



NUMBER: 17-01

March 2017

## RCEP: Facilitating Trade for E-Commerce

Despite the growth in e-commerce transactions online, customs laws can continue to act a trade barrier, especially for small size or low-value shipments. Many firms engaged in e-commerce are not sending 40 foot containers but a small box or a few cartons to customers or suppliers in another market.

But whether sending one box or one container, many markets still require complicated and cumbersome paperwork for customs. Some markets charge high fees or inspect every single parcel causing expensive delays. Customs procedures and regulations can be significant barriers to trade for e-commerce.

Customs rules and regulations matter to all businesses moving goods across borders and are not specific to e-commerce. This Policy Brief does not look at every customs law, but rather focuses attention on those of greatest relevance to the bulk of e-commerce firms—the smaller size, smaller value shipments bought and sold via the internet through smaller companies. Customs clearance issues are compounded for e-commerce firms, the majority of which are SMEs.

### SME Challenges

SMEs face particular issues in e-commerce customs clearance, including:

- Challenges in addressing disputes with Customs in areas like HS Code classification and Customs Valuation which are technical and not easily understandable;
- Requirements for importer registration which may not be user-friendly: for example, some countries require complex documentation and cannot be done online;
- License requirements for imports in personal quantities that are not exempt and complicate the application processes; and

- Onerous procedures to claim duties on re-exported (returned) goods which are typical of e-commerce shipments.

This Policy Brief contains recommendations to improve the regulatory environment for customs. It does not provide suggestions for tariff levels, although it should be noted that tariffs hit smaller firms harder than larger companies since small value shipments often have very limited profit margins. Thus, a 2% or 5% tariff can negate the entire profit on a small value e-commerce transaction or make a firm facing such a tariff uncompetitive.

### Reducing Costs and Complexity

Two issues are critically important in facilitating e-commerce trade for MSMEs: reducing complexity and reducing costs. The full and complete implementation of the WTO's Bali Trade Facilitation agreement is necessary for improvement in customs regimes globally.

Most e-commerce shipments are likely to be small size and low value.<sup>1</sup> But the rules and paperwork burden is often the same as larger, more valuable cargo. This must be changed in RCEP negotiations.

In particular, best practices, as determined by the World Customs Organization, urge Immediate Release Guidelines with simplified entry thresholds. These should be applied to all goods and not just to a subset of goods, like postal shipments or only to "personal" shipments.<sup>2</sup>

Most critically the thresholds should be high enough to allow most goods sent by smaller firms to clear (and preferably set at the same level for all RCEP economies). It should be a hard threshold and not subject to "informal" assessments. These clearance thresholds should apply for any type of trader or any type of

<sup>1</sup> Small size and value, in this case, simply means less than 20 or 40 foot containers and generally less than hundreds of thousands of dollars in value down to parcels holding tea bags or paper products.

<sup>2</sup> The definition of "personal" use is too subjective for widespread use and will unnecessarily complicate customs clearance for small firm cargo.



transport (for example, not just for postal packages or those delivered by certain types of companies or carriers or Authorized Operators).

There are two types of thresholds that matter for smaller firms. The first, the de minimis level, is the point below which duties and taxes need not be paid (based on invoice value and not including transport costs). Assuming smart collection systems, a standardized system of de minimis should be set at least at USD\$200.<sup>3</sup>

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.<sup>4</sup>

Examples of simplified clearances include:

- a) Simplified importer/exporter registration requirements;
- b) consolidated or bulk clearance processes per declaration;
- c) minimal data elements, such as manifest data;
- d) reduced documentation requirements;
- e) exemptions from license or permit requirements; or
- f) fast track inspection and quarantine processes.

In addition, documents should be able to be submitted prior to arrival and in electronic form. This will help allow risk assessment to be conducted between relevant ministries and agencies in a coordinated fashion, using electronic systems.<sup>5</sup> All low risk shipments should not require manual inspection. Those arriving via express or post, in particular, can be released immediately upon arrival or within a short, specified, window. Return shipments should be released without a formal declaration.<sup>6</sup>

Note, however, that these “best practice” recommendations do not suggest that *all* e-commerce shipments be granted expedited clearance. Packages

<sup>3</sup> De Minimum Thresholds in APEC, IST Global and Canberra University, September 2012.

<sup>4</sup> Thus, goods above the de minimus, 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.

<sup>5</sup> See “Policies to Promote International MSEM Trade,” Global Express Association, September 2016

<sup>6</sup> Provided references can be given for the proceeding outbound shipment to allow both shipments to be reconciled. For cross-border e-commerce to flourish, returns will have to take place with minimal hassle.

above the threshold should be subject to normal clearance procedures.

All relevant regulations, laws and administrative procedures must be published clearly online. Proposed changes to the regulatory environment must be made sufficiently far in advance and with sufficiently clear and transparent communication to allow firms time to adjust.

Interested parties that have the best sense of the rapidly evolving conditions on the ground should be given opportunities for input on proposed regulatory and legislative changes to improve policy outcomes.

## An E-Commerce Chapter Alone is Insufficient

At the end of the day, opening up trade in for RCEP through an e-commerce chapter alone will be insufficient. Excellent rules that help firms move information could still leave goods stranded at the borders. Small firms, rural companies and promising entrepreneurs will be unable to take advantage of new opportunities for growth in RCEP.

Given that an increasingly important share of the regional economy is likely to be tied to e-commerce in the future, it is critically important to get the regulatory frameworks right in these types of larger, more comprehensive trade agreements. As an added incentive, if Asian governments can demonstrate effective means to properly regulate the e-commerce space and still allow innovation to continue and smaller firms to benefit from expanding opportunities to join larger markets, such measures are likely to be picked up and used in future regional and even global trade arrangements.

The Asian Trade Centre (ATC) is the premier regional thought leader, advocate and educator for trade in Asia. ATC works directly with both 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.

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