

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Docket Nos. USTR-2024-0004, USTR-2024-0005

Initiation of Section 301 Investigation: China's Acts, Policies, and Practices

Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of investigation initiation, hearing, and request for comments.

SUMMARY: On March 12, 2024, the Office of the United States Trade Representative (USTR) received a petition requesting an investigation of China's acts, policies, and practices targeting the maritime, logistics, and shipbuilding sectors for dominance. On consideration of the petition and the advice of the Section 301 Committee, the U.S. Trade Representative has initiated an investigation into the issues raised in the petition. The inter-agency Section 301 Committee will hold a public hearing and is seeking public comments in connection with this investigation.

DATES:

April 17, 2024: The U.S. Trade Representative initiated the investigation.

May 22, 2024: To be assured of consideration, submit written comments and any requests to appear at the hearing, along with a summary of the testimony, by this date.

May 29, 2024: The Section 301 Committee will convene a public hearing in the main hearing room of the U.S. International Trade Commission Building, 500 E Street SW, Washington DC, beginning at 10:00 a.m. If necessary, the hearing may continue on May 31, 2024.

Seven days after the last day of the public hearing: Submit post-hearing rebuttal comments.

ADDRESS: Submit documents in response to this notice, including written comments, hearing appearance requests, summaries of testimony, and post-hearing rebuttal comments through the appropriate online USTR portal at: <https://comments.ustr.gov/s/>.

FOR FURTHER INFORMATION CONTACT: Megan Grimball and Philip Butler, Chairs of the Section 301 Committee, or Assistant General Counsels Thomas Au and Henry Smith, (202) 395-5725.

SUPPLEMENTARY INFORMATION:

I. Summary of the Petition

On March 12, 2024, five labor unions¹ filed a Section 301 petition regarding the acts, policies, and practices of China to dominate the maritime, logistics, and shipbuilding sector.² The petition was filed pursuant to Section 302(a)(1) of the Trade Act of 1974, as amended (Trade Act) (19 U.S.C. 2412(a)(1)), requesting action pursuant to Section 301(b) (19 U.S.C. 2411(b)).

Petitioners allege that China targets the maritime, logistics, and shipbuilding sector for dominance and engages in a wide range of unreasonable or discriminatory acts, policies, and practices that provide unfair advantages across maritime industries, such as shipbuilding, shipping, and maritime equipment, including:

¹ 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).

² For additional information, the full text of the petition and accompanying exhibits are available at: <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-petition-china-maritime-logistics-and-shipbuilding-sector>.

- Implementing industrial planning and policies that are designed to unfairly capture market share, distort global markets, and advantage Chinese enterprises;
- Directing mergers and anticompetitive activities;
- Providing non-market advantages to Chinese firms to dominate key upstream inputs and technologies;
- Providing advanced financing mechanisms advantaging Chinese industry;
- Creating a Chinese network of upstream suppliers, foreign ports and terminals, shippers, and equipment and logistics software that allow advantageous use of information;
- Tolerating intellectual property theft and industrial espionage; and
- Controlling shipping freight rates and capacity allocations.

The petitioners also aver that China threatens to discriminate against U.S. commerce and disrupt supply chains.

Petitioners allege that China's acts, policies, and practices burden or restrict U.S. commerce by:

- Dramatically increasing China's shipbuilding excess capacity and global market share, contributing to declines in U.S. shipbuilding capacity, production, and market share;
- Artificially depressing prices, which makes it more difficult for U.S. companies to compete for sales;
- Impeding U.S. investment, production, and employment;
- Reducing the number of U.S.-produced ships in the domestic and global merchant fleets; and

- Providing unfair advantages and preferences that burden or restrict trade in inputs, and burden or restrict trade opportunities for upstream inputs and downstream industries.

In addition, the petitioners assert that China threatens to undermine U.S. national and economic security.

II. Initiation of a Section 301 Investigation

Pursuant to Section 302(a)(2) of the Trade Act, the U.S. Trade Representative reviewed the allegations in the petition, and after receiving the advice of the Section 301 Committee, the U.S. Trade Representative determined to initiate an investigation regarding the issues raised in the petition. In accordance with Section 303(a) of the Trade Act, USTR is requesting consultations with the government of China. Petitioners have requested a public hearing. In accordance with Section 302(a)(4), and with the agreement of the petitioners, the Section 301 Committee will hold a public hearing on this matter on May 29, 2024.

III. Relevant Provisions of the Trade Act

Section 302(a)(4) of the Trade Act authorizes the U.S. Trade Representative to initiate an investigation to determine whether an act, policy, or practice of a foreign country is actionable under Section 301 of the Trade Act. Actionable matters under Section 301 include acts, policies, and practices of a foreign country that are unreasonable or discriminatory and burden or restrict U.S. commerce. *See* Section 301(b)(1). An act, policy, or practice is unreasonable if, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, it is otherwise unfair and inequitable. *See* Section 301(d)(3)(A). The statute provides that acts, policies,

and practices that are unreasonable include any act, policy, or practice, or any combination of acts, policies, or practices, which constitutes export targeting. *See* Section 301(d)(3)(B)(ii). Export targeting means any government plan or scheme consisting of a combination of coordinated actions (whether carried out severally or jointly) that are bestowed on a specific enterprise, industry, or group thereof, the effect of which is to assist the enterprise, industry, or group to become more competitive in the export of a class or kind of merchandise. *See* Section 301(d)(3)(E). The statute also provides that an act, policy, or practice of a foreign country that burdens or restricts U.S. commerce may include the provision, directly or indirectly, by that foreign country of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States. *See* Section 301(d)(2).

