Legislative Mode and Framework of Policy Agricultural Insurance

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Abstract This paper introduces existing legislative mode of policy agricultural insurance in China, summarizes 5 experimental schemes of policy agricultural insurance in China, and discusses the legislative framework and the selection of legislative mode of policy agricultural insurance in China.

Key words Policy agricultural insurance; Legislative mode; Legislative framework; National support in China

Currently, China is carrying out legislative work on policy agricultural insurance. But before planning and designing the new system, the existing legislative modes need to be researched and analyzed. Based on this, we can reasonably design a legislative mode suitable for the situation of China in order to make the framework content of system more clear. Countries already establishing and implementing policy agricultural insurance have different types of policy agricultural insurance. And their experiences are worth learning. At present, China is starting a new round of experiment in agricultural insurance. And different regions have constituted experimental schemes with distinct local characteristics. Legal analysis on these schemes can help to find available system "raw material" for legislation in the future.

Theoretically, policy agricultural insurance mainly includes two sub-systems, which are the agricultural insurance organization operating system and the agricultural insurance national (government) support system. And this paper conducts researches from the aspects of agricultural insurance organization and agricultural insurance national (government) support.

1 Legislative mode of the existing policy agricultural insurance

There exist four different types of legislative modes in the world.

1.1 Nationalization mode based on government auspices It has the following main characteristics: legislation has regulated the government (including local government), relevant functional departments, state-owned agricultural insurance company, insured agricultural producers and other legal subjects, as well as their rights (powers) and obligations; government assumes all the responsibility for implementing agricultural insurance scheme, and provides financial support including cost subsidies; it sets up state-owned agricultural insurance enterprises specialized in agricultural insurance business, and gives them tax incentives; private insurance companies do not participate in agricultural insurance business; developed countries allow agricultural producers to voluntarily participate in the insurance, while developing countries mostly implement mandatory insurance; agricultural producers establish a contractual relationship together with state-owned enterprises and bear part of the premium. This legislative mode is widely used in Canada, Philippines, Greece, Soviet Union and so on. The United States adopted this mode before the year 1980; and the Agricultural Insurance Regulation constituted by Chile at July, 1970 also belongs to this legislative mode.

1.2 Commercial mode based on government support Under this mode, laws can regulate government (including local government), relevant functional departments, commercial insurance companies, producers and other participation subjects, as well as their rights (powers) and obligations. Commercial insurance companies provide agricultural insurance services for agricultural producers; government offers financial support including cost subsidies; producers bear part of the premium; agriculture, finance and other government departments are responsible for the regulation. India, Italy, Portugal and other countries are typical examples of this mode.

1.3 Mixed mode of nationalization and commercialization based on government support It has the following main characteristics: legislation has regulated the government (including local government), relevant functional departments, state-owned agricultural insurance enterprises, private insurance companies, insured agricultural producers and other legal subjects, as well as their rights (powers) and obligations. It also sets up agricultural insurance or reinsurance business in state-owned agricultural insurance enterprises, and gives them tax incentives. Private insurance companies can participate in the operation of agricultural insurance in accordance with the agricultural insurance laws, transfer portions of risk portfolio modes to state-owned agricultural insurance enterprises, and obtain financial subsidies; government offers financial support including cost subsidies; producers bear part of the premium; agriculture, finance and other government departments are responsible for the regulation. This mode is applied in Spain and Mexico, as well as the United States from the year 1981.
used to adopt this legislative mode for a very long period of
time.

1.4 Mutual cooperative mode based on government sup-
port This mode has the following characteristics: laws can
regulate government (including local government), relevant
functional departments, cooperative insurance organiza-
tions, agricultural producers and other legal subjects, as well as their
rights (powers) and obligations; cooperative insurance organi-
sations at different levels are established; producers can partici-
- pate in cooperative insurance organizations; grass-roots coop-
erative organizations directly offer producers mutual cooperative
insurance; the cooperative union can provide reinsurance serv-
ices to the lower organizations; both compulsory and voluntary
insurance are adopted; government offers financial support in-
cluding subsidies and reinsurance; certain tax incentives are
given to the cooperative insurance organizations; relevant gov-
ernment departments are responsible for regulation. Of all the
countries in the world, Japan is a typical example of this mode.
Korea and France can also be classified into this mode\textsuperscript{3}.

