



Cross-Border E-Commerce in Switzerland and China

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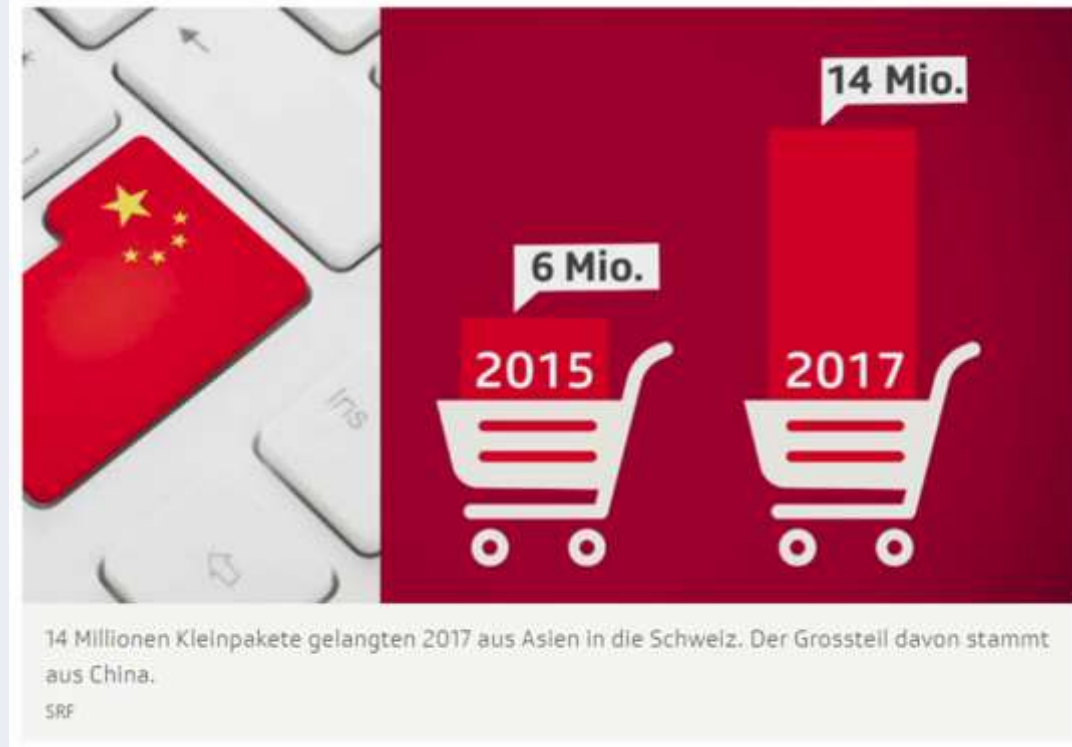
11 June 2018

Cross-Border E-Commerce in Switzerland



Boom of Chinese Online-Sales to Swiss Customers:

- 14 mio. parcels to Switzerland in 2017
- Aliexpress doubles its Swiss turnover in 2017
- Aliexpress: Top 10 online shops in CH
- Further growth prognosted
- Unfair competition due to various reasons
- Threat to Swiss E-Commerce





GAMISS

SHEIN

ROMWE

BAGINC*



AliExpress™

Smarter Shopping, Better Living!

YESSTYLE®

SAMMYdress 

riceAngels

EachBuyer

Banggood
.com

CAFAGO

FASTTECH

Regulatory & Legal Framework - Overview

- Customs & import tax
- Contract law
- E-Commerce regulation (incl. consumer protection)
- IP & Counterfeiting



Swiss Customs & Import Tax

- No customs & import tax if duties < CHF 5:
 - VAT 8%: no import duties < CHF 62 (total cost of order)
 - VAT 2.5%: no import duties < CHF 200 (total cost of order)
- As of 2019: non-swiss online traders will have to register and pay VAT on turnover with Swiss customers
- Free Trade Agreement Switzerland - China

Contract law – Choice of Law & Jurisdiction

- B2C:
 - Consumer contract mandatorily governed by Swiss law (art. 120 para. 2 PIL)
 - Place of jurisdiction at consumer's domicile (art. 114 para. 2 PIL)
- B2B:
 - Free choice of law (art. 118 PIL i.c. art. 2 Hague Convention)
 - Parties free to agree on jurisdiction (art. 5 PIL)

12.6 Alibaba.com shall have the right to assign the Terms (including all of our rights, titles, benefits, interests, and obligations and duties in the Terms to any person or entity (including any affiliates of Alibaba.com). You may not assign, in whole or part, the Terms to any person or entity.

