

103
MARITIME SECURITY AND COMPETITIVENESS ACT

Y 4. M 53: 103-41

Maritime Security and Competitiveness... **LARING**

BEFORE THE

SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON

MERCHANT MARINE AND FISHERIES

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

H.R. 2151

TO AMEND THE MERCHANT MARINE ACT, 1936, TO ESTABLISH THE MARITIME SECURITY FLEET PROGRAM, AND FOR OTHER PURPOSES

JULY 20, 1993

Serial No. 103-41

Printed for the use of the Committee on Merchant Marine and Fisheries



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MARITIME SECURITY AND COMPETITIVENESS ACT

TUESDAY, JULY 20, 1993

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MERCHANT MARINE,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC.

The Subcommittee met, pursuant to call, at 2:00 p.m., in room 1334, Longworth House Office Building, Hon. William O. Lipinski (Chairman of the Subcommittee) presiding.

Present: Representatives Lipinski, Pickett, Taylor, Andrews, Green, Hastings, Ackerman, Bateman, Kingston, Fowler, and Bentley.

Staff Present: Keith Lesnick, Staff Director; Jim Caponiti, Professional Staff; David Honness, Professional Staff; Randy Morris, Subcommittee Clerk; Shelby Mertes, Staff Aide; Sarah Resnick, Staff Aide; John Cullather, Professional Staff; Carl W. Bentzel, Counsel; Sue Waldron, Press Assistant; Greg Lambert, Counsel; Harry F. Burroughs, Minority Staff Director; Cynthia M. Wilkinson, Minority Chief Counsel; Kip Robinson, Minority Counsel; and Margherita Woods, Staff Assistant.

STATEMENT OF THE HON. WILLIAM O. LIPINSKI, A U.S. REPRESENTATIVE FROM ILLINOIS, AND CHAIRMAN, SUBCOMMITTEE ON MERCHANT MARINE

Mr. LIPINSKI. Good afternoon. Today the Subcommittee will meet again to hear testimony on H.R. 2151, the Maritime Security and Competitiveness Act of 1993, a bill to revitalize the United States Merchant Marine. We are pleased to have before us witnesses from the Department of Defense and the Department of Transportation to testify on the bill.

We also have with us today a witness who will testify on the living and working conditions of seamen on foreign-flag ships.

It is my hope that H.R. 2151 and related legislative proposals will serve as a foundation for a rejuvenated and competitive U.S. Merchant Marine capable of transporting this country's foreign commerce. As we face the task of finding effective solutions toward achieving that goal, our efforts have taken on a greater urgency with the announcement of APL and Sealand's intention to transfer many of their U.S. flagships to foreign registry.

Among the reasons given for this action is the high degree of uncertainty connected with our current efforts. Put simply, they doubt we will succeed. Let me assure those who question our re-

solve, we will have a strong U.S. flag industry now and in the future.

We hope that today's witnesses can provide some insight with respect to the administration's maritime policy intentions. The administration's cooperation would greatly enhance our ability to achieve maritime revitalization. It has never been clearer that the survival of the U.S. maritime industry and American jobs depend on our success.

Our witnesses today are Joan B. Yim, Acting Administrator, Maritime Administration, Department of Transportation, William J. Lynn, Director, Program Analysis and Evaluation, Department of Defense, Paul Chapman, Instructor, Bangor Theological Seminary, author, *Trouble on Board*.

I want to welcome all the witnesses here today. I sincerely appreciate their attendance. As I am sure you have been told, we will take testimony from the three witnesses, then we will have questions for all of you. We try to expedite the process here as much as we can and we think that by doing it that way we will speed things along.

I now recognize Mr. Andrews for any opening statement that he might have.

**STATEMENT OF THE HON. THOMAS ANDREWS, A U.S.
REPRESENTATIVE FROM MAINE**

Mr. ANDREWS. Thank you, Mr. Chairman. I simply want to thank you for convening this public hearing and also for your leadership in this very important area.

Needless to say, there are many on this Committee very much committed to the goal that you have stated, Mr. Chairman, in your opening statement; that is, a rejuvenated and competitive U.S. Merchant Marine industry, and that is the reason why this legislation is before us.

That is the reason why I, Mr. Chairman, am a cosponsor of this legislation and why I am so pleased that we have our witnesses here today.

So I choose not to take any of their time away from them and am very anxious to hear their testimony, particularly when we have someone on the panel from the State of Maine. I never want to intrude upon anyone from Maine's time.

Thank you, Mr. Chairman.

Mr. LIPINSKI. Thank you.

**STATEMENT OF THE HON. ALCEE HASTINGS, A U.S.
REPRESENTATIVE FROM FLORIDA**

Mr. LIPINSKI. Mr. Hastings, the Chair recognizes you for an opening statement.

Mr. HASTINGS. Thank you very much, Mr. Chairman.

I too would like to welcome today's witnesses. We cannot overlook the growing trend of vessel owners forsaking the United States flag for more favorable foreign flag opportunities.

H.R. 2151 will reverse the growing trend of vessel repatriation spreading through the United States maritime fleet, and obviously this can be accomplished by providing the needed incentives to

remain American flag. H.R. 2151 is designed to stimulate as many as 90 commercial ships annually by providing ample subsidy payments.

Over this 10-year period, commercial vessels in the amount of 900 could be the end result of this undertaking. By acting today, we can protect and support maritime reform by supporting H.R. 2151 and acknowledging that the United States must improve its competitiveness.

So, again, I thank the witnesses and I thank you, Mr. Chairman.

**STATEMENT OF THE HON. HERBERT BATEMAN, A U.S.
REPRESENTATIVE FROM VIRGINIA**

Mr. LIPINSKI. Thank you, Mr. Hastings. The Chair now recognizes the Ranking Minority Member of the Committee, Mr. Bateman.

Mr. BATEMAN. Thank you, Mr. Chairman.

I will ask unanimous consent that my prepared opening statement be made a part of the record. I proceed under the premise of those who are going to make opening statements ought to be here on time, and since I am not, I will forego it.

Let me just say that time is indeed running out for the U.S. flag Merchant Marine, and I would certainly strongly urge that all of us, not just in the Congress, but those in the administration, come to grips with that very solemn fact.

We just don't have time left to diddle with this problem if we are going to sustain an American Merchant Marine, and to me it is unthinkable that we would not do so, so I hope that that message can be carried very, very clearly and distinctly and that we will come to face the reality, the very unpleasant reality that confronts us.

Thank you.

Mr. LIPINSKI. Thank you, Mr. Bateman, and Mr. Bateman's full statement will be accepted into the record without objection, and I don't hear any objection.

[The statement of Herbert Bateman follows:]

**STATEMENT OF HON. HERBERT H. BATEMAN, A U.S. REPRESENTATIVE FROM VIRGINIA,
AND RANKING MINORITY MEMBER, SUBCOMMITTEE ON MERCHANT MARINE**

Mr. Chairman, we are now at the point where we need some signal from the Administration on the proposals contained in H.R. 2151.

I personally have reached the point where any guidance or ideas would be better than the "continuing" statements that we are still studying the "issue." Obviously the carriers are concerned. In fact, APL filed an application this past Friday to re-flag seven of its vessels. This follows Sea-Land's application to re-flag 13 of its vessels.

Please don't misunderstand me—my criticisms are not partisan. Certainly prior administrations share in the blame—if that is the correct word.

The real issue is will this Administration support—or even just acquiesce in—our Committee's efforts. Certainly H.R. 2151 is not perfect, but absent guidance from our witnesses today, we have no choice but to proceed—and proceed quickly.

Mr. Chairman, that concludes my opening statement.

Mr. LIPINSKI. Also I would like to place in the record the statement of the Honorable Jack Fields, the Ranking Minority Member of the full Committee, and without objection, we will place his statement into the record.

[The statement of Jack Fields follows:]

STATEMENT OF HON. JACK FIELDS, A U.S. REPRESENTATIVE FROM TEXAS, AND
RANKING MINORITY MEMBER, COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. Chairman, I am pleased to participate in this, the second hearing on H.R. 2151, the bill to revise the operating-differential subsidy program.

Over the years this Committee has held countless hearings on maritime reform. Over the last decade, we heard predictions that the U.S.-flag merchant fleet would be doomed unless we leveled the playing field by reforming our archaic maritime laws. Some people called those predictions empty threats. Those who doubted that the American merchant marine was in trouble certainly must have a new perspective after the recent announcement by Sea-Land and American President Lines concerning their intentions to re-flag a number of their vessels.

We no longer have to speculate whether liner companies will flag foreign; they are doing that. We no longer have the luxury of ruminating over alternatives; we have to make decisions. Although we her on Capitol Hill have the responsibility of passing reform legislation, we cannot do it without the support of the operators, the unions, and the Administration.

In May, we heard from representatives of vessel owners and seagoing labor—the two groups that have the most to lose if we cannot successfully conclude a legislative effort on maritime promotion. Today, we will hear from the Administration.

I will be particularly interested in hearing how the Department of Defense plans to maintain a sealift force without American ships—and more importantly American seamen—to operate sealift vessels. I will also be interested to hear how much money they plan to spend to build their own sealift fleet as a replacement for the privately owned merchant fleet.

I also hope that the Maritime Administration has some contingency plans for how to man the Ready Reserve Force vessels if the Agency is called upon once again to break out these ships for an emergency mobilization and we have lost a large number of merchant seamen due to the reflagging of American ships.

It is beyond comprehension that the United States, the largest trading Nation in the world and the most powerful military force in the world, might end up without its own merchant fleet. Yet, that is exactly what is going to happen unless we work together, work hard, and move quickly.

Thank you, Mr. Chairman.

Mr. LIPINSKI. Now I would like to recognize our first witness of the of the day—before we do that, we want to recognize a slightly late arrival, our very good friend, Mr. Taylor.

Mr. Taylor, you have an opening statement?

Mr. TAYLOR. No.

Mr. LIPINSKI. You don't have an opening statement, OK. Then we will go back to what I was going to do a moment ago.

STATEMENT OF JOAN B. YIM, ACTING ADMINISTRATOR, MARI-
TIME ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. LIPINSKI. I would like to introduce our first witness of the afternoon, Joan B. Yim—I apologize; it is difficult—Acting Administrator, Maritime Administration, Department of Transportation.

It shouldn't be tough when it is three letters but nevertheless, it is, at least for me it is. The floor is yours.

Thank you very much for being here.

Ms. YIM. Thank you, Mr. Chairman.

Mr. Chairman, Members of the Subcommittee, I appreciate your invitation to testify on behalf of the Department of Transportation concerning H.R. 2151, the Maritime Security and Competitiveness Act of 1993.

I would like to commend the Members of the Subcommittee for meeting head-on to the problems facing the U.S. maritime industry. The causes for the long-run decline of the U.S. Merchant Marine are many and complex, including operating costs and more stringent regulatory requirements.

Certain disparities result in advantages for foreign-flag operators, making it more difficult for U.S. shipping companies to compete in international markets.

As this Subcommittee understands, most U.S. maritime policies and programs date from the mid-1930's. The Merchant Marine played an important role in our efforts in World War II and the Korean and Vietnam conflicts. Nevertheless, these programs were not designed to allow U.S. carriers and shipyards to respond rapidly to the dynamic situations found in today's international markets, nor were they conceived to foster the types of innovation and improvements in efficiency that are now needed to be competitive worldwide.

The Administration recognizes the important role that the U.S. Merchant Marine plays in our national defense policy. As President Clinton recently stated, "America's merchant ships continue to provide jobs and economic benefits for America. The men and women who sail those ships and who serve in supporting industries are prepared to support the Nation in times of crisis."

During times of national emergency or other crises, the commercial fleet is one source of strategic sealift, as was demonstrated during Operations Desert Shield and Desert Storm. The active commercial fleet also provides a base of seagoing employment for American seafarers who in turn are available to the Department of Defense and the Maritime Administration to crew sealift ships, including the Ready Reserve Force, during crises.

The use of civilian merchant mariners on government ships in times of emergency is one of the most cost-effective and efficient examples of public-private partnerships, a new concept to many but a well-tested one for our national defense.

Over 10,000 seafarers are employed by privately owned U.S.-flag ships engaged in international trade. The U.S. shipbuilding and repair industry employs substantially more people, approximately 83,000 in the major shipyards alone, and about twice that number in the supply industry.

The U.S. maritime industry is now at a crucial juncture. If the industry is to be internationally competitive, then U.S. companies must be able to work within a comparable cost and regulatory structure and have the same operating flexibility as their foreign competitors.

Given the divergent views within the American maritime industry, formulating and implementing meaningful and acceptable changes in maritime policy is a difficult process and there are no easy solutions.

For nearly six months, the Administration has considered initiatives that would help to improve the overall efficiency and economic competitiveness of the industry. Early in his tenure, Secretary Peña met with representatives from all sectors of the U.S. maritime industry—carriers, shippers, maritime labor, and shipbuilders—to discuss their concerns and to listen to their ideas on how to make the industry stronger.

In April, Secretary Peña developed a set of maritime policy initiatives that were presented to the National Economic Council. The NEC met regularly over the course of several weeks to discuss in

detail each of the Secretary's initiatives, along with policy alternatives.

Maritime reform has received vigorous attention within the Administration and is still under active consideration. One of the crucial issues that has yet to be resolved is funding for a new maritime program. Severe budgetary limitations have already been placed on attempts to increase Federal expenditures generally, and financing priorities for some of the Administration's initiatives have yet to be resolved.

Let me assure you, however, that the concerns of Congress and the industry will be weighed in the decisionmaking process.

Mr. Chairman, this concludes my statement. I will be happy to answer any questions that you or Members of the Subcommittee may have.

Mr. LIPINSKI. Thank you very much. We appreciate your statement here today.

[The statement of Joan B. Yim may be found at end of hearing.]

STATEMENT OF WILLIAM J. LYNN, DIRECTOR, PROGRAM ANALYSIS AND EVALUATION, DEPARTMENT OF DEFENSE

Mr. LIPINSKI. Our next witness is William J. Lynn, Director, Program Analysis and Evaluation, Department of Defense.

Welcome, sir.

Mr. LYNN. Thank you.

Mr. Chairman, Members of the Committee, I appreciate the opportunity to be here today to testify about the Department of Defense's requirements for sealift and how those requirements might be met.

There is no doubt that DoD needs sealift. The United States is a nation with global interests, and it depends upon the deployment of forces from U.S. bases to defend those interests when trouble strikes. A deployment of any significant size would depend heavily on sealift for afloat prepositioning, surge deployment of units, and then sustainment of forces with ammunition, supplies and bulk fuel.

It is a longstanding national policy to rely on the maritime industry to meet DoD requirements to the extent that the industry can do so, and we intend to continue that policy.

Some types of ships in commercial service are well suited to meeting DoD's sustainment requirements. The department in fact looks first to the U.S.-flag fleet to supply needed capacity, although we also make use of U.S.-owned ships, ships flying foreign flags, as well as ships of other nations where specific commitments exist.

If the U.S.-flag fleet cannot meet DoD's sustainment requirements without financial assistance, however, DoD will have to balance the benefits of having added capacity in the U.S.-flag fleet against the cost of maintaining that capacity.

To invest additional DoD funds in sealift, we would have to be convinced that the reduced risk was worth the opportunity cost the department would have to pay through reductions in other aspects of the defense program.

The prospect of a shortfall in the maritime industry's capacity is a relatively new problem for defense planners. Throughout the

1970's, the industry was able to meet all but a few very specialized military sealift requirements. Defense programming focused on NATO, and the requirement for rapid reinforcement with heavy ground forces was met largely through prepositioning.

The commercial shipping fleets of the United States and its NATO allies were adequate in both number and capacity to meet U.S. deployment timetables and to sustain deployed U.S. forces over time.

In the late 1970's, the department took a number of steps to improve U.S. defense capabilities in Southwest Asia. Prepositioning ashore was not an option in the region at that time. While some ships in commercial service could meet early deployment requirements, the U.S. commercial fleet was in the process of replacing those ships with container ships, which, although they are extremely useful for moving commercial cargoes, cannot handle large items of military equipment efficiently.

Thus, the department found it necessary to procure sealift vessels to move the equipment of units that would deploy early in a crisis.

By the late 1980's, the government had procured rapid-response sealift for about one Army division and its support. Those vessels included fast sealift ships, and roll-on/roll-off ships for the Ready Reserve Force. In addition, under a "build and charter" program, the department acquired 13 prepositioning ships on which it stored equipment and supplies for three marine brigades.

For later-deploying units, we relied on the U.S.-flag fleet and on the remaining government-owned vessels. Together, those ships provided the capacity to deploy three more Army divisions and their support. The U.S.-flag fleet also was able to meet sustainment requirements.

This was the fleet available in the summer of 1990, when Operation Desert Shield began. In that deployment, about 45 percent of the cargo that went by sea moved on ships owned by or on long-term charter to the U.S. Government. Another 35 percent moved on U.S.-flag ships normally engaged in international trade, and about 20 percent moved on chartered foreign-flag vessels of coalition partners and other nations.

U.S. defense planning now focuses on regional contingencies like Desert Shield/Desert Storm, and our estimate of future requirements has been heavily influenced by our experience in that operation. One of the main lessons of the Gulf War was that the deployment would have been much too slow if Iraq had pressed its initial advantage.

We cannot count on having several months to build up U.S. forces in future regional contingencies. In 1991, therefore, the department began a major reassessment of mobility requirements for regional contingencies. The first product of that effort, Volume I of the Mobility Requirements Study, was transmitted to Congress in January of 1992. That volume addressed intertheater mobility requirements.

To overcome deficiencies in rapid deployment capability, the study recommended four things. First, procurement of ships for afloat prepositioning of a heavy Army brigade and theater support forces. Second, procurement of rapid-response sealift to augment

existing capacity for deploying a two-division heavy Army corps anywhere in the world within 35 to 40 days. Third, retention of enough residual capacity in the government-owned fleet to augment U.S.-flag vessels so that a regional deployment could be completed in about 60 days. And fourth, improvements to the U.S. infrastructure to permit the rapid movement of equipment and supplies to ports of embarkation.

The Mobility Requirements Study found that additional government-owned sealift would have to be procured for the rapid deployment of military units, for three reasons. First, ships for rapid deployment missions must be available for loading in four or five days; second, such vessels must be capable of being loaded and unloaded quickly; and third, they must have relatively high speed.

Unfortunately, only a small percentage of ships in commercial service can be made available for military missions that quickly, and there is little commercial demand for ships with the loading and speed characteristics that facilitate the rapid deployment of military equipment.

On the other hand, the Mobility Requirements Study found that the U.S.-flag fleet, as then projected, would be adequate to meet sustainment requirements at least through the end of the decade.

Volume II of the study was transmitted to Congress last month. It provides supporting detail for the conclusions in Volume I; an examination of the use in concurrent contingencies of the mobility force recommended in Volume I; and analyses of several programmatic details, such as the location of reserve ships.

Volume III, which we expect to transmit in the fall of this year, will include analyses of requirements for sealift tankers and for intratheater lift of all types, as well as an examination of the increased use of containers.

Since the intertheater portion of the Mobility Requirements Study was completed, two major U.S. flag carriers have announced their intention to reflag a portion of their fleets. A number of such reflaggings already had been anticipated in the fleet projection used in the study, so these announcements do not come as a complete surprise.

If the applications for reflagging are approved, some of these ships could move to the effective U.S.-controlled fleet, where they still would be available in time of crisis. The planned disposition of the remaining ships is uncertain, as is the size of the U.S.-flag fleet that would be sustained by the Jones Act and future preference cargoes alone.

