US shipping businesses bankruptcy warning over China built vessel fees

Smaller to mid-sized ship operators and ports could be put out of business by proposed port charges on China-built vessels by the United States Trade Representative (USTR).

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Chinese vessel Qian Kun part of the fleet operated by Chipolbrok in the USCredit: Barry Parker

The recommendations of the United States Trade Representative (USTR) to impose fees on port calls of vessels built in China or operated by Chinese-linked entities, imprecisely defined, has caused a stir throughout the shipping business, and among participants in broader supply chains.

The USTR's findings, in a study initiated in Spring, 2024, support the idea that China has sought to dominate maritime and logistics businesses, and is therefore "actionable" under Section 301 of trade legislation in Section 19 of the US Code of Federal Regulations. In advance of a hearing scheduled for March 24th, where industry participants are invited to speak, providing opinions on Proposed Actions, for up to five minutes each, submission of comments (which will also be considered by the USTR) posted on an online docket has already begun.

Typically, comment postings swell just prior to deadlines - in this case, 24 March, but, with two weeks to go, the online board has already been filling up- mainly with views in opposition to the USTR proposals and almost all pointing to logistical snafus, damage to US businesses and to the broader economy.

One response, from a Florida based shipbroker active in charters of multipurpose carriers and specialized containerships serving the Caribbean trades, suggests that: "There is zero proof that China purposely targets these US sectors." Instead, the commentor suggests that: "China, along with other shipbuilding nations like Korea, Japan, and Turkey, has merely filled the enormous shipbuilding void to satisfy the transportation of goods for an ever-increasing consumer demand worldwide.

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In discussing the fee structure, the broker asserts that: "the smaller to medium-sized operators trading to/from America to destinations like the Caribbean, Latin America, South America, Europe and Africa (all non-China) with multiple port calls per week would not survive very long…" and asks "Why should a 500 [teu] container ship pay the same as a 25,000 [teu] container ship?" adding that "Even at $1,000/ net ton, a 500 container vessel would still pay close to $1 million."

The dry bulk sector was the subject of a submission from the privately owned operator of a terminal in the southeastern port of Savannah, Georgia handling exports of wood pellets, and imports of various minor bulks. In its filing, the commentator lays out the stark reality that "The proposed action…will put our company out of business. As the majority of Handy and Handymax size vessels are Chinese made, operated, or owned, we estimate this rule will destroy 75% of the business we have built over 60 years."

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In looking at the economics of potential levies, the terminal owner says: "…a typical Handysize vessel carries 32,000 tons of bulk product. Based on the proposed rule a Chinese built bulk vessel, representing 1 out of 2 bulk vessels in the global bulk fleet, will add $31.25 per ton to the freight cost of the commodity when the typical ocean freight to Europe is $24 per ton." The writer goes on to emphasize that its trades are not captive; rather they are highly sensitive to freight rates and the origins and destinations could shift away from the United States.

Both of the commentors, along with others who have submitted comments so far, point to policies over previous decades that have led to the decline in the US built, and flagged, merchant fleet. Each one offers suggestions that policy makers ought to focus on mechanisms for reinvigorating the American controlled fleet, and for re-establishing the capabilities for building commercial ships over time.

At least one path to action may already exist- in the liner trades, albeit through a different routing than through the USTR. In a so far under-emphasized take on the USTR proposal, law firm Holland & Knight (H &K) emphasizes that: "Several statutes administered by the Federal Maritime Commission (FMC) already provide remedies similar to those in the USTR proposal."

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The authors of an H & K posting on the firm's website point to language codified into Federal regulations through The Shipping Act of 1984, in Section 46 of the U.S. Code, and pose a query that: "It is not clear why these Shipping Act provisions – already in effect and applied and administered for many decades – should not be utilized now for the purposes of the USTR's proposal."