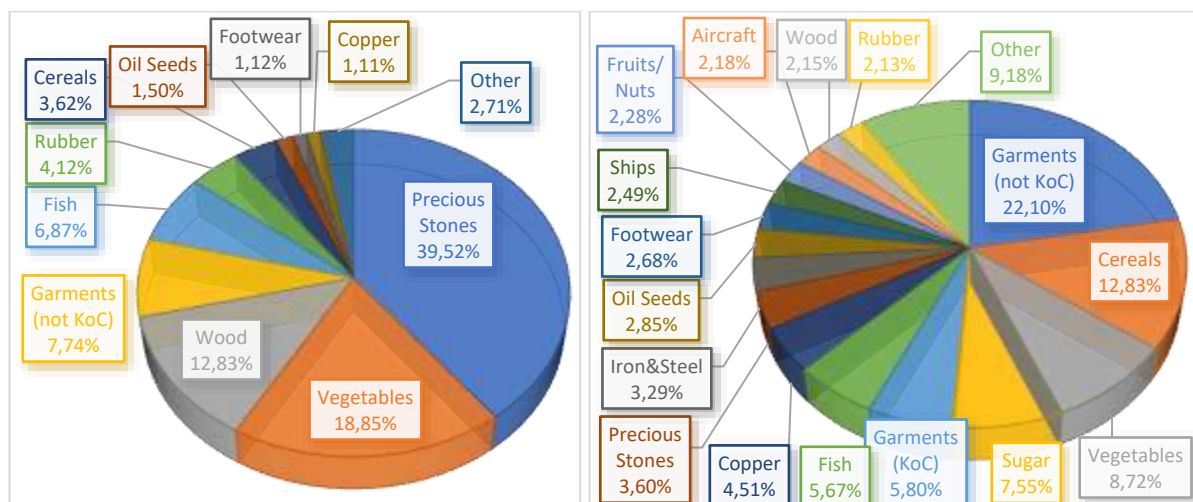
Figure 1.2: Export shares of Natural Gas (HS 27) to China, Thailand and Rest of the World



Liquefied natural gas (HS 27111) is the first product in Myanmar export basket¹⁷ and probably one of the most concentrated in terms of export destinations. Indeed, as shown in Figure 1.2 above, only two major markets are served. Initially, Myanmar exports of that product were exclusively directed to Thailand (export shares of 100% until 2012) and are being progressively replaced by China, with increasing export shares from 0% in 2013, to more than 22% in 2014, and eventually reaching 44% in 2017.

The product composition of the exports in 2010 and 2017, excluding HS Chapter 27, is summarized in Figure 1.3 below.

Figure 1.3: Export share by HS Chapters, 2010 (left), 2017 (right), excluding HS Chapter 27



¹⁷ The top 19 products are reported under Table 1.

Figure 1.3 highlights that changes in product composition at HS two-digit level, with exclusion of HS Chapter 27, between 2010 and 2017. On one hand, there are products who have experience an increase across the seven-year period. For example, the share of garments of Chapter 62 (not knitted or crocheted (not KOC)) has increased from 7.74% to 22.10% and there is an increase of 5.8% for Garments under Chapter 61 (KOC), which did not occupy a substantial share in the exports of Myanmar in 2010. Other products could be observed to have a similar trend. Exports of shoes have increased from 1.12 % to 2.68 % as well as exports of oil seeds from 1.50% to 2.85%. Cereal exports, which is mainly dominated by rice products, have increased from 3.62% to 12.83%. Lastly, copper exports also experience an increase from 1.11% to 4.51%. On the other hand, products such as precious stones and wood have experienced a drastic decline in seven years, from almost 40% to less than 4% and from 12.83% to 2.15%, respectively. Vegetables follows the same trend of decline, from 18.85% down to 8.72%, rubber from 4.12% to 2.13%, fish from 6.87% to 5.67%.

Most importantly, as shown in Figure 1.3, multiple newcomers appeared in the export basket even with modest trade flows:

- Sugar products with 7.55%: Top export products includes HS 170199 and HS 170191¹⁸
- Garments (KoC) with 5.8%: Top export products includes HS 6110 and 6102¹⁹
- Iron and Steel with 3.29%: Top export products includes HS 720260 and HS 720827²⁰

1.3 The actual positioning of Myanmar in the international trade scene and potential leading role of an ASEAN LDC agenda

This analysis of Myanmar trade flows shows that besides the buoyant export performance of the last years, exports remain heavily concentrated in terms of products and destinations. This is a sign of fragility and exposes the country to trade shocks. Changes of market access due to the moving trade environment may induce factories to shift their location.

Myanmar is dependent on a handful of country-product pairs and destination such as

- a) EU market for garments exports,
- b) India for beans and,
- c) China for natural gas, rice and sugar.

Apart from the export volume and overall impact on the country economy where natural gas and China represents the lion's share, what is important to emphasize is the exports of garments, shoes and beans are closely interconnected to employment, rural development and manufacturing capacity. Yet as identified in this study market access and exports of these three products are subject to externalities linked to trade policy choices and actions that need to be undertaken by Myanmar to stabilize market access. Most importantly the EU is presently engaged in a series of negotiations or trade initiatives that are set to profoundly modifying market access and the trade policies of India needs to be made more stable by

¹⁸ HS 170199 and HS 170191 are product varieties of cane or beet sugar.

¹⁹ HS 6110 are product varieties of jerseys, pullover, cardigans and waistcoats while HS 6102 are women's or girls' overcoat, car-coats, capes, etc.

²⁰ HS 720620 is Ferro-nickel, in granular/powder form while HS 720827 is flat-rolled products of iron/non-aluminum

adhering to WTO obligation. In addition, the overall dynamism of some ASEAN countries like Vietnam to enter FTA initiatives may indirectly affect Myanmar as location for Foreign Direct Investment (FDI).

Deterioration or an erosion of the preferential market access to EU could determine a series of business decision by manufacturers currently located in Myanmar. In addition, albeit showing some dynamism, the regional markets, notably ASEAN and China are not a substitute for market access in the EU and Japan in the short term for garments and shoes.

ASEAN and China are not only competing on the same products exported by Myanmar to EU and Japan, but the regional market access provided by ASEAN FTAs dialogue partners is not equivalent to the one of the EU in terms of tariff and rules of origin. An early analysis of RCEP texts, carried out in Section 3, indicates that RCEP may not be a substitute or could not improve drastically the existing market access that Myanmar might benefit from the existing ASEAN FTAs in combination with DFQF initiatives.

The CP-TPP has now entered into force and is expected to provide increased market access to the most formidable competitor of Myanmar, this being Vietnam. Albeit constrained by stringent rules of origin demanding a yarn forward triple transformation, Vietnam is set to progressively gain increased market access to Canada for garments as well as exploiting the provisions made in CP-TPP for products in short supply.²¹

It is important to realize that the actual trading scenario rapidly taking shape around Myanmar is also valid for the other ASEAN LDCs that have also substantially benefitted from unilateral trade preferences. In fact, both Cambodia and Laos, albeit to a different extent than Myanmar, are heavily depending on garments exports and other few products showing high utilization rates of EBAs and other unilateral trade preferences.²² The buoyant performances of these two other ASEAN LDCs are equally subject to erosion of trade preferences described above for Myanmar. In the case of Myanmar, as well as Cambodia the EBA trade preferences are also subject to high degree of uncertainty due to non-trade related conditionalities.²³ Yet for Myanmar there has not been any formal step to initiate the suspension of EBA as in the case of Cambodia.

What is most important to underscore is that not only the trade scenario is similar for the ASEAN LDCs but also the trade policy response from the respective governments. Cambodia, Laos, and Myanmar, the ASEAN LDCs, have been so far equally unable to mature an adequate trade policy strategy and roadmap to respond and counteract a trade scenario that is progressively marginalizing their economies and reducing the market access opportunities that have been a key element to their recent economic growth.

In order to quickly react and fill up such gap there is an urgent need to develop an individual and collective coordinated policy response by ASEAN LDCs to be brought forward in the different negotiating fora. Most recently,²⁴ the Geneva based delegates of the ASEAN LDCs

²¹ See CP-TPP 11 appendix 1 to Annex 4-A, Textiles and Apparel product-specific rules of origin

²² In 2017, utilization rates of EU trade preferences averaged of Cambodia, Lao PDR and Myanmar amounted respectively to 95.6%, 94.7% and 94.0%.

²³ See <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1981> for further details

²⁴ A first meeting was held in December 2018 among the Ambassador of Cambodia to the WTO and the Counsellor of Myanmar and Laos.

have first met to initiate such a progress with a respective message to their capitals outlining the scope and merit of an ASEAN LDC coordinated strategy. Such initiative stemmed from the experience gained by Cambodia during the negotiations of the WTO Nairobi Decision where Cambodia reached out for support from other ASEAN LDCs to advance its request to redress the imbalances arising from the exclusion from ASEAN cumulation of Malaysia and the future implications arising from the EU-ASEAN FTAs.

It is recommended that as matter of priority Myanmar reaches out to other ASEAN LDCs to establish a consultative and coordinated group among Capitals and Geneva based delegation at WTO to build up a coordinated positive agenda as suggested in this chapter. Through this mechanism, the ASEAN LDCs should be able to quickly mature a more assertive and autonomous positive agenda in the different negotiating scenario in WTO and at regional level as further outlined in Section 5.

2 MYANMAR AND THE EMERGING TRADE CHALLENGES – THE EROSION AND LOSS OF PREFERENTIAL MARKET ACCESS AND RULES OF ORIGIN AND THE QUEST FOR ALTERNATIVES

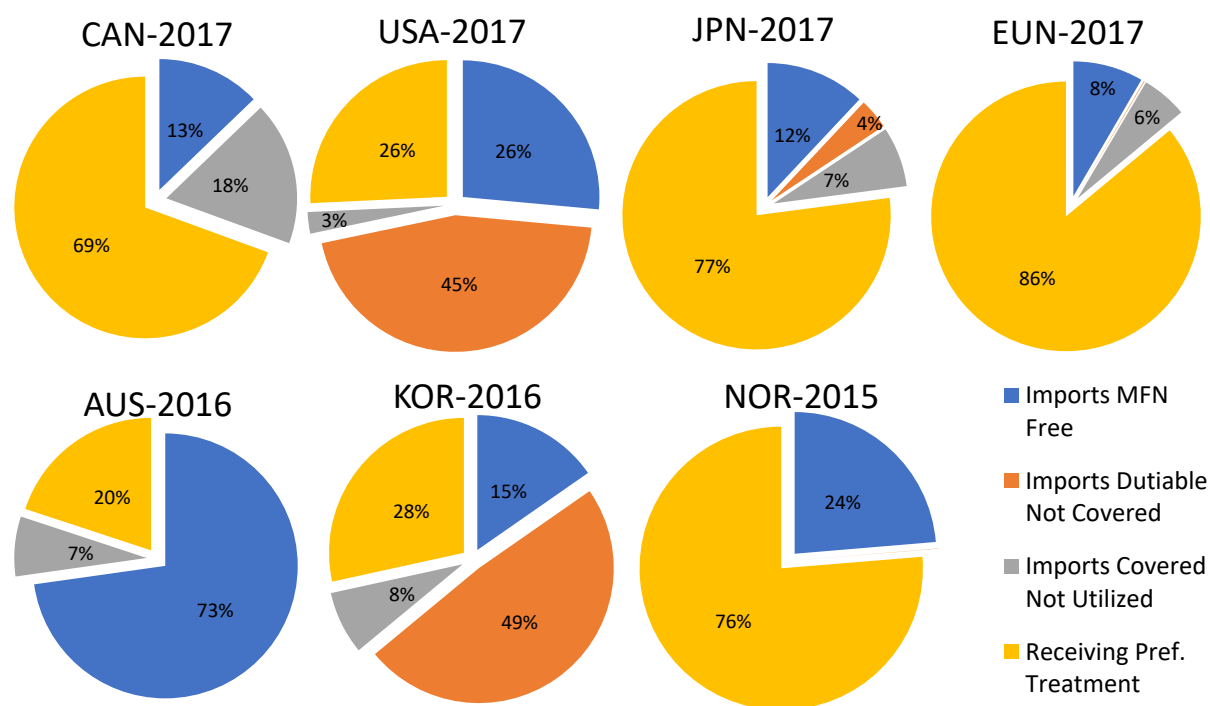
2.1 The erosion and/or loss of trade preferences

Tariff preferences have played an important role in determining the growth of Myanmar’s exports during the last decade and even more pronouncedly in the recent years. Myanmar exports enjoy duty-free market access under a variety of duty-free quota-free (DFQF) programs that developed, and some developing countries have put in place for LDCs.

Figure 2.1 and Figure 2.2 below show the preponderant importance of trade preferences in Myanmar current market access especially for manufactured products. The amount of trade volume that received EU preferences amounts to almost 1.5 USD billion in 2017 and 861 USD million in the Japanese market. Although of a different size, Myanmar is also enjoying trade preferences in Australia, Canada, Norway, South Korea, and the US, presented in the graph below.²⁵

In addition, Myanmar is benefitting from duty-free access within ASEAN and benefit from the trade preferences under the FTAs concluded by ASEAN with ASEAN dialogue partners. There are a series of findings²⁶ indicating that these regional preferences have not been fully utilized due to inherent complexities that are far from being addressed even under the ASEAN Economic Council (AEC) initiative and ASEAN Trade in Goods Agreement (ATIGA).

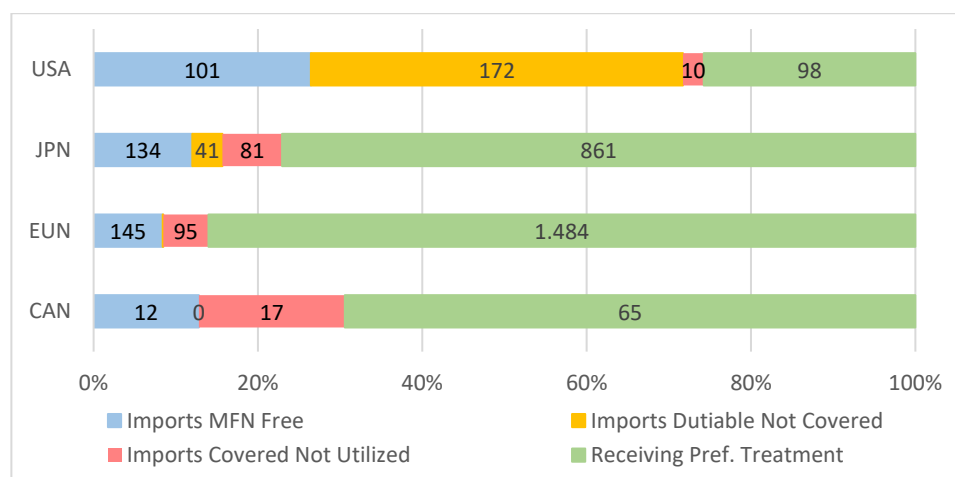
Figure 2.1: Utilization of Preferential Scheme



²⁵ Although Chile and India provide DFQF to LDCs, there is a relatively low level of utilization of trade preferences to ASEAN LDCs especially in the case of Myanmar, hence, they are not presented here.

²⁶ See ASEAN rules of origin Stefano Inama and Edmund Sim, Cambridge University Press 2015

Figure 2.2: Preferential Imports granted by QUAD to Myanmar, 2017 (USD million)



The duty-free access provided by preferential trading arrangements dramatically improves Myanmar’s competitive position especially for products where MFN duties are high. In the EU, for example, the average MFN (i.e. non-preferential) import duty on garments is 12 percent, while the MFN duties on shoes is 10²⁷ percent. Under the EU GSP for developing countries the preferential margin is only of 3.5 per cent for the majority of products and 20% cut of MFN rate for garments i.e. 9.6%

These differences of applicable import duties in preference giving countries could be large when compared to profit margins and increase significantly in some cases doubling the profitability of export-oriented production in Myanmar, as compared with export production of the same goods in a country that does not enjoy duty-free privileges. This, in turn, provides an important incentive to invest and expand exports in those sectors in Myanmar provided that such margins are stable.

The duty-free access that Myanmar enjoys under various trade preference arrangements, has been one the key element explaining the rapid growth and changing destinations of Myanmar’s manufactured exports. This aspect has to be examined in light of the changing trade scenario as the key determinant of export performance in the period ahead.

It should be noted that in 2018, at the last triennial review of the LDCs list, the Committee for Development Policy (CDP) concluded that Myanmar was pre-eligible for graduation. With a GNI per capita of 1255 USD (>1230), a Human Asset Index (HAI) of 68.5 (>66) and an Economic Vulnerability Index (EVI) of 31.7 (<32), the country met the three graduation thresholds. To be recommended for graduation, Myanmar has to be found eligible at two consecutive triennial reviews in fulfilling at least two of the three criteria. Therefore, if Myanmar maintain its position (or still meet 2 out of the three graduation thresholds) at the next review, the country will be recommended in 2021. The effective date of graduation would therefore lie between 2021 and 2024 given the possible grace period of 3 years.

Independently but linked to the issue of graduation from the LDC status is the preference erosion that Myanmar and other ASEAN LDCs are suffering from the parallel trade initiatives undertaken by their ASEAN neighbors and in the region overall.

²⁷ Ranging between 3.5 and 17 depending on the tariff line considered.

As discussed in the sections below, the real challenge for Myanmar and other ASEAN LDCs is the dynamism of the trade scenario in the Asian region where a number of neighboring countries are engaged in triple track negotiation in different trade agreements such as RCEP, CP-TPP and EU-ASEAN FTAs

Table 1 below has been assembled to identify to what extent the markets of China and India could be a substitute for the preferential market access to QUAD countries that may deteriorating in the near future .The table shows the top 19 most exported products at HS six-digit level of Myanmar to the world in descending order by export value. These most exported products from Myanmar are matched with the import trade values of the same products of China and India, the two major markets that could replace QUAD countries as recipient of Myanmar major exports.

The table clearly shows that China and India are not a substitute export market for garments to the EU and Japan. Just a handful of Myanmar's top garment exports²⁸ to the EU and Japan totals to almost 590²⁹ million USD while China and India are only importing 247 million USD from the world.

Conversely, both India and China appear to be possible markets for rice, sugar and other agricultural exports provided that SPS measures are met in these countries and there are no other NTMs limiting market access. Currently, Myanmar is one of the first principal supplier for dried beans and the second principal supplier of husked brown rice³⁰ to China. In the case of India, Myanmar also occupies the first principal supplier of husked brown rice.

Hence, the trade policy actions of Myanmar should be, in the short run, directed to stabilize access to EU and Japan on the existing exports and gain increased market access in China and India especially by eliminating the NTMs that may hamper or restrict market entry.

²⁸ This includes namely men's jackets, suits and shirts and women's blouse and shirts.

²⁹ Values are calculated from Myanmar's export to EU and Japan for the following products: HS 620339, HS620319, HS 620690 and HS620520.

³⁰ Laos, another ASEAN LDC, is the top competitor of brown rice exports of Myanmar to China. The total export of both ASEAN LDCs account for almost the total world import of China for husked brown rice.

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Table 1: New market prospects for Myanmar most Exported Products – China and India as possible recipients of mynamr supply capacity , 2017

HS Code	Product Description	MMR exports (\$ '000) and shares (%)							Chinese Import (\$ '000) from					Indian Imports (\$ '000) from						
		to World			to 1 st Dest.		to 2 nd Dest.		World	1 st Supplier		2 nd Supplier		MMR	World	1 st Supplier		2 nd Supplier		MMR
		Value	%	Cum	ISO3	Value	ISO3	Value		ISO3	Value	ISO3	Value			ISO3	Value	ISO3	Value	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
271111	Natural gas, liquefied	2'986'970	21.6	21.6	THA	1'967'264.5	CHN	1'019'705.7	14'749'637	AUS	6'204'004	QAT	3'351'267	1'019'706	7'207'572	QAT	3'779'684	NGA	901'534.5	0
100620	Husked (brown) rice	813'366.6	5.9	27.5	CHN	527'602.9	BGD	75'599.6	35'429.4	LAO	28'449.0	MMR	5'992.4	5'992.4	119.4	CAN	62.5	USA	52.0	0
71331	Beans dried, shelled, w/o skinned split ¹	747'274.9	5.4	32.9	IND	317'205.6	CHN	170'702.6	26'416.1	MMR	11'221.7	AUS	8'318.2	11'221.7	366'508.5	MMR	269'907.9	TZA	23'987.5	269'907.9
740311	Cathodes & sections of cathodes, of refined copper, unwrought	489'894.8	3.6	36.5	CHN	233'149.8	THA	136'792.9	19'134'529.3	CHL	6'888'211.8	IND	2'143'615.8	261'361.2	177'657.5	JPN	117'111.4	COG	41'116.5	0
170199	Cane/beet sugar ²	420'323.9	3.0	39.5	CHN	419'389.0	IND	655.1	245'689.9	KOR	101'254.7	THA	93'747.1	0.1	5'205.2	EU27	2'009.9	USA	1'266.7	0
710310	Precious stones (excl. diamonds) & semi-precious stones ³	359'981.5	2.6	42.1	CHN	343'522.5	HKG	16'349.4	97'277.2	MMR	31'430.7	RUS	11'287.2	31'430.7	838'229.2	HKG	471'673.7	ARE	116'974.4	0
720260	Ferro-nickel (granular/powder)	345'042.2	2.5	44.6	CHN	320'009.1	IND	10'836.9	2'650'664.8	IDN	1'376'030.1	NCL	391'398.5	322'355.8	355'072.1	IDN	103'847.3	DOM	40'374.6	13'242.2
170191	Cane/beet sugar ²	338'090.1	2.5	47.1	CHN	337'743.0	THA	347.1	48.1	USA	47.7	OAS	0.1	0	27.6	CHN	27.4	SGP	0.3	0
271121	Natural gas, in gaseous state	286'244.3	2.1	49.2	CHN	286'244.3	.	.	8'523'380.4	TKM	6'526'055.6	MMR	1'172'113.0	1'172'113.0	.	.	.	.	.	0
100510	Maize (corn), seed	286'020.3	2.1	51.2	CHN	271'731.3	VNM	11'367.0	2'189.1	EU27	1'787.9	ARG	226.8	0	191.7	NPL	149.5	UNS	35.9	0
271019	Petroleum oils & oils ⁴	277'725.4	2.0	53.3	CHN	277'440.6	IND	271.6	10'315'826.6	SGP	3'320'177.0	KOR	2'998'085.4	0	3'114'828.8	ARE	803'373.6	KOR	599'297.0	0
620339	M/B's jackets & blazers (excl. KcC), tm (excl.6203.31-6203.33) ⁵	243'306.5	1.8	56.9	EU27	156'672.4	JPN	56'537.6	13'405.5	EU27	10'303.6	TUR	902.2	86.3	2'927.3	EU27	868.9	NPL	718.7	3.2
100640	Broken rice	201'370.4	1.5	59.9	EU27	81'487.8	CHN	41'303.0	326'091.0	THA	162'648.2	VNM	125'907.7	35.0	22.5	UNS	22.5	.	.	0
620319	M/B's suits (excl. KoC), tm (excl. of w/f a /s) ⁶	200'517.2	1.5	61.4	EU27	97'123.0	JPN	57'760.9	1'204.2	EU27	1'099.5	TUR	60.2	0	169.8	EU27	84.2	SGP	25.5	0
30269	Fish, n.e.s. in 03.02, fresh/chilled (excl. fillets/other fish meat of 03.04/livers & roes).	183'838.1	1.3	62.7	THA	124'956.0	CHN	37'616.1	32'542.9	OAS	18'787.8	IDN	5'591.8	0	10'994.4	BGD	9'826.2	MMR	644.1	644.1
620690	W/G's blouse, shirt or blouse shirt (excl. KoC), of tm other than silk/silk waste/w/f a/s/cotton/	181'734.2	1.3	64.0	EU27	99'836.3	JPN	39'777.9	2'622.9	EU27	593.5	IDN	406.9	0	844.4	EU27	318.9	CHN	203.9	0
620520	M/B's shirts (excl. KoC), of cotton ⁶	164'175.0	1.2	65.2	EU27	78'385.8	KOR	56'472.8	190'218.4	VNM	47'218.2	EU27	36'187.5	1'247.9	36'510.1	EU27	14'328.4	BGD	9'809.3	13'242.2
120740	Sesamum seeds, w/o broken	164'157.3	1.2	66.4	CHN	119'867.7	KOR	15'154.5	733'924.8	ETH	235'997.5	SUD	182'318.3	0	43'511.1	SUD	26'054.0	NIG	10'855.9	0
400121	Natural rubber (excl. latex), in smoked sheets	161'662.7	1.2	67.6	CHN	128'678.8	MYS	20'289.5	684'484.6	THA	503'675.9	MMR	99'071.5	99'071.5	108'733.3	THA	45'296.1	IDN	25'778.8	323.9

* other than cotton or man-made fibres; ** other than wool or fine animal hair or cotton or synthetic fibres; TM: textile materials; KoC: knitted or crocheted; OTC: other than of cotton

Note: Excluding HS 890520 and HS 880420

Under this scenario it is vital for Myanmar to identify trading partners for its current supply capacity of main exports: garments and agricultural product such as cereals, rice, seeds and vegetables.

