

# ORGANIZACIÓN MUNDIAL DEL COMERCIO

S/C/N/216  
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(02-7104)

Consejo del Comercio de Servicios

Original: inglés

## NOTIFICACIÓN DE CONFORMIDAD CON EL PÁRRAFO 3 DEL ARTÍCULO III DEL ACUERDO GENERAL SOBRE EL COMERCIO DE SERVICIOS

Se ha recibido de la delegación de la República Popular China la siguiente notificación.

**1. Miembro que notifica:**

La República Popular China

**2. Notificación en virtud del:**

Párrafo 3 del artículo III del Acuerdo General sobre el Comercio de Servicios

**3. Fecha de entrada en vigor/duración:**

11.12.2001

**4. Organismo responsable de la aplicación de la medida:**

Ministerio de Comunicaciones  
Ministerio de Comercio Exterior y Cooperación Económica

**5. Descripción de la medida\* indicando las formas de suministro previstas, los efectos en el comercio de servicios (como por ejemplo restricciones a la liberalización o medidas de liberalización) e incidencia de la medida en los compromisos enunciados en la Lista del Miembro y en su Lista de exenciones del artículo II (NMF), en su caso:**

Reglamento del transporte marítimo internacional

Se adjunta el texto completo de la traducción del reglamento al inglés.<sup>1</sup> La traducción al inglés se facilita únicamente a efectos de consulta y la versión china será la auténtica.

**6. Miembros específicamente afectados, en su caso:**

Todos los Miembros

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\* Incluidos los acuerdos internacionales y las medidas de reconocimiento o de otro tipo.

<sup>1</sup> En inglés solamente.

**7. Texto disponible en:**

- Servicio de información ☒
- Secretaría de la OMC ☒
- Otras fuentes (dirección, fax y teléfono de otro organismo) ☐

## **Regulations of the People's Republic of China on International Maritime Transportation**

(Adopted at the 49th Executive Meeting of the State Council on December 5, 2001, promulgated by Decree No. 335 of the State Council of the People's Republic of China on December 11, 2001, and effective as of January 1, 2002).

### **Chapter I General Provisions**

**Article 1** These Regulations are formulated for the purposes of regulating international maritime transportation operations, protecting fair competition, maintaining the order of international maritime transportation market and safeguarding the legitimate rights and interests of the relevant parties involved in international maritime transportation.

**Article 2** These Regulations are applicable to international maritime transportation business operations to and from the ports of the People's Republic of China as well as the auxiliary business operations relating to international maritime transportation.

Auxiliary business operations relating to international maritime transportation, as referred to in the preceding paragraph, include the businesses relating to international shipping agency services, international ship management, loading and unloading, storage and warehousing of international shipments and international maritime container freight station and container yard services, etc.

**Article 3** The good faith doctrine shall be practiced in international maritime transportation business operations and auxiliary business operations relating to international maritime transportation, the operations shall be lawfully conducted under fair competition.

**Article 4** The competent communications department of the State Council and competent communications departments of relevant local people's governments shall, in accordance with the provisions of these Regulations, supervise and administer international maritime transportation business operations, and shall exercise supervision and administration over auxiliary business operations relating to international maritime transportation.

### **Chapter II Operators of International Maritime Transportation and Auxiliary Businesses Thereof**

**Article 5** To be engaged in international shipping services, the following conditions shall be met:

- (1) having vessels suitable for employment in international maritime transportation, among which there must be vessels of Chinese nationality;
- (2) vessels under employment shall be in compliance with the technical standards for maritime traffic safety as set forth by the State;
- (3) having bills of lading, passenger tickets or multimodal transportation documents;
- (4) having senior executives with the professional qualifications as set forth by the competent communications department of the State Council.

**Article 6** To be engaged in international shipping services, an application shall be submitted to the competent communications department of the State Council, and the relevant documents in compliance with the conditions set forth in Article 5 of these Regulations shall be attached thereto. The competent communications department of the State Council shall, within 30 days from the date of acceptance of the application, complete the examination and verification and make a decision of granting or not granting permission. If the permission is granted, a Permit for Operation of International Shipping Services shall be issued to the applicant, or, if no permission is granted, the applicant shall be notified in writing and given the reasons therefor.

