Opportunities for Parallel Import in China (Shanghai) Pilot Free Trade Zone: Evidence from the Automobile Industry and the Pharmaceutical Industry

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Abstract

Parallel import, as a pattern of international trade, is often under criticism because of infringement of intellectual property. However, the establishment of China (Shanghai) Pilot Free Trade Zone has contributed to the rapid development of parallel import, which has existed in the "grey zone" in China for a long time. Generally speaking, parallel import not only minimizes damages to related intellectual property owners, but also maximizes flow of goods and promotes formation of a unified market, which is beneficial to free trade and economic integration as well as the welfare of consumers. This paper investigates two industries most affected by parallel import, namely the automobile industry and the pharmaceutical industry. Two cases, "Peugeot Unfair Competition" and "Compulsory Licensing of the Indian Pharmaceutical Industry", are analyzed. This paper draws the conclusion that the general welfare of society must be considered and a clear boundary of intellectual property rights should be established in the development of trade policies on parallel import. Effective use of parallel import can ultimately promote social development.

Keywords: Parallel Import, Intellectual Property, Parallel Import Cars, Pharmaceutical Industry

1. Introduction

With low political risk, rapid economic growth, a high degree of openness to international trade and abundant natural resources, China has a positive environment for FDI (Mele and Quarto, 2017). From 1990 to 1999, China increased the stock of FDI from less than $19 billion to over $300 billion. Therefore, according to the stock of inward FDI, China was ranked first among all developing countries in the world (Graham and Wada, 2001).

Parallel import, a new form of FDI, has recently emerged in China. Meanwhile, the establishment of China (Shanghai) Pilot Free Trade Zone provides favorable policies for parallel import. Therefore, it is imperative to investigate the opportunities for the development of parallel import in China.

Parallel import, more often than not, is considered infringement of intellectual property. The establishment of China (Shanghai) Pilot Free Trade Zone greatly promotes parallel import. Parallel import has been in China for a long time. Its status remains in the "grey zone". To what extent does parallel import damage intellectual property? What are the advantages of parallel import? How does parallel import influence the market and the welfare of consumers? This paper attempts to answer the abovementioned questions by investigating two industries most affected by parallel import, *i.e.*, the automobile industry and the pharmaceutical industry. Two cases, "Peugeot Unfair Competition" and "Compulsory Licensing of the Indian Pharmaceutical Industry", are analyzed.

A great deal of literature pertains to whether parallel import has more advantages (benefit to importing countries) or disadvantages (damage to intellectual property holders). For China, a developing country with the largest market in the world, should parallel import be allowed?

Price differences of the same product at home and abroad and the monopoly of individual enterprises are both obstacles to economic development. Abuse of the rights of intellectual property may aggravate non-tariff barriers - the deterioration of trade barriers of intellectual property. If parallel import functions in an orderly way, it can help break the monopoly of patents and copyrights, and ultimately lead to enhancement of social welfare of a nation. The social goal of economic globalization is to save resources and improve economic efficiency. Parallel import can exploit comparative advantages of nations, so that resources can be allocated efficiently in the world market and improve economic efficiency (Gao, 2007).

With reference to *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS), *Anti-Counterfeiting Trade Agreement* (ACTA), *Exhaustion of Intellectual Property Rights*, and *principle of territoriality*, this paper investigates parallel import in the automobile industry and the pharmaceutical industry. This paper explores the influence of the two agreements and the two principles of parallel import. In addition, this paper discusses the current situation and the future development trend of parallel import in the China (Shanghai) Pilot Free Trade Zone. This paper proposes policy implications according to theories and case analysis.

The remaining part of this paper is organized as follows. Section 2 reviews related literature. Section 3 introduces institutional background and theory. Section 4 analyzes the case of the automobile industry. Section 5 is

devoted to the case of the pharmaceutical industry. Section 6 proposes policy implications. Section 7 concludes the paper.

