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## **Coastal Carriage of Foreign Trade Containers in China by International Container Liners Flying Non-Five-Star Flags**

On November 18, 2021, the State Council of the People's Republic of China published *Official Reply of the State Council on Approving Temporary Adjustments to the Implementation of the Provisions of Relevant Administrative Regulations in the Lin-Gang Special Area of China (Shanghai) Pilot Free Trade Zone* (Letter No. 115 [2021] of the State Council) (hereinafter referred to as 'the Reply'). According to the Reply, eligible international container liner companies from foreign countries, the Hong Kong Special Administrative Region and the Macao Special Administrative Region shall be allowed to

conduct the pilot program of the coastal carriage of foreign trade containers, with the Yangshan Port Area of Shanghai Port as an international transshipment port, between Dalian Port, Tianjin Port, and Qingdao Port and the Yangshan Port Area of Shanghai Port, by using their wholly-owned or controlled vessels flying non-five-star flags engaged in international voyages. This pilot program will be effective until December 31, 2024.

On December 13, 2021, the Ministry of Transport of the People's Republic of China published *Announcement of the Ministry of Transport on the Implementation of the Pilot Program for the Coastal Carriage by International Container Liners Flying Non-Five-Star Flags Owned or Controlled by Overseas International Liner Company* (hereinafter referred to as 'the Announcement').

## Background

According to *the Regulation of the People's Republic of China on International Ocean Shipping* and *the Regulation on the Administration of Domestic Water Transport*, no foreign international shipping operator is allowed to operate the shipping business between Chinese ports.

Article 22 Paragraph 2 of *Regulation of the People's Republic of China on International Ocean Shipping* stipulates: "Foreign international shipping operators may neither operate the shipping business between Chinese ports, nor operate the shipping business between Chinese ports in disguise by such means as using the rented Chinese vessels or shipping space or exchanging the shipping space."

Article 11 of *Regulation on the Administration of Domestic Water Transport* stipulates: "No foreign enterprise, other economic organization, or individual may engage in water

*transport business, or engage in water transport business in a disguised form such as leasing a Chinese vessel or shipping space. Any enterprise, other economic organization, or individual in the Hong Kong Special Administrative Region, Macao Special Administrative Region, or Taiwan region shall be governed mutatis mutandis by the provisions of the preceding paragraph, except as otherwise prescribed by the State Council.”*

The Reply by the State Counsel temporarily adjusted the above regulations and asked the appropriate departments of the State Council and the Shanghai Municipal People’s Government shall, according to the aforesaid adjustments, accordingly adjust the rules and regulatory documents developed by these departments and this Municipality in a timely manner, and establish the management rules meeting the requirements of the pilot program.

Based on this requirement, the Ministry of Transport published the Announcement, setting detailed provisions for the qualifications on vessels and cargoes, application materials and procedures, etc.

## **The Main Content of the Announcement**

### **Qualification on Vessels and Cargoes**

1. Vessels shall be intercontinental ships operating on main routes.
2. Cargoes are confined to **foreign trade container cargoes**, of which **Through Bills of Lading** have been signed.
3. Principle of reciprocity shall be met, namely the places where the actual controller of the international container liner company is located, the actual registration place of

business, the country/region where the vessel is registered, are clearly open to Chinese enterprises to conduct their coastal carriage of foreign trade containers.

