

February 2022



# understanding CBEC in China

## accessing online consumers

# acknowledgement and disclaimer

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# key takeaways for Australian exporters

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## **healthy lifestyles**

'brand Australia' to benefit from PRC consumers seeking higher quality and healthier options

## **new inland markets opening up**

logistics and internet infrastructure unlock markets beyond top-tier cities

## **protecting suppliers and consumers**

processes for IP protection and dispute resolution catching up

## **positive list growing**

further expansion may see market access for more food and beverage categories

## **Hainan free trade port**

favourable import policies to see goods move freely between Hainan and global partners by 2035

## **where to be careful**

stricter food safety and COVID-19 regulations add compliance risks; data regulations toughening up

# cross-border e-commerce a driving force in food trade

CBEC (cross-border e-commerce) is booming. Initiated as a national stimulus strategy in 2018, PRC rules and regulations have been consolidated into one of the world's most efficient CBEC systems. Along with health and beauty items, food products are among the top categories entering China via CBEC channels, offering huge opportunities for Australian food exporters able to navigate the complex regulatory environment.

With about 26 percent of global business-to-customer transactions taking place in China, the PRC has now become the largest CBEC market in the world, ahead of the US. Policy support for CBEC food imports is likely to continue as Beijing seeks to rewire the economy using a growth model based on domestic consumption, but compliance will become ever more critical as China's CBEC system matures. Keeping abreast of regulatory changes is key for food exporters wishing to thrive there.

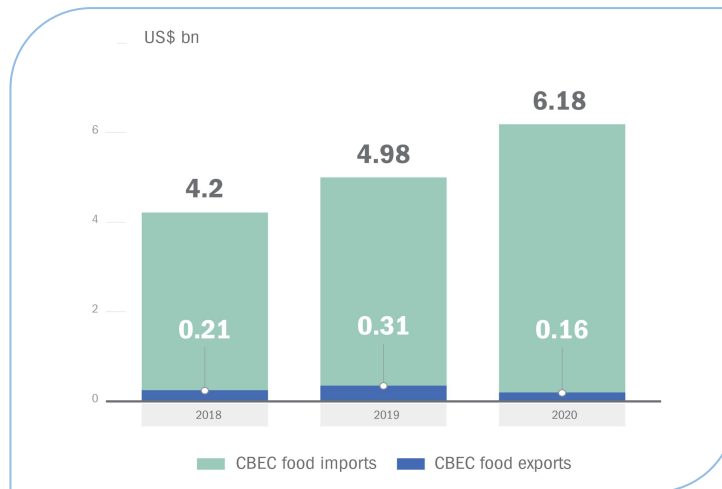
## changing lifestyles: consumers moving online

With an increase of 44 percent between 2018 and 2020, growth rates in food-related CBEC have outpaced general agriculture trade. Several rounds of lockdowns and stay-at-home orders during COVID-19 have focused consumers on online channels. For many urbanites, buying food online—from daily groceries to pre-cooked meals and specialty products—has become the norm.

Australian food exporters benefit from the diversifying tastes of China's increasingly urban, affluent and health-conscious populace. Australia's reputation as a producer of high-quality, safe food has given it an edge over other import sources. This is notable in categories such as

- dairy products
- infant formula
- health foods
- fresh (counter-seasonal) produce

## CBEC trade value for food-related products, 2018–20



source: MARA CBEC report 2021, Farmers' Daily

# CBEC a 'low-bar' entry to the PRC market

Following initial experiments, a robust regulatory framework now governs CBEC. Since 2012, the state has introduced several rounds of policy support, benefitting e-commerce players in terms of land access, warehousing, logistics and customs clearance. Tightening rules and standards has also put an end to the illegal, but previously prevalent, *daigou* trade, which saw travellers carry goods over the border.

For food exporters, CBEC presents a 'low-bar' entry to the PRC market. Compared to conventional trade channels, CBEC offers preferential policies on tax, labelling and clearances. While requirements are less onerous than those for general trade, talk in Beijing about 'wild growth' and regulatory grey areas in the CBEC sector is mounting. With food safety an ever-present concern, exporters can expect authorities to further tighten supervision over the CBEC supply chain.

