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## The regulation model of the international shipping alliance : a comparative study of he European Union, the United States and China

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# World Maritime University

## ITL-2018

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**Topic:** The regulatory model of the international shipping alliance:  
A comparative study of the European Union, the United States and  
China

**ID Number:** W1701449

**Advisor:** Prof. Chen Jihong

**Date of Submission:** July, 2018

## **Abstract**

Nowadays, with the increasing development of global economy, transnational trade is becoming more and more popular, and the competition among shipping enterprises, which bear the heavy burden of transportation, is becoming increasingly fierce. Together with the development of container transportation, the liner conference gradually disintegrated, and the large container liner companies actively explore new forms of cooperation. Although the liner companies actively seek improvement in tariff policy, service quality and other aspects, it is very difficult to survive in the current market environment. In order to get out of trouble, the world's main container liner companies have embarked on the road of large-scale alliance.

Recently, with the establishment of the new ocean alliance, the O3 alliance, the CKYHE alliance and the G6 alliance will all face falling apart and regrouping. The global shipping alliance has been transformed into a three-way pattern, which brings new challenges to shipping regulation. For this reason, the regulation of shipping industry has become a policy choice for many major trading countries and shipping countries. But due to the parties at the request of the anti-monopoly law and industry regulations and so on are different, the different industry structure and industry structure, to appeal to the owner's interests, the owner and so on of shipping alliance regulation also may appear different results.

Therefore, this article from the perspective of comparative law and through several cases, European Union, the United States and China regulatory model has carried on the comparative analysis of shipping alliance, and China's existing antitrust exemption system put forward some improvement methods. Analysis of the European Union and the United States of shipping law and antitrust law theory, combined with the shipping situation of our country, based on the definition and Chinese shipping associated antitrust standards antitrust regulation and other issues put forward related suggestions.

**Key words:** Shipping alliance, Regulation model, Anti-monopoly law

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# 1. Introduction

## 1.1 Topic background

As we all know, the ocean transportation is still the current international trade is the main mode of transportation, as a result, the world's major trading powers tend to the shipping industry as the country's important backbone industry, to safeguard the sound development of shipping industry economy, build a reasonable and effective shipping competition in the market is of great significance. However, with the development of the shipping economy, the joint venture enterprises in the form of shipping markets also great change have taken place, the main performance, the shipping enterprises cooperation from "Liner Conference" changed into the form of "shipping associated organizations such as joint or shipping alliance".

Recently, with the establishment of the new ocean alliance, the O3 alliance, the CKYHE alliance and the G6 alliance will all face falling apart and regrouping. The global shipping alliance has been transformed into a three-way pattern, which brings new challenges to shipping regulation. For this reason, the regulation of shipping industry has become a policy choice for many major trading and shipping countries.

China is a major foreign trade country, and nearly 90 percent of the import and export of goods in our country depends on sea transportation. In addition, China's shipping economy is not mature, and the international competitiveness of shipping enterprises is generally weak. Therefore, how to shipping the antitrust exemption system and perfect the supervision model of shipping alliance, can promote the development of our country shipping economy, at the same time is important subject of our country's international trade and shipping interests. Not only that, the shipping market competition rules and regulations related to our port problem more and more (P3 alliance is the best example), but just depend on our current effective the anti-monopoly law and regulations on international ocean shipping of spare and fuzzy rules, to effectively solve the problem of shipping practice. Therefore, this paper verifies the current situation and necessity of shipping alliance by calculating market

concentration. And from the perspective of comparative law, combining with the specific case generated in shipping practice in recent years, based on the present status of shipping economy and law, to the European Union, the United States and China's regulatory model for shipping alliance, put forward to perfect our shipping competition rules, especially to build shipping advice of antitrust immunity system, theory and practice significance.

## **1.2 Research status**

There are four types of research on the topic of this thesis.

The first is the research on the cause of shipping alliance. Enna Hirata (2017) used the empirical model to estimate the responsiveness of freight to the change of market concentration level, demand and fuel oil price in "Contestability of Container Liner Shipping Market in Alliance Era"<sup>1</sup>. The results found that container liner market could still be contestable in alliance era when both actual entry and potential entries exists which was different from the point of Pearson (1987) and Jankowski (1989) have argued that a market with treat of entry could result disruptive competition. As a conclusion, the author put forward that the economic implication of contestable market was the reason why alliance formation prevail in latest container liner shipping market. EJ Sheppard (2001) explained that from the carriers' point of view, the advantages and disadvantages of entering into alliances and explored the history of the US regulatory regime of cooperative agreements, including alliances and then come to the conclusion that carriers would prefer to enjoy the benefits of alliances instead of merging with other companies in his article "Ocean Shipping Alliances: The Wave of the Future"<sup>2</sup>. Helen A. Thanopoulou (1999)used comparative analysis and evaluating method to highlights at the same time both the deep structural changes which liner shipping has undergone in the last two decades and the effects of current changes, such as the recent wave of mergers in this sector then found that global alliances were finally born as a result of a major reshuffling of co-operation agreements and of the globalization of the production process on the demand side in

the article “Korean liner shipping in the era of global alliances”<sup>3</sup>.

To sum up, the current research in the aspects of shipping alliance, usually with some comparative analysis method, research in the process of historical development of shipping alliance's role and forming reasons, and get the conclusion that continuous competitive shipping market has inspired the generation of shipping alliance.

The second part is research on anti-monopoly law. Zheng Taian (2008) through historical investigation demonstration, economic analysis, comparative study, practice, combining the whole and the parts, and other research methods, basic theory and system of our country anti-monopoly law system has carried on the thorough research in his “Research on antitrust law system”<sup>4</sup>. Yu Shicheng’s (2008) “Research on American shipping policy, law and management system” focusing on the basic system established by the U.S. merchant shipping law and shipping law, it is concerned with the important legal systems of maritime transportation safety law, port law and Marine environmental protection law<sup>5</sup>. Zhu Zuoxian (2015) believed that it is a wrong and outdated concept to protect shipping enterprises in China through monopolistic immunity, and it is not in the national interest of our country to find the support of economic theory in the “Reflection on the European and American legal path of the modern international shipping anti-monopoly regulation”<sup>6</sup>.

Different articles, general theory for shipping antitrust immunity problem research, draw the different conclusion, often the argument is a deeper, in addition, the debate on this issue also shows the value of his research. However, it would be one-sided to find the reasons for supporting or denying the exemption system of shipping anti-monopoly.

The third part is researches on the exemption system of shipping anti-monopoly from the perspective of shipping practice. Domestically, Li Tiansheng (2010) using the method of economic analysis methods of liner conference, alliance agreement, and to study the concentration of shipping, and other forms of monopoly, and concludes that our country should not be the conclusion of antitrust exemption for international maritime industry in his “An analysis of the law and economics of antitrust immunity in international maritime industry”<sup>7</sup>. Li Sici (2015) from P3 alliance were barred from

the perspective of case, the joint of shipping and the joint of shipping competition law regulation, this paper discusses that the conclusion of our country should build shipping antitrust immunity system in “On the regulation of anti - monopoly law of seabroad”<sup>8</sup>. Then for abroad, Keisaku Higashida (2015)used the simple three-country two-shipping-line model examines whether load capacity is excessive or insufficient in the presence of uncertainty on the future economic situation in terms of both welfare of one country and global welfare. On the other hand, global alliances mitigate the degree of insufficiency of the supply and investment, and make the problem of excessiveness more serious in “Container Liner Shipping Alliances, Excess Investment, and Antitrust Immunity”<sup>9</sup>. Paul G. Gassel (1984)from the perspective of law and economics make the antitrust laws if allowed liner conference implementation limit competition behavior, will increase the cost of shipping industry, and this part of the cost will be borne by the shipping market to consumers in “Exemption of international shipping conferences from the American antitrust laws: an economic analysis”<sup>10</sup>.

