The “New Normal” in Liner Shipping: Are Policies Fit for Purpose?

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Freight Forwarders Forum 2020
Session 1: Liner Shipping Put to Test: Serving Global Trade at Times of Crisis
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Theory

- Shipping
- Terminal
- Forwarder
- Intermodal
Integrated logistics company
Regulation

Shipping special regimes:
• Competition
• State aid
• Taxation
Key messages

• Pure liner shipping only exists in theory.
• Practice is much more hybrid. Most major liner companies have integrated other activities: terminal operations, freight forwarding and intermodal transport (“door-to-door”). In other words: vertical integration
• EU regulation does not take account of this, perpetuating special regimes for liner shipping: competition, state aid and taxation
• In this way, regulation creates market distortions – that risk to increase in the future
Market shares of shipping in other sectors

- **Shipping**: \(~40\%\) (container)
- **Terminal**: \(~40\%\) (container)
- **Forwarder**: \(~15\%\) (ocean freight)
- **Intermodal**: \(~45\%\) (feeder)

Source: ITF based on Drewry, Dynamar and TT
1. Competition: EU regulation

- Shipping cartels outlawed in 2004. (Cartels influence freight rates via joint coordination of prices/capacity).
- Cooperation agreements are facilitated via the Consortia block exemption regulation since 1995, revised in 2009.
- Goal: economies of scale. A fair share should be passed on to transport users (frequency, quality, reliability).
- Special privileges for liner shipping: capacity management, information exchange, joint negotiation.
- “...the combined market share of the consortium members in the relevant shall not exceed 30%” art. 5(1)
1. Competition: capacity management

“capacity adjustments in response to fluctuations in supply and demand”

Source: ITF based on Alphaliner, Shanghai Shipping Exchange
1. Competition: information exchange

Which information is exchanged?

• Volumes moved by carriers in each direction of trades
• Average revenue per TEU earned by carrier per trade
• Demand and supply forecasts

What do carriers know of each others via consortia?

• Reference costs (fuel costs, vessel operating costs and depreciation costs); per service or trade.

Price information exchange where conferences are allowed

Intensifying information exchange via TradeLens, DCSA

➢ Do freight forwarders have access to this information and similar possibilities of information exchange?
1. Competition: a conglomerate of consortia

Large majority of trade routes to/from Europe operated by one conglomerate
1. Competition: joint negotiation

CBER generous on joint negotiation with suppliers.

Market power plus vertical integration creates risks:

- “An offer you cannot refuse”
- Unfair competition in non-shipping markets (terminal, intermodal) via product bundling, predatory pricing or forcing of own product.
- Interference in complaints via trade associations.
- This hollows out the function of forwarders: to offer best package of transport options.
1. Competition: which corrective capacity?

Passing on a fair share of CBER benefits to transport users?

<table>
<thead>
<tr>
<th></th>
<th>2015-2019</th>
<th>2020-....</th>
</tr>
</thead>
<tbody>
<tr>
<td>Freight rate</td>
<td>![Yellow Circle]</td>
<td>![Red Circle]</td>
</tr>
<tr>
<td>Frequency</td>
<td>![Red Circle]</td>
<td>![Red Circle]</td>
</tr>
<tr>
<td>Reliability</td>
<td>![Yellow Circle]</td>
<td>![Red Circle]</td>
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<tr>
<td>Connectivity</td>
<td>![Red Circle]</td>
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Regulators: a problem of legal clarity, monitoring, sanctions
Countervailing powers: who understands, who dares to complain?
2. Maritime State aid: EU regulation

- Beneficiaries: shipping companies
- Aim: provide clarity which support measures are compatible with internal market: “not adversely affect trading conditions contrary to the common interest”.
- In parallel: Commission decisions on notified measures by member states.
- For example: ~24 decisions on tonnage tax since 2004 that define – often expand - the boundaries of what the Commission allows.
2. Maritime State aid & vertical integration (1)

- The 2004 Guidelines do not indicate that the tonnage tax can cover non-shipping activities.
- However, Commission decisions have approved “ancillary activities” that can be covered by the tonnage tax: e.g. terminal handling, storage and demurrage.
- So: 1-2% tax rate instead of the regular CIT rate.
- This applies to activities carried out by operator in the same group as the shipping firm applying tonnage tax.
- Who benefits? Vertically integrated shipping groups, at the cost of independent shipping, terminals, forwarders
- Incentive for carrier haulage instead of merchant haulage
2. Maritime State aid & vertical integration (2)

Which ancillary activities can be covered in tonnage tax schemes in EU?

<table>
<thead>
<tr>
<th>Ancillary activities</th>
<th>Most recent examples</th>
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</thead>
<tbody>
<tr>
<td>Self-handling</td>
<td>Estonia (2019)</td>
</tr>
<tr>
<td>Terminal cargo handling</td>
<td>Croatia (2020), Cyprus (2019)</td>
</tr>
<tr>
<td>Temporary on-dock storage</td>
<td>Croatia (2020), Cyprus (2019)</td>
</tr>
<tr>
<td>Consolidation/breaking cargo</td>
<td>Cyprus (2020)</td>
</tr>
<tr>
<td>Customs clearance</td>
<td>Croatia (2020)</td>
</tr>
<tr>
<td>Office facilities</td>
<td>Croatia (2020), Cyprus (2019)</td>
</tr>
<tr>
<td>Road haulage</td>
<td>Croatia (2020)</td>
</tr>
</tbody>
</table>

This creates market distortions throughout the EU market: a German freight forwarder can be disadvantaged because of a tonnage tax scheme in Cyprus.
2. Maritime State aid & vertical integration (3)

Not just a theoretical possibility

<table>
<thead>
<tr>
<th>Integrated terminal operators</th>
<th>Effective corporate income tax rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>14%</td>
</tr>
<tr>
<td>Non-integrated terminal operators</td>
<td>21%</td>
</tr>
<tr>
<td>Shipping</td>
<td>7%</td>
</tr>
</tbody>
</table>

Source: Merk 2020
3. Taxation

OECD/G20 GLOBE Inclusive Framework Blueprint:
1. Digital Tax. International maritime shipping excluded

Current effective corporate income tax rate:
• 27% for freight forwarders
• 7% for shipping.

Impacts on level playing field in freight forwarding?

Public consultation: contributions until 14 December 2020:
Avenues for reform: cancel, delimit or enlarge

Shipping special regimes:
• Competition
• State aid
• Taxation

Integrated logistics company
Recent ITF work on liner shipping
Thank you!

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