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WORLD MARITIME UNIVERSITY

Malmö, Sweden



**THE MANAGEMENT SYSTEM OF NVOCC IN
CHINA AND ITS IMPROVEMENT**

by

ZHANG ZIXUAN

China

A dissertation submitted to the World Maritime University in partial

Fulfillment of the requirements for the award of the degree of

MASTER OF SCIENCE

In

INTERNATIOANL TRANSPORTATION AND LOGISTICS

2021

Declaration

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.

Signature: Zhang Zixuan

Date: 2021.07.01

Supervised by: Professor Wang Xuefeng

Supervisor's affiliation: Shanghai Maritime University

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After a year of study, I am about to graduate. Here, I want to express my most sincere gratitude to many people for their help.

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Abstract

Title of Dissertation: **The Management System of NVOCC in China and Its Improvement**

Degree: **Master of Science**

In China, the business of NVOCC is originated from the business of Freight Forwarder. China is also the second country which has the concept of NVOCC after the US since China implemented the <International Shipping Regulation of the People's Republic of China> in 2002. Nowadays, the business of NVOCC plays a more and more important role in the shipping industry as well as promotes the prosperity of shipping industry. However, there are a lot of maritime fraud which hurts the interests of shippers because NVOCC dose not operate ships by itself and NVOCC just has limited liability. So, it is important to improve the management system of NVOCC in China.

The first chapter is the introduction of NVOCC, I will discuss the history and meaning of NVOCC. In addition, I will compare the similarities and difference among NVOCC, vessel-carrier and Freight Forwarder. The second chapter is to introduce the current situation of management system of NVOCC in China, such as competent authority, market access, operating order, penalties and Bill of lading. The third part is to discuss other countries' experience of management system, such as US and Japan. In the fourth chapter, I will make several suggestions to improve the management system. The last chapter is the conclusion of the whole study.

Above all, this study aims to improve the management system of NVOCC in China by studying how the shipping market works.

KEYWORDS : NVOCC, Management System

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1. Introduction

1.1 Research Background

NVOCC(Non-Vessel Operating Common Carrier) is changed from Freight Forwarder. From the beginning, it just accepted cargo owners' cargo, arranged the transportation of cargoes on behalf of cargo owners and earned commission. After that, it developed the business of customs clearance and LCL(Less Than Container Load). Now, it has been totally different from Freight Forwarder and been considered as a carrier in the shipping industry.

Freight Forwarder has a long history. In the thirteenth century, Freight Forwarder appeared in Europe with the name of "Frachter". It used ships to transport cargoes and handled business of customs clearance. In the sixteenth century, the independent Freight Forwarder appeared. Its main business was to accept cargo owners' goods, arrange the transportation of cargoes in the name of cargo owners, make documents and so on. The real Freight Forwarder actually appeared in 1830 and its characteristic was that it had no transportation tools while arranged transportation for cargo owners. With the appearance and the development of shipping transportation, the business range of Freight Forwarder becomes larger and larger and their roles changes gradually. After they accept the cargo owners' goods, they start to book and transport in their names. Nowadays, NVOCC is already a carrier which has a special status.

The US is the first country which had the concept of NVOCC in the world.

In the Shipping Act Of 1984, it was the first time that the concept of Non-vessel Operating Common Carrier had been cleared. In this Act, Article 3, Paragraph 17, it is stipulated that Non-vessel Operating Common Carrier is the Common Carrier who does not operate ships which provide ocean shipping, and its relationship with Ocean Common Carrier is shipper. In addition, it deleted the qualification of 'By water' in the former Act. In this way, the concept and the business scope of NVOCC is much

clearer than before.

In the Ocean Shipping Reform Act of 1998, it used the concept of Ocean Transportation Intermediary, and distinguished the Ocean Freight Forwarder from the NVOCC. NVOCC is the person who does not operate ships provided for and acted as shipper to take the responsibility. The Ocean Shipping Reform Act of 1998 separated NVOCC from Freight Forwarder, and made sure his unique legal status.

In civil law countries, although a lot of countries have different regulations on Freight Forwarder, there is no concept of NVOCC. Instead, They regard the business of NVOCC as a part of freight forwarder's business. For example, in France, the Freight Forwarder is regarded as the carrier, and the shipper can sue the carrier or Freight Forwarder for liability originated from the actual transportation. In addition, in most countries with the civil law system, NVOCC is regarded as Freight Forwarders, and the business they operate is regarded as an extension of Freight Forwarding business. In the European Transport Act, the European Union's definition of NVOCC completely used the definition of the United States' Shipping Act of 1984, which refers to a common carrier that does not operate maritime ships but provides maritime services. The relationship with the ocean common carrier is the shipper.

In early China, non-vessel operation business is a part of Freight Forward business. According to the <Regulations of the People's Republic of China on International Ocean Shipping>, it said NVOCC is person who operates business of non-vessel carrier. However, in actual, a lot of Freight Forwarder operate the business of non-vessel carrier. So in China there is confusion between NVOCC and Freight Forwarder.

In the <Regulations of the People's Republic of China on International Ocean Shipping> Article 2, paragraph7, NVOCC means person who accepts cargos from the cargo owners as carrier, issues his own bill of lading, charges from the shipper, do the ocean transportation through other international shipping operators and bears the responsibility of the carrier. <Regulations of the People's Republic of China on

International Ocean Shipping> simply defines the NVOCC. Nowadays in China, NVOCC is usually named as international shipping agency companies or international cargo agency companies. These companies' business ranges is trade home and abroad, shipping agency and so on.

NVOCC is a corresponding concept with vessel operating common carrier. VOCC is a person who owns ships and provides shipping transportation service as a carrier. This is how <Regulations of the People's Republic of China on International Ocean Shipping> regulates. <Regulations of the People's Republic of China on International Ocean Shipping> divides international maritime transportation business into international shipping business and non-vessel operating business. In addition, international shipping business requires carriers must own ships and operate ships. In this situation, they are VOCC.

What NVOCC and VOCC have in common is that both of them operate international maritime transportation business. The difference between NVOCC and VOCC is whether they own and operate ships. So carrier through bareboat charter to operate ships or accepts the shipowner's commission to operate ships for shipowner to provide service should be NVOCC instead of VOCC.

This is no clear and widely accepted definition on freight forwarder in the world while there is some explanation of freight forwarder in many authority agency. For example, in the <Black's Law Dictionary> of US, freight forwarder means person whose responsibility is to accept cargoes, use the way of warehousing, packaging to change less than container load into full container load and earn money from the process. Their responsibility is to accept cargoes for others. In China and Europe, freight forwarder has wide definitions. In China, <Regulations on Freight Forwarding Management> Chapter 2 regulates that international freight forwarding agency means industries which accepts consignee and consignor's commission, handles related business for client in its own name and earn money.

<European Transport Law> uses the same definition in the <The shipping act of

1984> of US. In actual, there are two situations. When they work as a party to the contract of carriage as opposed to the shipper to bear the responsibility of a common carrier, they are called Commissionaire De Transport in France. When they just work as shipper's agent, they are called Transitive. So in Europe, there are two meanings of freight forwarder. Although both of them are called freight forwarder, they are totally different in the real situation.

For a long time, Chinese freight forwarder company engaged in the business both of freight forwarding and NVOCC. Their income includes commission from the ship owner and agio from the cargo owner. So NVOCC business is an important source of income for these companies. By the way, <Regulations of the People's Republic of China on International Ocean Shipping> does not include the system of freight forwarding. This seems strange because it seems like freight forwarding has been replaced by NVOCC. In fact, how people distinguish NVOCC from freight forwarding has big difference.

At first, the legal status is different.

NVOCC is a carrier to cargo owner while he also is a shipper to ship companies. Freight forwarding is a kind of agency and its relationship with the shipper is entrusted relationship instead of contractual relationship. So the freight forwarding company does not bear responsibility of cargo transportation while NVOCC needs to bear the responsibility of the whole process of the transportation,

Secondly, the way of getting paid is different.

The traditional freight forwarding company charges the cargo owner for agency fee or labor fee. At the same time, if carrier's freight fee can be paid for freight forwarder's commission, then they can earn commission from the carrier. Income of NVOCC comes from the margin of the freight rate from the shipper and the freight rate paid to carrier. In a word, income of NVOCC is a kind of margin and the freight forwarder's income is commission.

At last, the authority of issuing the bill of lading is different.

The traditional freight forwarding company does not have the right of issuing the bill of lading. However, NVOCC can issue the bill of lading in his own name, exercise the

power endowed by the bill of lading and bear the related responsibility.

1.2 Research Purpose and Methodology

In this research, the author will discuss the management system of NVOCC through the aspects of competent authority, market access, business order and so on. On this basis of this, the author uses the methodology of literature reading and comparative method. Through reading current literature home and abroad and compare current management system in China with the management system in the US and other developed shipping country, this research will focus on how to improve the management system of NVOCC. In addition, this research will use relevant theory of laws, combined with the business of NVOCC, to study how the NVOCC market runs and promote the development of NVOCC in China. In a word, this research's purpose is to:

- 1 To improve the management system of NVOCC in China.
2. To standardize the business of NVOCC in China.
3. To make a fair and ordered market environment.
4. To improve the NVOCC companies' economic benefit and their competitiveness in the world.

2 Literature Review

Patrick Donner (2020) pointed out that the bill of lading refers to a document which is used to prove that the contract for the carriage of goods by sea and that the goods have been received or shipped by the carrier and that the carrier guarantees the delivery of the goods. The "Maritime Law of the People's Republic of China" regulate the documents used to prove that the contract for the carriage of goods by sea and the goods have been received or shipped by the carrier and the carrier guarantees the

delivery of the goods. The terms of delivery of the goods to the person named in the bill of lading, or delivery of the goods in accordance with the instructions of the instructor, or delivery of the goods to the holder of the bill of lading, constitute the carrier's guarantee for the delivery of the goods.

NVOCC bills of lading refer to the NVOCC as a carrier that does not operate international shipping vessels. After accepting the shipper's cargo as the carrier, the bill of lading is issued to the shipper in their own name. This kind of bill of lading is also called "House B/L".

