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BLOG

U.S. Government Proposes Trade Sanctions Against Chinese-Built or -Operated Vessels

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On February 21, 2025, the U.S. Trade Representative proposed trade sanctions against Chinese-built vessels and against Chinese company-operated vessels. The proposed sanctions stem from an investigation under section 301 of the Trade Act of 1974 which commenced on April 17, 2024, culminating in a report issued on January 16, 2025, affirming the petition. The section 301 investigation was prompted by a March 12, 2024 petition filed by five U.S. labor organizations.

Section 301 provides that if the USTR determines that an “act, policy, or practice of a foreign country” “is unjustifiable and burdens or restricts United States commerce” then the USTR “*shall* take action” as authorized by the statute. Among the potential actions are the imposition of “duties or other import restrictions.” The USTR is authorized not to take action for several potential reasons including if taking action “would have an adverse impact on the United States economy substantially out of proportion to the benefits of such action.”

The March 2024 petition alleged that China “for more than 20 years” “has poured billions upon billions into its shipbuilding industry, with the explicit goal of becoming the world’s largest shipbuilding nation.” The petition further alleged that the effect was to depress U.S. production and employment in the shipbuilding industry. The petition concluded that the “commercial shipbuilding and repair industry in the United States can compete and grow if the massive market distortions that the Government of China has created are remedied.”

The petition requested several remedies including the imposition of a fee “on every Chinese-built vessel that docks at a United States port.” The petition cited as precedent for this fee the OECD Shipbuilding Agreement which the United States did not ratify. That fee, according to the petition, should be “sufficient to address” the “hundreds of billion of dollars of unfair government support” and “to offset the other unreasonable, discriminatory, and unfair acts, practices, and policies” of the Chinese government in the maritime sector. The petition did not address multiple port calls within a single port rotation which could result in multiple applications of the fee.

The fee, according to the petition, should also “take into account the age of the vessel, with the fees assessed on newer vessel being higher than the fee for older vessels” and the fees should increase over time “to provide a greater incentive to the Government of China to discontinue” its practices. The fee, according to the petition, should be deposited in a newly created “U.S. Commercial Shipbuilding Revitalization Fund” with the fee receipts sufficient to provide a “robust funding stream” to support U.S. shipbuilding.

Shortly after the section 301 petition was submitted in April 2024, several members of Congress issued a report entitled "Congressional Guidance for a National Maritime Strategy – Reversing the Decline of America's Maritime Power." The report was authored by Sen. Mark Kelly (D-AZ), Sen. Marco Rubio (R-FL), Rep. Mike Waltz (R-FL), and Rep. John Garamendi (D-CA). Rubio is now U.S. Secretary of State and Waltz is now the National Security Advisor. The report generally asserted that the U.S. maritime sector is vital to national security, it had been neglected for too long, and it needed to be reinvigorated.

The USTR received a number of public comments on the petition and held a public hearing on May 29, 2024. Opponents of the petition argued that the rise of Chinese shipbuilding was not connected to the state of U.S. shipbuilding and that the U.S. should not punish already built vessels since they had been constructed in good faith on the basis of existing international trade rules.

The January report concluded that China has in fact targeted "the maritime, logistics, and shipbuilding sectors for dominance" and that such targeting burdens or restricts U.S. commerce. The report also concluded that such targeting hinders U.S. efforts to revitalize its shipbuilding industry, and it created "economic security risks from dependence and vulnerabilities in sectors critical to the functioning of the U.S. economy."

On February 21, 2025, the USTR issued its proposed action. The USTR proposed imposing a "service fee" on "Chinese maritime transport operators" and Chinese-built vessels. The proposal does not define "operators." The fee for Chinese operators would be potentially "a rate up to $1,000,000 per entrance of any vessel of that operator to a U.S. port." The maximum fee for a Chinese-built vessel would $1.5 million per "entrance" with the higher fee reserved for fleets primarily comprised of Chinese-built vessels.

As written, both fees might apply simultaneously to Chinese-operated, Chinese-built vessels. An additional fee would apply for "vessels ordered from Chinese shipyards" and to any operator with "prospective orders for Chinese vessels." Presumably that fee would apply for vessels ordered after a certain date although the proposed action does not provide for that. The USTR also proposed that such fees would be remitted in part for transportation using U.S.-built vessels. The proposed action does not mention any U.S. shipbuilding revitalization fund, increasing the fees over time, or having a higher fee for newer vessels, all as requested by the petition.

Finally, the proposed action would require that a certain percentage of U.S. exports be transported in U.S.-flag vessels. That percentage would be one percent in year one after the date the action becomes effective rising to 15 percent seven years after the effective date. Some latitude is provided for U.S.-flag vessels that are not built in the United States. This proposal is similar to trade reservation for U.S.-flag vessels contained in the SHIPS for America Act introduced in Congress on December 19, 2024 sponsored by Sen. Kelly, Rep. Garamendi, and Sen. Todd Young (R-IN), and Rep. Trent Kelly (R-MS).

The USTR requested public comment which must be submitted by March 24, 2025. It will also convene a public hearing with requests to appear at that hearing due by March 10.

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