> Wherever parties have agreed to arbitration under these Rules, they shall be deemed to have consented to service of *any papers, notices or process necessary to initiate or continue* an arbitration under these Rules or *a court action to confirm judgment on the Award issued. Such documents may be served: (a) by mail, including email, . . . or (b) by personal service.*

In contrast to AAA and SMA, the HMAA rules do not speak to service of enforcement actions, leaving parties to rely only on Federal Rule 4 and the FAA.

As a result, the inclusion of an SMA arbitration clause with SMA Rule 35's explicit authorization of service by mail—including by e-mail—provides critical clarity on what constitutes valid service in arbitration-related court proceedings. Importantly, Rule 35 covers not only the service of arbitration documents and notices but also petitions to recognize and enforce or confirm an award in court, ensuring that all procedural steps are governed by the agreed-upon methods. This modernized approach—validating e-mail service—aligns with contemporary communication practices and significantly reduces ambiguity and the risk of procedural objections.

By reducing procedural hurdles relating to service, SMA Rule 35 enhances both the enforceability of SMA awards and the efficiency of converting those awards into binding court judgments. That makes including or incorporating a specific service provision an especially prudent and commercially sound choice in arbitration clauses, providing parties with predictability and confidence in enforcement proceedings.

1 *TVL International, LLC v. Zhejiang Shenghui Lighting Co., Ltd.*, CIVIL ACTION NO. 3:19-CV-393-RJC-DCK, 2021 WL 830181 (W.D.N.C. March 4, 2021).

# Progress of the SHIPS for America Act

***By Charlie Papavizas, Partner & Chair, Maritime Practice, Winston & Strawn LLP***

Major U.S.-flag merchant marine promotion legislation was re-introduced in the U.S. Congress in the spring of 2025 known as the "SHIPS for America Act." That legislation was first introduced in December 2024. The legislation is poised for a major push next year in the second session of the current Congress to become law.

The U.S. government has a long history of supporting the U.S.-flag merchant marine going back to the enactment of discriminatory tariffs enacted in 1789 favoring U.S.-flag vessels. The two world wars accelerated that attention resulting in landmark legislation, particularly the Merchant Marine Act, 1920 and the Merchant Marine Act, 1936.

The 1936 Act established a system of operating and construction subsidies intended to put U.S. vessel owners on par with foreign owners. That Act, limited for a long time to vessels in liner service, was expanded in 1970 to cover certain bulk vessels in irregular service. In 1982, the Reagan Administration announced that it would not issue any new subsidy contracts and the programs petered out over time. By 2001 all the operating subsidy agreements had run their course. As of September 30, 1982, the 1936 Act supported about 170 U.S.-flag vessels engaged in international trade (which was most of the vessels engaged in overseas international trade).

The effective repeal of the 1936 Act started a period of a decline in the U.S.-flag fleet trading internationally which was arrested, to some degree, by the enactment of that Maritime Security Act of 1996. The Maritime Security Program or MSP initially supported 47 vessels and was expanded in 2003 to 60 vessels – as it is today. Subsequently, a 10-vessel tanker and a 2-vessel cable vessel companion programs were created. The Tanker Security Program is poised for expansion to at least 15 vessels based on pending legislation. As of June 2025, the U.S. Maritime Administration shows an active fleet of 94 U.S.-flag vessels over 1,000 gross tons engaged in international trade.

The rise of the China maritime industry particularly in the last decade drew policy attention to how the United States should respond. One response was a U.S. Trade Representative investigation under section 301 of the Trade Act of 1974. That section authorizes the USTR to act against unfair trade practices. USTR concluded in January 2025 in the Biden Administration that fees should be imposed to counter China and the Trump Administration USTR imposed such fees on Chinese-built

and Chinese-controlled vessels in April to take effect on October 14, 2025.

A second response was the drafting and introduction of the "Shipbuilding and Harbor Infrastructure for Prosperity and Security for America Act" or "SHIPS for America Act." The original co-sponsors of the SHIPS Act were Senators Mark Kelly (D-AZ) and Todd Young (R-IN) and Representatives Trent Kelly (R-MS) and John Garamendi (D-CA). Thus, from the beginning the legislation was bi-partisan and bi-cameral. Numerous companies and organizations signed on the support the legislation including the Navy League of the United States, the AFL-CIO Transportation Trades Department, the Shipbuilders Council of America, and the National Defense Transportation Association.

The SHIPS Act is written as a comprehensive and momentous attempt to support and grow the U.S.-flag fleet in the international trade – much like the 1936 Act. The SHIPS Act would continue the dual goals which have existed in law since the 1920 Act to both support a U.S.-flag fleet for national security purposes and to have a fleet as an economic hedge that would carry a "substantial portion" of U.S. international commerce.

In the Senate, the original SHIPS Act was split into two bills – one dealing with all matters other than tax matters and a second tax-focused bill. In the House, only one bill was introduced. One potential stumbling block is that the bill in the House was referred to a dozen committees given the breadth of the laws that would need to change to effect fundamental change.

The crown jewel of the SHIPS Act is the creation of a Strategic Commercial Fleet over ten years of 250 vessels to consist over time of entirely U.S.-built vessels. The U.S. government would open for competition the support payments needed both to build a vessel in the United States and operate it in the U.S. registry. The 1936 Act separated the operating and construction subsidies and fixed them periodically based on an analysis by the government of the difference between U.S. and foreign costs. The Maritime Security Act fixes the operating subsidy amount periodically by law and does not require that participating vessels be built in the United States.

