

Study on the Optimization of the Economic and Trade Cooperation Environment of Heilongjiang Pilot Free Trade Zone and Russian Far East

Hui Xie^{1,*}

¹School of Economics and Management, Heihe University, Heihe, Heilongjiang 164300, China

*Corresponding author. Email: xiehui1103 @163.com

ABSTRACT

The approval of Heilongjiang Pilot Free Trade Zone will further empower Sino-Russian economic and trade cooperation and bring important opportunities for the economic and trade cooperation between Heilongjiang Province and the Russian Far East. Based on the construction of the free trade zone and the realistic basis of cooperation between Heilongjiang Province and the Russian Far East, this article analyzes the new opportunities brought by the construction of the Heilongjiang Pilot Free Trade Zone for the cooperation between Heilongjiang Province and the Russian Far East, and proposes specific ways to optimize their economic and trade cooperation environment, so as to play the leading, promoting, standardizing and guaranteeing role of the rule of law, and provide a strong institutional guarantee for comprehensive reform and opening-up.

Keywords: Pilot Free Trade Zone, Heilongjiang Province, Russian Far East, legalization

I. INTRODUCTION

As the northernmost experimental field of reform and innovation along the border of China, Heilongjiang Pilot Free Trade Zone is of great strategic significance for comprehensively deepening the opening up and cooperation facing Russia and Northeast Asia. To promote the high-quality development of the economic and trade cooperation between Heilongjiang Pilot Free Trade Zone and Russian Far East, it is required to give full play to the fission effect of Heilongjiang Pilot Free Trade Zone's policies. In accordance with the requirements of "bold exploration, bold trial and independent reform", it is necessary to take institutional innovation as the core, risk prevention and resolution as the bottom line, the replicable and promotion as the basic requirements, and a legal, international and market-oriented business environment as the goal, and explore the specific path to optimize the economic and trade cooperation environment of Heilongjiang Pilot Free Trade Zone and Russian Far East, so as to further help the economic and trade cooperation between Heilongjiang Province and Russian Far East reach a higher level.

II. THE REALISTIC FOUNDATION OF COOPERATION BETWEEN HEILONGJIANG PROVINCE AND RUSSIAN FAR EAST

With a border of 2,981 kilometers and 15 border ports, Heilongjiang Province has always been a "bridgehead" and "hub station" for opening up and cooperation with Russia. Facing the severe challenges brought about by economic globalization and the urgent needs of the development of the Far East and the revitalization of the northeast, the unique geographical advantages, the complementarity of natural resources and economic structure, the sustained and close economic and trade cooperation, the continuous promotion of cultural exchanges and the policy support of the Chinese and Russian governments have made the strengthening of cooperation between Heilongjiang Province and the Russian Far East region become the inevitable choice to promote regional economic development.

Based on the current complex and changeable international environment and the trend of regional integration, China and Russia proposed the cooperation in the construction of the "Silk Road Economic Belt" (hereinafter referred to as "the belt") and the Eurasian Economic Union (EEU) in 2015. And then, the Sino-Russian economic and trade relations have been upgraded at a faster pace, and new breakthroughs have been achieved in the scale and quality of bilateral economic and trade cooperation, and the endogenous

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power has been continuously enhanced. China has become the largest trading partner of Russia for many consecutive years. In 2018, the bilateral trade volume between China and Russia exceeded US \$100 billion, hitting a record high. The rapid development of service trade between China and Russia has become a new highlight of bilateral cooperation. Heilongjiang Province leads the whole country in cross-border transportation, tourism, exhibition, health care of traditional Chinese medicine, finance and cross-border e-commerce, with a significant upward trend. The signing of "Sino-Russian Far East cooperation and development plan (2018-2024)", "Agricultural development plan for Northeast China and Russian Far East and Baikal Region", "Development plan of deepening Sino-Russian soybean cooperation", "International road transport agreement" and other documents has provided new opportunities for Heilongjiang Province and Russia to enhance economic and trade cooperation in agricultural cooperation, cooperation in the Far East, energy cooperation, infrastructure cooperation, facilitation cooperation, service trade, and innovation cooperation.