2. Related Literature

Parallel import is the result of expansion and restriction of intellectual property rights and the choice of national trade policy. Nations choose appropriate principles of intellectual property according to their own interests. Yan (2012) points out that it is suitable for nations against parallel import to use *Domestic Exhaustion of Intellectual Property Rights* or *Principle of Territoriality* to prevent parallel import, while nations that support parallel import use *International Exhaustion of Intellectual Property Rights* or *Principle of Universality*. The application of these principles is related to intellectual property law. Nevertheless, the real determinant of the application of these principles is the strategy of national intellectual property protection and international trade. Zhang (2004) insists that *Domestic Exhaustion of Intellectual Property Rights* is not the only basis on which whether parallel import infringes intellectual property is judged. The government's economic policy, trade policy, and relevant laws and regulations are more important factors. In other words, whether parallel import infringes intellectual property is related to a nation's weighing of interests, and *Domestic Exhaustion of Intellectual Property Rights* can only serve the practice. Liu (2006) reasserts that *Domestic Exhaustion of Intellectual Property Rights* is the theoretical foundation of legalizing parallel import while *Principle of Territoriality* is the theoretical basis against parallel import. Parallel import can be regulated by two measures. One is to allow restricted access to parallel import through *Principle of Territoriality*. The other is to regulate parallel import through *Anti-Unfair Competition Law*.

Li (2010) states that legislation of parallel import should first consider national conditions, and refer to previous legislative experience and international trend at the same time. Legislation should proceed step by step on the basis of respecting the interests of intellectual property owners and protecting a nation's economy and its technical and cultural industries. Zou (2003) argues that China is a developing and export-oriented country on which parallel import cannot have a great impact for a long time. Therefore, China should adopt an eased attitude towards parallel import and promote its export and circulation of commodities.

The automobile industry and the pharmaceutical industry are two industries which are most affected by parallel import. Qing (2014) insists that the launch of the China (Shanghai) Pilot Free Trade Zone and the "three guarantees" of the automobile market are valuable. However, future development of parallel import cars depends on reform of national laws and systems. Standardized operation of parallel import cars is beneficial to pushing

the price system of imported cars to drop further so that the monopoly of import automobiles can be breached. Nevertheless, parallel import cars mainly rely on scattered orders from overseas distributors, who decide that the market scale should not expand much. Yan (2015) believes that the survival basis of the existing price system of import automobiles is the current *Automobile Brand Sales Management Approach*. Parallel import can only play a role in adjusting the price system of import automobiles. In order to break down the monopoly in the automobile industry, competition mechanism should be introduced. However, this means that the system of total dealer, which goes against the *Approach*, would be cancelled. In this situation, the proper introduction of parallel import becomes a breakthrough in breaking the price monopoly of import automobiles (Ke and Zhang, 2008).

Dong (2006) describes provision of compulsory licensing for medicines in China in detail. When other nations need to import medicine to treat certain infectious diseases and fulfill relevant procedures, China can issue compulsory licensing to help these nations solve public health problems. Barfield and Groombridge (1999) argue that in the conflict between free trade and intellectual property protection, it is essential for the government to allow patent holders to control parallel import. This does not only promote innovation in the pharmaceutical industry, but also enhances the material interests of consumers in developed and developing countries. According to Bordoy and Jelovac (2003), if it is allowed to import a monopolized medicine from a nation to another, the total payment level of patients in different nations is different in terms of the effect that patients get from the consumption of the medicine. On one hand, parallel import reduces total social welfare in different national health systems; on the other hand, parallel import improves total social welfare in the health care system. Maskus and Ganslandt (2001) analyze data from Sweden and find that the average price of medicines in the Swedish market has fallen due to an increase in parallel import. The price of medicines affected by parallel import decreased by 12% to 19% compared with other medicines. Naghavi and Mantovani (2014) point out that the existence of parallel import medicines is due to price differences of medicines in different nations, which lead to potential arbitrage opportunities for medicines. Parallel import is a solution to the rising price of medicines. However, the risk of patent protection and counterfeit, along with unexpected inferior medicines in the process of importing, deserve special attention. Gene and Edwin（2006） believe that if arbitrage of parallel import is tolerated, it may destroy intellectual property rights as well as preferential policies for investment in the pharmaceutical industry and other research intensive industries. Member states can implement *International Exhaustion of Intellectual Property Rights* to allow parallel import under *TRIPS Agreement*. When medicine patent law is amended or formulated, ensuring public health should be seen as the

purpose. At the same time, various measures should be taken to prevent excessive parallel import of medicines.

