The US and China port fees: a comparison

The US and China have introduced reciprocal port fees targeting vessels linked to each other's countries, marking a novel use of port fees as geopolitical tools akin to tariffs. The fees are based on vessel ownership, operation, flag, and place of build, but the regulations contain ambiguities, especially around definitions of owner and operator. Our authors compare and comment on the provisions.

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Editor's update (10 November 2025): The United States White House confirmed on 1 November that the implementation of USTR port fees on ships linked to China will be suspended for one year. The suspension is said to take effect from 10 November 2025. On 10 November, China's Ministry of Transport confirmed that they, too, will suspend the special port fees on US-linked vessels for a period of one year.

Differential port fees – a new chapter in the US-China trade war

In the last few months, we have seen the advent of a new chapter in the US-China trade war and perhaps the start of a new trend. Following an announcement by the US Trade Representative in April 2025 of various additional port charges that would be imposed on vessels with links to China, the Chinese followed suit in October 2025 by announcing tit-for-tat port charges on vessels with links to the US. Both states introduced the promised fees on 14 October 2025. The fees in each state are levied on incoming vessels on the basis of where the vessel was built and the country with which it is associated. While tariffs on imports based on the country of origin are familiar, employing port fees as a geopolitical tool based on a vessel's associations with a particular country is new and unprecedented.

Ambiguities in the regulations

The novelty of this type of charge is exacerbated by the fact that there are many ambiguities concerning how these fees will be applied. The general shape of the intended US measures and Chinese countermeasures have been known for some time, but as always, the devil is in the detail. In relation to the USTR measures, industry parties have been seeking clarifications as to how the linkage to China will be assessed, particularly in relation to how "ownership" and "vessel operator" are determined. The USTR issued a memorandum on 10 October 2025 that clarified some points and signposted some modifications, but it is not the widely-awaited FAQ they had promised to release, and it does not address these important issues. In relation to the Chinese measures, the Ministry of Transport published the official Implementation Measures Notice on 14 October 2025 (Chinese announcement and English translation courtesy of BIMCO) but the definition of "vessel operator" remains unclear. Given that the Chinese regulations were really a response to the US regulations, it is reasonable to surmise that if the US gives these terms a broad interpretation, China will do the same.

Near-symmetrical measures

The Chinese port fees are clearly in reaction to the USTR port fees. They were brought into effect following revisions to the Chinese International Maritime Transport Regulations which allows China to respond where *"a country or region adopts, assists or supports discriminatory restrictions against operators, ships or crew members of China"*. China has also based much of the wording of its Special Port Fees on the USTR s.301 Notice of Action for the special port fees and its subsequent modifications. The Chinese regulations largely mirror the US regulations, even down to the lack of clarity as to how "ownership" and "vessel operator" are defined.

In this context, we think it useful to compare the US and Chinese measures to highlight their similarities and their differences. We have added commentary from Gard that is based on our own analysis or information we have collated from our industry sources, which does not come from an "official" announcement by the US or China.

Quantum of fees: link to China or US based on owner, operators or flag

USTR s.301 port fees on Chinese owners and operators	*Chinese special port fees on US owners, operators or flag*
Chinese special port fees on US owners, operators or flag	400 RMB per net ton rising to 1,120 RMB per net ton in April 2028 (as of 15/10/2025, approximately US$56 per net ton rising to US$156.9 per net ton).

Quantum of fees: link to China or US based on vessel's place of build

USTR s.301 port fees on Chinese built ships	*Chinese special port fees on US built ships*
US$18 per net ton rising to US$33 per net ton in April 2028. ***Comment:*** *It should be noted that the fee rate for Chinese-built ships is significantly lower than the fee rate for Chinese-owned / operated / flagged ships, presumably in recognition of the fact that there are many non-Chinese entities around the world who own ships that are built in China.*	400 RMB per net ton rising to 1,120 RMB per net ton in April 2028 (as of 15/10/2025, approximately US$56 per net ton rising to $156.9 per net ton). ***Comment:*** *Unlike the US, China does not differentiate between US-built versus US owned / operated / flagged ships when setting the fee rate. This does not affect the market now since there are so few US commercial ships. It may however affect the appetite for building ships in the US.*

Quantum of fees: vehicle carriers

USTR s.301 port fees on non-US built vehicle carriers	*Chinese special port fees*
US$46 per net ton deferred to December 2025.	Unlike the US, the Chinese measures do not have a particular emphasis on vehicle carriers.

