



**Asia-Pacific  
Economic Cooperation**

**Capacity Building Research on Customs  
Control of Cross-Border E-Commerce**

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## Introduction

With the deepening of the global division of labor based on specialization, the thorough application of internet and database technology in international trade, and the rapid development of cross-border logistics, third party payment and other similar services, a fast-growing cross-border e-commerce (CBEC) is gradually becoming a crucial support for global economic growth.

Different from traditional trade, CBEC separates information flow, logistics and capital flow which were all linked with one another, and forms the model of online transaction and offline distribution. In terms of **online transaction**, internet knows no border, which has solved problems about global information and capital flows, but has crashed down on the customs' traditional concept about border law enforcement. In the respect of **offline distribution**, CBEC must be realized with its specific goods being transported across borders and supervised by customs that focus on the matches of offline goods and online trade information most. Due supervision would be exercised through data analysis and declaration acknowledgement.

CBEC decentralizes information flow. In e-commerce environment, the information of trade, payment and logistics has been digitization, but is held by traders, trade platforms, banks and different government sectors. At the same time, customs has no access to all the information for function limits, and information asymmetry will bring difficulties to the efficiency of supervision.

CBEC also makes logistics develop in a fragmented way. Cross-border B2C goods of small amount of money are always sent by postal delivery and express, which fragments logistics. The sharp-growing quantity of logistics and volume of business ask customs to do more, in addition to "operating efficiently and implementing due supervision". Lacking of complete regulations for small-amount trade, and a well-matched supervision system, the traditional supervision model of customs cannot easily adapt the rapid development of CBEC.

CBEC may bring risks of smuggling, because information decentralization and logistics fragmentation resulted from its development cannot match information flow with logistics data effectively in limited time, making it difficult to find and investigate smuggling in time. Among smuggling activities happening in CBEC fields, traders will first reach an intention for deal on the internet, turn to smuggling gangs, and then start to smuggle and evade tax through such channels as postal delivery, express, etc., by means of declaring false names and prices and breaking up the whole quantity into parts. By doing this, they will finally import and sell smuggled goods, or even smuggle arms, ammunition, illicit drugs, etc., and or infringe intellectual property rights. The penetration of smuggling in CBEC will make such logistics as postal delivery and express be one of the major crime channels in today's world, thus deteriorating smuggling situation.

CBEC will impact on law enforcement of traditional customs and bring other new challenges. For the above reasons, our current tasks should be: how to suit the needs of CBEC development, and

prevent and control smuggling risks in this field; how to utilize new technology, and work with others to fight against transnational crimes, thus facilitating law enforcement of customs.

In 2014, China hosted the APEC meeting. During the meeting, the delegates of China Customs proposed the Capacity Building on Customs Control of Cross-Border E-Commerce (CBEC), which was approved by all the members of SCCP. This project included two parts: Hosting workshop on Customs Control of APEC Cross-Border E-Commerce (CBEC) and complete Capacity Building Research report on Customs Control of Cross-Border E-Commerce (CBEC), both were funded by APEC. Later, in May 2015, the research team in University of International Business and Economics undertook the work of Capacity Building Research on Customs Control of Cross-Border E-Commerce (CBEC) ——CTI 19 2014T(SCCP) by way of bidding. And eventually, this research was finished.

The report has formed a package of proposals for the APEC economies on the base of the results on the APEC seminar about customs control for CBEC. It not only cites the newest researches about Cross-Border E-Commerce (CBEC), analyzes its overall development, and outlines the legislation and regulatory model of APEC and the EU major economies in this field. In the light of Customs supervision and Risk Prevention and Control, it also summarizes experience and methods of the cooperation between customs and other partners, and proposes effective ways to improve the supervision.

## I. Analysis of the Overall Development of CBEC

Cross-border e-commerce hereinafter refers to the international trade that involves sellers and buyers from different customs territories, who make on-line deals at e-commerce platform, settle accounts, deliver the goods using cross-border express or postal delivery to conclude the deal. As the global division of labor is more and more specialized, the Internet and database technology more widespread, and supporting services such as cross-border logistics and third party payment more mature, cross-border e-commerce has become an important business model.<sup>1</sup>

### 1. CBEC Model and Overall Development

The developing of CBEC can not only lower the threshold of small and medium-sized enterprises (SME) in Asia-Pacific region to cross-border trade, but also help them reduce cost and enhance international competitiveness.

#### 1.1 The Three Model of General E-Commerce ( B2B/B2C/C2C )

The major kinds of e-commerce are: business-to-business (B2B), business-to-consumer (B2C), consumer-to-consumer (C2C), business-to-government (B2G), and mobile commerce (m-commerce). We will focus on the first three.

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<sup>1</sup> Risk Control on Cross-Border e-Commerce by Customs, Paper by China, APEC Document, 2014.02.19

B2B is simply defined as e-commerce between companies. This type of e-commerce deals with relationships between and among businesses. About 80% of e-commerce is of this type. The B2B market has two primary components: e-infrastructure and e-markets. Most B2B applications are in the areas of supplier management (especially purchase order processing), inventory management (i.e., managing order-ship-bill cycles), distribution management (especially in the transmission of shipping documents), channel management (i.e., information dissemination on changes in operational conditions), and payment management (e.g., electronic payment systems or EPS).

B2C involves customers gathering information; purchasing physical goods (i.e., tangibles such as books or consumer products) or information goods (or goods of electronic material or digitized content, such as software, or e-books); and, for information goods, receiving products over an electronic network

C2C is simply commerce between private individuals or consumers. This type of e-commerce is characterized by the growth of electronic marketplaces and online auctions, particularly in vertical industries where firms/businesses can bid for what they want from multiple suppliers. It perhaps has the greatest potential for developing new markets<sup>2</sup>.

## **1.2 Other Typologies ( shipper and consignor )**

International trade is composed of two flows: international sales transaction; and international transport transaction. International sales transaction is handled by exporters (sellers) and importers (buyers), which basic document is commercial invoice, i.e., the proof of international sales contract and the essential information for the goods value. International transport transaction is handles by shipper (almost synonym to consignor), transporter and consignee, which basic document is transport document.

Because Customs controls both physical and value flows, Customs requires both international sales transaction information and international transport transaction information. In ordinary trade transaction, very often importers are equal to shipper. This is not necessarily the same situation to CBEC because of its size of consignment: very often international sales transaction information is not available to Customs. In addition to the categorization of CBEC by B2B, B2C and C2C, different models can be developed as follows:

Information of International sales transaction is available, or not;

Exporter = Shipper, or not; and

Importer = consignee, or not

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<sup>2</sup>[https://en.wikibooks.org/wiki/E-Commerce\\_and\\_E-Business/Concepts\\_and\\_Definitions#The\\_major\\_different\\_kinds\\_of\\_e-commerce\\_are:\\_business-to-business\\_.28B2B.29.3B\\_business-to-consumer\\_.28B2C.29.3B\\_business-to-government\\_.28B2G.29.3B\\_consumer-to-consumer\\_.28C2C.29.3B\\_and\\_mobile\\_commerce\\_.28m-commerce.29](https://en.wikibooks.org/wiki/E-Commerce_and_E-Business/Concepts_and_Definitions#The_major_different_kinds_of_e-commerce_are:_business-to-business_.28B2B.29.3B_business-to-consumer_.28B2C.29.3B_business-to-government_.28B2G.29.3B_consumer-to-consumer_.28C2C.29.3B_and_mobile_commerce_.28m-commerce.29)

### 1.3 CBEC Development Form

In terms of goods flow, CBEC can be divided into CBEC export and CBEC import. The export includes B2B, B2C and C2C, and mainly means cross-border B2B and B2C; while the import primarily focuses on cross-border B2C and overseas purchasing. In the light of operation pattern, CBEC may fall into cross-border B2B trade services and cross-border e-retailing. Today's major CBEC models are listed in Table1.

**Table1 Today's major CBEC models**

model	participants	transaction features	representative websites
B2B	enterprises	large amount for each batch, small batches, centralized orders	Alibaba international websites Made-in-Chinacom, TradeKey, KOMPASS, etc.
B2C	enterprises consumers	small amount for each batch, mass batches, open to large number of customers, decentralized orders	Amazon, AliEXpress, goodsbuy, Mysale, etc.
C2C	consumers	small transactions	eBay(competitive bidding of personal goods) , etc.

( source: research and data sorting )

### 1.4 Overall Development of CBEC in Asia-Pacific Region

Cross-border e-commerce in Asia-Pacific region is facing with extreme unbalanced development with some countries or regions having yet to start it. At the same time, today's world has witnessed the popularization of Internet. CBEC, as a product of market economy, will soon be enjoyed by all kinds of economics. So whatever the environment will be, we should promptly promote the development of CBEC in accordance with its rule.

In 2014, the trade volume of global B2C e-commerce reached \$1.3trillion, increased year-on-year by 18.3%, and accounted for 5% of the total volume of global retail sales.<sup>3</sup>According to the data from Forrester Research, the CBEC total volume of B2B is over two times larger than that of B2C.From the distribution of Asia-Pacific region, CBEC have the following three features:

#### **a. Traditional Economic Powers Take the First Lead, and CBEC Markets in South America Are the Most Popular**

In today's world, about 37% cross-border buyers are in North America. The total online sales of United States and Canada in 2013 reached \$389.5billion, accounting for 33.1%<sup>4</sup> of the global online sales.<sup>5</sup>Besides, the e-commerce sales volume of United States is expected to be \$370billion

<sup>3</sup>Ystats.com.GlobalB2CE-CommerceSales & Sharesreport20[EB/OL].<http://www.ystats.com/en/reports/preview.php?reportId=1040&backtosearch=true>, 2013-07-18.

<sup>4</sup> Cross-Border E-commerce White Paper (2013) Paper by Payviision

<sup>5</sup> Cross-Border E-commerce White Paper (2013) Paper by Payviision

in 2017. Thanks to its 315 million residents, 255 million cyber citizens and 184 million online buyers, the US will be the largest online retailing market of the world.

According to the research from Cyber Source, over half of American electronic merchants accept overseas orders. There also exist huge business opportunities despite various challenges. The Nielsen survey also indicates that United States is the most popularized cross-border market, followed by Britain, China, Hong Kong China, Canada, Australia and Germany. At last, among different delivery services, 45% of the e-merchants in United States prefer postal service.

#### **b. Emerging Markets are Embracing Rapid Growing**

Asia-Pacific region is still the most promising one, whose B2B e-commerce is advancing in a fast and sustained way. In **Korea**, the proportion of B2B e-commerce has reached 6% in total volume of retail sales. Korea's major e-commerce platform is market.co.kr and 11st.co.kr, and people here mainly consume tourism services, clothing and fashion products. In **Australia**, over 80% of people used the internet, and over 50% of them shopped online in 2012. Its growth rate of online sales would be approximately 19.8% before 2016. In **China**, comparing with the slowing pace of traditional foreign trade, CBEC is gaining fast growing. According to the data issued by China's Ministry of Commerce, in 2013, China's national trade volume of CBEC reached ¥3.1 trillion, accounting for 12.1% of its total export-import volume, and was 7.5 percentage points higher than that of 2008.

#### **c. CBEC Enjoys Huge Potential**

The CBEC of United States is well-developed. For example, the net sales of Amazon had grown from \$2.5 billion in 2001 to \$61 billion in 2012, with 43% sales coming from regions outside North America.

In China, the number of foreign trade enterprises using various platforms to develop CBEC has already exceeded 200 thousand, and the number of e-commerce platforms has surpassed 5000. In recent years, among the new-registered e-commerce operating entities, the percentage of small and medium-sized enterprises and self-employed businessmen is over 90%. The potential of China's CBEC is so enormous, that will become a crucial growth in China's foreign trade. According to the estimate from China's Ministry of Commerce, the CBEC trade scale of China in 2016 will increase to ¥6.5 trillion, with its annual average growth being about 30%. Meanwhile, China's cross-border retail market is boosting dramatically, and we should pay attention to its great potential. The cross-border retail model in China can be divided into two types: one is foreign trade B2C websites created by e-commerce enterprises, such as LightintheBox, DX.COM, Vipshop, etc. the other is the third party foreign trade trading services platforms, such as AliExpress.com, DHgate.com, eBay, Amazon, etc., which enable e-commerce enterprises to enter and sell goods. Foreign trade C2C mainly means that individuals can set up online shops on such



platforms as eBay.

## 2. Opportunities of Small and Medium-sized Enterprises (SME) from the Development of CBEC in Asia-Pacific Region

The birth of CBEC has let each member economy of APEC, whatever its developing stage is, focus on the growth of CBEC with international perspectives. These economies can also fully demonstrate their economy with regional characteristics on e-commerce platforms. As for backward regions, CBEC is a great opportunity to reduce regional disparity with low cost.

SME are playing an important role in national economy and have made important contribution to its development. However, such existing problems as information asymmetry, shortage of capital, narrow market, etc. have affected their competitiveness. Opportunities created by the emergence of CBEC for SME are as follows:

### 2.1 Huge Market Potential, Loose Competitive Environment

At present, the consumers' demand for CBEC markets is very large, and the block volume is increasing rapidly. According to the data statistics from General Administration of China Customs and Chinese Ecommerce Research Centre, there was 18million consumers shopping overseas online in 2014, and the transaction scale has reached 140billion, making China's market grew from ten-billion level to hundred-billion level. The market scale is expected to step into one-trillion levels in 2018. With the demands and concepts continuously upgrading, China's consumers are focusing on food safety, excellent quality, reasonable price and other similar aspects. In the meantime, thanks to the influence of overseas returnees' consumption habits, overseas online shopping tends to be popular among their relatives and friends. At last, foreign commodities are gaining cognitive in China, with their brands be widely welcomed.

With the emerging of CBEC, many foreign trade enterprises come to realize the great market and profit brought contained in it. Nevertheless, the number of enterprises starting this business is still small. For example, according to an incomplete statistics issued by China's Ministry of Commerce, in 2014, among the approximately 5 million foreign trade enterprises in China, only 4% of them ran CBEC business through online platforms. The low proportion also led to relatively loose competitive environment.

### 2.2 Reduced Operation Cost, Growing Profit Margin

Not only CBEC can efficiently simplify intermediate links of trade, and prevent SME from squeezing and exploiting by larger enterprises; it can also save their production and circulation

cost. Besides, e-commerce has cut down consumption of physical stationery and saved large amount of raw materials. In online market, business buildings are not needed, and people will never face with problems of shop rent cost, overstocked products and limited operation scale. Meanwhile, CBEC enables SME to keep in touch with consumers in a straight and close way, and optimize the distribution of physical products and materials. Thus, SME can reduce cost and raise efficiency of transporting, which will greatly reduce selling cost.

### **2.3 Increasing Trade Opportunities, Expanding Marketing Scope**

The multilateral economic and trade cooperation model of CBEC, open and multi-dimensional, has successfully broadened SME's access to international market. Meanwhile, the transparency of information has also greatly reduced SME's cost to seek for customers, and provided access to over 200 countries and regions of the world, thus optimizing the distribution of multilateral resources and realizing mutual benefit and win-win result for enterprises.

### **2.4 Policy Support, Suitable Developing Environment**

SME's cannot develop their e-commerce without governments' support, and policy supports for CBEC have been provided by some of APEC economies. The example is as follows:

From 2014 to 2015, China's government has been issuing policies that benefit cross-border trade. China's Ministry of Finance and State Administration of Taxation have introduced policies about tax preference for CBEC in retail export field, which have solved SME's problems of direct export and encouraged them to broaden overseas market. Besides, through some documents, General Administration of China Customs has not only recognized CBEC and popular bonded models; it also made the supervision framework for CBEC explicit.

In addition, United States and other economies have also introduced policies to support CBEC.

(more details can be found in Legislation and Regulation of Different Economies in CBEC)

### **2.5 Accelerating Enterprises Transformation, Enhancing Brand Influences**

CBEC is playing a decisive role in SME's operations and managements, since it realizes information exchanges between and among enterprises through an integrated information network. The developing of e-commerce has promoted the transformation of enterprises' productions and managements, and improved their operating and production efficiencies. Meanwhile, CBEC can provide both supply and requisitioning parties with access to available market information in appropriate time, which will facilitate their economic activities. What's more, e-commerce has also nurtured the competition model that focuses on promoting enterprises' images. On the

platform, enterprises can give a full picture of the categories and quantities of their products and services, and concentrate on image improvement and brand promotion. All of this will be conducive to the formation of benign competition in the entire commodity market, since it advocates enterprises to compete for credibility. Moreover, CBEC has laid a solid foundation for market economy to maintain a long-lasting vitality and competitiveness.

CBEC has linked such participants as buyers and sellers, third-party e-commerce platforms, mobile payments, logistics, warehousing distributions, customs, commodity inspection and insurance. It has also reshaped international industrial chain and transformed foreign trade development pattern, thus increasing SME's competitiveness and energy. At last, CBEC is expected to develop in a multi-subject and all-sided way.

### 3. Analysis about the Existing Problems of CBEC

At present, though the fast-growing CBEC is spurring the development of each APEC economy, some problems still remain to be solved. In the perspective of customs, we will discuss these problems from two aspects of tariff related and non-tariff related loss.

#### 3.1 Finance and Customs Duties Losses

Finance and customs duties evasion may happen in the three models of CBEC(B2B,B2C and C2C), the possible problems are as follows.

##### 3.1.1 Tariff Standards and Separating Parcels to Evade Customs Duties

Economies of APEC have different standards about tariff on CBEC. Most of them have laws and regulations on cross-border e-commerce, and many customs do not take separated procedure on the goods that are imported or exported by CBEC, or have specific regulations on its duty collection. The goods are treated in the same way as any other goods shipped by courier or mail. A majority of customs administrations do not require CBEC service providers to submit any data, thus bringing difficulties to their supervision.

A majority of customs administrations classifies goods as "private use" and "commercial use". For example, in CBEC import processes, China's customs take category and amount of money as standard to carry out two kind of management, "Trade" and "Nontrade". However, big differences between the two have put customs supervision in a passive position. Because due inspection and quarantine is unnecessary for Nontrade clearance, and the formalities are simple as people just need to pay personal postal articles tax rather than hold license or customs declaration. By comparison, if we follow trade in goods to import, we should go through the Passing Management System of clearance with lots of procedures and accompanying documents. The formalities are tedious, and tariff or import linkage tax may make people's tax bearing larger than that of personal postal articles tax. For example, according to the customs duty rate issued in 2007,

the personal postal articles tax of infant milk powder is 10%, while the commodity taxes (general rates) include tariff of 40% and import linkage tax of 17%, which is over five times larger than the former. Meanwhile, cosmetics have a personal postal articles tax of 50%, while its commodity taxes (general rates) are tariff of 150% and import linkage tax of 17%, over three times larger than the pure tax of 50%. The tax-burden gap is so large that traders prefer Nontrade clearance. Besides, people can be exempted from payment, if the amount of personal postal articles tax is or below 50 yuan. For this reason, some traders would rather import by means of separating the whole goods into several parcels. They even take advantage of special software to keep the tax expenses of each parcel under 50 yuan. Lacking of relevant information, customs can't completely examine and deal with this problem in time. At last, this kind of action is the most primary problem for tariff supervision, and has been defined as smuggling.

### **3.1.2 Classification and Examination**

The amount and value of each batch of B2C and C2C goods is small, so that customs cannot define their trade classification easily and exercise due supervision in accordance with regulations of goods. All of this has increased their workload of tax collection and management. The key to restrict the development of small-amount CBEC is: at present, most APEC economics have yet to realize systematic management to personal small-amount import duties. Diverse scales may exist even in the procedure of customs clearance in one economic, since the officers have different professional abilities and standards.

One complex problem is to consider the management of goods imported and exported. Complete opening small-amount import and export will be bad for customs control, or may cause losses to one economic; while over-strict control may hinder the growth of industries and give birth to illegal covert transactions. In addition, in CBEC, both goods ordering and payments are completed on the Internet, so the contracts, orders and other sales documents are all digital whose data can be changed. Without paper documents, traditional management cannot be directly applied to tax collection and investigation, which has been increasing difficulties. The pressing problem existing in small-amount CBEC is: how to establish and perfect a new import tariff mechanism, which could realize convenient trades between CBEC traders and consumers worldwide.

