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**MARITIME SECURITY AND TRADE ACT OF 1994**

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Maritime Security and Trade Act of...

SUBCOMMITTEE ON MERCHANT MARINE  
OF THE  
COMMITTEE ON  
MERCHANT MARINE AND FISHERIES  
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

**H.R. 4003**

**A BILL TO AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 1995 FOR CERTAIN MARITIME PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION, TO AMEND THE MERCHANT MARINE ACT, 1936, AS AMENDED, TO REVITALIZE THE UNITED STATES-FLAG MERCHANT MARINE, AND FOR OTHER PURPOSES**

MARCH 17, 1994

**Serial No. 103-91**

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



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1994

79-653CC \*\*

For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-045848-X

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# MARITIME SECURITY TRADE ACT OF 1994

THURSDAY, MARCH 17, 1994

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

The Subcommittee met, pursuant to call, at 10:05 a.m., in room 1334, Longworth House Office Building, Hon. William O. Lipinski (Chairman of the Subcommittee) presiding.

Present: Representatives Lipinski, Studds, Pickett, Taylor, Schenk, Furse, Stupak, Bateman, Cunningham, Kingston, Bentley.

Also Present: Representative Unsoeld.

Staff Present: Subcommittee on Merchant Marine: Keith Lesnick, Staff Director; Randy Morris, Legislative Clerk; Fred Zeytoonjian, Counsel; Natalie Hidalgo, Professional Staff; David Honness, Professional Staff; Hugh N. Johnston, Minority Counsel. Committee on Merchant Marine and Fisheries: Jeffrey R. Pike, Staff Director; Tom Kitsos, Chief Counsel; Joan Bondareff, Senior Counsel; John Cullather, Professional Staff; Carl W. Bentzel, Counsel; Mary Kitsos, Chief Clerk; Sue Waldron, Press Assistant; Harry F. Burroughs, Minority Staff Director; Cynthia M. Wilkinson, Minority Chief Counsel; Kip Robinson, Minority Counsel; Margherita Woods, Staff Assistant.

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

Mr. LIPINSKI. Good morning everyone. A problem we have this morning is another committee meeting going on that includes a number of our Subcommittee Members and they are probably going to arrive a little bit late. In light of the fact that the Secretary has limited time, we will start our hearing as soon as possible in order to take advantage of his time. We will simply fill in the other committee members as they arrive.

As Subcommittee Chairman, I would now like to recognize the Chairman of the full Merchant Marine and Fisheries Committee, Congressman Studds, for his opening statement.

## STATEMENT OF HON. GERRY E. STUDDS, A U.S. REPRESENTATIVE FROM MASSACHUSETTS, AND CHAIRMAN, COMMITTEE ON MERCHANT MARINE AND FISHERIES

Mr. STUDDS. Thank you, Mr. Chairman. Mr. Secretary, I don't have an opening statement of any length or even in writing, but I just want to first of all welcome you back and second of all com-

mend you for the extraordinary leadership you have shown here. I think the attendance here is partly attributable, as Mr. Lipinski said, to the fact that this is the usual 11-ring circus—we all have to be 10 places at once—and partly to the wonderfully, happily ironic fact that we have already passed your bill.

Let me just say that I don't remember a fight in all my years here that has been more fun than this one. We have the full backing, as you know, of the President—have had from the beginning, and I think as we have said privately, I think collectively you and Admiral Herberger and your troops and Mr. Lipinski and this Committee and some of our friends in the Senate have surprised a lot of people with what we have been able to accomplish to this point.

And I think it is abundantly clear to people who look at this situation that the only totally intolerable outcome of this effort would be inaction because that would leave the United States, in short order, without a fleet of any consequence flying its flag and without the capacity to build any vessels either for that fleet or for the world markets. I cannot imagine any thoughtful citizen of this land contemplating with equanimity such an outcome. It is literally unthinkable.

We have pledged, you and I and the President and this Committee, not to let it happen, and you have already seen with one resounding vote last fall the bipartisan determination of this Congress not to let that happen. And, as you know, significant components of our shipbuilding program are in law and funded and underway. We just have one or two more steps we would like to take in that direction, but to a large extent, we have won that battle, at least the initial stages of it.

With regard to operating the U.S.-flag fleet, you have now come forth with the full statement of the Administration's comprehensive position. I think this will enable us to bust this bill loose in the Senate. As you very well know, at the ceremony in your building last week, Senator Breaux and you and Admiral Herberger and I and Lane Kirkland and the very colorful president of the Seafarers Union, Mike Sacco, and the enduring performance which is on videotape, made it very, very clear that the consensus in the industry, of the Seafarers, the men and women on ships, the men and women who build ships who would like to have an opportunity to build commercial ships in this country, that there is immense support across this land for the initiative which you have spearheaded.

And I know that I speak for an awful lot of people on this Committee and more broadly throughout the Congress and the country in thanking you and commending you and Admiral Herberger. It has been an absolute delight to work with you, and we look forward to finishing this one with a flourish. Welcome. Thank you, Mr. Chairman.

Mr. LIPINSKI. Thank you, Mr. Chairman.

Mr. STUDDS. Let me just, if I may, Mr. Chairman, add—

Mr. LIPINSKI. Certainly.

Mr. STUDDS [continuing]. I apologize to you, sir. My own schedule is also such that I will not be able to stay beyond your statement, but I think my feelings are pretty clear. Thanks.

Mr. LIPINSKI. Once again I say thanks to Chairman Studds. I am going to put my opening statement in the record because of our



time restraints here this morning. I simply want to say that I very sincerely appreciate the efforts of the Secretary on behalf of maritime reform. The President has always been on board, but many others in the White House have not looked very favorably upon this.

The Secretary's determination and persistence brings us here today. On behalf of the entire maritime industry I want to express my sincere appreciation to the Secretary for his work.

[Statement of Mr. Lipinski follows:]

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

Good morning. The subject of our hearing today is the administration's proposal for a Maritime Security Program.

As most of you recall, maritime revitalization received considerable attention in the 102nd Congress. In the present Congress, we passed H.R. 2151, the Maritime Security and Competitiveness Act, a comprehensive bill to rejuvenate the U.S. maritime industry. This measure overwhelmingly passed because of the bipartisan support it received from the Members of this Committee and the House.

The House of Representatives has spoken loud and clear—we need a strong U.S.-flag fleet to enhance the American economy and national security. This fleet will be owned by U.S. citizens, employ American workers, and pay United States taxes. This is neither a Democratic nor a Republican issue, but a national issue. I want to once again thank Committee Members for their concerted efforts to keep the American flag flying on the high seas.

I would also like to extend my appreciation to the representatives of the U.S.-flag merchant marine—both the companies and labor. For too long, we heard claims that the industry was not capable of putting its differences aside to create a program that would strengthen the U.S. merchant marine, our economy, and our national security. We proved the nay sayers wrong last fall, and I look forward to the continued cooperation of the companies and labor this year.

We are encouraged by the Clinton Administration's initiative to create a reform proposal and to include the program in the President's budget. It is an important step and a courageous move, given the current fiscal climate, and it deserves our gratitude and support.

At the same time, the administration's proposal is not as comprehensive as the program contained in H.R. 2151. There are scope, cost and financing differences that need to be addressed. Nonetheless, President Clinton has demonstrated his commitment to maritime revitalization, and I am confident that the administration and our Subcommittee will work closely and constructively to devise a fair reasonable policy.

Secretary of Transportation Federico Peña and Maritime Administrator Albert Herberger have been at the forefront of efforts to make maritime revitalization a reality, despite formidable opposition from well-organized special interest groups and their colleagues within the administration. We are especially pleased to have them with us today, and we look forward to hearing their testimony.

Mr. LIPINSKI. I now will recognize our ranking member, Mr. Bateman.

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

Mr. BATEMAN. Thank you very much, and good morning, Mr. Secretary and Admiral. We are very delighted to have you with us today and certainly want to begin by expressing our appreciation for your willingness to appear. And I will try to make this statement brief, but there are some things on my mind that I need to get off of it.

As I have stated on many other occasions, I am very pleased that you have presented a plan that will enable this country to retain a strong U.S.-flag merchant marine. I believe you have presented a framework that will allow us to move forward. I must say, how-

ever, I am disappointed that your proposal allows the unlimited acquisition of foreign-built vessels, vessels that for all practical purposes will be built in heavily subsidized foreign yards.

For those of us who have been around for more than a few years that we would like to remember, it is the foreign building issue which has presented the biggest stumbling block to passage of a comprehensive maritime reform package.

Under the excellent leadership of Chairman Lipinski; Chairman Studts; our ranking member, Jack Fields; and many others, we overcame that obstacle last year by including a shipbuilding component in H.R. 2151. This component, the Series Transition Payment Program or STP, offers an opportunity for U.S. shipyards to reenter the commercial markets that have so long been controlled by the Germans, the Japanese, the Koreans, and others.

STP was not designed to hamstring operators or to require higher capital costs but simply to place U.S. yards on an equal footing with their competitors. It is the inclusion of STP that, in my opinion and the opinion of many others, allowed the passage of H.R. 2151 last fall. We have tried delinking as you have suggested, and it simply does not appear doable.

I am also appreciative of this Administration's efforts to help the shipbuilding industry as contained in last year's Defense Authorization Act. However, we appear to be slow in implementing those provisions. Regulations required by statute to have been promulgated by February 28 have yet to be published. I can tell you that I and many others remain concerned about the content of those regulations and following what was the clear intent of Congress as worked out with the Administration in its agreement last year.

Finally, let me comment briefly on the funding mechanism for the Administration's proposal. I believe we may need to make some adjustments there also which I would be happy to discuss with you as my thinking on the matter jells. The information I have obtained indicates that the liners will contribute 24 percent of the revenues per year, the liquid and dry bulk carriers 72 percent of the revenue, and the cruise ship industry only 1.5 percent of the cost.

Simply stated, the cruise ship industry will pay 1.5 million per year in fees while the liquid and dry bulk carriers will pay 72 million. This appears out of balance. I might add that U.S.-flag bulk carriers are specifically excluded from the plan, an oversight we need to correct.

So, again, Mr. Secretary and Admiral Herberger, we thank you for being here and look forward to your testimony this morning.

[Statements of Members follow:]

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 delighted to join you and other Members of the Subcommittee on Merchant Marine in welcoming Secretary Peña and Administrator Herberger today. I look forward to discussing the Administration's proposed maritime reform legislation.

Last fall, the House of Representatives passed H.R. 2151, the most significant maritime reform bill in several decades, by a overwhelming majority. That bill is a typical compromise measure—no one is completely satisfied. Although it is not perfect, it certainly goes a long way toward solving the major problems confronting our maritime industry.

On Thursday, March 10th, several of us introduced H.R. 4003, the Administration's proposal, by request. There are differences between our legislation and the Administration's proposal; one of the most important of these relates to funding maritime reform. The Administration proposes to increase the tonnage fee on vessels, while H.R. 2151 is silent on this issue. I think it is fair to say that most of the Members of this Committee would have preferred to see maritime reform funded, at least in part, with Defense Department money, given the importance of having a U.S.-flag merchant fleet, particularly for military sealift. But wherever the money comes from, funding is critical to the success of maritime reform; because without it, the future of the American merchant marine and U.S.-flag liner vessels is certainly bleak.

Our Committee believes strongly in the three components of the merchant marine: operations, manning, and shipbuilding. All three are taken care of in H.R. 2151. Unfortunately, the Administration's bill fails to address the problems in the shipbuilding sector. Apparently, the Administration believes that last year's Defense Department Authorization Act will provide sufficient assistance to America's shipbuilding industry. I am not convinced that it will be enough to assure the conversion of our shipbuilding expertise from building war ships to building commercial vessels. There must be a shipbuilding component to maritime reform and that is why the Series Transition Payment (STP) program, which is contained in H.R. 2151, must be retained.

We, in the House, have done all that we can for the time being. Reform legislation awaits Senate action. One thing is clear, time is running out on this Congress and on the American merchant marine as we know it. We cannot afford to fail in this effort. The cost will be too great.

I look forward to the testimony of our distinguished witnesses.

Thank you, Mr. Chairman.

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STATEMENT OF RANDY "DUKE" CUNNINGHAM, A U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. Chairman, I would like to thank you for holding this hearing today regarding the Administration's Maritime Proposal. As you well know, this Committee has worked diligently over the past year to create a program that satisfied the interests of both the Ship Builders as well as the interests of the Ship Operators. It is important to me that any proposed Maritime package remain fair. The compromise that this Committee sent to the Floor last fall and passed the House overwhelmingly sent a strong message of our commitment to the revitalization of our Maritime industry.

However, I am concerned that the Administration's proposal that is before the Committee today has left out a critical component regarding our Nation's Shipbuilding capabilities that was included in H.R. 2151. That is the Series Transition Payments (STP). It is critical to our shipbuilding industry in the transition from building Naval vessels to building commercial vessels that Series Transition Payments be included in the Administration's proposal. Presently our shipbuilding industry is almost totally dependent of the Navy for its survival. The Series Transition Payment program would allow the U.S. shipyard bidder the chance to offer a competitively priced U.S. built vessel with a minimum contribution from the Federal Government.

The fact that our foreign competitors have been building vessels in series for years, much as we build automobiles in this country, shows the imperative need for the same in our shipyards. If U.S. shipyards are afforded the same opportunity to build ships in series, then the difference between the price of a U.S. built ship and the world market price will decline. This would allow us to eventually be competitive once again. If our shipbuilding and industrial base is to be maintained, then we are going to have to recapture a share of the commercial shipbuilding market. Without the funding for this vital program, it is clear that Operators will go foreign with all of their new construction. Construction that is done in foreign subsidized yards makes it impossible for our domestic yards to compete. The loss of jobs domestically would be catastrophic if this scenario plays out.

Along with the recent failure of the latest round of trade talks designed to eliminate foreign shipbuilding subsidies, our shipyards continue to be at a crucial juncture. Without funding for our Series Transition Payment program, we are in jeopardy of losing this critical component of our defense industrial base and hundreds of thousands of jobs that support that base.

Mr. Chairman, I am confident that the United States can be competitive again, once we get foreign subsidizing out of the shipbuilding and repair industry. At the

same time, however, we must remain unified in our effort to see to it that the Series Transition Payment program remains in the legislation. If we in this Committee are serious in our dedication to this issue, then we will not proceed with any new initiative that does not include the interest of our ship yards and their shipbuilding capacity.

In closing, Mr. Chairman, I would like to thank you for holding this hearing today.

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STATEMENT OF HON. LYNN SCHENK, A U.S. REPRESENTATIVE FROM CALIFORNIA

Thank you, Mr. Chairman.

Mr. Secretary, I am glad that you have taken the time to come here today to present the Administration's Maritime Policy Proposal. It's a pleasure to have you here again, but I am afraid that I cannot greet your proposal with the same pleasure. I recognize that the policy represented in H.R. 4003 is a vast improvement over the Administration's Maritime Policy a year ago—i.e. no policy at all—and I believe that you, Mr. Secretary, deserve considerable credit for moving the Administration as far as it has come in the right direction. But the policy you bring to us today is, unfortunately, inadequate.

The Maritime Security and Trade Act does address many of the concerns of the shipping industry, and, although I disagree with some of the specifics, it compares well with H.R. 2151, which the House passed last year and which I support. H.R. 4003, however, fails to address to any significant degree the concerns of the shipbuilding industry, and that is a major and, perhaps, insurmountable flaw. You may respond that the title IX provisions in conjunction with the Maritech Program should be sufficient to bring U.S. shipbuilding back to the internationally competitive levels. But I will tell you that it is not enough. We must find ways to revitalize commercial shipbuilding in this country if we are going to have a maritime industry at all. I am very disheartened that the Administration does not recognize that fact. I am concerned that this is a case where the half-a-loaf you offer will in the end become no loaf at all.

We have all witnessed the decline in the U.S. shipbuilding industry. Reductions in Navy procurement and the lack of commercial work will eliminate some 100,000 shipbuilding, ship repair, and marine supplier jobs over the next six years. Our major competitors subsidize their shipbuilders at annual levels we cannot consider matching: South Korea, \$2.4 billion; Germany, \$2.3 billion; Japan, \$1.9 billion. The Administration only proposes about \$150 million in loan guarantees to be available in fiscal year '95.

Just look at our competition. In the 1980's, the Japanese government created a cartel of its largest shipbuilders. It purchased and closed unproductive facilities and funded shipbuilding production and technology improvements. The Japanese provided soft loans for purchases of Japanese-built vessels and paid Japanese ship owners to scrap their old ships and build new ones in Japanese yards.

The South Korean government followed suit by using its national bank to finance the buildup of Korean yards while they dumped ships on the international market. In Europe, governments pumped money into their domestic yards and encouraged customers with cash grants and soft financing.

One study of the Japanese industry shows that throughout the 1980's the price of Japanese vessels never met their cost. In fact, at the low point in 1985, the price of a Japanese vessel averaged 55% of its cost. In the 1980's the United States dismantled its Construction Differential Subsidy program and allowed our shipbuilding industry to fare for itself. How is an unsupported U.S. shipbuilding industry expected to compete in such a market?

I am very disappointed with this proposal. H.R. 4003 would allow an unprecedented number of foreign-built vessels into the Marine Security Program. If our U.S. shipbuilders disappear for lack of Federal support, I predict we will soon see not only foreign-built ships predominating in U.S. trade but foreign-flagged, foreign-crewed, and, eventually, foreign-owned ships controlling our commerce. That is unacceptable. Mr. Secretary, if the Administration does not want to directly subsidize our shipbuilding industry as our competitors subsidize theirs, I challenge you to find new and innovative ways to preserve and support an American industry we cannot afford to lose.

Thank you for listening, Mr. Secretary, and thank you, Mr. Chairman.

Mr. LIPINSKI. Thank you, Mr. Bateman. As I mentioned earlier, I have waived my opening statement, and we have heard from the majority side with Chairman Studts. We have heard from the mi-

nority side with the ranking member of the subcommittee, Mr. Bateman, and I would like everyone else to submit their opening statements for the record so we can get into the testimony of the Secretary. You will have more of an opportunity to ask questions that way. Secretary, the floor is yours.

**STATEMENT OF THE HONORABLE FEDERICO PEÑA, SECRETARY OF TRANSPORTATION, U.S. DEPARTMENT OF TRANSPORTATION**

Secretary PEÑA. Thank you very much, Mr. Chairman, and good morning, members of the subcommittee and Chairman Studds. I understand you may need to excuse yourself, and I appreciate that.

Mr. Chairman and members, I want to say in the clearest possible manner that I can, how delighted I am to be here today. As has been said by a number of the members already, a year ago I think many people who have observed this process and this effort, particularly in past years, may have concluded that we would not have gone as far as we have to date. But now that we have a President and an Administration working in partnership with the Congress, I am absolutely confident we are finally going to address these very important issues, both maritime reform and support of our shipbuilding industry.

So I am very pleased to be here this morning, Mr. Chairman, accompanied by our Maritime Administrator, Admiral Herberger, to support the Administration's Maritime Security and Trade Act of 1994. I believe so strongly in what we are attempting to accomplish that I wanted to be here personally to testify.

I bring with me the President's support in our efforts to secure America's future as a maritime nation. At the outset, I want to thank in particular Chairman Studds and all the members for introducing the President's proposal and for your leadership on this very important issue.

I commend the members of this committee for passing a comparable bill last year and also appreciate the bipartisan support of the members of this committee for a new maritime policy. Maritime revitalization was a top priority of mine soon after I became Secretary of Transportation, and I look forward to working with you to secure the final passage this year. The Administration wants to set a new course for America's merchant marine, one that will enhance the competitiveness of this industry into the 21st century.

