

s non-performance or improper performance of the carrier's responsibility, or, in order to ensure that the fine to be paid which is incurred from such non-vessel-operating common carrier's non-performance or improper performance satisfy the provisions in paragraph 3 of Article 8 of the Maritime Transportation Regulations, the competent authority of such a foreign non-vessel-operating common carrier shall sign an agreement relating to the ways or means of realizing the financial liability guaranty with the Chinese governmental transport authority.

Article 13 When the cargo is solicited, the bill of lading or other transport document is issued, or the freight is collected within Chinese territory, although there is no direct international liner services to and from Chinese ports, the qualification of the non-vessel-operating services shall be obtained in accordance with the relevant provisions of these Rules if the international cargo transportation services to and from Chinese ports is provided by way of chartering space from vessels of operators of international liner services, or, if cargo is shipped at Chinese ports for transshipment at foreign ports by using the feeder service provided by operators of international liner services, with the exception of the cases specified in paragraph 3 of Article 16 of the Maritime Transportation Regulations.

Article 14 If a Chinese non-vessel-operating common carrier applies to set up a branch within Chinese territory, the surety bond shall be deposited in accordance with paragraph 2 of Article 8 of the Maritime Transportation Regulations and the registration

shall be obtained in accordance with Article 11 of these Rules by acquiring the Registration of Non-Vessel-Operating Services Qualification. The following documents shall be submitted for applying for the registration:

- (1) the letter of application;
- (2) the business registration document of the parent company;
- (3) the photocopy of the Registration of Non-Vessel-Operating Services Qualification of the parent company;
- (4) the document confirming the business scope of the branch by the parent company;
- (5) the photocopy of the receipt certifying that the surety bond has been deposited at the bank.

Article 15 When the non-vessel-operating common carrier applies for the registration of the bill of lading, the name listed at the title of the bill of lading shall be the same as that of the applicant.

If the name listed in the title of the bill of lading is different from that of the applicant, the applicant shall provide the documents certifying that such a bill of lading is printed and used by itself as well as a declaration in writing that it will bear the carrier's responsibility of issuing such a bill of lading.

Article 16 If a non-vessel-operating common carrier has two or more bills of lading, each of the bills of lading shall be registered.

If the bill of lading registered by an operator of international

liner services or non-vessel-operating common carrier is changed, the sample of the new bill of lading shall be filed with the Ministry of Communications 15 days before the date of usage of such a new bill of lading.

Article 17 After the non-vessel-operating common carrier acquires according to law the qualification for the non-vessel-operating services by depositing the surety bond and registering the bill of lading, the Ministry of Communications shall list the name of the non-vessel-operating common carrier and the sample of its bill of lading at its official website.

Article 18 A non-vessel-operating common carrier shall deposit according to law the surety bond at the non-vessel-operating common carrier's bank account at the commercial bank designated by the Ministry of Communications. The interest of the surety bond shall be calculated on the basis of the interest rate of the current deposit published by the People's Bank of China.

Article 19 The surety bond deposited by the non-vessel-operating common carrier is protected by the State laws. The surety bond shall not be used unless for the following cases:

(1) bearing the liability for compensation due to the non-vessel-operating common carrier's non-performance or improper performance of carrier's responsibility according to a judgement in force by a judicial organ or an arbitration institution's arbitration award ruled by a judicial organ to be enforced;

(2) being fined by the communications authorities.

If the surety bond shall be transferred due to the cases re-

ferred to in subparagraph 1 and 2 of the previous paragraph, it shall be carried out according to laws.

If the amount of surety bond of the non-vessel-operating common carrier falls short of the amount specified in the Maritime Transportation Regulations, the Ministry of Communication shall inform the non-vessel-operating common carrier to make up the amount in short. If the non-vessel-operating common carrier fails to make up the amount in short within 30 days from the date of service of the notice in writing from the Ministry of Communications, the Ministry of Communication shall revoke its qualification of the non-vessel-operating services in accordance with Article 15 of the Maritime Transportation Regulations.

Article 20 The non-vessel-operating common carrier may apply for the refund of the surety bond from the Ministry of Communications if its qualification for the non-vessel-operating services is revoked, applies for the termination of the services or terminates the services for other reasons. The Ministry of Communications shall publish such a matter of application in a notice at its official website for 30 days.

