

**MONTHLY REPORT for ICS****April 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 Section 301 Status**

The USTR issued a notice of action and proposed action in the Federal Register on the Section 301 petition/decision announcing a new round of comments and a second hearing scheduled for May 19<sup>th</sup>. CSA intends to both submit comments and provide testimony at the hearing. The Federal Register publication contained significant revisions from the first draft decision which was issued including new sections on car carriers, LNG exports and Chinese made cargo handling equipment including gantry cranes and their components. There are still a number of issues that need clarification and other issues to which we will re-register our objections in both our comments and testimony. A summary of the new provisions follows.

After a comment period and two day hearing held on March 24 and 26, 2025 at which over 70 persons testified and the submission and review of over 600 comments to the docket, the USTR now issues this decision on April 17, 2025. Relative to the newly scheduled comment period and hearing, it appears that this is focused on receiving comments on new proposals contained in the final decision relative to proposed tariffs on ship-to-shore cranes and other cargo handling equipment (comments and hearing to address issues regarding the "proposed tariff action"). The USTR notes it will continue to monitor the effects of this decision and will consider possible modifications relative to addressing the LOGINK issue and fees on Chinese-built off-shore vessels and the recent Executive Order 14269, Restoring America's Maritime Dominance, provisions and if modifications are deemed warranted, the USTR will consider comments already submitted in response to the February 27 notice establishing the original comment period and hearing in March 2025. From our view, this text leaves it open for comments to be submitted on the full decision document including those already addressed during the previous comment period and the March 25 hearing.

**SUMMARY OF DECISIONS TAKEN**

Key provisions of the decisions taken are included in annexes to the Federal Register document with Annex I applying to vessel operators and vessel owners of Chinese controlled vessels, Annex II applying to vessel operators of Chinese-built vessels, Annex III applying to vessel operators of foreign built car carriers,

Annex IV addressing restrictions on certain maritime transport services (vessels used for LNG exports) and Annex V applying to tariffs on ship-to-shore cranes and cargo handling equipment produced by China. While we will not reproduce these annexes here, a few points are worth noting which represent a moderation from the original USTR proposal:

- No fees would be assessed for 180 days e.g. first fees would be assessed starting October 14, 2025
- Rather than the flat and excessive port fee proposed, fees would be assessed on the net tonnage (Chinese owned/controlled) or the higher amount based on net tonnage or number of containers discharged (Chinese built vessels) on a phased in schedule.
- Fees would only be charged to a specific vessel up to five times per calendar year.
- Fees on Chinese controlled and Chinese-built vessels are assessed per US voyage and not per port call.
- Fees will not be stacked as per the original proposal so that only one fee will be assessed per US voyage.
- Fees will be suspended for up to three years for a covered vessel if proof of order of a US built vessel is provided.
- Fees will not be applied to Chinese-built ships engaged in trade to the Great Lakes, the Caribbean, shipping to/from US territories, or bulk commodity exports on ships that arrive in the US empty.
- Fees will not be applied based on fleet composition e.g. proposal would have applied a fee to a non-Chinese built vessel if the owner/operator owned Chinese built vessels in their fleet regardless of whether the Chinese built vessel called in the US.
- Fees will not be applied based on prospective orders of vessels being built in a Chinese shipyard.
- Annex I - For Chinese owned/controlled vessels the assessment schedule is as follows. Effective October 14, 2025 a fee of \$50 per net ton, effective April 17, 2026 a fee of \$80 per net ton, effective April 17, 2027 a fee of \$110 per net ton, and effective April 17, 2028 a fee of \$140 per net ton.
- Annex II - For Chinese built vessels, the assessment schedule is as follows. Effective October 14, 2025 \$18 per net ton or \$120 per discharged container, effective April 17, 2026 \$23 per net ton or \$153 per discharged container, effective April 17, 2027 \$28 per net ton or \$195 per discharged container, effective April 17, 2028 \$33 per net ton or \$250 per discharged container.
- Annex II - Fees do not apply to vessels carrying US government cargo; US owned or US flagged vessels enrolled in the Voluntary Intermodal Sealift Agreement/Maritime Security Program/Tanker Security Program/Cable Security Program, vessels arriving empty in ballast, vessels with capacity equal to or less than 4000 TEUs/55,000 DWT/individual bulk capacity of 80,000 DWT, vessels entering a port in the continental US

from a voyage of less than 2000 nm, any US owned vessel where the vessel is controlled by US persons and is at least 75% beneficially owned by US persons, specialized or special purpose-built vessels for the transport of chemical substances in bulk liquid form, vessels trading exclusively in the Great Lakes "Lakers Vessels".