The Administration has proposed and is implementing separate programs for two vital maritime industries—the United States-flag fleet and the United States shipbuilding industrial base.

The President's shipbuilding initiative announced last fall includes Title XI funding of about \$150 million, supporting approximately \$1.5 billion in loan activity. The Department of Transportation's Fiscal Year '95 budget includes a \$50 million Title XI request to implement this shipbuilding program.

The Department is also working with the Advanced Research Project Agency, ARPA, through Maritech to improve commercial competitiveness. The President's shipbuilding initiative includes \$220 million over five years for research and development to accelerate technology transfer and to process change.

In addition to the above-mentioned funding requests, the President's shipbuilding plan will expand government activities to assist marketing efforts for U.S. shipyards, revise regulations that impose unnecessary burdens on the shipbuilding industry, and seek to level the international playing field through negotiations at the Organization for Economic and Cooperative Development, OECD, to end foreign shipbuilding subsidies.

President Clinton's second maritime initiative, the Maritime Security and Trade Act, guarantees the continued existence of a fleet of privately owned, commercial United States-flag ships crewed by skilled American civilian seafarers and owned by United States citizens. This legislation is designed to maintain a modern American merchant fleet, ensure continuing American presence in the transportation of our international commerce, and provide adequate sealift for national emergencies. As members of this subcommittee know, a comprehensive revitalization of maritime policy for the United States merchant marine has been needed for many, many years.

And we are proud of our American-flag carriers and their development of technological innovations such as containerization, double-stack rail cars, specialized containers, electronic equipment identification, and satellite tracking, all of which have formed the basis of the finest intermodal transportation system in the world. The American public, as consumers of imports and producers of exports, is the primary beneficiary of this efficient intermodal system.

The Administration's bill proposes a 10-year Maritime Security Program, which we call MSP, which would provide total funding of approximately \$1 billion, approximately \$100 million per year, to support U.S.-flag liners in our international commercial trade. To be eligible for the MSP, U.S. operators would be required to keep vessels in active foreign commerce under the United States flag. Commercially and militarily useful ships would be selected for this program, as determined by the Department of Transportation, after consultation with the Department of Defense.

The modern ships included in this program would provide the competitive type of service that is so important in international commercial shipping and trade and in meeting the needs of customers here in the United States as well as overseas.

This proposal also ensures that U.S.-flag ships would remain available to meet national security requirements. Participating ship operators would be required to make their ships and other commercial transportation resources available to the government in time of national emergency or when decided by the President to be in the national interest. The commercial transportation resources to be provided would include ships, capacity, intermodal systems or equipment, terminal facilities, and management services.

This infrastructure provided an intermodal pipeline during the Persian Gulf conflict, moving critical supplies on commercial container ships in door-to-door service. In time of need, therefore, the United States will have the finest intermodal sealift support available anywhere in the world.

To move toward more competitive shipping rates for the carriage of preference cargoes, this legislation would make modern United States-flag ships eligible to carry preference cargoes. The competi-

tiveness of the United States-flag merchant fleet would be enhanced by enactment of this bill because all operators joining the new program would be deregulated, and trade route and service restrictions in the current ODS program would be eliminated.

In addition, the Administration's proposal contains a specific plan to pay for this maritime revitalization program. Specifically, we propose an increase in the existing vessel tonnage duty. That duty, initially created by the first Congress for the benefit of U.S.-built ships, is charged on all foreign trade vessels entering our ports. The duty is assessed on a vessel's net registered tonnage, NRT, a universal measure of cargo capacity.

Currently, if a ship enters the United States from a nearby Western Hemisphere foreign port, the fee is nine cents per NRT. If its last call was outside that area, the fee is 27 cents per NRT. Our proposal is to increase this two-tiered fee by 15 and 44 cents respectively. Under current law, no fee is collected once a ship has made five calls in a year in U.S. ports, and we propose to retain this practice which has been in effect since the late 19th century.

Tonnage fees are deposited into the general fund of the Treasury and, within the budget, serve as offsetting receipts for Coast Guard services provided to the international maritime industry. Today, our Coast Guard provides an estimated \$800 million in services to ships of all nations for aids to navigation, search and rescue, vessel inspections, and many other activities.

An increase in tonnage duties was enacted by Congress in 1990 as a partial offset of the Coast Guard's cost of these services. This proposed increase would be treated similarly in our budget, thereby allowing us to fund the MSP on a pay-go basis.

We believe this fee increase will have no adverse impact in our foreign trade or any segment of our maritime international trade industries. Our analysis of this increase shows that about \$1.50 will be added to the cost of moving a 20-foot container. The added cost on a typical cruise ticket is just 38 cents. Tankers would pay about one additional penny per barrel of oil, and the fee for dry bulk cargo ships would increase by about 14 cents per ton.

The size of our foreign commerce and the vigorous growth we see ahead mean this increased duty should have no harmful effect on any port, shipper, or company. The increase in tonnage duties initiated by this committee in 1990 has not adversely affected trade. In fact, foreign trade has increased since 1990.

As the President said just last week, "A modern merchant United States-flag fleet, with skilled U.S. mariners, will provide not only jobs and economic benefits but also an important sealift capacity in times of national emergency."

Along with the President, Admiral Herberger and I look forward to working with you to secure approval this year of this important legislation to implement a long-awaited, comprehensive revitalization of the United States merchant marine.

Mr. Chairman and members of the committee, thank you very much for giving me an opportunity to appear before you today, and we would be happy to answer your questions.

[Statement of Secretary Peña may be found at end of hearing.]

Mr. LIPINSKI. Thank you very much, Mr. Secretary. We are now going to recognize members for questions for the Secretary or for

the Admiral, and we are going to do it in the order in which you arrived here this morning. And since I was the first one to arrive here this morning, I am going to waive my turn, as I normally do, and give someone else the opportunity to start off the questioning. And Ms. Schenk was the first one here after me so I now recognize her for five minutes.

Ms. SCHENK. Thank you, Mr. Chairman. I appreciate that. Mr. Secretary, I am always pleased to have the opportunity to meet with you privately or in this setting. It is a pleasure to work with you, but I must say that, frankly, I can't greet the Administration's proposal with the same amount of pleasure. I recognize that this H.R. 4003 is a vast improvement over last year, but a vast improvement over nothing is still not terrific.

I have some questions that really relate to the shipbuilding industry, and when the President was a candidate, he came to my district, and he spoke at NASSCO, and he promised—he promised a revitalized and vibrant shipbuilding industry. Frankly, this falls short of the promise, and I regret that I have to say that to you as the messenger, but you are sitting here and others in the Administration are not, and I hope that you will take that message back.

If the Administration is unwilling to support even the modest Series Transition Payment Program in 2151, what kind of effort is the Administration willing to agree to to reinvigorate the commercial shipbuilding industry? What specific kinds of programs?

Secretary PEÑA. Congresswoman Schenk, let me say that I appreciate the concern you have raised this morning about the transition payment, but let me, if I could, put this in broader context and perspective because I think it is important. This is the first President, this is the first Administration in recent memory, and members of this committee's memories go back many, many years, which has actually stated that the shipbuilding industry is important to our country.

I would state that I think the philosophy of previous Administrations was that the shipbuilding industry was on its own, and that we as a nation stood by as we saw that industry deteriorate. This President and this Administration have very opposite views about that. That is why the President last year proposed a five-step strategy to creatively form a partnership with the shipbuilding industry.

Number 1: It was to say to those countries which are currently subsidizing their industries had to stop. That is our position in the OECD discussions going on as we sit here today—to say to our competitors that they must stop subsidizing their industries. That is very important to give our shipbuilders an opportunity to compete on a level playing field. I don't know the last time we took such a strong position on that subject.

Point number 2: We realize that our shipbuilding industry must become more technologically competitive with comparable shipbuilding industries throughout the globe. That is the import of our Maritech proposal, and that is to provide the assistance to help the industry use new technology to become more competitive. We think that is critical to help our shipbuilding industry become more competitive.



Point number 3: We also provided funds both in last year's budget and in the '95 budget, which I described in my testimony, which should be able to leverage about \$1.5 billion in new ship construction in this country through the loan assistance of the Title XI program. That also, I think, is very important and will help our industry.

Fourthly, I have asked the Coast Guard and other Departments in the Administration which the President has worked through in terms of our shipbuilding initiative, to find ways to change some of the unnecessary regulations and requirements that we have imposed on the shipbuilding industry in the past which we think have created unnecessary costs for that industry which, of course, are passed on to prospective customers.

So we have put together, Congresswoman, a comprehensive strategy. It does include financial assistance. I wish I could tell you today that we would have more resources to apply to the transitional program—

Ms. SCHENK. I am sorry. I didn't hear that.

Secretary PEÑA. I wish I could tell you today that we have the resources to provide the transitional effort that you are very concerned about, but in light of our total budgetary needs, in light of our commitment to reduce the deficit, and in light of this multi-pronged approach that we have presented to help the shipbuilding industry, we think we have put together a rather substantial and credible effort to help that shipbuilding industry become revitalized and more competitive in the near-term.

Ms. SCHENK. I see that my time is about to run out, and there is so much more to be said on this. I will submit some questions in writing, if I may, to get some responses. But just, again, I understand the steps that have been taken. I simply don't think that they are enough in this highly subsidized environment that our shipbuilding industry has had to work with, and we have a long way to go. But thank you, again, for appearing here, Mr. Secretary.

Mr. LIPINSKI. Thank you. The Chair now recognizes Mr. Cunningham.

#### **STATEMENT OF HON. RANDY "DUKE" CUNNINGHAM, A U.S. REPRESENTATIVE FROM CALIFORNIA**

Mr. CUNNINGHAM. Thank you, Mr. Chairman. And, Mr. Secretary and Admiral, thank you for appearing with us. I take reference to some of your statements, and I would like to associate myself with my colleague's statements, Ms. Schenk, at the concern, and she works very diligently in the area. Shipbuilding and ship repair is not in my district. It used to be, but we have some very fine folks down there that are going to go out of business, and we need some help.

Rhetoric is rhetoric—rhetoric on a crime bill or whatever it is, and we promised these folks last year—the President did—that he was going to make some real changes. And it seems that the Administration's answer to everything is to raise taxes or fees, whether it is grazing fees, VA home loan fees, or there are BTU taxes or gas taxes or cigarette taxes. It is not the answer in this case because you can't tax people into economic business.

Secondly, when you talk about a comparable bill, 2151, I assume that we are talking about, with the STP left out, and you make a statement that this is the only Administration that has put forth and said that shipbuilding is important to this country, well, I disagree with that statement totally. As a matter of fact, Title XI with Jack Murtha and myself in a real fight on the House floor in which I even threatened to get Doragan, a Republican member of the staff, fired because he was the stopgap for Title XI funds to come through and work that issue under a Republican Administration, and the importance of that is very important.

The last shipbuilding industry on the West Coast may fold, and we will lose that base, and that is called NASSCO, along with all the rest of the repair facilities. And with the defense cuts that follow along with it, the 127 billion in defense cuts, we are not helping our shipbuilding-ship repair industry because we are not building.

And it is fine to say, well, we are going to have U.S.-owned, U.S.-crewed, but how about U.S.-built, and that is where we are asking for the help, Mr. Secretary, in this thing, whether it is through GATT—and I laud the President—you know, I think our Administration—Republican Administration did not hold the Japanese to task in trade, and I am glad to see President Clinton do that.

I think he is on the right track and to put those kinds of pressure to protect U.S. interests. And I hope that the same direction is taken in our U.S. shipbuilding and ship repair, and he will find an ally and a wingman in doing that, but this bill falls short of doing that, Mr. Secretary. And as my colleague from across the aisle states, it is rhetoric and it doesn't answer the question that we need right now.

The President came to San Diego. He said we are going to help. This doesn't do it, Mr. Secretary, and we need help out there. And I will work with you and my colleagues on the other side of the aisle, and that is a pledge. But we can't steep ourselves in politics and rhetoric to get the job done.

We have got to take some real action, and I am willing to help and do that. But when you say that this is the first President that stated that the shipbuilding-ship repair industry is important, that is just not true, Mr. Secretary. And I yield back the balance of my time.

Mr. LIPINSKI. Thank you. The Chair now recognizes Mr. Pickett.

#### STATEMENT OF OWEN B. PICKETT, A U.S. REPRESENTATIVE FROM VIRGINIA

Mr. PICKETT. Thank you, Mr. Chairman, and welcome, Mr. Secretary. We seem to have a flawed memory about where we have been with this shipbuilding issue. My recollection is that the construction differential subsidies were stopped back in the early 1980's, and many of us on this committee have been working to try to see that the shipbuilding industry is preserved.

But even more important is the maritime industry. I mean, when you say maritime industry, we are talking about shipbuilders, ship operators, shipboard labor, ship repair yards, and shipboard equipment suppliers, and also shoreside facilities. And all of these need help.

Last year with the Title XI, we were able to provide some help to the shipbuilders, and I see this as an effort to do something for the ship operators. But with a little modification, it could also do something for ship repair yards, and I hope that you and the Administration will try and focus on that issue. I have talked with Admiral Herberger about this, and he believes that there is some room to provide some assistance for ship repair yards in this legislation.

Also, I would hope that there is some room for discussion and possible modification of the revenue sources to fund this undertaking. I believe very strongly in pay-as-you-go. Where there is no room in the budget for additional spending unless we cover it some way, it is appropriate, in my mind, to call upon the industry as a whole or the trade as a whole to provide the funds that we need to do the job that has to be done.

But I think there may be a more equitable way to raise the money that won't have quite the adverse impact on our ports that the tonnage tax approach will have. If we are going to use the tonnage tax solely, then I would hope that it could be phased in in a different way. But I think there is an opportunity here for some modification of the way that it is imposed.

The 52-vessel coverage that this bill is going to provide is modest, but I think it is a step in the right direction, and it is one that, in my view, is going to help move the Nation toward a more stable maritime industry. And while we all wish that there was more in the way of new ship construction, I believe that if we were to add a provision and provide some help for the ship repair yards then we would have done something, not enough, but something for the shipbuilders, the ship operators, and the ship repairers. By doing something for the ship operators, we also do something for shipboard labor and for shipboard equipment suppliers.

So I see this as a major building block; not the final answer, but a major building block for the maritime industry, and I commend you and Admiral Herberger and the Administration for the effort that you have made here.

Mr. LIPINSKI. Thank you, Mr. Pickett. The Chair now recognizes Mrs. Bentley.

Mrs. BENTLEY. I was about the last one in here.

Mr. LIPINSKI. Not according to my list.

Mrs. BENTLEY. Good.

Mr. CUNNINGHAM. She is always the first one in.

Mrs. BENTLEY. I would just—

Mr. PICKETT. We have to go back and forth between the majority and the minority sides. It is your turn, Helen. If you don't want to speak, I will move on.

Mrs. BENTLEY. Well, I was sitting here just thinking, Mr. Chairman, that I am going to be the referee between Secretary Peña and Mr. Cunningham. The Secretary mentioned about the one with the memory on when something was said, and I am probably like the elephant; I have got the longest memory in here because I have been around the longest.

Mr. Secretary, you are right. President Nixon was the last one who talked about the shipbuilding industry and did anything about it, and that was with the 1970 Merchant Marine Act. Mr.

Cunningham was right because the House of Representatives and the group moved on on the sealift capacity so you are both right, and I am the mediator there.

Mr. LIPINSKI. Thank you, Helen.

Mrs. BENTLEY. And since I agree totally with Ms. Schenk and Mr. Cunningham and Mr. Pickett on the shipbuilding end and the whole maritime policy, I won't repeat that part of the discussion on the shipbuilding end. But I do want to point out that in your remarks, you say that we are continuing the preference cargoes as they have been. I have to bring up here the fact that there has been continuous overlooking and violations of the cargo preference laws as they are written and as they should be administered.

DOD has been horrible on living up to what they are supposed to do in using American-flag ships. I write letters almost every two weeks criticizing them for some of the shipments that they have made on foreign-flag ships rather than on American-flag ships and going after them. And that is something, I think, needs to be looked into with much more strength by the Maritime Administration because if American ships don't have cargoes, they are not going to be able to stay in business long no matter what we do. And I think that is an area we have to enforce much better.

Secondly, we have been trying for some time now to get the Wilson-Weeks agreement updated and codified better, and I would like you to look into that. That, again, would help on the cargo movements as far as American ships are concerned. So we have pending here a bill called H.R. 57 which would do that, and I would appreciate it if you would look into that and see if we could incorporate that into this.

I will have some questions, Mr. Secretary, and you and I have talked about this program off and on for some time. I do want to commend you and the Administration for moving ahead on it. You told me a year ago in April that you were going to do it, and you have done it, and I do want to say thank you.

Mr. LIPINSKI. Thank you, Mrs. Bentley. The Chair now recognizes Mr. Stupak.

Mr. STUPAK. Thank you, Mr. Chairman. Secretary Peña, thank you for coming. I commend you and the Administration for at least starting the process here. Although it may not be perfect, it is a start, and I commend you for that.

I have a couple specific questions, if I can. The Maritime Security Program helps to ensure the availability of U.S.-flag ships for sealift. Shouldn't the Department of Defense help fund the program? And also under the Department of Defense—cargo preference—it seems to me they take a huge amount of the money set aside for cargo preference for so-called administrative costs. I believe it is like out of—about 569 million out of a billion in the cargo preference. Would you please look at that and see if we can recapture some of those costs to help fund some of the programs we are talking about here?

More specifically, the increase in the tonnage tax leads to a diversion of cargo to neighboring foreign ports. Being from the Great Lakes, I am particularly concerned about if we go with this tax proposal as outlined in the bill, would then cargo go to maybe Canada,

or would there be a greater emphasis upon rail movement of cargo? I would like your thoughts on that.

And one more if I can. The proposed increase in the tonnage tax will result on an average of about I think you said a one-cent-per-barrel increase in the cost of shipping oil and other bulk liquid products. What would that mean to the consumer at the pump for gas and also for home heating? Again, from the Great Lakes and the winter we have had, I don't want to vote for something that is going to increase fuel oil astronomically especially after the year we have experienced. Could you comment on those three?

Secretary PEÑA. Yes, Congressman, let me try. First of all, on the first question, our position on Defense participation in this program—as you can imagine, this was one of the more interesting discussions we had within the Administration in putting this proposal together.

And we came down on the proposal that we are making in this legislation which is to focus the effort on the tonnage fee, and I understand the concerns raised by a number of members and others about the participation of the Defense Department. I think we are all aware of the concern that has been raised by many about what has happened to the Defense Department's budget already. And so this is our proposal. We understand it will be subject to much debate and discussion, but this is where we have ended up—in focusing on the tonnage fee.

Secondly, as respects to the impact on ports, we have some general sense of what has happened recently with respect to diversion of cargo to other ports, particularly, the Northeast. I think on a yearly basis it is we estimate about 3.5 million tons which have been diverted north, but also there was diversion to our country—about 3 to 3.6 million tons.

So the net is somewhere between one and two million tons. That in the context, however, of the total tonnage is a rather small part of the entire tonnage import and export coming in and out of the port. So we know that there is some diversion going on, but we don't anticipate any significant amount of diversion.

Mr. STUPAK. Could I interrupt you there for a moment? If it is one to two million tons now before the increases go in effect, you have an increased tonnage, do you then anticipate further diversion, or do you feel it is going to be stable at this one to two million tons?

Secretary PEÑA. Let me have Admiral Herberger respond, but let me generally say that we were monitoring this shift based on the last increase to the tonnage fee in 1990. So we have some history already of the changes as a result of the increase in the fee. But let me have the Admiral elaborate on that.

Mr. STUPAK. Well, then this increase percentage wise—is it greater than 1990, about the same, less?