Within the notice period, if the interested party considers it as necessary to take a measure for legal custody of the surety bond under the circumstances specified in subparagraph 1 of Article 19 of these Rules which are related to the non-vessel-operating common carrier, the judgment of exercising the legal custody shall be obtained within the above-mentioned period. From the date of legal custody, the supervision over the account of surety bond of

such a non-vessel-operating common carrier by the Ministry of Communications in accordance with the Maritime Transportation Regulations shall be terminated. The relevant dispute shall be settled by the interested parties through judiciary procedures.

If there are cases specified in the previous paragraph within the notice period, the Ministry of Communications shall inform the bank where the account of surety bond is opened to return the surety bond as well as the interest thereof of the non-vessel-operating common carrier and withdraw the Registration of Non-Vessel-Operating Services Qualification of such carrier.

Article 21 If the Chinese operators of international shipping services, the Chinese non-vessel-operating common carrier, the Chinese operators of international shipping agency services, the Chinese operators of international ship management services have the following case(s), they shall have them filed with the authority who issued the permission or registration:

- (1) the change of the enterprise's name;
- (2) the change of the place of registration;
- (3) the change of the investors;
- (4) the suspension or termination of operation.

If there is a change of the enterprise's name, a new permission or registration shall be issued by the authority who issued the permission or registration. If the operation is terminated, the relevant permission or registration shall be returned to the original authority for permission or registration.

Article 22 Except the foreign-invested enterprises specified

in the Maritime Transportation Regulations and Chapter Four of these Rules, the operators of the business relating to storage and warehousing of international shipments international, the operators of international maritime container freight station and container yard services shall, within 30 days of from the time of starting the above-mentioned services file the case with the competent communications department of the people's government of the province, autonomous region or municipality directly under the Central Government where the enterprises are registered.

Chapter Three Business Operations of International Maritime Transportation and Auxiliary Business Thereof

Article 23 If operators of international liner services start new liner services, suspend liner services, change the carrying vessels or schedule for international liner services, such issues shall be made known to public at the mass media designated by the Ministry of Communications in accordance with the provisions of Article 19 of the Maritime Transportation Regulations and such issues shall be filed as provided.

Article 24 If a Chinese international shipping service operator increases shipping capacity including increasing shipping capacity through bare boat chartering, such issue shall be filed with the Ministry of Communications 15 days prior to the operation of such vessel(s) and the document certifying the filing shall be acquired. The filing documents shall include the name of the com-

pany, the place of registration, the name(s) of the vessel(s), the nationality(ies) of the vessel(s), type(s) of vessel(s), vessel(s)'s tonnage and the shipping route(s) planned.

The Ministry of Communications shall, within 3 working days after acceptance of the filing documents, issue the document certifying the filing.

Article 25 A foreign international shipping service operator who operates international liner services to and from Chinese ports and a foreign non-vessel-operating common carrier who provides international cargo transportation services to and from Chinese ports by entrusting their agents to provide the services on behalf of them in China shall appoint their points of contact within Chinese territory. Such points of contact are responsible for the contact between such foreign enterprises and the relevant competent authorities of the Chinese government on administration and legal issues as specified in the Maritime Transportation Regulations and these Rules. The points of contact can be the foreign-invested enterprises or the foreign-invested representative offices set up within Chinese territory as well as other Chinese enterprise legal persons or other economic organizations who have fixed places of business. The appointment of the points of contact shall be filed with the Ministry of Communications and the following documents shall be submitted for filing:

(1) the introduction of such points of contact with the information of the names, the places of business, the means of contact

and the persons of contact of such points of contact;

(2) the duplicate or photocopy of the letter of entrustment;

(3) the duplicate of the agreements concluded between the entrusting parties and the points of contact;

(4) the photocopies of the business registration documents of the points of contact.

If the points of contact are foreign-invested enterprises or foreign-invested representative offices of within Chinese territory, the documents referred to in subparagraph 2 and 3 can be exempted.

If the points of contact or the information listed in the introduction of the points of contact, such changes shall be filed with the Ministry of Communications within 15 days from the date of such changes.

Article 26 No enterprise or individual may, without authorisation, uses the bill of lading which has been registered by an operator of international liner services or a non-vessel-operating common carrier.