## CBEC preferential policies

### tariff and taxes

CBEC companies enjoy preferential import tariffs, VAT and consumption taxes. Last updated in April 2019, combined tax rates are

- 6.3 percent for pet food, cooking oil, natural honey
- 9.1 percent for mother and baby products, health supplements and packaged food and beverages
- 17.9 percent for wine and sparkling wine (excluding the current anti-dumping duties levied on Australian wine)

### labelling

Original packaging and labelling can be used, but a digital label in Chinese must be provided online.

### customs clearance

The limited scope of CBEC transactions means products are generally cleared faster and with less paperwork. Food safety sensitive products (e.g. infant formula) must comply with strict PRC food safety standards and regulations, but can expect more rapid import permit approvals.

## legal framework

**E-commerce Law:** Passed in 2018, [the law](#) formalised many local e-commerce regulations. It has helped steer sales away from informal channels to more regulated CBEC platforms. Despite [proposed amendments](#) in 2021 seeking to further strengthen IP rights, infringement remains an issue, posing threats to brand integrity and reputation of food exporters.

**Food Safety Law:** [The law](#) plays a key role in regulators' efforts to develop a more preventive, proactive food safety system. Designed pre e-commerce, the law lacks specific provisions for CBEC imports, leaving regulatory grey areas. Recognition of the need to update and unify food safety regulations for general trade and CBEC is growing.

**GAC decrees:** Tough new [food import rules \(decrees 248/249\)](#) were rolled out by GAC (General Admin of Customs) on 1 Jan 2022, stipulating onerous registration and labelling requirements. The rules currently **do not apply** to food imports sold via CBEC, but harmonisation across sales channels can be expected as e-commerce grows. New [bonded zone management measures \(decree 256\)](#), to be effective from 01 Apr 2022, are designed to streamline the flow of goods between zones and the rest of the country.



# comparing CBEC and conventional trade

factor	CBEC	general trade
product categories	limited by the positive list; limited amounts only	all allowable products; unlimited quantities
product registration	first-time import licensing and registration waived, except for food safety-sensitive commodities and imports from high-risk COVID-19 areas	time- and resource-intensive registration process; import decrees 248/249 have introduced new hurdles
entity registration	importers are exempt from registering a legal entity in China	required to register a local entity
distribution channels	online channel only	both online and offline channels
capital investment	fewer logistics/shipping fees; fewer costs to maintain sales channels	higher compliance, sales and logistics costs
ports of entry	restricted to CBEC bonded zones	entry via all ports

## CBEC: streamlining return policy

With consumer rights protection moving up the policy agenda, planners have been strengthening commodity return policies across e-commerce channels. Food exporters selling to China via CBEC are responsible for

- providing commodity return and exchange services
- establishing a recall system for defective goods
- setting up a risk prevention and control mechanism covering delivery, warehousing and supply management
- tracing the product's journey from place of departure abroad (and further upstream, where possible) to the consumer in China

Returned goods, qualified for second-time sale, should be returned to a customs supervision area within 30 days of initial clearance. No VAT, consumption tax and import tariffs will be levied on returned goods.

Since September 2021, bonded warehouses must set up monitoring systems to improve handling of returns. Due to the complexity of returning goods to bonded areas, some firms stock goods outside customs supervision areas. This violates provisions prohibiting the reselling and offline collection of bonded products outside designated areas.

# positive list: governing market access

China has developed a CBEC retail import commodity list (also known as the '[positive list](#)'), which sets out over 1,400 commodity categories, covering cosmetics, health and food products, beverages, etc. Only products whose harmonised system code is included on the positive list are allowed to be imported via CBEC channels. Last revised in January 2020, the list now also covers frozen seafood and alcoholic beverages, potentially opening up new market opportunities for Australian food exporters. Special rules might apply for fresh food, even if the product is on the positive list.

## positive list for food products

<b>packaged foods</b>	many included, such as dried nuts and fruits, chocolate, candy, pastry and bread, edible oils, cereals, sauces, honey and honey products, canned food and beverages
<b>dairy and poultry</b>	yogurt, cheese, whey, cream, butter and eggs
<b>infant food</b>	some infant formula milk powder and packaged baby foods
<b>alcohol*</b>	wine, sparkling wine and beer
<b>meat</b>	some dried, smoked, salted and canned pork and beef products
<b>seafood*</b>	some fresh cold, live, pickled, frozen, salted and dried crabs, lobsters, oysters, mussels, strombus, molluscs and sea cucumbers
<b>fruits</b>	fresh figs, avocados, guavas, mangoes, mangosteens, oranges, grapefruit, lemons, limes, other citrus products, grapes, apples, cherries, plums and cranberries

