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## 中国关于跨境电商的立法： 外国企业和中国商务平台的 机遇

## Chinese Customs Regulations on Cross-Border E-Commerce: A Growth Opportunity for Foreign Enterprises and Chinese Commercial Platforms

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1980年代以来，通信技术快速提高，在全球范围内加速了消费方式的改变，全球化趋势加强，并由此带来了各种变化和改进，比如新技术，更快、更便捷的通道和运输方式，创造了名为电子商务的货物买卖新方式。世界贸易组织认识到这种新的贸易方式的发展及其带来的新机遇。1998年5月，该组织第二次部长级会议通过的《全球电子商

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The fast improvement of communications since 1980's has sped up the way of world-wide consumption. The embrace of globalization and all the changes and improvements that come with it, such as new technologies, faster and more accessible routes and ways of transportation, have created a new way to sell and buy goods named electronic commerce or e-commerce.

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务宣言》中，电子商务得到正式采用。自那时以来，电子商务的术语被理解为通过电子手段生产、分配、营销、销售或交付的货物和服务。即使今天的电子商务并不是一个新问题，我们可以说，它已成为卖家和买家，同时也成为在这个过程中所涉及的所有中介，其消费、工作和收入来源的流行和稳定方式。文本将关注跨境电子商务及其在中国海关法规中具有的意义，电子商务平台的主要特点和其发展将面临的挑战，及其对消费者、企业和政府造成的影响进行分析。

**[关键词]** 跨境电子商务；中国海关立法；电子商务平台

This new way of commerce was officially adopted in May, 1998 in the Declaration on Global Electronic Commerce of the Second Ministerial Conference of the World Trade Organization, which recognizes the growth of this new way of trade and the new opportunities it brings with. Since then, the term of electronic commerce, or e-commerce, is understood as to mean the production, distribution, marketing, sale or delivery of goods and services by electronic means<sup>1</sup>. Even if today e-commerce is not a new subject, we can say it has become a popular and stable way of consumption, job, and income source, not only for the seller and buyer, but also for all the intermediaries involved in the process. In this article, the characteristics of cross-border e-commerce and its implication on Chinese Customs legislations and commercial platforms will be analyze by noting their main characteristics and the challenges shared for development, as well as the effects they generate among consumers, enterprises and the government.

**Key words:** cross-border e-commerce; Chinese Customs Legislations; e-commerce platforms.

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## 1. Introduction to cross-border e-commerce

The success and constant increase of e-commerce relies on various systematic factors that are understood to drive the diffusion of e-commerce. Some examples of this include the expansion of broadband availability in diverse countries and among diverse social sectors, the setup of international legal frameworks and guidelines for consumer protection, and the increasing trust in online systems in hand with the adoption of different payment systems (Mangiaracina, et al., 2015). In particular, the progress taken in connectivity and use of ICTs, as well as the increase of mobile-cellular networks and mobile broadband services promotes and expand the use of electronic commerce.

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<sup>1</sup> World Trade Organization. 1998. Work Programme on Electronic Commerce. Accessed February 1, 2018. [https://www.wto.org/english/tratop\\_e/ecom\\_e/ecom\\_e.htm](https://www.wto.org/english/tratop_e/ecom_e/ecom_e.htm)

Cross-border e-commerce is characterized by the transaction and shipment of goods cross-national borders initiated in online platforms and destined to a final consumer; the process can be realized either between two businesses (B2B), a Business to Consumer (B2C) or between Consumers (C2C). However, for the purpose of this research the Consumer to Consumer (C2C) transaction will be included in the Business to Consumer model because the operation is usually made through particular platforms where the first Consumer acts as a seller when offering and accepting the payment by the other consumer. With a growing amount of e-commerce platforms, the number of vendors and buyers is increasing considerably and the type of shipments are usually part of time-sensitive goods flow, with a high volume of small packages shipped, transport and consigned by unknown players, and with the need of a return or refund process.

In a B2B operation, negotiation becomes easy for both sellers and buyers to compare products and carry out transactions on a cross-border e-commerce platform. It decreases a large amount of time and money spent on negotiation. Therefore, the negotiation cost decreases. Transportation methods for both traditional trade and cross-border B2B e-commerce are very similar. Both deliver the goods by means of intermodal transportation. Hence, there is no significant difference in transportation cost between B2B and traditional trade and tariffs of B2B are almost the same as those in traditional trade.

In a B2C operation the change of information cost, negotiation cost, tariffs cost and intermediaries cost in B2C is similar to that in B2B. Therefore, in a B2C operation is important to focus on the change of transaction cost. In B2C, as orders are small, and the goods are usually delivered by air, or through express services, transportation cost is a serious burden for consumers. Therefore, transportation cost will increase. In short, transaction cost will decline when and only when the increases of tariffs cost and transportation cost are less than the decreases of other costs (Wang et al., 2017).

From a business perspective, e-commerce provides major opportunities of competition by price and information transparency regarding its clients. For consumers, the availability of information online leads them to a less time-consuming selection of the adequate vendor and product anytime he or she can inform themselves about the vendor, either by reviewing specialized forums and feedback channels about the quality of previous interactions and transactions, or about the online reputation. However, for consumers the concept of information transparency on the internet is not a one-way phenomenon since it brings along a loss of privacy by being used by the sellers to collect personal data in the sense that every online

transaction urges the consumer to transmit at least name, shipping address and some payment information like credit card details. Additionally, this process goes as far as collecting information by specialized algorithms within the platforms to gather information about search terms, visited product pages and previous purchases in order to keep them tracked and stored for the purpose of consumer behavior, preferences and willingness to pay, that facilitate price discrimination by the sellers (Trenz, 2015).

