

The practice and development of legal construction of trade facilitation in Hunan Pilot Free Trade Zone

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Abstract. Trade facilitation refers to the reduction of compliant transaction costs in commercial activities through streamlining administrative procedures, improving administrative efficiency, and optimizing the specific provisions of relevant laws and regulations under the leadership of government administrative departments, thereby promoting the convenient circulation of goods and services. In the process of development of the Hunan Pilot Free Trade Zone, we should take the construction of the rule of law as the foundation and actively promote the extension of trade facilitation to a higher level through institutional innovation.

Keywords: Hunan Pilot Free Trade Zone; Trade facilitation; Institutional innovation.

1. Development Background of Hunan Free Trade Zone

1.1 Introduction

On September 21, 2020, the State Council announced the “China (Hunan) Pilot Free Trade Zone Overall Plan” (hereinafter referred to as the overall plan). The experimental scope of the free trade zone includes the three areas of Changsha, Yueyang and Chenzhou, including the Changsha Huanghua Comprehensive Bonded Zone, Yueyang Chenglingji Comprehensive Bonded Zone and Chenzhou Comprehensive Bonded Zone, with a total of 119.76 square kilometers. The trade facilitation evaluation system constructed by the World Economic Forum mainly has four measurement standards: first, market access factors, mainly the access restriction policies of import and export commodities in international trade; second, border management factors, mainly It is to consider the efficiency of the import and export procedures of commodities in the trade process and whether the management of the relevant government departments in charge of import and export trade is transparent and efficient; thirdly, the factors of transportation and communication infrastructure, which are the basic materials for domestic and international commercial trade. Conditions; Fourth, the business environment factor depends on the comprehensive governance capabilities of the government and its specialized management agencies, as well as whether it can provide an excellent business environment and appropriate policies and regulations.

Trade facilitation is a complex concept that includes administrative management, business norms, government guidance and technological progress. The impact of promoting trade facilitation is not only to improve the efficiency of commercial trade. On the one hand, the simplification of international trade procedures required by trade facilitation points to the level of administrative trade management, the modernization of technology in trade processes, and the complexity of Differentiated demand for trade in goods and even trade in services. On the other hand, the development of commerce and trade under the guidance of trade facilitation will further promote and affect the entire social production process including the exchange of production products. Under the guidance of demand, the product supplier will inevitably expand production and improve technology, which will affect Government revenue and overall social welfare.

1.2 The overall plan's appeal to trade facilitation

First, according to the strategic positioning and development goals of the “Overall Plan”, the Hunan Free Trade Zone needs to focus on building a world-class advanced manufacturing cluster, an international investment and trade corridor connecting the Yangtze River Economic Belt and the Guangdong-Hong Kong-Macao Greater Bay Area, and the current China-Africa economic and trade

in-depth cooperation. District and inland open new heights. Trade facilitation is one of the basic ways to achieve the strategic goals of the FTZ, and it is also an important part of the overall plan.

Secondly, in terms of specific measures and institutional innovation, the "Overall Plan" proposes specific tasks such as accelerating the transformation of government functions, deepening reforms in the investment field, and promoting high-quality development of trade. Therefore, it is necessary to establish an international high-level trade service system, promote the free flow of various elements such as goods and services in the pilot zone, promote the expansion of the service industry and the in-depth development of trade in goods, and then form an open and transparent management system. Among them, the content of "trade facilitation" mainly involves reforming the existing customs procedures and procedures, so that import and export goods can pass through a country's customs more conveniently and at low cost.

1.3 The "China (Hunan) Pilot Free Trade Zone Regulations (Draft)" demands for trade facilitation

According to the requirements of Article 3 "Development Goals" of the "Regulations (Draft)", the Hunan Free Trade Zone should give full play to the locational advantages of the transitional zone between the eastern coastal area and the central and western regions, the Yangtze River Economic Belt and the coastal open economic belt, and establish and An international, market-oriented and legal business environment that is compatible with international trade and investment rules. Therefore, in order to achieve this goal, the "Regulations (Draft)" year made targeted policy adjustments to various elements of trade facilitation.

