

Unclassified

DAF/COMP/WP2/WD(2015)1

Organisation de Coopération et de Développement Économiques
Organisation for Economic Co-operation and Development

09-Jun-2015

English - Or. English

DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE

Working Party No. 2 on Competition and Regulation

COMPETITION ISSUES IN LINER SHIPPING

-- European Union --

19 June 2015

This document reproduces a written contribution from the European Union submitted for Item IV of the 59th meeting of the Working Party No. 2 on Competition and Regulation on 19 June 2015.

More documents related to this discussion can be found at: <http://www.oecd.org/daf/competition/competition-issues-in-liner-shipping.htm>

Please contact Ms. Cristiana Vitale if you have any questions regarding this document [E-mail: cristiana.vitale@oecd.org].

JT03378125

Complete document available on OLIS in its original format

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

DAF/COMP/WP2/WD(2015)1
Unclassified

English - Or. English

-- European Union --

1. Introduction

1. In the worldwide liner shipping sector, European¹ and Asian² carriers make up the global top ten in terms of market share based on capacity. It is a market which has also been witnessing worldwide consolidation. In parallel, the regulatory regime applicable in the EU has also been evolving; while historically subject to sector-specific legislation and guidance (including an exemption for conferences until 2008), today liner shipping falls squarely under the scope of general EU competition rules complemented only by a block exemption for certain consortia. This paper aims to give a broad overview of the current EU regulatory regime as well as to highlight a number of recent examples of its application.

2. Liner shipping in the EU

2. Liner shipping³ plays an important role for the EU economy with liner shipping carriers carrying 40% (by value) of EU external trade by sea. Maritime transport to and from the EU continues to play an essential role, with its modal share (in tonne-km) remaining stable around 37% since 1995.⁴

3. One fifth of the global containership fleet transports goods to, from and within Europe but in terms of capacity (TEUs), the figure rises to just over a quarter of global capacity. In other words, more large ships are deployed on trade routes to, from and within Europe. The Far East-Europe trade is the most significant trade lane in and out of Europe capturing three quarters of European capacity.⁵

3. Global consolidation

4. Liner shipping is a relatively fragmented sector in terms of number of operators, and for the last several years there has been a marked shift towards consolidation. While global market share has remained distributed across roughly the same number of carriers with a slight decrease in fragmentation over the last two years,⁶ consolidation in the sector has primarily taken the form of strategic alliancing.

5. The over-capacity crisis in the sector and the resulting sharp decrease in shipping rates that followed the 2008 financial crisis were characteristic of the cyclical nature of the liner shipping industry.

6. According to a market enquiry carried out by DG COMP last year, in 2012 about 50% of reported capacity to and from the EU was in fact provided by carriers cooperating in consortia of various kinds (ranging from simple slot exchange to vessel sharing agreements to more integrated alliances).

¹ APM-Maersk, MSC, CMA CGM, Hapag-Lloyd, and Hamburg Süd. Alphaliner, Monthly Monitor, April 2015.

² Evergreen, COSCON, CSCL, Hanjin Shipping, Mitsui O.S.K. Lines, Alphaliner Monthly Monitor, April 2015.

³ Liner shipping is the provision of regular, scheduled maritime freight transport, mainly by container on a specific route, i.e. between a range of ports at one end (e.g. Shanghai-Hong Kong-Singapore) and a range of ports at the other end (e.g. Rotterdam-Hamburg-Southampton).

⁴ Eurostat Transport in figures, Statistical pocketbook 2014. Note these figures do not include freight transport by inland waterway.

⁵ Alphaliner Monthly Monitor, April 2015.

⁶ In April 2013, 85.2% of global fleet capacity was held by 21 carriers; in April 2015, 85.7% of global fleet capacity was held by 19 carriers; the change likely resulting in part from the merger of CSAV with Hapag-Lloyd, Alphaliner, Monthly Monitor, April 2013 and April 2015.

7. Consortia are seen by the industry as being crucial to the economic viability of liner shipping services in the face of rising fuel costs and difficult market conditions which have led to overcapacity. In addition, the constant trend towards bigger ships is a key factor which underlies carriers' cooperation.

8. Notably as with other modes of transport, the liner shipping industry is characteristically cyclical. The 2008 financial crisis led to over-capacity and a resulting sharp decrease in shipping rates.