Article 27 If a non-vessel-operating common carrier needs to entrust an agent with issuance of the bill of lading or the related document on its behalf, it shall entrust a qualified operator of international shipping services, a qualified non-vessel-operating common carrier or a qualified operator of auxiliary business operations relating to international maritime transportation to provide the above-mentioned services on its behalf.

The qualified operator referred to in the previous paragraph shall not accept the entrustment to issue the bill of lading of a

non-vessel-operating common carrier who fails to register its bill (s) of lading and deposit the surety bond.

Article 28 If an operator of international liner services has an agreement of negotiated rates with a shipper or a non-vessel-operating common carrier, such an agreement shall be in writing. The series number of such an agreement shall be listed in the bill of lading or the related document.

Article 29 An operator of international shipping services shall not accept cargo or containers from a non-vessel-operating common carrier who fails to register its bill(s) of lading and deposit the surety bond.

Article 30 If an operator of international liner services entrusts an agent with the businesses including accepting space-booking, issuing bill of lading and collecting freight on its behalf, the agent entrusted shall be an qualified operator of international shipping agency services.

Article 31 The operators of international liner services and the non-vessel-operating common carriers shall publish the information relating to their shipping agencies, agents for issuing bill of lading on their behalf within Chinese territory at the mass media designated by the Ministry of Communications. The information to be published includes the name, the place of registration, the place of business and the means of contact of such agents. If there is a change of agents, the new information shall be published 7 days prior to the coming into effect of the agency agreement.

The operator of international liner services and the non-ves-

sel-operating common carriers shall file timely the name lists of the media where they publish the information relating to their agents with the Ministry of Communications.

Article 32 The liner conference agreements, service operation agreements and freight rate agreements which involve the services to and from Chinese ports and are concluded between operators of international shipping services shall be filed with the Ministry of Communications within 15 days after the date of concluding the agreements in accordance with the following provisions:

(1) the liner conference agreements shall be filed by the liner conference representing all its members who operate the maritime transportation to and from Chinese ports. When the liner conference files the agreement, the name list of the members of the conference shall be attached thereto.

(2) the service operation agreements and freight rate agreements shall be filed by the operators of international shipping services who are contracting parties to such agreements.

Article 33 If there is a merger or acquisition among Chinese operators of international shipping services, or a merger or acquisition between Chinese operators of international shipping services and foreign operators of international shipping services, such agreements shall be submitted by the merging or acquiring party in accordance with the provisions in Article 24 of the Maritime Transportation Regulations to the Ministry of Communications for examination and approval.

Article 34 The following operators shall issue special-purpose invoices to the payers when they collect freight and other related charges for themselves or on behalf of others:

- (1) the Chinese operators of international shipping services and their branches;
- (2) the Chinese non-vessel-operating common carriers;
- (3) the operators of international shipping agency and their branches;
- (4) the enterprises specified in Article 33 of the Maritime Transportation Regulations.

After the operators referred to in the preceding paragraph obtain the document certifying the usage of special-purpose invoices which are issued from the competent communications department of the people's government of the province, the autonomous region and the municipality directly under the Central Government, they shall apply for the special-purpose invoices from the taxation authority where the company are registered, unless it is provided by the State Administration of Taxation otherwise.

Article 35 The operators of international ship management services shall fulfill the obligations of safety of vessels and anti-pollution in accordance with the provisions of the contracts and the relevant provisions of the State.

Article 36 The international liner services operators who operate the international liner services to and from Chinese ports shall fill out the Form on International Maritime Transportation In-

formation of the People's Republic of China (Basic Information of Shipping Companies), the Form on International Maritime Transportation Information of the People's Republic of China (Export Full-loaded Container Volume of Shipping Companies), the Form on International Maritime Transportation Information of the People's Republic of China (Import Full-loaded Container Volume of Shipping Companies) and send the forms to the Ministry of Communications before March 31st every year.

Foreign operators of international shipping services shall have the above-mentioned forms sent by their entrusted liaison office.

Article 37 Chinese operators of international shipping services, Chinese operators of international shipping agency service and operators of international container ports shall fill out respectively the Form on International Maritime Transportation Information of the People's Republic of China (Basic Information of Shipping Companies), the Form on International Maritime Transportation of the People's Republic of China (International Shipping Agencies), the Form on International Maritime Transportation of the People's Republic of China (Container Throughput of Ports) before March 15th every year to the competent communications department of the people's government of the province, autonomous region or municipality directly under the Central Government where the companies are registered.