With the internet offering these new capabilities, e-commerce represents a change in the organizational activities of enterprises and consumers. In general terms it reduces manpower, enhance work accuracy, and effective communication among business partners and/or clients, at the same time that it reduces operational costs. The benefit of this changes are visible in the sense that internet, and the use of e-commerce platforms, offer a new medium for the distribution of goods and services; help customers to customize their order by simply clicking on a mouse or touch screen anytime and anywhere. And as it provides an interactive platform for organizations where business partners can share real-time information, analyze and forecast demand and work together under one umbrella; enhance the organizational transactional system by facilitating consumer convenience; and provides a standardized business platform. Nonetheless this benefits, challenges are also palpable on internet base platform for organizations in the sense that an increasing buyer bargaining power emerge product of flexible cost-structures, the disrupt of old paradigms of inter-organizational boundaries by globalization, particularly those insert in the supply chain and the just-in-time system (Tarofder et al., 2016).

For governments and customs authorities these characteristics are also source of opportunities and challenges. By opportunities, countries can take advantage of e-commerce to develop the strength and growth of their national industry and enterprises as it is a tool that combines low investment with global impact that can help internationalize small and middle size enterprise whose income will reduce the levels of unemployment and stimulate development and economic stability and growth. By challenges, countries through their postal and customs administrations face the increase of consignments, especially low value ones, which go beyond their capacities to either process them for revenue or risk management purposes.

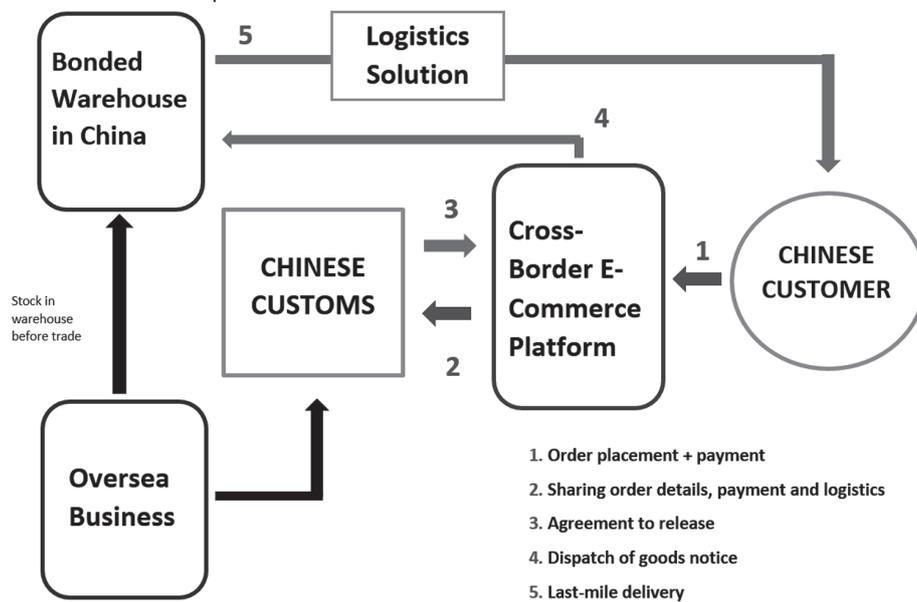
## 2. Cross-border e-commerce most use trading channels in China

In the area of supply chain management this process is still cover an only helps the improvement of the system; however, for authorities responsible of customs administration the existence and increase of such

consignments challenge their structure and organization, especially when it comes to modernize their process and infrastructure for the purpose of customs clearance, exchange, refund and return. This adaptation is the result of the development of cross-border e-commerce large online platforms, rather than stand-alone websites, which makes them follow the principle of vertical and horizontal marketplaces where online channels of sale are divided and integrated within the supply chain according to the model base of the operation which can be B2B, or B2C.

Thereof, B2B and B2C become the characteristic channels of e-commerce transactions worldwide. Its process includes all the steps set on the previous figure with minimum changes, for instance in B2B channel transactions takes place between 2 enterprises or retailers where the consignee may become the new seller and constitute a new supply chain. B2C, the transaction takes place between an enterprise or retailers and a customer where the last one ends the supply chain as the final consumer.

Figure 1: Integration of Global Supply Chains (for B2B and/or B2C e-commerce)



Base on ESCWA, Key Factors in establishing Single Windows for handling import/export procedures and formalities: Trade Facilitation and the Single Window; and Ballering, Thymen. China cross-border e-commerce. Guidebook.

In China, online consumers find and purchase foreign products through various channels. Before the current trend towards official B2C channels, cross-border e-commerce to China was mainly the domain of purchasing agents, so called daigou. Via C2C platforms, such as Taobao, these purchasing agents sell small quantities of overseas products, which they acquired from abroad directly. These products (e.g. milk powder) are sent to the customers by means of direct mailing, without paying any import duties, nor passing by mandatory customs inspections as would be the case with normal trade. Despite their success, due to current developments in Chinese cross-border e-commerce a more official B2C channel are quickly replacing C2C purchasing agents.

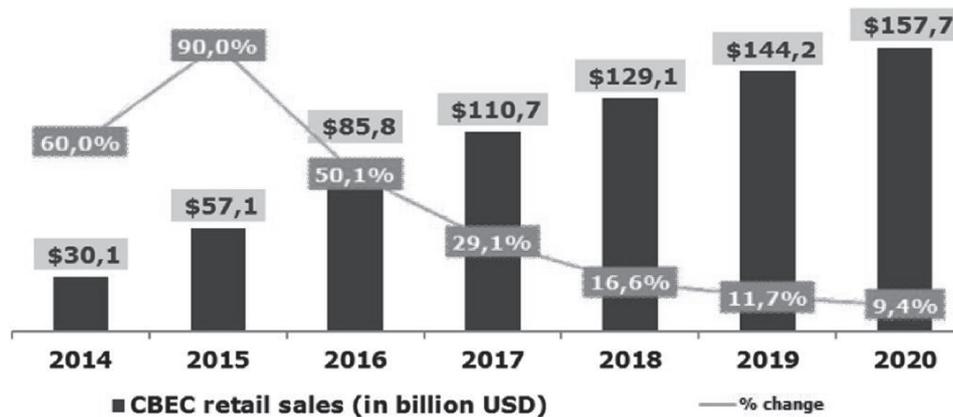
As merchants on B2C platforms have to be established and be authorized abroad, these companies and traders are considered more trustworthy. However, Chinese consumers rarely buy overseas products via stand-alone websites or third party platforms outside China. The high shipping costs, slow delivery, problems with dissimilar payment methods, slow or difficult website access due to the 'Great Firewall', risks of blockage by customs, and the lack of customer services (e.g. return policy), let alone the language barrier, are reasons behind this reluctance.