Currently in shipping from the angle of domestic and international shipping practice research on antitrust immunity system, usually with case analysis, and some simple mathematical model of concrete is studied about the necessity of shipping antitrust immunity system, system strategy, etc. Therefore, the legislation development direction of the EU is worthy of reference from China and the necessity of anti-monopoly law. However, only based on the case, however, then it is concluded that whether can establish shipping antitrust exemption system obviously is not comprehensive, is often in the literature study of a country, is not conducive to overall understand the international trend of the system, therefore, more suitable for the perspective of comparative study, after comparison between the two, further discusses its enlightenment to our country and draw lessons from, more persuasive.

The last part is about research on the legislation regulating shipping alliance. This kind of article occupies a certain proportion in periodical. For example, Xie Yi (2014)from the perspective of the development history of the container, it is reasonable to analyze whether the shipping alliance is reasonable, and the analysis of



the shipping alliance can make the liner companies reduce the cost, which may lead to the benefit of the owner in “Industry regulation of shipping alliance”<sup>11</sup>. Besides, Xu Linlin (2015) introduced the development status quo of global shipping alliance, points out the shortage of container transportation in China, and found the problem, a shipping giant between the federation are to the container shipping industry development of China issued a stern test<sup>12</sup>. And in consideration of the existing laws on the basis of the conclusion, for now, the monopoly of the shipping alliance is impossible, but at the same time, the antimonopoly law should also along with the market change and improve. In “Multi-attribute based analysis of stability of strategic alliance among liner shipping companies”, Zhen H (2009) put forward that Strategic alliance among liner-shipping companies is one of the key factors for enterprises to realize win-win strategy, but there also exists huge crises<sup>13</sup>. Dong-Wook Song (2002) thought it seems that cooperation is not always necessary for a liner company's success. It follows that a study that aims to find the rationale behind liner cooperation (or non-cooperation) is of great significance<sup>14</sup>. The article deduced a conceptual framework through the application of cooperative game theory to liner shipping strategic alliances in “A conceptual application of cooperative game theory to liner shipping strategic alliances”. The accomplishment of the aforementioned objectives will enhance understanding of inter-organizational relationships and decision-making behavior in the liner shipping sector.

On the study of the patterns of shipping alliance regulation, also most of the existing research is a specific case analysis, from the perspective of the market share of the shipping alliance, what is the effect on the development of Chinese container transportation. Formed under the condition of the legal framework of rational shipping alliance, can bring the advantage of economies of scale, improve efficiency, pooling resources, reduce costs, provide a more comprehensive quality service, but on the other hand the liner transport concentration on the high side, the dominant position of shipping alliance, has great potential to improper use of the advantage conditions and status, cause harm to the development of the industry as to the national economy, the owner's service. However, there is still a lack of regulatory approaches to China's

characteristics that distinguish China from other developed countries.

Through these literatures, we can find that foreign scholars mainly focus on their own positions on international shipping alliances, and the literature of comparative studies is rare. Antitrust immunity system are of the utmost importance in addition, foreign literature history and rapid change of shipping practice, through reviewing and evaluating the rationality of the international shipping alliance, put forward proposals to reform and perfect theory or legislation. In conclusion, through the literature review of the comb can be found, whether it works or papers, both in China and foreign countries, the comparative study on the regulation of the league of international shipping and lacking, in addition, changing the shipping practice, for shipping after the morphology change of antitrust regulation and antitrust immunity problem research is insufficient, therefore, combined with the practice, from the angle of comparative study on the paper selected topic for research is more theoretical and practical value.

### **1.3 Research contents and methods**

The research direction of this paper is as follows. The first is the research on the cause of shipping alliance. The second part is research on anti-monopoly law. The third part is researches on the exemption system of shipping anti-monopoly from the perspective of shipping practice. The last part is about research on the legislation regulating shipping alliance.

According to these research directions, using the method of consulting literature materials for Chinese books, periodicals, and so on has carried on the precision of analysis of the existing research methods, research the deficiency of existing research and further improvement and put forward their own ideas

The paper is divided into five parts. The first part is the introduction, which introduces the background of the topic, the research status and the research idea of the article.

The second part mainly introduces the cause of shipping alliance and its development history, and analyzes the advantages and disadvantages of shipping alliance from the

perspective of anti-monopoly exemption system. The third part is to take the European Union, the United States and China as an example, making the analysis of their respective shipping antitrust legislation behind and supported by economic theory, and introduces their cognizance standard shipping chain monopoly, thus to make our country shipping standard of pool monopoly are proposed. The fourth part is about the differences between the EU, the US and China on the regulation of shipping alliances. The fifth part is the summary of the full text, and then some suggestions on China's regulation of shipping alliance.

This paper presents the research contents and corresponding solutions of this paper, which reflects the structure and technical route of the whole paper.