First of all, the NVOCC B/L is the evidence of the contract for the carriage of goods by sea between the carrier and the shipper. The NVOCC should transport the cargoes to the named consignee under the registered bill of lading or transport the cargoes in accordance with the instructions of the instructor of the B/L or transport the cargoes to the person who has the bill of lading. Yang Liangyi (2001) presented that the NVOCC issues House B/L to the shipper and promises to transport the cargoes from the port of departure to the port of destination. The shipper should pay the relevant expenses such as freight. It is clear that the NVOCC bill of lading is the evidence of the contract for the carriage of goods by sea between the carrier and the shipper.

Secondly, the House B/L issued by the NVOCC has such a clause: "The goods in good have been loaded on the ship..." There is no doubt that House BL has the characteristics of a receipt for goods. The NVOCC takes over the shipper's goods and transport them to the carrier for transportation. That means they takes over the shipper's goods at the receiving place and arranges for the performance of the transportation contract.

Wang Xuefeng (2006) pointed out that as a party in the maritime public transportation industry, NVOCC can issue its own bill of lading. The bill of lading is also a kind of entitlement securities and a document of title. Therefore, issuing a bill of lading may be equivalent to issuing hundreds of thousands or millions of securities, and all parties to the bill of lading will bear special risks as a result. Because of issuing bills of lading and non-vessel operations, The Regulation set up a bond system to protect the interests of the parties establish a damage compensation system in order to prevent

and reduce maritime fraud, regulate the maritime market, and promote fair competition. The NVOCC guarantee bond system is similar to the financial liability guarantee system. Both of them provide a certain amount of funds or other forms of guarantee in advance to pay for possible future legal liabilities. For my country's NVOCC operators, the initial form of this system is to pay a bond.

The bond is used for the NVOCC business operator to pay off debts incurred due to its failure to perform the carrier's obligations or improper performance of its obligations and to pay fines.

The bond and its interest belong to the NVOCC business operator. This shows that the owner of the bond is the payer of the bond and the payer who compensates or pays the administrative penalty from the bond is also the payer of the bond, not the manager of the bond.

Cheng Hua (2018) showed people in China can neither copy the regulatory system of NVOCC under the US Shipping Law, nor simply take it for grafting and transplantation directly. Instead, we should establish a regulatory management system that fits the environment of shipping market in China. Through the construction of a series of management systems of NVOCC, this article enables NVOCC to do business and develop within the scope of the rules. According to actual situation in China, we should clarify the supervisory authority of non-vessel carriers and introduce a random inspection system.

Liu Ying (2014) pointed out that because of the problem of inconsistent legislation, the legislative thinking of choosing a unified regulatory body and stipulating the regulatory content that keeps pace with the times under the unified form of regulatory legislation in advanced countries, and combining the practical development of China's international freight forwarders to propose ideas of unifying the legislation of freight forwarding supervision in China: establish a unified freight forwarding management law.

Zha Jun (2011) showed that according to China's situation, people need to improve the construction of the full liability guarantee system of NVOCC to ensure the financial responsibility guarantee capability of NVOCC, start the construction of the

NVOCC's credit evaluation system so that NVOCC can have a proof of competitiveness and increase the establishment of illegal investigations and compulsory market withdrawal system, so that NVOCC can conduct legitimate market behavior under pressure.

Li Jia (2008) designed that the NVOCC shall formulate an industry self-discipline agreement. In addition to the relevant content in the current "Implementation Rules of the International Maritime Regulations", they should also require the members of the association to provide liability guarantees. The amount of the liability guarantee can be determined by the members themselves, but it shall not be less than RMB 800,000 and shall be publicized. The form of liability guarantee should be flexible. It can be a deposit, real estate mortgage or commercial insurance and so on.

Liu LiZhu (2006) suggested that industry associations can track the changes happened in the whole environment in a timely manner, coordinate the actions of various companies, and give guidance to the entire industry. From an internal point of view, it can better distribute benefits among internal members, which is conducive to maintaining the order of the NVOCC market.

Zhao Xue (2005) pointed out that the scale of the industry is a necessary condition for creating a fair market competition environment and ensuring the healthy development of the market. Therefore, the government transportation department should appropriately control the total number of non-vessel carriers and form a reasonable market structure.

Gao Miaomiao (2011) thought it is necessary to establish a detailed and clear special legislation on NVOCC as soon as possible to improve the current situation. In terms of management, the fragmented, ineffective, and unclear regulations of the legal system are used to make up for the system's deficiencies, so that the relevant competent authorities have a clear legal basis for law enforcement, so as to strengthen the supervision of NVOCC business operations in China.

3 The main content of NVOCC management system in China

The business of NVOCC has a long history in Chinese shipping market, but it is not clearly defined. In actual, the legal status of NVOCC is not clear, and this causes the inconvenience and dispute. In practical, as a medium of shipper and actual carrier, NVOCC can help the transaction. However, once the dispute happens, NVOCC does not have the ability of repaying loan. This kind of situation seriously hurts the interest of cargo owner. So in order to keep the safety of trading and protect the shipping market, civil status of NVOCC has been confirmed by the related management and law in home and abroad. <Regulations of the People's Republic of China on International Ocean Shipping> establishes the management system of Chinese NVOCC according to the feature of NVOCC and Chinese shipping market's characteristic. It also borrowed the advanced experience of other countries' experience.

3.1 Competent authority of NVOCC

3.1.1 The competent authority of NVOCC

Article 4 of the <Regulations of the People's Republic of China on International Ocean Shipping> clearly says: "The transportation department of the State Council and the relevant local government transportation department shall, be in keep with the needs of these Regulations, implementing supervision and management to the international maritime business activities as well as relevant transportation business on the ocean." According to this Article, NVOCC must accept the supervision and management of the transportation department of the State Council and the transportation department of the relevant local government when it wants to engage in international maritime transportation operations. Because of the regional features of the NVOCC business and the principle of territorial management, the market access

of the NVOCC business is a part of the business of the Ministry of Communications. In order to reflect the management responsibilities of the provincial transportation department and knowing the business situation of local enterprises, and as well as to lower the time for government review, Article 11 of the <Implementation Rules> regulates that applicants of NVOCC should submit relevant materials to the Ministry of Communications. In addition, at the same time applicants should also copy them and deliver them to the provincial transportation department. The provincial transportation department will give the relevant opinions to the Ministry of Communications after the preliminary review. In the Rules, it also clearly regulates the content of the application materials and the time to process the application of the government departments at all levels. This kind of regulation not only increases the transparency of government approval procedures, saving applicants' time, but also better handles the relationship between the transportation department of the State Council and the transportation department of the local government. By doing this, the government's NVOCC market management functions are fully and effectively performed under the market economy system. In addition, the management of price and competition behavior in the NVOCC market involves not only the transportation department, but also the industry and commerce management department and the price supervision department and so on. In order to realize the comprehensive management of the NVOCC market, it must be supported by other government departments together.

3.1.2 The function of the competent authority

There are 3 basic features of the function of the competent authority. The first one is legalization. The Regulations and its Rules clearly regulate the responsibility of the transportation department of the State Council and the transportation department of the local government to manage the NVOCC business market in China, and this is good to promoting the development of the functions of the transportation department.

It is the important legal basis for administration of the government to manage the market. The second function is called standardization. Standardizing the NVOCC market access procedures and removing or lowering unnecessary market access restrictions is good to establish a clean, effective, coordinated, and standardized NVOCC administrative management system. The third feature is accountability. While empowering the competent department of transportation to supervise and manage the NVOCC market, it also regulates the administrative accountability system, reflecting the principle of unity of power and responsibility, standardizing and legalizing government affairs, increasing transparency, and promoting the development of the public's supervision of government affairs.

There are also 4 main duties for the competent authority. The first duty is that it should be loyal to the implementation of the power. The administrative right owned by the NVOCC business competent authority is a specific form of state power in the field of shipping market economy management, and a qualification for the transportation authority to manage the NVOCC market and relevant activities of market entities on behalf of the country. Therefore, it can only be loyally implemented in accordance with the provisions of the law. What is more, it cannot be changed or abolished as it like. The second duty is that it should strictly obey the competence given by the country. Rights which are without the limitation are harmful rights. Clear powers are good to the external supervision when the competent authority is using the power to do the relevant management. It is also good to avoiding disputes and conflicts between the competent authorities and other companies in the exercise of powers. Therefore, the authority of the NVOCC business must also have a certain scope of authority. The third one is that it meets the statutory purpose. When exercising its powers, the competent authority shall not only not neglect its duties or exceed its powers, within the scope of its statutory powers, it must also exercise its powers in accordance with the law as well as the statutory purpose. To meet the statutory purpose and not abuse their powers, it not only requires administrative departments to strictly abide by the scope of their powers, but also requires the competent authority to exercise their powers within the scope of their powers. By

doing such actions, it can not only ensure that the administrative acts are legal in form, but also to reflect legal intentions accurately. The fourth one is that they should be strictly abide by the procedures.

Administrative procedures are the regulations, methods and steps that competent authority should follow in the process of exercising their powers. A sound administrative procedure is an important means to supervise and control administrative power and improve administrative efficiency. Strict compliance with procedures is one of the basic requirements of modern administrative law for administrative subjects. The NVOCC market is a sub-market of the shipping market. The government's management of the NVOCC market falls within the scope of state intervention in the shipping market economy, and is an act of professional economic management carried out by the competent government departments in accordance with the law. Therefore, the government's legal regulation of the NVOCC market and the economic management of the NVOCC business must be guided by the general theory of government intervention in the economy, emphasizing the principle of moderation, that is, the government "does something and does not do something" so that nothing. The competent authority of the shipping business only conducts effective economic intervention in the appropriate field and timing of the non-vessel shipping market.

3.2 Market access for NVOCC business

3.2.1 The overview of the market access of NVOCC market

The NVOCC market access system is the general term for the various norms of the conditions and procedural rules for the state and the government to allow corporate legal persons to enter the NVOCC market and engage in the NVOCC business.

