## Provisions of the Supreme People's Court on Several Issues concerning the Application of Law during the Trial of Cases about Delivery of Goods without an Original Bill of Lading

The Provisions of the Supreme People's Court on Several Issues concerning the Application of Law during the Trial of Cases about Delivery of Goods without an Original Bill of Lading, which were adopted at the 1463rd meeting of the Judicial Committee of the Supreme People's Court on February 16, 2009, are hereby promulgated, and shall come into force on March 5, 2009.

(Judicial Interpretation No. 1 [2009])

To correctly hearing cases about delivery of goods without an original bill of lading, these Provisions are formulated according to the Maritime Law of the People's Republic of China, the Contract Law of the People's Republic of China, the General Civil Law of the People's Republic of China and other laws.

**Article 1** The term “original bill of lading” as mentioned in these Provisions shall refer to a straight bill of lading, an order bill of lading or a bearer bill of lading.

**Article 2** Where a carrier delivers goods without an original bill of lading in violation of law, damaging the rights of the holder of the original bill of lading under the bill of lading, the holder of the original bill of lading may require the carrier to bear the civil liability for the losses resulting therefrom.

**Article 3** Where a carrier causes any loss to the holder of an original bill of lading for delivery of goods without the original bill of lading, the holder of the original bill of lading may require the carrier to bear the liability for breach of contract or bear the tort liability.

Where the holder of an original bill of lading requires a carrier to bear the civil liability for delivery of goods without the original bill of lading, the provisions of the Maritime Law shall apply; or if the Maritime Law is silent, the provisions of other laws shall apply.

**Article 4** Where a carrier bears the civil liability for delivery of goods without an original bill of lading, the provisions of Article 56 of the Maritime Law on limitation of liability shall not apply.

**Article 5** Where anyone takes delivery of goods from a carrier on the basis of a forged bill of lading, the consignee holding the original bill of lading may require the carrier to bear the civil liability for delivery of goods without an original bill of lading.

**Article 6** The amount of compensation for the losses caused to the holder of an original bill of lading for a carrier's delivery of goods without the original bill of lading shall be calculated on the basis of the value of goods at the time of shipment plus freight and insurance premium.

**Article 7** Where a carrier, under the law of the place where the port of unloading indicated in the bill of lading is located, must deliver the goods carried to the port to the local customs or local port authority, it shall not bear the civil liability for delivery of goods without an original bill of lading.

**Article 8** Where the customs legally takes over and sells off the goods carried to the port for which no one makes any declaration to the customs within the statutory time limit or the court makes a ruling to auction the goods retained by a carrier according to law, and the carrier claims an exemption from the liability for delivery of goods, the people's court shall support it.

**Article 9** Where a carrier suspends transportation, returns goods, changes the place of destination, or delivers the goods to any other consignee at the request of the consignor under a straight bill of lading, and the consignee holding the straight bill of lading requires the carrier to bear the civil liability for delivery of goods without an original bill of lading, the people's court shall not support it.

**Article 10** Where a carrier issues several identical original bills of lading, and after delivery of goods to a holder which earliest submits the original bill of lading, other holders of the same original bill of lading require the carrier to bear the civil liability for delivery of goods without an original bill of lading, the people's court shall not support it.

**Article 11** The holder of an original bill of lading may require a carrier delivering goods without the original bill of lading and the person taking delivery of goods without the original bill of lading to bear the joint and several liabilities.

**Article 12** Where a consignor, which actually delivers goods to the carrier and holds an order bill of lading but whose consignor status is not indicated in the original bill of lading, requires the carrier to bear the civil liability for delivery of goods without an original bill of lading under a contract of carriage of goods by sea, the people's court shall support it.

**Article 13** Where, after a carrier delivers goods without an original bill of lading, the holder of the original bill of lading reaches an agreement on payment for goods with the person taking delivery of goods without an original bill of lading, the failure to realize the agreed payment shall not affect the right of the holder of the original bill of lading to require the carrier to bear the civil liability for delivery of goods without an original bill of lading in respect of the losses caused to it.

**Article 14** Where the holder of an original bill of lading brings an action on the ground that the carrier has delivered goods without the original bill of lading, the provisions of Article 257 of the Maritime Law shall apply, and the time limitation period shall be one year, calculated from the day when the carrier shall deliver the goods.

Where the holder of an original bill of lading brings a tort action on the ground that the carrier and the person taking delivery of goods without the original bill of lading have jointly delivered goods without the original bill of lading, the provisions of the preceding paragraph hereof shall apply to the time limitation period for this action.

**Article 15** Where the holder of an original bill of lading brings an action on the ground that the carrier has delivered goods without the original bill of lading, the provisions of Article 267 of the Maritime Law shall apply to the interruption of the time limitation period for such an action.

Where the holder of an original bill of lading brings a tort action on the ground that the carrier and the person taking delivery of goods without the original bill of lading have jointly delivered goods without the original bill of lading, the provisions of the preceding paragraph hereof shall apply to the interruption of the time limitation period for such an action.