Rather, Chinese customers use standalone websites in China or –by far most popular– a third party platform inside China. These options are preferred due to fast and cheap delivery, customer services, integration of Chinese payment methods, and an enhanced feeling of trust that the ordered product actually will arrive on one's doorstep.

Recently, nearly all major e-commerce platforms in China opened new B2C channels specifically for products from abroad. For instance Alibaba, as one of the biggest marketplaces on the Chinese domestic e-markets, has initiated its cross-border e-commerce variant as Tmall.hk and with the establishment of Tmall Global, where foreign products are directly sold from abroad, either via direct sourcing or via bonded warehouses in Mainland China, to Chinese customers.

In this sense, the Chinese cross-border market subdivides itself into different channels composed by stand-alone web shops, online malls (Tmall), Hypermarkets (JD), Vertical specialty markets (beibei), and Flash sales websites (VIP) (Ballering, 2017).

Figure 2: Preferred platforms by Chinese consumers for future cross-border e-commerce purchases (2016)



Source: Ballering, Thymen. China cross-border e-commerce. Guidebook

### 3. Growth of cross-border e-commerce in China: customs particularities

Taking as an example China's practice on e-commerce, the theory suggests that cross-border e-commerce may have a positive role in promoting international trade only when the negative impact caused by tariff cost and transportation cost is offset. However Wang and Lee results show that cross-border e-commerce has a positive effect on the growth of China's international trade in each year; but the positive effect do not show incremental growth over time, possibly as a result of the weak implementation of favorable policies in trade, in addition to global trade shrinking.

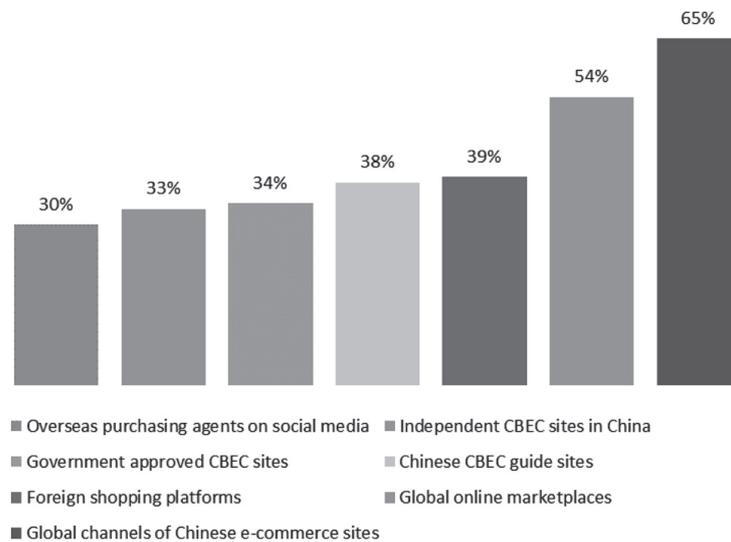
According to the report released by the China Electronic Commerce Research Center, China's e-commerce transactions amounted to 10.5 trillion Yuan in the first half of 2016, accounting for about 30% of GDP. China's e-commerce industry provides more than 2.85 million jobs, making e-commerce a new engine of growth in the "new normal" economy (the new normal is a relatively stable state of low growth that is different from the past business cycle due to a fundamental restructuring of the economic order). While e-commerce is booming, China's international trade has been suffering from a continuous decrease since the global financial crisis in 2008. Therefore, the question of how to encourage China's international trade has become an important concern for the government. In this

context, cross-border e-commerce began to rise, and it is consider a new way of expanding international trade since it has increase a lot since 2008 accompanied by the establishment and expansion of e-commerce platforms such as the ones from Alibaba group (Wang et al., 2017).

In China, Alibaba Group holds and operates diverse e-commerce platforms such as Taobao (B2B and B2C), TMall (B2C), 1688.com(B2B), Fliggy (B2C), with an amount of more than 500 million people using its shopping apps every month and its scale is vastly expanding beyond China. It has operations in more than 200 countries (Saiidi 2017) on their international platforms of AliExpress (B2C, and C2C) Alibaba.com (B2B), and Lazada.com (B2C) (Slater, 2017).

In 2016, the value of online cross-border purchases by Chinese nationals is estimate to be over 85 billion USD. By 2020, 292 million Chinese online consumers will purchase goods from abroad, with sales expected to surpass 157 billion USD as shown in the following figure (Ballering, 2017).

Figure 3: Cross-border e-commerce retail sales in China (2014-2020)



Source: Ballering, 2017.

Taking into account the growth of this interactions, for national e-commerce platforms the Chinese Government has publish several announcements regarding the sale and process on customs clearance for cross-border e-commerce consignments. In this sense Announcement No.