\*added during the latest revision of the positive list in January 2020

## order limits

### for B2C and B2B shipping models

- value limit of C¥5,000 per order
- annual limit of C¥26,000

### for personal parcel express shipping

- no more than six stock-keeping units
- value limit of C¥5,000 per order

### permitted quantities

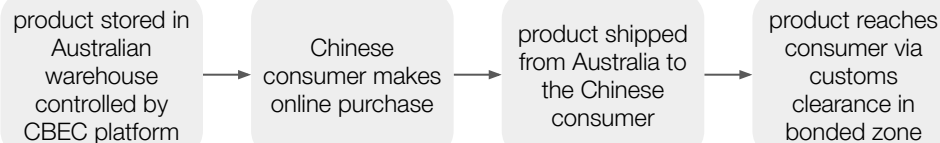
- rice, cereals, grain: 20kg per person/ year
- sugar, sweeteners: 2kg per person/ year



# import models: two ways to get to the Chinese consumer

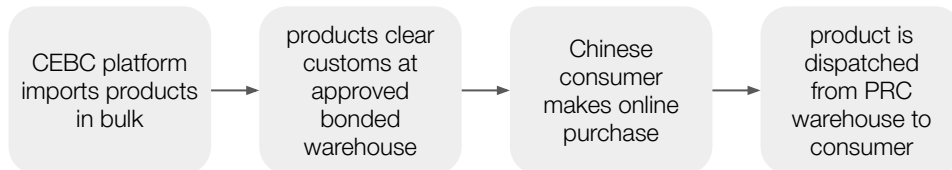
China's CBEC platforms import products in two ways: to consumers directly from the exporting countries (B2C) or indirectly to consumers after being stored in warehouses located in bonded zones (B2B). The two models differ in terms of delivery speed, costs and inventory management. Some platforms have also started combining the advantages of both methods, using the B2C model to test consumer interest and B2B for products with an established market. CBEC platforms are required to share sales data (digital order, payment data, logistics information) in real time with GAC to ensure orders do not pass the sales limit of C¥5,000.

## B2C: direct CBEC import (code 9610)



This suits suppliers shipping small quantities who can send multiple orders in one batch; the downside is that impatient consumers may have to wait weeks for their items. CBEC firms may prefer this mode as it allows them to carry a smaller inventory than if they have to ship in bulk to a PRC warehouse in the first instance.

## B2B: bonded CBEC import (code 1210/1239)



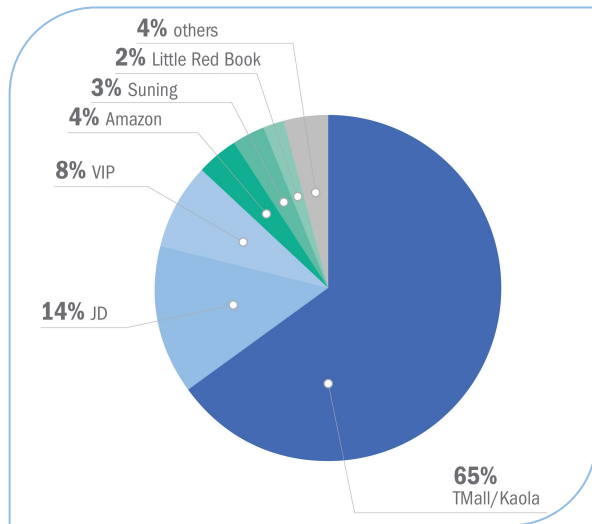
This more expensive model suits operations shipping large quantities. Some 80 percent of CBEC imports are processed this way as consumers prefer fast delivery. However, stock is much harder to manage as operators must make an initial decision to buy large volumes of a product, which may ultimately not sell well.



# CBEC platforms facing tighter scrutiny

B2C platforms TMall Global and Kaola, subsidiaries of Alibaba Group, are China's unchallenged leaders in domestic and cross-border e-commerce trade, followed by online mall JD Worldwide. These platforms have long dominated the market, but tougher regulations and more oversight have raised the cost of non-competitive behaviour. The new rules are designed to ensure fair market competition and protect the interests of sellers and buyers alike. Australian food exporters stand to gain from a better-regulated, less monopolistic e-commerce landscape in the PRC.