The relevant competent communications department of the people's government of the province, the autonomous region and the municipality directly under the Central Government shall file

the above-mentioned forms and the summary of the forms before March 31st every year with the Ministry of Communications.

Article 38 The operators of international shipping agency services, operators of international ship management services, operators of the business relating to storage and warehousing of international shipments and operators of international maritime container freight station and container yard services shall not have following acts:

(1) providing services at an abnormal and unreasonable charge level, thereby prejudicing fair competition;

(2) offering secret rebates to customers, not being reflected in the account books, for the purpose of soliciting cargoes;

(3) arbitrarily taking advantage of its dominant position to restrict the other transacting party to choose freely operators of auxiliary business operations relating to international maritime transportation, or to attract the other transaction party by using the monopoly position in the industry for the purpose of repelling other competitors in the same industry;

(4) other unfair competition acts.

Article 39 The representative offices of foreign operators of international shipping services and foreign operators of auxiliary business operations relating to international maritime transportation shall not engage in commercial operations, including but not limited to the following:

(1) accepting space-booking on behalf of their parent companies overseas, issuing bills of lading or the related documents of

the parent companies;

(2) settling the payment, collecting freight and other related charges for their parent companies;

(3) issuing bills of their parent companies overseas or the enterprises set up by their parent companies within Chinese territory as specified in Article 33 of the Maritime Transportation Regulations;

(4) shipping cargoes to international liner services operators in the name of shippers; or

(5) concluding service contracts with customers in the name of foreign-invested representative offices.

Chapter Four Investment in and Operation of International Maritime Transportation and Auxiliary Businesses Relating Thereto by foreign Investors

Article 40 To set up a Chinese-foreign equity joint venture or a Chinese-foreign contractual joint venture to engage in international shipping services, an application shall be submitted to the Ministry of Communications via the competent communications department of the people's government of the province, autonomous region or municipality directly under the Central Government where the enterprise is registered, and the following documents shall be attaches thereto:

(1) the letter of application;

(2) the feasibility study report;

(3) the agreement of setting up a Chinese-foreign equity joint venture or a Chinese-foreign contractual joint venture;

(4) the business registration documents of the investors, in case of investment by natural persons, the identity documents; and

(5) documents certifying the business experience of senior executives which satisfy the requirements of the Ministry of Communications.

The competent communications department of the people's government of the province, autonomous region or municipality directly under the Central Government shall, within 10 working days after its acceptance of the complete application documents, submit the documents to the Ministry of Communications together with its comments.

The Ministry of Communications shall complete the examination, verification on the above-mentioned documents and comments and give a decision of granting an approval or not granting an approval within 30 working days after the acceptance of the documents and comments in accordance with the provisions of paragraph 2, 3 and 4 of Article 32 of the Maritime Transportation Regulations and the actual competition situations in international shipping market and the policies of the State for the development of international shipping industry. If an approval is granted, a document of approval shall be issued to the applicant. If no approval is granted, the applicant shall be notified in writing and given the reasons therefor.

The applicant who is granted the approval shall go through the approval procedures for setting up a foreign-invested enterprise at relevant authorities in accordance with the laws and regulations on the setting up of a foreign-invested enterprise of the State with the approval document issued by the Ministry of Communications. After the acquiring the relevant approvals from the authorities, the applicant shall, in accordance with the procedures in Article 5 of these Rules, apply for the Permit for Operation of International Shipping Services to the Ministry of Communications with the approval documents from the relevant authorities and the documents specified in subparagraphs 4 to 6 of paragraph 1, Article 5 of these Rules.

Article 41 If one sets up a foreign-invested enterprise referred to in Article 33 of the Maritime Transportation Regulations, the regulations issued jointly by the Ministry of Communications and the Ministry of Foreign Trade and Economic Co-operation shall be complied with.

Article 42 If one sets up a foreign-invested enterprise to engage in international shipping agency services, the application documents provided in Article 7 of these Rules shall be submitted to the Ministry of Communications via the competent communications department of the people's government of the province, autonomous region or municipality directly under the Central Government where the enterprise is to be registered. The competent communications department of the people's government of the province, autonomous region or municipality directly under the