As you know, and as Ms. Yim mentioned, the administration is considering government policy and program options for the maritime industry, from the point of view both of meeting DoD requirements and of encouraging a competitive industry that would provide jobs for Americans.

Until the administration has completed its review and the President has made a decision on the policy he wishes to pursue, it would be inappropriate for me to comment on the specific programmatic options that you have in H.R. 2151.

Mr. Chairman, that concludes my remarks. I would be happy to answer any questions.

Mr. LIPINSKI. Thank you very much, Mr. Lynn. We appreciate your testimony also today.

[The statement of William J. Lynn may be found at end of hearing.]

STATEMENT OF PAUL CHAPMAN, INSTRUCTOR, BANGOR THEOLOGICAL SEMINARY, AUTHOR, TROUBLE ON BOARD

Mr. LIPINSKI. And our final witness this afternoon would be Paul Chapman, instructor, Bangor Theological Seminary and the author of Trouble on Board.

Mr. Chapman, thank you very much for attending this hearing today. We look forward to hearing your testimony.

Mr. CHAPMAN. Thank you, Mr. Lipinski and Members of the Committee.

My written comments are rather long so I would just like to submit them for the record and then make a few comments about them.

For a number of years, I was director—

Mr. LIPINSKI. One moment please. Without objection, it will be so ordered that we accept this full statement for the record.

Thank you.

Mr. CHAPMAN. For about 10 years I was director of the Center for Seafarers' Rights which was an organization counseling seafarers and port chaplains on conditions on board ships.

There are port chaplains in about 800 ports around the world, including 90 ports in the United States, including ports from all of your districts, and these port chaplains go on board and interview seafarers. Often seafarers confide in them and tell them stories about conditions on board that are not available anyplace else because seafarers are afraid to tell these stories lest they lose their job.

In the course of this time we developed a profile of what is happening on board the so-called flag of convenience ships in our world today. I think it is of interest as to what would happen if we lost our U.S. fleet.

First of all, it is important to remember that the jurisdiction on a flag of convenience ship rests with the registering country. The ship may be owned in Hong Kong, the seafarer may be from Burma or the Philippines, but once that seafarer is on a Panamanian flagship, he is a member of the Panamanian work force and is controlled by Panamanian labor law.

As it happens, most of the 30 or so flag of convenience countries that register these ships have little or no interest in maintaining the kind of labor standards that would be available in more developed countries, so that a seafarer on a ship like that in effect walks into a legal black hole.

Once the ship leaves port, there is very little protection and very little restraint on the owner, the operator other than the desire to manage a ship well. Our statistics show that in as many as 20 percent of these ships, there is a real abuse or exploitation of the labor force on board.

Good management includes requiring a concern for the human rights of seafarers, but because of the deteriorating conditions in

many of the maritime nations, many of the registering nations, the spiral is working downward. There is a deterioration of standards.

Flagging out has meant an end to legal protections for this work force. Once they go to sea on a flag of convenience ship, they are without a country to protect them.

This happens in the following way: As soon as a ship flags out, one of the first things that will happen is that the crew will be changed from an American crew to a foreign crew. This is the pattern around the world. This is one of the reasons for flagging out.

There are aggressive maritime agencies throughout the world, recruiting agencies who are competing to sell cheaper crews to the operators of these vessels.

The way it works is this: A ship that flags out, a company that flags out, usually hires a ship management company which in turn subcontracts for their labor from one of these many agents from the Third World, so that the direct link between the operator and the crew is lost.

There is no longer that kind of connection of responsibility and accountability between manager and crew member. An operator is constantly tempted to notch down on the spiral of standards. A Philippine's crew member can be hired, an A.B. for \$300 or \$400 a year. A Chinese crew member can be hired for \$90—not a year—I am sorry; a month. A Chinese crewman can be hired for \$90—I am sorry—\$300 to \$400 for a Filipino, \$90 for a Chinese, and this is the kind of competition that we are facing in the international maritime scene today.

Often under these systems of subcontracting and of chartering, the owner doesn't even know what is happening on board the ship that he ultimately owns. We had the case of a Chinese crew coming to us that was employed by a major U.S. oil company and they said, we respectfully submit, sir, that we have not been paid for one year.

I called the oil company and they had idea that the crew on their ship had not been paid. So the loss of accountability between crew and manager is an inevitable result of flagging out.

What will happen if United States ships, in order to remain competitive, must flag out is that, first of all, as I have said, the American crews will be replaced by foreign crews. Perhaps not all at once. In Norway, for awhile the captain and the chief engineer were Norwegian, but then in many of the Norwegian ships that have flagged out now, all of the crew from top to bottom are foreign.

The result in this country would be tragic. It would be the loss of maritime career, the loss of our maritime expertise which for 300 years has been a part of the tradition of this country. This is an unrecoverable loss. There is no crash course in maritime—for maritime officers.

You go to school, yes, but you also spend 10 years at sea before you can sit for your master's license. To lose part of our national confidence would be tragic. For the greater trading nation of the world not to be able to sail is an unthinkable thought.

Second, because the maritime industry draws most of its operating personnel from former ships' captains we would no longer have that pool, and not only would the ships be having to flag out, but

the executive corps would be having to be drawn from foreign countries. It would be sad that this country, which is trying to raise standards through the Oil Pollution Act of 1990, for example, would not itself be able to model those standards in our own fleet.

So, Mr. Chairman, and Members of the Committee, I hope that you would consider not only the questions of economic security and of national security, but you would consider the questions of human rights that would be lost if we were to lose the high standards that we maintain in our merchant fleet today.

Thank you.

Mr. LIPINSKI. Thank you very much, Mr. Chapman, for that very interesting testimony.

[The statement of Dr. Paul Chapman may be found at end of hearing.]

Mr. LIPINSKI. The Chair now recognizes for questioning the Ranking Minority Member of the Merchant Marine Subcommittee, Mr. Bateman.

Mr. BATEMAN. Thank you, Mr. Chairman.

Ms. Yim, in your statement you made reference, and this is something that excited all of us, to Secretary Peña having met with various segments of the maritime industry and having formulated a set of recommendations that went to the National Economic Council.

Our information is that those recommendations did not fare well in that forum, and I am curious as to whether or not it is within your ground rules that we might be furnished with the recommendations which were not accepted in the council in order that we might read them against our initiative and H.R. 2151?

Is that something you could provide us with?

Ms. YIM. The NEC was established by Executive Order by the President in January of 1993. Our proposal was basically taken through a process whereby various agencies were allowed to review it and come up with options for the President, who will ultimately make the decision.

So, at this point, I would have to say that our proposal is still a part of the ongoing review process that is taking place, and I would be doing a disservice to the process if it were brought forth for your Committee's review at this time.

Mr. BATEMAN. Well, this Member certainly doesn't want anything done which would embarrass the process. If there is anything this Member can do to expedite the process, I am more than amenable to suggestions.

Mr. Lynn, in your testimony you made reference to ships that were being reflagged as becoming a part of the effective American flag fleet. What is the difference in terms of our national security needs and opportunities between effective American flag fleet and an American flag vessel?

Mr. LYNN. It is hard, probably impossible, to quantify a difference in terms of security. Qualitatively, the major difference is the one that Mr. Chapman, I think, mentioned, which is that effective U.S.-controlled vessels would generally have foreign crews, not U.S. crews.

Because they are under effective U.S. control, the ships would still be available for requisitioning should the President decide to exercise that authority.

Mr. BATEMAN. That the——

Mr. LYNN. So the ships would be available under requisitioning or for charter. They would not have U.S. crews, so you then make qualitative judgments about the reliability of U.S. crews versus foreign crews.

Mr. BATEMAN. But effectively as available as they would be even if they were American flag vessels, or is there some level or differentiation between the two?

Mr. LYNN. I am not aware of any difference between the legal rights in terms of requisitioning. The major difference is in terms of——

Mr. BATEMAN. Equally subject to requisition, but you end up perhaps with an, "effective American flag vessel manned by a foreign crew, may or may not be dedicated to the foreign policy and strategic objectives of the United States."

Mr. LYNN. I think that is a fair summary of it.

Mr. BATEMAN. OK, thank you.

Mr. LIPINSKI. Thank you, Mr. Bateman.

What I am going to do right now is call a halt in the proceeding so we can go over and vote and then we will be right back to resume the questioning with Mr. Taylor.

[Recess.]

Mr. LIPINSKI. We will now resume our hearing and the Chair will recognize next Mr. Taylor.

Mr. TAYLOR. I would like to open this up to the panel to respond. I understand, just had an opportunity to read a letter from Senator Mikulski to the President in which she makes reference to the military advising Sealand and I guess American President to reflag their ships.

I was wondering if any of you were familiar with that and if any of you would care to comment on that.

Mr. LYNN. Congressman, I am not aware of any advice that was given to Sealand or APL from the Department of Defense regarding either reflagging or not reflagging.

I can of course go back and check. Military is a broad term, but certainly no one within my knowledge did that, but we would have to confirm it.

Mr. TAYLOR. My second question would be, and I will open this up to the panel and in particular Mrs. Yim—Ms. Yim, excuse me. I was raised in a different time, in a different place.

I really have a problem with something that APL and Sea-Land are saying. They come to the Committee and say, well, American ships in effect are too expensive to buy so we shouldn't give them a subsidy, but we are a bargain for the taxpayer even though we are more expensive, and we should get one, and I find that a tad inconsistent since the shipyard workers, who they are saying are over priced, would be the ones paying the taxes to pay for those subsidies, and I was wondering if, in the Administration's proposal that is being put together, if they had given any thought to that and I was wondering what your thoughts are on that.

I personally find it very inconsistent, bordering on hypocritical.

Ms. YIM. Well, I know that Congress has taken action in supplemental appropriations legislation to continue Title XI subsidies for shipyards and has moved that, a significant amount of money be made available for that purpose. I believe it is a total of \$52 million, \$48 million of which would go into the Title XI program. I think that is a significant item to have available for the Administration to use to support shipyards.

As far as how that fits in with the overall problems faced by the U.S.-flag industry, I think that we really have to assess some of the information that has been submitted to us as the rationale for reflagging. We are taking a very close look at that in terms of our obligations at the Maritime Administration, and we are very carefully assessing the options we have for processing these reflagging applications. That is certainly one consideration that we would give in terms of our review of their applications.

We are not going to overlook that as a factor in terms of a decision with regard to the reflagging.

Mr. TAYLOR. Ms. Yim, how long have you been with the Maritime Administration?

Ms. YIM. Since May 4th.

Mr. TAYLOR. Of this year?

Ms. YIM. Of this year.

Mr. TAYLOR. Mr. Lynn?

Mr. LYNN. I have been with the Department of Defense since January 20th.

Mr. TAYLOR. I am curious about the initial decision to allow foreign-built ships to flag American and then turn around and get an operating subsidy. So neither of you were part of that decision?

Ms. YIM. No, I wasn't.

Mr. LYNN. That is correct.

Mr. TAYLOR. Is there any talk amongst the Administration when you are formulating policy of whether or not this practice should be continued?

I mean, if we are out to preserve a national resource, which obviously the carriers are, how can we on one hand say one national resource is worth keeping but another national resource, namely the yards, are not?

Ms. YIM. Well, I am a member of the committee that is working under the National Economic Council to prepare a study, in response to Congress' direction, on how to make our shipyards more competitive. That report is required to be submitted by the President to Congress by October 1st of this year.

Debby Christie represents the Department of Defense on that committee, and we are in the process of taking a good hard look at that to come up with some practical ideas to help our shipyards.

Mr. TAYLOR. Ms. Yim, just out of curiosity, it is now the seventh month approximately, well, almost seven months to the day since the President was sworn.

I realize that the President has a whole world of responsibilities and a whole world of troubles, but quite honestly I don't think that maritime reform was something that should have been put on the back burner, and I was just curious why the delay to this point.

And now you are talking October and not even a firm date then.

Ms. YIM. No. October is the deadline date for the required report to be submitted to Congress. That is from a DoD defense appropriations bill which required a study of shipyard competitiveness. That is the October 1st deadline I was referring to.

As far as the overall maritime revitalization program, all I am prepared to say is that it is still under review. That is all I can say at this point.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. LIPINSKI. The Chair recognizes Mr. Andrews.

Mr. ANDREWS. Thank you very much, Mr. Chairman.

I have a few questions. Dr. Chapman, I found your testimony to be particularly interesting and compelling, really. Just so that I am clear about your testimony, what you are saying is that if we ignore as a Congress legislation like the legislation we are dealing with today, and if the administration does not act positively to this issue at whatever timeframe they choose, what you are saying is that we can then expect a direct correlation between that kind of inaction and an increase in human rights abuses among those who are crewing these vessels.

Might I also conclude correctly that we probably would see a lot of control and safety with respect to ships coming into our ports? Portland, Maine, where I represent, there is only one other port city in the entire East Coast of the United States that receives more oil than we do. We are very concerned about the standards on those ships when they bring all of that oil on to our shores.

Are you saying that there could very well be implications, not only for human rights abuses, but also in terms of the safety standards that we could expect to have on those ships.

Mr. CHAPMAN. That is right, Mr. Andrews, because a lot of the registering countries have defaulted in the maintenance of standards in international shipping. In many cases, the port states have sought to fill the gap by enacting laws that have allowed the ports to prevent pollution, et cetera. But it still has remained the primary responsibility of the flag state to maintain standards.

When the flag state defaults, up until this point, there has not been enough international attention to fill this gap. So you can draw a direct line between flagging out and the deterioration of standards, nonetheless, that has been the pattern.

In at least a certain percentage of the operators, there has been this downward spiral. You can trace, for example, the reports that are coming out of the Memorandum of Understanding, the Secretariat in Holland. You can trace how substandard ships are the very ships that are both mistreating the crew, polluting the waters. And those are the ships that are coming out of the countries that don't enforce any of the rules. All that is possible to verify.

Mr. ANDREWS. If you have any additional information that you might be able to provide the Committee or myself, I would appreciate it very much. Or if you could help steer us in the direction of getting additional information, I would appreciate that.

Because we have so little time, I want to quickly ask you a question. Am I correct in my understanding of your testimony that in fact, in a time of national crisis, at a time when our national security may be on the line in terms of an international incident, this country is now depending upon and unless we take a look at this

issue very seriously and take action on the issue we are discussing today, we can find ourselves continuing to be dependent on foreign crews to be delivering vital pieces of machinery and goods for the military operation of this country, foreign crews who may in fact be opposed to or may have no sympathy what so ever with the goals and objectives of our military? Is that correct?

Mr. LYNN. I think it would be correct to say that if the decline in the U.S.-flag fleet were to continue, we would be more dependent on foreign flagged, foreign crewed ships than we currently are.

Mr. ANDREWS. So because of the lack of control we were just talking about with Dr. Chapman, we could in fact find ourselves with crews that might be very unsympathetic to the cause the United States armed forces might be engaged in, the very crews we would be depending upon to deliver environmental equipment to our armed forces; is that correct?

Mr. LYNN. There are a variety of other things that we depend on to move forces—air lift, prepositioning. There is a large government-owned fleet and the use of ships from the commercial fleet. If we did not have U.S.-crewed ships to depend on for the commercial fleet portion, we would have to look either to the effective U.S.-controlled fleet or to the fleets of our allies to provide a portion of what would be mostly sustaining sealift.

Mr. ANDREWS. Finally, Ms. Yim, given those two pieces of testimony, does that cause you concern and do you believe that as a result of those kind of considerations, the administration may be putting this in a bit higher level of priority than we have been reading about in the papers to this point.

Sort of a follow-up to this question, maybe you could disabuse us of some of the implications of some of the stories we have been reading in the newspaper that the National Economic Council has decided to abandon any effort to address the issues and concerns that we are dealing with.

My understanding of your testimony is that that is not the case, and there has not been a decision by the Administration. And in October, we could see complete support for initiatives like we are talking about today.

Ms. YIM. To speak to the particular issues about the effect of nothing being done, I think it is clear that we would see a decline in the number of U.S.-flag ships, and a comparable decline in the number of shipboard jobs.

For example, we estimate that we would go from 384 U.S.-flag ships today, of which 150 are in international trade, to slightly over 130 ships, of which less than 30 would be in U.S. foreign trade. We also see the number of shipboard jobs declining to 6,300, which less than 1,300 would be in international trade. That is down from a total of 20,000 with 10,000 in international trade.

We would see shipyard employment declining to 53,000, with an additional 60,000 jobs in shipbuilding supplier industries, like steel and electronics, also being lost. So if nothing is done, we believe these are the types of results we would see.

However, the National Economic Council process and the Administration review of the Maritime Revitalization Program are still ongoing. As soon as a decision is made, we will provide the Sub-

committee with the recommendations. That is the statement I am prepared to make today.

Mr. LIPINSKI. Thank you, Mr. Andrews.

The Chair now recognizes Mrs. Bentley.

Mrs. BENTLEY. Thank you, Mr. Chairman.

Ms. Yim, following up on the question that was just asked by Mr. Andrews, are you satisfied with the figures you just gave out? Do you have any feeling about them at all, of the American Merchant Marine diminishing to those very stark figures? I mean, personally. Let's just talk.

Ms. YIM. I think the picture is painted by those figures should be unacceptable to us as a U.S. Government that has had a long history of a U.S.-flag merchant fleet that has come through in times of war and in times of peace. No, I am not satisfied with those figures.

Mrs. BENTLEY. I am glad to hear you say they are unacceptable. I will ask Mr. Lynn, are you aware or familiar with a letter that Senator Barbara Mikulski sent to the President on July 1 in which she alleges that the Pentagon has given advice to two major shipping companies to reflag their ships at the Marshall Islands.

Mr. LYNN. The letter was referred to by Mr. Taylor. I was not aware of it up until that point.

Mrs. BENTLEY. Mr. Taylor, did you go into depth on that Mikulski question on the Marshall Islands.

Mr. LIPINSKI. No one on the panel knew much about it. Congressman Taylor could not pursue it because he did not know anything about it.

Mrs. BENTLEY. I will ask—even though you are not familiar with it, I will ask you as a representative from the Defense Department to try to supply us with a chronology of the meetings between the DoD officials and the U.S. flag companies concerning the reflagging of vessels in the Marshall Islands.

I would like to know who was there from DoD, who was there from the shipping companies and a copy of the written directives to the DoD officials to the supervisors or the Secretary of Defense instructing the DoD official if there is such a letter, to encourage, instruct, counsel, or help U.S. flag companies in any way reflag in the Marshall Islands.

Mr. LYNN. We will follow up on that.

[The following was received:]

NO EVIDENCE OF DISCUSSIONS

My staff has checked with other DoD offices, Sea-Land, APL, and Senator Mikulski's staff and has found no evidence that any such discussions took place.

Mrs. BENTLEY. One other question: Has the Secretary of Defense said anything at all to your knowledge anywhere, publicly or otherwise, about reflagging in the Marshall Islands?

Mr. LYNN. Not to my knowledge. I don't believe he has said anything publicly.

Mrs. BENTLEY. What about privately?

Mr. LYNN. Again, not to my knowledge.

Mrs. BENTLEY. Are you familiar, and if you are not, I would like again to get the information on it, with the nature of the treaty

agreement with the Marshall Islands under which U.S. flag vessels would be allowed to reflag there and what the terms would be.

Could you get that for us?

Mr. LYNN. If it is within the Department, I would be happy to provide it. I am not quite certain what kind of information would be available on that.