56 [2014] was the first approach on Issues concerning the Regulation of Goods and Articles Entering and Exiting China through Cross-Border Trade E-Commerce; even though its expired status it settled the path for further Announcements and Documents on the matter by the General Administration of Customs. In brief, these works are Documents No. 57 and No. 75 relating to the addition of Customs Supervision and Control of “Bonded E-Commerce”, and the Announcement No. 26 [2016] on Matters concerning the Supervision of Retail Imports and Exports in Cross-Border E-commerce, plus the Draft on E-Commerce Law pending to be approved by the National People’s Congress in the next meeting. In this sense the main difference for customs purpose between cross-border consignments from traditional trade and e-commerce in China are:

**Table 1: The difference between traditional consignments via trade agent and cross-border e-commerce trade (Ballering, 2017)**

Traditional consignments via trade agent	Cross-Border e-commerce trade
<p>1. When a foreign company does not have its own business license in Mainland China, a legal entity in China imports goods from abroad. This can either be a subsidiary, trade agent or the Chinese manufacturer of the foreign seller.</p> <p>2. Accordingly, the legal entity clears Customs and imports the product into Mainland China. The legal entity in China pays duties and taxes over the CIF price before the product is sold.</p> <p>3. Products can then be sold in brick-and-mortar shops or on e-commerce platforms.</p> <p>4. As Chinese trade agents are usually hesitant to have their yet unsold goods in warehouses (the risk of not selling is on the legal entity in China), they charge relatively high commission fees over the imported products.</p> <p>5. Moreover, foreign companies have little control over the final B2C part of selling their products.</p>	<p>1. Cross-border sales are defined as the direct import of goods from outside the territory of Mainland China, utilizing special pilot channels, known as cross-border e-commerce platforms, and based on the preferential policies of bonded zones.</p> <p>2. In this case, an overseas legal entity exports the product to a bonded warehouse (B2B2C) or via the direct mail (B2C) model. Overseas legal entity can either be a subsidiary, partner or the own manufacturer.</p> <p>3. Accordingly, the legal entity clears Customs only when there is an online order from an online customer. The e-consumer pays duties and taxes over the shelf retail price at the moment the product is sold.</p> <p>4. Different taxes and duties apply to CBEC trade and products have to comply with a different set of regulations than via normal trade.</p> <p>5. Products can then only be sold on e-commerce platforms.</p> <p>6. In sum, with CBEC the consumer takes the lead; the value chain is shorter and there are fewer risks for the overseas merchant.</p>

#### 4. International Customs Regulations

For the purpose of goods import the set of pre-arrival procedures is today a general practice for the submission of import documentation and other required information, including manifests. In order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival as establish in Article 7 of the WTO Trade Facilitation Agreement, its main purpose is to determine the customs valuation, classification, and rules of origin prior to the goods import or export. The requirements for the application of such documents in general terms request similar information from the parties to determine classification, origin, and value the goods.

For customs clearance the ways to declare mainly depend on the value of goods, origin and mode of transport, either if they are general goods or goods bought online under the category of cross-border e-commerce. However, each country is responsible of the process and methods applicable under its jurisdiction for the purpose of Customs Clearance.

Under the scope of International Law, and in order to provide and accurate assessment of duties, tariffs and taxes to each shipment, a process needs to be taken to validate the information and determine the customs valuation, rules of classification, and rules of origin prior to the goods import or export. This rules and valuation process can be found in the Harmonized System, Rules of Origin and the WTO Valuation Agreement.

#### 5. Chinese Customs Regulations

In China, the change of the taxation policy for cross-border e-commerce purchases, import or export, is based on the assumption that there is no rational case for granting e-commerce more favorable tax treatment than conventional trade (Rooney, 2001). Thereof, the system development to target sales either by B2B, B2C or C2C by imposing tariffs and import VAT on goods and articles is the result of an administrative effort to tackle the loss of revenue on a growing demand of overseas goods, and to regulate the activities of e-commerce platforms, logistics services, couriers, and third parties (Wu, 2016).

As a result, the implementation of such adjustments has to raise retail prices, but at the same time, it has increased the avoidance of double taxation, or unintentional non-taxation (Rooney, 2001) while providing a mechanism for fairer competition. In the following paragraphs, the policy

readjustment by means of Announcements will be discuss with an emphasis on its implementation for the purpose of customs clearance as the tool for revenue collection.

#### 5.1. Announcement No. 56 on Issues concerning the Regulation of Goods and Articles Entering and Exiting China through Cross-Border Trade E-Commerce

This Announcement was signed by the General Administration of Customs in 2014, it said that e-commerce enterprises or individuals who get Customs approved and online transactions with the customs e-commerce platform, should accept customs supervision if they achieve cross-border transactions inbound and outbound. In addition, the operators who store the goods and articles of entry and exit of electronic commerce shall handle the filing procedures of the e-commerce business and accept the supervision. The operators who store the goods and articles of entry and exit of electronic commerce shall also handle the filing procedures of the e-commerce business and accept the supervision by the customs (Fang, 2017).

Thereon, the subject of customs clearance in cross-border e-commerce will be the goods and articles shipped and listed by consumers and users of e-commerce cross-border platform, by payment companies, or logistics enterprises. In specific, for those goods or articles processed by domestic cross-border platforms through the Internet, the procedure for clearance will follow the customs checklist verification, release and consolidated declaration made by the e-commerce platform including the list of Articles and, or Goods entering and exiting the territory. This process transfer the liability to third parties. Those third parties may act as cross-border service provider between the consumer and the authorities since they will carry out, as a domestic enterprise, the cross-border transactions by providing the data regarding the electronic commerce transaction, payment, data warehousing and logistics to the management platform in accordance with the provisions of the customs clearance services through the e-commerce platform timely.

The connectivity between the platform and the authorities' declaration window opens new clearance channels for the transactions that are completed through authorized platforms connected to Customs by e-ports and e-commerce customs clearance service and management platforms. As a complement of the customs formalities by means of the list of goods, the platforms will also undergo the formalities for tax collection

and exemption in accordance with the relevant provisions on general imported and exported goods, and submit relevant licensing certificates<sup>2</sup>.

