Voluntary _ Public

Date: 12/7/2016
GAIN Report Number: GR0608

China - Peoples Republic of

Post: Shanghai ATO

Chinese Government Policies Change for Cross-Border e-Commerce

Report Categories:
Trade Policy Monitoring
Approved By:
Tyler Babcock
Prepared By:
ATO Shanghai Staff

Report Highlights:
In early April 2016, the Chinese government released a series of decrees to modify the structure of cross-border e-commerce (CBEC) in China. These regulations aim to help level the playing field between CBEC and conventional trade. The changes affect the import tax for CBEC products, making them subject to tariffs, value-added tax (VAT), and consumption taxes.

Executive Summary:

In early April 2016, the Chinese government released a series of decrees to modify the structure of cross-border e-commerce (CBEC) in China. These regulations aim to help level the playing field between CBEC and conventional trade. The changes affect the import tax for CBEC products, making them subject to tariffs, value-added tax (VAT), and consumption taxes. Moreover, the Chinese government also created a "positive list" containing 1,293 items, of which about 360 are food or agricultural products, allowed to enter China through CBEC. Items not on the positive list will not be allowed entry via CBEC. The personal postal parcel tax has also changed for goods purchased and shipped from vendors outside of China. For these types of transactions the existing "negative list" of banned items is still in effect.

CBEC is a business to consumer (B2C) form of online shopping. Chinese consumers purchase overseas products online, and the goods are then shipped direct to the consumer from a free trade zone or a location outside Chinese borders. Like conventional trade, CBEC operates in two directions, with both inbound and outbound shipments. For China, outbound CBEC dominates, accounting for more than 90 percent of total CBEC sales. However, inbound CBEC has grown quickly in recent years, drawing the attention of Chinese regulators.

A Call for Fair Competition Changes Game for CBEC

On April 15, the Chinese Ministry of Finance released a notice to explain in more detail the reasons for the CBEC policy change. The stated objective of the new regulations is to ensure equal competition for imported products through both CBEC and conventional trade, as well as domestically produced goods in China. The new policies consist of several types of regulations, including tax policy, market access, and inspection requirements. Table 1summarizes the relevant decrees and their significance.

Table 1. Chinese Government Decrees that regulate CBEC

Decree Number	Issuing Department	Effective Date	Significance
Decree 18, 2016	Ministry of Finance	April 8, 2016	▪ Products traded through cross-border e-commerce platforms are subject to tariffs, value-added tax (VAT), and consumption tax. ▪ Temporarily, the tariff for all products is set at zero. ▪ VAT and consumption tax will be 70 percent of the tax collectable on the same products sold within Chinese borders. ▪ If an order exceeds 2,000 RMB (approximately $300 USD), or the accumulated value exceeds an annual quota of 20,000 RMB per person, full tax will be charged.
Decree 40, 2016	Ministry of Finance	April 8, 2016	▪ Establishes a positive list of 1,142 items that are allowed to be imported through CBEC. ▪ Products are listed by the same harmonized system (HS) codes used in conventional trade. ▪ Items not on the positive list are not allowed to enter China through CBEC.
Decree 47, 2016	Ministry of Finance	April 16, 2016	▪ Provides a second batch of 151 positive list items, by HS code.
Decree 26, 2016	General Administration of Customs (GAC)	April 8, 2016	▪ Tariff and tax of products imported through CBEC is subject to the Ministry of Finance's Decree 18, 2016. ▪ E-commerce companies or individual consumers must provide order, payment, and logistics information to GAC.
Decree 43, 2010	China Customs	September 1, 2010	▪ Authorizes China Customs to charge import tax on private parcels from overseas ▪ Tax collectable below 50 RMB (approximately $8) will be waived. ▪ The total value of the parcel may not exceed 1,000 RMB (approximately $160), unless the parcel contains only one undividable product. ▪ Decree 43 applies only to parcels imported

			for private consumption, not for business purposes.
Decree 2, 2016	Tariff Committee of the State Council	April 8, 2016	▪ Changes tax rate for private parcel products. ▪ Sets reference price for private parcel products.
Notice 1712, 2012	Ministry of Agriculture; Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ)	Feb 27, 2012	▪ Provides a negative list of animal and plant products that cannot be carried or sent via parcels into China.
Notice 29, 2016	China Customs, Administration Office	May 25, 2016	▪ The CBEC new policy grace period has been officially granted. The grace period will end on May 11th 2017. ▪ Imports of via cross-border E-commerce channels either for whole-sale bond holding or direct retail shipment in the ten pilot cross-border e-commerce cities will not be required to meet the customs clearance, import permit, registration or record-filing requirements till May 11, 2017.

