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SEEKING RECIPROCITY IN MARITIME TRADE WITH CHINA

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The requirements for accession to the World Trade Organization (WTO) have compelled China to lower tariffs and liberalize many of its service sectors. Unlike other services, however, the maritime transport sector, which includes shipping, cargo handling and storage, and access to and use of ports, is not covered under current WTO agreements. Multilateral negotiations are ongoing but have bogged down because of powerful national interests that oppose liberalization.

In the absence of WTO guidelines, the U.S. and China have relied on a bilateral maritime shipping agreement that expired in 1998. With no up-to-date, formal binding agreement, China has enforced regulations that discriminate against U.S. carriers while Chinese shipping companies enjoy the freedom afforded by America's international shipping standards.

Maritime transport is a key sector that directly affects international trade: Some 80 percent of world trade volume is carried by vessel. It is therefore important that the United States negotiate a formal bilateral agreement with China if a global agreement cannot be reached. In the meantime, Washington should pressure Beijing to remove restrictions on American carriers in China so that they may enjoy the same freedom that Chinese carriers enjoy in the United States. The issue is principle, and the U.S. argument is that China should provide reciprocal privileges.

An Issue of Fairness. The maritime trade sector was supposed to have been included in the General Agreement on Trade and Services that was adopted as part of the 1994 Uruguay Round agreements, but negotiations dragged on until they were suspended in June 1996. Talks resumed in October 2000, but no agreement is likely until at least December 2002. Meanwhile, there has been no progress in renewing the U.S.–China bilateral maritime agreement, which formally expired in September 1998. Both countries have agreed to honor the expired agreement "in principle" until a new one can be negotiated.

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Without any formal agreement, China has enforced strict regulations that limit the competitiveness of American carriers while the U.S. has imposed no such restrictions on Chinese carriers. For instance, U.S. carriers must get prior approval from Chinese authorities for port calls, while Chinese carriers are merely required to observe the international standard of a 24-hour advance notice. U.S. branch offices in China are subject to capital requirements and are prohibited from offering certain administrative services like

arranging customs entry and clearance because these services are a legally protected Chinese monopoly. The United States imposes no such limitations on Chinese companies.

After launching a formal inquiry into the matter, the Federal Maritime Commission (FMC) concluded in June 1999 that "Chinese laws and regulations discriminate against and disadvantage U.S. carriers and other non-Chinese shipping lines" (FMC Docket 98–14). In fact, if Chinese shipping companies continue to dominate U.S.–China trade lanes, they will control a third of the market by 2004, leaving U.S. exporters at their mercy. Under Section 19 of the Merchant Marine Act (P.L. 66–261), the FMC is directed to take retaliatory action in the form of countervailing measures if it deems that a foreign country has laws or regulations that "create conditions unfavorable for the shipping of foreign trade." Possible sanctions include sailing limitations and voyage fees. Action was delayed when Congress debated permanent normal trade relations (PNTR) for China, but the issue has not been resolved.

Leasing U.S. Ports to Chinese Companies. Despite documented evidence of unfair practices, very little attention has been given to the unfairness that exists in the maritime transport services sector. The China Shipping Group (CSG), a government-owned corporation under the supervision of China's State Council, has been carving up the market aggressively at the expense of U.S. carriers. It recently applied for the lease of a modern terminal in the port of Los Angeles. The deal is reminiscent of the 1998 controversy involving the Chinese Ocean Shipping Corporation (COSCO) and the port of Long Beach.

In 1996, COSCO signed a letter of intent with the port of Long Beach to lease a state-of-the-art, 53-hectare terminal at the former Long Beach Naval Station. COSCO, the world's largest shipping firm, had been making port calls at the Pacific Container Terminal in Long Beach since 1981 but had outgrown its facilities. It was scheduled to move into its new terminal in 1998 when issues of national security were brought to the attention of Congress.

Long Beach is located in the heart California's military–industrial complex, and the port itself is a prime location where the Chinese military could intercept communications, which would allow them to track military exercises and deployment. COSCO, which is owned in part by the Chinese People's Liberation Army, is a less than ideal candidate for the port's lease. In March 1996, U.S. customs agents seized 2,000 AK47 assault rifles, bound for U.S. street gangs, that were on board a COSCO ship. With this in mind, Congress passed the National Defense Authorization Act of 1998 (P.L. 105–85), effectively banning COSCO from renting any portion of the former Long Beach Naval Station.

Although national security concerns were a necessary and sufficient cause for terminating the lease, an overlooked element of this controversy is that American companies are prohibited from obtaining an equivalent arrangement in China. The same principle should be applied to the CSG application to the port of Los Angeles.

Conclusion. Like any services market, the maritime transport sector is a highly competitive arena in which shipping companies struggle to gain any advantage they can muster. The U.S. should make it a priority to negotiate a bilateral agreement with China to ensure that the competition is free and fair.

In the absence of any formal agreement, the U.S. should insist on nothing less than full reciprocity in its dealings with China. Congress should block any attempt by Chinese companies to obtain conveyances or services that are unavailable to American companies in China.

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