

学校编码：10384

学号：12920141154479

廈門大學

硕士学位论文

中韩FTA原产地制度法律问题研究

Study on the legal issues of the origin  
system between China Korea FTA

LEEKWANGTAI (李光泰)

指导教师：李国安

专业名称：国际法学

答辩日期：2016年7月

## 厦门大学学位论文原创性声明

本人呈交的学位论文是本人在导师指导下，独立完成的研究成果。本人在论文写作中参考其他个人或集体已经发表的研究成果，均在文中以适当方式明确标明，并符合法律规范和《厦门大学研究生学术活动规范(试行)》。

另外，该学位论文为( )课题(组)的研究成果，获得( )课题(组)经费或实验室的资助，在( )实验室完成。(请在以上括号内填写课题或课题组负责人或实验室名称，未有此项声明内容的，可以不作特别声明。)

声明人(签名)：

年 月 日

# 厦门大学学位论文著作权使用声明

本人同意厦门大学根据《中华人民共和国学位条例暂行实施办法》等规定保留和使用此学位论文，并向主管部门或其指定机构送交学位论文(包括纸质版和电子版)，允许学位论文进入厦门大学图书馆及其数据库被查阅、借阅。本人同意厦门大学将学位论文加入全国博士、硕士学位论文共建单位数据库进行检索，将学位论文的标题和摘要汇编出版，采用影印、缩印或者其它方式合理复制学位论文。

本学位论文属于：

(        )1. 经厦门大学保密委员会审查核定的保密学位论文，于  
年 月 日解密，解密后适用上述授权。

(        )2. 不保密，适用上述授权。

(请在以上相应括号内打“√”或填上相应内容。保密学位论文应是已经厦门大学保密委员会审定过的学位论文，未经厦门大学保密委员会审定的学位论文均为公开学位论文。此声明栏不填写的，默认为公开学位论文，均适用上述授权。)

声明人(签名)：

年 月 日

## 摘要

FTA原产地制度是包括原产地标准、规则及争端解决机制等在内的一整套法律制度。在FTA原产地制度中，实务上最重要的是争端解决机制，中韩FTA的实施能否取得成功就取决于争端解决机制能否完善运行。

中韩两国的经济体制在很多方面都有相似性，正是基于这一良好的基础，中韩两国达成了高水平的FTA。根据该协定，经过20年的过渡期后90%以上的税目产品会降为零关税。中韩两国市场融将为一体、形成一个互利的跨国大市场，而两国的产业将在其中相互竞争与合作。这样不仅可以使双方提升各自在对方市场的占有率，同时也有助于双方在全球竞争中处于优势地位。在中韩FTA框架下，企业可以提升自我的创新意识，实现企业的快速发展。

中韩FTA属于地域位置相近的国家之间达成的互益性和互补性的区域性贸易协议(RTA)，因此协定的签订，将使两国的贸易环境得到极大的改善。然而，由于两国的政治和法律体制不同，所以在自贸区协定的相关规则上也会产生一定的冲突与矛盾。在中韩FTA争端解决中，公正、迅速应是其最重要的体现。FTA中成员方常常会发生各种争端。这样的情况下，如果没有一套公平、公正的争端解决机制，成员国可能不愿意遵守FTA规则，特别是其中的原产地规定。因此，FTA争端解决机制既是推进区域经济一体化的重要手段，又是确立和完善中韩FTA原产地制度的有效路径。

本论文除绪论和结论外共分三章。第一章首先概述原产地规则的概念、功能、分类及适用范围，然后对整个中韩FTA的原产地有关规定（包括WTO统一原产地规则）进行分析。第二章探讨中韩FTA原产地规则中存在的问题与解决方案，主要研究在中韩两国现有贸易环境下，在实践中韩FTA原产地相关程序中可能发生的问题。具体包括中韩两国已签订的FTA原产地标准。及其影响，TPP原产地标准及其与区域贸易原产地规则的差异。第三章主要对中韩FTA争端解决机制及影响进行分析，特别是对中韩FTA原产地争端解决机制中最关键的仲裁规则进行重点研究，具体包括，仲裁员的组成方式、仲裁裁决的效力及执行问题、中韩已经签订的FTA的仲裁制度等，并对如何完善中韩FTA的仲裁制度提出建议。

**关键词：**原产地规则；原产地标准；争端解决

厦门大学博硕士论文摘要库

## Abstract

FTA country of origin is a relatively wide range of concepts including rules of origin rules and dispute settlement.