III. THE APPROVAL OF HEILONGJIANG PILOT FREE TRADE ZONE PROVIDES A NEW OPPORTUNITY FOR THE COOPERATION BETWEEN HEILONGJIANG PROVINCE AND RUSSIAN FAR EAST

The free trade zone is an important decision made by the Party Central Committee and the State Council. It is the need for China to create an upgraded version of its economy and is an "experimental field". Since September 2013, the state has approved the establishment of 18 pilot free trade zones in five batches, forming a "1 + 3 + 7 + 1 + 6" reform and opening-up and innovation pattern covering the east, west, north and south. At present, the relationship between China and Russia has been upgraded to a "comprehensive strategic partnership of cooperation between China and Russia in the new era". On August 26, 2019, China (Heilongjiang) pilot free trade zone was approved to be established, leading the opening up of Russian Far East and economic revitalization of Northeast China in terms of functional orientation, and making Heilongjiang more important in the cooperation between China and Russia.

Heilongjiang Pilot Free Trade Zone covers an area of 119.85 square kilometers, covering Harbin, Heihe and Suifenhe areas. It takes system innovation as the core and replicability and promotion as the basic requirement. It fully implements the requirements of the central government on promoting the comprehensive revitalization of Northeast China and building an important window for opening up to the North. It focuses on deepening the adjustment of industrial

structure and building the central hub for regional cooperation between Russia and Northeast Asia. After three to five years of reform and exploration, Heilongjiang Province can benchmark international advanced rules, form more internationally competitive institutional innovation achievements, and promote the quality, efficiency and dynamic changes of economic development. Heilongjiang Pilot Free Trade Zone strives to build a high-standard and high-quality free trade zone with a sound business environment, convenient trade and investment, high-end industries, a perfect service system, and safe and efficient supervision. It will contribute to the high-quality development of economic and trade cooperation between Heilongjiang Province and Russian Far East.

IV. SPECIFIC WAYS TO OPTIMIZE THE ECONOMIC AND TRADE COOPERATION ENVIRONMENT OF HEILONGJIANG PILOT FREE TRADE ZONE AND RUSSIAN FAR EAST

The reform of free trade zone should meet the actual needs of local governments, industries and enterprises. Institutional innovation is confronted with conflicts within and outside the zone, between domestic and foreign countries, between international law and domestic law, and laws and policies. There are legal risks in administrative system, management innovation, legal construction, trade facilitation, investment liberalization and financial internationalization. The smooth development of economic and trade cooperation between Heilongjiang Pilot Free Trade Zone and Russian Far East is inseparable from the guidance and regulation of the rule of law.

A. Learning from the experience of the rule of law and solving the problems of law application accurately

1) Accurately grasping the laws and policies to help cultivate the business environment under the rule of law: As a strategic measure to comprehensively deepen the reform and expand the opening up under the new situation, the goal and content of the reform of the free trade zone is a major change in the current legal order. The constitution, administrative law, criminal law, investment, companies, contracts, finance, intellectual property rights, labor disputes and many other laws in the field of public law and private law have made great breakthroughs in the current legal provisions. In fact, the replicability and popularization of the reform of the free trade zone requires that the successful experience of the reform and exploration be solidified in the form of law. In the reform practice of the first four batches of 12 free trade zones, a total of 154 pieces of reform experiences of pilot free trade zone were released by the State Council and national

ministries and commissions. Through the adjustment and modification of relevant laws and regulations, more than 100 legal framework and regulatory system composed of laws and regulations, government rules and normative documents have been formed. And then, it basically forms an investment management system centered on "negative list" management, a trade supervision system that meets high-standard trade facilitation regulations, a financial innovation system that adapts to a more open environment and effectively prevents risks, and government management system that is compatible with an open market economy.

