

STATUS OF THE U.S.-FLAGGED VESSELS IN U.S.-FOREIGN TRADE

(111-130)

HEARING

BEFORE THE

SUBCOMMITTEE ON
COAST GUARD AND MARITIME TRANSPORTATION
OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

July 20, 2010

Printed for the use of the
Committee on Transportation and Infrastructure



U.S. GOVERNMENT PRINTING OFFICE

57-560 PDF

WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
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**U.S. House of Representatives
Committee on Transportation and Infrastructure**

Washington, DC 20515

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July 19, 2010

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SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Coast Guard and Maritime Transportation
FROM: Subcommittee on Coast Guard and Maritime Transportation Staff
SUBJECT: Hearing on the "Status of the U.S.-flagged Vessels in U.S.-Foreign Trade"

PURPOSE OF THE HEARING

The Subcommittee on Coast Guard and Maritime Transportation will convene on Tuesday, July 20, 2010, at 10:00 a.m., in room 2167 of the Rayburn House Office Building to receive testimony regarding the current state of the U.S.-flagged fleet in foreign commerce.

BACKGROUND

Ocean commerce has been an essential element of economic growth and influence among nations throughout history. The maintenance of a national ocean-going commercial fleet can be an important instrument of economic security, national defense, and foreign policy.

The costs associated with operating ships derive from three areas: 1) capital costs of ships and equipment; 2) the costs imposed by governments through taxes; and 3) operating costs. In response to competitive pressure, ship operators in foreign commerce and many of their governments seek to reduce these costs in a number of ways.

Recent legislation has enabled U.S. operators to achieve some cost parity with their foreign competitors. U.S. operators may now acquire ships on the world market and maintain eligibility for Federal assistance and preference cargos. Since 2004, some U.S. operators have been able to elect to pay lower taxes with respect to their shipping activities.

However, the U.S. flag merchant fleet still bears the burden of operating costs that are substantially higher than the majority of its competitors in foreign commerce.

The object of today's hearing is to discuss the conditions under which operators of U.S. flag ships must compete, their challenges, and ideas for developing maritime policies that will enhance their competitiveness.

I. The Effect of Ship Registers on Competition

International law requires ships to be "registered" or "flagged" in a particular country, referred to as the "flag state", which is responsible for setting and enforcing operating and safety standards in accordance with international and national law for ships flying its flag.

Some flag states operate *open registers*,¹ which means that the flag state imposes few if any requirements on owners who register their ships under these flags. The term *flags of convenience*² is often associated with open registers and has come to signify a flag state that imposes minimal regulatory requirements on ships flying its flag.

The U.S. flag merchant fleet engaged in foreign trade is exposed to competition from foreign operators who are free to register their ships under open registers and, therefore, operate at substantially lower cost.

A. Ship Registers – Open Registers

Ship owners often seek to lower their overall costs by finding favorable environments in which to operate. This can be achieved by registering their ships in an open registry. Open registers entice ship owners with incentives such as low registration fees and taxes and lower operating costs in addition to permissive regulatory regimes. Open registers may also provide more flexibility for ship owners with respect to business and ship operations. Open registers may also permit ship owners to easily transfer their ships into and out of their registers. Ship owners operating under open registers are also frequently allowed to employ mariners from low-cost, labor-supplying³ countries and may be compelled to comply only with international labor and environmental standards, which are generally less demanding than requirements imposed by some countries that operate national registers.

Other operating costs may also be lower under open registries than under the national flags of some nations. For example, operators of U.S. flag ships typically incur higher insurance premium costs due to the increased risk of litigation in the United States.

¹ Frank L. Wiswall, Jr., *Flags of Convenience, United States Shipping Policies and the World Market*, ed. William A. Lovett (1996), at 108. The term "open register" is used in the preparatory work to the United Nations Convention on Conditions for Registration of Ships in 1986.

² The term *flag of convenience* is not defined in international law. However, in 1970 the Rochdale Committee of the U.K. Parliament defined six criteria, which include: 1) low or no local taxes levied on operators; 2) liberal manning regulations; and 3) lack of administrative government resources to enforce regulations. (Wiswall at 116).

³ The United Nations Convention on Conditions for Registration of Ships defines a labor supplying country as "a country which provides seafarers for service on a ship flying the flag of another country." The Philippines is a major labor supplying country.

There are approximately 25 open registers.⁴ According to the International Chamber of Shipping and the International Shipowners Federation, the four largest open registers as of July 2009 were Panama, Liberia, the Bahamas, and the Marshall Islands.⁵

B. Ship Registers – International Registers

In response to the competition of open registers and to stem the loss of maritime technological, entrepreneurial, and management skills, some traditional maritime nations have developed “second” or “international” registers. International registers offer shipowners the advantage of registering their ships in industrially advanced nations – enabling them to take advantage of the expertise found in traditionally maritime countries, but offer tax and regulatory advantages similar to those of open registers.

For example, ships registered under the Norwegian International Ship Register (NIS) are permitted to fly the Norwegian flag and must employ Norwegian ship masters. However, the other mariners may be from any country that provides seafaring labor. Mariners employed aboard NIS ships are covered under Norwegian law and collective bargaining agreements may be signed with Norwegian or foreign unions. Operators of ships under the NIS must maintain their offices in Norway.⁶ France and Denmark have also established second registers.

II. Government Support of Shipping

Throughout history, many governments have provided support aimed at reducing costs borne by their maritime and shipbuilding industries. Support may take the form of *direct* or *indirect* subsidies.

Direct subsidies include payments to private operators to offset operating costs, loans for ship construction, ship financing programs or loan guarantees, or government ownership.

Indirect subsidies include aid for research and development, cabotage⁷ protection, tax concessions, establishment of second or open registries, approval of supportive trade agreements, and enactment of cargo preference laws.⁸

⁴ Sabine Knapp, *The Econometrics of Maritime Safety – Recommendations to Enhance Safety at Sea* (2006), at 220. Antigua and Barbuda, Bahamas, Barbados, Bermuda, Belize, Bolivia, Cambodia, Canary Islands, Cayman Islands, Cook Islands, Cyprus, Equatorial Guinea, Gibraltar, Honduras, Lebanon, Liberia, Luxembourg, Malta, Marshall Islands, Mauritius, Myanmar, Panama, Sri Lanka, St. Vincent & the Grenadines, Tuvalu, and Vanuatu are listed as open registers.

⁵ International Chamber of Shipping and International Shipowners' Federation, *Shipping and World Trade: 20 Largest Shipping States (July 2009)*, <http://www.marsec.org/shipping/facts/worldtrade/top-20-largest-shipping-flags.php>.

⁶ *Norwegian International Ship Register*, http://www.nis-nor.no/upload/nis_brosjyre.pdf.

⁷ *Cabotage* refers to the maritime policy of some nations to reserve shipments between domestic ports for domestic operators operating ships flying the national flag. In the United States, cabotage protection for domestic operators is provided by the Jones Act, which reserves domestic commerce for ships that are owned and crewed by U.S. citizens and built in U.S. shipyards.

⁸ Franz Eversheim, *Effects of Shipping Subsidization* (1958), at 9. A shipping subsidy is “... all direct money remittances from the state to its own shipping and also all state measures leading directly to a reduction of expenses or an increase in the receipts of the national shipping.”

The table below, which indicates the extent to which national governments support their shipping and shipbuilding industries, is from 1993 but a survey conducted in 2004 by the Maritime Administration revealed that nearly all of these programs were still in place at that time.

Global Policies in Support of Shipbuilding and Vessel Operations, 1993

Country	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Algeria						■					■	■			■
Argentina					■	■			■			■			■
Australia*		■		■	■			■	■	■	■	■			
Bahamas										■		■			
Bangladesh					■	■					■	■			■
Belgium*		■		■		■		■	■	■	■	■	■		
Brazil				■	■	■		■	■	■	■	■			■
Burma					■						■				
Canada*							■	■	■			■	■		
Chile						■			■	■	■				
Colombia												■			■
Cote D'Ivoire						■					■	■			■
Cyprus									■						■
Denmark*		■		■		■	■	■	■	■	■	■	■		■
Ecuador					■						■	■			
Egypt						■			■			■			■
Finland*		■		■				■	■	■			■	■	■
France*	■	■	■		■	■		■	■			■	■		■
Germany*		■	■	■		■		■	■	■	■	■	■		■
Greece*			■				■	■	■	■		■			■
Honduras						■						■			
Hungary											■	■			
India		■		■	■	■	■		■						■
Indonesia					■	■				■	■	■			■
Israel						■			■		■				■
Italy*	■	■	■	■	■	■		■	■	■	■	■	■	■	■
Japan*		■	■	■		■	■	■	■	■	■	■	■	■	■
Kenya					■						■				■
Korea	■		■	■	■	■		■	■	■		■	■		■
Kuwait					■	■					■				
Malta		■							■		■				■
Mexico	■					■			■	■	■	■			■
Morocco	■	■			■				■	■	■	■			■
Netherlands*		■	■	■		■		■	■	■			■		■
New Zealand*									■			■			
Nigeria						■				■					■
Norway*		■		■		■			■				■		■
Pakistan						■	■		■		■	■			
Panama									■		■				■
Peru		■		■		■			■			■			■
Philippines					■	■			■	■		■			■
Poland											■	■			■
Portugal*	■	■			■	■			■			■			
Romania	■	■				■					■	■			■
Singapore											■				
South Africa				■		■		■							
Spain*		■	■	■	■	■		■	■	■	■	■			■

Country	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15																
Sri Lanka				■		■				■	■	■			■																
Sweden*	■			■		■			■	■		■																			
Switzerland*				■					■						■																
Taiwan		■		■	■	■			■	■	■	■																			
Thailand		■				■			■	■		■																			
Turkey*		■			■				■																						
United Kingdom*		■	■			■			■		■	■			■																
United States*	■			■	■	■			■	■	■	■			■																
Uruguay				■	■	■			■	■	■	■																			
Venezuela					■	■					■	■																			
Key:	1- Operating subsidies		2- Construction subsidies		3- Restructuring Aids		4- Financing programs		5- Cargo preference requirements		6- Bilateral trade agreements		7- Scrap and build aids		8- Export aids		9- Tax and depreciation benefits		10- Customs duty, levies and requirements		11- Government ownership		12- Cabotage		13- R&D aids		14- Insurance aids		15- Other aids		
* indicates membership in the Organization of Economic Cooperation and Development (OECD)																															
Source: William A. Lovett, <i>United States Shipping Policies and the World Market</i> (1993), at Table 3.1																															

III. Maritime Policy in the United States

The United States has been providing some form of support to its shipping and shipbuilding industries throughout much of its history. However, the kinds and levels of support provided to the shipping industry in the United States has evolved as a series of responses to emergent national needs and crises rather than as an expression of strategic policy objectives independent of national emergencies. Legislation that was enacted in response to emergent national issues remains as the foundation of U.S. maritime policy today.

Some of these important pieces of legislation are the Shipping Act of 1916 (46 App. U.S.C. § 802) (1916 Act), the Merchant Marine Act of 1920 (46 App. U.S.C. § 876) (1920 Act), the Merchant Marine Act of 1936 (46 U.S.C. §§ 1171-1182) (1936 Act), the Maritime Security Act of 1996 (P.L. 104-239) (1996 Act), and cargo preference laws.

A. The Shipping Act of 1916

During World War I (1914-1918), European countries removed their commercial shipping capacity from the global market to concentrate on their war needs. The scarcity this created increased ocean freight rates, and insurance costs rose by as much as 700 percent. The carriage of exports from the United States, which remained neutral until 1916, virtually ceased.⁹

Congress reacted to these threats to U.S. economic and military security by passing the 1916 Act, which, among other things, established the U.S. merchant marine as a naval auxiliary and reserved certain government programs for U.S.-citizen ship owners.

Many ship operators opposed the 1916 Act, but American agricultural interests recognized its importance toward ensuring sufficient tonnage to move their exports. Today, the U.S. policy of

⁹ Paul Maxwell Zeis, *American Shipping Policy* (1938).

government funding and regulation of ocean shipping is still significantly influenced by the 1916 Act.¹⁰

B. Merchant Marine Act of 1920

When World War I ended, the U.S. government had a large merchant fleet under its control that it had built to meet expected war needs. The ships were used to carry relief supplies. However, while the U.S. fleet was committed to the relief mission, the European allies placed their ships back into commercial trades.¹¹

The 1920 Act was intended to establish a foundation for government support for a U.S. flag merchant marine. The preamble to the 1920 Act established goals that are supposed to drive U.S. maritime policy today:

... it is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the **greater portion** of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States; and it is hereby declared to be the policy of the United States to do whatever is necessary to develop and encourage the maintenance of such a merchant marine ... [emphasis added]

The 1920 Act was a significant move toward increased government participation in foreign commerce. Key elements of the 1920 Act included the establishment of cabotage as a fundamental component of U.S. maritime policy and a construction loan program to aid U.S. operators in the construction of ships in U.S. shipyards.

C. Merchant Marine Act of 1936

When demand for merchant shipping faded in the years after World War I, the U.S. merchant shipping fleet was oversized for peace – a condition that depressed freight rates, reduced profits, and stalled investment. In the 1930s, the Great Depression, combined with economic policies that had the effect of limiting U.S. foreign trade, nearly caused the collapse of the U.S. merchant marine.¹²

In 1935, Senator Hugo Black published a report that identified failures in U.S. maritime policy and recommended new subsidy programs for U.S. flag ships engaged in foreign commerce.¹³ Influenced by the Black Committee's report, Congress passed the 1936 Act.¹⁴

¹⁰ Gibson and Donovan, *The Abandoned Ocean: A History of United States Maritime Policy* (2000), at 109.

¹¹ *Id.* at 119-120.

¹² *Id.* at 125.

¹³ U.S. Senate Special Committee on Investigation of Air Mail and Ocean Mail Contracts, *Investigation of Air Mail and Ocean Mail Contracts* (1933), at 2.

¹⁴ *Id.* at 131-132.

The 1936 Act fully acknowledged U.S. operators' dependence upon strong government support and built upon the 1920 Act. The preamble to the 1936 Act states:

It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine

- (a) sufficient to carry its domestic water-borne commerce and a **substantial portion** of the water-borne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign waterborne commerce at all times,
- (b) capable of serving as a naval and military auxiliary in time of war or national emergency,
- (c) owned and operated under the United States flag by citizens of the United States, insofar as may be practicable,
- (d) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and
- (e) supplemented by efficient facilities for shipbuilding and ship repair. It is declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine. [emphasis added]

The 1936 Act included a mix of direct and indirect subsidies and market-oriented programs to promote the U.S. flag.

Direct subsidies included Operating-Differential Subsidies (ODS), which were direct payments to U.S. operators to offset the higher cost of operating under the U.S. flag. ODS payments covered wages and benefits paid to U.S. mariners, insurance costs, and the costs of maintenance and repairs. To be eligible for ODS, a ship had to be built in the United States. Therefore, another direct subsidy was the Construction-Differential Subsidies (CDS), which was paid to U.S. operators to offset the higher costs of building ships in U.S. shipyards.