3. Institutional Background and Theory

Parallel import, also known as the "grey market", is a phenomenon of the combination of intellectual property and international trade. With the development of international economics and trade activities, an intellectual property can be protected in many nations at the same time, and parallel import becomes more common.

Parallel import in China is generally defined as "unauthorized importers import products from other nations without permission of the intellectual property owner" (Dong, 2006). In United States, parallel import product is often referred as "grey market product" by those who are against parallel import. According to the American case law, grey market products are "products made out of United States and imported to United States without permission of the intellectual property owner. These products nevertheless involve effective American intellectual property (Guan, 2010).

In summary, parallel import is a behavior that unauthorized importers import and sell intellectual property goods that are legally manufactured or sold in other nations to gain profit because of price differences. As parallel import is parallel to regular import, it is called parallel import. It stands as a competitor to regular import. The relation between parallel import and "grey market" is that parallel import is a kind of behavior, while the market formed by this kind of behavior is "grey market" (Guan, 2010).

There are a variety of forms of parallel import. The first one can be identified as "re-import" or "buyback". The intellectual property right holder D is in a high price country A. The cost of its patent product C is 60 and C is sold at a price of 100 in country A. Agent E in a low price country B is authorized to manufacture product C, whose cost is 60 while the sales price is reduced to 80. At the same time, a third party importer F (without permission) purchases product C at the price of 80 in the low price country B and sells it to the high price country A at a price of 90. In this way, in the high price country A, F competes with the intellectual property right holder D with obvious price advantages and obtains profit. In United States, the so-called "grey market product" mainly refers to product imported in this way. The number of this kind of parallel import is large because United States is a high price country (Neth, 2008).

The second form of parallel import is known as "deformation" of the first form. The intellectual property right holder D is in a high cost country A. The cost of its patent product C is 60, which is sold at the price of 100 in country A. Agent E in a low price country B is authorized to manufacture product C. The cost of product C is lowered down to 30 in country B, and the sales price

is set to 80. At the same time, a third party importer F (without permission) purchases product C at the price of 80 from the low price country B and sells it to the high price country A at a price of 90. In this way, in country A, F competes with the intellectual property right holder D with obvious price advantages and obtains profit. Here, the deformation of form two is carried out as following. The intellectual property right holder D is in the high cost country A. The cost of its patented product C is 60, which is sold at a price of 100 in country A. In the low cost country B, E is not authorized to produce product C. However, E counterfeits product G with the same effect as product C in country B. Due to the low cost of country B, the cost of product G is decreased to 30 and the price is set at 80. At the same time, the third party importer F (without permission) purchases product G at the price of 80 from the low price country B and sells it to the high price country A at a price of 90. In this way, in country A, importer F competes with the intellectual property right holder D with obvious price advantages of product G and obtains profit. This is actually the case of the practice of the Indian counterfeit pharmaceutical industry, which is illustrated in detail in Section 5.

The third form is a combination of the two forms above. The intellectual property right holder D is in a high cost country A. However, due to a series of reasons (labor cost, capital cost, production permit *etc.*), patent product C cannot be produced in country A. The intellectual property right holder D authorizes agent E in country B to produce product C whose cost is 30 and sales price is 80. The intellectual property right holder D imports product C from country B and sells it at a price of 100 in country A. At the same time, a third party importer F (without permission) purchases product C at the price of 80 from the low price country B and sells it to the high price country A at a price of 90. In this way, in country A, importer F competes with the intellectual property right holder D with obvious price advantages of product C to obtain profit.

In the three forms above, only the third one is the real parallel import. The first one is buyback while the second one is only an unauthorized import. However, parallel import is not confined to the physical sense of "parallel". To be precise, whether an import is parallel import or not is the legitimation of the source of import products. In other words, whether it is placed in an exporting country or regional market by the intellectual property right holder or to a person that the intellectual property right holder has agreed (Gao, 2007). Accordingly, these two situations are regarded as parallel imports as well.