The NVOCC market access system is the basic system for the country to intervene in the NVOCC market. As the first procedure of government management, it is not only the starting point for the government to manage the NVOCC market, but also the

basis for the implementation of a series of follow-up management measures. For example, as a general market access, the industrial and commercial registration system is not only a necessary procedure for NVOCC business operators to enter the market, but also a condition for the administration of industry and commerce and other state agencies to effectively supervise them after entering the NVOCC market. Without this kind of system, industrial and commercial registration, the management activities for a specific NVOCC business operator cannot be effectively carried out.

Because of differences in the level of economic development, political and economic systems, and cultural and historical backgrounds, in different countries or at different stages of historical development in the same country, the government's position on entering the market to engage in business activities is also very different. Therefore, different market access models have been formed in legislation, including the laissez-faire model and the administrative licensing model. The administrative licensing model is a long-term market access model adopted in the shipping industry of China. According to the relevant provisions of the Regulations and the Rules, the NVOCC market is a sub-market of the shipping market, and its market access also adopts the administrative licensing model.

The administrative license for NVOCC shipping business refers to that the State Council's transportation department determines and confirms in accordance with the law whether it has the conditions or qualifications to take part in NVOCC shipping business in response to the application of the enterprise legal person, and to the determined and confirmed NVOCC shipping business operator carry out a process administrative act of management in accordance with the law. Contains the following meanings: (1) The administrative license for NVOCC business is a specific administrative act implemented by the competent department of transportation under the State Council. (2) The administrative license for NVOCC business is the legal control and restriction of NVOCC shipping business operators with an administrative act based on the exercise of rights. (3) The NVOCC business administrative license is an administrative act established upon the application of the NVOCC business operator. (4) The NVOCC business administrative license is the transportation

authority that confirms the conditions and qualifications for the NVOCC business operator to take part in the NVOCC business. (5) The administrative license for the NVOCC business is a procedural and continuous administrative act.

3.2.2 The current market access of NVOCC in China

The NVOCC market access system is a system with two sides. On the one hand, because of the commonality between the shipping market and the overall social economic market, the shipping market access system should conform to the general access system of the overall market in China, which is also called the industrial and commercial registration system. As a sub-market of the shipping market, the NVOCC market must also be inevitable to this kind of system. The general market access system should be applied. On the other hand, compared with other kinds of markets, the shipping market has certain different features in the relationship of supply and demand and the kind of services. Therefore, the shipping market is in compliance with the general market access system. In addition, the shipping market is implemented at the same time. The special access system is the administrative licensing system. Considering this kind of situation, access to the NVOCC market must also be obeyed. What is more, different services in the shipping field have their own different characteristics, particularities and qualities. The shipping market itself has different needs for different services in different periods. Therefore, the access of the NVOCC market is subject to the special access system of the shipping market. At the same time, there are also differences in licensing agencies, access channels, and access conditions.

The establishment of the NVOCC market access system is not only good to make sure that NVOCC have the ability to provide relevant services required by the market, but also useful to protect the interests of service targets and market order. It is the effective ways of macro-control from the government based on the features of the shipping market and the supply and demand situation of NVOCC.

In 2019, according to the latest regulations issued by the competent department of transportation: (1) At first, the approval of NVOCC business has been canceled and will be changed to the system which should be recorded to the government. (2) In the future, the NVOCC business will only handle the business which will be recorded. (3) To cancel the NVOCC bond or bond insurance system. (4) The Ministry of Communications will together handle the refund of the NVOCC bond in the recent future.

3.3 Penalties for market violations of NVOCC

3.3.1 The definition of penalties for market violations of NVOCC

Penalties for illegal acts in the NVOCC market refer to the administrative sanctions imposed by the national transportation authorities on the NVOCC shipping business operators who have market illegal acts. The basic features of penalties for illegal acts in the NVOCC market are as followed: (1) Penalties for illegal acts in the NVOCC market is the result of the National Transportation Authority's implementation of the right to punish the illegal behavior. (2) Penalties for illegal acts in the NVOCC market are management behaviors to deal with illegal acts by NVOCC which is different from the administrative sanctions. (3) Penalties for illegal acts in the NVOCC market are specific administrative behaviors that keep the administrative order of this country which are also different from penalties that punish crimes.

3.3.2 The principle of penalties

The first principle is legal punishment. Penalties for illegal acts in the NVOCC market will involve and affect the rights and interests of NVOCC in many aspects. In order to overcome the arbitrariness of penalties, prevent and correct the abuse of penalties, the principle of legal punishment must be obeyed strictly. This principle has three

meanings: (1) For the behavior of NVOCC business operators, only those who should be punished regulated by the law will be punished. (2) The right to regulate penalties can only be set by the state agency in accordance with the law. In addition, it should also be within the scope of statutory powers to exercise. (3) The application of penalties for illegal acts in the NVOCC market must be carried out in accordance with the relevant law strictly, otherwise the penalties are invalid. The Regulations and its relevant Rules have a special chapter called Investigation and Handling, which provides clear and specific penalties for illegal acts in the NVOCC market, including the composition, responsibilities, rights of the investigating agency. What is more, the rights and obligations of the investigated agency, as well as investigation procedures and handling measures are also included.

The second principle is fairness and openness. The basic requirement of the principle of fairness and openness is that the responsibilities that NVOCC should bear are compatible with the penalties it receives. The investigation agency should firstly make the facts and situations of the violation clearly, and make a correct evaluation of the situation of the market violation and the degree of harm it dose to the market. Based on these, the agency can punish it in accordance with the law. Unpublished regulations that cannot be used as the basis for penalties is the basic requirements of the principle of fairness and openness.

The third principle is to protect the parties' procedural rights. The principle of protecting the procedural rights of the parties is to correctly handle the relationship between penalties and protection so that innocent people will not be punished, and those who violate the law will be punished fairly. By ensuring that the parties exercise their procedural rights, the penalties for illegal acts in the NVOCC market can be correctly applied. Specifically, the parties in the contract will have two types of procedural rights. One is the right to make statements, the right to defend, the right to be notified, and other procedural rights during the penalty decision process. The other is the right to apply for reconsideration, the right to file a lawsuit and the right to file a lawsuit after the penalty decision is made. The right to ask for compensation and other relevant rights from the country.

The fourth principle is combining penalty with education. The first step is that penalties must be given, otherwise it will not be enough to stop illegal acts and restore good order. The second step is that penalties are used to make people who are against the law to become people who obey the law. The principle of combining penalty and education is to require that the decision and implementation of penalty should at the same time play its role in compulsory sanctions and promote the transformation of understanding so that the company which is been punished will no longer harm the society and consciously obey the law. In this kind of situation, we can prevent the penalty from becoming a simple tool for the country to revenge the illegal acts.

3.3.3 The investigation and approach to the illegal acts

The first kind of illegal act which will be discussed is unfair competition.

In order to regulate the order of the NVOCC market, promote fair competition in the NVOCC business market, and at the same time limit the use of state power, the Regulations stipulate that the state should be in accordance with the authority or based on the application of interested parties to investigate and deal with when the behavior of the NVOCC may cause damages to the normal operation of the market. This investigation is actually the same with the anti-dumping investigations, anti-subsidy investigations and safeguard measures implemented on imported goods in WTO rules. Since service trade cannot be managed by customs, it is also difficult to formulate a management system to deal with all unfair competition behaviors in different types of services. In this situation, the management system must therefore be divided into categories. Specific to the shipping services, it is the Regulations that stipulates the investigation and approach for acts that may cause unfair competition.

According to the Articles 35 and 36 of the <Regulations of the Peoples Republic of China on International Ocean Shipping>, the competent authority to carry out investigations is the competent department of communications under the State Council, and the investigation shall be conducted with the administrative department

for industry and commerce and the pricing department of the State Council together. With reference to the relevant provisions of China's <Administrative Punishment Law> and the <Regulations of the Peoples Republic of China on International Ocean Shipping> , the investigating agency can have the following investigative powers: (1) The investigating agency has the right to conduct investigations and have the right to know the business situation about the NVOCC. (2) Can consult and copy relevant documents, agreements, contract texts, accounting books, business correspondence, electronic data and other relevant materials. (3) When evidence may be lost or damaged and if it is difficult to obtain in the future, it can be registered and preserved in accordance with the law. At the same time, the parties or related personnel shall not transfer, conceal, or destroy the evidence. (4) When the damage has occurred or has been reasonably foreseen to occur, the parties may be asked to provide guarantees in accordance with the law. Investigators shall keep the business secrets of the NVOCC when doing the investigation. After the investigation is over, the investigating agency has the right to take prohibitive and restrictive measures, such as suspension of the freight rate book or suspension of the acceptance of freight rate filing. The agency also has the right to impose penalties in accordance with relevant laws and administrative regulations.

In order to maintain a fair competition order in the NVOCC market and protect the legitimate rights and interests of the parties in the contract, the investigating authority can, in accordance with the provisions of the <Regulations of the Peoples Republic of China on International Ocean Shipping>, investigate the following acts of unfair competition: (1) At a rate lower than the normal and reasonable level to provide services and obstructing fair competition. (2) Secretly giving the shipper a kickback outside of the accounting books and contracting goods. (3) Abusing of a dominant position to cause damage to the counter party at discriminatory prices or other restrictive conditions. (4) Other acts that may harm fair competition in the NVOCC market.

After completing the investigation through the relevant procedure, if the basic facts are not true, the investigating agency shall decide to stop the investigation. If the basic

facts exist but do not cause substantial harm to fair market competition, the investigating agency may decide not to take prohibitive and restrictive measures to deal with NVOCC under investigation. If the basic facts are clear and cause substantial damage to fair competition in the market, the investigating agency shall take prohibitive and restrictive measures against the NVOCC under investigation in accordance with the provisions of the <Regulations of the Peoples Republic of China on International Ocean Shipping>.

