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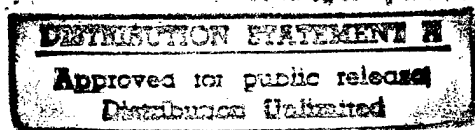
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China Report

POLITICAL, SOCIOLOGICAL AND MILITARY AFFAIRS

PRC STATE COUNCIL BULLETIN

No 23, 30 AUGUST 1985



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CHINA REPORT
POLITICAL, SOCIOLOGICAL AND MILITARY AFFAIRS

PRC STATE COUNCIL BULLETIN

No 23, 30 AUGUST 1985

Beijing ZHONGHUA RENMIN GONGHEGUO GUOWUYUAN GONGBAO [PRC STATE COUNCIL BULLETIN] in Chinese No 23, 30 Aug 85

[This volume contains selected translations from the PRC STATE COUNCIL BULLETIN. Items marked [previously published] and [previously covered] have appeared in other JPRS or FBIS publications, and are cross-referenced wherever possible.]

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CIRCULAR ON BANNING FOREIGN EXCHANGE SPECULATION (17 JULY 1985)

Beijing STATE COUNCIL BULLETIN in Chinese No 23, 30 Aug 85 p 822

(GuoBANfa 1985 No. 53)

[Text] The State Council concurs with the request for instructions by the China Petrochemical Corporation and the Ministry of Foreign Relations and Trade on "Banning Foreign Exchange Speculation in Coastal Areas through the Selling of Oil at Sea" and now circulates it to you for thorough implementation.

Crude oil and its products are important means of production and export commodities, so they must be subject to a unified policy and strengthened control. Foreign exchange speculation of certain units along coastal areas in Guangdong Province and the Guangxi Zhuang Autonomous Region through the selling of oil at sea not only causes economic losses to the State but also affects normal activities of the oil trade in Hong Kong and Macao. Determined measures must be taken to have the activities banned. The people's governments of Guangdong Province and Guangxi Zhuang Autonomous Region are requested to organize relevant organs to earnestly look into the matter and take necessary remedial action. They must seriously study and carry out the four measures advocated by the China Petrochemical Corporation and the Ministry of Foreign Economic Relations and Trade. The China Petrochemical Corporation and the Ministry of Foreign Economic Relations and Trade shall dispatch personnel to assist this province and the autonomous region to get a good handle on this work.

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CSO: 4005/379

MOFERT REQUESTS BAN ON FOREIGN EXCHANGE SPECULATION

Beijing STATE COUNCIL BULLETIN in Chinese No 23, 30 Aug 85 pp 822-823

[Request for Instructions by the Chinese Petrochemical Corporation and the Ministry of Foreign Economic Relations and Trade on Banning Foreign Exchange Speculation in Coastal Areas through the Selling of Oil at Sea (Summary) (17 June 1985)]

[Text] Since the early part of last year, the phenomena of certain units and lawless merchants engaging in foreign exchange speculation through the selling of oil at sea have been exceedingly manifest. To reap huge profits, some units have set up clandestine oil filling (oil platforms) stations at sea. Among these units are commercial enterprises, aquatic product enterprises, enterprises jointly operated by special zones and inland, maritime oil service companies, and enterprises of rural production brigades. At present, there are over 20 such oil filling stations. They sell oil not only to fishing boats but also to cargo ships. Most of the oil is supplied from oil outside production plan sold at consultation prices by the large and small refineries in over ten provinces and autonomous regions. Moreover, certain units subordinate to the aquatic products, transportation and shipping departments have resold oil for profit allocated at parity prices by the state. The oil selling units openly quote prices in Hong Kong dollars, foreign exchange notes, and renminbi. They cut prices in competing with each other. Last year, with the exception of oil at parity prices, the total volume of oil sold at the filling stations at sea amounted to 45,000 tons, causing the state to lose over 5 million dollars of foreign exchange.

At present, these illegal activities are continuously expanding. Selling of oil at sea has developed from small fishing boats to tankers and the category of oil for sale has expanded from diesel oil for fishing vessels to kerosene. In the resale of oil by these unlawful merchants, illegal activities have extended from sea to land and the amount of foreign exchange speculation has become increasingly larger.