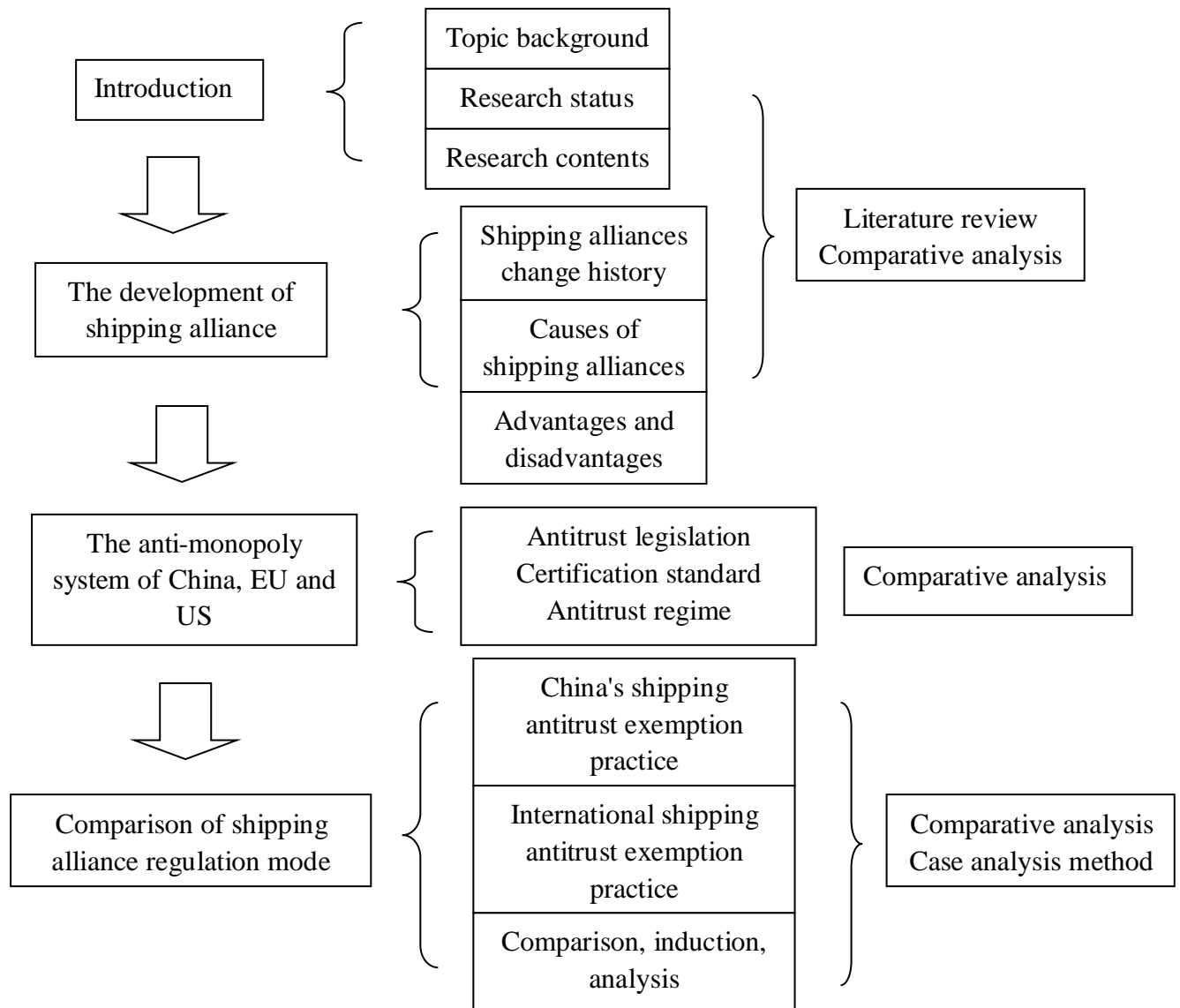


Figure 1.1 The research route

## 2. The development of shipping alliance

### 2.1 Shipping alliances change history

Shipping alliance refers to the liner companies in the field of transportation routes and the affiliated ports between complementary and schedule coordination, space rental, as well as information sharing in the areas of transport auxiliary service, to build common pier and yard, common inland logistics system and the form of alliances. Since 1995, shipping alliances have become the main theme of the shipping market. The first shipping alliance formed between Maersk and Sea-Land in the 1990s. As of April 1, 2017, the original four shipping alliances have officially become the three major shipping alliances (2M+HMM, Ocean Alliance, THE Alliance). Table 2.1 shows the key events in shipping alliances history in chronological order.

Table 2.1 A chronological table of shipping alliance

Year	Milestones
1990s	Maersk and Sea-Land introduced alliance system and began sharing vessels in the Atlantic and Pacific oceans.
1994	The Global Alliance formed and consisted of APL, MOL, OOCL and Nedlloyd.
1995	Grand Alliance formed and consisted of Hapag Lloyd, NYK, NOL and P&O.
1998	New World Alliance formed and consisted of APL, MOL and Hyundai Merchant Marine.
2000	CKYH Alliance formed and consisted of COSCO, K-Line, Yangming and Hanjin.
2011	G6 Alliance formed and consisted of APL, MOL, Hyundai, Hapag Lloyd, NYK and OOCL.
2014	2M Alliance formed and consisted of Maersk and MSC.

2014	O3 Alliance formed and the members were CSG, CMA-CGM and UASC.
2014	CKYHE Alliance formed with Evergreen joined.
2017	O3 Alliance to be renamed to Ocean alliance, consisting of CMA (APL), COSCO (CSG), Evergreen, and OOCL. The Alliance to be formed with Yangming, Hapag Lloyd(UASC) and NYK/K-Line/MOL.
2017	Three pillar: 2M+HMM, Ocean Alliance, THE Alliance

We can see that many shipping alliances become shipping alliances with large shipping companies in their own countries, which is also a big test for their own regulatory authorities. Besides, in 2008, with the end of FEFC, the conference era changed into alliance era. So there are many factors contributing to the birth of the shipping alliance that we will discuss in the next chapter.

## 2.2 Causes of shipping alliances

At present, in the form of diversification in the field of maritime transport, is not only the container transport enterprises to use the management mode of shipping alliance, even bulk cargo transport fleet to joint cooperation system gradually as a new attempt. We can get from primary affiliated to today's strategic alliance, with changes of the age growing, organization form and scope of business is also constantly improve, eventually became the dominant force in liner market. Based on the literature reviewed, and the four key motivations show the understanding and analysis of the shipping alliance, the following points are obtained as the agent of the shipping alliance.

- (1) The need for high quality service
- (2) The need for internal competitiveness
- (3) The need for risk reduction
- (4) The need for increase in revenue

Then I will explain the four motivations one by one.

Firstly, talking to the need for high quality service, shipping market is in a state of excess capacity management for a long time, with the promotion of global economic integration, international trade transactions to globalization, has the characteristics of strong liquidity, frequent trading. Especially after the containerization, based on the improvement of the shipper and the demand of consumer standard, shipping competition between enterprises has not only confined to the freight rate between competitions, but turned to service quality and the range of change strategy. Shipping alliance establishment is to improve resource utilization by means of resources sharing, improve work efficiency, improve the density of flights and cargo turnover, effective business scope expanding route at the same time, the complementary satisfy the limitations of their own business operation, as far as possible to realize direct and reliable transportation, meet the requirements of the shipper. Therefore, the change of service demand promotes the process of the alliance objectively.

Next, for the need for internal competitiveness, with the competition brought by the market demand, the current shipping market is being swept by large international companies, if you want to build market share, the power and influence of alone is insufficient to cope with stress under the long-term development. In order to get more customers and market share, many choose enterprise power-and-power union, through technology, complementary resources, customers, etc and share to increase business scope and competitive strength, face more severe challenges and achieve long-term development.

Then considering the need for risk reduction, under the alliance system, although there are agreements between companies, they remain relatively independent at the time of operation. Through win-win cooperation flexible mode of operation, the enterprise can reduce the cost, reduce the industry access barriers and the blindness of investment and increase business coverage, thus can greatly reduce the risk of a single airline business brings.

Finally, to increase the revenue, after shipping alliance formed in the optimal allocation of resources, Marine equipment building, multimodal transport and integrated logistics services, improve the quality of transportation is actually a lot of

good, investigate its fundamental, are interest goal driven plays a vital role. This is also the root cause of the enterprise to the alliance. However, with the continuous updating of container ships into the era of large-scale, the increase of capital cost and the waste of resources have become the main problems that have perplexed the profit development of enterprises. Shipping alliance through joint form such as vessel and shipping space rent reduced the unit capacity cost, improve space utilization, generating capacity quota advantage, in has realized the effective utilization of resources and largely promote the implementation of cost savings and benefits to become the enterprise the final object.

Thus, from the power of the era development trend of shipping market demand and the perspective of comparative advantage of the shipping alliance itself, shipping alliance, the formation of the group is the path of history, the excess capacity, an increasingly competitive environment, shipping alliance is an important product of enterprise out achieve economies of scale, and the evolution of the law also determines the time of the liner conference to destruction.

### **2.3 Contrast between liner conference and shipping alliance**

The regulation of liner trade union was also a big problem during the period when liner trade union was prevalent<sup>15</sup>. The early liner shipping alliance existed in the form of liner conference and participated in market competition. The international shipping alliance is based on the role of the liner conference, which improves the company's core competitiveness and market share. Of course there are many differences between the two, and the following table shows the differences between the liner conference and the shipping alliance.

Table 2.2 Differences between two organizations

Item	Liner conference	Shipping alliance
Definition	In order to get rid of and restrict the competition of routes, a monopolistic organization formed by competing with each other on the same route.	Refers to the various alliances between liner companies in the field of transportation services and information sharing.
Strategic goals	Competition, focusing on the competition of non-members or independent carriers.	Pay attention to the long-term cooperation of the industry members, and then establish long-term cooperative relations with customers, and play down the exclusivity.
Capacity configuration	Traditional capacity quota system.	The relationship between each other is relatively close and stable through the way of sharing.
Freight means	In the case of oversupply in the market, they motivated by the interests, and they often distort the freight tariff by means of discount, which makes the price adjustment of the guild difficult.	The freight rate reflects the price policy of the members of the alliance, so the members can adopt flexible means to adjust according to the market situation.
Facing the difference of competitive environment	In the market, supply and demand are not stable and irrational.	More mature marketization, the supply and demand relationship is more rational and cooperative.



