ARISE PLUS PHILIPPINES

POLICY REFORMS TOWARDS FACILITATING CROSS-BORDER E-COMMERCE

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CAREC Virtual Regional Workshop on AEO Program

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dti PHILIPPINES

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Introduction

- The International Trade Centre (ITC) is the joint agency of the World Trade Organization (WTO) and the United Nations (UN). Its mission is to foster inclusive and sustainable growth and development through trade and international business development.

- ITC has provided support to the trade facilitation initiatives of the Bureau in the area of e-Commerce Program which was requested by then Commissioner Rey Leonardo B. Guerrero to be included in the priority areas for Year 1 technical support.

- Activities to support this study included technical desk research, interviews with private stakeholders as well as validation sessions with BOC focal group and TRGAs involved in the Customs clearance process.

Introduction

- Analysis of the challenges associated with the country's supply chain and logistics landscape and how these directly and indirectly affects the Customs clearance process.

- Opportunities for collaboration with the AEO Program that can provide support for inclusion of MSMEs involved in e-Commerce trade into this scheme.

- Touchpoints with IRM Program that can be established to support trade facilitation initiatives and timely detection of risks.

- Conducted following a methodology and structured approach to carefully map out the current procedures and identify pain points in the Customs clearance process, providing recommendations to address these challenges and respond to the requirements of trade facilitation, revenue collection and border protection mandates.

Challenges Associated with Cross-Border e-Commerce

On Customs Clearance

1. **Current regulations are based on traditional business models.** These cannot effectively encapsulate the intricacies of cross-border e-Commerce.

   There is non-standardization of customs clearance process for cross-border e-Commerce shipments which leads to ambiguity and non-compliance in Customs clearance processes.

   Observations from Validation Session:

   - Hybrid clearance procedures – partly automated, partly manual
   - No specific guidelines for pure e-Commerce transactions - clearance procedures rely partly on existing Customs Orders for the general clearance of goods under Category 2 and Category 3.
   - Support for implementation of simplified declaration and immediate release is not evident at this point.
   - Segregation of regulated and shipments subject to excise tax from pure *de minimis* shipments is reliant on the actual declaration and as a result proper imposition of duties, taxes and other fees may be subjective.

Challenges Associated with Cross-Border e-Commerce

On Customs Clearance

2. **Risk management for facilitation and control is not yet fully established** to be able to identify high risk shipments and facilitate release of low-risk shipments.

   Risk assessment for low value e-Commerce consignment, especially postal items is still a manual process, resource intensive, and performed in real time at the border.

Challenges Associated with Cross-Border E-Commerce

On Customs Clearance

3. **Shipping and incoterms** commonly used in the transport of goods and its effect on the Customs clearance process, notably in the areas of documentary compliance and readiness of Customs System to accept such method of declaration and terms of delivery especially on most favored incoterms being used in e-Commerce transactions.

4. **Some regulatory processes on import permits for businesses when it comes to cross-border selling.**

   The regulations of Customs also provide for allowances on the number of regulated items qualifying as personal use.

   Occasional buyers and even merchants are not aware of the requirement for regulatory permits.

   Information is not readily available on the e-Commerce websites. This leads to misinformation that the Bureau is responsible for the delays in the shipment release.

   Awareness campaigns are necessary to inform the transacting public of these regulations.

Challenges Associated with Cross-Border e-Commerce

On Transport and Delivery Post Customs Clearance

1. **Lack of Visibility across the supply chain** which may be due to the inadequacy of the technology to track and monitor the movement of goods from origin to destination.

   Technologies such as GPS tracking systems, route planning software, and electric transportation complemented by Internet of Things (IoT), strategies can be devised to combat first and last mile hurdles.

   Full visibility helps improve and strengthen the supply chain with readily available data.

   Customs raises concern on the lack of transparency over actual reasons of delays from logistics companies.

Challenges Associated with Cross-Border e-Commerce

On Transport and Delivery Post Customs Clearance

2. **Shipment returns due to a variety of reasons** ranging from unsettled Cash on Delivery payment, cancellations, bad orders and delayed fulfillment.

Other reasons for returned shipments:
- destination country refused to clear due to regulatory requirement
- payment issue between shipper and buyer
- consignee is no longer in the country
- high duties and taxes are incurred

Cancelled orders may enter the country under *de minimis* threshold but re-sold domestically in bulk which qualifies for the collection of duties and taxes.

Return shipments are cleared as exports and assigned an outbound Bill of Lading for transport back to the country of origin wherein Customs exercises expedited procedures to clear the shipments for exports.

Implementation of a Dedicated Customs e-Commerce Processing System

- Establish a simplified and dedicated e-Commerce Operations System that will enable exclusive processing processing, lodgment, clearance and monitoring of e-Commerce goods classified as Category 1 and 2, including split consignments.

- ITC recommended to implement three stages of automation to ensure sustainability of solutions under the proposed General Framework:

  - Phase 1 (Quick Win) – consider utilizing the 3 VASPs of BOC to implement a system for the processing of e-Commerce transactions that will allow operationalization of the provisions of the proposed CMO including system and security controls that BOC will impose. To be terminated once Phase 2 is engaged.