In view of the above-mentioned conditions, it is necessary to take effective measures against these illegal activities and steadfastly have them banned. Hence, it is proposed that the following four measures be adopted:

1. Petroleum being an important means of production and a commodity for export, it is necessary to strengthen the control over it. From now on, organs engaged

in selling oil at sea shall be limited to those which are subordinate to the sales company's system, or are in joint-operation with the system, of the China Petrochemical Corporation, and the China Shipping Fuels Supply Company (oil sales to ocean-going vessels only; sales to other units prohibited). No other units shall be allowed to take part in the sales operations. Operation units shall strengthen control, perfect systems, plug loopholes and, in particular, prevent parity prices from turning into negotiated prices. The State Administration for Industry and Commerce shall, in this spirit, carry out a full-scale liquidation of units in the oil trade along the coastal areas of Guangdong Province and Guangxi Zhuang Autonomous Region. Those not conforming with the above-mentioned regulations shall be completely banned, those conforming shall be registered and given a business license.

2. In regard to oil sales to fishermen of dual registration status along the coastal areas of Guangdong Province, aside from the sales of parity-price oil following existing methods, high-price oil shall be sold in foreign exchange, and the entire foreign exchange earnings shall be turned over to the Bank of China. As for oil sales to fishermen in the interior and for communication and transportation purposes (differentiation shall be made between inland waterway shipping and shipping engaged in external trade), the aquatic products department and the oil supply department shall formulate relevant oil sales regulations with the express purpose of preventing the smuggling of oil and oil products abroad.

3. The price of oil sales to fishing boats at sea shall be under the control of the China Petrochemical Corporation. Oil filling stations at sea shall, in principle, fix oil prices in accordance with Hong Kong and Macao markets and prices shall be announced daily by local petroleum companies. The China Chemicals Import and Export Corporation shall coordinate the prices of the Hong Kong Macao markets with negotiable oil prices for fishing boats at sea. No units shall be allowed to lower prices in competition.

4. The State Administration for Industry and Commerce shall strengthen the supervision and inspection of oil filling stations at sea. The Customs Administration shall likewise strengthen its preventive work in this connection.

If the above measures are in order, it is requested that they be approved and circulated to people's governments at various levels along the coastal areas and to the relevant organs for observance and implementation.

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CSO: 4005/379

REGULATIONS ON HANDLING INVALID CONTRACTS (25 JULY 1985)

Beijing STATE COUNCIL BULLETIN in Chinese No 23, 30 Aug 85 pp 830-832

GONG SHANG-21 1985 No 128)

[Text] To correctly confirm and handle invalid economic contracts so as to protect the legitimate interests of the parties concerned and maintain socio-economic order, and in accordance with the PRC Economic Contracts Law (in this Bulletin, Issue No 26, 1981), the following regulations are made:

I Basis for confirmation of invalid economic contracts:

According to Article 7 of the Economic Contracts Law, confirmation of invalid economic contracts shall be made from the following aspects:

- 1) One of the following conditions shall disqualify the main body of an economic contract: a) economic contracts signed by social bodies or organs in the name of legal persons possessing the qualifications of legal persons; b) economic contracts signed in the name of individual operators not authorized for registration and given a business license; and c) economic contracts signed by persons whose capacity for action is restricted by state law.
- 2) One of the following conditions shall render contents of an economic contract unlawful: a) clauses of the economic contract violate state laws, administrative ordinances and regulations and state policies or plans; b) an economic contract lists articles banned from trading by public orders of the state, or articles dealings in which are not permitted; or acts or deeds not permissible by law or policies; c) untruthful manifestation of the wishes of the parties concerned, or signing of the economic contract by coercion or through deceitful tactics; d) the parties concerned have evaded the law, and damaged the rights and interests of the state, the social public, and other people.
- 3) One of the following conditions constitutes an invalid proxy or attorney: a) an agent signing an agreement without the power of attorney, or exceeding the power of attorney, or after the power of attorney has been nullified, and without subsequent ratification or confirmation by the principal of the proxy agreement; b) an agent signing a contract in the name of the principal of the proxy agreement with himself; c) an agent signing a contract

in the name of the principal of the proxy agreement with another party whom he also represents as agent or proxy; d) an agent acting in collusion with the opposite party in signing a contract which damages the interests of the principal of the proxy agreement.