Reduce operating costs	The decline in container freight rates, combined with high fuel prices and other high transport costs, is worsening.	The alliance members, large and small, have become global carriers in a sense, greatly improving the business scope and competitive power of the members of the alliance.
Efficiency	Because of the guild and over most of the shipping company, on a particular course these companies differ in thousands ways, so the advice to get most of the support was more difficult, leading to the guild efficiency is not high.	Since the alliance is a new thing, it involves a member of the less an alliance (up to seven or eight companies), small scope (limited to the cooperation with the ship), role and influence of it is not clear, so as to legally alliance were not clear definition and restrictions.

Although the international shipping alliance has many advantages, it is accompanied by some conflicts and contradictions.

(1) The shipping alliance is too large, and the negotiation mechanism is out of balance with the cargo party, causing the complaint and conflict of interest of the shipper.

(2) Part of the alliance is in conflict with the country's anti-monopoly law and needs to be regulated.

We know that the container shipping industry should be alert to the oligopolistic market.

So how did the EU and the US deal with the regulation of liner trade unions? The table below shows a comparison between the EU and the US on the regulation of liner trade unions. The comparison of the regulation mode of liner conference can also be

applied to the regulation mode of shipping alliance in the new mode of shipping alliance.

Table 2.3 The EU and US on the regulation of liner conference model comparison

	Reform measures	Reason	Conclusion
EU	Abolish antitrust immunity	The liner conference agreement does not meet the requirements of article 81, paragraph 3, of the EEC treaty, that is, it produces less impetus than a negative effect	Radical reform
US	Preserving antitrust immunity while strengthening legislative and enforcement restrictions	The shipping economy is not mature enough to abolish the anti-monopoly exemption of liner conference	Ride out

While Europe and the United States the reform process, particularly in the liner conference antitrust exemption reform in attitude, but both affirmed the pooling agreement other than the uniform rate, control capacity and joint, shipping alliance, and so on the new shipping affiliated organization positive role of antitrust exemption.<sup>16</sup>

### **3. The regulatory legal basis of shipping alliance competition**

This chapter will make a comparative analysis of the legal basis and legislative departments of China, the EU and the United States on the regulation model of shipping alliance. The next chapter will also combine cases to make a further comparative analysis of the three different regulatory modes.

#### **3.1 The legislative basis of national shipping alliance monopoly**

##### **3.1.1 European Union's shipping antitrust legislation**

EU shipping alliance antitrust legislation can be divided into the highest level of the European Community treaty, the second level of the European Council formulate regulations and rules formulated by the third level of the European Commission three levels.

First of all, the treaty establishing the European Community is the EU's most fundamental legal norms, the rules on competition and monopoly is the foundation of shipping in the European Union antitrust system, with the highest legal effect, for all the members of the European Union government, enterprise and individual is binding, the EU shipping antitrust legislation is the most core content of the treaty establishing the European Community the provisions of article eighty-two and eighty-one, respectively is about ban restrictions on competition and the regulation of abuse of market dominant position

Second, the EU Council as the main decision-making bodies of the European Union, have the function of the EU laws and regulations, the drafting of a series of on how to apply the European Community treaty article eighty-one and article eighty-two of the ordinance, in the area of shipping mainly embodied in the maritime transport for the European Community treaty article 85 and article 6 of the detailed rules for the implementation of regulation No. 86/4056.

Again, as the EU shipping antitrust legislation of the first layer is formulated by the European Commission of the relevant competition rules, instructions and decisions,

because the European commission is responsible for the general on the basis of the EC treaty and the European council to formulate a series of laws and regulations, applicable to all within their respective areas and implement the provisions of relevant laws and regulations for further, the European Union for the details of shipping associated antitrust regulations is formulated by the European commission to most.

### **3.1.2 United States' shipping antitrust legislation**

American antitrust legislation is mainly composed of king forms: first, a series of statutes including Sherman act, Clayton act and federal trade commission law. Second, a large number of judicial precedents are formed in judicial practice. Three are various judicial guidelines issued jointly or separately by the justice department and the federal trade commission. And specific to the antitrust issues in the field of shipping, statute law is mainly embodied in the three laws in the United States, were the shipping act of 1916, the shipping act of 1984 and the shipping reform act of 1998.

### **3.1.3 China's shipping antitrust legislation**

In the existing laws and regulations and there is no pool or shipping antitrust problems independently for shipping legislation, in the legislation for shipping such as joint or shipping alliance shipping associated behavior also mentioned some only, and no specific provision. The main legal basis of Chinese shipping anti-monopoly is the anti-monopoly law, regulations on international ocean shipping, and the implementing rules for the international shipping regulation, both in respect of the provision of the monopoly regulation is also only a few a few, therefore the main focus is in the anti-monopoly law.

## **3.2 The monopoly criteria of national shipping alliance**

The previous chapter mainly discussed the different antitrust legislation between China, the EU and the United States. This section will analyze the identification

standard of shipping alliance according to these laws.

### **3.2.1 European Union's monopoly criteria**

The last section shows that the EU is through the above three levels of shipping law to adjust its member states antitrust issues, while its monopoly for shipping alliance that mainly from the following two aspects to judge, as long as the shipping alliance behavior involved on the one hand, the content will be considered a monopoly.

One aspect is to determine whether the action belongs to restrictive competition agreements between shipping companies. Limit competition agreement refers to the possible impact on trade between member countries, the purpose is to hinder the competition within the common market, restrict or distort the agreement signed between the enterprise and enterprise joint decision or action<sup>16</sup>.

(1) Enterprises fix the prices of goods bought and sold in the market together either directly or indirectly

(2) Enterprises restrict and control the production and sales of products, market investment and technological improvement

(3) Companies divide up markets or share goods

(4) Enterprises put forward different trading conditions for different trading objects in the same trading market, which leads to the adverse competitive position of the other party

(5) In the contract signed by the enterprise, additional conditions unrelated to the fundamental purpose of the contract are taken as the precondition of the contract<sup>17</sup>

And it is worth noting that to comply with the restrictions on competition agreement sign of behavior, the EU reckons that its effectiveness is from the beginning is invalid, that is to say as long as it is to restrict competition agreement, starting from the date of its produce is ineffective. And there is no need to go to court or arbitration.

Another aspect is to judge whether shipping companies have abusing their market dominance. The abuse of a dominant position of behavior refers to the one or more businesses in all or most of the common market has the advantage status in the abuse of this advantage position to affect trade between the behaviors<sup>18</sup> of the other member states. The EU's specific list of abuses includes:

(1) The use of dominance to impose unfair buying and selling prices directly or indirectly on traders

(2) To limit the production and sales of products by taking advantage of the advantageous position, control the improvement of production technology of products and harm the interests of consumers

(3) Different trading conditions are adopted for different trading objects in the same trading market, so that traders are in an unfavorable competitive position

Of course, in addition to the above two aspects, the EU also gives the right to collective immunity from the actions of shipping unions. It does not exceed the prescribed under the premise of market share, on Shared between liner companies and integrate their resources, adjust the volume in response to supply and demand fluctuations, involves the use of ports and related services, and in order to attain the goal of the first three can be conducted by the joint behavior. We enjoy monopoly exemption. But once these behaviors exist in the regular liner service price behavior, or in addition to enjoy exemption of the limit trade other than temporary capacity adjustment or capacity, or is the behavior of market and customers are allocated, is no longer enjoys the right of antitrust exemption.

