NRF National Retail Federation

May 22, 2024

Ambassador Katherine Tai
United States Trade Representative
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

RE: Written Comments – Hearing on the Section 301 Investigation of China's Acts, Policies, and Practices Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance (Docket Number USTR-2024-0004)

Dear Ambassador Tai:

On behalf of the National Retail Federation, and pursuant to the Federal Register notice published by the Office of the U.S. Trade Representative, we are submitting the following written comments on the Section 301 Investigation of China's Acts, Policies, and Practices Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance (Docket Number USTR-2024-0004).

NRF, the world's largest retail trade association, passionately advocates for the people, brands, policies and ideas that help retail succeed. NRF empowers the industry that powers the economy. Retail is the nation's largest private-sector employer, contributing $5.3 trillion to annual GDP and supporting one in four U.S. Jobs – 55 million working Americans. For over a century, NRF has been a voice for every retailer and every retail job, educating, inspiring and communicating the powerful impact retail has on local communities and global economies.

As NRF has previously testified before USTR, a safe, efficient, predictable, resilient and timely supply chain is critical to the success of any retailer. The ability to ensure that products are available for the consumer, whether they shop in-store or online, is key to the retail supply chain. A critical component of this supply chain is the maritime sector, which moves a majority of retail goods from their overseas origins to their U.S. destinations. This does not happen without the ocean carriers. Of most concern with the petition is the suggested remedy of a port fee on Chinese manufactured vessels. As we discuss below, NRF strongly opposes a port fee remedy which will do nothing to force China to change its behavior and practices. It will only increase shipping costs for retailers and further disrupt the maritime market.

The petition alleges that Chinese subsidies to its shipbuilding industry are the cause of the lack of international competitiveness of the U.S. shipbuilding industry. We believe there is no actual demonstration of that causal relationship offered as part of the petition. One of the proposed remedies, a fee imposed on all Chinese ships docking at U.S. ports, is in reality a thinly veiled effort to create a pot of money to restore U.S. shipbuilding subsidies (again, notably, the petition offers no clues as to what level of port fee would generate the appropriate value of total subsidy to make the U.S. industry internationally competitive). This petition, rife with gaping holes of key information, has now launched an investigation that threatens to upend U.S. supply chains and foist still more unnecessary costs on American businesses, workers and families.

The amount of money needed to make the U.S. shipbuilding industry globally competitive is enormous.

According to a February 2024 assessment[1] by the U.S. Naval Institute, a non-profit professional military association, $50 billion in subsidies are needed to expand the U.S. shipbuilding industry:

> *The United States should move to increase private ship building capacity from 0.13 percent to 1.3 percent within two years, with an aim to reach 5 percent in five years. This would require economic incentives —i.e., subsidizes—to expand the shipbuilding industry.[1] The United States already incentivizes hundreds of industries with subsidizes; having shipyards that can build, maintain, and repair ships in an efficient and effective manner is a national security imperative. Private yards, and the supply chain behind them, should be allocated $50 billion over five years to jumpstart the industry. [Footnote text: Congress passed numerous Merchant Marine Acts in 1916, 1920, 1928, 1936, 1946, and 1970 to address shortfalls with the maritime industry in the belief that they were essential to the nation's defense. The acts were far less effective than advertised; however, they did provide the United States with significant [sic] more capability than it currently possesses.]*

While the Institute offers no substantiation for their total subsidy estimate, as large as it is, it is more than petitioners have offered USTR. Indeed, it may in fact be too low, given how deep a hole it is universally agreed the U.S. industry lies in. Moreover, whether this amount (or any other) would be effective at the end of the day is even challenged (parenthetically) by the authors in a footnote (reprinted above) that years of subsidies to the maritime industry were "far less effective" than had been expected.

In short, petitioners have sent USTR on a nearly impossible search for a solution to their industry's longstanding competitiveness problems without any fact-based guideposts for what they think will bring them success at the end of this investigation. **USTR should not proceed to a remedy phase of this investigation without procuring a credible, independent assessment that finds Chinese subsidies are the cause of the U.S. industry's lack of competitiveness, and the size of the subsidy required to make the U.S. shipbuilding industry competitive if China refuses to end its subsidy practices.**

A fee on Chinese ships docking at U.S. ports is not sufficient to raise the money needed and will damage the U.S. economy.