It clearly emerges from Table 1 above that both China and India markets are not a substitute for the EU and Japan markets as far as exports of Myanmar garments since the import figures in both China and India are minimal for garments and sugar. The table clearly shows China may be a prospective market for rice as further discussed in the sections below.

2.2 The quest for alternatives: which partner for an FTA?

As shown in the following sections there are a number of alternatives and possibilities that Myanmar and ASEAN LDC may pursue in the quest for possible trade partners. In any case Myanmar has to

- 1) First assess the value added that each initiative may bring to the current market access
- 2) Identify the conditions for acceding to such agreement as in the case of the CP-TPP or the offers and concessions that Myanmar is making during negotiations like in the case of RCEP and
- 3) Assess what are the costs and benefits to enter into FTAs that are containing WTO plus commitment or new issues such as the CP-TPP.

This is a complex exercise that may only be initiated under the current study given its limitation. It is therefore highly recommended that Myanmar conduct further analysis at sectorial level and expand the skeleton comparison tables below (Table 2; Table 3; Table 4)³¹ once the regional ASEAN LDC project to be funded by the EIF trust fund will be operational.

According to findings of this preliminary analysis the following sections will examine the major challenges in the most important export markets of Myanmar in conjunction with the evolving trade scenario.

³¹ The tables provide a tentative comparison of the disciplines included in the various agreements that needs to be further studied and validated. As such, they do not pretend to be exhaustive or updated

Table 2: Market Access and Rules of Origin Provisions – Comparison across FTAs

AEC	ASEAN-China	ASEAN-Japan	ASEAN -India	CP-TPP	EU-Vietnam	RCEP
Market Access						
According to ATIGA, DFQF treatment to Myanmar exports to ASEAN countries	Market access in terms of tariff phase out should have been completed by 2015. However such commitment is subject to reciprocity clauses and exclusions	Market access in terms of tariff phase out would be completed by 2026. There are at least 5 tariff schedule types where “A” shall be eliminated as from the date of entry into force of the agreement. ³²	Tariffs on over 4000 product lines have been eliminated by 2016. Product tariff elimination is subject to two tracks: normal track and sensitive track. For products under the normal track, their respective applied MFN tariff rates gradually reduced or eliminated in accordance with specified schedules and rates over periods between 2006 to 2011 or 2006 to 2016, depending on the specific country. Product under the Sensitive track have their respective applied MFN tariff rates progressively reduced/eliminated within timeframes to be mutually agreed between the Parties.	The tariff cut for the initial six countries to ratify the CP-TPP took place on December 30, 2018. The second tariff cut will be on January 1 2019, except Japan, which is scheduled on April 1 2019. Vietnam has two tariff cuts in terms of Canadian imports but only one for all other countries. Tariff elimination information for the remaining CP-TPP countries (i.e. Brunei, Chile, Malaysia, and Peru) will be made available once those countries ratify the Agreement. ³³	Market access in terms of tariff phase out have 7 types of tariff schedule, which has different time period spanning from immediate removal of tariff up to 16 equal annual stages of removing tariff, beginning from the date of entry of the agreement. ³⁴	RCEP market access offer is summarized in Table 9
Rules of Origin						
Product specific rules of origin in ATIGA are not administered in a transparent manner and there is no agenda in AEC to review them	Product specific rules of origin are presented in Annex A of this chapter	The main text of Rules of Origin has 11 pages ³⁵ product Specific Rules of Origin contains 63 pages ³⁶	The main rules of origin text have 26 pages and the PSRO contains 27 pages. ³⁷	CP-TPP rules of origin are of a modern type product specific garments PSROs are requiring triple transformation on garments	The EU –Vietnam FTA rules of origin are product specific contained in the Annex II of Protocol 1 of the agreement ³⁸ . The rules of origin for garments of chapter 61 and 62 requires double transformation and rules of origin for bicycles require a value of non-originating material not exceeding 45%. ASEAN cumulations is only for octopus and squid. Extended cumulation with South Korea for fabrics	The main text is 111 pages long and the text of PSROs is even longer

³² See <https://www.asean.org/storage/images/archive/agreements/AJCEP/Annex1.pdf> for further details

³³ See https://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/CP-TPP-ptpgp/tariff-elimination-droits_de_douane.aspx?lang=eng for further details.

³⁴ See http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157340.pdf for further details.

³⁵ See Chapter 3 of ASEAN-Japan FTA Comprehensive agreement at <http://ajcep.asean.org/wp-content/uploads/2014/05/Agreement.pdf> for further details.

³⁶ See <http://ajcep.asean.org/wp-content/uploads/2014/05/Annex2.pdf> for further details.

³⁷ See <http://www.thailandntr.com/en/goods/roo> for further details.

³⁸ See http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157381.pdf for further details.

Table 3: SPS, TBT and Services Provisions – Comparison across FTAs

AEC	ASEAN-China	ASEAN-Japan	ASEAN -India	CP-TPP	EU-Vietnam	RCEP
SPS and TBT						
NO WTO plus in ATIGA apart a mechanism to settle NTM	A protocol has been signed under ACFTA with no evident WTO plus significant provisions	No explicit WTO plus provision on SPS	No provision on SPS in the text	There are specific provisions and mechanisms	There are specific provisions and mechanisms	As text of RCEP is not available it is not possible to make an assessment
Services						
Services are included in AFAS but the effective degree of implementation is unclear	Services are included in ACFTA but the degree of effective trade liberalization is unclear	No schedule for trade liberalization on trade in services	ASEAN-India FTA on trade in services and investment 2012 (ratified by MMR)	WTO Plus - negative list approach with standstill and ratchet mechanisms to capture future liberalization	Services are included in Chapter 8: Liberalization of Investment, Trade in Services and Electronic Commerce	As text of RCEP is not available it is not possible to make an assessment

Table 4: Investments, ISDS, Labor and Environment Clauses – Comparison across FTAs

AEC	ASEAN-China	ASEAN-Japan	ASEAN -India	CP-TPP	EU-Vietnam	RCEP
Investment and ISDS						
Investment is included but no ISDS	Investment is included but no ISDS	Not present in the FTA text	ASEAN-India FTA on trade in services and investment 2012 (ratified by MMR)	CP-TPP members benefit from a comprehensive set of investment protection provisions, including against expropriation and denial of justice and a mechanism for the resolution of investment disputes.	There is a comprehensive investment protection agreement with 4 chapters and 13 appendixes. Among these chapters, a clear investment protection rights are specified on Chapter 2 while details on dispute settlement mechanisms are detailed in Chapter 15 entitled “Dispute settlement.”	NAI
Labor clauses						
Not present	Not present	Not present in the FTA text	Not present	The CP-TPP include a chapter requiring that the basic workers’ rights ³⁹ reflected in law and practice, i.e. the elimination of child labour, forced labour and discrimination, and respect for freedom of association and the right to bargain collectively	The EU and Vietnam have agreed to implement the core labour standards and Conventions of the International Labour Organization (ILO). Vietnam has so far only ratified 5 of the 8 core ILO conventions; whereas it has not ratified ILO Convention No 87 on Freedom of Association and Protection of the Right to Organise, No 98 on the Right to Organise and Collective Bargaining, or No 105 on the Abolition of Forced Labour. ⁴⁰	NAI
Environment clauses						
Not present	Not present	Not present in the FTA text	Not present	The CP-TPP Agreement includes provisions to enhance environmental protection in the CP-TPP region and to address global environmental challenges	The EU-Vietnam includes environmental clauses specifically focusing on renewable energy. ⁴¹	NAI

NAI: No Available Information

³⁹ As contained in the [International Labour Organization 1998 Declaration on Fundamental Principles and Rights at Work](#)

⁴⁰ See <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP7-TA-2014-0458%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN> for further details.

⁴¹ See http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157353.pdf for further details.

2.3 Building new trade initiative with the EU in view of the EU-ASEAN FTAs

2.3.1 The EU reform of rules of origin: what did it mean for Myanmar?

The EU reform on the Rules of Origin (RoO) which entered into force in 2011⁴² contained drastic changes to the EU rules of origin in favour of both, LDCs and developing countries, as follows:

- Introduced a differentiation in favour of LDCs that are benefitting of more lenient rules of origin than Developing countries in certain sectors;
- Allowed a single transformation process in textiles and clothing -- a request that the LDCs had been advocating for more than a decade;
- Raised the threshold of the use of non-originating materials from 40 percent to 70 percent for LDCs in many sectors;
- Eased the cumulation rules.

The new rules allowed duty-free entry of a garment that was sewn from two or more pieces using fabric produced anywhere. This meant that, for the first time, garments produced in Myanmar from fabric manufactured in China could secure duty-free access to the EU. This change resulted in an immediate reaction in terms of trade values and utilization rates of EU trade preferences by LDCs, including Myanmar. As shown in Figure 2.3, the surge in exports from LDCs to the EU market between 2010 and 2011 was particularly strong for products of HS Chapter 62 with a rise in EU imports from 3.1 to 4.5 billion USD and a utilization rates jumping from 46% to 88% in one year. In the case of Myanmar, after the reinstatement of its GSP, the impact was immediate – garments exports of Chapter 61 and 62 to the EU under EBA more than doubled in 2014 as compared to 2012, with a continuous increase until 2017 as shown in Table 5 and Figure 2.4 below.

In relative terms, the rise in Myanmar exports of knitted or crocheted garments (HS Chapter 61) to the EU has been more important (+318%) as the latter started from a lower value than in the case of HS Chapter 62. However, as can be seen in Figure 2.4, trade values in both Chapters 61 and 62 exhibit an exponential trend and utilization rates raised from zero in 2012 (not eligible for GSP) to 48% in 2013 to reach respectively 89% and 96% in 2014.

⁴² See Commission regulation No 1063/2010 of 18 November 2010 amending Regulation (EEC) No. 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code See Inama, *Per aspera ad Astra*, the reform of the EU GSP rules of origin, Journal of World Trade, 2011. See Commission regulation No 1063/2010 of 18 November 2010 amending Regulation (EEC) No. 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, See Inama, *Per aspera ad Astra*, the reform of the EU GSP rules of origin, Journal of World Trade, 2011

Figure 2.3: EU imports of Garments of HS 61 and HS 62 from LDCs

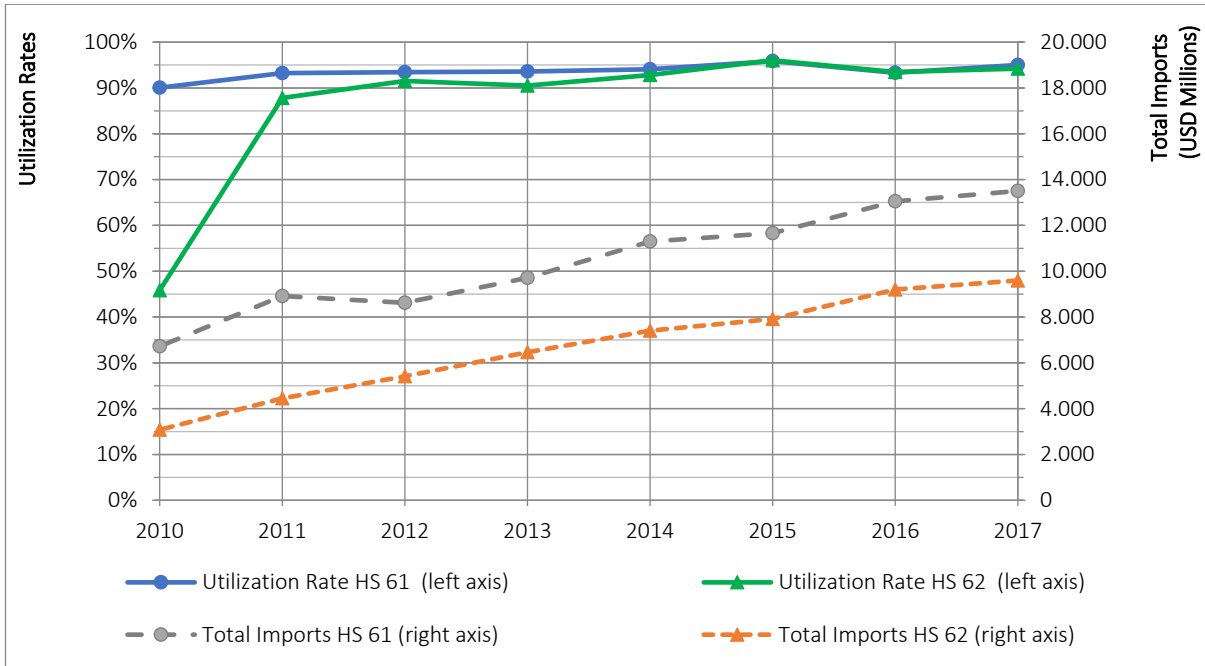
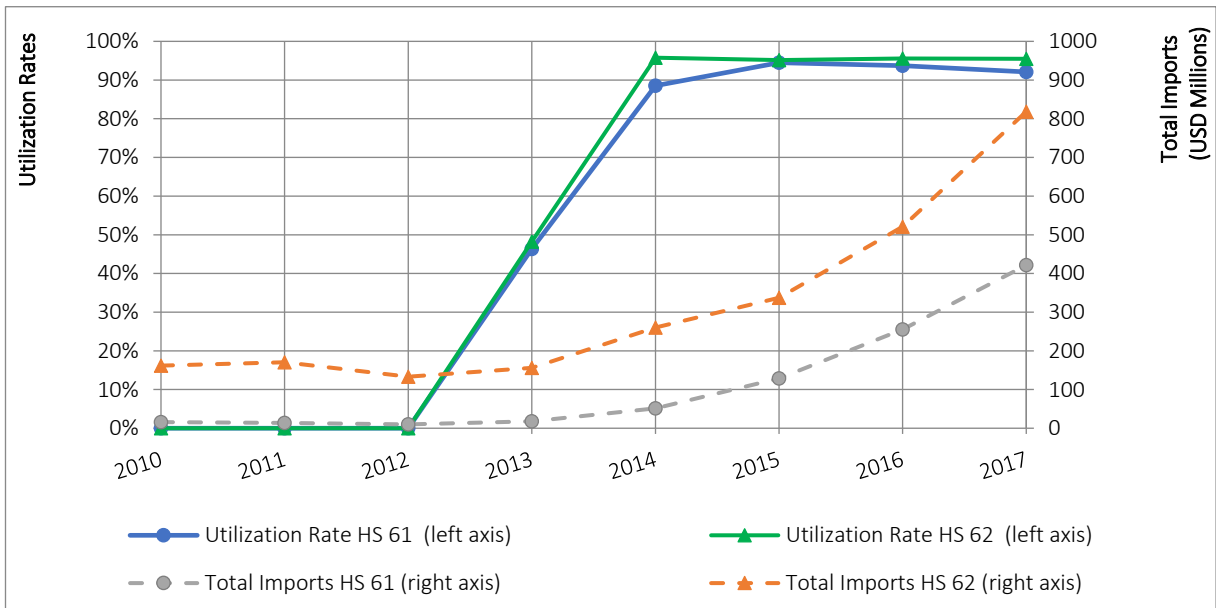


Figure 2.4: EU imports of HS 61 and HS 62 from Myanmar



Aside from the primary export of Myanmar -- garments, which is discussed below -- there is an increase of exports in other sectors. This is mainly due to the reinstatement of EBA in Myanmar and partly because of the EU reform in 2011.

As shown in Table 5, export products under the fisheries sector such as fish, crustaceous and molluscs (under HS Chapter 3 and 16), have increased its exports from the reinstatement of the EBA in 2013 until 2017 with an average growth of 10% per annum. Rice exports have a steady increase from 2011 to 2017 with a dramatic jump one year after the reinstatement of the EBA and a year-on-year decline of 20% during 2015 to 2016. Precious stones under HS Chapter 71 follows the same pattern of exhibiting an overall increasing trend, particularly after the reinstatement of the EBA in 2013. Values surge from 378 thousand in 2011 to 87 million USD in 2017 (see Table 5). Lastly, wood imports from Myanmar have an overall increase from 2011 to 2017 with year-on-year declines in 2013 and 2017. The decline in 2017 could be due to a temporary ban on teakwood and overall illegal trading activities in this sector.⁴³

Table 5: EU Imports from Myanmar under Everything But Arms (EBA) impact by sector (USD million)

Sector	Suspension of EBA		Reinstatement of EBA				
	2011	2012	2013	2014	2015	2016	2017
Garment	198.3	154.0	195.6	344.9	526.9	909.1	1666.5
Fisheries	19.7	17.8	26.3	34.0	35.7	39.6	40.7
Rice	6.5	9.4	16.3	65.4	84.1	67.2	133.5
Precious stones	0.4	5.8	37.5	51.8	54.0	59.3	87.1
Wood	0.1	5.7	22.8	21.2	25.1	37.6	35.1

Note: Sectors define as follows: Garments: HS 61 and 62, Fisheries: HS 03 and HS 16, Rice: HS 10, Pearl and precious stones: HS 71 and Wood: HS 44

The imports of EU for garments from Myanmar exhibits an increasing pattern from 2012 until 2017 with a sharp increase between 2016 and 2017 (see Table 5 above). However, this increase may not be sustained in the next years as Myanmar is facing the deterioration of preferential market access to EU due to the impending EU-Vietnam FTA.

As depicted in Figure 2.5 the 10 most exported products of EU from Myanmar are garments with utilization rate ranging from as 98.39% and to 89.18%. These tariff lines could be subjected to erosion of trade preferences as EU-Vietnam FTA is set to be ratified at the end of 2019.

For example, as shown in Table 7, there will be a progressive erosion of the preferential margin for HS 620520 with a reduction of six equal installments from a base rate of 12%. Other tariff lines such as HS 6202 and HS 6201, most imported products of EU from Myanmar at HS four-digit level (see Table 6), will experience a similar and in some case immediate⁴⁴ erosion of preferential margin with reduction varying between six to eight equal

⁴³ See http://ec.europa.eu/environment/forests/pdf/Country_overview_Myanmar_25_10_2018.pdf for further details.

⁴⁴ see Table 7 for tariff lines under A

installments.⁴⁵ Further analysis on the implications of EU's FTA with other members of the ASEAN is carried out in the following subsection.

Figure 2.5: Tariff lines most imported to the EU from Myanmar at 6-digit level, and utilization rates (2017)

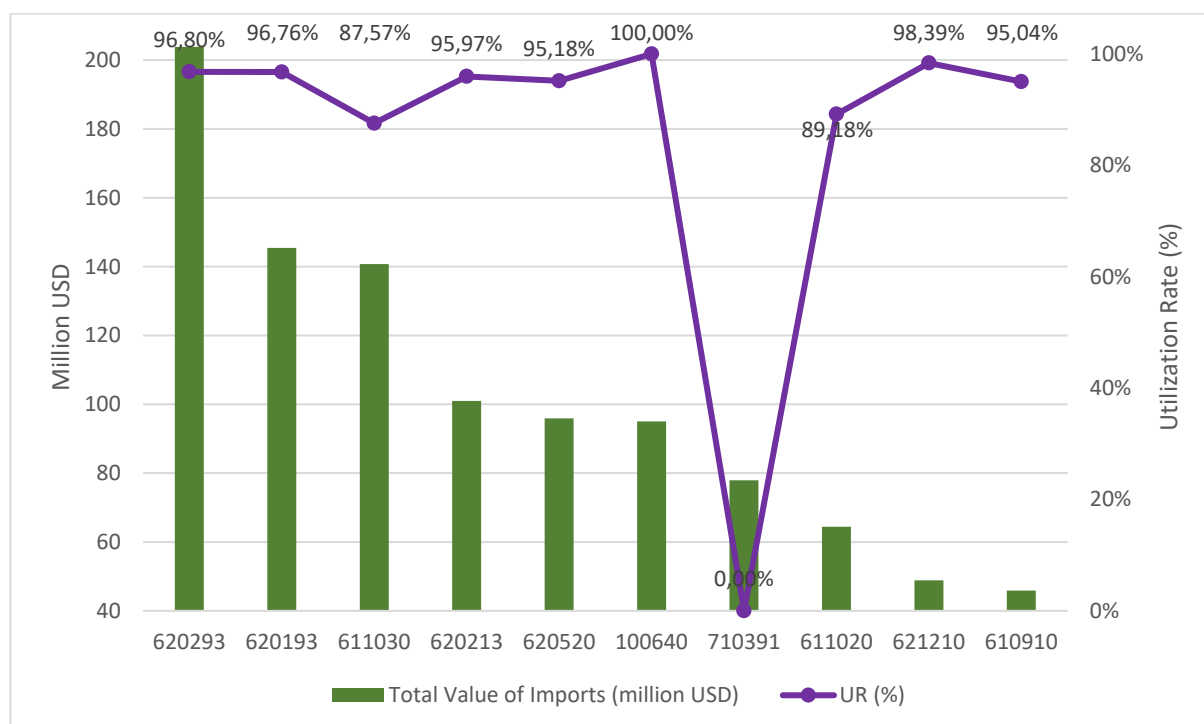


Table 6: EU 27 Most Imported Product of HS 61 and HS 62 at four-digit level (USD) from Myanmar (2018): a Country Comparison⁴⁶

Tariff line	Myanmar	Cambodia	Bangladesh	Vietnam
6202	65'377.58	7'354.01	14'006.98	15'182.80
6201	40'148.52	6'678.40	18'695.86	7'938.54
6110	16'229.08	57'853.92	279'045.80	8'333.50
6102	12'557.95	2'114.55	1'860.95	2'853.70
6204	11'065.04	63'038.27	107'328.40	31'946.14
6210	8'221.64	9'760.14	2'916.57	6'894.83
6104	6'688.40	19'267.01	59'041.61	7'699.28

⁴⁵ See http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157341.pdf for further details.

⁴⁶ COMTRADE data, EU 28 imports from Myanmar, Cambodia, Bangladesh and Vietnam 2018.