Cap on fees being levied

USTR s.301 port fees	*Chinese special port fees*
The charge will only be levied up to 5 times per year. A string of voyages within the US are treated as one port call. ***Comment:*** *It is not yet known when the year runs from or whether the rest of 2025 will be treated as one year.*	The fee is charged on a per voyage basis, and a vessel will not be charged again at subsequent ports of call on the same voyage. Each vessel is subject to the special port fees for no more than 5 voyages within a billing cycle. Subsequent voyages within the same billing cycle will not be charged upon presentation of proof of payment for the first 5 voyages. The start date of the annual billing cycle is 17 April of each year.

Exemptions

USTR s.301 port fees	*Chinese special port fees*
For Chinese owned/operated vessels, there are exemptions for: Certain ethane and LPG carriers; and Vessels in certain limited circumstances such as where they have to call at the US in an emergency or just to take on bunkers.	**For US owned / operated / flagged vessels**, there are exemptions for: Chinese built vessels; Vessels arriving in ballast for repairs in Chinese shipyards; Vessels that are otherwise granted exemptions.
For Chinese built vessels, there are many potential exemptions – too many to list here. Exemptions may be available for: certain smaller capacity vessels; short voyages where the farthest distance from a US port is less than 2,000 nm such as Great Lakes traffic to Canada; vessels that are a minimum 75% beneficially owned by US persons; vessels in ballast; and owners who are building a vessel in the US. ***Comment:*** *Again, the leniency showed in respect of Chinese-built vessels is presumably an acknowledgement of the fact that there are many non-Chinese entities around the world who own ships that are built in China.*	**For US built vessels,** the exemptions are the same as for US owned / operated / flagged vessels (see above). ***Comment:*** *This will affect a small number of vessels.*

Who will be treated as an 'Owner'?

USTR s.301 port fees	*Chinese special port fees*
Vessel owner of China is very widely defined to include vessels owned or controlled by a citizen or citizens or residents of the PRC, Hong Kong or Macau or companies established there or with their principal place of business there. Controlled means where 25% or more of the entity's voting interest, board seats or equity is held directly or indirectly by the governments of the PRC, Hong Kong or Macau or by a citizen or citizens or residents of the PRC, Hong Kong or Macau or companies established there or with their principal place of business there. ***Comment:*** *It is implicit in the US wording that even if no single Chinese company holds 25% of the shares in the vessel owner, the vessel will be considered to be Chinese owned if an aggregate of 25% is Chinese owned.*	The fee (which is the same whether the vessel is US built or US owned or operated) will be imposed on: Vessels owned or operated by US enterprises, organisations or individuals. Vessels owned or operated by an entity where 25% or more of this entity's equity interest, voting interest or board seats is held directly or indirectly by an entity, or other organisation or a citizen of the US. Vessels flying the US flag.Vessels built in the United States ***Comment:*** *Although the English text above uses "an entity" in the singular, the language of the original Chinese text of the Implementation Measures Notice is ambiguous as to whether the Chinese special port fees will bite where no single US entity owns 25% of the shares, but an aggregate of 25% is owned by multiple US entities, for example where the company is listed in a US stock exchange.* *The English sections of the reporting form for US-linked vessels required by the China Maritime Safety Administration ("**MSA**") seems to suggest that the trigger is based on ownership by a single entity*: please see Question (3) of the reporting form, "owned by, controlled by, or operated by **an entity** with 25 percent or more of this entity's equity interest, outstanding voting interest, or board seats is held directly or indirectly by **an entity, other organisation, or a citizen**, of the U.S." However, we would again caution that the Chinese text in this reporting form, like the Implementation Measures Notice, is ambiguous on whether "entity" is singular or plural.* *One would be forgiven for thinking that the English text for question (3) (as quoted above) is confusing. A better translation would be: "This vessel is (not)... (3) owned by, controlled by, or operated by an entity or other organisation where 25% or more of its equity interest, voting rights or board seats is directly or indirectly held by an entity, other organisation or citizen of the U.S."*

**Guidance and instructions from the China Shipowners Association [here]()*

Who will be treated as an 'Operator'?

