

Review of Logistics Service Regulations for Freight Forwarding Businesses

What Should Be Addressed for a Better Logistics
Regulatory Framework?

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Abstract

Regulatory frameworks on logistics regulations are often opaque, especially in developing countries, because of the complex nature of logistics services. World Bank client countries have faced difficulty finding the issues that hinder them from improving logistics competence. Therefore, it is beneficial to understand how the logistics service industry is regulated and what should be addressed in building the regulatory framework to improve logistics competence. This note proposes questions to be addressed for beneficial

regulations by reviewing existing logistics service regulations in 14 countries, particularly regulations for the freight forwarding industry. These questions will help in assessing a regulatory framework and identifying regulatory weaknesses. This note suggests that the regulatory framework should take into consideration national recognition of freight forwarding business, an institutional arrangement with clear division of responsibility among stakeholders, and streamlined but flexible regulations adapted to the country context.

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Review of Logistics Service Regulations for Freight Forwarding Businesses: What Should Be Addressed for a Better Logistics Regulatory Framework?

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I. Introduction

Logistics services have been recognized as the backbone of many sectors. Logistics services encompasses several industries, which include all transportation services, distribution, packaging, and warehousing, among others (Kunaka, et al., 2013). Not only the transport sector, but also the agriculture and manufacturing sectors necessitate logistics to deliver products to the markets. Along the supply chain, several intermediaries, such as truckers, clearing agents, are engaged in services. However, the regulations on logistics services are not well defined in many developing countries; as a result, the regulatory frameworks for this industry are often opaque.

Previous World Bank studies have revealed that a weak regulatory framework has been the root of the challenges that client countries have faced in the transport and logistics service industry. For example, in Greece, multiple administrative agencies that do not interact with each other has created duplication of regulations and resulted in overregulation (WB, 2013). In the East Africa Community, due to insufficient regulatory oversight, low-skilled operators easily enter the industry with the lack of professionalism, quality, and efficiency of their services (Arnold, et al., 2011).

World Bank client countries have faced difficulty finding the issues that hinder them from improving logistics competence. Since there has been a knowledge gap on logistics regulations, it is difficult to identify policy options for more efficient and competitive logistics services. Therefore, we need to understand how the logistics service industry is regulated and what should be addressed in building a better regulatory framework to improve logistics competence.

This note proposes questions to be addressed for beneficial regulations by reviewing existing logistics service regulations, particularly for freight forwarders. These questions will help to assess a regulatory framework and identify regulatory weaknesses that need work. The identified core questions are on national recognition of freight forwarding business; an institutional arrangement with a “leader”; an implementation arrangement with an enforcement mechanism and with clear division of responsibility among stakeholders; and streamlined but flexible regulations adapted to country context.

Methodology of this research and countries reviewed

This note reviews current regulatory regimes for freight forwarding businesses with inclination to international operators in the following four steps; 1) describe factors that affect regulations in the logistics service industry; 2) identify related regulations that govern the freight forwarding services in the selected countries; and 3) classify the regulations into some categories. Finally, with findings from the review, 4) propose questions to be addressed linked to preliminary recommendations for policies. The reviewed regulations in this note include laws, civil code, decrees, and stipulations. The means used for this research are online search, existing relevant studies, and works by World Bank staff. Due to the limited access to information, this research may not be able to find a complete set of regulations for each country.

This note reviewed 14 countries: Brazil, China, Germany, Kenya, Japan, Nepal, Netherland, Pakistan, Philippines, Singapore, South Africa, Sudan, Thailand, and the United States. Although it is ideal to have a well-balanced combination of countries with different income levels and with geographic dispersion, the countries where regulatory information is available online and from related studies are reviewed due to the difficulty in accessing laws and regulations.

This note starts by reviewing the fundamental factors of complex logistics regulations. After defining the freight forwarders, the note classifies logistics regulations into categories and proposes questions to consider the factors that have contributed to differences in regulatory frameworks across countries. This note concludes with preliminary recommendations for both the clients and the World Bank staff to address in building a regulatory framework for freight forwarding business.

II. Complexity of regulations for logistics services

Logistics regulations are influenced by several endogenous factors, which make a regulatory framework complicated; namely, the multi-sectoral nature, fragmentation, national political priorities, and historical legacies and cultural norms. Because of the combination of these factors, there is no simple model for logistics regulations across countries.

Multi-sectoral nature of logistics services

Logistics regulations are spread over multiple sectors and often are not transparent to service providers. First, it is hardly seen that all licensing requirements for logistics service operators are published in one place. For instance, while a logistics service operator finds regulations on trucking business licenses under a ministry of transport, the same operator still has to confirm with customs to comply with regulations for a bonded warehouse license. Even for warehousing, the operator is subject to follow a fire regulation monitored by a fire department. Furthermore, licensing requirements for foreign operators are often more strict than those for domestic operators. The regulations for foreign operators are stipulated by foreign direct investment laws, which are often prepared by a ministry of commerce.

Operators also have to comply with other operational regulations of several ministries. For operations of logistics services, operators should comply with environmental requirements, which are generally controlled and monitored by a ministry or an agency of environment. Operational standards such as fleet, safety, and freight tariffs are monitored by a ministry of transport.

The extreme difficulty with multi-sectorality to find all regulatory information, nowadays especially online, causes a lack of transparency. There is no “one stop shop”, such as a ministry of logistics, to pull out all logistics service related regulations. Therefore, pieces of logistics regulations are handled and supervised by various separate entities. Making the situation more difficult, some regulatory information is restricted to members of logistics associations and is not available to the public.

Fragmentation

Regulatory fragmentation exists to a great extent in the logistics service industry. Each segment of logistics services is often restricted by a different license, such as for a customs clearing agent, trucking, warehousing, handling dangerous goods, and fire safety. This fragmentation gives logistics operators a high hurdle to provide integrated door-to-door services under their control; therefore, operators often outsource some services to several service providers. Moreover, setting up a logistics service business may need to have external partners. If foreign companies intend to provide door-to-door logistics services, foreign companies are often required to partner with local enterprises (joint venture), which impedes the establishment of business. Furthermore, institutional fragmentation among relevant ministries and agencies causes less transparency in terms of compliance to regulations. Kunaka et al. (2013a) explain how the trucking market is fragmented in India as a result of institutional fragmentation and the lack of coordination. Various sector engagements in logistics activities partially contribute to this fragmentation.

Market fragmentation adds more complexity due to having different levels of engagement by operators in freight forwarding activities. To provide seamless logistics services in the fragmented environment, logistics operators combine possible activities along the supply chain that they can arrange under the existing legal system. The USITC report (2005) shows that there are three tiers for logistics service activities, which are core logistics services offered by the majority of logistics service providers (Tier 1); transportation services that are integral to the movement of goods (Tier 2); and input or value-added services (Tier 3). Logistics service providers provide one or combined pieces of services from tiers 2 and 3, depending on the capacity of operators, and more importantly, on their legal status as service providers for each service.

National priorities at the policy level

Beyond the multi-sectoral issue, national prioritization influences domestic regulations and bilateral / international transport agreements, such as transit regimes. Developing countries in particular are often keen on regulating international transport services since the taxes from international movement of goods generate a large share of their national revenues. Therefore, policy makers have several options to use their political power upon deciding transport related agreements. Furthermore, high political turnovers in governments may affect policy priorities in some countries. After several turnovers, regulations may become less consistent and opaque.

Moreover, policy makers take account of economic interests when they open the economy or industries to foreigners. There are instances that policy makers attempt to protect certain sectors from foreign investors. Entry of foreign operators in the logistics service industry can be a chance for economic development of a country while local operators can be exposed to the risk to lose their business. As a result of economic favors towards local service operators, foreign operators often encounter higher hurdles in various requirements to enter the industry.

Historical legacy and cultural norms at the socio-cultural level

Legislative systems, which also affect logistics regulations, are often affected by colonial legacies and local culture. According to Seidler (2011), many studies have examined the importance of a colonial legacy that

had affected a distinct legal institution in former colonies today, which had been imported by different colonial powers. At the same time, even among former colonies governed by a same colonizer, current institutional quality greatly varies because of distinctive local culture and cultural norms. There is a connection between degrees of success in the institutional transfer and the current disparities in institutional quality in former colonies. For example, for Singapore, South Africa, and Pakistan, Britain was the colonial mother country in his paper, but using a resulting aggregated indicator² to measure the quality of the instructional framework, its scores varied, 1.57, 0.41, and -1.09, respectively. Therefore, countries with similar colonial influence rarely have the same regulatory framework in their statutory laws.

III. Classification of regulations for freight forwarders

This note focuses on the regulations relevant to freight forwarding business. Logistics services can be offered by specialized operators such as trucking companies or customs clearing agents. However, little research has been done on the freight forwarding business despite its importance as a facilitator for the seamless movement of goods. Taking the official description of freight forwarding and logistics services by FIATA into account, this note narrows down its definition to help understand the regulatory complexity.

Different regulators such as government authorities or industry associations have different levels of legal enforcement power on logistics operators. Regulations outline the requirements for operators to start their business (market entry / access) and to operate their business (operations). In addition, foreign operators often encounter additional formal requirements while domestic operators do not, but self-regulations can be equally applied to all operators. Annex 1 summarizes this clarification.

1) Definition of freight forwarder in this note

This note focuses on the regulations that affect freight forwarding business and its service providers. Freight forwarding provides comprehensive logistics services. According to the FIATA Model Rules for Freight Forwarding Services,³ freight forwarding services are defined as follows:

“services of any kind relating to the carriage, consolidation, storage, handling, packing or distribution of the Goods as well as ancillary and advisory services in connection therewith, including but not limited to customs and fiscal matters, declaring the Goods for official purposes, procuring insurance of the Goods and collecting or procuring payment or documents relating to the Goods.”

Recognizing the functions of freight forwarders described in the FIATA definition, it is commonly known that freight forwarders often provide clients with a combination of the services shown in Figure 1. However, in some countries, freight forwarders do not always provide customs clearing services. For example, African countries often have clearing and forwarding (C&F) agents. Some of them provide both customs

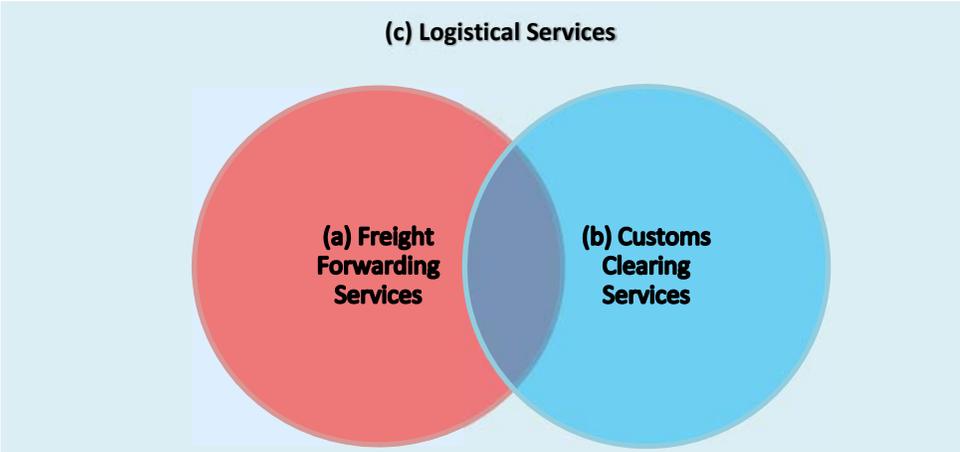
² Originally the World Bank dataset uses six aggregate, perception-based indicators to measure institutional quality. Each indicator ranges from -2.50 (least efficient institutional quality) to +2.50 (best quality) and is based on empirically collected data sources. The six indicators are interrelated.

