



Federal Maritime Commission
Washington, D.C. 20573

Office of the Chairman

June 9, 2010

Mr. Peter J. Gatti
Executive Vice President
National Industrial Transportation League
1700 N. Moore Street, Suite 1900
Arlington, VA 22209-1904

Re: Shanghai Shipping Exchange

Dear Mr. Gatti:

I write with respect to your letter of February 17, 2010. As my response to you of March 5 indicated, my staff has been reviewing information we obtain with respect to the matters you raised, as well as working for the full official translation of the documents at the root of your request for Federal Maritime Commission assistance.

Through the U.S. Embassy, Beijing, we have obtained the enclosed official English translation of the Ministry of Transport (MOT) of the People's Republic of China (PRC) "Public Notice Regarding Freight Rate Filing Implementation Measures for International Container Line Service" dated June 10, 2009 ("Notice"). I note that the Notice specifically directs the Shanghai Shipping Exchange (SSE), designated by MOT as the "agency where freight rates shall be filed," and its employees to "keep confidential any freight rate information on file that relates to trade secrets."

We will continue to request that the Embassy obtain the full official English translation of the "Operational Guideline on International Container Liner Freight Filing" and that the concerns raised in your letter are discussed directly with the MOT and SSE.

As always, I encourage the League and its members to provide information helpful to the Commission and appreciate your ongoing assistance. If you have additional questions and/or concerns, or have supplementary information to provide, please do not hesitate to contact me or the Commission's General Counsel, Rebecca A. Fenneman.

Sincerely,

A handwritten signature in black ink that reads "Richard A. Lidinsky, Jr." with a stylized flourish at the end.

Richard A. Lidinsky, Jr.
Chairman

Enclosure: Official Translation, *Public Notice Regarding Freight Rate Filing Implementation Measures for International Container Line Service*, People's Republic of China Ministry of Transport, Public Notice 2009-20 (June 10, 2009).

Cc: Commissioner Joseph E. Brennan
Commissioner Rebecca F. Dye
Commissioner Michael A. Khouri
U.S. Department of State, EB/TRA/OTP
Office of International Activities, Maritime Administration, U.S. DOT

Public Notice
Regarding
Freight Rate Filing Implementation Measures for
International Container Liner Services

People's Republic of China
Ministry of Transport
Public Notice 2009-20

June 10th, 2009

For purposes of maintaining order in China's international container liner services market, protecting fair competition, safeguarding the legitimate rights and interests of all parties in international maritime transportation, and promoting the healthy development of the shipping industry, pursuant to Article 20 of the *People's Republic of China Regulations on International Maritime Transportation* (hereinafter "*International Maritime Transport Regulations*"), freight rate filing for international container liner services shall now be required. Public notice regarding implementation measures for such freight rate filing is hereby served as follows:

I. Basic Principles

Freight rates for international container liner services are in the category of market-determined adjustable rates independently set by freightliner operators, who shall abide by the principles of compliance and integrity, enhance the quality and efficiency of shipping services, and reduce operational costs; such shipping services shall be offered at normal and reasonable freight rates commensurate with operational costs and the market's supply-and-demand relationship. Soliciting business at "zero freight" or "negative freight" is prohibited.

II. Operators Required to File Freight Rates

Any operator who holds a *Registration Certificate for Operation of International Freightliners*, issued by the Ministry of Transport, and is engaged in container liner services is required to file freight rates.

III. Scope of Freight Rate Filing

Freight rates to be filed shall include published rates and negotiated rates.

Operators are required to file the range of their ocean freight rates, i.e. upper and lower limits of quotes to be offered, for containerized exports to be shipped from a Chinese port to a foreign base port. Such range of freight rates shall be normal and reasonable. Any freight rate charged at levels outside the published range already on file shall be filed as a negotiated freight rate. Such negotiated freight rates may not go into effect until 24 hours after filing.

Base ports are ports called on by vessels on direct routes (including vessels with chartered slots and/or shared slots) and operated by freightliner operators, within the scope determined and published by the Ministry of Transport.

A freightliner operator may, based on the routes that it serves, determine its own range of freight rates and shall file such freight rates in the Shanghai Shipping Exchange's format, approved by and kept on file at the Ministry of Transport.

A freightliner operator may, on its own, adjust its range of freight rates according to circumstances. Published freight rates to be filed may not go into effect until 30 days after filing. The first filing of freight rate range after these measures go into force shall, however, be effective on the day of filing.

IV. Where to File

The Ministry of Transport hereby designates the Shanghai Shipping Exchange as the agency where freight rates shall be filed. The Shanghai Shipping Exchange shall, in turn, develop a set of guidelines pursuant to the measures herein and provide necessary technical support.

The Shanghai Shipping Exchange and its employees shall keep confidential any

freight rate information on file that relates to trade secrets.

V. Supervision and Inspections

Competent provincial transport administration authorities and port shipping affairs agencies shall enhance their supervision and regulation of the international ocean freight market in their respective regions, as well as intensifying on-site inspections. Any company found in violation of *International Maritime Transport Regulations* shall be given a deadline to take corrective action and its violations shall be reported to the Ministry of Transport.

VI. Penalties

- (1) Parties failing to file freight rates pursuant to the rules and regulations or to charge at the rates on file, pursuant to Article 49 of the *International Maritime Transportation Regulations*, shall be given a deadline to take corrective action and shall be assessed a monetary penalty of between 20,000 and 100,000 yuan.
- (2) Freightliner operators whose freight rates on file are outside the normal and reasonable range and significantly deviate from rate averages charged by operators of similar size serving the same routes, and which may harm fair competition, shall be investigated by the Ministry of Transport, pursuant to Chapter V of the *International Maritime Transportation Regulations*.

The subject of the investigation shall furnish to the investigating authority, in good faith, documents such as waybills and bills of lading, receipts of freight payments, copies of service contracts, accounting records, and other relevant information, and may not refuse an investigation, conceal facts, or make misrepresentations. Those who refuse to be investigated or to furnish truthful information for the investigation shall, pursuant to Article 53 of the *International Maritime Transportation Regulations*, be ordered to take corrective action and assessed a penalty of between 20,000 and 100,000 yuan. Investigated freightliner operators found to have harmed fair competition will, pursuant to Article 40 of the *International Maritime Transportation Regulations*, be subject to restrictions and

prohibitions such as limitations to the frequency of their freightliner service or suspension of any new freight rate filings.

VII. Entry into Force

The measures herein shall enter into force on June 15, 2009, with a 45-day transitional period. *Implementation Measures for Freight Filing System for International Container Liner Services*, promulgated by the former Ministry of Communication in 1996 (JiaoShuiFa Circular 1996-880), shall cease to be in force on the same day.

People's Republic of China
Ministry of Transport (seal)
This 9th day of June of 2009