- The definition of "US built vessel" is tighter than those used in Jones Act application as it requires that the vessel is built in the US, documented under US law, all major components of the hull or superstructure are manufactured in the US and a long list of components are manufactured in the US. The components list is found in Annex II.
- Annex III – Operators of Foreign Built Vehicle Carriers – effective October 14, 2025 \$150 per car equivalent unit capacity
- Annex IV – Restrictions on Certain Maritime Transport Services – applies to US exports of LNG and requires increasing percentages over time be carried on a US built LNG carrier starting at 1% from April 17, 2028 to April 16, 2029 increasing to a maximum of 15% from April 17, 2047 and beyond.
- Annex V – tariffs on Chinese built ship-to-shore cranes and cargo-handling equipment based on specific components.

A rough outline of the issues we expect to address in our comments are as follows:

- General process to move to final decision and timeline.
- Assume the implementing agency to be the Customs and Border Protection Agency (CBP), what is the implementation plan to advance the policies in the final USTR decision including new regulations or guidance?
- Continued emphasis on lack of shipbuilding capacity in the United States which will take at least 3-5 years making compliance with certain provisions virtually impossible.
- Decision should only focus on Chinese violations with appropriate penalties; should not address other issues focused on rebuilding the US flag (Annex III and IV) where no nexus with the Chinese violations.
- Annex III - Vehicle Carriers – oppose; not relevant to Chinese 301 violations and should be addressed in legislation e.g. SHIPS for America Act. Penalties on existing vehicle carriers (some US flag) will not incentivize new building directly. Investment incentives will create the proper atmosphere for future investment.
- Annex IV – Restrictions on Certain Maritime Transport Services (LNG) – oppose; not relevant to Chinese 301 violations and should be addressed in legislation e.g. SHIPS for America Act. Currently no US flag LNG carriers trading internationally and no capacity for building US flag LNG carriers to trade internationally,
- Clarifications needed in current text in Annex I and II.
- Owner/Operator definition – confirm definitions in line with current definitions used in USCG and CBP reporting requirements.
- USCG/CBP documentation – ENOA, CBP Form 1300 (being phased out)

- replaced by the VECS platform
- Clarify exemption text in Annex II Targeted Coverage (iii) “vessels with a capacity of equal to or less than 4000 Twenty-Foot Equivalent Units, 55,000 deadweight tons, or an individual bulk capacity of 80,000 deadweight tons”
- Annex II – Service Fee on Vessel Operators of Chinese Built Vessels – appreciate the removal of application to prospective orders of vessels from a Chinese shipyard, but oppose retained requirement to apply to existing vessels built in a Chinese shipyard
- Annex I and II – appreciate revised policy which will count a string of US port calls as one port call for purposes of assessing the port fee. How will it be assessed when the first North American port call is in Canada or Mexico with US port calls in the same string/same voyage given that the voyage distance between a Canadian or Mexican port will be less than 2000 nm?

**Federal Maritime Commission – Order of Investigation into Transit Constraints at International Maritime Chokepoints**

**FR March 14, 2025 – pgs 12158-12161**

(text available at <https://www.federalregister.gov/documents/2025/03/14/2025-04042/order-of-investigation-into-transit-constraints-at-international-maritime-chokepoints> )

The Federal Maritime Commission (FMC) has announced its intent to initiate a nonadjudicatory investigation into transit constraints at international maritime chokepoints which will also include an evaluation of the laws, regulations or practices of foreign governments and owners/operators of foreign-flag vessels, on shipping conditions in these chokepoints. Comments are due on May 13, 2025.

The identified chokepoints include the English Channel, Malacca Strait, Northern Sea Passage, Singapore Strait, Panama Canal, Strait of Gibraltar, Suez Canal and other areas if later identified as potential chokepoints. The FMC has statutory authority to conduct this investigation, evaluate whether conditions exist which would adversely affect shipping in US foreign trade and prescribe regulations to “adjust or meet general or special conditions unfavorable to shipping in foreign trade when those conditions are the result of a foreign country’s laws or regulations or the competitive methods, pricing practices or other practices used by the owners, operators, or agents of vessels of a foreign country.

