

**BEFORE THE OFFICE OF THE  
UNITED STATES TRADE REPRESENTATIVE**

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**PETITION FOR RELIEF UNDER SECTION 301  
OF THE TRADE ACT OF 1974, AS AMENDED**

**CHINA'S POLICIES IN THE MARITIME, LOGISTICS,  
AND SHIPBUILDING SECTOR**

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**ON BEHALF OF**

**THE UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING,  
ENERGY, ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL  
UNION, AFL-CIO CLC (USW), THE INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE WORKERS (IAM), THE INTERNATIONAL  
BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS,  
FORGERS AND HELPERS, AFL-CIO/CLC (IBB), THE INTERNATIONAL  
BROTHERHOOD OF ELECTRICAL WORKERS (IBEW), AND THE MARITIME  
TRADES DEPARTMENT, AFL-CIO (MTD)**

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EXHIBITS

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AND SHIPBUILDING SECTOR**

**I. INTRODUCTION**

This petition is submitted pursuant to section 302(a) of the Trade Act of 1974, as amended (“the Act”), and it requests that action be taken under section 301(b) of the Act to address the unreasonable and discriminatory acts, policies, and practices of the People’s Republic of China to dominate the maritime, logistics, and shipbuilding sector that burden or restrict U.S. Commerce. This petition contains information required by regulation to the extent it is reasonably available to the petitioners.<sup>1</sup>

**A. Executive summary**

The American commercial shipbuilding industry is a shell of its former self. After World War II, the United States led the world in commercial shipbuilding. In 1975, the industry had more than 70 commercial ships on order, employed 180,000 workers, and ranked number one in terms of shipbuilding capacity. Nearly 50 years later, the number of commercial shipyards in the United States has plunged by more than 70 percent, tens of thousands of jobs have been lost, and the United States now produces only a fraction of one percent of the world’s commercial vessels, falling to 19<sup>th</sup> place. The biggest obstacle to the industry’s recovery is the unfair trade practices of the world’s largest shipbuilding nation: China.

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<sup>1</sup> See 15 C.F.R. § 2006.1(a) and (b)(1).

The Government of China’s drive to dominate the global shipbuilding, maritime, and logistics sector is built on non-market policies that are far more aggressive and interventionist than any other country. As a result, China has seized market share, suppressed prices, and created a worldwide network of ports and logistics infrastructure that threaten to discriminate against U.S. ships and shipping companies, disrupt supply chains, and undermine vital national security interests. China’s aggressive intervention in these sector is unique among countries – and the distortions to the global market for commercial vessels, maritime shipping, and logistics that result require that China’s actions be addressed. The U.S. must take the lead in addressing these challenges and engage its allies and partners in the effort.<sup>2</sup>

China’s campaign to dominate global shipbuilding began in earnest with the issuance of the *Tenth Five Year Plan* in 2001, in which the Government of China declared its ambition to develop its shipbuilding industry into a major world-leading industry. The shipbuilding industry was designated as a “pillar” or “strategic” industry in the subsequent *Eleventh Five Year Plan*, and it has continued to be a key focus for state intervention and direction in the years since. In 2006, China designated shipping as one of the seven strategic industries over which state-owned enterprises should maintain absolute control. In 2015, China issued *Made in China 2025*, in which shipbuilding was identified as one of ten priority sectors in which China would seek to dominate global commerce by 2025.

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<sup>2</sup> Such action is consistent with ongoing efforts by the Administration to engage partners to confront such challenges. *See, e.g.*, “Joint Declaration Against Trade-Related Economic Coercion and Non-Market Policies and Practices” (June 9, 2023), attached at **Exhibit 1**.

The Government of China has funneled hundreds of billions of dollars and adopted numerous supporting policies to achieve the goals laid out in plans for shipbuilding, and it has consolidated the leadership of these efforts in large state-owned enterprises. Government interventions to accelerate the development of the Chinese shipbuilding industry include policy loans from state-owned banks, equity infusions and debt-for-equity swaps, the provision of steel plate from state-owned steel producers at below market prices, tax preferences, grants, and lavish financing from China's state-owned export credit agencies. China's plans and policies explicitly target cutting-edge technologies and high-end vessels, including those using green energy and nuclear power. In January of 2024, for example, the state-owned Jiangnan Shipyard announced plans to build the largest ever nuclear-powered container ship. The China Export-Import Bank has provided tens of billions of dollars in loans to support the construction of thousands of vessels in China for export to foreign owners, including the first container ships with the capacity to use a dual fuel diesel / LNG system, the world's largest LNG bunkering vessels, and the world's first dual fuel vessels with ammonia ready propulsion. China's state-run financial institutions also provide ship leasing, and China is now the world's leading provider of ship financing.

In addition to these acts and policies, China has given its domestic shipbuilding industry unfair advantages by mandating the purchase and use of Chinese ships by Chinese state-owned shipping enterprises and state-owned oil companies. China has also intervened in its domestic industry by directing mergers between favored state-owned companies, disapproving alliances by foreign competitors, denying berthing rights to foreign-owned ships, controlling freight rates and capacity allocations, supporting the

development of key upstream maritime technologies, and tolerating intellectual property theft. Under China's "Civil-Military Fusion" policies, firms that produce commercial ships also produce military vessels, allowing for the utilization of advanced civilian technologies in the production of ships for China's Navy, and ensuring sufficient capacity to ramp up military construction when required.

These policies are just part of China's much more ambitious goal of becoming a major maritime power through the Maritime Silk Road program, part of China's Belt and Road Initiative. In 2012, the Communist Party of China elevated the "construction of a strong maritime country" to the level of a national goal for the first time. The next year, General Secretary Xi announced China's Maritime Silk Road initiative, the goal of which is to increase China's influence over strategic maritime corridors from China to Africa, Europe, the South Pacific, and the Arctic. Key aspects of the program include promoting state-owned shipping and logistics companies, investing in strategically located foreign ports and terminals, dominating the supply of cranes used at ports around the globe, and promoting a government-sponsored logistics platform, LOGINK. As a result, Chinese companies – primarily state-owned companies – have become leaders in financing, building, operating, and owning port terminals around the world. According to one study, there is now some link to a Chinese company or financing at over 60 percent of the world's major container ports. In addition, a Chinese state-owned company provides 70 percent of the world's cargo cranes.

This maritime and logistics infrastructure gives the Government of China access to large volumes of sensitive data regarding ship traffic, container contents, freight rates, and more. It also gives China leverage to provide preferential treatment to Chinese-built

and -owned ships seeking to dock and unload at ports around the world, and to potentially deny such treatment to countries or companies that do not align with China's industrial policy and geopolitical goals. With control over ports and logistics equipment and information, the Government of China could quickly disrupt critical supply chains, even where those supply chains do not rely directly on any goods manufactured in China. This web of control also gives the Government of China access to key national and economic security intelligence regarding the global maritime economy. Together, the acts and policies China has deployed in the maritime and logistics sector give it the means to inflict severe and widespread economic coercion or damage against commercial or state actors that do not align with China's geopolitical goals.

The result of these policies is a rapidly growing network of Chinese-built vessels, owned and operated by Chinese shipping companies and others, financed by Chinese state-owned banks, and favored by a spreading web of global ports and terminals owned by Chinese firms. From 2000 to 2022, China's share of new vessels built each year on a global basis rose from less than 10 percent to 47 percent. In 2022, China built more new ships than the next two countries (Japan and Korea) combined. While Chinese shipyards now produce over 1,000 ocean-going vessels a year, the United States produces less than ten. The ratio of gross tonnage built in China to that built in the U.S. more than tripled from 108 to one in 2014 to 356 to one in 2022. China's rapid expansion based on non-market acts and policies has created overcapacity and suppressed global prices for commercial vessels, making it impossible for U.S. shipbuilders to invest and expand in the world market. Since China's expansion into the world's dominant shipbuilder began in the early 2000s, U.S. commercial shipyards have closed, the number of shipbuilding



and repair jobs in the United States has shrunk, the number of commercial vessels constructed and delivered by the remaining shipyards has fallen, and supporting supply chains have been decimated.

These policies have also led to rapid growth in China's merchant fleet, which grew from about one-twentieth of the world's fleet in the early 2000s to one-seventh today. During the same period, the fleet of privately owned, U.S.-flagged oceangoing vessels that had been made in the United States plummeted by more than half, from 193 vessels in 2000 to just 93 today. The U.S. has fewer than 80 commercial ships in international service, while China has more than 5,500 merchant ships. The scarcity of U.S.-built and U.S.-flagged ships raises important national security concerns about the availability of sufficient merchant marine resources and skills to support the military in the event of a conflict or national emergency. Indeed, of the more than 60 ships enrolled in the Maritime Administration's Maritime Security Program ("MSP") and Tanker Security Program ("TSP") – U.S.-flagged vessels that agree to be available to the Department of Defense when needed in return for an annual stipend – not a single one was produced in the United States, and the last three tankers enrolled in the program were built in China.

In short, it will simply not be possible for the U.S. shipbuilding industry to recover and operate sustainably until China's unfair policies are addressed. For more than 20 years, the Government of China has pursued the explicit goal of becoming the world's largest shipbuilding nation by implementing a wide range of supportive policy interventions, including directing billions upon billions of dollars into its shipbuilding industry. These acts, policies, and practices are unreasonable, unfair, inequitable, and

discriminatory, and they have burdened and restricted U.S. commerce. China's policies have created global overcapacity in the shipbuilding sector, depressed global prices, and reduced domestic production and employment across shipbuilding and the shipbuilding supply chain, and they threaten American economic and national security. These policies thus warrant a response under Section 301 of the trade laws.

Section 301 provides an appropriate mechanism for addressing China's policies in the maritime, logistics, and shipbuilding sector. First, traditional trade remedies are not available to address China's unfair trade practices in this area, as the vast majority of ships produced in China are used in international commerce, and never imported into the United States. Second, the statute gives the United States Trade Representative ("USTR") the power not only to impose tariffs, but also to impose fees and other restrictions, as well as take all other appropriate and feasible action within the power of the President. Third, Congress explicitly recognized that, by definition, support for the construction of foreign vessels used in international trade burdens or restricts U.S. commerce and thus is a proper target for action under Section 301.

For all of these reasons, USTR should take all appropriate and feasible action to obtain the elimination of China's practices. That action should include the assessment of a port fee on Chinese-built ships that dock at a U.S. port, the creation of a Shipbuilding Revitalization Fund to help the domestic industry and its workers compete, and other measures to stimulate demand for, and the capacity to construct, commercial vessels built in the United States. The commercial shipbuilding and repair industry in the United States can compete and grow if the massive market distortions that the Government of China has created are remedied. The restoration of America's commercial shipbuilding

industrial base will create high-skilled jobs, drive demand for key upstream technologies and inputs, and ensure a sufficient domestic fleet to safeguard national security. Section 301 is the right tool at the right time to counteract China’s predatory and destructive practices, rebuild a vibrant domestic shipbuilding industry and supplier base, and protect America’s economic and national security for years to come.

**B. The Petitioners**

This petition is filed on behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO CLC (“USW”), the International Association of Machinists and Aerospace Workers (“IAM”), the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO/CLC (“IBB”), the International Brotherhood of Electrical Workers (“IBEW”), and the Maritime Trades Department, AFL-CIO (“MTD”).

The USW, IAM, IBB, IBEW, and MTD are interested parties within the meaning of the statute and regulations because they have significant interests affected by China’s unreasonable and discriminatory policies that burden or restrict U.S. commerce in the maritime, logistics, and shipbuilding sector.

The statute states that the term “interested persons,” includes, but is not limited to, domestic workers “that may be affected by actions taken under” Section 301 of the Trade Act of 1974, as amended (“Section 301”).<sup>3</sup> USTR’s regulations further define an interested person as any party who “has a significant interest affected by the act, policy or practice complained of” in a petition, including a “union or group of workers which is

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<sup>3</sup> 19 U.S.C. § 2411(d)(9).

representative of an industry” that produces in the United States a product affected by the act, policy, or practice complained of.<sup>4</sup>

The USW, IAM, IBB, IBEW, and MTD are interested persons whose significant interests are affected by China’s policies on shipbuilding and related maritime industries. As described in more detail below, China’s policies have taken global market share from domestic shipbuilders, depressed global prices for vessels, and discriminated against ships and related upstream technologies produced in the United States, thus preventing the domestic shipbuilding industry and its upstream suppliers from maintaining needed production and jobs here in the United States. China’s drive to dominate global maritime and logistics trade have also resulted in the country becoming a key player in logistics and port infrastructure. Through these policies, the Government of China is developing the ability to assess international shipping activities of its commercial rivals, monopolize cargo intelligence, access the systems controlling customs information for global maritime trade, and potentially disrupt port operations. This network of ships, shipping companies, ports, and logistics systems supported and controlled by the Government of China threatens to impair free and open maritime trade and puts key supply chains and national security priorities at risk.

Further information on each petitioner’s interested party status is provided below.

#### The USW

The USW is America’s largest manufacturing union, representing more than 850,000 workers in a wide array of sectors. The USW represents workers not only making commercial vessels themselves, but in naval shipyards. The skill sets utilized in

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<sup>4</sup> 15 C.F.R. § 2006.0(b).

shipbuilding often are transferrable between commercial and military applications and, as a result, there is a direct relationship between the strength of commercial shipbuilding and the capacity to meet the needs of the military.

The USW also represents workers in the production of steel that is used in commercial vessels themselves as well as key components such as engines, boilers, and propulsion systems. The USW also represents workers producing glass, cables, pipes, fittings, pumps, and other machinery, equipment and products used in the shipbuilding sector. The jobs of these USW members are directly impacted by China's policies. When U.S. shipbuilders' ability to compete is undercut by Chinese producers that benefit from unfair, non-market government interventions and direction, USW members are deprived of high-skilled jobs and family-supporting wages and benefits.

For all of these reasons, the USW is an interested party and thus entitled to file this petition under the Section 301 statute and USTR's regulations.

#### The IAM

As one of the nation's largest shipbuilding unions, the IAM has a vested interest in our nation's capacity to build and maintain vessels. The IAM represents thousands of workers across the United States in shipbuilding and related industries. IAM members work along the Kennebec River in Maine where union workers at Bath Iron Works build advanced destroyers, at Electric Boat in Groton, Connecticut where union workers construct Navy submarines, and on the Gulf Coast in Pascagoula, Mississippi where union members prepare our naval vessels for their entry into service. The IAM also represents workers at the NASSCO shipyard in San Diego, which has the capacity to

build both commercial and government vessels, as well as workers engaged in commercial shipbuilding and repair at Vigor Shipyards in Seattle and Portland.

America's capacity to build the newest generation of vessels has been weakened by China's illegal support of its shipbuilding industry. This extends into all facets of the ship construction and repair process that employ IAM members. The shipbuilding supply chain is being eroded, leaving U.S. shipbuilders unable to find the parts they need. Shipyards which previously excelled at both shipbuilding and repair have been reduced to repair-only facilities, decimating their workforces and directly harming IAM members.

For all of these reasons, the IAM is an interested party that has a significant interest in remedying China's unfair trade practices in the sector, and thus is entitled to file this petition under Section 301.

#### The IBB

The IBB represents workers that build and repair naval ships and commercial vessels at locations across the United States. The IBB contributed mightily to the war effort during WWI and WWII, building hundreds of combat and Liberty transport ships. Today, IBB members build some of the finest military, merchant and specialty ships in the world, including aircraft carriers, submarines, littoral combat ships, destroyers, frigates, tankers, dry cargo ships, icebreakers, tugboats, and commercial fishing boats. Examples of U.S. shipyards with workers represented by the IBB include Electric Boat in Groton, CT; Fincantieri Bay Shipbuilding in Sturgeon Bay, WI; Ingalls Shipbuilding in Pascagoula, MS; Marinette Marine in Marinette, WI; NASSCO in San Diego, CA; Philly Shipyards in Philadelphia, PA; Vigor in Seattle, WA; and public Navy shipyards in Pearl Harbor, HI, Portsmouth, VA, Kittery, ME, Bremerton, WA, and Baltimore, MD.

The IBB is directly impacted by China's unfair practices in the shipbuilding sector. These practices have taken market share from U.S. shipyards, depressed and suppressed global prices, and weakened our domestic shipbuilding supply chain. These practices have deprived IBB members of high-skilled, well-paying jobs in commercial shipbuilding in the United States. China's policies also threaten the long-term viability of our domestic shipbuilding industrial base, which undermines both commercial and naval shipbuilding and threatens our economic and national security.

For all of these reasons, the IBB is an interested party that has a significant interest in remedying China's unfair trade practices in the sector, and thus is entitled to file this petition under Section 301.

#### The IBEW

The IBEW represents 820,000 active and retired members. Notably, IBEW represents thousands of electrical workers in four crucial naval shipyards: Pearl Harbor, HI; Portsmouth, NH; Norfolk, VA; and Puget Sound, WA. At these facilities, IBEW members play vital roles in modernizing and maintaining naval submarines and aircraft carriers. In addition, IBEW electricians are responsible for the construction of commercial shipping vessels across the U.S.

IBEW represents a technically diverse workforce; IBEW members specialize in marine electrical work, electronics manufacturing, electrical maintenance, power plant operation, advanced manufacturing, and electrical inspections. Given the sensitive nature of the tasks undertaken at these facilities, IBEW members uphold the highest standards of confidentiality, holding various levels of security clearances essential for their work to build and maintain our nation's most crucial defense infrastructure.

The IBEW understands the importance of investments in national defense and security, fostering partnerships with allied nations, with a predominant focus on the South Pacific region. China undercuts the IBEW’s ability to build and maintain this vital part of U.S. national security – not just impacting current IBEW members and their livelihood but also prospective IBEW jobs throughout the supply chain. For these reasons, the IBEW is a co-petitioner seeking to remedy China’s unfair trade practices in the shipbuilding industry.

For all of these reasons, the IBEW is an interested party that has a significant interest in remedying China’s unfair trade practices in the sector, and thus is entitled to file this petition under Section 301.

#### MTD

MTD is a constitutionally-mandated trade department of the AFL-CIO, representing approximately 2 million U.S. and Canadian workers within 24 different affiliate unions since its chartering in 1946.<sup>5</sup> The MTD’s rank-and-file membership includes mariners, dockworkers, shipbuilders and breakers, port authority workers, and many others in allied trades. Many are directly affected by China’s unfair practices. As a “group of workers which is representative of an industry,” the MTD therefore is an interested person.

The MTD’s membership in the shipbuilding sector, including but not limited to the USW, IAM, IBB, and IBEW, has declined over time as Chinese vessel production has outstripped that of the United States. This has also put pressure on the remaining U.S. commercial shipyards to hire non-union, as those employers perceive the cost of a

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<sup>5</sup> A list of MTD’s affiliate unions is attached at **Exhibit 2**.



unionized workforce would harm what remains of their ability to be competitive in the global market.

Additionally, China's shipbuilding practices have secondary effects on other aspects of the U.S. maritime workforce. Mariners within MTD's membership have diminished job opportunities due to the small size of the U.S.-built, U.S.-flagged merchant fleet. Port workers are jeopardized by surveillance technology harnessed by Chinese-built shipping cranes. The MTD union members who produce domestic shipyard equipment such as cranes also have been negatively impacted by China's manipulation of subsidies to dominate the global market.

For all of these reasons, the MTD is an interested party that has a significant interest in remedying China's unfair trade practices in the sector, and thus is entitled to file this petition under Section 301.

### **C. Other introductory information**

The laws and regulations that are the subject of this petition have been provided in the relevant exhibits wherever possible.<sup>6</sup> Where, despite best efforts, it has not been possible to obtain a copy of a law, policy, or regulation cited in this petition, we provide a citation with as much particularity as possible. The foreign country whose acts, policies, or practices are the subject of this petition is the People's Republic of China.<sup>7</sup> The products, services, and investments subject to China's policies are commercial vessels, including oceangoing and offshore vessels, as well as upstream inputs into such vessels

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<sup>6</sup> This statement complies with 15 C.F.R. § 2006.1(a)(3).

<sup>7</sup> This statement complies with 15 C.F.R. § 2006.1(a)(4).

and the downstream maritime and logistics services, equipment, and investments that rely on and support such vessels.<sup>8</sup>

Information demonstrating that China’s acts, policies, and practices in this sector are unreasonable, discriminatory, and burden or restrict U.S. commerce is provided in Sections II and III below.<sup>9</sup> We note that the Act defines an “unreasonable” act, policy, or practice as one that, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair or inequitable.<sup>10</sup> Such acts include those that deny nondiscriminatory market access and market opportunities or constitute export targeting.<sup>11</sup> Finally, we note that the statute also explicitly recognizes that the acts, policies, and practices that may burden or restrict U.S. commerce include “the provision, directly or indirectly, ... of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States.”<sup>12</sup>

The petitioners have not filed for other forms of relief under the Trade Act or any other provision of law regarding the acts, policies, and practices that are the subject of this petition.<sup>13</sup> In recognition of the unique competitive disadvantage that a country’s shipbuilders and workers face when foreign-built ships are unfairly traded, the European Union proposed a process by which domestic producers can demonstrate the injury that

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<sup>8</sup> This statement complies with 15 C.F.R. § 2006.1(a)(5).

<sup>9</sup> See 15 C.F.R. § 2006.1(a)(6) & (7).

<sup>10</sup> See 19 U.S.C. § 2411(d)(3)(A).

<sup>11</sup> See 19 U.S.C. § 2411(d)(3)(B).

<sup>12</sup> 19 U.S.C. § 2411(d)(2).

<sup>13</sup> This statement complies with 15 C.F.R. § 2006.1(a)(8).

such practices cause and have a fee imposed on foreign shipbuilders to offset the amount by which their ships' prices fall short of fair value.<sup>14</sup> No such mechanism exists in U.S. law, and Section 301 is thus the only viable means for seeking relief from China's unreasonable, discriminatory, and harmful practices in this sector.

#### **D. Public hearing**

The petitioners request that a public hearing be held regarding this petition consistent with 19 U.S.C. § 2412(a)(4), and the petitioners will be represented at any hearing that USTR and the Section 301 Committee convene.

#### **E. Conclusion**

The petitioners have a strong interest in ensuring the United States has a healthy maritime sector, including a strong and growing commercial shipbuilding, maintenance, and repair industry. These goals cannot be reached unless the U.S. government addresses the unfair, discriminatory, and non-market policies and practices of the Government of China in this sector, which burden and restrict U.S. commerce and prevent the revitalization of our shipbuilding economy.

The petition is organized as follows. Section II details the acts, policies and practices that are the subject of this petition. Section II.A provides an overview of the Government of China's goals, developed since 2000, to become the dominant shipbuilding nation in the world and explains how this goal fits into China's broader ambitions to be a top maritime nation with control over ports and logistics in strategic locations around the globe. Section II.B details the individual plans issued by the

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<sup>14</sup> Regulation (EU) 2016/1035 of the European Parliament and of the Council, "On protection against injurious pricing of vessels" (June 8, 2016), attached at **Exhibit 3**. The regulation is codified but is not in force because the OECD shipbuilding agreement it was designed to implement has not been ratified.

Government of China since 2000 to achieve these goals, particularly to support its shipbuilding industry. Section II.C demonstrates that these policies are unreasonable and discriminatory within the meaning of Section 301(b)(1) of the Act, as they have resulted in massive government interventions in favor of Chinese companies, discrimination against non-Chinese producers and operators, and other unfair practices.

Section III demonstrates that these policies have burdened and restricted U.S. commerce within the meaning of Section 301(b)(1) of the Act. Finally, Section IV identifies actions that are appropriate for USTR and the President to take pursuant to Section 301(b)(2) to counteract China's unreasonable and discriminatory practices and support the revitalization of commercial shipbuilding in the United States.

## **II. CHINA'S ACTS, POLICIES, AND PRACTICES IN THE MARITIME, LOGISTICS, AND SHIPBUILDING SECTOR**

### **A. Overview of China's plans targeting the global maritime, logistics, and shipbuilding sector for dominance**

It is often said that the shipping industry is the lifeblood of global commerce. The shipping sector carries 90 percent of all traded goods globally,<sup>15</sup> and nearly 70 percent of goods imported to and exported from the United States by weight.<sup>16</sup> In addition, the ships, ports, terminals, and logistics systems that support commercial shipping also play an important national security role by providing locations and infrastructure for naval ships to dock for repairs and supplies, as well as for vessels that must transport supplies and personnel in the event of overseas conflicts. A healthy commercial shipbuilding

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<sup>15</sup> OECD, "Ocean shipping and shipbuilding," attached at **Exhibit 4**. *See also* International Chamber of Shipping, "Shipping and World Trade: World Seaborne Trade," attached at **Exhibit 5**.

<sup>16</sup> *See* Bureau of Transportation Statistics, "On National Maritime Day and Every Day, U.S. Economy Relies on Waterborne Shipping" (May 12, 2021), attached at **Exhibit 6**.

industry also helps to support the upstream industries, workforce, and infrastructure necessary to support naval shipbuilding.

As a result, a healthy domestic maritime industry has historically been seen as vital to U.S. economic and national security interests.<sup>17</sup> For this reason, Congress declared in the Merchant Marine Act of 1936 that having a merchant marine not only capable of supporting naval and military operations but also sufficient to carry domestic waterborne commerce as well as “a substantial part” of international commerce, composed of vessels constructed in the United States, and “supplemented by efficient facilities for building and repairing vessels” in the United States to be “necessary for the national defense and the development of the domestic and foreign commerce of the United States.”<sup>18</sup>

Over the last twenty years, China’s policies and practices have undermined the ability of the United States to meet these key national policy priorities. As explained in more detail below, China’s campaign to dominate global shipbuilding began in earnest with the issuance of the *Tenth Five Year Plan* covering the 2001 to 2005 period, in which the Government of China declared its ambition to develop its shipbuilding industry into a major world-leading industry. The shipbuilding industry was designated as a “pillar” or “strategic” industry in the *Eleventh Five Year Plan*, and it has continued to be a key focus

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<sup>17</sup> Alfred Thayer Mahan, president of the United States Naval War College in the 1890s, defined a maritime power as a nation possessing not only a powerful navy, but also a sizable merchant marine and capable maritime industries such as shipbuilding. See Christopher J. McMahon, “The Middle Kingdom Returns to the Sea, While America Turns Its Back—How China Came to Dominate the Global Maritime Industry, and the Implications for the World,” *Naval War College Review*: Vol. 74: No. 2, Article 7 (“The Middle Kingdom”) at 89, attached at **Exhibit 7**.

<sup>18</sup> 46 U.S.C. § 50101(a).

for state support and control in the years since. In 2006, China’s State-owned Assets Supervision and Administration Commission of the State Council (“SASAC”) designated shipping as one of the seven strategic industries over which state-owned enterprises (“SOEs”) should maintain absolute control.<sup>19</sup> In 2015, China issued *Made in China 2025*, in which shipbuilding was identified as one of ten priority sectors in which China would seek to dominate global commerce by 2025.