### **3.1.3 Faking Goods and Commodities as Samples**

Parts of traders take full advantage of regulations about samples, and fake goods that are exported through international small packets or express and commodities that need declaration and inspection as samples to sell abroad. They can even avoid customs clearance through illegally changing invoice values.

For example, General Administration of China Customs has regulated that goods worth of less than \$500 can be exported as "articles not for sale".

### **3.1.4 Backward Information Systems**

At present, such dominant B2C websites as “overseas purchasing” and “cross-border overseas online shopping” are great in quantity and large in scale, and may be a risk to national trade control and tax revenue. However, the customs supervision on luggage and mail that may resist this risk has a low information-based level and backward operation. For example, until now, some China’s customs have yet to be equipped with a national management information system for inbound and outbound mail items. Statistical analysis of digital data and risk judgment for postal items cannot be realized, since customs just depend on parcel lists, mailing lists, delivery bills and other paper documents in supervision procedures, rather than digital information of inbound and outbound mails. In addition, the supervision force for postal transportation is also thin and weak. Customs just focus on mail inspection but lack of such supervision procedures as risk management, check and other follow-up supervision. The site controls are so frequent, that may lead documents be overstocked.

### **3.1.5 Later-stage Supervisions**

Lacking of due later-stage supervisions is one of the biggest problems for management of cross-border B2C and C2C. As this kind of CBEC has a wide range of service objects, customs administrative cost would increase sharply if they exercised supervisions in accordance with the enterprises-oriented management patterns. This will in turn be inimical to taxation and regulation, so stresses need to be laid on customs clearances. For these reasons, enterprises are asked to declare their order information, and customs would analyze whether this information could match that on public e-commerce platform or not. Then, they will confirm the realities of orders and trades, while identify parcels or express items that need re-inspection. Considering the current situation, this management needs the support of big data analytics (such as data mining), and will be optimized later on.

### **3.1.6 Money- Laundering Risk**

Criminal offenders would get lots of identities by fraud, theft and other illegal means, use these identities to apply for credit cards or bank cards in financial institutions, and transfer their criminal gains into electronic payment systems. Offenders can be users of the third party payment easily and store their “black money” on virtual accounts. Then, a complex transaction network would be formed, on which these people will conduct repeated trades with different overseas traders. Another means is to establish shell companies on overseas offshore tax havens, and convert the criminal gains into earnings of undertaking and profit revenues. Most of these shell companies may seem like theaters, car wash shops and others whose real amounts of sales and storages are hard to judge. In conclusion, to obscure the realities and sources of illegal gains, offenders mainly make cross-borders e-payments for virtual trades, and then transfer payments

through sales return or control overseas traders. They can also transfer these gains into the offshore companies as revenues, and complete money laundering. The last situation always happens in cross-border B2B model.

The emergence of CBEC has sharply raised the service object type and amount for customs, and increased difficulties to supervisions. Some economies of APEC have introduced a series of regulations to such CBEC affairs as customs clearance and inspection, foreign exchange, verification, tax rebate, settlement of exchange, etc. But they are still in the stage of exploring and need more specific regulations to solve problems about finance and customs duties losses.

## **3.2 Intellectual Property Right(IPR) Issues**

Problems about IPR can mainly be found in models of B2C and C2C. There are three reasons as listed below.

### **3.2.1 Limited Constraining Forces of Platforms**

The main profit pattern of current CBEC platforms is to charge fees for finished transactions, rather than member registration, thus making then try cost of CBEC very low. Constraints of many platforms on e-commerce are limited. Because over-regulation will affect sale performances, and even drive e-merchants to other platforms; while inadequate regulation may give birth to counterfeits and infringements.

### **3.2.2 Market Disorder**

Some SME that have weak IPR protection awareness and lack of product positioning would sale hot products, whatever they are, since the product differentiation in B2C market is small. Under unhealthy competition, goods with low-additional value and poor-quality and commodities that are forged and fake can be found in CBEC markets, and IPR infringements also happen occasionally.

WCO's Illicit Trade Report 2013 has collected data of 69 members, which shows that the amount of cases about IPR was 24092 in 2013, increasing by 6.9% than that of 2012 who witnessed 22543 IPR cases. At the same time, the percentage of cases of IPR infringements through delivering parcel posts was 45%. The amount of cases happened in United States was the highest, which was 7554, accounting for 33.63% of the total. By comparison, Germany has achieved significant improvement in this field, its IPR infringements decreased from 2602 in 2012 to 1543 in 2013. However, in this member, the total number of intercepted infringing items has increased, jumping from 1125386 in 2012 to 2996214 in 2013<sup>6</sup>.

### **3.2.3 Limited Ability of IPR Supervisions**

The determination of goods infringement is a complex and difficult part for customs in IPR supervisions. As customs are neither IPR owners nor professionals of this field, they may lack of

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<sup>6</sup>Illicit Trade Report(2013), Paper by WCO, 2014.6.27.

precise understanding and inspection experience about IPR infringement. If some of the information is inadequate, inevitable problems about ambiguous standards and lagging handlings may arise, thus affecting supervision for IPR.

### **3.3 Firearms, Illicit Drugs and Contraband**

Firearms, illicit drugs and contraband can be found in the three models of B2B, B2C and C2C.

#### **3.3.1 Restrictions of CBEC Trades**

Because of information decentralization and logistics fragmentation, which results from the development of CBEC, information flow cannot match logistics data effectively in limited time, making it difficult for customs to find and investigate smuggling in time. In these years, customs from several countries and regions have found the fact that the majority of smuggling crime cases they handled have managed to exploit restrictions of CBEC to conduct crimes by several means.

##### **a. Illegally Carrying and Privately Hiding**

In cross-border B2B, although express companies would declare information about the delivering goods and commodities in advance, the fact is that the quantity of shipment is so large that full-inspection cannot be conducted. It has created opportunities for those criminal offenders who could hide drugs, which are small, in other goods to avoid inspections.

##### **b. “Ants-Moving” Smuggling**

As postal articles have various structures, categories and large in number, so the inspection rate is relatively low, and offenders would take advantage of hiding illicit drugs in delivering goods and other means to bring contraband (i.e., antiques, ivories, etc.) inbound through online anonymous purchasing. What’s worse, there are offenders hiding firearms in parcels to bring them inbound. All of these have seriously challenged the supervision of customs and the safety of member economies. Besides, overseas express companies would make up false names and domestic reception information to conceal the fact that they have separated firearms into various parcels. After successful bringing, these goods would be transported to real customers<sup>7</sup>.

##### **c. Loopholes in E-Commerce**

Some criminal offenders utilize loopholes and restrictions in e-commerce management, and conduct transactions of firearms, illicit drugs and other contraband openly through legal or illegal ways. In addition, by electric packaging, cipher text transferring, decoding, instruction modifying and other means to deceive national customs and carry illicit drugs inbound or outbound.

#### **3.3.2 Lacking of Informatization Supervision**

In B2B and B2C model, the main cross-border logistics channel is postal service and express.

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<sup>7</sup> Wang Tao, On Perfection and Development of Customs Control over Cross-Border Online Shopping[J],Journal of Customs and Trade, 2014(2):61-69

However, until the late of 2014, customs of most economies still exercise their supervisions to delivering articles manually, so their efficiency is limited. With the dramatically increasing of traffic volume, contradiction between inefficient manual work and fast customs clearance and effective supervision is becoming obvious. At the same time, lacking of relevant scientific and technical means and information systems, customs officers tend to judge and analyze imported articles based on their own experience. For these reasons, restrictions that have negative effect on supervision efficiency and can create opportunities for smuggling illicit drugs, firearms and contraband may exist<sup>8</sup>.

### 3.3.3 Lacking of Cooperation between Customs and Postal Sectors

With the growth of CBEC, security-management problems about delivering channels are becoming severe. Cases about information fraud in such sectors as customs, postal administration, departments and postal enterprises are growing, and problems about delivering illicit drugs still remain unsolved. These sectors lack effective communication and cooperation mechanisms, and the responsibilities and powers are also fuzzy, so that smuggling of illicit drugs, firearms and other contraband is hard to deter.

In conclusion, the major problems in CBEC are listed in Table2.

**Table 2 Major Problems existing in CBEC**

	finance and tax losses	IPR	Illicit drugs, firearms and contraband
B2B	settlement of exchange+money laundering	/	<ul style="list-style-type: none"> <li>illegally carrying and privately hiding</li> </ul>
B2C	<ul style="list-style-type: none"> <li>classification and examination</li> <li>faking goods as samples (personal articles)</li> <li>later responsibility investigation</li> <li>information systems</li> </ul>	<ul style="list-style-type: none"> <li>platform limitation</li> <li>vicious competition</li> <li>restricted supervision</li> </ul>	<ul style="list-style-type: none"> <li>ant-moving smuggling</li> <li>anonymity + spot check</li> <li>e-commerce management restrictions</li> <li>lacking of informatization supervision</li> <li>lacking of cooperation between customs and postal sectors</li> </ul>
C2C			

(source: research and data sorting)

<sup>8</sup> Wang Tao, On Perfection and Development of Customs Control over Cross-Border Online Shopping[J], Journal of Customs and Trade, 2014(2):61-69



## II. Legislation and Regulations of Different Economies in CBEC

Researches on some of the 21 APEC members about their legislation and regulations in CBEC have been carried out by the project team. Also, the report introduces some legislative and regulatory methods of European Union (EU) and Germany as reference.

### 1. The Status Quo in Economies of Australia, China, EU and Others

This report will first introduce the status quo in some economies including Australia, Canada, China, Hong Kong China, Japan, Korea and The United States, followed by an introduction to those in EU and Germany.

#### 1.1 Australia

E-commerce occupies quite a large share of Australia's economy though there are not enough specialized laws controlling this field. By contrast, there exist a large number of laws relating to the protection of consumers and their privacy, junk mails and copyright.

##### 1.1.1 Electronic Transaction Bill

Australia passed the Electronic Transaction Bill in 1999. This bill allows individuals to make transactions with government departments and institutes, and clarifies a general principle that individuals can conclude contracts electronically, which has cleared the way for various forms of electronic transactions. Electronic Transaction Bill, which is used to promote the successful performance of e-commerce in Australia, is based on the United Nations Commission on International Trade Laws Model Law on Electronic Commerce and was enacted with full agreements of all state and territory governments. In addition, these governments have also passed similar regulations that effectively act as supplements to Electronic Transaction Bill.

Australia's Electronic Transaction Bill stipulates that four categories of requirements should be met in all electronic forms (ex., the provision of written materials, personal signatures, documents, records or retained information, etc.); in terms of applied technology, the bill continues to support fairness and neutrality, that is never weigh too heavily towards any kind of electronic signature technology. Meanwhile, Electronic Transaction Bill also stipulates that written materials and electronic documents have the same legal force in transactions.

Australia encourages individuals and public sectors to adopt authentication technology in order to facilitate the nationwide application of e-commerce. Australia is now actively promoting the use of electronic signature and regards it as a way to improve the public key infrastructure,

which is in line with the goal set in the "Public Key Infrastructure (PKI) Connectivity" put forward by APEC.

### **1.1.2 Privacy Act**

Australian government regards the protection of personal privacy and online data quite important for public interests, because many people are concerned that information collected from them or the third party by others might be used by private sectors, especially on the Internet. The Privacy Act enacted by Australia in 1988 is one of the main regulations protecting personal information in both Federal public sectors and private sectors. In this act, 11 Information Privacy Principles were set for federal public sectors, and 10 National Privacy Principles were set for private sectors. These privacy principles involve all phases in the processing of personal information, and provide specific rules on collections, uses and revelations of personal information and the judgment about the nature and security of such information. In addition, these principles also provide specific rules on the review and modification of personal information by related personnel.

### **1.1.3 Spam Act**

Australia's Spam Act took effect on April 10th, 2004. Its main contents are as follows: it is forbidden to send commercial mails to users without any explicit consent or acquiescence; illegal act of sending spam mails will face relevant civil sanctions; all e-mails are required to include the detailed information of the senders. Australia's anti-spam strategies include establishing close cooperation with related international organizations and put forward worldwide guidelines and cooperation mechanisms in order to tackle the problem of spam mails globally (Australia has signed an understanding memorandum with Korea in terms of attacking spam mails).

### **1.1.4 Cyber-Crime Act**

The Cyber-Crime Act enacted in 2001 endowed law enforcement agencies with the power of investigation and clarified some criminal offences in order to protect security, reliability and completeness of computer data and electronic communication mentioned in Criminal Code Act enacted in 1995. Cyber-Crime Act points out those activities like unauthorized access to restricted data and transmission of computer viruses are illegal.

### **1.1.5 Free Trade Agreements**

#### **a. China-Australia Free Trade Agreement**

On June 17th, 2015, governments of the two countries formally signed China-Australia Free Trade Agreement. In the field of e-commerce, they made a related agreement based on China-Australia United Statement on Internet Economy and E-commerce and China-Australia Memorandum of Understanding on the Cooperation in Information Industry. On the one hand, they have strengthened the two countries' efforts in tapping the potential in e-commerce and

continued to exempt the tariff on electronic transmission between China and Australia; on the other hand, they have cooperated and established an e-commerce cooperative mechanism to support the development of other related industries by minimizing the influence of regulations. By doing so, they are able to truly protect consumers' rights and interests and solve problems about spam mails.

#### **b. Australia-US Free Trade Agreement.**

The goal of this agreement is as follows: to develop e-commerce under the WTO framework so as to avoid trade barriers and conflicts; to avoid discriminative policies on related electronic products; to improve electronic authentication system; to strengthen the protection of the rights and interests of online consumers; to impose tariffs according to the tax rate on the trade of general goods.

#### **c. Australia-Thailand Free Trade Agreement**

To actively establish e-commerce cooperation associations and enhance bilateral communications and cooperation through e-commerce; to impose tariffs according to the tax rate on the trade of general goods and maintain a stable tariff rate; to carry out e-commerce business based on the UNCITRAL Model Law on Electronic Commerce (1996); to strengthen the protection of the rights and interests of online consumers; to enhance the exchange of advanced experience in e-commerce.

#### **d. Australia-New Zealand Free Trade Agreement**

Both countries advocate to carry out e-commerce business under a tariff rate that is equal to the tax rate imposed on the trade of general goods; both countries will maintain their original policies on e-commerce which as a whole support the development of e-commerce industry; to widely promote the electronic authentication system; to carry out e-commerce business based on the UNCITRAL Model Law on Electronic Commerce (1996); to truly protect the rights and interests of consumers through enhanced cooperation.

### **1.1.6 Policy Framework for Consumer Protection in Electronic Commerce**

Policy Framework for Consumer Protection in Electronic Commerce (October, 1999) clarifies rules on issues related to business information, payment, compensation, permission and privacy. Furthermore, Australian government also created an Expert Group of 11 members, whose main responsibilities include:

- Solving problems related to the consumer protection in e-commerce in time;
- Making supportive policies in order to maintain the policies used to protect the positive image of the rights and interests of consumers in e-commerce;
- Making strategies for the government to further accomplish its E-Commerce Consumers Protection Policy Framework and the Best Practice Model in Australia's E-Commerce.
- Giving advice on the training of consumers in e-commerce business and commenting on

related suggestions.

## **1.2 China<sup>9</sup>**

Since 2000, China has accumulated rich experience in the exploration and practice of legislation. With Electronic Signatures Law and Regulations on the Management of Online Transactions standing at the highest rank of related legislation, China has formed an e-commerce system composed of development plans, laws and regulations, guidelines and industrial criteria. By August 2014, the total number of China's legal documents on e-commerce including laws, guidelines and department announcements, notices has reached more than 60.

### **1.2.1 Electronic Signatures Law**

Electronic Signatures Law regarded as “the first true informatization law in China” was put into effect in 2005, since when electronic signatures began to enjoy the equal legal force as written signatures. The passage of this law is one of the important procedures in eliminating obstacles in the development of e-commerce. Electronic Signatures Law will vigorously promote the quick development of e-commerce in China.

### **1.2.2 Network Transaction Regulation**

Network Transaction Regulation (Regulation) was put into effect in 2015, which aims at protecting the rights and interests of consumers and promoting a sustained and healthy development of internet economy by standardizing online commodity transactions and related services. It is required by the Regulation that consumers have the right to return the goods they receive within 7 days to the online seller without any excuse with exceptions of fresh, perishable and customized products. Consumers' “right to regret” in online shopping will be supported by both laws and regulations.

### **1.2.3 Contract Law**

China's Contract Law was enacted in March 1993, which boldly specifies the form of data message and recognizes it as one of the forms of written contracts. Three of the rules in the Contract Law are related to e-commerce, namely recognizing data message as a form of written document, deciding the arrival time of electronic contracts and the location where electronic contracts is concluded.

### **1.2.4 Decision of the Standing Committee of the National People's Congress on Preserving Computer Network Security**

On December 28th, 2000, the Decision of the Standing Committee of the National People's Congress on Preserving Computer Network Security (Decision) was passed on the 19<sup>th</sup> session of the Standing Committee of the National People's Congress with a main objective to protect the

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<sup>9</sup> General Administration of Customs' Report on the subject study of Cross-Border E-Commerce Legislation”, Paper by General Administration of Customs of China, Oct.15<sup>th</sup> 2014

safe operation of the Internet and the safety of information. This is China's first legal decision targeted at information network security. The Decision includes some detailed regulations about maintaining the safe operation of the Internet, national security and social stability, maintaining the order of the market economy with socialist characteristics and the order of social administration, and protecting the personal and property rights of individuals, legal persons and other organizations. Meanwhile, the Decision also clarifies corresponding legal responsibilities caused by illegal actions through the Internet.

### **1.2.5 Regulations in Other E-Commerce-Related Laws of China**

Except for the above-mentioned laws and regulations, other Chinese laws also contain some regulations about e-commerce, such as:

a. The first law which acknowledges the form of data messages in the legal system is Accounting Law (1985).

b. Customs Law amended in 2000 established the legal status of electronic data customs declarations and acknowledges its equal legal force with written customs declarations.

c. Provisions of Articles 285, 286 and 287 in Criminal Law define the penalties for behaviors that damage the computer system as an infrastructure of network transactions and crimes committed through computer network systems.

d. Article 41 in Copy Right Law stipulates that authors of video or audio recordings have the right to share the information online and gain corresponding remuneration. Article 47 states that disseminators of other people's works without permission will be held responsible for their infringement.

## **1.3 Hong Kong, China**

HK China enjoys an earlier beginning and fast development in its e-commerce. The 2011 report of Boston Consulting Group praised HK China for its great work and opening-up policy in the Internet infrastructure construction, and they thought that small and medium sized enterprises in HK China who were actively taking the advantage of the Internet were performing well in increasing sales, saving costs and improving productivity. This report made a ranking of HK China and other economies in terms of their completeness of infrastructure construction, expenditures of consumers and enterprises on e-commerce and network advertisements as well as the enthusiasm of enterprises, governments and consumers in using the Internet, among which HK China was in the 13<sup>th</sup> place.

### **1.3.1 IT Strategy**

HK China government established Information Technology and Broadcast Bureau in 1998 whose responsibility is to guide and organize IT-related broadcasting and telecommunication affairs carried out by respective government departments, and it also made the first IT

development blueprint Digital 21 IT Strategy (IT Strategy). In order to accommodate itself to technological development and social and economic changes, the strategy was amended for three times. IT Strategy (1998) focuses on improving HK China's IT infrastructure and services in order to support its prosperous information economy. This Strategy defines e-commerce as electronic transactions among governments, citizens and citizens, which puts forward some working plans in e-commerce including carrying out electronic public service, establishing secure authentication system and making relevant laws and regulations in electronic transactions.

The amended IT Strategy in 2001 advocates actively the participation of private institutions in e-commerce business and the investment of international IT companies to HK China in order to help local e-commerce institutions to expand their overseas market. The government itself also emphasizes on developing e-commerce, establishing an electronic government, improving the means of public service provision, increase the efficiency of public service and promoting actively the electronization of government procurement. The IT Strategy will be soon updated with a view to delivering further integrated e-services to the public and fostering a thriving e-commerce environment with tandem of the uprising Big Data, Internet of Things and Cloud Computing concepts. The Information Technology and Broadcast Bureau was later replaced by the Commerce, Industry and Technology Bureau in 2002 and further re-organized into Commerce and Economic Development Bureau (CEDB) in 2007. A new Bureau, namely, the Innovation and Technology Bureau will be established in November 2015 with the overall responsibility for policy matters relating to innovation and technology and information technology portfolio transferred from CEDB.