Table 7: EU-VNM FTA RoO on Myanmar's Most Exported Goods to EU in 2017

Rank	Sub-heading	Description	Exports to EU27 (USD)	Base rate	Tariff Category	Tariff Description	RoO (HS 2-4 digit level)
1	620339	Men's or boys' jackets and blazers of other textile materials	156'672'438	12	B5	customs duties on originating goods provided for in the items in staging category "B5" in a Party's Schedule shall be removed in six equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall thereafter be free of any customs duty;	Weaving accompanied by making- up (including cutting); or making-up preceded by printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product.3,5
2	620690	Women's or girls' blouses, shirts and shirt-blouses of other textile materials	99'836'266	12	A	customs duties on originating goods provided for in the items in staging category "A" in a Party's Schedule shall be eliminated entirely and such goods shall be free of any customs duty from the date of entry into force of this Agreement;	Weaving accompanied by making- up (including cutting); or manufacture from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40 % of the ex-works price of the product.5
3	620319	Men's or boys' suits of other textile materials	97'122'994	12	A	customs duties on originating goods provided for in the items in staging category "A" in a Party's Schedule shall be eliminated entirely and such goods shall be free of any customs duty from the date of entry into force of this Agreement;	Weaving accompanied by making- up (including cutting); or making-up preceded by printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product.3,5
4	100640	Broken rice	81'487'837	65 EUR/1000 kg	B5, comment: 50% cut at EIF, and linear removal after 5 year	customs duties on originating goods provided for in the items in staging category "B5" in a Party's Schedule shall be removed in six equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall thereafter be free of any customs duty;	Manufacture in which all the materials of Chapter 10 used are wholly obtained.
5	620520	Men's or boys' shirts of cotton	78'385'810	12	B5	customs duties on originating goods provided for in the items in staging category "B5" in a Party's Schedule shall be removed in six equal annual stages beginning on the date of entry into force of this Agreement, and such goods shall thereafter be free of any customs duty;	Weaving accompanied by making- up (including cutting); or making-up preceded by printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product.3,5

ADVANCED, UNEDITED VERSION. THIS DOCUMENT HAS NOT BEEN FORMALLY EDITED.

2.3.2 The EU's Free Trade Agreements with ASEAN Members: Implications for Myanmar

In addition to the erosion of preferential margin outlined in the preceding section ASEAN non-LDC Members, namely Singapore, Thailand, Vietnam, Indonesia, Philippines and Malaysia have started the negotiating process⁴⁷ or have finalized FTAs with the EU. The EU–Vietnam FTA and EU–Singapore FTAs⁴⁸ are expected to be ratified in 2019.⁴⁹ When these FTAs are ratified, these ASEAN countries, mostly Vietnam, will become direct competitors with Myanmar for investors seeking duty-free access to the European market. In addition, two facts must be taken into account:

- 1) Once the FTAs with the EU are ratified, the ASEAN countries will no longer be eligible under the GSP scheme after a transition period of two years and consequently their inputs may no longer be used by Myanmar under ASEAN cumulation.
- 2) Once the FTAs with the EU are concluded, these ASEAN countries will be progressively able to cumulate among themselves while Myanmar and other ASEAN LDCs will not be able to cumulate with them. This is almost the reverse of the present situation. Ultimately, ASEAN cumulation under EBA will be progressively reduced to ASEAN LDCs cumulation with little to no value in terms of availability of intermediate inputs to manufacture finished products for exports to the EU.

The cumulation provisions inserted in the EU-FTAs with ASEAN countries are a telling example of what are the prospects for cumulation within ASEAN as far as exports to the EU are concerned. Paragraph 2 of Article 3 of Protocol 1 to the EU–Singapore FTA, is rather clear in this regard:

Materials originating in an ASEAN country which is applying with the Union a preferential agreement in accordance with Article XXIV of the GATT 1994, shall be considered as materials originating in a Party when incorporated in a product obtained in that Party provided that they have undergone working or processing in that Party which goes beyond the operations referred to in Article 6 (Insufficient Working or Processing).

Similarly, the provisions in the EU – Vietnam FTA, Paragraph 2 of article 3 of protocol 1, state:

Materials listed in Annex III to this Protocol (Materials Referred to in Paragraph 2 of Article 3) originating in an ASEAN country which applies with the Union a preferential trade agreement in accordance with Article XXIV of GATT 1994, shall be considered as materials originating in Viet Nam when further processed or incorporated into one of the products listed in Annex IV to this Protocol (Products Referred to in Paragraph 2 of Article 3).

As shown in, Figure A. 8 and Figure A. 9 in Annex depict a comparison of the utilization rates for selected chapters of ASEAN countries, ASEAN LDCs including Myanmar are performing much better than the remaining ASEAN countries even if the latter have a much greater industrial base. Such higher utilization rate is mainly due to the combination of

⁴⁷ The EU – Malaysia negotiations are currently on hold; EU – Thailand are continuing; Vietnam and Singapore in the process of ratification. Negotiations with the Philippines are underway.

⁴⁸<http://www.europarl.europa.eu/legislative-train/theme-a-balanced-and-progressive-trade-policy-to-harness-globalisation/file-eu-singapore-fta>

⁴⁹See: <http://www.europarl.europa.eu/legislative-train/theme-a-balanced-and-progressive-trade-policy-to-harness-globalisation/file-eu-vietnam-fta>

1. Higher preferential margin under EBA than under EU GSP scheme;
2. More lenient PSRO applicable to LDCs under the EU reform of rules of origin and EBA;
3. ASEAN cumulation and the changes to cumulation introduced in 2011.

As discussed, all three factors mentioned above are going to be eroded as follows:

- a) The higher preferential margin will be progressively eroded once ASEAN countries have finalized their FTAs with the EU since the agreed tariff schedule phased out will start to apply;
- b) Concerning the PSRO, it appears that PSRO, at least in the clothing sector, may not be significantly eroded at the time of entry into force of the EU-Vietnam FTA since double transformation (weaving and CMT: Cut Make and Trim) will remain as the applicable requirement. However, cumulation with South Korean fabrics provided under the EU-Vietnam FTA may provide a source of concern and competition for Myanmar producers since, thanks to that possibility, Vietnam could source originating fabrics from South Korea;
- c) The cumulation advantage of ASEAN LDCs with respect to other ASEAN partners having entered an FTA with the EU will progressively turn into a disadvantage since ASEAN countries having signed an FTA with EU will be able to cumulate among themselves while the ASEAN LDC will be left with the only option of cumulating among themselves leading to further marginalization.

The impact that this will have on Myanmar depends largely on a combination of market and rules of origin as well as on other factors laying outside such mere market access issues as contained in other chapters of this study. As shown in Table 18 in Annex both the EU-Singapore, EU-Vietnam, but also the EU-South Korea FTA do not show significant better PSRO for Chapter 61 and 62. Garments still require a double transformation as under the current GSP rules.

In the case of the EU-Singapore FTA, the EU rules of origin allow their FTA partners to cumulate inputs produced in other free trade partners. Myanmar's trade strategy for the next period, 2019 – 2022, needs to take into account the progressive loss of ASEAN cumulation, and increased competition from Vietnam.

The entry into force of FTAs between the EU, Vietnam, Singapore and ongoing negotiations with the Philippines and eventually Thailand may affect the competitive position of Myanmar garment producers as shown in Table 7 above.

Such changes in the market access to the EU market has to be read in conjunction with the fact that main competitors of Myanmar, especially Vietnam, are currently engaged in FTA on multiple fronts, the EU-Vietnam FTA, the CP-TPP, RCEP and a series of bilateral agreements. It is obvious that the combined effect of progressive duty-free market access to these markets thanks to a network of FTAs will be a magnet for producers and investor to relocate in Vietnam despite the more stringent rules of origin that Vietnam may face under CP-TPP.

Recommendations

In view of the above analysis, Myanmar and other ASEAN LDCs should take the initiative to enter into a trade policy dialogue with the EU to define a new trade relation that is going beyond EBA.

ASEAN LDCs are expected to graduate from LDC status in the near future⁵⁰ and the current market access under EBA that has been a crucial factor in their export performance is going to be progressively eroded by the ASEAN FTAs.

The combined effects of these two looming events requires timely and concrete actions such as:

1. Myanmar should prepare a short roadmap for a new partnership between ASEAN LDCs and the EU and discuss it with other ASEAN counterparts at the nearest opportunity during the summer 2019.
2. Convene a meeting at high level among the ASEAN LDCs to agree on a roadmap in June/July 2019.
3. Upon nomination of the EU trade commissioner and EU parliament in early fall 2019, the ASEAN LDCs should request for a meeting with the new Trade commissioner to discuss such new partnership.

In addition, Myanmar will have to undertake actions at technical level to prepare the ground for extended cumulation with Vietnam and explore possible ways to cumulate with Japan.

The request for extended cumulation⁵¹ to the EU requires that Myanmar engage in early discussion with Vietnamese counterparts to seek their support for extended cumulation. Early contacts should be made with Japan to secure a similar approach.

Such action should be undertaken as soon as possible in spring- summer 2019 to relay a message to garments manufacturers that the Government is actively pursuing a viable trade strategy.

⁵⁰ Meeting two graduation thresholds, Lao PDR also fulfilled the graduation pre-eligibility criteria at the last triennial review of the LDC list in 2018. In contrast, Cambodia only met the HAI graduation threshold, as can be seen below:

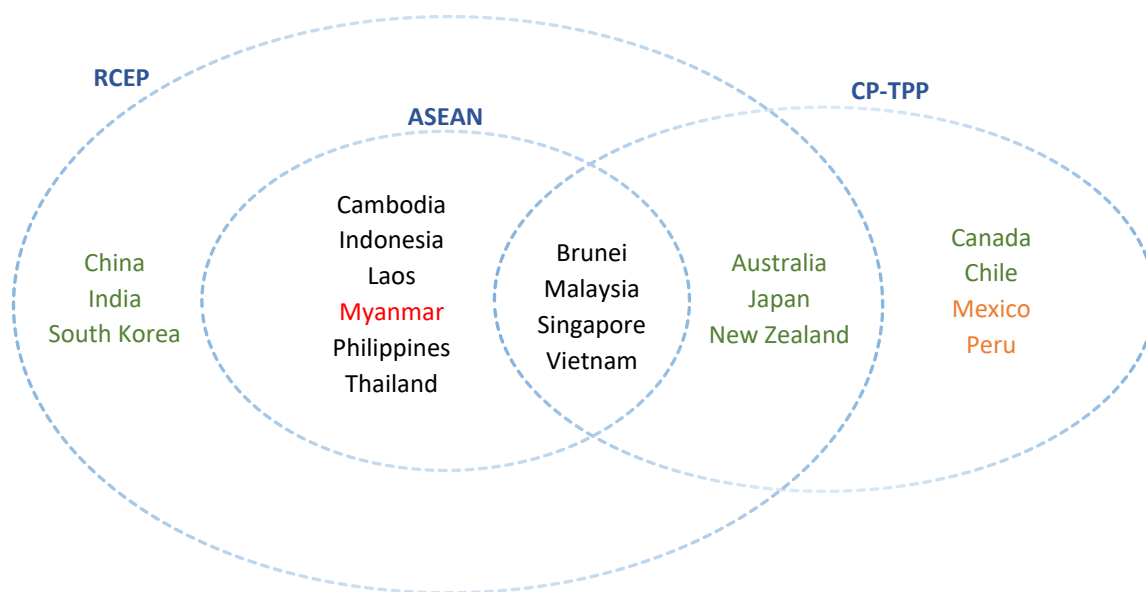
	GNI per Capita (USD)		Human Asset Index (HAI)		Economic Vulnerability Index (EVI)	
	Value	Graduation Threshold	Value	Graduation Threshold	Value	Graduation Threshold
Cambodia	1.075	1230 USD or above	68,9	66.0 or above	34,8	32 or below
Laos	1.996		72,8		33,7	
Myanmar	1.255		68,5		31,7	

While Myanmar complied with all three graduation requirements, Lao PDR fulfilled the GNI per capita and HAI Index criteria. If found eligible at the next review in 2021, they may both expect to graduate by 2024 or earlier if they do not use the 3 years grace period.

⁵¹ Extended cumulation is a system, conditional upon the granting by the EU Commission, on a request lodged by a beneficiary country and whereby certain materials, originating in a country with which the European Union has a free-trade agreement in accordance with Article XXIV of the General Agreement on Tariffs and Trade (GATT) in force, are considered to be materials originating in the beneficiary country concerned when further processed or incorporated in a product manufactured in that country.

3 RCEP AND CP-TPP – CHALLENGES AND OPPORTUNITIES

Figure 3.1: RCEP, ASEAN, CP-TPP and DFQF preferences: Overlapping memberships



Note: in green are countries providing DFQF market access to LDCs.

As shown in Figure 3.1 above, CP-TPP and RCEP negotiations are partially overlapping existing trade preferences under DFQF and ASEAN FTA with dialogue partners. More specifically, among CP-TPP member countries, only Mexico and Peru do not have any preferential arrangement with Myanmar at present. Exports to Australia, Japan, New Zealand, Canada, and Chile benefit from DFQF market access while the remaining members are part of ASEAN network of FTA with dialogue partners. In the case of RCEP, all members have already an existing agreement or trade arrangement with Myanmar under ASEAN or DFQF. This overlapping scenario is making the assessment of the value provided by RCEP and CP-TPP difficult and complicated. In fact, the benefits of joining RCEP or CP-TPP or both will have to be assessed against the preferential margin, utilization rates, and applicable rules of origin under existing preferential arrangements.

In strict terms, the benefits of concluding RCEP and/or joining CP-TPP may be quantified in terms of preferential margins and rules of origin stringency that may be currently gained or lost, depending on the respective outcome of this arrangements. In reality and with a broader perspective, this chapter is aimed at identifying precisely what are the main products exported by Myanmar to RCEP and CP-TPP partners comparing them with the market access opportunities in terms of tariff concessions and rules of origin under the respective arrangements as well with other non-tariff measures such as SPS that are playing an important element of market access.

Table 8: Overlapping trade preferences available to Myanmar with RCEP and CP-TPP partners Comparative table on Market Access (MA) and Rules of Origin (RoO)

Myanmar partners	MA scheme	Product Coverage	RoO
ASEAN	ATIGA	All products DFQF	RVC 40% and PSROs
Australia	DFQF	All Products	Last Manufacturing Process performed in LDC; Minimum 50% of total factory cost; Minimum 75% when cumulation is used
	FTA	99% of all products ⁵²	40% Regional Value Content; Product Specific Rules of Origin: Requirements vary between criteria wholly obtained, RVC, CTSH with or without exceptions, specific working or processing requirements or alternative rules.
Canada	DFQF	All products except some dairies	80% of non-originating when cumulation is used
Chile	MFN	Include MFN Averages (6%) ⁵³	Not Applicable
	DFQF	All products except wheat, wheat flour, and sugar Products ⁵⁴	Minimum Regional Value Content of 50%
China	DFQF	97% of all products ⁵⁵	Minimum 40% of originating materials
	ASEAN China FTA	90% of all products ⁵⁶	Minimum Regional Value Content of 40% using direct method and maximum value of non-originating material of 60% using indirect method; Product Specific Rules of Origin containing 22 pages. ⁵⁷
India	DFQF	95.5% of all products ⁵⁸	Minimum 30% of originating materials; Product Specific Rules
	ASEAN India FTA	90% of all products	Minimum Regional Value Content of 35%; Product Specific Rules of Origin
Japan	DFQF	All products	Maximum value of non-originating materials of 40%; Product Specific Rules
	FTA	All products except for machine parts and petroleum oil products ⁵⁹	Minimum Regional Value Content of 40% and product specific rules of origin containing 161 pages. ⁶⁰
Mexico	MFN	Include MFN averages (6.9%) from WTO	Not applicable
Peru	MFN	Include MFN averages (2.4%)	Not applicable

Figure 3.2 shows that in 2017, RCEP and CP-TPP markets represented 71.4% of Myanmar total exports, with 58.6% directed to countries that are part of both agreements. It is notable to see that the US only occupies 1.76% of the export shares of Myanmar.

⁵² See <https://aanzfta.asean.org/asean-australia-new-zealand-free-trade-arrangement/> for further details.

⁵³ See <http://stat.wto.org/tariffprofile/wsdbrtariffpfview.aspx?Country=cl&Language=E> for further details.

⁵⁴ See <https://www.un.org/ldcportal/chile-to-grant-dfqf-to-ldcs/> for further details.

⁵⁵ See <https://www.un.org/ldcportal/preferential-market-access-chinas-dfqf-scheme-for-ldc-products/> for further details.

⁵⁶ See <http://www.asean-cn.org/index.php?m=content&c=index&a=show&catid=267&id=84> for further details

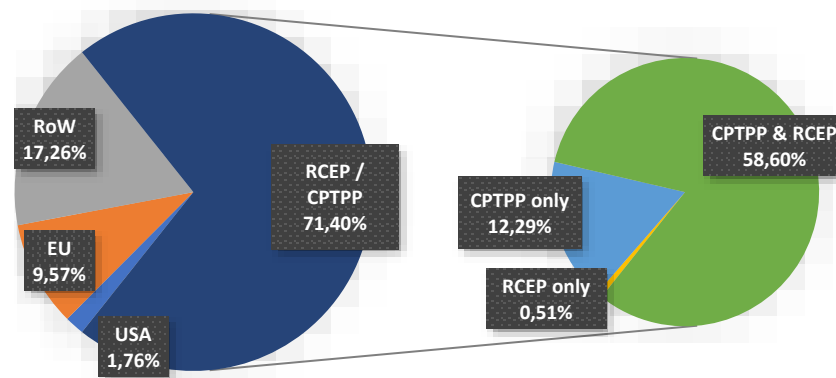
⁵⁷ See <https://fta.miti.gov.my/miti-fta/resources/auto%20download%20images/558b8bd2cc77f.pdf> for further details.

⁵⁸ See http://commerce.gov.in/writereaddata/UploadedFile/MOC_636434269763910839_international_tpp_DFTP.pdf for further details.

⁵⁹ See <https://www.mofa.go.jp/policy/economy/fta/asean/part3-2.pdf> for further details.

⁶⁰ See https://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/pdfs/ajcep_k2.pdf for further details.

Figure 3.2: Myanmar Export shares to RCEP/TPP markets and to the rest of the world, 2016

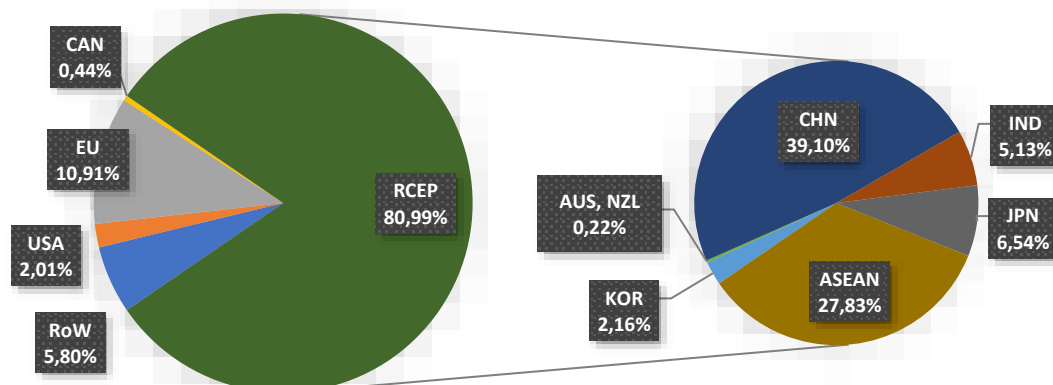


3.1 Measuring cost and opportunities of RCEP

3.1.1 Getting increased market access for Myanmar exports to RCEP partners

As detailed in Figure 3.3 below, the exports of Myanmar to RCEP markets represented about 80.99% of total exports in 2017, including natural gas. Table 9 presents at tariff lines level the top export products of Myanmar to RCEP partners in 2017 are agricultural products, precious stones and metals and natural gas.⁶¹ It is no surprise that China occupies the top export destination of Myanmar both in terms of trade value (11 USD billion) which is 39.1% of the total export share and in terms of the number of top products being exported by Myanmar (11 out of 16). ASEAN is the next largest export destination with 27.83% then Japan with 6.54%, India with 5.13% and South Korea with 2.16%. For the rest of the RCEP partners, Australia and New Zealand, there is only 0.22% export share for both countries combined. .

Figure 3.3: Myanmar Export shares to RCEP markets and to the rest of the world, 2017



Despite that Australia already provides DFQF market access to Myanmar, as shown in Figure 2.1, the average utilization of the scheme by Myanmar exporters is rather limited. In 2016, only 20% of Australian imports from Myanmar benefited from DFQF treatment, corresponding to an average utilization rate of 49%, with important variations between products. Most importantly, it is important to note that despite the increasing amount of

⁶¹ Note that re-exported product such as aircraft and ships are not included in the analysis.

trade between 2015 and 2017, the utilization rate has been decreasing over years, from 78% in 2015, 49% in 2016 and 32% in 2017, while preference margin remains stable around 5%.

Pockets of low utilization rates combined with preference margin (PM) above 2 percentage point have been identified and reported in Table 19 in annex. Similarly, as shown in Figure 2.1, in 2016, 28% of Myanmar exports to South Korea received preferential treatment, corresponding to a utilization rate of 8.5% (see Table 20). Pockets of low utilization of the South Korean DFQF scheme where the preference margin is above 2 percentage points are reported in

Table 20 in the annex.

According to data notified at the WTO, in 2015, Myanmar has not been able to use the DFQF scheme offered by India, with Utilization rate of around 1%. Therefore, a functioning trade agreement could generate important opportunities for Myanmar.

The RCEP negotiating text has not been made available in the course of this study. Only limited information was made available through other sources. On the basis of the preliminary information and an examination of tariff offers, RCEP does not seem to provide substantial improvements with respect to the market access that Myanmar is already being granted as part of the LDC, or ASEAN and ASEAN FTA network with dialogue partners. Such available information is summarized in Table 9 below.

The crippling factor of RCEP is the architecture of the tariff offer since the RCEP partners have made a single offer for all the ASEAN countries or towards all RCEP partners. This means that Myanmar is treated in terms of market access as Singapore or Malaysia while there is a clear divide in terms of export capacity and level of development between these countries and Myanmar. This element alone casts serious doubts over the value added of RCEP in terms of market access granted to Myanmar with respect to previous agreement and LDC arrangements that Myanmar is already benefitting.

Added to this, the RCEP draft main text on rules of origin is 111 pages long and the excel texts of Product Specific Rules of Origin (PSRO) is over 6000 lines. These figures alone provide a glimpse of the complexities of the negotiations. Once again, there is no provision for LDCs special and preferential treatment in the area of rules of origin for LDCs.

Unless substantial progress is made in the last round of negotiations, the current reading of the RCEP provides little scope for increased market access for Myanmar. The only advantage of RCEP would be to “lock-in” in contractual agreement some unilateral trade preferences.⁶² Even this assumption would have to be further assessed.

The fact that Myanmar may graduate from LDC status in a foreseeable future should not mean to forfeit in advance its negotiating position as LDC during the current round of negotiations in RCEP

⁶² Like the DFQF and rules of origin granted by Japan, India and Japan but it would have to be assessed if the tariff offers and rules of origin in RCEP are equivalent of better than those granted under the current DFQF granted by these preference giving countries.

