

May 22, 2024

ELECTRONIC SUBMISSION TO <https://www.regulations.gov>

Ambassador Katherine Tai  
U.S. Trade Representative  
Office of the United States Trade Representative  
600 17th Street NW  
Washington, DC 20508

**RE: Initiation of Section 301 Investigation: China's Acts, Policies, and Practices Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance (89 FR 29424; Docket Nos. USTR-2024-0004, USTR-2024-0005)**

Dear Ambassador Tai:

The Consumer Technology Association (“CTA”) respectfully submits these comments to the Office of the U.S. Trade Representative (“USTR”) in response to its request for comments regarding its investigation under Section 301 of the Trade Act of 1974 of China's acts, policies and practices targeting the maritime, logistics, and shipbuilding sectors for dominance (“investigation”). CTA represents the more than \$505 billion U.S. consumer technology industry, which supports more than 18 million U.S. jobs. Our members are comprised of over 1300 companies from every facet of the consumer technology industry, including manufacturers, distributors, developers, retailers, and integrators, with 80 percent of CTA members being start-ups or small- to mid-sized enterprises (“SMEs”). CTA has long advocated for reducing shipping costs for U.S. businesses and consumers, including through the passage and implementation of the Ocean Shipping Reform Act of 2022<sup>1</sup>.

Notwithstanding any findings of the investigation, CTA urges USTR to avoid remedies that would exacerbate harmful and sticky inflation, increase costs of trade, undermine supply chain resilience, add to business

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<sup>1</sup> See Public Law 117-146; June 16, 2022.

uncertainty, and reduce the purchasing power of American households and consumers. We are particularly concerned about one specific remedy requested by the petitioners<sup>2</sup> in their filing with USTR.<sup>3</sup>

In Subsection A of the Remedies Requested section, the petitioners request that the President impose a fee on every Chinese-built vessel that docks at a U.S. port.<sup>4</sup> They refer to the OECD Shipbuilding Agreement, which "permits parties to charge a fee to shipbuilders which have sold vessels at injuriously low prices, and to deny onloading and offloading privileges to certain vessels build by the shipbuilder in question if it fails to pay the fee."<sup>5</sup> The petitioners' recommended port fee is \$1 million per ship docking at a U.S. port.

CTA disagrees with the petitioners' recommendation and encourages USTR to examine the facts and data<sup>6</sup> on the number and size of Chinese-built ships docking at U.S. ports:

- China built 53% of the world's container vessels in 2022.
- 257 of the 1,012 container ships currently on U.S. trades were built in China.
- Approximately a total of 40,000 annual container vessel calls are in the United States. Assuming that about a quarter of those are Chinese-built vessels (257/1,012), that translates to about 10,000 calls. If the United States were to impose a \$1 million fee on each call, the resulting fees would exceed \$10 billion.
- No 20,000 twenty-foot equivalent ("TEU") ships visit the United States; the largest vessel on the East Coast is 16,000 TEUs whereas the largest on the West Coast is around 19,000 TEUs.
- There is an average of 5,729 TEUs per Chinese-built ship. The \$1 million proposed port fee would be distributed across, on average, 5,729 TEUs (compared to the 20,000 TEUs posited by the petitioners). Rather than the port fee costing \$50 per container, the cost would be closer to \$175 per container.
- Based on these numbers, 25% of container vessels on U.S. trades and 20% of TEUs would be impacted by the proposed port fee.

Given the high number of Chinese-built ships docking at U.S. ports and the frequency of their entries, this fee would be incredibly harmful in three ways.

First, common carriers operating the ships would not hesitate to pass the fee costs on to U.S. importers, which would in turn pass them on to U.S. buyers and retailers. Ultimately, U.S. consumer would have to

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<sup>2</sup> The five petitioners are the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO CLC (USW), the International Brotherhood of Electrical Workers (IBEW), the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO/CLC (IBB), the International Association of Machinists and Aerospace Workers (IAM), and the Maritime Trades Department of the AFL-CIO (MTD).

<sup>3</sup> Petition to USTR, "China's Policies in the Maritime, Logistics, and Shipbuilding Sector" (Mar. 12, 2024), <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-petition-china-maritime-logistics-and-shipbuilding-sector> ("301 Petition").

