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RE: Trade Update | Sec. 301 China-Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance

Author: Cassandra Kuball

Summary

On April 17, 2024, the Office of the U.S. Trade Representative (USTR) initiated a Section 301of the Trade Act of 1974 investigation into China's policies around shipbuilding, maritime and logistics in response to a petition filed by five national labor unions. The petitioners argued that China's "discriminatory" policies "have created global overcapacity in the shipbuilding sector, depressed global prices, and reduced domestic production and employment across shipbuilding and the shipbuilding supply chain."

In January 2025, USTR released its report having determined that China's targeting of the maritime, logistics, and shipbuilding sectors for dominance is unreasonable and burdens or restricts U.S. commerce.

Following the report, USTR proposed taking action in a "Request for comments and notice of public hearing" by imposing new port charges up to $1 million per U.S. port call for Chinese-operated vessels and up to $1.5 million per port call for Chinese-built vessels.

After a notice and comment period, on April 17 USTR published their Notice of Action covering their final recommendations for responding to China's efforts in targeting the shipbuilding and maritime sector. USTR made significant changes from their initial proposed actions. The final recommended actions involve two phases with the first including a set of fees on certain vessel owners and operators and car carrier vessels, which will take effect in 180 days. The second phase, effective in 2028, is aimed at incentivizing U.S.-built liquid natural gas (LNG) vessels.

Phase One *(Effective in 180 days; October 14, 2025)*

- **Fees on vessel owners & operators from China**
  - Based on net tonnage per U.S. voyage, starting at $50/NT
  - Increase incrementally ($30/NT) year over year for three (3) years
  - If vessel makes multiple U.S. entries before heading to foreign destination, the fee is assessed once (per rotation or string of U.S. port calls)
- **Fees on operators of Chinese-built ships**
  - Based on (the higher of) net tonnage or containers, starting at $18/NT or $120 per container
  - Increase ($5/NT) OR the same proportional yearly amount per container incrementally year over year for three (3) years

    - If vessel makes multiple U.S. entries before heading to foreign destination, the fee is assessed once (per rotation or string of U.S. port calls)
    - Operator could receive a fee remission for up to three years if it orders & takes delivery of a U.S.-built vessel of equivalent or greater capacity within that time period
- **Fees on foreign-built car carrier vessels**
    - Based on their capacity, starting at $150 per Car Equivalent Unit capacity
    - Operator could receive a fee remission for up to three years if it orders & takes delivery of a U.S.-built vessel of equivalent or greater capacity within that time period

Additional details on the fee structures are provided for in the Annexes of the Notice of Action.

Phase Two *(Effective in 3 Years; 2028)*

- Limited restrictions on transporting LNG via foreign vessels
    - Use of U.S. vessels will be required for shipping a certain percentage of LNG exports, starting at 1% and increasing gradually over 22 years to 15%
    - More details on application of this restriction to come in consultation with the Department of Energy

What Will/Should NOT Be Affected

The new fees are not to apply to:
- Specialized vessels for the transport of chemical substances in bulk liquid forms
- Great Lakes or Caribbean shipping
- Shipping to and from U.S. territories
- Smaller vessels with a capacity of equal or less than:
    - 4,000 twenty-foot equivalent units
    - 55,000 deadweight tons
    - An individual bulk capacity of 80,000 deadweight tons
- Short sea shipping <2,000 nautical miles from certain U.S. ports
- Vessels arriving empty or in ballast
- U.S.-owned vessels
    - U.S. entity owning vessel is controlled by U.S. persons and is at least 75% beneficially owned by U.S. persons
- U.S. vessels enrolled in certain U.S. Maritime Administration programs

Of note, bulk shipping, such as agriculture commodity exports, *shouldn't* be affected as long as the above criteria apply.

Key Terms

Vessel Operator: the entity which is identified as the operator of the vessel and whose name would appear on the Vessel Entrance or Clearance Statement (U.S. Customs and Border Protection (CBP) Form 1300) or its electronic equivalent.

Vessel Owner: the entity which is identified as the owner of the vessel and whose name would appear on the Vessel Entrance or Clearance Statement (CBP Form 1300) or its electronic equivalent.