These plans were part of a larger campaign by the Government of China to become a major maritime power by promoting state-owned shipping and logistics companies, investing in strategically located foreign ports and terminals, and developing a government-owned logistics platform. In 2012, at the Eighteenth National Congress of the Communist Party of China, the government elevated the “construction of a strong maritime country” to the level of a national goal for the first time.<sup>20</sup> The next year, President Xi announced China’s Maritime Silk Road initiative, which would eventually become part of China’s Belt and Road Initiative (“BRI”).<sup>21</sup> The goal of both initiatives is to increase China’s influence over strategic maritime corridors from China to Africa, Europe, the South Pacific, and the Arctic.<sup>22</sup>

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<sup>19</sup> Isaac B. Kardon and Wendy Leutert, “Pier Competitor: China’s Power Position in Global Ports,” *International Security*, Vol. 46, No. 4 (Spring 2022) (“Pier Competitor”) at 32, attached at **Exhibit 8**.

<sup>20</sup> The Middle Kingdom, **Exhibit 7** at 99.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 100. *See also* Testimony of Carolyn Bartholomew, Chairman, U.S.-China Economic and Security Review Commission, before the House Committee on Transportation and Infrastructure “China’s Maritime Silk Road Initiative: Implications for the Global Maritime Supply Chain,” (Oct. 17, 2019) (“Bartholomew Testimony”), attached at **Exhibit 9**.

As detailed below, the Government of China has made interventions with hundreds of billions of dollars to achieve the goals laid out in these plans and consolidated leadership in these efforts in large SOEs. Chinese companies, primarily state-owned companies, have become leaders in financing, building, operating, and owning port terminals around the world. Chinese companies now also dominate global maritime shipping and shipping finance, and Chinese companies produce nearly half the world's ships – more than the second- and third-largest countries combined.

The result is an integrated network of Chinese-built vessels, owned and operated by Chinese shipping companies and others, financed by Chinese banks, and favored by a growing web of global ports and terminals owned by Chinese SOEs. Taken together, China's acts, policies, and practices have increased global overcapacity in shipbuilding, artificially depressed vessel prices, and contributed to the downward trends in the U.S. shipbuilding industry since 2000. As a result, the U.S. now builds fewer than 10 commercial oceangoing vessels a year, while China builds 1,000. The U.S. has fewer than 80 commercial ships in international service while China has more than 5,500 merchant ships.<sup>23</sup>

In short, it will simply not be possible for the U.S. industry invest, expand, and operate sustainably until China's unfair policies are addressed. China's practices also threaten to deny U.S.-built ships nondiscriminatory access to shipping finance and opportunities to dock at Chinese-owned or controlled ports. Directives to Chinese SOEs to integrate civil and military operations and share intelligence with the State, together

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<sup>23</sup> "As China Expands Its Fleets, US Analysts Call for Catch-up Efforts," Voice of America (Sept. 13, 2022), attached at **Exhibit 10**.

with the gathering of detailed information on vessel movements and characteristics through port ownership and a government-supported logistics platform, LOGINK, also create the potential for the disruption of key supply chains and raise other national security concerns. Chinese access to, and control over, cargo intelligence through these systems could also provide an unfair commercial advantage to Chinese-owned and -built ships to the detriment of U.S.-built ships.

The next section focuses on China’s policies to specifically support its shipbuilding industry, a key part of the country’s larger drive to dominate the global maritime and logistics sector.

## **B. China’s policies targeting dominance in shipbuilding**

### **1. China’s industrial planning**

China’s path to becoming the world’s leading shipbuilder was not the result of market forces. Instead, it was pursuant to industrial directives, plans, and targeting, including widespread government interventions and support. China has published industrial plans from almost the very start of the Communist era – while early plans contained little more than numerical production targets, more recent plans have grown more sophisticated and identify various incentives for designated projects. In recent years, the Chinese government and Chinese Communist Party (“CCP”) have also played greater roles in the economy and industry, as state-owned enterprises rose in prominence and market reforms lost steam.<sup>24</sup>

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<sup>24</sup> “China’s Xi Jinping Shrugs Off Criticism in Push for Even More Control,” *The Wall Street Journal* (Mar. 3, 2023), attached at **Exhibit 11**; Eswar Prasad, “The Problems with China’s Economy Start at the Top,” *The New York Times* (Aug. 26, 2023), attached at **Exhibit 12**.



As USTR has observed, China’s “industrial policies reflect a top-down, state-directed approach to technology development.”<sup>25</sup> The Chinese denote an industry as strategic, and then employ industrial policies, formal and informal, to foster its development.<sup>26</sup> For example, USTR has found that

Investments that are “encouraged” receive several forms of government support, including: subsidies for fees incurred, and bank loans at government-subsidized interest rates; policy bank loan support; priority administrative approval; priority support for the use of foreign exchange; export tax rebates on exports of equipment and other materials relating to the overseas investment project; priority access to services relating to overseas financing, investment consultation, risk evaluation, risk control, and investment insurance; and coordinated support from several government departments with respect to information exchange, diplomatic protections, the travel of personnel abroad, and registration of import and export rights.<sup>27</sup>

Part of the reason behind the relative success of China’s recent industrial policies is the Chinese government’s ability to control the country’s financial sector and direct the behavior of banks. As the U.S.-China Economic and Security Review Commission has noted, “Despite four decades of promised liberalization, the Communist Party-state retains the ability to intervene decisively in the banking system to achieve desired outcomes.”<sup>28</sup>

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<sup>25</sup> Office of the United States Trade Representative, “Findings of the Investigation into China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation under Section 301 of the Trade Act of 1974” (Mar. 22, 2018) (“USTR Findings on China 301 Investigation”) at 10, attached at **Exhibit 13**.

<sup>26</sup> See Keith Crane et al., “The Effectiveness of China’s Industrial Policies in Commercial aviation Manufacturing,” RAND (2014) at iii, attached at **Exhibit 14**; see also USTR Findings on China 301 Investigation, **Exhibit 13** at 63.

<sup>27</sup> USTR Findings on China 301 Investigation, **Exhibit 13** at 77.

<sup>28</sup> “China’s Banking Sector Risks and Implications for the United States,” U.S.-China Economic and Security Review Commission (May 27, 2020) at 3, attached at **Exhibit 15**.

While China does not publicize official data on the extent of its financial support pursuant to industrial policies, estimates range from 1.7 to 4.9 percent of GDP, “far surpassing any other nation’s spending on industrial policy.”<sup>29</sup> In addition, the Government of China uses its power over economic actors to ensure that they meet the country’s strategic goals, regardless of whether or not those goals align with market incentives.<sup>30</sup> It is the Chinese government’s industrial policies, and the support that flows from them, as well as the government’s widespread non-market interventions throughout the economy and control over economic actors, that are the reason China’s shipbuilding industry is now the largest in the world.

## 2. The Tenth Five Year Plan Era (2001-2005)

The push to develop China into a shipbuilding powerhouse began in earnest during the period covered by the *Tenth Five Year Plan*, roughly coinciding with China’s accession to the World Trade Organization. As observed by the OECD,

the Chinese government expressed its ambition in its 10th Five-Year Economic Plan (2001-2005) to develop its shipbuilding industry into a major world-leading industry. The two large state-owned conglomerates [the China Shipbuilding Industry Corporation (“CSIC”)] and [the China State Shipbuilding Corporation (“CSSC”)] sharply expanded their business activities in the subsequent period of time, with the support of the Chinese central and local governments.<sup>31</sup>

During this period, China published the *Outline for the Maritime Economy Development* (the “*Maritime Outline*”) calling for structural reforms and listing numerous

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<sup>29</sup> Bonnie Glaser and John Lee, “China’s Industrial Policy and Semiconductors,” German Marshall Fund of the United States (Apr. 25, 2023), attached at **Exhibit 16**.

<sup>30</sup> See, e.g., *The Party Knows Best: Aligning economic actors with China’s strategic goals*, MERICS (Oct. 2023), attached at **Exhibit 17**.

<sup>31</sup> See OECD, “Report on China’s shipbuilding industry and policies affecting it” (April 2021) (“OECD Report on China’s Shipbuilding Industry”) at 32, attached at **Exhibit 18**.

goals for the end of the decade, including development of three major shipbuilding hubs, the Bohai Rim Shipbuilding Industry Belt, the East China Sea Shipbuilding Industry (Shanghai), and the South China Sea Shipbuilding Industry (Guangzhou).<sup>32</sup> The *Maritime Outline* also set a target for the sector to account for five percent of overall Chinese GDP by 2020, and ten percent of GDP in coastal provinces.

### 3. The Eleventh Five Year Plan Era (2006-2010)

The central government followed up with the *Medium and Long-Term Development Plan for the Shipbuilding Industry* in 2006, which called for making various improvements to the industry through a ten-year period.<sup>33</sup> Among other things, the plan called for improving financing for new ship construction by offering more bonds and leases.<sup>34</sup> The plan also encouraged partnerships within the shipbuilding industry.<sup>35</sup> As the OECD observed,

The restructuring of shipyards through mergers and acquisitions, the integration of industrial resources, the focus on specific areas to develop large-scale shipbuilding bases (e.g. Bohai Bay, Yangtze and Pearl River), the development of independent technologies leading to the increase of the annual production of medium and low speed diesel engines, and the establishment of large enterprise groups with strong product development, marketing and management skills were some of the elements in the Chinese tool-box to achieve these objectives.<sup>36</sup>

Moreover, under

the auspices of this policy, the COSCO's Dalian branch was established through a joint venture with the COSCO group and Kawasaki Heavy Industries in 2007. Yangzijiang Shipbuilding, China's largest private

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<sup>32</sup> *See id.*

<sup>33</sup> *See* "Two Departments Jointly Released the 'Medium and Long-Term Development Plan for the Shipbuilding Industry'" (Sept. 18, 2006), attached at **Exhibit 19**.

<sup>34</sup> OECD Report on China's Shipbuilding Industry, **Exhibit 18** at 33.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

shipyard, was listed on the Singapore Stock Exchange in 2007. CSIC founded its subsidiary CSIC Limited, which was listed on the Shanghai Stock Exchange in 2008.<sup>37</sup>

Just a short time later the Chinese government announced the *Action Outline for Establishing a Modern Shipbuilding Model in an All-Around Way (2006-2010)*.<sup>38</sup> This policy directed all levels of government to, *inter alia*, support the development of new shipbuilding enterprises, efficiency improvements, information sharing, and increase funding for such efforts.

At about the same time, the central authorities designated shipbuilding as a “pillar” or “strategic” industry in the *Eleventh Five Year Plan*,<sup>39</sup> leading to similar designations in numerous provincial plans.<sup>40</sup>

Following the financial crisis in 2008, China released its *Ship Industry Adjustment and Revitalization Plan* (the “*Revitalization Plan*”) for 2009-2011 to address a sharp drop in demand for ships.<sup>41</sup> This *Revitalization Plan* acknowledged the “rapid development” of Chinese shipbuilding starting in 2003 but lamented that the financial crisis in 2008 negatively affected both shipping and shipbuilding. The *Revitalization Plan* set a production goal for ships built of 50 million tons in 2011, as well as a goal for diesel engines, and outlined policies to help companies achieve these goals, including

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<sup>37</sup> *Id.*

<sup>38</sup> See “Notice of the Commission of Science, Technology and Industry for National Defense on Printing and Distributing the Action Outline for Establishing a Modern Shipbuilding Model in an All-round Way (2006-2010)” (Sept. 24, 2015), attached at **Exhibit 20**.

<sup>39</sup> See Panle Jia Barwick, Myrto Kalouptsidi, and Nahim Bin Zahur, “Industrial Policy Implementation: Empirical Evidence from China’s Shipbuilding Industry” (March 2021) (“Industrial Policy Implementation”) at 2, attached at **Exhibit 21**.

<sup>40</sup> *Id.* at 7.

<sup>41</sup> “Ship Industry Adjustment and Revitalization Plan,” attached at **Exhibit 22**.

increasing credit financing support for production and operation, increasing credit for ship export buyers, encouraging the purchase of abandoned ships, and striving to expand domestic ship market demand, accelerate the elimination of old ships and single-hull tankers, strictly control new production capacity, improve policies and measures for corporate mergers and reorganizations, and increase investment in scientific research and development and technological transformation.<sup>42</sup>

In connection with the call for increased financing, the *Revitalization Plan* directed that “all relevant banks shall ensure that the working capital loans required by the shipbuilding enterprises under construction and valid contracts are in place on schedule,” and “accelerate the establishment of a shipbuilding industry investment fund,” and “encourage financial institutions to increase the supply of credit funds for ship export buyers.” The *Revitalization Plan* also called for the promotion of “strategic alliances between large shipping companies and upstream and downstream companies to support each other and develop together.”<sup>43</sup>

In 2009, The Chinese government then launched a program to promote domestic shipbuilding by paying owners of single-hull tankers to scrap them before the end of their useful lives and buy new ships.<sup>44</sup> In 2011, China expanded the program to more ship types through the *Administrative Measures for Special Funds for Subsidies for the Retirement and Renewal of Old Ships and Single-hull Tankers*.<sup>45</sup> The program proved

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<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> “Announcement No. 52 of 2009 of the Ministry of Transport—Announcement on Publishing the Implementation Plan for Early Elimination of Domestic Navigation Single-hull Tankers” (Dec. 7, 2009), attached at **Exhibit 23**.

<sup>45</sup> “Notice of the Ministry of Finance and other departments on printing and distributing the Administrative Measures for Special Funds for Subsidies for the Retirement and Renewal of Old Ships and Single-hull Tankers,” Cai Jian [2011] No. 4 (Jan. 4, 2011), attached at **Exhibit 24**.

very successful and was renewed in 2013, 2015, and 2017.<sup>46</sup> Under the original terms of the program, shipping companies received all of the funding only after they demolished their aging ships and built replacement vessels. Beginning in 2014, however, companies could receive financing before they commissioned a new ship, which provided an even greater incentive to scrap their older vessels, essentially allowing companies to front-load the benefits of the program.<sup>47</sup>

Reports indicate that state-owned shipbuilding yards attracted almost all of the new orders resulting from this scrap program.<sup>48</sup> Not surprisingly, China had grown from a global market share of around ten percent at the start of the Chinese government's push to become the world's largest shipbuilder by the end of the Eleventh Five Year Plan period in 2010.

#### 4. The Twelfth Five Year Plan Era (2011-2015)

China's *12<sup>th</sup> Five Year Plan* identified shipbuilding as one of nine key manufacturing industries for special attention.<sup>49</sup> Goals for this new planning cycle included improving technology and producing more value-added accessories.<sup>50</sup> With respect to shipbuilding, the plan states "The shipbuilding industry should establish a modern shipbuilding pattern, and develop shipbuilding and supporting equipment with

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<sup>46</sup> OECD Report on China's Shipbuilding Industry, **Exhibit 18** at 45.

<sup>47</sup> Jude Blanchette et al., "Hidden Harbors: China's State-backed Shipping Industry," CSIS (July 8, 2020) ("Hidden Harbors") at 4, attached at **Exhibit 25**.

<sup>48</sup> See OECD Report on China's Shipbuilding Industry, **Exhibit 18** at 45.

<sup>49</sup> See, e.g., Fan Gang & He Liping, China's 12<sup>th</sup> Five Year Plan, Kraneshares.com at 5, attached at **Exhibit 26**.

<sup>50</sup> See *id.*

high technical added value in adaptation to new international shipbuilding standards.”<sup>51</sup>

The plan continues by stating the country should:

Promote the upgrading of the three main vessel types of bulk vessel, oil tanker and container vessel in accordance with new international shipbuilding standards. Improve the ship equipment industry and loading rate. Give priority to the development of large liquefied natural gas (LNG) and liquefied petroleum gas (LPG) vessels, ocean-going fishing vessels, luxury liners, and other high-tech and high-added-value vessels. Accelerate the independent design and manufacture of mobile marine drilling platforms, floating production systems, marine engineering work ships, auxiliary ships, and key supporting equipment and systems.<sup>52</sup>

Although the plan paid lip service to market forces, it also directed that “government at all levels should correctly perform their duties to rationally allocate public resources, and ensure the objectives and tasks under the Plan can be met.”<sup>53</sup>

The broad goals set forth in the *12<sup>th</sup> Five Year Plan* were implemented through the *12th Five-Year Implementation Plan for the Shipbuilding Industry (2011-2015)* (the “*2011-2015 Implementation Plan*”). The *Implementation Plan* promoted the formation of more than 50 international brands and the creation of at least five marine equipment suppliers.<sup>54</sup> It also instructed that large shipbuilding companies should spend at least two percent of their revenue on research and development, speeding up the construction of ultra-large container ships, LPG ships, and LNG ships.<sup>55</sup> The plan also called for an increase in the productivity of the Chinese shipbuilding industry (*e.g.*, the ten largest Chinese shipbuilding companies should gain a domestic market share of at least 70

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<sup>51</sup> The 12th Five-Year Plan for National Economic and Social Development of the People’s Republic of China (2011-2015), attached at **Exhibit 27**.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 28.

<sup>55</sup> *Id.* at 28.

percent, implement lean shipbuilding production processes, and upgrade the local supply chain and supporting industries). The *2011-2015 Implementation Plan* further reserved a role for government in:

- implementing research and development policies (including the establishment of a Scientific Research Fund to support key enterprises);
- improving fiscal, tax and financial policies (*e.g.*, export tax rebate, equipment insurance, ship mortgage financing); and
- attracting highly-skilled talent (*e.g.*, disciplining leadership and promoting training centers).

In 2013, China published an *Implementation Plan for Accelerating Structural Adjustment and Promoting Transformation and Upgrading of the Shipbuilding Industry (2013-2015)* (the “*2013 Implementation Plan*”).<sup>56</sup> This document begins by lauding improvements in China’s shipbuilding industry since the issuance of the *Medium and Long-Term Development Plan for the Ship-building Industry in 2006*, noting in particular that “the proportion of shipbuilding completions, new orders, and hand-held orders in the world market has increased significantly.”

This *2013 Implementation Plan* set forth a variety of tasks for the industry, including increasing research, improving energy consumption, promoting safety and environmental protection technologies, and “mastering” the manufacture of modules for ships. It also called for “strictly controlling market access” and directs the industry to reorganize through mergers and eliminate outdated capacity in favor of the three major

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<sup>56</sup> “Circular of the State Council on Printing and Distributing the Implementation Plan for Accelerating Structural Adjustment and Promoting Transformation and Upgrading of the Shipbuilding Industry (2013-2015)” (July 31, 2013) Guofa [2013] No. 29, attached at **Exhibit 28**.



shipbuilding bases in the Bohai Rim, Yangtze River Estuary, and Pearl River. Another key aspect of the plan involved increasing “military-civilian integration” through shared research and resources.<sup>57</sup>

The *2013 Implementation Plan* continued financial support for the scrapping of old ships. It also encouraged “financial institutions to increase the supply of buyer’s credit funds for ship export, and provide export buyer’s credit to overseas shipowners who order ships and marine engineering equipment in major domestic shipyards.” It further directed “banking financial institutions to actively expand diversified financing channels and raise funds through various methods.” The plan also instructed China’s financial institutions to “increase support for mergers and reorganizations of shipbuilding companies, overseas mergers and acquisitions, and business transformation and product structure adjustments of small and medium-sized shipyards,” as well as to develop a securitization business for shipbuilding enterprises. The plan also contained instructions to:

Actively use export credit insurance to support the export of ships. Optimize the buyer’s credit insurance policy for ship export, innovate guarantee methods, and simplify the handling process. Encourage qualified places to carry out pilot projects of ship financial leasing.<sup>58</sup>

The *Shipbuilding Industry Standard and Conditions (2013)* further instructed the government to periodically announce a list of selected firms that “meet the industry standard” and thus receive priority for government funding and bank financing.<sup>59</sup>

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<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> Industrial Policy Implementation, **Exhibit 21** at 8.

The Chinese government produced an additional plan for the shipbuilding industry in 2013, the *Notice to Accelerate the Implementation of Structural Adjustment Programs to Promote the Transformation and Upgrading of the Shipbuilding Industry* (the “2013 Notice”). To sustain the development of China’s shipbuilding sector, the 2013 *Notice* instructed the industry to focus on innovation, high-end products and its support industries. These guiding principles included strengthening of demand for high-tech vessels, as well as corresponding marine equipment through means including encouraging financial support. Such financial support was to include export buyer’s credits, credit insurance, loan securitization for key shipping companies, and support for companies to issue non-financial corporate debt financing and bonds.<sup>60</sup>

The next year in 2014, the central government also published the *Several Opinions of the State Council on Promoting the Healthy Development of the Shipping Industry*.<sup>61</sup> Highlighting goals of improving economic security and national interests, the opinions call for deeper “cooperation between the maritime industry and related industries.”<sup>62</sup>

At the end of the Twelfth Five Year Plan period, the central government issued the *Guiding Opinion on Promoting International Industrial Capacity and Equipment Manufacturing Cooperation*, which identified shipbuilding as one of eleven priority

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<sup>60</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 34.

<sup>61</sup> “Several Opinions of the State Council on Promoting the Healthy Development of the Shipping Industry” (Sept. 3, 2014) Guofa [2014] No. 32, attached at **Exhibit 29**.

<sup>62</sup> *Id.*

sectors for international expansion.<sup>63</sup> With regard to shipbuilding in particular, the plan states:

Improve the level of products and services, and develop high-end markets for ships and ocean engineering equipment. Give full play to the advantages of ship production capacity, while consolidating the low-end ship market, vigorously develop the high-end ship and marine engineering equipment market, support powerful enterprises to invest in the construction of factories, establish overseas R&D centers and sales service bases, and improve the research and development and sales of high-end ship products. Manufacturing capacity to enhance the international competitiveness of products such as deep-sea semi-submersible drilling platforms, floating production storage and offloading devices, offshore engineering vessels, and liquefied natural gas vessels.<sup>64</sup>

China also in 2015 released its vaunted *Made in China 2025* initiative, outlining the first decade of a plan to develop ten high-tech industries. The *Made in China 2025* initiative includes shipbuilding as one of its ten priority sectors, and further targets both maritime engineering equipment and high-tech ships as key industries. Its goals with respect to shipbuilding were summarized in a press report:

China to have more than five internationally renowned manufacturing companies. Maritime equipment to supply 40 per cent of international market. Hi-tech ship design and manufacturing equipment to supply 50 per cent of the international market. Breakthrough to be achieved in key design, manufacturing, testing and installing technologies for under water production systems.<sup>65</sup>

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<sup>63</sup> “Guiding Opinions of the State Council on Promoting Cooperation in International Production Capacity and Equipment Manufacturing” (May 16, 2015) Guofa [2015] No. 30, attached at **Exhibit 30**. See also USTR Findings on China 301 Investigation, **Exhibit 13** at 69.

<sup>64</sup> “Guiding Opinions of the State Council on Promoting Cooperation in International Production Capacity and Equipment Manufacturing,” **Exhibit 30**. See also USTR Findings on China 301 Investigation, **Exhibit 13** at 69.

<sup>65</sup> Alice Tsu and Juliana Wu, “Why ‘Made in China 2025’ triggered the wrath of President Trump,” *South China Morning Post* (Sept. 11, 2018), attached at **Exhibit 31**.

The central government will continue to support the goals of the *Made in China 2025* initiative through a variety of existing and new fiscal and taxation policies. The government will, for example, increase direct support for the China 2025 industries through state funding, low-interest loans, tax breaks, and other government support. The exact amount of new support is unclear, but some outside estimates put the likely total in the hundreds of billions of dollars. The government also aims to support the initiative by intensifying cooperation across government, private companies, and academia.<sup>66</sup>

As an example of implementation at the provincial level, Shanghai began its *Shanghai Ship and Ocean Engineering Equipment Industry ‘Twelfth Five-Year Plan’ Development Plan* by observing that it had more than doubled ship production from 2006 through 2010, increased by over 130 percent on a deadweight basis, and that its exports of ships had increased by more than double during the same period, from approximately five to eleven million deadweight tons. Shanghai also lauded its research and development, noting that

Hudong Heavy Machinery, CSSC Mitsui Machinery, Qiyao Wartsila, Shanghai Crankshaft Co., Ltd. and other marine diesel engine and key parts manufacturing companies have gathered and developed, basically forming a ship power system industry group, with technological innovation capabilities and production capacity nationwide. Breakthroughs have been made in the research and development of key systems and supporting equipment for marine engineering equipment such as high-power thrusters, jack-up lifting devices, oil-gas-water treatment systems, integrated mud logging instruments, and platform blowout preventers, and industrialization has been achieved.<sup>67</sup>

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<sup>66</sup> See James McBride and Andrew Chatzky, “Is ‘Made in China 2025’ a Threat to Global Trade?” *Council on Foreign Relations* (May 13, 2019), attached at **Exhibit 32**.

<sup>67</sup> Shanghai Economic and Information Commission issued “Shanghai Ship and Ocean Engineering Equipment Industry ‘Twelfth Five-Year Plan’ Development Plan,” Hujing Xingong (2012) No. 545 (Sept. 14, 2012), attached at **Exhibit 33**.

Looking forward, Shanghai declared that it would “vigorously promote high-end shipping products” with a special focus on “large-scale liquefied natural gas (LNG) ships, feeder LNG ships, container ships above 10,000 TEUs, liquefied petroleum gas (LPG) ships, large chemical tankers, and high-grade ro-ro passenger ships.”<sup>68</sup>

The plan also contained instructions for specific companies. For example,

- CSSC Changxing Shipbuilding Base will build two large shipyards, equipped with 1800 ton large gantry cranes, and build outfitting docks, material docks and other supporting facilities. The construction of the second phase of the Changxing project is of great significance for improving the development and construction capabilities of high-tech ships such as large-scale liquefied natural gas ships and 10,000-TEU<sup>69</sup> container ships in Shanghai, and realizing industrial transformation and upgrading.
- COSCO Shipyard will take advantage of the opportunity of corporate relocation to realize adjustment and upgrading, take advantage of Shanghai's location, talents, and comprehensive supporting facilities, and centrally settle COSCO Shipyard's offshore engineering R&D center and business headquarters on Changxing Island, and plan to build marine projects on the southeast side of Changxing Island Equipment manufacturing base.

To ensure that these objectives were achieved, Shanghai’s plan called for strengthening “policy-based financial support for technological innovation projects” and increasing “support for the construction of industrial demonstration bases, ship export bases, national key laboratories and enterprise technology centers.”<sup>70</sup>

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<sup>68</sup> *Id.*

<sup>69</sup> “TEU” is an acronym for Twenty-foot Equivalent Unit, a shipping container with internal dimensions that measure approximately 20-feet long, eight feet wide, and eight feet high.

<sup>70</sup> “Shanghai Ship and Ocean Engineering Equipment Industry ‘Twelfth Five-Year Plan’ Development Plan,” **Exhibit 33**.

