

Strengthening customs cooperation of BRICS countries: improving people-oriented capacity building strategies to achieve mutual recognition of Accredited Operator programs

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‘If you want to go fast, go alone, but if you want to go far, go together.’
An African saying

Abstract

The five BRICS countries (Brazil, Russia, India, China and South Africa) are key emerging economies in driving global trade for stable economic recovery and key players in the effort to reduce world poverty. In order to facilitate global trade through adoption of business-friendly schemes, the five countries are implementing various models of Accredited Operator (AO) programs. Although these AO programs have demonstrated their effectiveness in strengthening supply chain management and economic competitiveness, this paper contends that an uphill struggle remains for the key objective: to reach a mutual recognition arrangement among customs authorities. The main objective of this comparative study is to achieve future mutual recognition arrangements of AO programs operational in BRICS countries and identify actionable approaches to people-oriented capacity building. It suggests exploring a standardised people development strategy and developing vocational training programs in a bid to facilitate mutual recognition of AO or Authorised Economic Operator (AEO) programs of the five countries. The paper also highlights capacity building instruments advocated by international organisations and seeks to motivate the development of customs professionals involved in AO programs.

1. Introduction

The G20 Summit in Antalya, Turkey announced that the five BRICS countries (Brazil, Russia, India, China and South Africa) would increasingly play integral roles in optimising global economic policy at a time of slow global economic recovery, and in fostering a healthy exchange of ideas and innovation. BRICS leaders again committed during this Summit meeting to ‘the construction of a truly open global economy, increasing and diversifying trade, transport, technological exchanges, etc.’

The BRICS countries are rapidly growing economies and will continue to be a positive force for the resumption of global growth. They carry considerable weight among global economies, however, they do so mostly because of their size, population, GDP and economic dynamism, despite their faltering cohesiveness. In other words, the group’s international clout depends more on the degree of their individual influence over world affairs than on their synergy. Economically they emulate developed countries but institutionally there is still an element of catch-up, and policymakers need to consider

innovative approaches within the area of customs and border management in order to reach their potential for international trade facilitation, and to function as key players in the global effort to reduce world poverty.

The increased multilateral trade between the five countries, its impact on border management and the way in which customs administrations are dealing with this is of concern to the world trade community. In this regard, it is encouraging to see that the five customs administrations appear determined to strengthen cooperation and coordination¹ in order to effectively and efficiently facilitate legitimate trade and combat illicit trade and customs fraud.

Inspired by this determination to facilitate multilateral trade through close cooperation, this paper postulates the need for the customs authorities to address the following five issues in the context of future cooperation:

1. Legal and regulatory framework, defining the necessary legal basis for cooperation in areas such as 3M (Mutual Assistance of Enforcement, Mutual Recognition of Customs Control, and Mutual Sharing of Information)
2. Institutional framework, providing the necessary procedural coordination to avoid policy inconsistencies at different levels
3. Capacity building framework, addressing people development and standardised vocational training leading to professional recognition
4. Integrity building framework, providing guidance on how best to engender trust between Customs and Business, and to maintain efficient performance of the five customs administrations
5. Infrastructure connectivity framework, providing necessary facilities to facilitate flows of transportation and communication.

Due to the scope and purpose of this study, this paper focuses on capacity building perspectives designed to strengthen customs cooperation in the area of Accredited Operator² (AO) programs operational in the five BRICS countries.

In recent years, the development of AO programs has become a priority for governments to enhance Customs-Business partnerships. At the first Global Authorized Economic Operator (AEO) Conference organised by the World Customs Organization (WCO) and the Korean Customs Service in April 2012, one of the outcomes was the consensus that AO or AEO-type programs represent major vehicles in facilitating customs modernisation. Such programs are seen as good practices that optimise Customs-Business partnerships and guarantee economic growth, and there are already 33 mutual recognition agreements or arrangements³ in place worldwide (WCO 2015b). The AO programs which are mutually recognised by relevant customs authorities include programs such as the US Customs-Trade Partnership against Terrorism (C-TPAT, initiated in 2001); the New Zealand Secure Export program (initiated in 2003); the Canadian Partnership in Protection program (initiated in 1995 and revised in 2002 and again in 2006); the Swedish StairSec® program (initiated in 2006); and the Authorized Economic Operator Programs⁴ (for example, the AEO program of Japan initiated in 2006, EU in 2008, and Korea in 2009).

Indeed, mutual recognition of AO or AEO-type programs is being increasingly acknowledged by the world trade community as one of the fundamental objectives to participate in such programs. Dr Kunio Mikuriya, Secretary General of the WCO (2007, p. 58) stressed that ‘mutual recognition is an essential element for consideration in developing a national AEO program. It is expected that bilateral, sub-regional and regional initiatives under development will gradually pave the way for a global system of mutual recognition of AEO status, although it will require some time to accomplish along with the

phased approach of implementing the WCO Framework of Standards'. Consequently, implementation of AO programs and differentiated risk targeting between consignments of AOs and non-AOs have become necessary for customs administrations in managing global supply chains. Widdowson, Blegen, Kashubsky and Grainger (2014, p. 18) highlighted in their research project on the Australian Trusted Trader program that 'assessing the compliance levels of such entities (Accredited Operators) assists regulators in determining where their resources should be directed. Put simply, such initiatives may be viewed as a way of reducing the size of the "risk pie"'.

2. Methodology of this comparative study

The five BRICS countries are individually key economic players based in four continents. A comprehensive analysis has been conducted through desk research, with the support of published literature and available market survey outcomes. As such, this work is mainly based on open documents and work reports of customs administrations and the WCO working committees. Sources of the study material include the following:

- Open media and the official websites of the five customs administrations
- WCO conventions, instruments, standards and recommended good practices
- Reflections from reports of the WCO Capacity Building Committee (CBC) meetings
- Multiple professional interactions with frontline customs professionals from public and private sectors
- Collection of experiences from customs officers dealing with customs brokers associations nationally and internationally; and opinions from the academic sector involved in customs-related education and research.