II Handling of invalid economic contracts:

Invalid economic contracts have no legal binding force commencing from the date of their signing. In the event an economic contract is confirmed invalid, if it is not yet carried out, it shall not be carried out; and if it is being carried out, it shall at once stop being carried out. If a part of an economic contract is declared or confirmed invalid and provided it does not affect the validity of the remaining portions, the remaining portions shall remain valid.

Three ways of handling consequences on property caused by invalid economic contracts, namely, return of property, compensation, and recovery of repayment may be implemented, in accordance with the seriousness of the offence committed by the party concerned and as provided for under Article 16 of the Law on Economic Contracts.

- 1) Return of property is to return property relations of the party concerned to conditions prior to signing of the contract. If the listed article obtained by the party of an invalid economic contract still exists, then it shall be returned to the opposite party; but if it no longer exists or has been legally acquired by a third person and cannot be returned, the method of paying an indemnity for the loss may be resorted to as compensation.
- 2) Compensation for loss is the responsibility that the party in error shall bear for losses caused to the opposite party; if both parties are in the wrong, then the order of responsibility and seriousness shall be used to determine the respective share of the economic loss to be borne by each party.
- 3) Recovery of property is a tactic adopted to punish those concerned for wilful actions damaging the interests of the state and the common interests of society. If both parties are found wilful in their actions, then recovery shall be made to recover the property already obtained or about to be obtained according to the contract. If one party is wilful, the wilful party shall return to the opposite party the property obtained from it; if the unwilful party has obtained, or contracted to obtain, property from the opposite party, recovery shall be made. In making a recovery for return of property from the wilful party, care shall be taken to protect the legitimate interests of the unwilful party.

III Invalid economic contracts confirmation procedures

- a) If invalid economic contracts are discovered by the State Administration for Industry and Commerce or reported by a third party, they shall forthwith constitute cases warranting action. If, in the course of arbitration, a portion of an economic contract is discovered to be invalid, the invalid portion shall be dealt with by adjudication and the valid portion, by arbitration.

If the entire economic contract is found to be invalid, the arbitration procedure shall forthwith be halted and confirmation shall be made by the State Administration for Industry and Commerce.

b) Personnel handling a case shall investigate, study and examine the original text of the contract, collect the evidence and interrogate the concerned parties.

c) On the basis of ascertaining facts and the delineating responsibilities of a case having been classified and after the personnel handling the case have submitted their views and the views have been duly examined and approved, a confirmation document of an invalid economic contract shall be compiled.

The confirmation document of an invalid economic contract shall clearly state the names of the concerned parties, and the names and addresses of their representatives or proxies, the facts found, the applicable ordinances, administrative regulations and policies, the results, the time limit for submission of request for re-examination of the decision, and the organization to which the request shall be sent.

d) In the event the parties concerned object to the confirmation of an economic contract as invalid, they may, within 15 days from the confirmation date of the invalid economic contract, submit a request for re-examination of the case to a higher level organ of the State Administration for Industry and Commerce. Upon receipt of the request, the latter higher level organ shall earnestly make an investigation. If the said confirmation is found to be correct, the request for re-examination shall be rejected, but if it is found erroneous, the case shall be handled anew.

The decision of the higher level organ of the State Administration for Industry and Commerce shall be final.

e) If the above-mentioned time limit for applying for re-examination has expired and the parties concerned have not requested re-examination, the confirmation document shall immediately take effect. The parties concerned shall earnestly carry out the confirmation document now in effect according to the regulations. If they fail to carry out the document after the time limit, the State Administration for Industry and Commerce shall carry it out in accordance with relevant regulations.

f) In the event an upper level organ of the State Administration for Industry and Commerce discovers errors in a confirmation issued by a lower-level organ of the State Administration for Industry and Commerce and is already in effect, the confirmation shall be nullified and the case shall be handled anew.

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