2) *Giving full play to the leading role of the rule of law and strengthening the legal protection of business environment*: "The rule of law is the best business environment". To optimize the business environment, it is required to make institutional provisions to provide stronger guarantee and support for fundamental, predictable and long-term benefits. Since January 1, 2020, the "Regulations on optimizing the business environment" is the first special administrative regulation in China. It adheres to the international first-class standards, solidifies and promotes the best practice experience of Chinese reform by the rule of law, and highlights national governance system and governance capacity. The construction of Heilongjiang Pilot Free Trade Zone should closely focus on the international and market-oriented legal business environment, and follow the rule of law thinking and path, namely, "all can be done without prohibition by law, cannot be done without authorization, and must be done by legal responsibility". It is also necessary to comprehensively implement the requirements of legal basis for major reform, pay attention to the coordination and synchronization of legislative decision-making and reform decision-making, and pay attention to the organic connection of legislative enforcement and judicial enforcement, so as to establish local legislation in accordance with the construction requirements of free trade areas. It strives to build Heilongjiang free trade zone into a high-level and high-standard northernmost pilot free trade zone with the advantages, such as convenient investment and trade, efficient allocation of resources, cross-border industrial agglomeration, safe and convenient supervision, and prominent leading role of radiation along the border, so as to form a new economic growth pole of development and opening to the north.

3) *Respecting the lag of the laws and improving the institutional basis of business environment*: Due to the lag of legislation itself, in the construction of Heilongjiang pilot Free Trade Zone, there are many jurisprudential problems and legal application

obstacles, such as the differences between Chinese and Russian laws (within and outside the zone), the collision between laws and policies, the relationship between market autonomy and state regulation, the confusion of business freedom and transaction security, etc. It is urgent to benchmark the business environment indicator system of World Bank and National Development and Reform Commission. According to the strategic significance and core functions of the construction of China's free trade zone, combined with the basic conditions of Heihe Free Trade Zone, and aiming at the difficulties in business environment, it is required to accelerate the research and promote innovative cases with Heilongjiang's advantages and the characteristics of Russia. It is better to actively apply brand-new judicial concepts, legal methods, and legal technology identification in promoting the transformation of trade development mode, the trial of contract cases, the protection of intellectual property rights, the expansion of investment opening, the reform of the financial sector, the transformation of government functions, the trial of criminal cases, and the protection of judicial services, fill obvious or hidden legal loopholes, resolve the contradiction between the reform measures of the free trade zone and the application of the law, and realize the continuation of relevant legal rules and the formation of a new market order [2].

B. Focusing on intellectual property protection and improving the level of intellectual property protection

1) *Clarifying the connotation of intellectual property and highlighting the importance of legal protection*: In recent years, China has continuously strengthened the protection of intellectual property by implementing "National intellectual property strategy outline", issuing "Opinions on strengthening intellectual property protection", and revising and improving relevant laws and regulations. Intellectual property courts have been set up in 18 central cities, providing institutional support and legal protection for the sustainable optimization of business environment, and achieving remarkable results. In 2019, the social satisfaction, global innovation index ranking and business environment ranking of China's intellectual property protection set a new record. The construction of free trade zone is the highland of system innovation, which shoulders the function orientation of expanding opening, deepening reform and system innovation in the new period. Therefore, in addition to meeting the common requirements of "creation, protection and application of intellectual property", the intellectual

property protection of free trade zone also undertakes the important task of strongly supporting the reform and innovation of the free trade zone and constantly optimizing the business environment. The intellectual property of the free trade zone has the functions, such as the exploration of investment system reform and the promotion of trade facilitation.