<sup>4</sup> 301 Petition at 113-116.

<sup>5</sup> *Id.* at 114.

<sup>6</sup> *US active services, full container, ships deployed, injected into Vessel Search*, Alphaliner (April 2024).

bear the cost associated with the proposed port fee, not the shipbuilders in China. We also disagree with the petitioners that the port fee assessed on common carriers would be spread across the entirety of a ship's cargo. Ultimately, common carriers will decide how to recoup this fee. Since shipping rates are likely negotiated and agreed in advance of a ship's full cargo being finalized, it is more likely that common carriers will just charge a premium for all cargo shipped to the United States. They will also need to cover administration, legal, and other charges above the additional port fee. Further, some carriers may elect to simply reduce routes to the United States altogether, which will reduce overall cargo capacity for U.S. trade and increase shipping costs for U.S. firms.

In a time when the United States continues to mitigate sticky inflation, such a port fee would be the wrong move at the wrong time. The U.S. economy, businesses, and consumers are still recovering from the impacts of the pandemic, which witnessed sharp increases in shipping costs and myriad supply chain disruptions due to historically high demand for a wide range of products. U.S. government agencies have worked hard to bring those costs down. The petitioners' recommendation would undermine all these efforts.

Second, this port fee would cause significant supply chain disruptions. Increased demand for ships built in other countries, such as Japan and the Republic of Korea, would drive up shipping costs. Again, U.S. businesses and consumers would prefer to avoid a resurgence in high shipping costs that they experienced during the pandemic. U.S. exporters may also experience lags and difficulty in obtaining space on ships leaving U.S. ports for other destinations as a result, harming their ability to export their products to buyers in other countries.

Third, the port fee would create competitive disadvantages for U.S. importers and exporters. U.S. trading partners would likely not assess a similar port fee, making the costs of shipping to and from the United States far more expensive relative to other markets. This creates an unsustainable competitive disadvantage for U.S. industry. Shipping traffic may instead turn to ports in Canada and Mexico avoiding the port fee while taking advantage of fee-free overland transport to the U.S. market. This dynamic would deprive U.S. ports of business, weaken the demand for U.S. port workers, and strain our road and rail infrastructure.

CTA also cautions USTR against using its seemingly preferred trade action under Section 301: tariffs on imports. As we have seen from the existing Section 301 tariffs on \$370 billion in imports from China, such tariffs are not effective in changing China's behavior but impose high costs on the U.S. economy, workers, consumers, and households. Tariffs would certainly not be an effective remedy in rebuilding a U.S. shipbuilding industry. Chances are that prospective U.S. shipbuilders would not use the protection afforded to them to build new facilities or expand operations. They would instead pocket the proceeds from the sales of higher cost ships in the United States.

Looking ahead, we urge USTR to avoid expanding the scope of this investigation in further counterproductive ways. We are concerned about the possibilities of imposing port fees on Chinese-built ships arriving at non-U.S. ports and undertaking further Section 301 investigations of shipbuilding practices in U.S. treaty allies, including Japan and the Republic of Korea. Simply put, U.S. consumers and businesses benefit from access to the high-quality ships built in those countries. **Rather than focusing purely on**

**shipbuilding, CTA encourages the Administration to work with the Congress to secure a repeal of the exemption for foreign ocean carriers from all federal antitrust laws.** This WWI-era antitrust exemption is an anachronistic law that raises prices for U.S. consumers while benefitting foreign corporations.

We also urge USTR to adhere to its transparency obligations under the Administrative Procedure Act as it progresses through the Section 301 investigation and the consideration of available remedies. Specifically, CTA calls on USTR to subject any remedies, especially a port fee or tariffs, to notice and comment procedures to take into account stakeholder input.

Finally, we call on USTR to seek robust stakeholder input on any objectives for negotiations with China on its shipbuilding practices, rather than relying on input received under this investigation. Those bodies of input likely would be substantially different. USTR did not ask for input from stakeholders on negotiations with China prior to the Phase 1 Agreement. Perhaps that Agreement would have been more successful if USTR had sought stakeholder input specific to those negotiations.

Thank you again for the opportunity to file comments regarding the investigation. We look forward to serving as a resource for USTR as this investigation and consideration of any remedies unfold.

Best regards,



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