In conclusion, the European Union for shipping standard of pool monopoly is mainly from the behavior of the shipping companies will have a harmful effect on the fair competition of the market to determine, and the index of its main use is the enterprise market share in the relevant market.

### **3.2.2 United States' monopoly criteria**

Such as the United States is not for shipping joint and shipping alliance defining the joint behavior, there is also no alliance between liner companies act like the European Union antitrust problems as a key problem in addition to provisions. It pays more attention to the ultimate market efficiency of shipping enterprises

The shipping reform act of 1998 specific provisions which cannot enjoy several antitrust exemption agreements:

(1) An ocean common carrier in the United States transportation and air/rail/road carrier or does not apply to any agreement between the waterways public carrier;

(2) The other is the agreement between the various carriers of the applicable law on the cost of inland sections in connection with the United States of America;

(3) Third, the agreement between the public carriers applying the law on the establishment, operation or maintenance of maritime terminals in the United States;

(4) Fourth, all loyalty contracts.<sup>19</sup>

In addition, for the other shipping agreement, as long as it is according to the record of the shipping reform act of 1998, in conformity with the relevant physical conditions and procedures, can have the right to antitrust immunity. From this point of view, the United States has given more subjects the right to enjoy the anti-monopoly exemption, and the United States has not abolished the anti-monopoly exemption qualification of the liner conference like the European Union. For entities should comply with the relevant agreement in terms of content, the shipping reform act of 1998 also different for different kinds of agreement, as liner conference, ship sharing agreement, terminal operator, and other special agreement on the particular rules, and other general agreement between ocean common carrier corresponding general provisions shall be applicable.

As a result, the United States as a whole will be more flexible than the European Union in regulating shipping alliances and other shipping agreements, or it will be free to relax its rules on shipping agreements.

### **3.2.3 China's monopoly criteria**

Shipping monopoly is to conform to the anti-monopoly law for a monopoly of general provisions, whether from the agreement constitutes a monopoly agreements or abuse of dominant market position or achieve concentration king aspects to judge whether achieve monopoly.

Firstly, the anti-monopoly law to ban the monopoly agreement refers to the limitation or exclusion effect on competition in the market of the agreement, behavior, such as for fixed price of the product changes, the product sales to limit the amount of the relevant market segmentation, to restrict to the promotion of production technology, to boycott behavior such as transaction or agreement are manifestations of monopoly agreements, will be the rules of law. , of course, not all the monopoly agreements will

be banned, for not related to the market competition have severely limited effect, and can bring benefits to the consumer's agreement, if sending kind of agreement is in order to improve the production technology, the quality of the products, or the small and medium-sized enterprise market competitiveness, or to deal with the economic downturn caused by excess production and even reached the standard of monopoly, will also enjoys the right of immunity. So you can see from this point, the ban of monopoly agreements with the European Union limit competition agreement has banned content and more similar, will be included on a fixed price behavior, restrictions on sales, distribution, market behavior and other monopolistic behavior, and from its rules or can find whether the EU ban on limit competition agreement or monopoly agreements of our country's ban on the purpose of is to ensure fair competition of the market, to achieve trade fair on both sides, and antitrust exemption rights restrict competition agreement or monopoly agreements are for related products, so in addition to maintain market fair, It also ensures the realization of market performance to a certain extent.

Secondly, the so-called abuse of dominant market position is refers to the enterprise on its own can control the market price, quantity and other trading terms or market access to the market advantage for abuse behavior. For example, enterprises with market advantages refuse to trade without justified reasons, sell at unreasonable high prices or buy products at unreasonable low prices, etc., all of which belong to the abuse of market dominance prohibited by law.

Thirdly, if enterprise through merger, made equity/assets, agreement and other means to control of other enterprises, or to other enterprises exert a decisive influence, this kind of behavior is prohibited by the anti-monopoly law of concentration.

### **3.3 European and American shipping alliance operation anti-monopoly system**

In the last section, the standards for the determination of joint shipping monopoly are introduced. In this section, the anti-monopoly system of joint shipping established by the EU and the United States is further introduced.

The table below shows a comparison between the European Union and the United States' enforcement agencies on antitrust issues, antitrust immunity and penalties for



monopolistic conduct.

Table 3.1 Contrast on operation anti-monopoly system

	EU	USA
Actuator	European commission	United States federal maritime commission
Antitrust immunity	<p>(1) The right to automatic antitrust immunity from the date of the act.</p> <p>(2) The exemption decided by the European commission.</p> <p>(3) The parties declare voluntarily.</p>	<p>FMC shall have the right to decide whether to grant antitrust immunity to, as long as the exemption will not reduce competition's substantial or cause damage to commercial activity, the committee can according to the application or his own initiative, be exempted from any type of shipping field related legal obligations of the agreement.</p>
Penalty system	<p>(1) Stop breaking the law.</p> <p>(2) Where competition is severely restricted or even eliminated, special relief measures requested by the commission should be implemented.</p> <p>(3) Penalty</p>	<p>(1) The so-called compensation refers to the compensation for damages, which includes both compensatory damages and punitive damages.</p> <p>(2) After hearing the case, the court considered that the joint venture had the conditions to issue an injunction, so it could issue an interim injunction or a preliminary injunction.</p> <p>(3) Penalty</p>

The table below shows the differences between two different regulators in the EU and the US.

Table 3.2 Differences between two regulators

	EU	USA
Scope of law enforcement	The European commission has the power of interpretation and legislation	Responsible for shipping related law enforcement authority
Antitrust enforcement scope	Responsible not only for regulating monopoly in shipping but also for monopoly in other areas	The exclusive shipping competition law enforcement agency shall not be responsible for regulating monopoly in other areas
Authority in nature	An administrative organ	Quasi-judicial authority

The enforcement power of shipping associated with commission, it may be required to participate in joint management of the relevant parties or business to provide true information, and the answer to the committee's question, which did not provide complete information which is likely to be punished by fines and other measures. The European commission can also enter any land of related companies, real estate, transport within the necessary inspection, copy from related enterprises business records or books, if necessary, can also be in the reasonable scope the seizure of relevant enterprises, business records and books of the business place. In addition, the commission's powers of investigation can also be delegated to member governments.

### **3.4 Construction of China's shipping alliance operation anti-monopoly system**

Considering of Europe and the United States shipping associated antitrust system according to the last chapter, this chapter will introduce the current system of our country for shipping associated antitrust regulation of deficiency, and then from the aspect of legislation, law enforcement level and system level three aspects puts forward Suggestions on shipping associated antitrust regulation in China, so as to

build a more perfect shipping pool anti-monopoly system.

### **3.4.1 The deficiency of China's current anti-monopoly regulation of shipping alliance operation**

Comparing with the anti-monopoly system of shipping joint operation in Europe and America, it can be found that China's current anti-monopoly law system has the following deficiencies in the regulation of anti-monopoly system of shipping alliance.

(1) The definition of shipping alliance is unclear.

In introduced our country legislation on shipping associated definition can be found that when I was on the legislation in our country at the same time use the concept of shipping joint and shipping alliance, but not to further define, which made the public to the distinction between the two there is doubt stuffy and contact. Moreover, in addition to classifying the joint operations or agreements such as the shipping consortium and the shipping alliance into the scope of the operation agreement, the consultation agreement is also included in the operation agreement

(2) There is no unified law enforcement agency.

