



FREIGHT MANAGEMENT  
ASSOCIATION OF CANADA

ASSOCIATION CANADIENNE  
DE GESTION DU FRET

**Submission # 2**  
**to the**  
***Canada Transportation Act Review***  
**Covering Air, Marine, Truck Freight**  
**Transportation**

**July 21, 2015**

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## **1.0 Introduction**

The Freight Management Association of Canada (FMA) appreciates the opportunity to submit its comments and recommendations to the *Canada Transportation Act Review*. While the Review was not required under the law to start until 2015, the rail transportation issues faced by many sectors of the Canadian economy, particularly by the grain sector, are of concern and the economy will be well-served by advancing the start of the Review.

FMA has been representing the freight transportation interests of Canadian industry since 1916. Our 90+ members include companies, both large and small, from most industrial sectors and from all across the country. The FMA member companies contribute approximately \$100 billion annually to the Canadian economy and purchase approximately \$6 billion in freight services by truck, rail, marine, courier and airfreight. A list of the member companies can be found on the Association's website at <http://www.cita-acti.ca/membership/member-companies> .

The first FMA submission covering only rail freight issues was forwarded to the Review secretariat on January 29, 2015. As the rail issues were of most concern and were most urgent, FMA decided to address the rail issues first and follow up with comments and recommendations on the other modes in a separate document.

### **1.1 Overview of the Submission**

This paper discusses the transportation policy, legislative, and regulatory regime that have evolved over the past century, and addresses the implications for freight transportation by air, marine and trucking modes.

## **2.0 Background – National Transportation Policy**

Section 5 of the Act provides the Policy Statement underpinning all of the provisions of *Canada Transportation Act*. Section 5 states, in part:

*5. It is declared that a competitive, economic and efficient national transportation system that meets the highest practicable safety and security standards and contributes to a sustainable environment and makes the best use of all modes of transportation at the lowest total cost is essential to serve the needs of its users, advance the well-being of Canadians and enable competitiveness and economic growth in both urban and rural areas throughout Canada. Those objectives are most likely to be achieved when*

*(a) competition and market forces, both within and among the various modes of transportation, are the prime agents in providing viable and effective transportation services;*

*(b) regulation and strategic public intervention are used to achieve economic, safety, security, environmental or social outcomes that cannot be achieved satisfactorily by competition and market forces and do not unduly favour, or reduce the inherent advantages of, any particular mode of transportation;*

The emphasis in section 5(a) on “*competition and market forces*” to meet the objectives is appropriate and is working well in all modes except rail.

For example, even though the *Shipping Conferences Exemption Act (SCEA)* permits shipping lines to enter into legal cartels, (shipping conferences), SCEA allows confidential contracts and there are currently enough shipping lines serving Canadian ports that there is effective competition in ocean freight services. There is also some competition between Canadian and ports, and also between some Canadian and U.S. ports.

### **3.0 Truck Transportation**

#### **3.1 The *Canada Transportation Act***

The *Canada Transportation Act* addresses trucking in a minor way. The only provision directly addressing trucking is section 114 (4) that requires railways hauling truck trailers to treat the transport of such equipment owned by trucking companies on the same terms and rates as such trailers that may be owned by the railway company. This provision is appropriate and should be maintained in the *Act*.

Trucking is the universal mode of land transport and is the mode that most impacts the daily life of Canadians.

While interprovincial or international trucking is the responsibility of the federal government, the regulation of trucking has largely been delegated to the provinces for practical reasons as the provinces are responsible for policing motor vehicle operation.

#### **3.2 Other Federal Trucking Legislation**

- *Motor Vehicle Transport Act (MVTA)*
- *Motor Vehicle Safety Act (MVSA)*
- *Bill of Lading Act (BLA)*
- *Transportation of Dangerous Goods Act (TDGA)*

FMA is not making specific recommendations related to the above-mentioned laws, but expresses concern about the inconsistency that exists in the oversight of inter-provincial trucking because of the delegation to provinces.

The major concern of FMA members relates to ensuring the necessary capacity to meet future demand, and this includes vehicles, infrastructure, and drivers. The Canadian Trucking Alliance in its submission to the Review noted the following with regard to the impending driver shortage.

