

US port fees and import restrictions against Spain:

US Federal Maritime Commission's proposed measures

October 15, 2026

On October 14, 2026, the US Federal Maritime Commission (FMC) proposed its remedies against Spain in response to an investigation initiated in December 2024 into actions by the government of Spain that allegedly impaired the access of US flagged vessels to Spanish ports, or that impacted US trade with foreign ports. The Federal Register notice on this final phase of the investigation and a proposed rulemaking setting out the remedies or responses to Spain's action will be published on October 15, 2026.

Among the proposed remedies is a US\$200,000 fee each time a Spanish-flagged vessel enters a US port from abroad, as well as import restrictions (effectively an import ban) on certain goods exported from Spain. The proposal follows an investigation into Spain's refusal to admit vessels carrying cargo bound for, or coming from, Israel. It could affect Spanish exporters and US importers, as well as carriers whose vessels are registered or flagged in Spain.

The FMC has formally found that Spain's conduct created conditions unfavorable to shipping in US foreign trade. The proposed remedies, however, have not yet taken effect. The FMC is providing a 60-day comment period, which will begin on October 15 with the publication of the Federal Register notice, after which these remedies can go into effect.¹

Key points

- The FMC's proposed rule could add significant disruptions and costs to Spanish exports to the US in core goods and commodities that make up a significant portion of export revenue.
- Shippers and importers that use non-Spanish carriers and vessels may nevertheless be impacted by the proposed rule.
- The FMC's rule is not yet final, and companies that may be affected by the proposed rule have an opportunity to comment.

Background

The investigation began in December 2024, following reports that Spain had refused access to three vessels in the Maritime Security Program the previous month. That program supports a US-flagged commercial fleet available for military sealift in a national emergency. According to the notice, the vessels were reported to be carrying cargo to or from Israel and diverted to Morocco after Spain refused them entry. The initial investigation attracted more than 8,000 comments, and the FMC sought further comments in December 2025.

Spain's position was that it had refused permission for containers to transit, rather than barring the vessels themselves. It also maintained that its measures applied Spanish, EU and international law without discrimination and fell outside the FMC's jurisdiction. In September 2025, Royal Decree-law 10/2025 required the refusal of transit authorizations for defense and dual-use material to or from Israel. The FMC concluded that the evidence (some of which it received confidentially and did not disclose) established refusals of the vessels themselves. It also rejected the argument that compliance with Spanish law prevented US action, since the statutory power expressly concerns conditions arising from foreign laws or regulations.

The FMC relies on the current codification of Section 19 of the Merchant Marine Act of 1920, 46 U.S.C. §§ 42101–42109. Once the commission finds unfavorable shipping conditions, the FMC can impose remedies that include limits on voyages or cargo and fees per voyage. The statutory fee ceiling is US\$1 million, increased to approximately US\$2.36 million under the current inflation adjustment. Section 42107 provides for enforcement at the FMC's request through the collection of imposed fees, refusal of clearance, denial of entry or detention of vessels.²

¹ FMC, [Notice of proposed rulemaking](#), Docket No. 26–14, FR Doc. 2026–21067.

² NPRM, Background and Investigation Results; [Royal Decree-law 10/2025](#), art. 1(3); 46 U.S.C. §§ [42101](#), [42106](#) and [42107](#); [46 C.F.R. § 506.4\(d\)](#).

Proposed fees restrictions

The proposed US\$200,000 fee would apply whenever a vessel registered under a Spanish flag enters a US port from a foreign port or place. The trigger is therefore the vessel's flag and its entry into port, rather than the origin of its cargo or the nationality of its customers. The amount reflects an approximate inflation adjustment to the US\$100,000 fee imposed on three Japanese carriers in 1997. The FMC acknowledges that relatively few Spanish-flagged vessels call at US ports, and that the fee alone would not address the conditions identified in the investigation.

The proposed import or cargo restrictions could have much wider commercial effects. They cover goods exported from Spain intended for import into the US within five entire chapters of the Harmonized Tariff Schedule, including perfumery and cosmetics, oils and fats, ceramics, articles of stone, and sugar and confectionery, respectively. The chapters cover a broader range of goods than those examples alone.³ On the FMC's figures, imports within these categories amounted to approximately US\$3.1 billion in 2025, including about US\$837 million of olive oil. This represents approximately 14% of Spain's total exports to the US.

Although the fee would apply to Spanish-flagged vessels, the proposed cargo provisions extend to vessels or ocean carriers of any flag. A vessel that unloads covered goods in a US port could be refused clearance until those goods are reloaded, and efforts to off-load or deliver such goods would likely be denied entry to the US at a US port of entry. A vessel seeking to carry or off-load such goods could be denied entry or detained. The consequences could therefore reach carriers and customers with no Spanish connection beyond the cargo concerned.

The final scope remains open. The FMC presents the five chapters as a selection from which it may adopt a narrower remedy, while the draft also contemplates higher fees and additional goods if Spain retaliates. Separately, the notice offers Spain and other interested parties a hearing under Section 41108(d). Following the required procedure and finding, this proposed rulemaking could support imposition of the remedies under Chapter 423, which implements the Foreign Shipping Practices Act of 1988. Orders under Section 41108 are also subject to a statutory process for presidential review before taking effect.⁴

Legal status

The notice does not make the proposed fee payable until after the administrative process is complete, and port calls during the comment period will not result in liability. Nor does it prohibit the covered exports merely because the FMC has made this recommendation. However, the proposed remedies can go into effect once the FMC completes this notice and comment procedure, unless parties convince the FMC to modify its recommendation.