The record of shipping alliances or agreements should be handled by the ministry of transport. But for shipping companies investigating the monopoly or agreement between the right of punishment is passed on to the department in charge of transportation under the state council, the administrative authority for industry and commerce and price departments, that is, for the management of the shipping alliance monopoly or agreement and antitrust enforcement, our country has not specialized unified law enforcement agencies to be responsible for, this greatly hindered the shipping of the anti-monopoly law enforcement efficiency, increase the cost.

(3) The punishment is too general and simple.

Not for specific actions or agreement should be given to penalties for specific provision, nor shall be punished in the form of or amount, the union actual enforcement of antitrust regulation on the navigation caused great inconvenience, but also not conducive to liner companies have foreseen the consequences of behavior or agreement itself alliance.

(4) Freight quotation system is not perfect.

Regulations on international ocean shipping requirements of international liner shipping business, shipping companies should be freight in accordance with the provisions, the format of the report to the department in charge of transportation under the state council, but for the freight rate report and the release of specific measures, only regulations shall be formulated separately by the ministry of communications, has not provided specific measures for implementation.

### **3.4.2 Suggestions on the construction of China's shipping alliance operation anti-monopoly system**

Compared with the European Union, the United States and other countries in the aspect of shipping associated antitrust regulation system of legislation and the construction of the system of our country from the legal norms to there are many drawbacks, for a maritime power of shipping development is very bad, not only cannot achieve the purpose of protection of rights and interests of domestic shipping companies, shipping companies and other countries to annul, damage the rights and interests of domestic enterprises.

First of all, at the legislative level, it is necessary to formulate specific anti-monopoly laws on shipping.

(1) Regulation of shipping alliances that meet monopoly standards.

Standard shipping associated behavior to achieve monopoly should first according to the rules determine whether can meet the requirements of the antitrust exemption rights, only qualified shipping associated behavior or agreement shall be according to the regulations of antitrust exemption qualifications, for not eligible for exemption from union monopoly behavior, shall be in accordance with the law on the punishments.

(2) Regulation on shipping alliance activities that have not yet reached the monopoly standards.

Although by shipping alliance agreement between liner companies or behavior according to the report did not reach the standard monopoly, but it doesn't mean that the union agreement or behavior in the process of implementing will not have the monopoly behavior of eliminate or restrict competition, relevant law enforcement

agencies can let its no matter, law enforcement agencies must be for the coalition behavior for effective monitoring and management, can prevent the formation of monopoly, to better maintain liner market order.

Secondly, a special anti-monopoly law enforcement agency of shipping alliance should be set up at the law enforcement level.

Solely responsible for the regulation of liner companies alliance agreement or union, is reported to the accept shipping alliance agreement and is responsible for the review, constantly supervise the implementation of the shipping alliance agreement or behavior, based on the complainant or complaints since the decision to investigate suspicious alliance behavior, penalties for illegal monopoly behavior comprehensive supervision and management of shipping alliance.

Finally, at the system level, the exemption system of shipping joint operation should be established.

To sum up, for the establishment of the shipping alliance antitrust regulation system in our country, the key is to perfect the legislation for the specification of the shipping alliance, a shipping alliance antitrust immunity system and the mouth of the anti-monopoly law enforcement agency, for shipping alliance, based on the standard of shipping alliance monopoly, above and below the standard of shipping alliance behavior take different measures.

## **4. Comparison of shipping alliance regulation mode**

### **4.1 China's shipping antitrust exemption practice**

On the analysis of the contrastive analysis of the regulatory model before shipping alliance, and after mentioned above, shipping alliance, as well as to the market concentration by calculation on the analysis of the characteristics of container transportation market, we still need analysis, before that, due to the container shipping market continues to weaken, capacity is growing, liner companies by forming alliances "bulk", it also makes the container shipping relative to dry bulk carrier, and other forms of transport concentration is higher.

Due to the development of the world economy and the increasing demand of shippers, the demand for shipping scale is not the same as in the past. More than two decades ago, the global alliance had a capacity of only about 700,000. But today, even individual liner companies with 2.7 million TEU capacity is struggling to adapt to the fierce market competition on their own. On the other hand, there are also the shipping market weakness and ship the cause of the pressure of excess capacity for ordering, these all make the container shipping giants began to more and more inclined to back against the alliance, means of competition. The rational establishment of shipping alliance can give full play to the advantages of scale economy, improve efficiency, concentrate resources, reduce costs, and provide better and comprehensive services for shippers. But on the other hand, liner transport concentration on the high side, some shipping alliance is likely to be improperly use advantages and status, market manipulation, so as to harm the shipping industry's own development.

Shipping alliances are products of economies of scale and should be supported and affirmed<sup>20</sup>, but they should operate under market rules. Government need to strengthen regulation, power industry organizations and civil union and not join the union on the navigation shipping companies are implementing pricing records, closely monitor their market share and price structure, and the difference between peers and they to the owner of the transport requirements. The shipping authorities of major

countries also need to strengthen cooperation and collaborative regulation. And we know that with the continuous progress in China's supervision of shipping alliances, the national freight rate filing regulatory center is expected to be established.

In addition, under the influence of the environment, shipping, the trend of the economic downturn shows continuous in such a situation, our country shipping companies to maintain market share, stable and shipping services, with the aid of alliance is a good choice, and for winter, hand in hand to spend the shipping economy enterprise also hope to actively through the alliance strategy, through the way of improving the quality of service, prompt operation efficiency. It can be seen from this that it is much better to carry out the joint return in the form of shipping joint venture than to fight alone. Perhaps, however, it has been suggested that we are ignoring the potential for unfair competition or monopolistic harm that such tie-ups can bring? To this, some scholars believe that in order not to determine the anti-competitive damage, without being banned joint, give up the reality, obvious efficiency after operation, does not conform to the society as a whole increased efficiency principle.

In the following two cases, we will analyze the practice of China's shipping anti-monopoly exemption and the regulatory measures on shipping alliance.

#### **4.1.1 The P3 alliance case**

P3 shipping alliance refers to the global 20 large liner companies in the top three shipping companies in Denmark Maersk, Mediterranean shipping, Switzerland and France CGM shipping group in June 18, 2013, jointly sponsored by the container liner alliance, the alliance aims to set up a limited liability partnership in England and Wales network center, responsible for in Asia, Europe, across the Atlantic ocean and transpacific container liner on operational issues. Shipping alliance, the shipping enterprise's new joint pattern is accompanied by container transportation revolution gradually rise, already has certain historical origin, and the world is the main shipping companies are also gradually to the way of shipping alliance.<sup>21</sup> The reason is that in the case of the shipping market continues to weaken, the shipping market giants both

competition and cooperation between the horizontal alliance are gradually occupy the mainstream, in addition, the ship under the trend of large-scale, shipping companies also hope to get synergies, thereby reducing route overlap, reduce operating costs, improve working efficiency.

Such a strong combination of alliances, of course, can also promote each other like:

(1) First, the industry is sluggish. This is a priority for P3 members. The change in the external operating environment makes shipping companies no longer suitable to fight alone, but reduce risks by means of vertical separation and horizontal combination, which is also suitable for shipping giants.

(2) Secondly, reduce the cost, which improves the freight rate, obtaining the synergies. This means to maintain the original investment amount in all parties through joint operation and operation, so as to generate more profits. For example, although large ships are expensive to purchase and lease, their fuel consumption greatly reduced. And the fuel savings are considerable.

(3) Last but not least, members of the coalition also have their own aspirations. Maersk hopes the alliance will maintain or even improve its existing advantages in terms of density of routes and port coverage. The Mediterranean, on the other hand, wants to improve its customer service, while CMA CGM Group aims to increase its market share.

