Alliance of Marine Container Carriers - Back to the Cartels

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This paper indicates the repetition of the formation of alliances of shipping companies exhibiting characteristics of cartelization, i.e. the division of markets, well-known from the late nineteenth and early twentieth centuries. The article analyzes the cause of the emergence of cartels in the nineteenth century, and points out the repetition of the same causes to the formation of alliances regarding sea container carriers as a result of the economic crisis of 2007.

Keywords: economic crisis, maritime carrier, container, cartel.

1. INTRODUCTION

When in 1902, the first container (referred to as a lift-van) was shipped between Europe and North America[1], nothing indicated that the unification of the loading unit could entail a step back to the system of sea-land cartels, so well-known in history.

2. FROM THE PAGES OF HISTORY

The great labour emigration from the mid-nineteenth century from Europe to North America contributed to the emergence of cartels i.e. legal and organizational forms of concentration, whose aim was to partition markets, determine the volume of production, price levels, etc. in liner shipping.

It all started with… the economic crisis of 1873.

In the years 1873-1893, the Long Depression[2] took place in the U.S. It began in 1873 from the panic on the stock exchange in Vienna. Following the end of the Civil War in the United States, there was a period of rapid expansion of railway lines. Besides agriculture, this was the strongest branch of the U.S. economy, which was caused by speculation and overinvestment on unprofitable ventures. Changing the parity of silver to gold caused bankruptcy, panic and a stock market crash in Vienna, on May 9, 1873. In the period from 1873 to 1879, 18.000 companies went bankrupt in the U.S. The second crash took place in 1893. Again, the cause was speculation around railway investment and cheap silver flooding the market, causing a decrease in its price. Additionally, farmers - particularly in the regions of wheat and cotton reached lower prices for agricultural raw materials. It was only in 1896 that the U.S. economy began to recover[3]. Another crisis involved the 1907 Bankers' Panic – a financial crisis that took place in the U.S. when the New York stock exchange reached record drops in share prices of nearly 50% compared to the previous year's peak. The factors that contributed to inducing the panic included the ongoing recession as well as numerous previous cases of bank panic

[1] Lewandowski Krzysztof: Container transport systems, the genesis and development until 1914, pol: *Kontenerowe systemy transportowe, geneza i rozwój do 1914*, w druku, Wydawnictwo Politechniki Wrocławskiej, 2014.

[2] Capie, Forrest; Wood, Geoffrey (1997). "Great Depression of 1873–1896". In Glasner, David; Cooley, Thomas F. Business cycles and depressions: an encyclopedia. New York: Garland Publishing. pp. 148–49. ISBN 0-8240-0944-4.

[3] Rosenberg, Hans (1943). "Political and Social Consequences of the Great Depression of 1873-1896 in Central Europe". The Economic History Review. 13 (Blackwell Publishing) (1/2): 58–73. doi:10.1111/j.1468-0289.1943.tb01613.x.

and collapses of trusts. With time, the panic of 1907 spread to the whole country, when many state and local banks and businesses declared bankruptcy. The main causes of panic were e.g. the announcement of insolvency by several New York banks and the loss of confidence of depositors, deepened further by unregulated "bucket shop" betting offered by speculative brokerage houses[4]. In 1895 and 1907, John Pierpont Morgan as the leader of a group of investors, purchased a large amount of government bonds and thus saved the U.S. from bankruptcy[5].

Already after the first economic crisis in 1873, three transport companies in England entered into a cartel agreement, the so-called United Kingdom Calcutta Conference, in order to maintain a uniform transport rate between Eastern Europe-India-Far East. Then, two German companies, Hamburg-America and Norddeutscher Lloyd, agreed to partition vessel traffic and tariff. Since 1885, it covered all the lines from the continent running passenger transport. This was followed by the North Atlantic Shipping Association. In 1896, English owners joined the association. As a result of this agreement, they were granted the exclusive service of emigration from the British and Scandinavian ports[6].

The same applied on the other side of the Atlantic. The initiator was the American financier and businessman in the late nineteenth and early twentieth century: John Pierpont Morgan. After the crash of the railway companies during the 1893 crisis, he acquired them and had them healed. In 1901, through several mergers, he founded the United States Steel Corp. – a trust which was then the largest joint stock company in the world. Morgan's enterprises controlled half of the railway networks in 1901 as well as two thirds of steel production in the United States. By selling securities, he multiplied his fortune. In 1902, to support his trust, he acquired the English International Mercantile Marine Company. The IMMC also owned the White Star Line, the Leyland Line and the Red Star Line in order to build a transatlantic monopoly. He was able to sign agreements with the Hamburg-America Line (Hapag) and Norddeutscher Lloyd (NDL). He failed to take over the British Cunard Line, and the French Compagnie Generale Transatlantique (CGT)[7]. HAPAG and NDL gave Morgan the largest rail network in the United States, the Baltimore and Ohio Railway, so Morgan proposed the division of the market. Holland-America Line and Red Star Line together shared the passenger contract between four companies. In 1912, a lawsuit was filed in against him due to unclear financial transactions[8].