Considering the influential impact on the global economy by the five BRICS nations, this comparative study focuses on people-oriented capacity building to achieve a professional and common approach to compliance, so as to achieve future mutual recognition arrangements of AO programs among the BRICS customs administrations. Ideally this applied research will provide practical information and actionable approaches for reference by policymakers, for the benefit of facilitating international trade and reducing world poverty.

Section 1 above identifies the five BRICS countries as an important group in driving global trade for stable economic recovery and highlights their significance facilitating international trade by implementing business-friendly schemes like AO programs. Section 2 explains the research methodology and objective of this study. In the following sections, this paper analyses the comparable features and commonalities of the relevant AO programs and presents findings (positive elements and negative concerns) relating to the achievement of potential mutual recognition arrangements (Section 3); presents suggestions focusing on synergistic people development strategies in order to facilitate future mutual recognition of AO programs (Section 4), and concludes by emphasising the significance of people-oriented capacity building so as to achieve collaborative compliance management competencies that will engender closer cooperation among the customs administrations (Section 5).

3. Comparable features and findings to achieve potential mutual recognition of the five AO programs

Like other Customs-Business partnership programs, the BRICS AO programs⁵ have been developed and are supported under relevant WCO Capacity Building programs:

- Brazil: Authorized Economic Operator Program (Launched in December 2014; this is an updated version of the Blue Line project, also known as Express Customs Clearance which was implemented in 2001.)
- China: Authorized Economic Operator Program (Launched in April 2008, and updated in 2014 with the Interim Regulations on Management of Businesses’ Credibility.)
- India: Authorized Economic Operator Program (Launched in 2012. Indian Customs has another program ‘Accredited Client Program’ which has been implemented since 2005 with a focus on importers.)
- Russia: Authorized Economic Operator Program (Launched in 2011.)
- South Africa: Preferred Trader Program (Updated to Preferred Trader Accreditation Level 2 since 2011, which is regarded as a foundation for a future AEO program.)

Taking account of key elements of developing an AO program, the following factors have been examined: legislation, policy priorities, business coverage in foreign trade, authorisation process, accreditation criteria, benefits, audit system and eligible operators anticipated. A snapshot is summarised in Table 1.

Table 1: High level comparison of AO programs operational in the five BRICS countries

Key elements	Brazil	China	India	Russia	South Africa
Legislation	Normative Instruction IN SRF 47/2001; Normative Instruction IN RFB 1.521/2014	Measures on Classified Management of Enterprises (2008); The Interim Regulations on Categorized Management of Businesses’ Credibility (2014)	The Central Board of Excise and Customs Circular No. 28/2012-Customs (2012); Circular No. 21/2015 (2015)	Articles 38-41 of the Customs Code of the Customs Union; Administrative Regulations for register of AEOs, Order No. 1877 (2011)	Section 64E of the South African Customs and Excise Act (1964); Rules to Section 64E of the Act (Level 2 accredited client status, 2011)
Focus of the program	Compliance and Security ⁶	Compliance and Security	Compliance and Security	Compliance	Compliance
Coverage of business	Import, Export, Transit	Import, Export, Transit	Import, Export, Transit	Import, Export, Transit	Import, Export, Transit
Authorisation process approved by:	Customs Headquarters	Regional customs administrations	Customs Headquarters	Customs Headquarters	Customs Headquarters
Audit system including monitoring, revocation and suspension	√	√	√	√	√

Key elements		Brazil	China	India	Russia	South Africa
Accreditation Requirements	Self-assessment including audit report of previous year	√	√	√	√	√
	Compliance and external regulatory verification	√	√	√	√	√
	Sound financial solvency including length of compliant trade activity	√	√	√	√	√
	Security mechanism in place including inventory systems	√	√	√	√	√
	Obligation to ensure partner compliance	√	√	√	√	√
	Threshold amounts of customs duties and declarations	√	√	√	√	√
Facilitative Measures	e-Customs declaration system	√	√	√	√	√
	Low risk rating and low frequency of physical and documentary checks	√	√	√	√	√
	Pre-arrival lodgment of declaration	√	√	√	√	√
	Simplified inspection on AO premises	√	√	√	√	√
	Priority in declaration and release of goods before declaration with payment and/ or periodic declaration	√	√	√	√	√
	Privileged communication, performance assessment and training specific to AO	√	√	√	√	√ ⁷

Key elements		Brazil	China	India	Russia	South Africa
Eligible operators	Importer	√	√	√	√	√
	Exporter	√	√	√	√	√
	Customs brokers	√	√	√	√	X
	Warehouse operators	√	√	√	√	X
	Logistics forwarders	√	√	√	√	X
	Manufacturers	√	√	√	√	X
	Terminal operators	√	X	X	√	X
	Road carriers	√	X	X	√	X

Source: Author’s compilation with reference to the latest WCO AEO Compendium (WCO 2015b) and relevant official websites.

As can be seen from Table 1, commonalities are prevalent amongst the five AO programs, particularly in the key areas of policy priorities, coverage of business, accreditation criteria, benefits, audit system, etc. Of particular importance, compliance elements are common across these programs, and accredited operators are required to maintain compliance levels to avail themselves of the stipulated benefits.

3.1 Positive elements in achieving mutual recognition of AO programs

It is encouraging to see there are more commonalities than inconsistencies in these operational AO programs in terms of qualification criteria, accreditation process, benefits, and positive outcome in promoting customs-related service and trade facilitation, etc. This bodes well for negotiation of potential mutual recognition arrangements by the various customs authorities. It is also encouraging to note that strong political support⁸ is in place not only from the highest level of BRICS Summit meetings, but also from the meetings of individual customs administrations.