*“The shortage will reach up to 33,000 across the country by 2020 in the for-hire sector alone, which represents a gap of at least 17% of the driving force”.*

It will be necessary for all stakeholders to play a role in addressing this shortage. The compensation and working conditions supplied by the trucking companies, the

treatment of drivers by shippers, the oversight of training and qualification by provincial authorities, the consideration by federal authorities of the skill level of commercial drivers, and the implications for immigration law as it relates to foreign recruitment of drivers will all need to be addressed to ensure that trucking capacity will be available to meet the needs of Canadian society and the economy.

### **3.3 Urban Freight Transportation**

Of particular concern is the management of freight transportation in Canada's largest urban areas. Managing trucking within the general mobility in urban areas is a growing problem that has not had much analysis by either academia or by governments. Of note is the University of Toronto Civil Engineering *Centre for Urban Freight Analysis*, which is the only Canadian university urban freight program of which FMA is aware. In addition to the obvious supply of retailers, urban trucking also includes mail & Courier services, garbage pick-up, supply to construction sites, and utility vehicles (hydro, telecommunications, etc.) The congestion and resulting delays for trucking in urban areas have a negative impact on costs, environmental degradation, and effective trucking capacity.

FMA recommends that the federal government, in collaboration with its provincial and municipal counterparts, begin to address the complex issue of urban freight movement, and that federal and provincial support of the U of T urban freight program should continue.

### **3.4 Port Metro-Vancouver Drayage**

The effective operation Port Metro Vancouver (PMV) is of vital importance to the Canadian economy as it is Canada's largest port and the main gateway for growing trade with Asia. Both export and import container traffic depends on drayage service by the local trucking industry. The withdrawal of service by drivers (both employees and independent owner-operators) in 2014 created significant problems for users of the port and there were repercussions across the country. The split in jurisdiction between the federal and BC governments with regard to trucking regulation and oversight made resolution of the dispute difficult.

While the two levels of government were able to resolve the immediate work stoppage, and appointing a Truck Licencing System (TLS) Commissioner to oversee the drayage trucking industry, there remain controversial issues that may require further government intervention, such as the rate at which older trucks servicing PMV must be replaced.

In line with the mandate of the Review to look at the long term needs of Canadian transportation, FMA recommends that the federal and western provincial governments continue to use the Asia-Pacific Gateway and Corridor Initiative to resolve issues such as drayage service that fall between federal and provincial jurisdiction.

## **4.0 Marine Transportation**

In this section, FMA will address Great Lakes and Coastal Shipping separate from Ocean Shipping.

### **4.1 Great Lakes, St. Lawrence Seaway, Coastal Shipping**

#### **4.1.1 The Coasting Trade Act**

Under sections 4, 5 and 6 of the Act, “...on application by a person resident in Canada ....the Minister of Public Safety and Emergency Preparedness shall issue a licence....”, where certain conditions are met as spelled out in sections 4,5, and 6.

The Canadian Transportation Agency is responsible for the analysis, which is primarily to determine whether or not a suitable Canadian flagged vessel is available. In addition, as foreign flagged vessels will almost always be crewed by foreign nationals, the immigration and employment laws and regulations must also be considered by Human Resources Development Canada (HRDC) and the Canadian Border Services Agency (CBSA).

For those shippers faced with the need for domestic shipping capacity when none is available, there is usually some urgency to obtain the needed vessels. While the Agency is generally able to reach a decision on such requests in a reasonably short time, and has expedited processes in urgent or emergency situations, the HRDC and immigration issues for foreign crews can be a source of significant delays. Shippers faced with this problem are requesting that the government consider ways to speed up the approval process on foreign crews to match the speed of the Agency process.

FMA is requesting that the Review Panel highlight this issue for review by the Ministers of Transport and Public Safety and Emergency Preparedness. In addition, given that foreign flagged ships will almost always be crewed by foreign nationals, FMA recommends that changes be made to the immigration and labour laws to automatically include authorization for foreign crews as part of the Agency analysis and recommendation to the Minister of Public Safety and Emergency Preparedness.