These four modes mentioned above have their own char-
acteristics and advantages. Countries can reasonably choose a
legislative mode suitable for themselves according to their own
situations.

2 Legal induction about the pilot schemes
for policy agricultural insurance in China

At the end of 2003, China Insurance Regulatory Com-
mision jointly with the relevant departments formulated the Prelim-
inary Scheme for Establishing Agricultural Insurance System.
Five development modes were put forward according to the ac-
tual situation of agricultural insurance in China. Local govern-
ments implemented pilot schemes for different policy agricul-
tural insurances. At the same time, Ministry of Finance also for-
mulated the relevant normative documents with financial sup-
port. At present, China is at a preliminary exploratory phase of
policy agricultural insurance. Therefore, there are local pilot
schemes with different contents. In the long run, it is necessary
to confirm, regulate and adjust all the schemes by law, which
contain the relationship between obligations and rights of differ-
ent legal subjects, and might provide future legislation with in-
sitution elements. And this paper summarizes the above
schemes from legal perspective.

2.1 Shanghai mode Its main bodies include Shanghai Mu-
unicipal Government and governments at district and county lev-
el, China Insurance Regulatory Commission, Shanghai Agricul-
ture Commission, the Finance Bureau at all levels, Agricultural
Insurance Promotion Committee of districts and counties, agricul-
tural machinery service extension centers at county level and
other insurance sale units, Shanghai Anxin Agricultural Insur-
ance Co., Ltd., and agricultural producers. Under this mode,
Shanghai Municipal Government undertakes major responsibil-
ity for organizing and promoting the development of agricultural
insurance. Shanghai Anxin Agricultural Insurance Co., Ltd.,
the legal person according to the Company Law, operates the
agricultural insurance. Among them, insurance business of
planting and breeding industries can benefit from the support of
relevant policies. The company also conducts commercial oper-
ation for agriculture-related property insurance and liability in-
urance, short-term personal accident insurance and health in-
surance of rural residents. Premium income of farming and
breeding industry shall not be less than 60 percent of the total
premium income of the company. Financial departments give
premium subsidies to agricultural producers whose planting and
breeding are in accord with the developmental orientation of ag-
cultural industry in Shanghai. In addition, agricultural produc-
ers buy insurance policy voluntarily and bear part of the premi-
um. Agricultural machinery service extension centers in districts
or counties are among the agents of insurance company. China
Insurance Regulatory Commission carries out the regulation.
Due to the policy restriction of business scope of Shanghai Anxi-
in Agricultural Insurance Co., Ltd., this mode can come down
to a semi-commercial mode based on government support.

2.2 Heilongjiang reclamation area mode Its main bodies
include Heilongjiang Agricultural Reclamation Bureau, Sunlight
Agricultural Mutual Insurance Company, China Insurance Reg-
ulatory Commission, Ministry of Agriculture, Ministry of Finance
and agricultural producers. Heilongjiang Agricultural Reclama-
tion Bureau organizes agricultural insurance; agricultural pro-
ducers in this reclamation area are members of the Sunlight Ag-
cultural Mutual Insurance Company; agricultural insurance is
offered by the Sunlight Agricultural Mutual Insurance Company;
premium subsidies are provided by the Ministry of Finance; ag-
icultural producers in reclamation area also pay for part of the
premium. China Insurance Regulatory Commission carries out
regulation. Thus, this mode in general can be called the mutual
cooporative mode based on government support. There are also
some small-scale pilot projects using this mode in Zhejiang,
Beijing and other regions.

2.3 Beijing mode Its main bodies include Beijing Municipal
Government and its district governments, China Insurance Regu-
larly Commission, Beijing Municipal Rural Affair Commit-
tee, Beijing Municipal Commission of Development and Re-
form, Beijing Bureau of Finance, commercial insurance com-
panies, Farmer Specialized Cooperatives, farm product industry
associations, leading agricultural enterprises, and agricultural
producers. Under this mode, government implements agricul-
tural insurance, establishes policy coordinative cooperation of
agricultural insurance, and sets up the catastrophic risk re-
serve. While the insurance company offers services of agricul-
tural insurance; and commercial reinsurance company provide
reinsurance business. Financial department offers premium
subsidies and management subsidies, and draws catastrophic
risk reserve. Agricultural producer buys insurance voluntarily,
pays for part of the premium, and obtains compensation from
the loss of agricultural production and management cost. China
Insurance Regulatory Commission carries out management and
supervision. Thus, Beijing mode belongs to the commercial
mode based on government support.

