

Research on Legal Regulations for Facilitating Cross border Paperless Trade in China

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Abstract: The first comprehensive regulation of paperless trade facilitation, Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific, came into effect on February 21, 2021. This agreement injects new vitality into China's "high-level opening up to the outside world, opening up new prospects for win-win cooperation". How to use modern information technologies such as the Internet to facilitate paperless trade, promote high-level trade development, increase trade opportunities, and enhance international trade competitiveness is worth pondering. In the process of Paperless office cross-border trade, there are difficulties such as the lack of "single window" construction, and the lack of deepening regional trade coordination and cooperation. In view of this, it is necessary to strengthen the top-level design of the legal and policy framework for paperless trade facilitation, unify cross-border data exchange standards, promote electronic data interconnection and cross-border mutual recognition, strengthen regional coordination and cooperation in paperless trade, and other relevant suggestions to promote China's high-level opening-up to the outside world.

Keywords: Cross-border, Paperless trade, Trade facilitation, Single Window.

1. Introduction

The development of modern information technology, especially e-commerce and e-government technology, has brought international trade into the information age. Information technology has promoted the development of international trade towards "paperless trade" and opened up a new path for the sustainable development of international trade. Cross border paperless trade "refers to the trade of goods based on electronic communication, including the exchange of trade data and documents in electronic form, including the import, export, transit, and related services of goods. Through the exchange of trade electronic information such as electronic documents and documents, as well as mutual recognition of the legal validity of electronic information, the electronic trade system established by both parties for paperless trade facilitation, such as the "single window", can achieve cross-border data compatibility, significantly reduce trade costs, and improve the efficiency and transparency of international trade. Since the establishment of the WTO, most of the reduction in trade costs among countries worldwide has been achieved through trade liberalization between countries or regions, such as tariff reduction. The research report of the Asia Pacific Economic and Social Commission in 2015 found that cross-border trade costs only account for 2-3% of international trade, while natural factors such as geographical factors, cross-border cultural differences, and language barriers account for about 20% of international trade costs. Non tariff trade barriers such as policies and information transmission speed account for about 80% of international trade costs. It can be seen that the key to promoting smooth trade facilitation lies in eliminating non-tariff trade barriers. Measures such as promoting the digitization of cross-border trade documents and documents, highly transparent import and export trade policies, deepening cooperation between cross-border trade regulatory agencies, and digitizing trade measures will be crucial for eliminating non-tariff trade barriers.

2. Current Status of Legal Regulations on the Facilitation of Cross border Paperless Trade

2.1. The Development Process and Current Situation of Facilitation of International Cross border Paperless Trade

The development process and current situation of cross-border paperless trade facilitation at the international level can be generally divided into three stages: the APEC action blueprint and strategic stage, The Trade Facilitation Agreement (TFA) phase of the World Trade Organization and the Framework Agreement on Facilitation of Cross border Paperless Trade in Asia and the Pacific (hereinafter referred to as the "Framework Agreement") phase initiated by the Economic and Social Commission for Asia and the Pacific.

2.1.1. APEC Action Blueprint and Strategic Stage

The development goal of Paperless office cross-border trade in the Asia Pacific region was established by the APEC E-Commerce Action Blueprint adopted at the 1998 Kuala Lumpur Ministerial Conference. The action blueprint defines the Paperless office development goal of cross-border trade in the Asia Pacific region, that is, the developed and developing members of APEC members will fully realize Paperless office trade in 2005 and 2010, respectively, and establish an integrated paperless trade facilitation trade environment in the entire Asia Pacific region by 2020, so as to achieve compatibility and common use of cross-border electronic data information exchange, and reduce cross-border cargo transport, cross-border trade management, cargo customs declaration Paper documents in cross-border goods docking settlement will ultimately achieve the comprehensive paperless trade facilitation cross-border business environment envisioned in the action blueprint for the Asia Pacific region. At the 16th Ministerial Conference held by APEC in 2004, in order to further facilitate cross-border paperless trade, a more

detailed action framework and time plan were proposed and the APEC Action Strategy for Cross border Paperless office Trade was published.

2.1.2. APEC Action Blueprint and Strategic Stage

Among the multilateral treaties currently signed by various countries, the Trade Facilitation Agreement of the World Trade Organization covers various aspects of overall trade facilitation, and TFA is the key and only multilateral treaty on paperless trade facilitation. However, in terms of its specific content, there is no specialized chapter on paperless trade that provides detailed and systematic provisions on paperless trade issues, nor does it provide a definition of paperless trade facilitation. The TFA's provisions on Article 7 "Goods Release and Customs Clearance" and Article 10 "Procedures related to Import, Export and Transit" can be seen as part of the relevant connotations of paperless trade facilitation.

