

**China****Issues and background**

Express delivery operators are experiencing problems in the Chinese postal market in two key areas – postal regulation and customs practices:

**1. Postal Law**

The market of domestic document delivery is not open to foreign firms and there is ambiguity on how to implement legislation.

In April 2009, the Standing Committee of National People's Congress passed the amended Postal Law which took effect on Oct.1, 2009. According to Article 51, "*Foreign businesses are forbidden to invest in or operate domestic express delivery of letter articles*". This exclusion provision in the law does not allow Chinese companies and consumers full access to foreign express delivery service providers. It will erode the competitiveness of foreign invested firms against their domestic counterparts in the wider express market and eliminate market incentives to maintain or improve customer-focused service. As a result, there will be fewer options and lower quality services for customers.

Since the law took effect on Oct.1, 2009, there are two relevant issues waiting to be clarified.

**1. The definition of foreign businesses**

In the existing laws of PRC, there is no definition of "foreign businesses". Some EDS firms in China are HK-invested or joint ventures. Without a clear definition, there might be differentiate treatment to FIEs.

**2. The definition of "letter articles"**

According to Article 84 of Postal Law, "*Letter article*" refers to *letters and postcards. Letters are information-carrying materials in an envelope-style covering delivered sealed to a specific person or unit according to a name and address, not including books, newspapers, periodicals, etc.*

This definition is too vague. It is necessary to clarify that when the "information carrying materials" are incidental to the goods shipment – such as an attached invoice, instruction manual, explanatory note, assembly instructions, disbursement instructions, etc – they should not be considered as "letter articles."

**2. Customs - Advance manifest transmission (Order 172)**

China Customs Order 172 is cumbersome and onerous on the logistics industry. For example, the Order requires transmitting manifest data to Customs 4 hours before loading the aircraft for export. The timeline is more stringent than that of the US and EU, and the guidelines in the WCO Framework of Standards to Secure and Facilitate Global Trade. The 4-hour rule will have an immensely negative impact on the EDS industry.

**Next steps:**

The EEA calls on all concerned parties to request the Chinese authorities to:

1. Clarify the important articles/terms in the Postal Law. Guarantee the fair and transparent law enforcement during the implementation.
2. Allow transmitting manifest data to China Customs up to 30 minutes before departure of the aircraft for export, in line with European standards outlined in EC Regulation 1875/2006 Article 592 (b). This article states that "Whenever goods leaving the customs territory of the Community are covered by a customs declaration, this customs declaration shall be lodged at the competent customs office...in the case of air traffic, at least 30 minutes prior to departure from an airport in the customs territory of the Community"

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