In order to prevent trade confusion to safeguard the legitimate interests of the members of the FTA the FTA system of origin is necessary. Among the three factors the most important is the dispute settlement China and South Korea FTA's success depends on the improvement of the dispute settlement mechanism. But there is no mechanism for the origin of the dispute in the world. So it should be included in the origin system. Now this aspect of research is relatively small the relevant cases are basically no but this part is very important. Because if there is a dispute during the actual transaction the dispute settlement mechanism is the only legal means in the Origin System for protection of the rights and properties. On this basis China and South Korea reached a high level of water FTA agreement. According to the agreement after a transition period of 20 years more than 90% of the tariff items will be reduced to zero tariff. China's mechanical and electrical products metal products agricultural products and other fields will benefit from. Similarly in South Korea's advantage industry because China has 90% of the tariff 85% of the volume of trade products after the transition period tariff reduced to zero so South Korea's absolute industrial will benefit from it. China and South Korea FTA is the most wonderful place is two countries through tariff reductions to zero tariffs the bilateral market integration the formation of far beyond the domestic market a large market and our industry will be in the larger market division of labor forming value chain and competition with each other. This will be beneficial to the two industries on both sides of the market to win on a greater share of the market in South Korea to obtain economies of scale but also can benefit from the market outside of Korea. Now the competition system arrangement more market and has better respect the rest is by enterprises play

their own innovation and the pursuit of excellence to make full use of the fta.

South Korea FTA belongs to the regional trade agreement between geographical position close countries (RTA) the bilateral trade environment will be greatly improved. However because the political and legal system is different so after the regional economic integration there are more likely to have objection and dispute in the legal system of China and South Korea. In the FTA dispute settlement It is a necessary condition to just quickly. In most country WTO compared by two or a few countries in the FTA are generally more extensive market opening so the possibility of FTA dispute is relatively high. If there is no effective impartial dispute settlement system any state party does not comply with the FTA agreement To abide by the rules FTA dispute settlement mechanism can be developed as an important means for regional economic unity and it will establish the perfect FTA origin system between China and South Korea.

In addition to the introduction and conclusion, this paper is divided into four chapters. The first chapter outlines the concept, function, classification and scope of application of rules of origin and then analyzes the rules of origin of FTA in South Korea and South Korea (including WTO uniform rules of origin). Problems may occur in the second chapter and the third chapter respectively from the China Korea FTA rules of origin and the origin system existing problem and solving scheme, the third chapter mainly studies between China and South Korea real business environment and practice of China ROK FTA origin related procedures, I believe the contents of this research certainly bring beneficial effects. The second chapter of the origin of the specific criteria is subdivided into five small analysis. The first is that China has signed the FTA of origin standards. Second is South Korea has signed the FTA origin standards. Third, China and South Korea have signed the FTA origin of the impact of the standard analysis. Fourth is the most recent TPP origin standard analysis. Fifth is a summary, a simple comparative analysis of TPP rules of origin and regional trade rules of

origin differences.

In the fourth chapter, the FTA dispute settlement mechanism and its influence are analyzed and divided into five parts. The first section is about the summary, importance, function and types of the dispute settlement mechanism.

The second section is the dispute settlement mechanism of China and South Korea FTA dispute settlement mechanism, is the most critical dispute settlement mechanism. Specific segments of the four small analysis. The first is the arbitrators, the second is arbitration verdict effect and implementation issues, the third is China and South Korea have signed the FTA arbitration system were studied, and the fourth to the arbitration system provided a suggestion to improve the system. The last chapter summarizes the basic conclusions of this study.

**Keywords:** Country of origin rules Origin Criteria dispute settlement.



## 参考资料

### 《中文著作》

- [1] 蔡从燕：国际投资仲裁的商业化与“去商业化”[J],现代法学,2011.
- [2] 陈安：国际经济法,第六版[M],北京大学出版社,2013.
- [3] 陈安：国际投资法的新发展与中国双边投资条约的新实践[M],复旦大学出版社2007.
- [4] 陈思源：中国自由贸易区原产地规则的政策评估与对策建议[J],经济研究导2011.
- [5] 成新轩,武琼,于艳芳:论优惠原产地规则对中国重叠式自由贸易区的经济影响[J].世界经济研究,2012.
- [6] 顾敏,康严蓉：中韩自由贸易协定的几个焦点问题的法律思考[J],中国政法大学学报,2011.
- [7] 刘京莲：阿根廷国际投资仲裁危机的法理与实践研究:兼论对中国的启示[M],厦门大学出版社2011.
- [8] 刘宪：原产地规则研究[J].华东交通大学学报,2007.
- [9] 毛燕琼：WTO 争端解决机制问题与改革[M],法律出版社2010.
- [10] 孙巍：中国商事仲裁法律与实务[M],北京大学出版社2011.
- [11] 王平.加工贸易发展中的原产地规则问题[J],财贸经济2004.
- [12] 徐崇利：中国的国家定位与应对WTO的基本战略——国际关系理论与国际法学科交叉之分析[J],现代法学2006.
- [13] 易在成.优惠原产地规则与 WTO 多边贸易体制的冲突与协调—兼评中国的优惠原产地规则法律制度[J],河北法学2006.
- [14] 曾华群：国际经济新秩序与国际经济法新发展[M],法律出版社,2009.
- [15] 赵军华.中国自由贸易区原产地规则谈判的进展与思考[J],世界农业2012.
- [16] 赵维田：世贸组织的法律制度[M].中国长春:人民出版社2000.
- [17] 邓宁.WTO 的原产地标准与我国原产地规则的完善[J],财金研究2011.
- [18] 邓永军：中国货物原产地规则完善应考虑的几个问题[J].法制与社会2012.
- [19] 朱榄叶贺小勇：《WTO 争端解决机制研究》上海世纪出版集团[M],2007.