2) *Facing the pressure of multiple challenges and giving play to the leading role of judicial protection:* At present, with the implementation of a series of specific measures, the ability and level of intellectual property protection have become the "standard configuration" of international trade and the "hard indicators" of optimizing the business environment, which are helping China to transform from a big technology importing and manufacturing country to an independent innovation and manufacturing power, and to continuously enhance the endogenous power of China's economy. Due to its unique connotation, it puts forward higher requirements and new challenges for the protection of intellectual property in the free trade zone. In order to promote the facilitation of investment and trade, the free trade zone implements the supervision system of "first-line liberalization, second-line safe and efficient management and free circulation within the zone". It has successively issued a number of regulatory innovation measures, such as "first entering the zone and then customs declaration", "centralized collection of tax payment", "bonded display transaction", etc., which has realized the convenient transfer of goods between special customs supervision areas and cross customs areas. While facilitating trade and investment, it also undoubtedly increases the risk of intellectual property infringement. It will bring operational difficulties to investigate and deal with the inflow of suspected infringing goods. In addition, preferential tariff reduction and exemption will increase the number of disputes involving foreign-related trademark processing, copyright of cultural industry, e-commerce, parallel import, unfair competition and transshipment trade. Therefore, it is urgent to explore the judicial protection of foreign-related intellectual property disputes, such as court jurisdiction, legal application, judicial mechanism, typical cases, etc.

3) *Finding out the specific strategies to serve and guarantee the development of the free trade zone:* It is required to focus on the legalized business environment of Heilongjiang Pilot Free Trade Zone, and provide basic guarantee for the rapid and healthy development of the free trade zone under the guidance of "strict protection, great protection, rapid protection and common protection". It is suggested that according to the principle of "simplification, unification and

efficiency", it is better to clarify the administrative law enforcement functions of intellectual property governance subjects, establish an efficient and comprehensive management and law enforcement system of intellectual property, realize the convergence of administrative law enforcement and criminal justice, form a situation of sharing and co-governance of information exchange, mutual recognition of supervision, information notification, case transfer among different departments and links, and constantly promote a diversified dispute settlement mechanism for law enforcement, arbitration, mediation, assistance and adjudication, with the active participation of experts and scholars in the field of intellectual property. It is necessary to establish the intellectual property integrity system of enterprises, social organizations, individuals and other market entities in the free trade zone, and expose intellectual property infringement acts, such as repeated infringement, illegal agency, refusal to implement relying on the national credit information sharing platform, so as to play a warning role of "breaking faith in one place and restricting everywhere". Relying on the "Intellectual Property Service Center of Far East University", it is necessary to strengthen the comparative study on the laws and regulations of intellectual property protection between China and Russia, establish and improve the legal risk prevention and control mechanism of intellectual property protection between China and Russia, strive to become a distribution center for the transfer, licensing and transformation of intellectual property achievements in the Far East, and strive to cultivate a number of high-level and application-oriented intellectual property talents with an international perspective and good knowledge of international rules for China and Russia.

C. *Clarifying the legal differences between China and Russia and helping the healthy development of Sino-Russian economy and trade*

1) *Grasping the opportunity of policy superposition and forming the highland of opening system along the border:* With the approval of Heilongjiang Pilot Free Trade Zone, and the signing of "Sino-Russian Far East cooperation and development plan (2018-2024)", "Agricultural development plan for Northeast China and Russian Far East and Baikal Region", etc., the free flow of capital, talents, technology and other elements will be accelerated, which will help promote the comprehensive revitalization of Northeast China, promote the opening-up level of Heilongjiang to the Russian Far East, and promote the development of Sino-Russian cooperation reach a higher level. The

construction of the free trade zone should closely follow the institutional innovation, make full use of both Chinese and international resources and two markets, strive to deepen the adjustment of industrial structure, promote the comprehensive revitalization of Northeast China, and form a replicable and popularized "Heilongjiang model", so as to realize the reform, development and innovation through opening up, and walk out a new way of an internationalization, facilitation and liberalization between China and Russia.