The first is the administrative management system. Article 8 focuses on establishing a streamlined and efficient management model with clear rights and responsibilities, and actively promotes the formation of a comprehensive supervision system that includes social supervision, public participation, legal supervision, and industry self-discipline.

Secondly, in Chapter 4, there is a special chapter to ensure "trade facilitation". In the management of import and export access, the more common "first-line liberalization, second-line safe and efficient control, regional "Freedom of Internal Circulation" regulatory model. In addition, the provisions of this chapter also include a mechanism for establishing a trade risk early warning mechanism, encouraging and supporting cross-border e-commerce, actively cultivating new trade formats, and a mechanism for mutual regulatory recognition of quarantine inspection.

2. Problems in the development of trade facilitation in Hunan Pilot Free Trade Zone

2.1 The supporting system is not perfect, and the detailed

At present, the free trade zone has formed the basic policy orientation and top-level design for realizing trade facilitation from the "General Plan" to the "Regulations of Hunan Pilot Free Trade Zone (Draft)". In the above, it provides paperless declarations covering export tax rebates for export enterprises with management categories I, II and III, and Article 29 of the Regulations of Hunan Free Trade Zone (Draft) also stipulates that the goods are classified according to the status of the enterprises. Relying on supervision, the import and export of overseas goods will facilitate the efficient circulation process. However, the classification supervision system of enterprises is not comprehensive enough. It is only necessary to establish a market supervision mechanism based on the qualification information of market entities on paper, and a unified certification mechanism for customs, inspection and quarantine and other departments should also be realized. The international trade "single window" management system also needs to further incorporate the business functions of the taxation and maritime departments, promote the comprehensive connection between enterprise operation information and the port supervision system, and actively promote the "single window" to achieve cross-department, cross-regional and cross-industry cooperation in the field of foreign trade.

Information exchange and overall services to optimize the efficiency and process of foreign trade business in the free trade zone.

2.2 The implementation of the system is not comprehensive enough, and there is a lack of positive linkage

Policy linkage and institutional innovation between departments are insufficient. As a result, the promotion efficiency of administrative measures of various departments is inconsistent, and at the same time, there is insufficient collaborative innovation, and innovation measures lack the integration effect.

It is necessary to actively promote the establishment of a cross-departmental system innovation coordination and exchange platform, and promote the realization of information exchange, data sharing and business complementarity for policy adjustments or reforms that need to involve several departments, so as to strengthen the departmental linkage and coordination of system design innovation in the free trade zone. Especially in the face of the complex and multi-disciplinary business scope newly developed in the Pilot Free Trade Zone, it is necessary to explore the establishment of a comprehensive supervision mechanism with clear rights and responsibilities, consistent standards, high efficiency and transparency, so as to promote the improvement of trade facilitation in the Free Trade Zone, and Respond to the demands of domestic and foreign market players.

3. Legal practice of trade facilitation in free trade zones

3.1 Strengthen the construction of the credit system and implement the classified supervision of credit risks

This is the requirement of the "Overall Plan" for the innovative supervision system, relying on the national enterprise credit information publicity system, focusing on the collection, sharing and publicity of credit information, and then effectively conducting credit information utilization and credit rating evaluation, on this basis, Realize the improvement of the supervision mechanism during and after the event based on the credit rating of market entities, and actively promote the construction of the credit system in the pilot free trade zone.

Taking the China (Yunnan) Pilot Free Trade Zone, which started to test the credit supervision mechanism earlier, as an example, as of mid-August, the Yunnan Free Trade Zone had collected information on 147,000 existing market entities and more than 142,000 pieces of administrative license information. There are more than 2,000 pieces of administrative punishment information, laying a good foundation for improving the credit supervision system. In addition, the improvement of the credit supervision mechanism also requires the active implementation of credit evaluation, government credit commitments and disciplinary measures based on the credit system.