### **Application Procedures for Conduction of the Pilot Program**

1. Application Materials to the Ministry of Transport
  - 1) *The Application Form for Overseas Container Liner Companies to Conduct the Pilot Program of the Coastal Carriage of Foreign Trade Containers by its Vessels Flying Non-Five-Star Flags* (see attachment 1);
  - 2) Business registration documents and notarized documents of the international liner companies, copies of *Qualification Registration Certificate for International Liner Transportation*;
  - 3) *Certificate of Registry, Certificate of Classification* for vessels intended to conduct coastal carriage of foreign trade containers, supporting documents to certify the ownership of the ships;
  - 4) *Commitment Letter for Overseas Container Liner Companies to Conduct the Pilot Program of the Coastal Carriage of Foreign Trade Containers by its Vessels Flying Non-Five-Star Flags* (see attachment 2);
  - 5) Supporting legal materials to prove that the places where the actual controller of the international container liner company is located, the actual registration place of business, the country/region where the vessel is registered are clearly open to Chinese enterprises to conduct their coastal carriage. In the absence of the legal documents, a statement of compliance is needed to prove the principle of reciprocity is met.
  
2. If the aforesaid materials are all in order, the Ministry of Transport will issue *Approval Letter for the Overseas Container Liner Companies to Conduct the Pilot Program of the Coastal Carriage of Foreign Trade Containers by its Vessels Flying Non-Five-Star Flags* (see attachment 3) within 20 days after receipt of the materials.

Vessels flying non-five-star flags without approval shall not carry container cargoes between Chinese ports; including foreign trade container cargoes loaded at a Chinese port then export via a Chinese transshipment port, or transshipped into China via a domestic port and discharged at another Chinese port. In case of violation, punishment will be incurred according to Article 37 of *Regulation of the People's Republic of China on International Ocean Shipping*.

We hope the above is of assistance. Any query, please feel free to contact us.

Best regards,



CUI Jiyu

General Manager

#### *Attachments*

1. The Application Form for Overseas Container Liner Companies to Conduct the Pilot Program of the Coastal Carriage of Foreign Trade Containers by its Vessels Flying Non-Five-Star Flags
2. Commitment Letter for Overseas Container Liner Companies to Conduct the Pilot Program of the Coastal Carriage of Foreign Trade Containers by its Vessels Flying Non-Five-Star Flags
3. Approval Letter for the Overseas Container Liner Companies to Conduct the Pilot Program of the Coastal Carriage of Foreign Trade Containers by its Vessels Flying Non-Five-Star Flags

## 境外国际集装箱班轮公司开展非五星旗 船舶沿海捎带业务试点申请表

申请备案人名称	
《国际班轮运输经营资格登记证》号：MOC-ML	
申请人注册地和 经营地	
申请人实际 控制人所在地	
申请事项	<p>列明申请事项内容，如挂靠港口、航线，投入船舶名称、船籍等。</p> <p style="text-align: center;">盖章</p> <p style="text-align: center;">年 月 日</p>

## 境外国际集装箱班轮公司开展非五星旗 船舶沿海捎带业务试点承诺书

我公司申请开展非五星旗船舶沿海捎带业务试点的船舶为：XXX、XXX

我公司承诺：

- 一、申请开展非五星旗船舶沿海捎带业务试点的船舶为洲际远洋干线船舶。
- 二、捎带的集装箱货物为我公司已签发全程提单的外贸集装箱货物。

盖章

年 月 日

## 境外国际集装箱班轮公司开展非五星旗 船舶沿海捎带业务试点批准书

编号：交水 FR (202 ) 号
申请人名称：
《国际班轮运输经营资格登记证》号：MOC-ML
<p>根据《交通运输部关于开展境外国际集装箱班轮公司非五星旗国际航行船舶沿海捎带业务试点的公告》及有关规定，本机关对下列事项予以批准：</p> <p>XXX公司全资或控股拥有并经营的“XXX”轮等X艘非五星旗国际航行船舶开展XX、XX港与上海港洋山港区之间的外贸集装箱沿海捎带业务试点。</p> <p>附：开展沿海捎带业务试点的非五星旗船舶清单</p> <p style="text-align: center;">批准机关盖章</p> <p style="text-align: center;">年 月 日</p>



## 开展沿海捎带业务试点的非五星旗船舶清单

序号	船名	船舶所有人 及经营人	载箱量 (TEU)	船旗	船籍港	IMO 编号
1						