[The following was received:]

TREATY WITH THE MARSHALL ISLANDS

There is no treaty that allows the United States to obtain Marshall -Islands-flag shipping; however, under the Compact of Free Association, the U.S. government recognizes an exclusive security and defense role relative to the Republic of the Marshall Islands. The Republic of the Marshall Islands has no law that would prevent the U.S. government from requisitioning a U.S. citizen-owned or -controlled ship registered in the Republic of the Marshall Islands. This is similar to other Effective U.S. Controlled (EUSC) nations' regulations or understandings with the U.S. government.

The Maritime Administration is responsible for negotiating reflagging requests under Section 9 of the Shipping Act of 1916, and would therefore be the best source of information on terms of reflagging. At present, effective U.S.-controlled ships are available under the provisions of emergency requisitioning under Section 902 of the Merchant Marine Act of 1936, as amended. In addition, the Vessel War Risk Insurance program, under Title XII of the same Act, as amended, allows the Department of Transportation to provide indemnification of vessels in exchange for the vessels' availability for national defense needs.

Mrs. BENTLEY. Between you and the State Department, there should be something around.

H.R. 2151 would have an annual cost of about \$200 million a year to keep U.S. vessels operating under the U.S. flag with the American crews. How much would the military have to spend each year to represent the same capability by the U.S. flag private Merchant Marine?

Mr. LYNN. You are asking?

Mrs. BENTLEY. How much would the Defense Department have to spend annually to provided same level of sea lift capability represented by the private U.S. flag merchant marine?

Mr. LYNN. That calculation has not been done, Congresswoman, because the way these things work is that we first calculate the amount of government-owned sealift that we need to meet surge requirements. Commercial lift generally cannot satisfy those requirements because it is not available on the schedule that we need and it is generally not of the character—i.e., roll-on/roll-off capability that we need.

In the central study that has been done on this, we then looked to the U.S.-flag fleet to see what kind of support can be provided in terms of sustaining lift.

The initial conclusion of the Mobility Requirements Study—which assumes some decline in the U.S.-flag fleet, but I think not as great a one as we are looking at right now—is that the U.S.-flag fleet would be sufficient to provide sustaining support at the size it was projected to be around the turn of the century.

If that fleet were not available, the Department would have to evaluate other alternatives, which would include buying ships. That would be one option which is where I think you were going.

Other options would include the type of program you were talking about with H.R. 2151, on whatever scale we thought was

needed. You could also look at what has been talked about earlier here in the Committee, which is relying on foreign-flag ships with foreign crews, be they under U.S. effective control or not. That, obviously, involves more risk and less cost. All those options would have to be evaluated. I don't have the cost for each one at this point.

Mrs. BENTLEY. The Pentagon has been reevaluating that same scenario since 1950 when I sat at the first hearing of this Committee when I was a newspaper person. I have yet to see any results along the line that you just outlined that we are going to be doing.

This scenario just keeps repeating itself, and DoD really has never come up with any answers. I really think, Mr. Chairman, that it is about time that we get some specific answers from them.

Mr. LIPINSKI. I certainly agree with you.

Mrs. BENTLEY. Mr. Chairman, I ask unanimous consent to put an article from The Washington Post in the record.

Mr. LIPINSKI. Without objection, it is so ordered.

[The information may be found at end of hearing.]

Mr. LIPINSKI. Have you concluded your questioning?

Mrs. BENTLEY. Yes, I have.

Mr. LIPINSKI. Mr. Pickett.

Mr. PICKETT. I have no questions, Mr. Chairman.

Mr. LIPINSKI. Mr. Taylor?

Mr. TAYLOR. Mr. Chairman, my esteemed colleague who represents Bath Ironworks, the new buzz words in town have been changed from "don't ask, don't tell" to "don't know, don't care."

Ms. Yim, we are not going to solve anything by finger pointing, so I am not going to ask for the Administration's official response. I am going to ask for your responses, OK?

As Acting Director of the Maritime Administration, what are your goals as far as the number of ships to be built, percentage of the world's tonnage you would like to see carried on American vessels, the number of Americans you would like to see employed in the maritime industry in the next couple of years?

You have to have some goals. Obviously, when you were interviewed for the job, you had to have a game plan for where you wanted to get. Would you relate them to the Committee, please.

Ms. YIM. There are a couple of ways I can respond. Early on, Secretary Peña made maritime reform one of his top priorities for the whole Department of Transportation. He was way out in front by saying clearly what his goals were. In his various meetings, he set a tone of wanting to be an advocate within the Administration for a strong revitalization program for all of the maritime industry, including shipbuilding and the commercial fleet. So I think there has already been a very clear indication from the very top of our agency as to what our position is in terms of maritime revitalization.

Now, within the total Administration, I have already told you that the process is ongoing and a decision needs to be made. The Chairman of the National Economic Council makes that decision once he is satisfied with the options that are presented to him.

At our level in the Maritime Administration, I am one member of a team that is not yet in place. Our Administrator has not yet been confirmed. I think we are asking for a chance to put into

affect what we would like to do with the Administration and with the industry and the various affected industries that we serve.

I also come from a public sector background in which public service for the good of the agency is very near and dear to me personally. I have frequently talked to people about wanting to do the right thing for the taxpayer and for the Nation. I think that those goals are not incompatible with the Maritime Revitalization Program.

So if you are asking my personal goals as to what I am bringing to this, I am a member of a team that is not yet in place, and yet I come to this with a high degree of wanting to do what is best for the country and also to follow the leadership of Secretary Peña. I think he has done quite a remarkable job of putting this on the forefront.

Mr. TAYLOR. Ms. Yim, I think every Member of this Committee—those of us who bother to come to the meetings—many are frustrated, so they quit coming. We say we want to be a strong maritime Nation and the game plan is in the works. I am sure those who have been here longer have been hearing it for 10 years, or others may have been hearing it for 20 years, but the game plan never gets on paper.

You have to have goals. The Japanese have 40 percent of the world's shipbuilding. I am sure they are carrying a large chunk of the total international trade. Can't we set some goals? Is that too much to ask for the American taxpayers who have an economic interest in this country?

Can't you set some goals, even if they are too high, so you will have something to shoot for other than the buzz words we keep hearing?

Ms. YIM. I think, to some extent, that has been done by Secretary Peña. The fact is there was a Maritime Revitalization proposal submitted to the NEC and we want, over the next four years, to build up our U.S.-flag fleet or at least maintain it where it is now.

I think some of that has already started. But, again, it is somewhat frustrating internally that our team is not yet in place, and we have not yet had the opportunity to do the type of thing that you are suggesting.

Mr. LIPINSKI. Thank you, Mr. Taylor. I appreciate your answers. I think that all the Members of the Committee are quite frustrated with the situation because of our great desire to revitalize the Merchant Marine industry and move forward and create American jobs and profit.

I personally believe that the Department of Transportation under Secretary Peña has been very, very much involved in trying to develop a policy to do the things all the Members of the Committee want to do. Unfortunately, I believe that that policy is stymied by other concerns and considerations by the White House at the present time.

But I would recommend to everyone in this room and all the Members of our Subcommittee and Members of the full Committee that we simply have to continue to agitate aggressively for a revitalization of the Merchant Marine industry in this Nation, shipbuilding, all aspects of it.

The more noise we make about it, the more aggressive we are about it, the more chance there is for the White House to get the

message that this is of vital concern to a lot of people in this country and that this is very important to a lot of people in this country.

As we all know, the President has many, many, many issues on his plate. If we are going to get him to truly focus on an issue we are concerned about, we are not going to be able to do so if we start losing resolve, become frustrated, and start walking away from the issue.

There is no more articulate spokesman for shipbuilding and merchant marine in the Nation than Congressman Taylor. There is no one more aggressive in his pursuit of these goals. I just want to say to him here, publicly, that I appreciate his efforts. I hope you don't get too frustrated that you start easing up on your pursuit of our goals. We need you and we want to make sure that you stay as involved as possible, Gene.

Now, I have a question or two for the Department of Transportation. If the number of vessels engaged in U.S. foreign commerce continue to decline, thereby shrinking the pool of the trained U.S. seamen, how will MARAD assume that U.S. crews will be ready to man U.S. forces in an emergency?

Ms. YIM. That is one of the difficult questions that we are facing because we need seamen who have jobs in peacetime to be able to man our ready reserve fleets during times of war. This is of great concern to us and one of the issues that we are looking at in terms of the reflagging requests that have come before us.

As far as having specific programs, there have been a number of them raised in the past, including a reserve force. At this point, we want to look at what options are available. We are not happy with the fact that there would be a loss of jobs.

As Congresswoman Bentley asked me earlier, we need to deal with the root problem first and foremost, but at this point, I cannot give a definitive answer in terms of what specific program we might have in mind.

Mr. LIPINSKI. You are working on some kind of program, though? I assume it depends on what kind of overall revitalization we come up with in this country.

Ms. YIM. Exactly.

Mr. LIPINSKI. We keep hearing that the Department of Transportation's maritime proposal is under review by the administration's National Economic Council.

Please, if you can, describe this group for the Committee. Is it comprised of Cabinet members? And if so, have the meetings been conducted at that level or a considerably lower level? Do the people attending the matters on maritime matters represent the President's view of those issues and do you know?

Ms. YIM. As I stated earlier, the National Economic Council was created by presidential directive on January 25, 1993. It is chaired by the President and includes the heads of 12 Cabinet and Executive agencies. These are the U.S. Department of Agriculture, Department of Commerce, Department of Energy, Housing and Urban Development, Labor, State, Transportation, Treasury, Environmental Protection Agency, Council of Economic Advisors, Office of Management and Budget, and the U.S. Trade Representative.

Various working groups, however, are established according to the subject matter that is before the National Economic Council. The agencies represented on the working groups vary depending on the subject matter.

The Maritime Revitalization Program was first considered at a working group level within the NEC, which basically consisted of staff people who were knowledgeable in the various aspects of the Maritime Revitalization Program. I don't know all of their titles, but they were people you would consider to be at a working level.

An options paper was prepared by this working group and sent to the Deputy Secretaries of those agencies. The Deputies reviewed the draft options paper and made their opinion known to the full National Economic Council, which consists of Cabinet members.

The deputies and the Cabinet members may be represented by others; this varies by subject matter and the availability of the Deputies and the Cabinet members. Generally, the representatives are very high-level people within the Departments.

Mr. LIPINSKI. Thank you very much. It is very interesting.

Does any other Member have a question?

Mrs. Bentley.

Mrs. BENTLEY. Thank you, Mr. Chairman.

I want to go back to Mr. Lynn. But before I do, Ms. Yim, I am glad you referred to the seamen and the need to have skilled seamen available. I think for all of the three members on the panel there, if you are not familiar, you need to look at the background of what happened during the Vietnam War when we loaded ships of foreign flag—they were loaded, and we had to discharge the ships of various nationalities, because the crewmen would not take them to Vietnam.

There also was some flak, and a couple of ships during the Gulf War where the foreign seamen would not go there. I think this has to be remembered and recalled by the Department of Defense, Mr. Lynn.

Do you know, Mr. Lynn, how many sea lift ships the military now has, literally, in their hands?

Mr. LYNN. I believe the number is in the middle 100's. If you will hold a second, I think I have that. Currently, there are 116. In fiscal 1993, there are 116 government-owned ships and 29 chartered vessels.

Mrs. BENTLEY. Those are under the military sea lift command and control, right?

Mr. LYNN. Yes.

Mrs. BENTLEY. Have any new ships been ordered?

Mr. LYNN. Yes. We are in the process of implementing an increase recommended by the Mobility Requirements Study that I referred to earlier. The increase would involve 20 large, medium-speed roll-on/roll-off ships. We are in the process of contracting for those vessels. I would have to provide for the record exactly where we are in terms of how many we have contracted for to date.

The plan would be to acquire 20 of those ships. A portion of them would be used for prepositioning and a portion would be used for sealift.

I should add, Congresswoman, we are increasing the size of the Ready Reserve Force. I would have to provide the exact number for the record, but it is on the order of 30 additional ships.

[The information follows:]

NEW SHIPS ORDERED

Yes. The Navy awarded contracts for the first five large, medium-speed roll-on/roll-off ships on July 30 of this year. These Ro/Ros will be converted from ships that presently exist in the world market. Two additional contracts were awarded on September 15 for two new construction Ro/Ros, with each contract having an option for five more ships.

Mrs. BENTLEY. Do you have any idea of the cost of the new sea lift ships, for each roughly?

Mr. LYNN. Roughly, I think there is one in the fiscal 1994 budget, for which we are requesting about \$290 million. I think that is roughly the cost per ship.

Mrs. BENTLEY. That is for building?

Mr. LYNN. For building the ship, yes.

Mrs. BENTLEY. The Chairman's 2151, we are talking about \$200 million a year to keep a number of vessels operating.

Mr. LYNN. That is absolutely right, Congresswoman. The ships are used for different purposes, though. The ships we are talking about procuring here would be used to move unit equipment in the initial stages of a contingency. They need to be large, fast, roll-on/roll-off ships, and they need to be available very quickly, given the expectation that we would not have the time we had in Desert Shield to prepare a defense and then a counterattack.

The commercial ships that you are referring to that would be covered under H.R. 2151 are generally containerships, which are very useful in terms of sustainment. They have their limitations, however, in terms of initial surge requirements.

Mrs. BENTLEY. Are you going to be able to keep 20 of these giants operating all the time so they will be immediately available?

Mr. LYNN. We would keep, I believe, 11 of them. We have eight ships of this type today. They are a little different in terms of design, but they are a fast sealift ship, called the SL-7, that we procured in the early 1980's. We have eight of them available on short notice.

We would plan to augment these vessels with medium-speed roll-on/roll-off ships with the same type of capacity. They would be available for sailing in a couple of days. Also, only nine of the 20 ships would be prepositioned in areas where we expected to use them.

Mrs. BENTLEY. How quickly were the SL-7s available in the Gulf War?

Mr. LYNN. It varied. I would have to provide exact figures for the record. I think most of the ships were available on schedule, which I believe was four or five days. I believe there was a problem with one of the ships breaking down on the voyage across the Atlantic. I am not aware of any problems in availability, but let me get that to you for the record.

[The information follows:]

AVAILABILITY OF SHIPS

Six of the eight SL-7 ships were available within 96 hours. The seventh ship, *USNS Denebola*, was undergoing regularly scheduled maintenance, which required ten days to complete. The eighth ship, *USNS Antares*, experienced additional problems related to the original occurrence, which precluded the ship's further participation.

Mrs. BENTLEY. OK. I don't think this happened on the SL-7s, but I know there were some American ships where there was difficulty getting crews for the Gulf War.

Mr. LYNN. I don't know about crews. I know there were some difficulties in breaking out the Ready Reserve Force.

Mrs. BENTLEY. When you have had to go to 70 and 80-year-old seamen, you have trouble. I would like unanimous consent, Mr. Chairman, to submit some more questions.

Mr. LIPINSKI. Without objection, it is so ordered.

Are there any further questions?

I just have another brief question or so. This is for the Department of Defense. Does your Department have contingent plans for crewing the ready reserve forces if U.S. crews are unavailable?

In that event, what would be the cost associated manning an RRF and maybe your experience in—not your experience, but the Department's experience in the Desert Storm or Desert Shield that might mostly lead you to some answers for this?

Mr. LYNN. In terms of Desert Storm experience, I am afraid I would have to provide that for the record, as I indicated to Mrs. Bentley.

[The following was received:]

ADEQUATE MANPOWER

DoD is working with the Maritime Administration to ensure that adequate manpower will be available to the RRF in future contingencies. Alternative manning plans, such as a civilian reserve program, are being reviewed by the Maritime Administration, while DoD is examining the feasibility of using Naval Reservists experienced in operating these types of vessels. Cost analyses and implementation strategies are being developed as part of the evaluation process, which is expected to be completed over the next several months.

Mr. LYNN. The plan right now is to use U.S. merchant seamen. You are quite correct, if those merchant seamen were not available, we would have to come up with an alternative plan, either to support the maritime industry to the level that would ensure that adequate manpower would be available or to look at what Ms. Yim talked about, some sort of a reserve program.

But we don't have that type of program in place. The current program relies on merchant seamen.

Mr. LIPINSKI. Didn't we have a problem in the Desert Storm Desert Shield crewing the RRF as it was?

Mr. LYNN. Mr. Chairman, I will have to provide that for the record.

[The information follows:]

MANNING VESSELS

Yes, in a few cases, problems existed in manning these vessels with mariners who had the correct skills. Also, the first ships to be activated were operated under a ship manager contract that drew mariners from a specific union district. That district was not able to provide enough mariners and had to negotiate with an adjacent union district for additional manpower. Those negotiations took time. Once the

entire pool of mariners was available, we were able to obtain all the crews that we needed. No reserve ship sailed late due to insufficient manning.

Mr. LIPINSKI. I understand that you were not there, but the Department is continually in operation. It would seem to me, based on the information that I have, they did have a problem in crewing those ships.

I would think that by now, we would have a plan, a policy, a scheme, something worked out that in the event we had to employ them tomorrow, we would have a plan in place to crew these slips based on the experience in Desert Storm and Desert Shield.

Mr. LYNN. We have tried to make improvements in the Ready Reserve Force. I cannot give specifics on that at this time, but I will be happy to provide it for the record.

Mr. LIPINSKI. Thank you. I don't have any thoughts, questions at this time. I do have some questions that I want to submit for the record.

[The information follows:]

PERFORMANCE OF THE READY RESERVE FORCE

Immediately after Operation Desert Shield and Desert Storm, DoD and the Maritime Administration (MARAD) conducted a review of the performance of the Ready Reserve Force and agreed on improvements to be made in the force. MARAD is working with the unions and with the ship managers to implement those recommendations. Although the agreements are not yet complete, both the government and the maritime unions understand the reasons for the problems that occurred during Operation Desert Shield and Desert Storm, and I am confident that, if we had to employ the ships tomorrow, MARAD and the maritime unions would be able to provide the needed manpower in a timely manner.

Mr. LIPINSKI. I want to say, too, that I gave a little dissertation here a few minutes ago about what those of us who are interested in revitalizing the merchant marine industry and shipbuilding in this country and creating jobs. I do believe that those of us who are interested in it do have to aggressively agitate everyone we can.

I am not in any way indicating that there is going to come a point where we are going to be discouraged. I want to indicate really that there does come a point, though, and I say this to two of you members of the panel that, after a lot of agitating, after a lot of legislation, after a lot of conversations, we are going to start absolutely demanding answers in programs immediately.

We realize that we have a new administration. We realize that there are many problems, but we have now progressed quite a long distance in this administration, relatively speaking.

We also know that there are some people within the administration who are enormously interested in the Merchant Marine industry. They have been working very hard. Very, very soon, myself and the other Members of this Committee and the full Committee are going to have to make a decision to go directly to the White House to get some answers in regard to what kinds of aid, what kind of assistance we can expect out of this administration or are we going to be left to carry it all by ourselves.

I say that just to make the record perfectly clear at this time.

I thank you all for your testimony. I thank the Members of the Committee for their attendance and all of those who came here to listen. I appreciate that also. Thank you.

[Whereupon, at 3:45 p.m., the Subcommittee was adjourned; and the following was submitted for the record:]

I

103D CONGRESS
1ST SESSION

H. R. 2151

To amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1993

Mr. STUDDS (for himself, Mr. LIPINSKI, Mr. FIELDS of Texas, Mr. BATEMAN, Mr. YOUNG of Alaska, Mr. HUGHES, Mr. HUTTO, Mr. TAUZIN, Mr. ORTIZ, Mr. MANTON, Mr. PICKETT, Mrs. UNSOELD, Mr. REED, Mr. LANCASTER, Mr. ANDREWS of Maine, Ms. FURSE, Ms. SCHENK, Mr. GENE GREEN of Texas, Mr. HASTINGS, Mr. BARLOW, Mr. THOMPSON of Mississippi, Mr. ACKERMAN, Mr. KING, and Mrs. BENTLEY) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Maritime Security and
5 Competitiveness Act of 1993".