#### **4.1.2 The Pilotage Act**

With the rapid evolution of new technology, particularly that technology based Global Positioning Systems (GPS), it is recommended that Transport Canada undertake an overall review of pilotage, the pilotage authorities and the Act to determine if changes should be made to improve both the safety and efficiency of marine transportation in Canadian controlled waters.

#### **4.1.3 Other Great Lakes, St. Lawrence Seaway and Coastal Issues**

Ballast Water Exchange Regulations. While Canada is a signatory to the IMO regulations, these are primarily designed for salt water shipping. The situation in the Great Lakes is unique in terms of the Canadian and U.S. fleets that are primarily limited to the fresh water lakes.

The uncoordinated nature of the regulations between Canada and the United States is

of concern. The regulatory situation in the U.S. is of particular concern where the Coast Guard, the Environmental Protection Agency (EPA) and the state governments bordering the Great Lakes are all issuing regulations. The efficiency of the Great Lakes/St. Lawrence system is under threat from the uncertainty and the costs associated with meeting some of the proposed regulations.

FMA has reviewed, and supports the recommendation of the Chamber of Marine Commerce that the Canadian government continue to engage the United States government with the objective of achieving “*a single, bi-national ballast water regulatory solution*” for the Great Lakes/St. Lawrence System.

Coast Guard and Ice-breaking. The past two winters have resulted in severe ice coverage in the Great Lakes that has taxed the ability of the Canadian and U.S. Coast Guard services to clear ice for navigation in a timely manner. While the long-term trends in ice coverage are unknown, it is recommended that Transport Canada and the Canadian Coast Guard determine the additional resources that will need to be made available to support as lengthy a navigation season as possible.

## **4.2 Ocean Shipping**

### **4.2.1 The Shipping conferences Exemption Act (SCEA)**

SCEA continues to authorize legal cartels (shipping conferences) for shipping lines calling at Canadian ports. SCEA also provides for shippers and carriers to enter into confidential contracts. It is noted that the European Union (EU) ended the exemption of shipping conferences from EU competition law in 2008, consequently, shipping conferences are not legal in any EU Canadian services, but they remain legal in other trades, of which the trans-Pacific trades are the most important. It is noted the comparable U.S. law, the *Ocean Shipping Review Act (OSRA)* contains most of the same provisions as SCEA. Given the integrated nature of ocean shipping, particularly the container trades, to and from North America, it is important that any changes the laws be coordinated between Canada and the U.S. Despite the legality of the shipping conferences, pricing by container lines has been under severe pressure in recent years, primarily due to the growth in capacity by the container lines.

While FMA has not noted any pressure from its member companies to amend or repeal SCEA, the need to exempt ocean shipping from competition laws seems to be unnecessary as it is generally not working. FMA recommends that Transport Canada open discussions with the U.S. Department of Transport (DOT) to determine if OSRA and SCEA should be amended or repealed.

### **4.2.2 Container Shipping Line Alliances**

While the shipping conferences are no longer allowed under European law, the European commission (EC) continues to permit vessel sharing agreements and other forms of collaboration among the container carriers. As Canadian, U.S. and other major trading nations laws permit some form of collaboration by shipping lines, the world's top

16 container shipping lines have recently reconfigured their strategic partnerships in four major alliances which dominate the world's main liner trades, with follow-on effects for many small liner markets. The alliances include:

- 2M (Maersk and MSC)
- Ocean Three (CMA CMG, China Shipping Company and United Arab Shipping Company)
- CKYHE (Cosco, K Line, Yang Ming, Hanjin and Evergreen)
- G6 (APL, Hapag Lloyd, HMM, Mitsui, NYK and OOCL)

While shippers have been broadly supportive of traditional consortia and vessel sharing agreements (VSAs), many shippers are concerned that the new alliances go well beyond vessel sharing in terms of their scale and the sharing of information and data on capacity and costs.

FMA recommends that Transport Canada work with European, U.S. and other nations to collect data and monitor the operation of the alliances to promote competition on the major freight lanes. In this connection, see appendix 1, a report from July 9, 2015 *Journal of Commerce* commenting on shipper perspectives of the four major alliances.