3. THE ECONOMIC CRISIS IN 2007

One of the root causes of the global financial crisis could be pressure from Bill Clinton to the possibility of granting mortgage loans to people with lower incomes. At the end of 1990s, deregulation was made in the USA, which allowed for the creation, sale and marketing of derivative financial products (derivatives) that were created on the basis of primary illiquid instruments, such as loans and credits. This allowed for securitization of mortgages, which meant their sale and use for the issuance of new securities was secured by real estate financed by a mortgage. Mortgage banks sold mortgages to intermediate bodies - the insurance companies Fannie Mae and Freddie Mac - which, in turn, used them to issue the so-called Collateralized-Debt Obligations (CDO) and Mortgage-Backed Securities (MBS) and sold them to other financial institutions, such as mutual investment and pension funds, investment banks or insurance companies. Securitization was extended to other types of loans: for the purchase of cars and other goods, within the framework of credit cards, creating the broader class of Asset-Based Securities (ABS). One such package of primary instruments could be repeatedly used as the basis for the issue. This resulted in a huge increase in the value of such securities in the financial markets. The free movement of capital allowed for inflows of foreign investors to the U.S., who recognized ABS as good and reliable investment. In this way, a new model of financing property purchases was

[4] Yale M. Braunstein: The *Role of Information Failures in the Financial Meltdown.* School of Information, UC Berkeley, Summer 2009.

[5] Carosso, Vincent P. The Morgans: Private International Bankers, 1854–1913. Harvard U. Press, 1987. ISBN 978-0-674-58729-8.

[6] Wielopolski Alfred: Outline of the economic history of transport until 1939, pol. Zarys gospodarczych dziejów transportu do roku 1939, Wydawnictwo Komunikacji i Łączności, Warszawa 1975.

[7] Lamar Cecil, Albert Ballin: Business and Politics in Imperial Germany, 1888–1918, Princeton, New Jersey: Princeton University, 1967, OCLC 900428, pp. 52–53, 56–57.

[8] Brandeis, Louis D. Other People's Money and How the Bankers Use It. Ed. Melvin I. Urofsky. (1995). ISBN 0-312-10314-X.

formed, in which the relationship between the bank and the debtor became only the beginning of a complex process, which included other financial institutions. Sales of mortgage loans packages is very beneficial for the banks, because they are getting rid of these loans from their balance sheets, and can provide further loans while tossing the risk to other institutions. This model is called originate-to-distribute (OTD). It allowed banks to accelerate lending (without the need to increase the bank's capital base) by repeated securitization, which led to low risk[9].

Timeline of the crisis[10]:

