

Regulations on the Administration of International Maritime Transport of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com
Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents	1
Chapter I — General Provisions	1
Chapter II — Operators of International Maritime Transport and Auxiliary Businesses	2
Chapter III — International Maritime Transport Agreements	3
Chapter IV — Supervision and Administration	4
Chapter V — Legal Liability	4
Chapter VI — Supplementary Provisions	5

Adopted at an 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; amended in accordance with the Decision of the State Council on Amending Certain Administrative Regulations on July 18, 2013, and the Decision of the State Council on Amending Certain Administrative Regulations on February 6, 2016
Effective: January 1, 2002

Table of Contents

- Chapter I — General Provisions
- Chapter II — Operators of International Maritime Transport and Auxiliary Businesses
- Chapter III — International Maritime Transport Agreements
- Chapter IV — Supervision and Administration
- Chapter V — Legal Liability
- Chapter VI — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Regulations are formulated for the purpose of regulating international maritime transport activities, safeguarding a fair and orderly market for international maritime transport, protecting the lawful rights and interests of the parties to international maritime transport, and promoting the sound development of international maritime transport.

Article 2 — These Regulations apply to international maritime transport activities conducted within the territory of the People's Republic of China and the auxiliary businesses related to international maritime transport. For the purposes of these Regulations, "international maritime transport activities" means the transport of goods or passengers by sea between the People's Republic of China and foreign countries or

regions, and between foreign countries or regions; and "auxiliary businesses related to international maritime transport" includes international shipping agency, international ship management, international maritime freight forwarding and other auxiliary businesses related to international maritime transport.

Article 3 — The department in charge of transportation under the State Council and the relevant local authorities shall be responsible for the supervision and administration of international maritime transport activities and the auxiliary businesses related to international maritime transport in accordance with these Regulations and the division of functions and powers prescribed by the State Council.

Article 4 — The State maintains fair competition in the international maritime transport market and prohibits unfair competition and monopolistic conduct in international maritime transport activities.

Article 5 — Operators engaged in international maritime transport activities and the auxiliary businesses related to international maritime transport shall comply with the laws and administrative regulations of the State, operate honestly and in good faith, and shall not impair the public interest.

Article 6 — The State encourages international maritime transport operators to develop and adopt advanced technology and management methods, and to improve the quality of service.

Article 7 — Where the People's Republic of China has concluded or acceded to international treaties or agreements concerning international maritime transport, the relevant provisions of such treaties or agreements shall apply, except where the People's Republic of China has made reservations.

Chapter II — Operators of International Maritime Transport and Auxiliary Businesses

Article 8 — To engage in international liner transport business, an operator shall obtain a business permit for international liner transport issued by the department in charge of transportation under the State Council. To engage in international freight transport business, an operator shall carry out registration with the department in charge of transportation under the State Council.

Article 9 — An applicant for engaging in international liner transport business shall satisfy the following conditions:

- (1) having a vessel or vessels suitable for international liner transport;
- (2) having the qualified managerial personnel and technical personnel necessary for the business;
- (3) having the ability to operate international liner transport business and to assume the corresponding liabilities; and
- (4) satisfying other conditions prescribed by the State.

Article 10 — An applicant for engaging in international liner transport business shall submit an application to the department in charge of transportation under the State Council, accompanied by the relevant documents and materials. The department in charge of transportation under the State Council shall examine the application and make a decision within 30 days from the date of receipt of the application.

Article 11 — An operator engaged in international freight transport business shall carry out registration with the department in charge of transportation under the State Council within the prescribed time limit.

Article 12 — An operator engaged in international shipping agency, international ship management or international maritime freight forwarding business shall carry out registration with the department in charge of transportation under the State Council.

Article 13 — An operator engaged in international maritime transport activities or auxiliary businesses related to international maritime transport shall suspend or terminate its business only after completing the relevant procedures in accordance with law.

Article 14 — A foreign-funded enterprise or a Sino-foreign joint venture established within the territory of the People's Republic of China that engages in international maritime transport activities or auxiliary businesses related to international maritime transport shall be established and operated in accordance with the provisions of the laws and administrative regulations on foreign-funded enterprises and the relevant provisions of these Regulations.