#### **4.2.3 The Canada Marine Act and Port Capacity and Investment**

The *Canada Marine Act* governs the major federally owned Canadian ports and the St. Lawrence Seaway Management Corporation under the direction of separate Boards of Directors appointed by the Governor in Council on the advice of the Minister of Transport. While this approach provides a degree of independence and local control of the ports, the Act limits the ability of the Port authorities to borrow money for investment purposes. Section 7 (3) states as follows:

##### Borrowing restriction

(3) A port authority or a wholly-owned subsidiary of a port authority may not borrow money as an agent of Her Majesty in right of Canada.

The ports play an indispensable role in Canada's international trade for both imports and exports and it is vital that port capacity be expanded to meet the anticipated growth in traffic that each port expects to handle. As the Review is being asked to consider long-term transportation needs, long-term growth forecasts will be required to determine appropriate investment levels. While long-term forecasts covering a 10 or more years' time-horizon are notoriously inaccurate, it is recommended that structured forecasting be commenced by Transport Canada for at least the medium term of say 3 to 7 years. This should, of course cover the transportation investment needs that Canada may need to consider for all modes of Transport.

The management model for ports under the *Canada Marine Act* appears to be working well and FMA recommends that it be maintained. In addition, FMA recommends that

the Act be reviewed to ensure that the Port Authorities have the appropriate powers to obtain funding to meet investment needs.

## **5.0 Air Cargo**

The Freight Management Association of Canada has considered the several of the main laws, regulations, and policies, along with international initiatives initiated, or under consideration by the UN Agency: *International Civil Aviation Organization (ICAO)* and the international airline association: *International Air Transport association (IATA)*.

In this submission, FMA will comment on the two main Canadian laws, and their relevant regulations, that impact air cargo. The first is the *Canada Transportation Act, Part II, Air Transportation*. The second is the *Aeronautics Act*, especially those sections related to air cargo security

### **5.1 The Canada Transportation Act, Sections 55 – 86, & Sections 159 - 169**

The Air Transportation Sections of the *Act*, as related to carrier-customer disagreements focus primarily on passenger complaints. As competition within the air cargo industry is robust, there are no shipper protection provisions comparable to those found in *Part III, Railway Transportation*.

In the event of a rate dispute between a shipper and an air carrier relating to domestic transportation, *Part IV, Arbitrations, Division I, section 159. (1) (a)* specifically states that the Final Offer Arbitration (FOA) provisions are open to air cargo shippers. FMA understands from the Agency that there has never been an air cargo complaint, requesting resolution by FOA.

FMA is not recommending any changes to either *Part II* or *Part IV, Division I* as related to air cargo services.

The availability of FOA to air cargo shippers is not widely known and it would be useful for the Agency to publicize this among air cargo shippers. One of the roles of an industry association, like FMA is to keep its members apprised of laws, regulations, and policies that may impact its member companies, and FMA will open discussions with the Agency to expand the publicity on the availability of FOA for shippers of air cargo.

### **5.2 Aeronautics Act and Aviation Security Regulations, 2012**

In this submission, FMA will comment only on Air Cargo Security Regulations issued pursuant to section 4.71 of the *Aeronautics Act*, particularly the Canadian Aviation Security Regulations, 2012, and those amendments published in the Canada Gazette, Part II on June 30, 2015. These provisions come into effect on October 17, 2016.

The changes announced on June 30 will allow shippers to apply to join the *Air Cargo Security Program* on a voluntary basis. The new regulations should improve the flexibility and efficiency of air cargo, avoid potential bottlenecks at Canadian airports maintain an effective level of security, and bring Canadian practice in line with its major trading partners.

FMA supports the changes published on June 30 and has contacted Transport Canada to assist in communicating the opportunities, under the new regulations, to the Canadian shipper community over the coming months. FMA has no recommendations to put forward at this time and will provide feedback to Transport Canada as shippers gain experience with the new regime.

## **6.0 Other Issues**

In this section, FMA will provide general comments on several of the other issues that were included in the mandate given to the Review by the Minister of Transport.

### **6.1 Infrastructure Investment**

Previous sections of this submission (and the first FMA submission covering only rail) provided comments and recommendations on infrastructure investment needed to ensure that Canadian transportation has the capacity to effectively meet forecast demand.