³ http://fiata.com/uploads/media/Model_Rules_07.pdf

clearing and forwarding services (a+b), but others simply handle forwarding of cleared goods without engaging in clearing services or working with clearing agents (a). Even though agents only work on customs clearing (b), they are still called C&F agents. Likewise, not all freight forwarders offer *de facto* supply chain management, such as warehousing, labeling, and inventory check in a storage (c). Compared to customs clearing business, the freight forwarding business is more opaque, and little research has been done around its business. Therefore, this note adopts the definition of freight forwarders in a narrow sense; the note reviews regulations around freight forwarder activities mainly in international carriage of goods by sea, air, and road, but not look into regulations purely on customs clearance / clearing agents (b) or exclusively logistical services, such as warehousing (c).

Despite of the commonly used FIATA definition of freight forwarding, some countries do not use the word “freight forwarder” in their regulations. For instance, the United States employs Non-Vessel Operating Common Carriers (NVOCCs) or Ocean Transportation Intermediaries (OTIs) as the equivalent to freight forwarders in other countries. NVOCC and freight forwarder are often used interchangeably in many countries because of their overlapping activities. Moreover, the definition of Multimodal Transport Operators (MTOs) in the UN convention⁴ overlaps with the freight forwarders activities and duties. Since there are extensive differences in the regulations for the freight forwarding operators, this note looks at the regulations to the operators who are functionally defined as freight forwarders, including NVO/NVOCCs, MTOs and C&F agents.

Figure 1: Freight forwarding in FIATA definition (Whole Square) and focus of this note [in red (a)]



2) Statutory regulations and self-regulations / voluntary regulations

⁴ In “the United Nations Conference on a Convention on Multimodal Transport of Goods (1981, UN)” (not in force yet), multimodal transport operator is defined that any person who on his own behalf or through another person acting on his behalf concludes a multimodal transport contract and who acts as a principal, not as an agent or on behalf of the consignor or of the carriers participating in the multi modal transport operations, and who assumes responsibility for the performance of the contract.

Freight forwarder regulations consist of statutory regulations stipulated by governments, or regulations established by self-regulators or voluntary industry associations. It is common that both types of regulations coexist with different enforcement capacity.

Statutory regulations are official rules or orders established and enforced by governments. Laws possess power to enforce its compliance; therefore, governments play a role of regulators. When it comes to implementation of logistics service regulations, ministries such as transport or other related ministries and government agencies are responsible for its enforcement.

There are also statutory regulations for foreign logistics operators, which are often found in doing business regulations as a part of foreign direct investment (FDI) laws. FDI laws often limit the market entry of foreign logistics providers; therefore laws to foreign operators tend to be more rigorous due to several layers of restrictions related to FDI. This note does not exclude foreign logistics service operators and will take logistics service related regulations from FDI laws into consideration.

Apart from laws, the logistics service industry also takes regulations prepared by voluntary industry associations.⁵ The primary interests of voluntary industry associations are to serve the members for their wellness and to unite the members to promote the industry. This type of regulations can be interpreted as authoritative rules with details of procedures, which aim to control over something specific. Voluntary industry associations, as self-regulators, establish their rules and monitor its implementation. Unlike laws, self-regulations do not have legal power for sanctions and penalties to incompliant logistics operators (UNESCAP, 2011); therefore, they often lack enforcement power in implementing regulations.

In addition to the regulator role, voluntary industry associations represent the industry for a lobbying purpose. Where government laws exists for the industry, but the industry sees the needs of reform or improvement, voluntary industry associations voice to governments to deliver the views from business people and request for regulatory improvement. To this end, members of voluntary industry associations often sit in a government committee to represent the industry.

Regardless of the different levels of enforcement power between laws and self-regulations, a sanction mechanism depends on its implementation and the capacity of implementers. When logistics operators do not comply with laws, laws can impose sanctions on them against violation of laws. Unlike laws, self-regulations lack lawful power; as a result, they may not be able to exercise effective sanction to offenders. However, it is difficult to assert that laws work better than self-regulations in terms of compliance. It is possible that existing laws could not be in full force if governments have weak capacity in implementation.

3) What is regulated?

A. Market Entry (Access)

Regulations on market entry are the requirements for new business entrants to be accepted in the industry. They often aim to control the number of operators, protect domestic operators from foreign operators, and

⁵ Voluntary industry associations include national / regional logistics associations or non-governmental agencies.

sometimes keep unqualified operators out from the industry. However, measures on market access tend to restrict trade and investment more than those on operations (Molinuevo, Sáez, 2014). In particular, market access restrictions tend to be stricter to foreign operators. Applicants for the industry are likely to face the three groups of requirements below;

a) Establishment

This category of regulations is the essentials for freight forwarders to get their business authorized. This category includes the following sub-categories:

- Minimum capital / Asset requirement
- Physical presence (Person, Address)
- Staff (minimum qualifications for the management staff, etc.)
- Others (having liability insurance at the time to start business, etc.)
- Discriminative measure for foreign operators

According to the definition of Services Trade and Modes of Supply by WTO,⁶ Mode 3 (commercial presence) and Mode 4 (presence of natural persons) correspond to some of the requirements for foreign operators to enter the freight forwarding industry. Requirements on establishment aim to exclude non-qualified operators from the industry and to accept only qualified operators who have enough financial capacity (minimum capital, liability insurance) and sometimes operational capacity as well (staff qualifications). Furthermore, foreign operators may have higher capital requirements, or may be allowed to enter the industry only if they can set up joint venture with local enterprises.

b) Scope of activities

Regulations on the scope of activities limit new entrants to engage in certain activities. Scope seems to be an operational issue, but authorities define a scope of activities upon issuing a license or a permit. Therefore, operators should manage their business within the scope that a license permits. Any kind of services relating to the carriage defined in the FIATA definition often require separate permits or licenses from a freight forwarder license in some countries. For instance, when a freight forwarder also wants to manage warehousing, it needs to register its business under a warehousing law. In addition, it needs a permit from the customs for a bonded warehouse. Examples of scope and area in licensing are:

- Separate licenses are required for each logistics activity (license or permit required for freight forwarding, warehousing, carriage of bonded goods)
- Limited activities in the first years, then will be allowed to expand to more business activities after certain years of successful operations
- Foreign operators may not be able to compete with local operators in certain areas of business (such as carriage of oil, etc.)

This note focuses the characteristics of freight forwarders mainly in handling international goods in move (cross-border) as well as domestic carriage activities. Therefore this note does not look into the detail on warehousing licenses and customs agent license requirements themselves.

⁶ https://www.wto.org/english/tratop_e/serv_e/cbt_course_e/c1s3p1_e.htm

- c) Other requirements that do not fall into the categories above may include but not limited to:
- Additional permits (such as mayor's or provincial permit, etc.)
 - Taxation
 - Membership in an industry association (national logistics association, freight forwarders association, etc.)

Miscellaneous requirements exist and vary from country to country. It is often seen that sub-national level authorities require operators to obtain another permits to start operations on the ground. A business license issued by a state government is not enough to start actual operations.

Furthermore, membership in industry associations is often one of the requirements to apply for a business license. Although operators have not started their business, membership is a prerequisite to officially obtain a license. In this case, industry associations would be more than just enlightening voluntary associations for operators; rather, industry associations may play a judge role with some legal power through the application process for the membership.

B. Operations

Regulations on operations intend to promote the quality of logistics services, protect both shippers and operators from unexpected accidents and incidents, and encourage fair competition. This category of regulations has a broader scope than that of the market entry. Measures affecting operations may increase costs because they cause prices to rise; however, they generally favor a more competitive market (Molinuevo, Sáez, 2014). In general, the principle sub-categories for operational regulations are the following:

a) Liability

In running a freight forwarding business, contractual liability is extremely important to clarify its duty, responsibility, and accountability. Without definite liability in contracts, freight forwarders will be exposed to higher risks in operations. Contractual liability in the operational context is often described in Standard Trading Conditions (STC) or General Terms and Conditions (GT&Cs). These are crucial for risk management for freight forwarding business.

- Liability and its exception
- General Terms and Conditions for contracting
- Liability insurance

The FIATA Model Rules, which takes account of the related international conventions, suggests provisions of contractual liability and daily business rules in GT&Cs. The Model Rules can be a standard for the industry to contract their services with clients. Countries can apply core elements of the Model to develop their GT&Cs. Many GT&Cs is often developed by a self-regulatory body; hence it is often not a mandatory for all operators in a country.

While statutory regulations on liability tend to stipulate general liability of service providers, GT&Cs provides detailed rules in related to daily shipments and operations, such as shipping documents (B/L),

exclusion and limitation of liability (in case of delay, damage and losses) of freight forwarders. Since freight forwarders will be responsible for the carriage of goods as principal (details in section IV), they will take certain risks along the all processes of carriage of goods. With specified responsibility, GT&Cs can protect freight forwarders and make their service contracts transparent for clients.

b) Staffing (experience / certificate requirements, training)

Once freight forwarders start operations, the next step will be to keep up with changes in the industry rules and standards and meet the criteria for minimum quality of services. Because freight forwarding is a service, human resource is the key for quality operations. Staffing requirements may include both domestic and international standards.

- Professional certificate from local logistics associations / international organizations
- Professional training requirement for staff (management / operation staffs)

Requirements on staffing include, for instance, the number of years of experience in the industry, obtaining official certificates, and attendance to trainings. For example, IATA/FIATA Cargo Introductory Course (often called “IATA Diploma”) and IATA Dangerous Goods Regulations are well known courses for operational staff. Since IATA Air Cargo Agent Rules have requirements on staff qualification, many staff in air freight forwarders have taken these courses as a part of operational requirements.

The East African community has introduced the East Africa Customs Freight Forwarding Practicing Certificate (EACFFPC) in 2013, which will become a mandatory requirement for practicing in the clearing and freight forwarding industry in all East African countries. The EACFFPC is a regional professional training program that aims to provide agents with essential skills and knowledge for practicing.⁷

c) Quality control for freight forwarding services

Some countries make efforts to keep and improve quality service standards for the freight forwarding industry as a whole. To this end, governments or self-regulators establish their standards and criteria not only for human resources, but also operations in general. Regulations in this category encourage the industry to become more competitive and transparent; therefore they are more beneficial for the industry as well as for improving skills of individual operations staff.

- Operational manual for the industry
- Establishment of standards / criteria for logistics services

Self-regulators often lead the industry to establish standards and help operators train on operational rules. The operational manual can be a useful means to understand and share the common practice in the industry. Singapore Logistics Association (SLA) has developed the SLA Portal Operation Manual that is only available for the SLA members. Along with the manual, SLA provides members with training opportunities and resources.