Independent to the expire status of the Announcement, this regulation means that the relevant government departments have begun to develop cross-border e-commerce market regulation research, take measures to build interdepartmental daily cooperation mechanism, promote the construction of e-commerce supervision information system, to gradually establish a credit system of cross-border e-commerce with the purpose to strengthen the norms and supervision of cross-border business platform, enterprise, and business activities to crack down on counterfeiting and infringement of intellectual property rights, as well as lost revenue (Fang, 2017).

#### 5.2 Announcements No. 57 and No. 75 relating to the addition of Customs Supervision and Control of “Bonded E-Commerce”

Announcement No. 57 of the General Administration of Customs sign in 2014 had the purpose of adding a customs supervision model code to promote the development of import and export through e-commerce in cross-border trade, facilitate the customs clearance of enterprises, regulate customs administration, and implement customs statistics. This code, also named model 1210, is applicable to commodities entering and exiting China in e-retailing through areas under special customs supervision or supervised bonded places in transactions conducted by domestic individuals or e-commerce enterprises through the e-commerce platforms recognized by the Customs.

However, such model will only be limited to areas under special customs supervision and bonded logistic centers (Type B) approved to participate in pilot programs for e-commerce import in cross-bored trade. It will also include e-commerce enterprises conducting e-retailing for import and export within the special supervision areas at the same time they undergo with the formalities required by Customs, transmission transactions, payment, storage and other data in real time through e-commerce platforms<sup>3</sup>.

In parallel, Announcement No. 75 sign in 2016 also contemplates the addition of a Customs Supervision Model Code, 1239, within the “bonded

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<sup>2</sup> General Administration of Customs of the People’s Republic of China. 2014. Announcement No. 56 on Issues concerning the Regulation of Goods and Articles Entering and Exiting China through Cross-Border Trade E-Commerce [Expired].

<sup>3</sup> General Administration of Customs of the People’s Republic of China. 2014. Announcement No. 57 on Adding a Customs Supervision Model Code.

e-commerce A in cross-border trade” or “bonded e-commerce A”. This is applicable to commodities imported by domestic e-commerce enterprises in cross-border e-commerce retail and entering China in the first line through areas under special customs supervision or bonded logistics centers (type B)<sup>4</sup>.

Thereof, type A Bonded Logistics center is referring to a customs-supervised place approve by customs, operated by enterprise legal persons in China, specialized in bonded warehousing/logistics business. While a logistics center of type B is referring to a place approved by customs, operated by one enterprise legal person, and with multiple enterprises engaging in in bonded warehousing/logistics business, and which is under centralized supervision of customs. Comparatively speaking, the level of Type B is higher, to which the customs shall apply regional and networking closed management according to the supervision model of export processing areas, and a 24-hour working system.

Bonded logistics centers have functions like bonded warehousing, simple processing and value-added services, international logistics and distribution, import and export, international transfer and transit trade, processing of logistics information and port functions, etc. The customs clearance of can be done by enterprises directly with the local customs of where the bonded logistics center is located; domestic goods entering are deemed as exported goods, and the export tax rebate shall be enjoyed at the products’ entrance to the bonded logistic center; for foreign goods entering the bonded logistics center, the customs shall provide bonded services; when the goods in the bonded logistics center are sold domestically, the enterprises can cover the import customs declaration procedures according to real mode of trade; goods in the bonded logistics center are subject to free transfer and cross-customs-district declaration and delivery of goods between different enterprises in the bonded logistics center, bonded logistics center and other customs-supervised areas and places like the free trade zone, export processing area, bonded warehouses, export supervised warehouses and other bonded logistics centers<sup>5</sup>.

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<sup>4</sup> General Administration of Customs of the People’s Republic of China. 2016. Announcement No. 75 on Adding a Customs Supervision Model Code.

<sup>5</sup> Tianjin Port Free Trade Zone Administrative Committee. 2018. Comparison between bonded logistics parks and bonded logistics centers (A Type and B Type). Accessed February 07, 2018. <http://eng.tjftz.gov.cn/system/2012/12/12/010037290.shtml>.

### 5.3 Announcement No. 26 on Matters concerning the Supervision of Retail Imports and Exports in Cross-Border E-commerce

This Announcement replaced Announcement No. 56 and has the purpose to effectively conduct the supervision of retail imports and exports in cross-border e-commerce and promote the healthy and orderly development of e-commerce. Its scope of application is based on e-commerce enterprises or individuals that carry out cross-border trading of retail imports and exports through the e-commerce trading platforms and with the transmission of relevant data as required by the Customs shall be subject to the customs supervision in accordance with the Announcement<sup>6</sup>.

On this sense, it determines that “Enterprises carrying out cross-border e-commerce business” means the e-commerce enterprises or e-commerce trading platform enterprises, payment enterprises, logistics enterprises, and other enterprises that are engaged in the cross-border e-commerce business. While “E-commerce enterprises” means the enterprises that are engaged in the cross-border e-commerce business through self-built or third party e-commerce trading platforms. “E-commerce trading platform enterprises” means the enterprises that provide trading, payment and delivery services for imports and exports in e-commerce; and “E-commerce customs clearance service platforms” means the platforms established by e-ports to achieve the data exchange and information sharing among enterprises, the Customs and relevant administrative departments.

The management of such enterprises is cover by the statement that an enterprise carrying out cross-border e-commerce business shall submit several documents to local customs offices in advance, such as: 1) A photocopy of the duplicate of its Business License for Legal Person Enterprises. 2) A photocopy of the duplicate of its organization code certificate (which is not required to be provided by an enterprise registered with its unified social credit code). 3) A registration form about the enterprise information, specifically including the enterprise’s organization code or uniform social credit code, Chinese name, address registered with the administration for industry and commerce, legal representative (person in charge), type of identity certificate, identity certificate number, contact

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<sup>6</sup> General Administration of Customs of the People’s Republic of China. 2016. Announcement No.26 on Matters concerning the Supervision of Retail Imports and Expositors in Cross-Border E-commerce [Effective].

person for customs affairs, mobile telephone, landline phone, and address of cross-border e-commerce website, etc. This submit of photocopies shall be accompanied by the application of the originals to the Customs for examination at the same time; and in case the enterprise needs to undergo a customs declaration businesses, it shall be registered with the Customs in accordance with the relevant provisions of the Customs on the registration of customs declaration entities.