9. At the same time, average vessel size has steadily increased over the last decade and will continue to grow. The next generation of container ships – already on order by carriers – will have a nominal capacity of 20,500 containers, already far surpassing the 18,000 threshold that was touted as "mega" in 2013.⁷ The latest vessels boast improved fuel consumption and environmental performance which can help better respond to economic pressures. On the other hand, larger vessels pose new challenges in terms of the adequacy of infrastructure.

10. The trend towards cooperation and consolidation in the sector was accelerated following the 2013 announcement by the world's top three carriers⁸ of plans for the so-called "P3 alliance". Until then there had been two main alliances: the "Green alliance" (or CKHY)⁹ and G6.¹⁰ First, the CKYH announced cooperation plans with Evergreen, until then a solo player, becoming CKYHE in early 2014. The G6 alliance, in place for more than a decade on Europe-Asia routes, expanded its geographical scope to cover Transatlantic routes from May 2014. Plans were announced for a merger between CSAV¹¹ and Hapag-Lloyd, with the merger being given the green light by the European Commission in September 2014, creating the fourth largest liner shipping company worldwide.¹²

11. In the wake of the Chinese regulatory authorities' decision not to approve the proposed P3 alliance mid-2014, Maersk, MSC and CMA-CGM, rapidly regrouped and, by early 2015, two new alliances were up and running: Maersk and MSC forming the 2M alliance and CMA-CGM teaming up with United Arab Shipping Company (UASC) and China Shipping Container Lines (CSCL) to form the Ocean Three alliance.¹³

12. Thus, in just under two years, there has been a radical change in the liner shipping seascape with a doubling of the number of alliances. Today, 16 of the world's top 20 carriers are now aligned and cooperating in one of four alliances: CKYHE, G6, 2M and Ocean Three.

4. EU regulatory framework applicable to liner shipping

13. In EU law, liner shipping (and the maritime sector in general) is subject to the general basic antitrust rules (section 4.1.). Although historically, liner shipping (and other sub-sectors of the maritime industry) benefited from a specific procedural regime as well as some specific exemptions, this is less true now (section 4.2. below).

⁷ Lloyd's, January 2015.

⁸ Maersk, CMA-CGM and MSC.

⁹ COSCON, K-Line, Yang Ming and Hanjin Shipping.

¹⁰ Hapag-Lloyd, NYK Line, OOCL, Hyundai Merchant Marine, APL and Mitsui O.S.K. Lines.

¹¹ Compañía Sud Americana de Vapores.

¹² The clearance was conditional upon a number of commitments offered by the companies. The Commission's decision is outlined later in this paper.

¹³ The specialised maritime press is already speculating about the possible addition of Hamburg Süd to the Ocean Three alliance, making it Ocean Four, May 2015.

4.1 *General EU competition rules related to antitrust*

14. The general EU rules on competition as set out in the Treaty on the functioning of the European Union (TFEU) have always applied in principle to the maritime sector¹⁴ and are complemented by the Commission's general guidelines on horizontal cooperation¹⁵ (hereafter "Horizontal Guidelines") and a block exemption regulation for liner shipping consortia.¹⁶

15. According to Article 101(1) TFEU:

"The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market."

16. Thus, agreements between liner shipping companies (in particular, agreements on price, the limiting of supply and the sharing of markets) are prohibited where they have as their object or effect the prevention, restriction or distortion of competition within the internal market. Under the Treaty, prohibited agreements are automatically void.

17. However, Article 101(3) TFEU recognises that a restrictive agreement caught by Article 101(1) TFEU may in certain cases have pro-competitive effects that outweigh the anti-competitive effects of the restriction:

"The provisions of paragraph 1 may, however, be declared inapplicable in the case of any agreement or category of agreements between undertakings, any decision or category of decisions by associations of undertakings, [or] any concerted practice or category of concerted practices which contributes to improving the production or distribution of good or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit and which does not: (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives; (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question."

18. Thus, under Article 101(3) TFEU, a prohibition pursuant to Article 101(1) is inapplicable where an agreement between liner shipping companies creates efficiencies that meet the four conditions of Article 101(3) TFEU.