Quality control is popular in the form of a certificate from voluntary associations. With the intention to be more internationally competitive, quality control can be managed by international standards. For instance,

⁷ <http://www.feaffa.com/eacffpc-training>;
<http://www.trademarkea.com/press-releases/1391/>

European Logistics Association (ELA), which comprises of national logistics associations in Europe, promotes Qualification Standards for Logistics Competence.⁸ The standards reflect the expectations of workplace performance for logisticians and were developed and agreed by the industry. This is the common standards recognized in the world especially in Europe. ELA offers certificate programs and plays an important role to maintain operational standards among logistics service providers across Europe. With international recognition, ELA certificate can mobilize logistics professionals to other localities.

d) Disclosure of information

Finally, disclosure of information is also required for fair competition and accountability. Disclosure of freight rates can play an anti-cartel function; therefore, disclosed information on operators contributes to promote fair competition and to keep the industry in order as well as to create standards for corporate discipline. Also, the disclosure of official fees and prices increase the transparency of the industry.

- Publication of freight rate and fee
- Reporting on mitigation effort to environment (CO2 reduction)

IV. Findings and questions to be considered in regulations for freight forwarders

The review of the regulations for 14 countries revealed extensive differences in how freight forwarding industry is regulated. The categories listed above are found in the regulations across the countries; however countries, especially between high logistics service performers and lower performers, take different approaches in framing the regulations. In view of understanding difference in logistics performance, some questions help us compare countries; namely, different recognition of freight forwarders; different regulators (who), different foci to regulate (what), and different implementation of regulations (how). A summary of the review by classification of logistics regulations for the 14 countries is provided in Annex 2. The reviewed regulations are listed in Annex 3.

1) How are freight forwarders recognized in laws?

The findings suggest that a definition of freight forwarders in official regulations matters in regulating their business. While the role of freight forwarders has changed in some countries from “agent” to “principal” over time, changes in the regulatory framework have not been sufficient; as a result, the regulations for freight forwarding business have become complex and opaque.

Recognizing the industry in laws gives a credit to private operators to do their business. When laws do not recognize the freight forwarding as a business, freight forwarders may face difficulties getting bank loans, which affect the investment in their business, such as buying trucks and introducing an IT system. In

⁸ Available at <http://www.elalog.eu/elaqf-qualification-standards>

addition, unrecognized freight forwarders may not have access to sue law cases and may fall in a vulnerable position to work with their clients. Where a law recognizes freight forwarders and its business, it implies that door-to-door transport of goods with several auxiliary services is recognized. Then, laws enable freight forwarders to provide a series of logistics services by the same operator.

Some countries do not recognize freight forwarding as a business; hence there are no laws and regulations that clearly stipulate the freight forwarding business. In general, developed countries recognize freight forwarding as a business with legal status and understand its door-to-door logistics services along the supply chain. On the other hand, governments in countries like Sudan and Kenya (Arnold et al., 2011) do not recognize freight forwarding as an industry. With no recognition of freight forwarding, there is absence of the idea of door-to-door logistics services. Consequently, regulations to cover a supply chain tend to be fragmented. However, regardless of its legal recognition, voluntary associations in many countries always employ the word “freight forwarder” in their General Terms and Conditions. This implies that the freight forwarding business or practice exists in all countries regardless of the level of economic development of the countries, but the difference lies in whether the business is legally acknowledged or not.

Table 1: Terms used in laws for business license

Country	Term used in <u>Government Laws / Regulations</u>
Brazil	Multimodal Transport Operator
China	Freight Forwarder
Germany	Forwarder
Kenya	Transport Operator (Clearing & Forwarding Agent in EAC)
Japan	Freight Forwarder
Nepal	Multimodal Transport Operator
Netherlands	Freight Forwarder
Pakistan	N/A
Philippines	NVOCC (as “principal”) / Freight Forwarder (as “agent”)
Singapore	Multimodal Transport Operators (* The regulation is not a statutory law)
South Africa	Cross-Border Transporter, Transporter, Remover
Sudan	N/A
Thailand	Multimodal Transport Operator
United States	NVOCC, OFF, OTI

In addition, the definition of freight forwarders varies in countries, and this difference affects the legal status of freight forwarders. Schramm (2012) explains two different concepts of freight forwarders, depending on a form of affreightment as shown in the Table 2. The traditional role of a freight forwarder is defined as an “agent” (A), who arranges and assists in the carriage of goods. He has a contract of carriage with a carrier while he has a forwarding contract with his client (shipper, consignee). In other words, the freight forwarder acts as an agent or an intermediary between the consignor /consignee and a carrier. Therefore, he incurs no liability in the event of loss/damage to the goods (UNESCAP, 2009). This limits a forwarder to have a liability to the contract of carriage. Besides, the other concept (B) has the extended definition in a legal status. Since a forwarder acts as a “principal”, he has a contract of a carriage with a carrier and a client, respectively. This implies that a forwarder is responsible for liability for a whole period of shipment. The FIATA Model Rules (2004) takes the “principal” approach.

Table 2: Concept of forwarding business

	Service provision	Rights, duties, liability	B/L issue	Country example and names for operators <u>in statutory laws</u>
<p>Ⓐ Forwarder as “Agent” (commission agent)</p> <p><i>*Traditional definition</i></p>	<p>Acts as an agent on behalf of his principal; act as a commission agent of consigner for ancillary services.</p> <p>Freight forwarder acts normally in his name on behalf and account of a consigner</p>	<p>Do not take carrier’s liability</p>	<p>No - Handle carrier’s B/L</p>	<p>China (<i>Agent</i>)⁹ Philippines (<i>International Freight Forwarder</i>) Japan (<i>Broker</i>)¹⁰ Germany (“<i>Spediteur</i>”)¹¹</p> <p>Sudan (<i>*not in the law, but current role of operator</i>)</p>
<p>Ⓑ Forwarder as “Principal”</p> <p>NVO /NVOCC</p>	<p>Performs the carriage of goods by his own means (“performing carrier”) OR Procures carriage of goods in his name and on own account (“contracting carrier”- another carrier is actually shipping the goods)</p>	<p>Incur the same liability as a carrier by land, sea, or air</p>	<p>YES - Issus his own B/L</p>	<p>Brazil (<i>Operador de Transporte Multimodal</i>)¹² China (<i>Independent Operator</i>) Japan (<i>Consigned Freight Forwarding Business Operator</i>) Germany (<i>Spediteur im Selbsteintritt</i>)¹³ USA (<i>OTIs, NVOCCs</i>)¹⁴ Thailand (<i>Multimodal Transport Operator</i>) Philippines (<i>NVOCC</i>) Nepal (<i>Multimodal Transport Operator</i>) Netherlands (<i>freight forwarder</i>)¹⁵ Singapore (<i>MTO</i>)¹⁶</p>

(Source: Schramm 2012 and author)

With the two distinct concepts, the freight forwarding business is interpreted differently and has different forms of affreightment contract (Figure 2), which makes the regulatory framework opaque. Schramm (2012) summarizes the different forms of affreightment that explains the concepts of forwarding business as indirect conclusion of affreightment. A freight forwarder as “principle” (Ⓑ) bears full liability concerning the carriage of goods, regardless of whether he acts as performing carrier or contracting carrier. On the other hand, when a freight forwarder as “agent” (Ⓐ) has a *forwarding contract*, he dispatches goods for carriage with affreightment with the carrier for carriage of goods on behalf of his principal. In this case, because he is not a principal, he does not have to take liability in contracting with shippers or consignees.

⁹ Detailed rules for implementation of regulations of China on the administration of international freight forwarding industry No.82, Chapter 1, Article 2, 2004.

¹⁰ In Maritime Transportation Law 1949, also referred to JETRO http://www.jetro.go.jp/world/japan/qa/import_04/04A-010132. There is a law that restricts some activities by brokers that may confuse customers with consigned freight forwarders.

¹¹ HGB Commercial Code: Freight business; Forwarding business; Warehousing business, §453HGB

¹² Lei 9611/98 | Lei nº 9.611, de 19 de fevereiro de 1998, Transporte Multimodal de Cargas

¹³ HGB Commercial Code: Freight business; Forwarding business; Warehousing business, §458HGB

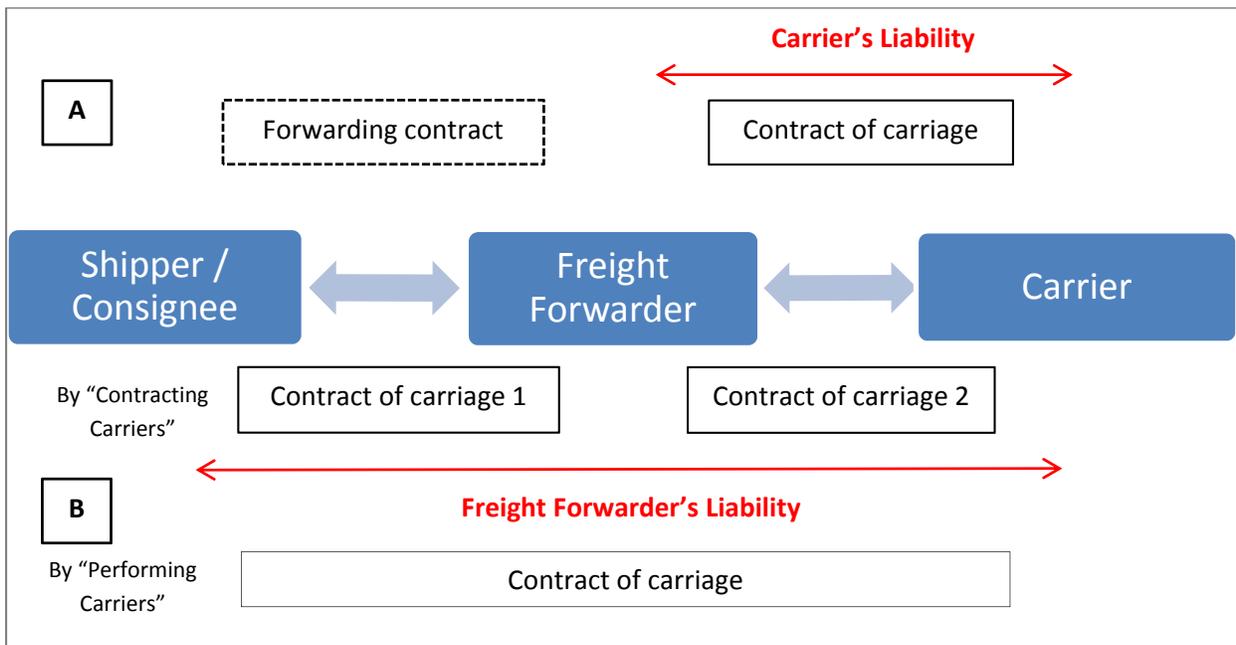
¹⁴ Code of Federal Regulations No. 46 - #515 regulations affecting ocean shipping in foreign commerce.

¹⁵ Dutch Civil Code Book 8 – Transport Law and means of Transport (section 8.2.3 Freight Forwarder)

¹⁶ Singapore Registry of Accredited Multimodal Transport Operators (*officially, this is not a statutory law)

Countries with higher logistics performance tend to have a clear definition of freight forwarder as a principal; or the countries have properly adjusted definitions in laws to the change in the freight forwarders' role. This is why some countries have both definitions (A [traditional definition] and B [extended definition]) in their laws. It is fine to have two definitions since both types of operator exist on the ground. But it is necessary that regulations define who the freight forwarders are with which responsibility. Clear definition helps to establish their legal status and set the scope for liability. A form of affreightment for forwarding business is always indirect between shippers and carriers. Therefore, if operators want to pursue reliable door-to-door logistics services, the clear definition of freight forwarder as principal is crucial to avoid fragmentation of liability.