The timing of a final rule remains an open question. The FMC considers that the Administrative Procedure Act's foreign-affairs exception permits it to dispense with notice and comment, although it has elected to invite submissions here. Its own regulations also permit rules following findings without further proceedings and generally provide 30 days between publication and effect, subject to an exception where conditions warrant and good cause exists. The consultation therefore provides an opportunity for comment, but it does not establish a fixed period between its conclusion and the start of any restrictions.

The proposal contains no provision protecting cargo already in transit when a final rule takes effect, although in a number of recent trade actions the US government has allowed a grace period for the entry of products already in transit when the final measures take effect. Goods dispatched while the consultation remains open could theoretically arrive after the relevant restrictions have begun. That is distinct from charging for port calls completed before a rule's effective date: retroactive rulemaking generally requires express congressional authority, which Chapter 421 does not provide. The treatment of goods already booked, loaded or at sea would depend on the final text, including any transitional provisions the FMC may introduce.

Other aspects also remain unresolved. The draft does not identify who would pay the fee or the payment deadline. Its reference to goods exported from Spain does not establish a rule based solely on Spanish origin, leaving questions about foreign goods shipped from Spanish ports and Spanish goods routed through third countries. There is also a statutory question over the proposed action against vessels of any flag, because Section 42107 refers to vessels of a country named in an FMC regulation. These points could affect both the operation of the measures and their legal basis.⁵

Consultations

The notice invites comments on all aspects of the proposal within 60 days of publication. If publication occurs on October 15 as scheduled, that period would end on December 14, 2026, subject to the deadline stated in the published notice. Exporters, importers, carriers and other interested businesses may participate. The breadth of the tariff chapters, the treatment of cargo in transit and the meaning of exports from Spain are among the matters on which the final rule may provide greater clarity.

If a final rule is adopted, judicial review would ordinarily lie in a federal court of appeals under the applicable review provisions. An aggrieved party to the proceeding generally has 60 days from entry of the final order to petition for review. A petition does not suspend the measure automatically; suspension would require a separate stay.⁶ In other recent trade and tariff measures, the courts have been reluctant to grant stays during the pendency of the appeals.

3 Nb: HTS chapters 33, 15, 69, 68 and 17.

4 NPRM, Proposed Remedies and proposed 46 C.F.R. § 551.2(b)–(f); [46 U.S.C. § 41108\(d\)–\(e\)](#) and §§ 42304–42305. The NPRM cites § 42106(4), the fee provision, for the cargo restrictions; the express cargo-limitation power appears in § 42106(1).

5 NPRM, Rulemaking Analysis and proposed § 551.2; [5 U.S.C. § 553\(a\)\(1\)](#); [46 C.F.R. §§ 550.508 and 550.601](#); [46 U.S.C. § 42107](#); [Bowen v. Georgetown University Hospital](#), 488 U.S. 204, 208 (1988).

6 NPRM, Dates and Public Participation; [46 U.S.C. § 42104](#); 28 U.S.C. §§ [2342\(3\)\(B\)](#), [2344](#) and [2349\(b\)](#).

The earlier dispute with Japan illustrates the possibility of a negotiated outcome. The 1997 fee took effect in September, and the FMC moved toward enforcement when the carriers declined to pay. The governments agreed to reforms before any ships were detained. The FMC subsequently accepted US\$1.5 million in settlement of US\$4 million owed and suspended the rule. That history does not determine the outcome for Spain, but the present notice likewise recognizes that final remedies could be withdrawn following a negotiated, diplomatic solution.⁷

For affected businesses, the uncertainty concerns both the measures ultimately chosen and the point at which they might apply to particular shipments. A narrower list of goods, transitional arrangements or a diplomatic agreement would produce different consequences from adoption of the draft in its present form. Until the process advances, the proposal signals potential changes to the cost and availability of trade with the US, while leaving their final extent unresolved.

How can we help?

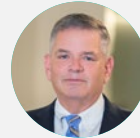
Our International Trade & Foreign Investment Practice advises exporters, importers, shippers, carriers, commodity traders and the banks that finance them on US, EU and UK trade and sanctions measures. Our team of lawyers in Washington DC includes a former general counsel at the FMC, and former officials of the US departments of Commerce and Justice, with experience in government enforcement and national security litigation. It also includes former senior in-house counsel to a global commodity trading business, including its transportation and logistics operations. We prepare comments and hearing submissions in regulatory proceedings, assess the exposure of supply chains, charters and sale contracts to proposed and final measures, and represent clients in government investigations and in challenges to final rules before the federal courts of appeals.

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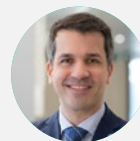
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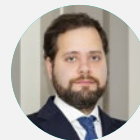
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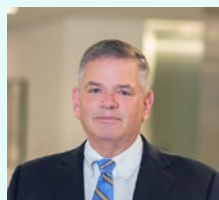
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⁷ FMC, [37th Annual Report, Fiscal Year 1998](#), Docket No. 96–20; [62 FR 61648](#) (19 November 1997); NPRM, Public Comments.

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