

# A Research of the Logistics Legal System in China-Korea FTA

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## Abstract

**Purpose** - This paper mainly studied the role of the logistics legal system in promoting international transport logistics, building marine economy international cooperation demonstration zone and deepening the economic and financial cooperation etc between China and Korea.

**Research design, data, and methodology** - The study conducted a survey on China and Korea's 2012-2017 years data. After empirically analyzing the data, we believe that cultural industry in Korea and China will maintain its growth momentum.

**Results** - This study explored the way to establish an integrated logistics system between China and Korea to match the e-commerce certification system, online payment system and logistic distribution, thereby gradually promoting economic development and logistics integration in Asia.

**Conclusions**- China-Korea FTA can encourage private flow to take on enterprises. In terms of improving logistics efficiency, reducing logistics costs and establishing a unified logistics industry standardization system. This will accelerate logistics industry integration in Northeast Asia, build a unified logistics management center in Northeast Asia, and promote a new model of integrated logistics cooperation in Northeast Asia. Therefore, it has a practical and reference significance.

**Keywords:** China; Korea; FTA, Logistics.

## 1. Introduction

With China and Korea signed a Korea-China Free Trade Agreement on 20, Dec, 2015, the eighth round of negotiations and chief negotiator meeting on China-Korea FTA was held in Beijing on December 20th, during which, the representatives of the two parties had an in-depth exchanges of views on commodity trade, service trade, investment, agreed areas and other topics. The results of China-Korea FTA feasibility joint research report showed that when China-Korea FTA is established, the GDP and trading volume of the three countries will increase, and it will have a positive impact on the development of logistics industry in each country. The two countries are recommended to build a coordinated and efficient transport and logistics system to reduce the product costs of the three countries and improve their international competitiveness.

The establishment of China-Korea FTA in the new environment is not only the trend of regional economic development, but also the inevitable choice to deepen cooperation in the field of logistics. In recent years, economic and trade exchanges between China and Korea continue to deepen, and the overall size of the logistics industry grows rapidly, but the fact that the logistics efficiency is still now is undeniable. In addition to poor hardware conditions in port infrastructure and inland transport facilities, another important reason is that the legal system is not perfect. For example, there are a wide range of logistics laws, regulations and policies in China, but they complex and not uniform, which makes logistics players and foreign-funded enterprises entering the Chinese market fall into chaos. From the recent situation, since the 1990s, Japan enacted the Logistics Law, the Integrated Outline

for Logistics Implementation Strategy in Japan and a series of laws and regulation to comprehensively guide the development of the logistics industry. Korea also revised the Framework Act on Logistics Policies in 2006, and there were similar chaos in the legal system in Korea. The South Korea is a unified fundamental law which plays a master role in the logistics industry and will have a certain reference for China-Korea FTA.

## **2. China and Korea trade situation**

Since 90's of last century, the economic and trade relationship among China, Japan and South Korea have make a spurt of progress of development. According to the data of recent 2014. The International Monetary Fund (IMF), China, Japan and South Korea's import and export trade volume respectively \$43063 billion, \$13196 billion and \$9438 billion, the volume of trade is huge.

In 2017, China and Korea import and export countries in the top ten, China respectively is Korea's first exporter, exports accounted for 25.4%. China is respectively the first importer and Korea is China's third largest exporter and the largest importer of imports, import and export volume accounted for 7.8% and 4.3%.

From the trade relations among the three countries in 2001-2011, the export value of China's exports to Japan rose from \$45.078 billion in 2001 to \$147.29 billion in 2011, an increase of \$102,212 billion. China's imports from Japan increased from \$42.81 billion in 2011 to \$194.41 billion by 2001, an increase of \$151.60 billion. China's exports to South Korea rose from \$12.544 billion in 2001 to \$829.25 billion, an increase of \$816.706 billion. China imported from South Korea by 2001's \$23.396 billion to \$161.673 billion in 2011, an increase of \$138.277 billion. On 2001, China's trade surplus of \$2.268 billion for the Japanese trade deficit of \$10.852 billion for the Korean trade. China in 2011 against the Japanese deficit of \$47.12 billion, Korea's trade deficit of \$78.748 billion. And overall, 2001 and 2011 China's trade surplus for Japan and South Korea, respectively, \$23.156 billion and \$157.849 billion (according to the world monetary fund (IMF) data).