Indirect subsidies provided by the 1936 Act included the Capital Construction Fund (CCF), which was established to allow U.S. operators of U.S. flag merchant ships to deposit tax deferred earnings into an account for the purpose of building ships in U.S. shipyards.

The 1936 Act retreated from the commitment to develop a U.S. merchant fleet capable of carrying the "**greater portion**" of U.S. foreign commerce in favor of the vague objective of maintaining a U.S. merchant fleet capable of carrying a "**substantial portion**" of U.S. foreign

commerce.¹⁵ It also contained no provisions for supporting U.S. flag bulk carriers or ships carrying proprietary cargoes (e.g., cargoes carried in ships owned by the cargoes' owners).

By 1939, the 1936 Act and some of the earlier maritime promotional statutes had been a success. Between July 1914 and December 1939, the United States more than doubled its merchant fleet from 513 to 1,296 ships.¹⁶

In 1939, the start of World War II (1939-1945) once again drove U.S. maritime policy. The U.S. flag shipping industry was called upon to provide the ships, manpower, and seafaring skills required to support U.S. military forces overseas and ensure the economic security of the United States.¹⁷ By the end of war, the 1936 Act's shipbuilding program had produced in U.S. shipyards 5,500 ships, of which 2,710 were the famous Liberty ships.¹⁸

When World War II ended, the U.S. government controlled 60 percent of the world's shipping capacity.¹⁹ This was due to the ship construction program, the depletion of the allied merchant fleets, and the destruction of much of the German, Italian, and Japanese merchant fleets. However, the same conditions that characterized international shipping at the end of World War I existed at the end of World War II – there were too many ships and not enough commercial cargoes, but there was a great need to rebuild war-torn countries.

In the decade after World War II, U.S. merchant ships once again transported relief cargoes to Europe. Eventually, however, lower cost, foreign ships reentered the market and competed directly with the higher-cost U.S. ships. Further, the Ship Sales Act of 1946 resulted in the transfer to foreign owners of 1,113 ships at prices below what it cost to build them.²⁰

D. The Maritime Security Act of 1996

Early in the 1980s, U.S. maritime policy underwent further change. The Maritime Administration (MARAD) was transferred from the Department of Commerce to the Department of Transportation and the Maritime Administrator lost the title of Assistant Secretary for Maritime Affairs.²¹ At the same time, the Reagan administration declined to seek appropriations for the construction subsidy program created by the 1936 Act.²² The U.S. flag fleet continued its decline.

In 1996, the 1996 Act established the Maritime Security Program (MSP). The goal of the 1996 Act, which replaced the ODS program, was to:

¹⁵ *Id.* at 137.

¹⁶ *Id.* at 165.

¹⁷ *Id.* at 155.

¹⁸ National Park Service website:

http://www.nps.gov/nr/twhp/wwwlps/lessons/116liberty_victory_ships/116liberty_victory_ships.htm, accessed July 15, 2010

¹⁹ Gibson and Donovan, at 169.

²⁰ William A. Lovett, *U.S. Shipping Policies, United States Shipping Policies and the World Market*, ed. William A. Lovett (1996), at 57.

²¹ Gibson and Donovan, at 256-7.

²² *Id.* at 258.

establish a fleet of active, militarily useful, privately-owned vessels to meet national defense and other security requirements and maintain a United States presence in international commercial shipping.

The MSP provides a fixed payment for each ship enrolled in the program. In return, operators that receive MSP payments must make their transportation resources and networks available to support the Department of Defense (DOD) in time of war, national emergency, or contingency operations. The MSP is administered by MARAD, which approves applications for participation based upon DOD requirements.

The Maritime Security Act of 2003 (P.L. 108-136) reauthorized MSP for fiscal year (FY) 2006 through FY 2015 and expanded the program from the original 47 ships to 60 ships. Currently, the Maritime Security Act of 2003 authorizes total annual payments of \$174 million or \$2.9 million for each of the 60 ships. The annual authorization increases in 2011 to a total of \$186 million. The authorization for the Maritime Security Program currently ends in 2015.

The MSP has shown some benefits. During FY 2008, MSP operators upgraded the U.S. flag fleet by replacing seven ships with newer ones (all built overseas). This increased the availability of military useful capacity by over 362,000 square feet.²³

The 1996 Act continues to meet its legislative objective. However, the program itself does not encourage or support expansion of the U.S. flag merchant fleet.

IV. Cargo Preference

The term *cargo preference* refers to the policy of reserving all or some portion of cargoes generated by government activities for the ships flying that government's flag. Today, cargo preference provides a substantial source of revenue for U.S. flag operators.

The Military Transportation Act of 1904 (10 U.S.C. § 2631) requires that 100 percent of military cargoes be carried aboard U.S. flag ships. In 1954, American shipping interests, which had become highly dependent upon government-impelled cargoes, succeeded in winning passage of the Agricultural Trade Development and Assistance Act (P.L. 83-480) and the Cargo Preference Act (P.L. 83-644). Both of these laws require minimum portions of government-impelled cargoes to be shipped on U.S. flagged ships. Specifically, these laws and the amendments that followed combine to require that U.S. flag merchant ships carry 100 percent of cargoes generated by the Export and Import Bank, 75 percent of food aid cargoes, and 50 percent of cargoes generated by civilian agencies.

According to MARAD, all of the U.S. flagged ships operating in foreign commerce carry cargoes that are subject to the cargo preference laws. In 2008, preference cargoes accounted for 49.6 percent of all the cargo carried by the U.S. flagged merchant fleet.

²³ Square footage is an important measure of cargo capacity for military logistics. Military cargoes include large numbers of military vehicles of all kinds that require open space aboard ships. Therefore, deadweight tonnage, the common commercial term used to express cargo capacity, is a less relevant measure of capacity for military applications.

In terms of revenue, in FY 2007, cargo preference provided U.S. operators revenues of \$919.4 million for the carriage of military cargo, \$319.8 million for agricultural cargo, and \$113.4 million for civilian agency cargo and cargo impelled by the Export and Import Bank.

V. Status of the U.S. Flag Fleet in Foreign Commerce

The policies and programs that have been implemented to support the U.S. flag fleet, with the exception of the 1996 Act, have fallen far short of the legislative objective of maintaining sufficient national shipping capacity to carry a “substantial portion” of U.S. foreign commerce.

In a study developed for MARAD in 2009, IHS Global Insight (IHS) reported that in 1975, the world merchant fleet numbered 22,872 ships.²⁴ Lloyd’s Register of Shipping indicates that as of 2008, the world fleet numbered 52,944 ships.²⁵ These data indicate that over the period between 1975 and 2008, the number of ships in the world fleet grew by approximately 221 percent.

According to a 1981 report by the Comptroller General of the United States, the number of vessels under the U.S. flag declined from 1,065 ships in 1959 to 576 in 1979. The portion of U.S. foreign trade carried by U.S. flag ships declined from 10.2 percent to 4.4 percent over the same period.²⁶ At the end of December 2007, there were 89 U.S.-flagged ships operating in foreign commerce.²⁷ MARAD has provided data to the Subcommittee showing that as of March 1, 2010, there were 94 U.S.-flagged ships in the foreign commerce.

These data from 1975 to the present indicate that the U.S. flag merchant fleet declined by approximately 89 percent during this period. As a result, by 2009, only 1.5 percent of the 78 percent of U.S. imports and exports transported by water were carried aboard ships registered in the United States.²⁸

The United Nations Conference on Trade and Development (UNCTAD) reported in 2009 that the United States ranked 21st in the world in terms of deadweight tonnage²⁹ under register, with about one percent of the world total. The majority of these ships are in the domestic coastwise trade.³⁰

VI. Operating Costs Under the U.S. Flag

Today, maritime policy in the United States has equalized the cost of ship acquisition for operators of U.S. flag ships in foreign commerce with the cost to their foreign competitors by

²⁴ IHS Global Insight, *An Evaluation of Maritime Policy in Meeting the Commercial and Security Needs of the United States*, (January 7, 2009), at 1.

²⁵ International Maritime Organization Maritime Knowledge Center, *International Shipping and World Trade Facts and Figures* (October 2009)

²⁶ Comptroller General of the United States, *Maritime Subsidy Requirements Hinder U.S.-Flag Operators’ Competitive Position*, CED 82-2, (November 30, 1981), at 3.

²⁷ *Id.*

²⁸ *Id.*

²⁹ A ship’s *deadweight tonnage* is a measure of the weight of cargo a ship is able to carry. A deadweight ton is 2,240 pounds.

³⁰ United Nations Conference on Trade and Development, *Review of Maritime Transport* (2009), at 53.

allowing U.S. operators to purchase ships in the international market, bring them under U.S. registry, and still qualify for the MSP and cargo preference programs.³¹

Similarly, U.S. maritime policy has enabled operators of U.S. flag ships to calculate their tax liabilities under a “tonnage tax”³² system, which significantly reduces the operator’s tax burden. Several industrialized maritime nations, such as the United Kingdom, Greece, and Norway, have implemented tonnage tax regimes to attract ships to their registers.

However, U.S. maritime policy has been unsuccessful at reducing the operating costs associated with maintaining U.S. flag ships in foreign commerce. The difference in crewing costs between employing U.S.-citizen mariners and mariners from other countries can be substantial. For example, as of 2005, the annual cost for crew aboard a 20-year-old bulk carrier crewed under an open register was less than \$700,000. Crew costs for the same ship employing U.S. mariners were more than \$3 million per year. This is due to the higher wages U.S. mariners earn and the costs associated with providing healthcare and pension benefits to U.S. mariners.³³

Importantly, many countries that provide mariners to the world market provide government-funded healthcare and pensions which relieves ship operators that employ these mariners of a cost that operators of U.S. flag ships must pay. In addition, some countries do not require their mariners to pay income taxes on their earnings from shipboard employment which enables ship operators to pay lower wages to their mariners.

VII. A Snapshot of the U.S.-flagged Fleet in the Foreign Commerce Today

According to MARAD, of the 94³⁴ ships flying the U.S. flag and engaged in the foreign trade as of March 1, 2010, 50 are container ships, 23 are roll-on/roll-off ships, nine are dry bulk carriers, eight are multi-purpose ships (including five heavy lift ships), and four are tankers. The average age of the U.S.-flagged ships in the foreign commerce is 15 years. All of these vessels were built overseas.

MARAD estimates that the 94 U.S.-flagged ships in foreign commerce provide approximately 1,880 billets for U.S. merchant mariners and approximately 3,760 mariners are employed in these billets. MARAD further estimates that 3,800 indirect jobs (e.g., jobs associated with cargo logistics and handling, marine supplies, and other intermediaries) are associated with the U.S.-flagged fleet.

Ships may enter and exit the U.S. flag with approval from MARAD. According to MARAD, between 2005 and 2009, 39 ships entered the U.S. register, while 27 ships left the U.S. flag. In 2009, 16 ships entered the U.S. flag, while eight left.

³¹ 46 U.S.C., § 55305 requires that ships that were built or rebuilt outside of the United States or documented under the laws of a foreign country, must be documented under the laws of the United States for three years before the ships are eligible to carry U.S. preference cargoes.

³² The “tonnage tax” calculation uses a ship’s *net tonnage* to calculate the ship’s tax liability. Net tonnage is a measure of a ship’s capacity to carry cargo.

³³ MARAD, figures provided to subcommittee staff, (March 16, 2010).

³⁴ MARAD reports that 60 of the 94 U.S.-flagged ships in foreign commerce participate in MSP.

VIII. **Proposals for Improvements in U.S. Maritime Policy**

A consistent theme that emerges from an examination of U.S. maritime policy is that it has evolved as a result of U.S. needs for seafight in time of war or as a response to national economic hardship. Historically, there has been strong public and political support for maritime policies aimed at strengthening the U.S. flag fleet. However, that support has waned and the shipping industry today is characterized by many interests that have been ineffective in uniting to confront the challenges posed by international competition and the persistence of policies that are failing to serve their intended purposes.³⁵

The U.S.'s disjointed approach to maritime policy has never effectively addressed the core problem of the high costs of operating under the U.S. flag. However, several proposals have been developed by various stakeholders within the U.S. maritime community which are intended to reduce the costs of operating ships under the U.S. flag and to help revitalize the U.S. flagged fleet. Some of these proposals are in alignment with similar policies in other maritime nations; others would continue existing subsidy programs. Some of these proposals are discussed in more detail below.

Mariner Income Tax Exclusion: Many seafaring nations do not tax the personal income earned their mariners when employed aboard ship. In order to help strengthen the U.S. flag fleet by helping to lower the cost of labor, some propose extending the income exclusion provided in section 911 of the Internal Revenue Code to U.S. mariners working aboard commercial vessels engaged in the foreign trades.

Section 911 was enacted in 1926 to help place American citizens seeking work abroad "in an equal position with citizens of other countries . . . who are not taxed by their own countries."³⁶ Section 911 of the Internal Revenue Code allows U.S. citizens employed outside the U.S. to exclude up to \$80,000 of their foreign-earned income from their gross income for Federal income tax purposes.

American mariners' income tax liabilities are an indirect cost borne by U.S. operators, but not by their foreign competitors.

Extend Eligibility for the Tonnage Tax Election: Many countries do not tax shipping income earned from foreign operations. The U.S. did tax such income until the passage of the American Jobs Creation Act of 2004 (P.L. 108-357). Proposed by House Committee on Transportation and Infrastructure Chairman James L. Oberstar, the American Jobs Creation Act of 2004 provided an option for U.S. operators to elect to pay tax calculated on the earning capacity of their ships as determined by the ships' net tonnage rather than on the revenues generated by their shipping activities. The advantages to the operators are lower corporate taxes and predictable tax liabilities each year.

Currently, the option to pay the "tonnage tax" is available only to U.S. flag vessels operating exclusively in foreign commerce and to U.S. flag vessels operating in the domestic trades for less than 30 days in a tax year. The 30-day rule prohibits U.S. operators that operate their ships in

³⁵ Gibson and Donovan, at 293.

³⁶ S. Rept. 82-781 (1951).

domestic trades and in foreign commerce for part of the year from taking advantage of the tonnage tax when their ships are exposed to foreign competition.

Under a proposal to extend the tonnage tax to ships that operate in domestic trades for more than 30 days in a tax year, operators would be able to take advantage of the tonnage tax's lower tax liability for that portion of their operations conducted in international trade, but they would pay tax at the current rate for that portion of their operations in domestic trades.

MARAD reports that the tonnage tax system has been a success. For example, two U.S. liner operators have been able to expand their Asian services. Another operator decreased its income tax expense by approximately \$39.7 million during one quarter. Another liner operator reported that the tonnage tax system reduced the company's effective tax rate 13.5 percent from 37 percent in the previous year. That company's income taxes dropped by more than two thirds compared to a year earlier.

In June 25, 2009, U.S. Representative Earl Blumenauer of Oregon introduced H.R. 3049, a bill to amend the Internal Revenue Code to allow U.S. operators that operate ships in domestic and foreign trades to take advantage of the tonnage tax. The bill was referred to the Committee on Ways and Means, but there has been no further action on the bill.