As committed by the five customs administrations, an initial step will be targeted at sharing their resources, knowledge and best practices so as to consolidate cooperation. Capacity building has been highlighted in relation to human resources, technologies and customs procedures in the first meeting of BRICS’ heads of customs administrations. Under this spirit, the administrations will work towards possible solutions for achieving mutual recognition of customs controls and of trader management programs aligned to the WCO AEO concept, establishing customs interconnectivity and supporting the WCO’s work on developing the Globally Networked Customs (GNC) model. (This paragraph is paraphrased from the announcement of the first meeting of the heads of BRICS’ customs administrations and italicised for the sake of emphasis.)

AO programs have had a positive impact on trade facilitation and national economic competitiveness

Through a careful study of the five AO programs and their impact on the economy, these programs have brought tangible outcomes in respect of the customs declaration environment, risk management, and in the promotion of facilitation and security of global supply chains.

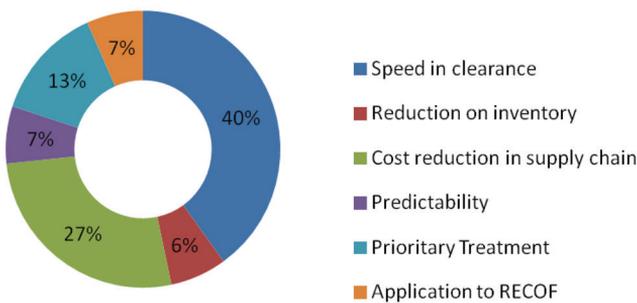
In Brazil, border management has commonly been a target of complaints from importers and exporters, and while this trend has changed markedly in recent years, there is much room for improvement.

Through the platform Procomex⁹ in consolidating partnerships between the public and private sectors, sound implementation and promotion of the Blue Line program has been observed. Accredited operators represent a significant percentage of Brazilian imports and exports, and each accredited company enjoys a substantial reduction of invasive inspections, which consequently releases customs resources to focus on trade activities with a greater risk profile.

According to a survey targeting a total of 46 accredited companies in 2012,¹⁰ the result was encouraging. For instance, reflections with regard to reasons to use the Blue Line were: speed in customs clearance, better inventory management, reduction of cost in supply chain; predictability; priority of treatment and possibility of RECOF application.

Figure 1: Reasons to use Blue Line

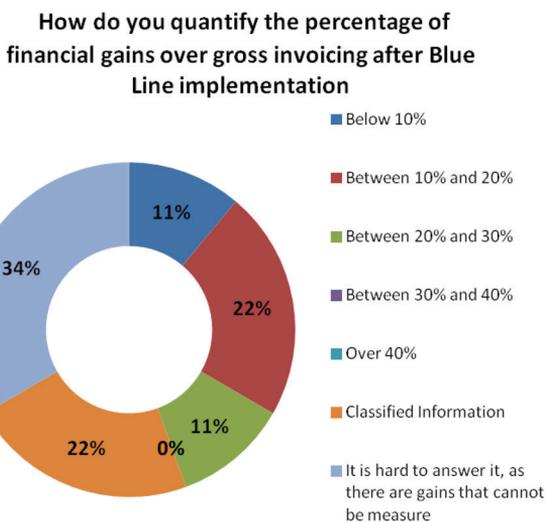
If your company uses Blue Line, indicate your reasons:



Source: Morini, Trevisan, Mineiro, Machado & Sá Porto 2014.

Judging from the survey result, the Blue Line procedure has facilitated financial gains for accredited operators, as the reduction in costs and time of exportation and importation promoted companies with better economic competitiveness in the international market.

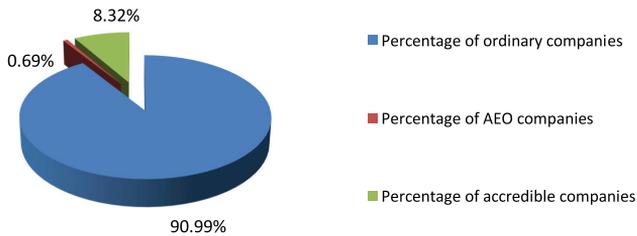
Figure 2: Financial gains over gross invoicing



Source: Morini, Trevisan, Mineiro, Machado & Sá Porto 2014.

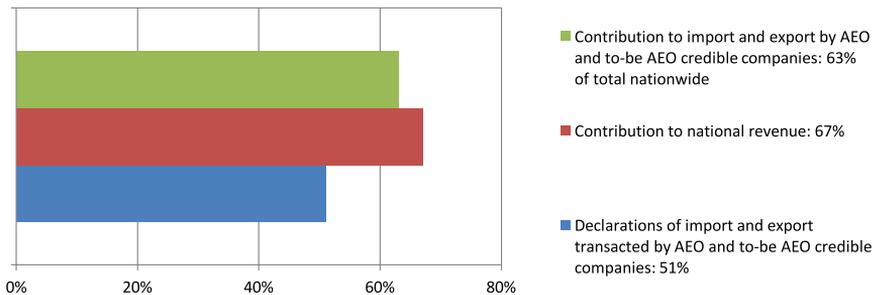
China, thanks to its constantly improved quality of products and upgrading professional standing in manufacturing industries, is branded as the world factory in modern times. According to a market survey report (China Customs Brokers Association [CCBA] 2013), the number of foreign traders registered with Customs in 2012 was around 342,600. However, only 2,360 were accredited by Customs as AEO (equal to 0.69%) and 28,518 of them as to-be AEO credible enterprises (equal to 8.32%). Among the AEO and to-be AEO enterprises, most were manufacturers (73.72%), the rest being logistics companies and other intermediary operators providing customs transaction services.