P3 shipping alliance built on the basis of P3 protocol is similar but different from the traditional shipping alliance mainly in the form of ship sharing and box exchange.<sup>22</sup> Similarity is that with the traditional shipping alliance, through a uniform rate, control capacity outside of the shipping date sharing, sharing, the affiliated distribution of shipping, port management form, but they also differ.



Table 4.1 Difference between P3 alliance and traditional shipping alliance

	Form of cooperation	Operation mode	Cost accounting
P3	The network center shall be set up for daily management of the ship, and the trading party shall reserve the right of technical management of the ship	Operate and manage according to the procedures agreed in advance by the network center	Uniform settlement cost in the form of settlement group
Others	Ship sharing, slot exchange and other forms	The container line representative coordinates the operation	The members of the alliance shall bear the operating expenses respectively and independently calculate the costs
	Stopping service	Unused slot sales	
P3	It's up to the network center	Unified and coordinated by the network center	
Others	The members of the shipping alliance agreed	Members of the shipping alliance may be sold directly to other members on the terms of interest of the owners	

In June 2014, the ministry of commerce issued the ban Maersk, Mediterranean shipping company and French CGM shipping group announcement, concentration of P3 alliance set up three companies report shall not be approved. The Commerce Department's move against the US and Europe has sparked heated debate. According to the announcement, the ministry of commerce emphatically reviewed the P3 alliance exchange for airline's competition, especially those involving Chinese ports of the Asia-Europe run and transpacific, based on the following several aspects of P3 union ban decision:

(1) P3 alliance formed close shipping alliance, loose shipping alliance in cooperation with the traditional way, when running the program, costs, unused space and stopping selling are different.

(2) The ministry of commerce USES the main routes combined capacity share index and Eurasian international container liner shipping market HHI index, the two indicators suggest P3 market control ability enhancement of the alliance, and makes the market concentration degree of the involved, and unlikely to change market structure.

(3) The ministry of commerce through the investigation and that other competitors as well as trading main body involved, the transaction will not only influence the entry barriers of the routes involved, still can make a competitive ability and the owner of other business operators with regard to port the bargaining power of both fell.

It can be seen from this that China is the same as Europe and the United States. To a certain extent, China has affirmed the promotion effect of certain types of shipping alliances on the marine economy.

There is also a national reason why China opposes the P3 alliance.

(1) The shipping industry is a national strategic pillar industry, nearly 90% of international trade is done by shipping, import and export trade in our country is big country, if one of the most important routes container shipping business is a monopoly, the economic security will be affected.

(2) The three of P3 alliance members are the top three sea giants, in the international container market accounted for 18.7%, 14.8% and 11.6% of the share, and fourth shipping enterprise, COSCO group in China market share is only 8.9%. If the P3 alliance is established, the share of over 40% will be five times that of the fourth place, which will easily lead to the result of tariff control, and the bargaining power of the weak party will be greatly reduced.

(3) As mentioned in the second point, if the freight rate is raised, the domestic goods prices will be increased, which will bring chaos to the national economy.

(4) The last point is the port of earnings could fall, because the P3 coalition could to choose their own affiliated ports, and in order to strive for the opportunity, the port

will be forced to accept a lower price, and invest in wharf, cause the loss of income, investment increase.

#### **4.1.2 China ocean shipping and shipping restructuring case**

Back to 2014, COSCO group and China shipping group has signed a strategic cooperation framework agreement, in areas such as shipping, port, logistics, ship building a strategic partnership, set up the development of the resources sharing mechanism. To enhance the competitive strength through operating cooperation without involving unified freight rate and capacity control. Not only that, to 2016, according to the China ocean shipping group's announcement, the company in the form of asset restructuring acquisition of China shipping container lines co., LTD., Dalian China shipping port development co., LTD., 34 companies such as equity, the joint cooperation to a new level.

The correlation between the two has also increased, from strategic partnerships to close partnerships through asset restructuring. The reorganization is not a simple combination of two companies, but through the form of purchase form, with substantial business integration and structural adjustment, which avoids the shipping companies in the process of the international competitiveness of the vicious competition phenomenon that may occur. Although such joint unavoidably cause monopoly question, but according to the ministry of commerce anti-monopoly bureau [2016] 5, review the letter and the COSCO and China shipping CSCL assets reorganization has been through the concentration of the department of antitrust scrutiny.

It can be seen from the above two cases that China's shipping alliance supervision mode has been extended for a long time, that is, prior supervision. In the context of the current transformation of government functions, government management is changing to the management of "negative list" and the management of affairs after events. The release of the P3 alliance by Europe and the United States is also carried out after supervision. This will be explored in more detail in a later chapter.

## **4.2 International shipping antitrust exemption practice**

First, we focus on the new development of the European Union's antitrust exemption system for shipping alliances. The EU has not taken the same tough measures as the liner trade union against shipping alliances, but has been more lenient towards new forms of international shipping competition. At the same time, it is important to note that although the European Union on shipping alliance for complementary advantages and specific cooperation to be recognized, but it is the alliance of shipping freight rate, capacity control issues are still very tough attitude, banned union on freight, capacity to achieve any "conspiracy".

Also, the European Union also affirmation of the role of shipping alliance, in June 2014 the commission decided to delay shipping alliance antitrust exemption rule, meet the conditions for a certain special shipping alliance implement exemption from antitrust regulations to extend for another five years to 2020, the commission thinks after consulting all options, existing exemptions provisions for can bring benefits to consumers union agreement provides a stable legal environment, does not distort markets, decided to delay.

Likewise, the United States also for alliance agreement other than the uniform rate, control capacity and new shipping affiliated organizations such as joint antitrust immunity has taken a more tolerant attitude, but also actively guide liner conference agreement toward the associated changes, even direct liner conference shift toward the new shipping associated organizations.

Table 4.2 Comparison

	Approval form	Restrictions	Conclusion
EU	Approved by separate legislation	One of the four elements set out in article 81, paragraph 3, of the EC treaty should still be met and certain regulatory measures should be supplemented	Regulations are becoming stricter
USA	To be exempted in accordance with the type of agreement that can be waived in the filing agreement	Ex ante review, ex post regulation	Regulation is relatively lax

While Europe and the United States the reform process, particularly in the shipping alliance antitrust exemption reform in attitude, but both affirmed the pooling agreement other than the uniform rate, control capacity and joint, shipping alliance, and so on the new shipping pool the positive role of antitrust immunity, and believed that the above agreement and a new mode of joint management can bring benefits to consumers, not distorted shipping market and its competition environment.

In practice, the international level through guiding freight is unified, capacity control protocol in schedule sharing, sharing, affiliated distribution, terminal management of shipping cooperation agreement, even direct liner conference at the joint, shipping alliance, and so on the new shipping pool shape change.

The specific regulations of the European Union and the United States on shipping alliance will be analyzed in the following cases.

#### **4.2.1 The EU's exemption and antitrust regulation of the P3 alliance**

As mentioned above, due to the differences between P3 alliance and traditional shipping alliance, the EU, the United States and China are very cautious about whether to approve it or not. In March 2014, the United States federal maritime commission approved the P3 alliance to take effect. In the same year, the European Union said it would not initiate an anti-competition law investigation. That means the largest union in the shipping industry has faced no opposition from either the U.S. federal maritime commission or the European commission.

Firstly, as far as the incident is concerned, whether the P3 union should adopt anti-monopoly prohibition measures or not, the European commission is the most tolerant, and it has no mechanism for pre-review. They think the alliance is a general ship agreement, is a loose alliance, will not affect the competition, and have innovation alliance, can provide better service for the customer, which should be given support.