### **1.3.2 Electronic Transactions Ordinance**

On January 5<sup>th</sup>, 2000, Hong Kong, China passed Electronic Transactions Ordinance (Chapter 553) which provides a systematic legal guarantee for Hong Kong's electronic transaction system. The ordinance covers various aspects including electronic records, digital signatures, certification authorities, public and private keys.

In 2004, HK China passed the Electronic Transactions Ordinance (Amendment), as well as two subsidiary legislations: Electronic Transactions (Fees) Regulation (Chapter 553A) and Electronic Transactions (Exclusion) Order (Chapter 553B). These regulations endowed electronic records and signatures with the same legal status as those in written forms, decided the establishment and operation of certification authorities in HK China, and set the standard specifications, means and procedures of subscribed electronic information, which provide a clear legal framework for HK China to develop its e-commerce business and make it possible to carry out e-commerce business under a "rational and reliable condition".

In addition, as a free trade port, features of HK China's foreign trade system require it to

abide by strict supervision rules in order to maintain its right of import and export and carry out its international obligations. According to regulations related to foreign trade, including Import and Export Ordinance, Import and Export (Registration) Regulation and Textile Product Export Control System, HK China's import and export supervision systems mainly include import and export permit system, import and export tax system, entry and exit system of commodities and the system of the certificate of origin. The trade department and customs will play the role of the regulator.

## **1.4 Japan**

Although Japan's e-commerce began relatively late, it enjoys a growing development momentum. Japanese progressively enacted a series laws and regulations to support and supervise e-commerce transactions. These mainly include Act on the Protection of Personal Information, Act on Settlement of Funds, Act on Regulation of Transmission of Specified Electronic Mail, Act on Specified Commercial Transactions, and Act on Special Provisions to the Civil Code Concerning Electronic Consumer Contracts and Electronic Acceptance Notice.

### **1.4.1 Package of Measures to Support CBEC in Japan-- The Framework for Supporting SMEs in Overseas Business**

Faced with concerns over the shrinkage of the domestic market due to the decreasing population, aging society and falling birth rate, Japanese companies are expanding into overseas markets. Large companies often attempt to enter an overseas market by establishing a local subsidiary. However, many SMEs with limited business resources (e.g., funds, human resources) can hardly afford to take the same approach.

To foster overseas business by Japanese companies, the Ministry of Economy, Trade and Industry (METI) launched a package of measures to support market development through trans-boundary e-commerce (EC) mainly by small and medium enterprises (SMEs) under the FY 2011 third supplementary budget. The Framework for Supporting SMEs in Overseas Business set forth a policy of effectively leveraging EC in "assisting market development through the Internet."

METI has sought to increase the number of companies engaged in trans-boundary EC and accelerate the spread of trans-boundary EC by providing basic information on trans-boundary EC and by supporting Japanese SMEs' market development through trans-boundary EC. Measures are as follows:

- a. Support for market development through CBEC
  - Support for the creation of e-commerce sites aimed at overseas markets
  - Assistance in overseas public relations activities
  - Dissemination of successful models of trans-boundary EC
- b. Launch of the Trans-Boundary EC Support Portal

The Trans-Boundary EC Support Portal will offer the following information useful in implementing trans-boundary EC.

- How to start CBEC
- Legal systems concerning CBEC and the handling of problems
- Outlook of the CBEC market

c. Seminars on CBEC

METI organized seminars in which its officials and other professionals and experts working on the front lines of CBEC will speak about CBEC and describe their activities.<sup>10</sup>

#### **1.4.2 Interpretative Guidelines on Electronic Commerce and Information Property Trading**

The emergence of the internet has resulted in the creation of new models of economic activities such as electronic commerce. However, since most of the existing laws, including the Civil Code, were established before the emergence of such new technologies, the interpretation of the application of the existing laws concerning electronic commerce are not necessarily clear. There is still no legal environment for electronic commerce in which the parties can participate in complete security.

The Ministry of Economy, Trade and Industry (METI) has been issued the Interpretative Guidelines on Electronic Commerce and Information Property Trading since 2002. These Interpretative Guidelines includes following issues concerning cross-border transactions:

- a. Adjudicative jurisdiction over transactions between business entities and applicable law
- b. Adjudicative jurisdiction over transactions between consumers and business entities and applicable law (especially consumer protection laws)
- c. Product liability, adjudicative jurisdiction and applicable law
- d. Defamation on the Internet, adjudicative jurisdiction and applicable law
- e. Cross-Border exercise of trademark right
- f. Approval and execution of foreign judgments and foreign arbitral awards

These Interpretative Guidelines are intended to explain how the relevant laws and regulations including the Civil Code are applied and interpreted with respect to various types of legal problems in the field of electronic commerce and to promote facilitation of transactions by enhancing predictability for the parties involved.<sup>11</sup>

### **1.5 Chinese Taipei**

With the development of the Internet and e-commerce, various kinds of legal problems begin to pop out gradually. In order to find solutions to problems caused by the features of the Internet

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<sup>10</sup> [http://www.meti.go.jp/english/press/2012/0203\\_01.html](http://www.meti.go.jp/english/press/2012/0203_01.html)

<sup>11</sup> [http://www.meti.go.jp/english/press/2015/pdf/0427\\_01a.pdf](http://www.meti.go.jp/english/press/2015/pdf/0427_01a.pdf)



and improve administrative efficiency, “National Information Infrastructure (NII) Task Force” made a directive on April 23rd, 1997 that Committee of Economic Planning and Development would form an “NII Legal System Task Force” together with other related departments. Analyses of relevant regulations are as follows:

### **1.5.1 Regulations Related to Intellectual Property Right**

#### **a. Copyright Law**

In terms of the orientation of the amendment of Copyright Law, Chinese Taipei mainly focuses on the legitimacy of personal use of online information and automatic mechanic copy through implied authorization and the expansion of the range of reasonable use scope. In addition, it added more rules to the copyright owners’ right of public dissemination in line with the adjustment direction of World Intellectual Property Organization (WIPO) Copyright Treaty. Referring to WIPO Copyright Treaty, the added contributory copyright infringement states that it is forbidden to manufacture, sale or decode any devices under the protection of others’ copyright; following international rules, those who have done that unintentionally should have their liabilities to be limited.

#### **b. Domain Name**

In terms of issues related domain names, Chinese Taipei has amended its related rules by referring to American NSI’s Domain Name Dispute Resolution Policy, and it requires that when registering at Taiwan Network Information Center, appliers’ identities must be verified in order to facilitate the investigation of cyber-crimes. It also made some related treaties to tackle existing problems. When domain names contain trademarks, its basic idea is that a domain name has the nature of a trademark as long as the domain name complies with the trademark’s identification standard.

### **1.5.2 Regulations Related to Consumer Protection**

#### **a. Consumer Protection in the Process of Transaction**

To solve problems related to consumers’ protection, a set of comprehensive legal system should be established in order to promote the development of e-commerce, preserve the rights and interests of legal dealers, build up consumers’ confidence in transactions. Since the current consumer protection law offers only the lowest degree of standard, Chinese Taipei has to make special laws according to the direction of the problem in order to equally protect the rights and interests of consumers and corporate operators.

#### **b. Protection of Privacy Right.**

With the development of computer science and the innovation of information technology, an informationized digital society has been formed, in which people are increasingly depending on technological tools as a means of interpersonal communication. So personal privacy is gradually

revealed in front of the public and the possibility of people's privacy being spied is also increased. The threat of personal data being infringed also gave birth to the concept of Information Privacy. Faced with the challenge of ensuring the safety of personal privacy and data and avoiding the damage of the protection of personal information through the development of computer network and e-commerce, Chinese Taipei expanded its protection scope in its Protection Law of Personal Data Processing by Computer, and clarified the standards in collecting and using personal data in order to solve the problem of privacy protection.

### **1.5.3 Laws and Regulations on Capital Flow on the Internet**

#### **a. Payment Tools**

Take credit card as an example of payment tools. With Personal Computer Banking and Network Banking Service Contract Template and self-disciplinary practitioners, the safety of transactions can be guaranteed. However, since legal problems of electronic wallet are under financial supervision, Chinese Taipei has added Article 42 to its Banking Law, which not only defines what is cash-storing card, but also states under the consideration of monetary and credit control that only banks have the right to issue cash-storing card with the permission of central governing authority, and these banks must set aside reserve funds as required by the central bank. Meanwhile, authorized central governing authority must make rules and regulations after consultation with the central bank.

#### **b. Network Banking**

In recent years, with the quick development of the Internet and the increasing desire of banks to apply for comprehensive electronic banking, in order to guarantee the safety of transactions and protection of consumers, "Ministry of Finance" of Chinese Taipei established a Bank Association in 1998 to carry out the study and draft of Safety Control Working Benchmark for Financial Institutions in Handling Electronic Banking Service, and PC Banking Service and Network Banking Service Contract Template. As a supportive measure of the standards for banks to hand electronic banking service, its working scope include electronic banking services like PC Banking (customers are connected to the bank through dedicated network or value added network) or Network Banking (customers are connected to the bank through the Internet).

#### **c. Trade Law**

As to tariffs, A Framework on Global Electronic Commerce put forward by United States advocates that tariffs should not be imposed on electronic goods, and Chinese Taipei also agrees that there are difficulties in imposing tariffs on these goods, so they support part of United States's tariff-free principle on electronic goods.

### **1.5.4 E-Commerce Market and Preferential Taxes**

#### **a. Preferential Taxes**

In order to encourage the development of e-commerce and promote industrial upgrading, Item 3 of Article 8 of the Ordinance stipulates that “applicable scopes in major scientific, technological and investment industries as well as venture capital industry shall be decided by the Executive Yuan”. Chinese Taipei has also enacted The Range and Applicable Standard of Important Investment Businesses Belong to E-Commerce Business, to support holders with the legal basis to claim deductions for due taxes. Besides, they build a good investment environment for e-commerce industry in order to improve Taipei China’s international industrial competitiveness.

**b. Regulations on Going Public and OTC Listing.**

In order to encourage the development of excellent network companies and gain plenty of capital for the development of network industry, Taipei created “OTC stocks” which are all customized for network practitioners. These stocks have less limitation on the minimum years of company establishment and minimum capital scale, and cancel the limitation on company profitability, which makes it easier for network practitioners to meet the requirement of public listing and OTC listing and raise more public funds.

**1.5.5 Network Infrastructure Building, Security Mechanism and Information Flow**

**a. Telecommunication Law**

The law aims at loosening the restriction to foreign investment in the first category of telecommunication industry. It also stimulates that manufacturers of telecommunication device should be the only object of management and authorizes responsible institutions to make related technological regulations

**b. Criminal Law**

In today’s world, cyber-crimes have prevailed along with the development of the Internet. As to cyber-crimes, the current regulations have put that electronic records have the same legal force as written documents (Article 220 of “Criminal Law”) and related penalties have been added into the law.

**c. Drafted Law of Government Information Disclosure**

With a fast changing society and expanding government functions, the public will need a large amount of real information whenever they take part in public construction, the supervision of government activities and market consumption, most of which is held by the government. In addition, to facilitate the circulation of Chinese information, make it possible for government organs to provide related information as an important data source, improve the openness and transparency of information and promote the proper use of information, Chinese Taipei enacted this Law of Government Information Disclosure in order to lay a legal foundation for the disclosure of government information disclosure.

## **1.6 The US**

United States is the origin of the Internet and supports the development of e-commerce comprehensively with the national strategic model and the application and development of its infrastructure. With the excuse of a preliminary development stage of the Internet, United States has been promoting the development of e-commerce through encouraging investment and tax exemptions and reductions.

### **1.6.1 A Framework for Global Electronic Commerce**

In 1997, United States published its report of A Framework for Global Electronic Commerce, which clarifies that all intangible goods and online services transacted through the Internet are exempt from taxes. Tax rates imposed on tangible goods traded online shall be in line with the current regulations. This report established five major principles: the unique nature of the Internet, the leading role of enterprises, the prevention of improper restrictions on the government, predictable policies and a global view.

### **1.6.2 The Internet Tax Freedom Act**

The US Congress passed the Internet Tax Freedom Act in 1998, which is the first formal act related to taxes of network economy in American history. In July 2014, the US House of Representatives passed a Permanent Internet Tax Freedom Act with an intention to replace this one. Meanwhile, since the Internet Tax Freedom Act would expire in November 2014 which would put legislators into an impasse, the US Senate passed the Market and Network Equal Tax Act allowing state governments to impose taxes on oversea online sellers who sell goods to consumers in their own states. The rationality and necessity of e-commerce taxes gradually become clearer.

### **1.6.3 Federal Trade Commission (FTC)**

In the United States, some electronic commerce activities are regulated by the Federal Trade Commission (FTC). These activities include the use of commercial e-mails, online advertising and consumer privacy. The CAN-SPAM Act of 2003 establishes national standards for direct marketing over e-mail. The Federal Trade Commission Act regulates all forms of advertising, including online advertising, and states that advertising must be truthful and non-deceptive. Using its authority under Section 5 of the FTC Act, which prohibits unfair or deceptive practices, the FTC has brought a number of cases to enforce the promises in corporate privacy statements, including promises about the security of consumers' personal information. As a result, any corporate privacy policy related to e-commerce activity may be subject to enforcement by the FTC.

### **1.6.4 The Ryan Haight Online Pharmacy Consumer Protection Act**

The Ryan Haight Online Pharmacy Consumer Protection Act of 2008, which came into law

in 2008, amends the Controlled Substances Act to address online pharmacies.

### **1.6.5 Customs Modernization Act**

Customs and Border Protection (CBP) of United States formally established in 2003 is affiliated to the Department of Homeland Security (DHS) and is mainly responsible for customs affairs, migration management, border patrol and safety quarantine of plants and animals.

Customs Modernization Act was put into effect on December 8<sup>th</sup> 1993. One of the main changes of the act is that it attributes the legal responsibility of the pricing and clarification of goods and legal declaration of tax rates to importers. Besides, a unique attribute of the Modernization Law is that it decide the relationship between customs and importers as “be informed and be in compliance”. A key factor of “be informed and be in compliance” management is that customs and importers should share their responsibilities, and accordingly, importers should fulfill their obligation of “proper concern”, so that customs can get timely and accurate information about import. Customs usually publish the rules related to the procedures and requirements of importing goods on some publications or through the Internet in order to fully inform importers of the customs’ latest regulations. At the same time, customs will provide importers with a Reasonable Care Checklist which answers importer’s concerns through Q&As.

## **1.7 The European Union**

European Union has not enacted any laws targeting Cross-Border E-Commerce (CBEC), but there are three major regulations related to e-commerce.

### **1.7.1 European Initiative in E-Commerce**

EU has for a long period been regarding e-commerce as a major initiative to promote globalization and maintain the high-level right to speak. Therefore since the introduction of European Initiative in E-Commerce, EU has been creating and planning e-commerce policies and frameworks from a strategic view in order to guide the development of e-commerce among its members. This initiative creates an overall framework for Europe’s e-commerce business from a macroscopic view and stipulates action plans in information infrastructure and e-commerce.

### **1.7.2 E-Europe**

In July 1997, European countries participated in a ministerial meeting on global information network in Bonn, in which they advocated that the government should try to minimize unnecessary restrictions to facilitate the independent development of non-government enterprises, promote the business competitiveness of the Internet, expand business application of the Internet and finally vigorously develop e-commerce. In December 1997, Europe and United States issued a joint statement and made an agreement with United States on the guidelines of global e-commerce in which they promise to establish a tariff-free electronic space. In March 2003, European Committee launched the e-Europe initiative which is used to act as a strategy to strengthen

European citizens' engagement in the network and gain service opportunities in this information society.

### **1.7.3 Directive on Electronic Commerce**

In May 2005, European Parliament passed Directive on Electronic Commerce with a main aim to ensure that online services of e-commerce can be freely available within the Commonwealth. Its main contents include: i. All members should open their market of online services; ii. All members should not restrict the use of e-commerce contracts; iii. Liability exemption is created for intermediaries as the only third party of information transmission channels; iv. Advertising information should be indicated if it is in electronic form; v. Lawyers and accountants are allowed to provide online services; vi. Nationality Law and Lex Origins should be made applicable in e-commerce service; vii. Members can identify e-commerce services from other countries in order to protect juveniles and prevent the incitation of racial hatred and safeguard the health and safety of its citizens; viii. No matter where the website is located, the location of the company that provides electronic services should be decided as a fix physical space for it to do business. This directive made the rule of a single market in order to eliminate restrictions in e-commerce based on each member's different political system.

European Initiative in E-Commerce, e-Europe and Directive on Electronic Commerce have created a basic framework for the development of e-commerce in EU.

The regulatory features of EU legislation include: first, focusing on establishing a single e-commerce market in Europe, emphasizing on complementarity and mutual restriction which is manifested in three principles: i. The principle that national jurisdiction belongs to the country that enacts the law; ii. The principle of putting EU laws first; iii. The principle of policy transparency; second, giving equal consideration to the formulation of internal legislations, international treaties and industrial self-discipline, which mainly include: i: maintaining the restriction of EU universal legislation at the lowest necessary level; ii. Encouraging the formulation of rules of industrial self-discipline; iii. Actively participating in the formulation of rules world-wide.

## **2. Regulation over CBEC in Australia and Other APEC Members and in the EU**

### **2.1 Australia**

The regulatory system adopted by the Australian Customs has four main parts: separate declaration of air and sea cargoes, electronic risk management, examination of documents and inspection of goods, and follow-up external auditing.

#### **2.1.1 Separate Declaration of Air and Sea Cargoes**

Clearance of goods is achieved in two stages, with the first stage taking place before the

arrival of goods in Australia and the second one after the arrival of the goods.

In the first stage, declarations should be made to the customs with detailed information about the goods, the mode of transportation, estimated arrival time in Australia, etc. All declarations of goods in this stage must be made via the Integrated Cargo System (ICS) operated by the Australian Government Department of Immigration and Border Protection. Transit goods are also required for electronic declarations to the customs. Any updates about the goods prior to their arrival at the port can be reported to ICS, which handles various declarations in order when required. This practice allows the declarants to declare the goods to the customs as soon as possible, which makes possible an immediate tracking of the transport and how the declaration is being handled. The declarants will have a better knowledge of the clearance time and the clearance procedure will be sped up. Air and sea cargoes are declared separately.

### **2.1.2 Electronic Risk Management**

For the purpose of scientific management by the customs, companies are categorized into different groups according to the different management risks they pose. A single management method which applies to all companies has been discarded and customized regulation plans are in place for low-risk creditable exporters, streamlining their clearance procedures. Customs officers are empowered to conduct on-site inspections of import or export goods and related documents, including the goods for export that are yet to be put under the supervision of the customs.

ICS assesses the risks of different declaration forms for import and export based on predefined risk parameters. Most of the forms are rated as “low-risk”, causing no difficulty for the export.

### **2.1.3 Examination of Documents and Inspection of Goods**

For the declaration forms which are rated as “high-risk” by ICS, the customs will demand further information including business paper documents from the declarants or inspect the goods to ensure concordance between the documents and the goods.

### **2.1.4 Follow-up External Auditing**

A small proportion of the released export goods are subject to follow-up external auditing by customs to see if the export declaration forms are accurate and complete. Follow-up external auditing is a major component of the export regulation system.

Except from a very few cases with special permission, cargoes cannot be loaded onto a ship or plane until the export information is recorded in ICS and a release order is issued by the Customs.

The cargo clearance reform (CMR Plan) was officially approved as a project for research in November 1998, launched in July 1st, 2002 and completed in 2004. Being the most important, long-spanning and largest reform project adopted by the Australian Customs in recent years, the

CMR Plan has brought the electronic cargo clearance system up to a new level and improved the efficiency of customs management by replacing the old system that only allowed separate and fragmented management. The power is granted to customs officers and reiterated so that they can conduct on-site inspections of the imported and exported goods and the documents. Punishment standards for illegal behavior have been tightened and improved, removing loopholes and encouraging declarants to comply with the laws.

