

Provisions on the Administration of Foreign-Invested Non-Vessel Operating Common Carriers of the PRC

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

Article 1 — These Provisions are formulated in accordance with the Maritime Code of the People's Republic of China, the laws and regulations on foreign investment enterprises, and the relevant provisions of the Regulations of the People's Republic of China on International Maritime Transportation, for the purpose of regulating the establishment and operation of foreign-invested non-vessel operating common carriers, promoting the healthy development of the international shipping industry, and safeguarding the lawful rights and interests of all parties.

Article 2 — For the purposes of these Provisions, a "non-vessel operating common carrier" (NVOCC) means a carrier that accepts cargo from shippers, issues its own bills of lading or other transport documents, assumes carrier liability, but does not own or operate vessels that provide ocean transportation services.

Article 3 — A foreign investor may establish a foreign-invested NVOCC enterprise within the territory of China in accordance with the law. The establishment and operation of a foreign-invested NVOCC enterprise

shall comply with these Provisions and other relevant laws and regulations.

Chapter II — Establishment and Conditions

Article 4 — To apply for the establishment of a foreign-invested NVOCC enterprise, the foreign investor shall meet the following conditions: (1) it shall be an enterprise or other economic organization legally established outside China; (2) it shall have more than one year of operational experience in the international freight forwarding or shipping industry; (3) it shall have a good business reputation and no record of major violations of laws or regulations; (4) it shall have a fixed business place and the necessary operational facilities.

Article 5 — A foreign-invested NVOCC enterprise shall have a registered capital commensurate with its scope of business. The minimum registered capital shall be RMB 5 million yuan. Where a branch is established, the registered capital of the parent enterprise shall be increased by RMB 1 million yuan for each branch.

Article 6 — A foreign-invested NVOCC enterprise shall have professional personnel who are familiar with international shipping business and have corresponding professional competence. It shall also establish a sound operational management system and financial management system.

Chapter III — Approval and Registration

Article 7 — To apply for the establishment of a foreign-invested NVOCC enterprise, the investor shall submit the following documents to the Ministry of Foreign Trade and Economic Cooperation or its authorized agency: (1) an application letter; (2) the feasibility study report; (3) the contract and articles of association; (4) the certificate of legal establishment and creditworthiness certification of the foreign investor; (5) other documents required by laws and regulations.

Article 8 — After examination and approval, an Approval Certificate for a Foreign-Invested Enterprise shall be issued. The investor shall, within 30 days thereafter, proceed with the business registration formalities with the administrative department for industry and commerce.

Article 9 — After obtaining a business license, the foreign-invested NVOCC enterprise shall complete the filing formalities with the competent department of communications and publish its bill of lading in accordance with the relevant provisions.

Chapter IV — Business Scope and Operation

Article 10 — A foreign-invested NVOCC enterprise may engage in the following business: (1) accepting cargo from shippers and issuing bills of lading, sea waybills, or other transport documents; (2) entering into contracts of carriage of goods by sea with ocean carriers on behalf of shippers; (3) consolidating and deconsolidating cargo; (4) arranging cargo warehousing and distribution; (5) arranging container storage, loading and unloading, and inland transportation; (6) collecting freight, miscellaneous charges, and agency fees; (7) other business related to international maritime cargo transportation.

Article 11 — A foreign-invested NVOCC enterprise shall assume carrier liability for the cargo accepted for shipment in accordance with the provisions of the Maritime Code of the People's Republic of China.

Article 12 — A foreign-invested NVOCC enterprise shall submit its business operation reports to the competent department of communications on a regular basis, including total freight volume, total freight collected, and details of major customers.

Chapter V — Supervision and Penalties

Article 13 — The competent department of communications and the competent department of commerce shall supervise and inspect the business activities of foreign-invested NVOCC enterprises in accordance

with the law.

Article 14 — Where a foreign-invested NVOCC enterprise engages in any of the following acts, the competent department of communications shall order rectification and may impose a fine of not less than RMB 10,000 yuan and not more than RMB 100,000 yuan: (1) operating without completing the filing formalities; (2) failing to publish its bill of lading as required; (3) failing to submit business operation reports as required; (4) engaging in business activities beyond the approved scope.

Article 15 — Where a foreign-invested NVOCC enterprise causes losses to a shipper or other party due to operational violations, it shall bear civil liability in accordance with the law. Where the case is serious, the business permit may be revoked.

Chapter VI — Supplementary Provisions

Article 16 — The establishment of foreign-invested NVOCC enterprises by investors from the Hong Kong Special Administrative Region, the Macao Special Administrative Region, and the Taiwan region shall be handled with reference to these Provisions.

Article 17 — The Ministry of Foreign Trade and Economic Cooperation and the Ministry of Communications shall be responsible for the interpretation of these Provisions in accordance with their respective functions and duties.

Article 18 — These Provisions shall take effect as of March 1, 2002.

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