Recommendations

On the basis of the abovementioned findings and analysis the following recommendations are made:

- 1. As a matter of priority Myanmar with other ASEAN LDCs should insist that other RCEP partners make a differentiated offer on tariffs and rules of origin for ASEAN LDCs in RCEP**
- 2. An overall and product specific assessment has to be made using the methodology adopted in Table 9 to measure what additional market is granted under current RCEP and setting negotiating objectives accordingly.**
- 3. An overall assessment has to be made of the value of RCEP with respect to trade in goods, services and other trade related aspects. As the text has not being made public, it is not possible to provide even an initial assessment**

Table 9: Market Access and Rules of origin treatment of most exported products from Myanmar to RCEP Partners in 2017
(sorted in descending values, cumulative export share < 75%)

Product HS Code	Description	Exports Value (\$ '000)	Principal MMR export destinations within RCEP members												PSRO
			1st Destination				2nd Destination				3rd Destination				
			ISO3 Code	Share (%)	MFN (%)	Applied reduction in RECP (EIF)	ISO3 Code	Share (%)	MFN (%)	Applied reduction in RECP (EIF)	ISO3 Code	Share (%)	MFN (%)	Applied reduction in RECP (EIF)	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
	TOTALS FOR ALL PRODUCTS	11'049'279	CHN	48.1	.	.	THA	24.0	.	.	JPN	8.2	.	.	
271111	Natural gas, liquefied	2'986'970	THA	65.9	0.00	N/A	CHN	34.1	0.00	N/A	.	.	2.50	.	CTH
071331	Dried beans, shelled	628'118	IND	50.5	30.00	0.00	CHN	27.2	1.50	0.00	IDN	4.5	2.50	N/Av.	CC*; WO (IN, KR); RVC40 or CTH(NZ)
100620	Husked (brown) rice	537'757	CHN	98.1	33.00	N/O	SGP	1.5	0.00	N/A	MYS	0.2	40.00	N/O	WO*; CC(AU, NZ)
740311	Copper cathodes and sections of cathodes unwrought	485'224	CHN	48.0	2.00	0.00	THA	28.2	1.00	0.00	IDN	9.5	5.00	N/Av.	RVC40 or CTH
170199	Cane or beet sugar, in solid form, nes	420'323	CHN	99.8	32.50	N/O	IND	0.2	100.0	N/O	IDN	0.1	.	N/A	WO*; Options (ASEAN): WO, RVC40 or CC; CTSH (AU, JP); CC ex 12 (KR), RVC40 or CTSH or refining (NZ)
710310	Prec or semi-prec stones (o/t diamonds) unwk'd or simply sawn or rough shpd	343'632	CHN	100.0	3.00	0.00	THA	0.0	0.00	N/A	KOR	0.0	1.00	N/Av.	RVC40 or CC*
170191	Cane or beet sugar, containing added flavouring or colouring	338'090	CHN	99.9	32.50	N/O	THA	0.1	94.00	N/O	SGP	0.0	0.00	N/A	WO*; Options (ASEAN): WO, RVC40 or CC; CTSH (AU, JP); CC ex 12 (KR), RVC40 or CTSH or refining (NZ)
720260	Ferro-nickel	334'296	CHN	95.7	2.00	0.00	IND	3.2	2.50	0.00	SGP	1.0	0.00	N/A	RVC40 or CTH*
271121	Natural gas in gaseous state	286'244	CHN	100.0	0.00	N/A	.	.	.	.	.	.	.	.	CTH
100510	Maize seed	285'769	CHN	95.1	10.50	N/O	VNM	4.0	0.00	N/A	MYS	0.4	0.00	N/A	WO*
271019	Petroleum oils & oils obtained from bituminous minerals (other than crude) & preparations not elsewhere specified	277'725	CHN	99.9	6.46	0.00	IND	0.1	8.06	N/O	SGP	0.0	0.00	N/A	RVC40 or CTH or no tariff classification change is required provided that the good is a result of a chemical reaction, atmospheric distillation or vacuum distillation*; RVC40 or CTH (ASEAN, JP); CTH(CN, IN);
890520	Floating or submersible drilling or production platforms	264'097	SGP	100.0	0.00	N/A	.	.	.	.	.	.	.	.	RVC40 or CTH
880240	Aeroplanes and other aircraft, of an unladen weight >15,000 kg	212'062	SGP	66.0	0.00	N/A	IND	21.2	2.50	0.00	VNM	12.7	0.00	N/A	RVC40 or CTH
400121	Smoked sheets of natural rubber	161'570	CHN	79.6	20.00	N/O	MYS	12.6	0.00	N/A	THA	3.6	0.00	N/A	RVC40 or CTSH* or WO (ASEAN, CN, IN)
120740	Sesamum seeds	158'069	CHN	75.8	5.00	0.00	KOR	9.6	.	.	JPN	9.2	0.00	N/A	WO*
270900	Petroleum oils and oils obtained from bituminous minerals, crude	112'018	THA	61.2	0.00	N/A	MYS	20.2	2.50	0.00	SGP	18.6	0.00	N/A	CTH

* PSRO Not Agreed; N/A: not applicable; N/Av.: not available; N/O: no offer

3.1.2 Structuring the tariff offers of Myanmar under RCEP

In order to structure a tariff offer accounting for defensive interests, there is a need to assess first the import competition from RCEP partners. Table 10 shows the most imported products from RCEP partners in 2017 and the main suppliers of Myanmar for these particular products. China occupies the first principal supplier of Myanmar accounting for 37.1% of all its imports while the second and third principal suppliers are ASEAN members namely Singapore with 17.9% import share and Thailand with 12.9%.

According to the WTO secretariat⁶³, *“the applied MFN tariff in Myanmar consists of 15 bands ranging from 0% to 40%; this is unchanged since 1996. The large number of bands renders the tariff relatively complex.”*

The average bound tariff rate was 87.2% in 2013 and the applied tariff 5.5. Almost 95% of the applied MFN tariff ranges from duty free to 15%, while the most common tariff rate is 1% as reflected in Table 10 below. Nearly half of all tariff lines have nuisance rates (greater than zero, but below or equal to 2%). The purpose of these nuisance tariff was not clear to the WTO Secretariat

As shown in Table 10, the RCEP tariff offers of Myanmar may not pose a particular threat in terms of protection of sensitive products since most of the imported products from RCEP countries are facing a nuisance import tariff that could be eliminated without any particular implication in terms of revenue foregone of protection for domestic industries. On the remaining tariff lines it may be envisaged to offer a progressive reduction of the 15 % tariffs for woven fabrics (HS 551449 and HS 551319) since there is no domestic production and fabrics are an input to the garments industry

Different considerations may be made for the duties imposed on cars (HS 870323) with a simple average MFN rate of 27.5% where customs revenues may be significant. The duties imposed on cellular phones (HS 851712) with simple average MFN rate of 10% also needs to be considered.

On the other hand, Myanmar may wish to maintain protection for certain the agricultural and agro-processing industry as advocated by the private sector. These products are “other food preparations” (HS 210690) with a 13.92% simple average of MFN rate. Myanmar may also consider the same for cane or beet sugar (HS 170199) or palm oil (HS 151190) where it may offer a progressive, albeit different, tariff reduction depending on the domestic production.

⁶³ See WTO Trade Policy Review mechanism, 2014

Table 10: Myanmar Most Imported Products from RCEP Member Countries, 2017

(sorted in descending values, cumulative import share < 48%)

HS Code	Product Description	MFN applied tariffs					Applied reductions	Imports Value (\$ '000)	Share in MMR Imports (%)	Cumulative Share in MMR Imports (%)	No. of Suppliers	Principal Suppliers					
		No. NL	No. NAV NL	Simple Av. %	MIN %	MAX %						1st		2nd		3rd	
												ISO3 Code	Share (%)	ISO3 Code	Share (%)	ISO3 Code	Share (%)
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
	TOTALS FOR ALL PRODUCTS	.	.	.	.	.	.	16'197'754	100.00	100.00	16	CHN	37.1	SGP	17.9	THA	12.9
271019	Petroleum oils & oils obtained from bituminous minerals (other than crude) & preparations not elsewhere specified/incl., containing by weight 70 %/more of petroleum oils/of oils obtained from bitumin	18	0	1.44	0.50	1.50	1.5% for 11 Y/O	2'038'470	12.58	12.58	10	SGP	74.2	MYS	17.1	THA	5.4
271012	Light Oils and Preparations	15	0	1.50	1.50	1.50	1.5% for 11 Y/O	1'303'440	8.05	20.63	6	SGP	85.5	MYS	12.7	THA	1.4
870410	Dump trucks designed for off-highway use	12	0	3.00	3.00	3.00	N/O or 3% for 13 Y/O	711'872	4.39	25.03	10	CHN	51.1	JPN	39.0	KOR	5.8
170199	Cane or beet sugar, in solid form, nes	7	0	0.50	0.50	0.50	0.5% for 11 Y/O	544'312	3.36	28.39	8	IND	51.4	THA	44.7	VNM	2.6
151620	Vegetable fats and oils and their fractions, hydrogenated, etc	24	0	5.00	5.00	5.00	N/O	506'176	3.12	31.51	8	IDN	81.8	MYS	16.4	THA	0.9
551449	Printed woven fabrics, <85% synthetic fibres + cotton, nes, >170g/m2	1	0	15.00	15.00	15.00	N/O	457'431	2.82	34.34	11	CHN	88.6	KOR	6.6	JPN	1.9
871120	Motorcycles with reciprocating piston engine displacing > 50 to 250 cc	11	0	5.00	5.00	5.00	N/O	400'622	2.47	36.81	7	CHN	44.6	THA	36.2	VNM	16.7
300490	Other medicaments of mixed or unmixed products, for retail sale, nes	29	0	1.50	1.50	1.50	1.5% for 11 Y/O	259'453	1.60	38.41	12	IND	50.5	THA	11.9	IDN	9.8
851762	Machines for the reception, conversion & transmission/regeneration of voice, images/other data, incl. switching & routing apparatus	16	0	3.03	1.00	15.00	N/O	224'229	1.38	39.80	12	CHN	93.0	JPN	3.1	THA	1.4
870210	Diesel powered buses with a seating capacity of > nine persons	10	0	3.00	3.00	3.00	N/O	191'207	1.18	40.98	6	JPN	39.8	THA	35.7	CHN	15.9
722830	Bars and rods of alloy steel other than stainless, hot-rolled/drawn/extruded, nes	2	0	1.00	1.00	1.00	0%	190'808	1.18	42.15	3	CHN	74.6	IND	25.4	VNM	0.0
210690	Other food preparations, nes	26	0	13.92	1.00	15.00	N/O	184'138	1.14	43.29	13	THA	34.9	MYS	22.2	SGP	20.0
870323	Automobiles with reciprocating piston engine displacing 1500 to 3000 cc	22	0	27.50	1.00	40.00	N/O	154'504	0.95	44.24	7	JPN	89.4	THA	5.8	KOR	2.6
151190	Palm oil (excl. crude) and liquid fractions	5	0	1.00	1.00	1.00	0 or 1% for 11 Y/O	145'893	0.90	45.15	2	IDN	87.7	MYS	12.3		.
551319	Woven fabrics, <85% synthetic staple fibres + cotton, nes, =<170g/m2	1	0	15.00	15.00	15.00	N/O	105'732	0.65	45.80	9	CHN	87.0	KOR	4.9	JPN	3.7
842959	Self-propelled excavating machinery, nes	1	0	1.00	1.00	1.00	0%	103'149	0.64	46.44	11	KOR	40.3	CHN	36.8	JPN	14.9
851712	Telephones for cellular networks/for other wireless networks, other than Line telephone sets with cordless handsets	1	0	10.00	10.00	10.00	N/O	98'097	0.61	47.04	7	VNM	88.1	CHN	8.1	THA	3.7
721070	Flat rolled products of iron/non-alloy steel, painted, varnished or coated with plastics, =>600mm wide	2	0	1.00	1.00	1.00	1% for 11 Y/O	98'015	0.61	47.65	7	CHN	98.8	KOR	0.4	IND	0.3

N/O: No Offer; Y/O: Years and 0% onwards

3.1.3 Getting better market access to India – is RCEP a viable alternative?

The analysis of the trade flows carried out in Table 1 clearly shows that India remains an important market for Myanmar even for a single agricultural product, i.e. beans, with 317 million USD exports to India in 2017. Table 11 exhibits all products with utilization rate of less than 70% and preferential margin (PM) of greater than 2 percentage points (pp). It is crucial to highlight that there is an urgent issue that needs to be addressed. That is, the utilization rates of the DFQF granted by India to Myanmar being close to zero. This is not isolated to Myanmar -- LDCs face similar problems of low utilization rate, as depicted in Table 12 -- but this is especially problematic for Myanmar. This current status of affairs as well as the decision by the Government of India to impose import quotas and to negotiate the price of beans and pulses rather than leave to the open market: willing buyer and willing seller should be reviewed in the light of India commitment in WTO to verify their consistency. In particular, the issue of utilization rates needs to be clarified at the earliest opportunity during the next Committee on rules of origin to be held on 15-16 May.

Myanmar and other ASEAN LDCs should make sure that the RCEP provisions on safeguards and import quotas contain WTO plus elements that permits an enhanced dialogue with India.⁶⁴

Table 11: Indian imports from Myanmar in 2015 at the tariff line level
(UR<70%, PM>2pp, MFN received >200 thousands, in USD '000)

#	HS	Product	GSP Cov.	GSP Rec.	MFN Rec	Oth.	UR (%)	PM
1	07133100	Beans of the species Vigna mungo (L.) Hepper or Vigna radiata (L.) Wilczek	490'148	2'581	487'517	50	0.5	10
2	07136000	Pigeon peas (Cajanus cajan)	234'904	2'110	232'794	0	0.9	10
3	07133990	Dried beans, shelled, nes - other	48'884	213	48'671	0	0.4	10
4	07139090	Vegetables, leguminous; n.e.c. in heading no. 0713, shelled, whether or not skinned or split, dried - Other	13'872	0	13'872	0	0.0	10
5	08028020	Other nuts, fresh or dried, whether or not shelled or peeled.- Areca nuts - Split	12	0	12'651	0	0.0	100
6	07139010	Dried beans, shelled, nes - Split	13'612	1'834	11'778	0	13.5	10
7	07133300	Kidney beans, including white pea beans	9'191	0	9'191	0	0.0	10
8	09103020	Turmeric (curcuma) - Dried	7'683	0	7'683	0	0.0	4.5
9	07132000	Chickpeas (garbanzos)	6'880	154	6'725	0	2.2	10
10	07133500	Cow peas (Vigna unguiculata)	2'371	0	2'370	0	0.0	10
11	08028010	Other nuts, fresh or dried, whether or not shelled or peeled.- Areca nuts - Whole	2'049	0	2'049	0	0.0	100
12	08028090	Other nuts, fresh or dried, whether or not shelled or peeled.- Areca nuts - Other	1'220	0	1'220	0	0.0	100
13	44034910	Tropical wood in the rough, nes - Teak wood in rough	2'765	0	1'207	1'558	0.0	5
14	05010010	Human hair, unworked, whether or not washed or scoured	1'204	0	1'204	0	0.0	30
15	44083910	Specified tropical wood (excl. Dark Red Meranti, Light Red Meranti and Meranti Bakau) veneer sheets and for plywood, =< 6m - Sheets for plywoods	23'836	0	774	23'062	0.0	10
16	44089090	Veneer sheets and sheets for plywood and other wood, =< 6mm thick, nes - Other	19'322	101	637	18'584	0.5	10
17	26171000	Antimony ores and concentrates	564	0	564	0	0.0	2.5
18	09101190	Spices; ginger, neither crushed nor ground - Other	329	0	329	0	0.0	4.5
19	96031000	Brooms and brushes, consisting of twigs or other vegetable materials bound together, with or without handles	431	0	275	156	0.0	10
20	67030010	Human hair, dressed thinned, bleached or otherwise worked	265	0	265	0	0.0	10

⁶⁴ For instance, the EU-Vietnam SPS provisions contain a number of possible suggestions on how develop some WTO plus disciplines.

Table 12: Indian imports from LDCs in 2015
(UR<70%, PM>2pp, MFN received >80 million, in USD 000)

#	Partner	HS	Product	GSP Cov.	GSP Rec.	MFN Rec	Oth.	UR	PM
1	Myanmar	071331	Beans of the species Vigna mungo (L.) Hepper or Vigna radiata (L.) Wilczek	490'148	2'581	487'517	50	0.5	10
2	Tanzania	710812	Other unwrought forms of gold (including gold plated with platinum)	477'680	0	477'680	0	0.0	10
3	Myanmar	071360	Pigeon peas	234'904	2'110	232'794	0	0.9	10
4	Burkina Faso	710812	Other unwrought forms of gold (including gold plated with platinum)	216'748	0	216'748	0	0.0	10
5	Mozambique	270119	Coal other than anthracite and bituminous	207'026	0	207'026	0	0.0	2.5
6	Guinea	710812	Other unwrought forms of gold (including gold plated with platinum)	204'238	0	204'238	0	0.0	10
7	Senegal	280920	Phosphoric acid and polyphosphoric acids	195'300	0	195'300	0	0.0	5
8	Mali	710812	Other unwrought forms of gold (including gold plated with platinum)	167'042	0	167'042	0	0.0	10
9	Equatorial Guinea	271111	Liquefied natural gas	137'949	0	137'949	0	0.0	5
10	Tanzania	071360	Pigeon peas	98'613	0	98'613	0	0.0	10
11	Angola	710231	Non-industrial diamonds, unworked or simply sawn, cleaved or bruted	98'336	0	98'336	0	0.0	10

3.2 Joining the CP-TPP

The CP-TPP agreement is a modern FTA encompassing a series of WTO–Plus disciplines both in terms of coverage and in depth. The preliminary analysis of the CP-TPP with respect to market access and rules of origin is similar to RCEP in the sense that the CP-TPP may not bring to Myanmar additional market access to what has been already been granted under different arrangements thanks to the current LDC status or as member of the ASEAN FTAs with dialogue partners. Figure 3.4 shows that CP-TPP makes up for 14.46% of the export share of Myanmar in 2017. Among the CP-TPP partners, the exports to ASEAN countries who are CP-TPP members have the largest share of 7.26% followed by Japan with 6.54%. Canada only has 0.44% while both Australia and New Zealand combined have 0.22%.

The complex rules of origin of the CP-TPP, especially in the garment sector, does not reflect the present capacity of the Myanmar garment industry. However, reading a complex agreement such as the CP-TPP through the lenses of market of tariff and rules of origin offers a very limited perspective of the trading opportunities and challenges that the CP-TPP agreements may have for Myanmar. First of all, as in the case of the RCEP, the trade preferences granted under an FTA are not of unilateral nature and are more permanent and stable in nature.

The CP-TPP is based on a series of a rule-based, market-oriented system that offer predictability for investors but also challenges for countries like Myanmar. The situation is further exacerbated by the fact that some of the main competitors of Myanmar, like Vietnam, is on a triple track⁶⁵ scenario since it participates to RCEP, is member of the CP-TPP and has entered an FTA with the EU.

Table 13 below reports the main exports from Myanmar to CP-TPP partners in descending order of export value. As can be easily noted from the table the main partners are Canada,

⁶⁵ See footnote 12.

Japan and ASEAN countries where Myanmar is benefiting from existing preferences granted under the GSP of Canada and Japan as well as the ASEAN–Japan FTA and ATIGA with ASEAN countries. The only partner where Myanmar may gain, at a cursory glance, preferential market access is Mexico for limited export values of garments. For products such as shoes, Mexico ranks as the 4th or 5th main export destination for Myanmar. Added to the CP-TPP RoO is that garment production requires triple transformation.

With respect to investment (Chapter 9), the CP-TPP parties agreed to suspend the application of the provisions related to an “investment authorization”, including the submission of ISDS claims (i.e. limiting the submission of claims to the breach of the treaty obligation) and the selection of arbitrators (in part).

Regarding other aspects of CP-TPP Chapter 9, it is noteworthy that the investment chapter includes several reform-oriented elements. For example, it refines definitions of investor and investment; clarifies the meaning of key standards to preserve regulatory space (e.g. clarifying that a government’s failure to respect an investor’s legitimate expectations does not automatically amount to a breach of the minimum standard of the treatment (Article 9.6), clarifying what does and what does not constitute an indirect expropriation (Article 9.8 and Annex 9-B)); contains a clause recognizing that parties should not relax health, safety and environmental standards and reaffirms CSR-related obligations.

Of particular relevance are issues related to ISDS. Certain CP-TPP Contracting Parties used side letters to bilaterally opt out of ISDS or otherwise modify the ISDS arrangements applicable between them. For example, bilateral side letters provide that there is no ISDS available between Australia and New Zealand and New Zealand and Peru. In the bilateral relationships between New Zealand and three other parties (Brunei, Malaysia and Viet Nam), ISDS will remain. However, consent to arbitration by the respondent State needs to be given on a case-by-case basis. Moreover, the CP-TPP ISDS provisions allow disputing parties to submit written comments to the tribunal concerning any aspect of the proposed decision or award (CP-TPP Art.9.23) and establish joint bodies with a mandate to issue binding interpretations of treaty provisions (CP-TPP Art. 9.25(3)).

At the same time, many CP-TPP parties remain bound by ISDS provisions found in earlier treaties signed between them in different constellations. Examples include the ASEAN Investment Comprehensive Investment Agreement (2009) (of which Myanmar is a party), the Energy Charter Treaty (1994), other TIPs and BITs signed between the CP-TPP parties.

Some CP-TPP parties opted to terminate and replace some pre-existing IIAs. For example, Australia’s BITs with Mexico, Peru and Viet Nam will be terminated and replaced by the CP-TPP investment chapter, under the terms set out in the relevant side letters. In that respect the CP-TPP offers an opportunity to replace old-generation treaties with a treaty containing more modern clauses.

When considering accession to the CP-TPP investment chapter, Myanmar should make a careful assessment about the pros and cons in light of the acceding country’s investment for sustainable development plan. First and foremost, this includes defining the role of IIAs in a country’s development strategy⁶⁶. In addition to assessing the arguments put forward in favor

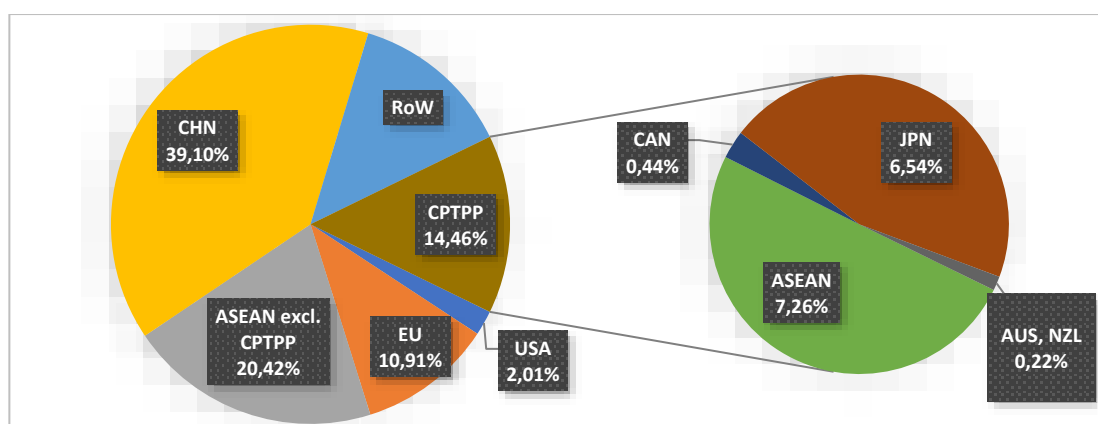
⁶⁶ See Page 74 in UNCTAD’s Investment Policy Framework for Sustainable Development, 2015 version4

and against IIAs⁶⁷ and the arguments brought forward in favor or against to ISDS⁶⁸, this would also include an assessment of the individual investment-related obligations contained in the CP-TPP.