3.2 Establish a more efficient and transparent customs clearance facilitation management

First, fully implement the former national treatment plus negative list management system for foreign investment access, that is, foreign investors can learn about the permitted areas and the degree of restrictions before entering the Hunan Pilot Free Trade Zone. All matters are regarded as investment fields with free access, and the legal logic it pursues is 'freedom without prohibition by law'. In this way, equal access to different market entities is guaranteed, and various market entities in the region enjoy fair treatment in terms of supervision, taxation and government procurement.

The second is to implement classified supervision of the status of goods, and goods entering the special customs supervision area of the Hunan Pilot Free Trade Zone from abroad. According to the regulations of the "Hunan Free Trade Zone Regulations (Draft)", it is possible to enter the pilot zone first, and then declare the customs formalities, so as to simplify the circulation of goods in the zone and help realize the special supervision zone between the free trade zone and other customs. The convenient and smooth flow of inter-logistics.

Third, the "advance declaration" customs clearance mode for export goods is implemented, so that market entities can first declare the electronic data of customs declaration documents to the customs before the goods are delivered to the customs supervision site. When the commercial goods arrive at the customs supervision site, the person in charge of on-site supervision will deliver the electronic documents of the goods arrival report to the customs authorities. Great simplification of means. Since February 2021, since the implementation of this plan, the overall customs clearance time of Changsha Customs for the export of China-Europe freight trains has been reduced from 5.22 hours in January to 0.41 hours in June, which is less than one-tenth of the original, significantly better than The national average level of customs exports has also led to a significant reduction in the overall customs clearance time of the province's exports.

3.3 Building "Single Window" for International Trade

Hunan Pilot Free Trade Zone will build a "single window" for international trade, and continue to expand the service functions and application areas of the "single window" for international trade. Export tax rebates, service outsourcing, maintenance services and other matters will be gradually included. On May 6, 2021, the implementation measures for carrying out maintenance business in the Chenzhou Comprehensive Bonded Zone of Hunan Free Trade Zone were clearly issued. Enterprises in the Chenzhou Comprehensive Bonded Zone can carry out global maintenance business from overseas or outside the special customs supervision area of the country according to the corresponding maintenance product catalog. The repaired goods shall be re-shipped abroad or outside the domestic area according to their origin. This new development model will promote and lead new business forms such as global repair and remanufacturing business, and realize the transformation and extension of processing trade to service trade with higher technical content and more profit.

In addition, the integrated service window mode of the free trade zone also includes government services, logistics services, data services, etc., and actively promotes the expansion of the scope of paperless declaration of export tax rebates and accelerates the progress of export tax rebates. The Pilot Free Trade Zone relies on the "single window" to build an import and export big data exchange and sharing center, promote data exchange and sharing among relevant government departments, banks, and import and export enterprises, and realize data coordination and standardization.

3.4 Import and Export Inspection and Quarantine Supervision Mechanism

According to Article 30 of the "China (Hunan) Pilot Free Trade Zone Regulations (Draft)", the FTZ shall explore the establishment of cross-departmental and cross-regional supervision mutual recognition and law enforcement mutual assistance mechanisms in inspection and quarantine. On the one hand, it is necessary to actively implement the international mutual recognition mechanism for inspection and quarantine, the third-party inspection result acceptance system, and expand the acceptance of third-party inspection results. In trade activities, a number of comprehensive inspections for traded commodities are internationally accepted means of quality management and trade facilitation. Therefore, mutual recognition of the effectiveness of inspection and quarantine links between my country and other countries can greatly expand China's international trade. It will also facilitate the participation of market players in international trade, and will build basic mutual trust in the field of economic and trade between countries. On the other hand, under the current background, the new crown epidemic is still raging on a global scale, and the strong impact of the epidemic on economic development is also continuing to spread. Therefore, when establishing a mutual recognition mechanism for quarantine and testing, we should focus on continuously improving and improving my country's existing inspection and testing standard system to ensure the high quality, safety and hygiene of products during trade activities. Relying on the international recognition of testing standards, we will build a product safety brand with international influence in the business activities of the free trade zone. And strive for the international right to speak in the conformity assessment of quarantine testing standards. This is not only one of the important contents

of my country's participation in international cooperation, but also an effective guarantee for whether the products and services of Chinese enterprises can go smoothly to the world.

