THE GLOBAL TRADE LAW JOURNAL

Volume 2, Number 6 November–December 2025

fastcase FULL COURT PRESS

THE GLOBAL TRADE LAW JOURNAL

Volume 2, No. 6 November–December 2025

THE GLOBAL TRADE LAW JOURNAL (ISSN 2995-1089) at $495.00 annually is published six times per year by Full Court Press, a Fastcase, Inc., imprint.

For customer support, please contact Fastcase, Inc., 729 15th Street, NW, Suite 500, Washington, D.C. 20005, 202.999.4777 (phone), or email customer service at support@fastcase.com.

Publishing Staff
Publisher: Leanne Battle
Production Editor: Sharon D. Ray
Cover Art Design: Morgan Morrissette Wright and Sharon D. Ray

This journal's cover features a 1855 depiction of the American clipper ship *Red Jacket* on her journey from Melbourne, Australia, to Liverpool, England. The artwork was originally created by Charles Parsons and Joseph B. Smith, and later lithographed and published by Nathaniel Currier. It is reproduced courtesy of The Met Museum's public domain library.

Cite this publication as:

The Global Trade Law Journal (Fastcase)

A Full Court Press, Fastcase, Inc., Publication

Editorial Office

729 15th Street, NW, Suite 500, Washington, D.C. 20005
https://www.fastcase.com/

POSTMASTER: Send address changes to THE GLOBAL TRADE LAW JOURNAL, 729 15th Street, NW, Suite 500, Washington, D.C. 20005.

Articles and Submissions

Direct editorial inquiries and send material for publication to:

Steven A. Meyerowitz, Editor-in-Chief, Meyerowitz Communications Inc., 26910 Grand Central Parkway, #18R, Floral Park, NY 11005, smeyerowitz@meyerowitzcommunications.com, 631.291.5541.

Material for publication is welcomed—articles, decisions, or other items of interest to international attorneys and law firms, in-house counsel, corporate compliance officers, government agencies and their counsel, senior business executives, and others interested in global trade law.

QUESTIONS ABOUT THIS PUBLICATION?

For questions about the Editorial Content appearing in these volumes or reprint permission, please contact:

Leanne Battle, Publisher, Full Court Press at leanne.battle@vlex.com or at 202.999.4777

For questions or Sales and Customer Service:

Customer Service
Available 8 a.m.–8 p.m. Eastern Time
866.773.2782 (phone)
support@fastcase.com (email)

Sales
202.999.4777 (phone)
sales@fastcase.com (email)

ISSN 2995-1089

Charting a New Course: The SHIPS Act of 2025 (Reintroduced)

Emily Huggins Jones and Ryan Last*

In this article, the authors examine a bill that is designed to revitalize U.S. shipbuilding and strengthen national and economic security by rebuilding the U.S.-flag fleet and maritime industrial base.

On April 30, 2025, Senators Mark Kelly (D-AZ) and Todd Young (R-IN)—joined by a bipartisan group of Senate and House sponsors—have reintroduced the Shipbuilding and Harbor Infrastructure for Prosperity and Security (SHIPS) for America Act.[1] This bill is designed to revitalize U.S. shipbuilding and strengthen national and economic security by rebuilding the U.S.-flag fleet and maritime industrial base. It carries strong bipartisan backing and is explicitly framed as a national security measure to counter China's dominance in shipbuilding and global shipping.

The core provisions of the reintroduced SHIPS Act include several new penalties and requirements related to shipbuilding in China and the use of U.S. ships for key trade. In summary, the bill would:

- *Appoint a Maritime Security Advisor and Board*. A Maritime Security Advisor would be appointed and reside in the Executive Office of the President to coordinate national maritime affairs and policy, tasked with maintaining and updating the National Maritime Strategy. The Maritime Security Advisor would also lead a newly established Maritime Security Board, which is intended to coordinate efforts related to the National Maritime Strategy and marine transportation system, including setting target numbers for the size of maritime security fleets, providing oversight of cargo preference requirements, coordinating national efforts to develop a maritime workforce, establishing national priorities for research and development

The Global Trade Law Journal / November–December 2025, Vol. 2, No. 6, pp. 415–420.

ISSN 2995-1089.

of next-gen technologies in shipbuilding, guarding against cyber threats, and overseeing the Maritime Security Trust Fund.