Admiral HERBERGER. No. It is less. In 1990, it went up—it was quadrupled. Our proposal recommends a 150 percent increase. The diversions to Canada, as we understand it, on the East Coast are due to a number of other reasons, not the least of which is the great circle route between Europe and Canada. If you can go into Montreal, it is a shorter voyage.

Once the Canadians were able to add to their inland transportation infrastructure—double-stack trains, tunnels that would permit double-stack trains—their inland transportation improved. So some companies opted to do it that way.

On the West Coast, the transfer was in the other direction. The port of Vancouver was having troubles so a lot of the shipping that had been going into Canada started going to the United States. So we had a shift in the Northeast, but it was that what I mentioned about three to four million tons in the context of 850 million tons' worth of business.

So, again, it is a diversion. We are not trying to make little of it, but as a result of a quadruple increase to the tonnage tax in 1990, there was no appreciable diversion to Canada because of the tonnage tax.

Secretary PEÑA. And, Congressman, as to your last question, what is the impact on the gasoline increase, generally we have estimated that the increase for the typical driver who consumes an average amount of gasoline per year will be six cents for the year. So let me emphasize it is not per gallon.

This is for the entire year. And with respect to home heating, it is approximately 10 cents for the entire year. So, again, I think these are relatively modest increases.

Mr. STUPAK. Thank you.

Mr. LIPINSKI. The Chair now recognizes our ranking minority member, Mr. Bateman.

Mr. BATEMAN. Thank you, Mr. Chairman. Mr. Secretary, let me pose three questions for you. The first of them, in particular—I certainly don't anticipate that you would have the numbers on top of your head, and they could be furnished for the record, but I am curious as to how many Title XI loan guarantees have been approved in the period of time since the authorization of the original 48 million in 1992 and the subsequent authorization of another 50 million, I think, in '93, and how many have been approved; how many applications have been filed?

The second question is whether or not we can anticipate that when the regulations pursuant to the loan guarantee program under the Defense Authorization bill passed last year are finalized are we going to be conducting that program in keeping with Title XI standards or guidelines rather than adhering to an OECD loan guarantee standard since it was very clear in the discussions with the Administration and in the Committee of Conference on the Defense bill last year that it was to be Title XI, not OECD standards, that were controlling?

And the third question, and first the statement to commend the Administration for its continued support for retention of the Jones Act, and to inquire as to whether you foresee any change in the Administration's position with reference to the Jones Act? Thank you.

Secretary PEÑA. Congressman, thank you for the—let me try to answer those questions. We don't have offhand the information about the number of loans that have been made, but we will find out for you. Secondly, let me simply say that we expect the final regulations to be out in less than 30 days. A lot of work has been done—sent to OMB so we hope this will be out relatively quickly.

And a related part of the answer to your question had to do with OECD terms, and as you know, Congressman, we are in negotiations now in Paris in trying to deal with these issues with the OECD. But the bottom line is we have the flexibility where necessary and where appropriate in cases where other countries are not complying with OECD terms for us to be competitive pursuant to the terms that are being provided by other nations. So that gives us the kind of flexibility we believe we need to ensure that we are competitive with other nations and the way in which they are treating their shipbuilders overseas.

And then, lastly, no, we do not anticipate any changes to the Jones Act.

Mr. BATEMAN. Well, Mr. Secretary, I appreciate the answer and especially with reference to the OECD versus Title XI. This is a very, very delicate and significant area, as I am sure you are very well aware. If we are going to hew to OECD, we still are left with a raft of indirect and direct subsidies and encouragement, assistance that foreign countries give to their shipbuilding industry that have to be offset by something.

And one of the ways that we can offset it would be the more generous loan guarantee terms under Title XI as opposed to OECD. And other countries can say, "Oh, yes, we are adhering to OECD guidelines," but it isn't going to build any ships in American shipyards if we are going to do no more than that. As an economic practical reality, loan guarantees based on OECD are not going to do anything for the American shipbuilder that isn't available already in the private capital market without any guarantee.

Mr. LIPINSKI. Thank you, Mr. Bateman. The Chair now recognizes Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman. I want to thank you for having this hearing and Secretary Peña and the Admiral for being here. Secretary, I realize success has many mothers, but I got to admit that I was surprised to learn that the—and I am sure the staffers who worked on this all year long last year and my colleagues worked on this all year long last year were very surprised to hear that it was really the President's shipbuilding initiative that passed Congress rather than a congressional shipbuilding initiative.

But like I said, success has many mothers so let us just make sure that it works. And, in particular, as my very gentlemanly friend from Virginia stated we passed guidelines for Title XI, not OECD—this Congress. And your appropriation flows through this Congress, not the OECD, and I would certainly encourage you to keep that in mind.

I, like many of my colleagues have stated earlier, am very concerned that with this round of maritime policy we seem much more concerned with 4,000 jobs on the ships rather than 120,000 jobs building ships.

In particular, I think to take Mr. Cunningham's analogy a step further, we will probably lay off more than 4,000 shipbuilders this year in this country while we are spending \$1 billion to take care of 4,000 shipboard jobs. I think that is very myopic. I think that doesn't make any sense at all. Great nations of the world have always been great maritime powers. We need a fleet. We need the

ability to build that fleet. And without both, we are just setting ourselves up for a fall.

I would like to make three suggestions that I wish you would take a look at, and I make them because they don't cost this country a dime. Number 1 is why don't we take a look at reopening the Oil Pollution Act of 1990, your Administration, with the purpose of speeding up the provisions for double hulls and get some shipbuilding work done? Obviously, one thing we could do that would not cost this nation a penny which would get us to the goal of minimizing oil spills would be to provide an incentive for people to go to double hulls ahead of the deadline and give them a break if they do. Give them limited liability just like I get a break on my insurance for being a nonsmoker, just like I get a break for having fire alarms in my house.

Let us prevent a spill and make the environmentalists happy and give the shipowners the incentive to build some ships because as we know now, they have already figured out how to beat the rules, and they are already coming up with dummy corporations in the Bahamas to minimize their liability.

Number 2, let us take advantage of the fact that we are the world's center for cruise ships. Eighty percent of all the people in the world who get on a cruise ship this year will be Americans. They are going to spend about 8 to \$10 billion. Only about two percent of that money comes back to our country. It is our market, and one of the very big openings, one of the big mistakes that has been made over the years by previous Administrations, not yours, is to allow a foreign-made, foreign-crewed ship operate out of our ports, go out three miles, turn around and come back, and it is called an international voyage, and they get away from the Jones Act requirements. That is not fair.

And it was really somebody's Administration, I think back in the 1950's, that allowed this loophole to exist. I hope this Administration will close that loophole. We have got a bill in that has already passed the House to do so, but I would be just as happy to see your name on a directive that solves the problem instantaneously, and I think you can do that working with the customs.

I think the third thing that we ought to do is if double hulls make sense for the year 2015, then why don't they make sense for the year 2005? If the idea is to prevent spills, why wait till the last minute? I would sure hate to go home and explain to the Mississippi shrimpers and oystermen and the Louisiana shrimpers and oystermen or the West Coast fishermen that, gosh, you know, that was the last single-hulled tanker, and it sure is a shame you won't be able to work this year because they just killed your resource. Speed it up. If it makes sense for then, it makes sense for now.

And, lastly, I served in the Mississippi legislature just long enough to make me a cynic. And when I see things like, well, you only pay the tariff on your first five voyages, the cynic in me says somebody out there who sails a bunch of voyages is going to get a great break over the course of the year compared to the guy who only sails five voyages.

If it costs \$800 million a year—and I served in the Coast Guard, and I am very much aware of the tremendous cost of the aids to navigation, or the vessel traffic systems, or the firefighting, or the



dredging—just the Port of Gulfport, Mississippi, \$65 million to dredge it a couple years ago—very expensive—and I think the people who benefit from this ought to pay for it, and I don't think somebody ought to be—the big boys ought to be getting a break after five voyages if the little boys are going to pay it on every one of their voyages to this country. I wish you would comment on that.

Secretary PEÑA. Congressman, thank you for the suggestions. Let me first, on a note of clarification, if I might, in my opening statement, my reference in congratulating Chairman Studts for introducing the President's proposal was to his participation in a press conference we had last week announcing this initiative. He said that he was leaving the press conference to come over here to introduce the President's bill. I was thanking him for that at the beginning of the hearing, and perhaps it was a misunderstanding about that.

With respect to your last question, the five-voyage cap, our initial look at that was that that has been the case, I believe, since the legislation started in—

Admiral HERBERGER. It is certainly the late 1800's—1884. It was to try to even out the cost for those vessels that came in often versus those that came in just a few times a year. So the whole idea was to spread the pain by capping it. In the case of many vessels from the Western Hemisphere and certain industries, the very nature of their business is that they have many, many entries into U.S. ports in a given year versus those that come long distances and only come two or three times a year.

Mr. TAYLOR. Admiral, if a vessel comes in on its sixth voyage of the year, it catches on fire, does the Coast Guard not go out?

Admiral HERBERGER. The Coast Guard services are there.

Mr. TAYLOR. They only use the aids to navigation five times a year?

Admiral HERBERGER. No, no. The whole idea, again, was to minimize—

Mr. LIPINSKI. Excuse me, Mr. Taylor, though, your time is actually up, and you are asking additional questions. We will be happy to give you another opportunity in a moment. Let the Admiral finish up and the Secretary finish up on this round. Then we have to move on.

Secretary PEÑA. Well, not to close the discussion but to summarize it, what we were attempting to do was not to make a radical change to the tonnage fee program as it has been in effect for many, many years. This five-vessel cap has been in effect for decades. If there is a suggestion that we review it, we have not done that. Perhaps that is something that the committee or others might want to look at. It simply has not been done for decades as far as we know.

Mr. LIPINSKI. Mr. Kingston.

Mr. KINGSTON. Thank you, Mr. Chairman. Mr. Secretary, on the GATT negotiations, is there going to be any discussion about foreign shipbuilding subsidies as part of GATT?

Secretary PEÑA. No. That is not a part of the GATT discussions.

Mr. KINGSTON. So they could continue subsidizing their shipbuilders without any regard—

Secretary PEÑA. I am sorry. These discussions are being held today—actually for the past several days as part of the OECD discussions. That is the context in which we are holding the discussions—about requiring other countries to forego continued subsidization of their shipbuilders.

But let me just say on the GATT question, this legislation has obviously been provided to USTR, and we see no inconsistencies with this legislation in our previous agreements in GATT.

Mr. KINGSTON. OK. And I just wanted to hear you say one more time on the Jones Act—Mr. Bateman had asked about any anticipated changes and absolutely none?

Secretary PEÑA. That is correct. There is no discussion of change in the Jones Act.

Mr. LIPINSKI. Ms. Furse.

Ms. FURSE. Thank you, Mr. Chairman. Welcome, Secretary. It is wonderful to have you here. I just have one question. Since the very large and ultralarge crude carriers that bring oil from the Middle East are lightered before they enter our ports, are they subject to the vessel tonnage duty and if they are not, why not?

Secretary PEÑA. Congresswoman, they are not subject to the tonnage duty so long as they have halted significantly before coming into the port, but the lightering operations are subject to the fee. Your second question, I think, is a very interesting one, and that is why they are not subject. I suppose it is because they have not technically entered the port.

Ms. FURSE. Although they have made the journey on the way to the port?

Secretary PEÑA. That is correct.

Admiral HERBERGER. That is correct. As long as they don't technically enter the port, then they are not subjected to that fee.

Mr. FURSE. I am concerned about that because the product is coming to the port. The reason of the journey is actually coming to the port, and I wonder if you could look into that for us and get back to us on that. I would appreciate that.

Secretary PEÑA. We would be happy to. I don't think that has been examined for some time.

Admiral HERBERGER. Well, again, this tonnage fee is on the vessel. It does not take into consideration the value of the cargo, the amount of cargo at any given voyage. It is a process that has been in for many, many years. It is the basis for fees to go through the Panama Canal, for pilotage fees and others. It is on the size of the vessel—its cargo-carrying capacity, not the cargo.

Ms. FURSE. Thank you, Mr. Chairman.

Mr. LIPINSKI. Thank you, Ms. Furse. It would normally be my time to ask questions, but since we want to make sure we get back to Mr. Taylor for a few more questions, I am going to waive my turn, Mrs. Bentley.

Mrs. BENTLEY. Thank you, Mr. Chairman. Mr. Secretary, on the OECD discussions you remarked that this is the first time that an Administration has moved on that. That isn't quite accurate. The efforts were made I believe both under President Reagan and under President Bush to get the OECD to get rid of those subsidies on their shipbuilding programs.

And because they have refused time and again, we have pending up here now is the Gibbons bill. I had introduced a similar bill to that, and we combined them into one. And have you given any thought about whether the Gibbons bill might be incorporated into your master bill?

Secretary PEÑA. Congresswoman, we have had a discussion about the Gibbons and the Breaux proposals, and let me speak conceptually here and very generally because I don't believe we have a final Administration position. But let me make this point, that if for some reason the OECD discussions fail totally and we have no progress whatever, from a conceptual perspective, the Administration would support legislation of some type. I can't say today it would support those particular pieces of legislation, but conceptually there is some interest in pursuing the support of some kind of legislation.

Mrs. BENTLEY. I think it is very important, and supporting what Mr. Taylor was pointing out on the shipbuilding end, I don't think we have 120,000 people working in the shipbuilding industry today, but the numbers are much larger than those on ships, and that is one reason why six of us who are at this hearing this morning are all interested in the shipbuilding end because we know with the jobs—I mean, we know how much the shipbuilding industry also means to the industrial base of this country because once it started to weaken, the whole country's industrial base is weakened, and that is why it is important that we get it going back up again.

And just by way of history, the Merchant Marine Act of 1936 when it got started, we were able from that to build 6,000 ships in a four-year period in the United States, and if we had not had that beginning, we would never have been able to do it. I realize times are much different, but we still do need an industrial base in this country. And I agree with Mr. Taylor and the rest that we have to make certain that we don't forego and sacrifice this industry altogether. Thank you.

Mr. LIPINSKI. Thank you, Mrs. Bentley. Ms. Schenk.

Ms. SCHENK. I have no questions.

Mr. LIPINSKI. Mr. Stupak.

Mr. STUPAK. No further questions.

Mr. LIPINSKI. Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman, and I will behave if you promise not to hit me with a rolled-up newspaper or cattle prod—whatever the case may be.

Mr. LIPINSKI. If the gentleman would yield for a moment. Mr. Taylor is very knowledgeable about everything dealing with the merchant marine industry, and he is always anxious to gain more knowledge through his tremendous ability to ask questions, and I simply have to restrain him so that other people will have an opportunity to ask questions. The floor is Mr. Taylor's, and that time that I just used will not come out of your time.

Mr. TAYLOR. Thank you, sir. Mr. Secretary, I realize that, you know, you have walked into a—and I have had this conversation with the Admiral—you have walked into a situation where obviously the people at the Maritime Administration are—the people who really care about a fleet had to be depressed after 12 years of

Administrations that apparently didn't give a flip, that saw this nation go from building 100 ships a year down to zero in an eight-year period. And I realize you have got a tremendous—both of you have a tremendous job ahead of you: number 1, changing their mind-set, getting people going again, but also changing the public's mind-set.

I mean, let us face it. The net result in—you know, I try to work with my Republican friends, but the net result of the Reagan Administration is this tremendous irony where he talked about getting people off the government dole, but he took our shipyards that were partially on the government dole and put them entirely on the government dole. They went to 100 percent dependence, and now we have got to wean them because we just don't have the big Defense budgets that we used to.

And that is why I, in particular, representing a shipbuilding area, get very upset when we talk about in the case of Sea-Land and another line—allowing them to get the operating differential subsidy on a foreign-built ship. You know, there is an old line about divide and conquer. And I personally think it is just a matter of time before they come through this committee once they get over that hurdle and come back and say, "You know, it sure is expensive hiring American crewmen. We could save a lot of money if we could hire Taiwanese, Sri Lankans," because then all they have got to do is fight the maritime operating unions. They have already gotten past all the shipbuilding folks, and I personally think that is going to happen.

Before that happens, why don't we change our policy and why don't we see to it that, "Yes, we are going to help you, but we are going to help everybody down the line. We are going to help the steelworkers, and the machine shops, the foundries, the people who build ships, and we are not going to start fighting Americans off against each other: operators versus builders because I do not think it is in the best interest of this nation."

And I wish you would comment on that because I personally am going to have a great deal of problems going home to the approximately 20,000 people in my home state who work in the shipbuilding industry and tell them that somehow their tax dollars are well spent supporting a Maritime Administration that thinks it is OK to buy foreign-build ships, slap an American flag on them, and giving them a \$2.5 million a year subsidy.

Secretary PEÑA. Congressman, it is a difficult issue, but we have tried to, I think, approach both industries with a sense of balance and, again, partnership. You are absolutely correct, and I agree with your characterization of what has happened to the shipbuilding industry in our country. Unfortunately, one of the byproducts of that history has been the inability, in some cases, of our own shipbuilding industry to produce ships at least on the same timely basis as foreign shipyards. I know I am probably upsetting some people who are sitting behind me right now who disagree with that.

Unfortunately, there are some significant cost differentials between a foreign-built ship and U.S.-built ships. So our first dilemma, in trying to address the immediate concerns of the companies who are trying to be competitive globally, was to give them a

little flexibility to allow them to acquire newer ships so they could be more competitive. In cases, where appropriate, allow foreign-built ships so that the industry can be more competitive with newer vessels and newer equipment. At the same time we wanted to recognize that our own shipbuilding industry has to catch up to their competitors worldwide and to present this five-prong strategy to help put the shipbuilding industry in a position, we hope very quickly, to be able to offer competitive terms, and meet the timetables that our companies require as they seek new construction of the ship. So in that sense, we are trying to do both, trying to approach the concerns of both industries.

I recognize the comments made by a number of the members of this subcommittee suggesting that perhaps we haven't gone far enough to provide assistance to the shipbuilding industry. We think we have tried to approach both industries so that both can grow, both can be successful, because we think they are both important to our country.

Mr. TAYLOR. Since a ship lasts for 30 years and since you are only talking about 52 subsidized slots, what is the wisdom of clogging up the pipeline, so to speak, with foreign-built ships—I mean, if you do that on the front end, when do our yards ever get a chance to build some merchant vessels in order to get the kind of economies of scale that they need to get competitive in the long run?

There are only so many ships that are going to be bought and only so many U.S.-flags are going to be subsidized, and if you clog it up with foreign-built ships now, we are not just talking about a shirt that is going to wear out in a year, we are talking about ships that are around for 20 or 30 years that won't be replaced and won't be built in a U.S. yard. How do you solve that?

Secretary PEÑA. Well, Congressman, we would hope that our shipyards are not going to be limited in building ships only for those participating in this program. There are going to be hundreds, in fact, thousands of ships that are built worldwide in the next 10 years. Our projection—and the Admiral can talk about this—is that the market out there has a very large potential.

We think that in the long-term, we have to find a way to make our shipyards more technologically competitive and up to the same ability in the sense of production as their competitors are today so they can compete worldwide in building those ships in the future. Their opportunities are not limited to the 52 vessels in this program.

Mr. LIPINSKI. Go right ahead.

Mr. TAYLOR. But how do you reconcile in your mind denying them that opportunity right now? You learn by doing something. We are building LHDs—the seventh one—substantially cheaper than the first. We build destroyers substantially cheaper than the first ones. There is a learning curve.

If you deny the yards the learning curve by giving these contracts away, how do they ever get started? You have to start somewhere. And I have a feeling that by allowing these foreign contracts, we are, in the words of my friend Ron Dellums, just letting the camel's nose under the tent. The rest of the camel is going to

follow in short order because, you know, you give a break once, they tend to snowball around this place.