19. An agreement that is prohibited pursuant to Article 101(1) TFEU may be exempted by way of Article 101(3) in two ways: by individual assessment or by generic exemption. First, Article 10 of Regulation 1/2003 provides that where required by the public interest, the Commission acting on its own initiative (and thus on a case by case basis), may by decision find that Article 101(1) TFEU is not applicable to a specific agreement. Second, by way of reference in Article 101(3) TFEU to "category of agreements", the Treaty opens the door to the adoption of block exemptions. Agreements which fall within

¹⁴ In the French Seamen and Nouvelles Frontières judgments of the European Court of Justice, Articles 101 and 102 were found to apply to the transport sector regardless of sector-specific regulations.

¹⁵ Guidelines on the applicability of Article 101 of the Treaty on the functioning of the European Union to horizontal co-operation agreements (2011/C 11/01).

¹⁶ Commission Regulation (EC) No 906/2009 of 28 September 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia); OJ L 256, 29.9.2009, p.31.

the scope of a block exemption regulation are valid without any specific authorisation and such regulations provide legal certainty for undertakings and a reduced administrative burden for the Commission.¹⁷

20. It is important to stress that, since the adoption of Regulation 1/2003,¹⁸ in the case of an agreement between undertakings, no prior notification to the European Commission is required. It is up to the parties to the agreement to self-assess their business practices to determine whether they comply with EU competition law.

21. In addition to rules on agreements between undertakings, Article 102 TFEU prohibits any abuse of a dominant position by an undertaking within the internal market or any substantial part of it that may affect trade between Member States. Abuses may consist of exclusionary abuses (those which exclude competitors from the market) and exploitative abuses (those where the dominant company exploits its market power, for example by charging excessive prices).

4.2 *Maritime-specific EU regulations*

22. Historically, although the general rules were applicable to the maritime sector, a special regulatory regime applied to the maritime sector, including block exemptions and guidelines. This specific regime also included a procedural framework of its own, which has been repealed; Regulation No 1/2003, the Regulation setting the general procedure applicable to antitrust investigations, is fully applicable to the maritime sector.

4.2.1 *Repeal of the liner conference block exemption regulation*

23. A block exemption regulation for liner conferences¹⁹ (Conference BER) exempted agreements between liner shipping companies from the general EU competition rules. Agreements on prices and other conditions of carriage on routes to and from the EU (i.e. price and capacity fixing cartels without offering any joint service to customers) were therefore permitted under certain conditions. A thorough review of the industry carried out by the Commission in 2003-2005 demonstrated that liner shipping is not unique as its cost structure does not differ substantially from that of other industries. Consequently, the Commission and the Council concluded that there was no evidence that liner conferences still met the conditions of Article 101(3). The Conference BER was repealed accordingly in 2006 (with full effect from 2008).²⁰ This was in line with the recommendation issued by the OECD in 2002 when it invited Member countries to remove antitrust exemptions for price fixing whilst maintaining exemptions for operational arrangements.

24. Stressing the global nature of the liner shipping industry, the Council in repealing the conference block exemption also invited the Commission to advance the removal of price fixing exemptions for liner conferences in other jurisdictions. To that end, the Commission has since provided written contributions to Singapore and New Zealand in the context of their own reviews of the regulatory framework applicable to

¹⁷ In order to adopt a block exemption for a certain category of agreements, the Commission must first be empowered to do so by the Council by way of an enabling regulation.

¹⁸ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, OJ L1, 4.1.2003, p.1.

¹⁹ Council Regulation (EEC) No 4056/86 of 22 December 1986 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport, OJ L 378, 31.12.1986, p.4.

²⁰ Council Regulation (EC) No 1419/2006 of 25 September 2006 repealing Regulation (EEC) No 4056/86 laying down detailed rules for the application of Articles 85 and 86 of the Treaty to maritime transport, and amending Regulation (EC) No 1/2003 as regards the extension of its scope to include cabotage and international tramp services, OJ L 269, 28.9.2006, p.1.

liner shipping conferences. It also contributed to the debate in several other jurisdictions, although less formally.

25. After repeal of the Conference BER and in order to ease the transition to a fully competitive regime, the Commission issued guidelines on the application of Article 101 TFEU to maritime transport services²¹ for a transitory period of five years. In October 2012, the Commission decided not to renew them, in particular because maritime services are now covered by the 2011 Horizontal Guidelines.²²

4.2.2 *Consortia block exemption regulation*

26. The Commission recognises that the provision of a liner shipping service requires a significant level of investment. For example, to offer a regular weekly service on a long-distance route such as Europe-Asia it takes in general eight to nine similarly sized ships. Liner shipping services are therefore often provided by groups of carriers in consortia.