Tariff on Foreign Ship Repairs: U.S. vessel operators are liable for a 50 percent duty on maintenance and repairs performed on their vessels at overseas shipyards (19 U.S.C. § 1466). The tariff was originally enacted in 1866 to support the U.S. ship repair industry. The Tariff Act of 1930 (commonly known as the Smoot-Hawley Act) set the tariff at its current level.

Some have suggested that this tax should be repealed for U.S. flag vessels in foreign trades because it increases the costs of their repairs and it can adversely affect the scheduling of shipyard maintenance periods. Foreign operators competing against operators of U.S. flag ships need not pay such a tax. See Appendix I for information on the cost of repairs around the world.

Long-term funding for the Maritime Security Program: The 1996 Act established the MSP to maintain a U.S. flagged fleet of 47 militarily useful, privately owned commercial ships. Funding for the MSP must be provided annually. This presents uncertainty on the part of U.S. flag operators who must make business decisions far in advance of Congressional appropriations.

PREVIOUS OVERSIGHT AND LEGISLATIVE ACTION

The Subcommittee on Coast Guard and Maritime Transportation held a hearing on March 16, 2010 to receive testimony regarding the "Capacity of Vessels to Meet U.S. Import and Export Requirements".

WITNESSES

PANEL I

The Honorable David T. Matsuda
Administrator
U.S. Maritime Administration

PANEL II

Mr. Michael R. Dumas
Vice President and Chief Financial Officer
Intermarine, LLC

Mr. Niels M. Johnsen
Chairman of the Board
Central Gulf Lines, Inc. and Waterman Steamship Corporation

Mr. John F. Reinhart
President and CEO
Maersk Line, Limited

Mr. Phillip Shapiro
President and CEO
Liberty Maritime Corporation

Mr. Donald Keefe
President
Marine Engineers' Beneficial Association
accompanied by

Mr. Paul Doell
Director of Legislative Affairs
American Maritime Officers

Captain Donald Marcus
Secretary-Treasurer
International Organization of Masters, Mates and Pilots

Mr. Terry Turner
Seafarers International Union

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APPENDIX

Cost of Ship Repairs
(\$/kg of Steel)

Region/Country	Cost
China	\$1/kg
Turkey/Black Sea	\$3/kg
Singapore	\$4-5/kg
Mediterranean	\$5/kg
Northern Europe	\$9-10/kg
North America	\$14-18/kg

Source: Richard Clayton, "Greece and China Play the Game", *Fairplay*, volume 369, issue 6587 (June 17, 2010), at 4.

HEARING ON THE STATUS OF THE U.S.- FLAGGED VESSELS IN U.S.-FOREIGN TRADE

Tuesday, July 20, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COAST GUARD AND MARITIME
TRANSPORTATION,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:00 a.m. in room 2167, Rayburn House Office Building, Honorable Elijah E. Cummings [Chairman of the Subcommittee] presiding.

Mr. CUMMINGS. The Subcommittee will come to order.

In March, the Subcommittee convened to examine the availability of shipping services to carry U.S. exports. During my opening statement, I presented a few facts detailing the small size of the U.S.-flag fleet in the foreign trades. As I explained, the vast majority of U.S. trades move on foreign-flagged vessels.

During that hearing, I also noted that President Obama has called for a doubling of U.S. exports over the next five years, a goal that is challenged by our reliance on foreign-flagged vessels for our carrying capacity. Of particular concern is the fact that the testimony we heard in March made it clear that it is our level of imports, not exports, that determines the level of carrier services calling on the United States.

Today, the Subcommittee convenes to consider in more detail the state of the U.S.-flag fleet in the foreign trade. We will assess the current economic realities faced by this fleet, including the difference in the costs of operating a vessel under the United States flag and under so-called open registry or flag of convenience.

We will also assess the policy parameters that shape current U.S. policy toward a U.S.-flag foreign trade fleet. This discussion is intended to provide the current information necessary to inform future U.S. policy toward our foreign trade fleet.

As I detailed during our March hearing, according to a study produced in 2009 by IHS, Global Insight for the U.S. Maritime Administration, in 1975, there were 857 ocean-going U.S.-flag ships with a carrying capacity of more than 17.6 million deadweight tons. Data provided to the Subcommittee by the Maritime Administration indicates that as of March 1, 2010, there were 94 U.S.-flag vessels regularly engaged in the foreign trade.

Unfortunately, like many of the issues we examine in the Subcommittee, the decline of the U.S.-flag foreign trading fleet and the concomitant reduction in the percentage of U.S. trade carried on

U.S. ships are not new issues. And yet nothing has been done to effectively reverse this unfortunate decline.

Thus, a study of maritime subsidies issued by the Comptroller General in 1981 in response to a requests from the then-Merchant Marine and Fisheries Committee decried what was then a decline in the percentage of U.S. commercial cargo carried in U.S.-flag vessels from just over 10 percent in 1959 to just over 4 percent in 1979. Not surprisingly, in the absence of a specific U.S. policy that could reverse this trend, the percent of U.S. trade carried in U.S.-flagged vessels has only continued to decline.

Thus, the IHS study found that in 2009 less than 2 percent of U.S. foreign trade moved on U.S.-flag vessels. Those U.S.-flag vessels that now participate in the foreign trade remain heavily dependent on subsidies. The specific details of the subsidies have changed over time, but their shared purpose of making it viable for vessels to operate in the U.S.-flag foreign trade fleet remains essentially unchanged.

Thus, the Operating Differential Subsidy Program was replaced by the Maritime Security Program, which currently provides \$174 million to support 60 vessels operating under the U.S. flag that agree to be available to meet U.S. military needs. The construction differential subsidy has been eliminated and now all of the vessels currently sailing under U.S. flag in the foreign trade were built overseas.

According to the Maritime Administration, all of the 94 U.S. vessels now regularly engaged in the foreign trade also participate in cargo preference programs which reserve 100 percent of military cargoes, 100 percent of Export-Import Bank cargoes, 75 percent of government-impelled agricultural cargoes, and at least 50 percent of civilian agency cargoes for U.S.-flag vessels.

MARAD has indicated that preference cargoes comprise nearly 50 percent of the cargoes carried by U.S.-flag vessels in the foreign trade, and the carriage of such cargoes provided more than \$1.35 billion in revenues to the United States-flag fleet in the foreign trade in fiscal year 2007, the most recent year for which data is available.

Let me be clear about the picture of the United States-flag fleet that emerges from the current data. The U.S.-flag fleet is essential to meeting our military sealift need and carrying the bulk of our government-impelled cargoes, and the MSP program is essential to keeping our current U.S.-flag fleet afloat.

That said, the current U.S.-flag foreign trade fleet of just over 90 vessels is not carrying either the greater portion or even a substantial portion of our foreign trade. In fact, since the 1980's, the U.S.-flag fleet has been carrying what can only be described as an increasingly minuscule portion of our foreign trade.

And this fact has serious implications both for our merchant marine and, indeed, for our Nation's economy. Over the past century as the flags of carrying capacity has continued its steep decline, there have been many voices warning that this decline constituted both a security risk and an economic risk. These risks remain real now.

I again urge today that as we work to expand U.S. exports, we should also work to formulate a meaningful U.S. maritime policy

that will revitalize our merchant marine and expand the percent of U.S. trade carried in U.S. ships. Formulation of such a policy will require a truly critical examination of decades of policy assumptions, as well as articulation of clear goals that acknowledge current realities and that meaningfully address current needs.

We look forward to the testimony of Administrator of the Maritime Administration, Mr. David Matsuda, and let me take this opportunity to applaud his confirmation to the Administration's position by the Senate. Congratulations.

MARAD is charged with promoting the United States merchant marine and administering the Maritime Security Program, Title XI program, the Cargo Preference Program and related programs that benefit the U.S.-flag fleet in foreign trade.

We will also hear from representatives of carrier lines that operate U.S.-flag vessels and we will hear from the representatives of maritime labor organizations. We look forward to hearing from all of our witnesses on how current programs intended to support our U.S.-flag fleet can better serve the fleet.

We are also particularly interested in identifying what can be done to expand the fleet and increase the percent of U.S. trade carried on U.S. vessels.

With that, I yield to the distinguished Ranking Member, Mr. LoBiondo.

Mr. LOBIONDO. Thank you, Mr. Chairman.

The United States of America has always and will always be a maritime Nation. From her earliest days and continuing through today, we have depended on waterborne transportation as the principal means to carry goods and cargo between the U.S. and ports overseas.

According to the Department of Transportation, nearly 80 percent of the volume of foreign trade enters and leaves the U.S. by ship and total volumes at our major ports are expected to rise in the coming years. While the volume and value of maritime trade has greatly increased in recent decades, the number of ocean-going vessels operating under the U.S. flag has plummeted.

According to the U.S. Maritime Administration, there were 88 U.S.-flag vessels operating in foreign trade at the end of 2008. The U.S. fleet now makes up less than 1 percent of the world fleet and nearly all commerce at U.S. ports arrives and departs on board a foreign-flag vessel.

The U.S.-flag fleet is uniquely positioned and tasked with serving the economic and national security needs of our Nation. The domestic registry also provides stability and enhanced opportunities for U.S. merchant mariners and domestic shipyards. We have long recognized the importance of a strong U.S. fleet, shipbuilding industrial base, and merchant marine. I am concerned by the continued contraction of these important national resources.

The Subcommittee has reviewed several issues that are impacting merchant mariners here and abroad. The first, changes in the Coast Guard's credentialing process, seems to be greatly improved. However, American mariners and vessels are still facing the seemingly ever-present threat of piracy in several parts of the world.

I look forward to hearing from the witnesses thoughts on these and other issues affecting U.S. mariners. The U.S. fleet provides a

critical service in supporting our military and economic interests, and I look forward to working with you, Mr. Chairman and Members of the Committee and the witnesses to examine ways to support the growth in the fleet in the future.

Thank you.

Mr. CUMMINGS. Thank you very much.

I ask unanimous consent that Congresswoman Mazie Hirono, a Member of the Committee on Transportation and Infrastructure, may sit with the Subcommittee on this dais today and participate in this hearing. And without objection it is so ordered.

Ms. Hirono, do you have an opening statement?

Ms. HIRONO. Thank you, Mr. Chairman. I appreciate your having this hearing because as you probably know, Hawaii is the most dependent on ships coming to Hawaii since over 80 percent of the goods that we use in Hawaii come to us via ships.

So this is a very important topic for us, and as we focus on issues such as the Jones Act, I am very concerned about the future of U.S.-flag ships in this Country, particularly as it relates to Hawaii.

Thank you very much, Mr. Chair.

Mr. CUMMINGS. Thank you very much.

Mr. Ehlers?

Mr. EHLERS. Thank you, Mr. Chairman, for holding this hearing. I continue to be very concerned about the state of the United States merchant fleet in foreign commerce. It is indicative of the problems that we have in many other areas, including for example automobiles which is vital to the State of Michigan. It is very difficult for us to compete internationally with the wage rates of other countries, and I suspect that is the base cause of much of the problem of the merchant fleet as well.

So thank you for holding the hearing and I look forward to it.

Mr. CUMMINGS. Thank you very much.

We will now hear from the Honorable David Matsuda, the Administrator of the Maritime Administration.

TESTIMONY OF THE HONORABLE DAVID MATSUDA, ADMINISTRATOR, UNITED STATES MARITIME ADMINISTRATION

Mr. MATSUDA. Thank you and good morning.

Mr. CUMMINGS. Good morning.

Mr. MATSUDA. Chairman Cummings, Ranking Member LoBiondo and Members of the Subcommittee, thank you for your invitation to testify on the state of the U.S. merchant fleet in foreign commerce.

Our national policy is to maintain a U.S.-flag merchant marine sufficient to carry our waterborne domestic commerce and a substantial part of our foreign commerce. Our Country's ability to respond to major military threats worldwide also relies on the availability and dependability of commercial merchant ships and skilled crew members. But U.S.-flag ships now carry less than 2 percent of our Nation's international trade. This is a major decline, even from the 58 percent carried in 1947, just six decades ago.

Mr. Chairman, as the U.S.-flag fleet has declined, so has the number of jobs for mariners. We rely on the pool of skilled commercial merchant mariners to meet our needs to crew government-owned reserve ships when called upon. Also, with an aging work-

force, we are at a crucial point where we need to be recruiting and training America's next generation of mariners.

One method is by running a strong collegiate maritime program which includes the U.S. Merchant Marine Academy at Kings Point, New York, along with the six State maritime academies. Together, these schools produce a total of 700 maritime officers and leaders annually.

The Maritime Administration also works with 19 maritime high schools around the Nation to help introduce young men and women to careers in this vital industry. One includes the Maritime Industry Academy in Baltimore, Maryland, which I had the privilege of visiting earlier this year.

Mr. Chairman, the U.S. merchant marine, including ships and crew, is among the safest, most secure and environmentally responsible in the world. However, U.S.-flag operators face serious competitive challenges because not all foreign registries require such standards of excellence as the U.S.

Two programs administered by the Maritime Administration help create a more even playing field for U.S.-flag operators: the Maritime Security Program and the Cargo Preference Program. The Cargo Preference Program simply requires a preference for the use of U.S.-flag ships when the Federal Government pays for or otherwise finances a cargo shipment. The 16 million revenue tons of cargo shipped each year through this program help allow businesses to operate under the U.S. flag.

Most of these carriers also participate in the Maritime Security Program. This program provides annual stipends to U.S. carriers in return for assured military access to their ships, crews and global infrastructure if needed.

Our status as a trading Nation depends on our ability to transport via sea. Both imports and exports move smoothly through the global supply chain. While much of what moves through U.S. ports is import cargo, our Country also exported more than \$1 trillion worth of manufactured goods in 2008. These exports supported more than 20 percent of all U.S. manufacturing jobs that year.

President Obama has launched a National Export Initiative to double U.S. exports within five years. Having an efficient global transportation system, including maritime services, will help achieve that goal.

In addition, maritime transportation itself is an export service. When a U.S.-flag ship is used, salaries and tax revenues remain in the U.S. economy and support U.S. jobs.

Mr. Chairman, the U.S. merchant marine has enabled our Country to respond to every military conflict and crisis since our Nation's founding. In fact, of the five Federal service academies, only the U.S. Merchant Marine Academy is entitled to carry a battle flag. The school's students have been sent to serve aboard U.S. merchant ships in every conflict. Many have died in that service to our Country.

Some of these conflicts have taught us valuable lessons about readiness and availability of ships and skilled crews. For instance, the government-owned fleet of 49 Ready Reserve Force ships that provides a relatively immediate capacity that our U.S.-flag commercial fleet cannot provide. This fleet has been used during surge

conditions when a very large amount of cargo must be transported quickly overseas.

Mr. Chairman, it is my hope that our discussion today will lay the groundwork for legislative initiatives and policies that will support a strong U.S. merchant marine. I will be pleased to answer any questions the Subcommittee may have.

Thank you.

Mr. CUMMINGS. Thank you very much.