Secretary PEÑA. Congressman, let me clarify. Our shipyards are not precluded from competing and from bidding. There is no requirement that these ships be built by foreign shipyards; simply, the option if they so choose. Obviously, if a U.S. shipyard has competitive rates, it can compete for the construction of these vessels.

I understand your concern about the camel's nose under the tent. We are concerned about it too. We think that this is a measure, however, that with respect to the maritime industry, that if we are going to give it the tools to be competitive with companies throughout the globe, i.e., new fast, more efficient ships to reduce their overall cost, we have got to give them this flexibility but very mindful, as you have said, of not allowing other exemptions to be brought to the table as you have described earlier. That certainly is not our position and not our intention.

Mr. LIPINSKI. Thank you, Mr. Taylor. Mr. Secretary, Admiral, I certainly appreciate your appearance here and your testimony here this morning. I am very enthusiastic about the President's bill, but frankly, only as a starting point, because as you have heard this morning and the Admiral has heard in prior meetings with the Subcommittee, there are a number of areas where Members of this Subcommittee believe the bill can be improved. That may or may not be possible, and I say that because I don't know exactly what the outside parameters are as far as the Administration is concerned with this bill.

What I would like to do within the next week or 10 days is consult with all the members of the subcommittee for ideas and suggestions that they have to improve this bill—at least in their mind to improve this bill—and then sit down and discuss with you in detail whether those improvements could possibly be acceptable to the Administration.

I think we are all interested in doing as much as we can for the merchant marine industry, the shipbuilding industry, and all the ancillary industries, but we also have to be practical and realistic. Unless we have the support of the President, it is going to be difficult to get this bill passed into law. So we would like to do more, if possible. With the support of the President, we will be able to do more. If not, we will have to, from our perspective, make some compromises.

I know that based upon your association with myself and other members in the transportation committees, whether it be Merchant Marine and Fisheries or Public Works, that you are an individual who is willing to work with us, willing to cooperate with us, and as I said earlier, and I want to repeat this because I mean this very sincerely, we wouldn't be here today with anything as far as the merchant marine industry is concerned if it wasn't for your dedication and your perseverance because I know all the obstacles that you ran into as far as the Administration is concerned.

Once again, I say not the President, but there are a lot of people around him who are not very enthusiastic about this industry. So I just simply say to you and the Admiral once again, thank you very much for being here this morning. If you have any closing remarks, you are welcome to express them at the present time.

Secretary PEÑA. Mr. Chairman, I would just like to thank you and the members for allowing us to be here today to testify in support of the legislation. We look forward to working with you to try to resolve the issues that were raised today.

Mr. LIPINSKI. Thank you. There were questions that were submitted to you by the members this morning, whether they were submitted verbally or we still have them up here, we would appreciate a response to those as quickly as possible. Thank you very much.

[Whereupon, at 11:19 a.m., the Subcommittee was adjourned; and the following was submitted for the record:]

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4003

To authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1994

Mr. STUDDS (for himself, Mr. FIELDS of Texas, Mr. LIPINSKI, and Mr. MANTON) (all by request) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

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## A BILL

To authorize appropriations for fiscal year 1995 for certain maritime programs of the Department of Transportation, to amend the Merchant Marine Act, 1936, as amended, to revitalize the United States-flag merchant marine, 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 **TITLE I—MARITIME ADMINISTRATION**

4 **AUTHORIZATION OF APPROPRIATIONS**

5 **SEC. 101. SHORT TITLE.**

6 This title may be cited as the “Maritime Administra-  
7 tion Authorization Act for Fiscal Year 1995”.



1 **SEC. 102. AUTHORIZATION OF APPROPRIATIONS FOR FIS-**  
2 **CAL YEAR 1995.**

3 Funds are authorized to be appropriated without fis-  
4 cal year limitation, as Appropriations Acts may provide  
5 for the use of the Department of Transportation, for the  
6 fiscal year ending September 30, 1995, as follows:

7 (1) For payment of obligations incurred for op-  
8 erating-differential subsidy, not to exceed  
9 \$214,356,000.

10 (2) For expenses necessary for operations and  
11 training activities, not to exceed \$77,000,000, in-  
12 cluding reception and representation expenses asso-  
13 ciated with graduation functions at the Merchant  
14 Marine Academy at Kings Point, New York.

15 (3) For expenses necessary to acquire and  
16 maintain the Ready Reserve Force surge shipping  
17 and resupply capability in an advanced state of read-  
18 iness, and for related programs, not to exceed  
19 \$250,000,000.

20 (4) For the costs, as defined in section 502 of  
21 the Federal Credit Reform Act of 1990, of guaran-  
22 teed loans authorized by title XI of the Merchant  
23 Marine Act, 1936, as amended (46 App. U.S.C.  
24 1271, et seq.), \$50,000,000. In addition, for admin-  
25 istrative expenses related to loan guarantee commit-  
26 ments under title XI of the Merchant Marine Act,

1 1936, as amended (46 App. U.S.C. 1271, et seq.),  
2 \$4,000,000.

3 **SEC. 103. MERCHANT SHIP SALES ACT OF 1946 AMEND-**  
4 **MENT.**

5 Section 11 of the Act of March 8, 1946 (50 App.  
6 U.S.C. 1744, is amended as follows:

7 (1) By striking "Secretary of the Navy," in  
8 subsection (b)(2) and inserting "Secretary of  
9 Defense,".

10 (2) By striking subsection (c) and redesignating  
11 subsection (d) as subsection (c).

12 **SEC. 104. SUBMISSION OF REPORT ON CONDITION OF PUB-**  
13 **LIC PORTS.**

14 Section 308(c) of title 49, United States Code, is  
15 amended by inserting "even-numbered" between "each"  
16 and "year".

17 **TITLE II—AMENDMENTS TO THE**  
18 **MERCHANT MARINE ACT, 1936**

19 **SEC. 201. SHORT TITLE.**

20 This title may be cited as the "Maritime Security and  
21 Trade Act of 1994".

22 **SEC. 202. MARITIME SECURITY PROGRAM.**

23 (a) Title VI of the Merchant Marine Act, 1936, as  
24 amended (46 App. U.S.C. 1171 et seq.), is amended by  
25 deleting the heading of title VI, "Operating-Differential

1 Subsidy” and inserting a new heading and subheading as  
2 follows:

3 **“TITLE VI—OPERATING-DIFFERENTIAL**  
4 **SUBSIDY AND MARITIME SECURITY**  
5 **PROGRAM.**

6 **“Subpart A—Operating-Differential Subsidy”.**

7 (b) Section 605(b) (46 App, U.S.C. 1175(b)) is  
8 amended to read as follows:

9 “(b) No operating-differential subsidy shall be paid  
10 for the operation of a vessel that is more than twenty-  
11 five years of age, unless the Secretary of Transportation  
12 has determined, before the enactment of the Maritime Se-  
13 curity and Trade Act of 1994, that it is in the public inter-  
14 est to grant such financial aid for the operation of such  
15 vessel.”.

16 (c) Title VI of the Merchant Marine Act, 1936, as  
17 amended (46 App. U.S.C. 1171 et seq.) is amended by  
18 adding a new section 616 following section 615, to read  
19 as follows:

20 “SEC. 616. (a)(1) The Secretary of Transportation  
21 may authorize a contractor operating a liner vessel and  
22 receiving an operating-differential subsidy under subpart  
23 A of this title to construct, reconstruct, or acquire a liner  
24 vessel of over five thousand deadweight tons worldwide to  
25 replace a vessel that would reach the end of its

1 subsidizable life prior to the expiration of the contractor's  
2 operating-differential subsidy contract. The replacement  
3 vessel shall be documented under chapter 121 of subtitle  
4 II of title 46, United States Code.

5       “(2) A replacement liner vessel shall not be eligible  
6 for operating-differential subsidy pursuant to subpart A  
7 of this title, and shall be limited to payments in the  
8 amounts set forth in subpart B of the title until the exist-  
9 ing contract pursuant to subpart A terminates according  
10 to its terms.

11       “(b)(1) The Secretary of Transportation may author-  
12 ize a contractor operating a bulk cargo vessel and receiv-  
13 ing operating-differential subsidy under subpart A of this  
14 title to construct, reconstruct, or acquire a bulk cargo ves-  
15 sel of over five thousand deadweight tons worldwide to re-  
16 place a vessel that would reach the end of its subsidizable  
17 life prior to the expiration of the contractor's operating-  
18 differential subsidy contract. The replacement vessel shall  
19 be documented under chapter 121 of subtitle II of title  
20 46, United States Code.

21       “(2) A replacement bulk cargo vessel shall continue  
22 to receive an operating-differential subsidy under an exist-  
23 ing contract pursuant to subpart A of this title until the  
24 existing contract terminates according to its terms.

1       “(c) Liner vessels and bulk cargo vessels constructed  
2 pursuant to subsections (a) and (b) of this section shall  
3 be deemed to have been built in a domestic shipyard for  
4 the purposes of section 610 of this Act: *Provided*, That  
5 the provisions of section 607 of this Act shall not apply  
6 to vessels constructed, reconstructed, or acquired pursuant  
7 to subsections (a) and (b) of this section.

8       “(d) Any existing foreign-built liner vessel that is ac-  
9 quired pursuant to subsection (a) of this section and docu-  
10 mented under chapter 121 of subtitle II of title 46, United  
11 States Code, shall be less than five years of age at the  
12 time of such documentation.

13       “(e) Any existing foreign-built bulk cargo vessel that  
14 is acquired pursuant to subsection (b) of this section and  
15 documented under chapter 121 of subtitle of title 46,  
16 United States Code, shall be less than five years of age  
17 at the time of such documentation.

18       “(f) No authority granted by the Secretary of Trans-  
19 portation to construct, reconstruct, or acquire vessels pur-  
20 suant to subsections (a) and (b) of this section may be  
21 sold, assigned, conveyed, leased or otherwise transferred  
22 to any other party, without the written consent of the Sec-  
23 retary of Transportation pursuant to section 608 of this  
24 title.

1       “(g) any repair or alteration necessary to bring a ves-  
2 sel, which is constructed, reconstructed, or acquired pur-  
3 suant to subsections (a) and (b) of this section, into com-  
4 pliance with parts B and C of subtitle II of title 46, United  
5 States Code, or any regulations prescribed under those  
6 Parts, shall be performed in a privately owned shipyard  
7 in the United States.”.

8       (d) Title VI of the Merchant Marine Act, 1936, as  
9 amended (46 App. U.S.C. 1171 et seq.) is amended by  
10 adding a new section 617 following the new section 616,  
11 to read as follows:

12       “SEC. 617. (a) After the date of enactment of the  
13 Maritime Security and Trade Act of 1994, the Secretary  
14 of Transportation shall not enter into any new contract  
15 for an operating-differential subsidy under subpart A of  
16 this title.

17       “(b) Notwithstanding any other provision of this Act,  
18 any operating-differential subsidy contract in effect under  
19 title VI on the day before the date of enactment of the  
20 Maritime Security and Trade Act of 1994—

21               “(1) shall continue in effect and terminate as  
22 set forth in the contract, unless voluntarily termi-  
23 nated at an earlier date by the persons (other than  
24 the United States Government) that are parties to  
25 the contract; and

1           “(2) may not be renewed or extended.

2           “(c) After the date of enactment of the Maritime Se-  
3   curity and Trade Act of 1994, an owner or operator of  
4   a vessel covered by an operating-differential subsidy con-  
5   tract under subpart A of this title may operate such vessel  
6   in the foreign commerce of the United States without re-  
7   striction, notwithstanding any other provision of this Act.

8           “(d) With respect to a liner vessel—

9           “(1) whose operator receives operating-differen-  
10   tial subsidy pursuant to a contract under this title,  
11   which is in force on October 1, 1993, and if the Sec-  
12   retary approves the replacement of such vessel with  
13   a comparable vessel, or

14           “(2) covered by an operating agreement under  
15   subpart B of this title, and if the Secretary approves  
16   the replacement of such vessel with a comparable  
17   vessel for inclusion in the fleet established under  
18   subpart B of title VI,

19   such vessel may be transferred and registered under the  
20   flag of an effective United States-controlled foreign flag,  
21   notwithstanding any other provision of law: *Provided*,  
22   That the vessel is available to be requisitioned by the Sec-  
23   retary of Transportation pursuant to section 902 of this  
24   Act (46 App. U.S.C. 1242).”.

1 (e) Title VI of the Merchant Marine Act, 1936, as  
2 amended (46 App. U.S.C. 1171 et seq.) is amended by  
3 adding a new subpart B to read as follows:

4 **“Subpart B—Maritime Security Program**

5 **“SEC 650. ESTABLISHMENT OF FLEET.**

6 “(a) The Secretary of Transportation shall encourage  
7 the establishment of a fleet of active, militarily useful, pri-  
8 vately-owned liner vessels to maintain an American pres-  
9 ence in international commercial shipping and meet na-  
10 tional defense and other security requirements. The fleet  
11 shall consist of privately-owned, United States-flag liner  
12 vessels for which there are in effect operating agreements  
13 under this subpart.

14 “(b) A liner vessel may not be included in the fleet  
15 unless—

16 “(1) it is operated by an ‘ocean common car-  
17 rier’ as defined in section 3 of the Shipping Act of  
18 1984 (46 App. U.S.C. 1702);

19 “(2) it is a vessel that is fifteen years of age  
20 or less on the date an operating agreement is en-  
21 tered into under section 651, unless the Secretary of  
22 Transportation, in consultation with the Secretary of  
23 Defense, determines that it is in the national inter-  
24 est to waive this requirement;



1           “(3) it is a vessel that is less than five years  
2 of age at the time it is documented under chapter  
3 121 of subtitle II of title 46, United States Code, if  
4 it is foreign-built;

5           “(4) the Secretary of Transportation, after con-  
6 sultation with the Secretary of Defense, determines  
7 that the vessel is necessary to maintain a United  
8 States presence in international commercial shipping  
9 or determines that the vessel is militarily useful for  
10 meeting the sealift needs of the United States with  
11 respect to national emergencies; and

12           “(5) the owner or operator of the vessel is a cit-  
13 izen of the United States as set forth in section 651.

14 **“SEC. 651. OPERATING AGREEMENTS.**

15           “(a) The Secretary of Transportation shall require,  
16 as a condition of including any vessel in the fleet, that  
17 the owner or operator of the vessel enter into an operating  
18 agreement with the Secretary of Transportation pursuant  
19 to this section.

20           “(b) An operating agreement pursuant to this section  
21 shall require that, during the period of the agreement—

22           “(1) each vessel covered by the operating  
23 agreement—

24           “(A) shall be operated exclusively in the  
25 foreign trade, and

1           “(B) shall not be operated in the coastwise  
2           trade of the United States or in mixed domestic  
3           and foreign trade; and

4           “(2) the owner or operator of a vessel covered  
5           by the operating agreement shall have the vessel  
6           documented under chapter 121 of subtitle II of title  
7           46, United States Code, and shall maintain that  
8           documentation.

9           “(c) An owner or operator of a vessel covered by an  
10          operating agreement under this subpart may operate this  
11          vessel in the foreign commerce of the United States with-  
12          out restriction.

13          “(d)(1) The Secretary of Transportation is author-  
14          ized to enter into operating agreements, provided that the  
15          total does not exceed \$1,000,000,000 for the fiscal years  
16          1995 through 2004.

17          “(2) An operating agreement pursuant to this section  
18          shall provide that the Secretary of Transportation pay to  
19          the owner or operator of each liner vessel that is included  
20          in the operating agreement, an amount per vessel per year  
21          that does not exceed \$2,500,000, for fiscal years 1995  
22          through 1997, and does not exceed \$2,000,000, for fiscal  
23          years 1998 through 2004. The amount per year paid to  
24          the owner or operator of a liner vessel under an operating

1 agreement pursuant to this section shall be paid at the  
2 end of each month in equal installments.

3 “(3) An amount of \$1,000,000,000 is appropriated  
4 to carry out this section.

5 “(e) In order to qualify for the annual payments  
6 under this section, the owner or operator shall certify an-  
7 nually, pursuant to regulations issued by the Secretary,  
8 that each vessel covered by an operating agreement was  
9 operated in a trade required by section 651(b)(1) for at  
10 least three hundred twenty days in a fiscal year, including  
11 days during which the liner vessel is drydocked, surveyed,  
12 inspected, or repaired.

13 “(f) Without regard to an operating agreement in ef-  
14 fect with an owner or operator of a liner vessel under this  
15 section, the Secretary of Transportation shall not make  
16 any payment under this section for a vessel with respect  
17 to any period in which the vessel is—

18 “(1) subject to an operating-differential subsidy  
19 contract under subpart A of title VI of this Act;

20 “(2) not operated or maintained in accordance  
21 with an operating agreement under this subpart; or

22 “(3) more than twenty-five years of age.

23 “(g) With respect to payments under this section for  
24 a vessel covered by an operating agreement, the Secretary  
25 of Transportation—

1           “(1) shall not reduce any payment for the oper-  
2           ation of a vessel to carry military or other preference  
3           cargoes under—

4                   “(A) section 2631 of title 10, United  
5           States Code; or

6                   “(B) section 1241-1 of title 46, Appendix,  
7           United States Code;

8           “(2) shall not make any payment for each day  
9           that a vessel is engaged in transporting more than  
10          five thousand tons of civilian bulk preference cargoes  
11          pursuant to sections 901(a), 901(b), or 901b of this  
12          Act; and

13          “(3) shall reduce any payment for each day  
14          that a vessel is engaged in transporting less than  
15          five thousand tons of civilian bulk preference cargoes  
16          pursuant to sections 901(a), 901(b), or 901b of this  
17          Act, by an amount which bears the same ratio to the  
18          amount otherwise payable as revenue for the car-  
19          riage of preference cargo bears to the gross revenue  
20          derived from the entire voyage.

21          “(h) The Secretary of Transportation shall enter into  
22          operating agreements in the following order of priority:

23                   “(1) Liner vessel or vessels owned or operated  
24                  by a person that is a citizen of the United States  
25                  under section 2 of the Shipping Act, 1916; and then

1           “(2) Liner vessel or vessels owned or operated  
2       by a person that is eligible to document a vessel  
3       under chapter 121 of subtitle II of title 46, United  
4       States Code.

5           “(i) No authority granted by the Secretary of Trans-  
6       portation to an owner or operator of a vessel covered by  
7       an operating agreement under this subpart may be sold,  
8       assigned, conveyed, leased or otherwise transferred to any  
9       other party, without the written consent of the Secretary  
10      of Transportation pursuant to the provisions of section  
11      608 of this title.

12          “(j) Any authority granted by the Secretary of Trans-  
13      portation to an owner or operator of a vessel covered by  
14      an operating agreement under this subpart shall be used  
15      by the holder of the operating agreement within one year  
16      from the date such authority is granted for existing vessels  
17      and within two years from the date such authority is  
18      granted for newly constructed vessels, or the authority  
19      shall revert to the Secretary of Transportation for such  
20      disposition as determined appropriate.

21          “(k) An operating agreement entered into by the Sec-  
22      retary of Transportation under this subpart shall be effec-  
23      tive for a period of not more than ten years, and, under  
24      any condition, terminate not later than September 30,  
25      2004.

1           “(l) An operating agreement entered into by the Sec-  
2 retary of Transportation under this subpart shall require  
3 the owner or operator of a vessel covered by an operating  
4 agreement under this subpart to enroll in an Emergency  
5 Preparedness Program, pursuant to the requirements of  
6 section 652, under such terms and conditions as the Sec-  
7 retary may prescribe.