Korea's exports to China rose from \$18.19 billion to \$134.205 billion in 2011, an increase of \$116.015 billion. Imports from China rose from \$13.303 billion in 2011 up to \$86.426 billion in 2001, an increase of \$73.123 billion. South Korea's exports to Japan rose from \$16.506 billion in 2001 to \$39.713 billion in 2011, an increase of \$23.207 billion. Imports from Japan rose from \$26.633 billion in 2011 to \$68.302 billion in 2001, an increase of \$41.669 billion. On 2001, South Korea's trade surplus of \$4.887 billion, to the Japanese trade deficit of \$10.127 billion; South Korea in 2011 to China's surplus of \$47.779 billion, the trade surplus of \$28.589 billion in Japan. On the whole, in 2001, Japan's trade surplus with China and South Korea \$9.94 billion, while in 2011, the trade surplus of \$39.135 billion (the world monetary fund (IMF) data).

## **3. China and Korea logistics development situation**

### **3.1. China's logistics infrastructure construction**

The total mileage of China's railway operations are 110000 km in 2014, the total mileage of highway operations is 4460000 km, the total mileage of 130000 km, the total mileage of 202 kilometers, civilian airport reached 4100000, the route mileage of 202 km, million ton port more than 2000. Analyzing the overall situation of China's logistics from the latest statistical data, the development of our logistics industry maintained a steady growth trend in recent years. In 2012 the annual total social logistics is 177 trillion, calculated at comparable prices, an increase of 9.8%, and an increase of 2.5% points lower than the same period last year. The increase of logistics industry value is 3.5 trillion, calculated at comparable prices, an increase of 9.1%, an increase of somewhat lower than the previous year. On the other hand, the logistics operation of China still belongs to the extensive pattern, the logistics cost is still high, and the cost is not significantly reduced. In 2012, the total social logistics costs about 9.4 trillion, an increase of 11.4%, the ratio of total logistics costs to GDP is about 18%, an increase of 0.2% points. In 2014, for example, China's international logistics costs accounted for 49.72% of total GDP, South Korea's international logistics costs accounted for 15.3% of total GDP. And in Japan, this proportion is only 7%. This shows that the international logistics cost is too high, and the low efficiency, high cost of the international logistics system of our country seriously restrict the development of bilateral trade. High cost is the most prominent problem in the development of international logistics in China.

### **3.2. South Korea logistics infrastructure construction situation**

At present, the Korean railway reached more than 80, running a total mileage of about 5000 km. In highway construction, the total mileage of highway is about 1100000 km. In port construction, South Korea as a peninsula,

has a very long coastline, high-quality ports reached more than 600, including Guanyang, Busan, Incheon, South Korea's three largest port, have very great throughput. In the aviation building, South Korea currently has 20 airports, about 160 domestic routes.

The most distinctive feature of the South Korean logistics market is fragmented. Benchmark 2012, the number of South Korean transportation enterprises reached more than 3.44 million, in addition to Hanjin, CJ, GLS and other large Korean companies, the other mostly small logistics enterprises, and these small enterprises occupy the dominant position in the market, which also resulted in the fragmented nature of logistics market, this fragmented characteristics also led to the reduction of logistics operations efficiency. On the other hand, in recent years, South Korea inland transportation in highway transportation increased, traffic jams, rising oil prices, a series of problems such as the practitioners of the strike, we can see a series of sharp problems while the rapid development of the logistics industry in South Korea. From the data, the South Korean Marine Fisheries Development Institute of statistics, in 2008, the logistics staff is about 1,600,000, a total of 230,000,000,000,000 won[2], approximately ¥1.3 trillion(real time exchange rate). South Korea's Economic Statistics Bureau data said in 2012, the total transport is 1.416 trillion won, about ¥0.81 trillion (real exchange rate), at constant prices, a year-on-year growth of 4%.

The cost of logistics industry in South Korea, from 2000 to 2007, annual growth rate of logistics cost is about 5%, in 2007 the total cost of logistics for 117 trillion won, about ¥0.67 trillion (real exchange rate), Total social logistics costs to GDP ratio is about 12%, compared to the amount of logistics costs in 2000 (logistics cost: 77 trillion Korean won, accounting for GDP ratio: 13.33).