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12.7 If you are from outside of mainland China, The Terms shall be governed by the laws of Hong Kong without regard to its conflict of law provisions and the parties to the Terms agree to submit to the exclusive jurisdiction of the courts of Hong Kong. If you are from mainland China, the Terms shall be governed by the laws of People's Republic of China without regard to its conflict of law provisions and the parties to the Terms agree to submit to the exclusive jurisdiction of the courts of People's Republic of China.

12.8 If you have any comments on the Services we provide to you, you may contact our customer service support line (<https://helppage.aliexpress.com/buyercenter/selectTopic.htm> for AliExpress or https://service.alibaba.com/buyer?spm=a2700.8293689.0.0.643f65aasdVUJy&tracelog=footer_hp_buyer for Alibaba.com) with any such feedback or questions.

E-Commerce Regulation

- International direction and sales to Swiss customers trigger application of mandatory Swiss regulations:
 - Swiss Unfair Competition Act (art. 3(1)(s) UCA):
 - Imprint
 - Information on technical steps leading to the conclusion of the contract
 - Overview of order and possibility for modifications at the end of check-out / prior to confirming order
 - Immediate order confirmation mail
 - No mandatory right of withdrawal
 - Swiss advertising restrictions (incl. rules on price draws and email-marketing)
 - Swiss product regulation (information duties)
 - Swiss price indication and advertising rules (display of final prices in CHF)
 - Swiss data protection law
 - Swiss cookie regulation

Buyer Protection Help Shipping on Alipay Site in CHF Language

AliExpress
Smarter Shopping. Better Living

I'm shopping for All Categories Sign in Join My AliExpress

garment socks men pc delivered sunglasses bikini Barbie Baseball cap Breadboard

CATEGORIES [See All >](#) Brand Zone Flash Deals \$5 Deals LIVE

- Women's Clothing
- Men's Clothing
- Cellphones & Accessories
- Computer, Office, Security
- Consumer Electronics
- Jewelry & Watches
- Home & Gardens, Furniture
- Bags & Shoes
- Toys, Kids & Baby
- Sports & Outdoors
- Health & Beauty, Hair
- Automobiles & Motorcycles
- Home Improvement Tools

DOCUMENT THE WORLD WITH YI
Incredible prices for quality cameras

Welcome to AliExpress
[Join](#) [Sign in](#)

US \$4
New to AliExpress

AliExpress I'm shopping for... All Categories Sign in Join My AliExpress

HOME

MEALS TO GO

Flash Deals 01:16:32

VEHICLES **SPORTS** **HOME** **FASHION**

CHF 13.63

HOME

DADS LOVE TO DIY
Buy select home improvement gifts for him

New Arrivals [View More](#)

<p>CHF 4.97 CHF 6.66</p>	<p>CHF 4.31 CHF 7.57</p>	<p>CHF 5.00 CHF 5.00</p>	<p>CHF 5.47 CHF 6.99</p>	<p>CHF 8.46 CHF 12.88</p>
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Your Shopping Cart (1 Item)

Continue Shopping

Seller: hourong Bath-room Store

Product Name & Details



Pongee Beard Care Shaving Brush
Bathroom Shelves Water

Color: White

Get Select Coupons >

Remove All

Continue Shopping

Sold By
hourong Bath-room Store
China

97.9% Positive feedback
Detailed seller ratings

Visit Store

Follow

Payment Methods:

Contact Seller

Seller Service

Online Delivery
If you do not receive your product, please confirm order received or return it.

Contact Now

Review your Order

Payment

Done

You are checking out as a guest. Have an account? [Sign in](#) Or you can create an account during checkout.

As your order is being sent from overseas, please enter a shipping address using only English letters.

1. Please fill in your shipping information:

Email address
(We'll send an order confirmation to this address.)