- January 2007 - the bankruptcy of Ownit Mortgage Solutions Inc. The collapse of the first financial institution in the United States offering risky mortgages to people who are almost or completely insolvent (the so-called subprime). The risk was virtually not taken into account, because it was believed that the ongoing whirl of real estate prices will cover any possible losses from unpaid loans. In early 2007, however, real estate prices began to fall. Within four months, a further 25 credit institutions collapsed (including the largest New Century Financial). "Bad" loans initiated subsequent events.
- July 2007 – a boom at Dow Jones - exceeding 14.000 points.
- August 2007 - intervention by the U.S. - President George W. Bush announces an aid program for Americans having trouble with repaying mortgages.
- September 2007. The crisis reaches Europe. The deterioration of the British bank NorthernRock, which invested heavily in U.S. mortgage bonds. Imminent nationalization of said bank raised the UK debt by 100 billion pounds.
- November 2007. Critical situation in the interbank market. The U.S. Federal Reserve gives banks 41 billion dollars in rescue loans.
- March 2008. A series of bank failures. The collapse of Bear Stearns bank.
- September 2008. A crash in the banking market: the federal government takes over the mortgage market institutions Fannie Mae and Freddie Mac, the bankruptcy of the 158-year-old investment bank Lehman Brothers. The U.S. bailout plan for the financial sector - the plan goes to the Congress.
- 28 September 2008. The crisis deepens in Europe. The nationalization of Fortis bank by Benelux countries, at the expense of 11.2 billion Euros. German multi-billion dollar rescue package for Hypo Real Estate.
- 29 September 2008. The House of Representatives in the U.S. Congress rejected the Paulson rescue plan. The main index of New York Stock Exchange DJIA fell that day by 777 points.
- 1-3 October 2008. The plan was passed, also voted for by the House of Representatives; the law is signed by President George W. Bush immediately after the vote. The London Stock Exchange closed with an 8% decline (the biggest in 20 years). Indexes fell in all major European markets, also in Warsaw.
- October/December 2008. The crisis reaches car manufacturers. The largest companies: General Motors, Ford, Volkswagen announced significant layoffs. Before that, banks have announced job cuts; tens of thousands of financiers have lost their jobs in the UK alone. Thus, the financial crisis spread to the real economy (economic crisis). The enormous personal debt of Americans combined with rising unemployment led to a decline in consumption. Polish banks also significantly reduced their lending policies in fear of the falling real estate prices. The bad news and predictions about the recession deepened the decline in stock prices in all markets. In October and November, prices of oil, copper and other raw materials also decreased heavily. In December 2008, there was the biggest drop in oil prices since 2003. On January 9, 2009 a barrel of oil would cost 41.9 USD despite the recent decision by OPEC to reduce production in order to reduce the price drop.

The financial crisis was reflected in the decrease in the number of transported containers. In 2008, the volume of cargo transported in containers increased, but the growth rate was much

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[9] Adamczyk Marzena: Contemporary financial crisis - causes and consequences for the economy world, pol. Współczesny kryzys finansowy – przyczyny i konsekwencje dla gospodarki światowej [w.] Wyzwania gospodarki globalnej, Prace i Materia³y Instytutu Handlu Zagranicznego Uniwersytetu Gdañskiego 2012, nr 31, s 13-29.

[10] Falenta Paweł, Polinceusz Łukasz: Kryzys gospodarczy w Polsce i na świecie, Fundacja Instytut Badań i Analiz Politologicznych, www.ibap.pl/raporty-i-analizy/raporty/kryzys-gospodarczy-w-polsce-i-na-swiecie.html

lower than in previous years and amounted to 4.3%. It is estimated that in 2008 about 1.32 billion tons of cargo were transported in containers, while the volume in TEUs is estimated at 137 million TEU (+5.4% compared with 2007). In 2009, the volume of cargo transported in containers decreased by 9% and the transport of containers by sea, expressed in TEU decreased by 9.5% and was only 124 million TEUs. Such a large decline in container traffic was due to a significant reduction in demand and, consequently, imports, especially in the United States and Europe; this applied to highly processed goods, which are the basic freight transported in containers. The routes between Asia - Europe, Asia - United States, Europe - United States and the United States - Europe recorded the largest decreases in freight containers, amounting to -14%, -14.2%, -15.1% and -25.1%, respectively. As for the Europe - Asia route, it recorded a growth of 4.3%. In the case of the U.S. - Asia route, a slight increase also remained (+0.1%)[11] (Fig. 1).

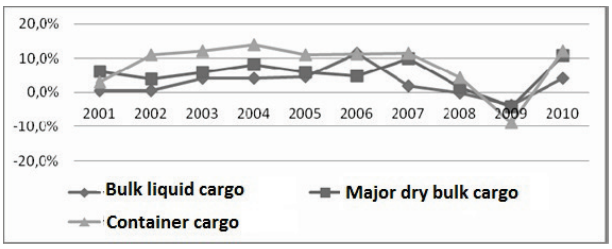

Fig. 1. The growth rate of transport of the three major cargo groups in marine transport in 2001-2010. Monika Rozmarynowska: World economic crisis and its implications for the maritime transport, works by the faculty of navigation at the maritime academy in Gdynia, no. 27, 2012, doi. 10.12716/1002.27.02

High fuel prices and a decline in freight rates were the bane of ship owners. For example, between Far East - Europe, prices dropped from nearly 1.5 thousand dollars per TEU (unit denominating a standard 20-foot container) at the beginning of the last year to $500 at the end of the year. Only a few ship owners managed to dash out and this is mainly due to fuel surcharge clause added to shipment. According to Alphaliner, net rates are now lower than during the crisis in 2009, and ship owners are losing $70 for the carriage of each container[12].

The crisis caused the so-called *slow floating*, free flowing, and the suspension of ordering large container ships.