In examining and verifying the application for international shipping services, the competent communications department of the State Council shall take into account the policies of the State for the development of international shipping industry and the actual competition situations in international shipping market.

Anyone who applies for both international shipping services and international liner services shall concurrently submit the relevant documents as provided for in Article 17 of these Regulations, which shall be examined, verified and registered by the competent communications department of the State Council.

**Article 7** To be engaged in non-vessel operating services, the formalities for registering bill of lading shall be undergone with the competent communications department of the State Council and surety bond shall be paid therewith.

Non-vessel operating services, as referred to in the preceding paragraph, mean such international maritime transportation business operations in which a non-vessel operating common carrier accepts shipments from the shipper as a carrier, issues its own bills of lading or other shipping documents, procures through the international shipping operator the carriage of goods by sea against payment of freight by the shipper, and assumes the responsibilities of a carrier.

To be engaged in non-vessel operating services within Chinese territory, an enterprise as legal person shall be established according to law within Chinese territory.

**Article 8** A non vessel operating common carrier shall, at the time of making an application for the registration of bill of lading to the competent communications department of the State Council, submit the relevant documents certifying that the required surety bond has been paid in accordance with the provisions of these Regulations.

The surety bond as referred to in the preceding paragraph shall be in a sum of RMB 800,000 yuan, and an additional sum of RMB 200,000 yuan is required for each subsequent branch. The surety bond shall be paid to a designated bank account opened at a bank within Chinese territory.

The surety bond shall be used for the payment of debts incurred from non-performance or improper performance of obligations by the non-vessel operating common carrier or used for payment of fines. The surety bond and the interests accrued thereon belong to the non-vessel operating common carrier. The designated account shall be subject to the supervision by the competent communications department of the State Council.

The competent communications department of the State Council shall complete examination and verification of the application for bill of lading registration and the certifying documents for surety bond within 15 days from the date of receipt thereof, and shall, if the application documents are authentic and complete, grant registration and notify the applicant of the result thereof, or, if the application documents are inauthentic or incomplete, grant no registration and notify the applicant in writing and give the reasons therefor. The competent communications department of the State Council shall publish the names of the carriers of non-vessel operating services who have registered their bills of lading.

**Article 9** To be engaged in international shipping agency services, the following conditions shall be met:

- (1) having at least two senior executives with no less than three years' experience in international maritime transportation business operations;
- (2) having fixed places of business and necessary business facilities.

**Article 10** To be engaged in international shipping agency services, an application shall be submitted to the competent communications department of the State Council, and the relevant documents in compliance with the conditions set forth in Article 9 of these Regulations shall be attached thereto. The competent communications department of the State Council shall complete examination and verification within 15 days from the date of receipt of the application. If the application documents are authentic and complete, registration shall be granted and the applicant shall be notified of the result, or, if the application documents are inauthentic or incomplete, no registration shall be granted and the applicant shall be notified in writing and given the reasons therefor.

**Article 11** To be engaged in international ship management services, the following conditions shall be met:

- (1) having at least two senior executives with no less than three years' experience in international maritime transportation business operations;
- (2) having staff members in possession of Master's credentials and chief engineer's credentials appropriate to the types of ships and trading zones under their management; and
- (3) having equipment and facilities appropriate to international ship management services.

**Article 12** To be engaged in international ship management services, an application shall be submitted to the competent communications department of the people's government of a province, an autonomous region or a municipality directly under the Central Government where the proposed business is to be located, and the relevant documents in compliance with the conditions set forth in Article 11 of these Regulations shall be attached thereto. The competent communications department of the peoples government of a province, an autonomous region or a municipality directly under the Central Government shall complete examination and verification within 15 days from the date of receipt of the application. If the application documents are authentic and complete, registration shall be granted and the applicant shall be notified of the result, or, if the application documents are inauthentic or incomplete, no registration shall be granted and the applicant shall be notified in writing and given the reasons therefor.

**Article 13** After being granted permission or registered as provided for in these Regulations, international shipping operators, non vessel operating common carriers, international shipping agents or international ship management operators shall, by presenting relevant certifying documents, go through registration formalities with enterprise registration authorities according to law.

**Article 14** International shipping operators, non vessel operating common carriers, international shipping agents or international ship management operators shall not provide others for use with their legally obtained business operation qualifications.