8 **“SEC. 652. NATIONAL SECURITY REQUIREMENTS.**

9           “(a) On a request of the President, acting through  
10 the Secretary of Transportation in consultation with the  
11 Secretary of Defense, during time of war or national emer-  
12 gency or when decided by the President to be necessary  
13 in the national interest, acting through the Secretary of  
14 Transportation in consultation with the Secretary of De-  
15 fense, an owner or operator of a vessel covered by an oper-  
16 ating agreement under this subpart shall make available  
17 commercial transportation resources pursuant to an  
18 Emergency Preparedness Program established by the Sec-  
19 retary of Transportation in consultation with the Sec-  
20 retary of Defense.

21           “(b) The commercial transportation resources to be  
22 made available shall include ships, capacity, intermodal  
23 systems or equipment, terminal facilities, and intermodal  
24 and management services, or any portion of these re-  
25 sources, as the Secretary may determine to be necessary.

1       “(c) The Secretary of Transportation shall not reduce  
2 the amount of equal monthly installment payments under  
3 section 651 to an owner or operator who makes commer-  
4 cial transportation resources available pursuant to an  
5 Emergency Preparedness Program under this section.

6       “(d) An owner or operator who makes a vessel avail-  
7 able pursuant to this section shall be permitted to employ  
8 a foreign-flag vessel in the foreign commerce of the United  
9 States, without receiving additional compensation, as a re-  
10 placement for a vessel covered by an operating agreement,  
11 until a vessel used is redelivered.

12 **“SEC. 653. DOMESTIC NONCONTIGUOUS TRADE RESTRIC-**  
13 **TIONS.**

14       “(a) PROHIBITION.—

15       “(1) IN GENERAL.—Except as provided in this  
16 section, an owner or operator may not receive any  
17 payment under this subpart—

18       “(A) if the owner or operator or a related  
19 party with respect to the owner or operator, di-  
20 rectly or indirectly owns, charters, or operates  
21 a vessel engaged in the transportation of cargo  
22 in a noncontiguous trade other than in accord-  
23 ance with a waiver under subsection (b), (c), or  
24 (d); or

1                   “(B) if the owner or operator is authorized  
2           to operate a vessel in noncontiguous trade  
3           under such a waiver, and there is a—

4                   “(i) material change in the domestic  
5           ports served by the owner or operator from  
6           the ports permitted to be served under the  
7           waiver;

8                   “(ii) material increase in the annual  
9           number or the frequency of sailings by the  
10          owner or operator from the number or fre-  
11          quency permitted under the waiver; or

12                   “(iii) material increase in the annual  
13          volume of cargo carried or annual capacity  
14          utilized by the owner or operator from the  
15          annual volume of cargo or annual capacity  
16          permitted under the waiver.

17                   “(2) LIMITATIONS ON PROHIBITION.—Para-  
18          graph (1) applies to an owner or operator only in  
19          the years specified for payments under the operating  
20          agreement entered into by the owner or operator.

21                   “(b) GENERAL WAIVER AUTHORITY.—

22                   “(1) IN GENERAL.—Except as provided in sub-  
23          section (c), the Secretary may waive, in writing, the  
24          application of subsection (a) to an owner or operator  
25          pursuant to an application submitted in accordance



1 with this subsection, unless the Secretary finds  
2 that—

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

8 “(B) subject to paragraph (6), existing  
9 service in that noncontiguous trade is adequate;  
10 or

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

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

15 “(A) the domestic ports permitted to be  
16 served,

17 “(B) the annual number or frequency of  
18 sailings that may be provided, and

19 “(C)(i) the annual volume of cargo per-  
20 mitted,

21 “(ii) for containerized or trailer service, the  
22 annual forty-foot equivalent unit shipboard con-  
23 tainer and trailer or vehicle or general cargo ca-  
24 pacity permitted, or

1                   “(iii) for tug and barge service, the annual  
2                   barge house cubic foot capacity and the annual  
3                   barge deck general cargo capacity, or forty-foot  
4                   equivalent units container, trailer, or vehicle ca-  
5                   capacity, permitted.

6                   “(3) APPLICATIONS FOR WAIVERS.—An appli-  
7                   cation for a waiver under this subsection may be  
8                   submitted by an owner or operator and shall de-  
9                   scribe, as applicable, the nature and scope of—

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

12                   “(B) any proposed material change or in-  
13                   crease in a service in a noncontiguous trade  
14                   permitted under a previous waiver.

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

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

20                   “(i) publish a notice of the applica-  
21                   tion;

22                   “(ii) begin a proceeding on the appli-  
23                   cation section 554 of title 5, United States  
24                   Code, to receive—

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

5                   “(II) a description of the pro-  
6                   posed service or proposed material  
7                   change or increase in a previously per-  
8                   mitted service;

9                   “(III) the projected effect of the  
10                  proposed service or proposed material  
11                  change or increase in existing service;  
12                  and

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

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

23                  “(C) HEARING.—Before deciding whether  
24                  to grant a waiver under this subsection, the  
25                  Secretary shall hold a public hearing in an ex-

1           peditious manner, reasonable notice of which  
2           shall be published.

3           “(5) DECISION.—The Secretary shall complete  
4           all proceedings and hearings on an application under  
5           this subsection and issue a decision on the record  
6           within ninety days after receipt of the final briefs  
7           submitted for the record.

8           “(6) LIMITATION ON CONSIDERATION OF CER-  
9           TAIN EXISTING SERVICE.—

10           “(A) LIMITATION.—In determining wheth-  
11           er to grant a waiver under this subsection for  
12           noncontiguous trade with Hawaii, the Secretary  
13           shall not consider the criterion set forth in  
14           paragraph (1)(B) if a qualified operator—

15           “(i) is a party to an operating agree-  
16           ment under this subpart, and

17           “(ii) operates four or more vessels in  
18           foreign commerce in competition with an-  
19           other operator who is a party to an operat-  
20           ing agreement under this subpart.

21           “(B) QUALIFIED OPERATOR.—In this  
22           paragraph, the term ‘qualified operator’ means  
23           a person that on July 1, 1992, offered service  
24           as an operator of containerized vessels, trailer  
25           vessels, or combination container and trailer

1 vessels in domestic trade with Hawaii and the  
2 Johnston Islands (including a related party  
3 with respect to the person).

4 “(c) WAIVERS FOR EXISTING NONCONTIGUOUS  
5 TRADE OPERATORS.—

6 “(1) IN GENERAL.—The Secretary shall waive  
7 the application of subsection (a) to an owner or op-  
8 erator, who is a party to an operating agreement  
9 under this subpart, pursuant to an application sub-  
10 mitted in accordance with this subsection if the Sec-  
11 retary finds that the owner or operator, or a related  
12 party or predecessor in interest with respect to the  
13 owner or operator—

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

16 “(i) in a noncontiguous trade on July  
17 1, 1992; or

18 “(ii) in furnishing seasonal service in  
19 a season ordinarily covered by its oper-  
20 ation, during the twelve calendar months  
21 preceding July 1, 1992; and

22 “(B) has operated in that service since  
23 that time, except for interruptions of service re-  
24 sulting from military contingency or over which

1 the owner or operator (or related party or pred-  
2 ecessor in interest) had no control.

3 “(2) TERMS OF WAIVER.—

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

14 “(i) the domestic ports called;

15 “(ii) the number of sailings actually  
16 made, except as to interruptions in the  
17 service in the noncontiguous trade result-  
18 ing from military contingency or over  
19 which the applicant (or related party or  
20 predecessor in interest) had no control;  
21 and

22 “(iii) the volume of cargo carried or,  
23 for containerized or trailer service, the  
24 forty-foot equivalent unit shipboard con-  
25 tainer, trailer, or vehicle or general cargo

1 capacity employed, or, for tug and barge  
2 service, the barge house cubic foot capacity  
3 and barge deck general cargo capacity or  
4 forty-foot equivalent unit container, trailer,  
5 or vehicle capacity, employed.

6 “(B) CERTAIN CONTAINERIZED VES-  
7 SELS.—If an applicant under this subsection  
8 was offering service as an operator of container-  
9 ized vessels in noncontiguous trades with Ha-  
10 waii, Puerto Rico, and Alaska on July 1, 1992,  
11 a waiver under this subsection for the applicant  
12 shall permit a level of service consisting of—

13 “(i) One hundred and four sailings  
14 each year from the West Coast of the  
15 United States to Hawaii with an annual  
16 capacity allocated to the service of 75 per  
17 centum of the total capacity of the vessels  
18 employed in the service on July 1, 1992;

19 “(ii) One hundred fifty-six sailings  
20 each year in each direction between the  
21 East Coast or Gulf Coast of the United  
22 States and Puerto Rico with an annual ca-  
23 pacity allocated to the service of 75 per  
24 centum of the total capacity of its vessels  
25 employed in the service on the date of the

1 enactment of the Maritime Security and  
2 Trade Act of 1994; and

3 “(iii) One hundred and three sailings  
4 each year in each direction between Wash-  
5 ington and Alaska with an annual capacity  
6 allocated to the service in each direction of  
7 100 per centum of the total capacity of its  
8 vessels employed in the service on July 1,  
9 1992.

10 “(C) CERTAIN TUGS AND BARGES.—If an  
11 applicant under this subsection was offering  
12 service as an operator of tugs and barges in  
13 noncontiguous trades with Hawaii, Puerto Rico,  
14 and Alaska on July 1, 1992, a waiver under  
15 this subsection for the applicant shall permit a  
16 level of service consisting of—

17 “(i) Seventeen sailings each year in  
18 each direction between ports in Washing-  
19 ton, Oregon, and Northern California and  
20 ports in Hawaii with an annual barge  
21 house cubic foot capacity and annual barge  
22 deck forty-foot equivalent unit container  
23 capacity in each direction of 100 per cen-  
24 tum of the total of the capacity of its ves-  
25 sels employed in the service during the six



1 calendar months preceding July 1, 1992,  
2 annualized;

3 “(ii) Two hundred fifty-three sailings  
4 each year in each direction between the  
5 East Coast or Gulf Coast of the United  
6 States and Puerto Rico with an annual  
7 forty-foot equivalent unit container or  
8 trailer capacity equal to 100 per centum of  
9 the capacity of its barges employed in the  
10 service on the date of the enactment of the  
11 Maritime Security and Trade Act of 1994;

12 “(iii) Thirty-seven regularly scheduled  
13 tandem tow rail barge sailings and ten ad-  
14 ditional single tow rail barge sailings each  
15 year in each direction between Washington  
16 and the Alaskan port range between and  
17 including Anchorage and Whittier with an  
18 annual capacity allocated to the service in  
19 each direction of 100 per centum of the  
20 total rail car capacity of its vessels em-  
21 ployed in the service on July 1, 1992;

22 “(iv) Eight regularly scheduled single  
23 tow sailings each year in each direction be-  
24 tween Washington and points in Alaska  
25 (not including the port range between and

1 including Anchorage and Whittier, except  
2 occasional deviations to discharge inciden-  
3 tal quantities of cargo) with an annual ca-  
4 pacity allocated to the service in each di-  
5 rection of 100 per centum of the total ca-  
6 pacity of its vessels employed in the service  
7 on July 1, 1992; and

8 “(v) unscheduled, contract carrier tug  
9 and barge service between points in Alaska  
10 south of the Arctic Circle not served by the  
11 common carrier service permitted under  
12 clause (iii) and points in the contiguous  
13 forty-eight States, with an annual capacity  
14 allocated to that service not exceeding 100  
15 per centum of the total capacity of the  
16 equipment that was dedicated to service  
17 south of the Arctic Circle on July 1, 1992,  
18 and actually utilized in that service in the  
19 two-year period preceding that date.

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

24 “(E) ADJUSTMENTS.—

1                   “(i) Each written waiver granted by  
2                   the Secretary under this subsection shall  
3                   contain a statement that the annual capac-  
4                   ity permitted under this waiver in any di-  
5                   rection shall increase for a calendar year  
6                   by the percentage of increase during the  
7                   preceding calendar year in the real gross  
8                   product of the State or territory to which  
9                   goods are transported in the noncontiguous  
10                  trade covered by the waiver, or its equiva-  
11                  lent economic measure as determined by  
12                  the Secretary if the real gross product is  
13                  not available, and that the increase shall  
14                  not be considered to be a material change  
15                  or increase for purposes of subsection  
16                  (a)(1)(B).

17                  “(ii) The increase in permitted capac-  
18                  ity under clause (i) in the noncontiguous  
19                  trade with Alaska shall be allowed only to  
20                  the extent the operator actually uses that  
21                  increased capacity to carry cargo in the  
22                  permitted service in the calendar year im-  
23                  mediately following the preceding increase  
24                  in gross product. However, if an operator  
25                  operating exclusively containerized vessels

1                   in trade on July 1, 1992, carries an aver-  
2                   age load factor of at least 90 per centum  
3                   of permitted capacity (including the capac-  
4                   ity, if any, both authorized and used under  
5                   the previous sentence) during nine months  
6                   of any one calendar year, than in the next  
7                   following calendar year and thereafter, the  
8                   requirement that additional capacity must  
9                   be used in the immediately following year  
10                  does not apply.

11                  “(F) SERVICE LEVELS NOT INCREASED BY  
12                  TERMINATION OF AGREEMENT.—The termi-  
13                  nation of an operating agreement under subpart  
14                  B of this title shall not be considered to in-  
15                  crease a level of service specified in subpara-  
16                  graph (A), (B), or (C) if the contractor under  
17                  the agreement enters into another operating  
18                  agreement after that termination.

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

24                  “(4) ACTION ON APPLICATION.—

1           “(A) NOTICE.—The Secretary shall pub-  
2           lish a notice of receipt of an application for a  
3           waiver under this subsection within thirty days  
4           after receiving the application.

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

8           “(C) SUBMISSION OF COMMENTS.—The  
9           Secretary shall give every person operating a  
10          cargo vessel in a noncontiguous domestic trade  
11          for which a waiver is applied for under this sub-  
12          section and who has any interest in the applica-  
13          tion a reasonable opportunity to submit com-  
14          ments on the application and on the description  
15          of the service that would be permitted by any  
16          waiver that is granted by the Secretary under  
17          the application.

18          “(5) DECISION ON APPLICATION.—Subject to  
19          the time required for publication of notice and for  
20          receipt and evaluation of comments by the Sec-  
21          retary, an application for a waiver under this sub-  
22          section submitted at the same time the applicant ap-  
23          plies for inclusion of a vessel in the fleet established  
24          under this subpart shall be granted in accordance  
25          with the level of service determined by the Secretary

1 under this subsection by not later than the date on  
2 which the Secretary offers to the applicant an oper-  
3 ating agreement with respect to that vessel.

4 “(6) CHANGE OR INCREASE IN SERVICE.—Any  
5 material change or increase in a service that is sub-  
6 ject to a waiver under this subsection is not author-  
7 ized except to the extent the change or increase is  
8 permitted by a waiver under subsection (b).

9 “(d) EMERGENCY WAIVER.—Notwithstanding any  
10 other provision of this section, the Secretary may, without  
11 hearing, temporarily waive the application of subsection  
12 (a)(1)(B) if the Secretary finds that a material change or  
13 increase is essential in order to respond adequately to (1)  
14 an environmental or natural disaster or emergency, or (2)  
15 another emergency declared by the President. Any waiver  
16 shall be for a period of not to exceed forty-five days, except  
17 that a waiver may be renewed for thirty-day periods if the  
18 Secretary finds that adequate capacity continues to be  
19 otherwise unavailable.

20 “(e) ANNUAL REPORT ON WAIVERS.—Each waiver  
21 under this section shall require the person who is granted  
22 the waiver to submit to the Secretary each year an annual  
23 report setting forth for the service authorized by the  
24 waiver—

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

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

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

9           “(f) DEFINITIONS.—In this section—

10           “(1) the term ‘noncontiguous trade’ means  
11           trade between—

12           “(A) a point in the contiguous forty-eight  
13           States; and

14           “(B) a point in Alaska, Hawaii, or Puerto  
15           Rico, other than a point in Alaska north of the  
16           Arctic Circle; and

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

18           “(A) a holding company, subsidiary, affili-  
19           ate, or associate of a owner or operator who is  
20           a party to an operating agreement under this  
21           subpart; and

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

1 **“SEC. 654. DEFINITIONS.**

2 “For the purposes of subpart B of this title:

3 “(1) The term ‘citizen of the United States’  
4 means a person that is a citizen of the United States  
5 under section 651 of this subpart.

6 “(2) The term ‘operating agreement’ means an  
7 operating agreement that takes effect under section  
8 651 of this subpart and covers one or more ves-  
9 sels.”.

10 (f) **EFFECTIVE DATE.**—The amendments made by  
11 subsections (a) through (e) of this section shall be effective  
12 beginning on the date which is one hundred twenty days  
13 after the date of enactment of the Maritime Security and  
14 Trade Act of 1994.

15 **SEC. 203. TONNAGE FEES.**

16 (a) **INCREASE OF DUTIES.**—Section 36 of the Act of  
17 August 5, 1909 (46 App. U.S.C. 121) is amended in the  
18 second paragraph by—

19 (1) inserting after “1998,” the first place it ap-  
20 pears “and a supplemental duty of 15 cents per ton,  
21 not to exceed in the aggregate 75 cents per ton in  
22 any one year, for fiscal years 1995 through 2004,”;  
23 and

24 (2) inserting after “1998,” the second place it  
25 appears, “and a supplemental duty of 44 cents per



1 ton, not to exceed \$2.20 per ton in any one year, for  
2 fiscal years 1995 through 2004.”.

3 (b) OFFSETTING RECEIPTS.—The increased tonnage  
4 fees collected as a result of the amendments made by sub-  
5 section (a) shall be deposited in the general fund of the  
6 Treasury as offsetting receipts of the department in which  
7 the Coast Guard is operating and ascribed to Coast Guard  
8 activities.

9 **SEC. 204. USE OF FOREIGN-FLAG VESSELS.**

10 Section 804 of Title VIII of the Merchant Marine  
11 Act, 1936, as amended (46 App. U.S.C. 1222), is  
12 amended by adding a new subsection (f) as follows:

13 “(f) The provisions of subsection (a) of this section  
14 shall not preclude an owner or operator receiving operat-  
15 ing assistance under subpart A or subpart B of title VI,  
16 or any holding company, subsidiary, affiliate or associate  
17 of such owner or operator, or any officer, director, agency,  
18 or executive thereof from—

19 “(1) owning, chartering, or operating any for-  
20 eign-flag vessel that is operated as a feeder vessel  
21 for a United States-flag service under an operating  
22 agreement pursuant to subpart B of title VI;

23 “(2) owning, chartering, or operating any for-  
24 eign-flag vessel in line haul service between the  
25 United States and foreign ports: *Provided*, That the

1 foreign-flag vessel was operated by that owner or op-  
2 erator on the date of enactment of this Act; or that  
3 the owner or operator, with respect to each addi-  
4 tional foreign-flag vessel, has first applied to have  
5 that vessel added to the existing operating agree-  
6 ment, and the Secretary denies the application: *And*  
7 *provided further*, That any foreign-flag vessel in line  
8 haul service between the United States and foreign  
9 ports is (a) registered under the flag of an effective  
10 United States-controlled foreign flag, and (b) avail-  
11 able to be requisitioned by the Secretary of Trans-  
12 portation pursuant to section 902 of this Act;

13 “(3) owning, chartering, or operating foreign-  
14 flag liner vessels that are operated exclusively in for-  
15 eign-to-foreign service and not in the foreign com-  
16 merce of the United States;

17 “(4) owning, chartering, or operating foreign-  
18 flag bulk cargo vessels that are operated in both for-  
19 eign-to-foreign service and the foreign commerce of  
20 the United States;

21 “(5) chartering or operating foreign-flag vessels  
22 that are operated solely as replacement vessels for  
23 United States-flag vessels that are made available to  
24 the Secretary of Defense pursuant to section 652 of  
25 subpart B of title VI; or

1           “(6) entering into space charter agreements  
2           with foreign-flag carriers or acting as agent or  
3           broker for a foreign-flag vessel or vessels.”.