Figure 2: Difference in liability between freight forwarder as “agent” and freight forwarder as “principal”



(Source: Schramm 2012 and author)

In statutory laws, countries like Sudan and Pakistan do not have laws to define the difference between “agent” and “principal”. But in the Standard Trading Condition (STC) for contracting in Pakistan, the STC apparently distinguishes these two with a description of liability. Operators know the importance of clarifying their obligations to clients, but due to the lack of legal support, operators could be in trouble.

2) Who regulates freight forwarders and the industry?

While an official definition of freight forwarders matters in laws to determine its legal status in their operations, the definition implies which ministry to supervise operators and what to be regulated. Regulators for the freight forwarding industry vary in countries; in the selected countries, regulators include ministries of transport, ministries of infrastructure, ministries of trade / commerce, self-regulators /

voluntary associations, and revenue authorities. These five regulators are the most common and the leading ones among several agencies who commit themselves in regulating freight forwarding business. Where there is no recognition of freight forwarders, many transport and customs related agencies are involved in the industry without a clear leading institution. With the absence of a leading institution or the lack of laws for freight forwarding business, self-regulators or voluntary associations sometime take a lead to unify and regulate the industry. Whether governments or voluntary associations or not, a regulator ideally should be politically strong entity to coordinate agencies and the entity with good technical capabilities and adequate human and financial resources.

Ministry of Transport as a regulator

Ministries of transport (or transport related agencies) are the most common regulator for the freight forwarding business but with different recognition to freight forwarding. Some countries, particularly high logistics service performers in the Logistics Performance Index 2014, have established the clear definition of freight forwarding, and ministries of transport established unique regulations for their business (i.e. Netherlands, USA, Japan). On the other hand, ministries of transport consider that freight forwarding is the extended service of trucking business in the countries where ministries do not recognize the freight forwarding as unique business. Therefore, there are neither often clear regulations oriented to freight forwarding, nor unique licensing system in place for freight forwarders. Trucking service regulations are more for domestic operators; as a results, they often do not mention foreign operators, who are rather considered as foreign investors. Ministries of transport in emerging countries such as Brazil and Thailand employ the term multimodal transporter for the freight forwarding concept with implication of additional services provided by trucking companies.

Ministries of transport often have a double licensing system at national and sub-national levels. For instance in Sudan, trucking companies need to register first at a state level for a business license. In addition to this, they need to complete the registration at the national level with the ministry of transport for vehicle registration and inspection. The ministry of transport, who develops a strategic plan for the transport policies, considers itself as a regulator and supervisor of the transport businesses while freight forwarders on the ground consider a state traffic authority as a regulator for their business. The layer of licensing regulations sometimes causes unclear understanding on an actual regulator and may distort the roles of regulators in place. Besides, licensing procedure at national and regional levels can sometime be simply duplication. The logistics assessment study on Greece (World Bank, 2013)¹⁷ points out that some municipalities issue truckers licenses; consequently, operators have to follow identical and parallel procedures to obtain the licenses: one from a local authority and the other from a department of transport at the ministry.

An example on clear division of tasks is found in Japan. In principle, freight forwarding business permits should be issued by the minister of transport, and the same ministry is responsible for supervising their business licenses and orders to the registered operators on remedies for freight / fees. Once operators become operational, a director at prefecture's level is responsible for the small matters, such as supervising

¹⁷ Greek Logistics – Unlocking Growth Potential through Regulatory Reform and Complementary Measures

the compliance to their distribution business plan. This division of regulatory roles is made public in a guideline¹⁸ with easy access.

Several administrators should not be an issue if regulators at different administrative levels have clear division of tasks for each entity, and freight forwarders are aware of the different regulators. But, where this coordination does not work among regulators, regulations to operators would be less transparent and weak in enforcing power. Existing study also demonstrates the importance of coordination. The assessment (World Bank, 2013) on overregulated Greece road transport reveals that the sector involves several agencies at different hierarchical levels, and overlapping regulations exist across agencies.¹⁹ While all of them have enforcing power, they coordinate very little. This assessment identifies that the lack of the coordination is the main problem in the logistics system in Greece. Furthermore, especially for foreign operators, administrative procedure at the subnational level after obtaining a license would be challenging due to the unaccustomed practice of local business practices.

Ministry of Trade / Commerce as a regulator

Emerging countries that are strongly export-oriented or aim to become export-oriented have trade ministries as a regulator. China, Philippines, and Nepal put the ministry of trade / commerce to regulate the freight forwarding industries by laws. They are export-oriented countries or seeking to boost more international trade. Their policy goal is to be better integrated in the international value chain to promote trade, these countries see transport as a means to achieve this policy goal. To this end, ministries of trade can be appropriate to oversee the freight forwarding industry. Unlike ministries of transport as traditional regulator for domestic transport services, ministries of trade / commerce look at freight forwarding services in a context of international trade in services.

Moreover, national laws by ministries of trade often take foreign operators into account. The Chinese laws on freight forwarding business²⁰ specifies the restrictions for foreign enterprises (operators) to enter the industry in China. Ministries of trade pay attention to foreign operators as investors, and this attitude differs from that transport ministries tend to only consider domestic operators.

Self-Regulator /Voluntary industry association

In some countries, voluntary industry associations serve the freight forwarding industry as regulators, who establish unique rules for members to follow and supervise its implementation. The primary mandates and the role of industry associations are to serve their members to promote business and represent the industry to lobby a government. Since they are formed voluntarily with a lead of the industry, they often lack lawful

¹⁸ Guideline for Freight Forwarding business, ver. 4 by the ministry of transport [Kyushu area department]. Accessed at http://www.tb.mlit.go.jp/kyushu/gyoumu/kaiji/file02/file02_gaioyo_04.pdf

¹⁹ Such as a regional authority, traffic police, port police, and customs authority and so on, from Greek Logistics

²⁰ Detailed rules for implementation of regulations of the People's Republic of China on the administration of international freight forwarding industry No.82, Ministry of commerce, China.

power to enforce members to comply with regulations. Therefore, there are few cases that industry associations act as an influential regulator.

Singapore is the one of the few countries where there is the self-regulator who has been successful in regulating the freight forwarding industry. Singapore Logistics Association (SLA), in coordination with the ministry of trade (Trade Development Board), has established the Registry of Accredited Multimodal Transport in 1995. SLA has administered the registry of multimodal transport operators. Once an operator is registered, it will be expected to follow the disciplines and standards as a member of the SLA. The regulatory system was set by SLA with sufficient support from the government, who aims to attract more private investment in Singapore.

On the other hand, the Pakistani self-regulator, Pakistan International Freight Forwarders Association (PIFFA) lacks the enforcement power by the government due to the absence of relevant laws. Pakistani operators have faced operational problems such as violating the use of Bill of Lading (B/L). With no laws to regulate freight forwarders, there is no sanction scheme as PIFFA does not have legal enforcement power against non-compliance. In addition to the different capacity level between SLA and PIFFA, the principle difference would lie in the enabling environment with or without the support from the governments for self-regulators to play an influential regulatory role.

Customs in relation to transporters regulations

While it is common for freight forwarders to offer customs clearing services in mature markets, customs often involve in regulatory matters for the freight forwarding business, which is beyond the natural role of customs. Some African countries commonly call forwarders “clearing and forwarding (C&F) agents”. A clearing license is apparently granted by customs to C&F agents. In conjunction with customs clearing activities, there is a case that customs controls a part of forwarding activities as well. For instance, in South Africa, all road cargo carriers transporting goods within the boundaries of South Africa need to be licensed (Transporter / Remover of goods license) with South African Revenue Authority (SARS).²¹ This regulatory system in principle is in view of tax collection from transporters. Customs engagement in transport may also reflect the nature of cargo transport network between South Africa and Southern African Customs Union (SACU) countries. However, when foreign operators enter the domestic market, Cross-Border Road Transport Act (amended in 2008) is in force, regulated by Cross-Border Road Transport Agency under Ministry of Transport. Similarly in South Asia, freight forwarders who are involved in inland freight services are usually not regulated by transport authorities, but these operators are regulated by customs provided they handle goods in transit under the customs’ control.

Kenyan C&F applies for a clearing agent license to Kenya Revenue Authority (ministry of finance). According to the Traffic Act (revised in 2013),²² the National Transport and Safety Authority is responsible for registration and license of motor vehicle trailers. However, the customs are entitled to inspect the vehicles records at any time. Customs has a close relationship with the freight forwarding business because

²¹ <http://www.sars.gov.za/ClientSegments/Customs-Excise/Processing/Pre-assessment/Licensing/Pages/default.aspx>

²² <http://www.kenyalaw.org:8181/exist/rest//db/kenyalex/Kenya/Legislation/English/Acts+and+Regulations/T/Traffic+Act+Cap.+403+-+No.+39+of+1953/docs/TrafficAct39of1953.pdf>

of goods in transit (bonded goods), but the regular carriage of goods services still fall under the control of the National Transport Safety Authority. Although the customs is the main regulator to oversee C&F agents and other transport agencies are responsible for road transport and vehicle trailer licenses, the customs has freedom to intervene in road transport operations (forwarding) in a form of inspection.

Table 3: Regulators for freight forwarding business

Regulators	Ministry of Transport	Ministry of Trade / Commerce	Self-regulator	Revenue Authority
Main Focus of Regulations	Transport Service	Support Export-oriented economy / encourage integration of economy into global supply chain	Maximize the welfare of the members of associations	Revenue / Tax collection / Remove goods in bond
Countries	South Africa (<i>Ministry of Transport</i>) Japan Brazil Thailand ²³ USA (<i>Federal Maritime Commission</i>) ²⁴ Netherlands (<i>Min. of Infrastructure and the Environment, Transport Dep.</i>) Germany (<i>Federal office for Goods Transport, Min. of Transport</i>) Sudan (<i>Land Transport unit, Min. of Transport</i>)	China (<i>Min. of Commerce</i>) Philippines (<i>Philippine Shippers' Bureau [PSB], under Dep. of Trade and Industry</i>) Nepal (<i>Dep. of Commerce under Min. of Industry</i>)	Singapore (<i>SLA</i>) Pakistan (<i>PIFFA</i>)	South Africa (<i>SARS</i>) *for transporters / removers of goods ²⁵ Kenya (KRA) *for C&F agent license ²⁶

Logistics performance by different regulators

While countries that have already thrived in trade have ministries of transport as a regulator, emerging countries in international trade have placed ministries of trade to regulate the freight forwarding business. However, with a combination of factors behind logistics services in each country, it is not appropriate to conclude with one ideal regulator for all countries. The LPI 2014 (WB, 2014) shows that countries regulated by ministries of transport slightly exceed the countries regulated by ministries of trade in the logistics competence score (Figure 3). However, the difference is trivial. Among the countries that have ministries

²³ Thailand – Ministry of transport regulates the licensing and operational rule. In addition, there is Bureau of Logistics in the Ministry of Industry, who is responsible for the strategic agenda on “Business Logistics Improvement”