1 **SEC. 2. PURPOSE OF THE MERCHANT MARINE ACT, 1936.**

2 Section 101 of the Merchant Marine Act, 1936 (46
3 App. U.S.C. 1101) is amended to read as follows:

4 **"SEC. 101. FOSTERING DEVELOPMENT AND MAINTENANCE**
5 **OF MERCHANT MARINE.**

6 "The Secretary of Transportation shall carry out this
7 Act in a manner that ensures the existence of an operating
8 fleet of United States documented vessels that is—

9 "(1) sufficient to carry the domestic water-
10 borne commerce of the United States and a substan-
11 tial portion of the water-borne export and import
12 foreign commerce of the United States and to pro-
13 vide shipping service essential for maintaining the
14 flow of such domestic and foreign water-borne com-
15 merce at all times;

16 "(2) adequate to serve as a naval auxiliary in
17 time of war or national emergency;

18 "(3) owned and operated by citizens of the
19 United States, to the extent practicable;

20 "(4) composed of the best-equipped, safest, and
21 most modern vessels;

22 "(5) manned with the best trained and efficient
23 personnel who are citizens of the United States; and

24 "(6) supplemented by modern and efficient
25 United States facilities for shipbuilding and ship re-
26 pair."

1 **SEC. 3. MARITIME SECURITY FLEET PROGRAM.**

2 (a) **ESTABLISHMENT OF PROGRAM.**—The Merchant
3 Marine Act, 1936 (46 App. U.S.C. 1101 et seq.) is amend-
4 ed by inserting after title III the following new title:

5 **“TITLE IV—MARITIME SECURITY**
6 **FLEET PROGRAM**

7 **“SEC. 401. ESTABLISHMENT OF MARITIME SECURITY**
8 **FLEET.**

9 “The Secretary of Transportation shall establish a
10 fleet of active commercial vessels to enhance sealift capa-
11 bilities and maintain a presence in international commer-
12 cial shipping of United States documented vessels. The
13 fleet shall be known as the ‘Maritime Security Fleet’.

14 **“SEC. 402. COMPOSITION OF FLEET.**

15 “The Fleet shall consist of privately owned United
16 States documented vessels for which there are in effect
17 operating agreements.

18 **“SEC. 403. VESSELS ELIGIBLE FOR ENROLLMENT IN FLEET.**

19 “(a) **IN GENERAL.**—A vessel is eligible to be enrolled
20 in the Fleet if the Secretary decides, in accordance with
21 this section, that it is eligible. The Secretary may decide
22 whether a vessel is eligible to be enrolled in the Fleet only
23 pursuant to an eligibility decision application submitted to
24 the Secretary by the owner or operator of the vessel. The
25 Secretary shall make such a decision by not later than
26 90 days after the date of submittal of an eligibility deci-

1 sion application for the vessel by the owner or operator
2 of the vessel.

3 “(b) VESSEL ELIGIBILITY AND LISTING.—The Sec-
4 retary shall decide that a vessel is eligible to be enrolled
5 in the Fleet if—

6 “(1) the person that will be the contractor with
7 respect to an operating agreement for the vessel
8 agrees to enter into an operating agreement with the
9 Secretary for the vessel under section 404;

10 “(2) the vessel is not built in a foreign sub-
11 sidized shipyard under a contract entered into on or
12 after May 19, 1993;

13 “(3) the person that will be a contractor with
14 respect to an operating agreement for the vessel is
15 a citizen of the United States;

16 “(4)(A) the vessel is a United States docu-
17 mented vessel on May 19, 1993;

18 “(B) the vessel is—

19 “(i) a United States documented vessel
20 after May 19, 1993; and

21 “(ii) not more than 10 years of age on the
22 date of that documentation; or

23 “(C) if the vessel is not in existence on that
24 date—

1 “(i) the person that will be the contractor
2 with respect to an operating agreement for the
3 vessel has entered into a binding contract with
4 a shipyard for the delivery of a vessel that the
5 Secretary decides will otherwise be eligible
6 under this subsection; and

7 “(ii) an operating agreement for the vessel
8 is entered into by not later than 30 months
9 after the date of submittal of the application;
10 and

11 “(5) the vessel is self-propelled and is—

12 “(A) a container vessel with a capacity of
13 at least 750 Twenty-foot Equivalent Units;

14 “(B) a roll-on/roll-off vessel with a carry-
15 ing capacity of at least 10,000 square feet or
16 500 Twenty-foot Equivalent Units;

17 “(C) a LASH vessel with a barge capacity
18 of at least 75 barges;

19 “(D) a vessel subject to a contract under
20 title VI on May 19, 1993; or

21 “(E) any other type of vessel that is suit-
22 able for use by the United States for national
23 defense or military purposes in time of war or
24 national emergency.

25 “(e) NOTICE OF NONELIGIBILITY DECISION.—

1 “(1) DETERMINATION.—The Secretary shall
2 make determinations under subsection (b) for each
3 vessel for which an eligibility decision application is
4 submitted under this section.

5 “(2) WRITTEN EXPLANATION.—The Secretary
6 shall provide to the person that submits an eligibility
7 application for a vessel a written explanation of any
8 decision that the vessel is not eligible for enrollment
9 in the Fleet.

10 “(d) LIST OF ELIGIBLE VESSELS.—

11 “(1) IN GENERAL.—The Secretary shall main-
12 tain a list of vessels that the Secretary decides in ac-
13 cordance with this section are eligible to be enrolled
14 in the Fleet.

15 “(2) REMOVAL OF VESSELS FROM LIST.—The
16 Secretary shall remove a vessel from the list main-
17 tained under this subsection, and the vessel shall not
18 be an eligible vessel for purposes of this title—

19 “(A) at any time that the conditions for
20 eligibility under subsection (b) are not fulfilled
21 for the vessel; or

22 “(B) if the status of the person who sub-
23 mitted an eligibility decision application for the
24 vessel, as owner or operator of the vessel,
25 changes and after that change—

1 “(i) the owner or operator of the ves-
2 sel fails to submit a new eligibility decision
3 application for the vessel; or

4 “(ii) such an application is not ap-
5 proved by the Secretary.

6 **“SEC. 404. OPERATING AGREEMENTS, GENERALLY.**

7 “(a) **REQUIREMENT FOR ENROLLMENT OF VES-**
8 **SELS.**—A vessel may be enrolled in the Fleet only if it
9 is an eligible vessel for which the owner or operator of
10 the vessel applies for and enters into an operating agree-
11 ment with the Secretary under this section.

12 “(b) **PRIORITY FOR AWARDING AGREEMENTS.**—The
13 Secretary shall enter into operating agreements according
14 to the following priority:

15 “(1) **VESSELS UNDER ODS CONTRACTS.**—For
16 operating agreements that are effective before Sep-
17 tember 30, 2000, any vessel that is or will be owned
18 or operated by a person that—

19 “(A) is a party to an operating-differential
20 subsidy contract entered into under title VI;
21 and

22 “(B) is or will be operating that vessel
23 under that contract;

1 if the authority to operate the vessel under the con-
2 tract is terminated under an agreement with the
3 Secretary.

4 “(2) OTHER VESSELS OWNED BY CITIZENS.—
5 To the extent that amounts are available after ap-
6 plying paragraph (1), any vessel that is—

7 “(A) owned and operated by a person that
8 is a citizen of the United States under section
9 2 of the Shipping Act, 1916; and

10 “(B) on the list maintained under section
11 403(d).

12 “(3) OTHER VESSELS.—To the extent that
13 amounts are available after applying paragraphs (1)
14 and (2), any vessel that is—

15 “(A) owned and operated by a person that
16 is eligible to document a vessel under chapter
17 121 of title 46, United States Code; and

18 “(B) on the list maintained under section
19 403(d).

20 “(c) PROHIBITION ON ENTERING AGREEMENTS.—
21 The Secretary may not enter into an operating agreement
22 for a fiscal year only to the extent that annual appropria-
23 tions laws place a limit on the total amount of operating
24 agreements that the Secretary may enter into and obligate
25 during that fiscal year.

1 “(d) PROHIBITION ON VESSEL COVERAGE.—A vessel
2 may not be covered by an operating agreement if the vessel
3 is covered by an operation-differential subsidy contract
4 under title VI.

5 “(e) TIME LIMIT FOR DECISION ON ENTERING OP-
6 ERATING AGREEMENT.—To the extent that the Secretary
7 is not restricted from entering into contracts under sub-
8 section (c), the Secretary shall enter an operating agree-
9 ment for a vessel within 90 days after making the decision
10 that the vessel is eligible to be enrolled in the Fleet under
11 section 403(a).

12 “(f) EFFECTIVE DATE OF OPERATING AGREE-
13 MENT.—Except as provided in section 3(b) of the Mari-
14 time Security and Competitiveness Act of 1993, the effec-
15 tive date of an operating agreement may not be later than
16 the later of—

17 “(1) 30 days after the date the agreement is
18 entered; or

19 “(2) the date the vessel covered by the agree-
20 ment enters into the trade required under section
21 405(a)(1)(A).

22 “(g) EXPIRATION OF OFFERS FOR AGREEMENTS.—
23 Unless extended by the Secretary, an offer by the Sec-
24 retary to enter into an operating agreement under this
25 section expires 120 days after the date of the offer.

1 “(h) LENGTH OF AGREEMENTS.—An operating
2 agreement is effective for 10 years from the effective date
3 of the agreement.

4 “(i) TERMINATION OF AGREEMENT FOR FAILURE TO
5 PLACE VESSEL.—An operating agreement entered into by
6 the Secretary pursuant to subsection (b)(1), and the rights
7 under that agreement, are terminated at the end of the
8 90-day period beginning on the date the agreement is en-
9 tered into unless a vessel from the list maintained under
10 section 403(d) is covered by the agreement before the end
11 of that period.

12 “(j) REPAYMENT REQUIREMENTS.—

13 “(1) NONCOMPLIANCE.—A contractor that fails
14 to comply with the terms of an operating agreement
15 shall be liable to the United States Government for
16 all amounts received by the contractor as payments
17 for the vessel under this title with respect to the pe-
18 riod of that noncompliance.

19 “(2) FAILURE TO OPERATE REPLACEMENT VES-
20 SEL.—A contractor under an operating agreement
21 that covers a vessel that is 25 or more years of age
22 and that fails to replace the vessel as provided in
23 section 405(a)(3) (A) or (B) shall be liable to the
24 United States Government for all amounts received
25 by the contractor as payments for the vessel under

1 this title with respect to periods after the date the
2 vessel becomes 25 years of age.

3 “(k) BINDING OBLIGATION OF GOVERNMENT.—An
4 operating agreement constitutes a contractual obligation
5 of the United States Government to pay the amounts pro-
6 vided for under that agreement.

7 **“SEC. 405. TERMS OF OPERATING AGREEMENTS.**

8 “(a) OPERATING AGREEMENT REQUIREMENTS.—An
9 operating agreement shall, during the effective period of
10 the agreement, provide the following:

11 “(1) OPERATION AND DOCUMENTATION.—The
12 vessel covered by the operating agreement—

13 “(A) shall be operated in the foreign trade
14 or domestic trade allowed under a registry en-
15 dorsement for the vessel issued under section
16 12105 of title 46, United States Code;

17 “(B) may not be operated in the coastwise
18 trade of the United States or in mixed coast-
19 wise and foreign trade, except for coastwise
20 trade allowed under a registry endorsement is-
21 sued for the vessel under section 12105 of title
22 46, United States Code; and

23 “(C) shall be documented under chapter
24 121 of title 46, United States Code.

1 “(2) ANNUAL PAYMENTS.—The Secretary shall
2 pay the contractor, in accordance with this sub-
3 section, the following amounts for each fiscal year in
4 which the vessel is operated in accordance with the
5 agreement:

6 “(A) For fiscal year 1996, \$2,300,000.

7 “(B) For each fiscal year after fiscal year
8 1996, \$2,100,000.

9 “(3) TERMINATION BASED ON AGE OF VES-
10 SEL.—The operating agreement shall terminate on
11 the date the vessel covered by the agreement is 25
12 years of age, unless—

13 “(A) the contractor agrees to acquire a re-
14 placement for the vessel from among vessels on
15 the list maintained under section 403(d); and

16 “(B)(i) in the case of a vessel to be re-
17 placed with a new vessel, the contractor enters
18 into a binding contract with a shipyard for the
19 delivery, by not later than 30 months after the
20 later of the date the operating agreement is en-
21 tered into or the date the vessel subject to the
22 operating agreement is 25 years of age, of the
23 replacement vessel; or

24 “(ii) in the case of a vessel to be replaced
25 with an existing vessel, the contractor acquires

1 the replacement vessel from among vessels on
2 the list maintained under section 403(d), by not
3 later than 12 months after the later of the date
4 the operating agreement is entered into or the
5 date the vessel subject to the operating agree-
6 ment is 25 years of age.

7 “(4) AVAILABILITY OF VESSEL.—

8 “(A) IN GENERAL.—On a request of the
9 President during time of war or national emer-
10 gency or when considered by the President, act-
11 ing through the Secretary in consultation with
12 the Secretary of Defense, to be necessary in the
13 interest of national security, and subject to sub-
14 paragraph (B), the contractor as soon as prac-
15 ticable shall, as specified by the Secretary—

16 “(i) make the vessel covered by the
17 agreement available to the Secretary under
18 a time charter; or

19 “(ii) provide space on the vessel cov-
20 ered by the agreement to the Secretary on
21 a guaranteed basis.

22 “(B) CONDITION FOR CHARTER.—The
23 Secretary shall allow a contractor to comply
24 with this paragraph by providing space on a
25 vessel under subparagraph (A)(ii) unless the

1 Secretary determines that it is necessary in the
2 interest of national security that the contractor
3 make the vessel available under a time charter.

4 “(5) DELIVERY OF VESSEL.—The contractor
5 shall deliver a vessel to the Secretary pursuant to a
6 time charter under paragraph (4)(A)(i), as specified
7 in the request for the vessel—

8 “(A) at the first port in the United States
9 the vessel is scheduled to call after the date of
10 receipt of the request;

11 “(B) at the port in the United States to
12 which the vessel is nearest on the date of re-
13 ceipt of the request; or

14 “(C) in any other reasonable manner au-
15 thorized by the agreement and specified in the
16 request.

17 “(6) DELIVERY COSTS.—The Secretary shall re-
18 imburse the contractor for costs incurred by the con-
19 tractor in delivering the vessel covered by the agree-
20 ment to the Secretary in accordance with the agree-
21 ment.

22 “(7) COMPENSATION.—The Secretary shall pay
23 the contractor, as provided in the operating agree-
24 ment, reasonable compensation at reasonable com-
25 mercial rates for the period of time the vessel is

1 chartered or the contractor provides space on the
2 vessel under paragraph (4).

3 “(8) REQUIRED OPERATION.—

4 “(A) IN GENERAL.—A vessel covered by
5 the operating agreement shall be operated in
6 the trade required under paragraph (1) for at
7 least 320 days in a fiscal year, including days
8 during which the vessel is dry-docked, surveyed,
9 inspected, or repaired.

10 “(B) REDUCTION IN PAYMENTS.—If a ves-
11 sel operates in the trade required under para-
12 graph (1) for less than the time required under
13 subparagraph (A), the payments required under
14 paragraph (2) shall be reduced on a pro-rata
15 basis to reflect the lesser time in that operation.

16 “(9) SUBSTITUTION OF VESSELS AUTHOR-
17 IZED.—The contractor may substitute for the vessel
18 covered by the agreement another vessel on the list
19 maintained under section 403(d).

20 “(10) TERMINATION FOR FAILURE TO OPERATE
21 OR SUBSTITUTE.—The operating agreement is ter-
22 minated if—

23 “(A) the vessel covered by the agreement is
24 not operated under an operating agreement for
25 one year; and

1 “(B) a substitute for that vessel is not op-
2 erated under the agreement during that year.

3 “(b) PAYMENTS.—

4 “(1) IN GENERAL.—The amount required to be
5 paid by the Secretary each year to a contractor
6 under an operating agreement pursuant to sub-
7 section (a)(2)—

8 “(A) shall be paid at a pro rated amount
9 at the beginning of each month in equal install-
10 ments; and

11 “(B) except as provided in paragraph (2),
12 may not be reduced by reason of operation of
13 the vessel covered by the agreement to carry ci-
14 vilian or military preference cargoes under—

15 “(i) section 901(a), 901(b), or 901b;

16 “(ii) section 2631 of title 10, United
17 States Code; or

18 “(iii) the Act of March 26, 1934 (48
19 Stat. 500).

20 “(2) REDUCTION FOR PREFERENCE CARGO.—A
21 contractor with respect to a vessel may not receive
22 any payment under this title for any day in which
23 the vessel is engaged in transporting more than
24 5,000 tons of preference cargo described in para-

1 graph (1)(B) that is bulk cargo (as defined in sec-
2 tion 3 of the Shipping Act of 1984).

3 “(c) REDELIVERY OF VESSELS.—The Secretary
4 shall, upon the termination of the need for which a vessel
5 is delivered under an operating agreement, return the ves-
6 sel to the contractor—

7 “(1) at a place that is mutually agreed upon by
8 the Secretary of Defense and the contractor; and

9 “(2) in the condition in which it was delivered
10 to the Secretary, excluding normal wear and tear.

11 “(d) TRANSFER OF OPERATING AGREEMENTS.—A
12 contractor under an operating agreement may transfer the
13 agreement (including all rights under the agreement) to
14 any other person that is a citizen of the United States,
15 after notification of the Secretary in accordance with regu-
16 lations prescribed by the Secretary. A person to whom an
17 agreement is transferred may receive payments from the
18 Secretary under the agreement only if the vessel to be cov-
19 ered by the agreement after the transfer is on the list
20 maintained under section 403(d).

21 **“SEC. 406. NONCONTIGUOUS TRADE RESTRICTIONS.**

22 “(a) PROHIBITION.—

23 “(1) IN GENERAL.—Except as provided in this
24 section, a contractor may not receive any payment
25 under this title if—

1 “(A) the contractor or a related party with
2 respect to the contractor, directly or indirectly
3 owns, charters, or operates a vessel engaged in
4 the transportation of cargo in noncontiguous
5 trade, other than in accordance with a waiver
6 under subsection (b) or (c); or

7 “(B) for noncontiguous trade for which
8 there is a waiver under subsection (b) or (c),
9 there is a—

10 “(i) material change in the domestic
11 ports served from the ports permitted to be
12 served under the waiver;

13 “(ii) material increase in the annual
14 number or the frequency of sailings from
15 the number or frequency permitted under
16 the waiver; or

17 “(iii) material increase in the annual
18 volume of cargo carried or annual capacity
19 utilized from the annual volume of cargo
20 or annual capacity permitted under the
21 waiver.

22 “(2) LIMITATIONS ON PROHIBITION.—Para-
23 graph (1) applies to a contractor only in the years
24 specified for payments under the operating agree-
25 ment entered into by the contractor.

1 “(b) GENERAL WAIVER AUTHORITY.—

2 “(1) IN GENERAL.—Except as provided in sub-
3 section (c), the Secretary shall waive, in writing, the
4 application of subsection (a) to a contractor pursu-
5 ant to an application submitted in accordance with
6 this subsection, unless the Secretary finds that—

7 “(A) the waiver would result in unfair
8 competition to any person that operates vessels
9 as a carrier of cargo in a service exclusively in
10 the noncontiguous trade for which the waiver is
11 applied;

12 “(B) existing service in that noncontiguous
13 trade is adequate; or

14 “(C) the waiver will result in prejudice to
15 the objects or policy of this title or Act.