## the big platforms: share of CBEC imports, Q3 2020



source: Shenzhen CBEC Centre

## anti-monopoly guidelines for the platform economy

New [anti-monopoly guidelines](#), in place since February 2021, ban monopolistic practices like

- unfair pricing
- below-cost sales
- discriminatory algorithms
- forced merchant exclusivity agreements

CBEC platforms with large volumes of consumer data may be subject to antitrust and cybersecurity reviews. Throughout 2021, market regulators administered hefty fines, hitting e-commerce leaders such as Alibaba, Suning, Meituan and Tencent.

Under pressure from Beijing, the big platforms must ensure they comply with the new anti-monopoly guidelines. Facing intense antitrust scrutiny in 2021, Alibaba (TMall), for instance, has responded by lowering merchant fees.

## what CBEC companies should be watching for

Companies selling on big PRC e-commerce platforms stand to benefit as Beijing's antitrust campaign rolls out. Improvements will include

- a better regulated market environment based on fair competition
- end of 'forced exclusivity' practices
- lower fees

With China's e-commerce giants now held responsible for the 'orderly' development of their platforms, many have begun tightening their own platform-specific standards. CBEC companies must ensure they comply with platform guidelines regulating

- food ingredients
- return policies
- consumer data

# CBEC reaching further inland

As demand for high-quality, imported products continues to grow and the regulatory system consolidates, CBEC is transforming from a pilot program limited to special pilot zones into a nationwide trade channel. Since 2018, MofCOM (Ministry of Commerce) has approved six rounds of pilot cities in which goods entering China through CBEC channels can be stored. Initially located near coastal ports of entry, pilot cities have successively moved west, and now better service inland regions and smaller cities. By 2022, the total number of CBEC pilot cities had reached 132 (see map). Since March 2021, all cities with pilot free trade zones, comprehensive bonded zones and bonded logistics centres can apply to handle CBEC trade.

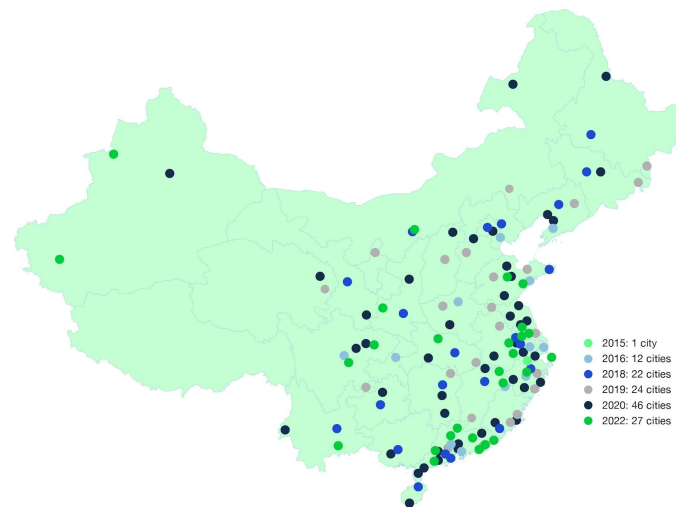
## accessing the PRC market

**top ports of entry:** A 2021 ranking by China's largest e-commerce knowledge platform Ebrun.com lists Guangzhou, Shenzhen, Shanghai, Hangzhou and Beijing as the top five CBEC pilot cities in terms of development scale, growth potential, sustainability and preferential policies on offer.

**food-focused CBEC pilot cities:** Dongguan, Foshan and Shantou are specialised pilot cities focused on food and beverage CBEC trade. Guangzhou boasts the most advanced cold chain infrastructure, facilitating CBEC trade of food products requiring refrigeration.

**regional market access:** The expansion of CBEC pilot cities opens up potential new markets in lower-tier cities. Central and western cities approved in the fourth and fifth rounds of CBEC pilots grow fastest, with Jiaxing, Wenzhou, Luzhou and Dehong leading the way. Cold chain logistics and 'last mile' express delivery in smaller cities and rural regions are lagging behind. Food exporters engaged in CBEC trade of perishables must factor in potentially higher logistics costs and risks in regional markets.