Among others, consideration would have to be given to the extent to which more modern CP-TPP clauses could help modernize (i.e. replace) old-generation clauses in pre-existing IIAs (e.g. Myanmar-Japan, 2007). Importantly, careful decision making would also require a realistic assessment of the extent to which acceding LDCs will be able to avail themselves of side letters, to shape their individual commitments in line with their special development needs

Overall the main challenge of Myanmar is to put more resources on assessing the values of the various options and conducting a series of consultations to assess the terms and condition for acceding to the CP-TPP

Figure 3.4: Myanmar Export shares to CP-TPP Markets and to the Rest of the World, 2017



On the basis of the abovementioned findings and analysis the following recommendations are made:

- 1. Conduct a deeper and comprehensive assessment of the CP-TPP and initiate consultations with other ASEAN LDCs for a possible joint initiative to accede to the CP-TPP as ASEAN LDC group**
- 2. Initiate informal consultations either directly or indirectly to identify the possible flexibilities and carve out that may be discussed upon accession, especially on ISDS provision and other aspects.**

⁶⁷ See Page 19, table 1 in UNCTAD's Reform Package for the International Investment Regime

⁶⁸ See Page 48, table 5 in UNCTAD's Reform Package

Table 13: Market Access and Rules of Origin Treatment of Most Exported Products from Myanmar to CP-TPP Partners in 2017
(sorted in descending values, cumulative export share < 55%)

HS Code	Product Description	Exports Value (\$'000)	Principal MMR export destinations within CP-TPP members												PSRO
			1st Destination				2nd Destination				3rd Destination				
			ISO3 Code	Share (%)	MFN (%)	Pref	ISO3 Code	Share (%)	MFN (%)	Pref	ISO3 Code	Share (%)	MFN (%)	Pref	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
	TOTALS FOR ALL PRODUCTS	2'010'819	JPN	44.9	.	.	SGP	33.9	.	.	MYS	9.3	.	.	
890520	Floating or submersible drilling or production platforms	264'097	SGP	100.0	0.00	N/A	.	.	.	.	.	.	.	.	CTC or Min. RVC of (a) 30% under build-up, (b) 40% under build down or 50% under focused value
880240	Aeroplanes and other aircraft, of an unladen weight exceeding 15,000 kg	167'056	SGP	83.8	0.00	N/A	VNM	16.2	0.00	N/A	.	.	.	.	CTH
071331	Dried beans, shelled	87'011	VNM	25.1	7.50	0.00 or 3.3% R/Y	MYS	24.3	0.00	N/A	SGP	23.3	0.00	N/A	CTC
740311	Copper cathodes and sections of cathodes unwrought	69'016	MYS	51.3	0.00	N/A	VNM	42.7	0.00	N/A	SGP	6.0	0.00	N/A	CTH
620319	Men's or boys' suits of other textiles, nes	63'537	JPN	90.9	9.55	0.00	CAN	7.3	17.00	0.00	AUS	0.6	5.00	5% for 3 Y/0	CTC with exceptions
620339	Men's or boys' jackets and blazers of other textiles, nes	61'180	JPN	92.4	10.33	0.00	CAN	4.0	17.00	0.00	MYS	2.8	0.00	N/A	CTC with exceptions
640399	Footwear with rubber... soles, leather uppers, not covering the ankle	48'097	JPN	97.7	22.38	MFN or 2.2% R/Y	AUS	0.8	5.00	1.3% R/Y	CAN	0.8	9.67	0.00 or 4.5% for 11 Y/0	CTC or Min. RVC of (a) 45% under build-up, (b) 55% under build down or 50% under focused value
620590	Men's or boys' shirts of other textiles, nes	44'651	JPN	93.8	8.20	0.00	CAN	3.4	18.00	0.00	MYS	1.6	0.00	N/A	CTC with exceptions
842123	Oil or petrol-filters for internal combustion engines	44'215	SGP	99.9	0.00	N/A	VNM	0.1	5.00	0.00	.	.	.	.	CTSH
270900	Petroleum oils and oils obtained from bituminous minerals, crude	43'495	MYS	52.1	2.50	0.00	SGP	47.9	0.00	N/A	.	.	.	.	CTH
620690	Women's or girls' blouses, shirts, etc, of other textiles, nes	43'450	JPN	91.5	8.83	0.00	CAN	3.6	17.00	0.00	MEX	1.5	22.50	2.9% R/Y	CTC with exceptions
620333	Men's or boys' jackets and blazers of synthetic fibres	33'573	JPN	99.1	10.95	0.00	CAN	0.6	18.00	0.00	MEX	0.1	22.50	2.9% or 3% R/Y	CTC with exceptions
620193	Men's or boys' anoraks, wind-cheaters, etc, of man-made fibres	33'463	JPN	87.8	10.95	0.00 or 1.2% R/Y	CAN	9.9	17.00	0.00	SGP	2.1	0.00	N/A	CTC with exceptions
030617	Other Shrimps and Prawns	29'425	JPN	67.5	1.00	0.00	MYS	11.1	0.00	N/A	VNM	11.0	9.00	0.00	CTC
400121	Smoked sheets of natural rubber	26'563	MYS	76.4	0.00	N/A	JPN	19.0	0.00	N/A	AUS	2.3	0.00	N/A	CTH or No CTH with min RVC of 40% under build down
620343	Men's or boys' trousers, breeches of synthetic fibres	24'988	JPN	99.3	9.55	0.00	CAN	0.3	18.00	4.5% R/Y	MYS	0.1	0.00	N/A	CTC with exceptions

N/A: Not Applicable; R/Y: Reduction per year; Y/0: Years and 0% onwards

3.3 Myanmar trade relations with Japan: from GSP to ASEAN FTA and beyond.

Trade relations with Japan are governed by the GSP for LDCs and the ASEAN Dialogue FTA with Japan. Trade figures in Table 14, with HS two-digit level sorted in descending order, suggest that the Japan GSP for LDCs is mostly used by Myanmar with a striking difference of 91.4% utilization rate for GSP for total products while there is a low level of ASEAN utilization rate of only 5.15%.

Table 14: Japanese Imports from Myanmar and Utilization Rates under ASEAN and GSP, 2017

(sorted in descending order of MFN Dutiable Imports > 2 million of USD)

HS Chapter		Imports from Partner (\$ 000)							UR (%)	
		Total Value	MFN Dutiable	Covered GSP	Covered ASEAN	NOT Rec. pref.	Rec. GSP Pref.	Rec. ASEAN Pref.	GSP	ASEAN
#	Description	3	4	5	6	7	8	9	10	11
TOTALS FOR ALL PRODUCTS		1'117'689	983'533	942'407	955'128	72'892	861'407	49'236	91.4	5.15
62	Art of apparel & clothing access, not knitted/crocheted	574'935	572'010	572'010	572'010	11'824	555'841	4'346	97.2	0.76
61	Art of apparel & clothing access, knitted or crocheted	154'827	154'827	154'827	151'551	14'447	131'357	9'023	84.8	5.95
64	Footwear, gaiters and the like; parts of such articles	124'303	124'303	87'320	119'783	12'235	79'165	32'903	90.7	27.47
03	Fish & crustaceans, mollusks & other aquatic invertebrates	62'036	62'036	59'616	57'095	8'476	53'046	514	89.0	0.90
07	Edible vegetables and certain roots and tubers	32'500	11'477	11'477	2'757	3'846	7'628	3	66.5	0.11
12	Oil seeds & oleaginous fruits; miscell. grains, seeds & fruits; industr. or medicinal plants	29'568	2'586	2'586	584	545	2'041	0	78.9	0.00
42	Articles of leather; saddlery/harness; travel goods etc	26'779	26'779	26'495	26'495	6'951	18'659	1'169	70.4	4.41
71	Natural/cultured pearls, precious/semiprecious stones, prec. metals;	16'360	884	884	884	884	0	0	0.00	0.00
90	Optical, photogr., cinematogr., measuring, checking, precision, medical/surgical instruments	8'668	280	280	280	274	0	6	0.00	2.14
44	Wood and articles of wood; wood charcoal	6'907	1'725	1'725	1'725	1'076	617	32	35.8	1.86
94	Furniture; bedding, cushions etc; lamps & lighting fittings nes	6'041	99	99	99	0	76	23	76.8	23.2
39	Plastics and articles thereof	5'820	5'820	5'820	5'820	613	4'455	752	76.6	12.9
16	Preparations of meat, fish or crustaceans, mollusks etc	4'252	4'252	4'252	3'974	535	3'717	0	87.4	0.00
47	Pulp of wood/of other fibrous cellulosic mat.; waste and scrap	2'618	0	0	0	0	0	0	.	0.00

Note: Non-dutiable trade under Chapters 01, 05, 23, 25, 34, 40, 45, 48, 49, 68, 70, 73, 76, 84, 85, 87, 91, 97 not reported. Values below 2 Million USD reported in Annex Table 25; Rec: Received.

Furthermore Table 14, shows that garments and shoe products dominate the Japanese imports from Myanmar with high level of GSP utilization rate followed by fishery products.

In the context of the GSP preferences, Myanmar with other ASEAN LDCs should prepare a document clearly outlining the improvements that Japan may make on the product specific

rules of origin and on cumulation. This document should be submitted on 29 April as agreed last November 2018 to the WTO Committee on Rules of Origin (CRO) and discussed during the CRO meeting of 15-16 May. Such action should be followed by an official visit of the ASEAN LDCs to the Ministry of Industry and Trade and Ministry of Finance in Tokyo during the fall to secure follow up and commitment in adopting a reform of rules of origin under the Japanese GSP

In a parallel fashion, Myanmar and ASEAN LDCs should begin to study the possibility to have a series of bilateral FTAs with Japan that are providing better market access than the present Japanese GSP, the ASEAN FTAs and RCEP. A study should be conducted in this regard to compare the different concessions that Japan has made towards other partners to secure and argue for better preferential margins when negotiating as ASEAN LDCs.

On the basis of the abovementioned findings and analysis the following recommendations are made:

- 1. As a matter of priority, Myanmar and other ASEAN LDCs with the assistance development partners take advantage of the set agenda of the LDC core group on rules of origin in order to table a document to**
 - a. highlight the changes to be made in the product specific rules of origin of the GSP of Japan;**
 - b. request to expand the scope of Japan cumulation provision for ASEAN to include Myanmar;**
 - c. take the opportunity of the CRO to open a dialogue on better rules of origin for ASEAN LDC under the different trade arrangements currently being negotiated like RCEP or in the near future a bilateral Japan-ASEAN FTA.**
- 2. Myanmar should carry out a comparative study on the different FTAs entered by Japan to secure and argue better trade preferences and determining the content of possible close trade relations with Japan.**

4 ADDRESSING SPS ISSUES WITH CHINA AND OTHER PARTNERS

ASEAN countries have entered a free trade area with China in 2005. According to ASEAN sources ACFTA hasn't reached the expected target both in trade and investment side. There is a gap of benefit experienced by China and ASEAN member states. Thus, on the trade sector, ASEAN needs to strengthen the efforts to create a balanced trade. On the investment sector, ASEAN has to demand an increase of China's investment to ASEAN, specifically to finance the construction of infrastructure in ASEAN.⁶⁹

According to the objective of ACFTA tariff should not be the prominent obstacle to trade with China, however other NTMs, especially SPS are playing a considerable obstacle to increase exports to China.

Market access in terms of tariff reductions is an element of market access that is not sufficient to ensure market entry into a partner. As examined in the sections above, the trade policy options to replace the Japan and the EU as main market for the garments and shoes

⁶⁹

are limited in the near future. Conversely the analysis has shown that there are trading opportunities for rice and other agricultural products that may be affected not only by tariffs but also by non-tariff measures, in particular Sanitary and Phytosanitary measures (SPS).

Indeed, other elements may hamper Myanmar exporters to benefit from market access opportunities. Non-tariff measures are widely imposed by Myanmar's trading partners, as highlighted in Annex Table 26. Some measures are imposed on a multilateral basis while some other are imposed to specific countries (reported under *Bilateral NTM*). China is the country imposing the maximum number of measures, with 5'714 NTM, including 29 bilateral ones.

At the product level, Rice and Sugar exports to China are particularly exposed to NTM as shown in Annex Table 27 in Annex C. Exports of bawn rice (HS 100620) represent 10% of Myanmar total exports to China and are facing a total of 114 NTM, including 10 bilateral measures. Sugar of HS subheadings 170191 and 170199 together representing 14% of Myanmar's exports to China are affected by 59 multilateral NTM. While most of the existing measures are Technical Barriers to Trade (TBT), according to consultations with local stakeholders, we can reasonably expect Sanitary and Phytosanitary measures (SPS) to be the most problematic for Myanmar exporters of agricultural/food products.

Table 15: Total SPS measures imposed by Myanmar's partners by products
(sorted in descending values of Myanmar's exports > 5 million USD, MMR export share > 5%, Total SPS > 3)

Country	HS6	Description	Bilateral SPS	Multilateral SPS	Total SPS	MMR Exports (\$ '000), 2017	Share in total trade (%)
CHN	100620	Husked (brown) rice	7	47	54	527.6	10%
CHN	170199	Cane or beet sugar, in solid form, nes	0	18	18	419.4	8%
CHN	170191	Cane or beet sugar, containing added flavouring or colouring	0	18	18	337.7	6%
IND	071331	Dried beans, shelled	0	11	11	317.2	45%
CHN	100510	Maize (corn), seed	0	32	32	271.7	5%
IND	071390	Vegetables, leguminous; n.e.c. in heading no. 0713, shelled, whether or not skinned or split, dried	0	11	11	107.4	15%
EUN	100640	Broken rice	0	29	29	81.5	5%
IDN	071331	Dried beans, shelled	2	12	14	28.5	24%
LKA	100620	Husked (brown) rice	0	8	8	28.3	54%
VNM	071331	Dried beans, shelled	0	34	34	21.8	17%
MYS	071331	Dried beans, shelled	2	9	11	21.2	11%
ARE	071331	Dried beans, shelled	0	17	17	16.9	24%
SEN	100640	Broken rice	1	3	4	15.0	100%
IDN	100640	Broken rice	2	12	14	12.9	11%
LKA	071331	Dried beans, shelled	0	8	8	11.9	23%
VNM	100510	Maize (corn), seed	0	15	15	11.4	9%
PHL	071331	Dried beans, shelled	0	19	19	10.5	54%
LKA	100640	Broken rice	0	8	8	10.3	20%
RUS	100620	Husked (brown) rice	0	16	16	6.1	33%

Source: UNCTAD (2017) TRAINS NTMs: The Global Database on Non-Tariff Measures, measures in force in 2016; Trade values 2017. Products with more than 25 measures highlighted in green.

Table 15 reports only the sectors affected by at least four SPS measures, with export shares above 5% and trade values above 5 million USD. These are important export sectors for which a reduction of SPS measures could potentially have a significant impact in terms of profitability of exporters. Rice exports is affected by SPS measures not only in China but in EU, Senegal, Indonesia, Sri Lanka and Russia. Sugar of HS subheadings 170191 and 170199 is facing a total of 18 multilateral SPS measures in China. . Except for rice exports to China, Senegal, and Indonesia, as well as beans exports to Malaysia and Indonesia, most measures are imposed at the multilateral level, making more difficult to solve the issue with trade policy instruments such as trade agreement.

Table 28 in Annex C therefore reports products where bilateral SPS measures are imposed on Myanmar's export sectors. New product-country pairs are resulting from the analysis. First, various types of rice exports (not only brown rice) are facing bilateral SPS measures in export markets, mostly China but also Japan and Indonesia. In addition, Maize of HS 100510, facing 32 multilateral SPS in Chinese market is also imposed 10 SPS in Thailand, including 7 bilateral ones, and two bilateral SPS in Malaysia. Other products such as dry beans and vegetables (HS 0713), Wood (HS 440729) are particularly affected in Indonesia, Malaysia and the United States.

SPS measures may also have an impact in sector where we do not observe high trade values. It is likely to be the case if the SPS has a deterrent effect on Myanmar exporters that are not able to penetrate the foreign market. In an attempt to identify these cases, Table 29 in Annex C shows the sectors-country pairs where exports from Myanmar to the world is above 13 million USD while exports to the specific country imposing at least 2 bilateral measures is below 1 million USD but exhibit positive values (above 5'000 USD).

Results show that several products are only marginally exported to specific partners imposing bilateral SPS measures while the total exports is significant. Facing 3 bilateral SPS in Japanese market, husked (brown) exports amounted in 2017 to only 753'000 USD while Myanmar total exports reached 980 million USD. In the same way, with a total of 11 SPS measures in the Thai markets, including 4 bilateral SPS measures, exports of Cane or beet sugar of HS 170191 amounted to 347'000 USD while Myanmar total exports were of 338 million USD. The 670'000 USD exports of Maize (corn) seed of HS 100510 to Thailand are hit by 10 SPS measures, including 7 bilateral SPS while total exports of that products from Myanmar reached 286 million USD.

Finally, the united States are imposing 20 SPS including 9 bilateral ones on exports of Nuts of HS 080290. This could explain the relatively low export values of 10'000 USD vs. 36 million exported in total to all destinations.

Recommendation

The analysis of the trade flows carried out in Table 1 clearly shows that China cannot replace the EU and US as market of destination for garments and bicycles. China could be a potential market for Rice exports and exports of agricultural products and processed foodstuff. However, the main obstacle to enter the Chinese market are not only tariffs but also Sanitary and phytosanitary requirements. In the context of the WTO the SPS committee has been established to provide a forum for discussion and exchange of information. According to the SPS IMS database, WTO members have raised 31 specific trade concerns on the SPS measures applied by China.

Myanmar and other ASEAN LDCs should make sure that the RCEP provisions on SPS contains WTO plus elements that permits an enhanced dialogue with China and where possible equivalence and mutual recognition agreements.

On the basis of the abovementioned findings and analysis the following recommendations are made:

- 1. Myanmar joined with other ASEAN LDCs should raise specific concern over the SPS measure applied by China on rice imports and other related agricultural products in the next session of the WTO SPS committee scheduled to be held on 18 July 2019.**
- 2. Myanmar should develop a negotiating strategy with other ASEAN LDC to ensure that the RCEP provision on SPS contains WTO plus elements that could facilitate market access to China.**

5 A POSITIVE NEGOTIATING AGENDA FOR MYANMAR AT MULTILATERAL AND REGIONAL LEVEL

Myanmar has been privileged to be eligible for preferential access to many important markets. The trading regime that results from preferences, however, is going to be substantially reduced in the coming years. There have been a series of warning signs that have already conspicuously highlighted the fragility of a trade policy relying almost exclusively on unilateral trade preferences.

Besides the trade related performance of contracts related to natural gas, changes in Myanmar's preferential market access have been the single most important factor explaining the growth of Myanmar's exports and the diversification of its export destinations during the period under review. The changes in the EU rules of origin have shifted exports to those destinations and brought about significant new investment to expand exports. Rising labour costs in other producing countries, a reasonably friendly investment environment, and other factors have played a supporting role in this shift. Managing the various rules of origin regimes and assisting exporters to identify opportunities created by preferential access has become a key component of Myanmar's trade policy.

However, the window of opportunity provided by unilateral trade preferences is now shrinking. Unless action is taken, a reversal of the favourable trend described above may take place in the next years to come. As examined in this chapter, a positive trade agenda should be quickly and effectively put in place by Myanmar based on the initial findings of this chapter while on other areas further research has to be carried out as outlined below:

1. The actual positioning of Myanmar in the international trade scene and potential leading role of an ASEAN LDC agenda.

It is recommended that that as matter of priority Myanmar reaches out to other ASEAN LDCs to establish a consultative and coordinated group among Capitals and Geneva based delegation at WTO to build up a coordinated positive agenda as suggested in this chapter. Through this mechanism the ASEAN LDCs should be able to quickly mature a more assertive and autonomous positive agenda in the different negotiating scenario in WTO and at regional level as further detailed below:

- a) Establish a consultation mechanism among the ASEAN LDCs delegations at WTO and in Capitals to coordinate negotiating positions and initiatives on the issues to be discussed in Astana, namely E-Commerce, Investment facilitation, MSME and other themes.
- b) Prepare intensively for the next CRO of on rules of origin for May 2019 and October and initiate consultations for the possible launching on a plurilateral initiative to simplify rules of origin
- c) Coordinate with ASEAN LDC to raise joint concerns over SPS measure adopted by China on rice and other products of export interest at the WTO SPS committee of 18 July 2019 and follow up initiatives.

2. Building new trade initiative with the EU in view of the EU-ASEAN FTAs

In view of the above analysis, Myanmar and other ASEAN LDCs should take the initiative to enter into a trade policy dialogue with the EU to define a new trade relation that is going beyond EBA.

ASEAN LDCs are expected to graduate from LDC status in the near future and the current market access under EBA that has been a crucial factor in their export performance is going to be progressively eroded by the ASEAN FTAs.

The combined effects of these two looming events requires timely and concrete actions such as Myanmar should prepare a short roadmap for a new partnership between ASEAN LDCs and the EU and discuss it with other ASEAN counterparts at the nearest opportunity during the summer 2019. Convene a meeting at high level among the ASEAN LDC to agree on a roadmap in June/July 2019 upon nomination of the EU trade commissioner and EU parliament in early fall 2019 the ASEAN LDCs should request for a meeting with the new Trade commissioner to discuss such new partnership.

In addition, Myanmar will have to undertake actions at technical level to prepare the ground for extended cumulation with Vietnam and explore possible ways to cumulate with Japan.

The request for extended cumulation to the EU requires that Myanmar engage in early discussion with Vietnamese counterparts to seek their support for extended cumulation. In this context, it has to be recalled that it took months to secure an understanding from the Malaysia authorities to issue certificate for origin under the derogation. A similar if not longer time frame may be expected with Vietnam and early contacts should be made with Japan to secure a similar approach.

Such action should be undertaken as soon as possible in spring summer 2019 to relay a message to bicycle manufacturers that the Government is actively pursuing a viable trade strategy.

3. RCEP and CP-TPP – Challenges and Opportunities

➤ RCEP

- As a matter of priority Myanmar with other ASEAN LDC should insist that other RCEP partners make a differentiated offer on tariffs and rules of origin for ASEAN LDCs in RCEP.
- An overall and product specific assessment should be made using the methodology adopted in Table 9 to measure what additional market is granted under current RCEP and setting negotiating objectives accordingly.
- An overall assessment has to be made of the value of RCEP with respect to trade in goods, services and other trade related aspects. As the text has not being made public, it is not possible to provide even an initial assessment.

- CP-TPP
 - Conduct a deeper and comprehensive assessment of the CP-TPP and initiate consultations with other ASEAN LDCs for a possible joint initiative to accede to the CP-TPP as ASEAN LDC group
 - Initiate informal consultations either directly or indirectly to identify the possible flexibilities and carve out that may be discussed upon accession, especially on ISDS provision and other aspects.

- Japan
 - As a matter of priority, Myanmar and other ASEAN LDCs with the assistance development partners take advantage of the set agenda of the LDC core group on rules of origin in order to table a document to
 - Highlight the changes to be made in the PSRO of the GSP of Japan;
 - Request to expand the scope of Japan cumulation provision for ASEAN to include Myanmar and other ASEAN LDCs;
 - Take the opportunity of the next WTO CRO on 15-16 May 2019 to open a dialogue on better RoO for ASEAN LDC under the different trade arrangements currently being negotiated like RCEP or in the near future a bilateral Japan- ASEAN FTA.
 - Myanmar should carry out a comparative study on the different FTAs entered by Japan to secure and argue better trade preferences and determining the content of possible close trade relations with Japan.