27. Both small and large carriers cooperate in consortia and consortia are often the only way for smaller carriers to offer a regular service. A consortium can be organised in many forms, from fully integrated cooperation (often called "alliances") where all members contribute ships and operate part of the joint service to simpler exchanges of space on each other's ships. Although treated as mergers in some jurisdictions, such groupings or alliances, to the extent that they are not full-function joint ventures, do not fall under the EU rules applicable to mergers.

28. A block exemption regulation for consortia (Consortia BER) was first adopted in 1995²³ and has been renewed a number of times since. Today, Commission Regulation (EC) No 906/2009²⁴ (adopted pursuant to a Council "enabling regulation")²⁵ exempts certain types of cooperation – creating a safe harbour for consortia agreements from the prohibition in Article 101(1) of the TFEU where certain conditions are met.

29. The Consortia BER defines a consortium as an agreement between carriers, "the object of which is to bring about cooperation in the joint operation of maritime transport service, and which improves the service that would be offered individually by each of its members, [...] in order to rationalise their operations by means of technical, operational and/or commercial arrangements."

30. Consortia generally lead to economies of scale and better utilisation of the space of the ships. These efficiencies are presumed to be passed on to customers in terms of better services and higher coverage of ports provided there is sufficient competitive pressure on the consortium. For that reason, under the Consortia BER the joint market share of the members of the consortium may not exceed 30% under the Consortia BER and where it does, it cannot benefit from the safe harbour of the BER.

²¹ OJ C 245, 26.9.2008, p. 2

²² See footnote 15 above.

²³ Commission Regulation (EC) No 870/95 of 20 April 1995 on the application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) pursuant to Council Regulation (EEC) No 479/92; OJ L 89, 21.4.1995, p. 7.

²⁴ Commission Regulation (EC) No 906/2009 of 28 September 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia); OJ L 256, 29.9.2009, p.31.

²⁵ Council Regulation (EC) No 246/2009 of 26 February 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia), OJ L 79, 25.3.2009, p. 1.

31. A number of key principles underlie the Consortia BER:

- A fair share of the **benefits** resulting from the efficiencies should be passed on to transport users;
- Users can benefit effectively from consortia only if there is sufficient competition in the relevant markets in which the consortia operate. Consortia must remain below a given **market share threshold**;
- Restrictions of competition must be **indispensable** to the attainment of the objectives justifying the grant of the exemption. To that end, severely anti-competitive restraints (hardcore restrictions) relating to the fixing of prices charged to third parties, the limitation of capacity or sales and the allocation of markets or customers exclude the consortium from the benefit of the exemption.

32. Pursuant to the Council enabling regulation, a consortia block exemption can be in place for a maximum of five years, after which the Commission can decide whether it should be prolonged, amended, or left to lapse.

33. Following a public consultation in 2014, the Commission adopted a regulation prolonging application of the existing Consortia BER until April 2020,²⁶ having concluded that the regulation granted the sector the legal certainty needed after the abolition of the conference system by clarifying lawful and unlawful elements of liner carriers' cooperation agreements. At the end of this period the Commission will again assess market and regulatory developments in the sector and will decide whether such a safe harbour remains relevant.

5. EU Regulatory framework in practice²⁷

5.1 Alliances

34. In 2013 the world's three biggest carriers announced plans to form a joint venture for vessel sharing and the coordination of schedules and services, while remaining commercially independent on the market (e.g. sales, pricing and marketing).

35. The P3 alliance could not benefit from the safe harbour of the Consortia BER because it appeared that the market share of the combined entity would exceed the 30% market share threshold. The P3 parties had, therefore, to conduct their own self-assessment of the planned cooperation to determine whether or not it was compliant under Article 101(1) TFEU and if not, whether it creates efficiencies and pass-on to customers (and the other conditions of Article 101(3) TFEU).

36. The Commission was not required to formally authorise the proposed alliance; however it subjected the details of the deal to a close scrutiny. Because of the unprecedented size and characteristics of the alliance, concerns could have emerged regarding anticompetitive coordination of the parties'

²⁶ Commission Regulation (EU) No 697/2014 of 24 June 2014 amending Regulation (EC) No 906/2009 as regards its period of application, OJ L 184, 25.6.2014, p. 3.

