McLarty Update: USTR Announces Proposed Retaliation in Chinese Shipbuilding Investigation

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KEY POINTS

- Last Friday, USTR announced **novel and expansive penalties** in its Section 301 investigation on **Chinese dominance in the maritime and shipbuilding sector**.
- **Policy recommendations from USTR involve a sliding scale of punitive port fees for shipping fleets excessively relying on Chinese vessels and new incentives for using US-flagged and US-built ships.**
- Trade and industry organizations focused on maritime commerce and retail have vocally opposed the investigation through public comments, **citing the possible consequences of exorbitant shipping costs and harm to US consumers.**
- Stakeholders will have a limited window to comment on USTR's proposed actions in the US Federal Register before a March 24 hearing at the International Trade Commission.

301 SHIPBUILDING INVESTIGATION LATEST ACTIONS

On February 21, USTR announced its proposed actions to address findings that China has unfairly supported the growth of its maritime, logistics, and shipbuilding sector to achieve "dominance" through subsidies, barriers to foreign participation, and forced technology transfer. Consistent with the underlying 301 statute, there will be a public comment period through March 24, followed by a public hearing held by the International Trade Commission on USTR's proposed actions.

USTR's Federal Register notice proposes the following actions to "obtain the elimination" of China's unfair policies in the sector:

Actions to Reduce Carriers' China Ties

- Up to $1 million port entrance fees on any vessel owned by Chinese maritime transport operators, or, $1,000 per ton port entrance fees on such vessels.
- Up to $1.5 million port entrance fees on any Chinese-built vessel, regardless of operator nationality.
  - $1 million port entrance fees for non-Chinese maritime transport operators with over 50% Chinese-built vessel fleet composition.
  - $750,000 port entrance fees for non-Chinese maritime transport operators with between 25-50% Chinese-built vessel fleet composition.
  - $500,000 port entrance fees for non-Chinese maritime transport operators with between 0-25% Chinese-built vessel fleet composition.
- Up to $1 million port entrance fees for operators based on prospective vessel order lists with Chinese shipyards (totaling 50% fleet composition or more).
  - $750,000 port entrance fees for operators based on prospective vessel order lists with Chinese shipyards (totaling 25-50% fleet composition).
  - $500,000 port entrance fees for operators based on prospective vessel order lists with Chinese shipyards (totaling 0-25% fleet composition).
- Stated aim to "reduce exposure to and risks from" China's promotion of the National Transportation and Logistics Public Information Platform (LOGINK).

Requiring and Benefiting Partner and US-Flagged Carrier Usage

- Up to $1 million in rebates and fee remissions for each docking of a US-built ship.

- Requirement of at least 1% of US exports to be shipped on US-flagged vessels for the first two years of rule imposition, with gradual percentage hikes annually. Potential exports include capital goods, consumer goods, agricultural products, and chemical petroleum and gas products.
    - After seven years, at least 15% of US exports would be required to be shipped on US-flagged vessels, with 5% on US-built ships.
- USTR may consider negotiations with allies and partners to “counteract” China’s maritime industry advantages and “reduce dependencies” as relevant.

The proposed actions by USTR seem designed to **disincentivize Chinese maritime carrier usage** while encouraging the deployment of allied- (and especially US-) built shipping carriers over time. These proposed remedies are subject to change before an **April 17 final determination deadline.** After USTR reviews public comments and hearing findings by April 17, the implementation of final rules on Section 301 shipbuilding measures against China must take place within 30 days.

Thus, if no waiver is applicable, **301 remedies against Chinese unfair support of its shipbuilding sector must be implemented by May 17, 2025.**

INDUSTRY REACTION AND PUBLIC COMMENTS

Industry reactions to the news of possible port entrance fees to Chinese-built container ships has been swift, mostly focused on the likely impacts on US exporters and consumers**.** In comments at the World Economic Forum last month, Maersk CEO Vincent Clerc agreed that **an “argument could be made” why Chinese shipbuilding capacity dominance poses long-term US national security risks, but stated that the proposed fee structures would not be enough to reorient supply chains away from China.** Even if Chinese-built ships were levied $1.5 million port entry fees, Clerc said, it would still take up to seven years for viable replacements to be delivered from US shipyards, as Japanese and South Korean alternative vessel capacity would be quickly exhausted among maritime freight companies in the meantime.

Industry representatives have asserted that a proposed $1 million port entrance fee on 20,000 twenty-foot equivalent unit (TEU) cargo ships – which was suggested during the initial investigation – would result in serious harm to US companies using common carrier ships for their goods, passing on raised costs to consumers. Another organization commented that over 25% of container vessels docking in the US would be subject to exorbitant port fees, causing a competitive disadvantage to US importers and exporters. **Data provided by one commenter offered that $5 million port fee remedies were necessary to competitively revitalize the US shipping industry instead of the suggested $1 million** – such a high remedy placed on incoming vessels would be certain to reduce US-bound shipping activity and direct cargo ships to alternative Canadian and Mexican ports.