The second kind of illegal act which will be discussed is other situations. Other market violations of the NVOCC regulated in the chapter of Legal Liability of the <Regulations of the Peoples Republic of China on International Ocean Shipping> are as followed: not to register the bill of lading and operate the NVOCC business without authorization. NVOCC provide the operating qualifications obtained in accordance with the law to others who do not have the qualifications for use. Not to fulfill the freight filing procedures or not to implement the filing tariffs as regulated in the <Regulations of the Peoples Republic of China on International Ocean Shipping>.

3.4 The situation of Bill of lading of NVOCC

Patrick Donner pointed out that the bill of lading refers to receipt for goods, document of title and evidence of goods. But it is important to point out that this is the general concept of a bill of lading. But in the current actual business operations, we often face two bills of lading, namely SEA BL and HOUSE B/L.

In fact, the current international trade and transportation involve more and more multiple modes of transportation, which also involves multimodal transportation. In this case, the ocean common carriers should be responsible for its own transportation in the sea section and issue a sea bill of lading for the transportation in this section. As for the NVOCC, regardless of whether its business involves other modes of transportation or the existence of the actual carrier relative to the NVOCC, the NVOCC must issue a bill of lading to the real carrier. Because as far as the shipper of

the goods is concerned, it is not known that there are other carriers in its business activities. He will only look for the NVOCC as a carrier. At this time, the house bill of lading is issued to the shipper by the NVOCC.

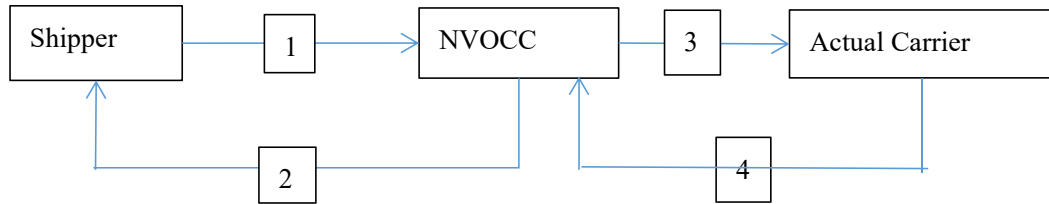


Figure 1 House bill of lading

1. The shipper delivers the goods to the NVOCC for transportation
2. The NVOCC issues its own bill of lading, which is also called the HOUSE bill of lading, to the shipper
3. The NVOCC delivers the goods to the actual carrier for transportation
4. The actual carrier issues its own bill of lading, which is also called SEA bill of lading (also known as OCEAN B/L) to the NVOCC. This bill of lading is not only a basis for dividing the responsibilities between the actual carrier and the NVOCC, but it can also be used to take the goods from the actual carrier.

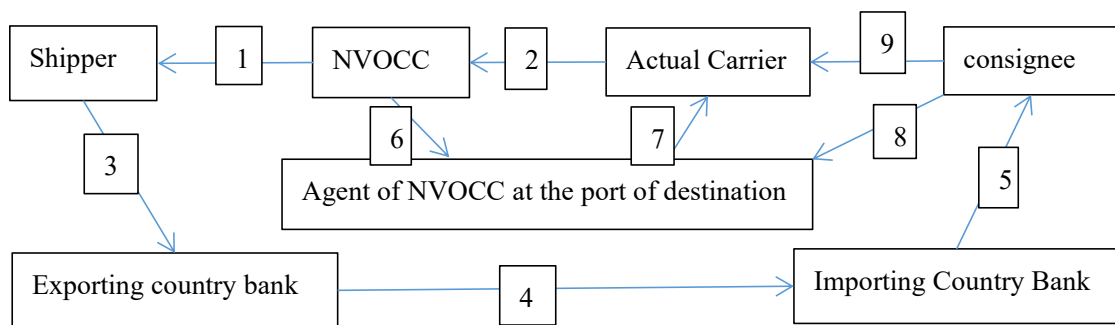


Figure 2 Two types of B/L is involved

When there are two types of bills of lading (HOUSE bill of lading and SEA bill of lading) in a business, the entire bill of lading operation process is different from the original simple case of only one set of SEA bill of lading. We use the above chart to show the operation of the two bills of lading in the NVOCC business.

1. After receiving the goods, the NVOCC issues its own B/L (HOUSE bill of lading) to the shipper
2. The NVOCC as the shipper delivers the goods to the actual carrier, which is the ocean common carrier, for transportation, and the actual carrier issues its own bill of lading to the NVOCC. This bill of lading is SEA B/L
3. The shipper shall settle the foreign exchange at the bank on the basis of the bill of lading issued by the NVOCC
4. The bank of the exporting country transfers HOUSE B/L to the bank of the importing country
5. After payment, the consignee takes out the bill of lading issued by the NVOCC from the bank of the importing country
6. The NVOCC forwards the original bill of lading issued by the actual carrier and its own bill of lading to the agent at the port of destination
7. The agent of the NVOCC at the port of discharge relies on the actual carrier's SEA B/L to exchange for the bill of lading from the actual carrier or its agent
8. The consignee goes to the NVOCC to exchange the bill of lading of NVOCC (HOUSE BL) for the bill of lading
9. The consignee picks up the goods by using the bill of lading.

So, we can summarize the difference between House B/L and Sea B/L.

Difference	House B/L	Sea B/L
Consignor	Consignor of letter of credit	NVOCC
Consignee	Consignee of letter of credit	Agent of NVOCC
Notify party	Notify party of letter of credit	Agent of NVOCC
Freight book	The Freight book of NVOCC	Freight book of actual carrier
Way to deliver Cargo	By Consignor and Consignee	By NVOCC and actual carrier
Quantity issued	According to the Consignor	Triplicate
Signer	NVOCC or other agents	Actual carrier or Captain or

		agent
Purpose	Settlement of exchange	Pick up the cargo

Table 1 Difference between House B/L and Sea B/L

3.5 Evaluation of current NVOCC system in China

3.5.1 The meaning of the establishment of management system

At first, it means the beginning of the classification for freight forwarding companies. For a long time, the freight forwarder in China has two identity of the party in the contract and the agency. They can not only be a carrier in the contract to earn the difference, but also be an agent for the shipper to earn the commission. This kind of situation cause the confusion in the law. Although the Regulation and the Rule provided the concept of independent transport business operate and asked the bill of lading to be reported, in practical, it does not have the operability so that freight forwarding companies issue the bill of lading arbitrarily. In addition, the situation that the company use the bill of lading to cheat for cargoes and loans often occurs. This is an important reason for the chaos of the freight forwarding market.

The establishment of management system of NVOCC makes the management to freight forwarding companies from the government become two kinds. The first one is the agent for the shipper, which is the freight forwarding companies in the legal meaning. They operate the business of booking, applying to the custom and so on for the cargo owner and earn the commission from the carrier or fee from the cargo owner. The other one is the business of NVOCC. They work as the independent transport business operator to bear the responsibility and the risk of the party. This kind of situation makes NVOCC earn the difference to survive. The regulation needs that the NVOCC should report the bill of lading to the Ministry of Transportation. For the NVOCC who violates the regulation, the rule makes some punishments which have relatively strong operability. By taking such measurement, it clears the responsibility and duty, protects the interests of all parties and promotes the development of freight

forwarding market.

Secondly, it is good to regulating the market. The establishment of management system of NVOCC classify the freight forwarding companies into two kinds: the traditional freight forwarding companies and NVOCC. This is good to solve the problem that freight forwarding companies in China use double identities to operate illegally. This can also promote the development of relevant market. At past, the freight forwarding market is very chaotic. On one hand, freight forwarding is authorized by the shipping company, issuing the bill of lading of the shipping company. On the other hand, it is also the agent of cargo owner, booking to the shipping company. The kind of action is called bipolar agency in the law and it is not allowed, but the market has not been managed well. The establishment of management system of NVOCC regulates the NVOCC and let the shipping company to supervise the NVOCC in some degree, making the market more regulated and the order of the market turning good.

Thirdly, it meets the needs of the NVOCC market and provides strong legal protection for the market. The establishment and improvement of the legal system for the management of NVOCC has eliminated a large number of small-scale companies with unreasonable structure in the former market. At the same time, some regulated companies can continue to operate legally, which has improved the construction of the NVOCC market. The situation has made a good market order. The NVOCC management legal system has realized the Chinese government's macro-control on the NVOCC business under the market economy system, which meets the needs of the freight forwarding market. The experience we have has proved that the NVOCC management legal system provides a beneficial legal protection for regulating the order of the maritime market, preventing and reducing maritime fraud, and protecting the legitimate rights and interests of all parties, especially in protecting the interests of cargo owners in China.

3.5.2 Advantages of the management system

At first, statutory government functions. NVOCC management legal system decides responsibility of Ministry of Transport in the State Council to supervise the NVOCC market. This is useful to promote the transformation of the government functions of the transportation department and is an important legal basis for government departments to manage according to the law. Standardizing the market access procedures and removing or reducing the limitations on market access will help establish a clean, efficient, coordinated, and standardized NVOCC management system.

Secondly, the standardization of market competition. NVOCC management legal system in China requires NVOCC to operate the business with the principle of good faith, operate in accordance with the law, and compete fairly. Legal regulation of the NVOCC market operation order and other operations is good to the establishment of a unified, fair competition, standardized market order throughout the country. At the same time, further standardizing the investigation and handling procedures for illegal acts in the NVOCC market, making the punishment methods clear, and protecting the legitimate rights and interests of the parties.

Thirdly, the WTO promises to be legalized. NVOCC management legal system in China also includes the admission policy for foreign investment in NVOCC business, which is very important for regulating the market access and investment operations of foreign shipping companies and protecting the national shipping industry in accordance with the law.

3.5.3 Disadvantages of the management system

On one hand, the management of market price behavior and competitive behavior not only involves the transportation department, but also involves the business administration department and the price supervision department and so on. To realize the comprehensive management of the NVOCC market, it must be strongly supported

by other government departments, or it will be difficult to deal with violations. The company which violate the regulation shall be punished according to the law. Therefore, the comprehensive law enforcement and comprehensive management of the NVOCC market are relatively difficult.

