International Transport Forum

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

Olaf Merk

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

OECD

Theory

Shipping	Terminal
Forwarder	Intermodal

Practice

Shipping

Terminal

Integrated logistics company

Forwarder

Intermodal

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	Terminal
	~40% (container)

Forwarder	Intermodal
~15% (ocean freight)	**~45%** (feedering)

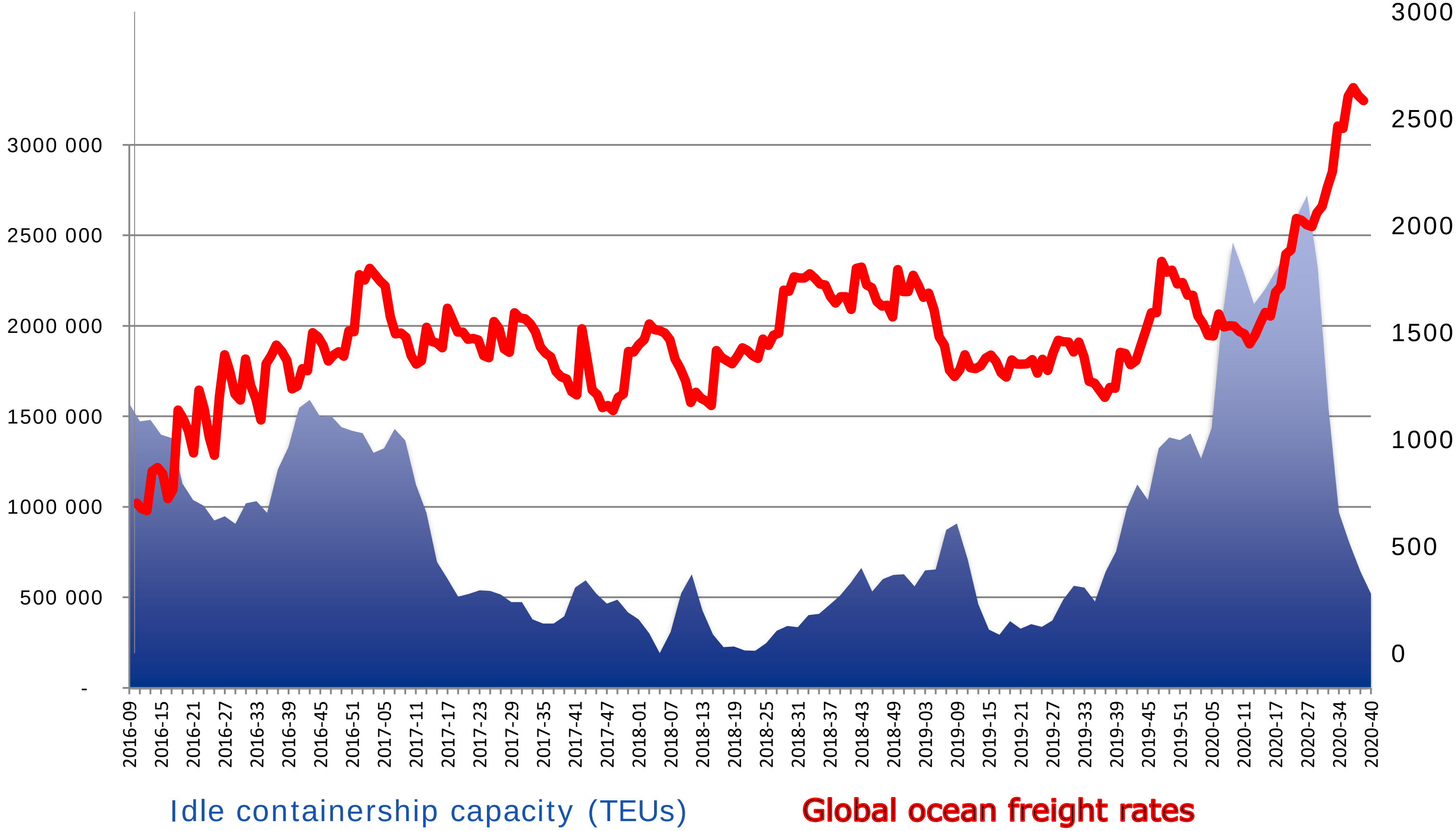
Source: ITF based on Drewry, Dynamar and TT