2.1.3. Phase of the Framework Agreement of the Economic and Social Commission for Asia and the Pacific

The first comprehensive regulation of cross-border paperless trade facilitation was initiated by the Asia Pacific Economic and Social Commission in 2015 through the Framework Agreement negotiations, which involved nearly 30 countries such as China, South Korea, Russia, India, and Indonesia. After multiple consultations and exchanges of views, the Framework Agreement was passed on May 19, 2016, and the first comprehensive regulation of cross-border paperless trade facilitation was implemented. China signed the Framework Agreement on August 29, 2017, and after undergoing domestic approval procedures, it officially came into effect on February 21, 2021.

3. Legal Regulations on Facilitating Cross border Paperless Trade in China Faced with Difficulties

3.1. The construction of a "single window" for cross-border paperless trade needs to be improved

A "single window" refers to a mechanism arrangement that allows all parties involved in trade to submit data and documents electronically at a single access point to fulfill all import, export, and transit related regulatory requirements. In short, a "single window" is a "port" that provides an electronic or physical form of connection during the import, export, customs clearance, and transit of goods, used to submit or process customs clearance and release documents for goods in international trade. This 'port' is controlled and managed by different institutions based on the differences in management across countries. In general, the "single window" is a public platform based on modern Big data and Internet technology. It is a realistic embodiment of the concept of cross-border trade facilitation, which is mainly used to reduce non-tariff trade barriers and provide benefits for all parties involved in cross-border trade.

Based on the framework agreement that has just come into effect in China, although the construction of the "single window" in China has reduced the unfavorable situation of traditional paper trade business and achieved optimization of customs clearance procedures, its construction process also faces new challenges.

Firstly, according to Article 6 of the Framework Agreement, China needs to develop a national policy framework to

promote paperless trade facilitation and establish a paperless trade committee to fulfill its obligations. However, there is currently no such institution or policy framework in place. This article mainly requires all parties to the agreement to unify the management functions of their domestic paperless trade departments to prevent management confusion. The application of "single window" in China involves public and private entities, including corresponding government management departments, cross-border trade operators, enterprises, etc., as well as customs and tax departments responsible for handling import and export trade. How to balance the interests of multiple parties towards a "single window" is a major challenge.

Secondly, electronic Data element standards are different and data stream sharing channels are not interconnected. The United Nations Center for Trade Facilitation and E-Commerce Recommendation No. 33, Proposal and Guide for Establishing a Single Window, and Recommendation No. 34, Simplification and Standardization of International Trade Data, suggest that standardized Data element should be used in the construction of a "single window". Only in this way can the review time of relevant departments be reduced in electronic data transmission, and the rapid exchange and processing of electronic documents be achieved. At present, the "single window" in most places has carried out Data element transmission according to national standards, but a few places or departments have not yet unified. In addition, the electronic Data element cannot be unified, the electronic data sharing channels cannot be interconnected, and the cross-border paperless trade business process and data format cannot be compatible, affecting the speed of import and export and customs clearance.

Finally, the security and confidentiality of electronic signatures, electronic payments, and other data involved in the "single window" need to be strengthened. Conducting paperless cross-border trade transactions through a "single window" involves various aspects such as the privacy and security of data file transmission, the authenticity and effectiveness of electronic signatures and authentication, and the accuracy and transparency of electronic file queries. This process is a major test of information and data security.

3.2. Insufficient regional coordination and cooperation capabilities for cross-border paperless trade

In terms of the current international paperless trade facilitation environment, developed countries are generally in a mature stage, while most developing countries are in the development or embryonic stage. In this uneven overall environment, the regional coordination and cooperation capabilities of cross-border paperless trade need to be improved. Mainly reflected in the following three aspects:

One is that the mechanism for facilitating cross-border paperless trade cooperation has not yet been established. The main aspect that affects the process of paperless trade is the differentiation of paperless trade levels among countries. Due to the fact that paperless trade itself is included in the economic cooperation mechanisms currently established by various countries, but has not differentiated from this, it is often overlooked by countries and lacks the establishment of specific paperless trade facilitation cooperation mechanisms. In the case where non-tariff trade barriers account for the majority of international trade costs, the construction of relevant paperless trade cooperation mechanisms will

effectively reduce trade costs.

Secondly, there is a lack of provisions for promoting and implementing cross-border paperless trade facilitation. Promotion clauses such as customs clearance facilitation clauses for paperless trade, "single window" automation clauses, customs cooperation and information exchange clauses will greatly facilitate the process of Paperless office trade. These clauses generally cover procedural documents, electronic documents and bills, taxes, laws and regulations related to the import, export, and customs clearance of goods. The relevant provisions of the "single window" automated processing of trade information exchange cover the management of customs clearance or transit by government agencies related to paperless trade or related expenses; The fees and charges incurred by government agencies in or related to imports, exports, or transit; Rules, laws, regulations, and administrative rules related to the origin of goods; Restrictions on imports and exports and punishment procedures for violations of transit laws and regulations; Supervision procedures such as inspection and quarantine. The lack of these specific provisions has had a certain impact on the process of cross-border paperless trade.