Contact Name:

Country/Region: United States

Street Address:

Apartment, suite, unit etc. (optional):

State/Provincial/Region: --Please select--

City:

Zip/Postal Code:

My address does not have a ZIP code.

Mobile:

Country Code - Mobile Number

Set as default

I found some issues with it, please contact me.

Save and ship to this address

Save your address to continue.

2. Review and confirm your order (1 items):

Seller: hourong Bath-room Store
Product Name & Details

Pongee Beard Care Shaving Brush (1) CHF 4.31 China Post Registered Air Mail

Color: White

Subtotal: CHF 4.31
Shipping: CHF 0.00
Total: CHF 4.31

Buyer Protection: Full Refund if you don't receive your order. Full or Partial Refund if you receive a product that is not as described.

Confirm & Pay

Ship to Switzerland / CHF Language



Wish List



Sign in / Join My AliExpress

Switzerland

Registered Air Mail Remove

18-27 days

Total: CHF 4.31 Shipping: CHF 0.00
Total: CHF 4.31

Buy from this seller

Subtotal(1 Item): CHF 4.31

Shipping Cost to Switzerland: CHF 0.00

All Total: CHF 4.31

Buy All

Use coupons or leave a message for the seller.



Buyer Protection
Full Refund if you don't receive your order.
Full or Partial Refund if you receive a product that is not as described.

All Total: CHF 4.31

Confirm & Pay

When placing the order, we confirm and you, I understand that I have read and acknowledge:

AliExpress International Services Agreement

AliExpress Terms of Service

Buyer Protection Service

Privacy Policy & Cookies

Click here to learn more about Buyer Protection, our online dispute resolution, and AEE Express



IP & Counterfeiting

- Risk of IP infringement (b2c & b2b)
- Risky b2b-supply
- Customs seizure & information of owner of IP rights
- Return of fake products is illegal

The screenshot shows the AliExpress website interface. At the top, there's a search bar with 'designer fake handbags' entered. Below the search bar, there are filters for 'Brand: FASTE', 'Price', 'Free Shipping', and 'Sort by: Best Match'. The main content area displays a grid of handbags. Each product listing includes an image, a title, a price in CHF, and a 'Free Shipping' label. The products are:

- Red/Black New Retro Lady Bag Business Designer Lady Shoulder: CHF 16.61 / piece
- Big Pink fake designer V Luxury Leather Clutch Bag Ladies: CHF 15.67 / piece
- Women Fake Designer Handbags Plaid Plaid Shoulder Bags: CHF 22.80 / piece
- All-Color Striped Women Winter Tote Fake Designer Handbag: CHF 16.73 / piece
- Aelicy Panelled Small Chain Crossbody Bag Woman Luxury: CHF 4.56 - 8.91 / piece
- Aelicy Messenger Bag PU Leather Women's Casual Tote: CHF 11.24 - 19.38 / piece
- Aelicy Luxury PU Leather Bag Female Woman Fake Designer: CHF 10.68 - 20.55 / piece
- Aelicy luxury pu leather chain fake designer handbags: CHF 25.15 / piece