One of the reasons was a slight increase in demand for cargo containers from China, by about 3-5 percent compared to the double-digit rate in previous years. In this way, the market experienced a slowdown in that country's economic growth and exports as well as the government-pursued policy of greater sales on the internal market. In mid-2012, one could observe the suspension of supply of new container ships with a capacity of over 10 thousand TEUs, which should be delivered in the second half of the year. The analyzes of the trade press emphasized that many owners delayed the introduction of these units to service, both because of the bad financial situation, and little increase in demand for freight in a situation where there was already a relative balance between supply and demand[13].

4. LEGAL BASIS FOR TRANSPORT ALLIANCES

Competing ship owners were forced to conclude alliances in recent years by: a decline in demand for oceanic freight, decrease in freight prices and the increasing cost of fuel. Alliances are not prohibited as a form of "collusion" and are used to make better use of space on vessels, serving the same connections[14].

In 1986, the European Community, the predecessor of the European Union, adopted the Regulation 4056/86 on issues related to

[11] Rozmarynowska Monika: The global economic crisis and its implications for maritime transport sector , pol. Światowy kryzys gospodarczy i jego implikacje dla sektora transportu morskiego, prace Wydziału Nawigacyjnego Akademii Morskiej W Gdyni, nr 27, 2012, doi. 10.12716/1002.27.02.

[12] Stefaniak Piotr: Port of Gdansk comes in the way of Hamburg, pol. Port w Gdańsku wchodzi w paradę Hamburgowi, 2012-02-24 06:28, www.obserwatorfinansowy.pl/forma/analizy/port-w-gdansku-wchodzi-w-parade-hamburgowi/

[13] Stefaniak Piotr: The difficult situation on the market of marine cargo containers, pol. Trudna sytuacja na rynku morskich przewozów ładunków w kontenerach, wnp.pl, 19-07-2012 15:45, www.logistyka.wnp.pl/trudna-sytuacja-na-rynku-morskich-przewozow-ladunkow-w-kontenerach,174862_1_0_0.html

[14] Stefaniak Piotr: Market of shipowners of container vessels: G6 alliance responds to P3, pol. Rynek armatorów kontenerowców: G6 odpowiada na sojusz P3, wnp.pl (PS) | 05-12-2013 18:48, www.logistyka.wnp.pl/rynek-armatorow-kontenerowcow-g6-odpowiada-na-sojusz-p3,213137_1_0_0.html

international maritime transport into and from Community ports other than tramp vessel services. It contains exemptions for the so-called technical arrangements provided for in Article 2 and the agreements under ship owners' liner conferences provided for in Article 3. Whereas Article 6 contains exemptions for agreements between conferences and transport users, determining the rates, conditions and quality standards of services[15].

Article 2 of the Regulation 4056/86 introduced an exemption for agreements of a technical nature, based on the assumption that such agreements do not have a limiting effect on competition. For the agreement to be considered exempt from the prohibition on violations against competition, it should have the sole purpose of achieving either technical improvement or cooperation. The Regulation also identified six ways to achieve this. Therefore, agreements are not prohibited, provided that[16]:

a) They set standards or types of ships or other means of transport (so-called technical standardization),
b) They introduce the exchange of vessels or cargo space, slots, crews,
c) They refer to the organization and implementation of follow-up or supplementary services in the context of maritime transport or fixing rates,
d) They coordinate schedules for each route,
e) They allow consolidation of parcel shipments, create or introduce unified rules for structures and the use of transport tariffs.

Article 3 of Regulation 4056/86 introduced an exemption for agreements for liner conferences. The reason for the appointment of the conference was to avoid excessive competition resulting from the duplication of lines and freight wars. They provided a stabilizing element in shipping, but it's hard not to notice that at some point they had become price cartels, which can affect the competition, even if one takes into account the limitation of that influence by non-conference ship owners. The legality of the conference was confirmed in the famous Moghul Steamship v. McGregor, Dow & Co. ruling from 1892, in which the House of Lords rejected the action for conspiracy as the basis for considering the conference illegal. In the Shipping Act of 1916, the U.S. also recognized the acceptability of conferences open to all who meet the criteria set by the conference and submit to the conference discipline. In the international scale, liner conferences are subject to the UN Convention of 6.07.74., which entered into force on 6.10.83. Commonwealth countries could ratify the Convention after adopting Regulation 954/79 of 15.05.79. A liner conference agreement may be considered to be under block exemption, provided it is concluded between the members of the conference, as defined in Article 1(3)b as follows: "a group of two or more carriers with ships, who provide freight services on a particular route, and who have concluded an agreement under which they operate on the basis of uniform or common freight rates and other agreed provisions taking into account the rules for liner services"[17].