## 5. The Thirteenth Five Year Plan Era (2016-2020)

Building on earlier plans, the *Thirteenth Five-Year Plan* called for developing a variety of marine-related technologies and equipment, including cruise ships and other high-technology vessels, as well as “integrated, intelligent, and modular design and manufacturing of key accessory equipment for such vessels.”<sup>71</sup>

The plan identified a number of “high-end equipment” for innovation and development, including ships. In particular, the plan called for “breakthroughs in core technologies for cruise ships and other high-tech vessels, as well as for the integrated, intelligent, and modular design and manufacturing of key accessory equipment for such vessels.” It also stated that China would encourage more Chinese-made equipment, technology, standards, and services in fields including shipbuilding.<sup>72</sup>

The *Thirteenth Five-Year Plan* also called for improvements for “ports in the Bohai Sea rim, the Yangtze River Delta, and the Pearl River Delta” and making “a major push to move forward with the construction of international shipping centers in Shanghai, Tianjin, Dalian, Xiamen, and other harbor cities.” The plan also called for further development of the Maritime Silk Road. The plan further provided

We will improve the distribution of ports, accelerate the development of the Wuhan and Chongqing shipping centers in the middle and upper reaches of the Yangtze as well as the regional shipping and logistics center in Nanjing, strengthen the development of collection, distribution, and transportation systems, develop combined river-ocean shipping and water-rail shipping, and develop a combined river-ocean shipping service center

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<sup>71</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18**.

<sup>72</sup> The 13<sup>th</sup> Five-Year Plan for Economic and Social Development of the People’s Republic of China (2016-2020), attached at **Exhibit 34**.

at Zhoushan. We will promote the standardization of ships that operate on the Yangtze and improve intelligent security safeguard systems.<sup>73</sup>

In terms of support, the *Thirteenth Five-Year Plan* offered that the government “will strengthen coordination between budgeting and the implementation of this plan, and ... ensure that budgeting at each level supports implementation.”<sup>74</sup>

Finally, the *Thirteenth Five-Year Plan* also called for further economic and industrial decision making by the government and CCP: “We will improve the social governance system to help see that Party committees play a leadership role, government plays a guiding role, social organizations play a cooperative role, the general public participates ....” It also directed lower-level governmental entities to enact their own policies to implement the plan:

Relevant departments under the State Council shall organize the formulation of a set of national subject-specific plans—particularly key subject-specific plans—which set out in detail the implementation of the main tasks and targets of this plan. Local governments should, in their development plans, ensure that their development strategies, main targets, key tasks, and major projects are in coordination with those defined in the national plans and implement the unified arrangements provided for in these plans.<sup>75</sup>

The “*Thirteenth Five-Year*” *National Strategic Notice on Development Planning of Emerging Industries* was promulgated in 2016 and promoted the development of marine engineering equipment and a variety of ship types.<sup>76</sup> It also called for

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<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> “13th National Five-Year Plan for the Development of Strategic Emerging Industries,” Guofa [2016] No. 67 (Nov. 29, 2016) (translated by the Center for Security and Emerging Technology), attached at **Exhibit 35**.

strengthening military-civilian integration projects, stating with regard to maritime projects:

Facing the building of a maritime power, adapt to the needs of military and local marine resource surveys, use of sea areas, marine observation and forecasting, marine environmental protection, and island and reef construction, and develop dual-use high-performance equipment and material technologies for both military and civilian purposes. Carry out military-civilian common standardization projects to promote two-way transfer of military-civilian technology.<sup>77</sup>

To accomplish these goals, the plan called for a variety of financial support mechanisms. In particular, the plan called for “increased” direct financing, improving tax policies for investors, and the issuance of bonds. It also called for encouraging institutional investors to participate in designated projects, as well as guiding “financial institutions to actively improve credit management and loan review systems that adapt to the characteristics of strategic emerging industries.” It also called for accelerating “the establishment of a national financing guarantee fund to support financing guarantee work for strategic emerging industry projects.”<sup>78</sup>

Released at about the same time, the *Guidelines for Research Projects on High-Tech Ships* highlighted research projects and targets for the Chinese shipbuilding industry. The targets included research initiatives on LNG carriers and cruise ships. These initiatives involved collaborations between universities, the government, and state-owned companies such as Shanghai Electrical Apparatus Research Institute, the Shanghai

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<sup>77</sup> *Id.*

<sup>78</sup> *Id.*



Merchant Design and Research Institute, the Guangzhou Marine Engineering Corporation, or the Marine Design & Research Institute of China.<sup>79</sup>

In 2016, China released the *13th National Five-Year Plan for the Development of Strategic Emerging Industries*.<sup>80</sup> Among other things, the plan called for enhancing the competitiveness of China’s marine engineering equipment. It also called for further “military-civil fusion,” and promoting “the two-way transfer of military and civilian technologies.”<sup>81</sup> The plan also called for grasping “the strategic opportunity to promote the construction of the ‘Belt and Road’ initiatives.”<sup>82</sup>

Later in 2016 China unveiled its *Shipbuilding Industry Deepening Structural Adjustment, Accelerating Transformation and Upgrading Action Plan (2016-20)*, identifying reforms and upgrades for the shipbuilding industry.<sup>83</sup> In addition, the *13th Five-Year Plan of China Ship Accessory and Equipment Industry (2016-20)* had the objective of raising the proportion of domestic equipment in certain types of ships and ocean engineering equipment.<sup>84</sup>

*The Boosting Capabilities of Marine Equipment Plan (2015-2020)* announced China’s intention that, by 2020, 80 percent of the equipment used in newly built Chinese ships – and 60 percent of the marine equipment – should be produced by Chinese

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<sup>79</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18**.

<sup>80</sup> “13th National Five-Year Plan for the Development of Strategic Emerging Industries,” **Exhibit 35**.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> World Trade Organization, *Trade Policy Review Report by the Secretariat – China* (Sept. 15, 2021) (WT/TPR/S 415) (“WTO Trade Policy Review Report – China”) at 154, attached at **Exhibit 36**.

<sup>84</sup> *Id.* at 155.

manufacturers. To achieve these objectives, the plan proposed fiscal and financial support.<sup>85</sup> A related *Catalogue of High-Quality Ship-Supporting Products (2017)* recommended suppliers of diesel engines and marine cranes.<sup>86</sup>

In 2017, several Chinese government agencies published an *Updated Five-Year Shipbuilding Action Plan (2016-2020)*. As the OECD observed,

The overall goal is to improve the competitiveness of the Chinese shipbuilding industry so China can transform from a shipbuilding “power” into a shipbuilding “giant.” Further on, the shipbuilding plan intends to strengthen state-owned enterprise (SOE) cooperation, targets a domestic market share of 70% by 2020 for China’s biggest shipbuilding yards, and includes a target for Chinese high-tech ships of 34% to 40% of the global market by the same date. Next, the blueprint focuses on extending technological and innovative applications (including green and smart shipping), streamlining capacity, incorporating intelligent manufacturing, refining quality and branding, promoting military-commercial shipbuilding cooperation, and expanding global investments and partnerships.<sup>87</sup>

The *Catalogue for Guiding Industry Restructuring (2019 Version)* (the “2019 Catalogue”) identified 821 projects encouraged for development, as well as other items to be restricted or phased out.<sup>88</sup> The plan contains many provisions related to shipbuilding. For example, it calls for the development of specialized steel for marine engineering and high-tech ships. It also calls for the “optimization and upgrading of bulk carriers, oil tankers, and container ships.” Another provision calls for the development and construction of ship types meeting the new international shipbuilding specifications

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<sup>85</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 29.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Catalogue for Guiding Industry Restructuring (2019 Version)* [No. 29], attached at **Exhibit 37**.

and standards.” The *2019 Catalogue* also contains a long list of ship types encouraged for development, including yachts and the following:

Liquefied natural gas carriers with a capacity of 100,000 cubic meters or more, liquefied petroleum gas vessels with a capacity of 15,000 cubic meters or more, container ships with 10,000 containers or more, car carriers with 5,000 parking spaces or more, luxury ro-ro passenger ships, chemical tankers of IMO Tier II or above, medium and large luxury cruise ships, ro-ro cargo ships with more than 2,000 parking spaces, ro-ro cargo ships with more than 3,000 meters of lanes, LNG bunkering ships, livestock carriers, methanol (ethane) carriers, oil-electric hybrid ships, battery-powered ships and multipurpose ships, polar cruise ships, polar transport ships, polar multi-purpose ships, polar seismic research vessels, and other high-tech and high value-added ships.<sup>89</sup>

In 2019, “the Central Committee of the Communist Party of China and the State Council issued the *Outline for Building a Powerful Transportation Country* and a notice requiring all regions and departments to conscientiously implement” the policy.<sup>90</sup> It calls for strengthening “the independent design and construction capabilities of large and medium-sized cruise ships, large liquefied natural gas ships, polar sailing ships, smart ships, and new energy ships.” It continues that:

Taking the six international economic cooperation corridors of the Silk Road Economic Belt as the main body, we will promote the interconnection of infrastructure such as railways, highways, waterways, and oil and gas pipelines in neighboring countries. Improve the global connectivity of shipping and civil aviation, build a world-class international shipping center, and promote the construction of the 21st Century Maritime Silk Road. Expand international shipping logistics, develop international railway trains, promote the facilitation of cross-border road transportation, vigorously develop aviation logistics hubs, build an international delivery logistics supply chain system, and create new land-sea channels. Maintain the safety and smoothness of important international shipping channels.

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<sup>89</sup> *Id.*

<sup>90</sup> “The Central Committee of the Communist Party of China and the State Council issued the ‘Outline for Building a Powerful Transportation Country’” *Xinhua* (Sept. 9, 2019), attached at **Exhibit 38**.

The plan also calls for strengthening “the leadership of the party” and adhering “to the overall leadership of the party and give full play to the role of the party in overseeing the overall situation and coordinating all parties.” At the same time, the plan calls for reforming investments in transportation and improving “the fund guarantee and operation management system led by the government” and active guidance of “social capital to participate in the construction of a strong transportation country, and strengthen the construction of risk prevention and control mechanisms.”<sup>91</sup>

As an example of implementation at the provincial level, the *Development Plan for Shipbuilding and Ocean Engineering Equipment Industry in Jiangsu Province* started with reference to earlier industrial policies helped the province “leapfrogged” others to become China’s largest shipbuilding province, with a global market share of ten percent and the capability to produce any type of ship other than luxury ocean cruise ships. The plan also highlighted that the province had “the most intensive development of the ship supporting industry in the country, forming four major ship supporting bases in Nanjing, Zhenjiang, Taizhou and Nantong.”<sup>92</sup> The plan continued that, going forward, the province would:

optimize the layout of the province’s shipbuilding and offshore engineering industries, continue to promote industrial restructuring, promote the entire industrial chain to climb to the high end, promote the transformation of supporting industries to system integration, promote the improvement of enterprise product quality and production efficiency, and continuously improve the level and efficiency of industrial development, to cultivate a world-class large-scale enterprise group with core competitiveness.

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<sup>91</sup> *Id.*

<sup>92</sup> “The ‘13th Five-Year Plan’ Development Plan for Shipbuilding and Ocean Engineering Equipment Industry in Jiangsu Province,” [2016] No. 471, attached at **Exhibit 39**.

Jiangsu’s plan continued that it would “strengthen the collaborative innovation of ‘government, industry, learning, research and application,’ accelerate the construction of the province’s shipbuilding and marine engineering research and development system, and enhance independent innovation and R&D and design capabilities.” With respect to individual companies, the plan proclaimed that by “2020, three shipbuilding companies will be cultivated to enter the top 20 in the world, and ... five key marine engineering companies will have assembly capabilities.” The plan also prescribed a “{f}ocus on the development of four major ship supporting bases in Nanjing, Taizhou, Zhenjiang, and Nantong.”<sup>93</sup>

In terms of support, the Jiangsu plan called for vigorous “combination of ‘government, industry, learning, research, and application.” It also called for accelerating “the promotion and application of military-to-civilian technology,” and also prescribed support for

leading shipbuilding enterprises to become bigger and stronger ... and ... promote the merger and reorganization of shipbuilding enterprises in the three major bases across regions, industries, and ownership systems, and increase the degree of industrial concentration.<sup>94</sup>

Finally, the plan called for increasing financial support according to the *Guiding Opinions on Financial Support to Accelerate Structural Adjustment and Promote Transformation and Upgrading of the Shipbuilding Industry* published by nine ministries and commissions including the People’s Bank of China. Toward this end, the plan encouraged

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<sup>93</sup> “The ‘13th Five-Year Plan’ Development Plan for Shipbuilding and Ocean Engineering Equipment Industry in Jiangsu Province,” **Exhibit 39**.

<sup>94</sup> *Id.*

financial institutions to adjust their credit structure, innovate financial products and services, and improve approval efficiency, on the premise of risk controllability and business sustainability, give priority to credit support for major projects in the fields of enterprise technological transformation, intelligent manufacturing, etc., and give preference in terms of loan amount, loan term and loan interest rate.

It also called for expanding the availability of buyer's credits for export orders.<sup>95</sup>

## 6. The Fourteenth Five Year Plan Era (2021-2025)

The most recent five-year plan again identifies shipbuilding as a national priority, including “marine equipment” as one of the “new pillars of the industrial system.” The plan proclaims that “we will consolidate and enhance the competitiveness of the whole industrial chain in sectors such as ... shipbuilding, and create an industrial chain of overall strategic importance starting from complete machines that are in line with the direction of future industrial transformation.” It continues “we will foster advanced manufacturing clusters and promote the innovation and development of industries such as ... high-tech ships and ocean engineering equipment.” Beyond shipbuilding, the new plan also contains plans for logistics and shipping more generally. It also announces China's intention to actively participate in the development of rules for maritime governance and contribute to a “silk road on ice” in the Arctic.<sup>96</sup>

The *Fourteenth Five Year Plan* also continues the recent trend toward more of a command economy, stating, among other things, “We will adhere to and improve the Party's institutions and mechanisms for leading economic and social development ....”<sup>97</sup>

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<sup>95</sup> *Id.*

<sup>96</sup> *Outline of the 14th Five-Year Plan (2021-2025) for National Economic and Social Development and Vision 2035 of the People's Republic of China* (Mar. 13, 2021), attached at **Exhibit 40**.

<sup>97</sup> *Id.*

While the plan does make certain statements regarding market forces in the Chinese economy, those statements make clear that the will of the CCP will take precedence. For example, the plan provides that “we will permit manufacturing enterprises to ... regulate and reduce logistics charges in port shipping, road and railway transportation ....” Thus, while the government will “permit” the private sector to participate in the market, the private sector will do so in a supporting role. Moreover, the plan states that it will reserve a role for entrepreneurs to participate “in enterprise-related policy making,” with the limitation to mere “participation” again indicating CCP and government supremacy.

Like other provincial plans in the current era, the *Shandong 14th Five-Year Plan for the Development of Shipbuilding and Ocean Engineering Equipment Industry* begins by recounting the success of the prior five-year period. In the case of Shandong, this involves highlighting its third-place ranking after Jiangsu and Shanghai for ship completions, and that shipbuilding generated some ¥45 billion in revenue in 2020 (approximately \$6 billion).<sup>98</sup> The province also touts that its industrial policies helped the establishment of

a number of enterprise technology centers, technology innovation centers, marine engineering technology collaborative innovation centers and national green factories, and cultivated a number of manufacturing single champion enterprises, specialized and special new and small enterprises.<sup>99</sup>

Looking forward, the plan sets a target of ten percent of China’s total shipbuilding orders, and that the province’s marine engineering equipment will have a market share of 30 percent. It also calls for breakthroughs in “high value-added ship types such as large

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<sup>98</sup> “The 14th Five-Year Plan for the Development of Shipbuilding and Ocean Engineering Equipment Industry in Shandong Province” (Mar. 29, 2022), attached at **Exhibit 41**.

<sup>99</sup> *Id.*

container carriers, large gas carriers, high-standard ocean-going fishing vessels,” and a variety of other vessels. The plan also contains specific provisions for Qingdao city, Yantai City, and Weihai City.<sup>100</sup>

The *Shandong 14th Five-Year Plan for the Development of Shipbuilding and Ocean Engineering Equipment Industry* also calls for promoting collaborations between industries and academia as well as improving financial services. With respect to financial support for the industry, the plan calls for improvements to the “government-finance-enterprise cooperation mechanism,” interventions with banks and other financial institutions. The plan also suggests that key enterprises list shares and issue bonds, and calls for lower insurance premiums.<sup>101</sup>

### **C. China’s policies, acts, and practices are unreasonable and discriminatory**

China’s policies targeting the shipbuilding, maritime, and logistics sector for dominance are unreasonable, unfair, inequitable, and discriminatory. The policies have resulted in massive government-directed support for Chinese shipbuilding companies, government-mandated preferences for ships built in China, anticompetitive discrimination against non-Chinese ships and shipping companies, export targeting, technology theft, distortions to international freight rates and allocations, and other unfair and inequitable acts. These practices are by definition unreasonable and discriminatory.<sup>102</sup> USTR should therefore find that China’s acts, policies, and practices in

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<sup>100</sup> “The 14th Five-Year Plan for the Development of Shipbuilding and Ocean Engineering Equipment Industry in Shandong Province,” **Exhibit 41**.

<sup>101</sup> *Id.*

<sup>102</sup> *See* 19 U.S.C. § 2411(d)(2), (d)(3)(A), (d)(3)(B)(i)(II) – (IV), and (d)(3)(B)(ii).



this sector are unreasonable and discriminatory within the meaning of Section 301(b)(1) of the Act.

1. Directed mergers and anticompetitive activities

The Government of China has further supported its shipping and shipbuilding industries by tolerating and in fact encouraging and directing mergers among the largest state-owned firms to create national champions in the industry, regardless of the anticompetitive impact such consolidation may have.

In 2015, the Government of China supported a merger that made the state-owned China Merchant Group the largest port and logistics company in the world.<sup>103</sup> The Government of China also supported the 2016 merger of COSCO Group and China Shipping Group to create the world's third largest shipping firm.<sup>104</sup> In 2019, as reviewed above, the government merged the two largest state-owned shipbuilders, CSSC and CSIC. The merger was accompanied by a wide array of government support, including equity infusions, debt for equity swaps, and billions of lending from China Ex-Im. To facilitate consolidation and the creation of large firms, the Government of China maintains the "White List" of firms that warrant government support, which are disproportionately state-owned.<sup>105</sup>

While encouraging mergers of favored state-owned firms regardless of their anti-competitive effects, the Government of China has also used its Anti-Monopoly Law ("AML") to block alliances among competing foreign shipping firms. For example, in 2014, the Government of China used its AML to block an alliance among three of the

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<sup>103</sup> Hidden Harbors, **Exhibit 25** at 3.

<sup>104</sup> *Id.*

<sup>105</sup> Industrial Policy Implementation, **Exhibit 21** at 32.

world's largest shipping companies, Maersk, CMA CGM, and MSC Mediterranean.<sup>106</sup> The companies created the "P3 Alliance" to coordinate the capacity of their three fleets, while retaining separate sales and pricing functions.<sup>107</sup> While the U.S. Federal Maritime Commission and the EU approved the alliance, China's Ministry of Commerce ("MOFCOM") blocked the alliance, finding that it would restrict competition under China's Anti-Monopoly Law.<sup>108</sup>

According to one analyst, "China's rejection of the P3 is likely more an effort to insulate Chinese domestic shipping companies ... from competing with a more effective rival than it is an effort to maintain industry fair play ...."<sup>109</sup> The U.S. Chamber of Commerce cited the rejection of P3 as an example of MOFCOM coordinating with other agencies tasked with supporting China's favored industries, such as the Ministry of Transportation, as well as directly with Chinese shipping companies, to leverage the AML to support China's industrial policies rather than to meet pure competition goals.<sup>110</sup> Indeed, a similar alliance among three Chinese state-owned shipping companies was reportedly allowed to go forward with no antitrust review.<sup>111</sup>

These government-directed mergers and use of competition law to advantage Chinese shipping companies constitute the toleration and indeed encouragement of

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<sup>106</sup> See Jones Day, "Antitrust Alert: China Blocks Global Shipping Alliance" (June 2014), attached at **Exhibit 87**.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> "China's shipping alliance rejection underscores protectionist worries," *Reuters.com* (June 18, 2014), attached at **Exhibit 88**.

<sup>110</sup> See U.S. Chamber of Commerce, *Competing Interests in China's Competition Law Enforcement: China's Anti-Monopoly Law Application and the Role of Industrial Policy* at 3 n.5 and 31 n.116, attached at **Exhibit 89**.

<sup>111</sup> *Id.* at 31 n.116.

anticompetitive practices to benefit Chinese companies to the disadvantage of foreign companies, and they are thus by definition unreasonable under Section 301.<sup>112</sup> These anticompetitive acts, policies, and practices by the Government of China are unreasonable, unfair, inequitable, and discriminatory, warranting action by the USTR under Section 301.<sup>113</sup>

## 2. Government intervention to support Chinese shipbuilding

Consistent with its policies to support and grow the Chinese shipbuilding industry into the dominant shipbuilder in the world, the Government of China has poured hundreds of billions of dollars into its industry since 2000. The full extent of government support to the sector is unknown due to a lack of transparency in the Chinese system. The WTO, for example, has found that China's notifications do not provide a clear picture of its support programs for priority industries including shipbuilding.<sup>114</sup> However, several independent studies have documented massive state support for the Chinese shipbuilding industry.

According to one study, the Government of China handed out close to \$91 billion to Chinese shipbuilders between 2006 and 2013.<sup>115</sup> This government support was not only enormous at an absolute level, it was also huge compared to the size of the industry. While the government provided RMB 624 billion in funding during the period, the shipbuilding industry's total revenue during the period was RMB 1360 billion – in other

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<sup>112</sup> See 19 U.S.C. § 2411(d)(3)(B)(IV).

<sup>113</sup> See 19 U.S.C. § 2411(b)(1) and (d)(3)(A).

<sup>114</sup> WTO Trade Policy Review Report – China, **Exhibit 36** at 13, 76.

<sup>115</sup> Industrial Policy Implementation, **Exhibit 21** at 28.

words, government support accounted for more than 45 percent of the industry's total revenue.<sup>116</sup>

According to a different analysis by the Center for Strategic and International Studies, Chinese firms in the shipping and shipbuilding industry received roughly \$132 billion in government support between 2010 and 2018.<sup>117</sup> This included \$5 billion in direct government funding and \$127 billion from state-owned banks.<sup>118</sup> This translates into nearly \$15 billion in government financing each year.

These government interventions have distorted the global shipbuilding market by spurring uneconomic investments in shipbuilding and thus growing overcapacity, as well as reducing costs for shipbuilders in China below market levels and thus suppressing global prices. The same study that identified \$91 billion in government funding to Chinese shipbuilders from 2006 to 2013 estimated that this government support increased China's domestic investment in shipbuilding by 140 percent and drove up entry into the sector by 120 percent over the period.<sup>119</sup> In addition, 143 firms entered the shipbuilding industry in China during the period, while only 64 would have entered absent government support.<sup>120</sup> According to the study, China's policies "attracted a large number of inefficient producers and exacerbated the extent of excess capacity."<sup>121</sup> During the same

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<sup>116</sup> *Id.*

<sup>117</sup> Hidden Harbors, **Exhibit 25** at 2.

<sup>118</sup> *Id.*

<sup>119</sup> Industrial Policy Implementation, **Exhibit 21** at 4.

<sup>120</sup> *Id.* at 29.

<sup>121</sup> *Id.* at 4.

period, China’s world market share in shipbuilding increased by 42 percent, primarily at the expense of shipbuilders in other countries.<sup>122</sup>

China later sought to reduce overcapacity in the sector by instituting a “white list” of firms authorized to operate in the sector, but the OECD found the policy largely resulted in the consolidation of shipyards within favored state-owned enterprises, and had only a marginal effect on overcapacity.<sup>123</sup>

Lavish government support also reduced costs for the growing number of Chinese shipbuilding companies. According to one study, government funding lowered Chinese shipbuilders’ production costs by 13 to 20 percent between 2006 and 2012.<sup>124</sup> Looking more broadly at indirect support programs such as the provision of steel at below-market prices from state-owned steel producers, the unfair cost advantages are likely much higher. Due to government predominance and policy support in the steel sector, prices for steel in China can be 50 to 60 percent lower than prices in other markets.<sup>125</sup> Lower costs translated into lower prices for vessels on the global market. Chinese government interventions lowered prices for bulk carriers, oil tankers, and containerships by 4.3 to 10.1 percent from 2006 to 2008 and by another 4.2 to 16.8 percent from 2009 to 2013.<sup>126</sup>

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<sup>122</sup> *Id.* at 28.

<sup>123</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 37.

<sup>124</sup> Myrto Kalouptsidi, “Detection and impact of industrial subsidies: The case of Chinese shipbuilding,” VOX EU (Sep. 9, 2017), attached at **Exhibit 42**.

<sup>125</sup> OECD, “An Analysis of Market-Distorting Factors in Shipbuilding” (April 2019) at 24 – 25, attached at **Exhibit 43**.

<sup>126</sup> Industrial Policy Implementation, **Exhibit 21** at 29 and Table D-12.

In 2022, prices for containerships built in China were up to 60 percent below the prices for comparable vessels built in Japan and Korea.<sup>127</sup>

Additional information on some of the government interventions that provide non-market incentives and support to the shipbuilding industry in China is provided below.

a. The “Scrap and Build” program

The scrap and build program promoted the demolition of Chinese owned vessels that had not reached the statutory service life and encouraged new orders of vessels. The program promoted a technical upgrade of China’s national fleet and propped up the shipyards that were hit hard by the global market slump in 2008. The first scheme started in 2009 but was extended in 2013, 2015 and 2017. The scrapping scheme combined a mandatory scrapping age for ships with financial support for ships navigating under Chinese flag that were scrapped before that time. In practice, the scrap and build program pushed Chinese ship-owners to place new build orders at Chinese shipyards. Indeed, with the program in place, Chinese state-owned yards attracted 94 percent of the orders (by tonnage) placed by Chinese ship-owners.<sup>128</sup>

The COSCO Group, for instance, received a high amount of the funds under the program. In 2014, COSCO Holding (a subsidiary of COSCO Group) received \$194 million from the scrap and build program when its year-end profit totaled only \$51

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<sup>127</sup> See OECD Council Working Party on Shipbuilding, “Developments of ship demand, supply, prices and costs” (Second Semester 2022), attached at **Exhibit 44**; OECD Council Working Party on Shipbuilding, “Developments of ship demand, supply, prices and costs” (First Semester 2022), attached at **Exhibit 45**.

<sup>128</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 45.

million.<sup>129</sup> That same year, China Shipping Development received \$66 million from the scrap and build scheme while its year-end profit stood at \$44 million.<sup>130</sup> In 2015, the COSCO Group reported that it received \$637.8 million in scrapping funds from the government. The International Transport Forum found that COSCO received \$230 million in government funding in 2018, of which \$122 million were granted under the scrap and build program.<sup>131</sup>

Though the policy has since been repealed, it provided powerful countercyclical incentives for ship-owners to place orders with Chinese shipyards, particularly state-owned yards, contributing to the rapid continued growth of the shipbuilding sector in China regardless of market fundamentals. These policies constitute acts, policies, and practices by the Government of China that are unreasonable, unfair, inequitable, and discriminatory, and these acts promote the construction of Chinese vessels used in international trade, warranting action by the USTR under Section 301 of the Act.<sup>132</sup>

b. Policy lending from state-owned banks

State-owned and controlled banks in China have also intervened to provide massive support to Chinese shipbuilders far beyond the amount of financing warranted by market considerations. In January 2017, the Ministry of Industry and Information Technology published a statement encouraging financial institutions to support the domestic shipbuilding industry.<sup>133</sup> According to an OECD study, the China Banking

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<sup>129</sup> Hidden Harbors, **Exhibit 25** at 8.