**Article 15** Where, after having obtained the qualifications for business operation in accordance with the provisions of these Regulations, an international shipping operator, a non vessel operating common carrier, an international shipping agent or an international ship management operator no longer meets the conditions set forth in these Regulations, the competent communications department of the State Council, or the competent communications department of the people's government of a province, an autonomous region or a municipality directly under the Central Government shall immediately cancel such operator of the qualifications for business operation.

### **Chapter III Business Operations of International Maritime Transportation and Auxiliary Businesses Thereof**

**Article 16** An international shipping operator who intends to be engaged in international liner services to and from the ports of the People's Republic of China shall acquire the qualifications for operation of international liner services in accordance with the provisions of these Regulations.

Those who have not acquired the qualifications for the operation of international liner services shall not be engaged in international liner services, nor publish their liner shipping schedules, nor accept space booking.

Where the operation of international liner services is conducted through joint employment of vessels, slot sharing of cargo spaces or joint operation of services, the provisions in Paragraph one of this Article shall apply.

**Article 17** To be engaged in international liner services, an application shall be submitted to the competent communications department of the State Council, and the following documents shall be attached thereto:

- (1) the name of the international liner service operator, its registered place of business, photocopy of its business license, and the information of its main investor(s);
- (2) the names and identification documents of the operator's main management staff;
- (3) the particulars of the vessels under operation;
- (4) the description of the intended shipping lines, shipping schedules and ports of call along the shipping lines;
- (5) the freight tariff; and
- (6) the sample of its bill of lading, passage ticket or multimodal transport documents. The competent communications department of the State Council shall complete examination and verification within 30 days from the date of receipt of the application for international liner services. If the application documents are authentic and complete, registration shall be granted and the applicant shall be notified of the result, or, if the application documents are inauthentic and incomplete, no registration shall be granted and the applicant shall be notified in writing and given the reasons therefor.

**Article 18** An international liner operator who has obtained the qualifications for international liner services shall start such services within 180 days from the date of acquirement of its qualifications, and, subject to the approval of the competent communications department of the State Council, such time limit may be extended for another 90 days in case of force majeure. In case of failure to start the liner services within the time limit, the qualifications for international liner services shall be invalid upon the expiration thereof.

**Article 19** New international liner services, liner services under suspension, or any change(s) to carrying vessels or schedules for international liner services shall be made known to the public 15 days in advance and shall be filed with the competent communications department of the State Council within 15 days from the date of occurrence.

**Article 20** The freight rates of international shipping operators and non vessel operating common carriers engaged in the business of international liner services shall be filed in specified format with the competent communications department of the State Council. The competent communications department of the State Council shall designate a special body for handling the filing of freight rates.

The filed freight rates shall include tariff rates and negotiated rates. Tariff rates refer to the freight rates shown in the tariff of international liner service operators and non vessel operating common

carriers; while negotiated rates refer to the freight rates agreed upon between international liner service operators and shippers or non vessel operating common carriers. The tariff rates shall come into effect 30 days after the day upon which the tariff rates have been accepted for the filing by the competent communications department of the State Council. The negotiated rates shall come into effect 24 hours after acceptance for the filing by the competent communications department of the State Council.

International liner service operators and non vessel operating common carriers shall apply the effective freight rates that have been filed.

**Article 21** When concluding agreements on negotiated rates with non vessel operating common carriers, international liner service operators shall make sure that such non vessel operating common carriers have registered their bills of lading and paid the required surety bond in accordance with the provisions of these Regulations.

**Article 22** Photocopies of liner conference agreements, service operation agreements and freight rate agreements concluded between international shipping operators engaged in international liner services in which Chinese ports are involved shall be filed with the competent communications department of the State Council within 15 days from the date of conclusion of such agreements.

**Article 23** An international shipping service operator shall, within 15 days from the date of occurrence of any of the following circumstances, make a report thereon to the competent communications department of the State Council for the filing:

- (1) termination of services;
- (2) reduction of carrying capacity;
- (3) changes in bills of lading, passenger tickets or multimodal transport documents;
- (4) establishment of overseas branches or subsidiaries for international shipping services;
- or
- (5) vessels under its ownership to be registered abroad, and flying foreign flags.