2.4 Zhejiang mode and Huai'an mode Their main bodies
include local government, relevant departments and coordina-
ting body, China Insurance Regulatory Commission, commercial insurance companies, agricultural technique departments, and agricultural producers. Under the two modes, government implements agricultural insurance. Financial department offers premium subsidies to insured agricultural producers. Insurance companies offer services about agricultural insurance. They share the risk, benefits, and premium according to their proportions in constitution. Government (including government at a lower level) along with commercial insurance company takes the risk and responsibility according to the agreed proportion. Agricultural producer buys insurance voluntarily, pays for part of the premium, and obtains compensation from the loss of agricultural production and management cost. China Insurance Regulatory Commission carries out management and supervision. Therefore, it can be seen that these two modes still belong to the mixed mode of nationalization and commercialization based on government support. But it is no longer the agricultural insurance company who shares the risk with commercial insurance company, but the government.

2.5 Commercial insurance company mode Some local governments and commercial insurance companies come into an agreement of entrusting commercial insurance company in order to offer policy agricultural insurance instead of government. Its main bodies include local government, relevant financial and agricultural departments, commercial insurance companies, insured agricultural producers, and supervision department of finance. Under this mode, local government offers insurance policy, reinsurance and agency fees; all the operating profit or loss belongs to the property of government. Insurance company provides specific business with a separate operation and independent accounting. Insurance company is entitled to charge according to the agreement, neither assuming responsibility for any risks, nor enjoying any other benefits. Agricultural producer buys insurance voluntarily, pays for part of the premium, and obtains compensation from the loss of agricultural production and management cost. China Insurance Regulatory Commission carries out management and supervision. Thus, this mode actually belongs to the nationalization mode based on government auspices. According to the Preliminary Scheme for Establishing Agricultural Insurance System by China Insurance Regulatory Commission, there is one mode trying to set up policy agricultural insurance company based on local finance support if permitted. However, no local government has carried out the practice of this mode yet, which also belongs to the nationalization mode based on government auspices.

Therefore, according to the legal analysis, all the policy agricultural insurance modes basically belong to the four legislation modes mentioned above. Among them, commercial mode obtains more attention.

3 Options for the legislation mode of policy agricultural insurance in China

Design for policy agricultural insurance system must first resolve the issues of legislative mode. Some scholars argue that selection of policy agricultural insurance mode should reflect the characteristics of government dominant, that is, the government-dominated mode of policy agricultural insurance system. Theoretically, there are three kinds of government-dominated modes of policy agricultural insurance system to choose: government management mode based on government auspices, cooperative agricultural insurance mode based on government support, commercial insurance enterprise mode based on government auspices. According to the national conditions of China at present, most scholars prefer the government management mode based on government auspices. Meanwhile, some scholars have proposed the establishment of a government leading mode with agricultural cooperative associations as the main body supplemented by commercial insurance companies.

I believe that though the above-mentioned points of views are partly justified, stressing government auspices or lead, but there are obvious deficiencies. The former only emphasizes governmental organization and management, while the latter only stresses on the functions of mutual insurance organizations and commercial insurance companies. They both take certain mode as the main body, and neglect the functions of other modes. Thus, they result in biased instruction. I suggest that the legislative mode for the legal system of future policy agricultural insurance in China should take the advantages of all the modes in an all-embracing manner. A comprehensive legislative mode should also be established, containing various modes of nationalization, commercialization, mutual cooperative mode, and mixed mode of nationalization and commercialization. The reasons for my point of view are listed as follows:

1. Publicity of agricultural insurance products determines that the state (government) should actively participate in the field of agricultural insurance and play a leading role, rather than supply products solely by the private sector according to market rules. Determination of both subject organizations and their relationships of rights (powers) and obligations should reflect the will of state, a representative of public interests. Thus, the policy feature of agricultural insurance system is ensured.

