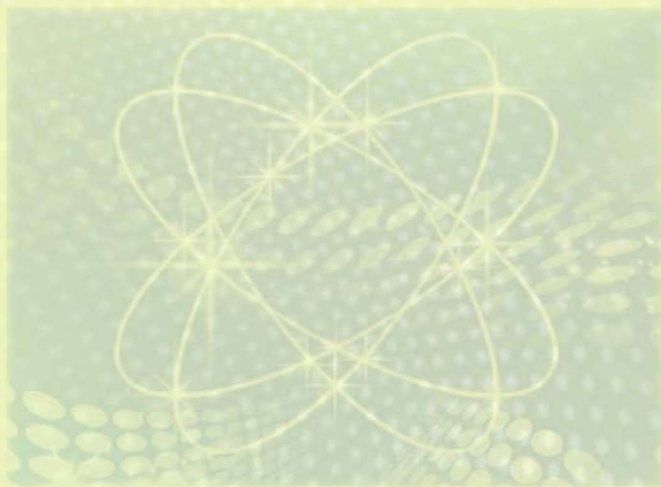


# 中日中小企业 基本政策法规比较研究

韩 娜 著



西北大学出版社

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## 摘要

近年来世界各国不同程度地出现了中小企业的复兴和腾飞,中小企业的地位和作用日显重要。在中国经济发展过程中,中小企业也占有十分重要的地位,在社会经济生活中发挥着增加城镇居民就业、带动科技创新、促进出口创汇、增加税收等巨大作用。由于我国中小企业规模较小、设备比较落后、资金不足、人才力量薄弱等原因导致其竞争实力较弱,相比大企业而言,在市场竞争中处于不利和弱势的地位。因此,政府应对中小企业的发展进行政策倾斜,以促进和保护中小企业的发展。

构建中小企业基本政策对发展中小企业具有非常重要的意义,中小企业基本政策体系包括中小企业基本法、中小企业资金支持政策法规、中小企业创业支持政策法规、中小企业技术创新政策法规、中小企业市场开拓政策法规、中小企业服务体系政策法规等方面的内容。在整个中小企业基本政策体系中,中小企业基本法具有核心地位,为制定其他政策作了基础性、原则性的指导,其立法理念和立法目标贯穿于中小企业的整个基本政策领域,成为政府对中小企业进行宏观管理的准则和依据。日本中小企业的发展已成为世界公认的最成功的典范,其完善、成熟的《中小企业基本法》是日本中小企业成为日本经济活力之源泉的根本原因,本文从日本中小企业政策角度对《中小企业基本法》进行了详尽地剖析和研究。中国于2002年出台了具有中小企业基本法地位的《中小企业促进法》,其具体内容包括资金支持、创业支持、技术创新、市场开拓、社会支持体系五大部分,充分地反映了中国中小企业基本政策体系。由此可见,中小企业基本政策体系中包括了中小企业基本法,而中小企业基本法的内容又体现了中小企业基本政策体系,两者相辅相成。

但是这部中国第一部中小企业的专门立法还存在许多不足和缺陷,不利于构建完善、科学的中小企业基本政策体系。本文指出了现行的《中小企业促进法》中所存在的不足之处,同时提出了完善中国中小企业基本政策体系的措施和意见。

探索适合中国国情的以基本法为核心的中国中小企业基本政策体系,有利于社会主义市场经济朝着规范化、法制化的道路发展;有利于政府在遵循立法精神的前



提下改善和提高中小企业的现状,对中小企业在资金支持、创业支持、技术创新、市场开拓、社会服务、产业集群等方面提供有力的保障和支持。本文以“中日中小企业基本政策法规比较研究”为主题,对中日中小企业基本政策法规的理论基础、中小企业基本政策法规的历史考察、中小企业基本政策法规的保护对象的界定标准和功能、中小企业基本法立法的经济背景、中小企业基本法的政策结构等内容做了大量的比较研究,借鉴日本中小企业基本政策方面的先进经验,采用定量分析、定性分析、实证分析、系统分析等方法,探讨了如何以中小企业基本法为核心和重点,构建适合中国国情的中小企业基本政策体系。本文的基本观点有:

第一,日本中小企业基本政策的理论基础经历了从“问题型中小企业认识论”到“贡献型中小企业认识论”的过程,中国也曾经历了以悲观的中小企业认识论为主的历史进程,许多观点认为中小企业自身存在的劣势决定了其不能和大企业进行竞争,最终必将退出市场经济,所以不应鼓励中小企业大量发展。但是随着经济的发展,中小企业优势的进一步凸现,对中小企业持支持和肯定的理论逐渐占了主流和上风。本文认为,对待中小企业的认识正确与否,直接影响着指导中小企业基本政策制定的相关基础理论的科学性和客观性。形成正确的中小企业基本政策的理论基础的关键是,积极支持和鼓励我国中小企业在国民经济中的存在和发展,但决不能回避和否定中小企业与生俱来的缺陷和不足以及中小企业在追求利润最大化的同时对社会责任的忽视。只有确立正确的中小企业发展理论,才能够为构建中小企业基本政策提供科学的指导理论。

第二,中日中小企业基本政策的历史演变均具有明显的阶段性特征,并且都将中小企业与大企业的关系作为制定中小企业政策的一个重要的参考因素。但是相比日本而言,中国中小企业基本政策发展还比较缓慢和滞后。本文认为,日本中小企业基本政策的一个鲜明的特征就是不断地研究中小企业在经济发展和大企业关系的变化,极大程度地改善中小企业与大企业关系。我国应该借鉴日本根据国际国内经济形势的变化,以动态的、发展的目光来审视适应国家产业政策的中小企业基本政策,尤其是应该在中小企业基本法中将协调中小企业和大企业关系作为重要内容加以补充。

第三,和日本中小企业基本法规定的划分中小企业的标准相比,我国现行的中小企业划分标准有着和日本相似的特征:①都以行业划分为界定标准之一;②都以

从业人员的人数作为参照因素;③都规定了复合型定量标准,即日本在界定中小企业时以“从业人员人数”和“资本金的数额”这两项指标来衡量中小企业的规模,而我国则是以“职工人数”“销售收入”和“资产总额”三项指标来确定中小企业的划分。在完善中国中小企业基本政策时,必须以发展的眼光看待中小企业的法定划分标准。本文认为,我国中小企业基本政策的核心和基础是完善中小企业基本法,而基本法首先应对中小企业的划分标准进行明确而科学的规定:应保留《中小企业促进法》中对中小企业的定性分析,结合现行的《中小企业划分标准暂行规定》中定量规定的方式对中小企业进行界定。

第四,中日中小企业在本国国民经济中都对解决社会就业、推动技术创新、增加出口创汇、维护社会稳定、增加国家财政收入等方面显示了巨大的优势,这是两国中小企业的共同功能的体现。由于两国国情和经济发展的差异,致使中小企业在发挥作用时也存在非常明显的区别。尤其是在技术创新能力、吸收就业人员的素质、传播本国传统文化等方面都具有一定的差异。本文认为,我国中小企业应随着政策和法规的完善和改进,不断提高自身素质,尽量提高在社会经济中的地位,更好地在国民经济建设中发挥其重要作用。

第五,日本中小企业基本法的出台是适应当时日本经济发展的客观需要。其经济背景就是二战以后日本经济出现了“二重构造”的特殊现象,这种现象导致日本的中小企业和大企业产生了极大的两极分化。日本《中小企业基本法》出台的直接原因就是为了加大对中小企业的扶持力度,积极消除“二重构造”现象给中小企业发展带来的不利和弊端;而我国《中小企业促进法》的出台是有着双重因素的,即中小企业自身发展的主观需要以及外部经济环境产生的客观变化。

