



THE
NATIONAL
INDUSTRIAL
TRANSPORTATION
LEAGUE

**House Judiciary Committee
Administrative State, Regulatory Reform, and Antitrust
Subcommittee**

Hearing:

Pier Pressure: Regulation and Competition in Maritime Shipping

**Tuesday, March 17, 2026
10:00amET
2141 Rayburn House Office Building**

**Submitted Written Statement
by the
National Industrial Transportation League
Nancy O’Liddy, Executive Director
March 25, 2026**



About NITL

For more than a century, the National Industrial Transportation League (“[NITL](#)” or “The League”) has represented the interests of U.S. shippers—manufacturers, retailers, agricultural producers, and other companies that depend on competitive, efficient, and safe freight transportation. NITL is the nation’s leading trade association representing freight transportation interests of shippers across maritime, rail, and highway modes. NITL advocates for U.S. policies that promote competitive, efficient, and reliable freight transportation systems that support U.S. commerce and economic growth.

Overview

NITL sincerely thanks and appreciates Chair Scott Fitzgerald, Ranking Member Jerry Nadler and all the Members of this subcommittee for holding this important hearing.

The time has come for the U.S. Congress and the Administration to reassess the antitrust immunity granted to ocean carriers. While this exemption was originally intended to stabilize a fragmented shipping market, the global container shipping industry has fundamentally changed where, overall, the anti-trust immunity is not facilitating market efficiencies benefiting U.S. importers and exporters. Consolidation and ocean carrier Alliances, operating with antitrust immunity, have created conditions where antitrust immunity is undermining fair competition resulting in unreliable service and increased costs for U.S. businesses – large and small – representing a wide array of commodities and products.

The Issue

The *Shipping Act of 1916* authorized the predecessor of the Federal Maritime Commission (FMC) to approve cartel - “conference” - agreements in ocean shipping, and those agreements so approved would be immune from the antitrust laws. At that time, these conference agreements notably fixed rates and coordinated capacity and other services, and the agency had the power to disapprove conferences that were contrary to the public interest. Anti-trust immunity was thought necessary to stabilize the ocean carrier industry but also to help generate shipping efficiencies to the benefit of industry stakeholders, including U.S. shippers.

The *Shipping Act of 1984* aimed to address shipping regulations that were outdated with the entrance and use of containers which revolutionized global trade and led to greater ocean shipping efficiencies and the use of larger vessels. This *Act* aimed to balance deregulation with oversight, allowing ocean carriers to still collaborate on rates and service while protecting shippers and consumer from anti-competitive behaviors through the adoption of “prohibited” actions and practices.” Additionally, the FMC’s authority to “approve” ocean agreements in advance was



removed and replaced with a system that still required ocean carrier agreements to be filed with the FMC but granted automatic effectiveness after a waiting period. Specifically, unless the ocean carrier agreement is rejected after filing for defects in structure or content (but not impacts), the agreement becomes effective by statute on the later of the 45th day after filing or the 30th day after Federal Register notice and can operate with limited antitrust immunity. Although the FMC can ask for more information, which tolls effectiveness until the information is received, it cannot reject or disapprove the agreement. Rather, the FMC was provided the sole right to challenge ocean carrier agreements in court with remedies limited to injunctive relief if the agency proves that an agreement is “anticompetitive” and would operate to unreasonably reduce transportation services or unreasonably increase transportation costs. In practice, the replacement of the *1916 Act’s* case-by-case prior approval with the *1984 Act’s* automatic waiting-period regime has restricted the effectiveness of the FMC’s oversight authority, demonstrated by only a single attempt to challenge a filed agreement in court.

NITL welcomed working with the U.S. Congress in helping to achieve the *Ocean Shipping Reform Act of 1998 (OSRA 98)* which aimed to promote the growth and development of U.S. exports through competitive and efficient ocean transportation which included placing a greater reliance on market forces by allowing US importers and exporters to negotiate with individual ocean carriers rather than ocean carrier conferences who operated with antitrust immunity.

NITL, again, was a leading organization who worked with the U.S. Congress in helping to achieve the *Ocean Shipping Reform Act of 2022 (OSRA 22)*. This law is helping to address unfair practices that were particularly prevalent during the pandemic. NITL continues to partner with the FMC and industry partners on *OSRA 22* implementation.

However, notwithstanding the modernization and improvements to shipping regulation, based on *OSRA 98* and *OSRA 22*, significant questions exist as to whether U.S. shipping policy should continue to provide antitrust immunity to global ocean carriers which are primarily foreign companies. Today, ocean carriers typically engage in coordinated activity with antitrust immunity through participation in Alliances and Cooperative Working Agreements, filed with the FMC. However, the need for such coordination between carriers, and the benefits of such coordination, are in doubt. It is far from clear that global ocean carriers require antitrust protection to remain viable, and ocean carrier service reliability has plummeted. The League recognizes that value can be achieved through ocean common carrier operating agreements, to the extent those agreements facilitate efficiencies and improve service. However, antitrust immunity is not required for such agreements to be implemented lawfully. Put another way, U.S. antitrust laws do not preclude ocean common carrier vessel sharing or similar agreements. Thus, the continued protection of ocean common carriers operating under the cloak of antitrust immunity is unnecessary.

Collectively, global alliances dominate the container shipping market with an estimated market share well above 50% with little to no transparency or effective Federal government oversight. The antitrust exemption allows carriers in such Alliances to collaborate on operational and capacity decisions, often resulting in supply restrictions through individual carrier “blank sailings,” which increases shipping costs and disrupts the supply chains of U.S. businesses. Thus, NITL believes,

antitrust immunity can be deleterious to the promotion of a robust ocean transportation market that best serves the international maritime trade of U.S. businesses.

Consequently, NITL supports legislative efforts to repeal such antitrust exemptions.

The Impact on U.S. Shippers and the Economy

NITL believes that the anti-trust exemption enjoyed by ocean carriers is not benefiting U.S. businesses – manufacturers, farmers, importers, or exporters. This exemption results in:

1. Greater volatility in shipping rates and capacity availability.
 2. Limited-service alternatives for many trade lanes.
 3. Increased supply chain vulnerability during global disruption.
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NITL's Recommendations

A competitive maritime transportation market environment is essential in fostering a resilient supply chain to support American economic growth both here and abroad. NITL urges the U.S. Congress to expand upon this subcommittee's hearing to further review and reform the statutory framework allowing coordinated behavior among ocean carriers that has benefitted foreign global carriers but has adversely impacted U.S. importers and exporters who must endure unreliable service, higher shipping costs, and vessel capacity constraints that disrupt supply chains.

Specifically, NITL asks you and your Congressional colleagues to:

1. Reevaluate the continued need for antitrust immunity in ocean shipping.
 2. Promote transparency and accountability in carrier Alliances. Provide FMC the statutory authority to approve (including approving with imposing conditions) or disapprove alliances, where such evaluation is transparent to affected stakeholders.
 3. Allow for private causes of action and damage as a remedy against Alliances who have antitrust immunity when their coordinated activities cause harm to shippers. Currently, only the FMC can challenge anticompetitive agreements in court, and the FMC may only seek forward-looking relief in the form of injunctions. Thus, there is no remedy for past harms only stopping the anticompetitive behavior going forward.
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4. Strengthen market competition to improve service and pricing.
 5. Endorse the NITL Ocean Shipping Bill of Rights which is attached.
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Conclusion

Again, NITL thanks you for holding this hearing and examining the problems resulting from anti-trust exemptions afforded to the ocean carriers. NITL stands ready to work with the U.S. Congress on this critical issue.