As stated in the Review *Discussion Paper*: “When businesses decide where to invest and locate facilities, the quality of transportation infrastructure and global connectivity are key considerations”. As in the past, such investment will be a combination of public and private investment. The 10-year \$53 billion New Building Canada Plan, announced in 2014 is a good base on which to build. Various provinces and municipal governments are also moving ahead with investment plans, but as the Discussion Paper notes: *Canada has no unifying policy framework from which national priorities can be established across transportation modes*”. Several stakeholder groups have noted that Canada is the only G7 nation with no National Transportation Policy. FMA recommends that the overall policy framework be reviewed with the provincial governments with a view to better coordinate transportation infrastructure investments.

FMA restates its recommendation from its first submission that short line railways are a special case and that, while governments do not generally invest directly in rail infrastructure, that short lines should have access to the New Building Canada Plan and other infrastructure investment funds.

Related to infrastructure investments is the special case of property tax on railway rights-of-way. While railway yard and terminal facilities are appropriate targets for property tax where municipal services are provided, FMA recommends that railway rights-of-way be exempt from property taxes as is highway infrastructure. It seems unreasonable that highway infrastructure consumes taxes while railway rights-of-way have to pay taxes.

### **6.2 Governance Frameworks**

The Review Discussion Paper asks for comments on the Governance Frameworks of various government entities such as the port and airport authorities, the St. Lawrence Seaway, the Canadian Transportation Agency, the Transportation Safety Board, etc. In most cases, these agencies have been established on a private sector model with local management reporting to a Board of Directors, generally appointed by the Governor-in-

Council. This seems to be an efficient and appropriate way to manage these entities and FMA is making no recommendation for changes.

The quasi-judicial role of the Canadian Transportation Agency and the important investigative role of the Transportation Safety Board are special cases, and in both cases, the governance appears appropriate. With regulatory agencies, there is always concern that the regulator will be “captured” by the regulated industry, i.e. the technical expertise required by the regulator will have to come primarily from the regulated industry. It is vital to the effective functioning of such agencies that the governance and oversight ensure their neutrality and that their mandate really is to protect the public interest.

FMA notes that the key in effective governance is to ensure that people with appropriate qualifications are appointed to the Boards of Directors of these entities.

### **6.3 Environmental Sustainability**

Environmental performance is of concern to most industries, and as transportation is a major contributor to greenhouse gas emissions, it is important to carriers in all modes, and to shippers that supply chain stakeholders work to improve environmental performance.

All significant infrastructure projects are subject to environmental assessment (EA) by one or more levels of government. This is appropriate, but such assessments can be time-consuming and can delay significant projects. FMA recommends that the federal and provincial governments jointly review their EA regimes and develop a coordinated national EA regime that promotes a level of EAs appropriate to the project, and that reduces the time for environmental assessments.

Natural Resources Canada (NRCan) has introduced the *SmartWay* program for carriers and shippers to reduce greenhouse gas emissions (GHG), primarily CO<sub>2</sub>. FMA has been an affiliate of the SmartWay program for several years and has promoted it to the FMA membership. Manufacturers of vehicles in all modes have made significant improvements in fuel efficiency in their engines, and carriers have changed operating procedures to reduce fuel consumption and shippers have also been investigating and making changes to their total supply chains to reduce emissions.

FMA continues to work with NRCan on SmartWay and will continue to promote it to the shipper community.

To the extent that government is prepared to fund basic research, financial support of research into alternative forms of energy to replace carbon based fuels should be considered by the federal government.

## **8.0 Concluding Remarks.**

The Discussion Paper, issued by the Hon. David Emerson, P.C., stresses the need to look at Canada’s transportation needs over the next 20 – 30 years. That is, what will

Canada's economy need from its transportation system in terms of investment, infrastructure, overall transportation capacity, information systems, laws and regulations, productivity improvements, and policies to facilitate effective global supply chains for Canadian industry? Most of the FMA recommendations in our two submissions address current issues, and finding solutions to these current issues is a necessary building block in ensuring that our freight transportation system will be able to effectively meet the long-term future needs of the Canadian economy.

FMA and representatives of its member companies would be pleased to meet with the Chair of the Review and the Advisory Panel to discuss the recommendations that the Association is putting forward in this paper.