It is worthwhile considering interest conflicts and coordination of parallel import in intellectual property right holder's angle and consumer's angle. For relevant intellectual property right holders in the importing country, parallel import brings about many damages to their own interests. First of all, parallel import products take up part of the market share of the intellectual property

right holder with price advantage, which makes the market share of the intellectual property right holder shrink. Second, "free-riders" of parallel importers have led to lack of adequate returns for relevant intellectual property right holders. Such companies often invest heavily in developing products, launching products to the market, building consumer awareness and developing effective marketing networks. On the other hand, parallel import is beneficial to intellectual property right holders. First, increase in parallel import products can expand the overall sales and market share, which makes parallel import products more competitive than similar products. Second, in some cases, there would be product surplus in the market of the exporting country for some reason. Parallel import can help transfer these products quickly to importing market for sales so that the intellectual property right holders could benefit (Wang, 2011).

The most concern for consumers is the price and quality of goods. Despite low price, parallel import good is genuine and its quality is basically the same as the same product which is manufactured and sold by authorization. Consumers can easily buy parallel import goods and enjoy low price because of the extended sales channels and the increase in alternative products. This is the benefit of parallel import for consumers. The negative impacts of parallel import on consumers are that there may be quality differences or quality defects. Besides, consumers cannot get after-sales technical services, maintenance services, product upgrade services and spare parts supply so that the interests of consumers cannot be legally protected. Although parallel import has a price advantage, the entire experience may not please consumers.

It can be seen that parallel import has different advantages and disadvantages in different perspectives. Even for the same subject, there are positive and negative sides (Wang, 2011). Parallel importers emphasize on price competition resulted from parallel import, which helps meet consumer demand, and the role parallel import plays in reducing price discrimination.

4. Case Study of the Automobile Industry

On October 5th, 2005, the European Commission imposed a fine of 49.4 million euros for the case that the automobile manufacturer Automobiles Peugeot SA and its subsidiary Peugeot Nederland NV exported Peugeot automobiles to the Dutch market directly without the permission of local distributors due to its breach of Article 81 EC in "no abuse of market power" and "no cartel".

The main basis for this sentence is that Peugeot breaches the selective and independent distribution agreement that it signs with its Dutch dealers, and causes hostility and restriction on competition. Thus, the deed of Peugeot constitutes serious infringement. The infringement act of Peugeot could be divided into two parts: one is the discriminatory bonus that Peugeot signs with

its Dutch dealers. Employees' payment is related to car sales. Such bonus has fallen sharply after parallel import in the Netherlands. The other is the pressure puts on dealers that Peugeot signs with its Dutch dealers. Regional sales cannot reach the target after parallel import, which causes loss to local dealers. Such losses may also be considered as discriminatory bonus.

It is obvious to see that this is an interest game between different individuals. The impact of parallel import could be analyzed from four angles, which are overseas head office, regional authorized dealers, parallel importers, and consumers. The first is overseas head office (the original intellectual property owner). For head office, in the parallel import process, it is necessary to take sales, brand, and possible legal issues into account. Total sales are likely to go up but not much. It is not a big deal, but the sales focus has shifted from one region to another. However, because of parallel importers' different standards of quality assurance and after-sales services, the formulation and maintenance of brand standard can be very difficult. Thus, word of mouth in the market would be affected. In addition, because the sales price is difficult to control, the competition between the company itself and its rivals in the market and the sensitiveness of the company to the market will both decrease. The difficulty in making a quick response to the market has left parallel import out of the development plan of the head office. The second is regional authorized dealers. For dealers, the market is squeezed, the brand reputation is negatively affected, and the promised welfare of the head office is reduced. These are all the situation of the Dutch dealers in the case of "Peugeot Unfair Competition". At present, the profit of 4S automobile dealers is mainly from the manufacturers' rebates. But larger profit comes from repair and maintenance services. The operating profit model of mature 4S automobile dealers is that automobile sales account for 30%, after-sales services account for 60%, and others only account for 10%. It can be seen that the automobile after-sales service market is the most stable profit source in the automobile industry, which could account for 60% to 70% of the total profit. The third is parallel importers. Free trade and open policy lead to the legitimacy of parallel import, which makes parallel importers legitimate businessmen who are protected by the policy. Those people can be regarded as speculators who use price differences between domestic market and foreign market to carry out arbitrage and usually do intellectual property import on the edge of the law based on anti-monopoly law. The fourth is consumers. For consumers, parallel import brings more alternatives, more automobile dealers, and more car models. On the other hand, if the seller's quality could not be guaranteed, consumers need to work hard to improve their judgement capability.