The SHIPS Act also contains separate tax incentives for shipyards and vessel owners as well as several provisions intended to bolster the maritime labor force including attracting more people, enhancing training, and reducing licensing and certification burdens. The SHIPS Act leaves the existing MSP, TSP, and CSP programs alone and includes a provision giving vessels in those programs priority for U.S. government-generated cargoes under the cargo preference laws.

Funding for the SHIPS Act programs would come from a newly created "Maritime Security Trust Fund." Existing tonnage taxes and light money and the new China 301 fees would all go into the Trust Fund which would be dedicated to the SHIPS Act programs.

The last major response to the China maritime rise was an Executive Order issued by the President on April 9, 2025 entitled "Restoring America's Maritime Dominance." That EO primarily called for further study including the formulation of a "Maritime Action Plan" or "MAP." That plan was due in early October and reportedly has been written and remains under internal Administration review. Release of the MAP may occur early in 2026.

The SHIPS Act has been open for co-sponsorship and as of the writing of this article there are 14 co-sponsors in the Senate including the original sponsors and 118 co-sponsors in the House of Representatives including the original sponsors. To date, the co-sponsors are relatively evenly split between Republicans and Democrats.

Although no direct hearing has been held on the proposed legislation Senator Dan Sullivan (R-AK), Chairman of the Commerce Committee Coast Guard and Maritime Subcommittee, held a hearing on October 27 on related commercial shipbuilding issues. Witnesses and members of the committee generally expressed support for both the SHIPS Act and for the President's maritime EO.

In anticipation of the entry into force of the section 301 fees, the Chinese government announced its own retaliatory fees applicable to U.S.-flag vessels entering Chinese ports. On November 1, 2025, President Trump and President Xi Jinping of China entered into a trade agreement that included a one-year suspension of the section 301 fees and the retaliatory Chinese fees commencing on November 10, 2025.

It remains unclear how the SHIPS Act or any similar MAP program to support U.S. shipbuilding

and U.S.-flag vessel operations will be affected by the one-year suspension. That is the case because the section 301 fees were intended to provide a substantial funding source into the new Maritime Security Trust Fund for the SHIPS Act.

It also remains unclear how the bill will fare in the 2026 session of the 119th Congress. Senator Young, for one, is optimistic. On October 27 he said although "time isn't our ally," "there is growing political will not to accept the status quo" and "there's momentum to pass our bill and send a message that the U.S. is serious about revitalizing our commercial maritime industries and countering China's dominance over the oceans."

# SMA Award Service ... At-a-Glance

## The M/T CHEM SIRIUS [SMA 4392]: Abandoned NOR

***By Robert C. Meehan, Manager Chemical Dept., McQuilling Partners, and SMA President***

This arbitration arose from a demurrage claim by Ace Quantum Chemicals Tankers [hereinafter 'owner'] against Nordic Trading A/S [hereinafter 'charterer'] under an ASBATANKVOY charter party dated September 14, 2017, involving the M/T CHEM SIRIUS [hereinafter 'the Vessel']. Owner contended it was owed demurrage of $42,540.47 plus interest, attorney fees, and costs. Charterer contended that owner's claim should be denied in full and requested to be awarded their attorney and costs.

The bone of contention dealt with owner's unique method of calculating laytime. Owner did so by counting laytime commencing six hours after the Vessel tendered its Notice of Readiness [NOR] upon arrival at the port of Houston. This method was consistent with charter party terms. Owner continued counting laytime throughout the Vessel's stay in Houston, including time used while the Vessel waited for other berths for other charterers. Owner ended time counting when the hoses were disconnected at charterer's berth, Vopak. Owner then deducted the time used while the Vessel performed load and discharge operations for other charterers at the other Houston berths. Charterer acknowledged that laytime should commence upon the expiration of six hours after the Vessel tendered its NOR, but claimed owner abandoned its tender to charterer's berth when the Vessel shifted to another berth for other charterers. Charterer asserted that laytime should only then commence when the Vessel 're-tendered' to Vopak, ready to load.

Before reviewing the parties' arguments, it is essential to have a general understanding of the parcel and chemical business. The parcel and chemical tanker trades are comparable in some respects to the container liner service. Like the container trade, many chemical tanker owners offer regular services for bulk chemicals by providing scheduled sailings on major trade lanes, such as between the U.S. Gulf and European ports. These tankers are equipped with separate tanks, lines, and pumps able to carry anywhere from eighteen to over forty different types of chemicals. Considering the number of products these vessels can carry, a typical parcel chemical voyage involves several charterers calling multiple load ports and discharge ports, and berths within those ports. It is industry custom and practice that once a vessel arrives at a particular port, it tenders its NOR to all the contracted berths within the port. Tendering the NOR is crucial to the charter party, as it not only triggers laytime or demurrage with the owner but also fulfills the charterer's initial obligation of providing a vessel to its supplier and receiver. The NOR also initiates berthing procedures with the terminal.

Most times, the vessel rotation within the port is at the owner's option. The owner will typically instruct the vessel to proceed to the first available berth. Once hoses are disconnected from the prior berth or when the vessel arrives at the anchorage, the vessel retenders its NOR to the remaining berths. This process ensures updated berthing queues and continues until the vessel completes all cargo operations within the port. When dealing with demurrage, the NOR is a decisive provision for the charterer in its contract with its supplier and receiver. Generally, aside from any provision to the contrary, the supplier and receiver are contractually obligated to provide the charterer with a berth reachable on arrival, i.e., unoccupied. Berth