- India
 - Myanmar with other ASEAN LDCs should raise specific concerns over the close to zero utilization rates of the DFQF measures applied by India on bean imports and other related agricultural products in the next session of the WTO SPS committee scheduled to be held on 18 July 2019.
 - Myanmar should check the WTO consistency of India import quotas and internal prices mechanisms and enter into a bilateral dialogue to address and stabilize the trade relation with India on beans and pulses as well as other agricultural products
 - Myanmar and other LDCs should coordinate negotiating position to mature a common negotiating stance towards India. A document detailing where improvements on the current rules of origin provided by India should be prepared by ASEAN LDC and presented at the above-mentioned WTO committee. Subsequently Myanmar and other ASEAN LDC should launch initiatives to follow up on this matter to obtain better market access and rules of origin

4. Addressing SPS issues with China and other partners

- Myanmar joined with other ASEAN LDCs should raise specific concern over the SPS measure applied by China on rice imports and other related agricultural products in the next session of the WTO SPS committee scheduled on 18 July 2019.
- Myanmar should develop a negotiating strategy with other ASEAN LDCs to ensure that the RCEP provision on SPS contains WTO plus elements that could facilitate market access to China.

5. Research and capacity building

It is of paramount importance that Myanmar invests resources in further developing and studying the challenges and trading opportunities that are highlighted in this section and build the necessary capacity in the different ministries and private sector. It is highly regretted that in spite of numerous Aid for trade initiatives present in the country there are very few resources dedicated to establishing a trained pool of highly capable trade negotiators and researchers. Such recommendations are largely echoing those already made almost three years ago during a workshop organized by Ministry of Commerce and UNCTAD.⁷⁰ Such research and capacity building should assist the Government in taking informed decisions on trade policy at large and in carrying out related trade negotiations.

⁷⁰ <https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=1233>

ANNEXES

A. ASEAN-CHINA FREE TRADE AGREEMENT

Product-Specific Rules of Origin (PSRO)

The 472 PSRO of ACFTA are contained in the Attachment B to Annex 1 of the 2015 Amendment. The requirements comprise 59 exclusive rules/criteria (Part A) that range from RVC of not less than 40 per cent, CTC to specific requirements and 413 Alternative Rules (Part B). Regarding the alternative rules, the exporter can use either the general rule set out in Rule 4 of the ASEAN-China FTA RoO or the regulations included in this attachment.

In contrast to other FTA PSRO, ACFTA Alternative Rules are sometimes clustered by the rule itself, not the HS Code. For example, for CTC (excerpt):

Serial No.	HS Chapter	Product Description	Origin Criteria
68	3006.10	Sterile surgical catgut, similar sterile suture materials (including sterile absorbable surgical or dental yarns) and sterile tissue adhesives for surgical wound closure; sterile laminaria and sterile laminaria tents; sterile absorbable surgical or dental haemostatics; sterile surgical or dental adhesion barriers, whether or not absorbable	Change to subheading 3006.10 from any other heading
69	4103.90	Other raw hides and skins (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment - dressed or further prepared), whether or not dehaired or split, other than those excluded by Note 1(b) or 1(c) to this Chapter: Other	Change to subheading 4103.90 from any other heading
70	7218.10	Ingots and other primary forms	Change to subheading 7218.10 from any other heading

In the case of Process Criteria for Textile and Textile Products, specific regulations are categorized by the product categories such as (a) Fibres and Yarns, (b) Fabric/ Carpets and Other Textile Floor Coverings; Special Yarns, twine cordage and ropes and cables and articles thereof and (c) Article of Apparel and Clothing Accessories and Other Made Up Textile Articles. These broader categories often give alternative regulations such as for example for (c) (excerpt):

- i. Manufacture through the processes of cutting and assembly of parts into a complete article (for apparel and tents) and incorporating embroidery or embellishment or printing (for made-up articles) from: - raw or unbleached fabric - finished fabric; OR
- ii. Undergo a change in tariff classification (hereinafter referred to as "CTC") at four-digit level, which is a change in tariff heading, of the Harmonized System

Serial No.	HS Chapter	Product Description
309	6117.80	Clothing accessories, of textile materials, knitted or crocheted
310	6117.90	Parts of garments/ of clothing accessories, of textile materials, knitted or crocheted
311	6201.11	Men's/ boy' overcoats & similar articles of wool/ fine animal hair, not knitted or crocheted

B. FIGURES

Figure A. 1: Myanmar Export Share by Destination

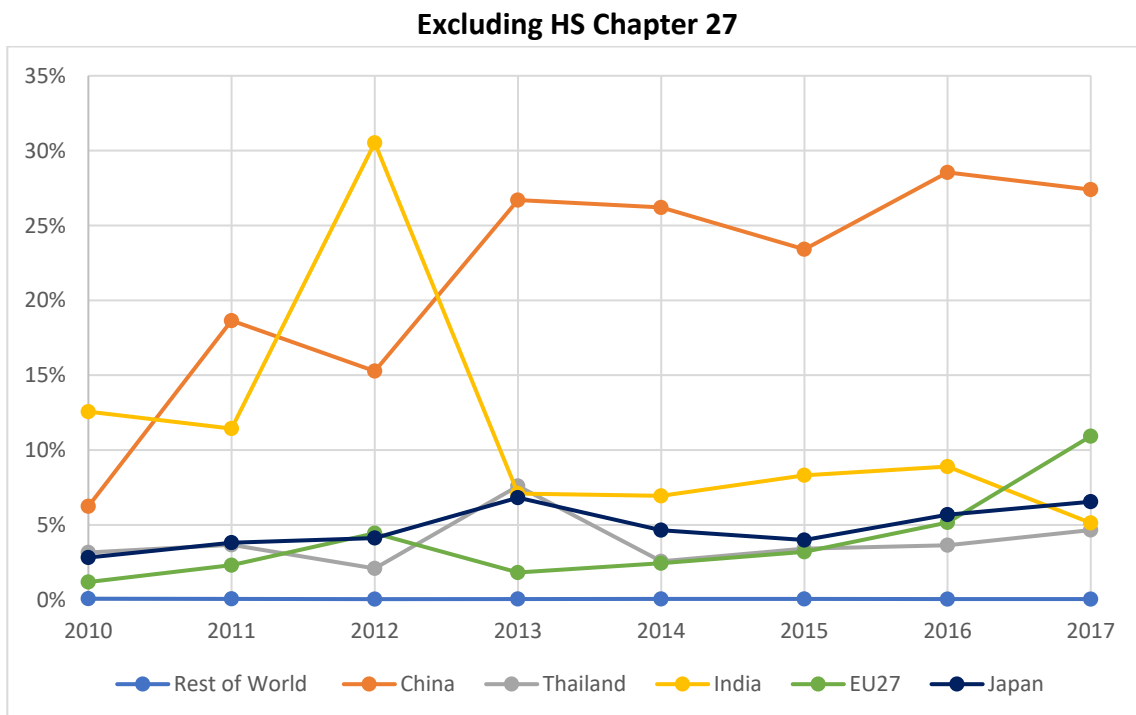
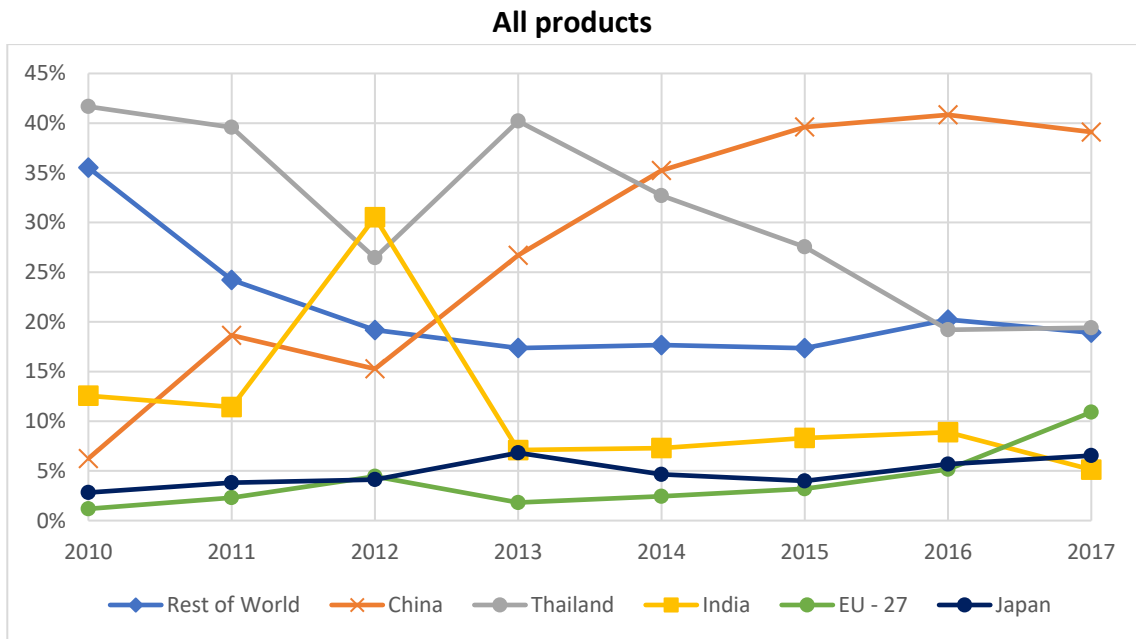


Figure A. 2: Myanmar Export values to selected Countries/Regions (USD million)

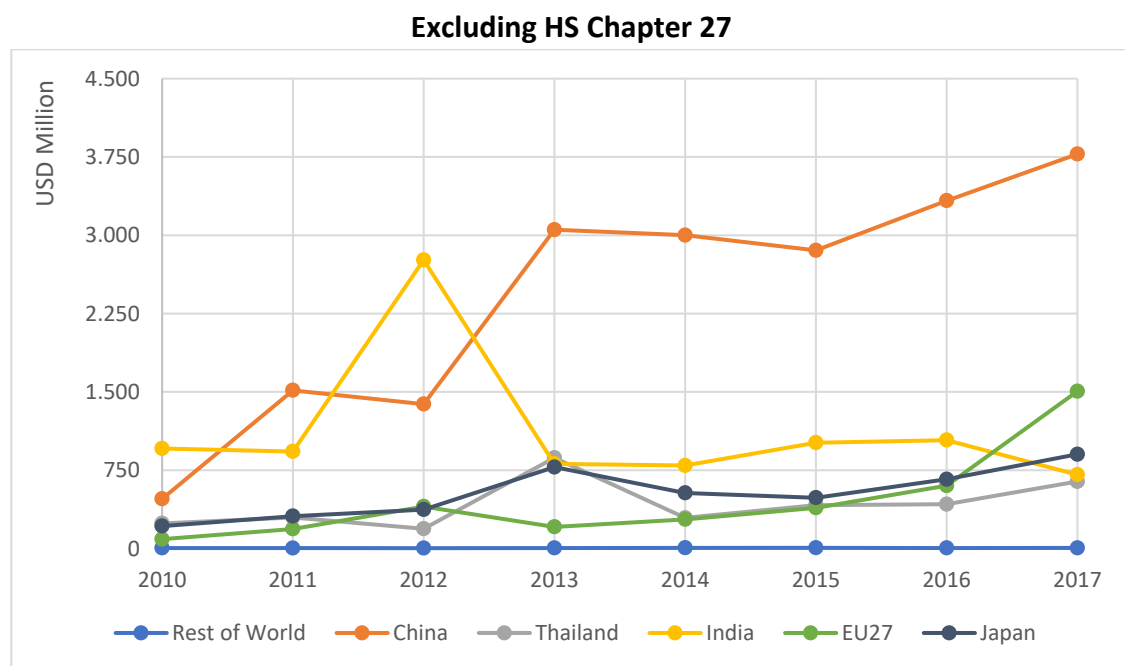
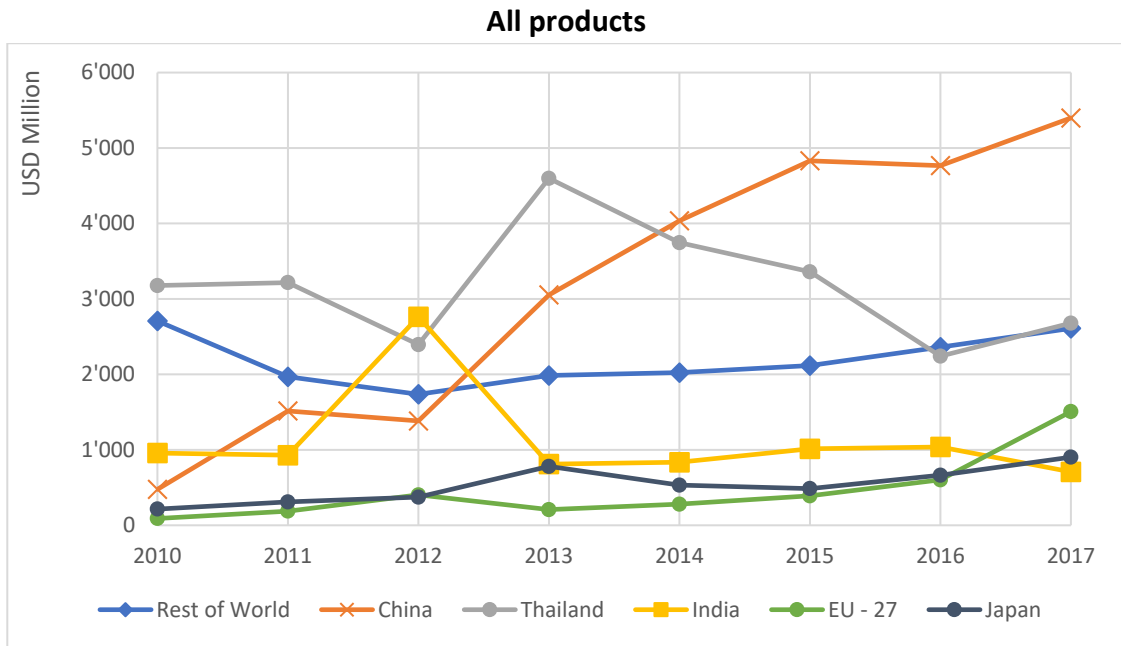
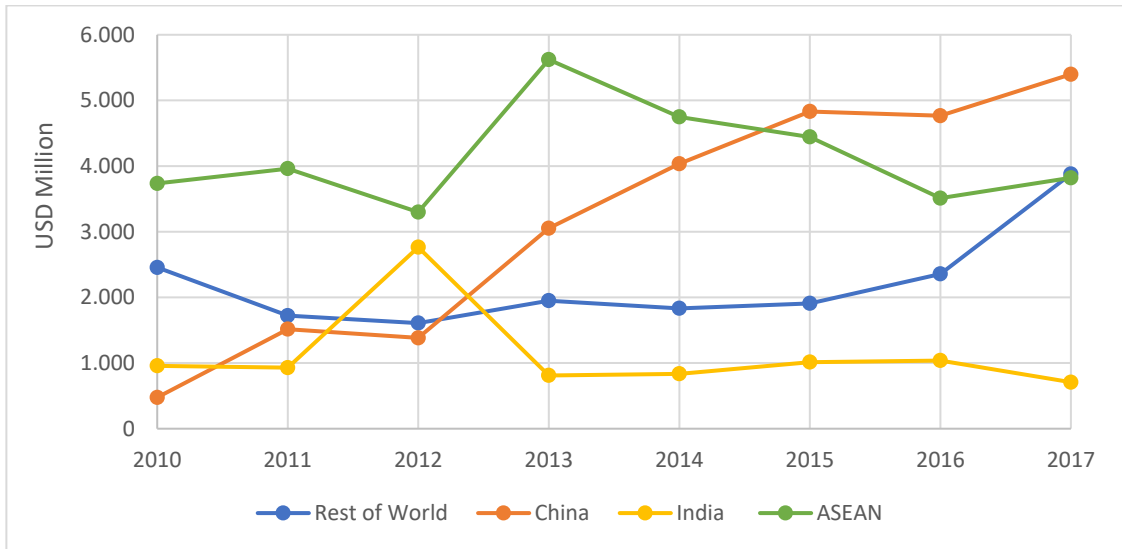
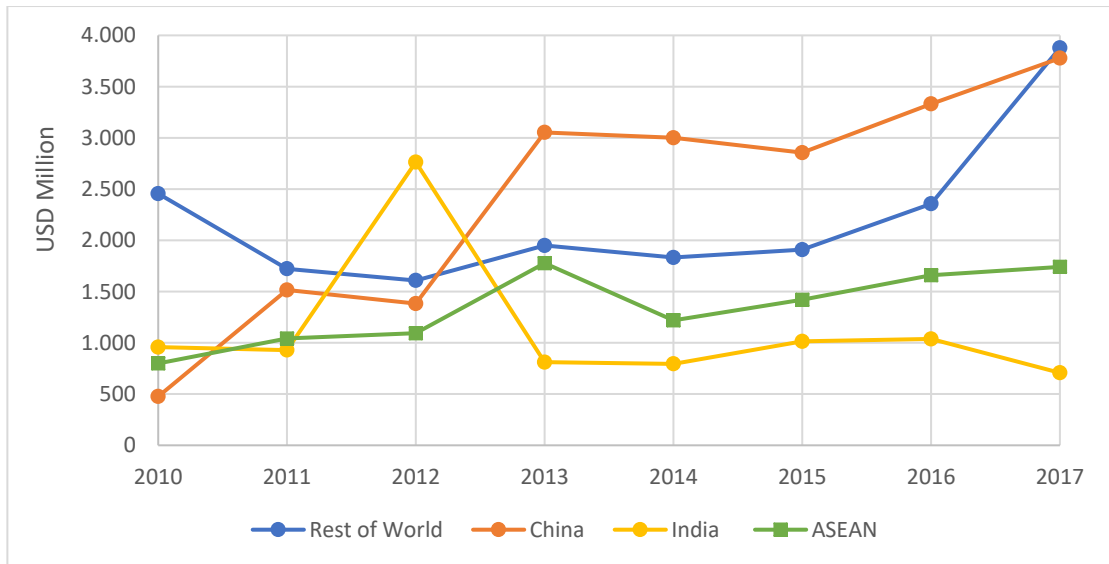


Figure A. 3: Exports to ASEAN, China, India and Rest of World

Export Value in USD Million – All products



Export Value in USD Million excluding HS Chapter 27



Export Share (%) including (left) and excluding (right) HS Chapter 27

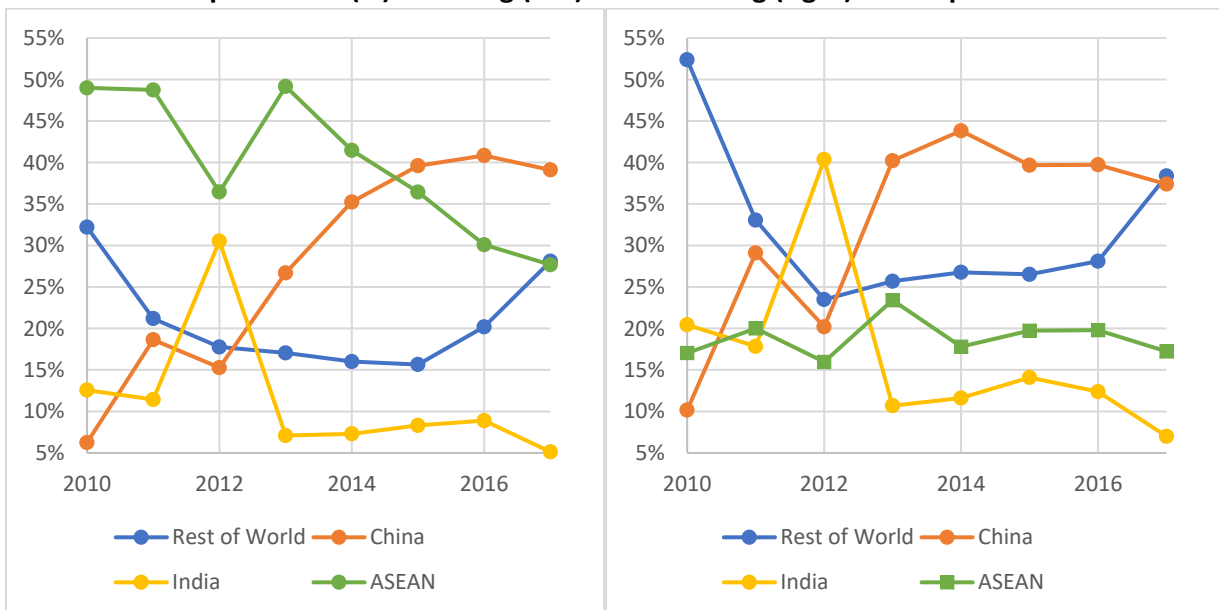


Figure A. 4: HS 61 Export shares by destination

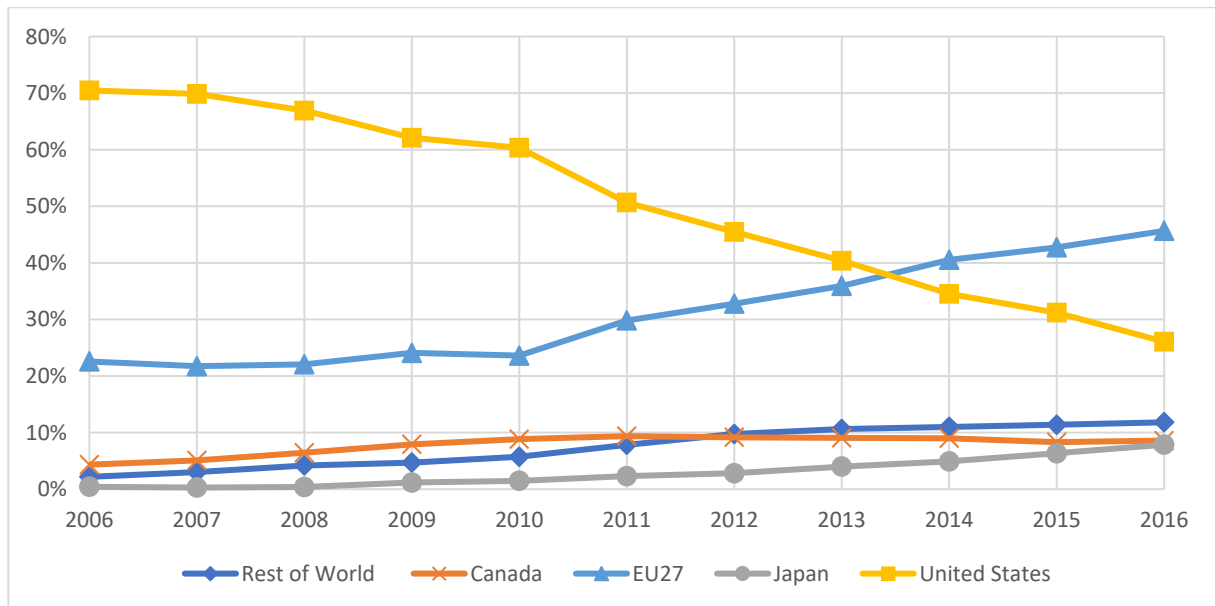


Figure A. 5: Evolution of Myanmar exports to the EU 28: Chapter 61 and Chapter 62 (2010-2017)