16 “(2) TERMS OF WAIVER.—Any waiver granted
17 by the Secretary under this subsection shall state—

18 “(A) the domestic ports permitted to be
19 served;

20 “(B) the annual number or frequency of
21 sailings that may be provided; and

22 “(C)(i) the annual volume of cargo per-
23 mitted,

24 “(ii) for containerized or trailer service, the
25 annual 40-foot equivalent unit shipboard con-

1 tainer and trailer or vehicle or general cargo ca-
2 pacity permitted, or

3 “(iii) for tug and barge service, the annual
4 barge house cubic foot capacity and the annual
5 barge deck general cargo capacity, or 40-foot
6 equivalent unit container, trailer, or vehicle ca-
7 pacity, permitted.

8 “(3) APPLICATIONS FOR WAIVERS.—An appli-
9 cation for a waiver under this subsection may be
10 submitted by a contractor and shall describe, as ap-
11 plicable, the nature and scope of—

12 “(A) the service proposed to be conducted
13 in a noncontiguous trade under the waiver; or

14 “(B) any proposed material change or in-
15 crease in a service in a noncontiguous trade
16 permitted under an existing waiver.

17 “(4) ACTION ON APPLICATION AND HEARING.—

18 “(A) NOTICE AND PROCEEDING.—Within
19 30 days after receipt of an application for a
20 waiver under this subsection, the Secretary
21 shall—

22 “(i) publish a notice of the applica-
23 tion; and

1 “(ii) begin a proceeding on the appli-
2 cation under section 554 of title 5, United
3 States Code, to receive—

4 “(I) evidence of the nature,
5 quantity, and quality of the existing
6 service in the noncontiguous trade for
7 which the waiver is applied;

8 “(II) a description of the pro-
9 posed service or proposed material
10 change or increase in a previously per-
11 mitted service;

12 “(III) the projected effect of the
13 proposed service or proposed material
14 change or increase in existing service;
15 and

16 “(IV) recommendations on condi-
17 tions that should be contained in any
18 waiver for the proposed service or ma-
19 terial change or increase.

20 “(B) INTERVENTION.—An applicant for a
21 waiver under this subsection, and any person
22 that operates cargo vessels in the noncontiguous
23 trade for which a waiver is applied and that has
24 any interest in the application, may intervene in
25 the proceedings on the application.

1 “(C) HEARING.—Before deciding whether
2 to grant a waiver under this subsection, the
3 Secretary shall hold a public hearing in an ex-
4 peditious manner, reasonable notice of which
5 shall be published.

6 “(5) DECISION.—The Secretary shall complete
7 all proceedings and hearings on an application under
8 this subsection and issue a decision on the record
9 within 90 days after receipt of the final briefs sub-
10 mitted for the record.

11 “(c) EXISTING NONCONTIGUOUS TRADE OPERA-
12 TIONS.—

13 “(1) IN GENERAL.—The Secretary shall waive
14 the application of subsection (a) to a contractor pur-
15 suant to an application submitted in accordance with
16 this subsection if the Secretary finds that the con-
17 tractor, or a related party or predecessor in interest
18 with respect to the contractor—

19 “(A) engaged in bona fide operation of a
20 vessel as a carrier of cargo by water—

21 “(i) in a noncontiguous trade on July
22 1, 1992; or

23 “(ii) in furnishing seasonal service in
24 a season ordinarily covered by its oper-

1 ation, during the 12 calendar months pre-
2 ceding July 1, 1992; and

3 “(B) has operated in that service since
4 that time, except for interruptions of service re-
5 sulting from Operation Desert Storm or over
6 which the contractor (or related party or prede-
7 cessor in interest) had no control.

8 “(2) TERMS OF WAIVER.—

9 “(A) IN GENERAL.—Except as otherwise
10 provided in this paragraph, the level of service
11 permitted under a waiver under this subsection
12 shall be the level of service provided by the ap-
13 plicant (or related party or predecessor in inter-
14 est) in the relevant noncontiguous trade during,
15 for year-round service, the 6 calendar months
16 preceding July 1, 1992, or for seasonal service,
17 the 12 calendar months preceding July 1, 1992,
18 determined by—

19 “(i) the domestic ports called;

20 “(ii) the number of sailings actually
21 made, except as to interruptions in the
22 service in the noncontiguous trade result-
23 ing from Operation Desert Storm or over
24 which the applicant (or related party or

1 predecessor in interest) had no control;
2 and

3 “(iii) the volume of cargo carried or,
4 for containerized or trailer service, the 40-
5 foot equivalent unit shipboard container,
6 trailer, or vehicle or general cargo capacity
7 employed, or, for tug and barge service,
8 the barge house cubic foot capacity and
9 barge deck general cargo capacity or 40-
10 foot equivalent unit container, trailer, or
11 vehicle capacity, employed.

12 “(B) CERTAIN CONTAINERIZED VES-
13 SELS.—If an applicant under this subsection
14 was offering service as an operator of container-
15 ized vessels in noncontiguous trades with Ha-
16 waii, Puerto Rico, and Alaska on July 1, 1992,
17 a waiver under this subsection shall permit the
18 applicant to conduct—

19 “(i) 104 sailings each year from the
20 West Coast of the United States to Hawaii
21 with an annual capacity allocated to the
22 service of 75 percent of the total capacity
23 of the vessels employed in the service on
24 July 1, 1992;

1 “(ii) 156 sailings each year in each di-
2 rection between the East Coast or Gulf
3 Coast of the United States and Puerto
4 Rico with an annual capacity allocated to
5 the service of 75 percent of the total ca-
6 pacity of its vessels employed in the service
7 on July 1, 1992; and

8 “(iii) 103 sailings each year in each
9 direction between Washington and Alaska
10 with an annual capacity allocated to the
11 service in each direction of 100 percent of
12 the total capacity of its vessels employed in
13 the service on July 1, 1992.

14 “(C) CERTAIN TUGS AND BARGES.—If an
15 applicant under this subsection was offering
16 service as an operator of tugs and barges in
17 noncontiguous trades with Hawaii, Puerto Rico,
18 and Alaska on July 1, 1992, a waiver under
19 this subsection shall permit the applicant to
20 conduct—

21 “(i) 17 sailings each year in each di-
22 rection between ports in Washington, Or-
23 regon, and Northern California and ports in
24 Hawaii with an annual barge house cubic
25 foot capacity and annual barge deck 40-

1 foot equivalent unit container capacity in
2 each direction of 100 percent of the total
3 of the capacity of its vessels employed in
4 the service during the 6 calendar months
5 preceding July 1, 1992, annualized;

6 “(ii) 253 sailings each year in each di-
7 rection between the East Coast or Gulf
8 Coast of the United States and Puerto
9 Rico with an annual 40-foot equivalent
10 unit container or trailer capacity equal to
11 100 percent of the capacity of its barges
12 employed in the service on July 1, 1992;

13 “(iii) 37 regularly scheduled tandem
14 tow rail barge sailings and 10 additional
15 single tow sailings each year in each direc-
16 tion between Washington and the Alaskan
17 port range between and including Anchor-
18 age and Whittier with an annual capacity
19 allocated to the service in each direction of
20 100 percent of the total rail car capacity of
21 its vessels employed in the service on July
22 1, 1992;

23 “(iv) 8 regularly scheduled single tow
24 sailings each year in each direction be-
25 tween Washington and points in Alaska

1 (not including the port range between and
2 including Anchorage and Whittier, except
3 occasional deviations to discharge inciden-
4 tal quantities of cargo) with an annual ca-
5 pacity allocated to the service in each di-
6 rection of 100 percent of the total capacity
7 of its vessels employed in the service on
8 July 1, 1992; and

9 “(v) unscheduled, contract carrier tug
10 and barge service between points in Alaska
11 not served by the common carrier service
12 permitted under clause (iii) or (iv) and
13 points in Washington, with an annual ca-
14 pacity allocated to that service not exceed-
15 ing 100 percent of the highest total capac-
16 ity of the equipment that was employed in
17 that service in any year after 1979.

18 “(D) ANNUALIZATION.—Capacity other-
19 wise required by this paragraph to be permitted
20 under a waiver under this subsection shall be
21 annualized if not a seasonal service.

22 “(E) ADJUSTMENTS.—

23 “(i) IN GENERAL.—The annual capac-
24 ity permitted under a waiver under this
25 subsection shall be adjusted for each cal-

1 endar year to reflect changes in the total
2 volume of trade on the noncontiguous
3 trade route for which the waiver is issued.
4 Such an adjustment may not be considered
5 to be a material change or increase in serv-
6 ice under the waiver for purposes sub-
7 section (b)(3)(B).

8 “(ii) LIMITATION.—An increase in ca-
9 pacity under this subparagraph shall apply
10 only to the extent the contractor actually
11 uses the increased capacity to carry cargo
12 in the permitted service in the calendar
13 year immediately following the preceding
14 increase in gross product. However, if a
15 contractor operating exclusively container-
16 ized vessels in that trade on July 1, 1992,
17 carries an average load factor of at least
18 90 percent of permitted capacity (including
19 the capacity, if any, both authorized and
20 used under the previous sentence) during 9
21 months of any one calendar year, then in
22 the next following calendar year and there-
23 after, the requirement that additional ca-
24 pacity shall be used in the immediately fol-
25 lowing year does not apply.

1 “(3) APPLICATIONS FOR WAIVERS.—For a
2 waiver under this subsection a contractor shall sub-
3 mit to the Secretary an application certifying the
4 facts required to be found under paragraph (1) (A)
5 or (B), as applicable.

6 “(4) ACTION ON APPLICATION.—

7 “(A) NOTICE.—The Secretary shall pub-
8 lish a notice of receipt of an application for a
9 waiver under this subsection within 30 days
10 after receiving the application.

11 “(B) HEARING PROHIBITED.—The Sec-
12 retary may not conduct a hearing on an appli-
13 cation for a waiver under this subsection.

14 “(C) SUBMISSION OF COMMENTS.—The
15 Secretary shall give every person operating a
16 cargo vessel in a noncontiguous trade for which
17 a waiver is applied for under this subsection
18 and who has any interest in the application a
19 reasonable opportunity to submit comments on
20 the application and on the description of the
21 service that would be permitted by any waiver
22 that is granted by the Secretary under the ap-
23 plication.

24 “(5) DECISION ON APPLICATION.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the Secretary shall complete
3 all proceedings on an application under this
4 subsection and issue a decision on the record
5 within 180 days after receipt of the application.

6 “(B) EXPEDITED CONSIDERATION.—Sub-
7 ject to the time required for publication of no-
8 tice and for receipt and evaluation of comments
9 by the Secretary, an application for a waiver
10 under this subsection submitted at the same
11 time the applicant applies for inclusion of a ves-
12 sel in the Fleet shall be granted in accordance
13 with the level of service determined by the Sec-
14 retary under this subsection by not later than
15 the date on which the Secretary offers to the
16 applicant an operating agreement with respect
17 to that vessel.

18 “(6) CHANGE OR INCREASE IN SERVICE.—Any
19 material change or increase in a service that is sub-
20 ject to a waiver under this subsection is not author-
21 ize except to the extent the change or increase is
22 permitted by a waiver under subsection (b).

23 “(d) ANNUAL REPORT ON WAIVERS.—Each waiver
24 under this section shall require the person who is granted
25 the waiver to submit to the Secretary each year an annual

1 report setting forth for the service authorized by the
2 waiver—

3 “(1) the ports served during the year;

4 “(2) the number or frequency of sailings per-
5 formed during the year; and

6 “(3) the volume of cargo carried or, for contain-
7 erized or trailer service, the annual 40-foot equiva-
8 lent unit shipboard container, trailer, or vehicle ca-
9 pacity utilized during the year, or for tug and barge
10 service, the annual barge house and barge deck ca-
11 pacity utilized during the year.

12 “(e) DEFINITIONS.—In this section—

13 “(1) the term ‘noncontiguous trade’ means
14 trade between—

15 “(A) the contiguous 48 States; and

16 “(B) Alaska, Hawaii, or Puerto Rico; and

17 “(2) the term ‘related party’ means—

18 “(A) a holding company, subsidiary, affili-
19 ate, or associate of a contractor; and

20 “(B) an officer, director, agency, or other
21 executive of a contractor or of a person referred
22 to in subparagraph (A).

1 **“SEC. 407. FUNDING FOR CONTINGENCY RETAINER FLEET**
2 **OPERATING AGREEMENTS.**

3 “(a) **AUTHORIZATION OF APPROPRIATIONS.**—There
4 are authorized to be appropriated to the Secretary any
5 amounts necessary to liquidate obligations under operat-
6 ing agreements.

7 “(b) **TRANSFER OF BALANCES FROM OPERATING-**
8 **DIFFERENTIAL SUBSIDY PROGRAM.**—Any amounts other-
9 wise available for operating differential subsidy contracts
10 under title VI that are no longer required for those con-
11 tracts are available, until expended, for operating agree-
12 ments.

13 **“SEC. 408. DEFINITIONS.**

14 “In this title:

15 “(1) **CONTRACTOR.**—The term ‘contractor’
16 means an owner or operator of a vessel that enters
17 into an operating agreement for the vessel with the
18 Secretary.

19 “(2) **ELIGIBILITY DECISION APPLICATION.**—
20 The term ‘eligibility decision application’ means an
21 application for a decision by the Secretary under
22 section 403 that a vessel is eligible to be enrolled in
23 the Fleet.

24 “(3) **ELIGIBLE VESSEL.**—The term ‘eligible ves-
25 sel’ means a vessel that the Secretary decides under
26 section 403 is eligible to be enrolled in the Fleet.

1 “(4) FLEET.—The term ‘Fleet’ means the Con-
2 tingency Retainer Fleet established under section
3 402.

4 “(5) FLEET OPERATOR.—The term ‘Fleet Op-
5 erator’ means a person that is a party to an operat-
6 ing agreement with the Secretary in effect under
7 this title.

8 “(6) OPERATING AGREEMENT.—The term ‘op-
9 erating agreement’ means an operating agreement
10 entered into by the Secretary under section 404.

11 “(7) SECRETARY.—The term ‘Secretary’ means
12 the Secretary of Transportation.

13 “(8) UNITED STATES DOCUMENTED VESSEL.—
14 The term ‘United States documented vessel’ means
15 a vessel that is documented under chapter 121 of
16 title 46, United States Code.”.

17 (b) LIMITATION ON ENTERING AND EFFECTIVENESS
18 OF AGREEMENTS.—The Secretary of Transportation may
19 not enter into an operating agreement under title IV of
20 the Merchant Marine Act, 1936, as amended by this Act,
21 before October 1, 1994. Any operating agreement entered
22 into under that title between October 1, 1994, and Sep-
23 tember 30, 1995, may not be effective until October 1,
24 1995.

1 (c) LIMITATION ON PAYMENTS.—Notwithstanding
2 section 405(a)(2) of the Merchant Marine Act, 1936, as
3 amended by this Act, or the terms of any operating agree-
4 ment (as that term is used in that section), the United
5 States Government is not obligated to pay, and the Sec-
6 retary of Transportation may not pay, any amount pursu-
7 ant to that section for any day in which a vessel that is
8 covered by an operating agreement is under a charter to
9 the United States Government that was entered into be-
10 fore the date of the enactment of this Act.

11 (d) LIMITATION ON OPERATING AGREEMENTS FOR
12 VESSELS CONSTRUCTED UNDER EXISTING FOREIGN
13 CONSTRUCTION CONTRACTS.—

14 (1) LIMITATION.—The Secretary of Transpor-
15 tation may decide that a vessel described in para-
16 graph (2) is eligible for an operating agreement
17 under title IV of the Merchant Marine Act, 1936, as
18 amended by this Act, only if—

19 (A) the contract under which the vessel is
20 constructed is, on and after May 19, 1993,
21 binding on the person that submits an eligibility
22 application under that title for the vessel;

23 (B) construction of the vessel is begun be-
24 fore January 1, 1994; and

1 (C) the vessel is a United States docu-
2 mented vessel (as that term is defined in that
3 title) before November 19, 1995.

4 (2) VESSEL DESCRIBED.—A vessel referred to
5 in paragraph (1) is a vessel—

6 (A) that is constructed in a foreign country
7 under a contract that is entered into before
8 May 19, 1993; and

9 (B) the construction of which is not com-
10 pleted before that date.

11 **SEC. 4. OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS.**

12 (a) PROHIBITION ON NEW CONTRACTS.—Section
13 601 of the Merchant Marine Act, 1936 (46 App. U.S.C.
14 1171) is amended by adding at the end the following:

15 “(c) After the effective date of this subsection, the
16 Secretary of Transportation may not enter into any new
17 contract under this title.”.

18 (b) TERMINATION OF EXISTING CONTRACTS.—Not-
19 withstanding any other provision of this Act, any contract
20 in effect under title VI of the Merchant Marine Act, 1936
21 (46 App. U.S.C. 1171 et seq.), on the day before the date
22 of enactment of this Act shall continue in effect under its
23 terms and terminate as set forth in the contract, unless
24 voluntarily terminated on an earlier date by the persons

1 (other than the United States Government) that are par-
2 ties to the contract.

3 (c) EXEMPTION OF BULK CARGO ODS VESSELS
4 FROM OPERATING RESTRICTIONS.—Section 506 of the
5 Merchant Marine Act, 1936 (46 App. U.S.C. 1156) is
6 amended—

7 (1) by inserting “(a)” after “SEC. 506.”; and

8 (2) by adding at the end the following new sub-
9 section:

10 “(b) This section does not apply to any liquid or dry
11 bulk cargo vessel for which operating-differential subsidy
12 is required to be paid under a contract under title VI that
13 is in force on the effective date of this subsection, effective
14 upon the termination date of the contract (as set forth
15 in the contract as in effect on the effective date of this
16 subsection).”.

17 (d) RESTRICTIONS ON OPERATIONS OF ODS VES-
18 SELS.—Title VI of the Merchant Marine Act, 1936 (46
19 App. U.S.C. 1171 et seq.), as amended by this Act, is fur-
20 ther amended by adding at the end the following:

21 **“SEC. 616. LIMITATION ON APPLICATION OF RESTRICTIONS**
22 **ON OPERATIONS.**

23 “Sections 605(c), 804, and 805, this section, and the
24 essential service requirements in section 601(a) and
25 603(a), do not apply to a contractor if—

1 “(1) the contractor submits an eligibility deci-
2 sion application to the Secretary under title IV for
3 all of the vessels operated by the contractor under
4 an operating-differential subsidy contract; and

5 “(2) all of those vessels for which operating
6 agreements are offered by the Secretary under title
7 IV are enrolled in the Maritime Security Fleet.”.

8 (e) **TERMINATION OF OPERATING DIFFERENTIAL**
9 **SUBSIDY FOR OLDER VESSELS.**—Section 605(b) of the
10 Merchant Marine Act, 1936 (46 App. U.S.C. 1175(b)), is
11 amended by adding the following new sentence at the end
12 of the subsection: “After May 19, 1993, the Secretary of
13 Transportation may not enter any new formal order under
14 this subsection.”.