On January 7th, 2015, the document on parallel import cars in China (Shanghai) Pilot Free Trade Zone (*the document*) was released. Shortly after, 17 automobile companies launched sales of parallel import cars on February

10th. With an obvious price advantage, completed configuration, short pickup time, and simplified procedure, after the introduction of the new parallel import policy, parallel import cars suddenly emerge in China's market and stand against traditional 4S automobile dealers. Parallel import cars bypass sales agents and eliminate licensing costs and agency costs. The price of parallel import cars is not strictly restricted by manufacturers. Instead, it depends on the market. In addition, some of the authorized import automobiles have not been publicly released in China or the Chinese version is not configured for mass production. For some automobile enthusiasts, buying parallel import cars seems to be a better choice.

As a matter of fact, there have always been parallel import cars in China's import automobile market, but the number of parallel import cars has been at a low level due to lack of after-sales services, unavailability of "three guarantees", and restrictions on licensing in China (Ke and Zhang, 2008). However, this does not offset the actual price advantage of parallel import cars. According to surveys, parallel import cars are about 15% cheaper than imported cars in traditional 4S automobile dealers. The launch of the pilot project of parallel import cars in China (Shanghai) Pilot Free Trade Zone has gradually removed the "grey" status of parallel import cars, enabling them to compete fairly with authorized import car dealers.

At present, the third party service platform of China (Shanghai) Pilot Free Trade Zone carries out after-sales, "three guarantees", and recall services for parallel import cars. *The document* also clearly stipulates that registered car dealers in the Free Trade Zone are the main bodies responsible for the quality of parallel import cars, and they should fulfill duties such as product recall, quality guarantee, after-sales service, "three guarantees", average fuel consumption approval *etc.* (Liu, 2014). At the same time, import automobile spare parts and maintenance costs are cheaper than that of traditional 4S automobile dealers. The new policy, along with the price advantage, effectively protects the interests of consumers and promotes parallel import cars.

For the same car model, the price of parallel import cars is reduced by 10% to 30%. The quotation of parallel import product in customs is just the retail price of the product in its original market. However, local authorized dealers often take countermeasures which results in the price of cars in 4S automobile dealers even lower than that of parallel import cars.

The model of parallel import cars is estimated to be more plentiful in China. Parallel import car dealers can choose different car models for different markets, while authorized dealers can only choose the model of cars in their own market. However, car models selected by authorized dealers are often adjusted and optimized for a particular market. On the contrary, the choice of parallel import car models requires consumers' own judgement.

In terms of service, parallel importers often offer much worse services. The service cost of authorized dealer is added to the price of the car, while parallel import does not. This is just one of the reasons why parallel import prices are low. Although parallel importers can form an industrial chain alliance, the level of after-sales services is often a weakness.

5. Case Study of the Pharmaceutical Industry

The concept of "generic medicines" was initiated in United States in 1984. At that time, there were about 150 common medicines' patents which expired in United States, and large pharmaceutical companies were unwilling to continue developing these medicines, which made these medicines unclaimed "orphan medicines". As a result, United States issued a law according to which new manufacturers could imitate medicines as long as they could prove that the biological effects of their imitated products are comparable to the original ones. Thus, the concept of "generic medicine" was created. "Generic medicine" and "patent medicines" are totally the same in dosage, safety, effectiveness, quality, function and indications. However, the average price of "generic medicine" is only 20% to 40% of "patent medicine". Some even have a price difference of more than 10 times.