The third reason is that the cross-border paperless trade facilitation multinational liaison mechanism is not mature. Before the Framework Agreement came into force, the process of facilitating cross-border paperless trade was mainly covered by APEC's promotion of Paperless office regional trade and the TFA's scattered provisions on trade clearance and customs clearance, while the rest were scattered in bilateral agreements signed between countries. The efficiency of customs clearance and clearance is greatly affected by information asymmetry, which is precisely due to information differences leading to a decrease in customs capacity among countries. After the entry into force of the Framework Agreement, there have been no corresponding measures to establish a paperless trade committee in the agreement. Therefore, regarding the current establishment of a multi country paperless trade liaison mechanism, there has not been a consultation location for facilitating governments and cross-border traders in various countries. The lack of contact points and consultation points makes it difficult to realize the Paperless office cross-border trade of "information exchange, mutual recognition of supervision and mutual assistance in law enforcement".

4. Diversified Path Promotion of Legal Regulations on Facilitating Cross border Paperless Trade in China

4.1. Unified data exchange standards and improved "single window" capability construction

Based on the difficulties faced by China in the process of building a "single window" and the obligations required for China to sign and enter into force the Framework Agreement, the construction of a "single window" can be improved from three aspects:

One is to establish a paperless trade committee in accordance with the Framework Agreement, or to coordinate and arrange the construction of a "single window" based on the current customs system framework by the General Administration of Customs. According to Article 6 of the Framework Agreement, each contracting party may establish

a national committee led by the government or composed of relevant private representatives based on its domestic institutional foundation, or do not need to establish a separate committee, relying on similar domestic institutions to implement the responsibilities of the national committee of the Agreement. The state can establish a separate paperless trade committee to achieve business coordination and coordination among various departments at customs clearance ports. Led by the committee, clarify the responsibilities of departments such as customs, taxation, maritime affairs, and public security, strengthen communication and cooperation among various departments, in order to achieve interconnection and deepen the "three mutual" customs clearance model of "information exchange, regulatory mutual recognition, and law enforcement mutual assistance". In addition, the General Administration of Customs of China is well versed in the practical application of paperless trade, and entrusting the construction and management of the "single window" to the General Administration of Customs is also a good choice. Led by relevant units or working groups within the General Administration of Customs, promote the exchange of electronic trade data and documents, promote cross-border mutual recognition and compatibility of data, and ultimately create a domestic legal environment for paperless trade facilitation.

Secondly, it is necessary to flexibly choose three "single window" overall models for international trade, and achieve the unification of electronic data standards for paperless trade facilitation and the sharing and interoperability of data flow channels. Recommendation No. 33, "Recommendations and Guidelines for Establishing a Single Window," proposes three modes: "single jurisdiction," "single self-service system," and "automatic data processing system." However, domestic scholars often translate them into "single institution," "single system," and "public platform" modes. China has chosen the third "public platform" model in the process of building a "single window", which has achieved significant success in the Shanghai Pilot Free Trade Zone. However, from the development process of the "single window", it can be seen that in the public platform mode, the efficiency of data exchange and sharing is not high, and it is still difficult to adapt to the ultimate demand for paperless trade facilitation. We can learn from the "single system" model adopted by the United States, which is a public processing platform for international trade electronic data collection, integration, and distribution of goods import and export customs clearance, to achieve one-stop system processing. With regard to the Data element standard, the overall reform should focus on the relevant departments involved in the customs clearance management of goods import and export, and promote the Data element standard work of corresponding goods customs clearance. The declared items and relevant data need to be further simplified. A unified international standard Data element set should be adopted to ensure the commonness of electronic data, constantly reduce the difficulty of electronic data sharing or exchange, and finally gradually promote the interconnection between China and international customs as a "single window".

The third is to implement the Electronic Signature Law and the Electronic Commerce Law, promote the division of responsibility and dispute resolution mechanisms for cross-border paperless trade operators and enterprises, and strengthen the security protection of electronic information

data in the process of paperless trade facilitation. The security of electronic document transmission is related to the speed of goods import, export, and customs clearance. Ensuring the security of electronic document transmission, the authenticity of electronic signatures and authentication, and the accuracy and transparency of document queries are crucial for paperless trade.