Among others, the following have been considered acceptable[18]:

– coordination and/or joint determination of schedules of ship departures of ships and docking ports,
– exchanging, selling or chartering area or space (so-called slots) on board of ships,
– delivery of containers, chassis and other equipment and/or rental, lease or contract purchase of such equipment,

[15] Lewandowski Piotr: Law of seaports to protect competition in shipping - implementing rules, pol. Prawo portów morskich ochrona konkurencji w żegludze morskiej - przepisy wykonawcze, paź 5 2009, www.superfluum.wordpress.com/tag/ochrona-konkurencji-w-zegludze-morskiej-przepisy-wykonawcze/

[16] Lewandowski Piotr: Law of seaports to protect competition in shipping - implementing rules, pol. Prawo portów morskich ochrona konkurencji w żegludze morskiej - przepisy wykonawcze, paź 5 2009, www.superfluum.wordpress.com/tag/ochrona-konkurencji-w-zegludze-morskiej-przepisy-wykonawcze/

[17] Lewandowski Piotr: Law of seaports to protect competition in shipping - implementing rules, pol. Prawo portów morskich ochrona konkurencji w żegludze morskiej- przepisy wykonawcze, paź 5 2009, www.superfluum.wordpress.com/tag/ochrona-konkurencji-w-zegludze-morskiej-przepisy-wykonawcze/

[18] Dąbrowski Krzysztof: European Community legislation in maritime transport and shipping policy of Poland (economic aspects), pol. Uregulowania Wspólnoty Europejskiej w transporcie morskim a polska polityka żeglugowa (aspekty ekonomiczne), Studia Europejskie, 1/1998. S 107-128,

- temporary adjustment of the carrying capacity,
- joint operation or use of port terminals and the related services,
- participation in one or more of the so-called pools, e.g. tonnage, net income or profits.

However, based on the principle of interventionism, the Commission revealed a tendency to a very strict interpretation of this provision. Thus, if the freight rates are not universal or unified, Article 3 of Regulation 4056/86 does not apply. In its decision on Transatlantic Agreement (TAA), the Commission considers that this agreement may not benefit from block exemption because it contains a mechanism, which allows joining the conference by another operator offering lower rates outside the conference, provided that it adopts the conference rates. In the Commission's opinion, the existence of an operator offering a lower rate indicates that the conference freight rates are neither uniform nor common. An exemption stated by the content of Article 3 in respect of liner conferences is considered exceptionally "gracious" in comparison to other sectors. However, the restrictive policy of the Commission largely tones the privilege down for shipping. One may however note that this leads to a significant increase in the number of disputes that have been submitted to both the Commission itself as the judicial authorities of the Community[19].

For a long time, consortium agreements were considered technical agreements and were subject to exclusion from Article 2 of Regulation 4056/86. Consortium agreements are defined as agreements between carriers providing services within the framework of liner international freight, mainly in containers. The purpose of these agreements is to cooperate through joint management of transport services, where the standard is improved in comparison with the services that each participant would demonstrate individually, if the consortium did not exist. The agreement excludes price fixing. Nevertheless, the Commission expressed its belief that consortium agreements do not always contain purely technical provisions. To avoid doubt and to exempt from notification, on 20.04.1994. the Commission adopted the Regulation 870/95 concerning the application of art.85(3) of the EC Treaty to certain categories of agreements between liner shipping companies. It includes a list of activities that, if subject of a consortium agreement, will not exclude it from the scope of Article 2 of Regulation 4056/86. This list includes, e.g. exchange of vessels or slots, shared schedules, container rental, common documentation systems. A very important aspect is the introduction of mandatory provisions of a consortium agreement referred to in Article 8 of Regulation 870/95. First of all, the agreement cannot restrict its participants in the provision of services individually specified in a contract with the client. Further, participants must have the right to withdraw from the consortium at any time without any sanction of a financial nature, if the consortium operates more than 18 months after the submission of a six months termination notice. Finally, the agreement cannot contain provisions that would determine the conditions of carriage that vary depending on the country of origin or destination, causing a loss to the users, ports, or other carriers. Exceptions are allowed on economic grounds, although the burden of evidence lies with the consortium[20].

