

## HIGHLIGHTS OF THE UPDATED REGULATIONS ON CROSS-BORDER E-COMMERCE RETAIL IMPORTS IN CHINA

### Definition of CBEC Enterprise and Responsibilities

CBEC Enterprises refer to overseas-registered enterprises which sell CBEC retail imports to consumers in China on cross-border basis and are the owner of goods.

As of 1<sup>st</sup> of April 2019, CBEC Enterprises should be registered with General Administration of Customs (GAC). Since CBEC Enterprises have no legal entity in China, they should entrust a Chinese company as “Domestic Agent” to handle the GAC registration. The “Domestic Agent” must be a legal entity registered with State Administration of Market Regulation (SAMR), and should accept the responsibilities of consumer complaints, product recall, product quality or safety obligations, truthful declaration to Chinese authorities and bear jointly liabilities together with the CBEC enterprise.

Specifically, the responsibilities of CBEC Enterprise include:

1. Bearing the main responsibility of the quality and safety of the goods and fulfilling the relevant obligations as required.
2. Protecting consumers’ rights and interests.
3. Discharging the obligation of reminding and informing consumers regarding:
  - Possible different foreign standards of quality, labeling, safety from the Chinese ones etc.;
  - The goods may include non-Chinese-label products, but E-Chinese-label will be available online;
  - The goods are only for personal use and can’t be resold.
4. Establishing a mechanism for prevention and control of quality and safety risks of goods and a system of quality traceability of imported goods, which should cover at least the complete logistics trajectory from the foreign origin to the domestic consumers.
5. Transmitting electronic data of CBEC retail import transactions with electronic signatures to Customs in real time.

- **Alignment with AEO Certification**

The enterprises engaged in CBEC retail importation will be included in the customs credit management system. Differentiated customs clearance and management measures will be implemented according to credit ratings. The efficiency of customs clearance process will depend largely on its credit rating assigned in the customs credit management system.

Under the credit management system, the enterprises are classified into three categories: Certified Enterprises (including Advanced Certified Enterprises and General Certified Enterprises); General Credit Enterprises and Dishonest or Discredited Enterprises. The average inspection rate of Advanced Certified Enterprises is less than 20% of the average inspection rate of General Credit Enterprises.

- **Expanded Positive List (2018 Edition)**

63 categories of products have been added to the list of goods that are duty-free when purchased via CBEC platforms, including popular consumer goods like electronics, small home appliances, food and

beverage, clothing and footwear, and healthcare products etc. With the new policy, the list of duty-free CBEC products covers 1,321 items in total.

In the positive list, the type of CBEC modes that can be used to import certain products has also been specified.

- **First-time Import Registration Waiver**

CBEC retail imports are regulated as articles imported for personal use. No requirements for licensing, registration or record filling for first-time imports will apply to the retail imports through CBEC platforms. This indefinitely extends the waiver of the pre-importation registration requirements on specified categories of products, e.g., cosmetics, infant formula, health food, medical devices, etc., which was originally set to expire on 31<sup>st</sup> of December 2018.

- **Expanded CBEC Pilot Zones**

The updated regulations have expanded from 15 cities to another 22 cities with newly established comprehensive CBEC pilot zones, which means there are 37 pilot cities for CBEC in total, including:

*Beijing, Tianjin, Shanghai, Tangshan, Hohhot, Shenyang, Dalian, Changchun, Harbin, Nanjing, Suzhou, Wuxi, Hangzhou, Ningbo, Yiwu, Hefei, Fuzhou, Xiamen, Nanchang, Qingdao, Weihai, Zhengzhou, Wuhan, Changsha, Guangzhou, Shenzhen, Zhuhai, Dongguan, Nanning, Haikou, Chongqing, Chengdu, Guiyang, Kunming, Xi'an, Lanzhou, and Pingtan.*

According to a statement released after the State Council executive meeting in July 2019, more cities will be encouraged to launch CBEC pilot zones on top of the 37 existing zones, and more measures to further widen market access in China' CBEC pilot zones are being considered.

