ECSA
European Community Shipowners' Associations

Ambassador Tai
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508
USA

Dear Ambassador Tai,

RE: REQUEST FOR COMMENTS ON THE SECTION 301 INVESTIGATION OF CHINA'S ACTS, POLICIES, AND PRACTICES TARGETING THE MARITIME, LOGISTICS, AND SHIPBUILDING SECTORS FOR DOMINANCE. DOCKET ID: USTR-2024-0005

Executive Summary

I write to you on behalf of the European Community Shipowners' Associations (ECSA), the organisation representing the European shipping industry. Founded in 1965, ECSA promotes the interests of 21 member associations of the EU and Norway, representing around 40% of the global fleet. Our member national associations represent shipping companies from all sectors and trades, including dry bulk carriers, oil tankers, chemical tankers, gas carriers, RoRos, container ships, general cargo ships, offshore service vessels, and passenger ships; all vessel types which serve the maritime import and export markets of the United States.

We note that on 12 March 2024, a Section 301 petition was filed by five US labour unions requesting that remedial action be taken against the acts, policies and practices of China within the maritime, logistics and shipbuilding sector. We further noted the announcement on 17 April 2024 that the US Trade Representative would investigate the claims made in this petition.

Without prejudice to the conclusions of the USTR investigation, ECSA wishes to express serious concern at the remedial action proposed by the petition, in particular the call to impose a port fee on Chinese-built vessels calling US ports. Not only would such a fee fail to disincentivise the acts, policies and practices of China in the maritime sector, but it would damage US import and export market competitiveness, increase costs for US consumers and, in our view, fail to achieve the petitioners' stated aim of revitalising US domestic shipbuilding capacity.

We would strongly advocate that, were remedial measures to be considered necessary, the US Trade Representative does not impose a port fee as requested by the petitioners. We elaborate on the rationale behind this view below.

Imposing a port fee cannot disincentivise Chinese acts, policies or practices

Leveraging a port fee on vessels built in China, but which are often owned and operated outside of China, and which call at US ports, cannot act to disincentivise Chinese subsidisation of shipbuilding costs. Imposing a fee against vessels already produced and serving the US market will have no impact on the financing structure of Chinese shipyards, nor will imposing a fee on those vessels which are under construction but for which shipowners have already committed payment. Importantly, China's current shipyard orderbook accounts for 50% of the future global merchant fleet capacity, with 27% of the world's future LNG carriers, 50% of RoRo vessels (car/vehicle carriers), 61% of crude tankers, 56% of containerships and 70% of the world's future chemical tankers on order to be built in China[1].

A port fee leveraged against a vessel which is already built (or paid for in construction) will at best, fail to disincentivise alleged Chinese acts, policies or practices of the petitioners' concern and, at worst, actively hinder the US markets' access to vessel types vital to maintaining its energy and economic security.

Imposing a port fee would damage US competitiveness and raise costs for US consumers

The operational realities of facing new, unpredictable and potentially unsubstantiated costs to providing shipping services to the US could likely see carriers exploring alternative trade routes, considering transshipment options and potentially altering trade patterns in response to such a proposal.

[1] Clarksons Research Services

However, assuming that shipping companies continued to call US ports, and to the extent that it would be unfeasible for the vast majority to immediately replace Chinese-built vessels with non-Chinese-built vessels currently serving vital US import and export interests, a fee (such as the $1,000,000 per vessel proposed by the petition[2]) would drastically increase the cost of calling US ports.

Due to the cyclical, and often low-margin, nature of shipping companies' revenue streams, where unforeseen or exceptional costs are incurred, these must usually be passed on to the consumer. Not only could such a port fee therefore increase the price to the US consumer of importing goods into the country, but (due to the interdependence of US exports with the international shipping industry), it would raise the cost for US businesses looking to export goods to foreign markets. The competitiveness of US products in foreign markets may thereby be hampered. The unintended consequence of raising costs for US consumers and exporters in this way would arguably not justify the stated aim of the petition to increase US shipbuilding capacity.

