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USTR Proposes Port Fees and Cargo Preference Measures to Counter China's Maritime ?Dominance

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Republished in The Daily Bugle *on March 20, 2025. This article was quoted on* Agriculture.com *on March 21, 2025.*

Following a petition from five national labor unions seeking an investigation into China's policies and practices aimed at dominating the maritime, logistics, and shipbuilding industries, the U.S. Trade Representative (USTR) conducted a formal investigation into the concerns raised. On January 16, the USTR concluded through a Notice of Determination that China's strategic efforts to dominate the maritime, logistics, and shipbuilding sectors are unreasonable and place burdens on U.S. commerce rendering these actions "actionable" under Section 301 of the Trade Act of 1974. The USTR determined that China's aggressive expansion in shipbuilding —subsidizing its domestic industry and securing dominant control over global cargo flows — raised concerns about its strategic leverage over international trade. In response, the USTR issued a "Notice of Proposed Action" on February 21, to impose substantial fees on vessels operated by Chinese companies or built in China that call on U.S. ports. The proposed action is part of a broader effort to strengthen the U.S. maritime industry, curb China's influence in global shipping, and incentivize domestic shipbuilding.

The public comment period for the USTR's proposal runs until March 24, allowing industry stakeholders to voice concerns or propose modifications. To submit comments, use the USTR Electronic Portal under docket USTR-2025-0002. Given the significant economic and trade policy implications, the final version of the rule may see refinements based on industry feedback and legal review.

The Proposal

The proposal includes:

- <u>Service Fees on Chinese Vessel Operators</u>: A service fee will be imposed on vessel operators from China, requiring payment of up to $1 million per entry into a U.S. port or up to $1,000 per net ton of the vessel's capacity. In practice, most ships are expected to incur the maximum $1 million fee per port call. If a vessel makes multiple stops at U.S. ports, the operator will be required to pay this fee for each entry.

- <u>Service Fees on Vessel Operators With Fleets That Include Chinese-Built Vessels</u>: A service fee of up to $1.5 million per port call will apply to any operator with a vessel constructed in China or a fleet that includes such vessels, regardless of their flag or operator nationality. Even if a specific ship was not built in China, its operator may still be subject to the fee based on the overall composition of their fleet. The amount assessed is proportional to the percentage of Chinese-built ships within the fleet. For instance, operators whose fleets consist of at least 50% Chinese-built vessels will face a fee of up to $1 million per vessel for each U.S. port entry. Those with 25% to 50% Chinese-built vessels will be charged up to $750,000 per entry per vessel, while operators with less than 25% Chinese-built ships will pay up to $500,000 per vessel per entry.

- Fees for Operators With Pending Chinese Ship Orders: Operators will incur additional charges ranging from $500,000 to $1 million per vessel entry, depending on the proportion of ships ordered from Chinese shipyards that are scheduled for delivery within the next two years.

To encourage the use of U.S.-built vessels, the proposal offers a reimbursement of up to $1 million per port entry for operators utilizing U.S.-built vessels for international maritime transport services.

The USTR also introduced proposed measures to decrease reliance on Chinese shipping, by incrementally increasing the percentage of all U.S. exports that must be transported on U.S.-flagged or U.S.-built vessels in accordance with the proposed timeline:

- Effective Immediately: A minimum of 1% of U.S. exports must be transported on U.S.-flagged vessels.

- After Two Years: At least 3% of U.S. exports are required to be carried on U.S.-flagged vessels.

- After Three Years: A minimum of 5% of U.S. exports must be transported on U.S.-flagged vessels, of which at least 3% must be on U.S.-flagged, U.S.-built vessels, by U.S. operators.

- After Seven Years: At least 15% of exports must be carried on U.S.-flagged vessels, of which a minimum of 5% must be on U.S.-flagged, U.S.-built vessels, by U.S. operators.

Industry Implications and Concerns

The proposal has sparked debate across multiple industries. Supporters see it as a necessary step toward revitalizing the U.S. maritime sector, reducing reliance on Chinese shipping, and bolstering national security. Critics, however, warn of increased costs, supply chain disruptions, and regulatory ambiguities.

Key concerns include:

- Lack of clarity on definitions: The term “Chinese maritime operator” remains undefined, leaving uncertainty around whether vessels owned by U.S. companies but flagged elsewhere, or those with indirect Chinese investment, would be subject to fees. Further, vessel ownership and operator constructs are complicated to say the least. Consequently, “ownership” is not always a straightforward inquiry, and could fail to capture beneficial ownership or other aspects of “control” through lease or equity interests that may not fall within the language of the proposal without further clarification.

- Potential cost increases: The added costs of shipping goods via Chinese-built or operated vessels could be passed down the supply chain, ultimately impacting U.S. businesses and consumers, which represents a significant escalation in the ongoing trade tensions between the U.S. and China.

- Cargo preference implementation challenges: The U.S. shipbuilding industry currently lacks the capacity to construct a sufficient number of large commercial vessels to accommodate the proposed export cargo requirements. Moreover, the cost of building vessels in the U.S. is significantly higher than in many non-U.S. shipyards. With a short timeline for compliance, the USTR proposal may not fully account for the capacity challenges to finance a rapidly scaled U.S.-flagged fleet.

- Potential for circumvention: Higher port fees may lead to a shift in cargo traffic to Canada and Mexico, where goods could then be transported into the U.S. to avoid direct penalties, with the unintended consequence of actually reducing port traffic, and related revenue, at U.S. shipping ports.

The USTR proposal comes against a backdrop of renewed federal focus on bolstering the U.S. maritime industry. Introduced in the Senate in December 2024, the Shipbuilding and Harbor Infrastructure for Prosperity and Security for America (SHIPS) Act, and likely to be reintroduced in the current Congress, intends to create a fleet of 250 U.S. flagged vessels (up from 87 currently), within the next 10 years. It also looks to bolster the U.S. shipbuilding industry, infusing capital in U.S. yards for commercial and military construction. The SHIPS Act would further create a maritime security advisor in the White House to lead an interagency Maritime Security Board and administer a Maritime Security Trust Fund.

The American Cargo for American Ships Act was also recently introduced in the House, which would require an increase in cargo preference requirements for all U.S. Department of Transportation cargoes from 50% to 100%. The Cargo Preference Act of 1954 requires that 50% of civilian agencies' cargo and agricultural cargo be carried on U.S. flag vessels.

While there is clear momentum behind reinvigorating the U.S. shipping industry, there are significant issues yet to be ironed out in the implementation of any of these proposed legislative and regulatory measures.

Conclusion

While the proposal aligns with broader efforts to strengthen U.S. supply chain resilience and domestic maritime capabilities, the potential for unintended consequences remains high. Uncertainties around implementation, cost implications, and compatibility with existing regulations suggest that stakeholders should closely monitor developments and prepare for potential trade and operational impacts.

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