It should be noted that this process will be in two phases. The first step is the investigatory stage and once completed, if findings of the investigation support,

the second step will commence which will review what, if anything, the US could/should do to remedy these conditions.

At this first stage, comments are requested on the six questions which are found at the end of this summary with suggested responses.:

#### CSA COMMENTS AND OBSERVATIONS

- FMC's mission is to ensure a competitive and reliable international ocean transportation supply system that supports the US economy and protects the public from unfair and deceptive practices.
- The FMC is composed of five Commissioners appointed by the President and is a bi-partisan group with no more than 3 commissioners from the same political party.
- Historically the FMC has focused on relevant issues mandated by Congress and implements regulations as required typically applying to the container trades which include reviewing and monitoring agreements among ocean common carriers and marine terminal operators serving the US foreign ocean borne trades.
- FMC has a statutory mandate to monitor and evaluate conditions affecting shipping in US foreign trade (46 USC 42101) and empowers FMC to "prescribe regulations...to adjust or meet general or special conditions unfavorable to shipping in foreign trade," when those conditions are the result of a foreign country's laws or regulations or the competitive methods, pricing practices, or other practices used by the owners, operators, or agents of vessels in a foreign country.
- After consultation with several experts in US trade law and FMC jurisdiction, it is agreed that the statutory remit in the bullet above could be applied to all vessel types (not just common carriers e.g. containerships) engaged in US foreign trade.
- The most troublesome portion of this document is the potential focus of not only on foreign country's laws or regulations, but also the owners, operators or agents of vessels in a foreign country, presumably defined as those vessels registered in a foreign country and engaged in international trade to the US.
- CSA's opinion at this point in time is that this investigation is focused on chokepoints which could impact US national security interests and may be yet another way to address the issue of US concerns relative to control of the Panama Canal obviously embedded in the investigation of other global chokepoints.

#### CSA RECOMMENDATIONS

- Impacted entities (the entire global shipping community) should provide comments to FMC with a focus on the six questions listed below.



- Support the intent of this investigation with a view to presenting findings at relevant international bodies e.g. IMO, UN
- While recognizing the statutory mandate which includes regulations relative to “owners, operators, or agents of vessels in a foreign country”, strongly oppose any regulations which would be applied to vessels of a certain flag.
- Note that transit constraints/chokepoints are a result of a number of factors including weather, traffic density, national or regional requirements and not the result of a particular vessel(s) unless the transit constraint is the result of an accident e.g. grounding, collision.
- The best solutions to transit constraints are via discussions and negotiations between nations at the bi-lateral, regional or international level with due regard to international law.
- Consider situations where a country or region has imposed regulations either contrary to international law and/or impose more stringent requirements than those included in UN/IMO instruments.

#### PRELIMINARY CONSIDERATIONS IN RESPONDING TO QUESTIONS POSED

- What are the causes, nature, and effects, including financial and environmental effects, of constraints on one or more of the maritime chokepoints described above? WEATHER, TRAFFIC DENSITY, PIRACY, GEOPOLITICAL INSTABILITY (RUSSIAN/UKRAINE, ISRAEL/HAMAS)
- To what extent are constraints caused by or attributable to the laws, regulations, practices, actions, or inactions of one or more foreign governments? FAILURE TO ENFORCE EXISTING INTERNATIONAL REQUIREMENTS (IMO), IMPOSITION OF MORE STRINGENT REQUIREMENTS THAN PROVIDED FOR IN INTERNATIONAL REQUIREMENTS (IMO)
- To what extent are constraints caused by or attributable to the practices, actions, or inactions of owners or operators of foreign flag vessels? ONLY WHERE ACCIDENT OCCURS E.G. COLLISION, GROUNDING
- What will likely be the causes, nature, and effects, including financial and environmental effects, of any continued transit constraints during the rest of 2025? NO DATA TO PREDICT THIS AS DEPENDANT PRIMARILY ON RESOLUTION OF EXISTING AND FUTURE GEOPOLITICAL ISSUES
- What are the best steps the Commission might take, over the short term and long term, to alleviate transit constraints and their effects? BI-LATERAL, REGIONAL/MULTI-LATERAL, INTERNATIONAL DISCUSSIONS AND RESOLUTIONS
- What are the obstacles to implementing measures that would alleviate the above transit constraints and their effects, and how can these be addressed? POLITICAL WILL, NEED TO DEVELOP CONSENSUS AT THE INTERNATIONAL LEVEL