<sup>130</sup> *Id.*

<sup>131</sup> OECD Report on China's Shipbuilding Industry, **Exhibit 18** at 45.

<sup>132</sup> See 19 U.S.C. § 2411(b)(1), (d)(2), and (d)(3)(A).

<sup>133</sup> Virginia Marantidou, "Shipping Finance: China's New Tool in Becoming a Global Maritime Power," *China Brief*, Vol. 18, Issue 2 (Feb. 13, 2018), attached at **Exhibit 46**.

Regulatory Commission also encouraged financial institutions to support the domestic shipbuilding industry and exports of domestically built ships.<sup>134</sup>

Between 2013 and 2016, Chinese state-owned banks provided a combined credit line of almost \$82 billion to the state-owned shipping and shipbuilding company COSCO.<sup>135</sup> Despite making significant losses, COSCO received billions from China Merchants Bank, the Bank of China, the Chinese Exim Bank, Industrial and Commercial Bank of China (“ICBC”), and the China Development Bank to support the Belt and Road Initiative.<sup>136</sup> In 2015, the Bank of China issued an irrevocable and standby letter of credit to permit CSSC to issue 500 million Euros in credit-enhanced bonds.<sup>137</sup> Moody’s specifically mentioned the letter of credit as one of the main reasons it granted the bonds “A1” status, demonstrating how state-backed financing can bolster the creditworthiness and capital-raising capacity of Chinese shipbuilders.<sup>138</sup> Indeed, a 2020 study estimated that state-owned shipping and shipbuilding companies in China had \$20.9 billion in outstanding bonds, and the lower interest rates on these bonds facilitated by the backing of state-owned banks saved the Chinese companies more than \$100 million in repayment costs each year.<sup>139</sup>

State-owned banks also played a large role in supporting the state-directed merger of the two largest state-owned shipbuilders, CSSC and CSIC, into one new company,

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<sup>134</sup> WTO Trade Policy Review Report – China, **Exhibit 36** at 155.

<sup>135</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 41-42.

<sup>136</sup> *Id.*

<sup>137</sup> *Id.* at 43.

<sup>138</sup> *Id.*

<sup>139</sup> Hidden Harbors, **Exhibit 25** at 9.



CSSC, in 2019. To raise funds for the merger, CSSC issued over three billion shares.<sup>140</sup> In one of the issuances, the largest investors were national and provincial “Civil-Military Fusion” investment funds.<sup>141</sup> In addition, China Ex-Im Bank supported \$4 billion in new building orders that CSSC signed by the end of 2019.<sup>142</sup> Additionally, CSSC mentioned in a statement that it had signed loan agreements with the China Development Bank, China CITIC Bank, Bank of Communications and China Everbright Bank.<sup>143</sup>

A review of more recent financial statements of major Chinese shipbuilding companies from 2019 to 2022 reveals continued reliance on financing from state-owned banks. COSCO, for example, reports that it limits its credit exposure by relying on state-owned Chinese banks for the majority of its financing, including the Bank of China, China Merchants Bank, and the Agricultural Bank of China.<sup>144</sup> In its August 2022 bond prospectus, COSCO reports over a trillion RMB in outstanding credit, 78 percent of which is held by state-owned banks.<sup>145</sup> CSSC also reports that more than two-thirds of its financing is provided by Chinese state-owned banks, including China Ex-Im Bank, the Bank of China, Industrial Bank, and China Construction Bank.<sup>146</sup>

These policy loans from state-owned banks at favorable terms constitute acts, policies, and practices by the Government of China that are unreasonable, unfair,

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<sup>140</sup> CSSC Announcement Regarding Listing of Shares from Private Placement of Restricted Shares for Asset Acquisition (关于发行股份购买资产之非公开发行限售股上市流通公), CSSC (Mar. 25, 2023) at 2-3, attached at **Exhibit 47**.

<sup>141</sup> *Id.* at 3.

<sup>142</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 46 – 47.

<sup>143</sup> *Id.*

<sup>144</sup> See COSCO Annual Report Excerpts, attached at **Exhibit 59**.

<sup>145</sup> See COSCO Bond Prospectus, attached at **Exhibit 59**.

<sup>146</sup> See CSSC Annual Report Excerpts, attached at **Exhibit 58**.

inequitable, and discriminatory, and these acts support the construction of Chinese vessels used in international trade, warranting action by the USTR under Section 301 of the Act.<sup>147</sup>

c. Export Credits, Export Insurance, Ship Lease Financing

The Government of China also uses state-owned banks to provide export credits and export credit insurance for Chinese-built ships on favorable terms, and to provide ship lease financing that facilitates the expansion of the Chinese-owned fleet. The state-owned China Export and Credit Insurance Corporation (“Sinasure”) and China Ex-Im Bank are the two most common providers of ship finance in China. The two institutions and other state-owned banks that offer export credits such as the China Development Bank back Chinese shipbuilders as part of their pledge to support China’s Belt and Road initiative and Made in China 2025.<sup>148</sup> Sinasure’s website, for example, states that it has “vigorously supported” the Belt and Road Initiative (“BRI”) since it was announced in 2013.<sup>149</sup> By the end of 2022, Sinasure had insured over \$1.3 trillion to support BRI, covering over 3,800 projects, including in sectors such as shipping.<sup>150</sup>

China provides far more export credits than any other country. In 2014, for example, China doled out \$58 billion in export credits (to all industries, not just shipbuilding). This is greater than the export credits granted that year by all the G7 members combined.<sup>151</sup> The U.S. Export-Import Bank estimates that China Ex-Im Bank

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<sup>147</sup> See 19 U.S.C. § 2411(b)(1), (d)(2), and (d)(3)(A).

<sup>148</sup> *Id.* at 49.

<sup>149</sup> Sinasure, “Supporting the Belt and Road Initiative,” attached at **Exhibit 48**.

<sup>150</sup> *Id.*

<sup>151</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 49.

and Sinosure authorized approximately \$11 billion in medium- and long-term support in 2022, more than quadruple the support authorized by the U.S. Export-Import Bank that year.<sup>152</sup>

The OECD reports that China’s export credit agencies prioritize lending to companies intending to construct their ships at Chinese shipyards and may combine forces with Chinese leasing houses.<sup>153</sup> According to the OECD, China Ex-Im Bank has provided more than \$42 billion in export credits to the shipbuilding industry since 2013.<sup>154</sup> This is in addition to \$25.6 billion that China Ex-Im Bank lent to the shipping and shipbuilding industry up until 2009, which encouraged foreign ship owners to construct their ships in China and financed the construction of over 3,700 Chinese vessels.<sup>155</sup> In addition, in 2010, China Ex-Im Bank signed an agreement to loan \$5 billion to Greek ship owners to build ships in China, an amount that reportedly grew to \$10 billion.<sup>156</sup> That same year, China Ex-Im Bank signed an agreement with the Italian Shipowners’ Association to finance their purchases of vessels made in China.<sup>157</sup>

China Ex-Im Bank is focused in particular on supporting the production of high-value ships such as LNG carriers and stainless steel chemical tankers.<sup>158</sup> The

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<sup>152</sup> See Export-Import Bank of the United States, Report to the U.S. Congress on Global Export Credit Competition (June 2023) at 28, attached at **Exhibit 49**. The amounts for China do not include export credits from other state-owned banks such as the China Development Bank. See *id.* at 34.

<sup>153</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 50.

<sup>154</sup> *Id.* The report cites more than RMB 300 billion in export credits over the period, which converts to \$42 billion at current exchange rates.

<sup>155</sup> Marine Money, “Ship Finance in Asia,” (June 2014), attached at **Exhibit 50**.

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 50.

concessional terms on which China Ex-Im Bank makes its financing available provides yet another advantage to Chinese shipbuilders, as it lures ship-owners to commission vessels at Chinese yards. From 2016 to 2017, for example, China Ex-Im Bank issued more than \$15.1 billion in ship loans, drawing construction projects for 688 vessels and offshore projects to Chinese shipyards.<sup>159</sup> One 2014 presentation by Marine Money highlights eight China Ex-Im Bank transactions totaling almost \$5.8 billion with both Chinese and international shipping companies to finance the construction and acquisition of numerous ships, including containerships, LNG tankers, crude tankers, ore carriers, bulk carriers, offshore vessels, and an ultra-deepwater drill ship.<sup>160</sup>

China Ex-Im Bank also publishes a list of “major projects” financed each year in its annual reports. From 2014 to 2022, at least one of the major projects highlighted almost every year has been the financing of foreign companies’ acquisition of Chinese-built vessels or offshore equipment.<sup>161</sup> Investments in overseas ports are also commonly highlighted, consistent with the Government of China’s Maritime Silk Road strategy, discussed below.<sup>162</sup> Highlights from recent annual reports demonstrating the extent of China Ex-Im Bank’s support for China’s shipbuilding industry and its efforts to help upgrade technology and innovation in the industry are summarized below.

In 2018, China Ex-Im Bank financed the acquisition of mega container ships by the French shipping and logistics company CMA CGM.<sup>163</sup> The vessels had “the largest

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<sup>159</sup> *Id.*

<sup>160</sup> Marine Money, “Ship Finance in Asia,” **Exhibit 50**.

<sup>161</sup> *See* China Ex-Im Annual report excerpts, attached at **Exhibit 51**.

<sup>162</sup> *See id.*

<sup>163</sup> China Ex-Im Bank Annual Report Excerpts, **Exhibit 51** (2018 Annual Report at 60).

capacity in the world by far,” and they were also the first vessels adopting a dual fuel diesel/LNG system to reduce emissions.<sup>164</sup> The report states: “The delivery of these vessels signalizes that China has become a world-class player in the field of container ship building, and is of great significance to the transformation and upgrading of China’s ship building industry.”<sup>165</sup>

In 2019, a Chinese shipyard delivered three of the six 45,000 dead weight tonnage bulk carriers ordered by a Bulgarian shipping company.<sup>166</sup> China Ex-Im explained the importance of the deal, which was signed in the presence of the Chinese premier and the Bulgarian Prime Minister, as follows: “As the BRI continues to advance, the shipping industry has proven to be pivotal in promoting the BRI and international trade.”<sup>167</sup>

In 2020, China Ex-Im began disbursements in a \$750 million project to build floating production storage and offloading units for Brazilian energy firm Petrobras at a Chinese shipyard, which was part of a \$3 billion framework agreement signed between the Bank and Petrobras in 2015.<sup>168</sup> The project “injected new impetus to Chinese offshore equipment manufacturers in the doldrums” amid the downturn in the offshore market.<sup>169</sup> China Ex-Im also financed Danish shipping and logistics firm Maersk’s procurement of

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<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

<sup>166</sup> *Id.* (2019 Annual Report at 58).

<sup>167</sup> *Id.*

<sup>168</sup> *Id.* (2020 Annual Report at 62).

<sup>169</sup> *Id.*

freight containers from China in 2020.<sup>170</sup> China exported 98,000 containers in 2020, over 20,000 of which were more advanced refrigerated containers.<sup>171</sup>

In 2021, China Ex-Im financed the purchase of four LNG carrying and bunkering vessels from Chinese shipyards by a Norwegian ship owner.<sup>172</sup> The four ships are “the world’s largest LNG bunkering vessels under construction,” and the project is described as “an example of the Bank’s endeavor in both helping China’s shipbuilding industry move towards green development transformation and upgrading and supporting the export of high-tech and high-added-value vessels.”<sup>173</sup>

In 2022, China Ex-Im supported a Belgian company’s acquisition of six 5,900 TEU (twenty-foot equivalent) container ships, four 210,000-ton bulk carriers, and one 25,000-ton chemical/product carrier from a Chinese shipyard.<sup>174</sup> The Bank explained that the “eleven vessels are the first batch of dual fuel vessels in the world with ammonia-ready propulsion,” enabling them to become “a new generation of symbolic green vessels with zero carbon emission.”<sup>175</sup> The report states that the project demonstrates China Ex-Im’s efforts to fulfill government policy goals, including “the high-quality development of domestic shipyards.”<sup>176</sup>

Sinosure further supports Chinese shipyards through the provision of export credit insurance and guarantees. In one example, Sinosure provided export credit guarantees to

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<sup>170</sup> China Ex-Im Bank Annual Report Excerpts, **Exhibit 51** at 63.

<sup>171</sup> *Id.*

<sup>172</sup> *Id.* (2021 Annual Report at 60).

<sup>173</sup> *Id.*

<sup>174</sup> *Id.* (2022 Annual Report at 62).

<sup>175</sup> *Id.*

<sup>176</sup> *Id.*

support the retrofitting of 86 ships at Chinese shipyards.<sup>177</sup> Sinosure has provided loan guarantees to support numerous projects involving the acquisition of new ships from Chinese shipyards, including the following few examples:<sup>178</sup>

- In 2010, Sinosure guaranteed a \$525 million loan to support the construction of an offshore rig for Petrobras at COSCO Nantong;
- In 2013, Chinese shipbuilder China Rongsheng Heavy Industries signed a blanket insurance agreement with Sinosure at favorable rates to ensure against buyers' breach of contract and help the company arrange financing for its ship exports;
- In 2017, Sinosure secured a loan of \$51.2 million to finance the building of two new 2,150 TEU container ships in Chinese yards;
- In 2019, Sinosure guaranteed a \$17.55 million loan to construct two cement carriers at a Chinese yard for European use; and
- In 2019, Sinosure supported a \$111 million deal to acquire four new takers from Guangzhou Shipyard International.

As a result of these outlays, China is now the world's leading provider of ship financing. By the end of 2021, the stock of ship financing held by Chinese financial institutions was nearly \$100 billion, making China the largest ship financing supplier in the world.<sup>179</sup> The financing is led by state-owned banks. By 2018, the Bank of China and China Ex-Im were the top two ship financing companies in the world.<sup>180</sup>

Chinese state-owned banks are also playing an increasingly important role in ship lease financing. In 2007, the China Banking Regulatory Commission granted the first

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<sup>177</sup> OECD Report on China's Shipbuilding Industry, **Exhibit 18** at 50.

<sup>178</sup> See Marine Money website excerpts, attached at **Exhibit 52**. See also Lee Hong Liang "China Rongsheng takes up blanket insurance from Sinosure," *SeaTrade Maritime News* (June 7, 2013), attached at **Exhibit 53**.

<sup>179</sup> Vivian Xu, "China became the world's largest ship financing supplier," *Xinde Marine News* (Nov. 25, 2022), attached at **Exhibit 54**.

<sup>180</sup> David Glass, "Chinese banks top lenders to shipping," *SeaTrade Maritime News* (Sept. 17, 2018), attached at **Exhibit 55**.

licenses for Chinese financial institutions to become involved in ship leasing.<sup>181</sup> The state-owned Industrial and Commercial Bank of China (ICBC) set up a \$780 million leasing facility for a state-owned power generating company to lease 12 supermax dry bulkers produced in China, including by CSSC.<sup>182</sup> In 2013, ICBC also supported a sale and leaseback deal worth more the one billion dollars with a French offshore group.<sup>183</sup> By 2017, Chinese financial institutions or other firms providing financing for ship leases had nearly 1,000 vessels available, valued at \$16.5 billion.<sup>184</sup>

Many of these lease arrangements are structured as sale-leaseback deals, where the ship owner sells its vessel to the Chinese lender and then leases it back on favorable terms.<sup>185</sup> Chinese lease financing tends to have a higher ratio of loan-to-value and a longer amortization period than traditional commercial financing.<sup>186</sup> These arrangements have resulted in a growing merchant fleet in the hands of Chinese owners.<sup>187</sup>

In some cases, the transfer of ownership and lease back have taken place under duress enabled by discriminatory treatment of foreign shipping companies. The Brazilian mining company Vale, for example, created its own dry bulk fleet to export iron ore, contracting with Chinese shipbuilders and relying on Chinese banks to finance the construction of the ships.<sup>188</sup> When Vale used the ships to export ore to China, however,

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<sup>181</sup> Marine Money, “Ship Finance in Asia,” **Exhibit 50**.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> Virginia Marantidou, “Shipping Finance: China’s New Tool in Becoming a Global Maritime Power,” **Exhibit 46**.

<sup>185</sup> *Id.*

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*



they were denied docking rights at Chinese ports, supposedly due to safety concerns regarding their large size.<sup>189</sup> With no ability to dock and unload their cargo, Vale was forced to sell the ships to Chinese shipping firms and banks, which then leased many of the vessels back to Vale.<sup>190</sup> Under Chinese ownership, the leased ships have been permitted to dock at Chinese ports.<sup>191</sup>

Sinosure is also involved in supporting ship leasing arrangements that use ships built in China. In 2023, Seaspan Corporation, a Canadian corporation and the world's largest containership lessor with a fleet of over 130 vessels, completed a \$1.17 billion dollar financing deal, underwritten by Sinosure, to acquire 15 new vessels from a Chinese shipyard.<sup>192</sup> The generous terms of the leasing arrangement result in a lower capital cost than a shipowner's own cost of equity.<sup>193</sup> Graham Talbot, the Chief Financial Officer of Seaspan, noted that the Sinosure support resulted in financing with longer terms and lower costs than traditional commercial loans, and he stated that the company "look{s} forward to further deepening our relationship with Sinosure ...."<sup>194</sup>

In short, export credits, export credit insurance, and ship lease financing from Chinese state-owned financial institutions are creating artificial, non-market incentives for international shipping companies to construct their vessels in China and also enabling growth in the Chinese-owned fleet. One analyst aptly summed up the nexus between ship

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<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

<sup>191</sup> *Id.*

<sup>192</sup> "Sinosure Support Adds a New Twist to JOLCO Ship Financing," Societe Generale, attached at **Exhibit 56**.

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

financing by state-owned Chinese banks and the Government of China’s policy goals for shipbuilding and maritime trade as follows: “Shipping finance appears to be an excellent tool to carry out these two policy goals: providing support for domestic shipyards and enlarging the Chinese merchant fleet to better control trade.”<sup>195</sup>

These financing arrangements, including leasing agreements, export credits, and export credit insurance, at below-market terms from state-owned institutions in order to benefit Chinese shipbuilders constitute acts, policies, and practices by the Government of China that are unreasonable, unfair, inequitable, and discriminatory, and these acts promote the construction of Chinese vessels used in international trade, warranting action by the USTR under Section 301.<sup>196</sup> These acts, policies, and practices also warrant action by USTR under Section 301, because they constitute export targeting.<sup>197</sup> Specifically, government-backed export credits and export credit insurance for foreign entities’ acquisition of Chinese-built vessels are part of a government plan consisting of coordinated actions bestowed on a specific industry, the effect of which is to assist the Chinese shipbuilding industry to become more competitive in the export of vessels in the global market.<sup>198</sup> These export targeting practices are thus by definition unreasonable under the Section 301 statute.<sup>199</sup>

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<sup>195</sup> Virginia Marantidou, “Shipping Finance: China’s New Tool in Becoming a Global Maritime Power,” **Exhibit 46**.

<sup>196</sup> See 19 U.S.C. § 2411(b)(1), (d)(2), and (d)(3)(A).

<sup>197</sup> See 19 U.S.C. § 2411(d)(3)(B)(ii).

<sup>198</sup> See 19 U.S.C. § 2411(d)(3)(E).

<sup>199</sup> See 19 U.S.C. § 2411(d)(3)(B)(ii).

d. Tax benefits

As a strategic and priority industry identified in Made in China 2025 and other policy documents, Chinese shipbuilders also enjoy generous preferential tax treatment.

Since 2017, China has provided VAT refunds for firms in industries identified in Made in China 2025, including marine engineering equipment and high-tech marine vessels.<sup>200</sup> The shipbuilding sector is also identified in government catalogues that authorize VAT and customs duty savings, including the Catalogue of State-supported Key Technical Equipment and Products and the Catalogue of Imported Key Components and Raw Materials of Key Technical Equipment and Products.<sup>201</sup> Companies benefitting from this preferential treatment (including but not limited to shipbuilding companies), enjoyed \$240 billion in savings due to these programs in 2019.<sup>202</sup> In addition, a 2003 circular provides for accelerated depreciation under Chinese tax laws for certain types of machinery and equipment, including those used by shipbuilders.<sup>203</sup>

Shipbuilders can also access tax savings due to their designation as “high-tech enterprises.” Under this program, such companies have a corporate tax rate of only 15 percent, compared to the standard rate of 25 percent. CSSC, for example, reports that 21 of its subsidiaries were entitled to the lower tax rate under this program in 2021 and 2022.<sup>204</sup>

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<sup>200</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 44.

<sup>201</sup> *Id.*

<sup>202</sup> *Id.*

<sup>203</sup> “Circular on the Following Administrative Work of Fixed Assets Depreciation’s Examination and Approval after the Related Power Delegated to Lower Levels,” Guoshuifa [2003] No. 113, attached at **Exhibit 57**.

<sup>204</sup> CSSC Annual Report Excerpts, **Exhibit 58** (CSSC 2022 Annual Report at 131; CSSC 2021 Annual Report at 131).

These targeted tax benefits constitute acts, policies, and practices by the Government of China that are unreasonable, unfair, inequitable, and discriminatory, and these acts support the construction of Chinese vessels used in international trade, warranting action by the USTR under Section 301.<sup>205</sup>

e. Funds

China's plans targeting global shipbuilding, shipping, and logistics for dominance also take the form of funds that provide important support to China's shipbuilders. According to one study of 35 publicly listed shipping, port management, and shipbuilding firms, the firms reported receiving \$3.4 billion in direct government financial support from 2007 to 2019, \$2.1 billion of which went to shipbuilding companies.<sup>206</sup> In 2018, the Chinese Ministry of Finance and a state-owned financial institution collaborated to create a one billion RMB "COSCO Shipping Investment Fund."<sup>207</sup> Local and provincial governments have also set up such funds. In 2019, for example, the government of Shenzhen created a three billion RMB fund to support "smart and green shipping."<sup>208</sup>

Individual shipbuilding companies continue to report large amounts of direct government grants in more recent years. COSCO, for example, reported receiving nearly three billion RMB in "government grants and other subsidies" in its financial reports for 2019 through 2022.<sup>209</sup> CSSC, meanwhile, reported receiving nearly four billion RMB in

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<sup>205</sup> See 19 U.S.C. § 2411(b)(1), (d)(2), and (d)(3)(A).

<sup>206</sup> Hidden Harbors, **Exhibit 25** at 6.

<sup>207</sup> OECD Report on China's Shipbuilding Industry, **Exhibit 18** at 52.

<sup>208</sup> *Id.*

<sup>209</sup> COSCO Annual Report Excerpts, **Exhibit 59**.

direct government funds during the same period.<sup>210</sup> Many of the largest programs appear to be grants for investments in new technology and equipment, including more efficient building processes, research on ships used for wind installations, and new engine technologies.<sup>211</sup>

These government grants constitute acts, policies, and practices by the Government of China that are unreasonable, unfair, inequitable, and discriminatory, and these acts support the construction of Chinese vessels used in international trade, warranting action by the USTR under Section 301.<sup>212</sup>

f. Equity infusions and debt-for-equity swaps

The Government of China further intervenes in the market to support its shipbuilding industry through equity infusions and debt-for-equity swaps on non-market terms. In 2017, for example, a subsidiary of COSCO issued shares to finance the purchase of 20 ships under construction at state-owned shipyards. Under the direction of the SASAC, eight state-owned firms purchased the shares for a total equity infusion of over one billion dollars.<sup>213</sup>

Before it merged with CSSC, CSIC received an equity infusion of \$3.27 billion in 2017 to allow it to acquire additional shipbuilding subsidiaries.<sup>214</sup> Two of the largest investors, the China Cinda Asset Management Co. and China Orient Asset Management, were controlled by the Government of China, and other SOEs participated in the equity

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<sup>210</sup> CSSC Annual Report Excerpts, **Exhibit 58**.

<sup>211</sup> *Id.*

<sup>212</sup> *See* 19 U.S.C. § 2411(b)(1), (d)(2), and (d)(3)(A).

<sup>213</sup> Hidden Harbors, **Exhibit 25** at 10.

<sup>214</sup> OECD Report on China's Shipbuilding Industry, **Exhibit 18** at 42-43.

infusion as well.<sup>215</sup> CSSC also benefitted from debt-for-equity swaps valued at \$2.5 billion, including \$1.1 billion from the state-owned China Construction Bank Corporation and the China Life Insurance Group.<sup>216</sup>

These equity infusions and debt-for-equity swaps on non-market terms constitute acts, policies, and practices by the Government of China that are unreasonable, unfair, inequitable, and discriminatory, and these acts support the construction of Chinese vessels used in international trade, warranting action by the USTR under Section 301.<sup>217</sup>

g. Chinese government intervention in the supply of steel inputs

Steel products like high-strength steel plate are critical inputs for the shipbuilding industry. By supporting excess steel capacity through extensive government intervention and directing supply into strategic downstream industries through state-owned or -controlled enterprises, the Chinese government suppresses the price of steel inputs to create an unfair competitive advantage for Chinese shipbuilders.

The United States has long recognized the distortions created by the Chinese government's extensive interventions in the steel industry. In 2017, the U.S. Commerce Department found that “{e}xcess capacity is a chronic problem in China's economy” that “is largely the result of government policies” that include “subcentral authorities protecting industries that support local industrial activity and employment; weak

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<sup>215</sup> *Id.*

<sup>216</sup> *Id.* at 43.

<sup>217</sup> *See* 19 U.S.C. § 2411(b)(1), (d)(2), and (d)(3)(A).

enforcement of regulations; low input prices due to government policies; and fiscal imbalances that incentivize local government to attract excessive investment.”<sup>218</sup>

Overcapacity is particularly acute in the Chinese steel industry because “government authorities, rather than the market, effectively control entry and exit, extend financial support to non-viable and troubled firms, and negotiate with other government authorities over the extent of administratively determined capacity cuts.”<sup>219</sup> USTR has likewise highlighted “the serious excess capacity problems that have been plaguing industries like steel . . . and have been devastating global markets and foreign competitors.”<sup>220</sup>

Rather than allowing market forces to dictate supply, demand, and prices, Chinese authorities have seized on domestic steel oversupply as a means of conferring unfair advantages on downstream industries vis-à-vis international competitors. In 2016, for example, the State Council issued the *Opinion Regarding Resolving Steel Industry Overcapacity and Realizing Development Through Difficulties*, which “promot{ed} cooperation between steel enterprises and downstream users” and encouraged the expansion of steel supply to downstream industries including shipbuilding.<sup>221</sup>

The Ministry of Industry and Information Technology (“MIIT”) subsequently issued the *Notice Regarding Promulgation of the Steel Industry Adjustment and*

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<sup>218</sup> Memorandum from Leah Wils-Owens to Gary Taverman, re: *China’s Status as a Non-Market Economy* (Oct. 26, 2017) at 151, attached at **Exhibit 60**.