第六,日本在中小企业基本法中确定了中小企业基本政策的内容框架,可以看出,日本的中小企业基本政策是在基本法的立法保障下进行的,基本法与中小企业基本政策具有密不可分的关系。本文认为,在构建中国的中小企业基本政策体系时,也应借鉴日本的先进经验,将科学的、完善的中小企业基本法作为核心和重点,在基本法的立法理念的指导下,建立包括基本法在内的多层次、多角度的中小企业基本政策体系。即在形式上,中小企业基本政策体系包括中小企业基本法和其他基本政策;在本质上,中小企业基本法的立法原则指导着除基本法以外的其他中小企业基本政策的制定。通过对中国和日本基本法的政策结构的研究,充分体现中小企



业基本政策体系和中小企业基本法的关系,这是本文的研究重点。

总之,本文以对比作为写作的主要方法,采取定性与定量分析相结合、实证分析与规范分析相结合的研究方法,运用历史和发展的观点,以经济管理学的学科理论为指导,吸收企业法学的相关理论,总体上遵循了“提出问题—理论研究—现状分析—政策完善”的思路,对我国和日本在中小企业基本法和基本政策方面进行了详细的比较和总结,以期为我国构建以基本法为核心和重点的中小企业基本政策提出新的思路和建议。

关键词: 日本; 中小企业; 基本法; 促进法; 中小企业基本政策

## ABSTRACT

In recent years, revitalization of smes has appeared around the globe, whose status and functions have become more and more important gradually. smes also play a significant role in Chinese economic development, as well as enhancing urban residents' employment, encouraging technology creativity, promoting export and foreign exchange generation, and increasing taxes in the social and economic life. But comparing with large enterprises, the smes in our country are still relatively less competitive because of smaller scales, backward equipments, deficient finances and lacking of human resources, leading themselves into a disadvantaged status in the market competition. So the government should give policy support to the development of SMEs to promote and protect their progress.

Constructing the SMEs' basic policies is very important to develop SMEs. SMEs' basic policy system includes SMEs basic law, SMEs financial support policy, SMEs entrepreneurship support policy, SMEs technology creativity policy, SMEs market expansion policy, SMEs social services system policy and so on. In the whole SMEs' basic policy system, SMEs basic law is placed in the core status and does the fundamental and principled guidance for formulating other policies and regulations, whose legislative principle and purpose go through the entire SMEs' basic policy field, becoming the standard which the government utilizes to manage SMEs in a macro way. Japanese SMEs development has become the most successful model recognized by the whole world, and the mature SMEs basic law of Japan is just the essential reason for Japanese SMEs' becoming the nation's economic source. This paper conducts the detailed anatomy and research in respect of Japanese SMEs' policy. In 2002, China unveiled SMEs Promotion Law which is thought to be of basic status. It includes five parts, namely, financial



support, entrepreneurship support, technology creativity, market exploration and social support, which reflects Chinese SMEs basic policy system. So we can conclude that SMEs basic policy system includes SMEs basic law and the content of SMEs basic law also embodies SMEs' basic policy system. Both of them supplement each other.

But the first specific legislation about SMEs in China still has lots of drawbacks and defects, which is not helpful in constructing the perfect and scientific SMEs' basic policy system. This thesis indicates the existing defects in current SMEs Promotion Law, as well as proposing some measures and suggestions good for constructing the mature SMEs' basic policy system.

Exploring Chinese SMEs' basic policy system suitable for China's national situation and making the basic law as its core is favorable for the normalization and legalization development of socialist market-oriented economy, and helpful in ameliorating and enhancing SMEs current situation in the premise of adhering to legislation spirits by the government, which could be strongly supportive in terms of financial support, entrepreneurship bolstering, technology innovations, social services, market exploitations and industry clusters for SMEs.