- *Create a Maritime Security Trust Fund*. The SHIPS Act seeks to create a dedicated source of funding for maritime security programs financed by funds collected from Customs and Border Protection duties, fees and penalties imposed on vessels in international commerce, special tonnage taxes, light money, and penalties levied on foreign-built vessels related to the Office of the United States Trade Representative (USTR) Investigation of China's Targeting of the Maritime, Logistics and Shipbuilding Sectors.
- *Impose "Penalty Taxes" on Ships Tied to Chinese Shipyards*. Vessels owned or operated by "foreign entities of concern" (specifically including China, Russia, Iran, and North Korea) face a $5 per net-ton penalty tax on port fees. Crucially, the same $5/ton penalty applies to non-Chinese shipping companies if a large share of their newbuild fleet is ordered from a Chinese "shipyard of concern" (initially defined to include China's state-owned CSSC, with other foreign yards added after October 1, 2027). For example, any non-Chinese owner who has 50 percent or more of its vessels on order at a designated foreign yard in the next 24 months would pay the full $5/ton surcharge. Intermediate tiers apply lower surcharges ($3.50/ton if 25-49 percent of ships are ordered at a yard of concern, and $1.25/ton if at least half of a fleet was built or repaired at such yards in the past three years). Only the highest applicable penalty rate is levied, but these fees are in addition to the existing USTR port fees on Chinese vessels. All such fees would be directed into the Maritime Security Trust, intended to catalyze the U.S. shipbuilding industry.
- *Maintain and Increase Other Port-Related Fees*. The bill retains and strengthens prior proposals to adjust U.S. tonnage taxes and lighthouse duties for foreign-owned ships. Under the SHIPS Act, a vessel owned or registered in a "foreign country of concern" (initially China) could no longer claim any suspension or discount on U.S. tonnage taxes—effectively adding roughly $1 per net-ton for Chinese ships as originally proposed. It would also apply additional taxes on Chinese-built vessels and operators

(on top of the Trump-administration's new USTR port fees). In short, the SHIPS Act boosts port fees and other charges beyond the USTR's measures, with all proceeds funneled into the Maritime Security Trust Fund for U.S. maritime programs.

- *Expand U.S. Cargo-Preference Mandates*. The SHIPS Act dramatically widens cargo preference quotas to force more cargo onto U.S.-flagged and U.S.-built ships. In addition to existing rules (which already reserve certain government cargoes), the bill creates new commercial cargo-preference requirements:
    - *Imports From China*. Beginning five years after enactment, 1 percent of U.S.-bound tonnage from China must be carried on U.S.-built vessels. This quota increases by one percentage point each year, reaching 10 percent by the fourteenth year. Shippers who fail to meet these thresholds incur fines equal to the cost difference between using a compliant U.S.-built ship and a cheaper foreign vessel. This mandate effectively targets containerized imports, which comprise most U.S. cargo from China.
    - *Crude Oil Exports*. For the first 4 years, 3 percent of U.S. crude oil exports must be carried on U.S.-flag tankers. Thereafter the quota steps up, requiring those shipments to be on U.S.-built tankers: 3 percent during years 5-7; 6 percent in years 8-10; 8 percent in years 11-13; and 10 percent from year 14 onward.
    - *LNG Exports*. The Act requires 2 percent of U.S. liquefied natural gas (LNG) exports to sail on U.S.-flag LNG carriers for the first five years. Thereafter it escalates the requirement to be on U.S.-built LNG vessels: 2 percent in years 6-7; 3 percent in years 8-9; 4 percent in years 10-11; 6 percent in years 12-13; 7 percent in years 14-15; 9 percent in years 16-17; 11 percent in years 18-19; 13 percent in years 20-21; and 15 percent from year 22 onward.

These percentages generally mirror the December 2024 proposal but go beyond the USTR's final plan. The USTR had settled on a narrower LNG-only rule of 1 percent U.S.-flag beginning in 2028, rising to 15 percent by 2047. In all cases, any U.S. exporter or shipper failing to meet the quota faces stiff penalties; for example, a firm missing the China-import requirement would be fined the freight-cost difference to a compliant U.S. vessel.

- *Other Support for U.S. Shipbuilding*. The bill also funds a "Strategic Commercial Fleet" of 250 U.S.-built, U.S.-flag vessels through guaranteed contracts, modernizes shipyard financing programs, and boosts maritime workforce training. Current estimates place U.S.-flag tonnage in international trade in the neighborhood of 1 percent, which the SHIPS Act seeks to dramatically increase. Notably, it increases the "no-fault termination" payout to 100 percent of costs (up from 50 percent in the earlier draft) if a long-term contract for these vessels is canceled, which is intended to backstop some of the risk attendant to buying and building U.S.-flag vessels. It would also require these ships to be repaired in the U.S. and tighten conditions under which they can carry government cargoes. These and other provisions reflect the December 2024 bill's language, carried forward into the April version.