<sup>219</sup> *Id.* at 155.

<sup>220</sup> *2022 Report to Congress on China’s WTO Compliance*, United States Trade Representative (Feb. 2023) at 13, attached at **Exhibit 61**.

<sup>221</sup> *Opinion of the State Council Regarding Resolving Steel Industry Overcapacity and Realizing Development Through Difficulties* (国务院关于钢铁行业化解过剩产能实现脱困发展的意见), State Council (2016) No. 6 (Feb. 4, 2016), attached at **Exhibit 62**.

*Upgrading Plan (2016-2020)*, which called for “supporting enterprises in prioritizing development and industrialization of high-end steel products required for major technology and equipment in the areas of high-tech vessels, marine engineering equipment, advanced transit, electricity, aviation, and machinery.”<sup>222</sup> The plan directed steel enterprises to “actively strengthen coordination with downstream industries,” including shipbuilding, “to develop and produce high-strength, corrosion resistant, and long service life steel products.”<sup>223</sup> MIIT highlighted several “key products” for the shipbuilding industry, including high yield strength heavy plate, steel for ultra-low-temperature vessels, steel for LNG tankers, and high-manganese corrosion-resistant steel.<sup>224</sup>

Subsequent steel industry development plans for the 14<sup>th</sup> Five Year Plan period have reiterated these priorities, including by calling for establishment of “upstream-downstream cooperation mechanisms” between the steel industry and major consuming industries, including shipbuilding.<sup>225</sup> These policies have become a form state-directed collusion between Chinese shipbuilders and their steel input suppliers, with the ultimate goal of capturing global market share at the expense of more market-oriented producers.

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<sup>222</sup> *Notice of the Ministry of Industry and Information Technology Regarding Promulgation of the Steel Industry Adjustment and Upgrading Plan (2016-2020)* (工业和信息化部关于印发钢铁工业调整升级规划（2016—2020年）的通知), MIIT (2016) No. 358 (Oct. 28, 2016), attached at **Exhibit 63**.

<sup>223</sup> *Id.*

<sup>224</sup> *Id.*

<sup>225</sup> *See, e.g., Guiding Opinion Regarding Promoting High-Quality Development in the Steel Industry* (关于促进钢铁工业高质量发展的指导意见), MIIT (2022) No. 6 (Jan. 20, 2022), attached at **Exhibit 64**; *Notice of Seven Ministries Regarding Promulgation of the Work Plan for Stable Growth in the Steel Industry* (七部门关于印发《钢铁行业稳增长工作方案》的通知), MIIT (2023) No. 131 (Aug. 21, 2023), attached at **Exhibit 65**.



Operating under these formal policies and other government directives,<sup>226</sup> Chinese authorities have moved to institutionalize the shipbuilding industry’s steel input price advantage over foreign competitors. In 2021, for example, the China Association of the National Shipbuilding Industry (“CANSI”) and the China Iron and Steel Association (“CISA”) initiated annual “shipbuilding steel input supply and demand conferences.” These conferences have been designed to “thoroughly implement the State Council Standing Committee’s directive for large enterprises to achieve secure supply and stable prices by creating coordination platforms for supply and demand in priority industry production chains and using market-oriented methods to guide upstream and downstream supply chains to stabilize raw material supply and coordinate production and sales.”<sup>227</sup>

At the first conference in 2021, the two industry associations signed a strategic memorandum of understanding to ensure that steel market price fluctuations would not negatively impact the competitive position of Chinese shipbuilders.<sup>228</sup> According to official reports, the agreement was signed to address CANSI concerns that steel price fluctuations compromised the Chinese shipbuilding industry’s competitive position

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<sup>226</sup> See, e.g., *Li Keqiang Oversees Convening of a Meeting of the State Council Standing Committee, Directs Further Support for Relief and Development of Small and Medium Enterprises and Sole Proprietorships* (李克强主持召开国务院常务会议 部署进一步为中小微企业和个体工商户纾困举措等), State Council Website (May 27, 2021), attached at **Exhibit 66** (noting Li Keqiang’s directive to support upstream-downstream supply-demand coordination platforms among large enterprises).

<sup>227</sup> *Steel and Shipbuilding Industries Actively Undertake Supply-Demand Coordination to Implement Secure Supply and Stable Prices* (钢铁船舶行业积极开展供需对接 落实保供稳价), Shanghai Securities Journal (Sept. 27, 2021), attached at **Exhibit 67**.

<sup>228</sup> See, e.g., *Significant Increases in Three Major Shipbuilding Industry Indicators in Last 9 Months: Secure Supply and Stabilize Prices, Steel and Shipbuilding Industries Undertake Supply-Demand Coordination* (前 9 个月我国造船业三大指标增幅明显: 保供稳价 钢铁船舶两大行业开展供需对接), CCTV (Oct. 13, 2021), attached at **Exhibit 68**.

relative to foreign shipbuilders.<sup>229</sup> At the second conference in 2022, a CISA representative said that Chinese steel producers would “provide strong backing to the shipbuilding industry” and “fully support the shipbuilding industry in developing overseas markets and increasing international competitiveness.”<sup>230</sup>

These conferences have become forums for major firms in the steel and shipbuilding industries to collectively discuss prices and output and sign supply and cooperation agreements under the supervision of the industry associations and government officials to ensure the international competitiveness of Chinese shipbuilders.

These supply agreements include:

- In 2021, agreements among CSSC, Ansteel Group, and Hunan Valin Xiantan Iron and Steel Co., Ltd.; COSCO Heavy Industry, Baowu Iron and Steel Group, Longteng Special Steel, Hunan Valin, and Nanjing Iron and Steel subsidiary Suqian Nangang Jinxin Steel Rolling Co., Ltd.; China Merchants Heavy Industry Group, Nanjing Iron and Steel Group, Longteng Special Steel, and Hunan Valin; and Yangzijiang Shipbuilding and Longteng Special Steel.<sup>231</sup>
- In 2022, agreements among shipbuilders including China State Shipbuilding Equipment and Materials Co., Ltd., COSCO Heavy Industry, China Merchants Heavy Industry, and Yangzijiang Shipbuilding and steel producers Hunan Valin, Jiangsu Shagang, and Baowu Steel Group Corp.<sup>232</sup>

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<sup>229</sup> *Id.*

<sup>230</sup> *2022 Shipbuilding-Steel Industry Cooperation and Coordination Conference Convenes in Nantong* (2022年船企合作协调对接会在南通召开), Sohu (Nov. 4, 2022), attached at **Exhibit 69**.

<sup>231</sup> *Three Major Shipbuilding Enterprises Sign Steel Supply Agreements, Avoid Steel Input Price Risks* (三大造船央企签订船用钢采购长协 规避用钢成本风险), Caixin (Sept. 24, 2021), attached at **Exhibit 70**.

<sup>232</sup> *2022 Shipbuilding-Steel Industry Cooperation and Coordination Conference Convenes in Nantong*, **Exhibit 69**.

- In 2023, 23 agreements among nine shipbuilders and nine steel producers including CSSC and Ansteel.<sup>233</sup> While the other parties to the agreements were not identified, they likely included Rizhao Steel Holdings Group Co., Ltd., whose subsidiary Yingkou Medium Plate Co., Ltd. helped to organize the conference.<sup>234</sup>

The participants in these agreements are either state-owned enterprises or otherwise controlled by the Chinese government by virtue of CCP direction or other political oversight.

Details regarding prices and quantities under the agreements do not appear to be available in the public domain. Because the Chinese government’s objective in directing steel and shipbuilding industry associations and their members to engage in “supply-demand coordination” is to enhance the competitive position of downstream industries, however, it is reasonable to conclude that the agreements resulted in prices that are significantly lower than they otherwise would have been.

State directed collusion between Chinese shipbuilders and their steel input suppliers to suppress input costs and create non-market-based price advantages in downstream international competition are acts, policies, or practices that are unreasonable and discriminatory and that burdens and restricts U.S. commerce. These acts therefore warrant action by USTR under Section 301.

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<sup>233</sup> *2023 Shipbuilding Steel Supply-Demand Conference Convenes: Implementing Stable Growth Work Plan, Promoting Development of Industrial Chain Coordination* (2023船舶用钢供需座谈会召开—落实稳增长工作方案 推进产业链协同发展), China Steel News (Sept. 11, 2023), attached at **Exhibit 71**.

<sup>234</sup> *Id.*

### 3. Favorable treatment and preferences for Chinese-built ships

#### a. Preferences and mandates to purchase Chinese ships

The OECD reports that government policies and generous lending from state-owned banks have led Chinese shipping companies (the largest of which are state-owned) to purchase their vessels from Chinese shipyards, particularly when those yards are under pressure due to market downturns. During the slumps in global ship demand from 2007 to 2010 and again from 2013 to 2016, Chinese shipyards were able to rely on these domestic purchases to remain afloat, as the share of contracts accounted for by Chinese shipping companies increased by ten to eighteen percentage points in the two periods, respectively.<sup>235</sup> As a result, China’s merchant fleet has grown significantly, from about one-twentieth of the world fleet total in the early 2000s, to one-seventh today.<sup>236</sup> In addition, the capacity of China’s merchant fleet more than doubled from 2011 to 2021.<sup>237</sup>

As noted above, state-owned financial institutions and leasing houses also provide support to state-owned enterprises and others to purchase Chinese-built ships. In 2019 alone these institutions financed \$8.3 billion worth of new building projects at CSIC, CSSC, and the newly merged entity of the two state-owned shipbuilders.<sup>238</sup>

The Government of China also directs state-owned enterprises to purchase Chinese-built ships. For example, China’s “National Oil, Nationally Carried” policy encourages state-owned oil companies to use Chinese shipping companies to carry

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<sup>235</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 25.

<sup>236</sup> “Powerful growth in the China-owned fleet,” *Hellenic Shipping News* (2022), attached at **Exhibit 72**.

<sup>237</sup> *Id.*

<sup>238</sup> *Id.* at 47.

imported oil, and it directs those Chinese shipping companies in turn to use Chinese-built ships for the transport of oil. State-owned shipping firms like COSCO and China Merchants have complied by ordering significant numbers of very large crude carriers from Chinese shipyards.<sup>239</sup> China Merchants is now the largest operator of oil tankers worldwide, and the share of oil tankers owned by Chinese companies surged from less than two percent to more than 15 percent over 15 years.<sup>240</sup> The policy ensures that oil imports, on which China is highly dependent, are carried on Chinese-built ships carrying the Chinese flag, and thus subject to Chinese military protection.<sup>241</sup>

Financing contingent on the acquisition of Chinese-built ships and government mandates to utilize Chinese-built and Chinese-owned ships for certain types of cargo constitute acts, policies, and practices by the Government of China that are unreasonable, unfair, inequitable, and discriminatory, and they thus warrant action by the USTR under Section 301.<sup>242</sup>

b. Port and logistics policies

The Government of China also seeks to advantage its shipbuilding industry and shipping companies through a variety of actions stemming from Chinese-funded infrastructure programs abroad and Chinese management interests in foreign ports and terminals. These policies include the provision of Chinese equipment and logistics software to shipping companies and ports that simultaneously collects valuable

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<sup>239</sup> “Flying the Flag,” Week in China, attached at **Exhibit 73**.

<sup>240</sup> *Id.*

<sup>241</sup> See Andrew Erickson and Gabe Collins, “Beijing’s Energy Security Strategy: The Significance of a Chinese State-Owned Tanker Fleet,” Foreign Policy Research Institute (2007), attached at **Exhibit 74**.

<sup>242</sup> See 19 U.S.C. § 2411(b)(1), (d)(2), and (d)(3)(A).

information and offers the possibility of disrupting international supply chains for China's benefit.

In 2013, President Xi announced China's Maritime Silk Road initiative, which would eventually become part of China's Belt and Road Initiative ("BRI").<sup>243</sup> To date, most of the one trillion dollars (the eventual target is eight trillion) committed to President Xi's trademark foreign policy initiative has come from China's policy banks.<sup>244</sup> The BRI involves both an overland route to Europe via railroads, and an east-west route via the ocean, with the maritime element clearly dominant.<sup>245</sup>

The official purpose of the BRI is to promote policy coordination among nations, the connection of infrastructure, free trade and financial integration, and people-to-people exchanges.<sup>246</sup> Underlying these lofty pronouncements, however, are efforts to increase Chinese exports and employment for Chinese construction workers at SOEs, who will build the BRI infrastructure in participating countries.<sup>247</sup>

There is widespread concern that many developing countries are taking on Chinese loans for projects that may not be economically viable, leading to default and Chinese ownership of the resulting infrastructure.<sup>248</sup> Foreign government decision makers may also be tempted to obligate their respective countries to pay for a BRI project that may not be viable because the politician may be able to obtain a personal benefit.<sup>249</sup>

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<sup>243</sup> The Middle Kingdom, **Exhibit 7** at 99.

<sup>244</sup> *Id.* at 99.

<sup>245</sup> *Id.* at 99.

<sup>246</sup> *Id.* at 100.

<sup>247</sup> *Id.* at 100.

<sup>248</sup> *Id.* at 101.

<sup>249</sup> *Id.* at 101.

BRI loans also may be attractive for reasons including that they do not come with the same conditions for good governance that might accompany a loan from the World Bank.<sup>250</sup>

With respect to ports and terminals, the China COSCO Shipbuilding Corporation Limited (“COSCO”) and its predecessor entities have used Chinese government money over the last fifteen years to build a network of friendly ports and terminals across Europe, Latin America, the Middle East, and the Indian subcontinent through equity investments and management agreements.<sup>251</sup> As a result, COSCO is now not only the third largest container carrier in the world in terms of capacity, but also the fifth largest port terminal operator in terms of throughput.<sup>252</sup> Moreover, while COSCO is not the only Chinese company in the overseas port and terminal business, it is the largest, and most of the others are also SOEs.<sup>253</sup>

According to one report, during calendar 2017 Chinese companies announced investments of more than \$20 billion in nine overseas ports.<sup>254</sup> The funds, of course, would come from state-owned Chinese financial institutions:

In January 2017, the Chinese state provided major financial support to COSCO to aid the development of its shipping and port network when the China Development Bank, the country’s main provider of long-term loans, pledged to extend twenty-six billion dollars in funding through various unspecified financial products for OBOR [One Belt One Road] projects

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<sup>250</sup> *Id.* at 101.

<sup>251</sup> See generally Christopher R. O’Dea, “Asia Rising: Ships of State?,” *Naval War College Review*: Vol. 72 : No. 1 (2019) (“Ships of State”), attached at **Exhibit 75**.

<sup>252</sup> See “Cosco takes stake in Hamburg Port terminal,” *Merics* (Sept. 30, 2021), attached at **Exhibit 76**.

<sup>253</sup> The Middle Kingdom, **Exhibit 7** at 14.

<sup>254</sup> Ships of State, **Exhibit 75** at 60.

that COSCO has undertaken through 2021, the period of China's Thirteenth Five-Year Plan.<sup>255</sup>

Such investments have resulted in a considerable number of ports and terminals around the world coming under Chinese management or control. Some observers estimate, for example, that state-backed Chinese investors own at least 10 percent of all the equity European ports.<sup>256</sup> By some other estimates, more than a quarter of all containers passed through terminals in which China and Hong Kong-based firms now hold stakes.<sup>257</sup>

According to a September 2023 report,

96 ocean ports owned and/or operated by PRC firms in foreign jurisdictions; at 29 of these ports, China is the sole operator. Chinese firms are directly involved in operations at 83% of the 96 ports. Thirty-six of the 96 are among the world's top 100 measured by container throughput. Throw in another 25 that are on the Chinese mainland and there is "a PRC nexus" for 61% of the world's leading container ports.<sup>258</sup>

Not surprisingly, more than half of the ports (45 of 96) are in locations that connect China to critical natural resources, leading export markets, or sources for high-technology imports.<sup>259</sup>

Through their management and ownership interests in various ports and terminals, Chinese SOEs are able to direct container traffic.<sup>260</sup> SOEs may, for example, direct

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<sup>255</sup> Ships of State, **Exhibit 75** at 76.

<sup>256</sup> John Lee, "China's Trojan Ports," *The American Interest* Vol. 14, No. 4 (Nov. 29, 2018), attached at **Exhibit 77**. As one example, COSCO in 2021 took a 35 percent stake in Germany's largest port terminal in Hamburg. See "Cosco takes stake in Hamburg Port terminal," **Exhibit 76**.

<sup>257</sup> Niharika Mandhana, "China's Global Port Investments Give Rise to Security Worries," *The Wall Street Journal* (Nov. 13, 2022), attached at **Exhibit 78**.

<sup>258</sup> "China's port investments and risk to national security," *The Japan Times* (Sept. 26, 2023), attached at **Exhibit 79**.

<sup>259</sup> Pier Competitor, **Exhibit 8** at 22.

<sup>260</sup> Ships of State, **Exhibit 75** at 57.



containers to Chinese-owned ports at the expense of others. Chinese interests also now have the discretion in some circumstances to determine priorities and pricing for warehousing, fuel, bunkering, use of dry docks,<sup>261</sup> advantaging Chinese interests at the expense of others.

As an example of the ways in which China's ownership of overseas ports can change market dynamics, one of China's earliest investments in a foreign port was in 2009 in Piraeus, Greece, where China's role as terminal operator grew over a number of years to controlling shareholder.<sup>262</sup> Volume at the port increased significantly under China's ownership, growing from 17th to Europe's eighth busiest port despite the Greek GDP falling by 25 percent over the same period,<sup>263</sup> at the expense of other European ports. Thus, it was not an increase in Greek economic activity that drove this growth but rather China's decision to unload more ships at Piraeus and then transport material from there to other destinations in Europe by rail.<sup>264</sup>

China has also leveraged its control over Piraeus to further other goals. For example, Chinese champion Huawei was also hired to replace the port's IT network and communications infrastructure,<sup>265</sup> and host government Greece in 2017 blocked discussions of Chinese human rights abuses at the United Nations for reasons that are unclear.<sup>266</sup>

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<sup>261</sup> See Pier Competitor, **Exhibit 8** at 29.

<sup>262</sup> Ships of State, **Exhibit 75** at 62.

<sup>263</sup> *Id.* at 67; "Cosco takes stake in Hamburg Port terminal," **Exhibit 76**.

<sup>264</sup> Ships of State, **Exhibit 75** at 67.

<sup>265</sup> *Id.* at 83.

<sup>266</sup> *Id.*, citing "In Greece, China Finds an Ally Against Human Rights Criticism," *The New York Times* (June 19, 2017), attached at **Exhibit 80**; see also *The Middle Kingdom*, **Exhibit 7** at 102.

Another example of how China can use its management of ports and terminals to its advantage comes from the incident involving the Brazilian iron ore mining company Vale identified earlier. In particular, Vale ordered ultra-large bulk carriers from Chinese shipyards to replace chartered vessels carrying the company's product to China, presumably to save on transportation costs.<sup>267</sup> Chinese officials, however, refused to let the vessels enter Chinese ports for "safety" reasons.<sup>268</sup> Only after Vale sold the vessels to COSCO and then leased them back did Chinese officials allow them to dock.<sup>269</sup>

China's investments and ability to control port facilities pose considerable risks to a host country's national security. For example, a 2017 PRC law requires Chinese companies and overseas subsidiaries in the international transportation sector to provide supplies and support ships, aircraft, vehicles and personnel for the country's military operations – drawing no lines between domestic and foreign jurisdictions or private and state-owned enterprises. In other words, the Chinese government can by law intervene in the operations of any foreign ports and terminals controlled by Chinese interests.<sup>270</sup>

Chinese control over foreign ports also helps China project military power. Chinese military vessels are, for example, reported to have made calls on at least one third of overseas ports owned by PRC interests, and more than two-thirds of those had not hosted a Chinese military vessel prior to 2012.<sup>271</sup> As one example a Chinese destroyer in 2019 berthed at a terminal operated by two Chinese firms at the port of Alexandria in

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<sup>267</sup> The Middle Kingdom, **Exhibit 7** at 98.

<sup>268</sup> *Id.* at 98.

<sup>269</sup> *Id.* at 98.

<sup>270</sup> "China's port investments and risk to national security," **Exhibit 79**.

<sup>271</sup> *See* Pier Competitor, **Exhibit 8** at 39.

Egypt for specialized repairs.<sup>272</sup> Thus, although China does not have a wide array of foreign military bases, it can support its naval operations through the commercial ports it controls.

There is also the possibility that China uses its ability to control foreign ports to promote its foreign policy objectives. President Xi in 2020 instructed the CCP to “tighten the dependence of the international industrial supply chain on China and form a strong counter-measure and deterrent capability for outsiders to artificially cut off supply.”<sup>273</sup> While the stated purpose of this directive is to ensure that materials flow freely to China, it is not hard to imagine how China could use its authority over various ports to disrupt or cut off supplies to entities the CCP considers unfriendly.

In addition to the potential for Chinese interests commandeering port facilities to achieve their own geopolitical goals, reports indicate that Sri Lanka had to agree to share intelligence with China in order to secure investments in the economically unattractive Hambantota Port,<sup>274</sup> which China eventually took over with a 99-year lease after Sri Lanka was unable to repay the associated loans.<sup>275</sup> This is just one example of how the ports China controls offer potential new sources of intelligence.

Another possible source of new intelligence could flow not from willing governments but from the surreptitious collection of data at ports. In this regard, China has developed a logistics platform called “LOGINK” (short for “Logistics Link,”

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<sup>272</sup> *Id.* at 9.

<sup>273</sup> *See id.* at 46.

<sup>274</sup> *See* Major Lindsey Madero, “The Maritime Silk Road: Concerns for U.S. National Security,” *Journal of Advanced Military Studies*, Vol. 13: No. 2, (22) at 102, attached at **Exhibit 81**.

<sup>275</sup> The Middle Kingdom, **Exhibit 7** at 101.

officially named the National Transportation and Logistics Public Information Platform) which the country makes available to a wide variety of entities involved in international trade free of charge.<sup>276</sup> China promotes the platform

as a one-stop shop for logistics data management, shipment tracking and information exchange among businesses and from business to government. Subsidized by China's ministry of transport and offered free to all participants in the supply chain, the cloud-based software platform is growing in popularity. As of a year ago, 24 international ports had signed agreements to use LOGINK, a list that includes Tokyo/Yokohama, Kawasaki, Osaka, Kobe and Niigata.<sup>277</sup>

Of course, the fact that China provides access to this platform free of charge should remind potential users of the adage that “if you're not paying for a product, you are the product.”

LOGINK combines data from a variety of government and private sector sources to provide five key services:

- Real-time credit and location data;
- Government monitoring and management;
- Collaboration and connection among supply chains;
- connections to an app layer of “smart logistics” software and service offerings; and
- standardization (on China's terms) to help connect transportation nodes and actors.

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<sup>276</sup> U.S.-China Economic and Security Review Commission, “LOGINK: Risk from China's Promotion of a Global Logistics Management Platform” (Sept. 20, 2022) at 4, attached at **Exhibit 82**.

<sup>277</sup> “China's port investments and risk to national security,” **Exhibit 79**.

The platform started as a provincial initiative and went global in 2014 in connection with the BRI.<sup>278</sup> Today, LOGINK is used in ports around the globe. Indeed three major ports in the EU – Rotterdam, Antwerp and Hamburg – utilize the logistics platform.<sup>279</sup>

There are a number of widespread concerns about how China might employ the information it collects through LOGINK. The platform could, for example, be used to give Chinese companies sensitive business information such as pricing or order volumes that might allow the Chinese companies, including shipping companies, to undercut competitors.<sup>280</sup> It is also possible that the platform could also be used to potentially block or disrupt trade flows to countries China considers adversaries.<sup>281</sup> In addition, the platform could also give the PRC and CCP insight into the movement of material around the world, including military equipment moving through commercial ports.<sup>282</sup> As an example, “more than 90 percent of U.S. war fighters’ equipment and supplies travels by sea,” much of which transits on commercial vessels.<sup>283</sup>

Along similar lines, state-owned Shanghai Zhenhua Heavy Industries (often referred to as “ZPMC”)<sup>284</sup> has for the last two decades been supplying ports around the world with ship-to-shore cranes – and in fact controls approximately 70 percent of the

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<sup>278</sup> U.S.-China Economic and Security Review Commission, “LOGINK: Risk from China’s Promotion of a Global Logistics Management Platform,” **Exhibit 82** at 3, 6.

<sup>279</sup> *Id.* at 9.

<sup>280</sup> *Id.* at 10.

<sup>281</sup> *Id.*

<sup>282</sup> See Major Lindsey Madero, “The Maritime Silk Road: Concerns for U.S. National Security,” **Exhibit 81** at 102.

<sup>283</sup> U.S. Navy, “Sealift Program,” attached at **Exhibit 84**.

<sup>284</sup> Vivienne Walt, “Boxed In at the Docks: How a lifeline From China Changed Greece,” *Fortune* (July 22, 2019), attached at **Exhibit 85**.

market for such machines.<sup>285</sup> These cranes contain electronics capable of recording the origin and destination of containers.<sup>286</sup> In addition to potentially tracking shipments, including in particular shipments of defense-related items, it is also possible that the cranes could be shut down remotely, thus disrupting or even stopping the flow of goods in or out of particular ports.<sup>287</sup>

China’s Maritime Silk Road project and accompanying state-backed investments in key ports and logistics systems threaten to create a global maritime infrastructure controlled by the Government of China for the benefit of Chinese-built ships, Chinese shipping companies, and China’s own economic, intelligence, security and geopolitical interests. These steps to dominate global maritime trade and logistics constitute acts, policies, and practices by the Government of China that are unreasonable, unfair, inequitable, and discriminatory, and they thus warrant action by the USTR under Section 301.<sup>288</sup>

#### 4. Upstream inputs

The Government of China not only seeks to dominate global shipping and shipbuilding through government policies and support – it also aims to dominate the market for key upstream inputs and technologies.

For example, the Government of China adopted an “Innovation Development Strategy for the Maritime Engineering Equipment Sector (2011- 2020)” plan that aimed

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<sup>285</sup> “Pentagon Sees Giant Cargo Cranes as Possible Chinese Spying Tools,” *The Wall Street Journal* (Mar. 5, 2023), attached at **Exhibit 86**.