4 **SEC. 205. DEFINITION OF PRIVATELY OWNED UNITED**  
5 **STATES-FLAG COMMERCIAL VESSELS.**

6           The third sentence of section 901(b)(1) of title IX  
7 of the Merchant Marine Act, 1936, as amended (46 App.  
8 U.S.C. 1241(b)(1)) is deleted in its entirety and the fol-  
9 lowing is inserted in lieu thereof: “For purposes of this  
10 section, the term ‘privately owned United States-flag com-  
11 mercial vessels’ shall be deemed to include (1) any pri-  
12 vately owned United States flag commercial vessel con-  
13 structed in the United States, (2) any privately owned  
14 liner vessel constructed, reconstructed, or acquired outside  
15 the United States that is documented pursuant to chapter  
16 121 of title 46, United States Code and is less than five  
17 years of age on the date of such documentation, and (3)  
18 any bulk cargo vessel constructed in or delivered by a ship-  
19 yard outside the United States after January 1, 1993. The  
20 term ‘privately owned United States-flag commercial ves-  
21 sels’ shall also be deemed to include any liner or bulk  
22 cargo vessel that so qualified pursuant to section 615 of  
23 title VI or section 901(b)(1) of title IX of this Act, prior  
24 to enactment of the Maritime Security and Trade Act of  
25 1994. The term ‘privately owned United States-flag com-

1 mercial vessels' shall not be deemed to include any liquid  
2 bulk cargo vessel that does not meet the requirements of  
3 section 3703a of title 46, United States Code.".

4 **SEC. 206. USE OF FOREIGN-FLAG FEEDER VESSELS IN**  
5 **CARRIAGE OF PREFERENCE CARGOES.**

6 The provisions of law set forth in 46 App. U.S.C.  
7 1241(b)(1), 1241-1, and 1241f, requiring use of United  
8 States-flag vessels shall, with respect to liner vessels, be  
9 deemed fulfilled, as to the total of any shipment other than  
10 that of the Department of Defense covered by 10 U.S.C.  
11 2631, if the actual ocean transportation of each shipment  
12 for which the United States-flag carrier has issued its own  
13 through bill-of-lading between the original port of lading  
14 and the port of final discharge, consists of transportation  
15 of the cargo by a combination of United States-and for-  
16 eign-flag vessels: *Provided*, That, measured by distance,  
17 the United States-flag line haul portion of each voyage is  
18 greater than the foreign-flag feeder portion of each voyage  
19 pursuant to regulations issued by the Secretary of Trans-  
20 portation.

21 **SEC. 207. LIMITATION ON RESTRICTIONS.**

22 Notwithstanding any other provision of law or con-  
23 tract, all restrictions and requirements set forth in 46  
24 App. U.S.C. 1153, 1156, and 1212, applicable to a vessel  
25 constructed, reconstructed or reconditioned with the aid

1 of construction-differential subsidy shall terminate: (1) for  
2 a liner or dry bulk cargo vessel, upon the expiration of  
3 the twenty-five-year period beginning on the date of origi-  
4 nal delivery of the vessel from the shipyard, and (2) for  
5 a liquid bulk cargo vessel, upon the expiration of the twen-  
6 ty-year period beginning on the date of original delivery  
7 of the vessel from the shipyard.

○

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**U.S. House of Representatives**  
**Committee on**  
**Merchant Marine and Fisheries**  
 Room 1334, Longworth House Office Building  
 Washington, DC 20515-6230

March 16, 1994

TO: MEMBERS, SUBCOMMITTEE ON MERCHANT MARINE

FROM: SUBCOMMITTEE STAFF

RE: H.R. 4003, THE MARITIME SECURITY AND TRADE ACT OF 1994

At 10:00 a.m. on Thursday, March 17, 1994, in 1334 Longworth House Office Building, the Subcommittee on Merchant Marine will hold a hearing on H.R. 4003, the Maritime Security and Trade Act of 1994.

## DESCRIPTION OF THE LEGISLATION

On March 10, 1994, Chairman Gerry E. Studds, Ranking Minority Member Jack Fields, Merchant Marine Subcommittee Chairman William Lipinski, and Fisheries Management Subcommittee Chairman Thomas Manton introduced H.R. 4003, the Maritime Security and Trade Act of 1994, at the request of the Clinton Administration.

**TITLE I**  
**MARITIME ADMINISTRATION AUTHORIZATION OF APPROPRIATIONS**  
**FOR FISCAL YEAR (FY) 1995**

Title I contains the authorization of appropriations for the four major maritime programs administered by the Maritime Administration (MARAD) for fiscal year 1995. These four programs and their requested authorizations are: operating-differential subsidy (ODS) at \$214 million; operations and training activities at \$77 million; Ready Reserve Force at \$250 million; and Title XI loan guarantees at \$54 million.

TITLE II  
AMENDMENTS TO THE MERCHANT MARINE ACT, 1936

The Administration's proposed Maritime Security Program (MSP) is designed to maintain a modern American merchant fleet, ensure a continuing presence in the transportation of our vast international commerce, and provide adequate sealift for national emergencies.

The policy of the United States has been to foster the development and encourage the maintenance of a U.S. merchant marine for the development of foreign and domestic commerce and to support national defense needs. The United States should have a merchant marine sufficient to carry its domestic ocean commerce and a substantial portion of the foreign ocean commerce. The U.S. merchant marine should also be capable of serving as military auxiliary in times of war and national emergency. The maritime policy, reflected in H.R. 4003, seeks to have a merchant marine composed of the best equipped, safest, and most suitable vessels owned and operated under the U.S. flag by U.S. citizens.

During Operation DESERT SHIELD and DESERT STORM, the privately owned U.S.-flag fleet played a significant role in the sealift operations. Approximately 32 percent of the cargo was shipped on liner and chartered U.S.-flag ships. All of the U.S.-flag ships used during the sealift operations, including those under U.S. Government control, were crewed by trained American merchant mariners.

The 10-year program would provide total funding of \$1 billion, approximately \$100 million a year, to support about 52 liner vessels in the commercial foreign trade of the United States. Participating operators would be required to make their ships and other commercial transportation resources available to the government in time of war or national emergency.

This new program would authorize direct payments for U.S.-flag vessels operating in foreign trade, beginning in fiscal year 1995 and ending in fiscal year 2004. Annual payments would not exceed \$2.5 million per ship for the first three years of the program and \$2.0 million per ship for the remaining years of the program.

Under the proposed MSP, liner operators would be permitted to operate without trade route restrictions and would also be allowed to operate a limited number of line haul foreign-flag vessels and unlimited foreign-flag feeder vessels. Participating ships would be required to operate exclusively in the U.S. foreign trade. There would be a general prohibition against operations in the noncontiguous domestic trades by ships operating under the MSP, but the

proposed legislation would grandfather domestic trade privileges at historical levels. U.S.-flag ships entering the MSP must be less than 15 years of age; ships acquired from foreign sources would be allowed into the new program provided the vessels are less than five years of age.

First preference for MSP eligibility would be given to ships owned by U.S. citizens, as defined in Section 2 of the Shipping Act, 1916; vessels otherwise eligible for documentation under U.S. law could utilize the remaining available authorizations.

Current ODS operators would be allowed to keep ships under the ODS program and would be allowed to apply for MSP payments for other vessels. The legislation provides that ODS contracts could not be renewed or extended, but the restrictions on vessel acquisition, trade routes, and foreign vessel operations would be relaxed under both the ODS and MSP programs.

**Program Highlights:**

**Length:** 10 years (October 1, 1994-September 20, 2004).

**Number of Ships in Program:** The \$1 billion 10-year program will support about 52 liner vessels. Up to 32 ships may enter the program during its first year.

**Length of Agreement with Operators:** Maximum 10 years; less if ship enters program after October 1, 1994.

**Service During National Emergencies:** Participants must enroll in an Emergency Preparedness Program established to provide intermodal sealift support in times of war, national emergency, or by President order. The commercial transportation resources to be provided will include the ship's capacity, intermodal equipment, terminal facilities and management services.

**Payments:** \$2.5 million per ship per year through FY 1997, decreasing to \$2 million per ship per year in FY 1998-FY 2004.

**Eligible Vessels:** Commercial and militarily useful ships, as determined by the Secretary of Transportation. U.S.-flag ships entering the program must be 15 years of age or less; liner ships acquired from foreign sources will be allowed but must be five years of age or less.

**Preference Cargoes:** This proposal would eliminate the three-year waiting period for eligibility to carry preference cargoes for foreign-built, U.S.-flag liner vessels, and for bulk type vessels built or under construction in a foreign shipyard on January 1, 1993. It also would allow full



eligibility for foreign-flag feeder vessels in conjunction with U.S.-flag line-haul vessels in the carriage of preference cargoes. There would be a pro rata reduction of MSP payments when program vessels carry civilian preference cargoes of up to 5,000 tons and no MSP payments on voyages carrying more than 5,000 tons of preference cargoes.

**Status of Existing Program:** Participants in the existing operating-differential subsidy (ODS) program may keep their ships in the ODS program, or may apply to include their ODS or other ships in the Maritime Security Program. However, an ODS operator may not reserve slots in the new program pending termination of its ODS agreement. MARAD will not consider applications to extend the subsidizable lives of ships in the ODS program.

**MARAD Deregulation:** All operators joining the new program will be deregulated, and trade route and service restrictions in the current operating-differential subsidy program will be eliminated. MSP participants and ODS operators will be permitted to operate foreign-flag feeder vessels. They also will be able to operate foreign-flag line haul vessels if the vessels were providing such services on the date the MSP is enacted into law, or if the vessels are denied entry into the new program and operate under an Effective United States Control Registry.

**Funding:** The Administration's proposed legislation includes a tonnage fee increase that will raise approximately \$100 million a year for 10 years. The increase will meet pay-as-you-go budgetary requirements for the Maritime Security Program. Tonnage fees are deposited into the General Fund of the U.S. Treasury and, within the budget, serve as offsetting receipts for Coast Guard services provided to the international maritime industry.

#### BACKGROUND INFORMATION ON TONNAGE FEES

The U.S. vessel tonnage duty on commercial vessels entering U.S. ports was enacted in 1790. The rate is based on the net registered tonnage (NRT) of the ship, as well as the last foreign port the vessel called before entering the United States.

On January 1, 1991, the fee on the first five entries a vessel makes into the United States from another port in the Western Hemisphere was increased from \$0.02 per NRT to \$0.09 per NRT, and the fee on the first five entries from other foreign areas was increased from \$0.06 to \$0.27 per NRT.

To fund the Maritime Security Program, tonnage fees would be increased to \$0.24 and \$0.71 respectively. The fee will continue to be collected for a vessel's first five entries into a U.S. port.

- For a typical container ship, the cost would increase from \$.90 to about \$2.37 per container (a \$1.47 increase).
- For a dry-bulk carrier, the cost would increase from \$0.08 to about \$0.22 per ton of cargo (a \$0.14 increase).
- For a tanker, the cost would increase from \$0.007 to about \$0.018 per barrel (a \$0.011 increase).
- For a passenger ship, the cost would increase from \$0.23 to about \$0.61 per passenger (a \$0.38 increase).

BACKGROUND INFORMATION ON  
H.R. 2151, THE MARITIME SECURITY AND COMPETITIVENESS ACT

H.R. 2151 was introduced by Chairman Studts on May 19, 1993. The House agreed to amendments adopted by the Committee of the Whole. The bill passed the House, as amended, by 347-65 (Record Vote No: 547).

On November 8, 1993, the bill was received in the Senate and referred to the Committee on Commerce, Science, and Transportation.

H.R. 2151 would amend the Merchant Marine Act of 1936 by establishing the Maritime Security Fleet Program. The objectives of the MSF program are the same as those of H.R. 4003.

H.R. 2151 authorizes the Secretary of Transportation to administer the \$1.2 billion program. The Secretary could start signing 10 year contracts on October 1, 1994 with payments starting in fiscal year 1996. A priority system would be used to award contracts. Vessels under current ODS contracts would have first priority, followed by vessels owned and operated by a U.S. company with a majority of it's stock controlled by U.S. citizens. Final priority would be given to vessels owned and operated by any remaining U.S. companies.

All U.S.-built vessels under 25 years old would be eligible for the program. As passed, H.R. 2151 permits vessels constructed in foreign shipyards after May 19, 1993, may be included in the MSF program only if they were built in non-subsidized yards or are less than 10 years of age. A new foreign built vessel may be enrolled in the MSP program only if the proposed owner solicited bids for at least six months from U.S. shipyards and U.S. shipyards can not sell the vessel to the owner at the world price due to the unavailability of series transition payment funds. A vessel more than 25 years old would be eligible for up to 30 months if a binding contract for a replacement vessel has been entered into with a qualified shipyard.

MSF payments would be made to U.S.-flag vessels operating in United States foreign commerce. H.R. 2151 contains a general prohibition on operations in the noncontiguous domestic trades, while grandfathering domestic trading privileges at historical levels. Payments would be proportionately reduced when eligible operations account for fewer than 320 days in a year. The operating restrictions in sections 605(c), 804, and 805 and the essential service requirements in sections 601(a) and 603(a) would not apply to vessels operated under MSF agreements (see 46 U.S.C. 1171 and 1211). The restrictions would not apply to vessels operating under existing ODS agreements if the contractor transfers all its vessels into the MSF program.

The bill would amend the cargo preference vessel eligibility provisions in section 901(b) of the 1936 Act. The requirements that an existing foreign-built vessel be documented in the United States for at least three years before being eligible would only apply to vessels transporting more than 5,000 tons of bulk cargo on a voyage.

H.R. 2151 specifically authorizes series transition payments (STP) to a shipyard located in the United States for construction of a series of vessels if: (1) payment will contribute to essential national vessel construction capabilities; (2) the vessels are commercially internationally marketable; (3) upon completion of construction of the vessels, the shipyard will be capable of constructing additional vessels for an internationally competitive price. Payments are limited to 50 percent of the construction cost. There is no STP program in H.R. 4003.

BACKGROUND INFORMATION ON  
H.R. 2380, THE MARITIME TRUST FUND ACT

On June 10, 1993, Chairman Lipinski introduced H.R. 2380, the Maritime Trust Fund Act. The bill was referred jointly to the Committee on Merchant Marine and Fisheries and the Committee on Ways and Means.

This legislation would raise revenue to fund maritime revitalization by imposing a five percent cruise vessel ticket tax and a \$15 tax on containers involved in foreign commerce of the United States.

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**Statement of Federico Peña  
Secretary of Transportation  
before the  
House Merchant Marine and Fisheries Committee  
Subcommittee on Merchant Marine  
Maritime Security and Trade Act Hearing  
March 17, 1994**

**Mr. Chairman, I am very pleased to be here today, accompanied by the Maritime Administrator, Albert J. Herberger, to support the Administration's Maritime Security and Trade Act of 1994. I believe so strongly in what we are trying to accomplish that I asked for the privilege of testifying before this Subcommittee. I bring with me the President's support in our efforts to secure America's future as a maritime nation. At the outset, I want to thank you for introducing the President's proposal and for your leadership on this important issue.**

I commend the members of this Committee for passing a comparable bill last year and also appreciate the bipartisan support of the members of this Committee for a new maritime policy. Maritime revitalization was a top priority of mine soon after becoming Secretary of Transportation and I look forward to working with you to secure its passage this year. The Administration wants to set a new course for America's merchant marine, one that will enhance the competitiveness of this industry into the 21st century.

The Administration has proposed and is implementing separate programs for two vital maritime industries -- the United States-flag fleet and the United States shipbuilding industrial base.

The President's shipbuilding initiative announced last fall includes Title XI funding of about \$150 million, supporting

approximately \$1.5 billion in loan activity. The Department of Transportation FY '95 budget includes a \$50 million Title XI request to implement this shipbuilding program.

The Department is also working with the Advanced Research Projects Agency (ARPA) through MARITECH to improve commercial competitiveness. The President's shipbuilding initiative includes \$220 million over 5 years for research and development to accelerate technology transfer and process change.

In addition to the above mentioned funding requests, the President's shipbuilding plan will expand government activities to assist marketing efforts for U.S. shipyards, revise regulations that impose unnecessary burdens on the shipbuilding industry, and seek to level the international playing field through negotiations at the Organization for

Economic and Cooperative Development (OECD) to end foreign shipbuilding subsidies.

President Clinton's second maritime initiative, the Maritime Security and Trade Act, guarantees the continued existence of a fleet of privately-owned, commercial United States-flag ships crewed by skilled American civilian seafarers and owned by United States citizens. This legislation is designed to maintain a modern American merchant fleet, ensure continuing American presence in the transportation of our international commerce, and provide adequate sealift for national emergencies. As the members of this Subcommittee know, a comprehensive revitalization of maritime policy for the United States merchant marine has been needed for many years.



We are proud of our American-flag carriers and their development of technological innovations, such as containerization, double-stack rail cars, specialized containers, electronic equipment identification, and satellite tracking, all of which has formed the basis of the best intermodal transportation system in the world. As a result of intermodal transportation innovations pioneered by United States-flag carriers, U.S. manufacturers and the rest of our industrial and agricultural sectors benefit from a seamless transportation system. This means lower costs -- not only for transportation but also for warehousing, inventory, insurance and damage claims. The American public, as consumers of imports and producers of exports, is the prime beneficiary of this efficient intermodal system.

The Administration's bill proposes a ten-year Maritime Security Program (MSP), which would provide total funding of

\$1 billion, approximately \$100 million a year, to support U.S.-flag liner vessels in our international commercial trade. To be eligible for the MSP, U.S. operators would be required to keep vessels in active foreign commerce under the United States flag. Commercially and militarily useful ships would be selected for this program, as determined by the Department of Transportation, after consultation with the Department of Defense.

United States-flag ships entering the program would be required to be 15 years of age or less; liner ships acquired from foreign sources would be allowed if five years of age or less. Under this program, ship operators would receive \$2.5 million per ship per year, through fiscal year 1997, decreasing to \$2.0 million per ship per year in fiscal year 1998 through the end of the program in fiscal year 2004. This program would support approximately 52 ships.

The modern ships included in this program would provide the competitive type of service that is so important in international commercial shipping and trade and in meeting the needs of customers here in the United States, as well as overseas.

This proposal also ensures that U.S.-flag ships would remain available to meet national security requirements. Participating ship operators would be required to make their ships and other commercial transportation resources available to the Government in time of national emergency, or when decided by the President to be in the national interest. The commercial transportation resources to be provided would include ships, capacity, intermodal systems or equipment, terminal facilities, and management services. This infrastructure provided an intermodal pipeline during the Persian Gulf conflict, moving critical supplies on commercial

containerships in door-to-door service. In time of need, therefore, the United States will have the finest intermodal sealift support available in the world.

To move toward more competitive shipping rates for the carriage of preference cargoes, this legislation would make modern United States-flag ships eligible to carry preference cargoes. In addition to commercial vessels built in the United States, liner vessels acquired outside the United States that are less than five years of age and bulk cargo vessels delivered after January 1, 1993, would be immediately eligible for these cargoes. Another provision permits United States-flag line haul vessels, in conjunction with foreign-flag feeder vessels, to be eligible for these cargoes. These provisions support current cargo preference laws.

This proposal also provides flexibility for participants in the last years of the existing operating-differential subsidy (ODS) program. They may keep their ships in the ODS program until the current contracts expire or may apply to include these or other ships in the Maritime Security Program. If they choose to remain in the ODS program, however, applications to renew or extend the current contracts would not be considered.