New CBEC Tax Scheme Will Increase Tax on Food Items
The Chinese Ministry of Finance has declared that products imported through CBEC from the bonded warehouse should be regarded as trade and should be subject to taxes at comparable rates to goods imported through the conventional trade channel. The Ministry's new rules make goods traded through CBEC subject to tariffs, value-added tax (VAT), and consumption tax.

Tariffs: Currently, the tariff rate for all products entering through CBEC is set at zero. Zero is not the bound rate for these products.
VAT: VAT and consumption tax will be 70 percent of the tax collectable on the same products sold within Chinese borders. If an order exceeds 2,000 RMB (approximately $300 USD), or the accumulated value exceeds an annual quota of 20,000 RMB per person, full tax will be charged.

The new regulation changes the previous CBEC tax structure in which food items with a retail value of less than 500 RMB had a 0 percent VAT, and food items with a retail value over 500 RMB were charged a 10 percent tax. Now, regardless of retail value, all food items imported through CBEC will be charged 70 percent of the current general VAT rate. The current general VAT rate in China on the sale or import of goods, as well as on providing processing, repair, and installation services is 17 percent. A lower rate of 13 percent applies to goods such as paper products, food essentials, and heating products for residential use.

Table 2 illustrates this change.

Table 2. Tax Comparison on CBEC Food Items

Food Items	Tax (Before April 8, 2016)	Tax (After April 8, 2016)	Difference
Retail value < 500 RMB	0%	11.9% or 9.1%	+ 11.9% or +9.1%
Retail value > 500 RMB	10%	11.9% or 9.1%	+ 1.9% or -1.9%

Consumption Tax: Products (e.g., wine and cosmetics) that are subject to consumption tax will be subject to charge 70 percent of the consumption tax rate. The current consumption tax rate is 5 percent.

Parcel Tax (private packages): The personal postal parcel tax will also increase with the new regulation. The new tax for food items will increase from 10 percent to 15 percent. However, if the collectable tax is less than 50 RMB (about $8 USD) the tax will be waived. Items imported through the parcel system are not required to be on the positive lists. However, the previous "negative lists" of restricted items are still in effect. Tables 3 and 4 below summarize the changes for some of the major CBEC product categories.

Table 3. Import Tax on Consumer Goods via Parcels before April 8, 2016

Merchandise	**Tax Rate**
Food and drink	10%
Hides and skins Shoes and luggage Computer and camera Health care and beauty care appliances Kitchenware and bathroom hardware Jewelry and artwork Office supplies Books, videos and publication Toys Sports equipment (except for golfing) Musical instruments	10%
Clothing and textiles Watches and clocks Electronic appliances	20%
Luxury watches Golf equipment	30%
Wine and liquor **Tobacco** Cosmetics and beauty care products	50%

Table 4. Import Tax on Consumer Goods via Parcels after April 8, 2016

Merchandise	**Tax Rate**
Food and drink	15%
Computer and camera Furniture Jewelry and artwork Office supplies Books, videos and publication Toys	15%
Clothing and textiles Sports equipment (except for golfing) Watches and clocks Electronic appliances Products not included in category of 15 percent and the category of 60 percent	30%
Luxury watches Golf equipment	60%
Wine and liquor **Tobacco** Cosmetics and beauty care products	60%

CBEC Market Access Narrowed by Positive Lists and Import License

Requirements
Market access of products traded through CBEC has been limited to only 1,293 items on the two positive lists so far released by the Ministry of Finance. This includes about 360 food and agricultural items. Prior to April 8, 2016, the Chinese government used a "negative list" to delineate items banned from import through CBEC. With the new positive list in place, the number of products allowed through CBEC will be less than the number of products that are allowed to be imported through conventional trade.

Food items listed on the positive list include, but are not limited to, the following:
1. Dairy products, including fluid milk, butter, cheese, and infant formula
2. Some fresh and dried fruits
3. Preserved meat (pork and beef)
4. Select seafood products (such as oyster, sea cumbumber)
5. Rice (limited to quota of 20kg per person per year)
6. Ginseng
7. Nuts
8. Plant-based edible oils, such as soybean, peanut, sunflower, flaxseed, and canola
9. Baby food
10. Pet food
11. Wine
12. Some nutritional supplements, such as unmixed vitamins

A copy of the positive list is available at:
http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201604/P020160407628544745898.pdf
http://gss.mof.gov.cn/zhengwuxinxi/zhengcefabu/201604/P020160415822493955077.pdf

Another significant barrier for the market access is the import license. According to Chinese Food and Drug Administration's (CFDA) comments on the positive list, some products on the positive list, such as baby formula, cosmetics, are required to have an import license, which is the same requirement if products are imported through conventional trade. However, with that said, the State Council released Decree 24, May 5, 2016, that grants relaxed policies for the pilot area in Pudong District of Shanghai. For example, new-to-market cosmetics products do not need to have import license, but instead require products registration.