Article 15 — A foreign international maritime transport operator may engage in the following activities in the People's Republic of China in accordance with these Regulations and the relevant provisions:

- (1) providing international maritime transport services for its own vessels or vessels chartered by it;
- (2) engaging in international shipping agency business through an agent established in accordance with law; and
- (3) engaging in other international maritime transport activities prescribed by the State.

Article 16 — A foreign international liner transport operator that engages in international liner transport business in the People's Republic of China shall file the relevant matters, such as its route, schedule and tariffs, with the department in charge of transportation under the State Council.

Article 17 — No international maritime transport operator may engage in any act of unfair competition, such as dumping services at below-cost prices, or otherwise disrupting the order of the international maritime transport market.

Article 18 — An international maritime transport operator shall publish its service specifications and tariff standards, and shall provide services in accordance with the published specifications and standards.

Article 19 — An operator engaged in auxiliary businesses related to international maritime transport shall comply with the relevant provisions of the State and shall not engage in business beyond the approved scope.

Article 20 — The department in charge of transportation under the State Council shall formulate the specific measures for the administration of international maritime transport operators and the auxiliary businesses related to international maritime transport.

Chapter III — International Maritime Transport Agreements

Article 21 — International maritime transport operators may conclude agreements among themselves, such as liner conference agreements, operation agreements and tariff agreements, on international maritime transport.

Article 22 — An international maritime transport operator that concludes a liner conference agreement, operation agreement or tariff agreement shall file the agreement with the department in charge of transportation under the State Council within the prescribed time limit.

Article 23 — Where an agreement filed in accordance with these Regulations restricts fair competition or impairs the lawful rights and interests of the parties concerned or the public interest, the department in charge of transportation under the State Council may order the parties to make corrections or prohibit the implementation of the agreement.

Article 24 — An international maritime transport operator shall not, by taking advantage of a dominant market position, engage in the following acts:

- (1) charging unreasonably high or low prices for services;
- (2) refusing to provide services without justifiable reasons; or
- (3) other acts of abusing a dominant market position.

Article 25 — International maritime transport operators shall not enter into monopoly agreements or otherwise restrict or eliminate competition in the international maritime transport market.

Article 26 — An international maritime transport operator shall keep the agreements it has concluded and the relevant documents for inspection by the department in charge of transportation under the State Council.

Article 27 — The department in charge of transportation under the State Council may, where necessary, require international maritime transport operators to provide information and materials relating to the agreements they have concluded.

Chapter IV — Supervision and Administration

Article 28 — The department in charge of transportation under the State Council and the relevant local authorities shall exercise supervision and administration over international maritime transport activities and the auxiliary businesses related to international maritime transport in accordance with law.

Article 29 — International maritime transport operators shall submit their business statistics and relevant information to the department in charge of transportation under the State Council in accordance with the prescribed requirements.

Article 30 — The department in charge of transportation under the State Council shall establish and improve the market supervision system for international maritime transport and shall publish the relevant information.

Article 31 — Where an international maritime transport operator or an operator engaged in auxiliary businesses related to international maritime transport violates the provisions of these Regulations, the department in charge of transportation under the State Council or the relevant local authorities shall investigate and handle the matter in accordance with law.

Article 32 — The department in charge of transportation under the State Council and the relevant local authorities shall, in exercising supervision and administration, keep confidential the State secrets and business secrets they come to know.

Article 33 — International maritime transport operators and operators engaged in auxiliary businesses related to international maritime transport shall accept supervision and inspection conducted in accordance with law and shall provide the relevant documents and materials truthfully.

Article 34 — The department in charge of transportation under the State Council shall strengthen cooperation and information exchange with the departments in charge of commerce, customs, and market regulation to jointly maintain the order of the international maritime transport market.

Article 35 — Where a dispute arises between parties to international maritime transport activities, the parties may resolve the dispute through consultation, mediation, arbitration or litigation in accordance with law.

Article 36 — The department in charge of transportation under the State Council shall establish a credit record system for international maritime transport operators and shall publish credit information in accordance with law.

Article 37 — The department in charge of transportation under the State Council shall, in accordance with these Regulations, formulate and publish the specific measures for supervision and administration.