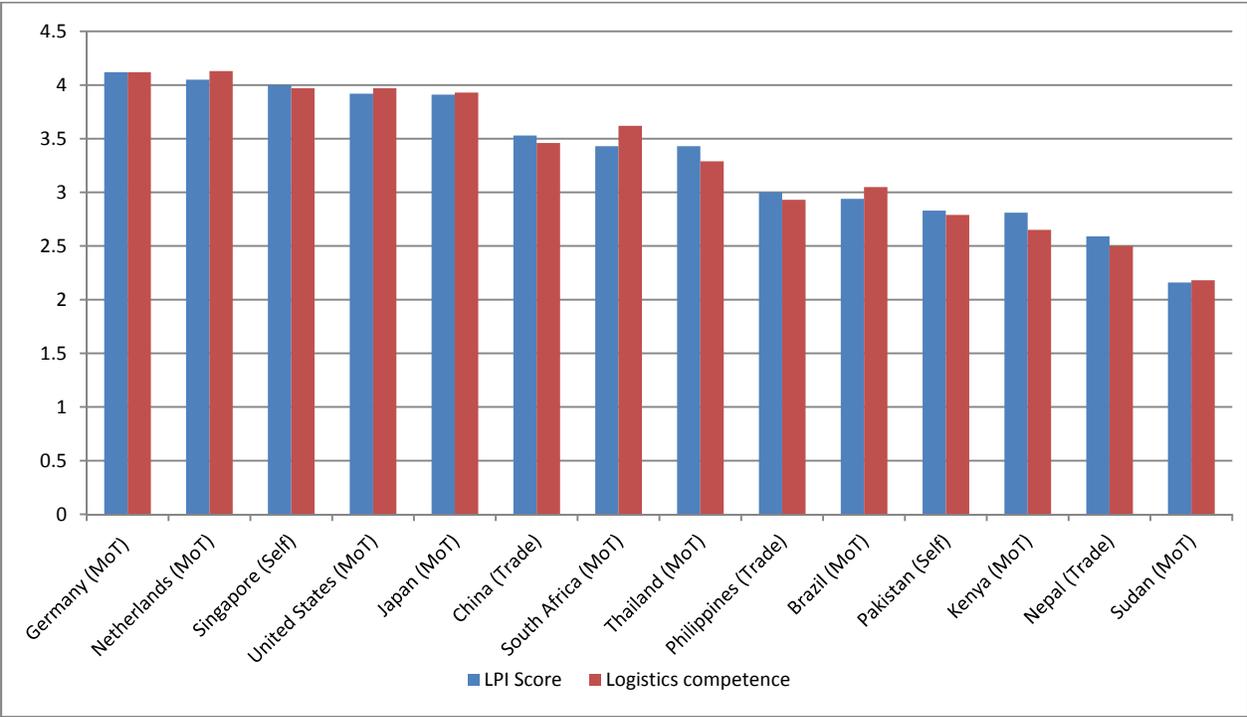
²⁴ USA – Independent Federal Agency responsible for regulating the U.S. international ocean transportation system.

²⁵ If a transporter removes goods in bond, the consignor bond will be required by SARS.

²⁶ <http://www.kra.go.ke/customs/customsclearingagentsproc.html>. Motor vehicle license should be issued by National Transport and Safety Authority.

of transport as a regulator, Germany and Netherlands are considered as high logistics performers while Kenya and Sudan are not. Moreover, Singapore and Pakistan have a huge gap in logistics competence although the industry in both countries is regulated by the self-regulators.

Figure 3: LPI Score vs. Logistics Competence score, 2014 – Country (Regulator)



Different regulators have pros and cons to regulate the industry, and countries may have different focus and interest when deciding on a regulator. Transport ministries may have some advantages in overseeing the industry because they are familiar with transport activities on the ground, but they may focus too much on domestic transport operations. To the contrary, trade ministries can be positive for market entry by foreign operators because governments aim to integrate their industries well into the international value chain by promoting international freight forwarding activities. The challenge for trade ministries would be coordination with technical people in the transport ministries.

Whoever regulates, the strong leadership of regulators and delegation of power make a difference in improving the competitiveness of the industry. In the Netherlands, the central government has appreciated the importance of logistics services for its economy. Therefore it has invested in logistics infrastructure and set up programs with the trade and logistics sector with the aim to improve trade facilitation. The government has initiated “triple helix” partnership (government, business, and academia) where each partner can contribute to the goals of the other and all can focus on a joint long term direction. As a result of this, the Dutch government has opted largely for self-regulation of the transport/logistics sector. Dutch law sets out the broad conditions and requirements for compliance with EU-law, but has left it largely to the industry itself to provide regulation of logistic services. In this case, the industry association, Netherlands Association for Forwarding and Logistics (FENEX), an association widely supported by

industry and the government, has drawn up detailed conditions and regulation for a broad spectrum of logistic services. These are compliant with Dutch and EU civic and trade laws. Although shipper, forwarder, and consignee are free to draw up their own rules, almost all of them will refer to the FENEX-rules.

Likewise, the self-regulator in Singapore has strong leadership and decision making power to the industry. In Singapore, while the government is open to investment in the services trade, the self-regulator SLA regulates the industry with qualification of operators and operational standards. Contrary to Singapore, PIFFA in Pakistan possesses voices in the industry and plays regulatory and supervising roles for the industry, but this is because there is no related laws by the central government. Despite the efforts by PIFFA, the lack of legal support for the industry has caused operational problems on the ground. When regulators have strong leadership and have legal power to implement policies, they manage to coordinate with relevant agencies and stakeholders. With clear guidance and delegation of power from “leaders”, regulations are implemented accordingly, become more transparent in terms of implementation. Consequently, regulations can be beneficial to operators and bring efficiency and quality to the freight forwarding industry.

3) What is regulated in the freight forwarding industry?

Regulations are necessary, but it could become a facilitator or a hindrance to the industry. The most of the components that are recommended in the FIATA Model Rules are in place in many of the sampled countries regardless of statutory or voluntary regulations, such as freight forwarders’ liability and its exception at the first place, customers’ responsibility, and dispute. However, unnecessary variations or duplications of operational standards in laws and voluntary regulations can confuse operators.

Operational regulations

Countries that demonstrate higher logistics performance often regulate both market entry and operational rules at the statutory level, and self-regulations complement mainly operational quality standard matters. Furthermore, Standard Trading Condition (STC) or General Terms and Conditions (GT&Cs) are the popular means even in developing countries to specify operational rules that may not be mentioned in laws. However, countries with lower logistics performance rarely have operational quality and standard criteria.

GT&Cs include the most critical rules for freight forwarder operations and are widely employed with different arrangements along with laws. First, some countries stipulate the most basic liability issues in laws or oblige operators to get their standard forwarding contract approved by a regulator such as a ministry. Therefore, the rules in the laws are embedded in GT&Cs developed by industry associations. GT&Cs tend to specify the scope of obligation in a narrow sense, such as liability limitation amount in SDR. Although GT&Cs are not obligatory, the freight forwarders naturally take GT&Cs into their contracting (i.e. Germany, Netherlands, Japan). Second, other countries enforce operators to use GT&Cs developed by self-regulators because their statutory laws do not touch on the liability issues (i.e. Singapore, Pakistan). Third, GT&Cs are likely to be duplication of statutory regulations, but voluntary associations limit the use of GT&Cs to qualified operators, who are the members of the associations. Nepal has identical operational articles and

rules both in the Act (2006)²⁷ and Standard Trading Condition (STC) developed by Nepal Freight Forwarders Association (NEFFA). However, the STC is exclusively used by valid NEFFA members.

Where neither governments nor self-regulators develop the basic operational regulations, each freight forwarder prepares its operational standards. Sudan does not have a standardized GT&Cs developed by a government or a self-regulator. Each freight forwarding company instead develops unique GT&Cs by themselves and use them for their contracting. Without legally binding liability, freight forwarders avoid taking risk of liability by proposing their client to buy insurance and adding its premium to their freight. This model will be valid for a contracting with a client bilaterally, but does not contribute to improving the quality of freight forwarding services at the industry level. Regardless of the absence of official operational regulations or GT&Cs, operators see GT&Cs or equivalent documents for liability clarification as critical for operations of freight forwarders.

Operational rules are indispensable, but creating distinctive own operational standards will make regulations more complex and unclear for operators to understand mandatory standards in a country. GT&C for freight forwarders are supposed to be aligned with the several international conventions and the FIATA Model Rules. As an UNCTAD report²⁸ for Pakistan points out, operational rules for countries can take advantage of these international standards and keep them simple for operators and customers to clearly understand. Making effective use of existing operational standards can show a common sense of freight forwarding business, and minimize country-specific-essentials in regulations.

Furthermore, duplication or overstating may generate other confusion. In Nepal, both the national law and the STC regulate the operational rules. Because the industry association (NEFFA) collaborated with the government to develop the Multimodal Transportation Act,²⁹ the Act became well detailed. However, while both regulations cover the same items, due to slightly different use³⁰ of language and the details, it is somewhat confusing to see which one is legally precedent. If both statutory and voluntary regulations contain operational rules, statutory regulations would describe what freight forwarders provide in operations (liabilities, definition of services) and self-regulations could focus on how these operators provide its services (i.e. operational standard, handling of shipment, responsibility to customers).

With regard to transparency and market competition, some countries (i.e. China, Japan, Philippines, South Africa, USA) have descriptions on mandatory reporting of fares for their services to regulators. The disclosure of information can help avoid unlawful monopoly. At the same time, it promotes sound competition in the industry. Freight forwarder related regulations do not emphasize anti-monopoly / anti-cartel itself, but general business competition laws would overarch several sectors. Unlike overarching laws across sectors, the industry specific regulations pose measures to keep the transparency in the market competition.

²⁷ Government of Nepal (2006) The Act Made to Provide for Multimodal Transportation of Goods.

²⁸ UNCTAD. *Trade and Transport Facilitation Project 2 (TTFP-2) Freight Forwarding - Regulation and Procedures Advice to NTTFC*

²⁹ Ojha p. Nepalese Experience in Liberalization of Trade Logistics Services, Office of Prime Minister and Council of Ministers, Nepal.

³⁰ In the Act Made to Provide for Multimodal Transportation of Goods (2006), multimodal transport operator is used while STC uses forwarder. Also, the Act describes the scope of liability with 666.97 SRD / unit, but STC further mentions more details of limit of compensation; therefore, they could be read slightly different.

Air freight forwarder rules

There is no unique regulation on air freight forwarder business at each country because IATA, as the leading international organization, establish the mandatory rules. When a forwarder wishes to handle air cargos, it needs to be an IATA cargo agent, which is regulated by the IATA rules. Most of the IATA cargo agents also provide freight forwarding services. The IATA rule clearly describes the requirements for both market entry and operational obligations in the Cargo Agency Rule (Resolution 803). Once the cargo agent certificate is granted, all certified agents should follow the IATA operational rules. Strong enforcement power by the international organization makes regulations visible and accessible for operators, which is crucial for air transport safety. Lessons from standardization and enforcement mechanism by IATA in the air cargo industry suggest that a strong leading international agency would enhance compliance and transparency of freight forwarding services. Therefore, countries do not have to create unique regulations for international air cargo and forwarding business; as a result, the industry has avoided the overregulated business environment and confusion in operational rules.

4) How is the freight forwarding industry regulated?

There are several approaches to implement regulations for the freight forwarding industry. The advanced countries in logistics services have regulations on both market entry and operations, and both regulations are often established at the government level. Besides, if countries have relatively open market entry, they impose stringent operational rules on operators. Table 4 summarizes the difference in the sampled countries. The difference lies in when regulations force stronger restrictions to winnow operators. Restriction here means requirements the degree of strictness varies in countries.