4.2. Relying on the "the Belt and Road", strengthen regional trade facilitation cooperation mechanism

4.2.1. Strengthen regional paperless trade facilitation cooperation mechanism

The regional economic concept of the "the Belt and Road" covers two conceptual regions. One is the division of natural geographical regions, such as South Asia, Southeast Asia, and the Middle East; One is national economic cooperation regions such as the EU, Eurasian Economic Union, ASEAN, etc. Expanding and strengthening cooperation in regional trade facilitation is the focus of cooperation in the "the Belt and Road" economic cooperation and regional trade facilitation. At present, China's regional economic cooperation mechanisms include the Shanghai Cooperation Organization, APEC, China ASEAN Free Trade Area, Regional Comprehensive Economic Partnership, etc. China is focusing on building the "the Belt and Road" economic circle, so the international trade docking and cooperation of paperless trade can rely on the "the Belt and Road". China can promote the process of paperless trade facilitation cooperation from three aspects.

Firstly, we must firmly uphold the Framework Agreement of the Asia Pacific Economic and Social Commission, and continuously promote the process of paperless trade facilitation based on the Framework Agreement and the Trade Facilitation Agreement. The second is to accelerate cooperation with regional economic alliances or economic cooperation mechanisms, and focus on simplifying customs clearance capacity building, Electronic data interchange and mutual recognition efficiency building, and "single window" platform building involved in paperless trade. Third, we should actively cooperate with other regional economic organizations, expand the scope of trade facilitation of the "the Belt and Road", and reverse the process of paperless trade facilitation. Actively cooperating with regions such as South Asia, West Asia, and Central and Eastern Europe to expand the scope of cooperation in paperless trade facilitation.

4.2.2. Develop cooperation clauses related to paperless trade facilitation

One is to establish cooperation and information exchange clauses for paperless trade facilitation. In terms of facilitating cooperation in paperless trade, specific customs provisions for the import, export, and customs clearance of goods can be formulated to facilitate cross-border paperless trade. This includes training on paperless trade operations, electronic information exchange, simplified electronic procedures for customs clearance and release, and recommended application of globally accepted documents and standards. The information exchange related to customs clearance operations can include the sharing of information such as customs legislation and corresponding procedures, electronic information authentication of the port of origin and destination of goods, transportation information of goods, relevant values and corresponding tariff treatment of declared

projects, and the latest and effective law enforcement technologies released by relevant departments. Secondly, single window and automation clauses can be established. Single window and automation are not widely regulated in regional or cross-border multinational trade agreements, but rather in customs chapters, paperless trade clauses, or in e-commerce. We can learn from the single window and automation clauses in the Thailand Japan Free Trade Agreement and the Thailand Australia Free Trade Agreement to accelerate customs clearance, simplify electronic data mutual recognition and processing procedures, and accelerate the process of paperless trade facilitation.

4.2.3. Joint establishment of a paperless trade facilitation liaison mechanism among multiple countries

One of the important factors contributing to the low efficiency of cross-border trade countries' customs clearance is information asymmetry. Therefore, continuously increasing information symmetry and improving transparency in customs clearance affairs among countries will be the focus of the construction process of paperless trade facilitation. The paperless trade committee required by the Framework Agreement can be established by various countries one after another, establishing and publishing contact points and consultation points, creating an information communication platform and mechanism for cross-border paperless trade. In addition, relying on this platform, we will lead cross-border customs clearance cooperation and promote "regulatory mutual recognition" in customs clearance. Under the mechanism of regulatory mutual recognition, customs clearance information is exchanged through data exchange, and goods and items that have already been inspected in one country do not need to be inspected again when transported to the customs of another country, achieving the goal of rapid passage at once. "Regulatory mutual recognition" requires the continuous cooperation of highly transparent information sharing system, quality and safety certification system and other measures. The Paperless Trade Commission can take the lead in achieving bilateral talks between countries, and on the basis of mutual recognition of cross-border customs clearance supervision between the two countries, seek multinational talks and cooperation. China can actively promote cooperation in this field, provide public products such as the "Implementation Agreement for Regulatory Mutual Recognition", and build a mechanism for facilitating paperless trade and facilitating smooth communication and supervision among multiple countries.

5. Conclusion

Non tariff trade barriers account for an important part of trade costs, and paperless trade facilitation will help eliminate most of these non tariff trade barriers. The continuous improvement of legal mechanisms and the improvement of regional trade cooperation mechanisms are key measures to promote the process of paperless trade facilitation. Currently, the development level of paperless trade facilitation in regional countries is uneven. Therefore, it is necessary to strengthen regional cooperation and dialogue mechanisms, promote the process of paperless trade facilitation from multiple aspects such as bilateral, multilateral, and regional levels, and promote the vigorous development of cross-border trade in China's post pandemic era.

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