Once submitted the above formalities and for the purpose of management of clearance; the truthfully transmit the electronic information on trading, payment, storage and logistics, etc., to Customs through cross-border e-commerce customs clearance service platforms shall be required before retail imports in cross-border e-commerce are declared, and should be made by the e-commerce enterprises or e-commerce trading platform enterprises, payment enterprises and logistics enterprises. For operators of personal imports and exports or a postal enterprise can be authorized by an e-commerce enterprise or a payment enterprise to transmit the electronic information on trading and payment, etc., to the Customs, anytime it provides that it has made a written commitment to assume corresponding legal liability for the veracity of the data transited. For retail exports in cross-border e-commerce this transmission of electronic information on trading, proceeds and logistics, etc., to the Customs through service platforms also applies before the declaration of the exports in cross-border e-commerce.

Said so, an e-commerce enterprise or the agent thereof shall submit a list of the Customs on the declaration of retail Imports and exports in cross-border e-commerce trade (Declaration List); and undergo the customs declaration formalities for import or export by means of checklist verification, release and consolidated declaration. To accomplish it is mandatory for an e-commerce enterprise to verify the identity information of individuals (or subscribers) making retail imports in cross-border e-commerce, and provide their valid identity information certified by the competent department of the state to the Customs; where the identity information of any subscriber fails to be provided or verified, the subscriber and the payer shall be the same person.

For retail exports in cross-border e-commerce, an e-commerce enterprise or their agent shall, prior to the tenth day of each month shall incorporate the lists of goods which have undergone customs clearance in the last month whose form heads bearing the same consignee / consignor,

the same mode of transport, the same destination country and the same exit port, and whose form bodies bearing the same ten-digit H.S. code, the same unit of measurement for declaration, the same statutory measurement unit and the same currency rules, and form a customs declaration form for exported goods on a consolidated basis, which shall be then declared to the Customs through the paperless operation mode of customs clearance except for special circumstances.

Regarding tax policy retail imports in cross-border e-commerce shall be subject to duties, import value-added tax and consumption tax as goods, and their customs values shall be the actual transaction prices, including the retail prices of imports, freight and insurance premiums (CIF).in this sense, a subscriber shall be the taxpayer and e-commerce enterprises, e-commerce trading platform enterprises or logistics enterprises that are registered with the Customs shall fulfill tax payment obligations as withholding agents; when acting as a withholding agent they shall truthfully and accurately declare to the Customs the names, specifications and models, H.S. codes, actual transaction prices, related costs and other tax collection administration factors regarding retail imports in cross-border e-commerce, all declare in RMB as base currency<sup>7</sup>. By this, the tax policy is divided between import/ export models, previously reviewed, which may be B2B2C, B2C, and C2C.

Whenever a supplementary declaration may be needed by the Customs authority for the purpose of verifying and determining the classification and customs value, etc., of retail imports in cross-border e-commerce, it may be required from the withholding agent to make supplementary declarations in accordance with the relevant provisions. The Customs shall calculate and collect taxes on a consolidated basis by time-period on retail imports in cross-border e-commerce, which meets the supervisory provisions, and the withholding agents shall provide security for duty payment in full amount to the Customs. After this done and when no good is returned or no modification or cancellation is made within 30 days upon release by the Customs, the withholding agent shall make the payment with the Customs from the 31st day through the 45th day after the release.

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<sup>7</sup> General Administration of Customs of the People's Republic of China. 2016. Announcement No. 75 on Adding a Customs Supervision Model Code.

For the logistics regulation, the places under customs supervision for retail imports and exports in cross-border e-commerce must comply with the relevant provisions of Customs where operators of the places shall establish a computer management system which meets the supervisory requirements of the authority for the purpose of exchange electronic data as required. Additionally, both the inspection and release of retail imports and exports in cross-border e-commerce shall be completed within the places under customs supervision; when this supervisions and inspections take place e-commerce enterprises or their agents, operators of the places under customs supervision, and warehousing enterprises shall provide facilitation in accordance with the current provisions of the Customs, and cooperate with the inspection by the Customs reporting in a timely manner any suspected violations of regulations or smuggling acts they discover.

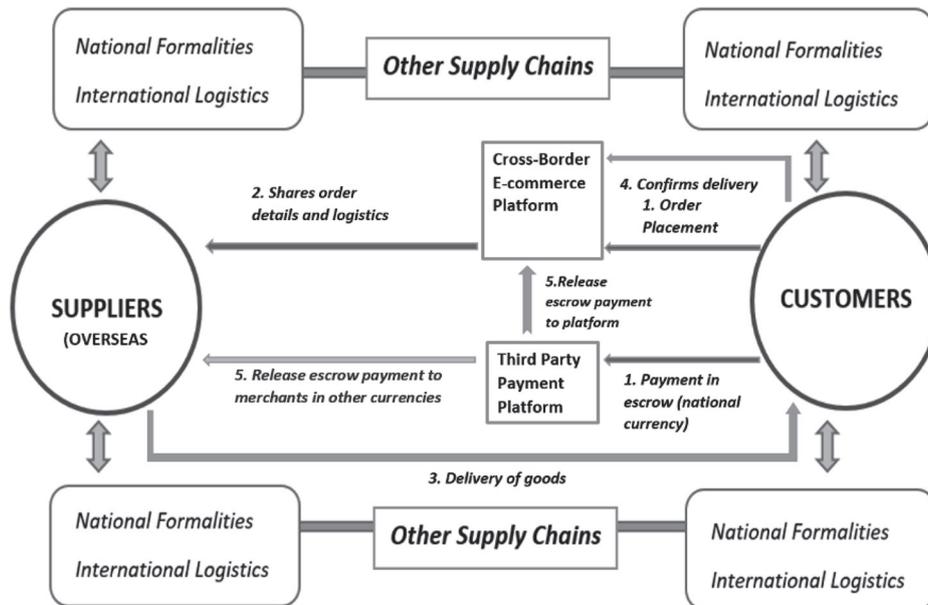
Since in cross-border e-commerce, and e-commerce in general, the return of items is a common practice, its management for the mode of cross-border e-commerce retail import depends on the e-commerce enterprise or the agent who may apply for return of goods. The goods returned shall be transport in the original state to the original place under customs supervision within 30 days from the date when they are released by the Customs, and relevant taxes may be exempted and the accumulative amount of an individual's annual transactions shall be adjusted. For the mode of cross-border e-commerce retail export, the goods returned shall undergo the relevant formalities under the current provisions.