#### **4. The necessity of building the logistics legal system in China-Korea FTA**

For more prosperous trade among China and Korea, in addition to the logistics to achieve faster development, strengthen technology and logistics related to the hard conditions of the support, actively promote the new concept of modern logistics, law as an important system, in the role of the development of the logistics industry in the protection of FTA among China and Korea also can not be discounted. Therefore, from a legal point of view on some legal questions of China and Korea free trade logistics research is not only necessary but also has an important value.

##### **4.1. Defects of the FTA logistics legal system**

On the whole, the existing legal system of logistics in China and Korea do not adapt to the development of modern logistics industry in China-Korea FTA and meet the international requirements of the integration, and the legal system of the logistics is still in its infancy, is the lack of relevant legal system, the legal system is not perfect enough.

Objectively speaking, China-Korea FTA has not yet formed a system of the logistics legal system, which mainly relies on the relevant international agreements and domestic laws in various countries to be provided. And as the current adjustment of trilateral logistics issues related to domestic logistics laws and regulations basically is the modification of the existing laws, regulations and use. This kind of traditional law is based on a large degree or a planned economic system, the legal relationship of its adaptation is fundamentally different from the new situation and environment. Especially after our country joined WTO and regional cooperation continued to deepen, the economic situation of China-Korea FTA also makes the logistics legal relationship between diversification and internationalization. Lead to the existing logistics legal system is difficult to adapt to the existing situation, the economic system and market environment changes, along with the improvement of scientific technology and management level, the original logistics legal system can not be applied to e-commerce logistics and other new areas. This is not only unable to meet the needs of the development of modern logistics industry in China-Korea FTA, but also meet the requirements of international integration.

##### **4.2. Existing logistics laws and regulations lack systematic and are too scattered, in adjustment of FTA among China and Korea logistics legal relationship in the process of conflict**

From the point of view of logistics itself, generally including transportation, trade, storage, packaging, transportation and distribution, shipping, insurance, electricity and other links, this makes the logistics law involves many subjects, the legal relationship is complex, the field is also very extensive, so the legal norms are very scattered, often need to coordinate and communicate with various departments. Especially for the foreign logistics among China Japan and South Korea, which also involves countries between the law applicable to such issues.

However And legal system of China, Japan and South Korea logistics just scattered in some agreement and other international treaties, not only each country no specialized logistics code, and among China, Japan and South Korea there is no sign of agreement on any logistics, logistics industry main market access mechanism, behavior and responsibility nor the formation of unity, special provisions, this makes logistics laws and regulations to the CJK FTA is still in the exploration, not only among many laws and regulations conflict, Such as the logistics of civil law, administrative laws and regulations, local laws and regulations, railway, transportation, aviation and other departments of the cross duplication, conflict, but also makes the difference between the existence of the FTA logistics laws. The fragmentation of the legal system, making CJK FTA logistics laws and regulations system of lack, also cannot fully adjust the FTA in logistics legal relationship and legal activities.

## **5. Countermeasures and suggestions of constructing and perfecting the legal system of the free trade area logistics**

In current China and Korea to the increasingly close economic exchanges, under the premise of the rapid development of the logistics industry, China should be on the basis of perfecting the legal system of China's logistics, and actively promote the China and Korea by trade area logistics legal system perfect, so as to promote the economic take-off of the FTA.

### **5.1. Clearly establish and perfect the legal system of logistics in China-Korea FTA**

With the rapid development of the logistics industry of China-Korea FTA, it is necessary to establish and perfect the legal system of China-Korea FTA logistics, make up the conflict caused by the national level of the rule of law development, regional differences. In order to guarantee the healthy development of China-Korea FTA of the logistics industry, promote the economic prosperity of China-Korea FTA. I think it can be carried out from the following aspects: First of all, to improve the logistics of the main relevant laws, including the subject qualification, engaged in logistics, the logistics of the main market access mechanism of the rights and obligations of the legal norms. Secondly, strengthen the logistics of the relevant laws and regulations. Logistics act is a general term for the legal norms of the logistics activities in the process of engaging in logistics activities. Strengthening the legal norm of logistics, not only can improve the logistics law system, but also can provide the parties to engage in logistics activities and guide the activities.