- **Import Modes**

The CBEC retail imports can be divided into two modes of operation:

Bonded Warehouse Mode (Customs Supervision Code 1210 & 1239):

Goods are temporarily stored in a bonded warehouse in China. After a customer places an order, customs clearance and delivery will be carried out immediately from the bonded warehouse. This mode entails a large inventory, but the goods are delivered quicker.

Currently, the bonded warehouse mode is applicable to all goods included in the "positive list", and it involves two supervision codes. The customs supervision code 1210 refers to "online shopping bonded import mode" and is applicable to only 37 pilot cities.

The customs supervision code 1239 refers to "online shopping bonded import A mode" and is applicable to cities other than the 37 pilot ones; and in this case, for goods like cosmetics, infant formulas, medical appliances and food for special purposes (e.g. health supplements and foods for special medical purposes) which are subject to requirements of licensing, registration or record filing for first-time imports, they must be imported in accordance with relevant laws and regulations.

Direct Shipping Mode (Customs Supervision code 9610):

Upon receipt of an order, the overseas supplier dispatches the goods to China via post or express delivery services. After the customs clearance process is completed, the goods will be released to the consumer. This mode does not require domestic inventory but is more complicated than bonded importation because of the delivery arrangements. Customer satisfaction also may be impacted depending on the efficiency of the international transportation.

The direct shipping mode can be practiced across the country, but it only applies to goods in the positive list which are not labelled as "only limited to commodities imported via CBEC under the bonded warehouse mode".

Table 1: Comparison of import modes and applicable locations

Comparison of Modes and Applicable Locations			
Mode	Commodity Scope	37 Pilot Cities	Non-pilot Cities
Bonded Warehouse Mode	All the commodities (1,321 commodities) in the positive list	Supervision Code 1210 <ul style="list-style-type: none"> <li>Supervised as goods for personal use</li> <li>Licensing for first-time imports is not needed</li> <li>No registration/record filing is needed</li> </ul>	Supervision Code 1239 <ul style="list-style-type: none"> <li>Licensing for first-time imports is not needed</li> <li>When products enter the bonded area (referred to as the "customs supervision area") from abroad, they are supervised as goods (goods like cosmetics, infant formulas, medical appliances, and food for special purposes need registration/record filing)</li> <li>When products are delivered from the bonded area to consumers, they are supervised as products for personal use</li> </ul>
Direct Shipping Mode	Goods in the positive list which are not labeled as "only limited to commodities (1,245 commodities) imported via CBEC under the bonded warehouse model".	Supervision code 9610 <ul style="list-style-type: none"> <li>Supervised as products for personal use</li> <li>Licensing for first-time imports is not needed</li> <li>No registration/record filing is needed</li> </ul>	
General Trade	All the products	<ul style="list-style-type: none"> <li>Licensing for first-time imports is needed</li> <li>Registration/record filing is needed</li> </ul>	

• **Value Limit Relaxation**

The value limit for per transaction purchase threshold is increased from RMB 2,000 to RMB 5,000, and the annual quota per person is increased from RMB 20,000 to RMB 26,000. If the customs value of a single product exceeds the single transaction limit, but is less than the annual transaction threshold, the item can still be imported via the CBEC retail channel. However, customs duties, import VAT and consumption tax will be levied in full and the transaction amount must be included in the total annual transaction amount.

**Conclusion:**

- The Cross-Border E-Commerce becomes a more recognized and prominent channel. The updated regulations on CBEC retail imports reflect the longstanding policy objective of the Chinese government to further legitimize this channel.
- The Chinese government will focus on collecting taxes via CBEC channel and cracking down on shady activities such as DAIGOU resellers (*Daigou refers to the Chinese who take advantage of their stay or travel in Europe or somewhere else to buy luxury goods for a "client" remained in China, obviously less than that displayed in the Chinese shops*), fake transaction/orders, and the under-declaration of the import values.
- The CBEC regulatory update creates certain new benefits to strengthen the incentives to purchase through this channel as well as new responsibilities for all related parties. China will scale up measures to support the growth of CBEC and may roll out further favorable policies to regularize CBEC.