15 **SEC. 5. DEFINITIONS APPLICABLE TO MERCHANT MARINE**
16 **ACT, 1936.**

17 Section 905 of the Merchant Marine Act, 1936 (46
18 App. U.S.C. 1244), is amended—

19 (1) by striking subsection (a) and inserting the
20 following:

21 “(a) Each of the terms ‘foreign commerce’ and ‘for-
22 eign trade’ mean—

23 “(1) trade between the United States and a for-
24 eign country; or

25 “(2) trade between foreign ports.”;

1 (2) by striking subsection (c) and inserting the
2 following:

3 “(c) The term ‘citizen of the United States’ means
4 a person eligible to own a documented vessel under chap-
5 ter 121 of title 46, United States Code.”, and

6 (3) by adding at the end the following:

7 “(h) The term ‘foreign subsidized shipyard’ means a
8 shipyard that—

9 “(1) receives or benefits from, directly or indi-
10 rectly, a shipyard subsidy for the construction of
11 vessels; and

12 “(2) is located in a foreign country that has not
13 signed a trade agreement with the United States
14 that provides for the elimination of subsidies for
15 that shipyard.

16 “(i) The term ‘subsidy’ includes any of the following:

17 “(A) Officially supported export credits and de-
18 velopment assistance.

19 “(B) Direct official operating support to the
20 commercial shipbuilding and repair industry, or to a
21 related entity that favors the operation of shipbuild-
22 ing and repair, including—

23 “(i) grants;

24 “(ii) loans and loan guarantees other than
25 those available on the commercial market;

1 “(iii) forgiveness of debt;

2 “(iv) equity infusions on terms inconsistent
3 with commercially reasonable investment prac-
4 tices;

5 “(v) preferential provision of goods and
6 services; and

7 “(vi) public sector ownership of commercial
8 shipyards on terms inconsistent with commer-
9 cially reasonable investment practices.

10 “(C) Direct official support for investment in
11 the commercial shipbuilding and repair industry, or
12 to a related entity that favors the operation of ship-
13 building and repair, including the kinds of support
14 listed in clauses (i) through (v) of subparagraph (B),
15 and any restructuring support, except public support
16 for social purposes directly and effectively linked to
17 shipyard closures.

18 “(D) Assistance in the form of grants, pref-
19 erential loans, preferential tax treatment, or other-
20 wise, that benefits or is directly related to shipbuild-
21 ing and repair for purposes of research and develop-
22 ment that is not equally open to domestic and for-
23 eign enterprises.

24 “(E) Tax policies and practices that favor the
25 shipbuilding and repair industry, directly or indi-

1 rectly, such as tax credits, deductions, exemptions
2 and preferences, including accelerated depreciation,
3 if the benefits are not generally available to persons
4 or firms not engaged in shipbuilding or repair.

5 “(F) Any official regulation or practice that au-
6 thorizes or encourages persons or firms engaged in
7 shipbuilding or repair to enter into anticompetitive
8 arrangements.

9 “(G) Any indirect support directly related, in
10 law or in fact, to shipbuilding and repair at national
11 yards, including any public assistance favoring ship-
12 owners with an indirect effect on shipbuilding or re-
13 pair activities, and any assistance provided to suppli-
14 ers of significant inputs to shipbuilding, which re-
15 sults in benefits to domestic shipbuilders.

16 “(H) Any export subsidy identified in the Illus-
17 trative List of Export Subsidies in the Annex to the
18 Agreement on Interpretation and Application of Ar-
19 ticles VI, XVI, and XXIII of the General Agreement
20 on Tariffs and Trade or any other export subsidy
21 that may be prohibited as a result of the Uruguay
22 Round of trade negotiations.”

1 **SEC. 6. GOVERNMENT-IMPELLED CARGOES.**

2 (a) **VESSELS ELIGIBLE FOR CARGOES.**—Section
3 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C.
4 1241(b)) is amended—

5 (1) in paragraph (1), by striking “For purposes
6 of this section, the term ‘privately owned United
7 States-flag commercial vessels’” and all that follows
8 through the end of the paragraph and inserting a
9 period; and

10 (2) by adding at the end the following new
11 paragraph:

12 “(3) In this section and section 901b, the term ‘pri-
13 vately owned United States-flag commercial vessel’ means
14 a privately owned vessel that is documented under chapter
15 121 of title 46, United States Code, that—

16 “(A) was built in the United States;

17 “(B) was documented under chapter 121 of
18 title 46, United States Code, before May 19, 1993;

19 “(C) does not transport under section 901b or
20 this section on any voyage more than 5,000 tons of
21 bulk cargo (as defined in section 3 of the Shipping
22 Act of 1984), and—

23 “(i) was built in a foreign shipyard under
24 a contract entered into before May 19, 1993; or

25 “(ii) is built under a contract entered into
26 after that date, in a foreign shipyard that on

1 the date the contract is entered is not a foreign
2 subsidized shipyard;

3 “(D)(i) is built under a contract entered into
4 after May 19, 1993, in a foreign shipyard that on
5 the date the contract was entered is not a foreign
6 subsidized shipyard; and

7 “(ii) has not been documented in a foreign
8 country before it is documented under chapter 121
9 of title 46, United States Code; or

10 “(E) has been documented under chapter 121
11 of title 46, United States Code, for at least 3 con-
12 secutive years, and—

13 “(i) was built in a foreign shipyard under
14 a contract entered into before May 19, 1993; or

15 “(ii) is built under a contract entered into
16 after that date, in a foreign shipyard that on
17 the date the contract was entered is not a for-
18 eign subsidized shipyard.”.

19 (b) CLERICAL AMENDMENT.—Section 901b of the
20 Merchant Marine Act, 1936 (46 App. U.S.C. 1241f) is
21 amended by adding at the end the following:

22 “(f) For the definition of the term ‘privately owned
23 United States-flag commercial vessel’, see section
24 901(b)(3).”.

1 **SEC. 7. VESSEL FINANCING.**

2 (a) **ELIMINATION OF MORTGAGEE RESTRICTIONS.—**

3 Section 31322(a) of title 46, United States Code, is
4 amended to read as follows:

5 “(a) A preferred mortgage is a mortgage, whenever
6 made, that—

7 “(1) includes the whole of the vessel;

8 “(2) is filed in substantial compliance with sec-
9 tion 31321 of this title; and

10 “(3)(A) covers a documented vessel; or

11 “(B) covers a vessel for which an application
12 for documentation is filed that is in substantial com-
13 pliance with the requirements of chapter 121 of this
14 title and the regulations prescribed under that chap-
15 ter.”.

16 (b) **ELIMINATION OF TRUSTEE RESTRICTIONS.—**

17 (1) **REPEAL.—**Section 31328 of title 46, United
18 States Code, is repealed.

19 (2) **CONFORMING AMENDMENT.—**Section
20 31330(b) of title 46, United States Code, is amend-
21 ed in paragraphs (1), (2), and (3) by striking
22 “31328 or” each place it appears.

23 (c) **REMOVAL OF MORTGAGE RESTRICTIONS.—**Sec-
24 tion 9 of the Shipping Act, 1916 (46 App. U.S.C. 808),
25 as amended by this Act, is further amended—

26 (1) in subsection (c)—

1 (A) by striking “and sections
2 31322(a)(1)(D) and 31328 of title 46, United
3 States Code,”; and

4 (B) in paragraph (1) by striking “mort-
5 gage,” each place it appears; and
6 (2) in subsection (d)—

7 (A) in paragraph (1) by striking “transfer,
8 or mortgage” and inserting “or transfer”;

9 (B) in paragraph (2) by striking “trans-
10 fers, or mortgages” and inserting “or trans-
11 fers”;

12 (C) in paragraph (3)(B) by striking
13 “transfers, or mortgages” and inserting “or
14 transfers”; and

15 (D) in paragraph (4) by striking “trans-
16 fers, or mortgages” and inserting “or trans-
17 fers”;

18 **SEC. 8. PLACEMENT OF VESSELS UNDER FOREIGN REG-**
19 **ISTRY.**

20 (a) **IN GENERAL.**—Section 9 of the Shipping Act,
21 1916 (46 App. U.S.C. 808), as amended by this Act, is
22 further amended by adding at the end the following:

23 “(e) Notwithstanding subsection (c)(2), the Merchant
24 Marine Act, 1936, or any contract entered into with the
25 Secretary under that Act, the Secretary of Transportation

1 shall allow a documented vessel to be placed under a for-
2 eign registry if at least one replacement vessel of a capac-
3 ity that is equivalent or greater, as measured by dead-
4 weight tons, gross tons, or container equivalent units, as
5 appropriate, is documented under chapter 121 of title 46,
6 United States Code, by the owner of the vessel placed
7 under foreign registry.”.

8 (b) APPLICATION.—The amendment made by sub-
9 section (a) applies to vessels that are placed under foreign
10 registry after the date of enactment of this Act and re-
11 placement vessels documented in the United States after
12 that date.

13 **SEC. 9. EFFECTIVE DATE.**

14 The amendments made by this Act are effective on
15 the date which is 120 days after the date of enactment
16 of this Act.

17 **SEC. 10. REGULATIONS.**

18 (a) IN GENERAL.—The Secretary of Transportation
19 shall prescribe regulations as necessary to carry out this
20 Act.

21 (b) INTERIM REGULATIONS.—The Secretary of
22 Transportation may prescribe interim regulations nec-
23 essary to carry out this Act and for accepting eligibility
24 decision applications under section 403 of the Merchant
25 Marine Act, 1936, as amended by this Act. For this pur-

1 pose, the Secretary of Transportation is excepted from
2 compliance with the notice and comment requirements of
3 section 553 of title 5, United States Code. All regulations
4 prescribed under the authority of this subsection that are
5 not earlier superseded by final rules shall expire 270 days
6 after the date of enactment of this Act.

7 **SEC. 11. EXPANSION OF STANDING FOR MARITIME UNIONS.**

8 Section 301 of the Merchant Marine Act, 1936 (46
9 App. U.S.C. 1131) is amended by adding at the end the
10 following:

11 “(c) **STANDING FOR MARITIME UNION REPRESENTA-**
12 **TIVES.**—The duly-elected representative of any organiza-
13 tion that is certified by the Secretary of Labor as the prop-
14 er collective bargaining agency for officers or crew em-
15 ployed on any type of United States documented vessel
16 is an interested party in, and has standing to challenge,
17 any proposed or final order, action, or rule of the Sec-
18 retary of Transportation under this Act.”.

19 **SEC. 12. STUDY.**

20 (a) **IN GENERAL.**—After providing public notice and
21 opportunity for comment, the Secretary of Transportation
22 shall conduct a study of—

23 (1) the impact of this Act on the international
24 competitiveness of United States documented vessels
25 and whether this Act has had a favorable or unfa-

1 vorable impact on the ability of United States docu-
2 mented vessels to compete successfully with foreign-
3 flag vessels;

4 (2) whether continuation of the Maritime Secu-
5 rity Fleet program established by this Act would as-
6 sist the international competitiveness of United
7 States documented vessels;

8 (3) whether the Maritime Security Fleet pro-
9 gram should be continued, modified, or discontinued;

10 (4) alternatives that are or should be available
11 to operators of United States documented vessels if
12 the Maritime Security Fleet program is discon-
13 tinued; and

14 (5) any other issues related to promoting the
15 international competitiveness of United States docu-
16 mented vessels that the Secretary considers appro-
17 priate.

18 (b) REPORT.—The Secretary of Transportation shall
19 submit to the Congress a report on the findings and con-
20 clusions of the study required by subsection (a) by not
21 later than 4 years after the date of enactment of this Act,
22 which shall include such recommendations as the Sec-
23 retary considers appropriate.

○

STATEMENT OF JOAN B. YIM
ACTING MARITIME ADMINISTRATOR

DEPARTMENT OF TRANSPORTATION

BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE
OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES
U.S. HOUSE OF REPRESENTATIVES

JULY 20, 1993

Mr. Chairman, members of the Subcommittee, I appreciate your invitation to testify on behalf of the Department of Transportation concerning H.R. 2151, the Maritime Security and Competitiveness Act of 1993.

I would like to commend the members of the Subcommittee for meeting head-on the problems facing the U.S. maritime industry. The causes for the long-run decline of the U.S. merchant marine are many and complex, including operating costs and more stringent regulatory requirements. Certain disparities result in advantages for foreign-flag operators, making it more difficult for U.S. shipping companies to compete in international markets.

As this Subcommittee understands, most U.S. maritime policies and programs date from the mid-1930's. The merchant marine played an important role in our efforts in World War II, and the Korean and Vietnam conflicts. Nevertheless, these programs were not designed to allow U.S. carriers and shipyards to respond rapidly to the dynamic situations found in today's international markets, nor were they conceived to foster the types of innovation and improvements in efficiency that are now needed to be competitive worldwide.

The Administration recognizes the important role that the U.S. merchant marine plays in our national defense policy. As President Clinton recently stated, "America's merchant ships continue to provide jobs and economic benefits for America. The men and women who sail those ships and who serve in supporting industries are prepared to support the Nation in times of crisis."

During times of national emergency or other crises, the commercial fleet is one source of strategic sealift, as was demonstrated during Operations DESERT SHIELD and DESERT STORM. The active commercial fleet also provides a base of seagoing employment for American seafarers, who in turn are available to the Department of Defense and the Maritime Administration to crew sealift ships, including the Ready Reserve Force, during crises. The use of civilian merchant mariners on Government ships in times of emergency is one of the most cost-effective and efficient examples of "public-private partnerships", a new concept to many, but a well-tested one for our national defense.

Over 10,000 seafarers are employed on privately owned, U.S.-flag ships engaged in international trade. The U.S. shipbuilding and repair industry employs substantially more people -- approximately 83,000 in the major shipyards in the United States and about twice that number in the supply industry.

The U.S. maritime industry is now at a crucial juncture. If the industry is to be internationally competitive, then U.S. companies must be able to work within a comparable cost and regulatory structure, and have the same operating flexibility as their foreign competitors.

Given the divergent views within the American maritime industry, formulating and implementing meaningful and acceptable changes in maritime policy is a difficult process and there are no easy solutions. For nearly six months, the Administration has considered initiatives that would help to improve the overall efficiency and economic competitiveness of the industry. Early in his tenure, Secretary Peña met with representatives from all sectors of the U.S. maritime industry -- carriers, shippers, maritime labor and shipbuilders -- to discuss their concerns and to listen to their ideas on how to make the industry stronger.

In April, Secretary Peña developed a set of maritime policy initiatives that were presented to the National Economic Council (NEC). The NEC met regularly over the course of several weeks to discuss in detail each of the Secretary's initiatives, along with policy alternatives.

Maritime reform has received vigorous attention within the Administration and is still under active consideration. One of the crucial issues that has yet to be resolved is funding for a new maritime program. Severe budgetary limitations have already been placed on attempts to increase Federal expenditures generally, and financing priorities for some of the Administration's initiatives have yet to be resolved. Let me assure you, however, that the concerns of the Congress and the industry will be weighed in the decision-making process.

Mr. Chairman, this concludes my statement. I will be happy to answer any questions that you or members of the Subcommittee may have.

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HOUSE MERCHANT MARINE AND
FISHERIES COMMITTEE

STATEMENT OF
WILLIAM J. LYNN
DIRECTOR, PROGRAM ANALYSIS AND EVALUATION
BEFORE THE
MERCHANT MARINE SUBCOMMITTEE
OF THE
HOUSE COMMITTEE ON MERCHANT MARINE AND
FISHERIES

JULY 20, 1993

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HOUSE MERCHANT MARINE AND
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STATEMENT OF WILLIAM J. LYNN
DIRECTOR, PROGRAM ANALYSIS AND EVALUATION
BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE
HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

JULY 20, 1993

Mr. Chairman, members of the committee, I appreciate the opportunity to be here today to testify about the Department of Defense's requirements for sealift and how those requirements might be met.

There is no doubt that DoD needs sealift. The United States is a nation with global interests, and it depends on the deployment of forces from U.S. bases to defend those interests when trouble strikes. A deployment of any significant size would depend heavily on sealift for afloat prepositioning, surge deployment of units, and sustainment of forces with ammunition, supplies, and bulk fuel. It is long-standing national policy to rely on the maritime industry to meet DoD requirements, to the extent that industry can do so, and we intend to continue that policy.

Some types of ships in commercial service are well suited to meeting DoD's sustainment requirements. The Department looks first to the U.S.-flag fleet to supply needed capacity, although we also make use of U.S.-owned ships flying foreign flags as well as ships of other nations, where specific commitments exist. If the U.S.-flag fleet cannot meet DoD's sustainment requirements without financial assistance, however, DoD must balance the benefits of having added capacity in the U.S.-flag fleet against the cost of maintaining that capacity. To invest additional DoD funds in sealift, we would have to be convinced that the reduced risk was worth the opportunity

cost the Department would have to pay through reductions in other aspects of the defense program.

**The Changing Nature of DoD's Sealift Requirements
and Industry's Role in Meeting Them**

The prospect of a shortfall in the maritime industry's capacity is a relatively new problem for defense planners. Throughout the 1970s, the industry was able to meet all but a few very specialized military sealift requirements. Defense programming focused on NATO, and the requirement for rapid reinforcement with heavy ground forces was met largely through prepositioning. The commercial shipping fleets of the United States and its NATO allies were adequate in both number and capacity to meet U.S. deployment time tables and to sustain deployed U.S. forces over time.

In the late 1970s, the Department took a number of steps to improve U.S. defense capabilities in Southwest Asia. Prepositioning ashore was not an option in that region at the time. While some ships in commercial service could meet early deployment requirements, the U.S.-commercial fleet was in the process of replacing those vessels with containerships, which are extremely useful for moving commercial cargoes but cannot handle large items of military equipment efficiently. Thus, the Department found it necessary to procure sealift vessels to move the equipment of units that would deploy early in a crisis.

By the late 1980s, the government had procured rapid-response sealift for about one Army division and its support. Those vessels included fast sealift ships, along with roll-on/roll-off ships for the Ready Reserve Force. In addition, under a "build and charter" program, the Department acquired 13 prepositioning ships, on which it stored equipment and supplies for three

Marine brigades. For later-deploying units, we relied on the U.S.-flag and the remaining government-owned vessels. Together, those ships provided the capacity to deploy three more Army divisions and their support. The U.S.-flag fleet also was able to meet sustaining requirements. This was the fleet available in the summer of 1990 when Operation Desert Shield began. In that deployment, about 45 percent of the cargo that went by sea moved on ships owned by or on long-term charter to the government; 35 percent moved on U.S.-flag ships normally engaged in international trade; and 20 percent moved on chartered foreign-flag vessels of coalition partners and other nations.

Future Requirements and Programs to Meet Them

U.S. defense planning now focuses on regional contingencies like Desert Shield/Desert Storm, and our estimate of future requirements has been heavily influenced by that experience. One of the main lessons of the Gulf War was that the deployment would have been much too slow if Iraq had pressed its initial advantage. We cannot count on having several months to build up U.S. forces in future regional contingencies. In 1991, therefore, the Department began a major assessment of mobility requirements for regional contingencies. The first product of that effort--Volume I of the Mobility Requirements Study--was transmitted to Congress in January of 1992. That volume addressed inter-theater mobility requirements. To overcome deficiencies in rapid deployment capability, the study recommended:

- o Procurement of ships for afloat prepositioning of a heavy Army brigade and theater support forces;

- o Procurement of rapid-response sealift to augment existing capacity for deploying a two-division heavy Army corps anywhere in the world within 35 to 40 days;
- o Retention of enough residual capacity in the government-owned fleet to augment U.S.-flag vessels so that a regional deployment could be completed in about 60 days; and
- o Improvements to the U.S. infrastructure to permit the rapid movement of equipment and supplies to ports of embarkation.