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?*

Source: ITF 2018, ITF 2019

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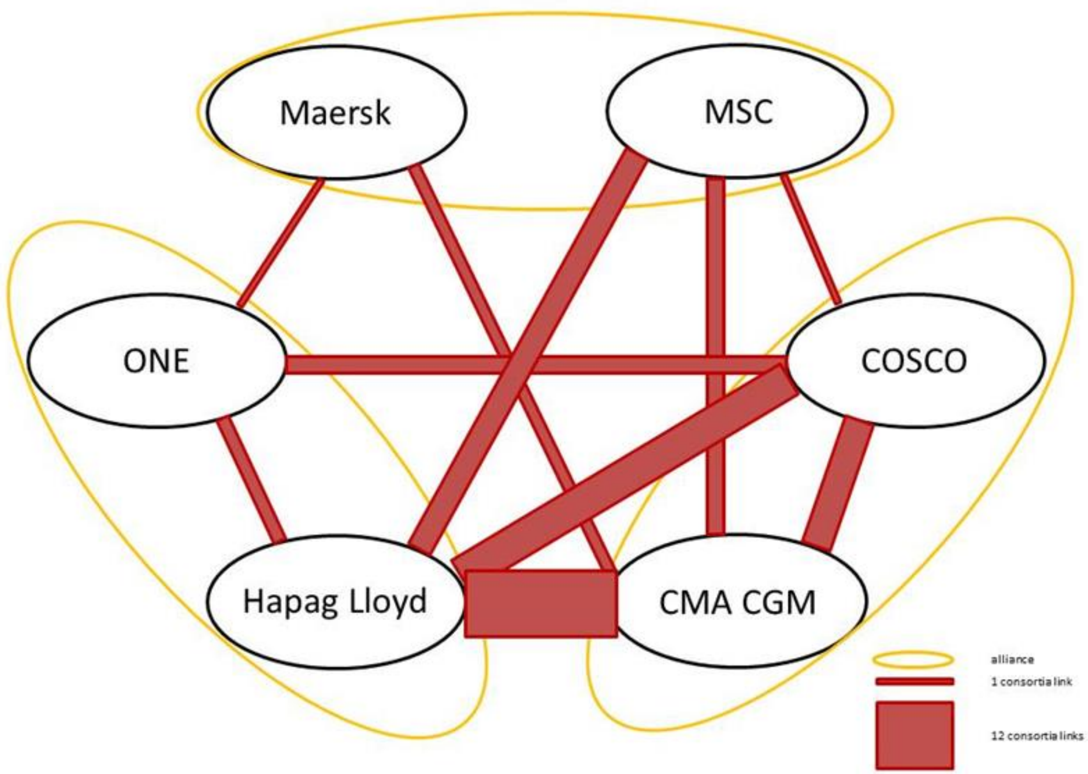
1. Competition: a conglomerate of consortia

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?

	2015-2019	2020-....
Freight rate		
Frequency		
Reliability		
Connectivity		

Regulators: a problem of legal clarity, monitoring, sanctions

Countervailing powers: who understands, who dares to complain?

2. Maritime State aid: EU regulation

- Maritime State Aid Guidelines 1989, 1997 and 2004
- 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

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2. Maritime State aid & vertical integration (2)

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

Ancillary activities	Most recent examples
Self-handling	Estonia (2019)
Terminal cargo handling	Croatia (2020), Cyprus (2019)
Temporary on-dock storage	Croatia (2020), Cyprus (2019)
Consolidation/breaking cargo	Cyprus (2020)
Customs clearance	Croatia (2020)
Office facilities	Croatia (2020), Cyprus (2019)
Road haulage	Croatia (2020)

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

	Effective corporate income tax rate
Integrated terminal operators	14%
Non-integrated terminal operators	21%
Shipping	7%

Source: Merk 2020

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3. Taxation

OECD/G20 GLOBE Inclusive Framework Blueprint:

1. Digital Tax. International maritime shipping excluded
2. Global minimum tax for multinational enterprises. Maritime shipping possibly excluded.

Current effective corporate income tax rate:

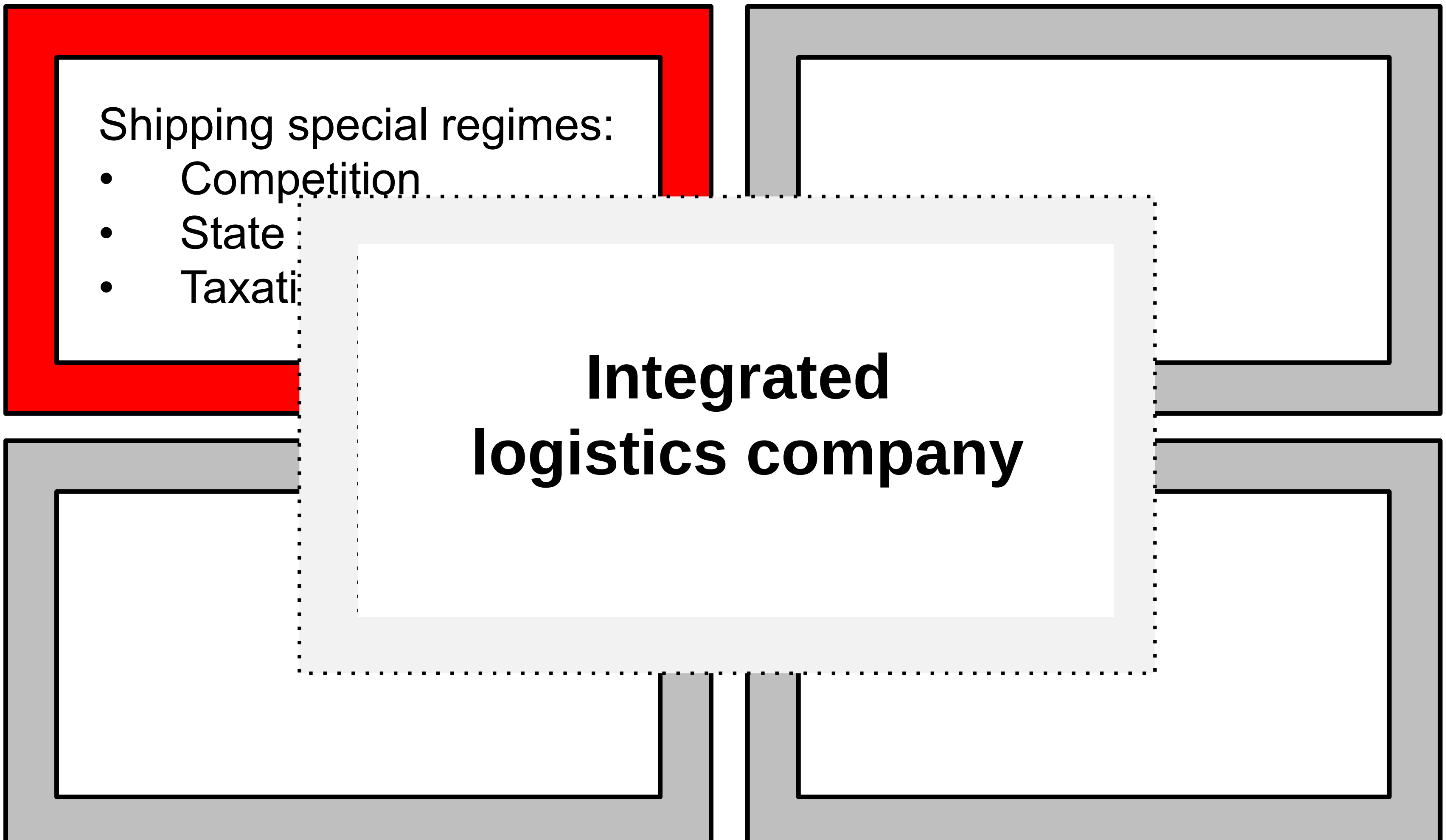
- 27% for freight forwarders
- 7% for shipping.

Impacts on level playing field in freight forwarding?

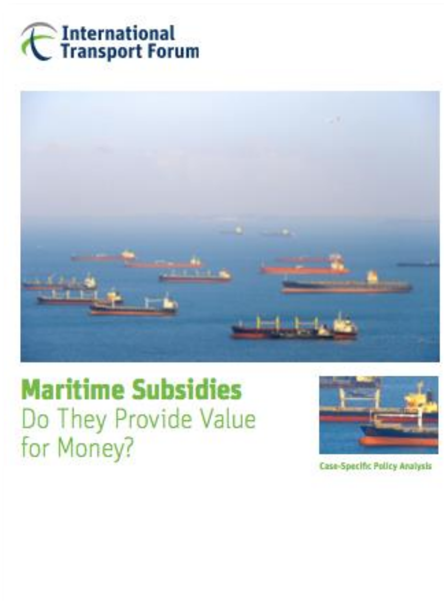
Public consultation: contributions until 14 December 2020:

https://www.oecd.org/tax/beps/public-consultation-document-reports-on-pillar-one-and-pillar-two-blueprints-october-2020.pdf

Avenues for reform: cancel, delimit or enlarge



Recent ITF work on liner shipping



Thank you!

Olaf Merk

olaf.merk@itf-oecd.org
@o_merk (Twitter)