  - Phase 2 (Interim) – establish an accreditation procedure that will allow contractual obligation with a third-party provider to develop and implement an e-Commerce portal dedicated for processing all shipment categories following provisions of the new CMO. To be terminated once Phase 3 is engaged.

  - Phase 3 (Long Term) – implement e-Commerce transaction processing under the new and consolidated "Customs Processing System" and which will include all the enhancements developed under Phases 1 and 2

Implementation of a Dedicated Customs e-Commerce Processing System

- This is in line with the WCO FOS on Cross-Border e-Commerce Prescription: Standard 15: Explore Technological Developments and Innovation - Customs administrations in collaboration with other relevant government agencies, the private sector and academia, should explore innovative technological developments and consider whether these developments can contribute to more effective and efficient control and facilitation of cross-border E-Commerce.

- The proposed system should include modules and features that are capable of addressing most, if not all, the challenges and issues in the customs clearance process of e-Commerce goods. The system, together with the change in policies and procedures specified in the Customs Orders are groundbreaking innovations to improve the clearance process through trade facilitation while enforcing border protection and enhancing revenue collection.

Accreditation of Stakeholders

- All stakeholders including e-Commerce operators, digital platform providers, VASPs, freight forwarders and brokers shall be accredited with the Bureau before they can avail of the privileges for handling e-Commerce Shipments and be given access to the Customs e-Commerce Processing System.

- Identification of the accountability and responsibility of the e-Commerce platform provider in terms of ensuring compliance of their Customs clearance agents to the new regulations especially on the submission of pertinent and accurate shipment details in the e-Manifest and SAD/consolidated declaration

- Said provisions comply to the *WCO FOS on Cross-Border e-Commerce Prescription:* Standard 11: Public-Private Partnerships - Customs administrations should establish and strengthen cooperation partnerships with e-Commerce stakeholders to develop and enhance communication, coordination and collaboration, with an aim to optimize compliance and facilitation

Application of Authorized Economic Operator Program to Cross-Border e-Commerce

- Explore the possibilities of applying AEO Programs and Mutual Recognition Arrangements in the context of cross-border e-Commerce, including leveraging the role of intermediaries, to enable Micro, Small and Medium-sized Enterprises and individuals to fully benefit from the opportunities of cross-border e-Commerce.

- This is in line with the WCO Framework of Standards on Cross-Border E-Commerce, Standard 7

Simplified Clearance Procedures

- Establish and maintain simplified clearance formalities/procedures utilizing pre-arrival processing and risk assessment of cross-border e-Commerce goods, and provide procedures for the immediate release of low-risk shipments on arrival or departure. Simplified clearance formalities/procedures shall include, as appropriate, an account-based system for collecting duties, taxes and other charges, as well as handling return shipments

- Submission of manifests requires stakeholders to provide the necessary data elements in order for Customs to properly categorize shipments and apply the appropriate clearance procedures.

Risk Management

- Develop and apply a dynamic risk management structure with advanced technologies that are specific to the e-Commerce context in order to to identify goods and shipments that present a risk. Use data analytics and screening methodologies in conjunction with non-intrusive inspection equipment, across all modes of transportation and operators, as part of risk management, with a view to facilitating cross-border e-Commerce flows and strengthening customs controls.

- For this purpose, Customs shall work with e-Commerce stakeholders and relevant government agencies, as appropriate, to improve the timeliness, completeness and accuracy of advance electronic data with a view to supporting robust and effective risk management techniques and facilitate legitimate trade of e-Commerce goods