ICS, a key part of the CMR Plan, is a large computer-based system that incorporates risk information collection, exchange business data aggregation, processed data mining and analysis as well as business operation monitoring, supported by more complex high technology. In addition, the timely updates to the “key risk parameters” by the customs and the wide application of EDI (Electronic Data Interchange) in declaration for import and export both point to significantly more effective and pertinent risk identification.

The Australian Customs assess the risks of different importers concerning all aspects of the procedures they have to go through, insurance and port facilities and categorize them accordingly into different risk categories. With risk management, the customs can adopt relevant measures for active and effective regulation for different trading behavior and motives. For example, if the system detects certain obvious illegal behavior, the company involved will be rated as a high-risk one by the system, which then gives instructions to the local customs for mandatory implementation and management. The on-site customs officers will thereby take measures such as monitoring, inspecting and examining the cargo to implement the order. The higher the risks being noted, the more involved the customs and the more stringent the measures.

## **2.2 China**

According to China Customs, imported and exported mails and express mails amounted to near 498 million in number in 2013, a year-on-year increase of 42.7%. As a result, the customs vigorously conduct pilot programs to expand cross-border e-commerce (CBEC) services and explore related policies and regulation measures that facilitate CBEC. The General Administration of customs led the effort to expand CBEC services in pilot cities including Shanghai, Chongqing, Hangzhou, Ningbo, Zhengzhou and Guangzhou. Supported by electronic ports, an interconnected information platform has been established, linking the port management departments and corporate systems of e-businesses, logistics and payment. The departments can thereby obtain accurate data and information about different stages of CBEC transactions in advance and achieve a minimum workload of on-site port management, classified clearance procedures, scientific calculation and paperless clearance management, facilitating a quick clearance for the companies and offering an effective solution to payment for export goods and export rebates. Adding to the trial programs, there are four new modes of regulation adopted by the customs: regulation over



general export goods, over goods exported from special areas, over goods imported through direct purchase, and over bonded goods imported through online purchase.

Among the trial cities, Shanghai adopts modes of regulation over goods imported through direct online purchase, bonded goods imported through online purchase and general export goods. Chongqing is the only city in China where all four modes of regulation are on trial for CBEC. In Hangzhou, the CBEC Industrial Park is the only one of its kind in Zhejiang Province where services for both bonded goods and goods imported through direct purchase are provided. There is also [www.kjeport.com](http://www.kjeport.com), an electronic service platform for CBEC. In Ningbo, the bonded area is focused on CBEC trade. Building on the advantages of the bonded area, a practice is introduced in which the e-merchants can stock up imported goods in bonded warehouses in advance for domestic sales. Zhengzhou is among the first demonstration cities in China for e-commerce and the first trial cities for CBEC services. It is the only city in China where the trial program is conducted in comprehensive customs-supervised bonded areas. It has become a distribution center for cross-border goods, giving rise to e-business industrial clusters. Being a major exporting province with one of the first trial cities (Guangzhou) for CBEC services, Guangdong province accounts for 70% of the CBEC trade volume in China. In the city of Guangzhou, B2B and B2C are two major business models for cross-border e-merchants, the importers among which mainly import goods from Europe, United States, Japan and Korea ranging from mother and baby products, entry lux, cosmetics, shoes and clothes. For the trial program, three major business models are adopted: export of general goods through mails or express mails, B2B or B2C export of bonded goods, and B2B export of general goods.<sup>12</sup>

The four new modes of regulation adopted by the customs are introduced as follows:

### **2.2.1 General Export Goods**

For general export goods, the customs inspect and release goods upon certification of related lists and documents, with the declarations made in sum afterwards. The e-merchants send out their goods via postal services or express mails in batches, which, with related lists and documents, are inspected and released by the customs. At regular intervals, the customs compile a declaration of the goods with the above lists, with which the e-merchants can make the foreign exchange settlement and apply for export rebates. The data will be included in customs' statistics.

### **2.2.2 Goods Exported from Special Areas**

In this mode, the export goods are first stored in bulk in special areas under the supervision of China Customs after the e-merchants make the declaration following general declaring procedures. The e-merchants can then get export rebates for the goods. When the above goods are ordered by overseas online buyers, they are inspected and released by the Customs upon certification of

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<sup>12</sup>The Experimental Subsidy of Cross-Border E-Commerce in China's Six Cities (2014)  
<http://www.qianzhan.com/analyst/detail/220/141229-bd302d92.html>

related lists and documents and sent abroad by postal and express delivery companies. The lists will be compiled into a declaration form by the Customs at regular intervals, which enables the e-merchants to make the foreign exchange settlement. The data will be included in Customs' statistics.

### **2.2.3 Goods Imported through Direct Purchase**

This mode entails the networking of eligible e-commerce platforms and the customs' system. When domestic individual consumers make orders online for overseas goods, a real-time transfer of the e-order, certificate of payment and the e-waybill between the platforms and the customs will be made. The goods will then be imported through customs-supervised areas designated for CBEC and taxed as individual-mailed items, which will be included in customs' statistics. At present there are no specific regulations for taxation on goods imported through direct purchase, and the customs in the trial program levy the goods in similar ways in which bonded goods imported through online purchase are taxed.

### **2.2.4 Bonded Goods Imported through Online Purchase**

In this mode, the e-merchants imported the goods in bulk into designated e-commerce zones within special customs-supervised areas and declare the goods to the customs, which set up an e-commerce account book for management. When domestic individual consumers make orders online for the goods, the e-merchants entrust customs brokers with the application for electronic lists from the customs, which then make computer-conducted checks of the e-order, certificate of payment, the e-waybill and the e-list. If the information is consistent, the goods will be taxed as individual-mailed items, and cancels the account book after verification after the inspection and release of the goods. The data will be included in customs' statistics.

## **2.3 Hong Kong, China**

### **2.3.1 Co-Operating of Several Clearance Systems for Cargo Inspections and Clearances**

For the inspection and clearance procedures, the Hong Kong Customs adopts several electronic clearance platforms for convenient submission of e-data of goods from businesses, which enhance the efficiency of customs clearance. Such platforms include Air Cargo Clearance System (ACCS), Road Cargo System (ROCARS) and Electronic System for Cargo Manifests (EMAN). Electronic information about the cargoes are submitted to the three systems before their arrival at the border, which enables the Customs to reduce potential risks by assessing the risks of the cargoes in advance before deciding whether to conduct inspections.

### **2.3.2 Regulation over Import and Export Goods**

The Customs categorizes import and export goods for classified regulation, such as a) prohibited/controlled articles; b) key/targeted controlled articles; c) illicit drugs; and d) infant

formula.

Apart from intercepting prohibited articles, one of the major responsibilities for the Hong Kong customs is to intercept drugs. The Customs conducts thorough investigations of drug trafficking at different levels and exchanges intelligence with local, domestic and overseas law enforcement agencies to crack down on drug trafficking in a joint effort.

### **2.3.3 Crack-down on Smuggling and Drug Trafficking through Express Mails**

The customs have signed MOUs with five major express delivery companies including DHL, TNT, S.F. Express, Fedex and UPS. Single contact customs officer is appointed to keep in touch with those companies, forming “one-to-one contact points”. Whenever suspected illegal articles are detected by the companies, the contact customs officers will be notified for follow-up investigations. The staff in the companies who discover suspicious parcels can call the officers, who will then notify related staff or bureaus for follow-up investigations. In the meantime, the express delivery companies will examine the parcels with X-rays and make an internal collection of information and risk evaluation. Useful information may be shared with the customs, such as whether the sender is a large company.

## **2.4 Japan**

### **2.4.1 Regulations by the Customs**

#### **a. Sniffer Dog and Risk Management Mechanisms**

The Japanese Customs adopt a sniffer dog mechanism in which the dogs help examine international mails that are under the supervision of the customs, check-in luggage on airplanes as well as passengers and their carry-on belongings. The coordination among customs officers, X-ray machines and sniffer dogs at the supervision points is manifest, and the frequent use of sniffer dogs on site helps the customs do well in cracking down on drug trafficking.

In addition, the risk management mechanism also applies to mailed parcel supervision. There are four main steps<sup>13</sup>: first, the customs collect information and set up risk parameter standards, which will be incorporated into Nippon Air Cargo Clearance System (NACCS). Second, NACCS determines the passages based on automatic data comparison, with random inspection proportions set up for different passages according to the risk levels. Third, the system automatically identifies the results and risk types, which will be sent to the on-site customs officers in the form of instructions. The results may be adjusted following the procedure when approved. Last, the on-site officers act upon the instructions by releasing low-risk parcels while checking the documents of certain parcels or inspecting high-risk ones. The ways in which the parcels are handled will be recorded in the system forming an information circuit so as to ensure the risk parameters are

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<sup>13</sup>Shi Suyue, Customs Control of Personal Effects and Postal Items in the New Period and National Security Research [D], East China University of Political Science and Law. 2014.

properly maintained and updated.

## **b. Intellectual Property Right (IPR) Protection**

Goods infringing intellectual property rights (IPR) such as counterfeits and pirated goods may hamper economic development, provide financial resources to criminal organizations, and be a threat to peoples' health and safety. IPR protection is a serious issue around the world.

The Japanese government has enhanced the protection of intellectual property in closer cooperation with the private sector. The Customs and Tariff Bureau and Japan Customs nationwide, which are responsible for enforcement on IPR infringing goods at the border, play their roles in protecting intellectual property. In order to implement effective border enforcement, enforcement schemes and customs organizational structure for IPR enforcement have been revised and reinforced. The number of suspension cases of IPR infringement keeps growing in the recent years, and the detections of IPR infringing goods from postal items consist large number of the total IPR detection cases. Against the trend, Japan Customs has been strengthened its enforcement for various mode of transport including postal items.

The problem of IPR infringing goods has been a serious issue not only in specific countries but throughout the world. These goods may provide financial resources to crime organizations and terrorist groups, and may threaten consumer's health and safety. Against this backdrop, further enhancement of international cooperation among customs authorities around the world has been actively discussed in order to prevent the proliferation of IPR infringing goods. At the Sub-Committee on Customs Procedures (SCCP) held in San Francisco in September 2011, "APEC Guidelines for Customs Border Enforcement of Counterfeiting and Piracy" was drawn up. This Guideline provides APEC Customs Authorities with the guidance to improve effective border enforcement. Anti-Counterfeiting Trade Agreement (ACTA), where negotiation started after Japan's suggestion at the G8 Gleneagles Summit held in 2005, built a legal framework to prevent the proliferation of counterfeit and pirated goods. This Agreement was signed by 10 countries and regions (as of January 2015) including Japan, which became the first party to the Agreement. In cooperation with the World Customs Organization (WCO), Japan is also actively implementing measures to provide technical assistance to developing countries, dispatching experts and organizing regional seminars.

Cooperation with the Chinese and Korean customs authorities has a particular importance among international cooperation activities over IPR issues. The First Tripartite (Japan, China and Korea) Customs Heads' meeting was held in April 2007 and the three Customs agreed to set up a working group on IPR. Japan, China and Korea have been exchanging information for effective IPR border enforcement among the three countries.<sup>14</sup>

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<sup>14</sup> Outline of Customs administration and Tariff policy of Japan Customs. (2015)  
[http://www.customs.go.jp/zeikan/pamphlet/report/pdf/report\\_002e.pdf](http://www.customs.go.jp/zeikan/pamphlet/report/pdf/report_002e.pdf)

### **c. Development and Application of High-tech Examining Equipment**

The customs have been dedicated to developing high-tech examining equipment and technology, such as TeraHertz waves and biomedical sensing technology. TeraHertz waves generally refer to electromagnetic waves with frequencies ranging from 0.1 to 10 TeraHertz waveband. Such waves lie in the transitional areas between classic macroeconomic theories and micro quantum theory as well as between electronics and photonics, with frequencies higher than microwaves but lower than infrared rays and energy ranging from that of electrons to that of photons. As TeraHertz waves can be used in security checks, they can help the customs improve their counter-terrorism measures and crack down on drugs and other crimes in the examination of cross-border luggage and mails, providing technical support for more effective regulation by the Customs.

### **d. Goods mailed from abroad**

For goods mailed from abroad for individuals, they will be directly delivered to the receivers by Japan Post Group if they are tax-free or tax-exempt goods priced at less than 10,000 yen. For goods that are taxed for less than 10,000 yen, Japan Post Group will be entrusted on site with paying the tax at the time of the delivery by the post offices. For goods that are taxed for more than 10,000 yen but less than 300,000 yen, the receivers will be notified in advance by the post offices of the tax amount. If payment is possible at the time of the delivery, the receivers can entrust Japan Post Group with paying the tax on site. If not, they will have to pay the tax at the post offices before receiving the goods. Goods that are taxed for more than 300,000 yen will be delivered after the payment of the tax by request from the receiver.

For goods mailed from abroad that are priced at more than 200,000 yen, the receivers will receive guiding materials for clearance from Japan Post Group and choose either to entrust the Group or other agencies with the clearance procedures or ask the senders to go through the procedures themselves at overseas mail sub-branches of Customs. If the task is entrusted to a clearance agency, necessary documents required for the import declaration will be submitted to the agency after its confirmation. Import permits will be granted after the tax (as well as the commission to Japan Post Group) is paid, which will enable the receivers to get the goods.

### **2.4.2 Taxation on Small-amount Import Goods for Personal or Commercial use**

In response to the diversifying cross-border mails and the increasing number of goods for commercial use in recent years, Japan reviewed export/import procedures for cross-border mails, stipulating that from February 16<sup>th</sup> 2009, when goods priced at more than 200,000 yen importing or exporting, a declaration should be made to the customs in principle for export or import permission.

In principle, goods imported via mails and valued at more than 200,000 yen should be taxed

as import goods for duties, even if they are goods for personal use or gifts. For imported goods valued at less than 200,000 yen, simple tax rates are applicable and the receivers can apply for the use of the tax rates for general import commodity categories. In theory, the dutiable value is the CIF cost (the exporting value is the value of mail itself). There are seven commodity categories to which simple tax rates apply. However, considering the impact of passengers' carry-on belongs, their check-in luggage's and duty-free goods on Japan's industries, we do not advance suggested tax rates in the case that simple tax rates are not applicable.

## **2.5 Chinese Taipei**

### **2.5.1 Regulation over Mails and Parcels**

By far, the research group has only the knowledge of regulation over mails and parcels exchanged across the Taiwan Strait. The exchanges of mails began in the early 1980s, the majority of which were correspondences delivered through private channels, with no easy transfer means. In November 1991, the Customs in Xiamen began their supervision of small parcels directly mailed between the customs area in Xiamen (including that in Fuzhou) and Taipei. In February 1993, the "General Post Office" in Taipei decided to provide services of sending and receiving normal mails to or from the Mainland by water or land. In May 29, 1993, the Agreement on Inquiry of and Compensation for Registered Mails across the Strait, reached during the meeting between two senior officials from both sides of the Strait, came into effect. On June 8 when the first batch of direct mails sent by the Chinese Taipei Airmail Center arrived at the international mail center in Xiamen via Shanghai Customs, they were timely handled and released by Xiamen Customs.

From 1992 to 1995, EMS and China Aviation Express (HK) Ltd. cooperated in providing services of delivering express mails and parcels to and from Chinese Taipei in different districts, cities and provinces (including Fujian province) across China. The Customs in Xiamen supervise the business involving such mails and parcels in accordance with the regulations of the General Administration of Customs. Private express mails to and from Chinese Taipei were handled by the express delivery companies in accordance with Regulation for Mailed Import and Export Goods by the Customs of the People's Republic of China.

### **2.5.2 Taxation Policy**

In Chinese Taipei, import and export goods are taxed for tariffs, VAT, consumption tax, etc., with tariff rates ranging from 2% to 40%.

## **2.6 The US**

US Customs and Border Protection (CBP), the largest law enforcement agency for the protection of the US borders, has been faced with various challenges in terms of effective

regulation over the e-commerce. According to the laws and regulations, all companies, bodies and individuals are allowed to purchase overseas commodities or services online, but are prohibited from importing goods that do not meet the safety and health standards, that may pose a threat to public health or that are subject to quota restrictions. For regulation over the e-commerce, the major concern of CBP is on safety of commodities, food safety and IPR infringements, instead of tariffs.

### **2.6.1 Taxation Policy for CBEC**

CBEC goods in the US are mainly delivered in three ways: mail, express mail and freight. When goods valued at less than \$2,500 and not subject to bans or import restrictions are imported via mail after online purchases, the importer can opt for the mode of “informal declaration” by declaring the goods to the CBP office at the post office, where the customs officers will categorize the goods based on the information they have and release them on the spot after the duties are paid by the importer. For declared goods valued at less than \$200, the importer is not required to make another declaration and the goods will be released after the prices are confirmed by the CBP officers by means of random inspections. For import goods valued at over \$2,500, the importer or customs broker must go for the mode of “formal declaration”. When the goods are delivered via express mail, the carrier or import agent will have to make the declaration to the Customs and pay the required taxes on behalf of the importer before making the delivery. For goods imported by freight with a declared value of less than \$2,500, the importers can make the declaration themselves to the Customs. In cases where the declared value exceeds \$2,500, the importer is often advised by the Customs to entrust the declaration procedures to a customs broker in order to prevent losses for the importer who may not have sufficient knowledge of the procedures which are complicated by categorization and taxation.

### **2.6.2 Cooperative Programs and New Measures**

One of the most important measures for e-commerce development in the US in 2013 was the promotion of CBEC. An agreement was signed between Kahala Posts Group (KPG), an international alliance of the postal administrations in ten leading economies in the world, and Amber Road, an American software company. The Global Trade Management (GTM) system provided by Amber Road has facilitated the development of CBEC in that the CBEC sufficient information has become readily accessible to clients of e-commerce so that the mailing of cross-border parcels are made easier for them. A series of representative and influential measures have also been taken by the Customs to meet security standards in trade, including Container Security Initiative (CSI), Customs-Trade Partnership against Terrorism (C-TPAT) and 24-Hour Rules.

## 2.7 The European Union

### 2.7.1 Regulation over Cargoes by the Customs

The EU Customs exercise regulation in compliance with Common Customs Tariff (CCT) and Preferential Customs and Trade Agreement, and other similar provisions, which also apply to CBEC.

According to CCT, goods imported from non-EU countries and regions must be taxed, the tariffs for which are determined by item categories and specifications in the exporting countries. CCT is revised annually to conform to the common business policies in the EU. The tariff rates for different item categories which take into account of related specifications in the exporting countries can be found on TARIC, an online tariff database for adopted by the EU.

Preferential Customs and Trade Agreement was signed between the EU and some neighboring countries, developing countries and emerging economies, which provides mutually favorable policies including lower tariff rates for entry and even exemption from tariffs.

### 2.7.2 Regulation over Mailed Parcels and Express Mails into the EU

The EU has different regulation policies for mailed parcels and express mails from within the EU and from outside the region, with different lists of goods banned from import. However, the following goods are included in both lists: medicines produced abroad, cultural relics, instruments of torture, arms and ammunition, fireworks, etc.

**Table 3 Taxation Policy for Mailed Parcels and Express Mails in the EU**

Commercially Imported Goods (e.g. online purchases)		Personal Goods	
No Tariffs and/or Duties	No VAT for goods valued at less than €22  No tariffs for goods valued at less than €150	No Tariffs and/or Duties	No VAT for goods valued at less than €45
With Tariffs and/or Duties	19% as VAT rate for goods valued at more than €22  Tariffs imposed on goods valued at more than €150 according to the tax rates for official tax items, with the tax base being the total amount of commodity value and VAT	With Tariffs and/or Duties	17.5% of the commodity value as the total tax amount (tariff and VAT included) for goods valued at no less than €45 and less than €700  15% as tax rate for goods imported from countries and regions with which the EU has preferential agreements; higher tax rates for certain goods, including tobacco

(Source: materials from related EU websites)

In the EU, import goods from non-EU countries and regions are classified into two main categories for tariffs, i.e. commercially imported goods and personal goods, as shown in table3.

Mailed parcels and express mails delivered within the EU are exempt from import tariffs, with a few exceptions. In some cases, some mailed goods will be held by the Customs in



individual EU countries. The customs are empowered to inspect the mails to see if there are any goods that must be levied for consumption tax, that violate the laws or that are restricted or banned from import.