The Mobility Requirements Study found that additional government-owned sealift would have to be procured for the rapid-deployment of military units, for three reasons. First, ships for rapid deployment missions must be available for loading in four or five days. Second, such vessels must be capable of being loaded and unloaded quickly. Third, they must have relatively high speed. Unfortunately, only a small percentage of ships in commercial service can be made available for military missions that quickly, and there is little commercial demand for ships with the loading and speed characteristics that facilitate the rapid deployment of military equipment.

On the other hand, the Mobility Requirements Study found that the U.S.-flag fleet, as then projected, would be adequate to meet sustainment requirements at least through the end of the decade.

Volume II of the study was transmitted to Congress last month. It provides supporting detail for the conclusions of Volume I; an examination of the use in concurrent contingencies of the mobility force recommended in Volume I; and analyses of several programmatic details, such as the location

of reserve ships. Volume III, which we expect to transmit in the fall of this year, will include analyses of requirements for sealift tankers and for intra-theater lift of all types and an examination of the increased use of containers.

Recent Developments

Since the inter-theater portion of Mobility Requirements Study was completed, two major U.S.-flag carriers have announced their intention to reflag a portion of their fleets. A number of such reflagings already had been anticipated in the fleet projection used in the study, so these announcements do not come as a complete surprise. If these applications for reflagging are approved, some of these ships could move to the effective U.S.-controlled fleet, where they still would be available in time of national emergency. The planned disposition of the remaining ships is uncertain, as is the size of the U.S.-flag fleet that would be sustained by Jones Act and future preference cargoes alone.

Administration Efforts

As you know, the Administration is considering government policy and program options for the maritime industry, from the point of view both of meeting DoD requirements and of encouraging a competitive industry that would provide jobs for Americans. Until the Administration has completed its review and the President made a decision on the policy he wishes to pursue, it would be inappropriate for me to comment on the specific programmatic options we are considering or on HR 2151.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions you or members of the subcommittee have.

Testimony of

Dr. Paul K. Chapman

on House Bill 2151

Before

The Subcommittee on Merchant Marine

Of the House Merchant Marine and Fisheries Committee

July 20, 1993

1334 Longworth House Office Building

Washington, DC 20515

From 1980 to 1990, I was the Director of the Center for Seafarers' Rights in New York City, an organization which I helped start to advise seafarers and port chaplains from around the world about what to do when merchant seafarers are facing serious employment problems on board.

Today there are port chaplains in about 800 ports, including ninety in U.S. ports, and they enjoy the confidence of seafarers whom they visit on their ships. Seafarers often confide in the chaplain about conditions on board, frequently asking for advice in dealing with living and working conditions. In the past chaplains were often ill-equipped to deal with these issues, so the Center for Seafarers' Rights was created to research the laws, to counsel chaplains and seafarers when their rights were being abused and to advocate on behalf of seafarers.

In the course of ten years, we ourselves dealt with about 1600 specific cases, as well as training chaplains to deal directly with issues as they arose. In this process we developed an informal profile of what is happening to seafarers in international merchant shipping, and some of our findings are reviewed in my book, Trouble on Board, which was published last year by the ILR Press of Cornell University, and which I respectfully submit as part of this testimony.

Jurisdiction on Board

I want to make a few comments on the proposed legislation. Unless the United States government makes a commitment to support and maintain U.S. flag carriers, American shipping companies will be forced by competition from abroad to register their ships in others countries, as many already have.

Let me begin with the matter of jurisdiction on board foreign flag ships. Traditionally, as we all know, the country of registry in theory has jurisdiction over the internal affairs of a ship. A ship owned in Hong Kong may have a mixed crew from Burma, the Philippines and other developing countries, but once that seafarer signs onto a Panamanian-flag ship, he is controlled by the Panamanian maritime labor code. The fact is that many of the thirty or more flag of convenience registries which today register almost 50% of the world's ships have little or no interest in enforcing their maritime labor code and no administrative capability of doing so.

The effect of this is that once a merchant ship leaves port, it moves beyond the control of any legal regime. In effect it moves into a legal black hole. Contracts can be ignored, and since crews are often recruited where unemployment is high and wages are low, crew members are often reluctant to even voice their complaint except perhaps to a chaplain.

Non-payment of wages was the most frequent complaint we have heard, but we encountered many other kinds of problems: refusal to allow a sick or injured seafarer access to medical care, abandonment of seafarers in foreign ports without money for repatriation, inadequate food and water, forced employment for months after the contract expired, responsibility for two jobs on board when the seafarer had been hired for only one, physical abuse. The list is long and well-documented.

Without any legal protection or meaningful union contracts, the owner/operator is free to arbitrarily deal with crew without any restraint. Good management includes a high regard for the dignity and working conditions of the workers, but we found that on as many as 20% of the ships, the crews were being abused and exploited. And the number may be higher because crew members are reluctant to speak up, lest they lose their jobs. What I am trying to say is that these registering countries are in the business only to collect registration fees and have little interest in maintaining a wholesome maritime tradition. Registering in these countries allows a deterioration of standards which in a most notorious example includes the shipment of human cargo--illegal aliens brought to our shores-- as we have seen lately. As for working seafarers, flagging out has meant the end of legal protections for thousands. These are workers without a country to protect them.

Management procedures

Exploitation is all the more likely to occur in today's maritime world in view of the way in which crews are recruited.

Once a ship is flagged out one of the first changes is the nationality of the crew. The procedure is quite simple; all around the world there are aggressive maritime recruiting agencies generally called manning agencies, which have people ready to be hired. I've worked a lot with these manning agents in the Philippines where there are several hundred manning agencies, and I have been in contact with manning agencies in many other Third World countries. They in effect compete with each other to sell crews in the international maritime market.

What usually happens today is that a major shipping company in the developed world, operating under a flag of convenience, does not itself deal with these manning agents, but the owner of the shipping company contracts with a ship management company which in turn sub-contracts with the manning agency.

All direct connection between the owner/operator and the crew is lost in the process, and the only criterion for the operation is profit. In this highly competitive industry, a downward spiral results, and an operator is constantly tempted in the pressure of competition to go a notch lower in standards. A Filipino AB can be employed for \$300 - \$400 a month. A Chinese A.B. can be hired for less than \$100 a month. Having lost all connection with the recruiting process and dealing only with a hierarchy of ship management companies with various kinds of chartering procedures, the owner/operator may not even be aware of conditions on board, or salary levels, or of the standards that are being maintained.

My book relates the incident of a Taiwanese crew of a ship chartered by a major U.S. oil company coming to me to complain that they had not been paid in a year. The oil company had no idea. When the Center for Seafarers' Rights contacted the oil company they did make good on the wages and later settled in court with the intermediaries who should have been paying the crew all along.

What will happen

Should the major U.S. shipping companies in international trade be forced by competition to register their ships either in a second U.S. registry or in a so-called flag of convenience country, a sequence of events will inevitably follow. The effect of either off-shore registry has been the same.

First, the American crews will be replaced by foreign crews. This may not happen all at once; perhaps at first the senior officers will continue to be U.S. citizens. We know the experience of other countries; Norway, for example. In their off-shore registry, initially Norwegians were hired as Master and the Chief engineer, and the rest of the crew were from foreign lands. But now on many of the Norwegian second registry ships, all of the officers and crew are foreign.

In this country this would result in a loss of maritime capability, the end of a career, of an expertise, which has helped for 300 years to shape this country. This would be an unrecoverable loss. There is no crash course for maritime officers. You go to school, and you also spend ten years at sea working your way up to master. Of course there are highly competent maritime officers from other countries, but to lose part of our national competence would be tragic.

A further point. Most of the senior operating officers of our major shipping companies were once ships' captains. If there is no pool of ships' officers to draw from, will our shipping companies be able to function in this country? It has been suggested that in the long run, not only will the ships flag out, but the companies themselves may move abroad.

Second, besides this loss of maritime jobs, we would inevitably witness a deterioration of standards and competence. At the very time when this Congress is trying to raise standards in the shipping world, in the passage of the Oil Pollution Act of 1990, and when we are advocating in the international agencies, in the IMO and the ILO, for the improvement of standards, it would be sad for the international shipping community if the United States could not model the high level of standards of competence which we have achieved through the centuries.

To not provide help for U.S. flag carriers would be a real loss for maritime commerce the world around.

Let me conclude, Mr. Chairman and members of this subcommittee, by saying that one of the reasons I wanted to make this trip from Vermont where I live to Washington to appear before you was to leave you with the question: Should the possibility of some more American ships going offshore be considered only in terms of national and economic security? Should we not consider this possibility from the standpoint of human rights and the potential for abuses to life and safety?

Whatever the U.S. determines about our maritime policy, the nation should be careful not to condone violations of basic human rights which we fervently protect and promote around the world through U.S. diplomatic efforts and human-rights oriented foreign policy.

Thank you for the opportunity to appear before this subcommittee. I hope I have been helpful. I am willing to entertain any questions you may have.



U.S. Department
of Transportation
**Maritime
Administration**

Administrator

400 Seventh Street, S.W.
Washington, D.C. 20590

0 2 SEP 1993

The Honorable William O. Lipinski
Chairman, Subcommittee on Merchant Marine
Committee on Merchant Marine and Fisheries
U.S. House of Representatives
Washington, DC 20515-6230

Dear Mr. Chairman:

I am enclosing responses to the additional questions about H.R. 2151, the Maritime Security and Competitiveness Act of 1993, that you sent to me on July 21, 1993, subsequent to my testimony before the Subcommittee on Merchant Marine regarding this bill on July 20, 1993.

I would like to thank you for the opportunity to testify on H.R. 2151. If you have any further questions or if I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan B. Yim".

Joan B. Yim
Acting Maritime Administrator

Enclosure

QUESTIONS FOR DEPARTMENT OF TRANSPORTATION
HEARING ON H.R. 2151
JULY 20, 1993

QUESTION 1: Can you provide a timetable on when the Administration will announce its plans for revitalizing the U.S. maritime industry? Will the Administration make a commitment of financial support to keep vessels with American crews under the U.S.-flag?

ANSWER: The review of maritime programs is still ongoing in the Administration and we are continuing to review various policy alternatives that would provide an effective initiative, consistent with our budget resources. I cannot say with any certainty what the decision will be or when it will be made; however, we will provide the Committee with our recommendations as soon as possible.

QUESTION 2: If Congress fails to enact maritime revitalization legislation this year, what steps do you plan to take to ensure the viability of a U.S.-flag merchant marine?

ANSWER: If no legislation is enacted this year, then the Administration will have to weigh the various options for ensuring some presence of a U.S.-flag fleet. Jones Act cargo and cargo preference statutes require U.S.-flag ships to be used to carry certain cargoes, and those statutes will still have to be adhered to.

QUESTION 3: On June 29, 1993, the two largest U.S. flag container companies (Sea-Land and American President Lines) announced their intentions to transfer substantial portions of their respective U.S. fleets to foreign registry. It is my understanding that MARAD has received the Sea-Land application and that the application from APL will be forthcoming. What criteria will MARAD use to reach a decision on these applications? Can you tell us the status of the Sea-Land application, including an estimate of when a decision will be made?

Answer: MARAD's regulation provides that proposed foreign transfers of vessels of 1,000 gross tons or more will be evaluated in light of:

(i) Type, size, speed, general condition, and age of the vessel;

(ii) The acceptability of the proposed transferee and the country of registry or the country under the authority of which the vessel is to be operated; and

(iii) The need to retain the vessel under U.S. documentation, ownership or control for purposes of national defense, maintenance of an adequate merchant marine, foreign policy considerations or the national interest.

MARAD has received reflagging applications from both Sea-Land and American President Lines and we are reviewing them to decide whether sufficient information is included to deem them complete applications.

To my knowledge, MARAD has never been asked to approve the transfer of registry of such a large number of relatively modern liner vessels. Their applications will require particularly serious consideration. Accordingly, we are in the process of assessing various options for processing these applications.

QUESTION 4: Many believe that operators should be permitted to reflag their vessels if the Government is unwilling to provide financial assistance to offset the higher cost of operating under the U.S. flag. Could you give us your views on that assessment?

ANSWER: The Administration understands that U.S.-flag operators should be able to operate competitively and on par with foreign-flag operators. To the extent that U.S.-flag operators request the authority to transfer ships to foreign registry, those requests will be handled on a case-by-case basis. It would be inappropriate to pre-judge any such request.

QUESTION 5: If the number of vessels engaged in U.S.-foreign commerce continues to decline thereby shrinking the pool of trained U.S. seamen, how will MARAD assure that U.S. crews will be available to man Ready Reserve Force vessels in an emergency?

ANSWER: The Administration recognizes that there may be a serious problem crewing these ships in the future and is examining options. Seafarers need jobs in peacetime on commercial ships if we are to expect them to be available in a war or other national emergency. Our experience in DESERT SHIELD and DESERT STORM was on the one hand gratifying that so many mariners volunteered for service, but on the other hand, we saw firsthand the problems of crewing ships rapidly that result from a reduced commercial labor force.

QUESTION 6: We keep hearing that the Department of Transportation's maritime proposal is under review by the Administration's National Economic Council (NEC). Please describe this group for the Committee. Is it comprised of Cabinet members and, if so, have the meetings been conducted at that level or at considerably lower levels? Do the people attending the meetings on maritime matters represent the President's views on those issues?

ANSWER: The NEC was established by Executive Order No. 12835 on January 25, 1993. It is chaired by the President, and consists of the heads of 12 Cabinet and Executive agencies.

Numerous meetings of the NEC were held at all levels to discuss maritime reform. Ultimately, the President, as chairman of the NEC, will have to weigh the options that he is presented and make the final decision based on what is most beneficial for this country.

The agencies represented on the NEC are the Departments of Agriculture, Commerce, Energy, Housing and Urban Development, Labor, State, Transportation, and Treasury, the Environmental Protection Agency, the Council of Economic Advisors, the Office of Management and Budget, and the U.S. Trade Representative.

Question 7: Recent allegations have questioned the integrity of MARAD's process for determining fair and reasonable rates. Would you care to comment?

Answer: Any allegations impugning MARAD's integrity in the determination of fair and reasonable rates are unfounded and wholly without merit. The process has been reviewed on numerous occasions and found to meet the requirements of the fair and reasonable regulations as enacted.

Under the fair and reasonable process, MARAD's determinations are made pursuant to the regulations in 46 CFR Parts 382 and 383 and are based on the operating and financial costs on file with MARAD and a profit limited by a current transportation profit index. The Controller General has confirmed that "fair and reasonable" is predicated on costs of U.S.-flag operation. These costs are certified by a company official and subject to a MARAD audit program. The Department of Transportation's Inspector General independently completes the audits.

Background: Regulations: 46 CFR Part 382 - bulk vessels 46 CFR Part 383 - bulk commodities on liner vessels operating statistics - speed, fuel consumption, operating days, deadweight tons, age, and etc. Operating costs - wages, subsistence, stores, M&R, insurance and other. Fuel costs based on consumption and current bunker prices. Capital costs - depreciation, interest, return on equity and return on working capital. Port and cargo costs - wharfage, dockage, tugs, stevedoring, elevator charges, canal tolls, pilots and etc. Brokerage and overhead - 2.5 percent brokerage and 6 percent overhead.

QUESTION 8: How many shipyard and shipboard jobs will be lost by a failure to save this industry? How many other jobs in the economy are likely to be lost?

ANSWER: Currently there are about 20,000 seafarers employed on ships in the oceangoing U.S.-flag fleet. There are about 115,000 shipyard workers employed in the major shipyards in the United States.

If the current subsidy program lapses at the end of the decade, then the number of shipboard jobs on U.S.-flag vessels will decline to about 6,300. Likewise, in our shipyards we project a significant decline in jobs to about 53,000 by the end of the decade if the orderbooks are not soon filled. Added to this is the loss of about 60,000 jobs in the shipbuilding supplier industries like steel, electronics, etc.

QUESTION 9: Without a program of government support, how many U.S.-flag ships will we have at the end of the decade? How many do you estimate will be operated in the foreign commerce of the United States?

ANSWER: The Department of Transportation estimates that if no action is taken at this time to strengthen the U.S. maritime industry, the number of ships in the privately owned, oceangoing U.S.-flag fleet will drop to slightly over 130 ships (from 384 ships today), of which less than 30 will be employed in the U.S. foreign trade.

QUESTION 10: The Chairman of the Subcommittee on Merchant Marine recently wrote to President Clinton suggesting that the simplest and most effective solution for immediate government action to save the U.S. merchant marine would be to retain the operating-differential subsidy program embodied in Title VI of the Merchant Marine Act, and incorporate program controls on new ODS contract awards within this framework. Do you have any comments on this proposal?

ANSWER: I have reviewed Chairman Lipinski's letter to the President, and note that this concept should be seriously discussed within the Administration as an alternative to new legislation to accomplish the maritime revitalization program DOT has proposed.

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HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	<input checked="" type="checkbox"/>	HOUSE	OTHER Merchant Marine Congressman Lipinski
SENATE		SENATE		SENATE		
HEARING DATE	TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.			
July 20, 1993					Q-1	

DoD'S ROLE IN MARITIME POLICY REVIEW

Unclassified

Question: Please describe the Defense Department's role in the Administration's Maritime Policy review process. From a strategic standpoint, does your department see a need for maintaining a viable U.S. merchant marine crewed with U.S. citizens?

Answer: DoD is conducting a comprehensive review of defense policy, strategy, and requirements. Additionally, DoD is participating with the National Economic Counsel in the Administration's review of U.S. maritime policy. As part of that latter effort, DoD is identifying defense requirements for sealift beyond what the government program will provide, and assisting in the development and evaluation of options for meeting that portion of the requirement.

The Department has always planned to use as much sealift as possible from the U.S. commercial fleet. It is U.S. policy to rely on American assets first. The contraction of the maritime industry may pose problems for this policy. We are examining the costs, benefits, and risks of various ways of ensuring that adequate sealift capability will be available to meet future needs. Additionally, the Department is reviewing manning requirements for the Ready Reserve Force and methods to satisfy those needs.

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HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	X	HOUSE	OTHER Merchant Marine Congressman Lipinski
SENATE		SENATE		SENATE		
HEARING DATE		TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.		
July 20, 1993						Q-2

SUPPORT FOR MARITIME REFORM

Unclassified

Question: Did your department support the Department of Transportation maritime reform proposal recently submitted for consideration within the Administration? What are your objections, if any?

Answer: It is long-standing national policy to rely on the U.S. maritime industry to meet defense requirements for sealift, to the extent that the industry can do so. The Department of Defense is working with the Department of Transportation to develop options to strengthen our maritime industry.

INSERT FOR THE RECORD						
HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	X	HOUSE	OTHER Merchant Marine Congressman Lipinski
SENATE		SENATE		SENATE		
HEARING DATE		TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.		
July 20, 1993						Q-3

PROJECTED SEALIFT CAPITAL AND O&M COSTS

Unclassified

Question: What are your department's projected capital and O&M costs for acquiring ships and laying them up for future sealift requirements for fiscal year 1994 and the next 10 years?

Answer: DoD is requesting \$290 million in FY 1994 to procure one large, medium-speed roll-on/roll-off ship (LMSR) for surge operations. The Administration has not yet completed a detailed spending plan for FY 1995-99, but the plan is not expected to differ significantly from the \$3.8 billion program recommended by the Mobility Requirements Study for the same period. Because the ships take several years to build, operating and maintenance (O&M) expenses would not begin until FY 1998. The O&M costs of the ships would amount to about \$84 million through FY 1999.

