

Labor Unions Request Section 301 Investigation of China’s Shipbuilding and Maritime Policies

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On March 12, 2024, five major U.S. labor unions [filed](#) a petition under Section 301 of the Trade Act of 1974 requesting that the Office of the U.S. Trade Representative (USTR) investigate certain policies and practices of the government of the People’s Republic of China (PRC or China) concerning the maritime, logistics, and shipbuilding sectors. The petitioners allege that the PRC government, through non-market means, has “seized market share, suppressed prices, and created a worldwide network of ports and logistics infrastructure that threaten[s] to discriminate against U.S. ships and shipping companies, disrupt supply chains and undermine vital [U.S.] national security interests.” USTR has 45 days to review the petition and determine whether launching an investigation would effectively address the matters raised by the petitioners.

Members of Congress may have an interest in monitoring USTR’s actions in this case. China’s drive to develop an integrated global maritime supply chain and project its maritime power globally has intensified debate among [some](#) in Congress about the state of the [U.S. commercial shipbuilding industry](#). The debate also reflects growing congressional [concerns](#) about whether the United States has sufficient shipbuilding capability and capacity to address threats to U.S. economic and national security. Some [Senate](#) and [House](#) Members support the labor unions’ petition and have asked USTR to initiate a Section 301 investigation.

What is Section 301?

Title III of the Trade Act of 1974 (Sections 301-10, codified at [19 U.S.C. §§2411-20](#)) is collectively referred to as “Section 301.” It grants USTR a range of responsibilities and authorities to investigate foreign trade practices and impose trade sanctions on countries that are found to violate U.S. trade agreements or engage in acts that are “unjustifiable,” “unreasonable,” or “discriminatory,” and burden U.S. commerce. Prior to 1995, the United States often used Section 301 to pressure other countries to eliminate trade barriers to U.S. exports. The creation of an enforceable dispute settlement mechanism in the World Trade Organization (WTO), supported by the United States, reduced the use of Section 301. While the United States retains the flexibility to seek recourse for unfair foreign trade practices in the

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WTO or under Section 301, a USTR determination to bypass WTO dispute settlement procedures and impose retaliatory measures in response to a Section 301 investigation may be challenged at the WTO. (See CRS In Focus IF11346, *Section 301 of the Trade Act of 1974*.)

Section 301: Shipbuilding and Maritime Transportation Subsidies

In 1979, Congress amended Section 301 and added a provision in response to growing [concerns](#) about the decline of the U.S. commercial shipbuilding industry. In the Trade Agreements Act of 1979 (P.L. 96-39), Congress provided explicitly that the provision of subsidies by foreign governments for the construction of ocean-going vessels used in the commercial transportation of goods between the United States and other countries was within the purview of Section 301. The amendment is codified at [19 U.S.C. §2411\(d\)\(2\)](#).

The Labor Unions' Petition and Allegations

The five labor unions contend that the PRC government has pursued the explicit goal of dominating the global shipbuilding, maritime, and logistics sectors, and “has funneled hundreds of billions of dollars and adopted numerous supporting policies to achieve” it. These include, among others, directed mergers and anticompetitive activities, and favorable treatment and preferences/mandates for PRC-built ships. They assert that their “significant interests” have been affected by these actions.

To address these concerns and thereby, the petition argues, make it possible for the U.S. shipbuilding industry to recover and operate sustainably, the petitioners requested that USTR: (1) “impose a fee on every [PRC]-built vessel that docks at a [U.S.] port”; (2) establish “a shipbuilding revitalization fund with proceeds from the fee to support investments in the domestic shipbuilding industry’s capacity, supply chains, and workforce”; (3) take actions to “support stronger demand for U.S.-built vessels” and “address China’s drive to dominate port and logistics infrastructure platforms and equipment”; and (4) negotiate “with other ... countries to address any concerns about their own government support programs and coordinate measures to address China’s unfair practices.”

Next Steps

USTR must determine whether to initiate an investigation under Section 301 not later than 45 days after receiving a petition (i.e., by April 26, 2024). The agency has discretion to determine if action under Section 301 would be effective in addressing an alleged act, policy, or practice. The evaluation may entail a detailed review and analysis of PRC government measures, their impact on U.S. firms and workers, and legal analyses of the interplay between the measures and legal standards set under Section 301. USTR may address several issues in its review of the petition, including:

- Do the petitioners meet the “significant interest” threshold required to have standing as an interested person to file a petition under Section 301? Are the specific forms of relief sought by the petitioners provided for under Section 301?
- Would the initiation of an investigation be effective in addressing the issues raised in the petition or would doing so hamper, rather than advance, any current U.S. efforts to address the petitioner’s concerns (e.g., through the [Organization for Economic Cooperation and Development](#) [OECD])?
- Could USTR act to address these concerns under existing Section 301 [actions](#) against China (e.g., in its “[Four-Year Review](#)”), or would a new investigation be more appropriate?
- Do the allegations set forth in the petition involve U.S. rights under WTO agreements? If so, should the U.S. government request formal consultations with China under the [WTO dispute settlement](#) process instead of, or in addition to, initiating a Section 301 investigation?

Should USTR decline to initiate a Section 301 investigation, Congress could work with the agency to develop legislation and/or administrative actions that would benefit the U.S. shipbuilding industry, including under Section 301 authorities. Congress could also direct USTR to work with other federal agencies, the petitioners, relevant stakeholders, and major shipbuilding countries to examine the issues raised in the petition and to consider possible further actions, including at the plurilateral and multilateral levels (e.g., OECD and WTO).

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