Once again, clear the logistics legal responsibility, the right to have the responsibility, only a clear logistics legal entities in the logistics activities in the process of rights and obligations and responsibilities, in order to make the logistics legal relationship and the main body to better serve the law. In addition, through international collaboration, the establishment of a unified, in line with the international standard logistics standard, through macro-control law, social security law to improve China-Korea FTA logistics system of laws and regulations, establish codes of conduct for logistics activities.

### **5.2. Sign the agreement, establish and improve the logistics laws and regulations system**

Due to the current relevant laws and regulations, logistics among China and Korea are not perfect, immediately build out a set of perfect, comprehensive logistics legal system is unlikely. Therefore, from the current practice, there is a need for the strengthening of cooperation between countries, step by step, to carry out the agreement. From the current point of view, in the process of development of the logistics industry in China and Korea, especially in packaging, transportation and handling and so on, lack of industry norms and the necessary technical standards, resulting in the increase of logistics costs, good restrict development of the logistics industry. And with the strengthening of international economic integration and regional economic cooperation, this problem is more prominent. In order to meet the requirements under the new situation, it is necessary to learn from international experience, to develop a set of with international standards and is suitable for China-Korea FTA logistics standard system, to achieve the China-Korea FTA logistics industry norms and orderly.

I think first of all, through the form of the treaty in terms of logistics terminology, measurement standards, technical standards, data transmission standards, logistics operations and service standards and other basic standards to achieve a unified standard, That is the first reference international standards in the basic standards, safety standards, health standards, environmental standards and trade standards and so on the formation of the international logistics and trade is also suitable for China and ASEAN countries in the development of logistics industry standard system. The technical standards for other logistics and other legislation, can strengthen and perfect constantly according to the needs, for the current condition of mature, relevant laws and regulations can be temporarily citing international logistics standard. Through this kind of targeted, reference, and gradually in-depth, comprehensive

revision and improvement, in order to form a set of both China and ASEAN trade in the development of logistics laws and regulations system, but also to meet the needs of international development.

### 5.3. Countries should integrate the existing legal system of logistics

Because of the difference of economic development in China and Korea, the degree of development of the logistics industry is also uneven, with China - ASEAN FTA is still in developing. Therefore, with the developed countries, China-Korea FTA logistics legal system still exist compared to a long gap, I think, at present, China and the Korea can through close collaboration to promote the development of the logistics industry in China and South Korea under the basic goal of the premise, integrat domestic logistics legal system.

First of all, based on the economic integration of China-Korea FTA and the needs of international development, to build China logistics legal system as a guide, absorb advantages of current international logistics legal system in developed regions and countries, The laws and regulations which can not adapt to the current regional and international cooperation in the economic system and economic environment, according to national circumstances, revise or perfect, and in the new situation, such as electronic logistics and other new areas of collaborative legislation to make up the original law to adjust the "vacuum zone". Secondly, unify the logistics industry's main body, behavior, rights and obligations, technical standards, responsibilities, market access, etc., to build a comprehensive, consistent logistics legal framework, System formed in the interior of the two courties, clear categories, specific and comprehensive logistics laws and regulations; between the countries formed to perfect the legal system of the logistics of China, Japan and South Korea, Once again, pay attention to the comprehensive coordination, not only pay attention to the coordination between the national laws, but also to focus on the coordination among countries. In order to promote the long-term development of the logistics industry in China-Korea FTA a for the purpose to guarantee the trade of China and ASEAN countries economic prosperity and common development as the core. Each country "according to the guiding principle of Logistics legislation from the perspective of practical application, through the legal position, coordination and other means to solve the logistics department law, administrative regulations, departmental rules and regulations, local laws and regulations." Between countries should be through the form of agreement or treaty, and focus on the application of applicable law to achieve the coordination of national logistics legal system. In addition, countries should gradually open up the logistics field, and further coordinate the application of domestic law to international treaties and international conventions, and promote the structural adjustment and upgrading of logistics industry.

In short, improvement of the logistics legal system in China-Korea FTA is not the responsibility of a country or several countries. It concerns the development and prosperity of the logistics industry in the three countries and is an inevitable choice to promote the vigorous development of China-Korea FTA and economic take-off of each country.

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