3.5 Accelerate China-Africa Economic and Trade Cooperation

Building a pilot zone for in-depth economic and trade cooperation between China and Africa is one of the three major tasks of the Hunan Free Trade Zone in the Overall Plan, and it is also a requirement of the "One Belt, One Road" strategy. In this regard, the free trade zone has made the following explorations:

One is to build a China-Africa Economic and Trade Innovation Demonstration Park, to build a centralized display, transaction, promotion and barter trade center for import and export products in the Gaoqiao Market in the Changsha area, a cluster area for export industries to Africa, an export trade center and service center for Africa, and It is a gathering base and incubation base for economic and trade offices of African countries, business associations, and headquarters of Sino-African economic and trade enterprises.

The second is to build a non-resource product distribution, trading and processing center, with the China-Africa Economic and Trade Cooperation Innovation Demonstration Park as the center, with the joint efforts of Changsha Jinxia Economic Development Zone, Yueyang Chenglingji Comprehensive Bonded Zone, and Changsha Huanghua Comprehensive Bonded Zone to create African non-resource products. distribution transaction processing center.

The third is to build a China-Africa cross-border RMB center, and carry out policy research, product innovation, cross-border RMB clearing, investment and financing, transaction banking, retail, information services, and cross-border RMB business training, etc.

In addition, on May 25, 2021, China Customs and Uganda Customs signed the "China-Uganda Customs Arrangement for Mutual Recognition of "Accredited Operators" (AEOs), completing the first AEO mutual recognition arrangement signed by China in Africa. A good foundation has been laid for promoting the mutual recognition and cooperation of "Authorized Business Operators" (AEO) between China and Africa Customs. The so-called AEO mainly refers to the certification and accreditation of enterprises with good credit status, law-abiding degree and safety management degree in international trade, and a number of preferential customs facilitation measures for both countries of mutual recognition.

4. Prospects of trade facilitation in Hunan Pilot Free Trade Zone

In the past year, the Hunan Pilot Free Trade Zone has achieved effective results in exploring the use of institutional innovation to promote market opening and trade facilitation. However, as the reform has entered a deep-water area, continuing to deepen the reform requires actively seeking new breakthroughs and building high-quality High standard free trade zone. And continue to further promote institutional innovation, fully complete the reform pilot tasks, and form a batch of innovative achievements with Hunan characteristics to be promoted nationwide.

The functions of the pilot free trade zone legislation should be actively brought into play, and the construction and development of the free trade zone should be guided by legislation. Especially as the reform has entered a critical stage, the "Regulations of the Hunan Pilot Free Trade Zone" as local legislation, and the "Overall Plan" and relevant central policies are not only connected with each other, but also complement each other. In this way, the content of the regulations is not only based on the overall plan, but also adaptively adjusted according to practical requirements, reflecting the principle that major reforms are based on law.

At the same time, emphasis should be placed on the lawful exercise of the behavior of government agencies in the construction of the Pilot Free Trade Zone, so that government agencies and departments should be reformed or adjusted in a targeted manner, so as to be under the rule of law, with clear powers and responsibilities, and appropriate procedures; When designing industrial policies or taking specific administrative actions, the basic principles of the administrative rule of law

must be strictly followed, so as to ensure reasonable and appropriate measures, protection of the interests of the administrative counterpart, and fairness and transparency.

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