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USAMaritime

May 19, 2025

The Honorable Jamieson Greer
United States Trade Representative
Office of the United States Trade Representative
600 17th Street, NW
Washington, D.C. 20006

Re: Section 301 Investigation of China's Targeting the Maritime, Logistics, and Shipbuilding Sectors for Dominance, USTR-2025-0008

Dear Ambassador Greer:

USA Maritime hereby submits its comments to "Annex III: Service Fee on Vessel Operators of Foreign-Built Vehicle Carriers" contained in USTR's April 2025 notice (90 *Fed. Reg.* 17114 (April 23, 2025)). Annex III was not previewed in the USTR's February 27, 2025 notice or before and therefore this is the first opportunity for the public to comment on that Annex.

USA Maritime is a coalition of vessel-owning companies, maritime labor organizations, and maritime trade associations that directly or indirectly represent virtually every one of the privately owned, U.S.-flag oceangoing commercial vessels operating regularly in U.S. international trade. Every U.S.-flag vehicle carrier affected by Annex III is owned by a company that is a member of USA Maritime, and all the U.S. citizen seafarers serving on board those vessels are represented by labor organizations that are USA Maritime members.

USA Maritime supports the USTR's effort to address China's unprecedented attempt to dominate world shipping. China's shipbuilding and ship owning efforts threaten the Nation's national and economic security. The United States must develop a hedge against Chinese dominance of world shipping through reinvigoration of U.S. shipyards and the expansion of the privately owned fleet of U.S.-flag vessels. U.S. maritime capabilities have suffered for too long from U.S. government neglect and that must be reversed to counter China's efforts.

USA Maritime strongly recommends that the one thing USTR should not do in responding to the China threat is harm the existing U.S.-flag fleet of national security vessels in its proposed imposition of fees. USTR appropriately avoided such harm in its Annex II proposal where it exempted Chinese-built vessels that are U.S.-owned or U.S.-flag vessels built in China if they are enrolled in the Voluntary Intermodal Sealift Agreement (VISA) program, or the U.S. government's Maritime Security, Tanker Security, or Cable Security Programs. Similar consideration should have been given to the application of Annex III to U.S.-flag and U.S.-owned vehicle carriers.

As General Jacqueline Van Ovost, Commander, United States Transportation Command stated in 2022: "Our organic capabilities are insufficient to meet our military requirements around the globe, and we are absolutely, inextricably linked. So, the Maritime Security Program gives us that guaranteed access, and it is a great value for the dollar to ensure that we can have US-flagged, US-crewed ships available to support us into to the future."

Annex III imposes a fee on all foreign-built – not just Chinese-built – vehicle carriers without exception. This fee was introduced in the April 2025 notice for the first time and is not supported by USTR's China investigation determinations because it is not focused on Chinese-built or Chinese-owned and -operated vessels. The only explanation USTR provides is that Annex III is needed "to further promote the acquisition of U.S.-built ships, and address capacity constraints."

Annex III will do neither. The issues associated with building an internationally competitive vehicle carrier in the United States are extremely challenging without U.S. government financial support. That is currently proposed but unavailable and so Annex III will undoubtedly fail to promote U.S. vessel building. Annex III also does the opposite of adding to United States controlled vehicle carrier capacity by harming existing U.S.-flag vehicle carriers which are essential to both the current and the future ability of the United States to transport and sustain its armed forces around the world.

The existing 21 privately owned U.S.-flag vehicle carriers, 19 of which are enrolled in the Maritime Security Program, are a key component of the Nation's sealift capabilities. They are the most militarily useful privately-owned vessels to which the U.S. Department of Defense has assured access (because they are U.S. registered with a U.S. citizen crew and a U.S. citizen owner). Recent data indicates that these vessels transported about 75 percent of DoD's breakbulk cargo. When the U.S. Maritime Administration solicited in May 2023 to fill two open MSP contracts, roll-on/roll-off vessels (*i.e.,* vehicle carriers) had the highest priority (88 *Fed. Reg.* 34,221 (May 26, 2023). Many of these vessels routinely

transport commercial cargo to position themselves to serve ports and trade lanes needed to transport DoD cargo.