Imposing a port fee cannot guarantee revitalisation of US domestic shipbuilding

The stated aim of the petition is to collect funds from an imposed port fee on Chinese-built vessels into a U.S. Commercial Shipbuilding Revitalization Fund, and from there into the Construction Differential Subsidy ("CDS") program, previously disbanded in 1981. However, we understand that the allocation of these funds to US domestic shipbuilding stakeholders could not currently be guaranteed, given that any revenue received by Federal government is required to be held centrally by the US Treasury and could only be allocated with Congressional approval. As we understand it, there would therefore be no mechanism through which to secure allocation of these funds for US shipbuilding, appearing contrary to the petitioners' intention.

[2] Petition For Relief Under Section 301 Of The Trade Act Of 1974, As Amended China's Policies In The Maritime, Logistics, And Shipbuilding Sector, P116, accessible at: https://ustr.gov/sites/default/files/Section%20301%20Petition%20-%20Maritime%20Logisitics% 20and% 20Shipbuilding%20Sector.pdf

Even if such a port fee were to be established and the funds, somehow, allocated solely to the US shipbuilding industry, we contend that any sum which might be raised would not begin to approach the amount necessary to finance a revitalisation of US domestic shipbuilding capacity to the extent envisioned by the petition. In order for such financial input to have meaningful effect, it is highly likely that other public revenue streams would have to be considered, increasing not only the price of import and export for US consumers, but inflating further still the potential burden on the US taxpayer were public funds to be allocated to bolster US subsidisation of shipbuilding.

Imposing a port fee would impact shipowners and operators outside of China

The adverse effects of this proposed policy would also have an impact on key trading stakeholders of the US. As of 2023, UNCTAD reports that 46% of the current global merchant fleet was built in China[3]. The same data indicates that China-based shipping companies account for only 11% of of the global merchant fleet[4].

These statistics suggest that at least 35% of the world's merchant fleet currently serving international and US maritime trade routes, while built in China, are owned and operated by companies outside of China. The petitioners' proposal of a fee leveraged against those owners and operators, based more often than not in key US trading partner jurisdictions, appears somewhat counterintuitive to achieving the stated aim of altering Chinese domestic shipbuilding policy. Further, it appears counterintuitive to internationally accepted principles of free and fair trade and market access.

Principles of Free and Fair Trade must be safeguarded

Finally, the global shipping industry is fully committed to the preservation and promotion of free trade policies and principles around the world. With around 90% of world trade transported by sea, shipping relies on a harmonised global regulatory system, underpinned by principles of open and free market access, removal of restrictive trade barriers and the

[3] UNCTADStat, Ships built by country of building, annual, Nov 2023 - accessible at: https://unctadstat.unctad.org/datacentre/dataviewer/US.ShipBuilding
[4] Ibid.

maintenance of a level playing field. This rules-based international order safeguards the movement of international sea-going trade, along with the sustainable development of the global economy.

It is through the vital preservation of such systems that ECSA would strongly advocate against the proposed introduction of remedial measures which run contrary to the principles of free trade and market access on which the global shipping industry depends. These concerning proposals are not limited to the petitioners' request for a port fee, but also include, inter alia, the call for cargo reservation on export of LNG, fuel oils and fuel from the United States which could lead to severe market distortion at a time when safeguarding economic and energy security is paramount. In this context, as the US is the world's largest exporter[5] of LNG, the proposed measures would harm the US energy exports and possibly impact global energy prices at a time of already high instability.

Conclusion

Given the global nature of the shipping industry, and of the international impact that trade restrictive measures may have on the efficiency of global maritime transport[6], we would advocate that consideration of any remedial measures be raised through global fora such as the World Trade Organization. We would also like to take this opportunity to reference the work of the OECD Council Working Party on Shipbuilding (WP6), which seeks to progressively establish normal competitive conditions in the industry, and whose remit may be of interest to the conduct of this investigation.

We remain at your disposal for further clarification of the above and will be pleased to follow the outcome of the public hearing which will further discuss these issues on 29 May.

Your sincerely,

[5] U.S. Energy Information Administration, 'The United States was the world's largest liquefied natural gas exporter in 2023', 1 April 2024 – accessible at: https://www.eia.gov/todayinenergy/detail.php?id=61683#:~:text=The%20United%20States%20exported%20more,from%20our%20Natural%20Gas%20Monthly.

[6] International Chamber of Shipping, 'Protectionism in Maritime Economies Study', 2020, accessible at: https://www.ics-shipping.org/current-issue/protectionism-in-maritime-economies-study/#:~:text=ICS'%20global%20trade%20Protectionism%20in,as%203.4%25%20for%20national%20economies.

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