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HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	<input checked="" type="checkbox"/>	HOUSE	OTHER Merchant Marine Congressman Lipinski
SENATE		SENATE		SENATE		
HEARING DATE	TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.			Q-4
July 20, 1993						

COMMERCIAL SHIP ROLES IN DESERT SHIELD/STORM

Unclassified

Question: How many U.S.-flag commercial vessels were involved in operations Desert Shield/Storm and what was the related volume of cargo carried on those ships? Please provide the same information with respect to foreign-flag ships used during those operations. What ship and tonnage requirements does your department project on a sustainment basis for future conflicts?

Answer: Comparisons of the number of ships used in Operation Desert Shield to statements of future requirements can be highly misleading for several reasons:

- First, ships come in many different sizes. The LMSRs we plan to procure are much larger than many of the ships that we chartered during the Persian Gulf war.
- Second, in Desert Shield, cargoes frequently traveled on more than one ship. The Special Mideast Shipping Agreement (SMESA), under which we negotiated cargo space on commercial vessels, involved 62 U.S.-flag ships and 52 foreign feeder ships.
- Third, we used only a portion of the capacity of many of the ships that took part in Operation Desert Shield. Cargoes that left the United States on a U.S.-flag ship under SMESA were intermixed with commercial cargoes on regular trade routes. Fewer ships would have been needed to meet DoD requirements if military cargoes had been consolidated on single ships.
- Fourth, future operations may require a more rapid deployment of forces than was needed in Operation Desert Shield/Storm. Increased use of high-readiness Ro/Ro ships to meet time-lines that cannot be met by commercial ships as well as increasing prepositioning may reduce the contribution of commercial ships in future contingencies.

The U.S.-flag commercial vessels that participated in the Persian Gulf war fell into three categories: ships obtained under long-term government charter; ships acquired under spot charters; and ships made available through the Special Mideast Shipping Agreement. Long-term charters were considered part of the DoD-controlled fleet, since they included the Maritime Prepositioning Ship (MPS) fleet and the Afloat Prepositioning Force (APF). Spot charters and SMESA-contracted ships were the vessels most often categorized as U.S.-flag ships. During the war, 41 U.S.-flag ships were spot chartered. Those vessels carried 238,000 short tons of supplies, or about 7 percent of the total cargo that was transported by sea. The SMESA agreement involved seven U.S.-flag carriers, and resulted in the delivery of 986,000 short tons of cargo over the course of the war. Those shipments represented about 29 percent of the total amount of material that was sealifted to the region. Since SMESA service involved

(Continued next page)

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SENATE		SENATE		SENATE		
HEARING DATE July 20, 1993	TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.		Q-4 (Continued)	

COMMERCIAL SHIP ROLES IN DESERT SHIELD/STORM

Unclassified

the worldwide transportation system, U.S.-flag carriers were able to take advantage of transshipment arrangements with foreign feeder services--a normal practice in this trade. U.S. cargo starting its journey on a U.S.-flag ship did not necessarily arrive at its final destination on the same or another U.S.-flag vessel: two or more ships were generally used to move a single cargo. Foreign-flag vessels were spot chartered when U.S.-flag vessels were not available. About 238 foreign-flag vessels--including containerships, breakbulks, roll-on/roll-off ships, and other special purpose vessels--moved approximately 680,000 short tons of resupply material, or 20 percent of the total tonnage moved.

The Mobility Requirements Study projected sealift requirements for a major regional contingency under the rather demanding assumptions that no allied assistance would be available and that, to augment the government-owned fleet, DoD would rely solely on shipping capacity provided voluntarily by U.S.-flag operators. Neither ships in Jones Act trade nor U.S.-owned but foreign-flagged ships were assumed to be available. Under those assumptions, the study found that the equivalent of 20 to 30 commercial ships (depending on size) would be needed to meet sustainment requirements.

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HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	X	HOUSE	OTHER
SENATE		SENATE		SENATE		Merchant Marine
HEARING DATE	TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.			Congressman Lipinski
July 20, 1993						Q-5

PLANS FOR SUSTAINMENT SEALIFT

Unclassified

Question: What are your department's plans for the use of U.S.-flag vessels for sustainment sealift? Explain whether you believe it is important to have U.S.-flag vessels available for sustainment purposes.

Answer: In peacetime, all oceangoing DoD cargo is shipped on U.S.-flag vessels. In wartime, we plan to use as much capacity as can be obtained from the U.S.-flag fleet to move sustainment cargoes. Toward that end, we will continue to work with the U.S. maritime industry to ensure that we make the most effective use of U.S.-flag ships for military missions.

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HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	X	HOUSE	OTHER
SENATE		SENATE		SENATE		Merchant Marine
HEARING DATE	TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.			Congressman Lipinski
July 20, 1993						Q-6

CHARTERING VESSELS FOR SUSTAINMENT SEALIFT

Unclassified

Question: Please summarize your department's plans for chartering sealift sustainment needs both in the absence of a U.S.-flag fleet and assuming that U.S. ships are available.

Answer: The Department has always planned to use U.S.-flag ships to the extent they are capable of contributing to military operations. The Mobility Requirements Study (MRS) found that the U.S.-flag fleet would be adequate to meet sustainment needs in future contingencies. The fleet projections used in that study did not assume a reinstatement of operating subsidies. We are continuing to evaluate alternative means of ensuring that adequate capacity will exist should the MRS projection prove to be optimistic.

INSERT FOR THE RECORD						
HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	X	HOUSE	OTHER Merchant Marine Congressman Lipinski
SENATE		SENATE		SENATE		
HEARING DATE	TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.			
July 20, 1993					Q-7	

MILITARY RISK

Unclassified

Question: Please assess the military risk associated with meeting U.S. sealift requirements in the absence of experienced U.S. civilian crews.

Answer: There are two facets to this issue that require response. The first concerns the risk associated with moving military cargo on ships not manned by U.S. crews. We have experienced occasional difficulties with both foreign and domestic crews in past contingencies. Our experience leads to the conclusion that having ships under U.S.-flag reduces military risk somewhat, but it is impossible to quantify the degree to which risk is reduced.

The second facet concerns our ability to man reserve ships. DoD would first turn to U.S. merchant mariners to crew these ships. Ships in the Jones Act fleet, ships that move preference cargoes, U.S.-flag ships in international trade, and the ships that DoD plans to operate for afloat prepositioning would provide the pool of U.S. manpower from which reserve crews could be drawn. Our projections, based on the Maritime Administration's fleet forecast, show that the ready pool of merchant mariners is large enough, when combined with a dedicated contingency manning program, to crew our Ready Reserve Force (RRF) ships. DoD is working with the Maritime Administration to develop programs that will ensure that RRF crews are available in adequate numbers in time of war.

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HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	X	HOUSE	OTHER Merchant Marine Congressman Lipinski
SENATE		SENATE		SENATE		
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July 20, 1993					Q-8	

CREWING THE READY RESERVE FORCE

Unclassified

Question: Does your department have contingency plans for crewing the Ready Reserve Force (RRF) if U.S. civilian crews are unavailable? In that event, what would be the costs associated with manning the RRF?

Answer: DoD is working with the Maritime Administration to ensure that adequate manpower will be available to the RRF in future contingencies. Alternative manning plans, such as a civilian reserve program, are being reviewed by the Maritime Administration, while DoD is examining the feasibility of using Naval Reservists experienced in operating these types of vessels. Cost analyses and implementation strategies are being developed as part of the evaluation process, which is expected to be completed in the next several months.

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HOUSE SENATE	APPROPRIATIONS COMMITTEE	HOUSE SENATE	ARMED SERVICES COMMITTEE	X	HOUSE SENATE	OTHER Merchant Marine Congressman Lipinski
HEARING DATE July 20, 1993	TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.		Q-9	

MARSHALL ISLANDS TREATY

Unclassified

Question: What is the nature of the treaty or agreement with the Marshall Islands under which vessels of that registry would be made available to the United States in an emergency? What assurances do we have that such vessels and their foreign crews would be available for our use?

Answer: There is no treaty that allows the United States to obtain Marshall Islands-flag shipping; however, under the Compact of Free Association, the U.S. government recognizes an exclusive security and defense role relative to the Republic of the Marshall Islands. The Republic of the Marshall Islands has no law that would prevent the U.S. government from requisitioning a U.S. citizen-owned or -controlled ship registered in the Republic of the Marshall Islands. This is similar to other Effective U.S. Control (EUSC) nations' regulations or understandings with the U.S. government. Such requisitioning authority is authorized under Section 902 of the Merchant Marine Act of 1936.

In addition, the Vessel War Risk Insurance program, under Title XII of the Merchant Marine Act of 1936, as amended, allows the Department of Transportation to provide indemnification of vessels in exchange for the vessels' availability for national defense needs.

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HOUSE SENATE	APPROPRIATIONS COMMITTEE	HOUSE SENATE	ARMED SERVICES COMMITTEE	X HOUSE SENATE	OTHER	Merchant Marine Congressman Lipinski
HEARING DATE	TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.			
July 20, 1993					Q-10	

"GO IT ALONE" CAPABILITY

Unclassified

Question: During operations Desert Shield/Storm, the United States had the near unanimous support of the international community, and we could generally count on the cooperation of foreign vessels crewed with foreign nationals. Does it concern you that the same degree of cooperation would not be likely during a less popular foreign undertaking in which we would be required to "go it alone"? Please explain.

Answer: While we remain concerned over the contraction of the maritime industry, the Mobility Requirements Study (MRS) evaluated a scenario such as you describe, in which no allied assistance would be available. The study found that given the MRS recommendations, the U.S.-flag fleet, at the size then projected, would be adequate to meet sealift needs in a major regional contingency. The MRS projection assumed that commercial capacity would be provided entirely on a voluntary basis. We are continuing to evaluate alternative means of ensuring that adequate capacity will exist should the fleet projections used in the MRS prove to be optimistic.

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HOUSE SENATE	APPROPRIATIONS COMMITTEE	HOUSE SENATE	ARMED SERVICES COMMITTEE	X HOUSE SENATE	OTHER	Merchant Marine Congressman Lipinski
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July 20, 1993					Q-11	

BOTTOM-UP REVIEW

Unclassified

Question: When will the Bottom Up Review be completed, and please explain how it relates to the administration's deliberations on maritime revitalization.

Answer: The Bottom-Up Review should be completed in September. That review is evaluating U.S. defense policy, strategy, and force requirements for the post-Cold War era. Interim findings from the review are being considered in the National Economic Counsel's review of U.S. maritime policy, in which DoD is a full participant.

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HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	X	HOUSE	OTHER Merchant Marine Congressman Lipinski
SENATE		SENATE		SENATE		
HEARING DATE	TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.			
July 20, 1993					Q-12	

FULFILLING SUSTAINMENT SEALIFT REQUIREMENTS

Unclassified

Question: It is the Committee's understanding that DoD has indicated as part of the next maritime review process that its only sustainment sealift requirement is for 20 to 30 ships. How do you intend to provide/acquire this capability? Are you assuming all those ships will be available immediately when you need them or are you planning to use foreign flag ships if they're not available?

Answer: The Mobility Requirements Study found that 20 to 30 ships would be needed to meet sustainment requirements in a Middle East contingency. That capacity would be obtained, as it was during the Persian Gulf war, through short-term spot charters and through a shipping agreement accessing the worldwide transportation network. The worldwide transportation network consists of regularly scheduled liner service between major commercial ports. Feeder service is provided from those locations to lesser ports, similar to the way in which commercial airlines provide flights between major hubs and offer feeder service to smaller cities. During Operation Desert Shield, DoD contracted for commercial shipping services through the Special Mideast Shipping Agreement (SMESA). Under that agreement, the Department shipped sustainment cargo to the Mideast, via major European ports, on regularly scheduled liner service. Sustainment cargoes do not have to be delivered as rapidly as initial combat materials. This allows time to use commercial shipping lines, opting first for U.S.-flag carriers.

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HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	X	HOUSE	OTHER
SENATE		SENATE			SENATE	Merchant Marine Congressman Lipinski
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July 20, 1993					Q-13	

DEFINING SUSTAINMENT SHORTFALL

Unclassified

Question: If 20 to 30 ships are required today when you have yet to contract for the first of your 13 new ROROs (LMSR), which we understand won't be all complete until the year 2000 or after, does the sustainment requirement decline or is the 20 to 30 ship requirement the shortfall after those ships have been delivered?

Answer: The LMSRs will provide fast-reaction, or "surge," capability. The requirement for sustainment sealift would be fulfilled by a combination of government-owned vessels and non-government-owned ships. The 20- to 30-ship requirement to which you refer pertains to non-government-owned vessels that are needed to augment the capacity provided by government-owned ships after the LMSRs have been procured.

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HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	X	HOUSE	OTHER
SENATE		SENATE			SENATE	Merchant Marine Congressman Lipinski
HEARING DATE	TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.			
July 20, 1993					Q-14	

SEALIFT APPROPRIATIONS

Unclassified

Question: It is the Committee's understanding that the cost of the new ROROs planned to be acquired and laid up is between \$350 and \$400 million per copy - how much of that money has been appropriated to date, and what is your projection for the additional appropriations required to just acquire the remainder?

Answer: To date, \$2.46 billion has been appropriated for the strategic sealift program. The Department requested \$290.8 million in FY 1994 and expects to request about \$3.8 billion for FY 1995-99.

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HOUSE	APPROPRIATIONS COMMITTEE	HOUSE	ARMED SERVICES COMMITTEE	X	HOUSE	OTHER Merchant Marine Congressman Lipinski
SENATE		SENATE		SENATE		
HEARING DATE July 20, 1993	TRANSCRIPT PAGE NO.	LINE NO.	INSERT NO.	Q-15		

SHIP READINESS COSTS

Unclassified

Question: Could you tell us what your fully allocated cost is today to keep your Fast Sealift Ships and the cost for MARAD to keep its RRF ROROs in 4 day readiness? What are the projected costs for keeping the new ROROs in 4 day status?

Answer: The cost of maintaining Fast Sealift Ships under the Military Sealift Command's fixed-price contract is \$5.4 million per ship per year. At that funding level, ships can be activated and taking on cargo within three days of notification. To achieve that level of reliability and readiness, 21-man crews are permanently assigned to the ships, quarterly activations are conducted, and a rigorous maintenance regimen is adhered to. To reduce costs, we have recently renegotiated the management contracts to specify a four-day readiness requirement.

Costs for the Ready Reserve Force (RRF) are shared by the Maritime Administration (MARAD) and DoD. MARAD manages the maintenance contracts at an estimated cost of \$3.8 million per ship per year. DoD contributes to ship readiness by coordinating annual test activations with regularly scheduled joint exercises. This approach permits RRF ships to be activated within four days of receiving notification. Ten-man crews are permanently assigned to the ships to perform routine maintenance, and each ship is activated once a year, normally in concert with a joint exercise. Since the four-day readiness requirements status of RRF ships is relatively new, and the RRF management contracts and maintenance plans are fundamentally different from those used by the Military Sealift Command, we are unable to provide a per-ship estimate of RRF program costs at this time.

WASHINGTON POST 12/31/92

SS John W. Brown Scheduled to Make '94 Atlantic Voyage

By Paul W. Valentine
Washington Post Staff Writer

BALTIMORE—The SS John W. Brown, a World War II Liberty ship, rests here, recovering from half a century of use and abuse while hundreds of volunteer workers race to ready it for a 1994 rendezvous with remembrance.

If all goes as organizers hope, the John W. Brown will sail under its own steam to France in spring 1994 to join other craft in observing the 50th anniversary of the Allied invasion of Europe at Normandy.

Dozens of Marylanders who are helping to restore the ship expect to be aboard.

"We're very optimistic we'll make it," said John W. Boylston, president of the Baltimore-based Project Liberty Ship.

Formidable hurdles remain, including raising \$2.7 million to finish the restoration work and pay for fuel and food for the 1994 trip. "This is a herculean feat," he said.

The John W. Brown, named after an early 20th century labor leader, is one of only two Liberty ships remaining from the 2,700-ship fleet of squat 10,500-ton-capacity cargo carriers that were mass-produced in Baltimore and other ports on a crash basis to ferry troops, supplies and equipment to Europe and the Pacific during World War II.

More than 200 were sunk by enemy bombs, mines and torpedoes. Hundreds of U.S. Merchant Marine seamen and Navy armed guard crewmen were killed aboard them.

After the war, most of the remaining Liberty ships were sold for scrap after being mothballed in Norfolk.

The other surviving Liberty

ship is the SS Jeremiah O'Brien, which has been restored and is now anchored in San Francisco as a museum.

Organizers here have similar long-range plans for the John W. Brown, but for the moment all energies are directed at getting the ship to Europe in 1994.

Much has already been done. The 19-foot-high, 270,000-pound engine is in working order again. The bridge, crew's quarters, galley, gun turrets and other features are being restored to their original appearance.

About 2,000 rivets have been replaced in the Brown's steel bottom, where some corrosion had occurred. But 10,000 still have to be replaced in the 441-foot-long hull before the Brown can be certified by maritime regulators as "ocean-worthy," according to Boylston. It is an expensive task, he said, that requires putting the ship in dry dock.

The interior restoration work—wiring, carpentry, metal work, painting—is done largely by skilled volunteers who have put in more than 150,000 hours since

Project Liberty Ship acquired the Brown for free from the Maritime Administration in 1988 after it had been used as a floating high school in New York for more than 30 years.

"I'm having a lot of fun," said Edwin Moran, 74, of Clinton, a retired carpenter who is building walls and oak bunka in the fore-castle, where the Navy gunners' living quarters were. The bunka and several of the walls, called bulkheads, had been ripped when it was used as a school. Moran, going by original blueprints and using wood and bronze hardware cannibalized from a junked Liberty ship in Norfolk, is painstakingly restoring the fore-castle to its former appearance.

"We're striving for authenticity," said Moran, a former Merchant Marine seaman who drives almost every Wednesday and Saturday from Prince George's County to work on the Brown, moored two miles east of Baltimore's Inner Harbor.

When the restoration is done, he said, the Brown "will be a living, steaming memorial."

Another feature of the Brown will be an on-board library with more than 1,000 volumes on naval engineering, the Merchant Marine and "pretty much anything to do with World War II," said Dave Akd-worth, 55, of Severna Park, a computer consultant and the Brown's librarian.

Boylston, 53, of Solomons, a naval architect, said Project Liberty Ship has about 2,500 members and supporters, of whom about 500 do most of the volunteer work on the ship. The project has raised \$1.7 million, most of it in private contributions, since 1988 to help pay for sandblasting, dry dock work and other tasks beyond the ability of the volunteers.

In addition, he said, the project has received an estimated \$2.5

million to \$3.5 million in "in-kind donations" of engine parts, paint, rope (called "line" in Navy parlance) and other items.

Still, he said, the Brown needs \$2.7 million to complete the restoration, meet seaworthiness standards and pay for fuel and food when the ship goes to Europe in 1994. He estimated that fuel alone will cost \$700,000, noting that the Brown is scheduled to go not only to Normandy but to 42 other European ports in a series of goodwill calls.

In addition to private contributions, Boylston said, Rep. Helen Delich Bentley (R-Md.) is pushing legislation to have two mothballed cargo ships in Norfolk sold for scrap with the proceeds going to the Brown, as well as the Jeremiah

O'Brien and a third World War II vintage cargo craft, the SS Lane Victory, two other ships scheduled to make the 1994 transatlantic voyage.

The legislation not only would bring in an estimated \$700,000 for the Brown, Boylston said, but would "give us more credibility" in soliciting loans and private contributions.

He said the project also plans to sell trade show space on board the Brown for U.S. companies to exhibit products as the ship stops at European ports of call after the Normandy observances.

"This is not going to be just an old sailors' romp," Boylston said. "... We want to remind the world of the U.S. contribution to the Allied victory in Europe."

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