MONTHLY REPORT for ICS

February 2025

NOTE TO THE READER: Reference to the Federal Register may be found at http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR.

References to legislation may be found at https://www.congress.gov at the center of the page.

USTR Petition – Proposal and Request for Comments

SUMMARY

On March 12, 2024, five US national labor unions filed a petition under Section 301 of the Trade Act of 1974 alleging prohibited trade practices implemented by China targeting the maritime, logistics and shipbuilding sectors. The US Trade Representative (USTR) initiated an investigation of these claims including a public hearing and consultation with the Chinese government and issued its report on January 16, 2025 finding that the allegations in the petition support the determination that China's targeting of the maritime, logistics and shipbuilding sectors for dominance is unreasonable and burdens or restricts US commerce and is thus actionable under Section 301 of the Trade Act of 1974. This issue was bifurcated into two separate actions. The first action was investigation of the allegations in the petition which is now complete, and the determination is final. The second action, which has now commenced, is the determination of the appropriate remedies/penalties to be assessed based on the investigation findings. The above referenced request for comments and notice of hearing includes the USTR proposals for a number of remedies/penalties currently being considered. Based on further interagency consultations and comments received, it is likely that some or all of the proposed remedies/penalties could be recommended by the USTR to the President.

The USTR issued its remedy proposal, request for comments and notice of hearing in pre-publication format on February 21 2025 and the Federal Register published the formal proposal on February 27 2025. CSA has met with a number of stakeholders including CSA members, ICS, and BIMCO to discuss this proposal and possible positions in response to the specific proposals. CSA has completed its initial analysis of the proposal which is provided below. CSA intends to submit formal comments by the March 24 2025 deadline and will provide testimony to the formal hearing on March 24 2025.

PROPOSED REMEDIES ANALYSIS

Fees on Services

Service fee on Chinese Maritime Transport Operations

- Applies to Chinese registered ships
- Up to $1,000,000 per port call or up to $1000 per net ton of vessel capacity per port call

Service Fee on Maritime Transport Operators with Fleets Comprised of Chinese Built Vessels

- Applies to Chinese built ships regardless of flag state or nationality of owner
- Option1 - Up to $1,500,000 per port call based on percentage of Chinese built vessels in that operators' fleet with the following breakdown:
    - 50% or greater – up to $1,000,000 per port call
    - Greater than 25% but less than 50% - up to $750,000 per port call
    - Greater than 0% but less than 25% - up to $500,000 per port call
    - Note percentage ranges are not correct – need editing in 2nd and 3rd category
- Option 2 - Or additional fee of up to $1,000,000 per port call for operator with equal to or greater than 25% Chinese built vessels

Service Fee on Maritime Transport Operators with Prospective Orders for Chinese Vessels

- Applies to operators with vessels on order from Chinese shipyards with delivery within 24 months
- Option 1
    - 50% or greater – up to $1,000,000 per port call
    - Greater than 25% but less than 50% - up to $750,000 per port call
    - Greater than 0% but less than 25% - up to $500,000 per port call
    - Note percentage ranges are not correct – need editing in 2nd and 3rd category
- Option 2 – Or additional fee of up to $1,000,000 per port call for operator with equal to or greater than 25% of vessels on order from a Chinese shipyard

Service Fee Remission for Maritime Transport via US built Vessels

- Additional fees charged per above sections may be refunded on a calendar year basis up to $1,000,000 per port call if operator provides international marine transportation with a US built vessel

Restrictions on Services to Promote the Transport of US goods on US vessels

- Applies to exports of US goods including capital goods, consumer goods, agricultural products and chemical, petroleum, or gas products

- At time of final decision – 1% of US exports per calendar year to be on US flag vessels by US operators
- 2 years following final decision - 3% of US exports per calendar year to be on US flag vessels by US operators
- 3 years following final decision - 5% of US exports per calendar year to be on US flag vessels by US operators; 3% must be on US flagged, US built by US operators
- 7 years following final decision - 15% of US exports per calendar year to be on US flag vessels by US operators; 5% must be on US flagged, US built by US operators
- In general, US goods should be exported on US flagged, US built vessels but may be approved for export on a non-US built vessel providing the operator demonstrates that at least 20% of US exports will be transported on US flag, US built vessels

