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Section 301 and China: Shipping and Shipbuilding Issues

Title III of the Trade Act of 1974 (Sections 301-310, codified at 19 U.S.C. §§2411-2420) is referred to as "Section 301." It is one of the principal statutory means by which the United States enforces U.S. rights under trade agreements and addresses "unfair" foreign barriers to U.S. exports. It grants the U.S. Trade Representative (USTR) a range of authorities to investigate foreign trade actions, policies, and practices and impose trade sanctions on foreign countries found to violate U.S. trade agreements or engage in acts that are "unjustifiable," "unreasonable," or "discriminatory," and burden or restrict U.S. commerce.

In April 2024, USTR initiated an investigation into efforts by the People's Republic of China (PRC or China) to dominate in the maritime, logistics, and shipbuilding sectors. It determined in January 2025 that such efforts were "unreasonable," "burden or restrict" U.S. commerce, and were therefore "actionable" under Section 301. With this finding, Section 301 requires USTR to negotiate with PRC officials to try to resolve U.S. concerns, and permits USTR to initiate U.S. countermeasures. In February 2025, the USTR proposed remedies for public comment (see "USTR's Proposed Remedies"). Relatedly, media reports indicated the White House may be preparing to take actions to bolster the U.S. shipbuilding sector. This is the second Section 301 case involving China since 2018. In late 2024, the USTR initiated a third investigation on PRC semiconductor policies and practices.

Congress has considered ways to counter China's role in global shipping, including whether to revitalize the U.S.-flag shipping and shipbuilding industries and related sectors (e.g., steel). Some Members say capacity shortfalls in these sectors affect the U.S. defense posture. Other Members have sought to restrict the use of PRC port cranes, counter China's development of integrated maritime supply chains, and thwart PRC efforts to project maritime power globally through its *One Belt, One Road* (or *Belt and Road Initiative*). Congress enacted provisions in the FY2024 National Defense Authorization Act (P.L. 118-31) to prohibit the U.S. military from using any global port that uses the National Transportation and Logistics Public Information Platform (LOGINK), a PRC state-owned and controlled logistics data management platform. The act also bans federal funding for any port that uses LOGINK.

USTR's Section 301 Investigation

While U.S. industry only represents 2.9% of world fleet ownership by capacity and 0.1% of global shipbuilding tonnage, USTR can use Section 301 to address the effects of PRC policies and practices on U.S. industry because of Congress' actions in 1979. Congress amended Title III of the Trade Act of 1974 (P.L. 96-39) to address its concerns about the decline of the U.S. shipbuilding industry. The amendment allows USTR to invoke Section 301 because of the effects of PRC policies and practices on U.S. maritime trade. It made "actionable," per Section 301, the use of subsidies by foreign governments to construct commercial oceangoing vessels that transport goods between the United States and other countries. The amendment is codified at 19 U.S.C. §2411(d)(2). In 2022, ships moved 44.6% of U.S. global goods trade by value ($2.3 trillion) and 78.6% of U.S global goods trade by weight (1.6 billion tons).

Section 301 Process

Investigations: Section 301 generally requires that investigations be concluded within 12 months. USTR may determine, after carrying out an investigation, whether action under Section 301 would address issues raised in the petition.
Consultations: During an investigation and prior to making a determination on whether to take action, USTR must consult with the petitioner and seek advice from private sector advisory representatives. The agency can—but is not required to—request the views of the U.S. International Trade Commission concerning how a proposed retaliatory action could impact the U.S. economy.
Negotiations: Section 301 requires the USTR to seek a negotiated settlement with the country concerned. USTR has 12 to 18 months to seek a negotiated resolution, except for cases that involve a trade agreement or intellectual property (IP) rights issue. For cases involving trade agreements, the USTR is required to use such agreements' dispute process.
Retaliation: If a settlement is not obtained, the USTR may determine whether to retaliate at a level it deems equivalent to the estimated U.S. economic losses incurred from the foreign barrier/practice. Section 301 authorizes the USTR to

- impose duties or other import restrictions;
- withdraw or suspend trade agreement concessions;
- enter into a binding agreement with the foreign government to either eliminate the conduct (or burden to U.S. commerce) in question or compensate the United States with satisfactory trade benefits; or
- restrict terms and conditions or deny licenses and permits that allow access to the U.S. market.

While Congress may amend Section 301, the use of Section 301 authorities does not require congressional approval. The President is authorized to take any action "with respect to trade in any goods or services, or with respect to any other area of pertinent relations with the foreign country" to obtain the elimination of the policy or practice under investigation. See CRS In Focus IF11346, *Section 301 of the Trade Act of 1974.*

In March 2024, five major U.S. labor unions filed a Section 301 petition requesting that USTR investigate PRC acts, policies, and practices that sought dominance in the global maritime, logistics, and shipbuilding sectors. In April and May, 2024, USTR initiated a Section 301 investigation, accepted public comments, and held a public hearing. USTR also requested consultations with PRC counterparts.

The USTR determined in its investigation that PRC policies and practices displaced foreign firms; undercut business opportunities and investments in the U.S. maritime, logistics, and shipbuilding sectors; restricted competition; and created risks from dependencies in sectors critical to the U.S. economy. It noted the extraordinary control the PRC government has over its firms in vertically integrated value chains for shipbuilding; shipping; construction; and preferential inputs (e.g., steel and equipment. It found that PRC industrial plans and state support since 2006 advanced China's leading global role in shipbuilding and shipping. PRC plans supported shipbuilding, marine equipment, maritime engineering equipment, high-technology ships, shipping, logistics and port operations. PRC plans set production, domestic content, and market share targets.