<sup>286</sup> *Id.*

<sup>287</sup> *Id.*

<sup>288</sup> *See* 19 U.S.C. § 2411(b)(1) and (d)(3)(A).

to establish a complete supply chain within China by 2020 for various marine equipment products.<sup>289</sup> The Made in China 2025 plan lists priority sectors in which China should become a world leader, including high-value maritime sectors, such as “equipment for the exploration of ocean resources (e.g. deep sea detection equipment, equipment for offshore oil and gas drilling, and support equipment for offshore operations), high-tech shipbuilding (e.g. LNG carriers, LPG carriers, icebreaking cargo ships, car carriers, fishing vessels, and luxury cruise ships), and green ships.”<sup>290</sup> China also aims to have at least five internationally renowned high-tech manufacturing companies for marine equipment and shipbuilding that will be able to supply half of the world’s high-tech ship design and manufacturing equipment by 2025.<sup>291</sup>

These support programs for key upstream maritime technologies constitute acts, policies, and practices by the Government of China that are unreasonable, unfair, inequitable, and discriminatory, and these acts encourage the provision of Chinese upstream goods to support the construction of Chinese vessels used in international trade, warranting action by the USTR under Section 301.<sup>292</sup>

##### 5. Intellectual property theft

USTR has previously determined that the Government of China and Chinese companies regularly engage in industrial espionage, particularly to support the development of priority industries.<sup>293</sup> The shipbuilding sector is no exception.

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<sup>289</sup> OECD Report on China’s Shipbuilding Industry, **Exhibit 18** at 33.

<sup>290</sup> *Id.* at 31.

<sup>291</sup> *Id.*

<sup>292</sup> See 19 U.S.C. § 2411(b)(1), (d)(2), and (d)(3)(A).

<sup>293</sup> USTR Findings on China 301 Investigation, **Exhibit 13** at 153-171.

In 2019, Shan Shi was convicted of conspiracy to steal trade secrets from Trelleborg Offshore, a Houston-based U.S. subsidiary of the Swedish engineering giant Trelleborg.<sup>294</sup> Four of his co-defendants also pled guilty.<sup>295</sup> The parent firm of Shi's company reportedly received state-funded research grants and partnered with state-run Harbin Engineering University, which specializes in research for China's navy.<sup>296</sup>

The trade secrets were related to syntactic foam, an advanced material used in deep-sea oil and gas drilling that has both commercial and military applications.<sup>297</sup> The U.S. Department of Justice noted that the Government of China had identified the material as a priority for development.<sup>298</sup> The assistant director of the FBI's Counterintelligence division stated: "It is no secret that China is determined to achieve superiority in virtually all high-tech areas, and the FBI is equally determined to stop individuals who commit illegal acts to help China achieve its goals. The stakes are high both for U.S. national security and for American companies who invest so much money and time on research and development."<sup>299</sup>

In addition, as noted in Section II.C.2.b, above, the U.S. government has also expressed concerns that cargo cranes supplied by the state-owned Shanghai Zhenhua Heavy Industries could be used for surveillance at the ports where they are deployed –

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<sup>294</sup> U.S. Department of Justice, "Texas Man Convicted of Conspiracy to Commit Theft of Trade Secrets" (July 29, 2019), attached at **Exhibit 90**.

<sup>295</sup> *Id.*

<sup>296</sup> "Trial of Houston businessman stirs debate over U.S. crackdown on China's economic espionage," *The Washington Post* (July 24, 2019), attached at **Exhibit 91**.

<sup>297</sup> U.S. Department of Justice, "Texas Man Convicted of Conspiracy to Commit Theft of Trade Secrets," **Exhibit 90**.

<sup>298</sup> *Id.*

<sup>299</sup> *Id.*



the company already controls approximately 70 percent of the market for such machines.<sup>300</sup> As a result of these issues and related concerns about China’s LOGINK system, the Maritime Administration has issued advisories for U.S. ports and other maritime stakeholders to carefully review the use of Chinese logistics equipment and systems due to the potential for adverse surveillance and data collection.<sup>301</sup> On February 21, 2024, the Biden-Harris Administration announced a series of actions to secure digital infrastructure in U.S. maritime trade, including through the issuance of cybersecurity standards for vessels, ports, and the U.S. maritime system, required cyber risk management actions for ship-to-shore cranes produced in China, and investments to rebuild domestic industrial capacity to produce port cranes.<sup>302</sup>

USTR has previously found that intellectual property theft supported or tolerated by the Government of China constitutes acts, policies, and practices by the Government of China that are unreasonable, unfair, inequitable, and discriminatory under Section 301,<sup>303</sup> and USTR should find the same regarding such practices that unfairly harm U.S. intellectual property holders for the benefit of China’s shipbuilding industry.<sup>304</sup>

#### 6. Controls on freight rates and capacity allocations

The Government of China further distorts global shipping markets by using its regulatory power to force shipping companies to offer preferential shipping rates for

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<sup>300</sup> “Pentagon Sees Giant Cargo Cranes as Possible Chinese Spying Tools,” *The Wall Street Journal* (Mar. 5, 2023), **Exhibit 86**.

<sup>301</sup> See, e.g., MSCI Advisory, “2023-009-Worldwide-Foreign Adversarial Technological, Physical, and Cyber Influence,” attached at **Exhibit 92**.

<sup>302</sup> See “FACT SHEET: Biden-Harris Administration Announces Initiative to Bolster Cybersecurity of U.S. Ports” (Feb. 21, 2024), attached at **Exhibit 93**.

<sup>303</sup> USTR Findings on China 301 Investigation, **Exhibit 13**.

<sup>304</sup> See 19 U.S.C. § 2411(b)(1), (d)(3)(A), and (d)(3)(B)(i)(II).

exports from China and to prioritize cargo space allocations for Chinese goods. While many countries impose regulations to prevent anticompetitive practices in the shipping industry that could artificially increase freight rates or reduce available capacity, the Government of China goes a step further to ensure that its own exports have an advantage in their access to cargo space and the prices they pay for it.

The Government of China requires all providers of outbound ocean freight from Chinese ports to file their freight rates with the Shanghai Shipping Exchange (“SSE”).<sup>305</sup> The SSE was established by the Government of China “to standardize the transactions, to protect fair shipping market competition and to communicate information on the shipping market.”<sup>306</sup> The freight rate regulation states that “liner operators should follow the legal operation and bona fide principles to offer transport service at a normal and reasonable level.”<sup>307</sup>

Any change to a carrier’s standard freight rates cannot go into effect until 30 days after the rates are filed with, and accepted by, the SSE.<sup>308</sup> In addition, the Ministry of Transportation may conduct an investigation if the filed rates “go beyond the normal and reasonable scope, which seriously deviate from the average level of the filed rates by the liner operators of the same scale offering the same service and may impair the market fair competition ....”<sup>309</sup> If the Ministry determines that a carrier’s rates “impair fair competition,” the Ministry may take punitive action, including “limiting voyage

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<sup>305</sup> See “Circular No. 64 {2013} on the Implementing Rules of the International Container Liner Precise Freight Filing” (“Circular No. 64”), attached at **Exhibit 94**.

<sup>306</sup> See Shanghai Shipping Exchange, “Brief Introduction,” attached at **Exhibit 95**.

<sup>307</sup> Circular No. 64, **Exhibit 94** at Section I.

<sup>308</sup> *Id.* at Section III.

<sup>309</sup> *Id.* at Section VI.

frequency, suspension of tariff rate application, {and} suspension of freight filing acceptance ....”<sup>310</sup> International shipping companies have notified their customers of their obligation to comply with the government’s regulations for all shipments of Chinese exports to the rest of the world.<sup>311</sup>

In 2020, global shipping rates started to increase dramatically as countries struggled to reopen during the coronavirus pandemic.<sup>312</sup> These increases threatened to impose added costs on Chinese exports, and the Government of China responded rapidly. In August of 2020, the Ministry of Transportation sent letters to the six major ocean freight carriers – Cosco, Maersk, MSC, CMA CGM, Hapag Lloyd, and Evergreen – asking the companies to explain recent increases in freight rates.<sup>313</sup> One commentator noted that while the letters were technically styled merely as inquiries, they “sent a clear signal to the companies, making them operate more openly in order not to step out of line.”<sup>314</sup>

In September of 2020, the Ministry of Transport convened a meeting with major shipping companies to urge them to “inject more capacity and less aggressively raise rates.”<sup>315</sup> At the meeting the ministry gave “guidance” to the shipping companies and

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<sup>310</sup> *Id.* at Section VI(2).

<sup>311</sup> *See, e.g.*, CMA CGM, “New Regulations from Ministry of Transport (MOT) China,” attached at **Exhibit 96**.

<sup>312</sup> *See* Container Freight Rate Index Worldwide 2019-2021, attached at **Exhibit 97**.

<sup>313</sup> Jason Jiang, “Chinese authorities investigate liners as transpacific rates hit record territory,” *Splash247* (Aug. 14, 2020), attached at **Exhibit 98**.

<sup>314</sup> *Id.*

<sup>315</sup> Mark Szakonyi, “Maritime regulation: Chinese authorities suggest trans-Pacific carriers add more capacity,” *Journal of Commerce* (Sept. 11, 2020), attached at **Exhibit 99**.

reportedly capped spot rates for shipments of exports out of China and/or urged shipping companies not to reduce capacity in order to let prices fall.<sup>316</sup>

Chinese regulators ... asked carriers how much trans-Pacific capacity has been suspended between July and October; what percentage of their volume is spot cargo; how spot rates are established; why spot rates have increased; and what carriers are doing to curb freight rates, according to an MOT document obtained by JOC.com. Regulators also noted the decline in oil fuel prices and port fees at some cargo gateways this year, and asked carriers how they are disclosing to shippers reduced fuel surcharges due to lower bunker fuel prices.<sup>317</sup>

Two participants in the meeting reported that as a result of government pressure, they would suspend their rate increases. For example, COSCO agreed to suspend a September 15 general rate increase.<sup>318</sup> Taiwan's Evergreen shipping company also suspended its general rate increase as a result of the meeting.<sup>319</sup>

Commentators agreed that other shippers would likely need to adjust their rates and capacity in order to align themselves with the government's goal of minimizing rate increases.

In the aftermath of that sit-down, concerns have been raised about carriers' ability to implement general rate increases (GRIs) and "blank" (cancel) sailings while averting future government backlash. "The meeting in Shanghai was not something anybody was expecting," said Alan Murphy, CEO of Sea-Intelligence .... "A lot of people had plans for the weekend that got canceled. Nobody was ready for that .... I think the carriers are now mulling how best to address this," he continued. "The carriers are not going to blindly ignore the Chinese authorities. You can't do that."<sup>320</sup>

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<sup>316</sup> *Id.*

<sup>317</sup> *Id.*

<sup>318</sup> *Id.*

<sup>319</sup> Greg Miller, "Red-hot ocean rates could spark government intervention," *FreightWaves* (Sept. 17, 2020), attached at **Exhibit 100**.

<sup>320</sup> *Id.*

In addition, it appears that COSCO reinstated what had been scheduled as “blank” sailings during China’s “Golden Week” from October 1 through 7 to increase capacity and thus keep freight rates lower than they would otherwise be.<sup>321</sup> In November of 2020, Chinese authorities “discussed refusing to allow carriers to increase the spot rate from China to the US, and that their suspended sailings must be reinstated from week 42.”<sup>322</sup> Commentators again stated their expectation that other carriers would suspend their general rate increases, just as COSCO did after the September meeting with Chinese officials.<sup>323</sup>

Chinese government interference to regulate freight rates and capacity and to pressure shipping companies to lower their rates or forego rate increases is yet another unreasonable and discriminatory practice by the Government of China. These efforts go beyond the type of activities that other governments undertook to rein in spiraling shipping costs after COVID shutdowns ended, such as monitoring and antitrust inquiries. In addition, China is unique in the level of state ownership of major shipping companies, which further facilitates the Government of China’s efforts to secure preferential shipping rates for its exports.

Acts, policies, and practices by the Government of China to secure preferential shipping rates and dedicated shipping capacity for Chinese exports are unreasonable,

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<sup>321</sup> *Id.*

<sup>322</sup> Alex Lennane, “China set to step in and hold down box line rates, with ocean freight a ‘global mess’,” *The Loadstar* (Nov. 9, 2020), attached at **Exhibit 101**.

<sup>323</sup> *Id.*

unfair, inequitable, and discriminatory, warranting action by the USTR under Section 301.<sup>324</sup>

### **III. CHINA'S SHIPBUILDING POLICIES BURDEN AND RESTRICT U.S. COMMERCE**

Congress has specifically recognized that policies like those that China has employed in its maritime, logistics, and shipbuilding sector can burden or restrict U.S. Commerce and thus justify action under Section 301(b) of the Trade Act. Specifically, the statute states as follows:

An act, policy, or practice of a foreign country that burdens or restricts United States 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.<sup>325</sup>

As shown below, China's policies have burdened and restricted U.S. Commerce in numerous ways.

Since 2000, China's policies to dominate the global maritime and logistics sector have burdened or restricted U.S. commerce by: (1) dramatically increasing China's shipbuilding production and share of the global shipbuilding market, leading U.S. production and market share to decline; (2) artificially lowering prices for ships made in China, suppressing global prices and making it more difficult for American-made ships to compete for sales; (3) causing U.S. shipyards to declare bankruptcy, go idle, and cease production; (4) eliminating U.S. shipbuilding and repair jobs and reducing production hours for U.S. workers; (5) greatly depleting the number of U.S.-produced ships in the

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<sup>324</sup> See 19 U.S.C. § 2411(b)(1) and (d)(3)(A).

<sup>325</sup> 19 U.S.C. § 2411(d)(2).

domestic merchant fleet; and (6) depriving U.S. producers of upstream goods such as turbines and engines of market opportunities by increasingly localizing production of such items in China and other preferential policies.

As a result of these policies, the entire U.S. commercial shipbuilding economy has been severely hollowed out, to the extent that it is unable to meet the national security needs of the United States. The U.S. Navy has recognized that it must be able to rely upon the availability of a healthy commercial fleet manned by highly skilled mariners in order to support its operations in the event of a conflict. The Navy has also expressed concerns that the industrial shipbuilding base is so fragile that it might not survive the next boom / bust cycle. Indeed, the situation has become so dire that the U.S.

Government is commissioning Chinese made tankers to participate in its Tanker Security Program (“TSP”)<sup>326</sup> – these are the ships that the military would rely upon for deliveries of fuel in the event of a conflict. Without sufficient commercial shipbuilding, the entire ecosystem to support shipbuilding – including military shipbuilding – is crumbling.

Commercial shipyards engaged in building and maintaining ships for the U.S. Navy have had to rely on dry docks made in China.<sup>327</sup> The U.S. government also had to invoke the Defense Production Act to improve the supply of castings that are critical to both naval and commercial shipbuilding.

These trends will only worsen in the imminent future if action is not taken given the continued flood of new ships being ordered from Chinese shipyards:

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<sup>326</sup> “Three Modern Product Tankers Join U.S.-Flag Fleet Under TSP Program,” *The Maritime Executive* (May 17, 2023), attached at **Exhibit 102**.

<sup>327</sup> Sydney J. Freedberg, Jr., “Shipyards Serving US Navy Already Use Chinese-Built Drydocks,” *Breaking Defense* (Sept. 16, 2016), attached at **Exhibit 103**.

- According to Chinese media, in the first 5 months of this year, orders for new vessels surged 49.5 percent year-over-year. These new orders added up over 26 million dead-weight tons (dwt) with a global market share of 67 percent.<sup>328</sup>
- Media reports indicate that Chinese shipbuilders are forecast to receive newbuilding orders in excess of 50 million dwt in 2023. The China Association of National Shipbuilding Industry had previously forecasted 42 million dwt for 2023.<sup>329</sup>
- In April of this year, China’s State Shipbuilding Corporation received an order from Japan’s Kumiai Senpaku for 11 vessels, 10 multi-purpose ships (for transporting EV vehicles) and a single asphalt carrier (17,000 ton vessel).<sup>330</sup>
- Between April and June of 2023, Dalian Shipbuilding and Yangzijiang Shipbuilding secured orders from Maersk and CMA CGM for 12 methanol-powered vessels, each with a capacity of 9,000 TEUs.<sup>331</sup> JP Morgan ordered three methanol-powered tankers from China’s Guangzhou Shipyard in July of 2023.<sup>332</sup>
- In April 2023, CMA CGM ordered 16 large container ships from China’s State Shipbuilding Corporation. This is reportedly the largest single order for container ships ever placed in China. The deal is valued at over \$3 billion. Twelve of the vessels will be 15,000 TEU and four will have a 23,000 TEU capacity.<sup>333</sup>
- In January of 2024, China’s state-owned Jiangnan Shipyard announced plans to build the largest ever nuclear-powered container ship.<sup>334</sup> The ship, with a load

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<sup>328</sup> “China’s Shipbuilding Sector Sees Significant Growth With Rise In Vessel Deliveries And New Orders,” *MI News Network* (July 3, 2023), attached at **Exhibit 104**.

<sup>329</sup> “Newbuild orders at Chinese yards to exceed 50 million tonnes this year,” *DredgeWire* (Aug. 9, 2023), attached at **Exhibit 105**.

<sup>330</sup> “Kumiai Continues Expansion Ordering 11 Multi-Purpose Ships from CSSC,” *The Maritime Executive* (Apr. 10, 2023), attached at **Exhibit 106**.

<sup>331</sup> “Maersk orders six methanol powered vessels,” *Maersk.com* (June 26, 2023), attached at **Exhibit 107**.

<sup>332</sup> “JP Morgan Announces First Order for Methanol-Fueled Product Tankers in China,” *ChemAnalyst News* (Oct. 6, 2023), attached at **Exhibit 108**.

<sup>333</sup> “CMA CGM Orders 16 Large Containerships at China State Shipbuilding –Reports,” *gcaptain.com* (Apr. 7, 2023), attached at **Exhibit 109**.

<sup>334</sup> See David Dalton, “China Unveils Plans For ‘Largest Ever’ Container Ship, Powered By Thorium Reactor,” *Nucnet* (Jan. 5, 2024), attached at **Exhibit 110**.



capacity of 24,000 containers, will use a thorium-based molten salt reactor in order to achieve zero emissions and eliminate the need for re-fueling.<sup>335</sup>

It is critical that the U.S. take action to address China's unfair acts and policies to eliminate the burdens and restrictions on U.S. commerce these practices impose and permit the domestic industry and its workers to withstand the continued deluge of Chinese ships in the global market. We begin this section with an overview of the history of the U.S. shipbuilding industry and its current status. We next turn to the specific ways in which China's acts, policies, and practices have burdened or restricted U.S. commerce.

#### **A. Background on the U.S. shipbuilding industry**

Beginning in the 1930s, the United States government supported domestic shipbuilding through the Construction Differential Subsidy ("CDS") program, which covered up to 50 percent of the additional cost of building a ship in the United States, as compared to a foreign yard.<sup>336</sup> The program helped the domestic shipbuilding industry thrive – after the Second World War, the United States was one of the leading producers of ships in the world.<sup>337</sup> In 1975, for example, shipyards in the United States had more than 70 commercial ships of 1,000 gross tons or more on order,<sup>338</sup> and the industry employed 180,000 workers.

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<sup>335</sup> *See id.*

<sup>336</sup> Capt. Kelly Sweeney, "Time to make nation's shipyards, merchant marine great again" *Professional Mariner* (June 3, 2019), attached at **Exhibit 111**.

<sup>337</sup> Aaron Klein, "Decline in U.S. Shipbuilding Industry: A Cautionary Tale of Foreign Subsidies Destroying U.S. Jobs," ENO Center for Transportation (Sept. 1, 2015), attached at **Exhibit 112**.

<sup>338</sup> U.S. Department of Transportation, Bureau of Transportation Statistics, *Transportation Statistics Annual Report 2001*, BTS02-07 (Washington, DC: 2002) at 132, attached at **Exhibit 113**.

Following the oil crises of the 1970s and subsequent recession of the 1980s, however, shipyards in the United States and around the world suffered.<sup>339</sup> While other governments countered this downturn with continued financial support for their shipbuilding industries, in 1981 the United States ceased providing any such support, including the CDS.<sup>340</sup> The result was that

{T}he number of large, oceangoing commercial vessels on order in U.S. yards plummeted from 69 the year President Reagan was elected to zero his last year in office. Industry employment never again reached the level seen in 1981 (the highest year since World War II), and no new oceangoing commercial vessels were ordered after 1984 for the rest of the decade.<sup>341</sup>

The number of major U.S. shipyards was slashed from 27 to 8, and tens of thousands of jobs were lost. What remained of the U.S. shipbuilding industry was forced to rely almost exclusively on orders from only the U.S. Navy and Coast Guard.<sup>342</sup> The result was a rapid decline in the U.S. shipbuilding industry:

By 1989, 46 shipyards had closed – a 42 percent decline ... Shipyard production worker employment in 1982 was 112,455. By 1989, that number had decreased to 76,282, representing a loss of 35,173 production workers, which is a 31 percent decline.<sup>343</sup>

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<sup>339</sup> U.S. Department of the Navy, “Paper No. 8A-1: In Search of a Level Playing Field: The Shipbuilders Council of America and the Issue of Foreign Shipbuilding Subsidies.” (Aug. 1990), attached at **Exhibit 114**.

<sup>340</sup> Klein, “Decline in U.S. Shipbuilding Industry: A Cautionary Tale of Foreign Subsidies Destroying U.S. Jobs,” **Exhibit 112**.

<sup>341</sup> Loren B. Thompson, “Heavy Seas: The U.S. Shipbuilding Industry Struggles to Stay on Course,” Lexington Institute (Nov. 1, 1998), attached at **Exhibit 115**.

<sup>342</sup> U.S. Department of the Navy, “Paper No. 8A-1: In Search of a Level Playing Field: The Shipbuilders Council of America and the Issue of Foreign Shipbuilding Subsidies,” **Exhibit 114**.

<sup>343</sup> *Id.* at 8A-1-2.

In the 1980s, the chief concerns about international competition were focused on shipbuilding subsidies in Europe, Japan, and Korea. As a result, the U.S. engaged these countries in a dialogue under the auspices of the Organization for Economic Cooperation and Development (“OECD”), which resulted in the negotiation of an agreement to end shipbuilding subsidies and address other distortions in the global market for commercial vessels.<sup>344</sup> The agreement was concluded in 1994, but never entered into force.<sup>345</sup> The OECD Council Working Party on Shipbuilding continues its work today, but there is no binding agreement governing competition in the shipbuilding sector.<sup>346</sup>

As reviewed below, since 2000, China’s acts, policies, and practices in the shipbuilding industry have propelled it into the world’s number one producer of commercial vessels, while U.S. production and market share have continued to decline.

As the head of the U.S. Maritime Administration testified to Congress in 2019,

The few remaining large U.S. commercial shipyards rely on the small U.S. domestic market. The successful, multi-decade industrial policies of the principal shipbuilding nations have virtually eliminated the ability for U.S. shipyards to compete in the global market. Over 90% of global shipbuilding occurs in three countries; China, Korea, and Japan. While the United States remains a global leader in naval shipbuilding, which represents the majority of the Nation’s shipbuilding revenue, our large commercial shipyards are struggling to remain afloat. U.S. commercial shipbuilding of large merchant-type ships has been locked into a downward spiral of decreasing demand and an increased divergence between domestic and foreign shipbuilding productivity and pricing.<sup>347</sup>

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<sup>344</sup> See OECD, “Shipbuilding Agreement – Overview,” attached at **Exhibit 116**.

<sup>345</sup> *Id.*

<sup>346</sup> The WTO Agreement on Subsidies and Countervailing Measures contains some disciplines on government subsidies, and has been invoked in the past to seek to resolve disputes between WTO members regarding subsidies to shipbuilding, but some form of subsidies continues in the countries concerned.

<sup>347</sup> Testimony of Mark H. Buzby, Administrator, Maritime Administration, U.S. Department of Transportation before the Committee on Transportation and Infrastructure, U.S. House of Representatives (Mar. 6, 2019), attached at **Exhibit 117**.

Indeed, by 2019, the United States was “embarrassingly dependent on the rest of the world for ships” and only “one-third of 1 percent of new commercial shipbuilding now takes place in the United States.”<sup>348</sup>

The decline in U.S. shipbuilding has also decreased the number of U.S.-flagged ships. As the head of the Maritime Administration testified before Congress,

As of February 4, 2019, there were 82 large, U.S.-flag merchant-type vessels operating in international trades. Estimates using 2016 U.S. Census foreign trade data indicate that just 1.5 percent of U.S. waterborne imports and exports by tonnage move on oceangoing commercial vessels registered in the U.S. The last year in which the U.S.-flag fleet carried at least ten percent of our trade by tonnage was 1960 when the U.S.-flag commercial fleet consisted of well over 1,000 ships; the share remained close to four percent from 1977 until 1993, and fell to two percent as of 2003.<sup>349</sup>

The Administrator further testified that there were opportunities for U.S. shipbuilding, in particular with respect to increasing demand for liquified natural gas (“LNG”) tankers.<sup>350</sup>

He lamented, however, that while the five largest U.S. shipyards had built an average of five large cargo vessels for domestic use over the prior five years, this volume of production was miniscule relative to the worldwide production of more than 1,400 ships in 2016.<sup>351</sup>

Thus, while the domestic commercial shipbuilding industry has been in decline for many years due to an array of factors, the headwinds facing the industry since 2000

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<sup>348</sup> Elizabeth Brotherton-Bunch, “New Legislation Aims to Revive America’s Shockingly Small Shipbuilding Industry,” *Alliance for American Manufacturing* (July 23, 2019), attached at **Exhibit 118**.

<sup>349</sup> Testimony of Mark H. Buzby, Administrator, Maritime Administration, U.S. Department of Transportation before the Committee on Transportation and Infrastructure, U.S. House of Representatives (Mar. 6, 2019), **Exhibit 117**.

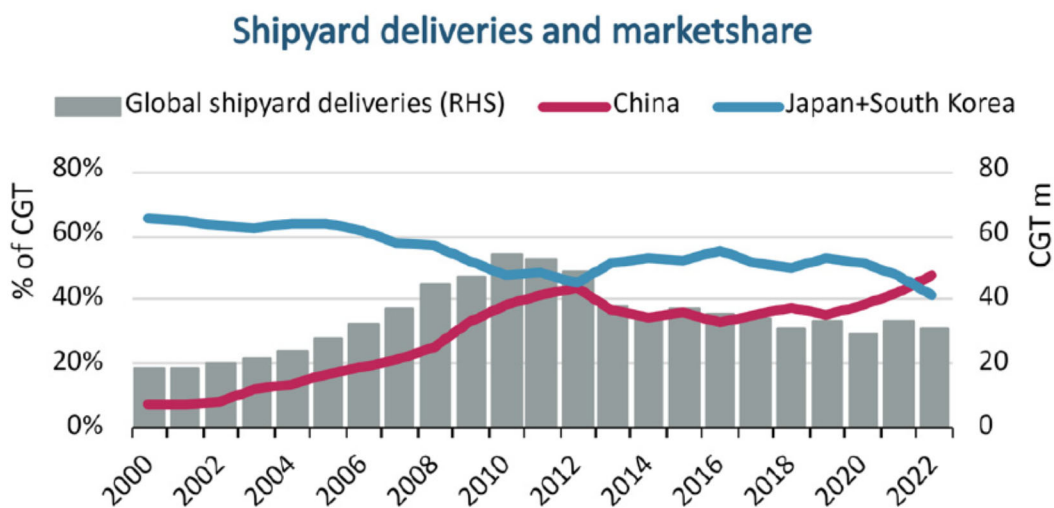
<sup>350</sup> *See id.*

<sup>351</sup> *See id.*

have been due primarily to unfair competition from China, which now dominates the global market for new commercial vessels.