5. THE BEGINNINGS OF CARTELIZATION?

Low freight rates and a moderate increase in traffic meant that ship owners were looking for alternatives to improve their performance. One of them was finding new, cheaper routes compared to the ports of the North Sea, which were relatively more expensive to operate loading and unloading goods as well as crowded. Already in January 2010, Maersk Line extended the A10 service branch to Gdansk - still irregular and with small units (8 thousand TEU) at the time. After several months of testing, in April 2011, it opted for regular dockings, once a week and to increase the capacity of container ships - up to 15.5 thousand

[19] Lewandowski Piotr: Law of seaports to protect competition in shipping - implementing rules, pol. Prawo portów morskich ochrona konkurencji w żegludze morskiej- przepisy wykonawcze, paź 5 2009, www.superfluum.wordpress.com/tag/ochrona-konkurencji-w-zegludze-morskiej-przepisy-wykonawcze/

[20] Lewandowski Piotr: Law of seaports to protect competition in shipping - implementing rules, pol. Prawo portów morskich ochrona konkurencji w żegludze morskiej- przepisy wykonawcze, paź 5 2009, www.superfluum.wordpress.com/tag/ochrona-konkurencji-w-zegludze-morskiej-przepisy-wykonawcze/

TEUs, i.e. using currently the world's largest oceanic units of this type[21].

Another clear trend in the past year was the creation of alliances aimed at improving efficiency through better filling of mega-container ships.

In spring 2010, the four largest Asian container carriers brought to life the 'CKYH - the Green Alliance', with the aim to control operating costs, conserve energy resources and reduce fuel consumption and greenhouse gas emissions (GHG). 'CKYH - the Green Alliance' consists of COSCO, "K" Line, Yang Ming and Hanjin Shipping[22] (Fig. 2).

Fig. 2. The representatives of the signatories of 'CKYH - the Green Alliance'.
I 'fantastici 4 asiatici' più ecologici, Il patto CKYH (Cosco, 'K' Line, Yang Ming, Hanjin) diventa Green Alliance,
Ship2Shore, Anno VII, N.17 - Genova, 26 Aprile 2010, S2S_17_2010, www.ship2shore.it

The primary transport routes of the CKYH - the Green Alliance from April 2010 include[23]:

Asia – Trans Pacific Trade (Asia - North America West Coast Service 12 loops; Asia – North America East Coast Service 5 loops);

Asia – North Europe / Mediterranean Trade (Asia –West and North Europe service 5 loops;

Asia – Mediterranean service 3 loops; Trans Atlantic Trade 1 loop).

In November 2011, the P3 Alliance was founded, composed of the world leader, Maersk Line (fleet of container ships with a capacity of 2.5 million TEUs), world's No. 2, Italian ship owner MSC (Mediterranean Shipping Company) (fleet of container ships with a capacity of 2.1 million TEUs) and world's No. 3 - the French CMA-CGM Group - (fleet of container ships with a capacity of 1.4 million TEUs)[24],[25] (fleet status as of 17 November 2011, as cited in Alphaliner.com[26]). At the time of its appointment, the P3 Alliance had a total fleet of 252 vessels with a total capacity of 2.6 million TEUs on 28 routes connecting Asia with Europe, as well as Trans-Pacific and Trans-Atlantic routes[27].

In December 2011 (and the operation started in March 2012) the G6 Alliance was established (Fig. 3). The G6 consists of 6 operators: APL, Hyundai Merchant Marine and MOL (acting as the New World) and Hapag-Lloyd, NYK Line and OOCL (Grand Alliance), equipped with a fleet of 90 container ships[28]. The G6 Alliance started nine joint services. The advantage of their offer

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21 Stefaniak Piotr: Port of Gdansk comes in the way of Hamburg, pol. Port w Gdańsku wchodzi w paradę Hamburgowi, 2012-02-24 06:28, www.obserwatorfinansowy.pl/forma/analizy/port-w-gdansku-wchodzi-w-parade-hamburgowi/

22 Natalie Bruckner-Menchelli: SUSTAINABLE SHIPPING, Asia's maritime industry sees benefits of a green revolution, bunkerworld May/June 2010, 10/05/2010, page 24.