Key Differences from Prior Versions

Compared to the December 2024 proposal, the April 2025 reintroduction is substantively similar, but with some technical refinements. For example, it splits the Senate bill into two parts (one focusing on financing), and it formalizes how USTR's new China-ship fees are funneled into the Maritime Security Trust Fund. The cargo-quota schedules and penalty rates remain largely unchanged from December. However, the April bill expanded certain safeguards: it raises the early termination cost guarantee from 50 percent to 100 percent, and it tightens oversight of the new fleet's use of government cargo and repair locations. In effect, the April 2025 version doubles down on reviving shipbuilding and funding the Maritime Security Trust Fund, while clarifying administrative details.

Comparison to USTR's Proposal

The original USTR plan (mandated by an April 2024 Section 301 investigation) had proposed some similar measures: new fees on

Chinese-owned or Chinese-built vessels and phased quotas on LNG exports. However, the USTR finalized a narrower set of rules on April 17, 2025—notably limiting cargo preference to LNG exports only (starting at 1 percent U.S.-flag in 2028) and not penalizing non-Chinese owners of Chinese-built ships. In contrast, the SHIPS Act goes far beyond the USTR's scope: it forces U.S.-built tonnage for crude exports and (especially) for container imports from China, and it expressly targets non-Chinese shipowners. While USTR's final action exempted vessels merely built or operated by foreign firms, the SHIPS Act revives the idea of penalizing foreign owners ordering at Chinese yards. In sum, the SHIPS Act imposes broader cargo preference mandates and port taxes than the USTR's decision, on the theory that aggressive intervention is needed to "artificially create" demand for U.S.-built ships.

Impact on Shipping, Supply Chains, and Trade

If enacted, the SHIPS Act would profoundly affect container shipping and U.S.-China trade flows. Currently none of the major ocean carriers is U.S.-flagged, and only a tiny handful of containerships in the world are American-built. Forcing even 1-10 percent of China-bound container freight onto U.S. ships (as the Act mandates) would create enormous logistical challenges and costs. Industry analysts warn that building a large, modern containership or LNG carrier in a U.S. yard can cost multiple times what it costs in Asia. For instance, one estimate suggests a U.S.-built LNG vessel could cost two to four times a Korean-built one. These higher capital and operating costs would translate into far higher freight rates for shippers.

As a result, U.S. importers and exporters would face two main burdens: (1) higher freight costs or fines: shippers who cannot find a suitable U.S.-built/flag vessel will either pay steep fees for the privilege (the bill's fine is pegged to the cost difference) or try to comply by overpaying, (2) reduced capacity and delays. With few U.S.-Flag ships available, meeting the quotas could cause cargo bottlenecks and rerouting to other markets. The European-American Chamber of Commerce notes that "limiting access to ships and capacity would impact U.S. companies and global supply chains." Freight forwarders and logistics firms have already expressed confusion about how to operationalize these rules, and many predict that overall U.S.-China trade volumes would shrink if the requirements force up costs substantially.

In practical terms, businesses that rely on U.S.-China trade (e.g., retailers, manufacturers, agricultural exporters) would likely see higher import costs on containerized goods. Exports of crude oil and LNG could become less competitive if exporters must charter far more expensive U.S. tankers. Indeed, one shipping executive noted that if U.S. LNG producers must use U.S. ships at two to four times the cost in the international market, it could depress U.S. LNG export prices globally. In the container sector, carriers would have to adjust alliances and capacity; for example, Asian carriers might shift more empty boxes and buy U.S.-built vessels or pay the penalty. It is not yet clear how strict enforcement will be, but the language makes clear that every importer from China must meet the threshold or pay the difference.

In summary, the April 2025 SHIPS Act expands on the USTR proposal and comes over the back of the Trump administration's Executive Order "Restoring America's Maritime Dominance," adding to the momentum supporting the U.S. shipbuilding and maritime operating industries. In so doing, the SHIPS Act reintroduces the December 2024 bill's aggressive approach and expands it. It seeks to establish new federal infrastructure in the form of a Maritime Advisory, Maritime Security Board, and a Maritime Security Trust Fund. It also pairs significant new financial penalties on Chinese shipyards and vessels with mandatory cargo quotas that would steer U.S.-China trade onto U.S. ships. These measures are framed as necessary to rebuild America's shipbuilding and defense capabilities. If passed, the SHIPS Act would represent one of the most sweeping interventions ever in maritime commerce—and corporate stakeholders in shipping and trade will need to prepare for higher costs and new compliance obligations.

Notes

* The authors, attorneys with Troutman Pepper Locke LLP, may be contacted at emily.hugginsjones@troutman.com and ryan.last@troutman.com, respectively.

1. https://www.kelly.senate.gov/wp-content/uploads/2025/04/BOM25374_4.30.25.pdf.