Where an international shipping operator makes any increase to its existing number of vessels, the added vessel(s) shall meet the safety and technical standards set forth by the State, and the same shall be reported to the competent communications department of the State Council for the filing 15 days prior to the operation of such vessel(s). The competent communications department of the State Council shall issue a document certifying the filing within three days from the date of receipt of the documents for the filing.

Other Chinese enterprises shall, under any of the circumstances specified in Subparagraphs (4) and (5) of Paragraph one of this Article, undergo the formalities for filing in accordance with the provisions of Paragraph one of this Article.

**Article 24** In case of merger or acquisition among international shipping operators, the merger or acquisition agreement shall be submitted to the competent communications department of the State Council for examination and approval.

The competent communications department of the State Council shall, within 60 days from the date of receipt of the merger or acquisition agreement submitted by the international shipping operators, conduct examination and verification, taking into consideration policies of the State for the development of international shipping industry and the situation of competition prevailing in the international shipping market, and make a decision either approving or disapproving such an agreement, and shall notify the international shipping operators of the result in writing.

**Article 25** In case of collection of freight and other related fees, or collection of freight and other related fees on behalf of others within Chinese territory, international shipping operators, non vessel operating common carriers and international shipping agents shall produce to the payers the invoices uniformly prepared by Chinese taxation authorities.

**Article 26** No one shall be engaged in non vessel operating services without registering its bill of lading and paying required surety bond in accordance with the provisions of these Regulations.

**Article 27** None of the following acts may be committed in the operation of international shipping services or non vessel operating services:

- (1) providing service at lower freight rates than normal and reasonable ones, thereby prejudicing fair competition;
- (2) offering secret rebates to shippers, not being reflected in the bookkeeping, for the purpose of soliciting cargoes;
- (3) arbitrarily taking advantage of its dominant position to impose discriminatory freight rate or other restrictive terms detrimental to the other party of the transaction; or
- (4) committing any other acts detrimental to the other party of the transaction or the order of international shipping market.

**Article 28** A foreign operator of international shipping services who is engaged in international shipping operations as referred to in this Chapter shall abide by the provisions of these Regulations. Foreign operators of international shipping services shall not engage in shipping services between ports of the Peoples Republic of China, nor engage in shipping services between ports of the Peoples Republic of China under disguise by using chartered ships flying Chinese flags or cargo spaces thereof, or, by way of slot sharing of cargo spaces thereof.

**Article 29** An international shipping agent may, upon the commission of any shipowner, charterer or ship operator, be engaged in the following businesses:

- (1) undergoing formalities for ship's entry into or departure from ports, arranging pilotage, berthing and loading and unloading of vessels;
- (2) signing bills of lading or carriage contracts and accepting cargo space booking on behalf of the carrier;
- (3) undergoing customs formalities for vessels, containers and shipments;
- (4) canvassing cargoes, arranging shipments and attending to procedures for shipments and transshipment of cargoes and containers;
- (5) collecting freight and settling payment on behalf of the principal;
- (6) arranging passenger transport and attending to procedures for transport of passengers by sea; and
- (7) other pertinent businesses.

An international shipping agent shall, in accordance with the relevant provisions of the State, withhold or collect tax payable by the foreign operator of international shipping services under his agency.

**Article 30** An international ship management operator may, upon the commission of any shipowner, charterer or ship operator, be engaged in the following businesses:

- (1) sale and purchase of vessels, chartering of vessels and management of other assets relating to vessels;
- (2) ship engineering, handling of navigational affairs and arrangement of ship repair and maintenance;
- (3) recruitment, training and manning of seafarers; and
- (4) other services purporting to maintain the technical standards of the vessels and ensure their proper navigation.



#### **Chapter IV Special Provisions on Investment in and Operation of International Maritime Transportation and Auxiliary Businesses Relating Thereto by Foreign Investors**

**Article 31** The provisions of this Chapter are applicable to investment in and operation of international maritime transportation businesses and auxiliary businesses relating to international maritime transportation within Chinese territory by foreign investors, and, in the absence of any provisions in this Chapter relating thereto, the relevant provisions in other chapters of these Regulations shall apply.

**Article 32** Upon the approval of the competent communications department of the State Council, foreign investors may, in accordance with the relevant laws, administrative regulations and other pertinent provisions of the State, make investment to establish Chinese Foreign equity joint ventures or contractual joint ventures to be engaged in international shipping services, international shipping agency services, international ship management services, international maritime cargo warehousing, and international maritime container freight station and container yard services, and may establish wholly foreign capital enterprises to be engaged in international maritime cargo warehousing services.