Pursuant to Section 304 of the Trade Act, the U.S. Trade Representative shall determine on the basis of the investigation whether any act, policy, or practice described under Section 301(b) exists. If that determination is affirmative, the U.S. Trade Representative shall determine whether action is appropriate, and if so, what action to take. *See* Section 304(a)(1)(B).

IV. Request for Public Comments

You may submit written comments on any issue covered by the investigation. In particular, USTR invites comments on:

- China's acts, policies, and practices targeting the maritime, logistics, and shipbuilding sectors for dominance;
- Whether China's acts, policies, and practices targeting the maritime, logistics, and shipbuilding sectors for dominance are unreasonable or discriminatory;

- China’s efforts to dominate the global maritime, logistics, and shipbuilding sectors, including the upstream and downstream supply chain, as well as shipping services;
- Information on other acts, policies, and practices of China relating to the maritime, logistics and shipbuilding sectors, including political guidance, directives, and control within state and private enterprises, activities of state-owned or state-controlled enterprises, market access and investment restrictions, opaque regulatory preferences and discrimination, wage-suppressing labor practices, state support of industry (including government guidance funds), and forced technology transfer (including state-sponsored cyber theft of intellectual property), or other means employed by China to achieve its goals, which might be included in this investigation, or be addressed through other applicable mechanisms;
- Whether China’s acts, policies, and practices burden or restrict U.S. commerce, and if so, the nature and level of the burden or restriction. Such comments may include economic assessments of the burden or restriction on any sector or industry, as well as assessments of the burden or restriction on labor in the United States related to the acts, policies, and practices under investigation;
- The determinations required under section 304 of the Trade Act, and,
- Any other views concerning issues raised in the petition.

To be assured of consideration, USTR must receive written comments by May 22, 2024. Additional instructions on how to submit written comments are provided in section V below.

The Section 301 Committee will convene a public hearing on May 29, 2024, in the main hearing room of the U.S. International Trade Commission, 500 E Street SW,

Washington DC 20436, beginning at 10:00 a.m. Persons wishing to appear at the hearing must provide written notification of their intention and a summary of the proposed testimony by 11:59 p.m. on May 22, 2024, using the procedures in section V below. Remarks at the hearing are limited to five minutes to allow for possible questions from the Section 301 Committee.

Post-hearing rebuttal comments, which should be limited to rebutting or supplementing testimony at the hearing, may be submitted within seven calendar days after the last day of the public hearing. Post-hearing rebuttal comments must be submitted using the electronic portal following the instructions in section V below.

V. Procedures for Notification of Intent to Testify and Written Submissions, including Rebuttal Submissions

You must submit written comments, requests to appear at the hearing, summaries of testimony, and post-hearing rebuttal comments using the appropriate docket on the portal at <https://comments.ustr.gov/s/>. To submit written comments, including post-hearing rebuttal comments, use the docket on the portal entitled “Request for Comments on the Section 301 Investigation of China’s Acts, Policies, and Practices Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance”, docket number USTR–2024–0005.

Persons wishing to provide testimony at the hearing must submit a notification of intent and summary of testimony using the docket entitled: “Request to Appear at the Hearing on the Section 301 Investigation of China’s Acts, Policies, and Practices Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance”, docket number USTR–2024–0004.

You do not need to establish an account to submit comments or notification of intent to testify. The first screen of each docket allows you to enter identification and contact information. Third party organizations such as law firms, trade associations, or customs brokers, should identify the full legal name of the organization they represent, and identify the primary point of contact for the submission. Information fields are optional; however, your comment or request may not be considered if insufficient information is provided.

Fields with a gray Business Confidential Information (BCI) notation are for BCI information which will not be made publicly available. Fields with a green (Public) notation will be viewable by the public.

After entering the identification and contact information, you can complete the remainder of the comment, or any portion of it by clicking “Next.” You may upload documents at the end of the form and indicate whether USTR should treat the documents as business confidential or public information.

Any page containing BCI must be clearly marked ‘BUSINESS CONFIDENTIAL’ on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public.

Parties uploading attachments containing BCI also must submit a public version of their comments. If these procedures are not sufficient to protect BCI or otherwise

protect business interests, please contact the USTR Section 301 support line at (202) 395-5725 to discuss whether alternative arrangements are possible.

USTR will post attachments uploaded to the docket for public inspection, except for properly designated BCI. You can view submissions on USTR's electronic portal at <https://comments.ustr.gov/s/>.

Juan Millan,
Acting General Counsel,
Office of the United States Trade Representative.