2. China has a vast territory with various natural conditions; levels of socio-economic development are greatly different. Therefore, only one mode for all the regions is not suitable. Instead, we should select different system modes suitable for local situations with provincial-level administrative region as the unit. It should be encouraged and supported by legislation; and government should offer multi-system modes for selection when constructing a system.

3. Each legislative mode has its own advantages, and its respective advantages should be maximized. For instance, under the nationalization mode based on government auspices, government establishes state-owned agricultural insurance organization to operate policy agricultural insurance, so as to protect and realize the social and public interests. At the same time, means of the state power can better make up for the failure of market mechanism in the field of agricultural insurance, and can help to realize the best allocation of resources. Under
the cooperative mode based on government support, interests of its members have a high degree of consistency, so as to effectively prevent moral hazard and adverse selection of agricultural insurance. Under the mixed mode of nationalization and commercialization based on government support, we can combine the government support and market mechanism together. Thus, effect of government support measures can be effectively enlarged through market mechanism; intention of the government can be achieved through private insurance institutions; and the government resources can be saved significantly. Though there is conflict between the profit making of commercial insurance companies and the policy of agricultural insurance, commercial insurance companies can also participate in agricultural insurance with their own advantages only when there are corresponding measures to protect and support them.

4 According to the legislative experiences in foreign countries, a country chooses a particular legislative mode. And this mode is in the continuous innovation and improvement. For instance, the United States, Canada, Mexico, Brazil and other countries adopt different modes at different historical periods. And the cost of institutional change is relatively great. China should carry out system innovation after making full use of other modes, rather than explore, converse and construct different systems at different periods. In other words, China should plan and build different modes at the same time on the same system platform. After the implementation of laws, all systems can be applied in practice at the same time in order to give full play to the advantages of different systems. And these system modes can be integrated on the same system platform. As long as the specific system details are designed, these systems can be matched and can form even greater system advantage. This is called the Advantage of Backwardness in legislation.

5 By using different system modes on the same system platform, a unified national framework for policy agricultural insurance can be settled, so that legal basis is offered for a variety of useful agricultural insurances. According to the experiences of foreign countries, pilot of agricultural insurance should be carried out under the framework of law. Meanwhile, the complexity, normalization and protracted nature of agricultural insurance also require the protection of law.

6 Adopting different system modes on the same system platform is also in line with the "law of large numbers" of insurance business. Different system modes can be combined together by the unification of national legislation, in order to spread risks to the maximum extent by relying on system.

4 Legislative framework of policy agricultural insurance in China

By referring to agricultural insurance legislation in foreign countries and developing experiences of agricultural insurance, this paper puts forward the main framework for the legal system of policy agricultural insurance in China combining with the experiences of practical agricultural insurance.

4.1 Legislative intent and legislative principle According to the fundamental position of agriculture in national economy, the actual level of agricultural production and the needs of new socialist countryside construction, legislative intent of policy agricultural insurance is to compensate agricultural producers for accidents and natural disasters, to support and guarantee the smooth progress of agricultural production, to stabilize the income and the life of agricultural producers, to improve the risk and insurance awareness of agricultural producers, to promote the research and experiment of agricultural insurance, and to consolidate the fundamental position of agriculture in national economy.

Policy agricultural insurance should follow the principles of appropriate state support, basic guarantee, and gradual and steady development.

4.2 Supervision and management department and operation main body There are two ways to assure the supervision and management department of policy agricultural insurance. One is to ascertain the National Development and Reform Commission, Ministry of Finance, or Ministry of Agriculture as the supervision and management department for policy agricultural insurance, and to set an Agricultural Risk Management Bureau to supervise policy agricultural insurance. The other is to establish an Agricultural Risk Management Bureau managed by the above mentioned ministries. Its specific responsibilities include constituting and organizing the national agricultural insurance scheme, ensuring the target of insurance and the range of underwriting risk, examining the new products of agricultural insurance, insurance terms and premium rates, setting standards for economic cost evaluation, harmonizing the relationship between agricultural insurance and other agricultural support and protection policy, supervising the policy agricultural insurance business, establishing agricultural insurance database, guiding the business of policy agricultural insurance agencies, representing state to communicate with foreign agricultural supervision and management departments, state-owned agriculture insurance company and relevant international organizations about agricultural insurance.