Figure 3: Percentage of AEO and to-be AEO enterprises categorised by China Customs in 2012



Source: China Customs Brokers Association (CCBA) 2013.

Figure 4: Key performance indicators of AEO and to-be AEO credible entities in 2012



Source: China Customs Brokers Association (CCBA) 2013.

In India, the customs administration took advantage of its robust and well integrated IT-based Risk Management System (RMS) when implementing its AEO program. According to Thomas (2014) during the ICAO–WCO Joint Conference in Bahrain, most consignments of AEO companies were being assessed through RMS without examination, on a self-assessment basis. The automated system has reduced cargo clearance times by one-third, benefiting importers through reduced costs on account of quicker clearances. Thomas (2014) further indicated that the implementation of AEO programs has shown value from investments, with these companies not only having received benefits from their investment but also being able to quantify numerous collateral benefits including:

- higher supply chain visibility
- improved supply chain efficiency
- better customer satisfaction
- improved inventory management
- reduced cycle time and shipping time.

From the above, it appears that accredited operators are playing an exemplary role in demonstrating the principle of *compliance for trade facilitation*. This positive impact can be found in all five AO programs.

Pioneering mutual recognition of AO Programs

There are successful trials among the BRICS countries in piloting mutual recognition of AO programs. For example, bilateral mutual recognition agreements with non-BRICS countries have been concluded by Brazil, China and India, with BRICS customs administrations accumulating relevant experience through bilateral and multilateral agreements (in terms of both tariff and non-tariff sectors), which paves the way for whole-of-BRICS mutual recognition of AO programs.

Russia and South Africa are gaining experience in mutually recognised programs through the development of regional AEO-type projects in line with the WCO AEO concept.

The Eurasian Economic Commission has drafted an 'improved' AEO concept, which is included in the draft Customs Code of the Eurasian Economic Union currently being agreed. The improved concept makes a number of substantive changes to the existing one. For example, financial stability and security (reliability) requirements are planned for companies wishing to obtain AEO status, including for the purpose of minimising the application of risk management systems with respect to such companies.¹¹

The South African Revenue Service (SARS) is now developing an Advanced Accreditation (Preferred Trader Level 2) program which is considered a stepping stone to an AEO program. It is being developed by adopting the WCO SAFE Framework and aligning the accreditation procedure with that of the European Union (EU) AEO program. Further, South Africa is giving momentum to develop a regional AEO program for the Southern African Customs Union (SACU).

At present, South Africa and the SACU are piloting an Advanced Accreditation Program with key clients in government priority industries. This is a phased approach to an AEO program, ensuring that it is being implemented in a collaborative manner so as to achieve regional mutual recognition of Preferred Traders, and includes:

- Learn by testing so as to establish common SACU requirements, communication, interconnectivity, common standards of verification and governance
- Ensure enabling IT connectivity, data sharing to identify Preferred Trader clients
- Establish roadmap, common legal criteria and standards
- Ensure Customs-to-Customs exchange of information
- Ensure implementation, monitoring and reciprocation
- Ensure benefits including facilitated release from end to end
- Build structures to support regional Preferred Trader projects.¹²

These positive efforts of establishing mutual recognition of AO programs will generate a momentum of political will. Judging from the series of BRICS Customs summit meetings, there is a common view that mutual recognition of their AO programs is expected to multiply benefits of multilateral trade relations¹³ by bringing trade security and facilitation from the domestic to the international level. In particular, enterprises that have been certified as AOs or are applying for AO business status in BRICS countries expect mutual recognition of their status to be recognised in return for their efforts to comply with the stipulated requirements.

3.2 Negative factors relating to mutual recognition

Even though a high level commitment for closer customs cooperation is apparent, there remains an uphill struggle for the five customs administrations to negotiate potential mutual recognition of their different models of AO programs. For example, the work agendas of the five administrations are not necessarily convergent given that their service interests, development stage and priorities differ. This results in difficulties in building compatibility, mutual validation and eventually mutual recognition of AO programs including the status of customs professionals¹⁴ involved in AO programs.

From a capacity building perspective, the following are key concerns that should be addressed if the five administrations wish to achieve mutual recognition of their AO programs:

- Different reporting systems within government structures may result in restrictions to harmonisation of people development strategies and standardisation of training programs, besides differences in designing customs modernisation and border management programs
- Lack of a common approach to compliance awareness and the competency requirements of potential AO applicants and customs professionals serving in AO companies
- No standardised approach to compliance training and the necessary competencies to implement AO programs consistently, such as Risk Management and Integrated Supply Chain Management
- Lack of harmonisation of automated systems to enable the sharing of knowledge and customs clearance information in a timely manner.

4. Consequent suggestions

Due to differing national mandates, reporting structures and legal government competencies, it is not surprising to see that each customs administration in the BRICS group has its own development goals and work agenda. As noted by Widdowson (2007, p. 32) ‘no two customs administrations necessarily look alike. What may be core business to one may fall outside the sphere of responsibility of another, and this is simply a reflection of differing government priorities, the way in which a particular country manages the business of government and the manner in which the associated administrative arrangements are established’.

In light of the findings above, this paper attempts to reduce the negative effect therewith on implementation of AO programs and to facilitate mutual recognition by promoting people-oriented capacity building coupled with a common approach to compliance and the associated desirable competencies.