Cross-Border E-Commerce in China



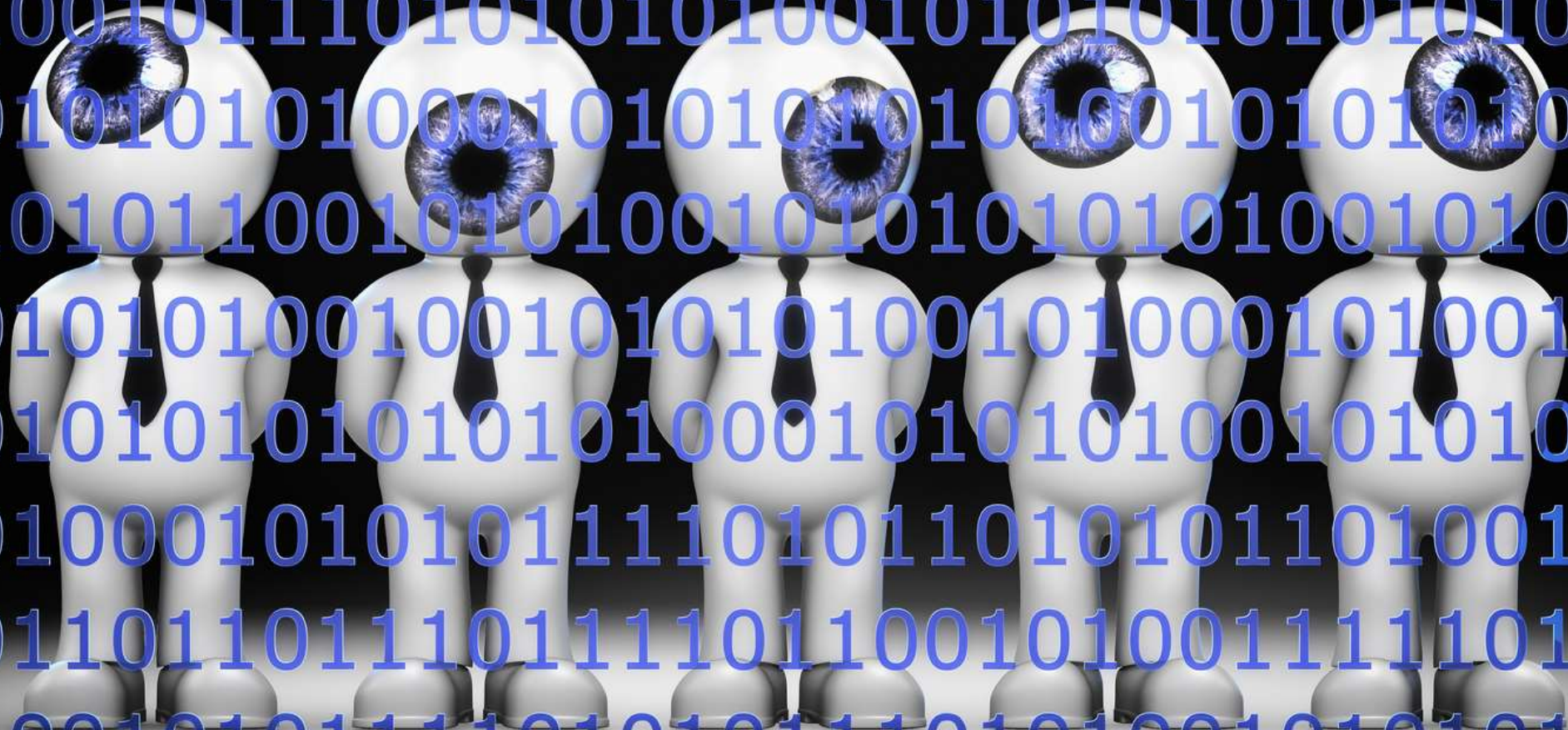
Cross-Border E-Commerce in China

- Chinese demand for overseas goods increases every year
 - Vastly growing middle class
 - Increased exposure to the internet
 - Looking for higher level of quality
 - Protection against counterfeit goods



Source: eMarketer and Alizila (Alibaba Group)

New Rules and Regulations



New Rules and Regulations

- Regulatory framework is developing and changing constantly

- New rules in 2016
 - „Tax Policy for Cross-Border E-Commerce Retail Imports (*Circular 18*)”
 - „List of Imported Commodities for Retail in Cross-Border E-Commerce”
 - „Positive List – 2nd Batch“

- E-Commerce Law (second draft published on 7 November 2017)

Import Tax Policy

Bonded Imports Model (B2B2C) <i>From bonded warehouse</i> <i>Direct Mailing Model (B2C)</i> <i>From overseas distribution centre</i>		Direct Purchase Imports <i>From overseas merchants (B2C) &</i> <i>From individuals (C2C)</i>		
Tax and duties	Rate	Personal postal articles tax category	Goods categories	Tax rate
Import tariff	Temporarily set at 0%	1	Books, magazines, and educational audio-visual products; computers, video recorders and digital cameras; food, beverages; gold and silver; furniture; toys, games, festive and other recreational articles	15%
Value-added tax (VAT)	Levied at 11,9% (normal flat VAT is 17%)	2	Sports goods, fishing equipment; textiles and textile products; TV cameras and other electrical appliances; bicycles; other goods not included in categories 1 and 3	30%
Consumption tax	Levied at an equivalent to 70% of the standard rate applicable to the type of goods	3	Tobacco, wine; precious jewellery and jade, golf clubs and equipment; high-end watches; cosmetics	60%