Meanwhile, **labor unions like the United Steelworkers (USW) and the International Brotherhood of Electrical Workers (IBEW) have continued to lobby for “strong penalties” against Chinese shipbuilding dominance.** Highlighting that China accounted for over 70% of global shipbuilding orders in for 2024, the unions called for the Trump administration to not only deter Chinese-built ships from entering US ports, but for the implementation of concomitant measures that revitalize American shipbuilding capacity.

CONCLUSION

Whether costs of possible port entrance fees on products shipped by Chinese-built vessels will be passed on or even felt by American consumers remains hotly contested by economists and industry observers. Regardless, **USTR’s proposed measures reflect a sharp response to China’s emergent dominance in the shipbuilding industry,** as the country owns nearly a fifth of the world’s commercial shipping fleet and its market share of global tonnage has grown from less than 5% in 1999 to more than 50% in 2023. American shipbuilding capacity is 230 times less than China’s own, with one Chinese shipyard alone outproducing all American competitors combined.

Higher costs for Chinese vessel shipping are likely to be supported by key Cabinet and White House officials like Secretary of State Marco Rubio, National Security Advisor Mike Waltz, and USTR Jamieson Greer, who have previously written forcefully regarding China’s ascension on the maritime value chain and advocated for broad-spectrum "increased tariff usage" against China employing Section 301 authorities. President Trump has also placed personal emphasis on the sector in the past during his 2016 campaign, and more recently has maintained a National Security Council maritime directorate and selected key staff focused on the issue.

Yet, as described above, the Section 301 investigation's focus extends beyond merely blunting Chinese shipbuilding influence and **seeks to bolster American and allied competitiveness in the sector.** There is wide-ranging bipartisan support for these measures and increased subsidies for allied shipbuilding. As a lawmaker, National Security Advisor Waltz co-sponsored the Ships for America Act with Senator Mark Kelly (D-AZ), which if passed would provide federal support for expanding available US dry dock and repair facilities as well as promote shipbuilding incentives for allies contributing to US-flagged shipping fleets. Senator Tammy Baldwin (D-WI) wrote to President Trump the day before USTR's public comment period opened to encourage "immediate action" on strengthening US maritime competitiveness and addressing Chinese dominance in the sector.

Allied participation in the US maritime sector is also less politically corrosive than other forms of foreign corporate acquisition actions and FDI – South Korean firms Hanhwa Systems and Hanhwa Ocean finalized their acquisition of America's Philly Shipyard for $100 million in December, and President Trump discussed the possibility of enhancing US-South Korea shipbuilding cooperation during his pre-inauguration call with South Korean President Yoon Suk Yeol. Japan (29.24%) and South Korea's (17.25%) combined global shipbuilding market shares nearly reach parity with China's leading share, which has reportedly drummed up interest from Tokyo and Seoul in heightening maritime ties with the US.

Even if USTR's policy suggestions on Chinese shipbuilding duties are not finalized in their current form, their consistency with the goals of President Trump's America First Trade Policy agenda portends **future policy action on correcting Chinese dominance within the sector and expanded commercial maritime coordination with Japan and South Korea.**

APPENDIX: SHIPBUILDING INVESTIGATION BACKGROUND

On March 12, 2024, USW, IBEW, and three other national labor unions filed a joint Section 301 petition on Chinese shipbuilding based on its possible "burdensome" impacts on US commerce.

In response to the joint union petition, during an April 16, 2024 hearing with the House Ways and Means Committee, then-USTR Katherine Tai pledged in her testimony to take a "serious look" at how existing trade instruments – including Section 301 tariffs – are addressing US supply chain vulnerabilities vis-a-vis China, including shipbuilding. The next day, USTR launched an investigation into alleged "unfair, non-market policies and practices" by China that have led to its dominance in the maritime, logistics, and shipbuilding sector while requesting consultations with China on the matter.

After months of investigation, the Biden administration released a report on January 16, 2025 on China's targeting of the maritime, logistics, and shipbuilding sector for dominance, stating that China's "extraordinary control" over the sector **constituted legitimate grounds for future Section 301 tariff actions.** The report further argued that the CCP's supervision of industrial targets for the sector allow Beijing to "direct and influence" shipbuilders' commercial behavior, creating unfair and non-market competitive advantages. **Days later, in a strong show of continuity across administrations, the Trump administration released an initial determination** of the Section 301 investigation on January 23, **reaffirming the report's actionability.**