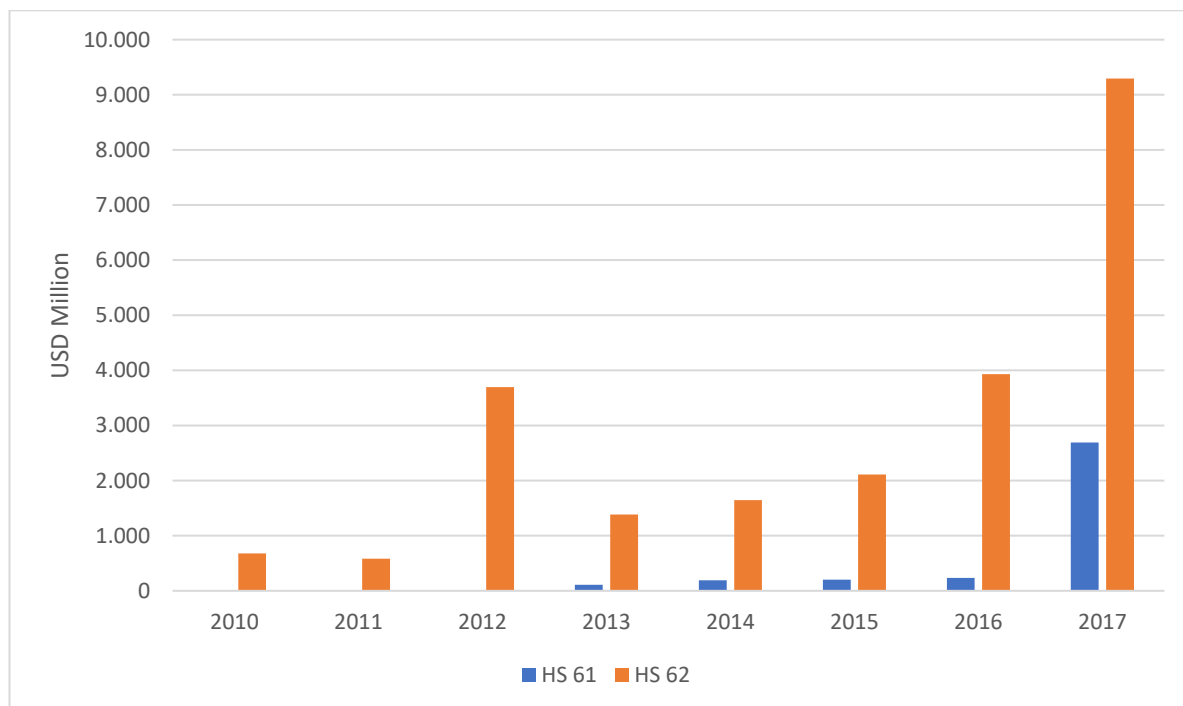


Figure A. 6: Tariff lines most imported to the EU from Myanmar at 6-digit level, and utilization rates (2013)

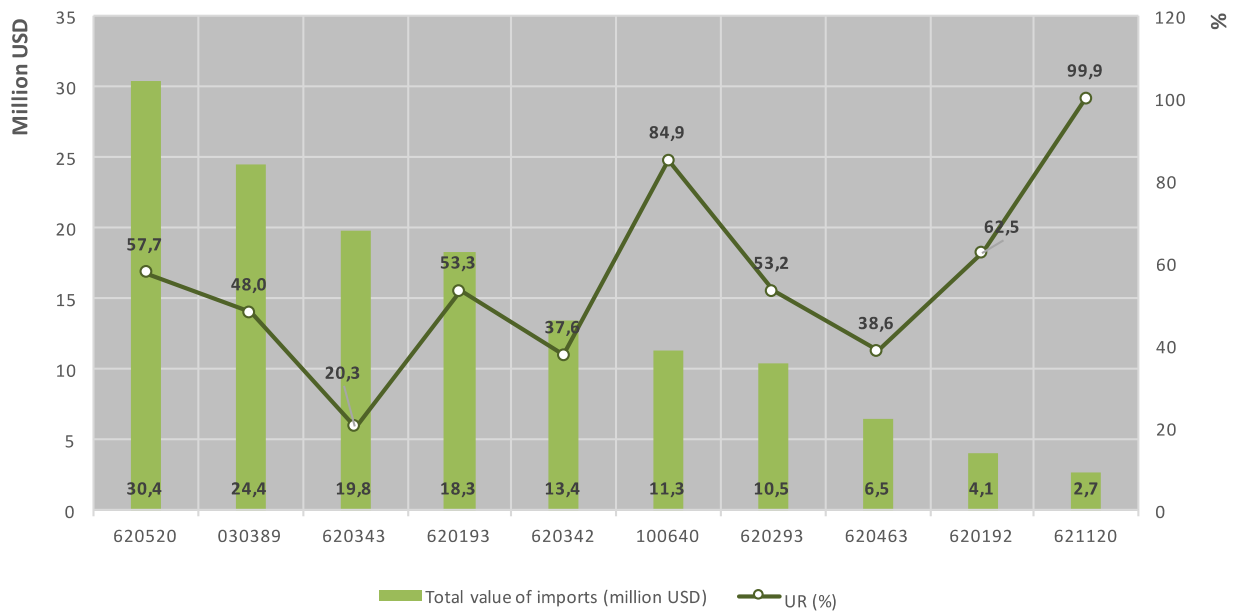


Figure A. 7: Tariff lines most imported to the EU from Myanmar at 6-digit level, and utilization rates (2015)

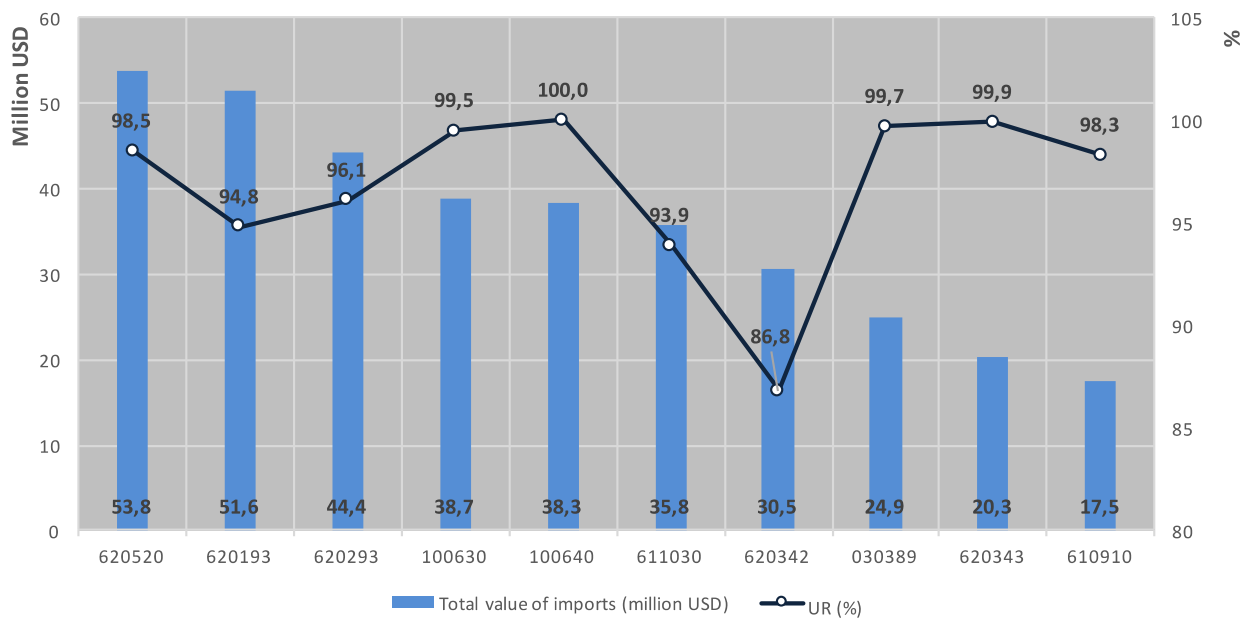


Figure A. 8: EU - GSP utilization rates of HS 61 of selected countries

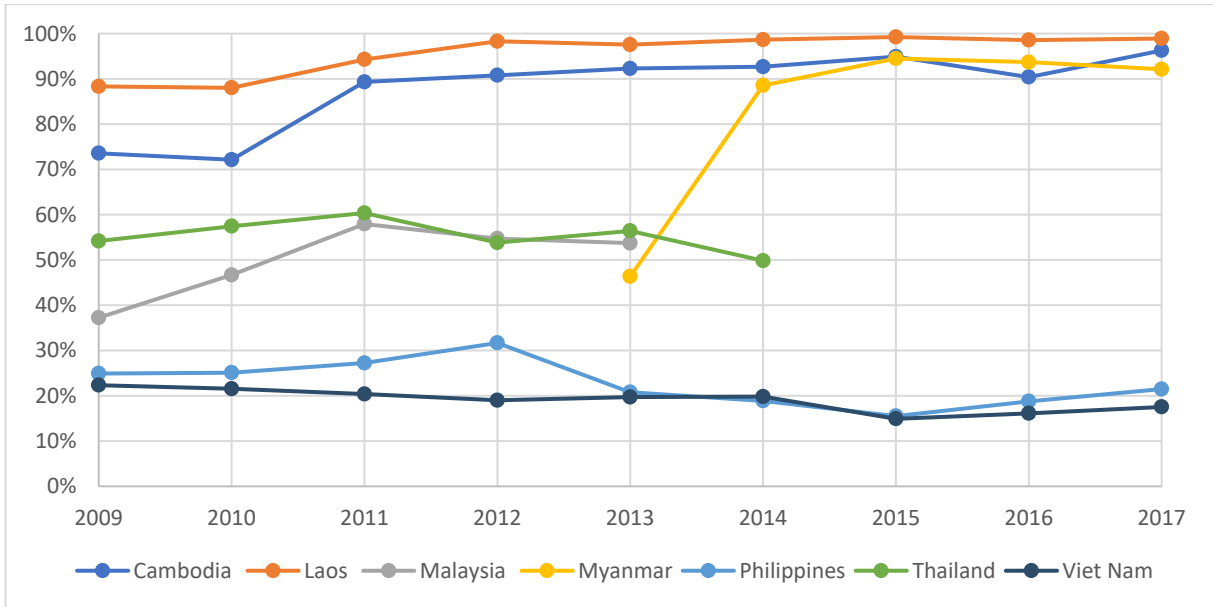
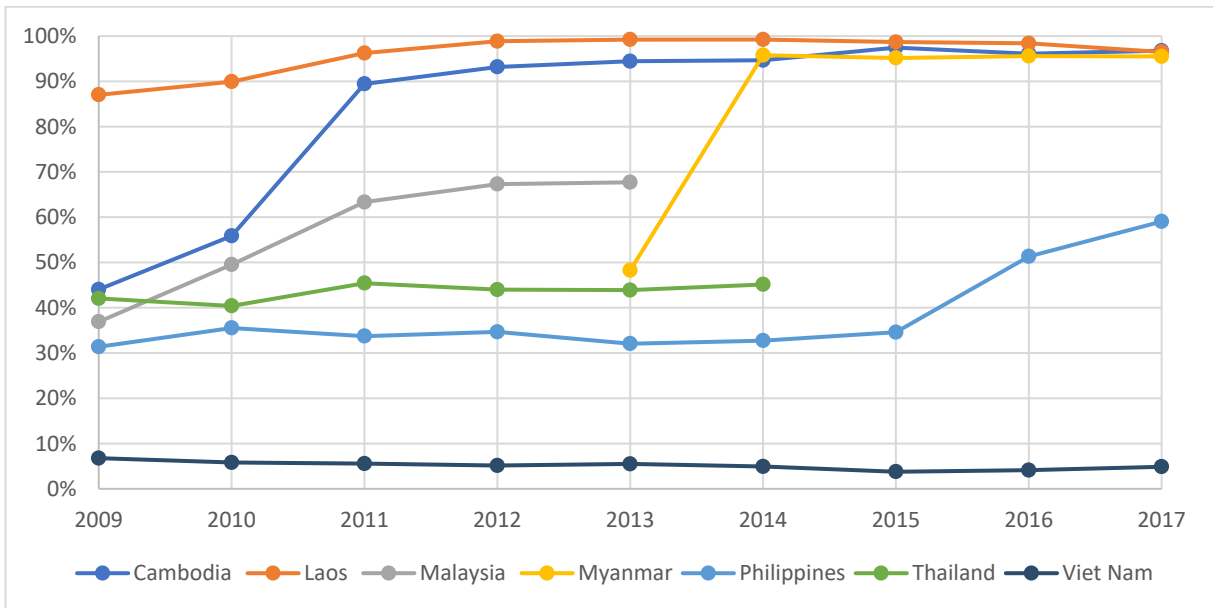


Figure A. 9: EU - GSP utilization rates of HS 62 of selected countries



C. TABLES

Table 16: Myanmar's most exported products to EU-27 in 2017

Rank	Chapter	Subheading	Description	Exports to EU27 (Million USD)
1	62	620339	Men's or boys' jackets and blazers of other textile materials	156.67
2	62	620690	Women's or girls' blouses, shirts and shirt-blouses of other textile materials	99.84
3	62	620319	Men's or boys' suits of other textile materials	97.12
4	10	100640	Broken rice	81.49
5	62	620520	Men's or boys' shirts of cotton	78.39
6	62	620293	Women's or girls' anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles of man-made fibers	65.59
7	62	620193	Men's or boys' anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles of man-made fibers	53.73
8	61	610190	Men's or boys' overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles of other textile materials	50.87
9	61	611030	Jerseys, pullovers, cardigans, waist-coats and similar articles, knitted or crocheted of man-made fibre	38.82
10	61	610290	Women's and girls' overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles of other textile materials	37.95
11	62	620213	Women's or girls' overcoats, raincoats, car-coats, capes, cloaks and similar articles of man-made fibers	30.54
12	64	640411	Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like	21.44
13	61	611020	Jerseys, pullovers, cardigans, waist-coats and similar articles, knitted or crocheted of cotton	21.32
14	10	100620	Husked (brown) rice	20.02
15	62	620311	Men's or boys' suits of wool or fine animal hair	20.00
16	62	621111	Men's or boys' swimwear	19.24
17	62	621020	Garments of the type described in subheadings 6201.11 to 6201.19	18.91
18	62	620590	Men's or boys' shirts of other textile materials	18.56
19	62	621210	Brassières	15.20
20	03	030379	Other fish excluding livers and roes	15.06
21	62	620439	Women's or girls' jackets and blazers of other textile materials	14.86
22	62	620342	Men's or boys' trousers, bib and brace overalls, breeches and shorts of cotton	14.46
23	64	640419	Footwear with outer soles of rubber or plastics other than sports footwear	13.29
24	64	640219	Other sports footwear with outer soles and uppers of rubber or plastic	12.36
25	64	640399	Other footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather.	12.12
26	62	620462	Women's or girls' trousers, bib and brace overalls, breeches and shorts of cotton	11.62

Table 17: Changes of provision on regional cumulation in the EU GSP reform in 2011

<i>Old regulation</i>	<i>New regulation</i>	<i>Comments</i>
<p><i>Article 72a</i></p> <p>1. When goods originating in a country which is a member of a regional group are worked or processed in another country of the same regional group, they shall have the origin of the country of the regional group where the last working or processing was carried out, provided that:</p> <p>1. the value added there, as defined in paragraph 3, is greater than the highest customs value of the products used originating in any one of the other countries of the regional group, and</p> <p>2. the working or processing carried out there exceeds that set out in Article 70 and, in the case of textile products, also those operations referred to at Annex 16.</p>	<p>Where products manufactured in a beneficiary country of Group I (ASEAN) or Group III (SAAARC) using materials originating in a country belonging to the other group are to be exported to the European Union, the origin of those products shall be determined as follows: (a) materials originating in a country of one regional group shall be considered as materials originating in a country of the other regional group when incorporated in a product obtained there, provided that the working or processing carried out in the latter beneficiary country goes beyond the operations described in Article 78(1) and, in the case of textile products, also beyond the operations set out in Annex 16.</p> <p>(b) where the condition laid down in point (a) is not fulfilled, the products shall have as country of origin the country participating in the cumulation which accounts for the highest share of the customs value of the materials used originating in other countries participating in the cumulation.⁷¹</p>	<p>In the case of the old regulation under paragraph (a) the value of materials calculation was carried out automatically while in the case of the new regulation under (a) the test is not carried out unless the imported materials only undergo insufficient working or processing as contained in art 78 (1) and the operations described in annex 16 for textiles and clothing.⁷²</p>

⁷¹ The wording of this article has been changed in the Union Customs code but the substance remains the same.

⁷² Working such as: fitting of buttons and/or other types of fastenings, making of button-holes, finishing off the ends of trouser legs and sleeves or the bottom hemming of skirts and dresses etc., hemming of handkerchiefs, table linen etc., fitting of trimmings and accessories such as pockets, labels, badges, etc. ironing and other preparations of garments for sale 'ready made', or any combination of such working.

**Table 18: EU-Singapore, EU-South Korea and EU-Vietnam FTA PSRO
HS 61, HS 62**

FTA	PSRO	Cumulation	Intermediate rule
EU-Singapore			
Garments HS 61	Knitting and making-up (including cutting)	Diagonal cumulation with ASEAN countries	Yes, as in EBA
Garments HS 62	Weaving accompanied by making-up (including cutting)	As above	As above
EU-South Korea			
Garments HS 61	Spinning of natural and/or man-made staple fibres, or extrusion of man-made filament yarn, accompanied by knitting (knitted to shape products) (5) or Knitting and making up including cutting (assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form	Possibility of cumulation with other Countries who entered in a FTA with the EU	As above
Garments HS 61	Weaving accompanied by making-up (including cutting)		
EU-Vietnam			
Garments HS 61	Knitting and making-up (including cutting) Spinning of natural or man-made staple fibres or extrusion of man-made filament yarn, in each case accompanied by knitting (knitted to shape products); or dyeing of yarn of natural fibres accompanied by knitting (knitted to shape products).		
Garments HS 62	Weaving accompanied by making-up (including cutting); or making-up preceded by printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling), provided that the value of the unprinted fabric used does not exceed 47,5 % of the ex-works price of the product.		

Table 19: Australian imports from Myanmar and Utilization Rates (\$000) – 2017
 (sorted in descending order of MFN received imports (>300'000 USD), filtered: UR<70%,
 PM>2pp)

HS	Product	Dutiable	Covered imports	Receiving DFQF pref.	MFN Received	Other Scheme.	UR	PM
Total for all products		13'803.51	13'804	4'469	9'334	0	32.4	5
420292	Cases and containers; n.e.c. in heading 4202, with outer surface of sheeting of plastics or of textile materials	1439	1439	4	1435	0	0.2	5
610821	Briefs and panties; women's or girls', of cotton, knitted or crocheted	1236	1236	37	1199	0	3.0	5
420299	Cases and containers; n.e.c. in heading 4202, of vulcanised fibre or of paperboard, or wholly or mainly covered with such materials or with paper	922	922	0	922	0	0.0	5
392690	Plastics; other articles n.e.c. in chapter 39	670	670	0	670	0	0.0	5
640399	Footwear; n.e.c. in heading no. 6403, (not covering the ankle), outer soles of rubber, plastics or composition leather, uppers of leather	592	592	4	588	0	0.7	5
610822	Briefs and panties; women's or girls', of man-made fibres, knitted or crocheted	574	574	2	572	0	0.4	5
640219	Sports footwear; (other than ski-boots, snowboard boots or cross-country ski footwear), with outer soles and uppers of rubber or plastics	408	408	0	408	0	0.0	5
620520	Shirts; men's or boys', of cotton (not knitted or crocheted)	380	380	1	379	0	0.2	5
640411	Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like, with outer soles of rubber or plastics and uppers of textile materials	324	324	0	324	0	0.0	5

Table 20: South-Korean imports from Myanmar and Utilization Rates (\$000) – 2017
(sorted in descending order of MFN received imports (>1 million USD), filtered: UR<70%, PM>2pp)

HS	Product	Dutiable	Covered imports	Receiving DFQF pref.	MFN Received	Other Scheme.	UR	PM
Total for all products		439'820	384'071	32'550	8'676	342'845	8.5	10.8
620193	Men's or boys' anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles of man-made fibers	85'097	85'094	477	2'351	82'266	1	13
620293	Women's or girls' anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles of man-made fibers	64'882	64'882	306	985	63'591	0	13
670419	False beards, eyebrows and eyelashes, switches and the like; of synthetic textile materials	1'586	1'586	0	967	619	0	8
630720	Life-jackets and life-belts	950	950	0	352	598	0	10
440729	Wood, tropical, n.e.c. in item no. 4407.2, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6mm	372	372	86	286	0	23	5
611030	Jerseys, pullovers, cardigans, waist-coats and similar articles, knitted or crocheted of man-made fibre	8'476	8'476	1'425	257	6'795	17	13
621050	Garments; women's or girls', n.e.c. in item no. 6210.3, of the fabrics of heading no. 5602, 5603, 5903, 5906 or 5907 (not knitted or crocheted)	4'663	4'663	0	164	4'499	0	13
420292	Cases and containers; n.e.c. in heading 4202, with outer surface of sheeting of plastics or of textile materials	2'789	2'789	0	159	2'630	0	8

Table 21: EU imports from Myanmar with Low GSP Utilization in 2017
(<70%, PM>2, in USD '000)

Rank	HS	Product	GSP Cov.	GSP Rec.	MFN Rec	Ot h.	UR (%)	PM
1	71131900	Jewellery of other precious metal	2'779	0	2'779	0	0.00	2.5
2	85011010	Motors of an output not exceeding 37,5 W	2'373	622	1'751	0	26.21	4.7
3	94019080	Parts of seats	1'772	803	969	0	45.32	2.7
4	85258019	TVCs, digital cameras and video camera recorders, other	1'621	0	1'621	0	0.00	4.1
5	63059000	Sacks and bags, of a kind used for the packing of goods of other mats	1'084	0	1'084	0	0.00	6.2
6	95065100	Lawn-tennis rackets, W/N strung	758	352	406	0	46.44	4.7
7	64039931	Other footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather	670	464	206	0	69.25	8
8	85258099	TVCs, digital cameras and video camera recorders, other	626	0	626	0	0.00	10.5
9	44072915	Other wood sawn or chipped lengthwise, e.j, W/N planed or sanded	567	318	249	0	56.08	2.5
10	61178080	Other made-up clothing accessories, KoC; KoC parts of garments or of clothing accessories	518	291	227	0	56.18	12
11	94039030	Part of furniture of other mats, including cane, osier, bamboo	504	57	447	0	11.31	2.7
12	44083995	Other wood sawn or chipped lengthwise, sliced or peeled, W/N planed, sanded or e.j, of a thickness exceeding 1 mm	465	0	465	0	0.00	4
13	63079098	Other made-up articles, including dress patterns	464	277	187	0	59.70	6.3
14	62044990	Dresses of other textile mats	453	156	297	0	34.44	12
15	85258091	TVCs, digital cameras and video camera recorders, only able to record sound and images taken by the TVC	408	0	408	0	0.00	4.1
16	73269098	Other articles of iron or steel such as ladders, pallets, reels	240	31	209	0	12.92	2.7
17	62034919	Trousers, bib and brace overalls, breeches and shorts of other textile mats	222	127	95	0	57.21	12
18	63053219	Flexible intermediate bulk containers	192	0	192	0	0.00	7.2
19	61022090	Women's and girls' overcoats, anoraks and similar articles of ctn	188	128	60	0	68.09	12
20	61079100	Men's or boys' bathrobes, dressing gowns and similar articles, KoC, of ctn	158	106	52	0	67.09	12

W/N: whether or not; KoC: Knitted or Crocheted; TVC: television camera; e.j.: end-jointed; ctn: Cotton; mats: materials

Table 22: US imports from Myanmar with Low GSP Utilization in 2017
(<70%, PM>2, in USD '000)