## expanding CBEC pilot cities, 2015–22



source: TradeInvest

# food safety: more scrutiny to be expected

Compared to conventional imports, food products brought in via CBEC face less scrutiny and lower regulatory hurdles, allowing for easier access to China's domestic market. With product categories limited by the positive list and transaction volumes capped at C¥5,000, food safety standards for CBEC are less stringent than those in place for general trade imports. However for food products with higher safety risks, such as frozen, fresh and infant foods, strict standards apply and compliance is critical.



## COVID-19 food import controls

New rules mandate imported frozen foods be tested and disinfected, adding entry hurdles and causing disruptions in the supply chain.

Shipments from several exporters have been suspended after traces of coronavirus were found inside shipping containers and on packing. The arrival of Omicron has seen some health officials issue stern warnings, calling on consumers to avoid imported cold chain foods.



## traceability system for general trade

A frozen food traceability system for general trade was set up in 2020; it now covers all major provinces and the lion's share of frozen food imports via general trade. Regulators assign each shipment a QR code, tracking its path along the supply chain. A WeChat or Alipay scan shows product details.

The system is tailored to general trade, but the pandemic has made consumers more aware of 'farm to table' tracing. Adopting digital technology to track and prove provenance will help CBEC companies gain trust with consumers concerned about food safety.

## case study: fake infant formula

In 2018, a case of counterfeit infant formula imported via CBEC caused public outrage. An illegal factory in Spain was shut down for selling fake formula to the Chinese market via CBEC. More than 13,000 cans destined for China were seized by Spanish police at the milk powder packaging factory.

The Girona-based factory had repackaged inferior milk powder as infant formula, selling the product online for €10 to consumers in China. Lacking nutrients needed by infants and produced without quality supervision, the product was found to pose serious health risks to babies raised on it.

Generally imported brands are widely considered to contain better ingredients and be subject to stricter safety checks. The case reignited debate about better regulating food safety-sensitive products in CBEC trade, with domestic industry stakeholders suggesting infant formula be taken off the CBEC positive list.

# rights protection: brands and consumers winning

China's IP protection regime continues to improve, driven more by domestic concerns with the innovation environment than trade tensions.\* An amendment to the *E-commerce Law* proposes harsher penalties on technology firms failing to appropriately respond to IP violations on their platforms. The clampdown on IP fraught coincides with strengthened efforts to upgrade dispute resolution, enhancing the rights of an ever more sophisticated and affluent class of consumers.

## IPR: better protection for hard tech

Established e-commerce platforms have considerably ramped up IP protection efforts. International brands can now have offerings that infringe their IP rights removed by providing relevant patent, copyright or trademark documentation.

The e-commerce platforms' clampdown coincides with a surge in state action to protect IP and consumer rights, as evidenced by the latest amendments to the *E-commerce Law*, currently under review. While the improved IP protection regime offers better protection for IP holders in high-tech areas, low-tech fields like food may suffer from more insidious forms of infringement.

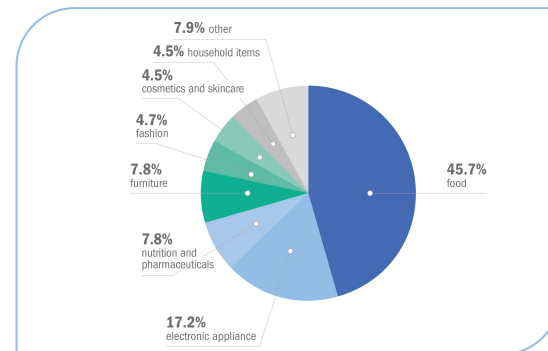
## digital court to protect consumer rights

CBEC imports account for around a tenth of all e-commerce consumer disputes; food products are the most common cause. Most currently pass through the justice system as civil cases.

The first dedicated CBEC court was set up in Hangzhou (Alibaba's headquarter city) in July 2020. As a 'court of the internet', hearings may now be attended by plaintiffs and defendants via video conference. Many types of data—customs, foreign exchange, tax, logistics, payment—can be integrated via blockchain and used as evidence in court.

Defendants in cases involving CBEC imports are mostly e-commerce platforms.

## composition of e-commerce disputes



source: China Justice Big Data Service Platform

Of all e-commerce disputes taken to court between 2017 and June 2020, over 60 percent received court rulings, of which over 70 percent were to some extent in the plaintiff's favour.

Food safety is the top cause of disputes (30.6 percent), followed by false advertising (22.6) and labelling issues (21.7).