23 I 'fantastici 4 asiatici' più ecologici, Il patto CKYH (Cosco, 'K' Line, Yang Ming, Hanjin) diventa Green Alliance, Ship2Shore, Anno VII, N.17 - Genova, 26 Aprile 2010, S2S_17_2010, www.ship2shore.it

24 Stefaniak Piotr: Port of Gdansk comes in the way of Hamburg, pol. Port w Gdańsku wchodzi w paradę Hamburgowi, 2012-02-24 06:28, www.obserwatorfinansowy.pl/forma/analizy/port-w-gdansku-wchodzi-w-parade-hamburgowi/

25 Stefaniak Piotr: Trend in sea transport of containers - ultra ships, pol. Trend w morskich przewozach kontenerów - ultra statki, wnp.pl (PS) | 18-02-2012, 10:49. www.wnp.pl/wiadomosci/trend-w-morskich-przewozach-kontenerow-ultra-statki,162856.html

26 Stefaniak Piotr: Port of Gdansk comes in the way of Hamburg, pol. Port w Gdańsku wchodzi w paradę Hamburgowi, 2012-02-24 06:28, http://www.obserwatorfinansowy.pl/forma/analizy/port-w-gdansku-wchodzi-w-parade-hamburgowi/

27 Alliance between the TOP 3 carriers – The P3 Alliance, Transo® La Wine Line®, Wednesday, 06 November 2013 10:16, www.transowine.com/news/68-general/133-alliance-between-the-top-3-carriers-the-p3-alliance.html

28 Namiary-na-Morze-i-Handel-nr-06-2012, **PiF**: G6 Alliance will bypass Gdańsk, pol. Alians G6 ominie Gdańsk, www.promare.pl/index.php/strona-glowna/archiwum-wiadomoci/69-pl/archiwum-wiadomosci/raport/raport-2012/namiary-na-morze-i-handel-nr-06-2012/345-alians-g6-ominie-gdask

included daily departures from major European and Asian ports, shorter transit times and higher occupancy of ports. Seven container services were in operation between Asia and north-west Europe, two were directed to/from the ports of the Mediterranean and Black Sea. In total, this new organization served over 40 ports. All services would be handled by 90 ships, some of them with a transport capacity of 14.000 TEUs[29].

Fig.3. The representatives of the signatories of the G6 agreement.
Германия: Альянс G6 - новое международное партнерство, Fruitinfo.ru, 25 января 2012, 12:53, www.fruitinfo.ru/news/germaniya-alyans-g6-novoe-megdunarodnoe-partnerstvo-268738

Primary transport routes of the G6 group as of December 2011[30]:

Loop 1: Japan - Hong Kong - Cai Mep - Singapore - Jeddah- Rotterdam - Hamburg - Southampton - Le Havre - Singapore - Hong Kong – Japan,

Loop 2: Dalian - Xingang - Pusan - Qingdao - Singapore - Hamburg - Antwerp - Southampton - Salalah - Jebel Ali - Singapore - Pusan – Dalian,

Loop 3: Shanghai - Ningbo - South China - Singapore - Tangier - Rotterdam - Bremerhaven - Gdansk - Gothenburg - Rotterdam - Jeddah - Singapore - South China - Hong Kong – Shanghai,

Loop 4: Shanghai - Ningbo - South China - Singapore - Southampton - Hamburg - Rotterdam - Singapore -South China – Shanghai,

Loop 5: Kwangyang - Pusan - Shanghai - South China - Singapore - Le Havre - Rotterdam - Hamburg - Thamesport - Singapore – Kwangyang,

Loop 6: Kaohsiung - Xiamen - South China - Hong Kong - Singapore - Colombo - Southampton - Hamburg - Rotterdam - Singapore - South China – Kaohsiung,

Loop 7: Qingdao - Shanghai - Ningbo - Hong Kong - South China - Singapore - Salalah - Rotterdam - Hamburg - Southampton - Tangier - Port Said - Singapore - South China – Qingdao,

Loop 8: Pusan - Shanghai - Ningbo - South China - Hong Kong - Singapore - Port Klang - Jeddah - Damietta - Genoa - FOS Sur Mer - Barcelona - Valencia - Damietta - Jeddah - Singapore - Hong Kong,

Loop 9: (Asia / Black Sea) To be determined.

6. ANALYSIS

Reports by International Drewry Shipping Consultants Limited suggest that in the future, probably in the second half of 2014 or in 2015 the partition of the transport market will begin in such a way that the P3 alliance will have more than 30% of the market share recommended by the EU guidelines (Figure . 4). A comparison of the reports of November 2013 and January 2014 for commercial lines from Europe to the east coast of the USA shows an increase in P3's market share (Fig. 5).