4.1 Update existing AO programs in line with the WCO AEO concept enshrined in the SAFE Framework

While implementing AO programs, countries must consider their own strategic context and requirements, however, for the purpose of reaching mutual recognition and eventually implementing business-friendly facilitation measures, it is suggested they take a proactive attitude to update existing AO programs in line with the WCO AEO concept as they committed while signing the Letters of Intent to implement the SAFE Framework. This is an initial step for any potential mutual recognition of AO programs.

In this regard, Widdowson et al. (2014, p. 22) cautiously mentioned that ‘although Article 7 proceeds to encourage members to develop Authorized Operator programs on the basis of “international standards” (without any specific mention of such standards), and to allow for mutual recognition arrangements, the provision is notable for the absence of any binding or formal adoption of related principles as set out in the SAFE Framework’. In fact, there is strong demand from both public and private sectors to harmonise

existing customs control methodologies including AO programs for the sake of trade facilitation and meanwhile secure supply chains. For instance, regarding potential membership participating AO programs, the SAFE Framework provided that ‘potential AEOs include operators of all those involved in international trade’. They can be customs brokers and freight forwarders, and all traders involved in the global supply chains. In respect of facilitative benefits, Widdowson et al. (2014, p. 21) also highlighted that ‘the criteria identified by the WTO [TFA (Article 7)] are consistent with those contained in the WCO SAFE Framework’.

The significance of raising a common approach to compliance and adopting internationally acknowledged standards in implementing AO programs is reinforced by the WCO Resolution made in its Policy Commission meeting at Dublin in December 2013, just after the conclusion of the WTO TFA:

Customs plays a fundamental role in trade facilitation and that the Customs administrations of many WTO Members have made positive contributions to the WTO Trade Facilitation negotiations which have now culminated in the Trade Facilitation Agreement;

the WTO Agreement is fully consistent with WCO tools and programmes on trade facilitation and compliance, including the WCO Economic Competitiveness Package, which incorporates, among other things, the Revised Kyoto Convention, the Data Model, Authorized Economic Operator programmes, the Coordinated Border Management Compendium and the Time Release Study (WCO Dublin Resolution 2013).

In the same vein, in terms of employing internationally recognised instruments, Ireland and Matsudaira (2011, pp. 176-7) advocated that:

International instruments ... are developed and negotiated by countries in specialized multilateral organizations. As international instruments are generally agreed and ratified at the political level, they can be a persuasive driver of change—with high level political commitment, interagency conflicts over leadership and ownership can be managed across agencies.

Change based on international instruments can also bring clarity to overall change objectives, thus increasing engagement with industry stakeholders (including donor community stakeholders, private sector stakeholders, and government employees). ... Furthermore, certain international instruments function as benchmarks of change by providing monitoring indices.

4.2 Mutually develop vocational training standards, upgrade professionalism and adopt a common compliance approach

Experiences from the implementation of AO programs demonstrate that there are emerging challenges for people development strategies, let alone implementation of mutual recognition agreements reliably and professionally by the ‘world AO families’ (stakeholders of AO programs). Indeed any customs modernisation including adoption of AO programs will exert legislative, procedural and operational impacts on customs practitioners, and bring change in the mindset and professionalism particularly of those customs professionals working on the frontline. Therefore, capacity building needs to be underpinned by an enabling strategy that gains the support of all trade stakeholders, whether they are employed in the public or private sector. In this regard, the WCO Customs-Business Partnership Guidance emphasised:

... it becomes even more evident that joint training opportunities and bi-directional education are not only part of building mutual trust and understanding of each other’s roles and responsibilities, but essential to develop the needed competencies of both partners.

Through bi-directional education, Customs would be able to learn from industry experts among others about new and growing trade trends as well as develop a better understanding of how

business models work to be able to facilitate trade. Such bi-directional education concepts could be developed in close coordination and constant communication with the appropriate industry stakeholders to better adapt to the ever-changing global trade and economic environment (WCO 2015a, p. 26).

Hence, from a capacity building perspective, this paper attempts to propose people-oriented capacity building approaches as stepping stones to facilitate the achievement of mutual recognition of AO programs:

- Mutual development of vocational training standards,
 - › establish standards based on the WCO PICARD Professional Standards and the People Development Diagnostic Tool
- Mutual development of qualification criteria for Customs Clearing Agents serving under AO programs,
 - › validate qualifications of customs clearing agents of AO companies jointly by BRICS customs authorities under an agreement framework
- Mutual support in capacity building of infrastructure so as to optimise information exchange facilities,
 - › maintain AO profile and business data traced and monitored effectively.

Mutual development of vocational training standards

International organisations and the academic community are making great efforts to promote standardised education programs targeted at specific professionals. However, except in the EU, there are very few projects pioneering joint development of vocational training standards. We have seen many countries begin to adopt the WCO PICARD (Partnership in Customs Academic Research and Development) Professional Standards¹⁵ in educating customs managers. But the intention of Professional Standards is focused essentially on customs officials who wish to acquire academic qualifications through Bachelor or Masters degree studies. Obviously, it is limited in terms of coverage of vocational training standards for those customs professionals on the frontline, including customs brokers and freight forwarders whose expertise is actually intra-sectoral, trans-regional and cross-cultural in coverage.

In this connection, the paper suggests that the five customs administrations jointly develop standardised vocational training programs basically catering for frontline customs professionals, with input of expertise from universities, international organisations and multinational companies. This relatively low-cost, high-return initiative involves developing a multilateral partnership framework among customs administrations, academia and the private sector.

This initiative helps to overcome limitations in raising common comprehension of compliance and reduce discrepancies of training methodologies in individual BRICS countries. It can further serve as a professional benchmark for AO program managers from a regulatory perspective on the one hand, and a benchmark against which in-house training of an AO company can be measured and harmonised on the other hand.