Other Actions

- Actions should be taken to reduce risks associated with the use/interface of the National Transportation and Logistics Public Information Platform (LOGINK) or similar platform
- Recommend US agencies investigate anticompetitive practices from Chinese shipping companies
- Recommend restricting LOGINK access to US shipping data and/or ban LOGINK us at US ports/terminals
- USTR to consider entering into negotiations with allies and trading partners to counteract Chinese policies/acts/practices to reduce dependencies on China in the maritime, logistics and shipbuilding sectors

Considerations on Proposals to be Addressed in Comments

- Level of the burden or restriction on US commerce
- Appropriate trade to be covered by fees/restrictions including type and level
- Whether the proposed fees or restrictions on service are appropriate including the type of service, the level of fees or restrictions and the structure of fees/restrictions or reimbursement of fees

GENERAL COMMENTS ON PROPOSALS

- The proposals if adopted would severely disrupt the maritime supply chain in US ports as a large number of Chinese built vessels service US ports. According to Linerlytica, about 17% of the container vessels calling US ports are Chinese built representing 1.29 million of the total 28.2 million TEUs imported by the US (2024 statistic). We have no statistics on percentage of Chinese flagged vessels in the dry and liquid bulk market serving US ports.
- Port fees/levies if imposed on any class or registry of vessel would significantly increase transportation costs for vessels trading to the US

with the added cost being passed along to US importers/exporters, charter party rates (for bulk shipments), higher freight rates, all of which would ultimately be borne by the US consumer.

- Port fees/levies should not be imposed on a Chinese built vessel under non-Chinese flag and owner/operator already in operation or contracted for in a Chinese shipyard which will be flagged under a non-Chinese registry and owned/operated by a non-Chinese entity before the date of the final decision on the petition remedy.
- (Fall back on Chinese built vessels) If port fees/levies were to be imposed on Chinese built vessels which are or will be flagged under a non-Chinese registry and owned/operated by a non-Chinese entity, equity suggests that this requirement should be imposed after a date certain in the future beyond the dates for current shipyard contracts.
- The target for these remedies/penalties (port fees) is on China and its shipping fleet and shipbuilding facilities. Assessing port fees/levies on non-Chinese entities with no nexus with China should not be supported.

PROPOSED CSA POSITIONS (DISCUSSION DRAFT)

- Service fee on Chinese Maritime Transport Operations – neither support or oppose; if implemented it should be at a lower port fee than proposed; what should be the appropriate fee proposed?

- Service Fee on Maritime Transport Operators with Fleets Comprised of Chinese Built Vessels/Service Fee on Maritime Transport Operators with Prospective Orders for Chinese Vessels – strongly oppose; if implemented, should include grandfathering clause which exempts existing vessels in operation and vessels for which shipbuilding contract has been agreed providing vessels are/will be non-Chinese flag and non-Chinese owner/operator. Could recommend application of these provisions to any Chinese built vessel for which the shipbuilding contract is executed on/after a date in the future e.g., 1 January 2026 or 1 January 2027? Should also recommend a lower port fee – what should be the appropriate fee proposed?

- Service Fee Remission for Maritime Transport via US built Vessels – support in concept but dependent on decisions taken on two bullets above.

- Restrictions on Services to Promote the Transport of US goods on US vessels - support in concept but note that timeline of increasing percentages of US exports to be carried on US flag and US flag/US built vessels is likely to be insufficient to assure adequate US flag tonnage is available (container, dry and liquid bulk).

- Other Actions – support.