Table 4: Different approaches to implement regulations

More restriction at Market Entry	(i)Restricted at the Market Entry + Few operational regulations (statutory)	USA
	(ii)Restricted Market Entry + Mandatory operational regulations (statutory) *voluntary regulations coexist	Netherlands, Germany, Japan South Africa, China, Thailand, Philippines, (Nepal), (Brazil)
	(iii) Restriction by Self-regulations by self-regulators, in fact, membership requirement functions as filter to have qualified applicants for business	Singapore, Kenya
More restriction at Operational Regulations	(iv) Very /Relatively open market entry + rigorous voluntary operational regulations	Singapore, Pakistan

Measures affecting market entry tend to restrict trade and investment more than measures affecting operations because they limit the entry of new actors, favoring existing providers and limiting competition,

which usually raises prices (Molinuevo, Sáez, 2014). Proving this view, Singapore, which has been open for foreign investment and has a favorable business environment to new entrants, has shown strong logistics performance over the years.³¹

However, in transport service operations, restrictions on market entry do not always give the industry negative impacts in certain contexts. The interview with foreign freight forwarders conducted by USITC (2005) reveals that in cases where establishment restrictions³² exist, such as joint-venture requirements, ownership / equity restrictions, or investment limitations, the majority of interviewees think that the measures have little impact on company operations. The result implies that the market entry restriction sorted qualified operators out of all possible ones, such as small operators with insufficient financial capacity. Furthermore, compared to countries with strict market entry regulations, Brazil and Nepal have few requirements for market entry to new entrants, but these countries are slightly lower than other countries in logistics performance in the LPI 2014.

Besides, some high logistics performance countries set restrictions on market entry and control over operations with statutory regulations while self-regulatory bodies simply serve the members by providing training and standardized operation manuals rather than imposing rules. Statutory control both in market entry and operations may not work for countries that do not have the capacity to implement regulations. China may fall into this category. Chinese laws on freight forwarding business explicitly describe duties and rules, but its LPI score is not that high. Regulations both on granting license and on supervising operations require the government to have sufficient coordinating capacity with the related agencies. The difference between high and low logistics performers under the same model may not lie on regulation itself but the implementation capacity of the regulators.

Lastly, establishing restrictions on operations aims to have companies that have equal minimum knowledge and operational quality even though the size of business may be very different at the market entry. Self-regulators in Singapore and Pakistan developed qualification standards for operations such as liability insurance and training on Standard Trading Condition. At the same time, they developed the criteria for the memberships, which functions as screening out no-qualified applicants. The self-regulators play a role of gatekeeper on behalf of the states. On the other hand, some countries lack the regulations or do not have detailed enough regulations except STC / GT&C at the operational levels (i.e. Brazil, South Africa, Nepal, and Sudan). Such a situation allows unqualified or deteriorated service providers to stay in the industry.

Regional approach in regulations and initiatives

There is also a regional approach to regulations. Harmonization in logistics services with regional regulations can bring efficient move of goods if member countries have a well-planned integration plan into national laws. These are supposed to be paramount over the national laws, but its different interpretations cause ambiguity in regulations, which is attributable to different implementation of the regional regulations.

³¹ In Doing Business Report 2014, Singapore ranked at 3rd for Starting business, and 1st for Trading Across Borders

³² on establishing 3PL company

Regional initiatives are supposed to apply same operational rules to freight forwarders across member countries, but this is not easily achieved. In Kenya, a clearing and forwarding (C&F) agent license is issued by National Transport and Safety Authority in Kenya, but when it comes to operational rules, C&F agents would need to follow the Code of Conduct, which was developed by Federation of East African Freight forwarders Association (FEAFFA). In reality, the industry remains largely unregulated in the East African Community countries, and its compliance to operational regulations is uneven especially for small firm operators (Arnold, et al., 2011).

Regional regulations can be tricky if they are interpreted differently in member states. For example, EU has experienced this challenge when Regulation (EC) No. 1072/2009 for road freight market was passed. Cabotage in this regulation, which is valid only for the member states and defined as temporary movement of the national hauler to other territories, is different from the general cabotage concept. It was adopted to harmonize cabotage rules across the EU, but the different interpretations³³ at a national level have created barriers to entry for foreign cabotage operators (Gleeve et al., 2013).³⁴ In enforcing this regulation over national regulations of each member state, countries have problems in monitoring infringements in road transport legislation by several authorities in less coordinated manner. Additionally, several regulatory bodies do not have sufficient resources to monitor cabotage operations effectively. Finally, sanctions scheme for infringements vary greatly across the EU, which results in different incentives in different member states.

The lessons from the EU experience tell us that creating regional regulations is beneficial to boost regional trade, yet the member countries will face serious challenges when regulations come into force unless incorporation of regional regulations into national laws is well arranged in advance. The lesson can be applied even to self-regulations. It would be even more difficult since there may not be legal penalties to infringement. For instance, the Kenyan freight forwarding industry is following the COMESA Treaty and the FEAFFA Code of Conduct in 2010. Despite the existing rules, it is suspicious whether members are complying with these rules in practice with a common interpretation across countries, and how coordination for monitoring works within the East African Community. When establishing regional regulations, it is critical to include a detailed implementation plan in coordination with member countries.

Enforcement issue

Although regulations exist, their enforcement in implementation needs to be considered. Regardless of statutory or voluntary regulations, the degree of enforcement is hard to assess, but it would make a difference in implementing regulations in practice. For instance, Philippine law³⁵ enforces fines (for NVOCC, Php 40,000.00) as a penalty to violation against misrepresentation by the applicant, of any material fact in obtaining the accreditation, or documents. Even though Philippine law covers market entry and operational rules as well as the sanction scheme for violations, their LPI scores in 2014 do not convince their strong regulatory framework. The lack of enforcement power or the lack of monitoring in

³³ For example: what was meant by cabotage needing to be temporary

³⁴ Gleeve, S, Frisoni, R, Dionori, F, Vollath, C, Tyszka, K, Casullo, L, Routaboul, C, Jarzemskis, A, Tanczos, K (2013). *Development and Implementation of EU Road Cabotage*, EU

³⁵ PSB ADMINISTRATIVE ORDER NO. 6 SERIES OF 2005.

implementing regulations can be attributable to the relatively lower logistics performance. Regulators do not always mean implementers of laws or regulations. Although laws specify an implementation agency, such an agency may lack the capacity to monitor.

In addition, although a law includes an article on enforcement, it does not imply clearly the degree of its enforcement and penalties against violation of laws. For instance, South African National Land Transport Act (2009) stipulates law enforcement by members of Executive Council (MEC) and municipalities, but this is to encourage them to improve law enforcement in their jurisdiction rather than providing actual measures to exercise by MEC and municipality. The regulation in Philippines (2005) stipulates the details of sanctions and penalties, but it does not mean that these rules are implemented on the ground. This comes back to the point that whether existing enforcement mechanism works or not.

V. Preliminary recommendations for emerging economies

With combination of complex factors influencing the freight forwarding industry, there is no single ideal regulatory framework that applies to all countries in the world. Summarizing the findings from the sampled countries, this note proposes preliminary recommendations to build a better regulatory framework for the industry.

First of all, when assessing a regulatory framework, introductory questions would be (i) whether a client country lacks core regulations or (ii) whether a country have constrains in implementing existing regulations. More specific questions summarized below can narrow down to country-specific issues.

Recognition of business: if there is no national recognition of freight forwarding services as business, governments should recognize their business in a statutory law so that governments can take logistics services into consideration in their national strategies. Also, laws need to specify the definition of freight forwarding services that operators are currently providing on the ground. With the recognition, freight forwarders may be benefitted to have better access to bank credits and risk management as well as to provide clients integrated door- to-door logistics services.

Institutional arrangement: Coordination with a leading regulator for the industry needs to be determined in a country context. It is important that a leading regulator is well suited to implement and monitor the industry in coordination with other agencies. Well-coordinated logistics industry in the Netherlands shows us that the government understands the importance of coordination; therefore the government does not control everything for the industry; rather it delegates the clear role and authority to the voluntary association and academia. Leading regulators for the freight forwarding industry should not be autocratic. Even though leading regulators are not a government or government agencies, it still needs to have an influential power and capacity with support from government. When new regulations are to be developed in a country, a leading regulator needs to consider the gap between required efforts by new regulations and its implementation capacity.

Implementation of regulations: Once strengthened institutional arrangement clarifies the role of relevant agencies, an implementer of regulations needs to reinforce enforcement mechanism by creating a monitoring scheme of implementation and putting a sanction scheme in force. Given its possible

enforcement power, government agencies can be a powerful implementers of regulations if they have enough resources and capacities. If governments or government agencies do not have enough capacity or resources, with agreements with governments, industry associations can be a helpful player to disseminate correct regulations, guide, and monitor freight forwarders to comply with regulations. If this is the case, government agencies need to delegate some legal power for enforcement to these voluntary associations.

In addition, the degree of collaboration among a leading government, relevant government agencies, and industry associations determines the success in regulating the industry. High logistics performers seem to have a solid collaborative base with the governments and industry associations: while governments establish the minimum requirement for operators to enter the industry, self-regulators or industry associations take a lead to unite the members and manage them to follow the operational rules that contributes to make the industry competitive. Clear divisions of the regulatory role in implementation of regulations makes a difference in regulatory compliance and quality of operators.

Streamlined but flexible regulations in light of country context: Regulations for the industry are important, but should be limited to the minimum components with enough room for adjustment to each county context and future innovation. High logistics performance countries avoid overregulation and duplications, but they do have reasonable regulations both in market entry and operations.

The decent market entry regulations are necessary for regulators to keep the industry in order. Where new entrants have easy access to the industry with few requirements, it would become more difficult to maintain a certain level of quality logistics services. However, heavy regulations may become overwhelming to regulators and the industry because it will be difficult to implement all regulations without enough capacity. The industry may fail to have fair competition or may end up being a monopolistic market. If the market entry is relatively open with very few regulations, countries need to strengthen the operational rules.

Operational regulations are often out of statutory regulations, but operational liability issue should be clarified either in a statutory law or self-regulations. Some country stipulate the minimum liability in statutory regulations, which have more enforcement power than self-regulations do. The liability issues are practically detailed in STCs and GT&Cs for contracting of their services. Moreover, other operational regulations, such as standardization, and international or regional criteria for staff qualification, are crucial to build credibility of their services and to make the industry internationally competitive.

Since no single good practice exists with respect to the regulatory framework for the freight forwarding industry, lower logistics performance countries do not necessarily copy the regulatory framework practiced by high logistics performers. It is good to learn pivotal regulations, but each country needs to have enough flexibility to reflect a country context in laws and self-regulations. Therefore, the FIATA Model Rule can be a good sample set of important rules. When a country introduces the FIATA Model Rules, the country can still add their unique and necessary rules to the Model Rules.

Regulations should be reviewed in a timely manner to keep them streamlined and more apt for the current freight forwarding business. Environmental consideration, safety, seamless transport services have been drawing more attentions compared to decades ago. Countries should react to these trends and adapt regulations to the current situation accordingly because old regulations are often not suitable to respond to the current demand for forwarding services. Whatever changes made in revision should be specific not to have various interpretations.

With all said, deregulation is not always the best solution to improve the regulatory framework. Decent regulations play an effective role to keep the industry in order. Unlike streamlining regulations, deregulation may expose the industry to the risk to deteriorate logistics performance, especially in operators' competence. Deregulation is possible, but it should be very carefully considered case by case as various factors reviewed in this note affect the freight forwarding industry and its operations.

VI. For the next step

There are apparently different regulatory arrangements between high and low logistics performance countries. No single "good" regulation exists; however, higher performers tend to have clear and transparent institutional and implementation arrangements for a regulatory framework. Questions that this note posed can be a preliminary step to assess a regulatory framework in the freight forwarding industry in emerging economies.