\* see for example CCP and State Council 'Opinions on improving IP protection' (November 2019) for signals from the top leadership; *Advertising Law* amendment (April 2015); *E-commerce Law* (January 2019) 12 for legislation; 'Guiding opinion on IP-related civil case trials involving e-commerce platforms' for judicial actions; and the trade agreement between the US and China (January 2020) for trade disputes

# emerging business models



## Hainan pilot free trade port

Planning is underway to make Hainan a free trade port by 2035. Products will (unless listed as prohibited/restricted) move duty free between Hainan and global partners. Under the proposed two-line border, customs duties will only be levied as goods move from the island to the mainland. If 30 percent value has been added in Hainan, no duty will be levied.

Since the free trade port was announced, CBEC platforms have flocked to the island to set up warehouses. CBEC retail import volumes entering through Hainan grew by over seven times y-o-y in 2020; pet food and cosmetics are the top imports.



## Guangzhou Baiyun Airport

With a trade volume over C¥100 bn in 2021, Guangzhou Baiyun Airport is the largest bonded zone for CBEC in the PRC. To accelerate the innovative development of the trade, preferential policies were announced by Guangzhou Municipal Bureau of Commerce in March 2021. A simplified customs procedure promises to clear CBEC imports from RCEP within 24 hours; for perishable goods, the turnaround time may be further reduced to six hours.

During the 2021 'Singles Day' shopping event, the airport handled 2.4 million parcels imported via CBEC channels, marking a 1.4-fold increase over 2020, according to Xie Xianliang 谢先亮 Baiyun logistics manager.



## online-to-offline (O2O) shopping

O2O shopping is increasingly popular, especially in smaller cities where growth potential for CBEC imports also lies. In H1 2020, O2O orders saw double digit growth.

For O2O CBEC imports, consumers browse products in a physical shop and order online; goods are usually shipped from a bonded warehouse. With COVID-19 restricting international travel, O2O CBEC imports could replace overseas spending, argues Zhang Jindong 张近东 Suning chair and member of the Chinese People's Political Consultative Conference.

Given O2O's novelty, local customs will have discretionary power over supervision until national regulations are introduced.

# looking ahead: trends and opportunities

As a core PRC trade strategy, and one Beijing would like to see inform global rules, CBEC will remain an important trade channel between Australia and China. Purchases are determined by a dispersed consumer base intent on quality. Continued policy support will focus on improving logistics and easing market access for trade partners. Meanwhile, international brands can look to expand by tapping into emerging digital technologies.

## policy support

- an active role in global digital trade rule-making for CBEC was highlighted in the latest [5-year plan on e-commerce development](#), jointly released by MofCOM, NDRC (National Development and Reform Commission) and CAC (Cyberspace Admin) in October 2021; stronger state support for CBEC firms in handling trade disputes is promised
- a new [5-year plan on high-quality development of foreign trade](#), released by MofCOM in November 2021, will strengthen CBEC, streamline supervision of CBEC imports across bonded zones and explore innovation along the whole CBEC value chain
- [State Council 'Opinions'](#) from January 2022 urge construction of overseas warehouses used for B2C CBEC imports be sped up; facilities grew from more than 1,000 in 2019 to over 2,000 in 2021

## digital technologies

- since 2021, CBEC cargo container documents have been processed using blockchain in Dalian port; the technology is expected to speed up average processing times to under four hours
- international brands have sought growth via live streaming, partnering with domestic celebrities that drive internet campaigns; in the crosshairs for tax evasion and counterfeiting, the sector has seen more scrutiny from regulators since 2021; famous live stream broadcasters were de-platformed over tax scandals, as China's internet watchdog seeks to tighten up practices amid Beijing's 'common prosperity' campaign
- policy support for a state-sponsored digital currency, the e-yuan, will facilitate transactions via CBEC, per the [5-year plan on e-commerce development](#); 6,700 pilot projects will foster trust in the digital currency and promote its integration into e-commerce platforms

