US maritime choke point investigation ‘not about trade’

European maritime industry figures have characterised the Federal Maritime Commission (FMC)’s investigation into maritime choke points across the globe as a “waste of time” and a “China witch hunt”.

Nick Savvides, Europe correspondent

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US Secretary of State Rubio visits the Panama Canal earlier this yearCredit: Official State Department photo by Freddie Everett

An FMC investigation into maritime choke points across the globe was launched with an industry consultation in which the commission invites US industry users of commercial shipping to respond to questions regarding the services provided and relate to seven choke points around the globe which the commission believes pose a threat to US security and a barrier to trade.

The choke points include the Northern Sea Route, the Panama and Suez Canals, the Straits of Malacca, Singapore and Gibraltar and the English Channel.

Consultant Darron Wadey at Dynaliners in the Netherlands said he is puzzled, not so much by the list of choke points focused on by the FMC, but by the ones that were omitted. He included in the list of excluded choke points the Bab Al Mandeb, the Gulf of Hormuz, the Bosphorus and the Black Sea, “All arguably, more important to US foreign trade than the still nascent Northern Sea Route,” he said.

According to Wadey: “The outlier from the FMC list is the Northern Sea Passage… This route has zero relevance to US foreign trade. Even if it were fully developed, the influence would be marginal.”

A senior industry figure, who preferred to remain anonymous made a similar point: “They should add the Bosphorus, but that doesn’t meet their remit.” Neither did he believe that it would suit US regulators to look at US inland logistics, “It’s not a serious investigation,” he concluded.

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For Wadey, the FMC's investigation should be seen as "a source of comfort" that a government is looking into the potential vulnerabilities surrounding maritime choke points.

"It demonstrates that this administration views shipping as a critical part of the trading economy, just like national land side infrastructure."

Any concerns about this consultation, apart from the choice of choke points, comes from rationale driving the investigation.

"The FMC has a statutory mandate to monitor and evaluate conditions affecting US foreign trade and to prescribe regulations when the policies or actions of foreign states or vessels cause 'conditions unfavourable to foreign trade," explained the consultant.

That said, the selection of chokepoints is curious, said Wadey. "Five of the chokepoints are pretty much controlled by jurisdictions hitherto generally well-disposed, or at worst ambivalent, towards the US."

The five, include the Channel, the Northern Sea Passage and the Strait of Gibraltar, also have significance for US foreign trade to varying degrees, but, he added, "the entire Transpacific and Transatlantic trades exclude the Channel and Strait of Gibraltar, plus much of intra-Americas trade is not covered by these chokepoints."

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As such it is pertinent for trading partners to ask what the purpose of such an investigation is?

"In the context of general trade tariffs already imposed by the US on many friendly or allied nations, and the location of chokepoints to be investigated, this question is understandable," he said.

Even if such an investigation was to find that an ally had caused unfavourable trading conditions any action would be outside of the scope for action by the FMC.

"The alternative would be some form of FMC regulatory or other government action against the defaulting jurisdictions, as seen by the US, or their shipping, similar to that being proposed for Chinese vessels," explained Wadey, which he said lead to the realisation of the limitations of what the US can realistically and physically do.

"Even imposing restrictions on the offending jurisdictions vessels could prove problematic, will it be defined by the flag state, the beneficial owner or the base from which the vessel is operated from?" Asked Wadey.

These questions are being asked by industry figures who believe the consultation is only serving to give the US government the ammunition it needs to limit regulations in the Arctic, and to attempt limit environmental regulations and the spread of Chinese influence, rather than an attempt to provide certainty for supply chains.

As such another industry source said: "This investigation is not about trade, it's about foreign policy and geopolitics and container shipping will end being collateral damage in that dispute."

"If you have issues about maritime choke points then they should be raised at the IMO, the US Government does not have the jurisdiction to change regulations in these other states," she added.

Meanwhile, the Global Shippers' Forum (GSF) pointed out that shippers will be most affected by these choke points and the FMC has ignored them in its early requests for information.

GSF director James Hookham, said: "The FMC investigation is inviting evidence from other governments and shipping interests. I notice the absence of cargo interests (shippers and forwarders) but ultimately, they bear the costs of delays, diversions and disruptions."

For Hookham many of the restrictions cited by the FMC are intended to achieve acceptable levels of safe navigation in highly congested shipping lanes which benefit vessels, goods and seafarers of all nations.

As an example, Hookham pointed to the traffic separation schemes in the Channel, adding that it will be revealing to see the responses received.

Moreover, he argued: "The questions posed are framed in the context of US interests, as is the FMCs remit, but the 'chokepoints' studied are of global economic significance and hopefully the findings will be of relevance to all parties, even if the suggested remedies are more narrowly drawn."

The GSF's concerns were highlighted in comments made by the In February the newly appointed FMC chairman Louis Sola who revealed Washington's focus: "Chinese influence, driven by strategic initiatives like the Belt and Road Initiative, poses concerns about questionable financial practices that heavily influence global shipping."

According to Sola: "China invests in foreign ports, shipping lines, and financial institutions, from the Atlantic to the Pacific. Reports indicate that Chinese state-owned enterprises now control or operate terminals in over 90 ports worldwide. This level of control not only threatens market competition but poses long-term risks to US economic security."

The FMC questionnaire asks for information from respondents on the extent to which they are being constrained by "foreign-flag vessels" and the to what extent trading is being constrained by laws and regulations introduced by foreign governments.

According to the document published in the Federal Register shipping in the English Channel is hampered by, "The region's strict environmental regulations, geopolitical tensions, security risks, and ongoing issues like smuggling and illegal migration," which can cause delays and disruptions.

The FMC also noted that the Panama Canal is of significant geopolitical importance that is crucial to the interests of the US.

The commission document launching the investigation asserts that "Political instability or disruptions in its operation could have far-reaching consequences."

But FMC chairman Sola had already admitted in an interview with CNBC that the fees being charged by the Panama Canal Authority were being challenged by US cruise operators rather than cargo companies.

According to Sola, one of the Panamanian terminals was offering to return canal fees to cruise ships calling at its terminal, the complaints were raised by US cruise companies who had not seen these fees returned.

"The FMC is coming late to this complaint," said Seatrade's European source, who argued that this was an excuse by the US administration, he said, "The complaint is not about cargo or cargo vessels."

Concerns from trading partners about the rational and scope of the investigation will only be alleviated if the US response is seen to be fair and will offer benefits to all those involved in international trade, rather than serving to benefit only the US.

“The devil,” said Wadey, “will be in the detail, the success, from the US perspective, will be in the implementation.”