Model Language Suggestions to Facilitate Cross Border Trade for MSMEs

Introduction
Sales via the Internet in Asia represented about $800 billion (2015) and this market is growing two times faster than in other regions in the world. A response from RCEP countries is needed to stimulate trade and create more opportunities for micro, small and medium sized enterprises (MSMEs) of the region which rely on e-commerce to internationalise their activities. In this respect, trade facilitation plays a key role for the success of cross border trade and e-commerce.

The Asian Trade Centre (ATC) has provided suggestions for “Facilitating trade for e-commerce” at the 17th RCEP Round in Kobe¹ and on “Managing e-commerce at customs” at the 18th RCEP Round in Manila.² This policy brief expands on these previous suggestions to include further recommendations.

MSMEs are facing challenges with regards to customs clearance, particularly where goods are sold via e-commerce for “business to consumers” (B2C) operations and by individuals. These transactions are characterized by higher volume and are low value shipments.

Challenges
Challenges include:

- HS code classification and customs valuation are not user-friendly.
- In cases of dispute, MSMEs are not able to explain classification or value, with no capacity to appeal customs decisions.
- Some countries require importers to be registered to import. Registration processes are not smooth, often require complex documentation, and cannot be done online.
- Some countries do not exempt license requirements for imports in personal quantities.
- Only a few countries provide advance ruling facilities on customs determinations like classification and customs valuation and the approval process is onerous. This reduces certainty and transparency at the point of import.
- Procedures to claim duties on re-exported (returned) goods are too onerous and complex. Given the growing importance of returns for e-commerce companies, this is a major problem in the system.
- Where customs clearance is automated, only licensed customs brokers or freight forwarders may have access to these systems which are not available for individuals.
- Customs authorities across the region are challenging customs values more frequently and increasing inspection rates for e-commerce shipments.

The ATC supports including explicit commitments into the RCEP agreement that reinforce member pledges made in the World Trade Organization (WTO) Bali Agreement on Trade Facilitation, and incorporate the World Customs Organization (WCO) recommendations.

Recommended Threshold Values for E-commerce Shipments

Parties shall provide with a de minimis threshold below which no customs duties, taxes or documents requirements will apply on imported goods (based on invoice value and not including transport costs). Assuming smart collection systems, the standardized system of de minimis should be set at least at USD$200.3

The second important threshold for smaller firms is a level for consignments with a simplified goods declaration or consolidated goods declarations with information requirements kept to a minimum needed by border agencies. This second threshold should be set, as the WCO Immediate Release Guidelines suggests, at USD$1400.4

Simplified Documentation, Procedures, Taxation and Payments

Parties shall adopt simplified procedures to speed up customs clearance which could include:

- Simplified requirements for importer/exporters;
- Release of goods at their point of arrival5 and within one hour of their arrival;
- Consolidated or bulk clearance per declaration;
- Minimal data elements, eg. manifest data;
- Reduced documentation requirements;
- Exemptions from license or permit requirements;
- Introduce electronic tax collection mechanisms;
- Fast track inspection and quarantine processes;

Publication of Laws on Cross-Border Trade of Goods

Parties shall designate an agency as a single entry point for enquiries regarding customs and border measures. All laws, regulations and administrative measures relating to cross-border movement of goods shall be made publicly available.

In order to be implemented smoothly by all parties, draft laws, regulations and administrative measures shall be open to stakeholder consultations before their entry into force and provide sufficient transition period for all parties to comply with the new obligations.

Faster Clearance

Customs clearance and requirements for import and exports should be automated to allow more efficient procedures at borders. As an example, all customs documentation should be allowed to be submitted electronically allow online importer/exporter registrations and make electronic clearance and duty/tax payments systems available to customs users.

Parties should endeavor to establish National Single Windows for one-stop-shop clearance, preferably within specified timelines.

All information technology (IT) systems should use international standards and processes shall be in accordance with the WCO recommendations and guidelines, eg. Customs Data Model.

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3 De Minimis Thresholds in APEC, IST Global and Canberra University, September 2012.
4 Thus, goods above the de minimis, but below the $1400 threshold would receive expedited release, but would be responsible for paying duties and taxes and have some additional required data elements to provide to customs officials. See “Policies to Promote International MSEM Trade,” Global Express Association, September 2016, for specific data details.
5 To avoid unnecessary temporary transfer to warehouses.
SimplifyReturnedShipments

Parties shall put in place electronic mechanisms to claim duties or taxes on returned goods which are “re-exported,” eg. an exemption to provide formal customs entries as initial proof of import.

Customs Control and Risk Management

Parties shall use technology solutions in risk management.

Customs authorities shall keep physical inspections on high-risk goods. Parties shall introduce a “trusted trader accreditation” with regional compliance standards for shippers who are selling goods across borders online such as data and documentation requirements, data quality, on-boarding procedures for customers, minimum checking requirements of customers and shipments.

The trusted trader accreditation should be built with other stakeholders in the supply chain, including freight forwarders and e-commerce platforms.

Reviews and Appeals

Importers should have access to user-friendly and independent administrative reviews and appeals.

Penalties

Parties should introduce effective and proportionate penalties (administrative, civil or criminal) for any violation of customs laws and regulations, including those on tariff classification, customs valuation and country of origin.

Remanufactured Goods

Increasingly, firms engaged in e-commerce are often selling remanufactured items. These are goods that have been refurbished or rebuilt, particularly for technology goods. However, today these are often captured by customs officials as “used” and not allowed across borders or treated differently with typically higher tariff rates. RCEP, however, should include a provision to treat remanufactured goods differently than “used” goods.

The Asian Trade Centre (ATC) is the premier regional thought leader, advocate and educator for trade in Asia. ATC works directly with governments from around the world, companies, think tanks, foundations, non-governmental organizations, aid agencies and serves as the resource for trade-related activities in Asia.

Visit us at: asiantradecentre.org or email us at: info@asiantradecentre.org