House Transportation Coast Guard and Maritime Transportation Subcommittee Hearing on Maritime Infrastructure

On February 5th, the House Subcommittee on Coast Guard and Maritime Transportation held a hearing entitled "America Builds: Maritime Infrastructure". Following opening comments by the subcommittee chair and ranking member, testimony was provided by representatives from the Port of Tampa Bay, the Shipbuilders Council of America, Association for Uncrewed Vehicle Systems International, and the Seafarers International Union of North America (on behalf of USA Maritime). A link to the hearing with video link and witness testimonies may be accessed on the internet at https://transportation.house.gov/calendar/eventsingle.aspx?EventID=408161

Opening remarks by the chairperson and ranking member set the stage for issues to be examined and discussed during the witness testimonies and the members Q&A with the witnesses. The Chairman's opening statement is provided in the relevant parts below highlighting the following topics:

- Critical to build a safer and more efficient maritime transportation system
- Focus of hearing on navigable waterways, commercial ports and land-side connections moving millions of passengers and billions of dollars' worth of cargo annually
- Notes application of the Jones Act (US built, US owned, US crewed) to domestic/coastwise trade and further notes that the *Jones Act* is a fundamental statute for the domestic maritime industry which is the bedrock and foundation of our nation's shipbuilding industrial base because it helps to maintain a pool of qualified American mariners that we rely on to transport goods and our military, in times of peace and war.
- Notes that the rise of the shipbuilding industries of global competitors has led to a decline in US shipbuilding capacity and the US needs to find ways to reinvigorate the US shipbuilding capability.
- Notes that in order to promote the domestic maritime industry, the Maritime Administration in the U.S. Department of Transportation administers several programs that fund projects to construct and expand maritime infrastructure and U.S. shipbuilding which should be reviewed and ways to improve their impact identified.
- Notes that autonomous maritime technologies are creating new challenges requiring the US to reassess current maritime infrastructure to ensure their safe operation further noting that development for these technologies outpaces the regulatory rulemaking process dictating the need for the US Coast Guard to focus on developing regulatory standards that provide for the adequate testing and safe integration of these technologies into the Marine Transportation System.

Ships for America Act

The Ships for America Act was introduced in the last Congress (December 2024) which was adjourned in January 2025. The bill will need to be reintroduced in the new Congress and based on discussions with the sponsors, it is expected that the new bill will be reintroduced "sometime this spring." It is expected that the new bill will be similar to the one introduced in the last Congress. CSA will monitor future developments and will provide an analysis of the new bill once it is introduced.

The Ships for America Act as introduced in the last Congress contains the following provisions:

- Coordinate U.S. maritime policy by establishing the position of Maritime Security Advisor within the White House, who would lead an interagency Maritime Security Board tasked with making whole-of-government strategic decisions for how to implement a National Maritime Strategy.
- The bill also establishes a Maritime Security Trust Fund that would reinvest duties and fees paid by the maritime industry into maritime security programs and infrastructure supporting maritime commerce.
- Establish a national goal of expanding the U.S.-flag international fleet by 250 ships in 10 years by creating the Strategic Commercial Fleet Program, which would facilitate the development of a fleet of commercially operated, U.S.-flagged, American crewed, and domestically built merchant vessels that can operate competitively in international commerce.
- Enhance the competitiveness of U.S.-flagged vessels in international commerce by establishing a Rulemaking Committee on Commercial Maritime Regulations and Standards to cut through the U.S. Coast Guard's bureaucracy and red tape that limits the international competitiveness of U.S.- flagged vessels.
- Requiring that government-funded cargo move aboard U.S.-flag vessels.
- Requiring a portion of commercial goods imported from China to move aboard U.S.-flag vessels starting in 2029.
- Expand the U.S. shipyard industrial base, for both military and commercial oceangoing vessels, by establishing a 25 percent investment tax credit for shipyard investments.
- Transforming the Title XI Federal Ship Financing Program into a revolving fund.
- Establishing a Shipbuilding Financial Incentives program to support innovative approaches to domestic ship building and ship repair.
- Accelerate U.S. leadership in next-generation ship design, manufacturing processes, and ship energy systems by establishing the U.S. Center for Maritime Innovation, which would create regional hubs across the country.
- Make significant investments in maritime workforce by establishing a Maritime and Shipbuilding Recruiting Campaign, allowing mariners to retain their credentials through a newly established Merchant Marine

Career Retention Program and investing in long-overdue infrastructure needs for the U.S. Merchant Marine Academy, and supporting State Maritime Academies and Centers for Excellence for Domestic Maritime Workforce Training and Education.

- Streamline and modernize the U.S. Coast Guard's Merchant Mariner Credentialing system.