On the other hand, from a short-term point of view, the current government functions in China are overlapping. At this time, the establishment of the management of a NVOCC system means that freight forwarding management system in China has begun to be divided, and the integrity of freight forwarding companies will also be divided, which has a profound impact on freight forwarding companies. At present, the competent department of freight forwarding industry in China is the Ministry of Commerce. However, according to the Regulations , the management department of NVOCC is the Ministry of Communications. In this kind of situation, the two different kinds of the freight forwarding business is divided into two different government departments for management. To a certain degree, this causes conflicts of laws and regulations, making the government lack of overall planning for the development of the entire freight forwarding industry.

4 Reference from the NVOCC system in the United States and other developed shipping countries

Once the business identity of NVOCC is been legalized, its identity of carrier will be recognized, then NVOCC can operate the following business: accepting cargoes, signing a contract of the carriage of goods by sea with the shipper, issuing the bill of lading, charging the freight and so on. However, NVOCC is different from the actual carrier because his investment is little, his business is flexible and has a strong concealment. In this way, his ability to perform and repay is not strong. So, government departments should improve related management to protect the actual shipper's interest and lower the industry risk of NVOCC business. We can get some

useful experience from other countries.

4.1 The U.S. system

After the second industrial revolution, the United States developed rapidly and had a domination status in the sea. The non-vessel shipping business appeared with the development of new maritime cargo transportation business. The U.S. regulation of NVOCC has a long historical background, which is rooted in the concept of American transportation legal system.

The U.S. management system for NVOCC came from the <Shipping Act of 1916>. The first appearance of ocean shipping agency is in the <Ocean Shipping Reform Act of 1998>. It includes ocean freight forwarders and NVOCC. Clarifying ocean shipping agency is a pioneering action in the shipping legislation of the United States. The U.S. regulations governing NVOCC are the <Code of Federal Regulations>, <Ocean Shipping Reform Act of 1998>, and so on.

The United States needs to meet two basic conditions in the aspect of management system. One is the substantive conditions of financial responsibility requirements. Financial responsibility requirements is a necessary condition for the people in the United States to apply for NVOCC business, and its form of guarantee is also the important point of legislation. The <Code of Federal Regulations> has made specific regulations on financial responsibility requirements. There are three main forms of financial responsibility requirements: guarantee, insurance or guarantee insurance certificate. The second is the procedural conditions of obtaining permission from the Federal Maritime Commission. In addition, if someone needs to apply to become a NVOCC, they also need working experience, a certain working years as well as sufficient proof of financial affordability, which raised the difficulty for entry. In this situation, keeping some unqualified companies out of the industry of NVOCC. In addition to raising the barriers to entry, the United States has also given the Federal Maritime Commission the right of administrative punishment, which has a positive

effect on regulating the NVOCC management system by regulating the market.

The development of the United States shipping industry is related to its mature shipping management system. In a mature shipping industry market, the management of NVOCC is based on its advanced and mature shipping management, which is an important condition for the effectiveness of the management system of the NVOCC in the US. At the same time, the value orientation in the US of 'protection and monopoly' in shipping legislation has led to corresponding guidance in the shipping legislation and policies formulated by the United States. In addition, NVOCC business in the US got more attention because the US has the tradition of establishing a nation by developing the shipping industry.

With the changes in the diversification of the shipping market, the United States, in order to adapt to the changes in the NVOCC market, has formed advanced management system through continuous work and study to the NVOCC market to adapt to the changing NVOCC market. The NVOCC legislation in the US is constantly innovating and developing with the time passed, reflecting the dynamic development of the NVOCC business management system in the US.

The NVOCC management system model in the US is more diversified than that in China. In addition, the US system has more different ways to manage the market than that in China. The margin liability insurance can pay penalties and fines which is caused by the NVOCC business. These insurance companies which are responsible for underwriting margin liability insurance also have strict regulations and need to prove to the government that it does have sufficient and usable property in the United States to pay for all the damages that may be caused by the NVOCC in its transportation business.

Besides, ocean common carriers and NVOCC are not independent of each other during the entire transportation process, but are interrelated, restricted and coordinated with each other. This determines that their management, laws, and regulations are not independent, but become a system. The management regulations for NVOCC are only a part of the system. In the United States, the Federal Maritime Commission manages NVOCC through the following steps.

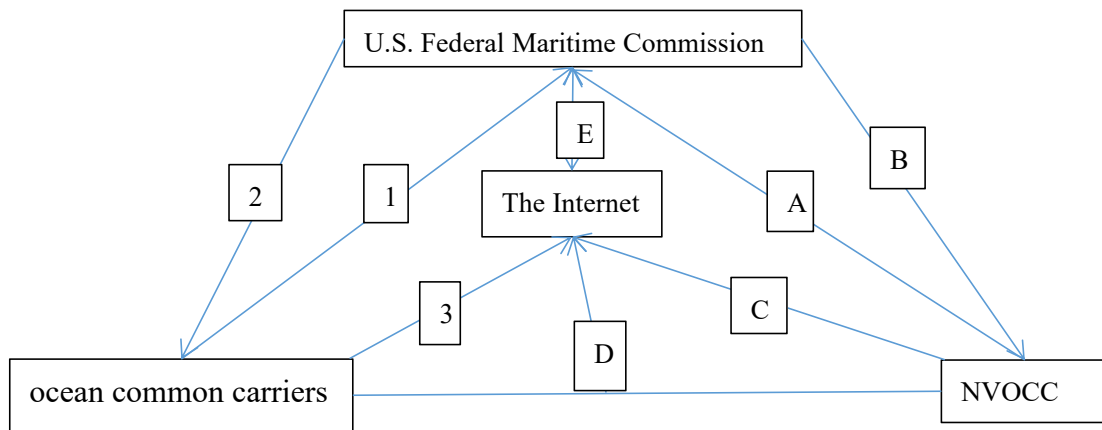


Figure 3 The NVOCC management system model in the US

(A) After obtaining the guarantee of financial responsibility, the NVOCC can apply to FMC for the NVOCC license.

(B) FMC will issue a NVOCC license after investigation and review, and publish it on the FMC internet.

(C) After obtaining the license, the NVOCC announces its own tariff and tariff rules, which is the basis for conducting business.

(D) The NVOCC and the ocean common carriers sign a service contract and report to the FMC secretly. Ocean common carriers have the obligation to examine the legality of the identity of the NVOCC.

(E) FMC can at any time inquire about the tariffs and tariff rules of ocean common carriers or non-vessel carriers.

Similarly, ocean common carriers should also obey to this management system.

(1) An ocean common carriers applies to the FMC for the qualification of an ocean common carriers by opening at least one route connected to the United States with its own ships.

(2) FMC investigates, reviews, and confirms the identity of its ocean common carriers.

(3) Ocean common carriers publish freight rates and these rules through the Internet.

4 and 5 are as same as NVOCC.

4.2 Japanese system

In 1960s, the economy of Japan developed very rapidly, especially the shipping industry. The management and legislation of NVOCC in Japan can be traced back to 1898. In this year, Japan published the Japan Freight Forwarding Industry Law. In this law, the concept which is corresponding with the NVOCC is 'bus/truck'

Japan's regulations on the entry of NVOCC must be registered with the Ministry of Land, Infrastructure, Transport and Tourism as a legal entity. The materials submitted by the applicant must also cover relevant content. In addition, 7 strict restrictive rules are also needed to be obeyed by the applicant.

Considering the terms of the NVOCC contract, Japan has also published restrictive regulations. According to the relevant articles of the <Cargo Utilization and Transportation Business Act>, the Minister of Land, Infrastructure, Transport and Tourism can use the transportation of treaty for publicity to the industry, and the cargo carrier can also use the publicized version of the treaty. Besides, cargo carrier can also use a version that they make but they need to submit to the Minister of Land, Infrastructure, Transport and Tourism for approval before they can use it after obtaining permission. There are also strict regulations in the shipping terms. If carrier want to change the shipping terms, they must also explain the reason for the change and the content of the changes before and after. After being approved, it is approved by the management department and can be used. The content and the format of the bill of lading is as the same as the shipping treaty, and it sets a model for calligraphy, which records important terms and liability clauses in its business. By doing this, they can fix it in the form of a template to regulate and make the responsibilities and obligations of all parties clear and avoid the possible disputes.

In the aspect of management system, because shipping industry in Japan is developed, it is important to protect the every right of people who engaged in this industry and help the transactions completed successfully. So Japan has designed a perfect management system for the shipping market. In summary, it is notification and transparency. The transportation and agency fees regulations and future changes

should be told to the Ministry of Transport. The Ministry of Transport has the right to check and review the charges. For charges which do not at a reasonable range or be considered as discriminatory, the Ministry of Transport has the right to require the party to correct itself or ask it to stop the business. The freight rebates are also prohibited in Japan. In the aspect of foreign investors, Japan has implemented protectionism to protect its own maritime transportation industry and its own maritime personnel. Japan regulates that wholly foreign-owned legal persons or joint venture legal persons with more than one third of foreign capital cannot operate the transportation business. The significance of this kind of management system is that it is not a total liberalization to foreign investment, nor a total rejection, but a restriction to protect the interests of the domestic shipping industry, while also providing an environment for creating a moderate market competition environment.

4.3 European system

In actual, the EU does not have relevant regulations on market access for NVOCC. If applicants want to obtain a license for NVOCC business, they do not need to apply to the government. Instead, they must first join the relevant association. Then, applicants need to handed over relevant materials to the self-regulatory organizations of various private industry associations for review and inspection. After they meet the maritime experience, pay sufficient insurance and can bear the corresponding compensation liabilities, they can carry out related business activities and reduce government costs on management.

In the aspect of guarantees of financial liability in the EU, there are several mutual insurance associations that specialize in providing liability insurance and risk management services for freight forwarders, NVOCC, logistics companies, port and terminal operators, and container shipping companies. Insurance premiums are managed together by the association, and compensation is drawn from all insurance premiums. The liability for damage is shared by the members of the association to

reduce the financial burden of members.