This note was prepared with limited information from desk research; therefore, more updated and existing regulations on the ground would be necessary for further research to move forward. On the market entry side, this note could not well cover regulations related to market entry by foreign operators and restrictions to operate in a regional market. Different regulatory barriers for domestic and international freight forwarders may affect the overall industry performance. It would be useful to look into whether equal treatment for both operators can bring positive or negative changes in the industry. On the operations side, it would be useful to identify globally acceptable operational standards so that lower performing countries in the LPI may benefit from adopting such minimum standards to improve their logistics performance.

ANNEX 1: Classification of regulations for the freight forwarding industry

The regulations for freight forwarders are linked to requirements, here are some examples of requirements.

A. Market Entry (Access)	B. Operations
<p>Establishment</p> <ul style="list-style-type: none"> ▪ Minimum capital / Asset requirement ▪ Physical presence (Person, Address) ▪ Staff (<i>i.e. minimum qualification for the management staffs, such as 10 years of operational experience</i>) ▪ Others (<i>i.e. having liability insurance at applying for business license</i>) ▪ Discriminative measure for foreign operators (<i>e.g. foreign operators should establish joint venture with local counterparts to apply for a business license</i>) 	<p>Liability</p> <ul style="list-style-type: none"> ▪ Liability and its exception (<i>i.e. the liability shall be limited to 4 SDR per kilogram damaged or lost gross weight, the maximum being 4,000 SDR per consignment</i>) ▪ Terms and conditions for contracting (<i>i.e. accountability of operation in rate, fee, insurance arrangement, performance of contract</i>) ▪ Liability insurance (<i>i.e. SLA offers members with cargo liability, customs liability, and third party liability</i>)
<p>Scope of Activities</p> <ul style="list-style-type: none"> ▪ Separate licenses are required for each logistics activity (<i>i.e. license or permit required for freight forwarding, warehousing, carriage of bonded goods</i>) ▪ Limited scope and areas for activities (<i>i.e. expansion of business will be allowed after having successful operations for a couple of years</i>) ▪ Foreign operators may not be able to compete with local operators in certain areas of business (<i>i.e. carriage of oil, abnormal goods etc.</i>) 	<p>Staffing (experience / certificate requirements, training)</p> <ul style="list-style-type: none"> ▪ Professional certificate from local associations / international organizations (<i>i.e. IATA, FIATA, ELA</i>) ▪ Professional training requirement for staff (<i>i.e. Certain no. of staff who received training should be allocated in offices of freight forwarders</i>)
<p>Other requirements</p> <ul style="list-style-type: none"> ▪ Additional permits (<i>i.e. mayor's / provincial government's permit; a permit from other ministries [non-regulator for forwarders], such as fire department for warehousing</i>) ▪ Taxation ▪ Membership of an industry association (<i>i.e. as a prerequisite to apply for a business license, operators should be a member of national logistics association / freight forwarders association</i>) 	<p>Quality control for freight forwarding services</p> <ul style="list-style-type: none"> ▪ Operational manual for the industry (<i>i.e. national association prepares a operational manual for the members; East African FEAFFA prepares the code of conduct for the member country associations</i>) ▪ Establishment of standards / criteria for logistics services (<i>i.e. ELA has Qualification Standards for Logistics Competence; SLA provides a benchmarking tool [Singapore Logistics Capability Diagnostic Tool]</i>)
	<p>Disclosure of information</p> <ul style="list-style-type: none"> ▪ Publication of freight rate and fee (<i>i.e. regular reporting to a regulator</i>) ▪ Reporting on mitigation effort to environment (<i>i.e. CO2 reduction needs to be reported in public in annual reports</i>)
<p>*Market entry regulations in all sampled countries are regulated by governments unless the regulators are voluntary associations.</p>	<p>*Operational regulations can be found in both statutory and voluntary regulations regardless of the type of regulators (except the case of voluntary associations as regulator).</p>

ANNEX 2: Summary of the regulatory review

LPI 2014 rank	Country	Regulator (Ministry or Self-regulator)	LPI 2014 score	FF Definition in law		Regulations			Standardized STC or GT&Cs
				Agent	Principal	Market Access	Operations (Statutory)	Operations (Voluntary)*	
1	Germany	Transport & Infrastructure	4.12	o	o	o	o	o	o
2	Netherlands	Infrastructure (Transport)	4.05		o	o	o	o	o
5	Singapore	Self-regulator	4		o	o (Self-regulator)		o	o
9	USA	Transport	3.92		o	o	o		o
10	Japan	Transport	3.91	o	o	o	o	o	o
28	China	Trade	3.53	o	o	o	o		o
34	South Africa	Customs / Transport	3.43			o (Customs)	o		o
35	Thailand	Transport	3.43	X	o	o	o (liability only)	o	o
57	Philippines	Trade	3	o	o	o	o	o	o
65	Brazil	Transport	2.94	X	o	o	o		o
72	Pakistan	Self-regulator	2.83			o (Self-regulator)		o ****	o
74	Kenya	Customs / Transport	2.81			o (Customs)	o (Transport)	o **	o **
105	Nepal	Trade	2.59	X	o	o	o		o
153	Sudan	Transport	2.16	X*		o		X	X

o	exist
X	not exist
blank	not confirmed

* Apart from STC/GT&Cs

** In Sudan, no definition of Freight Forwarder, but the role of Freight forwarder on the ground is Agent

*** In Kenya, FEAFPA Code of Consut is adopted, COMESA regulations also applies for Transit regime.

**** In Pakistan, since a regulatory bill has not passed yet, no rigorous operational rule has not been in place

ANNEX 3: Laws / Regulations / Relevant studies reviewed (translated documents included)

Brazil

Lei 9611/98 | Lei nº 9.611, de 19 de fevereiro de 1998, Transporte Multimodal de Cargas. Publicado por Presidência da Republica. http://www.planalto.gov.br/ccivil_03/Leis/L9611.htm (Multimodal Transport)

Resolution ANTT No. 794 (Nov 2004) de 22 de (Nov. 2004) (License)

Resolution No. 363 (Nov, 2003), Art. 4 http://www.antt.gov.br/index.php/content/view/1363/Resolucao_363.html

Decreto nº 3411(April 2000) (Regulations for the law 9.611/98)

Decreto nº 5276 (Nov 2004) (Amendment to articles in Decree 3.411/00)

Decreto nº 1.563, de 19 de Julho de 1995 (Implementation of agreement for multimodal transport facilitation among Brazil, Argentine, Paraguay and Uruguay)

China

Detailed rules for implementation of regulations of the People's Republic of China on the administration of international freight forwarding industry, Ministry of commerce, Circular of the Ministry of Commerce of the People's Republic of China, No. 82, 2004

Regulations on management of international freight forwarders – Regulations of the PRC on Management of International Freight Forwarders, Laws of the People's Republic of China

The amended Measures Governing Foreign-funded International Freight Forwarding Agent Enterprises, (Dec 2005)

Regulations of the PRC on International Maritime Transportation, 2001 (Ch VI: Legal Liability),

Implementing rules of the regulations of the People's Republic of China on International Maritime Transportation, 2003

Implementing Rules for NVOCC Freight Filing 2010, Ministry of Transport

China International Freight Forwarders Association Terms & Conditions

Germany

Freight business; Forwarding business; Warehousing business, Transport Law Reform Act, as amended 26 November 2001. §453HGB HGB. Commercial Code

Freight business; Forwarding business; Warehousing business, Transport Law Reform Act, as amended 26 November 2001. §458HGB. HGB Commercial Code

Conditions for road transport, Freight forwarding and logistics business - (VBGL) - in the version of 13 June 2013. VBGL

Road Haulage Act 1998 (GüKG)

Guidelines (Administrative Regulations) on Funding for Combined Transport Terminals of Private Operators, UI32/3141.4/1, 2011 http://www.bmvi.de//SharedDocs/EN/Anlagen/VerkehrUndMobilitaet/guidelines-funding-combined-transport-terminals-private-operators.pdf?__blob=publicationFile

German Freight Forwarders' Standard Terms and Condition. ADSp

Regulation (EC) No 1072/2009 – Road Cabotage

Netherlands

Dutch Civil Code Book 8 – Transport Law and means of Transport

The Goods Transport Act (“Wet wegvervoer goederen”), amended in 2008

(Text valid on: 29-05-2014) from http://wetten.overheid.nl/BWBR0024800/geldigheidsdatum_29-05-2014

Regulation implementing the Road Traffic Goods Act (Regulations road transport of goods) (Text valid on: 29-06-2013) (which reflect Regulation (EC) No. 1071/2009 & No. 1072/2009)

Policy of the National and International Road Transport Organization (NIWO) concerning implementation of the Road Traffic Act and goods 1071/2009/EG regulation regarding licensing (Policy authorization of NIWO), Nr. 18645, July 8, 2013.

Dutch forwarding Conditions General Conditions of the FENEX (Netherlands Association for Forwarding and Logistics) deposited at the Registry of the District Courts at Amsterdam, Arnhem, Breda and Rotterdam on 1 July 2004

Terms and Conditions for Value Added Logistics, deposited by the FENEX, Netherlands Association for Forwarding and Logistics, at the Registry of the District Court at Rotterdam on 15 November 1995

Dutch warehousing Conditions, deposited by the FENEX, Netherlands Association for Forwarding and Logistics, at the Registry of the District Court at Rotterdam on 15 November 1995

Regulations (EC) No. 1072/2009

Pakistan

Standard Trading Conditions for freight forwarders, January 2005. PAKISTAN International Freight forwarders Association

PAKISTAN INTERNATIONAL FREIGHT FORWARDERS ASSOCIATION required documents for new Membership (Approved by the Executive Committee), PIFFA

Recommended minimum qualification standard (2003), NTTFC

[Report] Country Report Pakistan 36TH FAPAA MEETING, BANGKOK 2009- An Overview of Pakistan int'l freight forwarding & Logistics industry. Babar Badat, 2009, PIFFA.

[Report] Trade and Transport Facilitation Project 2 (TTFP-2) Freight Forwarding - Regulation and Procedures Advice to NTTFC, UNCTAD (April 2011)

Philippines

PSB Administrative Order No. 6, Series of 2005, Revised Rules on Freight Forwarding, Philippine Shippers' Bureau (PSB)

Standard Trading Conditions by Philippines International Sea Freight Forwarders Association (PISFA)

South Africa

Government Gazette:

No. 12 of 2008: Cross-Border Road Transport Amendment Act, 2008, Vol. 518, 27 August 2008 No. 31366

No. 5 of 2009: National Land Transport Act, 2009. Vol. 526, April 8, 2009. No. 32110

No. 42 of 2007: Transport Agencies General Laws Amendment Act, 2007. Vol. 514, 17 April 2008 No. 30992

Act No. 98, Skills Development Act, Vol. 401, 2 November 1998 No. 19420

Notice 458 of 2012, Department of Transport. National Road Traffic Act 1996(Act No. 93 of 1996)
Amendment of the National Road Traffic Regulations

The South African Revenue Service (SARS), Transporter or remover licensing at
<http://www.sars.gov.za/ClientSegments/Customs-Excise/Processing/Pre-assessment/Licensing/Pages/Transporter-or-remover-of-goods.aspx>

South African Association of Freight forwarders Trading Terms and Conditions adopted by John Fish Agencies (Pty) LTD (as an example)

Cross-Border Transport Agency (CBRT) PERMIT FEES
<http://www.grsp.org.za/index.php/members/116-cross-border-road-transport-agency>

The Customs and Excise Act, 1964

Draft Customs Control Bill, 2012

NQF Act 2008, Government notice for qualification and unit standards

Integrated and Sub-Sector B-BBEE Charters of Transport (2008)

[Study] Technical Report: Road Freight Transport Services Diagnostic Study, USAID/ Southern Africa 2011

Singapore

Singapore Registry of Accredited Multimodal Transport Operators
http://www.sla.org.sg/c/document_library/get_file?uuid=165ec408-7fd3-4e5f-8510-e56d26d2f9ab&groupId=10175

Companies Act Ch.50

Standard Trading Conditions (STC) by Singapore Logistics Association (SLA)

Thailand

The Multimodal Transport Act, B.E. 2548, Bhumiphol Adulyadej, Rex. Given on the 11th Day of July B.E. 2548; Being the 60th Year of the Present Reign.