## **Appendix 1**

*Journal of Commerce, July 9, 2015*

# **Shippers view carrier alliances as bulwarks for competition**

Mark Szakonyi, Executive Editor JOC.com | Jul 09, 2015 11:07AM ED

WASHINGTON — The grouping of the world’s largest container lines into four large alliances covering all east-west trades has had an unexpected result: Shippers no longer view alliances as potential vehicles for rate collusion, and, in fact, have come to appreciate their ability to prop up smaller lines that are finding it increasingly difficult to compete against the three largest carriers.

The shift shows that as the largest carriers, particularly Maersk Line and CMA-CGM, which report results publicly, pull away from the larger group of mid-tier carriers in profitability, there is growing concern that if smaller carriers start failing a nightmare scenario could ensue for shippers. If small players are driven out of the market, a small number of mega-carriers could achieve the power to exert price leadership in the market.

Shippers’ softening view of alliances is a sharp change from their initial reaction to Maersk, Mediterranean Shipping Co. and CMA CGM’s proposed vessel sharing alliance in June 2013. In public many shippers voiced lukewarm support but grumbled behind closed doors. Chinese regulators blocked the alliance, known as the P3 Network, a year ago, but others followed in its wake.

Shippers “were right to raise a yellow flag when these alliances were cobbled together and proposed. They had the appearance of game-changers,” said Bruce Carlton, president and CEO of the National Industrial Transportation League, the largest U.S. shipper organization. “With some time to observe actual performance, there’s less to be afraid of than we once thought.”

The level of scrutiny that maritime regulators gave the proposed shipping alliance also assured shippers that the major vessel-sharing agreements wouldn’t be rubber-stamped, said Chris

Welsh, secretary general of the U.K.-based Global Shippers' Forum, the world's largest group of ocean container shippers.

“The FMC took unprecedented steps in the planned monitoring of the P3 (the proposed and defunct alliance of Maersk, MSC and CMA CGM),” he said. “The range of demands they were going to make on carriers in terms of rates and capacity indicated they were going to look at it seriously.”

Global maritime regulators aren't letting down their guard. Following a June meeting in Brussels, the U.S. Federal Maritime Commission, the European Commission's Directorate-General for Competition and the Chinese Ministry of Transport pledged to work together more to keep a sharper eye on the alliances. The regulators concluded they haven't hurt competition, FMC Chairman Mario Cordero said. The three regulatory groups, which met for the first time in December 2013, plan to meet again in a year

FMC Commissioner Richard Lidinsky said the meeting sent a strong message to alliance members that they aren't above the scrutiny of governments and “we are watching you.” He was the sole FMC commissioner to vote against allowing the P3 Network and the 2M, the tie-up of Maersk and MSC that followed Beijing's momentous veto of the P3.

Following the decision of Maersk and MSC to pursue their own alliance, CMA CGM quickly struck up an alliance with United Arab Shipping Co. and China Shipping, known as Ocean Three. Even before the P3 was struck down, the G6 alliance — APL, Hapag-Lloyd, Hyundai Merchant Marine, MOL, NYK and OOCL — had already expanded into the Asia-U.S. West Coast and trans-Atlantic routes, thanks to the blessing of the FMC. In late 2014, the CKYHE Alliance got the go-ahead from the FMC to further integrate its newest member, Evergreen Line, into its alliance covering the trans-Pacific and trans-Atlantic lanes. The other members are Cosco, "K" Line, Yang Ming and Hanjin Shipping.

When the dust cleared, 19 of the 20 largest global carriers were part of an alliance encompassing the three major east-west trade lanes, the trans-Atlantic, the trans-Pacific and Asia-Europe--unprecedented coverage for the alliance system. Zim Integrated Shipping Services CEO Rafi Danieli told JOC.com in April that he wasn't worried the company was the only major carrier not in an alliance, saying partnerships with and joint ventures were sufficient.

Through the alliances, carriers gain access to the economies of scale achieved through large ships, share the increasingly larger vessels being deployed, allowing them to fill capacity and avoid losses accrued by operating less-than-full ships. “In essence, the four mega-alliances compete with each other and their respective fellow members, as the pacts are operational, while forbidding joint marketing and sales”, Welsh said. Slot-sharing is hardly new, but the degree of integration used by alliances, and their reach certainly is — they make up roughly 90 percent of container capacity on major lanes.