As miscellaneous complements, the e-commerce enterprises or e-commerce trading platform enterprises, payment enterprises and logistics enterprises registered with the Customs shall be subject to follow-up administration by the Customs. While the cross-border e-commerce retail import business shall be carried out in the form of bonded business in areas under special customs supervision or bonded logistics centers (type B)<sup>8</sup>. Thereof, and for a better understanding, the following figure shows the flow of information between the e-commerce enterprises or e-commerce trading platform enterprises, payment enterprises and logistics enterprises with the Customs authority.

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<sup>8</sup> General Administration of Customs of the People's Republic of China. 2016. Announcement No.26 on Matters concerning the Supervision of Retail Imports and Expositors in Cross-Border E-commerce [Effective].

Figure 4: Bonded Imports (Ballering, 2017)



As an addition to the application of such Announcements, the National Development and Reform Commission (NDRC), the People’s Bank of China, the General Administration of Customs (GAC), and five other departments jointly issued the Circular on the Work of Promoting the Healthy and Rapid Development of Electronic Commerce (Fa Gai Ban Gao Ji No. 226 [2012]) in 2012 with the purpose to promote local e-ports in relevant demonstration cities and launching pilot schemes for cross-border e-commerce. From 2012, the models and scope of application of such policies has been improved and today the extension of such pilot zones and free trade zones compromise 13 cities who can conduct retail exports/imports through cross-border e-commerce either by a general export/import procedure or by a bonded export/import procedure as the ones review above. Such zones are located in Shanghai, Hangzhou, Ningbo, Zhengzhou, Chongqing, Guangzhou, Shenzhen, Tianjin, Hefei, Chengdu, Dalian, Qingdao, and Suzhou<sup>9</sup>.

<sup>9</sup> HKTDC Research. 2016. “Chinese Mainland Cross-border E-commerce: Export Business Development.” January 08. Accessed February 07, 2018. <http://hkmb.hktdc.com/en/1X0A4R1Q/hktdc-research/Chinese-Mainland-Cross-border-E-commerce-Export-Business-Development>.

## 6. Chinese model, an opportunity or trade barrier for foreign enterprises

Because of its growing consumer population and acquisition capacity Chinese market seems like the place to go for most enterprises. However, despite of such reality the entry into such market may present several challenges for the entrepreneurs as the new laws and regulations complement the social behavior when buying online.

For international brands, the Chinese market by logic deduction is part of their strong sales sector; their presence in it is physical, and online with their own website, and through third parties platforms. For SMEs the situation is different, when it comes to physical stores the availability of resources is an important factor to consider, therefor is not rare that today most enterprises prefer the use of electronic sources as it represents major advantages and less expenses compare to the establishment of physical store in first stages.

For instance, in the last five years in Spain the figures are consistent and clear: An increase of more than 20% per year in electronic commerce, a trend towards sales of technological products, entertainment, fashion, travel and handicrafts in the first steps and an increase of general consumer confidence in buying/selling online<sup>10</sup>. This increase has been sense by major e-commerce platforms including Alibaba Group with its Alibaba.com, AliExpress, and Tmall branches launching and incorporating Spanish brands in its list of shops by 50% so far this year. Currently, there are 71 Spanish stores on the Alibaba platform. Among them, there are brands such as Zara, Massimo Dutti, Pull & Bear, Mango, Camper, Tous, Desigual, Martiderm, Isdin, Suavinex and Hawkers, placing Inditex as one of the 10 most important groups in the platform as said by Ernesto Caccavale, Business Development Director of Alibaba for Spain and Portugal, during his speech at the electronic trade show eShow (Prieto, 2017).

However, despite of such a growing environment for big enterprises, small and medium size enterprises may need a specialized training to take full advantage of what Chinese platforms represent. To consider such platforms as an effective door to the Chinese market it is important to know that the product might need to be test first, particularly if its food or beverage products, and after reaching successful results the product and

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<sup>10</sup> Observatorio Cetelem. 2018. "Reportes anuales." (Observatorio Cetelem). Accessed March 19, 2018. <https://elobservatoriocetelem.es/>.

enterprise may be ready to expand and use the advantages that e-commerce platforms provide for importation and customs clearance. When using such platforms, the enterprises enter into a reliable and efficient process that allows an easy and fast interaction with clients and providers, as it facilitates communication, payment methods and logistics. Apart from that, the importance of the platforms and its responsibilities derive from the new regulations reviewed above that make it a secure model, and permit the access to bonded import process and cross-border e-commerce comprehensive pilot zones that in other circumstances may be out of the companies reach.

On the other side, the need of accessible fees for small and medium size enterprises is a fact to consider when wanting to enter into the Chinese market. Most of the security deposits to open a shop on a Chinese platform goes from \$7,700 USD to \$46,000 USD, with annual fees starting from \$1000 USD, all depending on the type of products and subject to commission fees and payment services. This situation is not an isolated problem since it occurs in all latitudes where platforms promote the incorporation of new brands. As a result, large firms continue to have an advantage over small and medium-sized companies and the promise of greater scope in sales and growth in the latter is diminished by the lack of incentives and possibilities that allow them to compete in the market.