2) *Enhancing the awareness of legal prevention and comprehensively evaluating and effectively dealing with risks:* Since Russia's accession to the WTO, Russian trade policies, laws and regulations have gradually been in line with the international standards, and have been legalized, standardized and more transparent. It has risen to the 28th in "2020 global business environment report" of the World Bank and the International Financial Corporation [4]. However, Russian policies and regulations are changeable, and there are legal conflicts between different levels of legislative bodies of the central government and local governments due to competition or contradiction. National laws and government regulations lack continuity, and the legal environment still needs to be improved. Oil, natural gas and transportation infrastructure are the key areas of free trade area's investment in Russian Far East. Affected by various factors such as high loan interest rate and large fluctuation of exchange rate, it is extremely easy to run the project aground because the Russian construction fund is not in place. Russian laws have a strict market access system for foreign investment, and its economic policies have many restrictive clauses. The national and industrial standards have their own systems, which are not fully integrated with international standards. Many projects and contracts are terminated or changed due to ecological and environmental issues, which poses obstacles to foreign investment and operation. Russia is short of labor resources. However, it adopts strict quota system to introduce foreign labor, and seeking temporary labor resources is easy to fall into labor disputes. In addition, Chinese enterprises and businessmen have weak legal concepts and lack legal knowledge of Russian investment, trade, tax, labor and other relevant laws. They even violate Russian laws driven by speculation, resulting in high cost and low efficiency.

3) *Consolidating the foundation of joint cooperation and using the law to safeguard legitimate rights and interests:* In order to create a first-class business environment in the free trade zone as the

guarantee, it is required to establish and improve the corresponding consultation and exchange mechanism between the local governments and functional departments of China and Russia, accelerate the training of "law + Russian" application-oriented talents, and actively expand the legal business related to Russia. In view of the "going out" of enterprises in the free trade zone and the "coming in" of Russian enterprises, it is necessary to give full play to the role of "Sino-Russian international legal service strategic cooperation" and "Sino-Russian international legal service" and "Sino-Russian high-end cooperation think tank of strategic cooperation", and make substantial progress in enhancing consensus and promoting in-depth cooperation in the field of legal services. It is better to give full play to the role of overseas agencies and overseas Chinese as a bridge and bond, enhance the understanding and recognition of the Far East of Russia on the construction of the Heilongjiang free trade zone, encourage overseas Chinese to participate in the management of Chinese investment projects, and reduce the operating risks of Chinese enterprises. Before the project cooperation, it is necessary to use the "legal diagnosis" means to conduct the project investigation and demonstration, pay close attention to the changes of Russian tax, environmental protection, market and other policies, judge the potential legal risks, and do a good job in response. It is required to determine the investment industry in accordance with the law, and cooperate with large companies with strong and reliable control by the Russian government, attach importance to the application of investment strategies, and realize the purpose of expanding investment in Russia. And it is necessary to pay attention to the contract subject qualification of Russian client, pay attention to the language and translation of the contract text, choose a reasonable payment method, dispute resolution agency, local labor services needed, and improve the adaptability of Chinese products in accordance with the technical standards and certification procedures of Russian products. The administrative committee and functional departments of Heilongjiang Pilot Free Trade Zone shall intensify the publicity of legal knowledge related to Russia, so as to ensure that enterprises, businessmen and labor personnel involved in Russia know, understand and abide by the law.

D. Establishing a new judicial concept and ensuring the innovation of judicial service system

1) *Ensuring the actual effect Based on the demand and carrying out the reform of judicial system and mechanism:* The factors such as deepening the reform

practice, expanding the mission of opening up, serving the national strategy, the status quo of legal system construction, and successful replication and promotion of the free trade zone require innovation in judicial service guarantee of Heilongjiang Pilot Free Trade Zone. Based on the practical needs of docking with international treaties, international practices and Russian legal system, and in order to effectively respond to the requirements of the development of the free trade zone for the comprehensive function and specialization of the trial institutions, it is necessary to draw on the successful experience of Shanghai, Guangzhou, Zhejiang and other free trade zones, and set up the special collegiate panel of Heilongjiang free trade zone to determine the scope of accepted cases according to the functional characteristics of the free trade zone, bearing the four functions of judgement, research, innovation and cultivation. A professional judicial team that consists of professional judges, expert jury and expert consultation will be established, and a regular communication and cooperation mechanism will be established with other free trade zone courts to realize judicial resource sharing, promote judicial cognition unity and improve litigation service level [5]. According to "Regulations of Guangdong pilot free trade zone", the "fault tolerant mechanism" is established. If the innovation of Heilongjiang Pilot Free Trade Zone fails to achieve the expected goal, but conforms to the reform direction determined by the state and the decision-making process conforms to the provisions of laws and regulations, the relevant units and individuals shall not be negatively evaluated and shall not be held responsible. The legislation of "fault tolerant mechanism" can encourage the innovation of government departments, enterprises, institutions and individuals from the source, and provide a solid guarantee for bold institutional innovation.