### 《外文著作》

- [1] ChoiSeungHwan:Rules and Procedures for the Dispute Resolution Proposal[J],韩国,庆熙大学 法学研究所,2012.
- [2] ParkNoHeong:WTO 协议的争端解决制度研究[M],博英社1996.
- [3] KimKapYou:仲裁事务讲义[M],博英社,2012 .
- [4] MokYeongJun:商事仲裁法[M],博英社,2011.
- [5] SinHanDong,OhBeongSek,贸易争端与商事仲裁[M],ChengMok出版社,2008.
- [6] KimHoCheol, 韩美FTA协议在美国国内效力和履程序考察[J],通商法律,2008.
- [7] KimYinSuk,有关FTA争端解决程序研究：达成韩国FTA为主[J],国际法学会论集,2007.
- [8] LeeChangJae,韩中日FTA的发展与课题,韩国对外经济政策研究院,2005。
- [9] LeeShinKyu：中韩原产地规则协商战略关税学会报,第1卷第1号[J],2012.
- [10] MaGuang：中韩FTA中的贸易救济议题[J]. 韩国研究论丛. 2011.
- [11] ParkDeokYoung, LeeJooYun,韩国主要FTA争端解决程序规则比较分析[J],韩国法制研究所,2012。
- [12] AnDekGeun,WTO体制中FTA争端解决制度[J],通商法律,2003.
- [13] ChoiMoon, YoonKiKwan,探索韩中FTA原产地标准的“最佳方案”的两国既成FTA协定的原产地比较研究[J],国际地域研究,第13卷第1号,2009.
- [14] JungYinKyo,“我国原产地规则研究与实证分析”[J]韩国经济研究所,2005.

- [15] ChoiHongSuk,FTA原产地理论和实务[M],韩国关税贸易研究院,2004
- [16] ChoiTaeUk,韩国自由贸易协定(FTA)的推进战略及问题[J],国际关系研究,第12卷第1号,2007.
- [17] ShinTaeYoung,中韩FTA对中韩分工体系的影响,韩国对外经济政策研究院,2005.
- [18] 韩国自由贸易区综合支援网站,“FTA原产地事后检验现状及启示”。  
<http://www.fta.go.kr/cn/data/1/>。
- [19] 韩中FTA综合支援中心,“原产地标准及税率”。  
[http://okfta.kita.net/contents.do?method=contents&contents\\_seq=248&mainNum=050203](http://okfta.kita.net/contents.do?method=contents&contents_seq=248&mainNum=050203)。
- [21] FTA原产地核查支援中心。“FTA原产地核查意、义目、的方法”。  
[http://www.customs.go.kr/kcshome/main/content/ContentView.do?contentId=CONTENT\\_ID\\_000002811&layoutMenuNo=30725#none](http://www.customs.go.kr/kcshome/main/content/ContentView.do?contentId=CONTENT_ID_000002811&layoutMenuNo=30725#none)
- [22]中国自由贸易区服务网“中韩FTA原产地判定规则查询”  
<http://fta.mofcom.gov.cn/ftanew/taxSearch.shtml>。
- [23]中国国际贸易促进委员会,“中韩FTA主要写上结果:原产地规则”  
<http://www.fta.ccpit.org/cn/Subpage.aspx?StId=12&Id=3>

Degree papers are in the “[Xiamen University Electronic Theses and Dissertations Database](#)”.

Fulltexts are available in the following ways:

1. If your library is a CALIS member libraries, please log on <http://etd.calis.edu.cn/> and submit requests online, or consult the interlibrary loan department in your library.
2. For users of non-CALIS member libraries, please mail to [etd@xmu.edu.cn](mailto:etd@xmu.edu.cn) for delivery details.