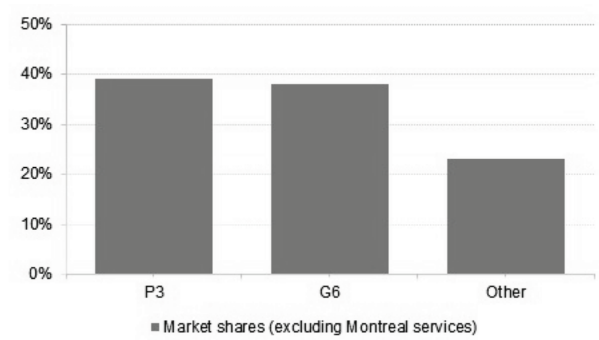

Fig. 4. The market share of large alliances on trade routes from Europe to the east coast of the U.S., as of 01 November 2013.
Drewry Maritime Research: G6 expansion just the tip of the iceberg, www.ciw.drewry.co.uk/release-week/2013-50/

[29] The new coalition G6 in April will start action against Maersk, pol. Nowa koalicja G6 w kwietniu rozpocznie działanie przeciwko Maersk'owi, www.kigm.pl/index.php?option=com_content&task=view&id=554&Itemid=112&lang=pl

[30] Six Container Shipping Lines Form Giant Vessel Network in New 'G6 Alliance'The Maritime Executive, December 20, 2011, www.maritime-executive.com/article/six-container-shipping-lines-form-giant-vessel-network-in-new-g6-alliance/

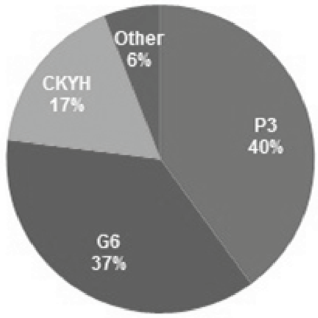

Fig. 5. The market share of large alliances on trade routes from Europe to the east coast of the U.S., as of 01 January 2014.
Drewry Maritime Research: To P3 or not to P3? www.ciw.drewry.co.uk/release-week/2014-10/

According to Drewry Shipping Consultants Limited, the market shares of over 30% should not be considered by regulatory bodies as excessive, ensuring no abuse of dominant position[31].

The problem with consolidation of large container carriers is associated with feeder fleets. Currently, there are feeder fleets in the Baltic, e.g. with the Green Alliance and the Pan-European feeder network[32].

Alliances with large container carriers can entail losses for the owners of feeder fleets from large ports - hubs, as a fleet of an alliance of container carriers can directly reach the port of destination, which may cause price collusion and price wars, as well as the monopolization of services of a part of the ports on the Baltic Sea.

In June 2014, the P3 alliance has received confirmation from the European Commission that its constitution does not distort competition in the oceanic container freight market, i.e. does not violate Article 101 of the Treaty on the Functioning of the European Union. A similar opinion was issued in March 2014 by the U.S. Federal Maritime Commission[33].

[31] Drewry Maritime Research: To P3 or not to P3? http://ciw.drewry.co.uk/release-week/2014-10/

[32] REL, Alliance P3 and Baltic container traffic, pol. Sojusz P3 a bałtyckie przewozy kontenerowe, portalmorski.pl. 20 marca 2014, www.portalmorski.pl/zegluga/zegluga-liniowa-kontenerowce/36962-sojusz-p3-a-baltyckie- przewozy-kontenerowe

[33] Stefaniak Piotr: P3 received another approval for the operation, pol: P3 uzyskała kolejną zgodę na działalność, wnp.pl, 04-06-2014, www.logistyka.wnp.pl/p3-uzyskala-kolejna-zgode-na-dzialalnosc,227213_1_0_0.html

The opinion of the EU Committee suggests that the legal solutions applied by the P3 are legal and this pattern may be used by other transport companies by sea, land and rail.

7. SUMMARY

If container ship owner alliances *are used to make better use of space on vessels serving the same routes*, it indicates that, like in the late nineteenth and early twentieth century, there may be a hidden partition of the container freight market for selected routes.

The experience of the late nineteenth and early twentieth century indicates that if the purpose of the agreement is a better use of space on vessels serving the same route, it also allows for signing contracts with harbour masters or managers of container terminals, and directly or indirectly (through the harbour master or shipper) with a land carrier, inland waterway transporter, rail or road carrier to provide cargo for vessels.

Therefore, such agreements would allow for improvements in the performance of land transportation, since the mutual deadline obligations would force operators to improve the reliability of their transport services.

And that would help intensify marketing in order to expand the range of applications for container freights.

It is therefore appropriate to establish such an agreement in Poland, with the aim of making better use of cargo space on ships and railway carriages. This follows directly the European Union's strategy to promote environmentally-friendly means of transport, and to use them most effectively, i.e. modality.

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