## 2.8 Tax Exemption and Taxation Policies for Express Mails and Mailed Goods in Different Economies

Among the APEC economies under discussion, only China has different regulation policies for express mails and mailed goods. Mailed goods in China enjoy the privilege of being handled first compared with express mails. They are processed in batches for clearance, with high chances of clearance and no tariffs imposed on them. Express mails, however, are processed for clearance separately, with relatively high chances for tariffs imposed on them. Given the more stringent inspection procedures, they are also much more likely than mailed goods to be held by the Customs. While Australia specifies the regulation of express mails and mailed goods as one, other economies including Canada, Hong Kong China, Chinese Taipei, Japan, Korea, The US and the EU have no specifications as to whether they are regulated as one or separately.

The tax exemption and taxation policies for express mails and postal goods in different economies are summarized by the research group as follows in Table 4.

**Table 4 Tax Exemption and Taxation Policies for Express Mails and Mailed Goods in Major Economies**

Economy	Tax Exemption	Taxation	Modes of Regulation
Australia	Exemption from goods and services tax (GST); exemption from taxes for individual items (except tobacco and liquor) valued at less than 1,000 Australian dollars	5% as tariff rate and 10% as GST rate for most goods	a. Separate declaration of air and sea cargoes b. Electronic risk management c. Examination of documents and inspection of goods d. Follow-up external auditing
China	Maximum exemption amount of ¥1,000 for international mails per person per time; exemption for goods taxed for less than ¥50	Tariffs on personal goods, personal postal articles tax	a. General export goods b. Goods exported from special areas c. Goods imported through direct purchase d. Bonded goods imported through online purchase
Hong Kong, China	Tariff free except excise duties levied on four types of dutiable commodities namely liquors, tobacco,	Rate of excise duties on four types of dutiable commodities: -Liquor: 100% for liquor with alcoholic strength of more than 30% by volume measured at a	a. Co-operating of several clearance systems for cargo inspection and clearance b. Examination of lists and documents for the release of

	hydrocarbon oil and methyl alcohol	<p>temperature of 20°C</p> <p>-Tobacco: HK\$1.906 for each cigarette; HK\$2,455/kg for cigars; HK\$468/kg for Chinese prepared tobacco; and HK\$2,309/kg for all other manufactured tobacco except tobacco intended for the manufacture of cigarettes</p> <p>-Hydrocarbon oil per liter: HK\$6.51 for aircraft spirit; HK\$6.82 for motor spirit (leaded petrol); HK\$6.06 for motor spirit (unleaded petrol); HK\$2.89 for light diesel oil and ultra-low sulphur diesel; and HK\$0 for Euro V diesel</p> <p>-Methyl Alcohol: HK\$840 per hectoliter</p>	<p>goods</p> <p>c. Targeted regulation and control of import goods</p> <p>d. Establishment of “one-to-one contact points” with express delivery companies</p>
Japan	Exemption from taxes for goods valued at less than 200,000 yen	<p>Tax rates ranging from 5% to 7% in general terms;</p> <p>tax rates ranging from 4% to 5% in accordance with WTO agreements;</p> <p>exemption from taxes in accordance with Generalized System of Preferences (GSP), special preferences for least developed countries (LDC), Economic Partnership Agreements (EPA), etc.;</p> <p>simple tax rates in general terms</p>	<p>a. Sniffer dog and risk management mechanisms</p> <p>b. IPR protection system</p> <p>c. Development and application of high-tech examining equipment</p> <p>d. Inspection of individual -imported goods</p> <p>e. Taxation on small-amount import goods for personal or commercial use</p>
Chinese Taipei	Exemption from taxes for goods valued at less than \$100	Tariffs (tariff rates ranging from 2% to 40%), VAT and consumption tax	Supervision in accordance with Regulation for Mailed Import and Export Goods by the Customs of the People’s Republic of China
The US	Exemption from taxes for goods valued at less than \$200	General taxation	<p>a. Examination of lists and documents for the release of goods</p> <p>b. Convenient clearance</p> <p>c. General import declaration</p>
The EU	Exemption from taxes for goods from within	Tariffs, VAT, variable levy and consumption tax according to	a. Arrival of Import goods at the EU borders

	the EU; exemption from taxes for goods that are commercially imported from outside the EU and valued at less than €22; exemption from taxes for goods for personal use which are valued at less than €45	Common Customs Tariff (CCT)	b. Import declaration c. Tax payment d. Inspection and release of goods
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(Source: research and data sorting)

### 3. Suggestions on Legislation for CBEC in APEC Economies

Legislation for CBEC touches upon a variety of aspects including consumer rights protection, normalization of regulation for more efficient settlement of disputes, creation of a better legal environment for e-commerce, effective supervision of third-party payment, etc. The research group intends to provide the following suggestions for legislative regulation from the perspective of the Customs.

#### 3.1 Defining the Legal Liabilities for Different CBEC Parties according to Law

The parties involved in CBEC include e-merchants, e-trading platform providers, logistics companies, storage companies, payment companies and consumers. As seen in the current trial programs, the Customs in different APEC economies are working to improve regulation over CBEC by strengthening the proactive register system, making the parties involved more responsible for data transmission, improving regulation efforts beforehand to minimize the workload on site and defining the legal liabilities for different CBEC enterprises.

E-merchants should be put under the supervision of the regulatory bodies. They are supposed to make their initial data of cross-border transactions (including related ID information) accessible to the regulatory bodies and ensure real-time transfers of transaction, payment and logistics data. E-trading platform providers have a part to play in assisting the regulatory bodies with their regulation over e-businesses operating on the platforms.

In addition, transparent channels should be promoted which provide explicit information of commodity prices and tax amount, facilitating the complete collection of payable taxes and dues. Information and Internet technology should be made good use of to achieve coordination and consistency between the register systems for enterprises and commodities and to limit the

commodity coverage so as to reduce regulatory risks. Measures should be taken to enable the networking between the operating system of port management agencies and the information systems of e-businesses, logistics companies and payment companies, making possible paperless declaration and clearance processes and digitization of documents and thus reducing costs for clearance and contributing to a more efficient clearance process.

### **3.2 Optimizing Regulation over Special Areas by the Customs**

By far, there have been over 100 Customs-supervised special areas in more than 20 provinces and cities across China, categorized as export processing zones, bonded areas, bonded logistics parks, bonded port areas, comprehensive bonded areas and cross-border industrial zones. At present, problems arise as various regulatory laws and regulations including national laws, administrative regulations and department rules co-exist for the supervision of such special areas by the Customs. Furthermore, international treaties and agreements concluded or joined by China which are related to regulation over the special areas can serve as a source of law, but are not legal mechanisms ready for implementation. Similar problems are also found in other APEC economies.

In response to this, it is suggested that APEC economies introduce, in consideration of domestic conditions, a specialized law for the regulation of the special areas so as to legally recognize the nature of such areas as demonstration zones for preferential treatment. Entry requirements, examination and approval standards, acceptance specifications, performance evaluation systems and exit mechanisms should be established for unified implementation, with a common understanding among all related administrative departments. Responsibilities for different administrative bodies including the customs, administrations for industries and commerce, administrations of taxation, regulatory bodies for commerce, administrations of foreign exchange, administrations of quality supervision, inspection and quarantine in such special areas should be specified for unified implementation in terms of management, coordination, preferential measures and dispute settlement. The introduction of such law is aimed at ensuring with legal support a transparent operation of different parties in those areas and effective implementation of various preferential policies in order to improve economic benefits and make clearance more convenient in the special areas. In this way, beneficial interaction between the legal system and the economy can be achieved, with the former playing a positive role in regulating and driving economic growth.

### **3.3 Improving IPR-Related Laws and Regulations**

The regulations adopted by the China Customs for IPR protection have contributed greatly to the protection of legitimate rights of IPR owners and the order of import and export transactions in

China. However, more efforts are needed with regard to the protectors, the protected and related procedures.

In terms of the protectors, they are supposed to expand the coverage of their protection when they safeguard the rights and interests of IPR licensees. In terms of the protected, it is recommended that they are categorized and provided with targeted protective procedures. In particular, patent owners whose IPR are more technology-based should be distinguished and encouraged to forge closer links with IPR protection departments for effective protection of IPR in the form of patents. In terms of related procedures, consideration should be given to the effectiveness of changes to and revocations of IPR registrations in that the negative impact of delayed changes or revocations should be explicitly stated in the law, which would be large enough to encourage the owners of IPR to make timely changes or revocations in cases of ownership changes. In cases where repeated steps are involved in the IPR application process, linkages between the customs and related administrative bodies should be forged for efficient and comprehensive IPR protection. In cases where requirements for evidence and deposit may be too high for the IPR applicants, consideration should be given to their rights and interests so that the standards can be eased accordingly on condition that deliberate delays to the application process are effectively prevented.

### III. Analysis of Customs Supervision and Risk Control for CBEC

This report divides the analysis of customs supervision and risk control for CBEC into two aspects: tax related aspect and tax unrelated aspect. The tax related aspect is mainly about import tax, while the tax unrelated aspect is mainly about prohibited and limited things, such as IPR, illicit drugs, firearms and other similar contraband. All the member economies are responsible to conduct risk prevention and control over such problems to improve the clearance efficiency.

To strengthen the CBEC supervision and risk prevention and control, also to improve the clearance efficiency of goods traded through CBEC, China Customs has worked together with governments, companies and relevant institutes to set up clearance platforms for CBEC related goods, providing more convenience for the clearance of CBEC related goods and information sharing. The platforms are:

Service platform for CBEC clearance: set up by electronic ports, promoting information sharing among relevant management departments;

Manage platform for CBEC clearance: set up by China Customs, conducting electronic monitoring and enforcing the law over the trades, storages, logistics and clearances of CBEC;

Trade platform for CBEC: set up by the municipal governments of CBEC pilot cities and relevant institutes, working for the trades, payments, deliveries and customs approvals of CBEC, and connecting with the customs.

#### 1. The Supervision Mode of Import Customs Tax Revenue from the CBEC

##### **1.1 Concerns about customs tax revenue and analysis on current management**

When it comes to CBEC tax erosion, there are a lot of problems, among which lack of information, information limitation and information scatter are the main ones. The tax collection and management departments of APEC economies don't have complete information when they collect tax on CBEC goods, and the reasons are as the followings:

###### **a. Lacking of Automatic System That Can Be Shared Within the Globe.**

Transferring of information, assessment of tax obligation and invoicing consumers are made more difficult by the plethora of different information systems and data collection standards that exist globally. There is no universal system for identifying products. Many data capture systems use free character fields for product descriptions, limiting the amount of automatic identification

which could be achieved with either universal product description codes or universal electronic coding.<sup>15</sup>

#### **b. Lacking of Information of Postal Goods**

A further complication is the lack of information often provided for postal goods. The Universal Postal Union (UPU) treaty requires that:

- Articles cannot be refused (except prohibitions),
- Service performance targets need to be met, and
- Undeliverable articles are returned to the country of origin at the postal services' expense.

The lack of information often provided by postal customers and the treaty requirements make information improvements challenging and delivery of post the priority.<sup>16</sup>

#### **c. Different Parties Involved in CBEC Get Different Information.**

CBEC involves buyers, sellers, third party payment and logistics, while buyer is the only party that knows all the information of the goods, including the goods value and delivery destination.

Third party payment is the only party besides the buyer who knows the goods value, postage and the buyer's location which is saved in the buyer's account or bank information. An online cross border trade research conducted by Nielsen shows that 80% of payments are made through Paypal.

Suppliers and logistic companies probably have parts or all of the goods information. So, sometimes the goods description and reference price may not be real in order to facilitate clearance and avoid extra fees for buyers. Shorter delivery time can save a lot of money. For example, the shipping industry has estimated that one more day of delivery will cost equivalent money of 0.5% of the goods value.

As a government department, customs are responsible for collecting tax. However, customs may be the sectors who know the least about the exact information of buyers and taxpayers.

#### **d. Different CBEC Parties Have Different Intentions to Pay Taxes**

The above parties who know a part or all the goods information have different and inconspicuous tax-paying intentions. Buyers would like to pay tax only when their goods cannot be delivered or they will be punished if they don't pay tax. Third party payment has no direct intention to insure that tax is collected. Suppliers and logistic companies can stop goods from being delivered to end users, but their intentions are providing cheap, safe and fast delivery. They have no intention to collect tax for the country if this can cut their price advantage.

All the above issues are challenges for member economies to supervise customs tax collection. At the same time, the APEC economies have launched new management rules. Let's

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<sup>15</sup> Impact of E-Commerce on Revenue Collection, Paper by New Zealand, WCO

<sup>16</sup> Impact of E-Commerce on Revenue Collection, Paper by New Zealand, WCO

take China as an example.

China Customs has carried out a series of new management rules to promote the fast development of the new business type--CBEC retail import, and also to avoid tax evasion.

General Administration of China Customs has implemented reform on the supervision mode of clearance, providing supports for CBEC and promoting the setting up of CBEC pilots. In 2014, General Administration of China Customs made a statement about promoting supervision and management of import and export goods of CBEC. In addition, it also added two more new CBEC supervision management modes, including the one applied for list review, collection and declaration with a code of “9610” and the other one applied for special supervision and bonded supervision with a code of “1210”.

The General Administration of Customs has explored some suitable policies and measures for CBEC, and carried out four new management modes, including general export, special export, direct purchase import and bonded online shopping import. There are two clearance channels, which are direct purchase import and bonded online shopping. A customs management mode has been set up particularly for CBEC import (the following item 1.2 and 1.3 will introduce the two channels- direct purchase import and bonded online shopping respectively).

## **1.2 Basic forms under different modes of direct purchase(B2B/B2C/C2C)**

### **1.2.1 Clearance Management Platform for CBEC under the Direct Purchase Import Mode**

Since 2012, General Administration of China Customs has carried out reform on clearance management, starting with such pilots cities as Shanghai, Chongqing, Hangzhou, Ningbo, Zhengzhou, Guangzhou and Shenzhen. These pilots have helped set up CBEC management mode for B2C and C2C and added CBEC management mode codes. For the needs of nationwide promotion, General Administration of China Customs has researched and developed the shared version of CBEC clearance management system to better regulate clearance management.

Direct purchase import(B2C, C2C): the goods purchased via online shopping will be taxed in advance according to personal delivery goods, and the goods will be separated from other common deliveries so as to be checked and released shortly. The tax will be charged automatically when the goods enters, thus leading the goods be cleared fast.

### **1.2.2 Cross-Border E-merchants Without Going through Customs Platform under the Direct Purchase Import Mode**

For information incompleteness of the direct purchase import mode, General Administration of China Customs has distinguished the responsibilities of different parties involved in CBEC:

Both buyers and sellers, as the people who the customs are directly managing, bear legal



duties such as declaration, paying taxes and accepting supervision specified in Customs Act. Although, in some CBEC, the buyer and the receiver are not the same person, regarding the legal position of payer, they are just performance aiders of the buyers during the deal. But it doesn't mean that they don't need to bear any duties and responsibilities of CBEC customs management. Instead, they should assist the customs and disclose any necessary information about their roles in CBEC and their reasons of payment and receiving the goods.

Within the CBEC trade frame, e-commerce platform companies provide trade platform services which can facilitate the trade. Besides, they also bear a lot of responsibilities, such as network techniques guarantees, market access reviews, trade records safeties and preservation and proper notifications. And the trade records they saved are one of the most important factors that customs focus on.

Paperless management is realized during the whole trade process of e-commerce. For all the CBEC pilots, General Administration of China Customs, based on electronic technique, utilizes the internet to audit and collect electronic data. At the same time, electronic order forms, electronic payment document and electronic waybill can be checked with electronic clearance data automatically. In this way, paperless management is realized.

### **1.3. Basic Forms under the Different Modes(B2B, B2C and C2C) of Bonded Import**

#### **1.3.1 Service Platforms for Cross-Border E-Merchants**

China's first service platform for cross-border e-merchants authorized by General Administration of China Customs was operated for the first time in Dongguan, Guangdong, in July 1<sup>st</sup> 2014. The platform provides convenience and services for the import and export clearance of foreign trade companies by unifying declaring processes. All the data uploaded can be shared with the internal system of General Administration of Customs, which can help save declaration time and improve efficiency. On this platform, the goods are supervised during clearance through "the three forms" which refers to declaration form provided by the e-commerce companies, electronic payment document by the payment companies and the logistic waybill by logistic companies. The goods can be cleared if "the three forms" are confirmed. In this way, supervision and collecting data can also be achieved by matching the data from companies and that from the customs.

As table 5 shows that all the merchants in corporation are recorded, so customers are able to avoid the risk of getting fake goods. The whole electronic management process can also trace the goods, thus providing guarantee for consumers. The information exchange among e-commerce companies, payment companies and logistic companies combines management resources from the

three parties, which can verify in high efficiency whether the data declared is true.

**Table 5 data uploaded by cooperative companies**

e-commerce platform	logistic companies	payment companies	storage companies
<ul style="list-style-type: none"> <li>e-commerce platform Recorded data</li> <li>order form and waybill</li> </ul>	<ul style="list-style-type: none"> <li>recorded data by logistic companies</li> <li>status data of logistics</li> <li>declaration data of personal goods</li> </ul>	<ul style="list-style-type: none"> <li>recorded data by payment companies</li> <li>data of tax payment and goods payment</li> <li>receiving orders of transferring tax</li> </ul>	<ul style="list-style-type: none"> <li>recorded data by storage companies</li> </ul>

(Source: research and data sorting)

### 1.3.2 CBEC Trade Platform

CBEC trade platform is set up by China Customs working together with pilot cities or bonded areas.

CBEC trade platforms have been set up in many pilot cities by 2015. For example, cross-border access, a CBEC service platform for clearance authorized by Shanghai Customs, plays an intermediate role transferring data between outbound sellers and the customs. Registered e-merchants need to set up electronic storage management system and transfer data of trade, payment, storage and logistics to the customs. In addition, original data about the goods and trade from e-merchants, payment companies and logistic companies should be shared with the customs via CBEC service platform for clearance.

CBEC trade platform has fully taken the advantage of the tax revenue from pilot cities and the efforts of government. It bears dual responsibilities and streamlines data transferring, improving customs declaration efficiency and goods safety, which is worth considering.

### 1.3.3 Cross-Border E-Merchants Without Going Through the Customs Platform under the Bonded Import Mode

By setting the customs management mode of online bonded channel, the whole batch of goods will be sent to areas with special supervision of the Customs, and then be distributed to inbound buyers, which promotes the development of China's e-merchants and improves the efficiency of management and service of the customs.

With the full supports of China Customs and local governments, Chinese companies actively participate in pilots. Besides, all the first batches of pilot cities have conducted import business. By September 1<sup>st</sup> 2014, more than 590,000 parcels have been imported with a total value of ¥157 million, and ¥3.27 million taxes has been charged over 3,6900 parcels. It can be seen from the tax revenue of pilot cities that tax on luggage and postal delivery is collected by the way of online bonded import. The imported goods of pilot cities are mainly daily necessities, including cosmetics, food, textiles, household appliances, and bags, which are mainly imported from the US., New Zealand, Australia, Singapore, Korea, Germany, Japan, France, China, Chinese Taipei and

Hong Kong, China (because of different goods types, under ¥50 can be exempted, so the number of parcels that need to pay customs duties are less than the total).

As stipulated by Notice about online shopping bonded import mode of CBEC pilots issued by General Administration of China Customs, customers have to register with their real name before any consumption; goods delivered from other counties and regions except Hong Kong, China, Macao and Chinese Taipei should be within the value of ¥1000 per time for every consumer, and within ¥20,000 annually.

About collecting tax, “the actual sales price of electronic orders” in the Notice includes purchasing price in other economies and cross-border logistic fees, which means, in the future, when the pilot e-merchants pay duty, logistic fees will also be taxed. To better manage pilot companies, the NOTICE requires that e-merchants and companies, including logistic companies, who participate in pilot business have to register in the mainland, do enterprise registration according to the current customs management and regulation, conduct related business and can be connected with the information system of relevant management departments such as the customs.