There are two ways to set the national policy agricultural insurance organization. The first way is to set a new national policy insurance agency-Agricultural Insurance Company of China as an independent enterprise legal person. The second way is to offer policy agricultural insurance by Agricultural Development Bank of China, to increase its amount of capital appropriately, to change and expand its business functions, and to reform organizations. Business scope of policy agricultural insurance organizations is offering reinsurance for agricultural insurance organizations, making agricultural insurance terms and premium rates, researching on the agricultural insurance products, setting up reinsurance contracts, offering subsidies for the agricultural producers and management body of agricultural insurance, carrying out agricultural insurance researches, guiding agricultural insurance organizations and agricultural producers to control or reduce disasters, and conducting agricultural insurance and risk education.

Provincial local government can set up policy agricultural insurance company with status of independent legal person
based on local financial investment according to the demands. Its range includes directly offering agricultural insurance service to local agricultural producers, and carrying out researches on agricultural insurance. Businesses of local policy agricultural insurance company according with the agricultural insurance planning of national agricultural risk management departments can be reinsured by the national policy agricultural insurance organizations.

Regulate the development and establishment of cooperative agricultural insurance organization, including its types, principles, institutions, business scope, rights (powers) and obligations of members, and legal responsibility. Types of cooperative agricultural insurance organization are mainly the agricultural insurance cooperatives and their associations, agricultural mutual insurance cooperatives, and agricultural mutual insurance companies. Agricultural insurance cooperatives and agricultural mutual insurance cooperatives can take a county as the unit, and set sub-cooperatives in towns. Associations can take prefecture-level city or province as the unit, encourage commercial insurance companies to set up the agricultural insurance business in order to offer agricultural insurance services to agricultural producers, and use the way of bidding to select the commercial insurance companies.

4.3 Business management Legislation regulates that according to the target of insurance and the actual local situations, we can adopt compulsory insurance, voluntary insurance, united insurance of Specialized Economic Cooperation Organization, the mode connecting with other agricultural subsidies and disaster relief offered by government, or contacting with agricultural credit. Agricultural insurance organizations are not allowed to refuse the insurance requirement of qualified policy-holder.

Reasonably fix the premium rate. During the initial stage of agricultural insurance planning, targets of insurance are mainly the food crop and livestock related to people’s livelihood. In order to strengthen the pertinence and to improve the validity of agricultural insurance support, relevant government departments in charge can make a catalogue for the targets of policy agricultural insurance, divide it into different grades, and adjust and enrich it on time. Government should offer support at different degrees for the agricultural products listed on the catalogue.

Insurance responsibility belongs to the type of all risks or multi risks. At the initial stage of agricultural insurance planning, we can start from the most common risks easily leading to the risk of loss. Based on the accumulation of experience, we gradually expand the scope of risk. Two modes for ensuring the amount of insurance can be regulated for crop insurance. The first is to ascertain insurance amount based on direct production cost, and to offer differential treatments according to production costs in different areas. In areas with high level of economic development, high degree of agricultural commercialization and high level of agricultural industrialization, amount of insurance can be increased appropriately with direct production cost as the basis. The second mode is to confirm the amount of insurance according to production. Amount of livestock insurance should be ascertained according to production costs and target values of different insurances. The amount of insurance should be lower than the value.

4.4 Fiscal and taxation support measures

(1) National or local policy agricultural insurance organizations and cooperative agricultural insurance organizations should be exempted from the registration fee. National finance should allocate start-up costs for the policy agricultural insurance organizations. State should give a certain degree of financial assistance to a newly established cooperative agricultural insurance organization.

(2) It should be regulated that central and local governments offer premium subsidies to the insured agricultural producers, management fee subsidies to agricultural insurance organization, and subsidies to agricultural reinsurance. Among them, government premium subsidies should be more than one half of the total premium. Central and provincial governments should share the financial subsidies mentioned above on a certain percentage. Financial capital supporting agricultural insurance is included in the central and local budgets.