USTR s.301 port fees	*Chinese special port fees*
Comment: *The "operator" would normally be the entity which is identified as the operator of the vessel on the Customs and Border Patrol ("**CBP**") Form 1300, which should be the person who conducts or has responsibility for the vessel. The CBP may look behind the name on the form to see who is actually operating the vessel.* *The same tests that are applied in determining if an owner is Chinese will also be applied to consider whether the operator is Chinese.* *A time charterer may be considered to be an operator.*	***Comment:*** *It is not clear how a vessel operator is defined under the Chinese rules and there are numerous different interpretations offered by Chinese lawyers. It is prudent to assume that a broad definition would apply, and it is likely that the Chinese authorities will look at the person or entity that conducts the commercial operation of the ship. This could include ship managers who have commercial control of the ship and time charterers, but is less likely to include the end voyage charterer or technical managers. Like the US authorities, the Chinese authorities will likely look behind the registered operator declared on the vessel entry form and examine the nationalities of its parent companies.*

Reporting, payment of fees and consequences for failure to pay

USTR s.301 port fees	*Chinese special port fees*
Although the original rules from April 2025 provide for the fees to be paid by the owner in relation to Chinese built ships, recent implementing regulations announced on 10 October 2025 put the burden on the "vessel operator" to determine if a fee is owed, self-report to the US authorities and to pay the fee in advance, irrespective of the basis on which the vessel is deemed to be US-linked. The operator is encouraged to initiate payment at least 3 business days in advance of the vessel's arrival in the US. Payment must be made directly to the Treasury Department's portal* , who will confirm payment to the CBP's Vessel Entrance and Clearance System for matching to an entering vessel. CBP has stated that vessels without proof of payment may be denied cargo loading / discharge access or vessel clearance until payment has been confirmed. ***Comment:*** *Although the burden of compliance is clearly placed on the "vessel operator", as discussed above, the definition of "vessel operator" is unclear.* *It is not known what the consequences are if a party should misinterpret the relevant rules and fail to pay the relevant fees in advance of entry into a US port, but Executive Order 14269 ** , which paved the way for the USTR action, provides that the USTR shall "coordinate with the Attorney General and Secretary of Homeland Security to take appropriate steps to enforce any restriction, fee, penalty, or duty imposed pursuant to such actions."*	Vessel owners or agents must submit a reporting form for all vessels calling at Chinese ports at least 7 days before arriving (or upon departure from the previous port if the transit time is shorter than 7 days). The special port fee must be paid at the time the reporting form is submitted. The primary liability for payment falls on the vessel owners or agent. The recipient of the reporting form and payments will be the maritime authority at the first port of call in China. The relevant maritime authority will verify the details of inbound vessels. Failure to pay the fee will result in denial of port entry and/or exit clearance. For vessels that have departed without paying, arrears must be cleared before the next call at a Chinese port.

** Pay.gov - Section 301 Chinese Vessel Fees*

*** Federal Register :: Restoring America's Maritime Dominance*

Charterparty clauses

Without a clause dealing with these specific port fees in the charterparty, there will be uncertainty as to which party has the ultimate liability for them. Owners will no doubt argue that the fees are being incurred because the vessel is being ordered to that port, while charterers will argue that the port fees are a result of the characteristics of the vessel or of the owners or perhaps another company further up the chain. Port charges are often the responsibility of time charterers (e.g. under NYPE 1993) or owners under voyage charters (e.g. all dues, charges and taxes customarily levied on the Vessel under GENCON 1994). However, it is not clear whether the new differential port fees charged by the US and China would fall within the type of port charges or customary fees normally covered by these clauses.

Intertanko (see here) and BIMCO (see here) have both drafted Owner friendly clauses in relation to the US port fees which can be used to allocate liability. There are also a number of other bespoke clauses in the market. It is likely that clauses are in the pipeline from BIMCO and Intertanko to cover the Chinese special port fees.

Conclusion

In a statement on 14 October 2025, China's Ministry of Commerce said, "If the US chooses confrontation, China will see it through to the end; if it chooses dialogue, China's door remains open." Judging by events in US-China trade relations since the beginning of 2025, it certainly seems that the world's two leading economic giants are capable of dialogue, but whether they are capable of reaching an accord remains to be seen. What is certain is that a new precedent has now been set in using port fees in a manner analogous to tariffs.

Gard is closely monitoring developments in this space through the collaborative efforts and knowledge sharing of our Defence lawyers and claims handlers throughout our global offices, with the support of our extensive network of local correspondents in the US and China. Our members and clients are encouraged to contact us at any time with enquiries, and we would more than happy to assist as best as we can.