Anti-monopoly Review of Concentration of Operators in Maritime Transportation

Anti-monopoly Bureau, Ministry of Commerce

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1. Relevant anti-monopoly laws and regulations in maritime transportation

- **Anti-monopoly Law and Relevant Laws and Regulations**

  Article 2 This Law shall apply to the conducts if they eliminate or have restrictive effect on competition in the domestic market of the PRC.

- **Regulations on International Ocean Shipping** and **Rules for the implementation of the People's Republic of China international shipping regulations**

  Article 32 The department in charge of transportation under the State Council may, based on the request of the interested persons, or its own decision, conduct investigations with respect to the following situations:

  The liner conference agreement, operation agreement, or freight rate agreement, etc. signed between the international shipping operators engaged in international liner shipping may impair fair competition;

  For various kinds of associations generated through the agreements signed by the international shipping operators engaged in international liner shipping, the shipping share of a sea route involving Chinese ports have continuously exceeded 30% of the shipping volume of that sea route for a year, and may impair fair competition;

  Other actions that may impair fair competition on the international ocean shipping market.
2. Frequent mergers & acquisition in international maritime transportation

- Trade growth has slowed down since the financial crisis. The maritime transportation industry has been oversupplied. The sluggish market led to deepening integration of the industry. Mergers and acquisitions of international container shipping enterprises has happened frequently in recent years.

- **2014**  Maersk Line, CMA CGM and MSC established P3 Network Centre
- **2015**  Hamburg Süd acquired CCNI
- **2016**  COSCO merged with CSCL
- CMA CGM acquired NOL
- Hapag-Lloyd acquired UASC
- Maersk Line acquired Hamburg Süd
- NYK, MOL and K-Line set up a new joint venture
- **2017**  COSCO acquired OOCL
3. Anti-monopoly review for mergers and acquisitions in maritime transportation

- Definition of relevant commodity markets
  - Container Liner Transportation
  - General Container
  - Refrigerated Container
  - Dry Bulk Cargo Transportation
  - Tanker Transportation

- Definition of related regional markets
  - Container Liner Transportation
    - Divided by trade routes
    - Round trip
  - Dry bulk cargo transportation and tanker transportation are for global market
3. Anti-monopoly review for mergers and acquisitions in maritime transportation

- According to Article 27 of *Anti-monopoly Law*, factors like market share, market control force, the market concentration level, the complexity of access to the market and the impact on consumers and other business operators shall be taken into consideration.

- Investigation of shipping volume and capacity of the liner companies in competitive evaluation

- Investigation of vessel sharing agreements and shipping alliances

- Using economic analysis tools, such as merger simulation and UPP
2014 Maersk Line, MSC and CMA CGM to establish a P3 Network Centre

- Relevant commodity market is the international container liner shipping market.
- Competition Analysis:
  - The network centre has formed a compact association different from the loose traditional shipping alliances in nature.
  - The capacity shares of Maersk, MSC and CMA CGM on the Asia-Europe route ranked the first, second and third respectively. The total capacity share of the Transaction Parties amounted to 46.7%.
  - The container liner shipping services market for the Asia-Europe route changed from "relatively segmented" to "highly concentrated", and the HHI variable was 1350. The market structure will change significantly.
  - International container liner shipping is a capital-intensive industry, with the effect of the economy of scale, the transaction will further increase the entry barriers for the relevant market.
  - The Transaction Parties may squeeze the development space for other competitors, which may fall into a more disadvantageous situation in the future.
  - The final remedy program submitted by the Transaction Parties may not solve the concern on competition from the Ministry of Commerce.
Ministry of Commerce approved Maersk Line’s acquisition of Hamburg Süd under restrictive conditions in 2017
Refrigerated container transport and general purpose container transportation belonging to different commodity markets

General Container

Refrigerated Container
Far East—South America West Coast

Map showing trade routes between Far East and South America West Coast.
Far East---South America East Coast
Competitive Analysis:

- After the concentration, Maersk Line may weaken the competition of the general container transport market and the refrigerated container transport market via the Vessel Sharing Agreement to which Hamburg Südamerikanische is a party on the Far East - South America West Coast route and the Far East - South America East Coast route.
  - After the concentration, Maersk Line can exert influence on the decision-making and operations of ASPA Agreements and Asia 2 Agreement through Hamburg Südamerikanische.
- After the concentration, Maersk Line may improve price and conduct other acts of eliminating or limiting competition in the refrigerated container transport services in Far East - South America West Coast route.
  - The HHI was 1048, Maersk Line will greatly improve the control force of the refrigerated container transport services on the Far East - South America West Coast route via volume integration.
  - GUPPI and merger simulation indicate the possibility of the price hike after the transaction.
- In the short term, it is difficult to have effective competitors to the relevant market due to a higher entry barrier.
Ministry of Commerce decided to approve the concentration with additional restrictive conditions, and required Maersk Line to abide by the following rules:

（1）Hamburg Südamerikanische will not join after the expiration of ASPA Agreements in the Far East - South America West Coast route;
（2）Hamburg Südamerikanische will withdraw from Asia 2 Agreement in the Far East - South America East Coast route;
（3）Maersk Line and Hamburg Südamerikanische may not reach vessel sharing agreements or join in shipping alliance with main competitors within five years in Far East - South America East Coast route and the Far East - South America West Coast route;
（4）Maersk Line reduced the volume of refrigerated container transport in Far East - South America West Coast route, making the market share of its volume to 34-39%; and within three years after the delivery of the transaction, the market share of the refrigerated container transportation in Far East - South America West Coast route in terms of volume sit within 34-39%.
Questions:
How does the EU Commission look at the shipping volume and capacity in competitive analysis?

Why does the EU Commission define the refrigerated container with 10% as the standard?

How does the EU Commission evaluate the impact of shipping alliances on competition?

Thank you!