

April 17, 2024



Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460
Submitted via Email at BABA-OTAQ@epa.gov

SUPPLEMENTAL SUBMISSION

RE: Proposed General Applicability Public Interest Waiver of Section 70914(a) of P.L. 117-58, Build America, Buy America Act, 2021 for U.S. Environmental Protection Agency Financial Assistance Awards under the Clean Ports Program

Dear Administrator Regan:

The Alliance for American Manufacturing (AAM) hereby submits supplemental information – in addition to its April 15, 2024, submitted comment – in response to the Environmental Protection Agency’s (EPA) request for comment on a proposed public interest waiver for certain zero emission (battery electric and hydrogen fuel cell) mobile port equipment to be funded in the \$3 billion Clean Ports Program from the Build America, Buy America (BABA) requirements in Section 70914 of the Infrastructure Investment and Jobs Act (IIJA).

AAM’s April 15, 2024, comment raised concerns that the People’s Republic of China (PRC) is poised to be a massive beneficiary of the \$3 billion Clean Ports Program. AAM urged in its comments that EPA should rescinded its proposed waiver and, if it is determined that a waiver is necessary, a new waiver should be proposed that prioritizes eliminating loopholes, is short in duration, is narrow in scope, and, critically, broadens its application of restrictions on foreign countries of concern to ensure that the Peoples Republic of China (PRC) does not strengthen its dominance in these sectors with the backing of the U.S. taxpayer.

SUPPLEMENTAL SUBMISSION

USTR’s April 17, 2024, Announcement to Initiate a Section 301 Investigation of China’s Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance

Of critical and timely importance to EPA’s decision-making process on the pending waiver, EPA is advised that on April 17, 2024, the United States Trade Representative (USTR) announced that “after review of a petition filed...by five national labor unions, USTR is initiating an investigation of acts, policies, and practices of the People’s Republic of China (PRC) targeting the maritime, logistics, and shipbuilding sectors for dominance.”¹

USTR notes in its announcement that “[t]he petition presents serious and concerning allegations of the PRC’s longstanding efforts to dominate the maritime, logistics, and shipbuilding sectors, cataloguing the PRC’s use of unfair, non-market policies and practices to achieve those goals. The allegations reflect what we have already seen across other sectors, where the PRC utilizes

¹ <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/april/ustr-initiates-section-301-investigation-chinas-targeting-maritime-logistics-and-shipbuilding>

a wide range of non-market policies and practices to undermine fair competition and dominate the market, both in China and globally.”

The Section 301 [petition](#)² – filed by the United Steelworkers (USW) and other unions – alleges that the PRC has for decades carried out a comprehensive strategy to dominate global transportation and logistics networks. USW’s petition identifies a broad range of unreasonable and discriminatory acts, policies, and practices, which have contributed to the devastation of the U.S. shipbuilding and maritime logistics sectors, as well as the domestic supply chain of manufacturers and America’s workers who serve this vital sector.

The Section 301 petition recommends actions to address the injury caused by the alleged unfair practices and to ensure the viability of the domestic producers and workers that have been harmed. This includes adopting strong domestic content requirements attached to federal assistance and other federal programs to mitigate and eliminate the use of Chinese-produced and -affiliated port infrastructure equipment in the United States.

AAM again strongly urges that EPA consult with the United States Trade Representative and other administration officials who are conducting the Section 301 investigation to ensure that its proposed BABA implementation policies for the Clean Ports Program are aligned with the overall approach of the Biden administration to this critical sector.

After all, EPA’s proposed waiver of BABA covers maritime logistics equipment which is directly related to the pending Section 301 petition and investigation, including drayage trucks, yard trucks, other cargo handling equipment, locomotives, and vessels. Tugboats, push boats, pull boats, and ferries are listed as eligible vessels in EPA’s Notice.

AAM does not believe that proceeding with the proposed waiver, as currently structured, would be in the “public interest” based on the significant evidence provided in the Section 301 petition – which is now subject to a formal investigation.

This supplemental information is timely and critical to EPA’s decision-making process on the pending proposed general applicability public interest waiver.

Conclusion

Thank you for your attention to this supplemental submission and we stand ready to work with EPA to make all necessary changes to its proposed waiver.

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² <https://ustr.gov/sites/default/files/Section%20301%20Petition%20-%20Maritime%20Logisitics%20and%20Shipbuilding%20Sector.pdf>