I wanted to address an issue that several of the witnesses on our next panel will raise. Do cargo preference laws apply to cargoes financed with loan guarantees created by the Energy Policy Act and administered by the Department of Energy? And if not, why don't the cargo preference laws apply?

Mr. MATSUDA. Sir, I have to tell you that that is an issue we are looking at currently. We have asked the Secretary's General Counsel to work with us and the Department of Energy to ensure we have a consistent interpretation of the law.

Mr. CUMMINGS. Can you tell us what the nature of the issues are? Can you give us any idea of what you are trying to figure out?

Mr. MATSUDA. We believe there may be a difference between the credit programs and other straight grants or loans that are given out, but that is something we are looking at very closely.

Mr. CUMMINGS. When do you expect to have that resolved?

Mr. MATSUDA. I hope soon, but I am happy to follow up with the General Counsel and get back to the Committee.

Mr. CUMMINGS. I know you have only been before this Committee once.

Mr. MATSUDA. Twice, I believe.

Mr. CUMMINGS. But we have a little thing about people getting back to us and holding their feet to the fire because we realize that if we don't do that, then sadly they just wait until the next Congress and then it gets lost in the hay.

So I want you to give us a date when you expect that to be done. And because there are a lot of people that are concerned about this issue, and I have said it many times, in order for people in business to do business, what they need is answers one way or the other. And so I think that we are paying folks to do a job in government and government should be able to render opinions and resolve these kinds of issues.

So I would ask that you try to give us a date within the next day or so, and then we will hold a hearing just for you to come back to tell us exactly what those policies are, what the answer to the question is because it is just that important. OK?

And then we also want you to come back and let us know whether you think the Congress needs to clarify the law. That is another thing that I would like for you to come back to us with.

Since World War II, the size of the U.S.-flag fleet engaged in international trade has been in constant decline, as I think you just said. What initiatives are you taking to stem that decline? And further, what federally imposed requirements contribute to reducing the competitiveness of the U.S.-flag fleet?

Mr. MATSUDA. Sir, on the question of what initiatives we are undertaking, we are using all available resources and programs that the Congress has provided to help make sure that we maintain a

strong U.S. merchant marine. The two programs I talked about, the Maritime Security Program and Cargo Preference Program, are ones that we are actively engaged in and pushing to make sure that the law is enforced and that these funds are provided with a fully staffed program of vessels, all 60 vessels for the Maritime Security Program.

Mr. CUMMINGS. From what you can see, why do you think the decline has not been arrested? It is not like we are standing still. We are going backwards.

Mr. MATSUDA. I think, as I mentioned in my testimony, there are a number of factors, but probably the difference in regulatory standards that is required. The U.S. maintains standards to make sure ships are safe and that crews are trained and skilled and that they understand safety security requirements and environmental requirements to make sure that ships are operated both in an environmentally responsible manner and safe and secure manner.

There are just many risks involved with the movement of these large vessels that need to be addressed.

Mr. CUMMINGS. Also, it sounds like is this a situation where you think that there will be a continued decline because right now, you are not giving me any confidence that it is going to get any better.

Mr. MATSUDA. I wish I could, sir, but much of it also depends on the state of the global economy. It is a global marketplace. Industry has been hurting the last couple of years by laying up ships. That makes it even more competitive for cargoes around the world.

Mr. CUMMINGS. The Merchant Marine Act of 1936 states that it is U.S. policy to foster the development and maintenance of a merchant marine that is sufficient to carry its domestic waterborne commerce and a substantial portion of the waterborne export and import foreign commerce of the United States.

I assume that the substantial portion of waterborne export and import commerce is defined to be more than 1 percent or 2 percent. And what would you say constitutes a substantial portion of the waterborne export and import commerce? What would you say? And what are you telling your staff? You are the leader.

Mr. MATSUDA. It would have to be at a minimum to satisfy what is needed to support our military. And I think that based on those requirements, we would like to see more, but we have a strong merchant marine. We would like to make it stronger.

Mr. CUMMINGS. I want to go back to something you said a few minutes ago. You were talking about the different standards. And all U.S. and foreign ships comply with IMO standards. Is that not correct?

Mr. MATSUDA. No. Some standards the U.S. has not adopted that IMO has passed. Other countries have varying standards. But for the most part, we work within the U.N.-sponsored IMO process. We work with our partners at the U.S. Coast Guard who take the lead, and the State Department, to make sure that the U.S.'s voice is heard in putting together these global standards.

This is an industry that prefers to have an even playing field across the board, but that is not always the case.

Mr. CUMMINGS. So you are saying that there is no even playing field. Is that right?

Mr. MATSUDA. Currently, no.

Mr. CUMMINGS. And our standards are much higher. Is that right?

Mr. MATSUDA. Well, yes.

Mr. CUMMINGS. And you seem like you had some hesitation there. Well, I assume they are higher because I take that the higher standards means that the costs may be a little higher, I guess. Is that a reasonable assumption?

Mr. MATSUDA. Yes.

Mr. CUMMINGS. But you seem like you were hesitating when I asked you were the standards higher.

Mr. MATSUDA. I was trying to think of some examples off the top of my head. But I believe security requirements, for instance, not many other countries require things like a TWIC card or some of the things that are required by the Department of Homeland Security in order to serve on a ship.

As an example, I think there are many instances like that.

Mr. CUMMINGS. Can you give me something other than TWIC, because TWIC is really kind of new. This decline has been taking place for a while and I was just wondering if you can tell us.

Mr. MATSUDA. Not at the moment, but I am certain I can get back to you with some examples.

Mr. CUMMINGS. And TWIC is \$132, right?

Mr. MATSUDA. That is right.

Mr. CUMMINGS. I am concerned that it seems like you are painting a picture, I didn't expect a rosy picture, but I didn't expect a picture of, it just seems like there is no way that we can begin to at least get to a neutral point to stave off some of this and move forward.

Mr. MATSUDA. Ideally, a consistent set of global standards as promulgated through the IMO would help ensure a level playing field. There are other laws that the U.S. has that wouldn't apply in other countries, for instance wage laws. Fair wage laws, there are many foreign mariners that don't make the kinds of wages that U.S. mariners do.

Mr. CUMMINGS. Mr. LoBiondo?

Mr. LOBIONDO. Thank you, Mr. Chairman.

I would like to pick up where the Chairman has been on some of this and try to get in my head and understand a little bit better. We are not in a good position. The numbers are very low. There are global factors that impact decisions to flag vessels in the U.S. But do you or can you give us what factors would be within our control that maybe we haven't done that we could develop a plan and agenda, a timetable? Are there things that this Committee needs to do, that the Congress needs to do? What do the shippers say?

Your agency, what role do they play? I mean, can you help me out here about developing something that gives us a handle to grab onto?

Mr. MATSUDA. Yes, sir. Our discussions with the carriers, and we talk to them quite a bit, have circled around what is needed to flag a ship under the U.S. And time and time again, they have told us that the difference between operating under a foreign flag and the U.S. flag can be made up with both the Maritime Security Program and the Cargo Preference Program.

Right now, the Maritime Security Program is limited to 60 vessels and it is fully staffed. The Cargo Preference Program is utilized as best we can to make sure that the remaining ships that are not in the MSP program can participate and have cargoes to make sure they fly U.S. flag.

But you will notice the majority of U.S.-flag ships participate in these program, all of them in Cargo Preference and most of them in MSP.

Mr. LOBIONDO. Mr. Chairman, I am no sure whether you specifically asked this. I know you asked for some feedback, but did you ask for when our witness comes back for him to be providing us with a specific list or outline of recommendations? We have a high level of frustration. We understand what the numbers mean, but how do we get the numbers up and how do we develop a plan to get there? It seems like you all should be taking the point position and at least making the recommendations that could be real and acted on so we have an idea of what we have to do.

Mr. CUMMINGS. No, what we will do, Mr. LoBiondo, is we will put together a letter to Mr. Matsuda today where we will list the things that we want him to bring back at our next hearing. Because what we are about is trying to be effective and efficient with our time. And so if there are things that you want included in that, we will work together in drafting that letter and get it to you.

Mr. LOBIONDO. OK. Thank you, Mr. Chairman.

Thank you, David.

Mr. MATSUDA. Thank you.

Mr. CUMMINGS. Mr. Taylor?

Mr. TAYLOR. Mr. Chairman, I had the great pleasure of having Administrator Matsuda before the Seapower Subcommittee last week, so I am not going to take too much of his time, but I do want to ask you a related question.

I am curious if anyone in your office has been tracking the availability of space on either ships under Military Sealift Command or any of the Federal operating subsidies as they return from either the Port of Karachi or Kuwait or Umm Qasr in Iraq. I am curious, what percentage of available cargo space is being utilized?

And there is a reason for this. I have very grave concerns based on the amount of very expensive equipment and material we left behind in Panama when we shut down our bases there; what we left behind at Roosevelt Roads on U.S. territory. I have grave concerns that we are going to leave billions of dollars worth of equipment behind in Iraq out of concern that there may be some shipping cost to bring this stuff home.

And I think we could start with taking a look at the available space. I may be dead wrong. Every one of those ships may be chock-a-block full and that would be great. But I do have concerns that there is unused space on those ships and that we are not making every effort to get the bulldozers, the generators, the fire trucks, all those things that the American taxpayers paid for, get them home and make them available for reuse for State and local governments.

Could you comment on that? Have you given that any sort of a look-see so far?

Mr. MATSUDA. Congressman, we have been working with the U.S. Transportation Command on their plans for the draw-down in Iraq to make sure that there is sufficient capability to move these items. What I can do is offer to work with them to make sure that we get this information to you in a form you would like, and that is space and availability aboard the vessels leaving the Gulf due to the draw-down.

On a related note, I can tell you that one major concern that we have heard from the U.S. industry has been that once this draw-down starts to complete or wind up, that the number of cargoes available under the Cargo Preference Program will drop significantly, and that it will contribute to an even more competitive environment. It is going to be a struggle, according to them, to maintain U.S.-flag status.

Mr. TAYLOR. When do you think you could get back to me with that, Mr. Administrator? Could you do it in the next week?

Mr. MATSUDA. I will call General McNabb today.

Mr. TAYLOR. OK. Thank you. Thank you very much.

Thank you, Mr. Chairman.

Again, that is a short-term opportunity, but I don't think we need to ever miss an opportunity to put our folks to work, particularly if it means our use of something that the taxpayers have already paid for.

Thank you, Mr. Chairman.

Mr. CUMMINGS. Mr. Coble?

Mr. COBLE. Thank you, Mr. Chairman. I am sorry I am late. I had another meeting, my belated arrival.

Good to have you, Mr. Matsuda.

Sir, how does the reliance on foreign carriers affect U.S. economic and security interests? Specifically, how would a larger U.S.-flag better respond to the interests of U.S. consumers and exporters?

Mr. MATSUDA. I think with a larger U.S.-flag fleet we will have more of an ability to carry our goods and ensure that there wouldn't be, for instance, any refusal to do so based on a political or other geopolitical issues. For instance, around the world, this is not a perfect market. There are Israeli-flag ships that are denied access to Arab-owned country ports. There are other issues that come into play besides just can a ship service a particular port or not. It is not always as simple as will it take the money.

Mr. COBLE. Well, obviously we would be the beneficiary, would we not?

Mr. MATSUDA. Absolutely.

Mr. COBLE. The Maritime Security Program, Mr. Matsuda, provides a subsidy of \$2.9 million per ship for the 60 vessels now in the program. How is the basis of the subsidy calculated?

Mr. MATSUDA. That was the amount authorized by Congress and the amount that has been appropriated each year of the program. I will note that in the fiscal year 2011 bill, the President has proposed full funding for the program.

Mr. COBLE. OK. I thank you.

Thank you, Mr. Chairman. I yield back.

Mr. CUMMINGS. Thank you very much.

Ms. HIRONO?

Ms. HIRONO. Thank you.

Mr. Matsuda, you said that you had talked with carriers who say that what is needed to better level the playing field for our shippers can be done through the existing programs, which are the Cargo Preference Program and the Maritime Security Program. Do you have some very specific suggestions as to how we can strengthen both of these programs, I take it, in response to what the carriers are saying needs to be done?

Mr. MATSUDA. Madam, the Administration doesn't have any positions about either growing the program other than fully funding what is currently available. But I do know that just the economic model that I am talking about, that is what we have heard from the carriers is effective in meeting that operating differential between the foreign and U.S. flag. It is making it up with an MSP payment plus the availability of preference cargoes.

I think it might be fairly logical to draw the conclusion that if you grow the program, there may be more interest in taking advantage of it.

Ms. HIRONO. If we are not fully funding these programs, to what percent are we funding either or both of these programs?

Mr. MATSUDA. We are fully funding these programs to the extent authorized and appropriated.

Ms. HIRONO. So then I am confused then. We just want to continue the funding at the level that it has been funded?

Mr. MATSUDA. That is what the President has proposed for fiscal year 2011.

Ms. HIRONO. Although I am sure the carriers would say that we should put more money into these programs.

Mr. MATSUDA. That is something they might have to tell you, yes, on the next panel.

Ms. HIRONO. OK. You mentioned that of the U.S.-flag ships, 12 of them are Jones Act-qualified. Are these 12 also part of the 60 Maritime Security Program ships?

Mr. MATSUDA. I don't believe so. I believe these are vessels participating in the cargo preference program that usually operate in the Jones Act trade, but they are not full-time participants in the foreign commerce, but we listed them anyway because they do participate.

Ms. HIRONO. As I mentioned in my earlier brief remarks, Hawaii is very much dependent on shipping. Our ships are Jones Act-qualified ships. The argument has been made, and I certainly make this argument, that for a place like Hawaii which is the most vulnerable to shipping disruptions, would you say that having a Jones Act carrier would be the carriers that bring our goods to Hawaii, that we are very concerned about shipping interruptions, and would a Jones Act ship be much better able to ensure that Hawaii could get uninterrupted shipping service?

Mr. MATSUDA. I can tell you that the Federal Government dealing with a Jones Act carrier, you have quite a bit of jurisdiction over them. You are talking about U.S. crews, U.S.-built ships. That can give you some assurance about the quality of the ship and the expertise and skill of the crews.

I can tell you that this pool of mariners that is sustained by the Jones Act also contributes to the same pool that we utilize in times

of surge capability like I mentioned for crewing the Ready Reserve Fleet.

Ms. HIRONO. There are those who argue that Hawaii should get an exemption from the Jones Act. And if that were to be the case, then foreign-flag ships are now bringing goods to Hawaii. Is there any way that we can ensure ourselves that these ships that are supported by countries that provide a lot of subsidies, et cetera, whatever is happening in those countries. Can we be assured that these ships will continue to bring goods to Hawaii if they were not Jones Act ships?

Mr. MATSUDA. I don't believe so. I think you would be in a situation where, just like any other Jones Act or foreign carrier, it is a commercial marketplace. They can choose to do it or not. But we find that the Jones Act ships that do participate in the trade are usually very pleased with the ability to compete in that trade.

Ms. HIRONO. Thank you.

Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you.

Do we have goals? Have you set goals for your department?

Mr. MATSUDA. Absolutely, sir.

Mr. CUMMINGS. And what are they?

Mr. MATSUDA. They are number one to make sure that we maintain a strong U.S. merchant marine. Like I mentioned, that includes both the availability of vessels, as well as skilled crews. And that is something that many of our programs help support.

Second, our work is focused also on making sure that there is an efficient national freight transportation system. Maritime is a big part of that, and we want to make sure that what comes off a ship is available to get into a port and through the surface transportation system as smoothly as possible.

I have noticed over the years a major disconnect between this industry and the remainder of the national freight transportation system. That is something that want to make sure that our national policies reflect a smoother and better transition.

Mr. CUMMINGS. What about numbers? I am sure you want to increase the size of the U.S.-flag fleet. Is that right?

Mr. MATSUDA. That would certainly provide more resources for us to use when we need.

Mr. CUMMINGS. And when you get together with your staff, do you say we want to increase the numbers to a certain amount? Or do you just kind of say let's do the best we can with what we have?

The reason why I am asking that is that I am trying to figure out how will you measure your progress and how will you measure what at the end of your tenure when we look back, what will we say? You know, you say, OK, this is what I am going to try to do, and then I want to see what you did.

Mr. MATSUDA. Sir, we use every available tool to the Maritime Administration.

Mr. CUMMINGS. Can you share what those numbers might be, because a lot of people are very interested. They want to be measuring with you. They want to be on the sidelines with their rulers and yard sticks trying to figure out whether you are making first downs.

Mr. MATSUDA. Yes, sir. Like I said, with the Maritime Security Program, making sure that if we hadn't gotten this money out the door and gotten these contracts in place, that is something that would be harmful to the U.S. merchant marine. But making sure that it is fully staffed up, that folks can participate in it, is something that we maintain.

We keep a strong communications with the U.S. military to make sure that the ships entering this program are ones that they will find militarily useful and that they need in their mix of sealift capabilities. So making sure that we have that in place is something that we will continue to do.

With the Cargo Preference Program, ensuring that there is a clear understanding among all of the shipper agencies which cargoes are subject to the law is something that we are doing. These are the types of things that, again, help feed into the merchant marine, growing it.

Like I mentioned in the statement, making sure that have a pool of skilled mariners, especially the next generation, is something that we are focused on as well, and that requires a strong collegiate high school program to let folks know what it is like to work on a ship, to be in this industry.

So these are all things that we are doing. I am happy to provide you with some proposed metrics.

Mr. CUMMINGS. Yes, at our next hearing, would you do that for me as another way at the beginning of your tenure it would be very helpful. We will include that in our letter to you, which we will have to you within the next 24 hours so we can get started on that.

Just one other thing. There are a number of questions that I did not get to, but I do want to ask you about this. Going back to your testimony before the Seapower Subcommittee of the House Armed Services Committee, which is of course headed by Congressman Taylor, you spoke about building ships for the marine highway or short-sea shipping trades that are militarily useful. Has MARAD conducted an analysis to determine what the costs of building such ships to meet military specifications might be, compared with building ships for strictly commercial use?

Mr. MATSUDA. I can tell you, we are currently working with the military to help take what has already been done, the state of the art. There has been a number of initiatives to look at the markets for designing a militarily useful marine highway ship, and we would like to make sure that we get an independent look at these and truly understand what is the potential for designing and building a ship that is both militarily useful and can compete commercially in the Jones Act trade.

I can tell you that there is probably not a major difference in cost between these two ships, from what we have seen early on, and that the military requirements are generally limited to certain features aboard the ship like for a roll-on/roll-off ships they would want to make sure that the decks and the ramp are sturdy enough to handle heavy-load equipment which may not be moving commercially. So there is probably not a large difference, but we are fully engaged with the military and we will be working with them closely to understand just what their needs are.

Mr. CUMMINGS. Like I said, I will submit other questions.

Mr. LoBiondo did you have anything else?

All right. Thank you very much.

Mr. MATSUDA. Thank you sir.

Mr. CUMMINGS. Our second panel should come forward.

Mr. Neil M. Johnsen, the Chairman of the Board of Central Gulf Lines and Waterman Steamship Corporation; Mr. Michael F. Dumas, Vice President and Chief Financial Officer of Intermarine LLC; Mr. John F. Reinhart, President and CEO of Maersk Line, Limited; and Mr. Philip Shapiro, President and CEO, Liberty Maritime Corporation; and Mr. Donald Keefe, President, Marine Engineers Beneficial Association, who will also have at the table Mr. Paul Doell, Director of Legislative Affairs, American Maritime Officers; Captain Donald Marcus, Secretary-Treasurer, International Organization of Masters, Mates, and Pilots; and Mr. Terrence Turner, Seafarers International Union.

You may be seated. Thank you all for being here, and we will now hear from Mr. Neil Johnsen, the Chairman of the Board of Central Gulf Lines.

TESTIMONY OF NEILS M. JOHNSEN, CHAIRMAN OF THE BOARD, CENTRAL GULF LINES, INC. AND WATERMAN STEAMSHIP CORPORATION; MICHAEL R. DUMAS, VICE PRESIDENT AND CHIEF FINANCIAL OFFICER, INTERMARINE, LLC; JOHN F. REINHART, PRESIDENT AND CEO, MAERSK LINE, LIMITED; PHILIP SHAPIRO, PRESIDENT AND CEO, LIBERTY MARITIME CORPORATION; DONALD KEEFE, PRESIDENT, MARINE ENGINEERS BENEFICIAL ASSOCIATION, ACCOMPANIED BY PAUL DOELL, DIRECTOR OF LEGISLATIVE AFFAIRS, AMERICAN MARITIME OFFICERS; CAPTAIN DONALD MARCUS, SECRETARY-TREASURER, INTERNATIONAL ORGANIZATION OF MASTERS, MATES, AND PILOTS; AND TERENCE TURNER, SEAFARERS INTERNATIONAL UNION

Mr. JOHNSEN. Good morning.

Mr. CUMMINGS. Good morning.

Mr. JOHNSEN. Chairman Cummings, Congressman LoBiondo and other Members of the Committee, as the Chairman of Central Gulf Lines and Waterman Steamship Corporation, I appreciate the opportunity you have provided today to address the U.S.-flag merchant marine's ability to compete with foreign-flag vessels in international commerce.

Central Gulf and Waterman are both American-owned United States citizen companies, and as such are commonly referred to as Section 2 citizens. Central Gulf and Waterman currently operate 13 U.S.-flag commercial vessels in the international and domestic trades that provide a wide range of ocean-going commercial freight transportation services, including pure car/truck carrier and domestic coast-wide services.

Central Gulf and Waterman have also provided from their inception sealift support to the Department of Defense for its global military operations. Our U.S.-flag vessels and the dedicated crews that serve on those vessels willingly and without hesitation have delivered and will continue to deliver vital military equipment, supplies and other material into war zones and other hostile areas in direct support of DOD operations.

Mr. Chairman, at your hearing in March, you observed that you would certainly hope that as we work to expand U.S. exports, we also work to formulate a meaningful maritime policy. We agree with your observation and we therefore recommend several specific initiatives.

At the outset, I would like to address a program that you mentioned that continues to serve its intended purpose, the Maritime Security Program. MSP is the most cost-effective means to ensure that DOD has the access it requires to commercial U.S.-flag shipping and merchant mariners for the Nation's economic and military security. MSP was established in 1996 and originally provided for 47 U.S.-flag commercial vessels.

Subsequently, due to the success of this program, the strong support of Congress, and our partners at the Departments of Transportation and Defense, the program was reauthorized and expanded to 60 ships in 2005. With that expansion, Congress specifically provided that priority must be given to Section 2 citizen/American-owned companies for vessels enrolled in MSP. As Section 2 citizen companies, Central Gulf and Waterman strongly supported that priority requirement and I urge Congress to continue providing priorities in this respect.

Of the 60 vessels in MSP, Central Gulf has enrolled four state of the art pure car/truck carriers and Waterman has enrolled two such vessels and two self-sustaining container vessels. These Central Gulf and Waterman vessels include some of the newest and largest roll-on/roll-off vessels in the U.S.-flag fleet.

Mr. Chairman, we are pleased the House of Representatives has demonstrated its continuing support for MSP by voting in this Congress to extend the program. We look forward to working with you and other Members to ensure that the extended program provides for priority participation of Section 2 citizen companies; to ensure that the program payments equalize operating costs of U.S.-flag vessels with foreign-flag vessels; and to provide for a continued full complement of U.S.-flag vessels in the program that are required to support the national and economic security of the United States.

I must note that as a complement to MSP, DOD must continue to abide by its longstanding commercial-first policy to provide military cargo to privately owned U.S.-flag vessels when they are available, in lieu of government-owned or controlled vessels. This policy has resulted in military cargo to support the U.S.-flag fleet.

If MSP is reauthorized and funded at a level to equalize the operating costs of U.S.-flag and foreign vessels, it will be necessary to continue our efforts to remove trade barriers and hurdles that exclude or limit U.S.-flag companies access to certain international markets.

Over the last 20 years, we have on a limited basis, with the help of Congress, the Maritime Administration and the Federal Maritime Commission, the Department of Commerce, and the U.S. Trade Representative, gained access to certain markets for U.S.-flag vessels. With an adequately reauthorized MSP, I am sure that all of my colleagues in the U.S. merchant marine are prepared to compete effectively in the world market, but we must have access to markets which are not currently fully open to us.

We stand to work collaboratively with the Trade Representative in a sustained effort to promote increased U.S.-flag participation in the carriage of goods to and from the United States.

Additionally, Mr. Chairman, U.S.-flag vessels operating in international trade are forced to compete with foreign-flag vessels whose owners pay little or no taxes. While the tax climate for U.S. vessels has improved through Congressional enactment of the tonnage tax, we recommend two additional improvements.

First, we recommend adoption of legislation that would put our American mariners on an equal tax footing with other U.S. citizens working outside the United States by allowing them to be treated for tax purposes like American expatriates, with the first \$80,000 of their income is not subject to U.S. tax.

Second, we also recommend that changes be made to the Capital Construction Fund Program that would incentivize U.S.-flag shipowners to repair their ships in U.S. shipyards. Congressman Artur Davis and Charles Boustany have introduced legislation that would allow funds to be withdrawn on a tax-free basis from CCF to be used for maintenance and repair of U.S.-flag vessels in U.S. shipyards.

Mr. CUMMINGS. I am going to have to ask that you wrap up because we have let you go two minutes above, and all of it is very, very interesting, but we have the statement, your full statement.

Mr. JOHNSEN. OK, thank you. Just in closing, I would like to reiterate the importance of the various cargo preference programs that were mentioned by the Maritime Administrator and to say that they are an important component as well.

Thank you very much, Mr. Chairman.

Mr. CUMMINGS. Thank you. Thank you very much.

Mr. Dumas?

Mr. DUMAS. Good morning, Chairman Cummings and other distinguished Members of the Committee.

Mr. CUMMINGS. Good morning.

Mr. DUMAS. Thank you for the invitation to discuss the state of the U.S. merchant fleet in foreign commerce.

I am Mike Dumas, the Vice President and Chief Financial Officer of Intermarine, a U.S.-owned and operated Section 2 U.S.-flag company.

Intermarine specializes in the ocean transportation of great bulk and project cargo that is oversized, over-dimensional, non-containerized and uses multi-purpose vessels that have self-sustaining heavylift up to 400 metric tons.

The project and breakbulk industry is a specialized and often complex trade and Intermarine is its largest U.S.-based project participant.

Intermarine currently has three heavylift vessels, the Ocean Atlas Titan and Charger, and a fourth heavylift vessel, the Ocean Crescent, is in the final stages of U.S.-flag registration.

The Atlas and the Titan both participate in the Maritime Security Program and the Voluntary Intermodal Sealift Agreement. We are the only heavylift vessels enrolled in these programs. Our U.S.-flag vessels are crewed by U.S. union mariners with whom we have a long and very good, strong partnership. Altogether, Intermarine supports hundreds of good jobs for U.S. citizens, merchant mari-

ners, stevedores, administrative office and technical personnel, as well as the many ancillary jobs supported by our operation.

Mr. Chairman, concerning the purpose of this hearing, you correctly chronicled the decline of the U.S.-flag fleet, both in the overall number of U.S.-flag vessels and in the volume of cargo carried by these vessels. You correctly noted, too, the real economic and security risk that attends such a decline.

Intermarine is committed to remaining a commercially viable U.S.-flag carrier. I would briefly like to highlight what we might do collectively to overcome the challenges facing the U.S.-flag industry.

Number one, and as mentioned several times I am sure by many of my colleagues, ensure reauthorization and full funding of the Maritime Security Program. MSP provides support for some 60 vessels enrolled in the U.S.-flag registry, including two of the Intermarine U.S.-flag vessels. Ensuring that MSP will remain fully funded through 2015 and reauthorized thereafter provides U.S.-flag participants with some relief from the high cost of operating such vessels.

To fully support U.S. exports in the U.S.-flag fleet, we would encourage consideration of a reauthorized MSP program reasonably modified to provide for, one, priority participation by Section 2 citizens; and two, an extended contract period to provide enhanced business stability for MSP participants.

MSP provides mission-critical capacity for our military and helps to employ thousands of professional and very dedicated U.S. seamen. The MSP is an asset multiplier for the U.S. Government and its support helps sustain U.S. industry that is not simply a luxury, but a necessity to the national and economic security of the United States.

A second highlight: protect and vigorously enforce cargo preference laws, extremely important. Cargo preference laws are critical to the continuing viability of the U.S.-flag fleet. Without protection and vigorous enforcement of our cargo preference laws, U.S.-flag carriers simply will not be able to compete with their foreign counterparts who enjoy advantages on the tax side, operating costs, and safety. Cargo preference laws ensure the continuing viability of the U.S.-flag fleet, and this is far too important to this Country.

Third highlight: support the role of U.S. carriers in the National Export Initiative. The interests of U.S.-flag carriers must be represented in the President's National Export Initiative. Though it is indeed unfortunate that the Secretary of the Department of Transportation was not included as a member of the Export Initiative, U.S.-flag carriers should be given a voice in that critical initiative and we stand ready to assist.

Additionally, Intermarine is also eager to continue working closely in a public-private partnership with MARAD, Ex-Im Bank and shippers to ensure adequate U.S.-flag vessel capacity to help promote U.S. Ex-Im Bank.

Finally, fourth highlight: leverage the strength of U.S.-flag carriers in support of TRANSCOM. Intermarine's heavylift vessels are well suited to support DOD missions for TRANSCOM, and by obvious extension, support the security and safety of the United States. Perhaps no better example of the vital role Intermarine vessels

play in support of national security occurred in 2004 when our Ocean Atlas was urgently asked by the Department of State to divert to Tripoli, Libya. The Atlas was the first American vessel to call on that country in many years. In Libya, the vessel loaded sensitive cargoes that was then safely and securely transported to the United States. This mission is a reminder of the forceful importance of having a U.S.-owned and controlled Section 2 U.S.-flag fleet.