Rationale

Customs is a highly knowledge-based and customer-oriented profession. The need to invest in promoting professionalism and compliance management has long been identified as a priority by the world trade community. Additionally, at a time of increasing change in the customs service landscape and emerging technologies, it is of critical importance to ensure that customs professionals perform their duties efficiently and reliably. From a business perspective, ensuring that customs professionals who are involved directly in customs transactions have a high degree of professionalism and compliance awareness will enable them to not only access customs facilitative measures domestically but also business opportunities across the world.

This requires establishing an organisational and operational model targeting both national education infrastructures and multilateral education policies and standards. The root of this rationale can be found in Article VII: Recognition of the *General Agreement on Trade in Services*:

... a Member may recognize the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously (WTO GATS 1994, para. 1).

Mutual development of qualification criteria for customs clearing agents serving in AO companies

Among the five BRICS countries, a significant number of customs transactions involve agent declarations (between 85 and 100 per cent). According to a study released by the Federation of Freight Forwarders' Associations in India (FFFAI), it is estimated that '95 percent of international trade is handled by international freight forwarders and customs brokers' (FFFAI News 2012, p. 9). This situation helps to explain why clearing agents are generally subject to strict controls in respect of professional licence and market access in making agent declarations on behalf of other economic operators. As a matter of fact, such controls and competency standards for customs clearing agents vary in the five BRICS countries. Much of the current education effort is fragmented, let alone implementation of AO programs with a common approach to compliance and competencies on the part of customs professionals.

To raise professionalism and common approach for accredited operators, this paper considers that customs administrations have the responsibility to take the initiative¹⁶ in setting vocational training standards and qualification criteria to motivate clearing agents of AO companies so as to establish a professional foundation. It suggests that customs clearing agents whose companies are qualified as AOs should be obliged to reach a high level of competency and compliance, and be certified professionally not only by the customs authority at a national level but also validated and mutually recognised at an international level, for instance, by the to-be-established BRICS Customs Cooperation Committee. This will facilitate consensus on levels of professional performance, people management, comprehension and implementation of mutual recognition of AO programs.

As an initial phase, the following criteria are suggested to be taken into consideration when customs administrations are designing cooperative frameworks in respect of criteria for credible customs clearing agent status:

- A college graduate and above five years' work experience in customs business
- A diploma holder from the institutes whose customs-related academic or vocational training programs have been certified by the WCO as meeting the designated international standards
- Validated by home customs administrations in terms of their security and trade compliance record (this move can be a pilot step towards being validated by all border regulators in a whole-of-government mechanism like the Single Window)
- The company he/she is representing has been granted AO or AEO-type trusted trader status.

Rationale

From a trade facilitation perspective, customs clearing agents are key stakeholders in implementing AO programs at borders, as most customs transactions are fulfilled in agent declarations. This also signifies that the vast majority of SMEs can benefit trade facilitation when their customs transactions are conducted by certified clearing agents who are employed by AO companies. These professionals gather, organise and manage the commercial and trade data on behalf of their clients, in fulfilment of formalities related to the international movement of goods.

From a customs enforcement perspective, it is these customs clearing agents that actually manage most of the global supply chain from end to end. They are the custodians of large amounts of commercial and transportation information connecting different border agencies, regions, industries, cultures and nodes of supply chains. Recognition of their voluntary compliance and cooperation is critical to effective risk analysis and risk targeting which is acknowledged as an effective means of compliance management, by freeing up Customs resources to focus on high risk traders and agents.

If credible customs clearing agents were to be officially mutually recognised by customs authorities, they would be motivated to operate in concert with the regulator, and maintain compliant procedures so as not to lose their accredited status. They would also be motivated to take the initiative to advocate knowledge-based enterprise ethics, compliance standards and codes of conduct so as to protect the interests of their trade partners and to secure the long-term sustainability of their business.

This presumption is reinforced by a number of reports of relevant international organisations and in the literature. For example, Grainger (2011, p. 167) observed that:

Successful collaboration strategies also make enforcement far more efficient, and they can reduce trade compliance costs—expanding revenue while shrinking the shadow economy.

To give one example, the so-called 20:80 principle—whereby 20 percent of the trade population is responsible for 80 percent of customs declarations—often applies. In fact, the ratio can be far higher in trade intensive economies (published research is scarce, but anecdotal evidence suggests that ratios of 5:95 or even 3:97 are not unusual). Consequently, a smart collaborative enforcement strategy is to encourage these traders with the highest volumes to internalize regulatory control objectives, freeing border agency inspection resources for use in controlling riskier movements. Commonly applied vehicles for the encouragement of good compliance records include preferential treatment and risk management, formal partnership agreements [accredited operator programs], licensing regimes, and assurance based controls [to ensure safety of goods and hygiene of foods, etc.].

In an effort to secure a high level of professionalism of stakeholders, a number of good practices are evident. For instance, in the freight forwarding community, the International Federation of Freight Forwarders Associations (FIATA) has implemented its FIATA Diploma,¹⁷ the main purpose of which is to promote freight forwarders' professionalism. The FIATA Diploma is undersigned jointly by the Chairperson of FIATA and the National Freight Forwarders Association of participating countries. This validation mechanism enables the National Freight Forwarders Association to deliver standardised vocational training courses.

Mutual support in capacity building of infrastructure to facilitate information exchange

Previous experiences demonstrate that achieving meaningful results from mutual recognition of AO programs depends foremost on the efficient exchange of relevant information and availability of accurate information¹⁸ provided by customs professionals. In order to implement mutual recognition arrangements reliably and professionally, it is proposed that the transactions of AO companies and their employed clearing agents should be subject to the supervision and evaluation of an authorised regional institution such as the to-be-established BRICS Customs Cooperation Committee, assisted by an efficient ICT platform to ensure transparency, fairness and consistency (for example, through the ongoing establishment of the BRICS Information Sharing & Exchanging Platform). However, the five customs administrations, like other government agencies, currently use various non-compatible automated systems which are not capable of adequately sharing information on customs transactions.