²⁷ See also Chirico and Rabinovici, "The Application of EU Competition Rules in the Transport Sector", Journal of European Competition Law and Practice, February 2015.

behaviour beyond the scope of the consortium agreements, exchanges of sensitive information, foreclosure on related markets as well as regarding the actual significance of efficiencies.²⁸

37. Given other consolidation initiatives that followed P3 the Commission also decided to broaden the scope of its *ex officio* analysis by surveying market operators about ongoing consolidation initiatives and about the state of the market. The Commission has thus far taken no formal action in relation to any other alliance but follows market developments in the liner shipping sector and will scrutinise every concern relating to potential interference with competition that it identifies or which is reported to it.

5.2 *Price signalling*

5.2.1 *Facts*

38. On 21 November 2013 the European Commission opened formal antitrust proceedings against 14 liner shipping companies to investigate whether they engaged in concerted practices, in breach of EU antitrust rules. Since 2009, following the repeal of the Conference BER, these carriers have been making regular public announcements of price increase intentions (known as General Rate Increases, or GRIs) through press releases on their websites and in the specialised trade press. These announcements are made several times a year.

39. Since 2009, more than 55 GRI rounds took place at an increasing pace, almost every month in the last two years. They contain the amount of the increase and the date of implementation, which are generally similar for all announcing carriers. The announcements do not specify the full price that will be charged by the carriers which therefore remains unknown to customers. These announcements are not committal and there are examples of carriers amending their earlier announcements: increasing or decreasing the amount of the increase or changing the implementation date. The announcements are usually made by the carriers successively a few weeks before the announced implementation date.

40. The amounts of the announced increases are very significant. According to the industry press the carriers typically announce increases of 40-80% to the prevailing market price, but it is not unusual for announced increases to reach 120 to 180%. The perception in the industry is that they are often announced against market conditions when demand is low and supply is high.

41. In this context the Commission has concerns that this practice may allow the carriers to signal future price intentions to each other and may harm competition and customers by raising prices on the market for liner shipping transport services on routes to and from Europe.

5.2.2 *Legal Background*

42. As outlined above, Article 101(1) TFEU prohibits certain concerted practices between undertakings. According to the case law of the EU courts, a concerted practice constitutes a form of coordination between undertakings by which, without it having reached the stage of an agreement, practical cooperation between them is knowingly substituted for the risks of competition. Companies can adapt themselves intelligently to the existing or anticipated conduct of their competitors. However, they may not be in any direct or indirect contact with their competitors to influence their market behaviour or disclose to such competitor the course of conduct which they themselves have decided to adopt or contemplate adopting on the market. Hence, information exchange can constitute a concerted practice if it reduces strategic uncertainty in the market thereby facilitating collusion, namely if the data exchanged is

²⁸ The P3 deal was eventually abandoned in June 2014, following the decision of the competent Chinese authority to block it under merger rules.

strategic (such as future price intentions). Consequently, sharing of strategic data between competitors amounts to a concerted practice, because it reduces the independence of competitors' conduct on the market and diminishes their incentives to compete.

43. Typically, illegal exchanges of commercially sensitive information between competitors are done in private (e.g. in meetings, phone calls or emails) and constitute a cartel type of infringement. But it is not excluded that public announcements, sometimes referred to as "signalling", could be used as a tool for coordination between competitors. For the particular situation of public announcements, the Horizontal Guidelines²⁹ explicitly state that a concerted practice may be present in a situation where a public announcement was followed by public announcements by other competitors and the announcements are used as "a strategy for reaching a common understanding". The Guidelines name as one possible example announcements that are provided as strategic responses to competitors, for example when competitors readjust their own earlier announcements to announcements made by competitors.

44. Under Article 101(3) TFEU, an agreement or concerted practice may be exempted under certain conditions from the application of Article 101(1) TFEU. With respect to genuinely public price announcements, the Horizontal Guidelines³⁰ state that they can address information asymmetries and reduce customers' search costs, i.e. they can help customers to make a more informed choice. They can also reduce the announcer's costs of reaching customers. However, the Horizontal Guidelines also clearly state that efficiencies are less likely in case of publishing future price intentions because customers cannot "plan ahead" on that basis.