Mr. Chairman, the nexus between maintaining a viable U.S.-flag fleet and ensuring U.S. security is very real. If we are able to remain competitive, if we can continue to move U.S. exports and create U.S. jobs, then U.S.-flag carriers can continue to support this Country's economic and security interests.

Thank you once again, Mr. Chairman, for the opportunity to speak with you today.

Mr. CUMMINGS. Thank you. Thank you very much.

Mr. Reinhart?

Mr. REINHART. Thank you, Mr. Chairman.

Mr. CUMMINGS. Thank you.

Mr. REINHART. Members of the Committee, I am John Reinhart, President and CEO of Maersk Line, Limited, a U.S. company based in Norfolk, Virginia.

Our company is managed by U.S. citizens, employs thousands of U.S. merchant mariners, and has over 200 shoreside employees. We pay taxes in the United States and we are one of the largest owners and operators of U.S.-flag in international trade. We are part of the A.P. Moller-Maersk Group, and international transportation and energy company.

I appreciate the opportunity to testify before you today about the state of the U.S. merchant marine operating in international commerce. We applaud the Committee for its commitment to a strong U.S. merchant marine which is critical to both the U.S. economic and national security.

As your Committee knows, the global maritime industry, like all industries, has faced an unprecedented economic difficult time over the last few years. In the wake of that challenge, Maersk Line, Limited continued to provide critical services with U.S. merchant vessels to the military over the last few years, delivering cargo to Iraq, Afghanistan and humanitarian aid to Africa.

The success of our business is based on our ability to provide competitive international transportation services to our customers. The foundation is the U.S. laws that you have as the Congress put them forward, designed to ensure that we stayed strong and economically viable.

The Maritime Security Act, the cargo preference laws, the tonnage tax regime and other U.S.-flag programs Congress has enacted has stopped the rapid decline, but still more needs to be done. I would like to give you a few highlights of what our company has done in the last 10 years.

We own, operate and charter 33 vessels that are enrolled in government sealift readiness today. We only had four doing this 10 years ago. We have modernized nearly our entire fleet, investing \$1.6 billion in new assets under U.S. flag in the last 10 years. We continue to work with DOD to match their requirements with U.S.

assets. We have 24 container ships. We have added four Ro/Ro ships. We have included three tankers. We have tried to adapt our fleet to meet the requirements of the military.

Since 2008, during this economic time, we have added seven vessels that have increased employment for U.S. merchant mariners by 240 slots or billets, providing employment for almost 600 mariners. We train more than 200 cadets every year on our fleet from the academies to provide for a workforce for the future.

The programs that Congress has enacted to support the U.S. flag have been working and have delivered value to the U.S. military. They have been maintaining privately owned, commercially viable U.S. vessels in the fleet.

One fact that demonstrates this success is that between 2002 and 2008, 60 percent of the cargo to Iraq and Afghanistan were carried on commercial vessels like we all represent, compared to 21 percent during Desert Storm.

As the Committee considers future opportunities to strengthen the U.S. flag and the merchant marine industry in foreign commerce, please remember that it is not just the ocean transportation that our customers look for. They look for global capability and door to door capacity to deliver cargo efficiently from any point to any other point. That is what companies like ours practice and do. It is part of our DNA.

As we look at Afghanistan, we have delivered cargo thousands of miles over land after we have taken it on the ships, going across Latvia, Russia, Uzbekistan, Georgia, Armenia, Azerbaijan, as addition to the gateway in Pakistan. So we have had to do more than just operate ships to be competitive in the global marketplace.

As an American company with American citizens, we are proud to serve our Nation. We recognize that the U.S. Government services are a key part of our business. Because we utilize our commercial solutions, we are able to compete on a cost basis and find opportunities to eliminate the cost differential that exists in the U.S. flag. Only 2 percent of the trade goes to on U.S.-flag ships and more needs to be done. We need to avoid complacency and aggressively protect and preserve the programs that you have so wisely put in place, the Maritime Security Program, the cargo preference laws, the tonnage tax, as we look for more.

There are other opportunities for development and we look to those opportunities for development in the energy field to help grow employment and deliver new U.S. vessels.

In closing, let me reiterate my company's commitment to our Nation's sealift capacity, the requirements that you provide, and the honor it is to serve. Every day, our colleagues, mariners and partners feel pride in serving the U.S. flag, developing the U.S. merchant marine, and serving our Nation.

This is a brief part of my testimony, sir, and I look forward to your questions.

Mr. CUMMINGS. Thank you very much.

Mr. Shapiro?

Mr. SHAPIRO. Thank you, Mr. Chairman, Chairman Oberstar, Mr. LoBiondo, Mr. Taylor, Members of the Committee. Thank you for the opportunity to testify on the importance and status of the foreign trading U.S.-flag fleet.

With your permission, sir, I would like to submit my written statement for the record.

Mr. CUMMINGS. Without objection, so ordered. As a matter of fact, we will have all of your written statements submitted as a part of the record. Thank you all.

Mr. SHAPIRO. Thank you.

Liberty's fleet consists of nine U.S.-flag vessels, six modern large bulk carriers, and three large roll-on/roll-off vessels built in 2005, 2009 and 2010. All of our vessels are engaged in the carriage of military cargoes and/or food aid preference cargoes primarily today to Africa.

Let me take a moment, Chairman Cummings, to thank you and Mr. LoBiondo and Mr. Taylor, as well as the Members of your Committee for your outstanding leadership on the piracy issue. The entire U.S.-flag industry, both operators and our labor partners alike, deeply appreciate your concern and involvement.

Two weeks ago, this Committee reported a bill, H.R. 5629, that seeks, among other things, to Americanize U.S. waters. The purpose of the bill is to help ensure safe operations in drilling and other activities and goes well beyond the requirements of the Jones Act. This is a bold step.

Bold thinking is also needed to sustain and expand the U.S.-flag fleet engaged in the foreign trade. Our existing programs, particularly the Maritime Security Program and the Cargo Preference Program have worked well to stabilize and maintain a modern militarily useful fleet. These programs must be sustained if the U.S. is to maintain this essential capability.

As you have noted, Mr. Chairman, these programs, however, can and must be improved and new ideas are needed to maintain and grow a vibrant U.S.-flag fleet. None of us can rest on our laurels. More aggressive action is needed.

First, the Maritime Security Program should be reauthorized and expanded. We at Liberty have committed over \$170 million in private capital to build two brand new roll-on/roll-off vessels to serve the needs of our armed forces. These are ultra-modern vessels, the newest in the U.S.-flag fleet, ordered, by the way, when the U.S. Transportation Command announced a need for more Ro/Ros. Yet there are no available MSP agreements to cover these vessels. We respectfully urge Congress to consider expanding MSP when it is reauthorized to ensure that DOD has the sealift capability it needs.

Second, MSP originally intended as a U.S. citizen program, has become nothing short of a foreign-dominated program. When started in 1997, four of the 47 agreements were held by a foreign company. Today, all but 11 of the 60 agreements are effectively controlled by foreign citizens or companies. This foreign dominance is a threat, in our opinion, to the national security of our Country and unhealthy for the long-term viability of the U.S. merchant marine. We respectfully request that Congress alter the balance to ensure that a majority of this program is reserved to U.S. citizens.

Third, when MSP was reauthorized in 2005, most of the agreements were grandfathered. In other words, they are re-awarded to the same carriers which had agreements in the prior program. This has resulted over time in the DOD not always having the vessel

mix that it needs. We urge Congress to provide for more open competition in the award of MSP agreements when it is reauthorized.

Fourth, I would like to spend the balance of my time discussing cargo preference, which represents the common sense notion that when our U.S. Government ships cargo, at least some of it should go in U.S.-flag vessels. It is not an exaggeration at all to say that without cargo preference, we would have no U.S.-flag fleet engaged in foreign commerce today.

It is therefore vital to the U.S.-flag merchant marine and to U.S. national security that our cargo preference laws are followed by the various government agencies that ship cargo. Toward that end, the Maritime Administration plays a vital role in making sure that contracting officers in other agencies are aware of their responsibilities and that the law is enforced when necessary.

We urge Congress to be active in its oversight of MARAD and its cargo preference role. MARAD needs Congressional support to get the job done, and maybe on occasion, with all due respect to my friend Administrator Matsuda, a nudge or two to be a little bit more aggressive in enforcing the law.

Thank you again, sir, for the opportunity to testify. Chairman Cummings and Members of the Subcommittee, we appreciate your attention to our industry. We could not have better support than what you are trying to provide us.

With that, I would be pleased to answer any questions.

Mr. CUMMINGS. Just one quick observation. Sometimes it is good for the person who testifies first to stick around to hear from you all. In other words, Mr. Matsuda left. I am sorry he did, but I want to make sure that he gets copies of your testimony, if you don't mind. He needs to hear some of this. All right?

Mr. SHAPIRO. Thank you, sir.

Mr. CUMMINGS. Mr. Keefe?

Mr. KEEFE. Mr. Chairman, Members of the Subcommittee, my name is Don Keefe. I am the President of the Marine Engineers Beneficial Association. I am presenting this statement on behalf of the MEBA, as well as the American Maritime Officers, the International Organization of Masters, Mates, and Pilots, and the Seafarers International Union.

Together, we represent the overwhelming majority of licensed and unlicensed American merchant mariners working aboard United States-flag vessels operating in our Nation's foreign and domestic shipping trades.

We appreciate this opportunity to present our views on the state of the United States merchant fleet in foreign commerce. History has shown that our Nation must have the U.S.-flag commercial vessels and United States citizen crews necessary to support our troops and protect our American economic interests. We believe that the best way to do so is for Congress and the Administration to support, enforce and fund existing maritime programs and to enact new programs that will enable our merchant marine to operate more competitively.

One such program is the Maritime Security Program. MSP helps retain U.S.-flag vessels and their U.S. citizen crews for our Country, more specifically for the use of the Department of Defense in time of war and other international emergencies. To ensure the

continued availability of the MSP fleet, Congress should continue to approve funding for this program at the Congressionally authorized level of \$174 million for fiscal year 2011, \$186 million in fiscal years 2012 and 2013. This fund helps U.S.-flag vessels compete against foreign-flag, foreign-crewed vessels for the carriage of cargo in foreign trades.

Unlike U.S.-flag vessels, foreign vessels operate in what is essentially a tax-free environment beyond the reach of many U.S. Government-imposed requirements that are applicable to U.S.-flag vessel operations.

It is equally important that U.S.-flag shipping requirements under the Cargo Preference Program be fully funded and implemented in compliance with the law. For example, the existing Food for Peace Program not only serves U.S. humanitarian and foreign aid objectives, but provides a significant return to the American taxpayer by creating and maintaining American jobs for the maritime and agricultural-related service and supply industries.

The U.S.-flag shipping requirements that cover the shipment of Food for Peace and other food aid cargoes help provide an important base of cargo to support U.S.-flag vessels operations to help vessel operators keep their vessels under our flag. Proposals to replace the existing Food for Peace Program with a program that simply provides cash to other nations to purchase foreign agricultural commodities in foreign shipping services should be rejected.

All federally funded cargo should be transported in compliance with the existing cargo preference laws. The National Defense Authorization Act of 2009 gives the Maritime Administration great authority to implement the cargo preference laws and this statute and MARAD's authority should not be subverted.

We believe that changes should be made in our tax laws in order to promote the growth of the industry, preserve and create jobs, and help reduce the disparity in tax treatment that gives foreign-flag vessels and their crews a significant economic advantage over U.S.-flag vessels and their U.S. crews.

For example, one such change in the tax code that could improve the competitive position of U.S.-flag vessels and increase the employment of American mariners is to extend the existing foreign source income exclusion to American merchant mariners working aboard commercial vessels operating in the foreign trade. At present, section 911 of the tax code allows every U.S. citizen working outside the United States, except for American mariners, to exclude up to \$80,000 in income from their Federal tax.

A report prepared by the Maritime Administration, released on January 7, 2009, noted that most major nations either do not tax or sharply reduce taxes on the income of their mariners in international shipping. Other nations do this to help reduce operating costs for their flag vessel operations. The United States should do the same.

In addition, Congress should enact legislation to eliminate the double taxation of waterborne commerce moving between American ports under the harbor maintenance tax in order to enable creation of a short sea shipping marine highway system in the United States.

Also, Congress should support the Title XI Ship Construction Loan Guarantee Program and appropriate the funds necessary to assist shipping companies to obtain the commercial financing they need to build, upgrade and expand their fleets in the American shipyards.

Finally, there is one other major area of U.S. maritime policy we would like to raise. The full enforcement of the Jones Act helps to guarantee that our Nation will have the domestic shipyard mobilization base and the American merchant mariners available to support the Department of Defense requirements. Equally important, the full implementation and enforcement of the Jones Act means that the waterborne transportation of American domestic commerce will not fall under the control of foreign shipping interests, but will instead remain under the control of American companies and American crews.

American crews, unlike foreign mariners, are subject to U.S. Government-imposed background and security checks as a means to guard against maritime-related terrorist incidents.

In conclusion, if Congress and the Administration believe, as we do, that the economic and military security of the United States is best served when our country has a strong competitive U.S.-flag shipping capability, there are a number of important and innovative steps that can be taken to achieve this objective. We have raised what we consider to be some of the most important immediate steps that should be considered. We look forward to working with you, Mr. Chairman, and your Subcommittee on these and other essential maritime initiatives.

Thank you.

Mr. CUMMINGS. Thank you very much.

We are pleased that we also have Mr. Paul Doell, the Director of Legislative Affairs, the American Maritime Officers; and Captain Donald Marcus, Secretary-Treasurer, International Organization of Masters, Mates, and Pilots; and Mr. Terrence Turner of the Seafarers International Union, here for questions, to answer questions. They will not be providing testimony.

Is that understood? Very well.

Let me just ask a few questions.

Mr. Shapiro, what percentage of the cargoes carried by your U.S.-flag vessels are comprised of cargo preference cargoes?

Mr. SHAPIRO. Mr. Chairman, today we would probably be in the 80 percent range, about 75 percent to 80 percent. In prior years, we have been 100 percent. In 2007 and 2008, when there was an explosion in the foreign shipping market, some of our ships traded there and we actually went as low as 50 percent to 60 percent. But we are clearly dependent on U.S. Government programs to support the U.S.-flag fleet.

Mr. CUMMINGS. So you would be pretty much out of business if it weren't for the preferences.

Mr. SHAPIRO. Well, we would be out of business as a U.S.-flag company. I mean, the alternative that everyone faces at this table who's operating ships is if you take the U.S. flag off and put a foreign crew on, you can compete internationally around the world without all the unfunded mandates that are placed on U.S.-flag vessels.

We have chosen to be U.S. because we are not only patriotic, but believe that it is our duty to support a U.S. merchant fleet that can sustain our military and national security.

Mr. CUMMINGS. We appreciate that very much.

You wrote in our testimony that today all but 11 MSP agreements are effectively controlled by foreign citizens. What do you mean by this, particularly given that MARAD has reported that more than 11 vessels participating in the MSP program are controlled by Section 2 companies?

