

Research on Modern Logistics Legislation: An Economic Law Perspective

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Abstract: Although the logistics industry has made great headway in China, there are still irregularities in the operation of the industry due to the imperfect relevant systems. Through the introduction of the concept and features of logistics, this paper starts with the problems existing in the legislation of logistics law, points out the dilemma of China's logistics law, and finally proposes targeted countermeasures according to a series of problems. It is expected to solve the legal problems existing in modern logistics legislation, promote the smooth development of China's logistics industry and provide reasonable suggestions for the construction of a logistics legal system that suits China's national conditions.

1. Introduction

Although China is a later starter in the logistics industry, its development speed is fast. Logistics has become a strong growth point of the national economy and an important driving force for promoting social and economic development.[1] However, compared with the western developed countries, the logistics industry in China has a large gap not only in theoretical research, technology platform, infrastructure construction, financial support, service concept, but also the legal system supporting the development of logistics industry is quite backward.[2] The corresponding legal relationship has not been straightened out, the legal service platform has not yet been fully constructed, and the disputes that have not been concluded are still shelved.

2. Concept and Features of Logistics Law

2.1. Concept

Logistics law is a normative general term to adjust the legal relationship between logistics participants in the whole logistics activities. The adjustment scope mainly includes the rights and obligations of logistics participants involved in the civil behavior. [3] From the research and analysis of the subject composition and the correlation between each other, logistics law involves a large number of legal subjects in a variety of forms, including transport subjects, packaging subjects, warehousing subjects, distribution subjects, information processing subjects and so on. The rights and obligations formed in the main logistics activities of the logistics law are the main adjustment targets, and the rights and obligations are equal.[4] That is, the subjects involved in the legal system of the logistics relationship not only enjoy the rights stipulated by the law, but also bear the corresponding obligations. Once the obligations specified in the contract are not fulfilled on time, the accountability mechanism will be activated.

2.2. Features

Modern logistics law not only reflects the state's mandatory provisions in the field of logistics, but also embodies the legislative spirit of protecting the freedom of contract and guarantee the "autonomy of private law". The logistics law has the following features:

2.2.1. It reflects the basic principles of equality, fairness, autonomy of will, honesty and credit in the contract law.

As a law that mainly adjusts the business behavior of logistics enterprises, the logistics law is still private law in essence, which has a major impact on maintaining the trading order of the

logistics market and regulating the legal behavior of logistics.

2.2.2. The content adjusted by logistics law is complex.

The adjustment of the logistics law covers all aspects of the industry's overall collaboration and the partial division of labor. [5] The legal relationship between the two is very complicated. In this regard, the logistics law is differentiated and adjusted by means of the combination of general rules and sub-rules. In view of the characteristics of logistics activities, the legal norms applicable to all participating entities are established in the general rules, and the particularity of logistics activities in different links is also considered. Special provisions are made in the sub-rules, and general rules and sub-rules are integrated with flexible form, which makes the original complicated logistics legislation system stand out.

2.2.3. The logistics law boasts modernity.

Based on the rapid development of China's logistics industry in recent years, the logistics law is a new type of law that keeps pace with the times, constantly updated by summarizing the legal difficulties arising in the transaction process of the logistics market and aims to solve the common problems in real logistics activities, and refer to the relevant provisions of other departmental laws in the same period.

3. Problems in the Legislation of Logistics Law

3.1. Low effectiveness of relevant logistics laws and regulations□

Unlike other laws enacted by the national legislature, logistics laws and regulations are scattered in the laws and regulations formulated by various ministries, local government provisional regulations, and implementation rules, etc. [6] The level of the legislative body is not high, which leads to the effectiveness of the developed logistics law lags behind other departmental laws. When a dispute arises, it is difficult to find a legal basis for reference. Frequent circumstances such as *Contract Law* and *Tort Law* that give way to related regulations are inevitable conflicts with actual needs.

3.2. Logistics laws lack systematicness and specialization

The important evaluation basis of logistics law is whether it can adapt to the needs of the development of logistics industry and has the ability to find the weak links in legislation and improve them in time. Due to the strong professionalism of the logistics industry, the law should not only stipulate the common content of logistics activities and other legal activities, but also establish an independent legal system and evaluation standards to achieve the systematic legislation and professional legislation. At the time of adjustment of the national ministries and commissions, the state has not fully complied with the systematic needs in the macro-policy level of logistics legislation, nor has not coordinated the interests of various departments to establish a unified operation mode. Therefore, it is now necessary to eliminate duplicate management, simplify the process and improve efficiency, and strive to achieve a certification, a portal and one-stop service model. At the same time, the productivity, expense ratio and completion rate used in the links of supply, production, sales and recycling are low, and the technical standards used in the logistics industry have not been introduced. There are different regulations among different logistics laws and regulations, such as different standards of weighing standards, goods classification, container selection, etc., which indirectly affect the systematicness and professionalism of logistics law.

3.3. Legislation is not in line with the international advanced logistics legal system

The existing logistics legal norms do not embrace the development thinking to expand the space, but only take the common thinking of the unified deployment of people, vehicles and things as the legislative basis, which will undoubtedly seriously affect the forward-looking and continuity of logistics legislation. In recent years, the volume of logistics business transactions has grown rapidly, which should take into account not only the domestic market demand, but also the huge overseas

market development needs. For China's logistics industry to integrate into the huge overseas logistics market it is necessary to put down its own rules and regulations, adapt to the trading rules of international logistics, reduce costs and risks in the best way, and ensure the transportation of goods from the supplier in one country to the buyer in another country. At present, there are still some conflicts between China's transportation rules and the basic principles of WTO and GATS. As China's logistics industry lags behind in logistics legislation, China should learn more advanced logistics legislation experience from foreign countries to adjust the existing legal system.