The proportion of the investment made by foreign investors into Chinese Foreign equity joint ventures engaged in international shipping services or international shipping agency services shall not exceed 49%.

The provisions in the preceding paragraph are mutatis mutandis applicable to the proportion of the investment made by foreign investors into Chinese Foreign contractual joint ventures engaged in international shipping services or international shipping agency services.

The chairperson of the board of directors and the general manager of a Chinese Foreign equity joint venture or Chinese Foreign contractual joint venture engaged in international shipping services shall be appointed by the Chinese side through consultation between the two sides.

**Article 33** Upon the approval of the competent communications department of the State Council, foreign investors may, in accordance with the relevant laws, administrative regulations and other pertinent provisions of the State, make investment to establish Chinese Foreign equity joint ventures, Chinese Foreign contractual joint ventures or wholly foreign capital enterprises to offer such routine services as canvassing of cargoes, issuance of bills of lading, settlement of freight and signing of service contracts for their owned or operated vessels; if they have not established any Chinese Foreign equity joint venture, Chinese Foreign contractual joint venture or solely foreign capital enterprise within Chinese territory, they must commission a Chinese international shipping agent to undertake the above mentioned businesses.

**Article 34** **al** of the competent communications department of the State Council, foreign operators of international shipping services and foreign enterprises engaged in auxiliary businesses relating to international maritime transportation may establish representative offices within Chinese territory according to law.

The representative offices established by foreign operators of international shipping services and foreign enterprises engaged in auxiliary businesses relating to international maritime transportation shall not be engaged in profit-making business activities.

## **Chapter V      Investigations and Settlement**

**Article 35**      The competent communications department of the State Council may, upon the request of the interested parties or at its own discretion, conduct investigations into the following cases:

- (1)      liner conference agreements, operational agreements or freight rate agreements concluded among international shipping operators engaged in international liner services in which Chinese ports are involved and which can be detrimental to fair competition;
- (2)      service activities of the consortium set up by international shipping operators engaged in international liner services through agreements that involve a shipping volume exceeding 30% of the aggregate shipping volume for one consecutive year on one particular shipping line to and from Chinese ports and which can be detrimental to fair competition;
- (3)      any act as specified in Article 27 of these Regulations; and
- (4)      any other act detrimental to fair competition in international shipping market.

**Article 36**      The investigations by the competent communications department of the State Council shall be conducted jointly with the administrative department for commerce and industry of the State Council and the pricing department of the State Council (hereinafter referred to as the investigatory authority).

**Article 37**      The investigatory authority shall, for conducting investigations, set up an investigation group composed of at least three members. The investigation group may, where necessary, invite the experts concerned to take part in the investigations.

The investigation group shall, prior to investigations, notify the person under investigation of the purpose, reason and time limit for the investigations. The time limit for the investigations shall not exceed one year, but can be extended for half a year where necessary and upon the approval of the investigatory authority.

**Article 38**      In conducting investigations, the investigators may inquire the person under investigation and enterprises or individuals having business relation with him, and may consult and make copies of the relevant documents, agreements, contracts, account books, business faxes, electronic data and other pertinent data.

In conducting investigations, the investigators shall keep business secrets for the person under investigation and the enterprises or individuals having business relation with him.

**Article 39**      Persons under investigation shall accept investigations and truthfully provide relevant information and materials, and shall not refuse investigations or conceal truthful information or give false information.

**Article 40**      The investigatory authority shall, upon completion of the investigations, make a conclusion and notify the person under investigation and the interested parties thereof in writing.

In case of detriment to fair competition, the investigatory authority may take certain prohibitive or restrictive measures such as ordering to amend relevant agreements, limiting the frequency of liner services, suspending the application of freight rates, or stopping for the time being the filing of freight rates, or ordering to submit relevant materials on a regular basis.

**Article 41** The investigatory authority shall, prior to making decisions for taking prohibitive or restrictive measures, inform the party concerned of his right to a hearing and hold a hearing when the party concerned so requires.