In a word, in the EU, associations of shipping industry manage the market to a large extent. Without the approval of associations of the industry, it is nearly impossible for NVOCC operators to do related business. The important role of associations of shipping industry is inseparable from the overall level of economic development, the cultural background of the EU and credit system construction.

4.4 Evaluation of NVOCC system in other countries

At first, if people want to operate the business of NVOCC, they should have the license given by the Federal Maritime Commission. There are two necessary conditions for people to get the license. One is that people need the experience of being an agency of ocean transportation for more than 3 years. The other is that they need to report documents like effective bonds and insurance certificate to the Federal Maritime Commission. In the above conditions, there are no regulations for the operator's nationality and the kind of capital. So it can be seen that the US take the loose regulation to the admission to the market. Foreign capital enjoys national treatment in the US when it establishes the NVOCC company. But if foreign company does not has business and establish NVOCC company, the US government regards the company has high risk. In this situation, the government will ask the company to provide more financial responsibility requirements. Although there is no limitation on the admission to market, the requirement of financial responsibility is still be considered as a 'threshold' set by the US to NVOCC. Since most of NVOCC is developed from the freight forwarder, they do not have much money and it is not easy for them to give a sum of money as the financial responsibility requirement. This action will increase the cost of running the company. In addition, many foreign companies are not familiar with the procedure of reporting their financial responsibility requirements, so they must find local agency for help. This situation also increases the cost and the time. So in the practical operation, it is not easy for

people to get the license of NVOCC.

The reason why Federal Maritime Commission regulates these obligations and limitations is that the government wants to protect the interests of cargo owners, increase the transparency of NVOCC market and decrease the risk of transportation which NVOCC takes part in. NVOCC has appeal that the government loose the management, but for now, there is still no change happened.

Secondly, the Japanese government adopts an approval system for NVOCC market access. There are no substantive conditions in the content of the check of the approval. In the process, a contradictory approach is adopted for the market access of foreign capital. Specifically, unless foreign capital is approved by the Ministry of Transport, it is not allowed or restricted from entering the NVOCC market in Japan. In order to protect and develop domestic NVOCC business, the Japanese government has to face the pressure of opening the service market and the requirements of foreign national treatment. It may also be a compromise to make such inconsistent and specious choices. Although Japan adopts an approval system for NVOCC market access, it does not have clear basic requirements for the qualifications of NVOCC. It only regulates in principle that the NVOCC should have the ability to engage in the business. The written plan which is given to the government may be more important than the actual strength and capability of the NVOCC. Therefore, Japan's "threshold" for market access for NVOCC is not transparent enough, and the approval standards are relatively vague. The Ministry of Transport has the authority to approve and great discretionary power. For operators who intend to operate NVOCC business, there is no good Predictability of whether the government will approve their business operations. However, it is considered comprehensively from the history and current situation of the development of Japan's foreign trade and transportation industry. Such market access methods and measures are in line with the development of the Japanese NVOCC market.

In the management of NVOCC, the Japanese government has set some administrative obligations similar to those of the US Federal Maritime Commission. For example, the announcement of freight rates, the registration of bills of lading, the prohibition of

kickbacks, and the prohibition of discrimination and so on, but the Japanese government has not made regulations regarding the guarantee of financial liability, the inability to enjoy anti-monopoly exemption and the inability to sign an agreement with the owner of the freight rate. It can be seen that the Japanese government's restrictions on NVOCC should be looser. This is also a choice based on the development of Japanese NVOCC.

Thirdly, in Europe, the government does not impose a "threshold" for entering the NVOCC market, but instead it uses private industry self-regulatory organizations to ensure the qualifications and capabilities of operators entering the NVOCC market, reducing the government's management costs. While it can also be able to maintain market risk at a low level. This should be a more economical and reasonable market access management model, but it is also based on the mature and standardized operation of the European NVOCC market.

4.5 Experience of the NVOCC system in other countries

From the comparison of the NVOCC regulatory system and regulatory laws and regulations between China and other developed countries and regions, it can be seen that in international competition, the United States has set up preconditions as much as possible to protect its own NVOCC and their development of the shipping industry. The industry supervision model represented by the European Union advocates non-intervention by the government, and market competition is mainly led by industry associations. Under the premise of protecting the common interests of the EU, industry associations play an important role. Whether the regulatory system of the NVOCC business is mature and reasonable determines whether the management system model of the NVOCC will be successful. In addition, whether the operating environment of the management system and related supporting systems are mature. This question is also plays a key role in the NVOCC management system in many countries and regions.

At first, the main way to manage the NVOCC market of developed countries like the US is Freight management. The purpose of it is to avoid market monopoly or controlling the freight by the NVOCC. In this way, they can ensure that the freight is fair and reasonable to different kinds of clients. The freight report system in the US is a successful example, China could learn from it. Nowadays, the reason why the government build such a management system is not only to control the freight, but also to grasp the trend of NVOCC market. By doing this, it can manage the market better. What we can learn from this policy is that: (1) The reporting system in the US starts to adopt a electronic way which could reduce the cost of reporting and increase the efficiency of reporting. (2) Since the shipping industry and trading is different from it in the planned economy era with the development of economy in China, the idea of deregulation could be used by China and China could learn the regulations of the content of reporting. (3) The US give the Federal Maritime Commission the right to manage the freight and service contract. The Federal Maritime Commission has great power and is very efficient. In addition, this also avoids the chaos when making the law.

Secondly, there are various forms of non-governmental organizations in the United States, Europe and other countries, which have brought convenience to the shipping management of government. Shippers in the United States have the Shippers Association, which focus on organizing and studying the impact of various current laws on shippers. When studying the effects of the Ocean Shipping Reform Act of 1998, the association explained on the different impacts of the Congress and Senate versions of the Ocean Shipping Reform Act on shippers, and proposed that Freight forwarders and NVOCC have already severely hindered by the reform law, the only way to protect small and medium shippers in the future is to rely on the association of shippers. In this way, they exchange information, study countermeasures, and sometimes act together. The U.S. NVOCC has its own magazine, which is a forum for all the views of the NVOCC. At a business seminar organized by the NVOCC, Andrew M. Danas pointed out that there is no tent to protect the interests of small and medium shippers. The increase in volume enables small shippers to maintain their

competitiveness. This is the driving force for the growth and rapid development of NVOCC. This echo is undoubtedly an atmosphere that is very good to law enforcement and interest adjustment. China should also create such an environment. Under the conditions of a market economy, industry associations in China are striving to inherit the industry management work that originally belonged to the scope of the government of functions in accordance with the principle of market. The government's functions are changing, and the role of industry associations has emerged. These are significant changes after China join in WTO.

Thirdly, the Ocean Shipping Reform Act of 1998 of the United States requires access requirements of NVOCC is not limited to bonds, but can also be other forms of guarantees and commercial insurance approved by the Ministry of Finance. It should be said that the bond system also has its shortcomings. It cannot guarantee that the shipper's losses can be fully compensated, nor can it prevent fraud involving NVOCC. Moreover, in a sense, it also limits the development of NVOCC business. Therefore, the US approach is worth learning for China. The access requirements for NVOCC should not be limited to deposits, but can also be other forms of guarantees and commercial insurance.

5 The improvement of NVOCC system in China

After comprehensively considering the development status of NVOCC in China, shipping market in China and the history and experience of NVOCC management system in other countries, the author believes that we can not just copy the model of management system in United States. It cannot be simply used for grafting and transplantation. Instead, it is necessary to formulate a regulatory mechanism that conforms to the environment of shipping market in China and make full use of local market in China and legal environment to construct a regulatory system for NVOCC business suitable for national conditions in China. In addition, it should also be

combined with the trend of commercial system reform, while loosening market access, strengthen management system during and after the event.

On October 10, 2018, the State Council's "Notice on Rolling Out the Reform of "Separation of Licenses and Licenses" across the Country" made it clear that on the basis of the pilot program in Pudong New Area, Shanghai, the reform of "Separation of Licenses and Licenses" should be rolled out nationwide to further crack down on the "access but not allowed to operate", "directly cancel approval, change approval to record, implement notification commitments, and optimize access services" to stimulate the vitality of market entities and promote a profound transformation of government functions. Among them, the 92nd item will further improve the efficiency of registration and approval for international maritime transportation business and maritime ancillary business operation approval, and strengthen supervision during and after the event. Promoting online business processing, reducing the statutory approval time limit by 1/3, streamlining the approval materials to obtain business licenses online, publicizing the approval procedures, acceptance conditions and handling standards, and publicizing the progress; promoting departmental information sharing and application. What is clear is that the approval process, time limit, and access methods of NVOCC have been optimized.

5.1 Principles of improving NVOCC system in China

5.1.1 The principle of equity in economy

In a market economy system with contractual relations as the basic link of economic ties, economic fairness is mainly manifested as fairness in transactions. Therefore, economic fairness has become the basic goal and basic condition for market entities to operate market transactions. The so-called economic fairness means that any subject of a legal relationship can achieve a balance of interests based on the law of value under the same legal conditions in activities that target certain material interests. In addition, economic fairness is a kind of result fairness which is also called substantive

fair, pursued under the premise of acknowledging the differences in resources and personal endowments of economic subjects. The main factors affecting economic fairness are administrative intervention, power economy, inappropriate differential policies, unfair taxation, unfair distribution, imperfect price system, unfair competition and monopoly.

The improvement of our country's NVOCC management legal system must also follow the principle of economic fairness, including market access, penalty regulations, etc., but it is mainly reflected in the regulation of the NVOCC market operation order, that is, fair competition. Maintaining fair competition in the NVOCC market, correcting the malpractices caused by the "invisible hand" of the market through the country's "visible hand", and at the same time striving to make the "invisible hand" play to the fullest extent and to the highest degree. It can provide a full range of guarantees for the NVOCC market so that free prices can generate the best market signals and optimize the allocation of resources.