5.3 *Mergers*

45. Beyond antitrust rules, certain consolidation activities are subject to rules applicable to mergers which are in place to ensure that competition is not reduced in a market by the creation or strengthening of a dominant player to the detriment of consumers (through higher prices, reduced choice or less innovation).³¹

46. The maritime sector has seen a number of major mergers which have come under the scrutiny of the Commission, the most recent example being between Hapag Lloyd, a German shipping company and CSAV of Chile, which was cleared by the Commission on 11 September 2014. The clearance was conditional upon the withdrawal of CSAV from two consortia on the trade between Northern Europe and the Caribbean and South America's West Coast, where the merged entity would have faced insufficient competitive constraint to avoid a risk of price increases. The commitments offered by the two companies address these concerns.

47. Hapag Lloyd is an international liner shipping company. Through a joint venture with a subsidiary of HGV, HL AG, it also offers port terminal services in Hamburg-Altenwerder. HL AG's main shareholders include HGV, Kühne Maritime, and TUI AG ("TUI"), a company active in the travel sector. CSAV provides liner shipping services and has limited activities in the freight forwarding and inland transportation sector. CSAV is controlled by Quiñenco S.A. (Chile), a Chilean company which provides, among others, terminal, stevedoring, towage and other associated services through its subsidiary SM SAAM S.A. The merger will create the fourth largest liner shipping company worldwide, after Maersk, MSC and CMA CGM. The activities of Hapag Lloyd and CSAV overlap in the liner shipping business and

²⁹ See footnote 15 above.

³⁰ See footnote 15 above.

³¹ See Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the Merger Regulation), L 24, 29.01.2004, p.1.

have limited vertical links. The Commission examined the effects of the merger on competition in the market for liner shipping services on twelve trade routes connecting Europe with the Americas, Asia and the Middle East.

48. Just as many other carriers, the two companies offer liner shipping services mainly through consortium agreements with other shipping companies, deciding on capacity-setting, scheduling and the ports of call – all important parameters of competition. The Commission found that the merger, as initially notified, would have created new links between previously unconnected consortia.³² On the identified routes, the merged entity, through the consortia that the two companies belong to, may have influenced capacity and therefore prices to the detriment of shippers and consumers.

49. In order to address these concerns the companies offered to terminate the two consortia in which CSAV currently participates on these two trade routes – i.e. the Euroandes consortium and the Ecuador Express consortium, both with MSC. This will eliminate the additional links between previously unrelated consortia that the merger would have created on the two routes. In view of the remedies proposed, the Commission concluded that the proposed transaction, as modified, would not raise competition concerns. This decision is conditional upon full compliance with the commitments.

50. As regards the vertical links created by the transaction between the market for liner shipping services and the markets for (i) container terminal services, (ii) inland transportation services, (iii) freight forwarding services, and (iv) harbour towage services, the Commission found no competition concerns due to the limited market share of the parties in the upstream and downstream markets.

6. Conclusions

51. As the liner shipping sector consolidates worldwide, competition rules applicable to the sector in the EU have been rationalised. General antitrust rules set out in the Treaty on the Functioning of the EU, as well as standard merger procedures, are applicable throughout the sector and conference agreements are no longer exempted.

52. The Commission closely follows market developments in the liner shipping sector, remaining vigilant as regards any possible interference with competition. Where potential risks are identified by a complainant or the Commission itself, the Commission will not hesitate to intervene.

53. In reviewing the applicable regulatory framework and formulating proposals for its modification, the Commission has ensured dialogue and consultation with market players. Similarly, recognising the importance of maintaining an international overview of the liner shipping sector and in the spirit of global cooperation, the Commission has forged ties with its regulatory counterparts internationally.³³ Such international exchange and dialogue provide the opportunity to develop synergies and share best practices in order to effectively respond to the regulatory challenges of the global liner shipping market.

³² On the route between Northern Europe and the Caribbean, Hapag Lloyd is currently a member of the Eurosal consortium with HSDG and CMA CGM; CSAV is a member of the Euroandes consortium with MSC. On the route between Northern Europe and South America's West Coast, Hapag Lloyd is currently a member of the Eurosal consortium with HSDG and CMA CGM; CSAV is a member of the Euroandes consortium and the Ecuador Express consortium, both with MSC. The Commission had concerns these new links would have resulted in anti-competitive effects on two routes: between Northern Europe and the Caribbean and between Northern Europe and South America's West Coast.

³³ In particular, DG Competition, together with the United States Federal Maritime Commission and the Ministry of Transport of the People's Republic of China, held the first global maritime regulatory summit in Washington in 2013 and will hold the second such summit in Brussels in June 2015.