ABSTRACT

NVOCC and freight forwarder are one of the most important intermediaries in shipping industry. Judicial branches and practices in China pay more attention to the regulation of this industry in the past 30 years. There are several regulations and rules on the management of international freight forwarding operation as well Non-vessel operation by some governmental authorities, and also the Supreme People's Court of China had promulgated one judicial interpretation on the issue of freight forwarder disputes cases in 2012. The approaches for providing security bond may be chosen by Non-vessel operating common carrier in past years. In 2013, China (Shanghai) Pilot Free Trade Zone was approved by the Council of State. Since May 15, 2014, Shanghai Municipal Transport Authority has been in charge of the approval of the application for qualifications of Non-Vessel Operating Service under some specific situations.

Although Freight forwarder and NVOCC legal system develop fast and timely in recent years in China, but there is still room for improvement. The Judicial Interpretation 2012 only stipulates the responsibility of freight forwarding and keeps silent on liability insurance of freight forwarder up to now. The operating procedures aim to relive operator of non-vessel operating service from the stress of security deposit and fail to deal with the liability insurance issues in details, too. To differentiate freight forwarder and NVOCC for guiding the practice, it is necessary to analyze the differences and relationships between freight forwarder and NVOCC as well as the legal status and supervision of them on the basis of the above Chinese Regulations and Rules.

KEYWORDS: Freight Forwarder, NVOCC, Chinese Law, International Intermediary, Shipping Industry
I. Introduction

The freight forwarder operates under different names in different countries. It is called “freight forwarder” in the USA, China, UK and Korea; “Spediteur” in Germany, “commissionaire de transport” in France, and similar variants in other countries…, but his functions are basically similar in most parts of the world.¹ In Korea, Freight forwarding business can be found in the maritime transportation and the air transportation as well, but freight forwarder focusing on maritime transportation is prevalent. There are three functions of freight forwarders in Korea: an agent of the carrier ² or the shipper, or the carrier itself ³ or a pure freight forwarder,⁴ as intermediary.⁵

Generally, freight forwarders perform their services not only domestically but also internationally. As Ramberg has explained, “…the traditional function of a freight forwarder was domestic” and the domestic activities of freight forwarders originated earlier than the international.⁶ However, in China, the term “freight forwarders” has normally been referred to international freight forwarders only, and special regulations on international freight forwarders have been promulgated in the past 20 years.⁷

² In Hyeon Kim, Transport Law in South Korea, Kluwer (2013), at 39.
³ Supreme Court of Korea, 2001Da72296 (Oct. 24, 2003).
⁴ Supreme Court of Korea, 2002Da39326 (Feb. 14, 2003).
⁵ Kim, supra note 2, at 39.
⁷ Guo Ping, NVOCCs or Freight Forwarders?, Paper Collection of the 6th International Maritime Law Conference (2005), (commenting on the New Development of Chinese Regulations of International Maritime Transportation).