5.1.2 The principle of economic benefits

Economic benefit refers to the comparison between the living labor and materialized labor occupied and consumed in economic activities and the useful results obtained. Improving economic efficiency is a systematic project, which requires the cooperation of many elements, including: First of all, there must be a system that can promote and guarantee the improvement of economic efficiency. The core of the system is to correctly handle the relationship between government's effective intervention power and the autonomy of market entities. Secondly, there must be an enterprise operating mechanism that is sufficient to ensure that market entities realize their interest and value. The core of the enterprise operating mechanism is to not only grant them extensive legal rights, but at the same time clear obstacles for them to realize their own rights. Thirdly, it is necessary to base the enterprise's pursuit of economic benefits on legitimate means, the core of which is not to abuse power.

Specifically speaking, to improve the legal system of NVOCC management in China, government should first establish a macro-control legal system to guide and promote enterprises to improve economic efficiency. Otherwise, macroeconomic loss will not only affect the economic efficiency of enterprises, but more importantly, it will effect the economic benefits of the entire NVOCC market. Secondly, it should establish and improve the legal system for market operation, strengthen the legal regulation of NVOCC market operations, create a legal environment for equal competition, and create a unified, open, competitive and orderly activity stage for NVOCC operators. In short, whether it is the legal regulation of NVOCC market access, the legal regulation of market order, or the legal regulation of macro-control, the promotion and protection of economic efficiency must be put in the first place.

5.1.3 The principle of uniformity of law

"Constitution" of China stipulates that the state maintains the unity and dignity of the socialist legal system. The uniformity of law system is the guarantee of the unity of the country's politics, economy and culture. The establishment and development of the socialist market economy requires a unified and healthy market system throughout the country, equal status of production and operation entities in each market, and unified and fair market transaction rules and competition rules. These must be based on the unification of the legal system. Therefore, the improvement of the legal system for NVOCC management must also implement the principle of uniformity of law. The important issues that need to be paid attention to the following conditions. First of all, attention should be paid to the connection with existing laws, especially the "Anti-Unfair Competition Law", "Price Law", "Administrative Punishment Law", "Administrative Licensing Law" and so on. Secondly, attention should be paid to linking with the drafting laws, because the legal regulation of the operation order of the NVOCC market itself is a specific and special application of the "Anti-Monopoly Law" in the shipping field. Therefore, it cannot conflict with the basic spirit of the

“Anti-Monopoly Law”. The Shipping Law will become the leading law in the management of the shipping market. The improvement of the management of NVOCC in China will inevitably require coordination with the Shipping Law.

5.1.4 The principle of transparency

The transparency principle in WTO rules is the embodiment of the legal principles of WTO rules. The WTO agreement requires that legislative procedures must be publicized in order to implement and reflect the principle of transparency. The basic requirements are as followed. First of all, the obligation of notification, which means China must report to the WTO about the legal and regulatory status related to trade policies, and need to provide the text of relevant regulations and documents at any time WTO needs. The second requirement is the obligation to solicit and hear opinions. Before implementing relevant laws and regulations, each member should provide a reasonable period of time for relevant authoritative agencies to listen to opinions. The third requirement is that each member government is obliged to set up consultation points related to international trade, provide relevant legal documents, and conduct consultations.

The principle of transparency is one of the general obligations of GATS. This principle needs requirements of shipping policies and legal systems of various countries in public. According to the transparency principle of WTO, legislation and law enforcement activities in the NVOCC market must maintain a high degree of openness and transparency. First of all, laws and regulations related to NVOCC business management system should be made in public and announced through different channels according to the principle of transparency. A lot of essential regulations in the shipping market of China have been announced by non-public internal documents, administrative instructions, internal notices and so on for a long time. These internal regulations are only in the hands of government departments. In addition, government managers are also accustomed to using this forms of

management system. The improvement of the legal system for the management of NVOCC must pay attention to the principle of transparency and increase the publicity at all relevant levels. Without a systematic, complete and transparent management system for the NVOCC market, even if the relevant legal system is perfect, it will be meaningless. Secondly, the enforcement of the law in the system of the NVOCC market must be fair, legal, and efficient enough. The basic principles of current administrative law enforcement are legal administration, open administration, fair administration, efficient administration and so on. These principles are the same as the WTO rules, but when I consider current administrative law enforcement status in China, there is still a big gap between the WTO rules and the current status. Therefore, we should consider from the view of the prevention to open, standardize, and legalize administrative powers and behaviors, and clarify the division of labor and the scope of responsibilities of each authority. We need to correct the problems of multiple law enforcement, multiple law enforcement and cross law enforcement, and the duplication of powers of law enforcement agencies. In a word, the government should reform the administrative law enforcement model that emphasizes review and not pay attention to the management system.

In addition, the NVOCC business management authority should also focus on the principles of fairness and openness in the rulings of administrative cases, and make public announcements to increase transparency and further improve the system of appeal and reconsideration, so that the appeal and reconsideration system can truly be based on an objective and fair position. In this situation, we can ensure a good administrative actions. This is the key to further improving NVOCC market management system and increasing its transparency in China.

5.1.5 The principle of safety

Although safety in the value orientation of the law is not as important as equality of it in the legal theory, safety is still very essential to individuals and different groups in

the society. Safety is not only an internal requirement for individuals and different groups, but also a premise for value orientations, such as freedom, equality and fair to long exist. So Thomas thinks that the safety of people is the highest law. It is necessary to analyze the meaning of safety from the following point. On one hand, safety, as the value orientation of the law, is developmental and historical. Specific individual and groups have different needs of safety, so corresponding regulations and laws perform different historical features. On the other hand, safety, as the value orientation of the law, has the feature of systematic, which means regulations not only need to suit individuals and groups' need, but also focus on the need of society which consists of individuals and groups.

The value orientation of safety contained by the improvement of management system of NVOCC behaves as the transaction of safety so that the party taken part in the transaction can get the protection of the law. So, regulations need to control the business of market access, order of business, punishment to illegal activity, relevant authority and macro-control of the NVOCC market to keep the safety when other parties work with NVOCC.

5.2 Specific suggestions for improving NVOCC system in China

5.2.1 Establish the system of liability insurance on NVOCC market

Before 2019, Regulations of the Peoples Republic of China on International Ocean Shipping regulated the operation of non-vessel shipping business must go through the bill of lading registration and pay the bond to the transportation department of the State Council in China. This was an important way to standardize the operation of the shipping market and improve the management system of NVOCC business in China. The payment of a bond by a NVOCC was not only a condition for market access, but it also established a damage compensation system and an administrative liability system, which was conducive to preventing and reducing maritime fraud and protecting the relevant rights and interests of the parties.

When we find the advantages of NVOCC providing liability insurance, we should also understand that requiring NVOCC to provide liability insurance raises the threshold of market access, increases the transparency of business operations, and reduces the risk of NVOCC for participating transportation systems. However, this does not mean that the shipper's losses can be fully compensated through this system, nor can it prevent fraud involving NVOCC totally. Moreover, in a sense, it also limits the development of NVOCC business.

I believe that the solution of this problem should focus on the insurance industry, which is currently undergoing a strong momentum of development. The so-called liability insurance, also known as third-party liability insurance, refers to insurance that the insurer will make up for once the insured has to pay compensation to the claimant (third party) due to accidents or other factors. Liability insurance is a commercial insurance.

In the world, a relatively famous liability insurance made by insurance company is the Through Transport Mutual Insurance Association (TTClub) which was established in London in 1968. It is also a top insurance company in terms of its scale and degree of development. With reference to the insurance policy regulations of the association, combined with some famous international insurance companies' regulations on NVOCC liability insurance, I summarize as follows: 1. Responsibilities to customers. What NVOCC mostly cares about is definitely the relevant liability to customers. Most claimants which NVOCC meets is always the loss and damage of goods, and sometimes include incidental losses such as cost of inspection and loss of profits suffered by customers. 2. Responsibility to customs. When NVOCC declares goods on behalf of its customers and breaks regulations made by customs, the insurance company may be liable for the result (for example, fines, tariffs or sales taxes). Some of these losses can be compensated from the customer of NVOCC. But other situation can not be compensated. 3. Responsibilities to third parties. 4. Other expenses. The above four underwriting responsibilities are the most common situations in the insurance industry of the world. There is also a special clause in the aforementioned TT Club, which is called "Discretionary Insurance". It means that when the insured

operates its own business, the relevant liability risks will be said various and always changing in actual, and the liability of compensation will sometimes not be written in the content of the insurance or exclusion of the insurance contract. Considering this kind of situation, the association may think about that if to compensate for the liability of compensation, in this way can fully protect the interests of the insured.

At present, some NVOCC in China have already purchased liability insurance for itself from other insurance companies or mutual insurance associations. For example, Shanghai Port Terminal Freight Company (SCTFA) has bought liability insurance from the Through Transport Mutual Insurance Association (TTClub) in Hong Kong, but it is a big question that if this kind of insurance be recognized as a financial liability guarantee recognized by the competent authorities of the Chinese government? The author thinks that the answer is no, because this kind of liability insurance is not practical and the protection effect is not ideal. At present, China does not open the door of liability insurance to foreign capital. In this situation, it is impossible for foreign insurance companies or mutual insurance associations to establish their branches in China to operate the NVOCC insurance business. In a word, NVOCC is faced with the problem of not being very hard to use the liability insurance in China. What's more, the liability insurance bought in other places is not recognized by the Chinese government.

We should use the power of the insurance industry to accelerate the development of the NVOCC industry and the whole international shipping market, but nowadays we are facing two hard problems. On one hand, the relevant government departments should change to support the insurance business of NVOCC in China. On the other hand, the competent government departments are facing the question of if they should recognize the liability insurance which is provided by foreign insurance companies or mutual insurance associations to NVOCC. In a word, to really develop the NVOCC business, in addition to regulate the market order and the behavior of operators of this industry in laws and regulations, we should also obey the principle of economic benefits and think about how to reduce the costs of operators in order to improve their competitiveness. To sum up, to establish an insurance program specifically for

NVOCC and promote NVOCC liability insurance is an useful way to reduce the industry risks and promote the industry development. In fact, when the conditions are good enough, China can adopt the strategy of using the three methods as above: liability insurance and other financial guarantees, and the NVOCC can choose each of them by themselves as they like.