It is therefore necessary to strengthen mutual support in capacity building to optimise information exchange mechanisms and hence the timely supervision of AO performance. This will require considerable effort to be placed on technical assistance to support each other in order to sequence the necessary implementation of AO or AEO-type programs. Such mutual capacity building includes border

management facilities, networking communication and electronic customs declarations (paperless clearance), as well as proficiency in the use of relevant software and hardware, competency in digital applications, etc.

Rationale

This proposal echoes the commitment made at the first summit meeting of BRICS customs administrations, where it was agreed to take efforts to ensure mutual assistance across administrations, mutual recognition of customs controls and mutual exchange of customs information.

With the advent of e-commerce and the increasing volume of intermediary goods travelling across borders, customs authorities have been aware that information on logistics and cargo routes is critical for the fight against customs fraud. Thus customs authorities are prudent to maintain close partnership with highly reliable traders to systematically analyse cargo containers in the context of risk management. Thus dynamic management of AOs' credibility appears critical, as financial gains from avoidance of duties, taxes, rates and quantitative limits constitute an incentive to commit customs fraud.

If AO programs are implemented with an efficient, uniform and trustworthy ICT platform across BRICS countries, it will help to promote compliance with rules and regulations by economic operators and to avoid the inappropriate exercise of discretion by individual customs representatives and other trade-related regulators. Technically such mutual support activities will pave the way towards achieving mutual exchange of AO profile information and the provision of facilitative measures.

To date there are many good practices among the BRICS countries in this regard. For example, South Africa and other SACU Member states exchange customs data under the SACU Information Technology Connectivity Project. The objectives of the project include real time information sharing, risk assessment prior to arrival of a consignment, harmonisation of trade procedures through automated customs processing systems such as the integrated Customs and Border Management Solution (iCBS) and ASYCUDA++. It is envisaged that Customs in the countries of transit and import can use data provided by trusted traders for risk assessment and transaction reconciliation purposes.

5. Conclusions

With BRICS leaders having collectively committed to multilateral cooperation to improve global trade and poverty reduction, the challenge is to move ahead courageously and coordinate in an effective, accountable and measurable manner. While this is essentially an issue for BRICS central governments to tackle, the customs administrations, working with customs-related researchers, are doing their part by providing much needed theoretical and empirical studies for decision makers. Practically this emerges from the fact that cooperation among customs administrations is increasingly recognised as essential for facilitating global trade, and concern that such administrations are often the subject of review to ensure their ongoing relevance in an increasingly complex trade environment.

This requires customs administrations to make a collective effort to adopt mutually acknowledged business-friendly initiatives such as harmonisation and simplification of customs procedures. In light of the current situation relating to the implementation of AO programs in the five BRICS countries, such as differing government priorities and work systems, progress on the achievement of mutual recognition agreements is slow. Therefore, it is necessary to conduct further empirical research to convince policymakers of the associated benefits. It is also necessary to put forward feasible proposals aiming for collective compliance initiatives and agreed competencies. This involves investment in standardised education programs, enhancement of mutual training and evaluation of the effectiveness of people development strategies.

As outlined in this paper, mutual development of education programs and mutual support of people-oriented capacity building will generate a spillover effect¹⁹ by ensuring that the legislative fundamentals of customs procedures are comprehended sufficiently across the BRICS countries, thereby facilitating mutual recognition of AO programs.

In short, any agreement reached to enhance customs cooperation should include a change in governance including the approach to education of customs professionals. While the literature has yet to fully explore the impact of mutual recognition of AO programs on people development strategies, this paper serves to reinforce the benefits of cooperation among customs administrations in achieving a common approach to compliance and the associated competencies. It is hoped that this paper will represent a stepping stone to encourage further studies in this important area of research.