2) *Exploring multiple solutions to facilitate multi-carrier services*: In accordance with the law, it is necessary to respect the autonomy of the market entities in China and Russia, and equally protect the legitimate rights and interests of both parties. Based on the needs of market subjects in the free trade zone for the convenience of right relief and the diversification of dispute resolution methods, and on the basis of absorbing the experience of courts and foreign ADRs, it is suggested to establish a commercial dispute resolution mechanism linking litigation and non-litigation in the free trade zone, and introduce industry associations, chambers of Commerce and commercial regulation organization, and establish a non-litigation mediation court in the free trade zone court. Through pre-litigation, pre-court guidance regulation, entrusted

regulation and judicial confirmation, it provides the parties to the dispute with diversified, flexible and economic dispute resolution methods, and realizes the high efficiency of commercial dispute settlement while paying attention to fairness and justice. A public legal service center will be set up in the free trade zone, integrating lawyers, notarization, judicial expertise and legal aid. It will open a "one-stop" window of the dispute service center, compile and print Sino-Russian dispute resolution guide manuals, open litigation service hotline, and set up Internet online dispute service platform to facilitate dispute service. It encourage law firms, notarial agencies, judicial appraisal institutions, credit service institutions and other professional institutions to carry out business in the free trade zone, and guide and cultivate the development of professional institutions by purchasing services.

3) *Innovating the extension of the judicial system and building a risk prevention and early warning mechanism*: The state requires that during the construction of the pilot free trade zone, the bottom line thinking and risk awareness should be strengthened, and the risk prevention and control and disposal mechanism should be improved. With the goal of "being normal, effective and smooth", it is necessary to achieve system innovation, make regular analysis of cases in key areas and form risk early warning mechanism. For the cases involving Sino-Russian trade and economic cooperation, new enterprises, financial innovation, large-scale projects, service trade, intellectual property rights and other areas of the expansion of the opening up and institutional innovation of the free trade zone, special tracking and regular analysis of their characteristics, trends, difficulties in the application of laws should be carried out. Also, it is required to report the situation to the superior court and relevant regulatory authorities, and the system loopholes, market risks, regulatory issues reflected in the trial. It is better to establish and improve the information sharing, case notification and coordination mechanisms between administrative functions such as the Free Trade Zone Management Committee, Customs, Market Supervision Bureau, and Urban Management Law Enforcement Bureau, and judicial organs such as courts and procuratorates to jointly promote the reform and innovation of the free trade zone risk prevention and control [6]. The courts, procuratorates, market supervision bureau, people's bank of China and other departments shall cooperate to build a credit information application platform in the free trade zone. On the basis of comprehensively strengthening enterprise credit supervision, the credit

commitment system of registered enterprises, the joint incentive system of keeping faith and the exit mechanism of "blacklist" enterprises are established. At the same time, it shall support the establishment of enterprise and individual credit reference agencies in the free trade zone, and allow credit reference agencies to concurrently engage in non-credit credit rating business.

V. CONCLUSION

The free trade zone is an important decision made by the Party Central Committee and the State Council. It is a need for China to build an upgraded version of the economy and is a "test ground". At present, Sino-Russian relations have been upgraded to a "China-Russia Comprehensive Strategic Partnership of Cooperation in the New Era". The approval of the China (Heilongjiang) Pilot Free Trade Zone will become a new opportunity for China and Russia to enhance economic and trade cooperation. It must take institutional innovation as the core, and the basic requirement is that it can be replicated and promoted. This will speed up the free flow of capital, talents, technology and other elements, focus on deepening the adjustment of the industrial structure, help promote the comprehensive revitalization of the Northeast, improve the opening of Heilongjiang to the Russian Far East, and promote China and Russia. Cooperation to a higher level.

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