## **Chapter VI Legal Liability**

**Article 42** Those who are engaged in international shipping services without acquiring the Permit for International Shipping Service Operation shall be ordered to terminate the operation by the competent communications department of the State Council or its authorized communications department of local people's government; the illegal income, if any, shall be confiscated; if the illegal income is not less than 500,000 yuan, a fine of not less than two times but not more than five times the illegal income shall be imposed; if there is no any illegal income or the illegal income is less than 500,000 yuan, a fine of not less than 200,000 yuan but not more than 1,000,000 yuan shall be imposed.

**Article 43** Those who are engaged in non vessel operating services without registering their bills of lading or paying the required surety bond shall be ordered to terminate the operation by the competent communications department of the State Council or its authorized communications department of local people's government; the illegal income, if any, shall be confiscated; if the illegal income is not less than 100,000 yuan, a fine of not less than two times but not more than five times the illegal income shall be imposed; if there is no any illegal income or the illegal income is less than 100,000 yuan, a fine of not less than 50,000 yuan but not more than 200,000 yuan shall be imposed.

**Article 44** Those who are engage in international shipping agency services or international ship management services without undergoing registration formalities shall be ordered to terminate the operation by the competent communications department of the State Council or its authorized communications department of local people's government; the illegal income, if any, shall be confiscated; if the illegal income is not less than 50,000 yuan, a fine of not less than two times but not more than five times the illegal income shall be imposed; if there is no illegal income or the illegal income is less than 50,000 yuan, a fine of not less than 20,000 yuan but not more than 100,000 yuan shall be imposed.

**Article 45** Foreign operators of international shipping services trading between ports of the People's Republic of China, or operating between ports of the People's Republic of China by using chartered ships flying Chinese flags or cargo spaces thereof, or by way of slot sharing of cargo spaces, shall be ordered to terminate the operation by the competent communications department of the State Council or its authorized communications department of local peoples government; the illegal income, if any, shall be confiscated; if the illegal income is not less than 500,000 yuan, a fine of not less than two times but not more than five times the illegal income shall be imposed; if there is no illegal income or the illegal income is less than 500,000 yuan, a fine of not less than 200,000 yuan but not more than 1,000,000 yuan shall be imposed. If the order for termination of operation is not complied with, the vessels in question shall be prohibited from entering Chinese ports; if the circumstances are serious, the offenders' qualifications for operation of international liner services shall be revoked.

**Article 46** Those who are engaged in international liner services without acquiring the qualifications therefor shall be ordered to terminate the operation by the competent communications department of the State Council or its authorized communications department of local peoples government; the illegal income, if any, shall be confiscated; if the illegal income is not less than 500,000 yuan, a fine of not less than two times but not more than five times the illegal income shall be imposed; if there is no illegal income or the illegal income is less than 500,000 yuan, a fine of not less than 200,000 yuan but not more than 1,000,000 yuan shall be imposed. If the order for

termination of operation is not complied with, the vessels in question shall be prohibited from entering Chinese ports.

**Article 47** International shipping operators, non-vessel operating common carriers, international shipping agents or international ship management operators who provide others for using with their legally obtained qualifications for such services shall be ordered to make corrections within a specified time limit by the competent communications department of the State Council or its authorized communications department of local people's government; if no corrections are made within the specified time limit, their qualifications for operation shall be revoked.

**Article 48** Those who fail to undergo the formalities for filing, as provided for in these Regulations, shall be ordered to make up the formalities within a specified time limit by the competent communications department of the State Council or its authorized communications department of local peoples government; if they fail to make up the formalities within the specified time limit, a fine of not less than 10,000 yuan but not more than 50,000 yuan shall be imposed, and their corresponding qualifications may also be revoked.

**Article 49** Those who fail to undergo the formalities for filing freight rates as provided for in these Regulations, or fail to apply the freight rates that have been filed shall be ordered to make corrections within the time limit by the competent communications department of the State Council or its authorized communications department of local peoples government, and a fine of not less than 20,000 yuan but not more than 100,000 yuan shall be imposed concurrently.

**Article 50** Where, based on the conclusion of investigation, an administrative penalty shall be imposed, or where any of the illegal acts set forth in Article 27 of these Regulations has been committed, the competent communications department, the competent pricing department and the administrative department for industry and commerce shall impose a penalty in accordance with the provisions of relevant laws and administrative regulations.