In 1952, the Indian government still implemented the product patent law, which was from the era of British colonization to strictly controll the pharmaceutical industry. European and American pharmaceutical magnates obtained patent for developing new prescription medicines by which they gained long-term monopoly profits. However, Indian companies were not able to develop new patent medicines through research and development. Therefore, consumers could only buy expensive prescription medicines from European and American companies. Ranbaxy took aim at a sedative called "benzodiazepine" of Roche Switzerland, which did not register patent in India, and started to imitate it. Later, Ranbaxy imitated the best-selling patent product of the world's largest pharmaceutical company Pfizer. The medicine was called Lipitor. Its annual sales reached $13 billion. Ranbaxy not only generated huge profits but also provided cheap medicines for the poor. The Indian government then decided to encourage local pharmaceutical companies after the example of Ranbaxy. The new patent law was promulgated in 1970 in India which allowed Indian pharmaceutical companies to imitate and produce any types of medicines as long as the production process is different from the patent production process of other pharmaceutical factories. This law cleared obstacles for generic medicines in India.

In 1995, India joined the WTO and amended the patent law, which grants "product patent" to medicines and provides patent protection to medicines invented or modified after 1995. Indian generics with huge markets all over the world were not willing to exit the market. Therefore, the Indian

government came up with a new approach, *i.e.*, patent compulsory licensing system for medicines. For example, the Indian Patent Office issued a compulsory license for Natco, an Indian pharmaceutical company, to produce generic versions of Sorafenib, a liver cancer medicine of Bayer, Germany. The patent of Sorafenib is valid until 2021, but Natco began imitating and selling it as early as 2000. Bayer took an infringement action to Natco in 2011, but unexpectedly met with compulsory licensing. The Indian Patent Office argued that medicines of Bayer are too expensive for ordinary people to consume.

Indian pharmaceutical companies which do not get compulsory license sell generic medicines and give patent legal battles with pharmaceutical firms at the same time. Today, Ranbaxy sells inexpensive generic medicines to 150 countries, making itself the world's fifth-largest pharmaceutical company. But Ranbaxy faces various lawsuits every year and it has engaged in lawsuit with almost as many as all famous pharmaceutical companies in the world. Novartis AG had a law war with the Indian government on patent protection. However, Novartis AG lost the lawsuit finally.

The compulsory licensing system concerning Indian generics can be interpreted that country or government directly allows other companies or individuals to invent and manufacture generic medicines without the permission of patent owner. The aim of compulsory licensing is to promote the development of science and technology and to safeguard social justice. The rapid development of the Indian pharmaceutical industry is due to loose industrial policy, the development strategy which is adapted to its own characteristics, and the positive and outgoing idea of development. First, the Indian government and the law both support generic medicines. For a developing country, economic benefits and medicine availability are the top priorities, while intellectual property is only a game rule of the international community. This is the reason why the Indian government supports generic medicines. Second, Indian pharmaceutical companies have found their own positioning. In a country with a medicine penetration rate of only one third, effective and inexpensive medicines are the mainstream medicines in the market. In fact, India has invested considerable funds in developing unpublished prescriptions to meet the needs of the society and promote the development of domestic pharmaceutical industry. In the end, India exports generic medicines to different countries with a positive and outgoing view of development, and other countries allow parallel import medicines based on "people –oriented" thought. Lower-priced medicines can meet the requirement of increasing social welfare. Developing countries have not established a comprehensive health insurance system that can withstand high price medicines. Therefore, low-cost medicines have a broad market.