If the Naval Institute is correct that $50 billion must be found to subsidize the U.S. shipbuilding industry into competitiveness, the question is: what port fee on Chinese ships is needed to raise that

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[1] The United States Must Improve Its Shipbuilding Capacity – https://www.usni.org/magazines/proceedings/2024/february/united-states-must-improve-its-shipbuilding-capacity (February 2024)

amount of money, and what impacts will that fee have on the U.S. economy, U.S. businesses who will be forced to pay the fee by ocean carriers, U.S. workers (all of them, not just those in the shipbuilding, repair and upstream sectors) and finally U.S. consumers.

The answers are wholly at odds with what is suggested by the petition. Based on data from Alphaliner Service Search and the U.S. Department of Transportation, NRF estimates that generally, Chinese container ships made approximately 10,000 calls at U.S. maritime ports in 2023. To generate a total subsidy amount of $50 billion, the port fee for each of those calls would need to be $5 million, not the $1 million "hypothetical" suggested by the petition.

This is much too high for the shipper to absorb: the fee will be passed on to the owners of the freight: American importers and ultimately, their customers: American farmers, manufacturers and families.[2] As noted by the World Shipping Council in its submission to USTR, liner container shipping is a low-margin business and "new or extraordinary" costs must be passed on to its customers. The impacts of these higher costs on downstream industries are dismissed by the petition. That does not make them irrelevant or small, and the Biden administration ignores them at its peril in this current economic environment of stubborn inflation. **USTR should not proceed to implement such a proposed remedy without a thorough assessment by the U.S. International Trade Commission of its effects on the U.S. economy.**

There are questions about how such a fee would be applied. The ocean carriers do not stop at one U.S. maritime port on their journey. They typically hit several ports as part of a loop to deliver import containers as well as pick up export containers destined for foreign markets or empty containers to return to origin ports. Would the proposed fee be applied upon the first port of arrival by the ocean carrier, or would it be applied at each port that the vessel stops at as part of its voyage? This again could add up to more than just the $1 million hypothetical fee as suggested by the petitioners. It should also be noted that the typical vessel that arrives at a U.S. maritime port is not the 20,000 TEU vessel as noted by the petitioner.

In addition to the potential for a port fee to be passed along to retailers and other cargo owners, there is the real potential for ocean carriers to change their sailing schedules and potentially avoid U.S. ports in order to avoid paying such a fee. This could lead to supply chains to shift to alternate ports in Canada or Mexico, which would then force retailers and cargo owners to add additional costs to move their cargo from those alternate ports to their U.S. destinations. Ocean carriers could also just pull services from U.S. ports, creating capacity issues for the U.S. market. This would cause significant disruptions and increased costs for U.S. businesses. Again, without impacting China's business practices.

Finally, it must be reiterated that the history of U.S. shipbuilding subsidies is replete with analyses and reports that demonstrate their ineffectiveness. There is no guarantee that the economic disruption that would ensue from the current effort to raise (again, how much?) money from a port fee of some unknown amount would in fact finally result in a competitive U.S. industry. Korea, Japan and

[2] One fact that policy makers learned from the imposition of Section 301 tariffs on imports from China is that China did not pay those tariffs, U.S. importers did. As with the tariffs, there is no reason to expect that Chinese shipbuilders will "pay" a port fee assessed on the shipping line that docks at a U.S. port.

European shipbuilders also receive billions of dollars of subsidies from their governments, subsidies that have not helped them stay ahead of Chinese shipbuilders and consequently threaten to grow. This is certainly an issue that USTR cannot resolve. If the U.S. government wants to find ways to revive the U.S. shipbuilding industry, especially for container ships to be used on the global market, then the administration as a whole needs to find another path and determine at the outset what the ultimate goal and success will look like. We do not believe this investigation is the appropriate path.

NRF appreciates the opportunity to submit written comments for this 301 investigation. If you have any questions, please contact Jonathan Gold, NRF's Vice President, Supply Chain and Customs Policy.

Sincerely,

David French
Executive Vice President
Government Relations