In view of the possibility of the mentioned possible problems above, the author suggests that the liability insurance which will be provided to NVOCC should be added into the Regulations of the Peoples Republic of China on International Ocean Shipping. Besides, NVOCC are also encouraged to actively take part in the insurance coverage of NVOCC, so as to avoid the risk caused by the creditworthiness of the NVOCC. In this way, relevant disputes will not be caused. At the same time, the China Insurance Regulatory Commission should also approve the liability insurance of NVOCC applied by the People's Insurance Company of China to promote this type of insurance to meet the needs of the development of market economy in China and kept up the international market as soon as possible. What's more, if we considering the fact that national laws and regulations have already regulate the market order and the behavior of operators, they should also think about that how to reduce the costs of operators and improving their competitiveness. The government department of the Chinese government should also selectively recognize the NVOCC services of foreign insurance companies or mutual insurance associations which provide the carrier liability insurance. The author suggests that companies that have already bought NVOCC liability insurance from recognized foreign insurance companies or mutual insurance associations do not need to purchase additional liability insurance from Chinese insurance companies. In addition, considering the condition that the NVOCC team is becoming bigger and bigger, it is also reasonable to establish a NVOCC Mutual Insurance Association in China in order to improve the situation that NVOCC business in China have no place to insure and cannot reduce risks in actual.

5.2.2 Establish the system of credit on NVOCC market

With the development of market economy, the credit economy also makes a great progress. At the same time, credit risks also emerge with the development of credit. Credit risks is the objectively existing risk in the credit activities which means the risk caused by one party breaking the contract and the other will suffer the damages in the credit activities. The credit risk is default risk in actual and it involved the problem of economic fairness and safety of transaction. The reason why it exists is the information gap between the two parties taken part in the contract. In other words, someone has the information which others do not have.

In a market economy, as an independent legal person organization, an company needs to efficiently solve the problem of information gap in the relevant business activities, such as exploring the market, providing services, and seeking cooperation with other companies. On these basis, the company needs to introduce itself to the transaction partner so that the other party can understand its financial strength and credibility status and so on. By doing such actions, it can win the trust of its corporation partners. A good credit rank can improve the company's intangible assets. It is the image of the company in the society and opportunities for survival and development. It is also a reflection of the company's comprehensive economic strength. If the company has a good rating, then it is convenient for the company to get a fair market competition environment, expand their business, and get more business opportunities.

The mentioned credit rating of the company means that there will be an institution specializing in credit rating by using a scientific indicator system and a combination of quantitative and qualitative analysis methods to assess the quality, external environment, financial status, development prospects, and possible development prospects of the evaluated objects. Through these methods, the institution can get a objective result. At last, it will use a certain symbol to indicate the credit rating of the evaluated company.

Relevant research and practice in China about credit rating of company is still not perfect enough. Relatively, the credit rating of shipping companies is at a more

backward stage, and the credit rating market for shipping companies has even not yet formed. NVOCC can often operate their business in relatively simple conditions while many of them are strong in their economic size and have good credit. The carrier of responsibility is relatively not strong, concealed, and not hard to operate bad business behavior. The low "threshold" for access into the shipping industry market has caused a large number of domestic and foreign NVOCC to enter this market. In a word, the establishment of a credit rating system is very important to select the good one from the NVOCC market and to improve the regulation and management of the NVOCC market as well.

In order to establish the system of credit on NVOCC market, at first, we should establish and improve the management system of credit rating of companies.

In a market economy, there are two necessary conditions for the appearance and development of an industry: On one hand, the function of the industry cannot be replaced by other industries; On the other hand, the market demand for this industry has a certain scale. To a certain degree, the needs of company to accept the credit rating mainly depend on whether the rating results will be used by the government department, rather than whether the evaluated companies are willing to accept the evaluation. At present, the situation of credit rating industry in China is only existed in the <Securities Law>. Other laws and regulations do not have a clear status of the credit rating. Even nowadays the public ask for credit rating, the credit industry plays a important role in the credit system. But the role of it has not been fully expressed, which is not good to the birth of a social atmosphere for the good development of credit rating. In a word, to establish the credit rating system of NVOCC market in China, we must first establish and improve the relevant system of the credit rating industry of the company, and establish the legal status of the credit rating industry.

Secondly, we should speed up to establish and improve a credit system. For example, the government department can publish the <Credit Law> and <Fair Trading Law>, while some laws and regulations which are not suitable for the market economy and the establishment of a credit system, especially the system that protect the interests of the department, should be abandoned or modified in a time. Besides, the <Anti-Unfair

Competition Law> should also be revised. The purpose of this regulation is to keep social and economic order, but it only limits direct, active, and deliberate violations. It does not solve the problem which is caused by indirect micro-economic entities' bad behaviors, such as debt evasion effectively.

NVOCC credit rating is a branched area of the shipping company credit rating. As the management department of NVOCC business in China, the Ministry of Communications in China should play a leading and important role to promote the development of the NVOCC credit rating system. The Ministry of Communications should also give full play to the part of the government in shipping management and promote the development of the credit rating of shipping companies actively. By doing these things, China can cultivate the NVOCC credit rating market and even the shipping company credit rating market and formulate relevant shipping regulations to enhance the credit rating of NVOCC business for shipping business operators. The status of the certificate of access in the shipping market, in conjunction with the industry and commerce administration, can even further promote the establish and development of the NVOCC credit rating data database and so on. To sum up, the establishment of an NVOCC credit rating system obey the needs of the principle of the equity in economy and safety of transaction. In addition, it is also good to the formation of a unified, open, and orderly competitive NVOCC market.

5.2.3 Exert self-discipline of NVOCC industry

On December 2, 2003, the NVOCC Professional Committee of China Shipping Agency Industry Association was held in Hangzhou, marking that NVOCC industry in China has a self-regulatory organization with self-discipline, self-protection, and self-development. With the development of market economy in China, government departments are increasingly emphasizing macro-control and having dominant statuses in the management of the industry. In terms of management methods, it is necessary to significantly reduce administrative approvals and work hard on monitoring market

order and correcting violations. However, it is not enough to rely only on the government to manage the market order. The establishment of the NVOCC Professional Committee has two important functions. On one hand, it is self-discipline. After the establishment of the association, it is necessary to improve its management and provide members with relevant laws and regulations information. In terms of industry self-discipline, the association can provide relevant services to members, such as shipping agency service prices. Maintain their own legal rights by keeping price self-discipline and avoiding excessive competition. Focusing on self-discipline, the association can carry out a variety of tasks such as price and information, publicize laws, regulations and policies, and help companies improve the quality of employees. The second is to be a good bridge between companies and the government. In other words, it can play a role as a link. Modern legislation has a basic point of view: it must reflect the requirements and wishes of companies and reflect the regular pattern of the market economy. The best platform for the requirements of companies to be reflected to the government is through industry associations. In the 1998 reform of the U.S. Shipping Law, the NVOCC Association of the United States played an important role in promoting Congressional legislation to reflect the requirements and wishes of NVOCC. NVOCC Professional Committee in China must act as a bridge between the government and companies, reflecting the wishes of companies, understanding the requirements and voices of companies, and safeguarding the legitimate rights and interests of members of the association and the order of shipping operations. In this regard, The Professional Committee of NVOCC has a lot to do.

5.2.4 The management system to foreign NVOCC

At present, foreign investment access conditions for NVOCC in China are becoming more and more wide, implementing the Most Favored Nation Treatment and negative list system. Under the current circumstances, foreign NVOCC apply to engage in NVOCC business in China do not need to provide bond with Chinese banks. This has

led to foreign NVOCC who do not have domestic assets as a guarantee for claims when they cause losses and are usually only required to provide Form of foreign legal financial liability insurance. Relevant competent authorities should improve the legal regulations, clarify the form of the financial guarantee, and facilitate recovery in the event of a problem.

Foreign investment in accordance with relevant regulations and laws, after obtaining the relevant certificates, it shall register with the market supervision and management department. If the above-mentioned method is not adopted for registration, NVOCC in China should be entrusted to issue the bill of lading, otherwise it shall obtain the corresponding NVOCC business qualification. For the use of the name of the bill of lading submitted to registration, they can use their own company name or head office name to apply.

6 Conclusion

The rapid development of market economy in China has created a good atmosphere for the development of the shipping industry so that the NVOCC as the main body of shipping has a good development space. Considering the management system of NVOCC, we can neither copy the management system model of NVOCC in the US Shipping Law, nor should we simply use them for grafting and transplantation. Instead, we should formulate them according to the shipping market in China. The management system should make full use of local market and legal environment in China to build a NVOCC business management system which is suitable for the national conditions of China. This article has provided specific suggestions to improving the management system of NVOCC in China.

Firstly, to establish a liability insurance system. The so-called liability insurance refers to insurance that the insurer will make up for once the insured is liable to the claimant due to accidents or other factors. It is recommended to increase the numbers of

NVOCC liability insurance and encourage NVOCC to actively participate in the insurance of this type of insurance. By doing these, they can avoid disputes caused by the creditworthiness of the NVOCC.

Secondly, establishing a credit evaluation mechanism for NVOCC in China. Research and practice in China on credit evaluation is still not perfect enough. In this situation, the credit evaluation of shipping companies is at a more backward stage. NVOCC can often operate business under relatively simple conditions, which has caused a large number of domestic and foreign NVOCC to occupy this market. Therefore, the establishment of a credit evaluation mechanism is extremely important for improving the regulation and management of NVOCC.

Thirdly, let the self-discipline industry organizations play an important role. The NVOCC Professional Committee must act as a bridge between the government and the enterprise, reflecting the wishes of the enterprise, understanding the requirements and voice of the enterprise, and safeguard the legitimate rights and interests of the members of the association and the order of shipping operations.

Fourthly, manage the foreign NVOCC companies in China. Managing foreign NVOCC shipping business, exploring the establishment of a negative list management model, and gradually forming a foreign investment management system that is in line with international standards on the premise of expanding the experience of the free trade zone.

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