At present, General Administration of China Customs has confirmed that there are 7 cities can be CBEC pilot cities, including Zhengzhou, Hangzhou, Ningbo, Shanghai, Chongqing, Guangzhou and Shenzhen. All these cities have carried out innovative solutions for the management under bonded import mode. The following will take Shanghai, Zhengzhou and Shenzhen as examples.

#### **a. Innovations in Customs Management Policies of Shanghai Free Trade Zone**

Firstly, external management in the FTZ is “single window”<sup>17</sup> mode which means “one time” application, one time checking and one time release”, which reduces management cost and improves the efficiency.

Secondly, regular supervision is not needed. Shanghai FTZ has carried out an inspection and quarantine mode which is convenient and at the same time can control quality risks.

Thirdly, a goods review end is added. Shanghai Customs further improves operation standard with a goods review end being added in the online shopping bonded import mode in the comprehensive bonded zone of Pudong International Airport, which streamlines manual operation and reduces transferring time. A customs-company cooperation mechanism has been established to help companies solve problems in time, deal with sensitive goods and improve clearance efficiency. Also, to guarantee proper supervision, Shanghai Customs has strengthened random inspection and supervision over order data and requires companies to strengthen audit of source order.

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<sup>17</sup>Single Windows means that steak holders, involved in international trade and transportation, submit standardized information and documents through the single platform to meet requirements of relative laws and regulation.

### **b. Zhengzhou Setting up E-Trade Pilot Platform**

In 2014, Zhengzhou established E-trade pilot platform, having attracted thousands of companies to operate business in Zhengzhou. Up to now, 319 companies have already entered.

E-trade, focusing on e-commerce import and export, featured with e-commerce as the center, order fragmentation, electronic information transferring and legal trade. Although E-trade in Zhengzhou has been in operation less than one year, it has already been connected with 13 cities around the world, and ¥1.3 billion has been traded, which enables Zhengzhou top 1<sup>st</sup> among the 7 pilot cities.

### **c. Shenzhen Setting up a Special Account Only for Cross-Border E-Merchants**

To meet the needs of CBEC import operation, Shenzhen Customs has set up a special account only for cross-border e-merchants. Work such as recording, bonded supervision, classification, list review will be done in advance, which will be the management mode for CBEC.

Referring to the operation feature of bonded portal zone, Shenzhen Customs has streamlined some parts of operation. For example, when individuals are dealing with import clearance, companies in the bonded portal zone can apply to the customs for being a guarantee. So the customs doesn't need to collect tax on the goods going through the whole process and release the goods fast. Then, a certain time later, the guarantee company will collect all data needed and pay tax to the customs.

## **1.3.4 Issue Analysis under the New Supervision Mode**

After some time practice of pilot cities, China Customs has identified some problems:

### **a. Uncertainty of the Property of Tax**

Under the online bonded import mode, goods are treated as cargoes while entering the board and as articles while being sent out of bonded areas. Laws applied to levying taxed have no clear boundaries. Strictly, imported goods via CBEC are cargoes. CBEC imported goods under the mode of B2C have some different features with traditional trade cargoes. First, one of the main parties of the trade is individual consumers, and the goods will be delivered directly to consumers without involving in domestic market and circulation; second, most of the goods imported via CBEC are consumer goods, not industrial production materials, without any added value for processing. So, we can say that goods traded via CBEC have already affected the classification of cargoes and articles according to the theory from China's Customs Law.

### **b. Obscure Classification Rules for Trade and Non-Trade**

Import and export goods are classified into two types, cargoes and articles, according to China's Customs Law, with different clearance and tax collecting modes for each type. All of this consists of the basic frame for management objects of the Customs Law. Cargoes emphasize more on trade, and articles emphasize more on self-use and proper number. Under the mode of CBEC

pilots (especial under B2C mode), goods, most of which are consumer goods within proper number, will be delivered directly to consumers without involving in domestic market and circulation. They seemingly share the property of articles, but actually they are cargoes traded by CBEC. The unclear boundary between cargoes and articles has already affected the definition for cargoes and articles of Customs Law, arousing lot confusion over whether imported goods through CBEC should be classified to cargoes or articles.

### **c. Complexity and Uncertainty of the Objects of Supervision**

Under the CBEC mode, the traditional circulation mode of “import-wholesale-retail” will be of import step. The e-commerce companies, logistic companies and payment companies, even China’s 620million citizens are involved in trade. So all the parties involved in CBEC are the potential objects of supervision. In CBEC, individuals become the main party of the trade, which will cause a change of administrative counterpart of supervision department from import companies specializing in foreign trade into individual consumers. Individual consumers have less knowledge about related laws, privacy awareness of their real identity and location and the anonymity character of the internet, which causes some problems for supervision departments, such as how to define their objects of supervision, how to supervise efficiently and how to levy tax.

Because of the above three items, some people can take advantage of cross-border online shopping, split their goods to small parcels and sell them illegally. However, supervision departments cannot disclose or affirm such illegal sales because of inadequate supervision and incomplete delivery information.

### **d. Difficulties in Identifying the Property of Trade and the Lack of Supervision over a part of Outbound Trade**

In CBEC, the origins of goods, sellers, buyers and online trade payment platforms can be in different countries and regions. Besides, the requirement that outbound e-merchants have to register or set office in the local and the practice of areas under special supervision add to the complexity of main bodies of cross-border trade, which has triggered considerable controversy over the identification of cross-border trade in CBEC. Under the current online bonded import mode, companies including e-merchants and logistic companies should register in the local, and should connect themselves with information system of management departments of the government. Because of differences in laws, policies, techniques and languages, portal management departments including the customs have a lot of difficulties in connecting with overseas electronic trade platforms. To sum up, constricted by region and supervision techniques, management departments can’t efficiently supervise cross-border goods traded through outbound e-commerce website.

#### **e. Different opinions about tax policies under the online shopping bonded mode**

Based on each pilot city's actual situation, two modes, direct purchase import and online shopping bonded import, are formed. Online shopping bonded import mode means that a batch of goods enter an area under special supervision and then will be distributed as parcels to in-bound citizens. Concerning this mode, there is discrepancy over levying personal postal articles tax. Because companies have doubts about the policy for online shopping bonded import, they haven't tried their best in pilot business, restricting the scale of CBEC pilot business.

### **1.3.5 Suggestions**

#### **a. Cooperation Between the Customs and Other Departments Should be Strengthened**

Coordination among management departments such as customs, quality inspection and industry and commerce ministries of APEC economies should be strengthened. The current lack of information sharing system for these departments has caused some problems for cooperation. Technique problems should be solved as soon as possible, the integrated supervision mechanism should be improved, an integrated electronic network should be established, and a customs supervision mechanism with control should also be established. Cooperation with other departments can improve the efficiency of customs supervision and lower risks, reducing supervision mistakes to the least.

#### **b. About Setting the Tax System for CBEC**

At present, because China's classification of cargoes and articles, different tax system and clearance process have brought a lot troubles to the supervision and tax collecting of the customs. There are some suggestions about how to set the tax system for CBEC.

The development of CBEC makes the boundary between cargoes and articles unclear and brings difficulty in defining trade and non-trade. From an international point of view, most countries in the world haven't levy different tax on cargoes and articles, which means there is no personal postal articles tax. However, CBEC is emerging, and the government is supporting the development of CBEC, hoping it can drive domestic consumption and promote the transformation and upgrading of industries. Since canceling the personal postal articles tax, which is against the current policies, is impossible. So, increasing the personal postal articles tax is a better solution, which will improve the fairness of paying tax. An increase in personal postal articles tax will not only have no big effect on the business of CBEC, but also can stimulate e-merchants to make more efforts to better manage every part of their service, such as improving logistics, goods quality and user experience.

Besides, not only the tax on cargoes and articles are different, but license management is also different. So, in the future, if the tax type will be changed into the same, license management should also be considered.

## 2. Risk Prevention and Control and Service for the Tax-Free Part of CBEC

### 2.1 Improving Supervision over Prohibited Articles, such as Drugs and Firearms

#### 2.1.1 The Informatization of Mail/Express Management<sup>18</sup>

The fast development of CBEC has increased the quantities of cross-border mail and express, which brings huge challenge for the traditional clearance mode of the customs, such as lag in technology and short of hands. Because of the increased difficulties the customs are facing, customs of different countries need to speed up the informatization of management to better control risks and improve the efficiency of clearance.

##### a. Customs Supervisions have been Stimulated by Board-Entrance Risks

In a long term, customs supervision over postal articles is by manual work, which is of low efficiency. As the supervision work increasing, manual supervision cannot meet the needs of fast clearance and high efficiency. Also, the current clearance system for postal articles cannot get the electronic information of the articles from logistic companies, which disables the customs to track the postal articles. Besides, because of lack of technology and information system, officials have to supervise cross-border articles based on their personal experience. When supervision work is huge, the situation will get worse as officials have to make decision very quickly. All these problem bring difficulties in improving the efficiency of postal articles supervision. Actually, postal articles have already become a big problem for the supervision over prohibited and limited articles. According to the statistics from SKY-NET, among the 940 cases from 38 countries about prohibited and limited articles, 723 cases, which accounts for 77%, relates delivery<sup>19</sup>. All these urgent problems need to be solved by informatization, such as setting a post clearance system to promote development.

##### b. A Post Clearance System to Improve Supervision Efficiency and Create More Convenience

The customs need to set up a post clearance system in order to share information and data with post offices. Besides, Customs supervision process should be improved and standardized to coordinate with post process so as to improve the efficiency. The manual work mode should also be changed, and more information technology should be brought in to realize the informatization of the whole clearance process. At last, there should be a risk control mechanism for postal articles

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<sup>18</sup> Refer to the documents provided by Guangzhou Customs during Guangzhou meeting, 2015 Joint WCO-UPU Customs-Post Workshop, 2015.5.19, Guangzhou, China

<sup>19</sup> Joint WCO-UPU Customs-Post Workshop, 2015.5.19, Guangzhou, China.

under the informatization supervision mode to ensure safety at the same time keeping fast.

Regarding the utilization of CBEC, customs of different countries should fully analyze risks and utilize cloud computing and other advanced technique, including “big data”, to effectively supervise e-commerce, control the operation process of CBEC and collect and record data.

### **c. Supervision Informatization will Help Prevent and Control Risks and Improve Efficiency**

When postal process can be managed by customs in different countries through computer, data interface for supervision can be set to track the whole post process and check at any time. In this way, the source of the mailed articles can be retraced, and the responsible person can be found out if there is any illegal activity relating the articles. Informatization post process will strongly support the supervision over smuggling, terroristic dangerous stuff, scarce things and articles that infringe intellectual property right. In this way, the customs supervision can get its target more effectively, especially the supervision over drugs and guns. Take the customs of Guangzhou, China as an example, Guangzhou Customs has realized supervision informatization, and only in the year of 2014, they have discovered 140 cases of smuggling, more than 200 cases about infringe intellectual property, 16 cases about scarce things, and 13 cases about guns, which is a great achievement.<sup>20</sup>

In addition, the parameter management function can enable customs to release low-risk articles within 5 minutes after declaration, which improves efficiency a lot. At the same time, an operation quality requirement in process management can supervise all the operation of all the officials. In this way, the operation process is totally under control, which will reduce risks caused by operation and control risks effectively.

### **2.1.2 Cooperation Between the Customs and Post Offices Should be Strengthened to Ensure the Safety of Postal Articles<sup>21</sup>**

As unsafe mail channels become a more prominent problem and more risks in deceptive information, drugs and terroristic dangerous stuff, the customs, post management departments and post companies have to make joint efforts to improve coordination mechanism and strengthen cooperation.

First, the customs and postal offices can set cooperation mechanism at different levels. For example, Guangzhou Customs and Guangdong postal company share information with each other by regular meetings. Both of the two sides conduct effective measures to improve the safety management of postal articles, and matters they agree on are recorded in meeting minutes, which they have to fulfill. Meanwhile, the post management department of Guangzhou Customs and the operation department of the postal company have established a coordination meeting mechanism.

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<sup>20</sup> The Report Provided by Guangzhou Customs in 2015 Joint WCO-UPU Customs-Post Workshop, 2015.5.19, Guangzhou, China.

<sup>21</sup>The Information is Collected from the Report of China Customs and China Post During Guangzhou Meeting, 2015 Joint WCO-UPU Customs-Post Workshop, 2015.5.19, Guangzhou, China.



They can have meetings at any time if necessary, which will greatly improve the safety management capability.

Besides, the customs and postal offices of every member economy should better manage the source of post. They should regard the management for post source as an important part of safety management. Postal companies also need to carefully examine the sending and receiving of postal articles which will cross the border and strictly obey the real-name registration rule. And for border entering post, postal companies ought to try to contact the foreign postal companies to standardize declaration. By written Customs Notification, the customs can clarify things that are prohibited to be delivered and mailed, and also clarify the responsibilities.

At last, countries have to diversify training channels. The customs and postal offices should pay much attention to improving service by training. The customs can introduce to postal companies their regulations about post supervision, so as to improve post officials' identifying ability for high risk post. Also, the customs should invite postal companies to introduce their postal business, making customs officials familiar with postal operation.

### **2.1.3 Improving the Management Policy System and Promoting the Fulfillment of Policies**

#### **a. Setting up a Multi-Level Supervision System for Cross-Border Online Shopping<sup>22</sup>**

After study the regulations and laws about CBEC issued since 2004, it can be seen that the current supervision principle is moderation, which means the precondition of supervision is promoting the development of CBEC and encouraging innovation. And supervision mechanism is still the traditional external multilevel supervision. However, as the development of cross-border online shopping, supervision system should be improved further. The target is to establish a multi-level supervision system, under which the inside and outside, governments and the industry, supervision and regulation, and universe and specificity can integrate. Particularly, the mechanism of "triple security", government supervision, industrial supervision and social supervision, should be improved to adapt to the fast development of China's cross-border postal business.

#### **b. Speeding up the Improvement of Social Credibility Supervision Mechanism and Cross-Border Retrace Mechanism**

Concerning CBEC goods, China Customs has set up quality complaint and supervision channels, such as 12345 telephone hotline and specific mailbox to collect quality complaining information about imported online shopping goods. The customs will public sub-quality goods and prohibited goods on its website. Especially under C2C mode, personal information should completely match the information on the online shopping platform, and there should be heavier punishment for illegal sellers while reducing government supervision costs. Cross-border logistics, transferring

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<sup>22</sup> China CBEC Research Report 2012-2013, Paper by iResearch.

companies' credit rating and "white list" mechanism for obeying laws should be brought in and illegal cross-border post should be investigated and held accountable.

### **c. Setting the Standard Operation Process (SOP) for Postal Articles Supervision**

As the customs are supervising goods rather than human, external factors are very few. So, it's more suitable to set the SOP. Post supervision operation should strictly meet standards, personal judgment should be regulated, and the operation that depends on frontline officials' personal judgment should be reduced to the least.

### **d. Setting up Risk Analysis for Post Supervision and Follow-Up Check Mechanism**

On one hand, information collecting should be strengthened at the beginning stage, and risk parameter of cross-border online shopping and overseas purchasing website should be included into the information research scope. There should be risk analysis and comparison for the post source, type and weight, so as to decide the supervision priority.

## **2.2 Improving IPR Management<sup>2324</sup>**

### **2.2.1 Collaboration with Right Holders**

The primary difficulty regarding intellectual property right (IPR) is the judgment whether a product has infringed IPR. The unclear and lag judgment standard always causes risks. Limited of the knowledge over diversified import & export products, customs cannot manage IPR efficiently without the help of IPR experts. So, cooperation with the IPR holders becomes very important. Customs of countries can work together to set up an IPR consulting group. Then, they can have meetings with IPR holders regularly to formulate and update judgment standard for IPR management. By exchanging and share practice and cases, IPR management efficiency will be improved. For their own benefits, IPR holders will be motivated to attend such meetings to help customs manage more efficiently, realizing win-win.

### **2.2.2 Capacity Building**

Because of the variety of IPR, customs of countries should organize exchanges and training regularly to train reliable professionals who specialize in IPR laws and practical operation. Such professionals will be responsible for IPR management, thus highly improving supervision efficiency.

### **2.2.3 Developing Tools & Instruments**

Customs can build an assistant information system to distinguish quality goods and counterfeits. The product database of this system includes the features and judgement standards for all kinds of products. When there is difficulty in judging, the product can be "connected" to the IPR holder, achieving real-time efficient supervision.

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<sup>23</sup> Join hands together and stop counterfeiting, Paper by China Customs Guangzhou, 2015 Joint WCO-UPU Customs-Post Workshop, 2015.5.19, Guangzhou, China.

<sup>24</sup> IPR-WCO's Response, Paper by P.N.Pandey, 2015 Joint WCO-UPU Customs-Post Workshop, 2015.5.19, Guangzhou, China.

## IV. CBEC Efficiency would be Enhanced by the Cooperation Between Customs and Trade Union

During the APEC conference of 2015, China Customs conducted a survey to APEC economies on CBEC, 21 members of the economies received a total of 13 valid questionnaires. Only two of these economies, namely, 15.4% of them have cooperation framework between administrative departments and CBEC service enterprises, that is only these two economies' government administrative departments have reached relevant agreements with e-commerce platform and logistics enterprises. Besides, only 3 economies require the cross-border e-commerce service enterprises to submit data information, accounting for only 23.1%. By now, It can be said that formal cooperation and data information shared between government functional departments and the trade union are very limited. In fact, cooperation of government functional departments and trade union would have a great help to promote the efficiency of CBEC. Thanks to such cooperation, China is now enjoying a rapid development<sup>25</sup>

### 1. Enhancing the Cooperation between Customs and Logistics Industry

#### 1.1 Cooperation between Customs and Logistics Industry

Framework of Standards on Secure and Facilitate Global Trade which was promulgated by the WCO in June, 2005 has clearly pointed out: All customs should establish partnerships with enterprises to ensure that they could be involved in the work to guarantee international trade supply chain security. Since then, China Customs have actively promoted the attempt of cooperation with the enterprises. At first, many directly competent customs of China and enterprises have signed a cooperation memorandum of understanding (MOU) to achieve the goal of major management of customs, self-management of enterprises and co-management of society, establishing a regular contact channels and consultation mechanisms to strengthen exchange of information and focus on coordination and specialty survey; Secondly, China Customs implement the system of classification management and regular publication of "black&white list" of enterprise, hoping that they could take different management measures and advocate compliance and facilitation based on enterprises' credit record,. In addition, China Customs are also committed to standardize the import and export action of logistics enterprises, and make requirement on their self-control mechanisms as well as regulate them. Besides, customs districts, such as Tianjin, Shenzhen and Hangzhou have established the "big customer" cooperation

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<sup>25</sup> Data from "Questionnaire on the APEC Cross-border E-commerce"

mechanism with large law-abiding enterprises, and also set up customs' "coordinator", "commissioner" that are responsible for one-to-one communication with the enterprises, to realize the interaction between customs and enterprises.<sup>26</sup>

Up to the September 1st 2014, the pilot project of China Customs CBEC have been implemented on about 550 registered enterprises, among which, there are 40 logistics enterprises, 26 storage enterprises, 8 declaration enterprise, and China Post, SF, FedEx, DHL, STO, ZTO, YTO, YanWen logistics enterprise have participated in test operation.<sup>27</sup>

## **1.2 The Efficiency and Safety Problems of Logistics Enterprises in Cross-Border Logistics**

### **1.2.1 The Fundamental Issue of Cross-Border Logistics is Policies**

At present, the development of cross-border logistics industry is still at its preliminary stage, customs policy, commodity inspection policy, tax policy and other policies are not clear enough, also the policy environment is not perfect. Many logistics enterprises in the attempt of cross-border logistics field has gone the wrong way which affected the safety and efficiency of cross-border logistics. Customs may ensure and detail current customs policy and future policy trend through the open platform, and direct the logistics enterprises how to fulfill business regularly, while logistics enterprises avoid deviation of enterprise strategic development through actively cooperation, and strengthen the prevention and control of security issues effectively while promote efficiency.