Rank	HS	Product	GSP Cov.	GSP Rec.	MFN Rec	Ot h.	UR (%)	PM
1	39269075	Pneumatic mattresses and other inflatable articles, nesoi, of plastics	3'304	733	2'571	0	22.19	4
2	71131950	Precious metal (pm) (o/than silver) articles of jewellery and parts thereof, W/N plated or clad with pm, nesoi	621	0	621	0	0.00	5
3	42023299	Articles carried in pocket/ handbag with outer surface of sheeting of plastics or of textile mats, other	211	0	211	0	0.00	17
4	95065120	Lawn-tennis rackets, strung	205	0	205	0	0.00	5
5	63079098	Other made-up articles, including dress patterns	118	27	91	0	22.88	7
6	39262090	Articles of apparel and clothing accessories (inc. gmm), Aaca, of plastic, nesoi	90	0	90	0	0.00	5
7	21041000	Soups and broths and preparations therefor	68	42	26	0	61.76	3
8	61178085	Other made-up clothing accessories, KoC; KoC parts of garments or of clothing accessories	59	22	37	0	37.29	14
9	71171990	Imitation jewellery	56	0	56	0	0.00	11
10	39262030	aaca (inc. gmm), Gloves specially designed for use in sports, nesoi, of plastics	47	0	47	0	0.00	3
11	95065140	Lawn-tennis rackets, not strung	47	13	34	0	27.66	3
12	42023293	Articles carried in pocket/ handbag with outer surface of sheeting of plastics or of textile mats, of man-made fibres	42	15	27	0	35.71	17
13	42032160	Ski or snowmobile gmm, nesi, of leather or of composition leather	39	7	32	0	17.95	5
14	96151960	Combs, hair-slides and the like	38	4	34	0	10.53	11
15	73262000	Articles of iron or steel wire	38	0	38	0	0.00	3
16	09021010	Green tea	30	0	30	0	0.00	6
17	71131929	Gold necklaces and neck chains (o/than of rope or mixed links)	28	0	28	0	0.00	5
18	42032180	Gmm specially designed for use in sports, nesi, of leather or of composition leather	27	0	27	0	0.00	4
19	03063320	Crabs	26	0	26	0	0.00	7
20	39249056	Tableware and kitchenware such as ironing boards	16	0	16	0	0.00	3

Mats: materials; gmm: gloves, mittens and mitts; KoC: knitted or Crocheted; Aaca: articles of apparel and clothing accessories

Table 23: Myanmar Exports to RCEP Member Countries and Principal Export Destinations within the region, 2017

(sorted in descending values, cumulative export share < 75%)

Product		MMR Exports				Principal MMR export destinations within RCEP members											
HS Code	Description	Value (\$000)	Share in Total Exp (%)	Cum. Exp. Share (%)	# Dest	1st Destination				2nd Destination				3rd Destination			
						ISO3 Code	Share (%)	MFN (%)	# NL	ISO3 Code	Share (%)	MFN (%)	# NL	ISO3 Code	Share (%)	MFN (%)	# NL
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
	TOTALS FOR ALL PRODUCTS	11'049'279	100.00	100.00	15	CHN	48.1	.	.	THA	24.0	.	.	JPN	8.2	.	.
271111	Natural gas, liquefied	2'986'970	27.03	27.03	2	THA	65.9	0.00	1	CHN	34.1	0.00	1		.	.	.
071331	Dried beans, shelled	628'118	5.68	32.72	14	IND	50.5	30.00	1	CHN	27.2	1.50	2	IDN	4.5	2.50	2
100620	Husked (brown) rice	537'757	4.87	37.58	9	CHN	98.1	33.00	4	SGP	1.5	0.00	2	MYS	0.2	40.00	2
740311	Copper cathodes and sections of cathodes unwrought	485'224	4.39	41.98	6	CHN	48.0	2.00	4	THA	28.2	1.00	1	IDN	9.5	5.00	1
170199	Cane or beet sugar, in solid form, nes	420'323	3.80	45.78	6	CHN	99.8	32.50	6	IND	0.2	100.00	2	IDN	0.1	.	2
710310	Prec or semi-prec stones (o/t diamonds) unwdk or simply sawn or rough shpd	343'632	3.11	48.89	3	CHN	100.0	3.00	1	THA	0.0	0.00	3	KOR	0.0	1.00	1
170191	Cane or beet sugar, containing added flavouring or colouring	338'090	3.06	51.95	3	CHN	99.9	32.50	2	THA	0.1	94.00	1	SGP	0.0	0.00	1
720260	Ferro-nickel	334'296	3.03	54.98	3	CHN	95.7	2.00	1	IND	3.2	2.50	1	SGP	1.0	0.00	1
271121	Natural gas in gaseous state	286'244	2.59	57.57	1	CHN	100.0	0.00	1		.	.	.		.	.	.
100510	Maize seed	285'769	2.59	60.15	7	CHN	95.1	10.50	2	VNM	4.0	0.00	1	MYS	0.4	0.00	1
271019	Petroleum oils & oils obtained from bituminous minerals (other than crude) & preparations not elsewhere specified/incl., containing by weight 70 %/more of petroleum oils/of oils obtained from bitumin	277'725	2.51	62.67	3	CHN	99.9	6.46	13	IND	0.1	8.06	9	SGP	0.0	0.00	16
890520	Floating or submersible drilling or production platforms	264'097	2.39	65.06	1	SGP	100.0	0.00	1		.	.	.		.	.	.
880240	Aeroplanes and other aircraft, of an unladen weight exceeding 15,000 kg	212'062	1.92	66.98	4	SGP	66.0	0.00	2	IND	21.2	2.50	1	VNM	12.7	0.00	2
400121	Smoked sheets of natural rubber	161'570	1.46	68.44	8	CHN	79.6	20.00	1	MYS	12.6	0.00	6	THA	3.6	0.00	6
120740	Sesamum seeds	158'069	1.43	69.87	9	CHN	75.8	5.00	2	KOR	9.6	.	1	JPN	9.2	0.00	1
270900	Petroleum oils and oils obtained from bituminous minerals, crude	112'018	1.01	70.88	3	THA	61.2	0.00	3	MYS	20.2	2.50	2	SGP	18.6	0.00	3

KoC: Knitted or Crocheted; MFN unweighted average; NL: national tariff lines

Table 24: Myanmar Exports to CP-TPP Member Countries and Principal Export Destinations within the region, 2017
(sorted in descending values, cumulative export share < 65%)

Product		MMR Exports				Principal MMR export destinations within CP-TPP members											
HS Code	Description	Value (\$000)	Share in Total Exp (%)	Cum. Exp. Share (%)	# Des t.	1st Destination				2nd Destination				3rd Destination			
						ISO3 Code	Share (%)	MFN (%)	# NL	ISO3 Code	Share (%)	MFN (%)	# NL	ISO3 Code	Share (%)	MFN (%)	# NL
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
TOTALS FOR ALL PRODUCTS		2'010'819	100.00	100.00	11	JPN	44.9	.	.	SGP	33.9	.	.	MYS	9.3		
890520	Floating or submersible drilling or production platforms	264'097	13.13	13.13	1	SGP	100.0	0.00	1		.	.	.		.	.	.
880240	Aeroplanes and other aircraft, of an unladen weight exceeding 15,000 kg	167'056	8.31	21.44	2	SGP	83.8	0.00	2	VNM	16.2	0.0	2		.	.	.
071331	Dried beans, shelled	87'011	4.33	25.77	9	VNM	25.1	7.50	2	MYS	24.3	0.0	1	SGP	23.3	.	.
740311	Copper cathodes and sections of cathodes unwrought	69'016	3.43	29.20	3	MYS	51.3	0.00	1	VNM	42.7	0.0	1	SGP	6.0	0.00	2
620319	Men's or boys' suits of other textiles, nes	63'537	3.16	32.36	10	JPN	90.9	9.55	2	CAN	7.3	17.0	2	AUS	0.6	0.00	1
620339	Men's or boys' jackets and blazers of other textiles, nes	61'180	3.04	35.40	8	JPN	92.4	10.33	3	CAN	4.0	17.0	2	MYS	2.8	5.00	1
640399	Footwear with rubber soles, leather uppers, not covering the ankle	48'097	2.39	37.80	10	JPN	97.7	22.38	11	AUS	0.8	5.0	1	CAN	0.8	0.00	1
620590	Men's or boys' shirts of other textiles, nes	44'651	2.22	40.02	6	JPN	93.8	8.20	2	CAN	3.4	18.0	2	MYS	1.6	9.67	3
842123	Oil or petrol-filters for internal combustion engines	44'215	2.20	42.21	2	SGP	99.9	0.00	6	VNM	0.1	5.0	6		.	0.00	1
270900	Petroleum oils and oils obtained from bituminous minerals, crude	43'495	2.16	44.38	2	MYS	52.1	2.50	2	SGP	47.9	0.00	3		.	.	.
620690	Women's or girls' blouses, shirts, etc, of other textiles, nes	43'450	2.16	46.54	10	JPN	91.5	8.83	3	CAN	3.6	17.0	1	MEX	1.5	.	.
620333	Men's or boys' jackets and blazers of synthetic fibres	33'573	1.67	48.21	10	JPN	99.1	10.95	2	CAN	0.6	18.0	1	MEX	0.1	22.50	2
620193	Men's or boys' anoraks, wind-cheaters, etc, of man-made fibres	33'463	1.66	49.87	9	JPN	87.8	10.95	2	CAN	9.9	17.0	1	SGP	2.1	22.50	2
030617	Shrimps and Prawns, Frozen Nesoi	29'425	1.46	51.34	6	JPN	67.5	1.00	1	MYS	11.1	0.0	1	VNM	11.0	0.00	1
400121	Smoked sheets of natural rubber	26'563	1.32	52.66	5	MYS	76.4	0.00	6	JPN	19.0	0.0	1	AUS	2.3	9.00	4

KoC: Knitted or Crocheted; MFN unweighted average, NL: national tariff lines

Table 25: Japanese Imports from Myanmar and Utilization Rates under ASEAN and GSP, 2017
(sorted in descending order of MFN Dutiable Imports <= 2 million USD)

HS2 Code	Product HS Chapter Description	Imports from Partner (\$ 000)							GSP Utilization Rate (%)	ASEAN Utilization Rate (%)
		Total Value	MFN Dutiable	Covered GSP	Covered ASEAN	NOT Receiving pref.	Receiving GSP Pref.	Receiving ASEAN Pref.		
1	2	3	4	5	6	7	8	9	10	11
	TOTALS FOR ALL PRODUCTS									
52	Cotton, incl. yarns and woven fabrics thereof	1'714	1'714	1'714	1'714	1'710	4	0	0.23	0.00
58	Special woven fab; tufted tex fab; lace; tapestries etc	1'689	1'060	1'060	1'060	959	101	0	9.53	0.00
20	Preparations of vegetables, fruit, nuts or other parts of plants	1'488	1'488	1'488	1'326	878	610	0	40.99	0.00
63	Other made up textile articles; sets; worn clothing etc	1'470	1'470	1'470	1'470	626	791	53	53.81	3.61
95	Toys, games & sports equipment; parts & accessories thereof	1'388	797	481	797	357	124	316	25.78	39.65
00	Items beyond HS Classification	1'123	1'123	0	0	1'123	0	0	.	.
04	Dairy products; birds' eggs; natural honey; edible products nes	1'117	1'117	1'117	0	0	1'117	0	100.00	.
08	Edible fruit and nuts; peel of citrus fruit or melons	1'116	992	992	650	945	47	0	4.74	0.00
67	Prepared feathers & down & articles thereof; artificial flowers; articles of human hair	1'046	337	337	337	289	48	0	14.24	0.00
09	Coffee, tea, mate and spices	1'003	507	507	165	338	169	0	33.33	0.00
22	Beverages, spirits and vinegar	985	344	344	0	338	6	0	1.74	.
69	Ceramic products	689	689	689	689	681	8	0	1.16	0.00
96	Miscellaneous manufactured articles	647	277	277	277	267	10	0	3.61	0.00
65	Headgear and parts thereof	561	561	561	561	20	538	3	95.90	0.53
56	Wadding, felt & nonwoven; special yarns; twine, cordage, ropes and cables etc	387	387	387	387	372	15	0	3.88	0.00
53	Other vegetable textile fibres; paper yarn & woven fabric	344	0	0	0	0	0	0	.	.
83	Miscellaneous articles of base metal	343	343	343	343	338	5	0	1.46	0.00
17	Sugars and sugar confectionery	342	342	342	0	338	4	0	1.17	.
79	Zinc and articles thereof	340	0	0	0	0	0	0	.	.
15	Animal/vegetable (A/V) fats & oils & their cleavage products; prepared edible fats; A/V waxes	337	337	337	337	267	70	0	20.77	0.00
19	Preparations of cereal, flour, starch/milk; pastrycooks' products	328	328	328	0	328	0	0	0.00	.
78	Lead and articles thereof	310	310	310	310	268	0	42	0.00	13.55
72	Iron and steel	291	0	0	0	0	0	0	.	.
43	Furskins and artificial fur; manufactures thereof	284	284	284	0	284	0	0	0.00	.
30	Pharmaceutical products	282	0	0	0	0	0	0	.	.
55	Man-made staple fibres, incl. yarns and woven fabrics thereof	280	280	280	280	280	0	0	0.00	0.00
46	Manufactures of straw, esparto/other plaiting mat.; basketware & wickerwork	259	259	259	259	179	29	51	11.20	19.69

Note: Non-dutiable trade under Chapters 01, 05, 23, 25, 34, 40, 45, 48, 49, 68, 70, 73, 76, 84, 85, 87, 91, 97 not reported.

Table 26: Non-tariff measures imposed by Myanmar's partners
(sorted in descending values of total NTM, MMR exports > 4 million USD)

country	Bilateral NTM	Multilateral NTM	Total NTM	MMR Exports (\$million), 2017
China	29	5'685	5'714	5'398.1
United States of America	778	3'995	4'773	277.3
New Zealand	177	1'847	2'024	4.5
Canada	44	1'577	1'621	60.6
Australia	7	1'611	1'618	25.9
Thailand	52	1'088	1'140	2'678.4
Brazil	16	1'047	1'063	7.9
Japan	31	1'025	1'056	903.0
Philippines	4	738	742	19.2
Argentina	1	691	692	5.8
Chile	8	680	688	7.2
Malaysia	9	665	674	187.8
Indonesia	17	569	586	118.6
Mexico	0	532	532	9.5
Russian Federation	34	479	513	18.6
Singapore	1	507	508	684.6
United Arab Emirates	48	426	474	70.5
Hong Kong, China	15	433	448	81.2
Switzerland	19	378	397	5.4
Saudi Arabia, Kingdom of	4	356	360	30.2
Viet Nam	2	319	321	129.1
Nepal	0	279	279	4.6
Turkey	276	0	276	6.5
India	0	266	266	708.1
Bangladesh	1	244	245	128.9
Israel	0	243	243	4.8
Qatar	0	222	222	6.7
Cameroon	1	209	210	11.8
Sri Lanka	0	190	190	52.3
Guinea	2	162	164	26.0
Oman	1	148	149	4.5
Pakistan	7	131	138	67.1
Kuwait, the State of	0	121	121	7.4
Senegal	20	99	119	15.1
Afghanistan	0	104	104	17.1
Côte d'Ivoire	0	53	53	59.1

Source: UNCTAD TRAINS NTMs: The Global Database on Non-Tariff Measures, measures in force as of 28 April 2019

Table 27: Non-Tariff Measures imposed by Myanmar's partners by Product
(sorted in descending values of total NTM, MMR exports > 5 million USD, share in total trade > 5%, Total NTM > 3)

ISO3	HS6	Description	Bi-lateral NTM	Multi-lateral NTM	Total NTM	MMR Exports (\$million)	Share in total trade
CHN	100620	Cereals; husked (brown) rice	10	104	114	527.6	10%
CHN	100510	Maize (corn), seed	1	97	98	271.7	5%
CHN	271019	Petroleum oils & oils obtained from bituminous minerals (other than crude) & preparations not elsewhere specified	0	88	88	277.4	5%
CHN	170191	Cane or beet sugar, containing added flavouring or colouring	0	59	59	337.7	6%
CHN	170199	Cane or beet sugar, in solid form, nes	0	59	59	419.4	8%
VNM	071331	Dried beans, shelled	0	41	41	21.8	17%
EUN	100640	Broken rice	0	36	36	81.5	5%
CHN	271111	Natural gas, liquefied	0	31	31	1'019.7	19%
ARE	071331	Dried beans, shelled	0	29	29	16.9	24%
PHL	071331	Dried beans, shelled	0	26	26	10.5	54%
IDN	100640	Broken rice	2	20	22	12.9	11%
RUS	100620	Husked (brown) rice	0	22	22	6.1	33%
VNM	100510	Maize (corn), seed	0	20	20	11.4	9%
LKA	071331	Dried beans, shelled	0	19	19	11.9	23%
LKA	100620	Husked (brown) rice	0	19	19	28.3	54%
LKA	100640	Broken rice	0	19	19	10.3	20%
CHN	271121	Natural gas in gaseous state	0	18	18	286.2	5%
IDN	071331	Dried beans, shelled	2	15	17	28.5	24%
CHN	720260	Ferro-nickel (granular/powder)	0	17	17	320.0	6%
MYS	071331	Dried beans, shelled	2	14	16	21.2	11%
IND	071390	Vegetables, leguminous; n.e.c. in heading no. 0713, shelled, whether or not skinned or split, dried	0	15	15	107.4	15%
IND	071331	Dried beans, shelled	0	15	15	317.2	45%
USA	620319	Men's or boys' suits of other textiles, nes	0	11	11	29.9	11%
EUN	620339	Men's or boys' jackets and blazers of other textiles, nes	0	8	8	156.0	10%
EUN	620319	Men's or boys' suits of other textiles, nes	0	8	8	97.1	6%
EUN	620520	Men's or boys' shirts of cotton	0	7	7	78.3	5%
EUN	620690	Women's or girls' blouses, shirts and shirt-blouses of other textile materials	0	7	7	100.0	7%
MYS	270900	Petroleum oils and oils obtained from bituminous minerals, crude	0	6	6	22.7	12%
CAN	620293	Women's or girls' anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles of man-made fibers	0	6	6	7.1	12%
SEN	100640	Broken rice	1	5	6	15.0	100%
CAN	620520	Men's or boys' shirts of cotton	0	6	6	5.1	8%
SGP	880240	Aeroplanes and other aircraft, of an unladen weight >15,000 kg	0	5	5	140.1	20%
HKG	900130	Lenses, contact; unmounted, of any material, excluding elements of glass not optically worked	0	4	4	14.6	18%
CMR	100620	Husked (brown) rice	0	4	4	11.8	100%

Source: UNCTAD (2017) TRAINS NTMs: The Global Database on Non-Tariff Measures, measures in force in 2016; Trade values above 100 million USD highlighted in red. Trade values 2017

Table 28: Bilateral SPS measures imposed by Myanmar's partners by products
(sorted in descending values of Myanmar's exports, MMR exports > 500'000, Bilateral SPS > 1)

Country	HS 6	Product Description	Bilateral SPS	Multilateral SPS	Total SPS	MMR Exports (\$million),	Share in total trade
CHN	100620	Husked (brown) rice	7	47	54	527.6	9.8%
CHN	100640	Broken rice	7	64	71	41.3	0.8%
CHN	100630	Semi-milled or wholly milled rice	7	47	54	3.3	0.1%
THA	100510	Maize (corn), seed	7	3	10	0.7	0.0%
JPN	100620	Husked (brown) rice	3	6	9	0.8	0.1%
IDN	071331	Dried beans, shelled	2	12	14	28.5	24.0%
MYS	071331	Dried beans, shelled	2	9	11	21.2	11.3%
JPN	120740	Sesamum seeds, w/o broken	2	5	7	14.5	1.6%
IDN	100640	Broken rice	2	12	14	12.9	10.9%
USA	071331	Dried beans, shelled	2	15	17	7.9	2.8%
USA	440729	Wood, tropical, n.e.c. in item no. 4407.2, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6mm	2	8	10	1.9	0.7%
IDN	071339	Vegetables, leguminous; n.e.c. in item no. 0713.3, shelled, whether or not skinned or split, dried	2	12	14	1.5	1.3%
MYS	100590	Cereals; maize (corn), other than seed	2	0	2	1.4	0.8%
JPN	100640	Broken rice	2	6	8	1.2	0.1%
MYS	100510	Maize (corn), seed	2	0	2	1.2	0.6%
USA	071390	Vegetables, leguminous; n.e.c. in heading no. 0713, shelled, whether or not skinned or split, dried	2	14	16	1.2	0.4%
MYS	071333	Vegetables, leguminous; kidney beans, including white pea beans (phaseolus vulgaris), shelled, whether or not skinned or split, dried	2	9	11	0.8	0.4%
MYS	071390	Vegetables, leguminous; n.e.c. in heading no. 0713, shelled, whether or not skinned or split, dried	2	9	11	0.7	0.4%
MYS	091030	Spices; turmeric (curcuma)	2	9	11	0.6	0.3%
MYS	071320	Vegetables, leguminous; chickpeas (garbanzos), shelled, whether or not skinned or split, dried	2	9	11	0.5	0.3%

Source: UNCTAD (2017) TRAINS NTMs: The Global Database on Non-Tariff Measures, measures in force in 2016; Trade shares above 5% highlighted in red (already depicted in the Table 27). Trade values 2017

Table 29: Identification of possible deterrent bilateral SPS measures imposed by Myanmar's partners

(sorted in descending values of Myanmar's exports to the world > 13 million USD, 5'000 USD < MMR exports to partner < 1 million, Bilateral SPS >= 2)

Partner	HS 6	HS Description	Bilateral SPS	Multilateral SPS	Total SPS	MMR Exports (\$000)	
						To Partner	To all countries
JPN	100620	Husked (brown) rice	3	6	9	753	980'892
TUR	071331	Dried beans, shelled	2	0	2	41.4	782'660
THA	170191	Cane or beet sugar, containing added flavouring or colouring	4	7	11	347.1	338'090
MYS	100640	Broken rice	2	9	11	191.3	301'850
HKG	100510	Maize (corn), seed	2	1	3	198.9	286'046
THA	100510		7	3	10	670.9	286'046
MYS	120740	Sesamum seeds	2	6	8	441.0	185'400
MYS	071390	Vegetables, leguminous; n.e.c. in heading no. 0713, shelled, whether or not skinned or split, dried	2	9	11	718.9	118'076
TUR	440729	Wood, tropical, n.e.c. in item no. 4407.2, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6mm	2	0	2	37.5	89'517
JPN	080290	Nuts, edible; n.e.c. in heading no. 0801 and 0802, fresh or dried, whether or not shelled or peeled	2	5	7	12.5	35'658
USA	080290		9	11	20	10.4	35'658
MYS	071320	Vegetables, leguminous; chickpeas (garbanzos), shelled, whether or not skinned or split, dried	2	9	11	548.5	34'787
USA	071320		2	15	17	161.9	34'787
TUR	071320		2	0	2	100.8	34'787
JPN	100630	Semi-milled or wholly milled rice	2	6	8	325.3	24'449
IDN	100630		2	12	14	12.5	24'449
TUR	440799	Wood; sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6mm, whether or not planed, sanded or finger-jointed, n.e.c. in heading no. 4407	2	0	2	43.9	19'540
USA	440799		2	8	10	138.2	19'540
MYS	091030	Spices; turmeric (curcuma)	2	9	11	632.9	15'090
JPN	091030		2	5	7	29.0	15'090
USA	071333	Vegetables, leguminous; kidney beans, including white pea beans (phaseolus vulgaris), shelled, whether or not skinned or split, dried	2	15	17	136.1	13'967
MYS	071333		2	9	11	781.7	13'967

Source: UNCTAD (2017) TRAINS NTMs: The Global Database on Non-Tariff Measures, measures in force in 2016; Trade values 2017. Products with three or more bilateral SPS highlighted in green