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Notes

- 1 This commitment was made in the first meeting of BRICS heads of customs administrations in March 2013, available at: www.sars.gov.za/Media/MediaReleases/Pages/12-March-2013---Outcomes-of-1st-Meeting-of-BRICS-Heads-of-Customs-Administrations.aspx.
- 2 Accredited Operator, in this study, encompasses the concept of ‘Authorised Person’ (with a focus on customs compliance) as outlined in the WCO *International Convention on the Simplification and Harmonization of Customs Procedures* (Revised Kyoto Convention), ‘Authorised Economic Operator’ (requires both customs compliance and supply chain security) as defined in the WCO SAFE Framework of Standards and ‘Authorised Operator’ (focused on customs compliance and trade facilitation) as provided in the WTO TFA. For the convenience of discussion, this paper generically refers to them as ‘AO’, who are considered as trusted operators in the international trading community that are accredited to meet compliance and other regulatory requirements for the sake of secure and facilitated global supply chains.
- 3 The SAFE Framework defines mutual recognition as an ‘action or decision taken or an authorization that has been properly granted by one Customs administration is recognized and accepted by another Customs administration’. Mutual recognition can be a means to avoid duplication of security controls and can greatly contribute to the facilitation and control of goods moving in the international supply chain. As of March 2015, 33 MRAs have been concluded and 20 AEO MRA negotiations are currently ongoing (WCO 2015b).
- 4 For the AEO program, it worth noting that there are, practically, three categories, AEO “C” mainly for customs clearance, AEO “S” for safety and security and AEO “F” for a combination of “C” and “S”. This is a follow-up for customs administrations to implement one of the WCO’s premier instruments, that is, the *SAFE Framework of Standards to Secure and Facilitate Global Trade* (the SAFE Framework) where Customs-to-Customs Cooperation and Customs-Business Partnership are enshrined as two pillars. This Framework includes the concept of AEO, whereby a party engaged in the international movement of goods is accredited by customs administrations as compliant with the supply chain security standards, and given benefits such as simplified customs procedures and reduced customs interventions.
- 5 The detailed information of the five AO programs is omitted considering the scale of this paper. Such details can be referred to in the latest WCO AEO Compendium (WCO 2015b).
- 6 The Brazilian AEO Program is scheduled to be implemented in three stages: starting in 2015, operators can only be certified based on compliance of security criteria (AEO-S). From 2016 on, certification will expand based on fulfilment of customs rules and procedures (AEO-C). AEO holders of both AEO-S and AEO-C certifications will be considered AEO Full (AEO-F). In 2017, the focus will be on integrating other government agencies aimed at streamlining of regulatory procedures.
- 7 South Africa has introduced an accreditation test for Preferred Traders (a Competency Testing tailored to AO). That is, client representatives responsible for accreditation need to demonstrate sufficient knowledge of customs processes and procedures.
- 8 During the first meeting of heads of Customs held in South Africa in 2013, the leaders established the foundation for closer links and committed to enhance capacity building mutually. Meanwhile, a Customs Cooperation Committee will be established in the near future according to the latest BRICS Customs summit meeting in July 2015, the new body will work to simplify and harmonise customs procedures within BRICS countries.
- 9 The goal of the platform ‘the Alliance to Modernize Brazil’s Foreign Trade (known as Procomex) is to draw up an easy-to-visualise iconic description of existing problems in import and export procedures and to identify opportunities for improvement. It serves as an informal mechanism bringing together more than 50 business associations and senior officials from the Customs administration and the Ministry of Development, Industry and Trade (Mein 2014, p. 132). This initiative practised in Brazil proves a successful story of joint business process mapping practised so far with synergy generated from close Customs-Business partnership and the Blue Line program.
- 10 The information presented here was extracted from the presentation by Professor Cristiano Morini at the International Network of Customs Universities (INCU) Inaugural INCU Global Conference in Baku, Republic of Azerbaijan (Morini et al. 2014). The survey was assisted by AER (Association of Companies of RECOF and Blue Line in Brazil). Blue Line and RECOF (Special Regime of Industrial Warehouse under Automated System Control) are Brazilian government initiatives that aim to encourage trade, with Blue Line providing companies with faster customs clearance and RECOF offering tax free benefits on import.
- 11 More analysis relating to the Union’s AEO program can be seen at: www.lexology.com/library/detail.aspx?g=93f980f6-92f4-4c38-8be0-997da59da439.
- 12 This information was extracted from the presentation ‘SARS’ Customs preferred trader accreditation program’, delivered by Mr Mohamed Ally, Executive of Customs Operations of SARS at the 2nd Global AEO Conference in 2014.
- 13 Currently, the total foreign trade volume of the BRICS countries makes up 16 per cent of the world total, while the trade volume between these countries is only 1.5 per cent of the world total, which suggests that the potential for economic cooperation among them has not yet been fully realised. From a border management perspective, according to the World Bank’s latest report titled ‘Doing Business 2016’, South Africa is ranked at 14th position, Brazil 29th, Russia 66th, China 84th and India 134th, among the 189 economies listed.

- 14 In this paper, 'customs professionals' refer specifically to customs practitioners working on the frontline and dealing with customs transactions directly for cross-border trade, including customs clearing agents of the private sector and customs officers at the operational level (excluding customs officials at a higher executive level). Whereas a 'customs clearing agent', according to the WCO 'Glossary of International Customs Terms', refers to a person who carries on the business of arranging for the customs clearance of goods and who deals directly with Customs for and on behalf of another person. They can be customs brokers, forwarders, shipping agents, other customs intermediary operators and in-house customs professionals of import/export companies.
- 15 The WCO, in partnership with the INCU, developed the WCO PICARD Professional Standards targeted at professionalising Customs senior and middle management. The standards are being used by the academic world to develop educational programs which provide professional qualifications for customs staff to BA and MBA Levels. See detailed information at: www.wcoomd.org/learning_customshome_valelearningoncustomsvaluation_cbpicardoverview.htm.
- 16 Take South Africa as an example, a customs clearing agent may be any person as long as his or her employer/company is registered with the customs authority. But, with the introduction of the Preferred Traders Level 2 program, SARS is implementing a good practice 'an accreditation test for Preferred Traders'. This is a Competency Test tailored to AO, that is, client representatives responsible for accreditation need to demonstrate sufficient knowledge of customs processes and procedures. The introduction of the accreditation test has raised personal accountability of these representatives.
- 17 The FIATA diploma course is managed by the Advisory Body Vocational Training (ABVT), the education arm of FIATA. ABVT approves and validates the course material periodically and gives accreditation to the institutes run by its member associations to conduct the FIATA diploma course. Globally, 52 countries have validated their vocational training programs through FIATA and trainees from all over the world benefit from these FIATA diploma courses year after year. More information is available at: www.fiata.com/index.php?id=296.
- 18 This observation has been stressed on many occasions by the WCO. 'All Customs tasks and responsibilities are performed, at least in part, on the basis of data received from businesses engaged in trade—for example, data for purposes of revenue collection, risk management, admissibility checks, resource allocation and cooperation with other agencies, as well as the collection of statistical data for macroeconomic decisions' (WCO 2015c, p. 17).
- 19 It is advisable to keep an inclusive attitude while developing, mutually, the vocational training standards and standardised education programs by BRICS Customs. This move is to guard against suspicion that such beneficial training approaches to people development would bring negative effects in terms of training opportunities and compliance requirement on non-BRICS members, just as tariff elimination is available exclusively to members in a Free Trade Agreement.

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