## RCEP

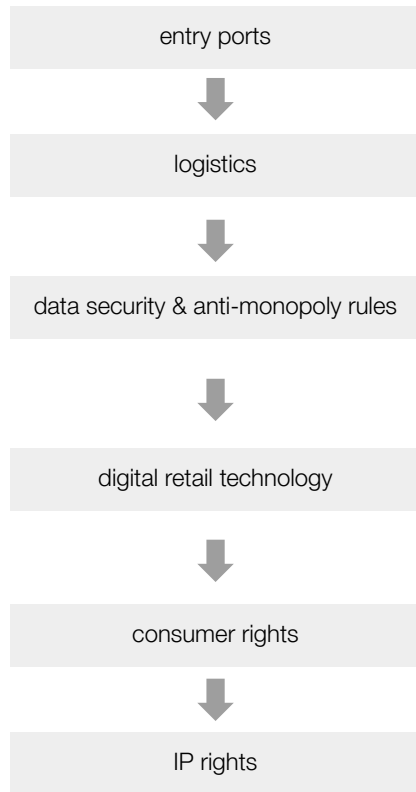
- effective since 1 Jan 2022, RCEP will usher in a new wave of growth for China's CBEC sector as tariff barriers will be further lowered, boosting domestic consumption; about 90 percent of tariffs will be eliminated between member countries, facilitating regional trade and supply chain integration in the Asia Pacific
- as part of RECP Australian food exporters will benefit from lower tariffs, but advantages will be less visible for sectors such as dairy, which already enjoy tariff reductions under ChAFTA
- facilitation measures and [streamlined procedures announced by GAC](#) will address some concerns over non-tariff barriers and make market access easier
- some provinces have launched local measures to strengthen agriculture opening up; Guangdong announced a RCEP action plan, including construction of an agriculture cooperation pilot zone and a public agriculture trade service platform



# appendix



# CBEC compliance areas at a glance



CBEC goods must be transported through specially designed bonded warehouses; transaction information must be transmitted to customs authorities (typically handled via CBEC platform). CBEC products tend to enjoy faster customs clearance and less onerous standards than imports via general trade, but food safety-sensitive products (e.g. infant formula) must strictly comply with PRC regulations. Frozen imports face particular scrutiny amid concerns of COVID-19 spreading through the cold chain.

Despite large investments in infrastructure, cold chain facilities and express logistics remain underdeveloped in many places, raising risks and costs for the import of fresh food in need of refrigeration. Air freight, a key channel by which CBEC goods enter the PRC, is facing disruptions from the COVID-19 pandemic, with airports repeatedly shutting down operations throughout 2021.

E-commerce platforms (e.g. Alibaba's TMall) now face the spectre of repeated antitrust and cybersecurity reviews. Australian food exporters selling through these platforms can expect lower fees and termination of exclusivity clauses. More sensitivity around protecting personal information following the enactment of the PRC's first-ever [Personal Information Protection Law](#) in August 2021 may affect the ways in which CBEC merchants need to handle customer data.

Live stream marketing is popular with consumers, but the market is under-regulated and barriers to fraud are low. With track-and-trace systems becoming mainstream, more customers will expect to be able to trace products from 'farm to table'. Australian food exporters must stay on top of technology standards developed in this area. Development of a digital currency and its application in e-commerce has raised concerns about giving Beijing undue insight into financial transactions. International brands should watch its rollout closely.

Regulators are moving towards better protecting consumer rights. Food exporters bear the primary responsibility of product quality and safety, and must provide a return and refund service for customers. Relevant product information on technical standards, safety and hygiene protocols must be made available to consumers online using e-labels. A dedicated CBEC court now makes it easier for consumers to sue international brands.

Coinciding with a surge in government and judicial actions to protect IP rights, e-commerce platforms have considerably ramped up IP protection, making it easier for international brands to have online counterfeit offerings removed. Still in its infancy, the system appears to work better in high-tech rather than low-tech fields.



# acronym list

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<b>AQSIQ</b>	General Administration of Quality Supervision, Inspection and Quarantine
<b>B2B</b>	business to business
<b>B2C</b>	business to consumer
<b>CAC</b>	Cyberspace Administration of China
<b>CBEC</b>	cross-border e-commerce
<b>ChAFTA</b>	China-Australia Free Trade Agreement
<b>GAC</b>	General Administration of Customs
<b>IPR</b>	intellectual property rights
<b>MofCOM</b>	Ministry of Commerce
<b>NDRC</b>	National Development and Reform Commission
<b>O2O</b>	online to offline
<b>PRC</b>	People's Republic of China
<b>RCEP</b>	Regional Comprehensive Economic Partnership
<b>SPS</b>	sanitary and phytosanitary
<b>TBT</b>	technical barriers to trade
<b>VAT</b>	value-added tax
<b>WHO</b>	World Health Organisation



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