Chapter V — Legal Liability

Article 38 — Whoever engages in international liner transport business without a business permit, or engages in international freight transport business or auxiliary businesses related to international maritime transport without carrying out registration, shall be ordered by the department in charge of transportation under the State Council or the relevant local authorities to make corrections within a prescribed time limit and shall be subject to a fine in accordance with law; where the circumstances are serious, the business shall be

ordered to cease.

Article 39 — Whoever obtains a business permit or completes registration by deception or other improper means shall have the permit revoked or the registration cancelled by the department in charge of transportation under the State Council, and shall be subject to an administrative penalty in accordance with law.

Article 40 — An international maritime transport operator that engages in unfair competition, such as dumping services at below-cost prices, or that otherwise disrupts the order of the international maritime transport market shall be ordered by the department in charge of transportation under the State Council to make corrections and shall be subject to a fine in accordance with law.

Article 41 — An international maritime transport operator that charges unreasonably high or low prices for services or refuses to provide services without justifiable reasons by taking advantage of a dominant market position shall be ordered by the department in charge of transportation under the State Council to make corrections and shall be subject to a fine in accordance with law.

Article 42 — An international maritime transport operator that fails to file an agreement as required, or that fails to submit business statistics and relevant information as required, shall be ordered by the department in charge of transportation under the State Council to make corrections within a prescribed time limit and shall be subject to a fine in accordance with law.

Article 43 — An operator engaged in auxiliary businesses related to international maritime transport that engages in business beyond the approved scope shall be ordered by the department in charge of transportation under the State Council or the relevant local authorities to make corrections and shall be subject to a fine in accordance with law.

Article 44 — Whoever refuses or obstructs supervision and inspection conducted in accordance with law shall be ordered to make corrections and shall be subject to an administrative penalty in accordance with law.

Article 45 — Where the acts specified in Articles 38 to 44 of these Regulations constitute a crime, criminal liability shall be investigated in accordance with law.

Article 46 — Where a functionary of the department in charge of transportation under the State Council or of the relevant local authorities commits any of the following acts, he shall be given an administrative sanction in accordance with law; where a crime is constituted, he shall be investigated for criminal liability in accordance with law:

- (1) abusing power, neglecting duty or committing malpractices for personal gain in the course of supervising and administering international maritime transport;
- (2) divulging State secrets or business secrets known in the course of performing duties; or
- (3) failing to perform statutory duties and thereby damaging the lawful rights and interests of the parties concerned.

Article 47 — A party that is dissatisfied with a specific administrative act taken by the department in charge of transportation under the State Council or the relevant local authorities may apply for administrative reconsideration or bring an administrative lawsuit in accordance with law.

Chapter VI — Supplementary Provisions

Article 48 — For the purposes of these Regulations, "international liner transport" means international maritime transport conducted on fixed routes, with fixed ports of call, fixed schedules and fixed tariffs; and "international freight transport" means international maritime transport other than international liner transport.

Article 49 — For the purposes of these Regulations, "international shipping agency" means the business of undertaking, on behalf of the vessel owner, charterer or other maritime transport operator, the formalities and services relating to vessels entering and leaving ports, loading and unloading, and other shipping matters.

Article 50 — For the purposes of these Regulations, "international ship management" means the business of providing ship technical management, crew management, ship safety management and other management services to the vessel owner or operator.

Article 51 — For the purposes of these Regulations, "international maritime freight forwarding" means the business of undertaking, on behalf of the shipper or consignee, the formalities and services relating to the transport of goods by sea.

Article 52 — The transport of goods or passengers between the mainland of the People's Republic of China and the Hong Kong Special Administrative Region, the Macao Special Administrative Region or the Taiwan region shall be administered with reference to these Regulations.

Article 53 — These Regulations shall not apply to transport activities conducted solely within the territory of the People's Republic of China.

Article 54 — The relevant provisions on international maritime transport activities that were in force prior to the implementation of these Regulations shall be repealed or revised in accordance with these Regulations.

Article 55 — These Regulations shall be effective as of January 1, 2002.

Disclaimer: This English translation is provided for informational and reference purposes only and is not an official translation. In the event of any discrepancy between this translation and the original Chinese text, the original Chinese text shall prevail. This translation is intended to help foreign investors, companies and professionals understand Chinese law and does not constitute legal advice. For matters affecting your rights or obligations, please consult a qualified legal professional. Dan Young Business Consultancy makes no representation or warranty as to the accuracy or completeness of this translation.