Mr. SHAPIRO. My understanding is that in 2006 after the renewal of MSP, well, let's go back to 1996. In 1996, there was a very strong Section 2 requirement which was enforced vigorously by the Maritime Administration. It mandated that those companies that have foreign ownership connections, of which there are many, had to hire U.S. citizen-qualified shipping people to actually be the intermediary between them and the U.S. Government.

In the renewal of the program in 2004, which became effective in 2005, I believe, they changed that requirement to allow foreign companies that had a special security agreement with the United States to qualify as an alternative to Section 2 citizenship.

What ended up happening was foreign-based companies were buying up other American-based companies that were in the program so much so that I believe Congress in 2006 intervened and said if there is a transfer of an MSP agreement from a non-citizen, priority should be given to a Section 2 citizen in having it awarded.

Well, the intent of Congress was great. Unfortunately, the enforcement by the Maritime Administration was somewhat lacking because they found people who had really never operated ships acted as owners of companies on behalf of foreign companies and they became the Section 2 citizens.

So for instance, you have someone who was at one time a U.S. Government government relations person who all of a sudden dropped his position, became owners of an American Section 2 citizen, even he had no employees and no people that were working for him, and he acted as the intermediary between the foreign company.

So I again would urge this Committee to direct the Maritime Administration to tighten up these requirements so that Section 2 U.S. citizens can participate in this program in a substantial manner, not just a minuscule manner.

Mr. CUMMINGS. Thank you. That was very helpful.

Mr. Reinhart, what advantages are there to operating under the U.S. flag? Is cost the only factor that discourages operators from choosing the U.S. flag?

Mr. REINHART. Thank you, Mr. Chairman.

As far as cost, all global trade is really driven by being in the right place at the right time and providing a service at the right cost. If the cargo isn't mandated to go on U.S. flag, a lot of those U.S. manufacturers that build or export, they do not look to put their cargo on a U.S.-flag ship, so cost drives them to whatever is the most efficient export or import vessel available.

Mr. CUMMINGS. And the development of the tonnage tax was an attempt by Congress to help level the playing field in terms of costs for U.S.-flag operators. How many of you have elected to pay tax

under the tonnage tax system? And what has been your experience with the system?

Anybody. Let me start with Mr. Dumas, since he hasn't answered yet, and we will get to others.

Mr. Dumas?

Mr. DUMAS. Mr. Chairman, we do pay under the tonnage tax. We elected to go under the tonnage tax immediately after it became available to us. We pay a nominal amount. I think it is \$7,000 or \$8,000 a year under the tonnage tax for our four ships. That allows us to keep our profits inside of the company, which then helps us to grow our business. We started off with one ship in 2002 and we are just adding our fourth ship this year.

Without that tonnage tax, we would not be able to hold our profits within our company and expand our fleet.

Mr. CUMMINGS. As the others answer that same question, I want to know, do you think the tonnage tax system can be improved? And if so, how would you want to see it improved?

Mr. Shapiro?

Mr. SHAPIRO. We opted as well, Mr. Chairman, for the tonnage tax. I don't know that it can really be improved. The benefit is there just from the creation of the tonnage tax. But if I could just divert back one second about the cost of operating U.S. flag?

Mr. CUMMINGS. Please.

Mr. SHAPIRO. Our seamen pay taxes. Their families pay taxes. When we are competing in the international trade, you asked me what percentage we carried of U.S. Government cargo versus commercial cargo. We are at an \$11,000 a day disadvantage to a foreign-flag ship, foreign operating costs. The math is very simple. And the \$2.9 million, I would point out, under the MSP program, switching hats from food aid to military, the \$2.9 million doesn't cover the full differential. Without the Cargo Preference Program cargoes being added to that \$2.9 million, there is no way that anyone can sail a ship and make any money.

So the support we need from the Congress or from our Administration is vast support, but the benefit is you get a merchant marine that can ensure your economic security as well as your national security at a fraction of the cost that it would cost the government to build these and own these ships themselves.

Mr. CUMMINGS. Mr. Reinhart?

Mr. REINHART. Thank you, Mr. Chairman.

As I mention in my testimony, we have increased our fleet from four to 33 ships owned. The tonnage tax was a big driver in us being able to effectively deploy the capital and modernize our fleet. So it is an important step.

But as Philip and some of the other folks on the panel have said, it is not enough by itself. We do need cargo preference. We do need the Maritime Security Program and other initiatives to offset the adverse cost of running a U.S.-flag ship in the international trades.

Mr. CUMMINGS. Mr. Johnsen, did you have a response to that? And then I will move on to Mr. Keefe.

Mr. JOHNSEN. Thank you very much.

I would like to just reiterate the fact that, and I said this in my testimony, that it is important that the Maritime Security Program

be adequately funded. What I was alluding to there is that there should be more money in the program.

Mr. Taylor asked an interesting question of the Maritime Administrator about back haul cargo from Kuwait. That leads into a very important consideration. The Department of Defense's requirements are often very much surge requirements, and they need many more vessels than they need on a more routine basis when they have a surge. So that says to us that it is important that we have the DOD priority, but we have to have an adequately funded Maritime Security Program in order to have the vessels available to DOD.

When the operations changed in the Middle East from a surge of sending cargo over to now the retrograde operation, many of us operating in that program rearranged our transportation capability. Unfortunately, I think we have a reality that DOD is having a difficult time getting the cargo out because, to answer your question, I know what our ships are doing and I know what other people's ships are doing, and they are not full.

So it is a question of continuing to work with DOD to ensure that we have a flow of cargo that matches the retrograde. Because we have the capability there to do it, but we do need initiatives. We do need to have the Trade Representative and all of our other agencies support utilization of U.S.-flag ships. If they cut us free and they don't help us, there will be a serious impact.

Mr. CUMMINGS. Mr. LoBiondo?

Mr. LOBIONDO. Mr. Chairman, out of deference to Mr. Oberstar, I will yield to Mr. Oberstar.

Mr. OBERSTAR. You are very kind to do so, Mr. LoBiondo. I will withhold at this time, except to make this one brief observation.

Thirty-five years ago, my first year in Congress, Tom Downing, Chairman of the Merchant Marine Subcommittee, Member from Virginia, held hearings similar to this over a five-month period to evaluate the Merchant Marine Act of 1970 to see where we stood with the status of the merchant fleet.

You and Mr. Cummings have now launched the second era of hearings on the value to the United States of the merchant fleet, and I hope that this will be an in-depth and continuing series of hearings to shine a bright light on the very important area of merchant shipping that goes too often ignored in our panoply of transportation issues in this Country. Much more attention is paid to aviation, to highways, to transit to intercity high speed passenger rail.

This Country was founded by the water. Our citizenry lived on or near the water at the very beginnings of this Nation. Seventy-five percent of the population of this Country still lives along the water's edge. There are only two major cities that are not located along a body of water. Most of our major cities were ports before they were cities.

This hearing today and the series that I expect we will continue to have will continue to focus that light on this maritime heritage of the United States and the importance of maritime to the future of this Country.

Thank you for yielding.

Mr. LOBIONDO. Thank you, Mr. Chairman.

Talking about the shortage of merchant mariners, for Mr. Turner, to what degree is there a shortage of merchant mariners available to work aboard U.S.-flag vessels?

Mr. TURNER. Mr. LoBiondo, there is a worldwide shortage. We with Seafarers do our best and do our due diligence in supplying the best trained mariners that this Country can provide. I don't have a percentage for you, but we will stand ready, as my boss Mr. Sacco says, when the balloons go up and the bell rings, we will be there.

Mr. LOBIONDO. Can you identify any particular segments of the maritime community that are experiencing more of a shortage than others?

Mr. TURNER. I think I would have to defer to the Officers Unions on this. I can only speak relative to our unlicensed.

Mr. LOBIONDO. I think I and probably the Committee would be interested in knowing if you have any ideas of how the Federal Government could support industry efforts to attract and retain qualified merchant mariners to work aboard U.S.-flag vessels.

Mr. TURNER. Our industry is a well kept secret, quite frankly. What Mr. Oberstar has referred to is we kind of fly under the radar. One of the things that we do in terms of getting our message out, we go to various Members of Congress in their Congressional districts and basically recruit from those areas. We would be very interested from any Member of Congress who has a jobs need, we would be glad to basically come into your district, explain to your constituents exactly what we do, and recruit them into the industry.

Mr. LOBIONDO. Thank you.

Any of the other panel members, are you experiencing difficulty being able to hire folks for your vessels?

Mr. MARCUS. Yes, sir, on behalf of Masters, Mates and Pilots, thank you for the opportunity to be here and thank you for your vigorous support of the merchant marine.

I would have to say that regarding licensed deck officers, it is a function of availability of jobs. As the Administrator stated, there are 700 licensed officers graduating from State and Federal academy every year. If the suitable and attractive opportunities are there, people will fill the jobs. It is a function of supply and demand. And right now, from the position of our union, there is a lack of jobs and we have Third Mates, qualified personnel, that can't get employment, can't get steady employment, or that the range of employment is simply not attractive.

So I think it is a function really worldwide of the attractiveness of the job. If there are good jobs, people show up. If there are not enough jobs and if they are not good jobs, people don't show up.

So I think the shortage, at least in terms of the U.S. officers, is somewhat of a red herring. I believe it is a function of the quality of the opportunity.

Mr. LOBIONDO. Anybody else care to comment?

Mr. KEEFE. Yes. I agree with Don from Masters, Mates and Pilots. When I mentioned in my testimony about a Federal tax incentive, it is very, very competitive when we are going to our partners, our companies to try to talk with them to bring a foreign flag under the American flag, when our competition in the foreign market,

they are getting national health care already. They are getting national pensions. They are not paying taxes into what they earn on the vessel.

The costs at one time I believe it was about a 30 percent differential and could have even been more with the Euro up and down. I believe at one time we looked at it, it was about 30 percent.

Some of our employers, we have partnered with them. We have had to take 20 percent pay cuts to make it competitive for them to bring foreign vessels under the American flag.

Mr. LOBIONDO. Thank you.

Mr. CUMMINGS. Thank you very much.

Mr. Oberstar?

Mr. Taylor?

Mr. TAYLOR. I would like to open this up to the pane, going back to, again, I realize it is short term, but walk me through how your firms are compensated for bringing a cargo home from Iraq. I have to believe the crew size doesn't vary if you have a partially full ship. I have to believe you are traveling in ballast so your tonnage really doesn't vary, so therefore the amount of fuel you are going to use doesn't vary.

Are you compensated by the trip? Are you compensated by the piece of equipment? Are you compensated by the actual tonnage of the cargo that you are carrying? If you could walk me through that.

Mr. REINHART. Yes, sir, Mr. Taylor.

Firstly, there are rates on file with TRANSCOM.

Mr. TAYLOR. Could you speak up a little bit, sir?

Mr. REINHART. Yes, sir.

TRANSCOM has rates on file to move cargo from any port to another port, so most of the cargo would move under USC 06. Then there can be unit moves or one time only rates put on file to bring the cargo back from the Middle East. But since we are still delivering on networks with our liner vessels and our Ro/Ro vessels, we are providing that mostly under our USC 06 rates.

Mr. TAYLOR. Again, walk a civilian through this.

Mr. REINHART. Well, to be a member of the Maritime Security Program

Mr. TAYLOR. No, I am familiar with that.

Mr. REINHART. OK, sir.

Mr. TAYLOR. If your vessel is coming over, if you have a heavylift vessel or a reinforced deck Ro/Ro, that is returning home at 60 percent capacity, do you still bill the Nation the same as if you were full? Or does the Nation get a 60 percent bill of what a full cargo would have cost the Nation?

Mr. REINHART. If I may, sir, the rates are unit rates. We aren't charging for the full vessel. We are charging for the rates on the piece portion.

Mr. TAYLOR. By square foot and tonnage or tonnage or what?

Mr. REINHART. Yes, sir.

Mr. TAYLOR. Square foot and tonnage?

Mr. REINHART. Weight, ton or container.

Mr. SHAPIRO. Mr. Taylor, all of us are subject to the universal services contract. When he says USC 06, that is what it is.

Mr. TAYLOR. Thank you.

Mr. SHAPIRO. We have submitted thousands of rates, literally thousands of rates for the movement of different pieces of material and cargo from points all over the world, not just to the United States. It could be repositioning someplace else. Those are analyzed and accepted by the Department of Defense. If they think your rate is too high for something, before you get approved for that universal services contract, they come back to you and say you are not approved on this rate, this rate, this rate or this trip, this trip, this trip.

So before you ever even put this vessel in the water to go pick up cargo, you have been approved already on all these rates by the DOD.

Mr. TAYLOR. And Mr. Shapiro, I hate to cut you short, but I am going to.

Mr. SHAPIRO. OK.

Mr. TAYLOR. Walk me through, if you could very quickly, a typical vessel sailing right now, coming back from Iraq. What is your typical capacity?

Mr. SHAPIRO. I can do that, sir.

Mr. TAYLOR. What percentage of capacity are you traveling at?

Mr. SHAPIRO. We have 580,000 square feet of cargo space on a 12-deck roll-on/roll-off vessel. OK? We are carrying about 30 percent to 40 percent cargo in that coming back, no more than 40 percent. And we are paid on a unit move by pieces of equipment. We don't charge for the full ship. We get whatever we have been approved for on an item by item basis.

Mr. TAYLOR. Is that fairly universal? Is that a fairly universal percentage?

Mr. SHAPIRO. On the Ro/Ro, sir, yes. On the containers, it could be even less on the container ships.

Mr. TAYLOR. Sir?

Mr. JOHNSEN. That is correct.

Mr. TAYLOR. Again, going back to the old penny-wise analogy, I have serious concerns that we are leaving billions of dollars of equipment behind that is going to end up on the black market, that is going to make some Iraqi wealthy, because we are trying to save millions of dollars in shipping costs.

Have any of you gone to both the Sealift Command or TRANSCOM and said, look, I am making this trip anyway; I am willing to work with you on a negotiated rate for additional tonnage to come home.

Have you done that? And if you haven't, why not?

Mr. JOHNSEN. We have done that.

Mr. TAYLOR. You have.

Mr. JOHNSEN. Yes.

Mr. TAYLOR. And what has been their response, sir?

Mr. JOHNSEN. We have had one instance where they did work with us and they helped us get back. But we have had in the last 60 days, we have had multiple instances where we have held ships waiting for cargo. We have a ship sitting now that has already been sitting for two or three weeks. We get no compensation for that, obviously.

Mr. TAYLOR. It is sitting in Kuwait?

Mr. JOHNSEN. It has been sitting in the Arabian Gulf. And prior to that, the last ship that we loaded coming back had waited for two weeks. So it is a question of the cargo volume is obviously there and I think your concern is very legitimate about getting it moved out, but the cargo is not flowing to match the vessel's capability.

So as Mr. Shapiro said and as Mr. Reinhart said, we get paid for every measurement ton of cargo that we carry and that is all.