(3) Policy agricultural insurance organizations and cooperative agricultural insurance organizations should be exempted from the registration fee. Corresponding proportions of tax incentives are given to other agricultural insurance enterprises according to their proportions of agricultural insurance business in total business of the enterprises.

(4) Establish national agricultural catastrophic risk fund to deal with catastrophic risk. Its sources of funding may include a part of national financial fund for agriculture as the starting fund, a certain percentage of an annual increase income of national finance, an amount from national disaster prevention and reduction expenditure, additional costs of agricultural risks from commercial insurance companies and agricultural benefited enterprises offering rural insurance business according to sales tax, some capital of the national grain risk fund, part of the national debt, "soft loan" from the World Bank, and social donations. This fund is managed by the Ministry of Finance to increase the capital funds of national policy agricultural insurance organizations, and to pay the over-payment part of catastrophe losses for state-owned policy agricultural insurance organizations. This fund also offers low-interest or interest-free loans to national policy agricultural insurance organizations after catastrophe losses when there is over payment; and it can be gradually repaid later, offset by financial allocation, or be canceled after the verification of NPC Standing Committee.

4.5 Legal responsibility A sound legal system is an important guarantee for the smooth implementation of policy agricultural insurance. Legal responsibility of the law system in policy agricultural insurance includes responsibilities of economic laws and the responsibility of invoking laws.

References

政策性农业保险立法模式与立法框架研究

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摘要 研究了世界各国既有政策性农业保险立法模式，即政府主办下的有国化模式，政府扶持下的商业化模式，政府扶持下的有国化-商业化混合模式，政府支持下的互助合作化模式，分析了各种模式的特点。从立法上对中国政策性农业保险立足点方案进行了归纳，主要有5种试点模式。①上海模式，属于政府扶持下的有国化模式；②黑龙江模式，属于政府扶持下的互助合作化模式；③北京模式，属于政府扶持下的商业化模式；④浙江模式和江苏模式，属于政府支持下的有国化-商业化混合模式；⑤商业保险公司代办模式，属于政府主办下的商业化模式。探讨了中国政策性农业保险立法模式的选择，模式应体现政府的主导性特征。笔者认为，中国的政策性农业立法模式应采取模式选择，确立起综合型立法模式，理由有6点：①农业保险产品商业化有助于国家政府积极投入农业领域，发挥主导作用；②中国农业地位相对较低，社会经济发展水平差异较大，不能采用相国模式；③不同的立法模式有其特点，应最大限度地发展其优势；④国外的立法经验表明，立法模式不是固定不变的，而是在不断发展中形成和改进；⑤实行不同的制度模式，可以实现政策性农业保险法律制度框架的基础；⑥符合保险经营的“大数据法”。介绍了中国政策性农业保险的立法框架，提出了财政支持政策性农业保险组织发展的措施。

关键词 政策性农业保险；立法模式；立法框架；国家支持

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杨凌农业高新区示范区基础设施融资现状分析及应用 PPP 模式探讨

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摘要 首先对中国杨凌示范区基础设施融资现状进行了分析。目前杨凌示范区城市市政公用设施融资模式主要分为财政融资模式、政府融资模式、企业融资模式、银行贷款模式以及个人自筹。此外，由于建设资金主要是通过财政直接投资和市场竞争等手段筹集的，因此形成了以公共部门为主的企业融资模式。PPP 模式，其中特别强调了 PPP 模式的含义、模式的流程、应用、有效应用及所面临的风险。最后探讨了 PPP 模式在杨凌示范区的融资应用。由于享受国家财税优惠政策和国家对农业产业的倾斜扶持政策，不仅可以获得相对稳定的市场份额和较多的政府投资，而且可以充分发挥农民投资主体的积极性，从而提高管理水平和投资质量，从各方面帮助政府满足社会公众对于基础设施的需求。但政府在引入 PPP 模式时也应注意，在应该建立良好的政府与私营部门的伙伴关系，积极进行实践，扩大应用范围，加快应用速度。此外，PPP 模式的投资目标以及在招标设计和建筑设计过程中积累的经验，将对杨凌示范区及其他地区的基础设施建设起到极其重要的借鉴作用。

关键词 基础设施；PPP 模式；杨凌示范区