The competitiveness of the United States-flag merchant fleet would be enhanced by enactment of this bill, because all operators joining the new program would be deregulated, and trade route and service restrictions in the current ODS program eliminated. Both MSP participants and ODS operators would be permitted to operate foreign-flag feeder vessels.

In addition, the Administration's proposal contains a specific plan to pay for this maritime revitalization program. Specifically, we propose an increase in the existing vessel tonnage duty. That duty, initially created by the first Congress for the benefit of U.S.-built ships, is charged on all foreign trade vessels entering our ports. The duty is assessed on a vessel's net registered tonnage (NRT), a universal measure of cargo capacity. If a ship enters the United States from a nearby Western Hemisphere foreign port, the fee is nine cents per NRT; if its last call was outside that area, the fee is 27 cents per NRT. Our proposal is to increase this two-tiered fee by 15 and 44 cents, respectively. Under current law, no fee is collected once a ship has made five calls in a year in U.S. ports, and we propose retaining this practice, which has been in effect since the late 19th century.

Tonnage fees are deposited into the general fund of the Treasury and, within the budget, serve as offsetting receipts for Coast Guard services provided to the international maritime industry. Today, our Coast Guard provides an estimated \$800 million in services to ships of all nations for aids to navigation, search and rescue, vessel inspections and many other activities. An increase in tonnage duties was enacted by Congress in 1990 as a partial offset of the Coast Guard's cost of these services. This proposed increase would be treated similarly in our budget, thereby allowing us to fund the MSP on a pay-go basis.

We believe this fee increase will have no adverse impact on our foreign trade, or any segment of our maritime and international trade industries. Our analysis of this increase shows that about \$1.50 will be added to the cost of moving a twenty-foot container. The added cost on a typical cruise

ticket is just 38 cents. Tankers would pay about one additional penny per barrel of oil and the fee for dry bulk cargo ships would increase by about 14 cents per ton.

The size of our foreign commerce and the vigorous growth we see ahead mean this increased duty should have no harmful effect on any port, shipper or company, and only a negligible impact on consumers. The increase in tonnage duties initiated by this Committee in 1990 has not adversely affected trade; in fact, foreign trade has increased since 1990.

As the President said just last week, "A modern merchant United States-flag fleet, with skilled U.S. mariners, will provide not only jobs and economic benefits, but also an important sealift capability in times of national emergency."



Along with the President, Admiral Herberger and I look forward to working with you to secure approval this year for this important legislation to implement a long-awaited, comprehensive revitalization of the United States merchant marine.

Thank you for giving me the opportunity to appear before you today. I will be glad to answer any questions you and the members of the Subcommittee may have.

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U.S. House of Representatives  
 Committee on  
 Merchant Marine and Fisheries  
 Room 1334, Longworth House Office Building  
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March 22, 1994

The Honorable Federico Pena  
 Secretary  
 U.S. Department of Transportation  
 Washington, D.C. 20590

Dear Mr. Secretary:

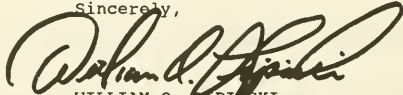
I want to extend my sincere appreciation for your testimony before the Subcommittee on Merchant Marine on March 17, 1993.

It was indeed an honor to have you and Admiral Herberger present the President's proposal for maritime revitalization to the Subcommittee. Your efforts within the administration have been crucial in producing the President's revitalization plan for the U.S. maritime industry, and we are optimistic that a program will be enacted this year.

As you know, the Subcommittee Members have some concerns about H.R. 4003, and I thank you for your and Admiral Herberger's candid responses to our questions during the hearing. To continue our evaluation of the administration's proposal, I would be grateful for your responses to the enclosed questions. I realize this is an extensive list, however, your response by April 4, 1994, would be greatly appreciated.

Once again, thank you for making our deliberations a success. With kind regards and best wishes, I remain

Sincerely,



WILLIAM O. LIPINSKI  
 Chairman, Subcommittee on  
 Merchant Marine

Enclosure  
 cc: The Honorable Albert J. Herberger  
 Administrator  
 Maritime Administration

ADDITIONAL QUESTIONS FOR THE RECORD  
FOR THE HONORABLE FEDERICO PENAPROGRAM

(1) How much would it cost to have the sealift capacity proposed in the Maritime Security Program as part of the Ready Reserve Force or the Navy's fleet.

(2) I understand that U.S.-flag operators who do not qualify as a section 2 carriers will be eligible for the program under a third priority. Knowing your proposal envisions a 52-vessel fleet, is it possible that any contracts will be awarded to these operators?

(3) What sort of criteria will you incorporate into the regulations used to select vessels for contracts? What is the purpose of these criteria?

(4) Why have bulk vessels been excluded from participation in your program?

(5) During the recent industry briefing, Admiral Herberger cautioned that if this program is not enacted this year, it would only be a matter of time before cargo preference and the Jones Act were dismantled. Could you please elaborate on this statement and what actually precipitated these concerns?

(6) Do you feel that the 52 vessels for the program will be sufficient to meet national security requirements while maintaining an American-flag presence in international commercial shipping? How did you arrive at this figure?

(7) You have faced a great deal of opposition in forging a new maritime policy and moved your agenda through an administration where even the Vice President's National Performance review initially called for a dismantling of the maritime industry. Now that your maritime revitalization program has been finalized, what are you doing to generate a clear message to all the agencies that the President supports the U.S. maritime industry?

(8) The budget that has been submitted for the program in fiscal year 1995 allows for 32 vessels. Do you intend to sign all 52 contracts for the life of the program in the first year with delayed effective dates or will you continue to consider applications up to fiscal year 1998 for the remaining contracts?

(9) In relation to the "voluntary" nature of your proposal, some industry representatives are concerned that your proposal seems to require an operator to offer all of its vessels for enrollment to receive any support and allows the Government to decide which ones it wants in the program. This concern was precipitated over the fear that some of their vessels could not be operated economically under U.S.-flag even with the program. Could you please clarify this issue?

(10) The level of payments in your program appear to be capped at \$2.5 million annually per ship for the first three years and at \$2.0 million annually for the last 7 years. Could you confirm that an operator would receive the full amount so long as the enrolled vessel meets the operating requirements in the bill?

(11) Please provide the Subcommittee with a more detailed explanation of the foreign-flag feeder and line-haul sections of the bill?

#### CARGO PREFERENCE

(1) In your proposal, you treat civilian bulk and military preference cargo differently in that subsidized carriers who carry military cargo would not see a reduction in their subsidy. Have you examined the possibility that subsidized vessels may be given an unfair advantage over non-section 2 carriers who bid on military cargo?

(2) As you know, H.R. 2151 includes language to strengthen MARAD's oversight and enforcement role in the Government's cargo reservation programs. Why does the administration's bill omit these provisions?

#### LABOR

(1) Is it true that a master of a large vessel earns about the same as a U.S. airline captain? What are the responsibilities of the master and other crew members?

#### SHIPBUILDING

(1) Several U.S.-flag liner operators recently ordered new ships built overseas. Shouldn't these ships be built here in U.S. shipyards?

(2) Why should U.S. shipyards support the Maritime Security Program given the apparent failure of international negotiations to eliminate foreign shipbuilding subsidies and the lack of series transition payments in the administration's proposal?

(3) Providing a funding mechanism is found, would the administration support a series transition payment program for U.S. shipyards?

(4) Please explain the foreign build section of the bill for liner and bulk vessels. Why is there a difference?

#### TONNAGE TAX

(1) Are there any cruise vessel operations that call on foreign ports, originating in U.S. ports, which pay U.S. corporate taxes?

(2) The U.S.-flag vessels will be charged the increased tonnage fees in your proposal in addition to paying corporate taxes in the United States. What is the corporate tax rate for these operators?

- (3) How do foreign cruise vessel operations benefit from U.S. Coast Guard services?
- (4) Is there a formula that could be used to increase the tonnage tax burden for cruise vessels?
- (5) What is the percentage breakdown by industry segment for who will pay the additional \$100 million in tonnage fees collected each year?
- (6) If there was no cap and no difference between point of origin on tonnage tax assessments, what would be the impact on tanker, bulk, cruise, and container vessels?
- (7) Are bulk vessels more heavily burdened by the tonnage tax and is there a formula that could be used to lessen the tonnage tax burden for bulk vessels?
- (8) Why are U.S.-flag dry bulk and tanker vessels and foreign-flag vessels being assessed a fee to support a program for U.S.-flag liner vessels?
- (9) Why is the Maritime Security Program being funded through an increase in the tonnage tax?
- (10) The cruise vessel industry has distributed a study that points out how much they pay in U.S. taxes. What is the nature of these taxes, and do U.S. vessel companies also pay these taxes in addition to the corporate taxes that the foreign cruise vessel companies do not pay?

#### OTHER LEGISLATION

- (1) What is the Administration's, the Department of Transportation's, and the Maritime Administration's respective positions on the Unsoeld bills, H.R. 3821 and H.R. 3822?
- (2) What is the Administration's, the Department of Transportation's, and the Maritime Administration's respective positions on the Taylor bill, H.R. 1250?
- (3) What is the Administration's, the Department of Transportation's, and the Maritime Administration's respective positions on the Schenk bill; H.R. 3769?
- (4) Foreign cruise vessel operators have threatened to leave U.S. ports if we impose the same standards on them as are required by U.S. companies. How serious is this threat, and where would these vessels operate and keep their U.S. customers?

An Additional Question for the Record  
Representative Helen Delich Bentley  
Subcommittee on Merchant Marine  
March 17, 1994

Secretary Pena:

Could you provide for the record the Clinton Administration's position on H.R. 1109, the "Merchant Marine Reemployment Rights Act of 1993," which passed the House of Representatives and now pending in the Senate? Thank you, Mr. Secretary.



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

MAY 18 1994

The Honorable William O. Lipinski  
Chairman, Subcommittee on Merchant Marine  
Committee on Merchant Marine and Fisheries  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am enclosing the Department's responses to the questions from your Subcommittee that were enclosed with your letter following the Subcommittee hearing on March 17, 1994.

If you need further assistance, please do not hesitate to contact the Assistant Secretary for Governmental Affairs, Steven Palmer, at 366-4573.

The Office of Management and Budget advises that there is no objection to the submission of this document to Congress.

Sincerely,

  
Federico Peña

Enclosure

## PROGRAM

**QUESTION 1:** How much would it cost to have the sealift capacity proposed in the Maritime Security Program as part of the Ready Reserve Force or Navy's fleet?

**ANSWER:** The Department estimates that, over the ten-year period of the proposed Maritime Security Program (MSP), it would cost about \$38 million per ship to acquire and lay-up 52 ships in the Ready Reserve Force (RRF). In addition, the annual maintenance and operation costs to assure the ships are in a reasonable readiness posture would be, at a minimum, \$2 million per year for each ship. Thus, for the ten-year period, if the Department were to purchase 52 ships, the acquisition and lay-up cost would be about \$2 billion and the maintenance and operation costs would be about \$1 billion. The total cost of adding equivalent vessel sealift capacity to the RRF would, therefore, be over \$3 billion.

However, it must be noted that the MSP is intended to serve a different national security purpose than the RRF. The MSP would provide ships primarily for sustainment of forces and only to augment surge shortfalls. The RRF primarily provides surge shipping.



## PROGRAM

**QUESTION 2:** I understand that U.S.-flag operators who do not qualify as Section 2 carriers will be eligible for the program under a third priority. Knowing your proposal envisions a 52-vessel fleet, is it possible that any contracts will be awarded to these operators?

**ANSWER:** Until the Department receives applications for the Maritime Security Program fleet, it is premature to estimate how these contracts would be awarded. First priority would be given to citizens of the United States that meet the requirements of Section 2 of the Shipping Act, 1916, as amended. Currently, there are over 52 U.S.-flag vessels that meet these requirements and are eligible for this program. All of these vessels may not be offered into the program. Some that are offered may not meet the needs of the program as well as other vessels that may be offered into the new program after enactment. For example, Section 2 carriers may acquire foreign-flag vessels, reflag them, and apply to have those vessels enter the program. New vessels currently on order may be offered by Section 2 carriers and new vessels may be built by Section 2 carriers. Any of these factors could impact on whether any non-Section 2 carriers would receive any contracts.

## PROGRAM

**QUESTION 3:** What sort of criteria will you incorporate into the regulations used to select vessels for contracts? What is the purpose of these criteria?

**ANSWER:** As stated in the proposed legislation, first priority will be given to United States citizen carriers. Other than citizenship, selection criteria being considered include at least the following (not in priority order):

- operating, financial and ship management experience of the operator
- commercial transportation resources (intermodal networks)
- diversity of trading patterns
- age of vessel
- size of vessel
- military utility (speed, size, self-sustaining, cargo type)
- commercial viability
- cost efficiency
- diversity of ship types in program
- net gain to U.S. ownership

The purpose of these criteria is to maximize the number of modern, commercially viable, militarily useful vessels in the U.S. fleet, to guarantee the continued existence of a modern fleet of privately owned, U.S.-flag merchant ships crewed by skilled American civilian seafarers, to ensure a continuing American presence in international commercial shipping and trade, and to ensure that sufficient U.S.-flag vessels remain available to meet national security requirements.

## PROGRAM

**QUESTION 4:** Why have bulk vessels been excluded from participation in your program?

**ANSWER:** The purpose of the Maritime Security Program is, among other things, to provide national security sealift capacity. United States maritime policy seeks to have a merchant marine composed of the best equipped, safest, and most suitable types of ships available for this purpose. Fiscal limitations require difficult decisions to be made concerning the use of available funds along with other methods of creating incentives for the maritime community. As a result, the Administration has decided that the best interests of our nation are secured by combining direct assistance payments to the liner segment of our merchant fleet, while offering other incentives to the bulk operators.

The proposed Maritime Security and Trade Act of 1994 includes mechanisms to assist in the development of U.S.-flag bulk ship operations. For example, current law requires that foreign-built vessels brought under the U.S. flag wait three years before becoming eligible to carry civilian bulk preference cargoes. The Administration bill would provide immediate eligibility for the carriage of these cargoes, upon registry under the U.S. flag, for foreign-built bulk vessels on order or delivered as of January 1, 1993. We anticipate that this change will facilitate the addition of modern, efficient bulk vessels to the U.S.-flag merchant fleet.

Recipients of operating-differential subsidy (ODS) are currently precluded from owning, chartering, or operating any foreign-flag vessel which competes with any essential U.S.-flag service. The Administration bill would remove this restriction, thereby allowing ODS bulk operators unlimited ability to operate foreign-flag ships. This welcome change will afford ODS bulk operators the opportunity for increased operating flexibility and profitability.

The Department anticipates that newer, more efficient, lower cost bulk vessels that are brought into the preference trades as a direct result of these initiatives will result in lower civilian bulk preference cargo freight rates, and a resulting lower cost to shippers and to the government for the transportation of these commodities.

## PROGRAM

**QUESTION 5:** During the recent industry briefing, Admiral Herberger cautioned that if this program is not enacted this year, it would only be a matter of time before cargo preference and the Jones Act were dismantled. Could you please elaborate on this statement and what actually precipitated these concerns?

**ANSWER:** Enactment of a maritime revitalization program that will enable U.S.-flag liner vessels to remain competitive in the international market is critical to the survival of the U.S. merchant fleet as we know it today.

One of the goals of the Administration's bill is to bring more efficient ships into the preference trades and to increase competition, but this cannot happen without appropriate changes to existing statutes and regulations. Unless actions are taken now to stem the decline in the size of the U.S. fleet, it is unlikely that in the long-run there will be sufficient shipping capacity operating under the U.S. flag to carry our Nation's preference cargoes. In such a situation, foreign-owned ships might be flagged into the U.S. fleet to carry preference cargoes, or, given the fact that various interests remain opposed to cargo preference requirements, there would probably be an attempt to dismantle current cargo preference laws.

Similarly, there could be pressures to dismantle other assistance programs to the maritime industry. For example, unless our Nation's shipyards are able to compete for commercial shipbuilding and ship repair orders on an equal footing with other foreign shipbuilding nations, we may see the ultimate demise of the U.S. shipbuilding industry. If this were to happen, I would also expect that there would be a movement to repeal the Jones Act, which requires that cargo moving between U.S. ports be carried on U.S.-built, U.S.-flag ships.

## PROGRAM

**QUESTION 6:** Do you feel that the 52 vessels for the program will be sufficient to meet national security requirements while maintaining an American-flag presence in international commercial shipping? How did you arrive at this figure?

**ANSWER:** The 52 ships that the Administration envisions will be enrolled in the Maritime Security Program will be able to supplement DOD's organic surge sealift capability as well as meet ongoing sustainment requirements during mobilization. Experience during Operations DESERT SHIELD/DESERT STORM indicates that during the peak of the sealift operations, about 10 to 15 percent of the total capacity of the U.S.-flag commercial liner fleet was used to support the operations without disrupting normal commercial operations.

The Administration's Maritime Security Program does not specifically limit the number of ships that would be eligible to receive direct financial assistance. Instead, the overall cap on the cost of the program and the amount of assistance that each ship would be able to receive per year effectively caps the program at 52 ships. This is about the same level of support, in terms of number of liner vessels, that is currently being provided under the operating-differential subsidy program, but the outlay per vessel would be significantly lower.

## PROGRAM

**QUESTION 7:** You have faced a great deal of opposition in forging a new maritime policy and moved your agenda through an administration where even the Vice President's National Performance Review initially called for a dismantling of the maritime industry. Now that your maritime revitalization program has been finalized, what are you doing to generate a clear message to all the agencies that the President supports the U.S. maritime industry?

**ANSWER:** The President's support for a strong U.S. maritime industry is seen most clearly in his comprehensive maritime revitalization proposal. As you know, this proposal was developed with the assistance of a number of other Executive Branch agencies, all of whom strongly support the President's initiative. For the record, I would note that the Vice President also favors a strong U.S. maritime industry and supports the President's initiative.

## PROGRAM

**QUESTION 8:** The budget that has been submitted for the program in fiscal year 1995 allows for 32 vessels. Do you intend to sign all 52 contracts for the life of the program in the first year with delayed effective dates or will you continue to consider applications up to fiscal year 1998 for the remaining contracts?

**ANSWER:** The Administration bill does not permit reserving slots in the program for future use. We will continue to consider applications to fill the available slots until all 52 contracts have been signed. However, we will not sign any contracts until slots are available for those vessels. If some vessels drop out of the program, we would then consider replacements.

## PROGRAM

**QUESTION 9:** In relation to the "voluntary" nature of your proposal, some industry representatives are concerned that your proposal seems to require an operator to offer all of its vessels for enrollment to receive any support and allows the Government to decide which ones it wants in the program. This concern was precipitated over the fear that some of their vessels could not be operated economically under U.S.-flag even with the program. Could you please clarify this issue?

**ANSWER:** An operator would not have to offer all its vessels in order to participate in the Maritime Security Program (MSP). However, all vessels included in the MSP would be required to enroll in an Emergency Preparedness Program in order to make the full spectrum of an operator's commercial transportation resources available to the government when necessary. Any vessel that does not meet the requirements of the proposed legislation would not need to be offered into the program. The government would decide which vessels among those offered would be brought into the program. Commercial viability is one of the factors that would be used in selecting vessels. If a vessel is offered and not selected, the owner could apply to the Secretary of Transportation for approval of a transfer under section 9 of the Shipping Act, 1916, as amended. It is likely that such approval would be granted.



## PROGRAM

**QUESTION 10:** The level of payments in your program appears to be capped at \$2.5 million annually per ship for the first three years and at \$2.0 million annually for the last 7 years. Could you confirm that an operator would receive the full amount so long as the enrolled vessel meets the operating requirements in the bill?