Risk Management Techniques
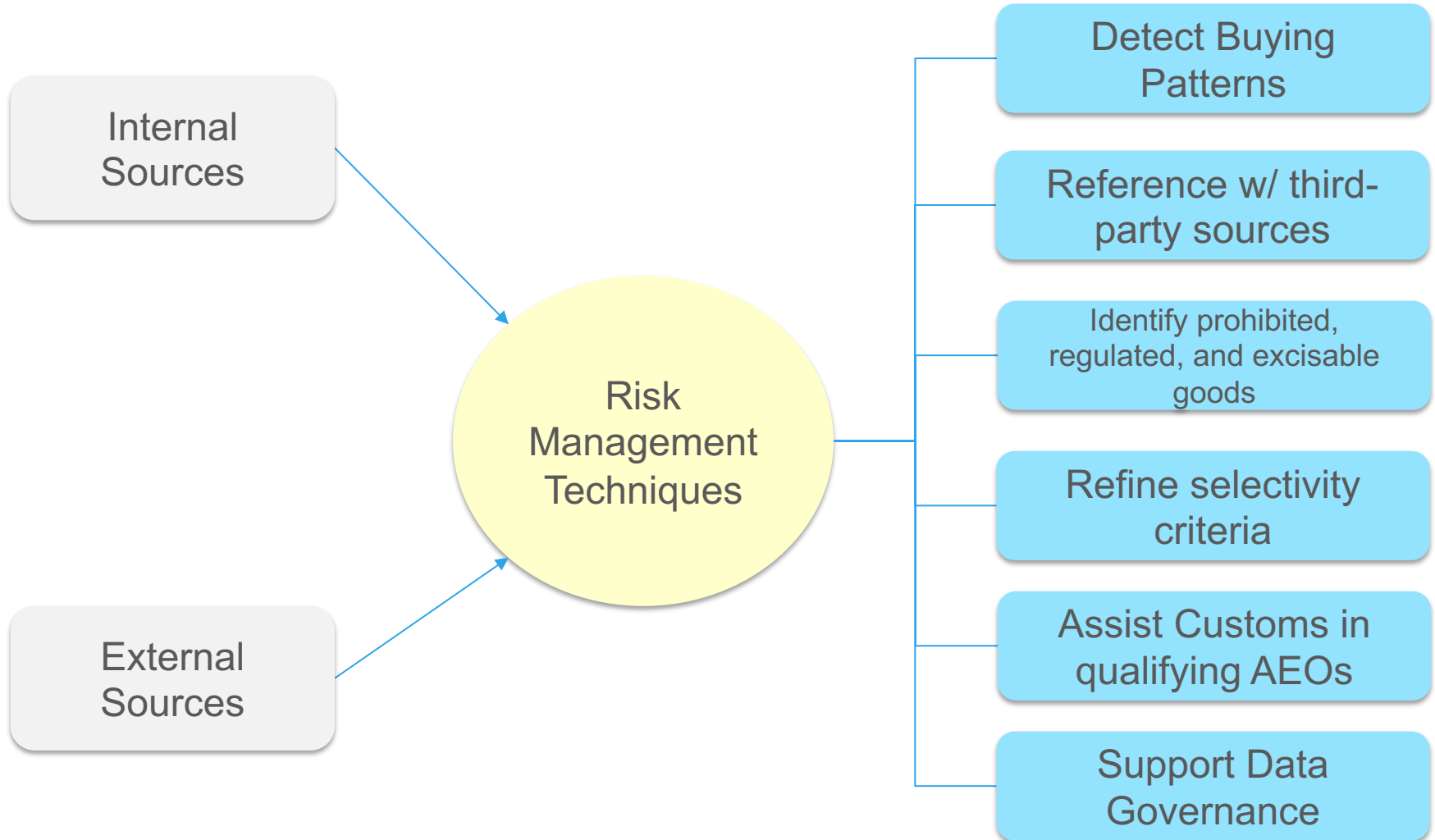
Border Agency Cooperation

- OECD released an abstract on border agency cooperation that states the criticality of this function for increasing operational efficiency and facilitating legitimate trade as well as reducing traders' costs at both the domestic and cross-border levels.

- WTO TFA Article 8 also specifies guidelines on authorities and agencies cooperation and coordination of activities to facilitate trade.

- Border agency cooperation is still a big implementation challenge and given the nature of e-Commerce shipments which are fast-moving, and which capitalizes on speed and reliability of services, it is essential that border agencies cooperate with one another to expedite the clearance and release of low-risk importations.

ITC conducted a validation session with TRGAs National Telecommunication Commission, Food and Drug Administration and Optical Media Board on 18 January 2022. The three national agencies were chosen because they were identified by the logistics sector as the regulatory bodies that prevalently issue permits and clearances for regulated e-Commerce shipments.
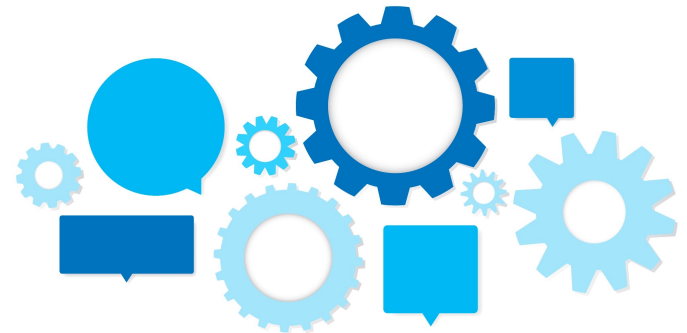
WCO FOS on Cross-Border e-Commerce Prescription: Standard 11: Public-Private Partnerships

Collaboration w/ digital platform providers to come up with a MOU for the provision of the following:

- Advance submission of shipment and other pertinent data that can be used for risk profiling activities under the Integrated Risk Management System.
- A clear and comprehensive procedure in the treatment of return shipments whether they will be re-sold domestically or exported back to the originating country.
- Support in implementing awareness programs to inform buyers of the updated rules and regulations on the clearance of shipments that includes among others, the presentation of regulatory permits if needed, the allowable number of items for personal consumption, the computation of duties and taxes if applicable and such other procedures that may be prescribed from time to time.
- A track and trace system that indicates in precise terms the shipment status including details on the movement of cargo and particulars for any delivery delay that might be encountered.

END OF PRESENTATION
THANK YOU!