Carriage of goods by sea act,B.E.2534 (1991)

Limited companies - Civil and Commercial Code, Sec 610 - (carriage of goods)

TIFFA / TAFA Standard Trading Condition (1990)

[Study] Pichanusakorn P. Thailand to challenge logistics liberalization impact: how regulatory reform can promote sound investment climate and equalize competition between local and foreign operators. School of Law, University of Thai Chamber of Commerce, Thailand.

[Report] Taxation and Investment in Thailand 2013 Reach, relevance and reliability. Deloitte.

Japan

Freight Forwarding Business Law 1989, implementation rule article 7. Ministry of Transport

Maritime Transportation Law 1949. Ministry of Transport

Warehousing Business Act, 2002. Ministry of Transport

Standard International use air transport agreement (December 1, 1990 Ministry of Transport Notification No. 594)

Japan International Freight Forwarders Association Inc. Freight Forwarders Standard Trading Conditions (2010)
JIFFA Way Bill. MT B/L Condition of contract

[Reference] Japan External Trade Organization, http://www.jetro.go.jp/world/japan/qa/import_04/04A-010132.

USA

Code of Federal Regulations No. 46 - #515 regulations affecting ocean shipping in foreign commerce.
<http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=46:9.0.1.2.10>

Federal Maritime Commission § 515 (Form FMC-18) for licensing FF, NVOCC

Form FMC 18 Application for a license as an ocean transportation intermediary

Shipping Act of 1984, 46 US code, as amended by the Ocean Shipping Reform Act of 1998

The Coast Guard Authorization Act of 1998, and 46 C.F.R. Part 515 of the Commission's regulations that explains the Licensing and Financial Responsibility Requirements.

National Customs Brokers & Forwarders Association of America (NCBFAA) – Terms and conditions of Service

US Government Freight Transportation Handbook, January 2012

Code of Federal Regulations, title 49 (Part 1548—Indirect Air Carrier Security)

[Study] USITC (May 2005) Logistics Services: An Overview of the Global Market and Potential Effects of Removing Trade Impediments. Publication 3770, Washington DC, USITC.

Nepal

The Act Made to Provide for Multimodal Transportation of Goods (2006).

Standard trading condition of Nepal; freight forwarders association (NEFFA)

Foreign Investment and Technology Transfer Act 1992

The Companies Act, 2063 (2006) Act No. 18 of the year 2063 (2006)

[Study] Ojha P. Nepalese Experience in Liberalization of Trade Logistics Services

Kenya

The National Transport and Safety Authority Act, 2012. - Kenya Gazette Supplement. Acts 2012. 26th October 2012, Nairobi. (Replacement of Transport Licensing Act Chapter 404, 2009 Rev)

The Traffic Act Ch403. Revised edition 2013. The National Council for Law Reporting with the Authority of the Attorney-General, Kenya. Accessed at
<http://www.kenyalaw.org:8181/exist/rest//db/kenyalex/Kenya/Legislation/English/Acts+and+Regulations/T/Traffic+Act+Cap.+403+-+No.+39+of+1953/docs/TrafficAct39of1953.pdf>

The Customs and Excise Act 2010 chapter 472.

Accessed at <http://www.revenue.go.ke/notices/pdf2011/customs-act-2010.pdf>

Kenya Revenue authority website; Licensing of clearing agents
<http://www.revenue.go.ke/index.php/customs-services/clarin-agents/licensing-procedures>

Federation of East African Freight Forwarders Associations Code of Conduct 2010

Kenya International Freight & warehousing associations Website, membership requirement
http://www.kifwa.co.ke/?page_id=9

COMESA treaty – Protocol on Transit Trade and Transit Facilities (Art 1-4)

[Regional Rule] The East African Community Customs Management Regulations 2010, Arrangement of Regulations

[Regional Rule] EAC Customs Management Act 2004 and Subsidiary legislations revised edition 2011

Sudan

The Republic of the Sudan. The General Directorate of Customs Regulations for Customs Clearance processes 2012,

The Republic of the Sudan. The Investment Encouragement Act 1999 Amended (2007)

The Republic of the Sudan. Companies Act 1925,

Others (non-country regulations)

ELAQF Qualification Standards 2014. European Logistics Association (ELA).

FIATA. FIATA Model Rules for Freight forwarding Services. Accessed at
http://fiata.com/uploads/media/Model_Rules_07.pdf

Gleave. S, Frisoni. R, Dionori. F, Vollath. C, Tyszka. K, Casullo. L, Routaboul.C, Jarzemskis. A, Tanczos. K (2013). Development and Implementation of EU Road Cabotage. European Union.

IATA Cargo Agency conference Resolutions Manual - Resolutions 803; Cargo agency rules recommended practice 1630 Cargo security.

Reference

- Arnold. J, Mathenge. J, Dihel. N, and Strychacz. (May 2011) The Role of Clearing and Forwarding Agents in Reforming the EAC Logistics Sector, Africa Trade Policy Notes # 17, World Bank.
- European Logistics Association (ELA). ELAQF Qualification Standards 2014.). Accessed at <http://www.elalog.eu/elaqf-qualification-standards>
- FIATA. FIATA Model Rules for Freight forwarding Services. Accessed at http://fiata.com/uploads/media/Model_Rules_07.pdf
- Gleave. S, Frisoni. R, Dionori. F, Vollath. C, Tyszka. K, Casullo. L, Routaboul.C, Jarzemskis. A, Tanczos. K (2013) Development and Implementation of EU Road Cabotage. European Union.
- Governemnt of Brazil (1998) Lei 9611/98 | Lei n° 9.611, de 19 de fevereiro de 1998, Transporte Multimodal de Cargas.
- Government of Germany (1998) HGB Commercial Code: Freight business; Forwarding business; Warehousing business, §453HGB
- Government of Germany (1998) HGB Commercial Code: Freight business; Forwarding business; Warehousing business, §458HGB
- Government of Nepal (2006) The Act Made to Provide for Multimodal Transportation of Goods. Nepal Gazette, Volume 56.
- Government of Netherland. Dutch Civil Code Book 8 – Transport Law and means of Transport. Accessed at <http://www.dutchcivillaw.com/legislation/indexb88.htm>
- Government of South Africa (2009) The National Land Transport Act. Government Gazette, No. 32110. April 8, 2009.
- Government of the USA. Code of Federal Regulations No. 46 - #515 regulations affecting ocean shipping in foreign commerce. Accessed at <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=46:9.0.1.2.10>
- International Air Transport Association. IATA Cargo Agency conference Resolutions Manual - Resolutions 803; Cargo agency rules recommended practice 1630 Cargo security.
- Japan External Trade Organization (JETRO). Accessed at http://www.jetro.go.jp/world/japan/qa/import_04/04A-010132.
- Kunaka C, Mustra M., and Saez. S (2013a) Trade Dimensions of Logistics Services A Proposal for Trade Agreements, Policy Research Working Paper 6332. World Bank.
- Kunaka C, Tanase V, Latrille P, and Krausz P (2013b) Quantitative Analysis of Road Transport Agreements. World Bank.
- Ministry of Commerce of the People’s Republic of China (2004) Detailed rules for implementation of regulations of China on the administration of international freight forwarding industry No.82, Chapter 1, Article 2, 2004.
- Ministry of Transport in Japan. Maritime Transportation Law 1949
- Ministry of Transport in Japan. Freight Forwarding Business Laws 1989

Ministry of Transport in Japan. Standard international use air transport agreement (December 1, 1990). Ministry of Transport Notification No. 594

Molinuevo, M, Sáez, S. (2014) Regulatory Assessment Toolkit. Washington DC. World Bank.

Ojha p. Nepalese Experience in Liberalization of Trade Logistics Services, Office of Prime Minister and Council of Ministers, Nepal. Accessed at http://artnet.unescap.org/tid/artnet/mtg/tfri_s3ojha.pdf

Philippine Shippers' Bureau (PSB) (2005) PSB ADMINISTRATIVE ORDER NO. 6 SERIES OF 2005– Revised Rules on Freight Forwarding.

Seidler, V. (December 2011) Colonial Legacy and Institutional Development – The case of Botswana and Nigeria. Dissertation Forum 52, Australian Foundation for Development Research. Accessed at <http://www.oefse.at/Downloads/publikationen/foren/Forum52.pdf> on September 4, 2013.

Schramm, H. (2012) Freight Forwarders Intermediary Role in Multimodal Transport Chains a Social Network Approach, Physica-Verlag Springer Company.

Singapore logistics Association. Singapore Registry of Accredited Multimodal Transport Operators Background paper on multimodal transport. Singapore. Accessed at <http://sla.org.sg/documents/10181/15857/Multimodal%20Transport%20Operators/daab0205-e1e0-4bbb-8b35-f358b2189119?version=1.0>

The South African Revenue Service. Licensing. Accessed at <http://www.sars.gov.za/ClientSegments/Customs-Excise/Processing/Pre-assessment/Licensing/Pages/default.aspx>

UNCTAD (April 2011) Trade and Transport Facilitation Project 2 (TTFP-2) Freight Forwarding - Regulation and Procedures Advice to NTTFC.

United Nations (1981) The United Nations Conference on a Convention on International Multimodal Transport, 1980, Volume 1, Final Act and Convention on International Multimodal Transport of Goods. New York. Accessed at http://unctad.org/en/PublicationsLibrary/tdmtconf17_en.pdf

UNESCAP (2011) Guideline for Minimum Standards and codes of Professional Conduct for Freight Forwarders, Non-Vessel Operating Common Carriers and Multimodal Transport.

UNESCAP (2009). Towards an appropriate regulatory environment for the multimodal transport and logistics industry.

US International Trade Commission (May 2005) Logistics Services: An Overview of the Global Market and Potential Effects of Removing Trade Impediments. Publication 3770, Washington DC, USITC.

World Bank (2014) Doing Business Report 2015 Going Beyond Efficiency Economy Profile 2015 Singapore. Washington DC, World Bank.

World Bank (2013). Greek Logistics – Unlocking Growth Potential through Regulatory Reform and Complementary Measures, 82569, November 2013, Washington DC. World Bank.

World Bank. Logistics Performance Index 2014. Accessed at <http://lpi.worldbank.org/>

World Trade Organization. Definition of Services Trade and Modes of Supply as a part of GATS TRAINING MODULE: CHAPTER 1 Basic Purpose and Concepts. Accessed at https://www.wto.org/english/tratop_e/serv_e/cbt_course_e/c1s3p1_e.htm