Vessel Owner of China: Any entity:

- whose country of citizenship is identified as the People's Republic of China (PRC), Hong Kong, or Macau on the Vessel Entrance or Clearance Statement or its electronic equivalent
- whose headquarters, parent entity's headquarters, or parent entity's principal place of business is the PRC, Hong Kong, or Macau
- is owned by, or controlled by, a citizen or citizens of the PRC, Hong Kong, or Macau
- is owned by, controlled by, or subject to the jurisdiction or direction of the PRC, Hong Kong, or Macau. An entity is owned by, controlled by, or subject to the jurisdiction or direction of the PRC, Hong Kong, or Macau
- is owned by, or controlled by, an entity listed as a Chinese Military Company pursuant to Section 1260H of the William M. ("Mac") Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283)
- is an ocean common carrier, as defined in 46 U.S.C. § 40102(7), that is, or whose operating assets are, directly or indirectly, owned or controlled by the government of the PRC or any of its political subdivisions

Vessel Operator of China: any entity that is a vessel operator that meets one or more of the conditions of subparagraphs (e)(1)-(6) of Annex I

Chinese-built Vessel: a vessel that was built in the People's Republic of China, consistent with the definition of place of build in CBP and U.S. Coast Guard (USCG) regulations and would be so identified on the Vessel Entrance or Clearance Statement (CBP Form 1300) or its electronic equivalent.

Additional definitions are provided for in the Annexes of the Notice of Action.

Additional Information on Restoring U.S. Maritime Dominance:

Ship-to-Shore Cranes & Cargo Handling Equipment

Along with the Notice of Act, USTR announced it is seeking public comments on its proposed tariffs of 100% on ship-to-shore cranes and other cargo handling equipment, in line with the President's Maritime Executive Order (see below). Additional information can be found in the *Federal Register Notice* and Annex V of USTR's notice on the specific HS codes that may be affected.

The deadline to submit a request to appear at the hearing is May 8 and the hearing will take place on May 19. Comments in response to this notice can be submitted or accessed here.

EO on Restoring America's Maritime Dominance

Separately, but in parallel to the USTR investigation, the Trump Administration published an Executive Order on Restoring America's Maritime Dominance. The goal is for a government-wide overhaul to the commercial maritime sector to revitalize U.S. shipbuilding to blunt China's dominance of commercial shipbuilding. The order assigns a wide range of tasks to the Departments of Defense, Commerce, State, Transportation, Homeland Security and Labor, and USTR that will ultimately feed into the maritime action plan anchored by the White House's national security advisor and the chief of the Office of Management and Budget. Of note, the EO:

- Refers to the pending actions under the USTR Section 301 investigation on China shipbuilding as it regards fees and fines.
- Calls for USTR to propose tariffs on t ship-to-shore cranes manufactured, assembled or including any parts from the PRC as well as other cargo handling equipment.
- Requires DHS to take all necessary action, including proposing legislation, to "prevent cargo carriers from circumventing the Harbor Maintenance Fee (HMF) on imported goods through the practice of making port in Canada or Mexico and sending their cargo into the United States through land borders". It will require the HMF be applied to U.S. bound cargo that enters through Canadian or Mexican ports at the U.S. border, plus a "10 percent service fee for additional costs to the CBP".

Resources

Section 301 Report on China's Targeting of the Maritime, Logistics and Shipbuilding Sectors for Dominance, USTR. (January 16, 2025)

Notice of Action & Proposed Action: Section 301 Investigation of China's Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance, Request for Comments. USTR (April 17, 2025)

Press Release: USTR Section 301 Action on China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance. USTR (April 17, 2025)

Federal Register Notice: Proposed Action in Section 301 Investigation of China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance, USTR (February 27, 2025)

- USTR Public Docket - Stakeholder Comments

Disclaimer

The Torrey Advisory Group continues to seek additional clarity on the details of these announcements. More information on the application of the fees may arise with the issuance of new CBP Guidance and other regulatory updates.

Furthermore, this is not intended as legal advice. Please be sure to consult with your customs brokers, regulatory or legal advisors in developing specific policies or responding to specific situations.