### **1.2.2 Logistics Informatization Issue**

The process of cross-border logistics transportation includes that of domestic and overseas. Thanks to the rapid growth of e-commerce business in recent years, Australia, Canada, China, United States and other economies have entered a very high level of domestic logistics informatization, but some economies' overseas logistics informatization could not match with that of the domestic. Poor links of information system between domestic and overseas delivery is the main cause of impeded logistics in busy seasons. For example, cross-border logistics often use the parcel posts with lower price, which is unable to effectively track the goods. In addition, some new international logistics lines cannot satisfy the all-the-way tracking problems either.<sup>28</sup>

In the process of delivery, customers could not fully understand whether the goods are loaded into ships or in transit. Such kind of "opaque" caused by the information asymmetry between the supply and demand sides not only makes the lower satisfaction, but also makes the logistics enterprises themselves lose safety monitoring of the logistics overseas, and also lead to the

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<sup>26</sup> Liao Baiyan. Some Ideas about Customs and Business Partnerships [J], Market Modernization, 2012(33):113-114

<sup>27</sup> Data from General Administration of China Customs, May. 8<sup>th</sup>2015.

<sup>28</sup> Li Xiangyang, The Development Path of CBEC Logistics. [J], China Business and Market, 2014(10):107-112

docking problem between customs and logistics enterprises when they cooperate with each other. Besides, failing to share the logistics information and data to optimize safety supervision and efficiency in some ways limits customs' way to trace foreign criminal gangs and crack down on cross-border smugglings. The logistics of CBEC need more professional information technology support.

### **1.2.3 Long Period Cross-Border Transportation and Delivery**

According to Focalprice's customer satisfaction survey, most customers have grumbled about the CBEC, mainly because of the logistics, and long time delivery period was the key point of customers' complaints<sup>29</sup>. Characteristics of cross-border trade make the industrial chain and links longer, plus the period of customs clearance and commodity inspection, all of these led to logistics period of CBEC far longer than the period of domestic e-commerce. In terms of cross-border logistics, time has become the bottleneck of enterprise development, and customs clearance is the main point of logistics distribution period. Although customs are committed to improving the efficiency of clearance, they must hold the baseline of safety supervision. Subject to the limitation of unilateral information, customs clearance time depends largely on the accurate and integrity of logistics information and the result of qualified commodity inspection. Therefore, the lack of cooperation mechanism between the customs and logistics enterprises and commodity inspection authorities has become a major barrier for transportation and delivery period.

### **1.2.4 Logistics Issues of Refunding or Exchanging**

The logistics of CBEC have multiple of links and wide ranges. Each node of the whole logistics chain would produce Return logistics, and it becomes a big problem restricting the development of CBEC. The characteristics of CBEC and consumption habits of return goods without reasons result in a high return rate. A series of problems, such as long logistics period, products quality issues, the loss of products, the risk of customs and commodity inspection and wrong shipping address would have led to the Return logistics. An important feature of Return products is that the items need in and out of the customs clearance twice, and due to the necessity of prevention and control and insufficient information, sometimes the customs need to recheck, and all these things increase their workload and reduce efficiency virtually.

## **1.3 Supervision Efficiency would be Promoted by the Cooperation of Customs and Logistics Enterprises**

### **1.3.1 Better and more stable policy environment and guidance Given by Customs**

At present, the legal environment of cross-border logistics is still in its initial stage. Logistics enterprises need a beneficial and stable development policy of customs clearance. Only the stable

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<sup>29</sup> The information was gathered from Focalprice company's customer satisfaction survey

policy direction can keep cross-border logistics develop in a sustained way, and avoid dislocation of enterprises development strategy which caused huge losses. Stable and favorable policies and guidance of customs will give the logistics enterprises greatest confidence and also will benefit the express companies. Meanwhile, these will make the development of logistics enterprises become more standardized and more reliable and reduce the logistics enterprises' risk of safety. The customs also can simplify the supervision of enterprises which have effective control measures, thus making the cross-border logistics more efficient, more convenient and more secure.

### **1.3.2 Logistics Enterprises Need to Contact with Customs Actively for Data Transmission**

Facing with the current situation of “decentralization” information flow and “fragmentation” logistics that CBEC brings, logistics and information flow's connection has been cut off and the supervision and investigation of illegal smuggling act appears their vulnerability, thus expanding the risk of smuggling continuously. Meanwhile, with the rapid development of CBEC market, overseas shipments dramatically increased and customs not only face up to large regulatory pressure, but also affect the effectiveness of customs clearance and supervision of tax evasion and prohibited goods. Therefore, customs need active connection of logistics enterprises to promote the efficiency of supervision. The logistics enterprises connect with EDI system of customs, and transmit the high-quality product logistics information that formatted in accordance with the standard of EDI system to help customs supervise effectively. Also logistics enterprises need to pre-declaration, namely, the full specification electronic data must be submitted to the destination customs before the goods reached. So the customs can effectively carry out risk assessment and tax assessment to improve the efficiency of customs supervision, such as: U.S. customs “24 hours before shipment manifest declaration rules”. This rule stipulates that the declaration must be accurate. First, detailed description of the goods, according to the regulations, general descriptions like: “freight to fall kinds”、 “general cargo” and “said to contain” could not be accepted by U.S. Customs. Also the general descriptions like: “chemicals” or “food” are rejected. Second, the rule also has strict requirements about disclosure of consignee and consigner. Declaration shipper must provide the full name and address or customs get the acceptable confirmation number, the full name and address or confirmation number of the consignee, the owner or his agent according to ACE (auto mated commercial environment). When the consignee is "to order", on in such cases, the customs do not require the name of consignee to be included in the submitted information. Any shipping bill that original information has been changed would affect the goods risk assessment and carry out the inspection of the goods<sup>30</sup>.The resulting first line of defense of U.S customs supervision has greatly strengthened the U.S. customs supervision and clearance

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<sup>30</sup> Data from the United States customs 24 hours before shipment manifest declaration rules, Nov 29<sup>th</sup> 2010

efficiency. Besides, the improvement of clearance efficiency also promotes better and faster development of logistics enterprises.

### **1.3.3 Further Cooperation of Customs and Logistics Enterprises**

Faced with the need for mutual relationship, customs should establish a closer partnership with the import and export logistic corporations. Customs could build data information platform of logistics enterprises and the enterprises could unified access by the specification standards of logistics information. Meanwhile, customs also can set up the long-term cooperative logistics enterprise data analysis and credit evaluation. The supervision model of enterprise unit、equal value of enterprise and cargo have been applied. This new mode of supervision certainly will be superior to the traditional model of average force and average distribution of resources. The fine management should be carried out in enterprise unit、clear goal、simple and convenient、key points stand out. According to the enterprises' credit situation to implement differential management will help customs to achieve effective supervision and efficient operation simultaneously and greatly improved the efficiency of customs clearance.

The cooperative relationship between customs and logistics enterprises, on the one hand, customs provide convenient and efficient measures for the enterprises which have internal risk control and credit rating and high level of logistics information to save unnecessary time consumption and promote clearance efficiency and relieve the pressure on-site supervision and save human resources and management resources. On the other hand, customs could enhance supervision of internal risk control、low credit rating enterprises and low criterion of goods logistics information, and enhance the supervision ability of customs effectively and lower the regulatory risk. In addition, the cooperation between the two sides can strengthen mutual understanding; customs can increase the logistics enterprise training efforts to make the logistics enterprises deeply understand the policies and regulations and the latest dynamic requirements of customs and cultivate credit and self-disciplinary awareness of logistics enterprise. These enterprises should operate in accordance with the law to relieve the pressure of customs port supervision and serve for the frontline of law enforcement officers, which integrate efficient customs clearance and strict supervision organically. Meanwhile, customs turn to build a service-oriented customs and centered on improving the administrative efficiency and service level. Also customs should understand the needs and difficulties of logistics enterprises in time and provide relevant one-stop services, formulate more comprehensive and reasonable clearance policies and regulations to provide convenience for logistics enterprises customs clearance.

Logistics enterprises should actively cooperate with the customs to fight against arms and ammunition and smugglings and other contraband which related to buyer, contraband, seller, etc. Meanwhile, customs will immediately arrest and inspect the sellers when they investigate and deal

with contraband through clearance supervision, and release and distribute the goods in the process of monitoring to flush out the buyers and arrest them. To destroy the whole smuggling chain, the actively cooperation of logistics enterprises is needed: helping the customs to catch illegal smuggling gang and focus on the interests and security of the state and citizens. However, some logistics enterprises only handed up the contraband to maintain their own interests instead of cooperating with the customs to arrest smuggling gangs, which is actually a kind of illegal smuggling and also hurts the interests of their own. In fact, the cooperation between customs and logistics enterprises is in a win-win situation. Drugs, firearms and other smuggling cases are not only a big threat to national security, but also cause huge losses to the logistics enterprises. Cooperation between the two sides is conducive to fighting against illegal smuggling and maintaining world security and civil rights.

## **2. Strengthen the Cooperation between Customs and CBEC**

This section mainly focuses on the cooperation between China Customs and CBEC enterprises.

### **2.1 Present cooperation between customs and CBEC enterprises**

To promote new measures of CBEC experimental units, China Customs has established a linkage operation mechanism in its internal departments and clearance, and allocated human resources rationally through building a highly efficient, reasonable and scientific customs clearance system. Then further strengthening the communication and cooperation with e-commerce enterprises and mastered the enterprise needs and industry operation rules a timely manner. And according to the e-commerce import and export business's volume, flights, trains, shipment and other details in cross-border trade, customs should formulate detailed work plan and cooperate with the e-commerce enterprises to promote healthy and orderly development of CBEC.

Up to September 1<sup>st</sup> 2014, 550 import and export enterprises have been recorded at the CBEC import and export pilot area, including: 401 e-commerce enterprises, 52 e-commerce platforms and has completed 63294 items of goods. The well-known enterprises Amazon, eBay, Vipshop, DinoDirect, Tmall HK, Jingdong, Qu days, Japan Kenko have participated in the test operation<sup>31</sup>.

### **2.2 Mutual Demand Analysis and Cooperation of Customs and CBEC Enterprises**

#### **2.2.1 Aspects about Tax**

##### **a. Duty Ceiling is So Low that Need to Adjust Conditionally**

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<sup>31</sup>Data from General Administration of China Customs. May 8<sup>th</sup> 2015



China Customs agency has promulgated a series of regulations to adjust the duty on imported goods in recent years. The original stipulation of import express samples and advertising materials that tax exemption under ¥400 will be canceled, and the personal items which import duty at ¥50 (including ¥50) should be exempt

Earlier, China Customs collected import duty of personal items by 1994 issued regulations and the maximum amount of exemption is ¥500. The new regulations make the individual cross-border mail items duties shrink nearly 10 times, which have a huge shock on cosmetics. According to “Entry passenger’s baggage and personal postal articles dutiable price list” that issued and implemented by China Customs, dutiable price of each cosmetics is ¥100 and the tax rate of cosmetics is in commonly 50%. Express entry a bottle of perfume will exceed the limitation of ¥50, so consumer need to pay the import duty in accordance with the standard of dutiable price multiplied by the 50% duty rate. When consumer is buying cosmetics, he must take at least ¥50 import duties.

Research Group survey found that non-refundable credits of each [member economies](#) are not the same, such as: Korea, the value of personal and corporate samples which less than \$100 would be duty free; Duty allowance of Japanese customs is \$130. As we can see, with Chinese consumption rising, ¥50 duty exemptions are clearly no longer appropriate. After the introduction of new regulations, purchasing goods of petty trade through CBEC would easily exceed the limits and must be declared and pay customs duties. Therefore, a series of complicated procedures and cost increases, and will become new economic costs of consumers and online retailers. In addition, unqualified product declaration also cannot be cleared by customs which would lead to a phenomenon of overstocked products; consumers are often unable to receive the goods or delay in receiving.

Because of the characteristics of webified, fragmentation, immediacy, CBEC cannot apply in tax regulations of common import goods, so simplifying tariff and withholding the duty by e-commerce enterprises are the right way. We suggest on the basis of current Chinese imports duty and weighted average the tariff, VAT and consumption tax, two line appropriate duty rate could be set up respectively for CBEC goods that can be divided into ordinary commodities and luxury products. At the same time, we also suggest that duty by certified e-commerce could be withheld in order to shortcut clearance. Each deal will generate a QR code including name of commodity, price, tax, e-commerce enterprise and consumer information after the tax money into the Treasury. The QR code could send to the logistics enterprise by the e-commerce company and then be printed on the outer packing of delivery. When the delivery goods enter the border, customs can obtain the commodity information through scan QR code to achieve fast clearance.

## **b. Tax Unfairness and Related Aspects**

According to existing policies of CBEC pilot cities, domestic enterprises can carry out “bonded in, personal postal article out” import business through customs special supervision area, and general trade import goods treat the contract price as a tax basis; and for the goods imported by CBEC, customs will collect personal postal articles tax according to online retail prices. Same goods would appear huge taxes differences and the actual tax injustice through different ways.

Online bonded import mode and CBEC platform has been running for more than a year in the pilot cities. Due to the dispute of personal postal articles tax of original goods after they enter into the customs special area, the mode has been affected and some provinces and cities are not approved to join the pilot. These ideas should be changed: personal postal articles tax collection of bonded import purchase and direct import purchase will impact on the same goods with goods channels entering and also affect domestic taxes. But overseas online shopping platform has the characteristics of “traceable origin, Verifiable direction, controllable risk and hold accountable”, all of which characteristics could effectively protect the national regulatory policy, tax benefits and consumption safety, and prevent the contraband goods entrance and personal goods used for commercial purpose. However, both overseas purchasing and overseas online shopping have so many mess affairs in these aspects. Facing the dilemma, policymakers should seize the main contradiction and strive for legal support, and expand the use of CBEC platform.

### **2.2.2 Single Window Construction Needs Further Improvement**

Within the APEC economies, a few member economies have formed mature single window mode. For example: Singapore and U.S. have adopted two different patterns. Singapore adopts the “public platform” mode in the single window construction to enable data collection and feedback. The enterprise can seek approvals from different government departments by lodging a single permit application through the Single Window System, TradeNet<sup>®</sup>. Where applicable, the permit application would be processed by the relevant government department which controls trade in the item. The processing outcome of the permit application would be returned to the applicant via TradeNet<sup>®</sup> for follow up. The U.S. “Single system” mode, only collect and distribute relevant electronic data of international trade, and data sent to various government departments for business processing.

Other member economies such as Sweden adopt a “single agency” mode, that is, by setting up an agency to deal with the import and export business, the system will carry on business processing directly after receiving the data of enterprises’ import and export trade.

China’s first international trade “single window” has been applied in Yangshan port bonded area of Shanghai free trade zone. The window is a collection of customs, inspection and quarantine, maritime affairs, border control, port services and other kinds of services, which is conducive to the supervision efficiency of government departments. It also reduces the duplication

of declaration documents and data errors, lower the integrated logistics cost of trading and transport enterprises.

There is still a certain gap in China electronic port development present situation and requirements of the “single window”. The coordination and data sharing among multiple authorities in Shanghai free trade zone has not been fundamentally resolved, clearance facilitation needs have not been satisfied. Therefore, in the process of “single window” construction, China should communicate with the APEC economies to learn the experience and solve the technical problems. The construction of single window can significantly improve the efficiency of clearance, plan to carried out among the members and promote the development of multilateral trade.

### **2.2.3 Construction of EDI Electronic Clearance port**

#### **a. Fragmentary Standard System**

Chinese EDI electronic port construction is still in the initial stage, there are some information communication and sharing systems among Ministries and commissions who have involved, but the data standard system has not been formed. For example, customs give 10 digits as the number of data code, while State Administration of Foreign Exchange only gives 9 digits, other units also has different code. Up to 2015, the construction of electronic port has not yet formed a unified data standard and parameters, which will inevitably has a greater impact on the electronic port data standards and information sharing efficiency. At the same time workload of information-processing personnel and enterprise increased, the efficiency of clearance have be greatly reduced and the probability of mistake intensified. All ministries and commissions need to communicate and cooperate with each other as soon as possible to achieve a unified standard and bring convenience for customs.

#### **b. Information Security**

Chinese electronic ports logically segregate the departments and enterprises through the way of “one-point access” and add multiple protective measures in the process of public data storage and transmission to ensure safety and effective operation of the entire network. But, due to the double edge of information technology, the electronic port platform easily becomes the objects of criminal attacking and destroying. The loss of information on the electronic port platform and clients privacy would cause serious potential security problems. This is also the weakness that other members should pay attention. To establish a safe and effective EDI customs clearance system, import and export information of countries is needed and strengthened international cooperation. Organizing the professional and technical personnel prevent the malicious acts of criminals.

### **2.2.4 The New Manifest System**

According to No.172 regulations of General Administration of China Customs, the new

measures for transportation facility of entry and exit have been enforced since 2009. The new manifest systems concatenate and confirm the original import manifest, pre-export manifest, export loading manifest, arrival report, tally report, split application, allocated application, distributed application, re-booking application and delivery application of enterprises to achieve the full supervision of the logistics link for import and export goods.

Due to the strict requirements of customs on pre-distribution manifest data in the process of manifest pre-declaration, the shipping agency and the shipper need confirm the manifest data information before transmitting to the customs. And the limitation period of transmit original manifest main data to customs, which include containership 24 hours before shipment, non-containership: in the first 24 hours before reached the port of destination, no time left. Many foreign owners have no idea about Chinese manifest management measures, and limited time for the shipping agency and the shipper to confirm the information, which increased probability of manifest data mistakes and the rate of amendment. Modifying the documents seriously wasted the time of enterprises and affected the credibility of the enterprises for the punishment of money and degrades. Customs brokers and shipping agencies concerned about the punishment of modifying the cargo and sail schedule information. Actually no one could implement the manifest pre-declaration and various clearance procedures started after goods arrived at the port.

## **2.3 Customs' Specifications and Requirements for CBEC**

### **2.3.1 Improve the "Gray Zone" and Add the CBEC Code**

To promote the development of CBEC import and export retail business, customs add 9610 to the supervision method codes. The full name of this code is called "CBEC trade" and was started from February 2014.

CBEC has the characteristics of small payment but more orders; CBEC enterprises get a bit overburdened from traditional customs regulatory policy. Lack of regulations led a great majority of Chinese CBEC still in the "gray area", especially CBEC B2C enterprises whose logistics is mainly by means of air parcel, mail, express, etc. And the clearance subject is post and express companies that block trade are not included in the customs statistics. Adding 9610 to the supervision method codes is one of the specific measures of General Administration of Customs to establish a new type of e-commerce export supervision mode and carry out special statistics. This means that e-commerce will be separate management and this "Gray Area" will be improved.

The e-commerce enterprises, supervision are as operating enterprises, payment companies and logistics enterprises carrying out e-commerce retail import and export business in the way of "9610" customs supervision should be recorded according to the rules. And transfer transactions, payment, warehousing, logistics and other data to the e-commerce clearance management platform through e-commerce clearance serve platform.

Member economies could learn the practice of China's customs: set up a special channel for CBEC supervision and improve the awareness and efficiency of supervision.

### 2.3.2 Defining the Concept of Cargo and Goods, Adopting Different Supervision Program

General Administration of China Customs formally executed “Announcement of Regulatory issues on CBEC Trade of Import and Export Goods and Cargos”(in short “No.56 document”).theNo.56 document clearly distinguishes the concept of goods and cargo and adopts different regulatory scheme. And the regulation of goods will be incorporated in the system of general trade.

According to the regulations, all CBEC enterprises that doing import and export business through the platform must register at the customs, and establish and improve the electronic warehouse management system and online connect with customs. The information of entry and exit cargo and goods need to put on record to customs ahead of schedule, and the information should include 10 digit customs commodity code of cargos and 8 digit tax code of goods that customs approved.

### 2.3.3 Data submission requirements of new manifest system(uniformly formulate by APEC economies )

No.172 order “Administrative Measures of the Customs of the People’s Republic of China for Manifests of Inward and Outward Means of Transport” was issued in March 28th 2008 and came into force on January 1st 2009 by General Administration of China Customs. For this reason, General Administration of Customs developed a unified national new manifest system, which would be operate on the seaport to foreign trade, Yangshan shipping import business.

The measures stipulate that transportation carrying cargos and goods should transmit the original manifest data before limitation period. Logistics enterprises which upload data in accordance with regulations will help to improve the efficiency of CBEC clearance.