3.4. Legal gap in the relevant logistics legal norms□□□□

Logistics law seldom involves the determination of the principle of loss of goods and the proportion of compensation for damages. In the market environment where the online transaction business is proliferating, a considerable number of transactions do not even form paper contracts, but make online contracts through electronic data, and the payment for goods is also made through electronic Banks. Once disputes arise, whether electronic evidence can be accepted by the court is also controversial.

4. Modern Logistics Legislation from the Perspective of Economic Law

4.1. Formulate unified regional development plans

Factors such as regional blockade, departmental power struggle, and industry monopoly have great restrictions on market liberalization competition, which are inconsistent with the systematic and comprehensive development needs of the logistics industry. Therefore, in order to realize the regional development of the regional logistics industry, it is of great significance to proceed from the overall situation and comprehensively plan around the large-scale logistics hub, logistics channels, logistics nodes, etc., so as to fully utilize and integrate existing resources, rationally allocate and improve Resource utilization efficiency. In the development of overall planning, we must combine the development resources and geographical distribution of each region, and inject the concept of large logistics into local legislation, strengthen inter-regional communication, and promote the development of the logistics industry better and faster. Consideration should be given to the existing transportation operation layout, hub nodes and expected development status, and the external development advantages of the logistics industry market.

4.2. Formulate unified and specialized regional logistics laws and regulations

Logistics originated in the United States during the World War II, developed rapidly in Japan and matured in Europe. Western countries have their own characteristics in the construction of logistics laws and regulations, government macro-policy regulation and other aspects, thus promoting the logistics industry to achieve long-term development. To formulate national laws to regulate the logistics industry is also the requirement for the future development of specialization, socialization and internationalization of China's logistics system. However, if special local legislation, especially regional legislation, can produce demonstrative effect, it will be more scientific to form national legislation on the basis of successful practice. The development of regionalized modern logistics can also consider breaking the local blockade in the region based on the overall foundation, and formulating unified regional regulations with regional cooperation, so as to make specific provisions on some basic issues of logistics, such as the qualification of logistics market entities, access standards for the logistics market, market operation specifications, management systems, and related technical standards.

4.3. Formulate unified and efficient logistics management system and industrial organization norms

The healthy development of logistics industry requires the joint efforts of market-oriented free competition order and government macro-control. The management of the logistics industry by the government should mainly include the following aspects: First, formulate and implement the promotion system of modern logistics development, relax the control of the logistics market, lower

the entry threshold, eliminate the monopoly of relevant departments on the logistics market, encourage competition, and strengthen the cultivation of innovative talents. Second, formulate and implement the logistics supply system and strengthen the construction of logistics infrastructure, focusing on the construction of logistics e-commerce platform to realize the informatization and specialization of logistics and promote the healthy, rapid and efficient development of modern logistics. Third, establish a unified logistics management organization; change the status quo of multiple logistics management. In addition, the establishment and specialization of government institutions should also be included in the management system.

4.4. Develop and promote logistics industry standards to meet the standardization requirements of logistics industry

The standardization of logistics industry is an important way to guarantee fair and free competition and the standardized operation of logistics industry in the modern market. In recent years, with China's reform and opening up and the development of the industry within the WTO framework, China has developed some logistics standards. Especially the *National Logistics Standard 2005-2010 Development Plan* jointly issued by the national standard committee, national development and reform commission and other eight departments in 2005, then the related logistics terms, logistics companies, logistics cost, logistics park, logistics services, logistics design, logistics center, general pinto plate, international freight forwarders and other aspects of the generic class standard were formulated, which provided a powerful force for the modernization and standardization of the logistics industry.

5. Conclusion

With the continuous acceleration of logistics industrialization process, technology informationization, logistics systemization, operation standardization, service personalization, and convenience have changed our old lifestyles and deepened people's understanding of the logistics industry. Compared with the developed countries such as the United States, Japan, and the United Kingdom, although the logistics industry in China has gaps in technical support, tooling, and facilities construction, China's logistics industry has increased its share of GDP in recent years. The logistics chain of modernization, science and technology, informationization and industrialization has gradually formed, narrowing the gap with other countries.

References

- [1] Resolution of Cross-Border E-Business Disputes by Arbitration Tribunals on the Basis of Transnational Substantive Rules of Law and E-Business Usages: The Emergence of the Lex Informatica. Antonis Patrikio. Uuniversity of Toledo Law Review. 2006
- [2] A strategic decision framework for green supply chain management [J]. Joseph Sarkis. Journal of Cleaner Production. 2002 (4)
- [3] Order assignment considering buyer, third-party logistics provider, and suppliers [J]. Hong Seng Woo, Soroosh Saghiri. International Journal of Production Economics. 2010 (2)
- [4] The use of Third-Party Logistics by European Industry. Melvyn J Peter. Transport Logistics. 2001
- [5] Supply Chain Coordination with Contracts. Cachon G P. University of Pennsylvania working paper. 2
- [6] A Study of the Spill-over Effect of Logistics Industry Korea. Chung H.D, Lee S.H. Logistics Review. 2011