Making "The Comparative Research on Japanese and Chinese SMEs' Basic Policies" as its theme, this paper has done plenty of comparative researches on the theory basis of SMEs' basic policies of Japan and China, historical review of SMEs' basic policies, definition standard and effects of SMEs basic policies' protecting objects, economic background of SMEs basic legislation, and its policies' structures. It borrows ideas from the advanced experiences about Japanese SMEs' basic policies to explore how to construct SMEs' basic policy system suitable for Chinese national situation, focusing on the SMEs basic law and adopting methods such as the quantitative analysis, qualitative analysis, empirical analysis and systematic analysis. The basic viewpoints of this paper are as follows:

Firstly, the theory basis of Japanese SMEs has experienced the process from



“problematic SMEs recognition theory” to “contributive SMEs recognition theory”. China has also once focused on the pessimistic SMEs recognition theory, believing that the disadvantages existing in SMEs decide they can never compete with large enterprises and they would quit in the market economy eventually, which is the main reason why SMEs development should not be encouraged in large quantities. But with the economic development, the theories of supporting and affirming SMEs gradually get an upper hand. This paper believes that correct attitudes treating SMEs should be the ones actively supporting and encouraging SMEs existence and development in the national economy. But we can not circumvent and deny the inherent defects and drawbacks of SMEs and their disregard for social responsibilities when in pursuit of maximization of profits. Only establishing correct SMEs developing theories, can they supply scientific guidance to construct SMEs’ basic policies.

Secondly, SMEs basic policies’ historical evolutions in both countries have obvious periodic features, and they also view relations between SMEs and large enterprises as an important reference factor in drawing up SMEs’ policies. But compared with Japan, the development of Chinese SMEs basic policy is still relatively lagging behind. The paper holds that a vivid characteristic of Japanese SMEs basic policy is constantly studying the relation variation between SMEs and large enterprises and improving it greatly. China should borrow ideas from Japan, which can review SMEs’ basic policies suitable for the national industry policy in a dynamic and developmental way in accordance with the international and domestic overall economic climate. Especially we should supplement the key content of coordinating the relation between SMEs and large enterprises in SMEs basic law.

Thirdly, our nation’s current definition standard of SMEs is similar to that of Japan, compared with stipulations in Japanese new SMEs Basic Law: (1) the business demarcation is one of defining factors for both. (2) the number of employees is kind of reference factor for both. (3) Both of them stipulate hybrid



quantitative standards, namely, Japan measures SMEs scales using two indicators of “number of employees” and “amount of finance” when defining SMEs, while our country divides SMEs using three indicators of “number of staff” “sale proceeds”, and “total sums of assets”. When improving Chinese SMEs’ basic policies, we must treat the legal definition standards of SMEs in a developmental vision. This paper holds that the core and basis of our nation’s SMEs basic policies. And the basic law should firstly make a clear and scientific rule on SMEs’ dividing standards: it should keep the qualitative analysis in SMEs Promotion Law, as well as combing the quantitative stipulation in the current Temporary Regulations on SMEs Dividing Standards.

Fourthly, both in Chinese and Japanese economies, SMEs have shown the huge advantages in dealing with social employment, encouraging technology innovations, promoting export and foreign exchange generation, maintaining social stability and increasing government’s financial incomes. This is their shared function embodiment. But disparities of national situations and economic development between the two countries are causing very obvious differences when SMEs work, especially in aspects of technology creative ability, attracted employees’ qualities, dissemination of our country’s traditional cultural business to some extent. This paper holds that along with the constant improvements of regulations and laws, SMEs in our country should try their best to escalate its own status and qualities in the social economy so as to play an important role in the national economic construction.