As for China, on February 16th, 2015, People's Procuratorate of Yuanjiang Municipal made a non-prosecution decision on Yong Lu, who is

the first person to buy anticancer medicines as a purchasing agent according to law. Regular anticancer medicines for leukemia in China named Gleevec are imported from Switzerland, which cost RMB 23,500 yuan per box. The similar medicine made in India that Lu purchased from Japan had the same effect as Gleevec, but the price is only about 4,000 yuan per box. Later, Lu got in contact with the Indian anticancer medicine dealer, India Cyno Company, through the contact information provided in the medicine specification, and began to buy anticancer medicines directly from it. As the news spread among patients, the number of Chinese customers who purchase anticancer medicines from Cyno gradually increased. The price of the medicine decreased gradually until 200 yuan per box. Lu was called the first person to buy anticancer medicines as a purchasing agent and was prosecuted because he shared the purchase channel of the Indian anticancer medicine, which is a generic medicine of Gleevec, with thousands of others. After 36 days, Lu was officially discharged.

This case provokes people to contemplate a series of questions. Can medicines be parallel imported? Should China's market permit parallel import medicines? Can intellectual property issue of parallel import medicines be properly solved? Can China sign import contract with pharmaceutical companies to put high price anticancer medicines into medical insurance? From this, it can be seen that parallel import is not only a breakthrough in the current pharmaceutical industry, but also a breakthrough for medical insurance reform. The case of anticancer medicines just reflects the demand for parallel import medicines in China.

China has no precedent for parallel import medicines, but it does not mean that parallel import medicines are not allowed. Parallel import is less harmful to intellectual property laws than generic medicines. China is still a developing country of which health care system is not developed yet. Parallel import is the best solution to the urgent needs. In terms of parallel import medicines, China can learn two points from India. One is to study the rules of international intellectual property. Blindly following the rules and regulations is not the attitude of a developing country. The attitude of a developing country should be to achieve goals and avoid legal risks. Second, China should effectively use outsourcing to improve its capacity of independent research and development. Now that India's pharmaceutical industry has reached a level of sophistication. Parallel import medicines can be adopted directly. The development of China's pharmaceutical industry is slow, which requires fresh blood. Parallel import can drive market screening, innovation and development.

6. Policy Implications

General Administration of Quality Supervision (AQSIQ) plans to take import automobiles from non-authorized channels into *Responsibility for the Repair, Replacement and Return of Domestic Automobile Products* (three guarantees). At the same time, the scale of non-authorized import automobile dealers in China is small. Hence, taking insurance companies into the three guarantees system of non-authorized import automobiles may become a trend. The cancellation of the dealer record system and the automobile brand management is just a beginning. The establishment of a fair market order is the general trend.

The aim of the initiative of China (Shanghai) Pilot Free Trade Zone is not only to build a platform, but also to establish a set of development system and pattern to cover the overall planning of the parallel import automobile industry chain from import, logistics, customs clearance, certification, registration to dealer management, and after-sales maintenance services. The initiative also considers parts and components of parallel import automobiles. China (Shanghai) Pilot Free Trade Zone will adopt a parallel import mode for components and parts at the same time.

Meanwhile, parallel importers are also trying to combine e-commerce with parallel import automobiles to find new sales models. Some parallel import automobile dealers that have entered in the zone are benefiting from new policies and therefore trying to sell cars through e-commerce platform at the same time. It is not only beneficial to overcome the weakness of lacking sales networks for parallel import automobile dealers, but also decreasing the concerns of traditional automobile companies.

At present, China's trademark law and anti-unfair competition law do not make specific provision to parallel import medicine trademark. However, China can learn refer to United States. On the premise of necessary requirements, parallel import medicines could be permitted. It has a positive effect on both the economy and public health.

For the negative effect of parallel import or export of generic medicines, China needs extensive and in-depth exploration. For example, problems that affect the quality and safety of medicines and decrease in innovation of medicines *etc.* need immediate attention. China has noticed these negative effects. It is formulating related medical intellectual property policies to reduce these negative effects.

7. Conclusion

In general, the dispute of parallel import is a game of anti-monopoly and intellectual property protection. Its core is dispute of interests. When using parallel import, the interest balance among nations and public and intellectual property protection should be evaluated. Parallel import should be regulated

by anti-abusing of intellectual property rights, against unfair competition and antimonopoly. In this way, parallel import can be developed in an orderly manner and the goal of saving resources and improving economic efficiency can be achieved. Also, each country can exploit its comparative advantage so resources can be properly allocated. Ultimately, the national social welfare would be promoted.

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