Annex III harms this fleet by adding a cost burden to vessels that are already at a world-wide commercial competitive disadvantage because of relatively high U.S.-flag operating costs. The scale of the harm is apparent in a comparison of the MSP stipend paid to the MSP-enrolled vessels by MARAD with the Annex III fee. Fees collected for a typical 6,500 ceu capacity vehicle carrier ($150 x 6,500 = $975,000) that makes an average of between six and seven U.S. voyages in a year will amount to over $6 million for that period (regardless of the number of vehicles carried because the fee is based on vessel capacity). This amount is substantially more than the current Maritime Security Program annual stipend of $5.3 million. The fee is an unbearable and unreasonable burden disproportionately imposed for no U.S. trade benefit.

Many of these U.S.-flag vessels are under term transportation contracts with private customers such that the owners have no choice but to absorb the cost of the fees since they are not accounted for in such pre-existing arrangements. Even when those contracts roll over, there can be no assurance that U.S.-flag vessels, which are already generally in the expensive end of the market, will be able to pass those fees along to their customers. U.S.-flag owners will be put in a difficult position given their relative competitive disadvantages and will have to consider avoiding the United States to avoid paying the Annex III fees.

Commercial charterers of these vessels have already made plans to reduce frequency to avoid the United States so as not to pay the fees. DoD will lose ready access to the vessels if they are not in regular United States service. DoD relies on this fleet of vehicle carriers to move equipment and supplies on a regular basis throughout the world. Vessels that do not regularly call on U.S. ports will be lost to DoD's regular service. Those vessels that stay in United States rotations will be forced to charge DoD more to account for the fees paid to Customs and Border Protection. In other words, the fees payable to CBP imposed by the USTR may be paid by DoD even though the vessel owners may not suffer the consequence of the imposition of the fees.

Exempting the 21 U.S.-flag vehicle carriers and a small number of similarly situated vessels will not materially reduce the revenue anticipated from the imposition of the vehicle carrier fee. We estimate that the number of non-U.S.-flag vehicle carrier voyages to the United States for 2023 and 2024 was about 1,750 with U.S.-flag vessels engaging in about 130 voyages. For vessels with a capacity of 6,500 ceu, the total non-U.S.-flag revenue would be about $1.7 billion. The reduction in fees if those 21 vessels are exempted, would be about $125 million.

The imposition of the fee on U.S. owners of foreign-built vessels not built in China is also fundamentally unfair. MARAD and the U.S. Transportation Command have approved enrollment of all 21 of vessels in the Maritime Security Program (two were approved but are not enrolled due to the fixed limit of MSP contracts). That Program is expressly designed to maintain an active fleet of privately owned U.S.-flag vessels engaged in international trade readily available to the U.S. government in times of national emergency. Neither of those agencies nor the authorizing statute nor the implementing regulations condition such enrollment on building replacement vessels in the United States. The fee therefore frustrates the reasonable expectations of the U.S. citizen owners of U.S.-flag vehicle carriers.

The Annex III fee also undermines the MSP stipend framework. That stipend is designed by law to help put U.S.-flag vessels in an international competitive position. The stipend, however, does not fully compensate vessel owners for the difference in the cost of operating a foreign vessel carrier and a U.S.-flag vessel carrier. The difference is made up by reserving a limited number of U.S. government cargoes to MSP-enrolled vessels under U.S. cargo preference laws. The fee upsets that delicate financial balance thereby straining U.S.-flag vehicle carrier finances and making them unprofitable.

USTR should also consider the resources the owners of these 21 vessels provide to the U.S. government. All the affected U.S.-flag owners have committed intermodal and other resources to the U.S. government in times of national emergency under MARAD's VISA program. These owners receive no payment from the U.S. government for these commitments beyond making the vessel available. These U.S.-flag owners and their U.S. citizen crews should not be treated the same – which Annex III does – as Chinese-built vehicle carriers with Chinese crews committed to the national defense of China.

Annexes II and III taken together also inexplicably advantage Chinese-built container vessels that can meet one of the Annex II exceptions over U.S.-flag non-Chinese-built vehicle carriers that pay the Annex III fee. This is the case because vehicles can be, and are regularly, transported in containers. During the recent vehicle carrier worldwide shortage, containerized carriage of vehicles captured a sizable portion of the vehicle transportation market.