**B. Declines in U.S. market share, production, and employment**

The Government of China’s aim to become a major global power in maritime and logistics, supported by heavy government backing of the shipbuilding industry, drove China’s share of global shipyard deliveries from less than 10 percent in 2000 to 47 percent in 2022.

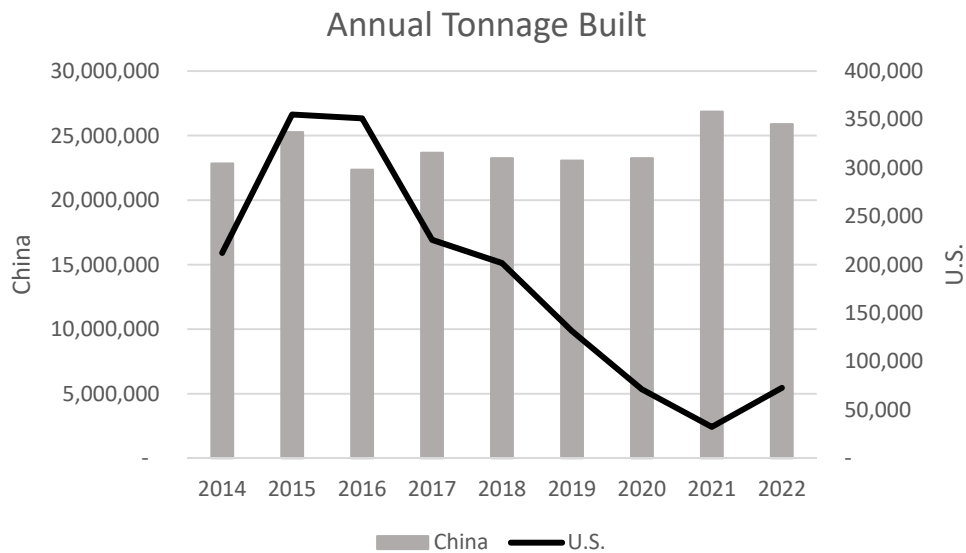


Source: Clarkson Shipping Intelligence Network

From 2014 to 2022, the gross tonnage built in China increased from 22.9 million tons to 25.9 million tons, while the gross tonnage built in the United States fell from 212,113 tons to 72,679 tons.<sup>352</sup> During a period when the overall tons built globally fell by 12.7 percent, China nonetheless increased its annual production by 13.3 percent, while U.S. domestic production plummeted by two thirds. As a result, while China’s market share rose from 35.9 percent to 46.6 percent from 2014 to 2022, U.S. market share fell

<sup>352</sup> UNCTADstat, “Ships built by country of building, annual,” attached at **Exhibit 119**.

from 0.33 percent to 0.13 percent. The ratio of gross tonnage built in China to that built in the United States more than tripled from 107.7 to 356.3.

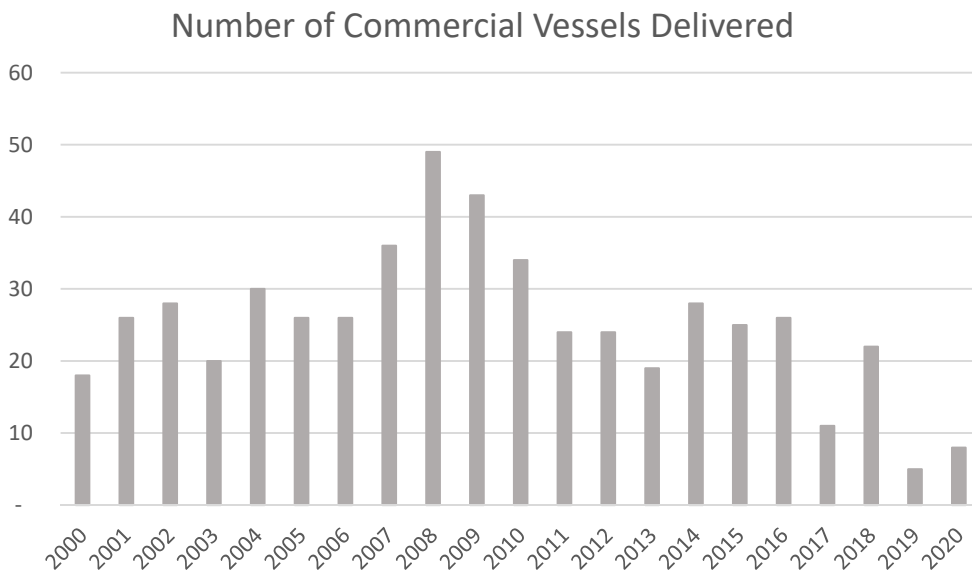


Government support for shipbuilding in China has also allowed ships built in China to be offered at much lower prices than ships from other countries. The OECD reports that prices for containerships from China contracted during 2018 through 2022 were up to 60 percent lower than prices for comparable containerships built in Japan and Korea.<sup>353</sup> As noted above, declines in global ship prices are tied directly to massive Chinese government financial support reaching over one hundred billion dollars.<sup>354</sup> China’s drive to dominate global shipbuilding has thus suppressed prices for commercial vessels worldwide. In addition, government interventions in shipping markets to keep freight rates lower than market forces would merit put further downward pressure on ship prices. U.S. shipbuilders must compete in this global market for sales, and their ability to do so viably is severely constrained by China’s non-market policies distorting the market.

<sup>353</sup> OECD Council Working Party on Shipbuilding, “Developments of ship demand, supply, prices and costs” (Second Semester 2022), **Exhibit 44** at 16 – 23.

<sup>354</sup> See Industrial Policy Implementation, **Exhibit 21**.

As a result of declining production and financial distress as China’s low-priced production and market share increased, commercial shipbuilding at major yards in the U.S. has declined since 2000. The chart below summarizes the annual deliveries of large commercial ships from ten shipyards in the United States: NASSCO in San Diego, Bollinger Shipyards at various locations in Louisiana, Edison Chouest Offshore in Louisiana, Mississippi, and Florida, Fincantieri Bay Shipbuilding in Sturgeon Bay, Wisconsin, KEPPEL AMFELS in Brownsville, Texas, Vigor in Seattle and Portland, and VT Halter Marine.<sup>355</sup>



The number of vessels built peaked in 2008 and declined sharply with the global financial crisis and worldwide slump in shipbuilding that resulted. However, the overwhelming presence of low-priced, government-supported ships from China, massive Chinese overcapacity, and China’s other anticompetitive policies and practices have prevented the domestic shipbuilding industry from recovering even as global demand rebounded.

<sup>355</sup> Calculations based on data compiled on [shipbuildinghistory.com](http://shipbuildinghistory.com). Data from 2021 and 2022 are not included because they are incomplete.

Indeed, without the demand for U.S.-built vessels stimulated by the Jones Act, it is questionable whether the remaining commercial shipbuilding industry in the United States would still be viable.

In addition to declining production at the yards that are still in operation, at least three U.S. shipyards capable of producing large, oceangoing vessels closed or ceased production in recent years. These three yards made as many as 14 commercial ships a year combined in 2002.<sup>356</sup> Today they are out of the business entirely.

- Bender Shipbuilding, in Mobile, AL, declared bankruptcy and was sold in 2009.<sup>357</sup> The facility is now focused on ship repair.<sup>358</sup> The yard had produced tugs, barges, and platform supply vessels for commercial customers.<sup>359</sup>
- The closure of the Avondale Shipyards in New Orleans, LA, was announced in 2010, and the last ship was delivered in 2014.<sup>360</sup> The yard had produced ships for the U.S. Navy as well as crude carriers and other vessels for private shipowners.<sup>361</sup>
- Alabama Shipyard in Mobile, AL, constructed over 60 vessels from 1990 to 2010, but only six from 2010 to 2018.<sup>362</sup> No more ships have been constructed at Alabama Shipyard since 2018. The yard is currently dedicated solely to ship repair, though the owner indicated in 2018 that it was exploring opportunities to fabricate offshore structures and newbuild barges.<sup>363</sup>

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<sup>356</sup> Shipbuilding History website excerpts, attached at **Exhibit 120**.

<sup>357</sup> Kaija Wilkinson, “Mobile’s Bender shipyard to change hands; company sought bankruptcy protection in early July,” *AL.com* (Oct. 1, 2009), attached at **Exhibit 121**.

<sup>358</sup> Resolute Maritime Services, “World Marine,” attached at **Exhibit 122**.

<sup>359</sup> Shipbuilding History website excerpts, **Exhibit 120** (“Bender Shipbuilding”).

<sup>360</sup> Ken Hocke, “Avondale Shipyard sold, now called Avondale Marine,” *WorkBoat* (Oct. 4, 2018), attached at **Exhibit 123**.

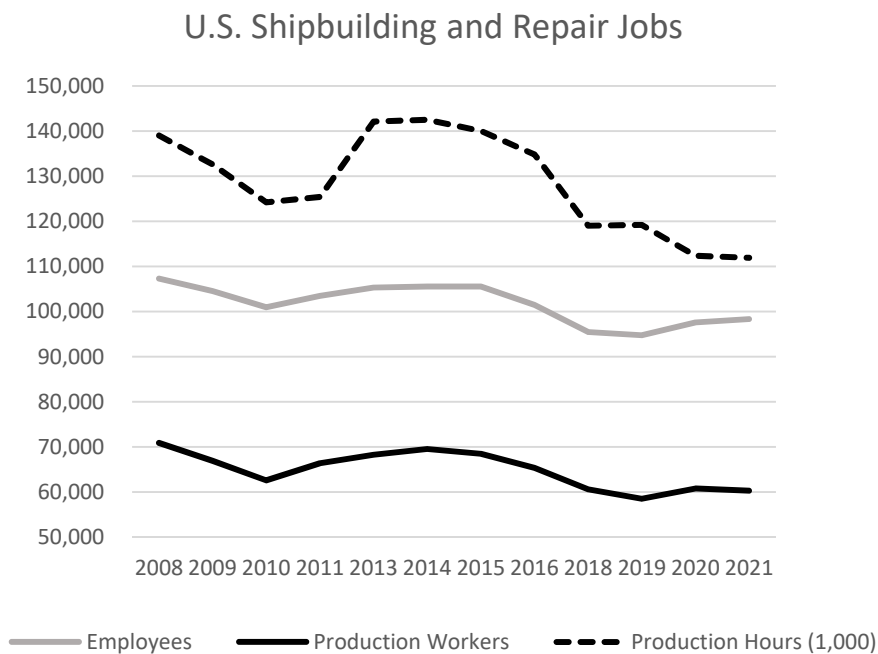
<sup>361</sup> Shipbuilding History website excerpts, **Exhibit 120** (“Avondale Shipyards”).

<sup>362</sup> Alabama Shipyard, “Our History,” attached at **Exhibit 124**.

<sup>363</sup> “Epic Alabama Shipyard acquires BAE Systems Southeast Shipyards Alabama,” *Ship Technology* (Oct. 19, 2018), attached at **Exhibit 125**.



As domestic production declined and yards closed, shipyard employees, production workers, and production worker hours all fell. From 2008 to 2021, the number of shipbuilding and repair production workers in the United States fell by 14.9 percent and the number of production hours worked fell by 19.5 percent.<sup>364</sup> The Maritime Administration estimates that each direct job in the U.S. private shipbuilding and repair industry is associated with 2.67 jobs in other parts of the U.S. economy.<sup>365</sup>



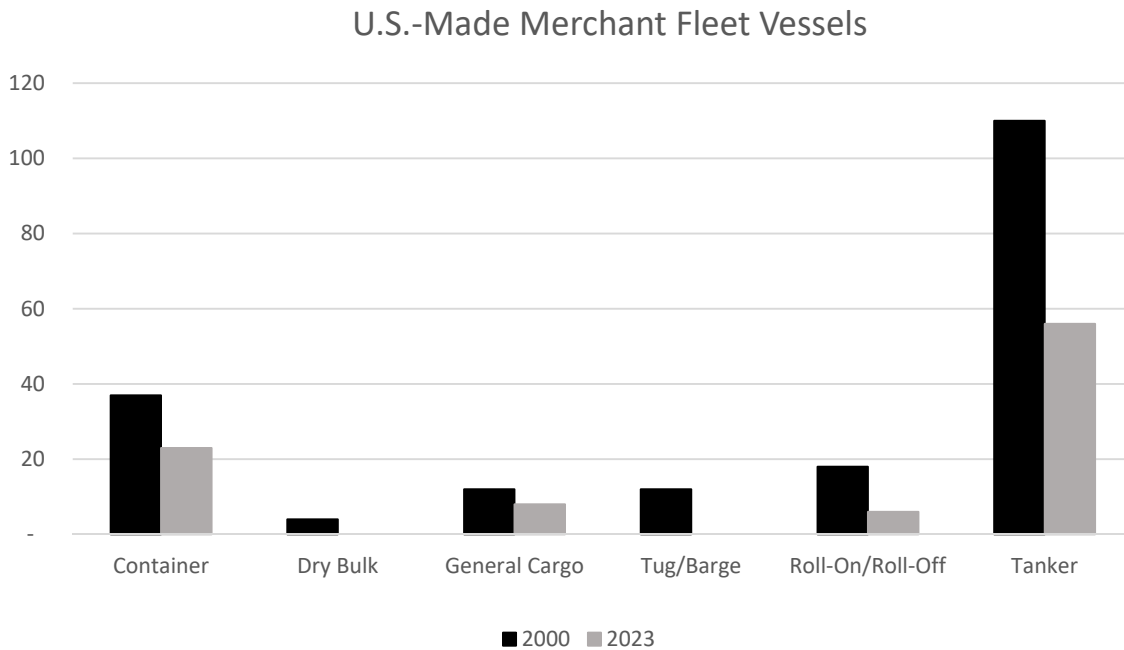
### C. Declines in the U.S. merchant fleet

China’s policies have also burdened or restricted U.S. commerce by depleting the number of U.S.-produced ships in the domestic merchant fleet. In 2000, there were 193 privately owned, U.S.-flagged vessels that had been made in the United States that were

<sup>364</sup> U.S. Census Bureau, “Annual Survey of Manufactures for NAICS 336611, Shipbuilding and Repair,” attached at **Exhibit 126**.

<sup>365</sup> Maritime Administration, *The Economic Importance of the U.S. Private Shipbuilding and Repairing Industry* (March 30, 2021) at 2, attached at **Exhibit 127**.

part of the domestic merchant fleet.<sup>366</sup> These vessels were all oceangoing, self-propelled, cargo-carrying vessels of 1,000 gross tons or more, including containerships, dry bulk and general cargo carriers, integrated tug/barges, roll-on/roll-off ships, and tankers. By April of 2023, the number of such vessels still active in the U.S. fleet had plummeted by more than half to just 93 ships.<sup>367</sup>



As a result of the decline in available U.S.-flagged vessels made in the United States, the Maritime Administration has had to rely on U.S.-flagged vessels made overseas – including in China – for its Maritime Security Program (“MSP”) and Tanker Security Program (“TSP”). These programs offer vessels owners an annual stipend in exchange for their availability for use by the U.S. Department of Defense during times of

<sup>366</sup> U.S. Department of Transportation, Summary Tables: United States Flag Privately-Owned Merchant Fleet, 2000 – 2019, Table 2, attached at **Exhibit 128**.

<sup>367</sup> U.S. Department of Transportation, United States-Flag Privately-Owned Merchant Fleet Report (as of April 10, 2023), attached at **Exhibit 129**.

conflict or other national emergency. There are currently 60 vessels operating in the MSP and Congress has authorized funds for ten vessels to participate in the TSP. As of April 2023, of the 60 vessels enrolled in the MSP, not even one had been built in the United States. In May of 2023, the Maritime Administration announced three new vessels being added to the TSP program; all three were all produced by CSSC's Guangzhou Shipyard in China.<sup>368</sup>

#### **D. Declines in upstream equipment trade and production**

The Government of China has aimed to dominate not only shipbuilding itself, but also the upstream marine engineering equipment used in large vessels. The OECD explains that while most economies saw the proportion of domestic value added in their shipbuilding sectors decline from 2005 to 2015, China's domestic value added share increased, driven by government plans to increase the domestic content of ships built in China.<sup>369</sup> As a result, China sourced more than 90 percent of its inputs for ship production domestically in 2015, the highest share of any other large shipbuilding country.<sup>370</sup>

These localization policies have also burdened and restricted U.S. commerce by nearly eliminating U.S. exports of key shipbuilding inputs to China in recent years. Annual U.S. exports of turbines for marine propulsion to China, for example, peaked at 121 turbines in 2008.<sup>371</sup> Since 2010, however, the U.S. has exported an average of only

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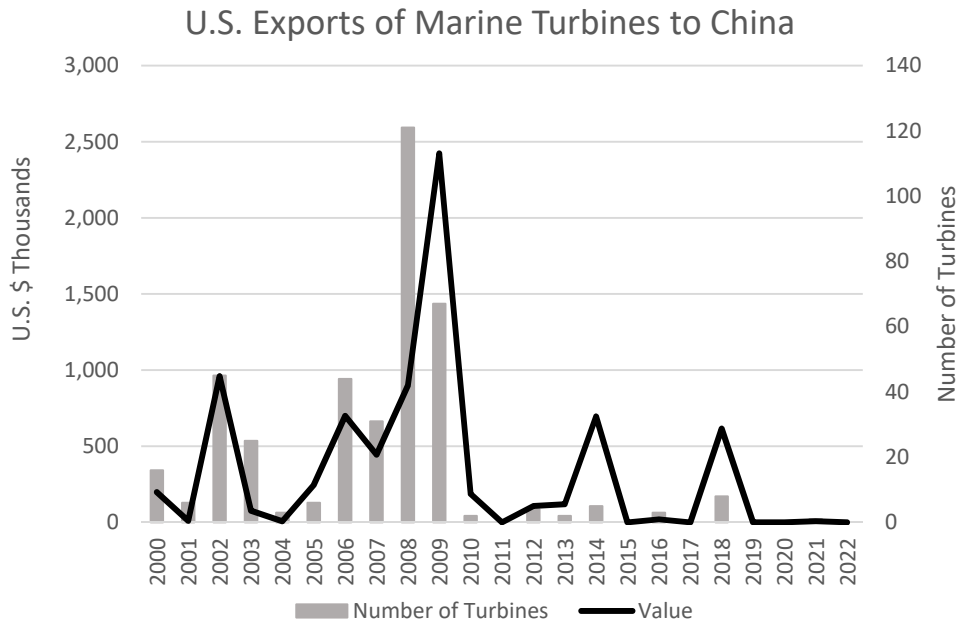
<sup>368</sup> "Three Modern Product Tankers Join U.S.-Flag Fleet Under TSP Program," *The Maritime Executive* (May 17, 2023), **Exhibit 102**.

<sup>369</sup> Karin Gourdon and Christian Steidl, *Global value chains in the shipbuilding industry*, OECD Science, Technology and Industry Working Papers 2019/08 at 19, attached at **Exhibit 130**.

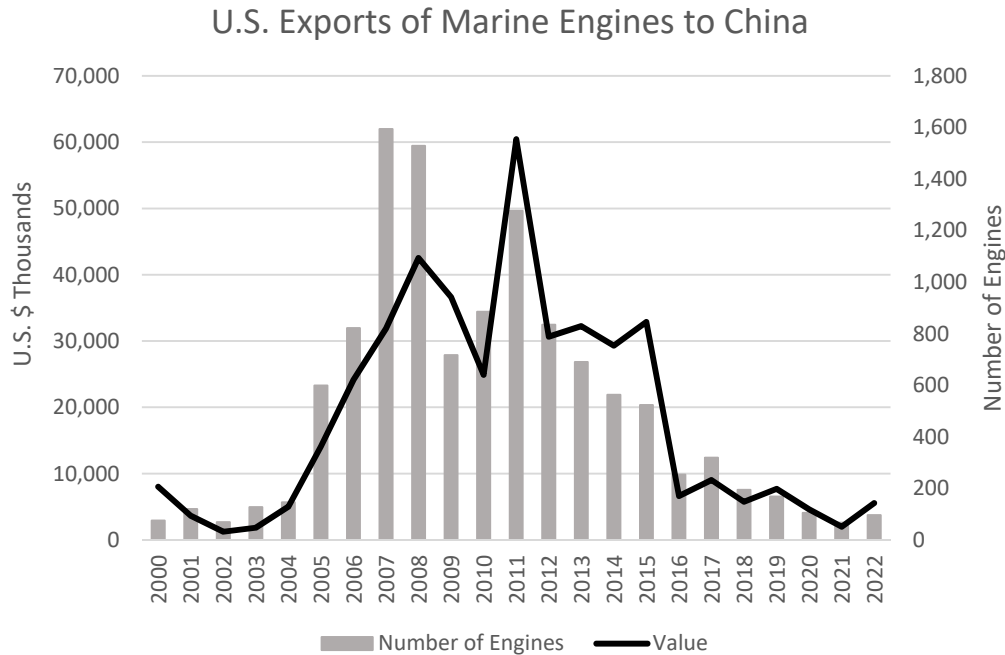
<sup>370</sup> *See id.* at 25.

<sup>371</sup> USITC DataWeb, domestic exports under 8406.10, attached at **Exhibit 131**.

two marine turbines a year to China. The U.S. also used to export tens of millions of dollars' worth of diesel or semi-diesel marine engines to China, peaking at more than 1,500 engines a year in 2007 and 2008.<sup>372</sup> Exports dropped dramatically starting in 2012, and the U.S. exported fewer than 100 marine engines to China in 2021 and 2022.



<sup>372</sup> *Id.*



The loss of market access and export opportunities for U.S. producers in China’s upstream marine equipment market have only further burdened or restricted U.S. commerce, on top of the weakening of the domestic shipbuilding market as a customer base for these upstream industries.

The decline in the domestic commercial shipbuilding industry has also shrunk the customer base for key upstream technologies and equipment, weakening the supply chain for not only commercial shipbuilding but also for military vessel construction. According to a 2018 report, the decline in the shipbuilding upstream industrial base has forced the Navy to rely on single sources for key inputs such as forged shafts and poses risks in terms of capacity shortfalls, lack of competition, and reduced workforce skills.<sup>373</sup>

Upstream suppliers who are heavily dependent on defense work and have no stable commercial segment to rely upon are also challenged in their ability to plan and invest for

<sup>373</sup> *Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States* (Sept. 2018) at 79 – 80, attached at **Exhibit 132**.

the future.<sup>374</sup> As a result, the Navy and Department of Defense have budgeted over a billion dollars to address capacity and workforce risks at key upstream suppliers to military shipbuilding and to develop additional sources of supply.<sup>375</sup> In addition, as part of the Biden Administration's efforts to bolster key domestic supply chains, the Department of Defense identified the need to rebuild the industrial base that produces castings and forgings critical to the shipbuilding industry.<sup>376</sup> Revitalizing commercial shipbuilding will be key to strengthening these vital supply chains over the long term.

#### **E. Threats to national security and economic security**

In addition to the economic damage that China's policies have inflicted on the U.S. shipbuilding industry and its workers and suppliers, China's policies also pose grave threats to U.S. national and economic security beyond the shipbuilding industry itself.

As reviewed above, the decline in commercial shipbuilding has resulted in the U.S. being forced to rely on a merchant marine that consists entirely of ships built outside of the United States.<sup>377</sup> The U.S. military must have a sufficient U.S.-flag commercial fleet to rely upon for military sealift and other support in times of conflict or national emergency.<sup>378</sup> The Department of Defense already has to rely on foreign-flag tankers due to a lack of U.S.-flagged tankers.<sup>379</sup> While the Maritime Administration is working to

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<sup>374</sup> *Id.*

<sup>375</sup> United States Government Accountability Office, *Defense Industrial Base: DOD Should Take Actions to Strengthen its Risk Mitigation Approach* (July 2022) at 24, attached at **Exhibit 133**.

<sup>376</sup> *Manufacturing Capability Expansion & Investment Prioritization (MCEIP) Overview* at 3, attached at **Exhibit 134**.

<sup>377</sup> See U.S. Department of Transportation, *Goals and Objectives for a Stronger Maritime Nation: A Report to Congress* (Feb. 2020) at 8, attached at **Exhibit 135**.

<sup>378</sup> *Id.* at 9.

<sup>379</sup> *Id.*

address this shortfall through the TSP, as reviewed above, the first three tankers participating in this program were all made in China. Current and former U.S. officials have warned that the United States could face maritime logistics challenges during a major conflict given that the shrinking size of the U.S. merchant marine fleet.<sup>380</sup>

The lack of a healthy commercial shipbuilding industry also threatens the Navy's ability to properly repair, maintain, and expand its own fleet. The remaining large commercial shipyards in the United States all also produce vessels for the Navy and/or Coast Guard. Without a steady commercial order book, the number of yards has shrunk dramatically, and those that remain are increasingly dependent on government work. As one analyst explained: "Yards won't invest in infrastructure without orders on the books, and without a steady flow of orders, builders lose skilled workers, know-how, and subcontractors."<sup>381</sup> Indeed, in 2020 the Navy scrapped a \$4 billion dollar amphibious assault ship, in part due to a lack of domestic industrial base capacity to perform needed repairs.<sup>382</sup>

The Navy has recognized the critical need to rebuild the domestic commercial shipbuilding industry. In its report to Congress on its shipbuilding plan for fiscal year 2023, the Navy stated: "Sustaining and growing this vital shipbuilding base is a national security imperative that both energizes and challenges the Navy and the Nation."<sup>383</sup>

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<sup>380</sup> Hidden Harbors, **Exhibit 25** at 5.

<sup>381</sup> Alexander Wooley, "How the U.S. Navy Fell Behind in the Shipbuilding Race," *Foreign Policy* (Oct. 10, 2021) at 5, attached at **Exhibit 136**.

<sup>382</sup> *Id.*

<sup>383</sup> U.S. Department of the Navy, *Report to Congress on the Annual Long-Range Plan for Construction of Naval Vessels for Fiscal Year 2023* (April 2022) at 10, attached at **Exhibit 137**.

Recognizing the fragility in the supplier base for shipbuilding, the report found that “the industrial base will continue to struggle and some elements may not recover from another ‘boom/bust’ cycle.”<sup>384</sup>

This situation will become even more dire in the event of a conflict or national emergency that results in damage to or loss of existing U.S. military vessels. Gen. David Berger, the commandant of the Marine Corps, assessed recently that “replacing ships lost in combat will be problematic, inasmuch as our industrial base has shrunk, while peer adversaries have expanded their shipbuilding capacity.”<sup>385</sup> The fact that China’s shipbuilding capacity dwarfs that of the United States poses a direct national security threat in the event of a conflict between the two countries. “Their shipbuilding capacity is a huge advantage for them in a protracted conflict with the United States,” noted Bryan Clark, a former U.S. Navy officer and defense expert at the Hudson Institute. “They have multiple shipyards building every class of ship, which is not really the case in the US Navy ... It gives them some extra capacity if they need to do a buildup or ramp-up of the navy or rebuild the navy in a conflict where they lose a lot of ships.”<sup>386</sup>

Chinese control of shipping companies, ships, strategic ports, and logistics platforms also poses numerous threats. As reviewed above, the Government of China can use its control of ports as well as logistics software such as LOGINK and hardware such as cargo cranes to gather information on vessels and their cargo bound to or from the United States and in key shipping lanes around the world. The Government of China can

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<sup>384</sup> *Id.* at 11.