### **SHIPS for America Act**

On April 30, 2025, Senators Mark Kelly (D-AZ) and Todd Young (R-IN) and Representatives John Garamendi (D-CA) and Trent Kelly (R-MS) reintroduced the SHIPS for America Act, previously introduced during the last Congress. CSA is currently reviewing the 350 page bill and will produce a detailed analysis as soon as we can complete this review. In general, the Act includes provisions as follows:

- Creation of a Maritime Security Advisor and Maritime Security Board within the White House
- Creation and implementation of a National Maritime Strategy
- Creation of a Maritime Security Trust Fund
- Establishes a goal of expanding the US flag international fleet by 250 vessels over the next 10 years via a newly created Strategic Commercial Fleet Program
- Establishes a Rulemaking Committee on Commercial Maritime Regulations and Standards to compare US regulatory standards with international standards and where appropriate, repeal standards in excess of the IMO standards in order to make US international shipping more competitive
- Create incentives to increased movement of cargo on US flag vessels
- Creates financial incentives to promote expansion of the US shipbuilding industrial base
- Creates a US Center for Maritime Innovation to accelerate next-generation ship design, manufacturing processes and ship propulsion systems
- Creates a variety of new programs to rebuild the maritime workforce focusing on recruitment, retention, streamlining the current merchant mariner credentialing system and funding for the federal and state maritime academies

The press release announcing the introduction of the SHIPS for America Act, the full text of the bill and a section by section summary may be viewed at:

<https://www.kelly.senate.gov/newsroom/press-releases/sen-kelly-sen-young-rep-garamendi-rep-kelly-introduce-ships-for-america-act-to-boost-american-shipbuilding-strengthen-us-economy-and-national-security/>

### **White House Executive Order – Restoring America’s Maritime Dominance**

On April 9, 2025, President Trump signed a new executive order entitled “Restoring America’s Maritime Dominance” which outlines a number of goals and policies focusing on rebuilding the US commercial shipbuilding capacity, the US maritime workforce and the US flag fleet trading internationally. The executive order also mandates the creation of a maritime action plan prepared by multiple agencies with jurisdiction over maritime issues, an assessment of

options to promote the use of private capital to expand the maritime industrial base including shipbuilding component supply chains, port infrastructure and the maritime workforce. The executive also includes provisions addressing the collection of the existing harbor maintenance tax, encourages engagement with US allies and partners to align trade policies, reduce dependence on adversaries for marine transportation, creates a maritime security trust fund, creates a shipbuilding financial incentives program, establishes maritime prosperity zones and requires regular reporting to both the President and Congress on the maritime action plan and work done by individual agencies to advance the goals of the maritime action plan. The executive order also sets the goal of increasing the US flag commercial fleet trading internationally.

A copy of the Executive Order may be viewed at: <https://www.whitehouse.gov/presidential-actions/2025/04/restoring-americas-maritime-dominance/>

### **Withdrawal of US delegation from MEPC 83**

In a somewhat surprising development, the US delegation to MEPC 83 was withdrawn from the MEPC 83 meeting due to the Administration's position opposing the GHG negotiations which took place during the meeting. It should also be noted that the US delegation, while attending the previous MEPC 82 meeting and the last two ISWG GHG meetings remained silent but for an intervention stating that the US position on all GHG negotiation issues has been reserved. Perhaps the most surprising aspect of this decision is the fact that the US delegation was removed from the entire meeting (not just the GHG discussions) with no ability to input or provide positions on any of the other MEPC 83 agenda items. After further discussions with key US government representatives, CSA posed the question about the US's continuing involvement in IMO meetings and it is believed that the US, at this time, will continue to participate in future IMO meetings, not withstanding the current issues associated with GHG negotiations/discussions.

### **President Trump Statement on Panama and Suez Canal Tolls for US military and commercial vessels**

Late in April, President Trump publicly called for the Suez Canal and the Panama Canal to provide no-cost transits for all US naval and merchant vessels, echoing similar comments made earlier on the Panama Canal but now also including the Suez Canal in his request published on social media. According to this post he indicates that he has instructed Secretary of State Maro Rubio to "immediately take care of, and memorialize this situation". Not surprisingly, Panamanian and Egyptian authorities have not looked favorably on this request, but we believe discussions are ongoing on measures that can, from the President's view, increase the efficiency and reliability of these critical waterways.