“Is that a preferable scenario to greater acquisitions and mergers in the market that would reduce competition? Yes,” Welsh told JOC.com

The alliances don’t appear to have brought about shipper’s greatest fear of rate collusions, either. Maritime regulators haven’t stepped in to break up the VSAs. In his report to Federal Maritime Commissioners on June 24, Bob Blair of FMC’s Bureau of Trade Analysis said his review of the 2M alliance has “raised no red flags” of anticompetitive behavior by Maersk and MSC. It would be difficult for 2M and other alliances to collude rates or limit capacity on trade lanes, Blair said.

The FMC has considered the possibility of alliances setting rates or capacity strategies through their membership in discussion groups, namely the Transpacific Stabilization Agreement, an agreement involving 15 of the largest carriers on the trade lane. But the likelihood of these “special circumstances” dampening competition is unlikely BTA said, considering the complexity of coordination with so many carriers would be difficult to create, run or hide from regulators.

Although regulators haven’t found any indication of alliance rate setting, shipper suspicion of broader carrier misbehaviour lingers. The European Union in November 2013 said it was investigating whether 14 carriers had colluded on rates on European lanes after it raided their offices roughly two years prior. But no charges have come down and regulators haven’t said anything since. More recently, China fined 21 carriers in the China-Japan trade a total of \$684,000 for quoting customers rates below levels filed with the Shanghai Shipping Exchange.

But those suspecting alliance members are colluding on prices would have a hard time finding evidence in market rates. Spot rates on the major three trade lanes are modest at best, as in the case of the trans-Atlantic, sluggish in trans-Pacific and edging below the cost of service in

the Asia-Europe lane. There's little evidence that contract rates are much different. One-third of trans-Pacific shippers surveyed by JOC.com earlier this year said contract rates for 2015-2016 were virtually unchanged from the prior year. Twenty-one percent of shippers said rates rose 1 to 3 percent, while one-third said rates increased more than 3 percent, according to the survey of more than 100 shippers.

"I haven't had complaints about shipping rates in very long time. If they are colluding on prices, they are doing a horrible job about it," said Carlton, who said he doesn't think carriers are price-fixing.

What shippers have been complaining about is poor service reliability, which may be caused partly by shipping alliances, and getting inferior service from an alliance partner of their preferred carrier. In defense of massive vessel-sharing agreements, carriers said they would improve service by offering more port pairings and reducing the number of dropped sailings. There are few signs of this, and the boggled roll-out of the G6 shows that in some cases service has suffered from alliances, as Blair suggested during his presentation to FMC commissioners. He said 2M didn't have the same negative impact on service.

Alliance services also sometimes require the calling on multiple marine terminals within a single port, adding more touches and contributing to congestion. "Considering how many factors contribute to congestion, including volume surges from mega-ships, chassis dislocation and labor slowdowns, it's hard to determine just how much alliances are a factor", said Welsh, of GSF.

Still, he wants alliance members to benchmark their performance on major trade lanes and share the information with regulators as a backstop against carriers abusing VSAs to allow service to deteriorate. GSF's call for carriers to pull out of rate-setting conferences that are allowed in some trade lanes outside the U.S. and Europe, and from U.S.-sanctioned discussion agreements, is unlikely to be heeded.

"The shipping alliances are still in their infancy, and kinks are still getting worked out, potentially leading to better service", Welsh said. Carriers are struggling to fuse operations that have different corporate cultures and operating histories, Carlton said.

“Getting it to fit for two land-based companies can take years,” he said. Alliances “are much more complicated.”

Whether or not the service improves, alliances’ ability to help keep medium and small carriers in the game comes with a catch for shippers. They embolden those carriers to order larger vessels, which unless demand grows steadily, will exacerbate the overhang of capacity and keep rates volatile. Additionally, if marine terminals, railroads and carriers can’t find a better way to handle the unloading and loading of cargo from mega-ships then congestion will worsen. The price of increased competition doesn’t come cheap.