Source: HKTDC Research

Positive List

- „List of Imported Commodities for Retail in Cross-Border E-Commerce“
 - Includes 1'142 commodities covering food and beverages, clothing, footwear, hats, home appliances, cosmetics, diapers, children's toys and other items commonly purchased by Chinese consumers on e-commerce platforms

- „Positive List – 2nd Batch“
 - Includes 151 commodities covering meat, fruit, grain, cooking oil, health food and medical devices



Positive List

- Only the listed commodities can be imported to China through cross-border e-commerce
- Goods included in the positive list are exempted from submitting an import licence to customs
- Certain products require additional registration or filing prior to import



Import Models



Import Models – Bonded Imports

- Bonded Warehouse Model
 - „stock first – order later“
 - Products on positive list are imported into approved bonded warehouse zones
 - After customer orders, products go directly through customs clearance in bonded area before delivery

- Direct Mailing Model
 - “order first – deliver later“
 - After customer orders, the platform submits the purchase records to customs
 - Parallel shipment of products from an overseas distribution centre

- Taxation of Bonded Imports
 - Import tariff, VAT and consumption tax will be levied upon customs clearance

Import Models - Direct Purchase Imports

- Direct Purchase Imports
 - Products not on the positive list can also be shipped directly from overseas merchants (B2C) and individuals (C2C) via postal and courier system
 - Products are custom cleared by China Post or EMS

- Taxation of Direct Purchase Imports
 - Personal postal tax only
 - Only if parcel checked by customs



Goods in Bonded Warehouses

- Customs Clearance of Entry Commodities (Clearance Form)
 - Examination of goods' compliance with requirements of the quarantine and inspection authority before bonded goods can be cleared

- Registration or Filing
 - Certain goods have to obtain certification from the China Food and Drug Administration (CFDA) before sale
 - Depending on the product category a registration or filing procedure applies
 - CFDA filing and registration are extremely lengthy procedures



Registration or Filing of Special Categories

Categories	Included or not	Details
Alcohol	Most are excluded	<p>I. Small packaged wine (< 2L) is included in the positive lists.</p> <p>II. Other alcohols, such as other packaged wine, beer, and distilled spirits are all excluded.</p>
Common pre-packaged food	Most are included	<p>I. Most categories of common pre-packaged foods are included in the positive list (refer to the list for details)</p>
Cosmetics	New are excluded	<p>I. The positive lists exclude those cosmetic products that are imported to China for the first time.</p> <p>II. Relevant filing or registration license at CFDA is required.</p>
Dairy products	Most are excluded	<p>I. Yoghurt, cheese, butter etc., are listed.</p> <p>II. Liquid milk (including pasteurised milk, UHT milk, modified milk), and milk powder (except formulated milk powder) are all excluded from the positive list.</p>
Fresh food (vegetables, fruits, animal products)	Part are included	<p>I. Many limited to commodities imported via CBEC under the bonded warehouse mode.</p> <p>II. Companies and products must be registered with AQSIQ and CNCA.</p>
Health food & FSMP	Most are excluded	<p>I. Nutrition supplements must be filed with CFDA</p> <p>II. Health foods must be registered with CFDA</p>
Infant food	Part are included	<p>I. Only registered infant formula milk powder under CFDA can be imported by CBEC, no exemptions.</p> <p>II. Other pre-packaged common infant foods are all included.</p> <p>III. Currently only a draft on formula registration of infant formulated milk powder exists. Hence, the registration certificate is not required until January 1 2019.</p>
Medical devices	Most are excluded	<p>I. Medical devices imported via CBEC must be in compliance with CFDA regulations.</p> <p>II. Registration or filing with CFDA is required</p>