Industries' Strong Response to the New CBEC Policy Push for a One-Year Grace Period

After the new set of policies on CBEC was released in early April, 2016, CBEC platforms expressed strong concerns on the short notice of the policy changes, especially regarding the new positive lists and product clearance requirements. Responding to the concerns of the private sector, the Chinese government put out a notice to allow the products that are already in the bonded warehouse or in shipments to be sold as status quo.

In late May, 2016, a new notice from China Customs Administration Office was released on the new supervision requirements for CBEC imports. The new notice grants a one-year grace period. The grace period will end on May 11th, 2017. Imports via CBEC channels either for whole-sale bond holding or direct retail shipments in the ten pilot cross-border e-commerce cities will not be required to meet the customs clearance, import permit, registration or record-filing requirements till May 11, 2017.

The unofficial translation of the notice is as follows:

For CBEC bonded warehouse mode:

During the time, pilot cities (including Shanghai, Hangzhou, Ningbo, Zhengzhou, Guangzhou, Shenzheng, Chongqing, Tianjin, Fuzhou and Pingtan) will continue to supervise CBEC imports like before. Specifically, CBEC products are not required to have the Customs Clearance for Entry of Commodity (CCEC) for market entry. Unregistered cosmetic products, infant formula, medical device, health foods and medical foods can still enter China through the CBEC channel.

For CBEC direct shipping mode:

The CCEC is not needed and pre-market approvals for the above products falling under the registration system are not required as well.

CBEC to be treated by the Same Inspection Requirements as the Commercial Trade

On May 15, 2016, the inspection policy becomes clear. AQSIQ put out notice to clarify that if the products are stored in the free trade zones in China, it will be treated as commercial goods and therefore the products will be inspected upon entering the border of China according to the relevant regulations. If the products are directly mailed from overseas to consumers by individual parcels, the products do not need to receive CIQ inspection certification before the products are released.
In October 2015, Chinese AQSIQ released a draft regulation on Cross-Border e-Commerce Imported Food Supervision Regulations, which proposed several significant changes, including the following, quoted from the draft regulation:

a. The foods listed in “implementation directory for registration of overseas manufacturing enterprises of the imported foods” must come from registered overseas food manufacturers;
b. Health foods, genetically modified foods (GMF), foods without a Chinese national food safety standard, new food raw materials, and food with new food raw materials as ingredients, must be registered and pass a safety assessment by the competent departments;
c. In cases where approval by animal and plant quarantine is required, that license must be obtained prior to entry.
d. Infant formula milk powder imported via bonded internet shopping must have a Chinese label, which shall be directly printed on the minimum sales package before the entry, and shall not be attached after entry to China.

Big picture of E-commerce

China’s e-commerce market is still growing rapidly, even while the country’s overall economy is slowing. According to the China E-Commerce Research Center (CECRC), total online retail sales were about $600 billion in 2015, up 33 percent compared to the same period in 2014. Total online sales were $450 billion in 2014, $300 billion in 2013 and $3 billion in 2003.
Similar to e-Commerce in China, CBEC is also growing rapidly. CECRC reported that the total inbound and outbound CBEC market in China exceeded $312 billion for the first half of 2015. Industry estimates are that inbound trade accounted for about 10 percent of total CBEC trade in 2015. The total value of inbound CBEC trade in 2015 was approximately $62 billion, which is about five times the total of 2013.

In 2015 there was a surge in CBEC, with e-commerce companies such as T-mall Global, JD Global, Amazon, Kola, Suning, Ymatou, Jumei, Miya, and Xiaohongshu investing more resources into developing their CBEC platforms. For example, on one specific promotion (Black Friday), T-mall Global reported total sales in 2015 were seven times that of 2014.

The growth of the e-commerce sales in China is a result of China's population urbanizeing and more people moving into the middle income category. Rising food safety concerns and the convenience of online shopping are encouraging more consumers to buy imported food and beverages online.