### 6.1. Effects

The effects of such practices and changes on regulations have a different impact on consumers, enterprises, and governments. For consumers the changes on clearance and taxation procedures can be seen on an increase of payable taxes and transparency over the customs clearance and revenue process; additionally, these implications have also guarantee improvements regarding their safeguard as consumers, and the expansion of express delivery highly value in the sector.

For enterprises, the effects of new policies usually depend on their incorporation domicile and the reach of the regulations and enforcement. In most cases, such adjustments facilitate the development of trade and transactions in the supply chain, as well as its management, while creating new models and facilities for the purpose of currency exchange, intellectual property protection and sustainable development. However, these new facilities and rights come accompanied by responsibilities towards the authority and clients, which may represent a burden, usually depending on the size of the enterprise, either in the economic sense and/or on the lack of resources/human personnel for its accomplishment.

Governments as policymakers and enforcement authority have the challenge to harmonize their national trade system with the international one in order to promote trade facilitation, safety and security, social protection, and accurate and efficient collection of duties and taxes<sup>11</sup>. To accomplish it on the digital environment they should overcome practical issues on how to: protect privacy of users and enterprises while facilitating the access to information and its exchange; provide an efficient risk management for national security without compromising free trade; maintain an adequate control and enforcement when applicable with a high cooperation between National and International Agencies, Enterprises, Organizations, and other stakeholders; and guarantee an effective revenue collection.

Thereof, the importance of Customs' role as the connection between all stakeholders of e-commerce transactions/consignments for the purpose of trade facilitation, tax revenue, and enforcement can be tracked along the work done by National legislations, the WCO, the WTO, UN, and the OECD just to name some, must occupy an important place on every country agenda.

## 7. Conclusion

The success and increase of e-commerce has brought growth on its first stages for pioneer enterprises, however, as regulations start to switch and cover the transactions made online, it is harder for small and medium size enterprises to enter into the already crowded arena and compete with more experienced stakeholders and international brands. Additionally, the increase and specialization of Customs on e-commerce transactions in China may put in standby and force new companies and brands to depend of the services of third party's platforms in order to access the major volume of Chinese consumers without paying a fortune for it.

By setting up a harmonize system with an end-to-end scope, the Chinese government guarantee an accurate assessment of tariffs and taxes along with the valuation of the goods. The division of transactions was the way for its achievement by implementing a) B2B2C bonded models, b) division of goods and articles, and c) responsibilities from third parties to take liability as the owner of the goods when providing the shipping

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<sup>11</sup> World Customs Organization. 2017. "Resolution of the Policy Commission of the World Customs Organization on the Guiding Principles for Cross-Border E-Commerce." Luxor: WCO. Accessed February 08, 2018. <http://www.wcoomd.org>

documents and sign for benefits of preferential duty rates whenever they might apply.

However, and despite the efforts to permit the access to the market of new brands and companies, and to reduce negative situations, two solutions are proposed for the inclusion of small and medium size enterprises under the scope of special bonded programs and e-commerce special zones. The first is to promote specialized programs with an inclusive perspective for the growth and diversification of the market offer that new companies and suppliers may provide. The second is to pursue the development and financing of these companies from the beginning by specialized programs and to promote the inclusion of these new companies within the models of bonded imports (exports), and cross-border e-commerce comprehensive pilot zones every time they meet the necessary requirements and have a considerable movement of merchandise across borders. This inclusion will grant them access to facilities designed for the process of return and to a modern customs processes that facilitates a) customs clearance, b) release of goods and articles, and c) the applicability of precise provisions for exemptions and or taxation according to the value of the goods or articles imported.

## REFERENCES

- Tarofder, A. K., et al. 2016. Operational or strategic benefits: Empirical investigation of internet adoption in supply chain management. *Management Research Review* 40, 1: 22-52.
- Ballering, T., 2017. China Cross-Border E-Commerce. *Guidebook*. Shanghai: Consulate General of the Kingdom of the Netherlands in Shanghai.
- Fang, Y., 2017. Current Situation, Obstacles and Solutions to China's Cross-Border E-Commerce. *Open Journal of Social Sciences* 5, 10: 343-351.
- Prieto, M., 2017. *Alibaba abre la puerta de China a 70 marcas españolas*. Expansion. Accessed March 18, 2018. <http://www.expansion.com/empresas/2017/10/26/59f0fbe5ca474115308b4588.html>.
- Mangiaracina, R., et al., 2015. A review of the environmental implications of B2C e-commerce: a logistics perspective. *International Journal of Physical Distribution & Logistics Management* 45, 6: 565-591.

- Rooney, D., 2001. E-commerce and taxation: a virtual reality. Interview with Simon Woodside, Fiscal Affairs at OECD. *OECD Observer* No. 224, January 2001. Accessed February 06, 2018.
- Slater, M., 2017. *Alibaba Ecommerce Platforms-An Overview*. China Checkup. July 18. Accessed February 01, 2018.
- Trenz, M., 2015. *Multichannel Commerce, a Consumer Perspective on the Integration of Physical and Electronic Channels*. Switzerland: Springer International Publishing.
- Wu, Y., 2016. *New tax policy regulates cross-border e-commerce*. China Daily. Accessed February 06, 2018. [http://www.chinadaily.com.cn/bizchina/2016-03/31/content\\_24201324.htm](http://www.chinadaily.com.cn/bizchina/2016-03/31/content_24201324.htm).
- Wang, Y., et al., 2017. *The Effect of Cross-Border E-Commerce on China's International Trade: An Empirical Study Based on Transaction Cost Analysis*. Sustainability MDPI 9, 11: 1-13.