**Table 6 Time limitation for transportation manifests data upload**

transportation	containership	non-containership	aircraft(4hours below/above voyage)	train	road vehicles
limitation	24 hours before shipment	in the first 24 hours before reached the port of destination	pre-flight/Arrived at the first port of inside destination 4 hours before	arrived at the first stop of inside destination 2 hours before	arrived at the first stop of inside destination 1 hour before

( source: research and data sorting )

## 3. Cooperation between China Customs and Third-Party Payment Enterprises

### 3.1 China's CBEC Development Situation

Main cross-border remittance channels of Chinese include Third-Party payment platform, commercial banks and professional remittance companies. Research survey data show that utilization rate of Third-Party payment platform reached 50.9%. Compared to higher rates of commercial banks and limited coverage of professional remittance companies, the Third-Party payment platform could simultaneously satisfy the demand of convenience and low rates of cross-border remittance, so it becomes more and more favored.

### 3.2 Cooperation Mode and Requirements Analysis

#### 3.2.1 The present cooperation situation

Up to September 1, 2014, the import and export of pilot project of China Customs has recorded a total of 550 enterprises, including 23 payment companies, well-known enterprises: UnionPay, 99Bill, Qianbao, Alipay, etc<sup>32</sup>. The situation of Third-Party payment CBEC business is shown in Table 7.

**Table7: Current situation of Third-Party payment CBEC business**

payment enterprises	entry time(year)	services/products	service objects	cooperation/acquisition of overseas institutions	coverage area
Alipay	2007	oversea purchasing International payment bank card	domestic cardholder overseas cardholder	Japan Softbank ,PSP, On Card Payments, VISA, MasterCard	Hong Kong Macao Tai Wan, Japan and Korea, Europe and United States
99Bill	2011	International receipt	foreign enterprises	Western Union	190 countries and regions
UnionPay Online	2011	cross-border online payment	Unionpay cardholder	PayPal, Sumitomo Mitsui, Bank of East Asia and other overseas acquirers.	Hong Kong, Japan, U.S, etc.

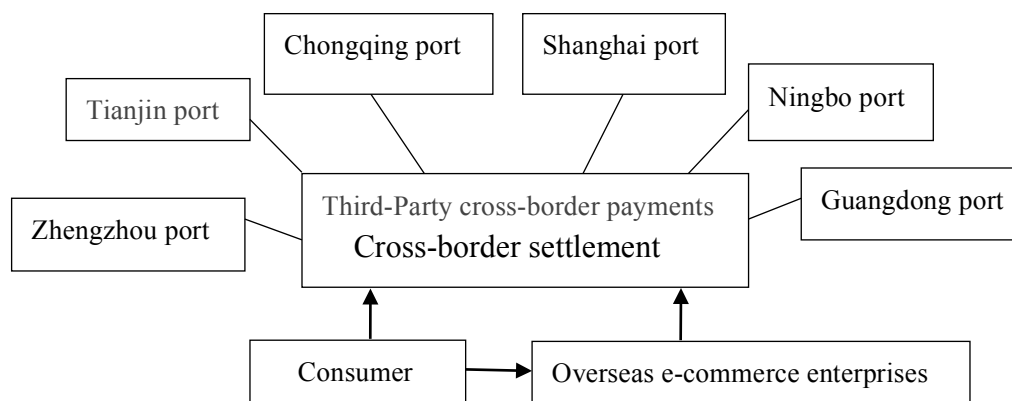
(source: research and data sorting)

#### 3.2.2 Cooperation Mode

Taking the Third-Party payment as the core of CBEC import business, the cooperation mode between China Customs and the Third-Party payment enterprises is as follows:<sup>33</sup>.

<sup>32</sup>Data from General Administration of China Customs 2015.5.8.

<sup>33</sup>Wen Fang, Yang Dongyao. The Third-Party payment as the core of CBEC imports pattern analysis [J]. China Business & Trade, 2014(26)



**Figure1.Cooperation mode between China Customs and the Third-Party payment enterprises**

The Third-Party payment enterprises directly pass the “three bills” information (payment, orders, logistics information) to the Customs and the destination Customs will release the goods after checking the “three bills” and achieving the full port clearance mode through “local reporting, offsite release”. The business transactions data of CBEC will be put into the Customs supervision system: the front-end e-commerce transaction data, middle-end foreign exchange and personal postal article tax data, terminal logistics information and consumer personal credit information and duty can be traced. This would greatly enhance the CBEC trading reputation and competitiveness and also improve the efficiency of customs clearance. This model has two prerequisites: i. General Administration of Customs has set up a unified national CBEC import platform, which also networking with customs data, just as the traditional general trade. ii. payment enterprises integrate their offline logistics enterprise.

In this mode of cooperation, services provided by the payment enterprises will support the Customs supervision in the following aspects. First, CBEC platform doesn’t need to submit the ID information. On the one hand, the customs can directly call the ID information through the real name authentication of payment information; On the other hand, it can check out whether the amount of the order is consistent with the amount of payment and further standardize regulations. Secondly, the cooperation between the two meets the requirements of foreign exchange management and avoids money laundering. The Third-Party payment assumes the role of “comprehensive network management” to integrate different bank data. Declaring the international revenue and expenditure and counting for the foreign exchange limitation of individual ID next year is strictly in accordance with State Administration of Foreign Exchange for international reporting requirements. The payment agency should submit the foreign exchange business data report on time to the foreign exchange management department, and cooperatively use the electronic form system and ensure the reliable of trading sources and data to avoid money laundering. Thirdly, avoid duplication of construct the sorting line and storage facilities, improve

the efficiency of sorting and clearance to save the Customs frontline staff. “Local reporting, offsite release” could not only ensure hardware facilities of coastal customs, but also avoid the repeated construction.

### **3.2.3 China Customs’ Demand for the Third-Party Payment Enterprises**

The construction of China Customs electronic tax payment system needs the support of Third-Party payment enterprises. The cooperation of the two parties can ensure that the personal postal article tax could be covered into the Treasury. The Third-Party payment have already withheld the personal postal article tax through the entire electronic process when consumers paid the price of goods. This act put the “overseas online shopping” postal parcels whose tax evasion through different ways into the Customs supervision and pay 10% personal postal article tax to the Treasury.

On August 10<sup>th</sup> 2007, General Administration of China Customs approved the integration program of the electronic port taxes online payment system and the Shanghai EDI electronic payment system. On the basis of retaining and absorbing the advantages of the two systems, a new tax electronic payment system is formed. The promotion of customs electronic payment system should insist the principle of customs guidance, bank dominance and Third-Party payment assistance, and pay close attention to system running situation and find problems in time and contact with the payment platform to find the reasons and report to Customs offices.

According to No.78 order of China Customs General Administration announcement, the Third-Party companies that want to participate in the construction of Customs electronic tax payment system must be approved and achieved the payment business license by People’s Bank of China. And they could follow the relevant regulations of China Customs General Administration announcement No.7 order in the year of 2011.

Besides, for the e-commerce enterprises, the Third-Party payment-centered CBEC mode can facilitate the “Big Data” analysis. The Third-Party payment can helpfully analyze the sources, sale place, low and peak seasons and marketable area of goods. The model also conform to the confidentiality require of the e-commerce enterprise customer resources. If a large e-commerce enterprise uploads information integrate with other enterprise in the same area, information of customer resources and commodity sources of other ecommerce enterprises would leak out. If the e-commerce enterprises trading and upload “three bills” themselves, the customs will face thousands of enterprises and need uncountable system ports. The use of third party payment integrates to uploading the “three bills” not only meets the confidentiality demand of e-commerce customer resources, but also avoids the waste of Customs system resources.



### **3.3 The Existing Problems and Management Promotion Measures of Third-Party Payment through the Cross-Border Service**

First, the Third-Party payment services pilot project needs further improved. In the process of payment, CBEC enterprises rely mostly on overseas payment companies. In the settlement of exchange, most business of CBEC enterprises use parcel and express and the foreign exchange administration departments of China do not recognized express courier for foreign exchange settlement. Up to 2013, Chinese first CBEC foreign exchange payment business pilot license has been issued. But there is still a lot of space in the specification of the Third-Party payment agency for the business scope, registered capital, identity verification, fund settlement, account opening, margin using and risk control problems. Besides it requires the agency to undertake the implementation of foreign exchange policy and management responsibilities and fulfill obligations.

Second, the existing problem of the Third-Party payment enterprises is the collecting tax. The supervision of CBEC personal items is mainly implemented through the control of buyers in the process of law enforcement. CBEC consumers must certificate real-name and provide identity information when shopping. After identified by the real-name system of professional financial agency, the bankcard payment information would access to the Customs office database and pass the validation of electronic payment voucher. The supervision departments not only could check the authenticity of relevant transaction information, also obtain identity information of stringent certification from payment enterprises. Therefore, treated the buyers as tax payment obligations not only keep to the existing norms of the tax payment obligations, also solve the problem of identity authentication which is conducive to strict supervision. At the same time, refer to post and express tax collection authorized by law to regulate e-commerce operators and the logistics enterprises as the withholding obligors of taxpayers to achieve tax collection effective and convenient.

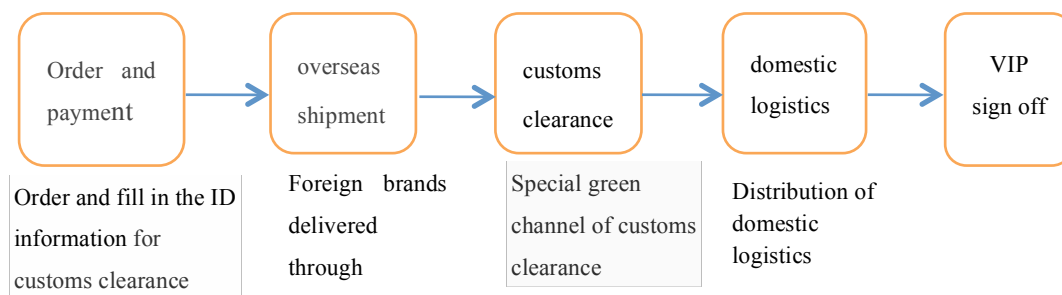
Third, the problem of electronic effectiveness listing mutual recognition is imminent. Third-Party payment enterprises directly pass the information of “three bills” to the customs, and achieve the “local reporting, offsite release” full port clearance mode. E-commerce realized paperless in the entire transaction process. In the CBEC pilot project, the Customs relying on the electronic technology audit and collect electronic data, and realize paperless through the automatic comparison between “electronic orders”, “electronic payment certificates”, “electronic waybill” and electronic declaration data. At present, other competent departments does not have mutual recognition on the validity situation of electronic declaration data. The e-commerce enterprises complete the export declaration through electronic lists and approved by the Customs and also

need the summary report of traditional" export declaration" in order to handle tax rebates and settlement of IRS and foreign exchange departments. On the one hand, this causes the twice declaration of export e-commerce enterprises and increases the cost; on the other hand, due to the procedure tedious, information data are affected after multiple transfer. Obstacles also exist in the legal force problems of electronic bills that the Customs provides in the process of CBEC import. Electronic payment enterprises urgently want other competent departments to meet the requirements of e-commerce development. Put forward new measures and methods to establish a perfect and suitable policy environment and regulatory model for CBEC.

#### 4. Customs and Industry Cooperation Cases under the Direct-Purchasing Import Mode

In September 2014, famous discount website Vipshop, 99Bill and COSCO Logistics signed the "memorandum of CBEC clearance supervision and cooperation". Vipshophave launched the first formal global express to import overseas sale business and become the first e-commerce platform docking customs with orders, waybills and payments, Realizing the highest standard of domestic CBEC market: three bills docking (three bill docking refers that the user's information will automatically generate the order, waybill and payment that customs record and check, four systems synchronizing information forming a quaternary chain management system and maximize the efficiency of process).

Vipshop website shopping process is shown in Figure 2:



**Figure2. Shopping process of Vipshop website**

User registers on the Vipshop website and fills in ID information after shopping goods. The backstage of Vipshop would deal with the orders. The payment information has been transmitted to the overseas warehouse and customs system to help the warehouse personnel to extract information and prepare to send the goods and pre-check for record. The overseas brand will deliver to domestic through international logistics. Because the customs has reviewed the "three bills" information, the goods could realize the special green channel of direct clearance (in an hour). Then the goods were delivered by the domestic logistics to the users.

收货时间	
<input checked="" type="radio"/>	周一至周日均可收货
<input type="radio"/>	只周一至周五收货
<input type="radio"/>	只周末、节假日收货
全球特卖专区 * 身份证信息仅在海关清关环节作为个人物品进境必须的凭证。按照国家隐私法规定，唯品会确保你的个人隐私权利不受侵犯。	
收货人姓名：	叶溪 <a href="#">修改</a> (请与身份证姓名一致。不能为昵称、X先生、X小姐等)
身份证号码：	<input type="text"/> <a href="#">验证</a>

**Figure3. Shopping on Vipshop website**

In the cooperation of China Customs and enterprises, the Customs can get the commodities information sent by the third party, and can review the information and due taxes of these commodities directly and accurately in advance, thus achieving efficient customs clearance and guaranteeing tax revenue through auditing. The enterprises which have submitted the commodities information to the customs for audit and record could ensure that the clearance time is greatly shortened as well as enhance users' relevant experience.

Compared with the traditional overseas online shopping, the mode of direct-purchasing and import conform to the national customs supervision policies, and its clearance operation and consumer information is also more transparent. In the meantime, under this mode, the source of goods and services will be more secured.

## V. A package of recommendations for each economy of APEC

### 1. The environment building of CBEC

Each economy of APEC could progressively enact a series of laws and regulations to standardize e-commerce, modify the existing regulatory rules, establish the legal system to regulate foreign trade and e-commerce, speed up the improvement of social credibility supervision mechanism and cross-border retrace mechanism in order to enhance its efforts in supervising e-commerce transactions and risk control.

For example:

- Chinese Taipei has amended related regulations and built contemporary legal systems to manage e-Commerce more effectively;
- In Mexico, there are different legal frameworks that regulate foreign trade and e-commerce;
- China is setting up a multi-level supervision system for cross-border online shopping

### 2. Cooperation with WCO, Customs and UPU to promote the development of CBEC

WCO may play a very important role on CBEC in the following areas.

a. WCO continues to encourage Customs to realize paperless customs clearance in line with its theme for 2016 – “Digital Customs – Progressive Engagement”.

b. Implement the WCO Immediate Release Guidelines.

c. Adopt and implement the WCO Recommendation of Dematerialization of Supporting Documents.

d. The WCO and UPU jointly build capacity of Customs and Postal Operators to exchange advance electronic information by using the WCO-UPU joint messaging standards and not spoke interfaces (substantial worldwide cost savings).

e. Actively encourage customs authorities without a postal import IT system to consider on priority establishing electronic interface with respective postal operators using suitable technology/IT systems as suited to their national operating environments, for UPU’s Custom Declaration System (CDS)s, interface between the postal operators’ CDS and Customs ASYCUDA or any other process based on the joint messaging standards.

f. Develop trusted postal customers profile based on the SAFE AEO programme and also recognizing the properly identified postal customers (identity-checked businesses, SMEs,

individuals) registered under the UPU's post Internet domain, for enhanced facilitation and service delivery.

g. Cooperation between the customs and post offices should be strengthened to ensure the safety of postal articles as well as the quality of data.

### 3. Customs should improve services, and improve customs clearance efficiency of CBEC.

With increasingly emerging cross-border e-commerce, customs of each economy should build a unified national platform for cross-border e-commerce imports, and gradually promote the global unification of this platform, make fore-end e-commerce transaction data, midrange swap and foreign exchange purchase, personal postal articles tax data, terminal logistics information and consumers' personal credit information all traceable. With the E-port platform, we realize coordination and data sharing among related government agencies, E-commerce, payment services and logistics to solve the problem we face.

Suggestions for customs:

a. Adjust customs procedures to accommodate the rapid development of CBEC and to explore the possibilities for future enforcement cooperation and capacity building.

b. Build service platform for the customs clearance of goods imported/exported through e-commerce. Providing flat form that would take information from the order details and fill the automatically declaration form on line. Collect complete data of e-commerce transactions for big-data analysis. The service platform contains e-commerce operators, forwarders, taxation bureau, postal system, customs clearance systems and agencies of other economies.

c. Simplify exporter/importer registration and power of attorney requirements.

d. Implement simplified process for returned shipments.

e. Adopt time-definite release commitments

f. Provide 24 x 7 border clearances, where possible and required by business.

g. Provide e-payment services for payment of duties, taxes and other fees/charges.

h. Establish a unified model and a single window with unified standards; promote the process of the single window.

i. Promote the construction of new manifest system. Currently, only some of the members have built the systems. Unified provisions have been made on requirements of data uploading, time, procedures, etc.

## 4. Customs could strengthen the supervision and prevention of risks for CBEC

CBEC bring a big challenge for customs supervision. Customs are suggested to use risk management to address revenue, safety and security concerns and seek cooperation with express couriers to improve targeting.

- a. Risk based approach- targeting of high-risk consignments.
- b. Transfer control based approach to trust based approach. (Simplify the supervision of enterprises which can be trusted)
- c. Transactional processing to account processing
- d. Advance electronic declaration (between Post/express couriers and Customs) for pre-arrival risk analysis.
- e. To strengthen predictive analytics capabilities and cross-border network connections, for an early detection and prevention of risks.
- f. Coordinated implementation of risk-based, outcomes-focused air cargo and mail security measures.
- g. Use risk-management strategy and develop the “Computer Profiling System” as a risk management tool to analyze and select risk indicators.
- h. Prosecution of major revenue evasion cases and publicity of such cases to create deterrence.

## 5. Strengthen cooperation of the customs and the industry

To promote the efficiency of Cargo clearance, Customs need to implement EDI electronic port and new manifest system, which all need support and coordination of the industry. To get highly-diversified information more than now, Exploring other information sources like getting specified pre-loading data from expedited shipment operators.

Customs Business Partnership include:

- Seizures from express couriers
- Cooperation with express couriers
- Collaboration with postal sector
- Request on-line service providers to “Take-down”

Suggestions for economies of APEC:

- a. Enhanced cooperation with other agencies, stakeholders, postal operators and express service providers.
- b. Exchange of information between Customs and e-commerce intermediaries (marketplaces, transporters and financial intermediaries)
- c. To enhance quality and quantity of information of advance declaration from expedited

shipment operators and others. Get information at an earlier point, and get information from much more operators.

## 6. Strengthen International Cooperation

International cooperation should be carried out in preventing and controlling drugs, IPR, guns and other smuggling crimes in CBEC. Detailed actions can be taken in the following aspects:

- a. Joint special operation
- b. Intelligence Exchange: exchange of case information
  - Source member economies
  - Multilateral enforcement cooperation
  - Destination member economies
- c. Joint Investigation: controlled delivery operation
  - Transaction syndicate investigation
  - Monitor transnational movement of offensive goods

## 7. Capacity building in law enforcement

New issues in anti-smuggling and anti-counterfeiting arising in CBEC bring new challenges to the law enforcement of Customs officers. Capacity building of their team has been mentioned on the agenda. Customs of each economy should enhance capacity building of law enforcement in human resources, materials and financial resources. Specialized team and equipment are needed in tackling electronic crime. For example,

- a. Developing On-line screening system requires high-technological equipment for screening in Internet and equipment investment.
- b. Doing computer forensic needs expert digital evidence handling team.
- c. Computer analysis and response team needs expert crime scene handling team.
- d. Electronic crime investigation center is a specialized research and training center.

## 8. Others

a. Each economy of APEC should set up and consummate the third party payment business pilot, standardize the third-party payment institution, make clear the scope of their business, registered capital, identity verification, fund settlement, account opening, using of margin and risk control, and require them to take responsibility for execution and management of part of their foreign exchange policy, and fulfill their statutory obligations.

b. Each economy of APEC should form mutual recognition on the effective state of the list of electronic declaration data to avoid that e-commerce enterprises still need to collect to declare to form the traditional "export declaration form" after they complete export declaration through the electronic listing and be approved by the customs audit, to go through the formalities for tax

rebates and settlement of exchange with national tax and foreign exchange department. Thus, to solve the problem that information authenticity has been affected because of the cumbersome process and multiple information transmission.

c. Add a separate code to monitor import and export of CBEC. Set up two columns combined tax rate of imported goods of CBEC, and set the appropriate tax rate for ordinary commodity and luxury respectively.



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