USTR criticized PRC market barriers, industry consolidation policies, measures tied to technology transfer and IP theft, state-led investments, and procurement preferences for PRC firms. It found that PRC policies provided direct subsidies and state financing to reach targets. Some studies estimate that PRC government support for China's industry totaled $91 billion between 2006 and 2013 and $132 billion between 2010 and 2018. USTR also noted a lack of effective labor rights and the government's control of digital logistics services. It assessed that PRC gains in shipbuilding would support PRC naval capabilities.

USTR's Proposed Remedies

In February 2025, USTR announced proposed remedies for public comment. It is to hold a public hearing in March 2025. USTR proposed port entry fees per vessel, per entry, to U.S. ports for PRC ocean carriers and for non-PRC ocean carriers that use PRC-built vessels (**Table 1**). USTR may refund fees, on a calendar year basis, up to $1,000,000 per U.S. port entry for use of a U.S.-built vessel.

Table 1.Draft Fees Per Vessel/Entry to U.S. Ports

Shipper Type and Use of PRC-Built Fleet	Maximum Fees
PRC Fleet	*$1,000,000
**Non-PRC Fleet Using PRC Vessels (a)	$1,500,000
Fleet = or > 50% PRC-built vessels (b)	$1,000,000
Fleet > 25% and < 50% PRC-built vessels (b)	$750,000
Fleet > 0% and < 25% PRC-built vessels (b)	$500,000
Fleet = or > 25% PRC-built vessels (c)	$1,000,000
***Fleets and % of vessel orders/deliveries over the next 24 months from PRC shipyards	$1,000,000
= or > 50% (a)	$1,000,000
> 25% and < 50% (a)	$750,000
> 0% and < 25% (a)	$500,000
= or > 25% (b)	$1,000,000

Source: CRS with details from USTR.

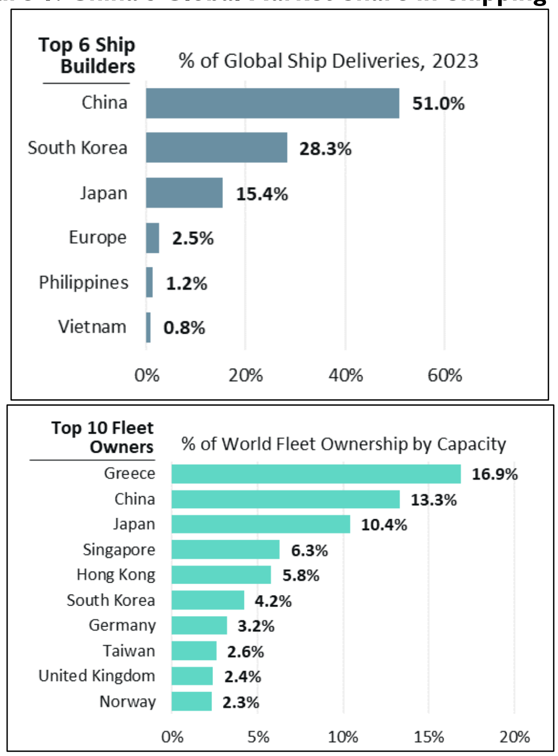
Notes: *Or up to $1,000 per net ton of a vessel's capacity. ** Fee options noted as a, b, and c. *** Fee options noted as a and b.

USTR also proposed an annual quota for the international maritime export of U.S. goods on U.S.-flagged vessels by U.S. operators to be phased in over seven years, to reach 15% in seven years, at which time 5% of U.S. exports are to be on U.S.-built vessels. (USTR may exempt exports on non-U.S.-built vessels for operators transporting >20% of U.S. goods per year on U.S.-flagged, U.S.-built ships). USTR also proposed investigating anti-competitive PRC shipping practices (e.g., directing mergers and controlling freight rates and cargo space allocations) and restricting or banning LOGINK's access to U.S. shipping data.

China's Global Market Share

China's shipbuilding market share grew from less than 5% of global tonnage in 1999, to over 50% in 2023. PRC (including Hong Kong) ownership of global commercial fleets grew to over 19% as of January 2024 (**Figure 1**). According to USTR, China now produces 95% of global shipping containers, 86% of intermodal chassis, and over 70% of ship-to-shore cranes. PRC firms own or operate one or more terminals at 96 overseas ports, and PRC state firms own or operate 65 of these ports. At least half of global container volume in 2020 used the PRC's LOGINK.

Figure 1. China's Global Market Share in Shipping



Source: CRS; data from UNCTAD and Clarksons Research Services

Options for Congress

Congress may confer with USTR on its use of Section 301 and assess the feasibility and effects of proposed fees on U.S. shipbuilding and shipping; U.S. exporters' competitiveness; and the global use of U.S. ports. With regard to USTR's Section 301 findings, U.S fees alone arguably are unlikely to fully address U.S. industry gaps, PRC anti-competitive practices, and the effects of PRC actions on U.S. allies. Congress could consider whether to support the U.S. shipbuilding industry through grants or tax incentives. It might consider the effects of U.S. tariffs on inputs (e.g., steel) for U.S. shipbuilding. It might examine corporate deals (e.g., U.S. BlackRock's bid for some of Hong Kong's Hutchison Whampoa's port operations, and Frances' CMA CGM's plan to invest $20 billion in U.S. shipping) to assess their effectiveness in advancing U.S. interests. Congress also might consider whether to act on USTR's proposals to

- address PRC anti-competitive shipping practices;
- ban PRC equipment and data systems of concern and create preferences for non-PRC alternatives; and
- recommend plurilateral efforts to counter PRC actions.

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