**ANSWER:** If the operator meets the operating requirements in the bill, it would receive the full amount of its contracted payment. If the operator does not fulfill the operating requirements, the payment would be reduced. Vessels enrolled in the program must operate exclusively in the U.S. foreign commercial trade for at least 320 days per fiscal year, including days during which the vessel is drydocked, surveyed, inspected, or repaired. A pro rata reduction in program payments will be made for ships operating less than 320 days.

## PROGRAM

**QUESTION 11:** Please provide the Subcommittee with a more detailed explanation of the foreign-flag feeder and line-haul sections of the bill.

**ANSWER:** Section 204 of the Administration bill amends section 804 of the 1936 Act to allow ODS operators and Maritime Security Program operators to operate an unlimited number of foreign-flag feeder vessels without restriction.

In addition, this section provides for continued operation of foreign-flag line haul vessels operating in the foreign commerce of the United States that are in service to either ODS or Maritime Security Program operators on the date of enactment of the bill. Furthermore, an operator may place vessels denied entry into the Maritime Security Program into line haul service under foreign registry. In any case, foreign-flag line haul vessels owned by these operators and engaged in the foreign commerce of the United States must be registered under the flag of an effective United States-controlled (EUSC) foreign flag.

## CARGO PREFERENCE

**QUESTION 1:** In your proposal, you treat civilian and bulk military preference cargo differently in that subsidized carriers who carry military cargo would not see a reduction in their subsidy. Have you examined the possibility that subsidized vessels may be given an unfair advantage over non-Section 2 carriers who bid on military cargo?

**ANSWER:** No provision for reduction in Maritime Security Program (MSP) payments is made for the carriage of military preference cargoes, because these cargoes have been traditionally considered liner cargoes and are appropriately carried by liner-type ships. The types of cargoes moved by the military include such diverse items as household goods and ammunition which can only be handled by liners. Many military cargoes are suitable for containerization and naturally move in this mode. This treatment protects the interests of the dry bulk segment of the U.S.-flag liner fleet whose vessels are suited to carry these types of military cargo.

The Administration bill proposes a reduction or elimination in payments when ships are engaged in the carriage of civilian bulk preference cargoes which generally are more suitably carried by bulk ships.

With respect to the carriage of military cargo, MSP participants would have an advantage over non-participants whether or not they are "Section 2" carriers. This is a rational, desired benefit to program participants for the peacetime movement of military cargo which these participants have committed their total transportation resources to carry in time of emergency.

CARGO PREFERENCE

**QUESTION 2:** As you know, H.R. 2151 includes language to strengthen MARAD's oversight and enforcement role in the Government's cargo reservation programs. Why does the Administration's bill omit these provisions?

**ANSWER:** The Maritime Security Program (MSP) is focused on maintaining a strong U.S.-flag fleet presence in our foreign commerce and providing the militarily useful ships and other elements of an intermodal transportation infrastructure needed for national defense.

While U.S. cargo preference programs are an important part of the overall strategy to support the privately owned and operated U.S.-flag merchant marine, major changes to our cargo preference programs are not being recommended as part of the Administration's MSP proposal.

The changes that are being proposed concern the acquisition of new, more efficient vessels by cargo preference participants. The Administration's proposal provides incentives for operators to acquire new ships by permitting immediate eligibility to carry preference cargoes.

MARAD takes its responsibility to monitor the compliance with cargo preference statutes by other government agencies very seriously, and has been working with shipper agencies to improve compliance with these laws. MARAD will continue to monitor adherence to the cargo preference laws aggressively, and will attempt to resolve issues through the collaborative process within the Administration, while seeking full compliance with the cargo preference statutes.

## SHIPBUILDING

**QUESTION 1:** Several U.S.-flag liner operators recently ordered new ships built overseas. Shouldn't the ships be built here in U.S. shipyards?

**ANSWER:** U.S.-flag liner operators need to replace vessels now to maintain and benefit from a competitive edge in international trade. While U.S. shipyards are likely to be competitive in the future, they are not able to guarantee U.S.-flag liner companies internationally competitive prices and construction schedules that operators need now.

The Administration believes that U.S. shipyards will be able to achieve international competitiveness through the combined effects of the Administration's shipyard revitalization program, the efforts of U.S. shipyards, legislative steps, and the negotiation of an international agreement to eliminate government shipbuilding subsidies.

## SHIPBUILDING

**QUESTION 2:** Why should U.S. shipyards support the Maritime Security Program given the apparent failure of international negotiations to eliminate foreign shipbuilding subsidies and the lack of series transition payments in the Administration's proposal?

**ANSWER:** In October 1993, the Administration sent to Congress a five-part shipyard revitalization program to encourage shipyards to make the transition from military to commercial production.

- The first part of the plan is to ensure fair international competition through the elimination of foreign shipbuilding subsidies.
- The shipyard program also provides approximately \$220 million of federal funding for transition matching grants through FY 1998.
- In addition, a total of \$144 million in Title XI funding would be available for FY 1995 through 1997: \$94 million (\$47 million each from DOT and DOD) in FY 1994 and \$50 million that is being requested by DOT for FY 1995. This would support about \$1.5 billion in new Title XI loan guarantees.

The Administration's shipyard program is intended to provide additional support for actions already underway in the U.S. shipbuilding industry to help U.S. shipyards become competitive and enter the international market. U.S. shipyards support the shipyard revitalization program, and have already provided DOD's Maritime Systems Technology Office (Maritech) with numerous proposals for potential projects. Proposals are now being evaluated and contract awards are anticipated in the near future.

## SHIPBUILDING

**QUESTION 4:** Please explain the foreign build section of the bill for liner and bulk vessels. Why is there a difference?

**ANSWER:** Section 202(c) of the Administration bill adds a new section 616 to Title VI of the Merchant Marine Act, 1936, as amended, which would allow ODS operators to acquire worldwide a liner or bulk vessel over 5,000 DWT to replace an existing vessel that would reach the end of its subsidizable life prior to the expiration of its ODS contract. Liner vessels acquired in this manner would have ODS payment levels limited to those provided in the Maritime Security Program. Bulk vessels acquired in this manner, however, would not have such a payment restriction and would continue to receive ODS payments until the existing ODS contracts terminated, except when carrying preference cargoes. Since the bill also prohibits the extension of subsidizable life of existing vessels, this approach recognizes the need for ODS operators to replace ships while their ODS contracts are still in effect and provides a mechanism that enables the ODS operators to do that. Since the Maritime Security Program is available only to liner operators, it is fair to limit the amount of assistance to ODS operators to a level consistent with that of the new program.

Section 205 of the bill allows immediate eligibility for the carriage of preference cargoes to liner vessels acquired worldwide that are less than five years old. This section affords similar treatment to any bulk cargo vessel constructed in or delivered by a foreign shipyard after January 1, 1993. Since liner vessels acquired worldwide and less than five years old are eligible for the Maritime Security Program, it is consistent to permit these ships to carry preference cargoes. Although bulk vessels are not eligible for the Maritime Security Program, there is a need for modern, efficient ships in this segment of the fleet. Permitting relatively new foreign-built bulk vessels into the preference trades creates an incentive for U.S.-flag operators to employ such vessels while assuring better service and lower preference cargo freight charges. Foreign-built bulk vessels are limited to those delivered after January 1, 1993 to provide U.S. shipyards an opportunity to compete in this market.

## LABOR

**QUESTION 1:** Is it true that a Master of a large vessel earns about the same as a U.S. airline captain? What are the responsibilities of the master and other crew members?

**ANSWER:** Although wages for seamen and airline personnel can vary greatly due to differences in pay structures between each industry, as well as dissimilarities that exist within the industries themselves stemming from negotiated collective bargaining agreements, top pay for a merchant Master and an airline Captain are in the same range.

The major responsibilities of merchant Master and crew involve the safe navigation and operation of a ship at sea and in port, as well as the safe transportation of the vessel's cargo.



TONNAGE FEE

**QUESTION 1:** Are there any cruise vessel operations that call on foreign ports, originating in U.S. ports, which pay U.S. corporate taxes?

**ANSWER:** There are no U.S.-flag cruise vessels operating between U.S. and foreign ports.

Two foreign-flag cruise vessel operators, known to be subsidiaries of a U.S. corporation, operate three cruise ships in the U.S.- Bahamas trade. The U.S. parent corporation is required to pay U.S. corporate taxes on the earnings of the vessels.

TONNAGE FEE

**QUESTION 2:** The U.S.-flag vessels will be charged the increased tonnage fees in your proposal in addition to paying corporate taxes in the United States. What is the corporate tax rate for these operators?

**ANSWER:** The tax rate paid depends upon the revenue earned by the corporation. The applicable tax rate could be up to 35 percent of the taxable earnings of the corporation under the provisions of the Omnibus Budget Reconciliation Act of 1993.

TONNAGE FEE

**QUESTION 3:** How do foreign cruise vessel operations benefit from Coast Guard services?

**ANSWER:** Vessels of all flags have equal access to the many services provided by the U.S. Coast Guard. Among these services are aids to navigation, search and rescue operations, vessel traffic services, removal of obstructive bridges, and verification of compliance with applicable U.S. and international maritime safety and pollution standards.

TONNAGE FEE

**QUESTION 4:** Is there a formula that could be used to increase the tonnage burden for cruise vessels?

**ANSWER:** There is no set formula that could be used to increase the impact on cruise vessels; a variety of options are possible. Based on 1992 data, cruise vessels made an average of 35 entries each from abroad during the year, mostly from nearby foreign ports. Tonnage duties paid by cruise vessels could be increased by raising the cap on the number of entries subject to the duty (currently five entries per vessel per year) or the duty rate could be raised for nearby foreign ports.

The Administration believes that its proposed increase in vessel tonnage duties is equitable in that the increase is "blind" to the type of ship. The larger the ship, or the more entries that a ship makes into the United States during a year, the higher the tonnage duty payment.

TONNAGE FEE

**QUESTION 5:** What is the percentage breakdown by industry segment for who will pay the additional \$100 million in tonnage fees collected each year?

**ANSWER:** Assuming trade patterns remain the same as in 1992, the year on which our estimates are based, the contributions of each segment of the industry would be:

Liner - 24 percent  
Dry bulk - 46 percent  
Tanker - 26 percent  
Passenger/cruise - 1.5 percent  
Other - 2.5 percent

TONNAGE FEE

**QUESTION 6:** If there was no cap and no difference between point of origin on tonnage tax assessments, what would be the impact on tanker, bulk, cruise, and container vessels?

**ANSWER:** Under the current law, a tonnage duty is paid on the first five entries that a vessel makes into the United States during a year based on the net registered tonnage (NRT) of the vessel and the last foreign port that was called before entering the United States. As of January 1, 1991, the duty rate is \$0.09 per NRT for vessels that enter the United States from nearby foreign ports and \$0.27 per NRT for vessels that enter the United States from other foreign ports.

If the cap were lifted and the differential between nearby and distant foreign ports were eliminated only on the amount that would be collected to offset the cost of the proposed Maritime Security Program, then the new duty structure would be:

<u>Last Port of Call</u>	<u>First Five Entries per Year</u>	<u>Entries Over Five per Year</u>
Nearby Foreign	\$0.30 per NRT	\$0.21 per NRT
Other Foreign	\$0.48 per NRT	\$0.21 per NRT

The estimated impact of the increase by type of ship is as follows:

- Container ships calling in the United States would, on average, pay \$1.36 per TEU more, compared to \$1.47 under the Administration's proposal.
- Dry bulk ships would, on average, pay \$0.09 per ton more, compared to \$0.14 per ton under the Administration's plan.
- Tankers would, on average, pay \$0.013 per barrel more, compared to \$0.011 per barrel under the Administration's proposal.
- Cruise ships would, on average, pay \$3.15 per passenger more, compared to \$0.38 per passenger under the Administration's proposal.

Another option would be to lift the cap and eliminate the differential between nearby and distant foreign

ports for all vessel entries into the United States. Under this option, the duty would be \$0.34 per NRT.

The estimated impact of this option by type of ship is as follows:

- Container ships calling in the United States would, on average, pay \$1.29 per TEU more, compared to \$1.47 under the Administration's proposal.
- Dry bulk ships would, on average, pay \$0.07 per ton more, compared to \$0.14 per ton under the Administration's plan.
- Tankers would, on average, pay \$0.014 per barrel more, compared to \$0.011 per barrel under the Administration's proposal.
- Cruise ships would, on average, pay \$4.86 per passenger more, compared to \$0.38 per passenger under the Administration's proposal.

TONNAGE FEE

**QUESTION 7:** Are bulk vessels more heavily burdened by the tonnage tax and is there a formula that could be used to lessen the tonnage tax burden for bulk vessels?

**ANSWER:** U.S. vessel tonnage duties are imposed on all vessels in the same manner. The amount of duty owed by any vessel coming into a U.S. port is a function of its size, its last foreign port and the number of previous entries by that ship during the year.

Based on 1992, data bulk vessels made an average of three to four entries from a foreign port during the year, mostly from foreign ports subject to the higher duty rate.

There is no set formula that could be used to reduce the impact on bulk vessels; a variety of options are possible. For example, tonnage duties paid by bulk vessels could be decreased by raising the rate charged on vessel entries from nearby foreign ports and lowering the rate on entries from other foreign ports.

The Administration believes that its proposed increase in vessel tonnage duties is equitable in that the increase is "blind" to the type of ship. The larger the ship, or the more entries that a ship makes into the United States during a year (up to a cap of five entries per vessel per year), the higher the tonnage duty payment.



TONNAGE FEE

**QUESTION 8:** Why are U.S.-flag dry bulk and tanker vessels and foreign-flag ships being assessed a fee to support a program for U.S.-flag liner vessels?

**ANSWER:** The tonnage tax is broadly based and is not a fee to offset services provided by the Federal government to a specific sector of the vessel operating industry. All vessels that enter the United States from a given foreign area, regardless of flag or vessel type, currently pay the same tonnage tax rate, and would continue to do so under the Administration's funding proposal.

TONNAGE FEE

**QUESTION 9:** Why is the Maritime Security Program being funded through an increase in the tonnage tax?

**ANSWER:** President Clinton's commitment to reducing the Federal budget deficit requires that the Maritime Security Program (MSP) be "budget neutral". The increase in tonnage fees (which will offset the cost of U.S. Coast Guard services provided to the international maritime industry) will meet pay-as-you-go budgetary requirements for the MSP.

The proposed increase in tonnage duties for the MSP would be treated the same as the increase authorized under the Omnibus Reconciliation Act of 1990, thereby allowing us to fund the MSP program on a pay-as-you-go basis.

TONNAGE FEE

**QUESTION 10:** The cruise vessel industry has distributed a study that points out how much they pay in U.S. taxes. What is the nature of these taxes, and do U.S. vessel companies also pay these taxes in addition to the corporate taxes that the foreign cruise vessel companies do not pay?

**ANSWER:** The International Council of Cruise Lines indicates in its study, "The Cruise Industry", that cruise lines, cruise passengers, airlines, hotels, taxi operators, food and beverage distributors, and other direct supporting enterprises generated approximately \$1.3 billion in federal tax revenues and \$500 million in state and local tax revenues in 1992.

In addition, according to Council estimates \$3.3 billion in Federal taxes and \$945 million in state and local taxes were generated by the cruise industry's supplier sector, such as trucking and transportation services, food processors and agriculture, etc.

These are general taxes levied on all similarly situated businesses, and are not fees collected only from foreign-flag cruise operators. Therefore, these federal and state taxes would also be paid by a U.S. company operating in U.S. trade. However, foreign-owned cruise lines would not pay U.S. corporate taxes.

## OTHER LEGISLATION

**QUESTION 1:** What are the Administration's, the Department of Transportation's, and the Maritime Administration's respective positions on the Unsoeld bills, H.R. 3821 and H.R. 3822?

**ANSWER:** H.R. 3821, the United States Passenger Vessel Development Act, provides for an interim coastwise status to permit foreign-flag cruise vessels to operate from U.S. ports. For the vessels to reflag under the United States flag and be allowed in the coastwise trade, vessel owners must commit to the U.S. construction of a U.S.-flag qualified replacement vessel. The applicable Coast Guard safety requirements and the U.S. citizenship ownership requirements are both relaxed for the temporary coastwise cruise vessels and their U.S.-constructed replacements; however, U.S. crews would be required on such vessels.

H.R. 3822, the United States Passenger Vessel Development Tax Act, provides tax incentives for the investment in the U.S. cruise industry, including the expansion of the Capital Construction Fund (CCF) to cover passenger vessels in the coastwise trade. The bill allows an accelerated depreciation of three years, rather than ten years, for U.S.-flag passenger vessels. H.R. 3822 allows CCF funds to be used to acquire vessels by lease. The bill would remove CCF deposits from computation of the alternative minimum tax and would tax investment income from the CCF in the year earned.

These bills were recently introduced and the Department is currently developing its position which will be forwarded to the Office of Management and Budget for clearance through the interagency review process. At that time, the Administration's position will be sent to the Committee.

## OTHER LEGISLATION

**QUESTION 2:** What are the Administration's, the Department of Transportation's, and the Maritime Administration's respective positions on the Taylor bill, H.R. 1250?

**ANSWER:** H.R. 1250 would change the current interpretation of Section 8 of the Passenger Service Act of 1886 (46 U.S.C. 289) by the U.S. Customs Service. The Customs Service ruling permits a foreign-flag cruise vessel to leave from and return to the same U.S. port without stopping at a foreign port, provided the vessel sails at least twelve miles out to international waters before returning to the U.S. port. H.R. 1250 would eliminate these foreign-flag "cruises-to-nowhere" by January 1, 1998.

The Administration sent its statement of policy to the House of Representatives when H.R. 1250 was passed under suspension of the rules on November 20, 1993. In its statement, the Administration opposed any changes to the Jones Act until it completed its review of maritime policies. The review of maritime policies has now been completed and the Maritime Security and Trade Act of 1994 was sent to Congress on March 10, 1994. The Department is currently developing its position on H.R. 1250 which will be forwarded to the Office of Management and Budget for clearance through the interagency review process.

## OTHER LEGISLATION

**QUESTION 3:** What is the Administration's, the Department of Transportation's, and the Maritime Administration's respective positions on the Schenk bill, H.R. 3769?

**ANSWER:** H.R. 3769 would promote U.S. construction of modern, efficient documented vessels by expanding cargo preference laws to cover both government and commercial importation of bulk oil and motor vehicles. The bill would require that at least 30 percent of all U.S. imports of bulk oil and 50 percent of all imported motor vehicles be carried on U.S.-flag vessels by the year 2002.

Historically, the Administration has preferred to combat foreign shipbuilding subsidies and unfair practices through multilateral negotiations. Therefore, the Department will take no position on H.R. 3769 until it has reviewed the results of the Organization for Economic Cooperation and Development (OECD) on the issue of shipbuilding, and other factors.

## OTHER LEGISLATION

**QUESTION 4:** Foreign cruise vessel operators have threatened to leave U.S. ports if we impose the same standards on them as are required by U.S. companies. How serious is this threat, and where would these vessels operate and keep their U.S. customers?

**ANSWER:** Cruise operators could conceivably restructure their operations so that the passenger cruise hub is at another location. We understand that the cruise operators believe that laws affecting the manning of their ships (such as requiring U.S. wages/crews) would significantly impact them. Such laws could make them consider relocating their operations to the Bahamas or some other Caribbean Island which has present infrastructures to accommodate them.

Significant investment would be required on the part of the cruise vessel operators to relocate their operations. In addition, the extensive facilities (infrastructure and supplier services) now available in Miami would have to be replicated at the new hub. These facilities would have to be capable of handling the 3 million cruise passenger per year currently passing through Miami.



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