Source: CIRS and Swiss Business Hub China

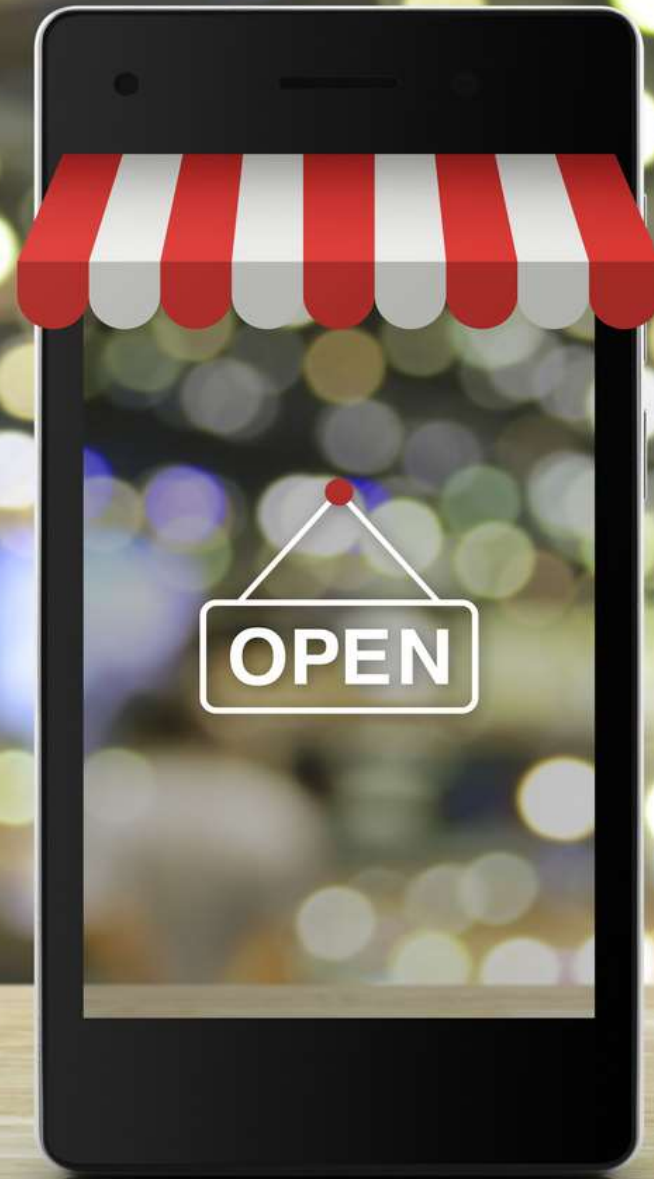
Transitional period

- Latest delay notification issued in September 2017

- Suspension of supervision requirements until 31 December 2018
 - In particular, filing or registration requirements for first-time imported cosmetics, infant formula milk powder, medical equipment and food products for health/medical purposes are suspended

- Imported products under cross-border e-commerce transactions covered by the positive list are subject to the Circular 18 import tax policies

Cross-Border E-Commerce Models



Cross-Border E-Commerce Models

- Stand-alone web shops (outside China)
 - Selling products directly to China via a website hosted outside of China

- Online malls
 - Centralized platform (similar to an offline mall) where goods from a variety of individual shops can be purchased from a merchant directly with a single transaction via the overarching marketplace checkout system
 - Tmall Global / JD Worldwide

- Hypermarkets
 - Hypermarkets purchase a great variety of popular goods directly from overseas companies and add them to their own product assortment (B2B2C)
 - Kaola

Cross-Border E-Commerce Models

- Vertical speciality marketplaces
 - Speciality marketplaces buy goods directly from overseas suppliers but focus on specific product categories, target audience or geographical region
 - Yiguo

- Flash sales websites
 - Offering of limited quantities of new-to-market or surplus products at highly discounted rates for a limited period of time
 - VIP.com

- WeChat stores
 - Connection of e-commerce with social media
 - WeChat Enterprise/Service Account

Payment Solutions

- Credit cards are unpopular payment methods
- Third-party online payment platforms
 - Alipay, Tenpay or UnionPay
- Escrow payment through third-party online platforms
 - After order/before delivery payment is put in an escrow account
 - Customer confirms delivery after reception of order
 - Online payment platform releases payment to merchant



Intellectual Property Rights

- Early registration of trademarks advised
 - First-to-file principle
 - Relatively long application process

- Leading e-commerce platforms require potential shop owners to present their China IPR registrations and offer internal trademark infringement help centres



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Thank you!

Thank you for your time and interest in
Meyerlustenberger Lachenal