**Article 51** International shipping operators who agree upon negotiated rates with non vessel operating common carriers failing to register their bills of lading and pay surety bond shall be given a warning and fined not less than 20,000 yuan but not more than 100,000 yuan by the competent communications department of the State Council or its authorized communications department of local people's government.

**Article 52** Foreign operators of international shipping services and foreign enterprises engaged in auxiliary businesses relating to international maritime transportation, if establishing representative offices without the approval of the competent communications department of the State Council, shall be ordered to make corrections within a specified time limit and fined not less than 20,000 yuan but not more than 100,000 yuan by the competent communications department of the State Council or its authorized communications department of local people's government.

The representative offices established by foreign operators of international shipping services or foreign enterprises engaged in auxiliary businesses relating to international maritime transportation, if engaging in profit making business operations, shall be ordered to terminate their business operations and be punished according to law by the administrative department for commerce and industry.

**Article 53** Those who refuse the investigations legally conducted by the investigatory authority and its staff members, or conceal truthful information or give false information, shall be ordered to make corrections and fined not less than 20,000 yuan but not more than 100,000 yuan by the competent communications department of the State Council or its authorized communications department of local people's government.

**Article 54** Those who are illegally engaged in international maritime transportation business operations to and from ports of China and auxiliary business operations relating to international maritime transportation, thus disturbing the order of international maritime transportation market, shall be investigated for criminal liability in accordance with the provisions of the Criminal Law on the crime of illegal business operations.

**Article 55** Any staff members of the competent communications department of the State Council or competent communications department of local people's governments, if breaking criminal laws by committing any acts as follows which result in grave consequences, shall be investigated for criminal liability in accordance with the provisions of the Criminal Law on the crime of abusing powers, the crime of neglect of duties or other crimes; if the circumstances are not serious enough for criminal punishment, administrative sanctions shall be imposed according to law:

- (1) failing to grant approval, permission, registration or filing to applicants who meet the conditions provided for in these Regulations, or granting approval, permission, registration or filing to applicants who do not meet the conditions provided for in these Regulations;
- (2) failing to exercise supervision and administration as provided for in these Regulations over international shipping operators, non-vessel operating common carriers, international shipping agents or international ship management operators who have obtained the approval, permission, registration and filing, or failing to deprive the operators no longer meeting the conditions provided for in these Regulations of their qualifications for business operations, or failing to investigate and deal with their illegal acts with the knowledge relating thereto; or
- (3) failing to promptly ban the international maritime transportation business operations or auxiliary business operations relating to international maritime transportation carried out by any unit or individual without undergoing the formalities for approval, permission, registration or filing according to law, while these cases have been discovered during the course of supervision and inspection, or failing to handle such cases according to law after their being reported.

## **Chapter VII Supplementary Provisions**

**Article 56** These Provisions are mutatis mutandis applicable to the investment into and operation of international shipping businesses and auxiliary businesses relating to international maritime transport in Chinese mainland by investors from Hong Kong Special Administrative Region, Macao Special Administrative Region or Taiwan region.

**Article 57** No foreign operators of international shipping service, without being approved by the competent communications department of the State Council, shall be allowed to engage in the shipping services between Chinese mainland and the Hong Kong Special Administrative Region or the Macao Special Administrative Region, nor engage in two way direct sailings or shipping services via a third place between China mainland and Taiwan region.

**Article 58** The measures for administration of maritime transportation between Chinese mainland and Hong Kong Special Administrative Region or Macao Special Administrative Region shall be formulated in accordance with these Regulations by the competent communications department of the State Council.

The maritime transportation between Chinese mainland and Taiwan shall be governed by the relevant provisions of the State.

**Article 59** Where any country or region has taken any prohibitive, restrictive or other similar measures discriminating against any international maritime transportation operator, ship or seaman of

the People's Republic of China, the Government of the People's Republic of China shall, on the basis of reciprocity, take appropriate counter measures.

**Article 60** Those who have been engaging in international maritime transportation business operations or auxiliary business operations relating to international maritime transportation before these Regulations take effect shall make up the formalities as provided for in these Regulations within 60 days after the effective date of these Regulations.

**Article 61** These Regulations shall be effective as of January 1, 2002. The Provisions of the People's Republic of China on Administration of International Maritime Container Transport promulgated by the State Council on December 5, 1990, and revised and promulgated by the State Council on April 18, 1998 shall be repealed simultaneously.

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