#### **4.2.2 The US's exemption and antitrust regulation of the P3 alliance**

As stated earlier, the United States of shipping law and no institutional arrangement for shipping affiliated organization separate, but after identified the need to adjust the definition, the classification of the agreement for need to put on record.

P3 alliance, in addition to meet the shipping method for saving the legal conditions stipulated in the general shipping alliance, the United States federal maritime commission (FMC) also for P3 union took a special regulation measures<sup>23</sup>, such as requiring P3 union protection on routes involved small and medium-sized enterprises and the interests of a third party; The rights of P3 alliance members to negotiate and conclude contracts independently with third parties shall be reserved.

Against the above background, the United States federal maritime commission agreed to the establishment of the P3 alliance for the following reasons: the P3 alliance formed on the basis of the P3 agreement has not yet been established which

(1) Resulting in less competition in the shipping market

(2) Causes the transportation expense unreasonably to increase

(3) Lead to the unreasonable reduction of transport services

The P3 alliance will dominate competition in the shipping market and limit the option and bargaining power of shippers involved in us port routes; From a long-term point of view, after the establishment of P3 alliance to shipping enterprise alliance form of exemplary role, make itself to follow suit, thus damaging the interests in the direct and indirect trade of China in the us and Europe.

This shows that the US is cautious about P3 alliance. In particular, after the completion of the committee's review, the public has 15 days to comment.

### **4.3 Comparison, induction and analysis**

This part will focus on the comparative analysis of China, the European Union and the United States on the regulation model of shipping alliance and the anti-monopoly rules from the case of P3 alliance.

Compared to European Union support for P3 alliance, the United States is more cautious, with characteristics of quasi administrative and judicial independent government agencies - federal maritime commission respectively from the freight rate for record and freight management system for a long time to review.

And the European Union to release the P3 alliance, then you can see it as a "review" mechanism, on the contrary, China is implementing the "pre-approved" mechanism, so need to be more strict in advance.

On the other hand, the P3 alliance's main distribution route is the European route, which is one of the three routes. China is also mainly involved in the European line, so the ministry of commerce focused on the European line in this review. As mentioned in the anti-monopoly law, operators have a dominant market position, defined as no more than 30% market share, put 770000 TEU and Maersk line in Europe, in the big three league, market share will account for 47%.

The table below shows how the China, EU and the US differ in their approach to the P3 alliance case.

Table 4.4 Comparison in China, EU and USA

	Form and legal basis of recognition	Restrictions
China	China's commerce ministry did not endorse the P3 alliance. According to the anti-monopoly law, the market share of P3 alliance after its establishment is too large, which has adverse factors to market competition.	There was no outright rejection of the P3 alliance, allowing P3 union members to provide economic contracts.
EU	As a special form of shipping alliance, P3 alliance enjoys the collective exemption of anti-monopoly.	Meeting article 81, paragraph 3, of the treaty of the European Community; They shall not engage in cartel activities such as fixed freight rates and market division of operations; The right of members of the alliance to "act alone" shall not be impeded.
USA	There is no institutional arrangement for the joint venture or shipping alliance, and the P3 alliance agreement is classified as a "ship sharing agreement" or "agreement between ocean shipping common carriers".	P3 alliance is required to protect the interests of small and medium-sized enterprises and third parties on the routes involved. And conclude contracts independently with third parties shall be reserved.



	Regulatory measures	Conclusion
China	Prior regulatory	China did not release the P3 alliance, and in case the national shipping strength was not very strong, it rejected the P3 alliance and banned the anti-monopoly decision in order to protect the national interests.
EU	Subsequent regulation	Relatively loose regulations based on exemptions
USA	Special regulatory procedures will be established for full supervision	Strict supervision and regulation on the basis of exemption

After the P3 case, China, the European Union and the United States have all put forward their views on the regulation of the shipping alliance. They also put forward corresponding measures to improve their own supervision model of shipping alliance.<sup>24</sup>The table below lists the specific measures proposed by China, the European Union and the United States on the regulation model of shipping alliances.

Table 4.5 Regulatory model measures

	Regulatory model measures
China	With the continuous progress in China's supervision of shipping alliances, the national freight rate filing regulatory center is expected to be established.
EU	The shipping industry needs a global regulator to oversee the ship sharing alliance (VSA), which is a risk factor for the free shipping of goods by sea. The ESC hopes to announce monthly capacity, accurate shipping rates and average monthly revenue per TEU through the competition regulatory system. Rates should also vary with capacity.
USA	Federal maritime commission (FMC) is also aware of the potential competitive threats brought by the shipping alliance, support group, a global summit, at least by competition from the United States, China and the European institutions to participate in the management. Carrier globalization alliance will force regulation, globalization is no longer a single state monitoring of individual countries, the need for a global regulatory cooperation organization, at least can do it in such aspects as evidence and information sharing.

The next chapter will be to an overview of a full text and then in contrast China is analyzed, the European Union and the United States for way of regulation on the basis of shipping alliance, to the discussion of China can get enlightenment.

## 5. Conclusion and discussions

First, let's review the issues discussed in this paper. The research direction of this paper is as follows.

The first is the research on the cause of shipping alliance, and make conclusion that the four causes below are the motivation of the shipping alliance.

- (1) The need for high quality service
- (2) The need for internal competitiveness
- (3) The need for risk reduction
- (4) The need for increase in revenue

The second part is research on anti-monopoly law.

The third part through to China, the European Union and the us comparative analysis of the existing antitrust system, points out that the current system of our country for antitrust regulation of shipping alliance, and from the aspect of legislation, law enforcement level and system level three aspects puts forward Suggestions on shipping alliance antitrust regulation in China, so as to build a more perfect system of antitrust shipping alliance.

The fourth part is about the differences between the EU, the US and China on the regulation of shipping alliances. In this section, first, case analysis method are used to get in China, the European Union and the United States is different attitudes to the alliance of P3, get them their regulatory model, after comprehensive analysis and the establishment of the future better shipping market sustainable measures taken.

After this a few parts for shipping alliance, can get the conclusion that shipping alliance first not on the current shipping market monopoly, shipping market is highly competitive, and calls for the joint regulation of global shipping alliance.

China is a shipping power, but not a shipping power. Perhaps some people put forward our country in foreign trade mainly export-oriented countries, focus on is to complete the shipment of the goods, rather than goods exactly who will carry out the problem, the strength of the shipping power seems not so important. And I think the course of maintenance of maritime rights and interests in our country under the

background of the deepening gradually, the loss of ocean freight autonomy and discourse power, you'll probably make the lack of material basis for the maintenance of maritime rights and interests in our country, the awkward and passive.

At the end of the paper, we need to analyze the implications for China from the different measures taken internationally for the same shipping alliance.

(1) Anti-monopoly law of shipping

China's anti-monopoly law on shipping is still in a state of imperfection, and there is no free system of anti-monopoly law specific to the shipping market. In many cases, the use of the international shipping regulations and other narrow scope. Second, we can also learn from the United States to improve the freight rate filing system, which is no longer just a pre-regulatory model, so it is easy to overlook important points.

(2) The development of China's shipping and port

Shipping industry downturn still is the big background of the current shipping industry, the ship under the trend of large-scale, shipping alliance can not only maintain the market share, also can significantly reduce operating costs and operational risks. At the same time that various enterprises in the world form alliances, ports also need to deepen cooperation and complement each other, which will be of great benefit to China's shipping industry competitiveness.

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