Fifthly, the come into being of Japanese SMEs basic law was fitting in with Japanese economic developmental needs. Its economic background is the special phenomenon of “dual structure” appearing in Japanese economy after World War II, which caused the huge gap between Japanese SMEs and large enterprises. The direct reason for the coming on of Japanese SMEs Basic Law is to give more support to SMEs and positively eliminate the disadvantages the “dual structure” phenomenon put on the development of SMEs; but the advent of our nation’s

SMEs Promotion Law has two-tier factors, namely, the subjective needs of SMEs' development and objective variations of outer economic climate.

Sixthly, the content framework of SMEs fundamental policies is established in SMEs Basic Law in Japan. As we can see, Japanese fundamental policies of SMEs is proceeding under the legislative safeguard of SMEs Basic Law. The inseparable relationship between the fundamental policies and the Basic Law can also be easily analyzed. Therefore, during the construction of the SMEs policy system, we should also learn Japanese advanced experiences, that is, under the direction of the legislative idea of SMEs Basic Law, establishing a multi-level and multi-angle SMEs fundamental policy system. In form, SMEs basic policy system includes SMEs basic law and other basic policies; in essence, the legislative principle of SMEs basic law guides SMEs basic policies except the basic law. Through the research on Chinese and Japanese basic law's policy structures, the relationship between SMEs basic policies' system and SMEs basic law could be fully shown. This is the key researching part of the paper.

In a word, this paper presents the comparisons as its main writing skill, adopting the researching methods of combining quantitative and qualitative analyses, empirical and regulative analyses, utilizing historical and developing perspectives, under the guidance of the subject theories in Economics and Management, and meanwhile absorbing relevant theories from the discipline of Enterprise Law. It sticks to the train of thoughts as a whole as follows: "raising problems—researching theories—analyzing current situations—creating modes—studying countermeasures", which makes specific comparisons and generalization in terms of SMEs' basic law and policies in China and Japan so as to propose new initiatives and suggestions for constructing SMEs' basic policies based on our country's basic law.

KEY WORDS: Japan; SMEs; basic law; promotion law; SMEs' basic policies

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## 第一章 导 论

### 1.1 研究背景

改革开放以来,中国逐步建立了社会主义市场经济的基本框架和体系,具有中国特色的经济改革模式取得了举世瞩目的成功。在“以公有制为主体,多种所有制并存”方针的指导下,国有、民营、独资、合作等各种所有制形式的中小企业迅速、大量地涌现,已经成为我国国民经济和社会发展的重要推动力量。国家“十五”(2001—2005)规划期间,我国的中小工业企业获得了长足的发展。根据国家发展与改革委员会等部门统计的数据显示:截至2005年年底,我国的中小工业企业已经由2001年的16.97万户发展为26.38万户,其工业总产值也达到了165 213.1亿元。<sup>[1]</sup>截至2005年年底,我国经工商部门注册的中小企业已占全国企业总数的99.6%,中小企业创造的最终产品和服务价值占国内生产总值的59%,上缴税收占53%,吸纳了80%以上的城镇就业人员。<sup>[2]</sup>可以看出,中小企业为我国工业产值的增长、物质消费品的提供以及城乡就业、财政收入的增加起了不容忽视的重要作用,中小企业已经成为我国工业经济的重要增长点,是社会主义市场经济健康、快速发展的有力支撑和保障。

在看到我国中小企业发展可喜成绩的同时,我们应该承认和发达国家相比,我国中小企业的发展还不容乐观:中小企业仍存在自身素质普遍较低、参与市场竞争的法制意识比较淡薄、员工文化素质普遍较差、企业经营和管理水平不高、信息不对称等一系列不足和缺陷;中小企业的外部环境也存在着政策体系混乱、政策可操作性较差、政府服务意识淡薄、社会支持体系不健全等一系列制约中小企业又好又快发展且亟待解决的问题。厉以宁先生曾做过这样的比喻,“财政是一个‘大水库’,政府作为分配的主体,对下游的居民以及各对象进行分配”<sup>[3]</sup>。财政被比做是一个大水库,那么上游就是形成财政收入的主体——企业,国家财政收入的增长既离不开