<sup>385</sup> Ryan Pickerell, “China is the world’s biggest shipbuilder, and its ability to rapidly produce new warships would be a ‘huge advantage’ in a long fight with the US, experts say,” *Business Insider* (Sept. 8, 2020), attached at **Exhibit 138**.

<sup>386</sup> *Id.*



also use its control of these resources to discriminate against ships and shipping companies that do not support its industrial or geopolitical goals. These assets could also be leveraged to create major supply chain disruptions, even when those supply chains do not rely directly on manufacturing in China.

The confluence of Chinese control of ships, shipping companies, ports and port infrastructure, and logistics systems creates the potential for the Government of China to subject the United States and its allies to severe economic coercion in the event of a geopolitical crisis or other conflict. The U.S.-flagged fleet has shrunk to such an alarming degree that it carries less than two percent of U.S. imports and exports.<sup>387</sup> Chinese ports and shipping companies that are state-owned are under the direct control of the Government of China, while other Chinese companies are required by Chinese law to support their government's security priorities. Even foreign shipping companies rely on access to ports and logistics systems controlled by the Government of China, as well as shipping finance from state-owned Chinese financial institutions that now dominate the market. This may also leave these non-Chinese companies little choice but to conform to China's demands in the event of a conflict. This leaves the United States highly vulnerable to economic coercion by the Government of China, not to mention discrimination against the right of U.S.-built and -flagged ships involved in sealift operations to dock at key ports, use essential port infrastructure, and access logistics systems.

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<sup>387</sup> Statement of Mark H. Buzby, Administrator, Maritime Administration, U.S. Department of Transportation, Before The Committee on Transportation and Infrastructure, Subcommittee on Coast Guard And Maritime Transportation, U.S. House of Representatives, "The State Of The U.S. Flag Maritime Industry" (Jan. 17, 2018), attached at **Exhibit 139**.

These concerns are far from theoretical. As noted above, China denied ore carrying ships owned by Brazilian mining company Vale to dock at Chinese ports based on alleged safety concerns until those ships were transferred to Chinese ownership. Outside of the maritime context, the Government of China has also shown its willingness to leverage its control of access to transportation infrastructure – including through its state-owned enterprises – to further its geopolitical goals. When Lithuania recognized China’s treatment of its Uighur minority as genocide and allowed a *de facto* Taiwanese embassy to open in its capital in 2021, for example, the Government of China retaliated with numerous trade and economic measures. These included the removal of Lithuania from China’s custom clearance systems and the halting of rail freight connections between China and Lithuania.<sup>388</sup> The freight rail link was operated by China Railway Container Transport, a state-owned company, and it provided for goods transport between Europe and Central Asia as part of BRI.<sup>389</sup>

In a statement, the Lithuanian Foreign Ministry characterized China’s reaction as the use of “economic coercion against global supply chains.”<sup>390</sup> China’s role in major ports and port infrastructure around the world, dominance of global shipbuilding, shipping, and shipping financing, and infiltration of logistics systems create the potential for much more severe and widespread disruptions and coercion in the global maritime sector if steps are not taken to re-assert the role of the United States in global maritime

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<sup>388</sup> See Joanna Hyndle-Hussein, “A new phase of China’s pressure on Lithuania: weaponisation of European value chains,” OSW Centre for Eastern Studies (Dec. 21, 2022), attached at **Exhibit 140**.

<sup>389</sup> See John Feng, “China Cuts Railway Trade Link With Lithuania Amid Taiwan Row, Report Says,” *Newsweek* (Aug. 18, 2021), attached at **Exhibit 141**.

<sup>390</sup> See Rachel Oswald, “Lithuania’s resistance to Chinese pressure a test for US strategy,” *Roll Call* (Feb. 3, 2022), attached at **Exhibit 142**.

economy. China's acts and policies thus directly threaten U.S. economic and national security.

In short, policymakers in recent years have recognized the threat that over-reliance on China for the production of key goods and technologies poses to our economic and national security. Yet even if the United States is able to successfully re-shore or near shore supply chains for these critical inputs with friends and allies, it is highly likely that trade in those goods will be carried out on vessels made in China, financed by state-owned Chinese institutions, owned by Chinese shipping companies, and reliant on a global maritime and logistics infrastructure increasingly dominated by China. By threatening the existence of free and open maritime trade, the acts, policies, and practices that the Government of China has employed to reach its level of dominance have further burdened and restricted U.S. commerce.

#### **IV. REMEDIES REQUESTED**

The remedies requested in this petition have been designed to address the broad range of interwoven unfair practices that China has engaged in while also addressing the severity of the crisis that the U.S. shipbuilding industrial base is suffering. The remedies consist of five elements which, in combination, should create incentives for the Government of China to eliminate the acts, policies, and practices documented in this petition while giving the domestic shipbuilding industry a fighting chance to rebuild itself after the harm that Chinese practices have caused. The five elements of the requested remedy include: (1) a fee on vessels built in China that dock at U.S. ports to offset China's unfair practices and create an incentive to eliminate those practices; (2) the establishment of a shipbuilding revitalization fund with proceeds from the fee to support investments in the domestic shipbuilding industry's capacity, supply chains, and

workforce; (3) actions to support stronger demand for U.S.-built vessels in light of unfair competition from China; (4) actions to address China’s drive to dominate port and logistics infrastructure platforms and equipment; and (5) negotiations with other major shipbuilding countries to address any concerns about their own government support programs and coordinate measures to address China’s unfair practices. The five components of the remedy are designed to operate together to create a holistic solution that imposes a cost on China’s unreasonable and discriminatory practices, remedies the harm these practices have caused, supports the revitalization of the domestic industry and its workforce, and strengthens U.S. economic and national security for the long term.

**A. Port fee for ships made in China**

Section 301 permits USTR to take a wide variety of actions in response to foreign government acts, policies, or practices that are unreasonable or discriminatory and burden or restrict U.S. commerce. Among the actions USTR is authorized to take by Section 301 is the imposition of duties “or other import restrictions on the goods of, and, notwithstanding any other provision of law, fees or restrictions on the services of, such foreign country for such time” the USTR deems appropriate.<sup>391</sup> In addition, USTR may take action against any goods or any “economic sector,” without regard to whether the goods or economic sector in question were “involved in the act, policy, or practice that is the subject of such action.”<sup>392</sup> In addition to the imposition of fees and other restrictions, Section 301 also permits USTR, subject to the specific direction, if any, of the President, to take “all other appropriate and feasible action within the power of the President,”

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<sup>391</sup> 19 U.S.C. § 2411(c)(1)(B).

<sup>392</sup> 19 U.S.C. § 2411(c)(3).

including not only powers with respect to trade but also powers “with respect to any other areas of pertinent relations with the foreign country.”<sup>393</sup>

To obtain the elimination of China’s acts, policies, and practices to dominate global maritime trade and logistics, USTR should impose a fee on every Chinese-built vessel that docks at a United States port. We note that the imposition of docking restrictions to remedy the harm caused by the sale of unfairly traded vessels to transport goods in international commerce is not without precedent. For example, the OECD Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry (the “OECD Shipbuilding Agreement”) 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 built by the shipbuilder in question if it fails to pay the fee.<sup>394</sup> In compliance with these provisions, the EU proposed a mechanism to investigate foreign sales of injuriously low-priced ships, impose fees on the shipbuilders involved, and deny docking privileges to such shipbuilders’ vessels if the fees are not paid.<sup>395</sup> Though the measure has never been implemented because the OECD Shipbuilding Agreement did not enter into effect, it demonstrates the logic of imposing restrictions on port access in response to unfair, non-market distortions in the shipbuilding sector.

USTR should ensure that the fee imposed as a result of this investigation is sufficient to begin to address not only the hundreds of billions of dollars of unfair

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<sup>393</sup> 19 U.S.C. § 2411(b)(2).

<sup>394</sup> See OECD Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry at Article 8 and Annex III, attached at **Exhibit 143**.

<sup>395</sup> See Regulation (EU) 2016/1035 of the European Parliament and of the Council, “On protection against injurious pricing of vessels,” **Exhibit 3**.

government support documented in this petition and discovered in the course of USTR's investigation, but also to offset the other unreasonable, discriminatory, and unfair acts, practices, and policies documented in this petition. The port fee should be based on the tonnage of the Chinese vessel docking in the United States, with larger and heavier ships that presumably benefit from greater government support bearing a greater cost to dock in the United States.

To create an incentive for China to eliminate its unfair practices, the fee should also take into account the age of the vessel, with the fees assessed on newer vessels being higher than the fee for older vessels. To the extent that China does not eliminate its interventions to support domestic shipbuilding and other unreasonable practices, the fee should also be set to increase at regular intervals in order to provide a greater incentive to the Government of China to discontinue such practices. Higher fees for newer ships and planned increases in those fees are necessary to slow the juggernaut of new ship orders from Chinese shipyards reviewed above.

In order to address the burdens and restrictions on U.S. commerce that have resulted from China's practices, the fee should also be sufficient to eliminate some of the unfair advantage that Chinese-built ships enjoy in international maritime trade, and also sufficient to provide a robust funding stream for the U.S. Commercial Shipbuilding Revitalization Fund described below. Given the huge volume of cargo delivered on Chinese-built ships, it is likely that a fee sufficient to meet these two goals would not meaningfully impact the cost to U.S. consumers of products delivered on Chinese built ships. A hypothetical million-dollar port fee on a 20,000 TEU cargo ship, for example, would impose a cost of only \$50 per container. Given that a single container can hold

10,000 pairs of blue jeans,<sup>396</sup> the cost would be 0.5 cents per pair of blue jeans. At the same time, given that major U.S. ports handle over 10,000 incoming vessels per year, a hypothetical fee of even one million per vessel would generate billions of dollars in revenue.

Finally, given the Maritime Administration's current reliance on vessels that are not made in the United States for the MSP and TSP programs, any Chinese-built vessels currently enrolled in these programs should be temporarily exempted from the port fee. However, as reviewed below, the Administration should endeavor to enroll more U.S.-built vessels in both programs. As such vessels become available, it should not be necessary to rely on Chinese-built ships for these programs and to exempt them from the port fees.

#### **B. U.S. Commercial Shipbuilding Revitalization Fund**

The fees collected from Chinese-built ships should be directed towards funding a U.S. Commercial Shipbuilding Revitalization Fund. The funds should be used to funnel resources into the Construction Differential Subsidy ("CDS") program. As noted above, for nearly fifty years, the CDS program played a key role in keeping the domestic commercial shipbuilding industry viable in the face of unfair foreign competition.<sup>397</sup> Under the program, the U.S. government paid U.S. shipyards and shipowners up to 50 percent of the difference between cost of building a vessel in the United States and the cost of construction outside of the United States.<sup>398</sup> The funding supported the

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<sup>396</sup> "Shipping denim and other clothing from Asia," Jeansinfo.org, attached at **Exhibit 144** (noting that a 20 feet container can hold between 9,500 and 11,000 jeans, depending on the type of packing that is used).

<sup>397</sup> Kelly, "Time to make nation's shipyards, merchant marine great again," **Exhibit 111**.

<sup>398</sup> *See id.*

construction in the United States of U.S.-flagged ships used in international trade.<sup>399</sup> The defunding of the CDS program in 1982 despite the continuation of foreign unfair trade practices precipitated the steep decline of U.S. commercial shipbuilding industry, which has only been exacerbated by the unprecedented scale of China’s distortive and predatory practices in the sector since 2000.<sup>400</sup> The CDS statute remains codified in U.S. law,<sup>401</sup> and it could be reinvigorated through port fees on Chinese-built ships channeled through a U.S. Commercial Shipbuilding Revitalization Fund.

These funds could also be used to invigorate existing U.S. government programs that support domestic shipbuilding, such as the Federal Ship Financing Program (Title XI) loans and small shipyard grants. In addition, cargo, container, and tanker ships as outlined in this petition should be designated “Vessels of National Interest” and receive prioritized processing under Title XI.<sup>402</sup> The fees could also be used to expand stipends to enroll more vessels in the MSP and TSP programs, with a premium for vessels built in the United States. The fund should also support training and workforce development efforts for workers that build commercial vessels as well as for mariners. The program should also identify key upstream supply chain gaps and provide funding to support the domestic production of key inputs and needed training for such workers.

The funds may also support investments in construction of new shipyards and improvements in existing shipyards to build and repair commercial ships (as well as

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<sup>399</sup> *See id.*

<sup>400</sup> *See id.*

<sup>401</sup> *See* 46 U.S.C. § 1151 et seq.

<sup>402</sup> Currently MARAD only designates vessels to be used primarily in the construction, service, and/or maintenance of offshore wind facilities to be Vessels of National Interest. *See* Maritime Administration website excerpts, attached at **Exhibit 145**.



Navy ships), including investments in the shipyard facilities, docks, dry docks, capital equipment improvements, and dredging efforts. Bipartisan legislation has identified these investment needs as a priority for funding and suggests funding them through the Defense Production Act.<sup>403</sup> Funds from the U.S. Commercial Shipbuilding Revitalization Fund could contribute to these investments.

In the course of its investigation, USTR should seek input from domestic stakeholders regarding the forms of support that would do the most to remedy the burden and restriction on commerce that China's unfair acts and practices have imposed. Support should also be targeted at building the infrastructure, workforce, technology, and resilient supply chains that are needed for the domestic industry to produce, maintain, and repair vessels that can serve the most modern, cutting-edge needs of commercial maritime trade as well as the needs of the Department of Defense in the event of a conflict or national emergency.

The decades-long decline of U.S. shipbuilding capacity and associated supply chains will not be reversed overnight. The reality of China's domination of shipbuilding and logistics and its impact on U.S. economic and national security interests fueled by discriminatory and burdensome practices demands a response. Restoring the U.S. shipbuilding sector will require significant and growing actions to address the injury that has taken place.

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<sup>403</sup> See S. 1441, Supplying Help to Infrastructure in Ports, Yards, and America's Repair Docks Act of 2021 ("SHIPYARD Act"), attached at **Exhibit 146**.

### C. Support demand for U.S.-built vessels

Finally, the Administration should take all other actions within the power of the President to increase demand for U.S.-built ships.

First, the Administration should review and strengthen the implementation of the Jones Act to ensure that it is being faithfully enforced to stimulate demand for U.S.-built vessels to the maximum extent possible. This would be consistent with President Biden's first executive order after assuming office, which directed federal agencies to maximize the use of American mariners, American-built ships, and U.S.-flagged vessels under the Jones Act.<sup>404</sup> As one example, through a series of letter rulings over the years, U.S. Customs and Border Protection ("CBP") has created numerous exceptions to Jones Act requirements, allowing foreign-made vessels to serve markets that could be served by U.S.-built vessels instead. Congressman John Garamendi (D-CA) has introduced legislation that would close the loopholes in the Jones Act, including exceptions for oceanographic research vessels; vessel equipment, lifting operations, and installation vessels; and various vessels engaged in offshore, undersea cable installation, and decommissioning operations.<sup>405</sup> Because these decisions are at the discretion of CBP, the Administration could achieve the same ends by directing CBP to rescind its prior rulings and fully implement the Jones Act.

Second, the Administration should ensure that cargo preferences are fully enforced and strengthened to the maximum extent possible. Currently, all military cargo and Ex-Im Bank cargo, and at least half of civilian and agricultural cargo contracted by a

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<sup>404</sup> See "Executive Order on Ensuring the Future Is Made in All of America by All of America's Workers," Executive Order 14005 (Jan. 25, 2021), attached at **Exhibit 147**.

<sup>405</sup> See H.R. 5991, "Close Agency Loopholes to the Jones Act," attached at **Exhibit 148**.

federal government agency or pursuant to a federal government program must be carried on U.S.-flagged vessels.<sup>406</sup> While the governing statutes and regulations only require that at least half of civilian and agricultural cargo be carried on U.S.-flagged vessels, the Administration could raise the required amount through executive action. In addition, as noted above, just because a ship is U.S.-flagged does not mean it was built in the United States. The Administration should thus adopt a preference to use ships that are not only flagged in the United States but were also built in the United States for government cargo.

Third, as noted above, the Maritime Administration provides stipends to U.S.-flagged vessels pursuant to the MSP and the TSP to ensure these vessels are available to the Department of Defense in times of conflict or national emergency. Yet not a single vessel enrolled in the MSP or TSP program was built in the United States. In addition, Congress has only authorized funding for a limited number of vessels under the programs. The Administration should dedicate funding to increase the number of slots available for ships to participate in the MSP and TSP. In addition, the Administration should increase the stipend and create other preferences for U.S.-built ships to participate. Ultimately, the Administration should also phase in a U.S.-construction requirement for ships participating in the MSP and TSP over time. This will create an incentive for the construction of new commercial vessels in the United States, and it will ensure that the ships that are on call to meet our defense and security needs are produced in the United States.

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<sup>406</sup> Maritime Administration website excerpts, **Exhibit 145** (“Cargo Preference”).

Fourth, the Administration should require that exports of LNG, fuel oils, and fuel from the United States as part of foreign aid or trade agreements occur on U.S.-built tankers. One model could be the “Energizing American Shipbuilding Act,” previously introduced by Congressman John Garamendi (D-CA) and U.S. Senator Roger Wicker (R-MS), which would require that U.S.-built vessels transport 15 percent of total seaborne LNG exports by 2043 and 10 percent of total seaborne crude oil exports by 2035. In addition, as the Administration retains the right to approve or disapprove LNG exports to non-FTA partners to ensure those exports are in the public interest, whether or not the export will be carried on a U.S.-built vessel should be one of the factors considered in the public interest test.

Fifth, the Administration should step up its efforts to designate and support Marine Highways for the transport of cargo within the United States waters. This program, administered by the Maritime Administration, designates marine highways and provides grants to projects that promote shipping freight through the navigable waterways of the United States.<sup>407</sup> While the funding of this program is currently appropriated by Congress, the Administration should consider making additional funding available through the Shipbuilding Revitalization Fund described above.

Together, these executive actions would complement the port fee and Revitalization Fund described above by stimulating more demand for U.S.-built vessels, both for domestic and international shipping. These actions would also help create more certainty for shipbuilders and shipyards regarding the certainty of continued and growing

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<sup>407</sup> See Maritime Administration website excerpts, **Exhibit 145** (“United States Marine Highway Program”).

orders for U.S.-built ships, providing needed incentives to invest in the infrastructure and job training needed to rebuild domestic commercial shipbuilding capacity. Together, these actions will help address the burdens and restrictions on U.S. commerce that have been caused by China's unfair, unreasonable, and discriminatory practices in the shipbuilding, maritime, and logistics sector.

**D. Address Chinese port and logistics infrastructure platforms and equipment**

As reviewed, the Government of China through its Maritime Silk Road program and support for LOGINK and promotion of physical port infrastructure equipment, has advanced its ability to access, surveil and control maritime logistics and transportation. LOGINK poses a significant threat to U.S. economic and national security interests and the U.S. should work with friends and allies to restrict further deployment and utilization of such a system and end its use in existing ports. Consultation with allied nations should immediately begin to develop a trusted system to support logistics needs that is operated independently of any entity controlled, associated with, or subject to direction of the Government of China. Other immediate steps should be considered to ensure that data on cargoes cannot be accessed by the Government of China and that all logistical functions are protected.

In addition, the U.S. government should assess the national and economic security risks of continued utilization of physical port infrastructure such as cranes and what steps must be taken to further mitigate and eliminate such risks. As noted above, the Biden-Harris Administration recently announced a number of steps to further safeguard the

digital infrastructure of the U.S. maritime system, including through cyber security standards for vessels, ports, and cranes.<sup>408</sup>

#### **E. Consultations with other nations**

As reviewed in Section IV.A, above, government interventions have influenced competition in the global shipbuilding industry for many years. In addition, other major shipbuilding nations such as Japan and Korea continue to support their own shipbuilding industries, though at a scale that is nowhere near the level of direct financing and other support provided by the Government of China. In 2021, for example, Japan passed a package that included tax breaks, funding, and low interest loans for shipbuilders with government-approved plans, as well as assistance to shipping companies that order ships from builders with approved plans.<sup>409</sup> In 2022, Korea announced plans to invest about \$100 million to help the shipbuilding industry develop new technologies, and the government pledged to provide additional support for worker training.<sup>410</sup> While these government support programs continue, they appear to be driven in large part by the need to compete with the industry in China, which dominates the global market at low prices and has been taking share from other countries, including Korea and Japan.<sup>411</sup> In addition, the governments of Japan and Korea have nothing close to China's Maritime Silk Road program, the umbrella for China's ambitions to establish itself as the predominant global

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<sup>408</sup> See "FACT SHEET: Biden-Harris Administration Announces Initiative to Bolster Cybersecurity of U.S. Ports," **Exhibit 93**.

<sup>409</sup> Sam Chambers, "Japan's parliament passes package of shipbuilding measures," *Splash247.com* (May 14, 2021), attached at **Exhibit 149**.

<sup>410</sup> "South Korea Takes Steps to Support Shipbuilding Amidst Labor Shortage," *The Maritime Executive* (Oct. 19, 2022), attached at **Exhibit 150**.

<sup>411</sup> See *id.*

player in maritime trade and logistics with presence at key ports and in transport and information networks around the world. China's plans targeting global shipbuilding, shipping, and logistics for dominance thus constitute much more pervasive interventions in the global market than anything that the governments of Japan and Korea are currently engaged in.

Regardless, to ensure that the benefits of the proposed remedies described above accrue to the U.S. commercial shipbuilding sector, it is important that the U.S. government engage with partners in Japan, Korea, and other major shipbuilding countries to address any concerns about government interventions and any other practices that distort the global market for commercial vessels. In addition, the U.S. government may wish to encourage other countries to explore their own measures against China's unfair practices in order to establish a united alliance of countries seeking to maintain fair and open competition in the maritime and logistics sector.

## **V. CONCLUSION**

For more than 20 years, the Government of China has poured billions upon billions of dollars into its shipbuilding industry, with the explicit goal of becoming the world's largest shipbuilding nation. China has achieved that goal, and it now makes nearly half the world's ships. In addition, China has given its domestic shipbuilding industry unfair advantages by requiring state-owned steel producers to provide plate to shipbuilders at below-market rates, mandating the purchase and use of Chinese ships, supporting domestic mergers and disapproving alliances by foreign competitors, and providing many other forms of support. These policies are just one part of China's much more ambitious goal of being a major maritime power by promoting state-owned

shipping, port infrastructure, and logistics companies, investing in strategically located foreign ports and terminals, and promoting a government-supported logistics platform.

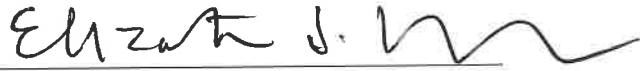
These acts, policies, and practices are unreasonable, unfair, inequitable, and discriminatory, and they have burdened and restricted U.S. commerce by supporting the construction of vessels used in commercial transport of goods between the U.S. and foreign countries, depressing domestic production and employment in the shipbuilding industry, and threatening American economic and national security. For all of these reasons, the U.S. Trade Representative should exercise its discretion to take all appropriate and feasible action to obtain the elimination of China's practices. That action should include the assessment of a port fee on Chinese-built ships that dock at the United States, the creation of a Shipbuilding Revitalization Fund to help the domestic industry and its workers to compete, and other measures to stimulate demand for commercial vessels built in the United States.

The commercial shipbuilding industry in the United States simply cannot compete unless the massive market distortions that the Government of China has created are remedied and the injury that has been inflicted addressed. The very reason that Section 301 exists is to empower the Administration to respond to such predatory and destructive foreign government practices, and to support domestic industries and workers harmed by these acts. We look forward to working with the Administration to stand up to China's harmful policies and support a vibrant domestic shipbuilding industry.



Please contact the undersigned with any questions regarding this petition.

Respectfully submitted,



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Exhibit	Title
1	“Joint Declaration Against Trade-Related Economic Coercion and Non-Market Policies and Practices” (June 9, 2023)
2	List of Maritime Trades Department, AFL-CIO’s affiliate unions
3	Regulation (EU) 2016/1035 of the European Parliament and of the Council, “On protection against injurious pricing of vessels” (June 8, 2016)
4	OECD, “Ocean shipping and shipbuilding”
5	International Chamber of Shipping, “Shipping and World Trade: World Seaborne Trade”
6	Bureau of Transportation Statistics, “On National Maritime Day and Every Day, U.S. Economy Relies on Waterborne Shipping” (May 12, 2021)
7	Christopher J. McMahon, “The Middle Kingdom Returns to the Sea, While America Turns Its Back—How China Came to Dominate the Global Maritime Industry, and the Implications for the World,” <i>Naval War College Review</i> : Vol. 74: No. 2, Article 7
8	Isaac B. Kardon and Wendy Leutert, “Pier Competitor: China’s Power Position in Global Ports,” <i>International Security</i> , Vol. 46, No. 4 (Spring 2022)
9	Testimony of Carolyn Bartholomew, Chairman, U.S.-China Economic and Security Review Commission, before the House Committee on Transportation and Infrastructure “China’s Maritime Silk Road Initiative: Implications for the Global Maritime Supply Chain” (Oct. 17, 2019)
10	“As China Expands Its Fleets, US Analysts Call for Catch-up Efforts,” <i>Voice of America</i> (Sept. 13, 2022)
11	“China’s Xi Jinping Shrugs Off Criticism in Push for Even More Control,” <i>The Wall Street Journal</i> (Mar. 3, 2023)
12	Eswar Prasad, “The Problems with China’s Economy Start at the Top,” <i>The New York Times</i> (Aug. 26, 2023)
13	Office of the United States Trade Representative, “Findings of the Investigation into China’s Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation under Section 301 of the Trade Act of 1974” (Mar. 22, 2018)
14	Keith Crane, et al, RAND, “The Effectiveness of China’s Industrial Policies in Commercial Aviation Manufacturing” (2014)
15	“China’s Banking Sector Risks and Implications for the United States,” U.S.-China Economic and Security Review Commission (May 27, 2020)
16	Bonnie Glaser, John Lee, “China’s Industrial Policy and Semiconductors,” German Marshall Fund of the United States (Apr. 25, 2023)
17	<i>The Party Knows Best: Aligning economic actors with China’s strategic goals</i> , MERICS (Oct. 2023)
18	OECD, “Report on China’s shipbuilding industry and policies affecting it” (April 2021)
19	“Two Departments Jointly Released the ‘Medium and Long-Term Development Plan for the Shipbuilding Industry’” (Sept. 18, 2006)

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