Permitting U.S. owners to avoid the fee -- as stated in Annex III "to further promote the acquisition of U.S. built ships" -- if they commit to constructing a vehicle carrier is not a saving grace. The last and only privately owned vehicle carrier constructed in a U.S. shipyard was delivered in 2005, able to transport a maximum of about 2,500 automobiles. Such a vessel would be commercially useless in U.S. international trade because she is too small (she operates between mainland United States and Hawaii). A typical international trading

vehicle carrier has a capacity of 6,500 ceu although most new buildings are in the 7,000 ceu to 10,000 ceu class. It is not clear that any existing U.S. shipyard has the physical capacity to construct a modern style design of a commercially competitive international vehicle carrier.

The reason to believe that U.S. shipyards would not be able to build internationally competitive vehicle carriers in any reasonable time frame is compounded by the fact that what constitutes "U.S.-built" under the Annexes is more stringent then what constitutes "U.S.-built" for the U.S. domestic, Jones Act, trade. U.S. shipyards have been building for decades to the Jones Act standard. Main engines, for example, can be foreign manufactured in a Jones Act-qualified vessel but not in an Annex vessel. It is not at all clear that a factory even exists in the United States to produce the main engines needed for international competitive vehicle carriers. U.S. shipyards have never built to the Annex standard.

Even if a U.S. shipyard has the physical capacity, there does not appear to be any space in relevant yards to place an order for a period of years. And if those problems are solved, the vessel cost would almost certainly be many times the cost of building the same vessel in South Korea or Japan. Such an expensive vessel cannot compete internationally under any flag. Constructing a vessel in the United States is therefore an unrealistic alternative to paying the fee. This is confirmed by the fact that where a U.S.-build obligation has been considered by the U.S. government for the international trade since World War II, it has always been in connection with U.S. government construction subsidies.[1] The USTR notices do not indicate that these problems with building a vehicle carrier in the United States have been considered.

We suggest that USTR is also required by law to consider the impact of the U.S. merchant marine in taking trade actions. The U.S. Code has contained, since 1920 and most recently amended in 2009, a provision that makes it an objective of the Nation to have "a merchant marine . . . sufficient to carry. . . a substantial part of the waterborne export and import foreign commerce of the United States" and to be "capable of serving as a naval and military auxiliary in time of war or national emergency."[2] We respectfully submit that burdening U.S.-flag vehicle carriers – even if applied equally to U.S. and foreign vessels -- does not further this objective which requires the U.S. government to promote the U.S. merchant marine. Exempting U.S.-flag vessels from the Annex III fee would promote the U.S. merchant marine and further this statutory objective

[1] For example, Shipbuilding and Harbor Infrastructure for Prosperity and Security for America Act of 2025 (generally referred to as the "SHIPS for American Act"), S. 1541, H.R. 3151, 119th Cong., 1st Sess. (2025).
[2] 46 U.S.C. § 50101.

We further suggest that USTR should fully consider the President's recent direction on maritime policy. The President signed an April 9, 2025 an Executive Order No. 14269 entitled "Restoring Maritime Dominance" prioritizing, among other things, "making United States-flagged and built vessels commercially competitive in international commerce." Imposing a new fee on U.S.-flag or U.S.-owned vehicle carriers in Annex III that is the same fee imposed on Chinese-flag vehicle carriers achieves the opposite objective – such action makes U.S.-flag vehicle carriers even less internationally competitive both against Chinese (and other foreign) carriers, which can more readily absorb the fee, and against non-vehicle carriers (including Chinese-built container vessels) which can transport vehicles exempted from fees under Annex II.

Finally, section 301 permits the USTR not to take action if "the taking of action . . . would cause serious harm to the national security of the United States." We submit that applying the Annex III fees to U.S.-flag vessels without the benefit of the relevant Annex II exceptions (i & v) will in fact cause serious harm to U.S. national security. Moreover, any dispute regarding that fact should be resolved in favor of not applying the fee to U.S.-flag vessels given the immaterial loss of fees in comparison to the total fees the USTR's action will generate.

Should USTR need any affidavit or supporting data for the assertions made in this letter, we would be happy to respond to any reasonable request.

Very truly yours,

Brian W. Schoeneman
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