Mr. TAYLOR. Mr. Chairman, if you would afford me the luxury of one last question for the record?

If each of your firms could get back to me, when leaving Kuwait or Umm Qasr, what percentage of the tonnage is being forwarded to, say, Karachi for redeployment to Afghanistan? And what percentage is being returned to a CONUS port, leaving the Iraqi theater?

Thank you very much for indulging me, Mr. Chairman.

Mr. CUMMINGS. Thank you very much.

Mr. Kagen?

Ms. Richardson?

Ms. RICHARDSON. Thank you, Mr. Chairman.

Thank you, all of you, for being here today.

My first question is for the entire panel. Were any of you invited to participate in the President's Export Commission?

Mr. SHAPIRO. No.

Ms. RICHARDSON. Did any of you know about it before his announcement?

Mr. SHAPIRO. No.

Ms. RICHARDSON. OK. If you were able to participate in that Commission, and the President is expecting that we are going to increase exports, and many of us on this Committee, we serve not only on Coast Guard and Maritime, but also on Highways and Roads, and we have a real question of whether we would be able to support that demand.

If you were able to say something to that Commission, what would it be? And why don't I start off here with some of our labor representatives and friends, Mr. Turner and Captain Marcus?

Mr. MARCUS. I can answer that question, at least for our organization. It would be that we would welcome some bilateral trade agreements. It would seem to me that these countries value the United States market. They are exporting goods into our Country. We want to export good out of our Country. It would seem to me that bilateral trade agreements would be reasonable. It is a subject that doesn't get much play, but it would certainly seem reasonable from our perspective.

Thank you.

Ms. RICHARDSON. Actually, it is getting quite a lot of play right now, the one they are looking at with Korea and some others. So it is interesting that you have that point.

Mr. Keefe, did you want to add anything to that of what you would like to recommend to the Commission?

Mr. KEEFE. I agree with everything that Don said. It is all about creating jobs. It is a way to create jobs and we are all behind it.

Ms. RICHARDSON. What can we do, though, to ensure that there are job and that they are U.S.-flag ships that are gaining the benefit of the Export Commission and not foreign-flag ships?

Mr. KEEFE. What I had mentioned earlier in my testimony, you weren't here, was I had mentioned tax incentives, Federal tax incentives.

Mr. SHAPIRO. I would say, Ms. Richardson, that cargo is the key element to a vibrant U.S. merchant marine and a vibrant economy. If there is cargo required to be carried on ships, ships will be built, jobs will be created, and an American presence overseas with exports will manifest itself.

So cargo that moves either by government mandate or by bilateral agreement, it all comes down to one thing: you need something to put in the ship in order to build the ship and to employ people.

Ms. RICHARDSON. OK.

Mr. Reinhart, the President of Maersk, which is a large carrier down in my district, the Port of Long Beach and Los Angeles, what things would you want to share with that Commission?

Mr. REINHART. We have talked about the cargo to create the jobs, but there has to be incentive for that cargo to go on a U.S.-flag hull. There has to be some reason to put it on a U.S. hull. If we go back before 2008, cargo continued to grow coming in and out of this Country, but the portion of it on a U.S.-flag vessel has dropped to 2 percent. So there has to be something to incentivize that cargo to move on the U.S. flag; also, cargo preference enforcement on the U.S. flags.

Ms. RICHARDSON. Mr. Keefe, we briefly had something there. In your statement, you talked about that if Congress and the Administration does not take steps to attract and retain more vessels for U.S. producers and shippers of U.S. commodities, we can find ourselves hostage to foreign shipping interests. That obviously is something dangerous to us all.

I was recently in the Gulf twice and I think us not having our own systems in place in readiness to be able to move as we need is definitely short-sighted. Other than the tax incentives, is there anything else that you had a specific direction to?

I do see the MSP program and us continuing that, but was there anything else further that you wanted to add?

Mr. KEEFE. Yes. What was discussed earlier, capital construction fund. There was the tonnage tax, the harbor maintenance tax, the Title XI that I had mentioned earlier about capital construction, again with Title XI building ships. Under that, there was when the companies are bringing their vessels into the U.S. to have repaired, there could be a tax break on having repairs done in the yards over here in the U.S. That is about it.

Ms. RICHARDSON. OK.

Lastly, Mr. Turner, with you representing the Seafarers, we have them represented down in my district in the two ports there. I know we just finished looking through some negotiations with ILWU. Are there outstanding labor infractions that we should be aware of?

Mr. TURNER. Relative to the SIU, I don't believe there is anything outstanding. You do reference the ILWU, and there is a problem there. We are aware of that and are working with our brothers

and sisters along those lines, but we have no infractions or complaints to this point.

Ms. RICHARDSON. Thank you, gentlemen, for all your testimony.

Mr. CUMMINGS. Mr. Oberstar?

Mr. OBERSTAR. Thank you.

We are now, as I observed earlier, we are observing the 40th anniversary of the Merchant Marine Act of 1970. And I applaud Chairman Cummings for initiating this hearing and I expect a follow-on set of hearings that will further explore the status and the health of the American merchant marine.

And Mr. LoBiondo, thank you also for your constancy and participation, and Mr. Taylor, who has been a watchdog on the Jones Act and the American shipbuilding sector.

But I would just observe that that set of hearings I referenced earlier with Chairman Downing was a great learning experience. It provided for me a foundational experience for my engagement in international shipping and the entire maritime interest of the United States.

And I will just make a personal observation. When I was elected in 1974, we went through the Committee selection process. Of course, I wanted to be on the then-Public Works Committee because I had been its Administrator. I started my service on the Hill as Clerk of the Subcommittee on Rivers and Harbors. We didn't have fancy titles in those days, Clerk, like sit in the corner, kid, and learn something.

I worked then for my predecessor, John Blatnik, who later was Chairman of this Committee. And I set about the task of learning. The first act of the first Congress came from the Committee on Rivers and Harbors in September, 1789, to establish and maintain a lighthouse at Hampton Roads, Virginia.

The second act of the first Congress came from the Subcommittee on Rivers and Harbors to establish and maintain a lighthouse at Cape Henry on the entrance to Chesapeake Bay. And the third act of the first Congress, from the Committee on Rivers and Harbors, was to establish the Revenue Cutter Service to exact duties on cargoes coming into the United States with which to pay the debts of the Revolutionary War.

The founders of this Country, the framers of the Constitution, the first legislators understood the importance of maritime, understood the vital necessity of safety in maritime by establishing lighthouses.

In fact, as a further parallel, in 1927 when the first night flight was established in commercial aviation by one of those early air-mail pilots flying from Kansas City to Chicago, he asked farmers along the route to light bonfires at night because there was no night navigation. And when it proved successful and he was able to fly, at each checkpoint the bonfires were lit, within a year the U.S. Lighthouse Service established lighthouses with million candle power beams fired up through arrows pointing to the next lighthouse. That served as air navigation.

If you look today at air traffic control towers, they are patterned after lighthouses, with the same sequence of entry. And the point where air traffic controllers operate is called the cab. That is what a lighthouse is called, the cab.

America owes so much to maritime history, to the movement of goods and to the safety at sea that it is a tragedy that we have allowed this vital interest to deteriorate. And those who have access, and everybody does, to our Committee briefing reports, look on page four, Global Policies in Support of Shipbuilding and Vessel Operations.

There are 15 different categories of aids to shipbuilding; aid to vessel operations, that other countries with panache employ to support their fleet, without apology. And we go around wringing our hands, oh, my goodness, the subsidy was going to pay for this; oh, my God, we can't do this; we have to operate by Marquess of Queensberry rules in international maritime trade while the other countries are using black belt karate against us.

Parenthetically, Mr. Taylor is a black belt Karate champion. So that is why we turn him loose.

So look at the state of the American fleet. In 1948, at the end of the war, two years after the end of the war, we had 5,500 U.S.-flag merchant vessels; 25 million dead weight tons of shipping. We were number one in the world. The fleets of Europe, Japan, Korea, all the rest, they had been bombed, torpedoed, sunk, exploded in the war. We were moving the world's goods.

When I came to Congress, we had 800 ships in the American-flag fleet. We were eighth. That was dead last. The Far East shipping company of the Russians had 2,500 vessels. They were number one, FESCO, Far East Shipping Company. The Polish and Baltic Atlantic fleet were number two.

That has changed. Now, you have COSCO, which has nearly as much dead weight tonnage of shipping as the entire United States did in 1948. And they are the ones that are moving the Wal-Mart containers and the Target containers and Home Depot and all the rest. All are moving, that constant flow of goods. It was Maersk that launched the first 6,000-container vessel, and then the second, 6,600, the Regina Maersk and the Sally Maersk.

And now you have the race for who can have more containers onboard a vessel. Maersk went to 10,000. COSCO went to 11,000. Maersk went to 13,000 and COSCO is catching up. And now you have a 16,000-container vessel, I think, Mr. Reinhart, in the works. And so the race is on and has been on for a long time.

Who's being left behind in the race? U.S. shipyards, the U.S. merchant fleet, U.S. mariners. Those are good jobs. Those are good decent jobs that require a lot of skill. And we should not sit back, wring our hands, and say, oh, my goodness, we have to play by the international rules while operating subsidies, construction subsidies, restructuring aid, financing program, cargo preference requirements and so on are all being employed by the leading maritime nations of the world.

They are not sitting back and taking second place. So we have got to move the ball ahead.

Mr. Keefe, thank you for referencing my 2001 bill. I didn't think anybody remembered these things anymore, but you did, and you quoted exactly from my statement.

But the second part of it, the first part was the tonnage tax. The second part is excluding up to \$80,000 in income. I didn't pull that out of thin air. That was an Eisenhower Administration initiative

as part of his initiative to generate more international trade for U.S. companies, to allow employees of International Business Machines and Control Data and other high-tech companies to locate overseas and be exempted from U.S. income tax if they stay for 18 months or longer, so that they would establish relationships with foreign companies and foreign governments and benefit U.S. trade.

When you are on a ship, you are overseas. You are out of a U.S. port. You are out there for a very long period of time. We ought to have the same treatment for our merchant mariners, and we were very close to getting that done in the Tax Act of 2004. I will give credit to then-Chairman Bill Thomas, who saw the wisdom of this proposal, concurred with it, and was attempting to win support from the previous Administration and from the Senate. The only thing they could reach agreement on was the tonnage tax. So we ought to recapture that second piece and provide benefit for mariners. The harbor maintenance tax, it is double taxation. It hurts us on the Great Lakes in competition with Canadians. Canadian vessels are outside the harbor maintenance tax and so they are capturing a good deal of the cross-border trade. And we ought not to let that continue and I expect that when we get our water resources bill ready for Floor action, we will include the repeal or modification of the harbor maintenance tax.

Now, Mr. Shapiro and Mr. Reinhart, you have referred to unfunded mandates, construction standards and a host of other things. We have had the Title XI Construction Loan Guarantee Program and the Operating Differential Subsidy Program, and they didn't work for one reason or another. We spent \$10 billion or \$11 billion on those programs over a number of years and our fleet kept going down.

There are obstacles, no question about it, but Mr. Keefe had some very thoughtful suggestions: approve applications subject to appropriations; an expedited review process for MARAD; the Capital Construction Fund to allow companies to accumulate their fund, but expand that fund to use some of it for maintenance and repair.

We are doing that in the transit program now for smaller metropolitan areas. Those 250,000 or less population can use, the transit agencies, can use some of their capital account for operating and maintenance needs. If the principal applies there, we could apply it here to maritime as well.

So I want Mr. Shapiro and Mr. Reinhart, and perhaps others who want to chime in on it, to give us your thoughts about how we can deal with these, in particular these construction loan guarantee and other aids to maritime.

Mr. SHAPIRO. Mr. Oberstar, it would be my pleasure to address that.

Firstly, I think we can all look back on the failure of the ODS system. The operating differential subsidy system was set up in a way that it didn't encourage the owner or operator at the time, and this program has been expired now for 15 year, 16 years. It did not encourage the owner or operator to be efficient in its management of the vessel because the overtime cost above the foreign cost was paid for by the U.S. Government.

That, in fact, was exactly what we addressed, and I was one of four industry people put on Secretary Pena's Working Group on Maritime Subsidy Reform that came up with the MSP program. We took a fixed amount, \$2.9 million now, which we know doesn't give you parity with the foreigners, but it gave you a strong enough footing that with the carriage of cargo preference, you could bridge that difference. And that is what we have done.

So I think the failure of the ODS system was corrected in the MSP system when it was put together, number one.

With regard to shipyards, every one of us supports U.S. shipyards to the extent we can and we would like to have a vibrant shipbuilding industry in the United States. Our problem is that we are competing with foreign-built ships in the foreign commerce of the United States, not in the domestic commerce of the United States.

So unless the government can provide a subsidy to the shipyard, which gives you a foreign capital cost equivalent, you can't compete. And I think that is precisely why the CDS program failed is that it was at 42 percent at the time; 42 percent of the cost of the ship was paid to the shipyard.

Today, it is 200 percent differential. So you would have to pay for a \$50 million ship overseas, you would end up paying today \$150 million for that same ship because of the subsidies that the foreign governments put in place to promote their own domestic shipyards.

So all of us will support legislation that takes care of American shipyards. Unfortunately, it has to be the government that does it, not the shipping companies. The shipping companies can't sustain that kind of capital burden, the foreign trading shipping company.

Mr. OBERSTAR. And I think the Chairman will understand in Baltimore, we had a vibrant shipbuilding industry and Mr. Cummings grew up in Baltimore. He knows the city. He knows its connection to the waterway, and you worked there. I didn't know that.

Mr. SHAPIRO. Mr. Oberstar, my wife is from Baltimore and I went to Sparrows Point Shipyard and Key Highway. When I first got into this business, all of the vessels of the company I started with were being repaired at Key Highway or built at Sparrows Point. So I am well aware of what has taken place since.

Mr. OBERSTAR. All right. Let's go.

Mr. Reinhart?

Mr. REINHART. Thank you, Mr. Oberstar.

Philip defined the ODS pretty well. We did not participate in ODS. We have been in the Maritime Security Program as Maersk.

On the construction, the viability of the U.S. yards is a challenge just like the viability of the shipping yards in all of the developed nations. We would like to see it vibrant, but that would be more of a government responsibility.

In international trade, the differential has grown so far that we brought in the ships from the international marketplace to trade internationally. Maersk is a domestic or documentation citizen company, so we do not participate in the coast-wide or the Jones Act trades, which is another strong area that supports our shipyards here in the United States.

Mr. OBERSTAR. Any others have comments about how we can close this gap? If it is a 200 percent differential today, that is a stunning gap in competition. Well, they do pay their workers less. They have lower cost of materials, but all those are government-subsidized.

I know how the Japanese do that. I know their tax structure. I know how the Bank of Japan intervenes in providing financing to shipbuilding, steel manufacturing to their high-tech industry. They are unabashed about it. They don't apologize to anyone. They just go ahead and do it and then they take the markets away from us.

Mr. SHAPIRO. And the Korean and Chinese yards are even more subsidized than the Japanese yards.

Mr. OBERSTAR. Sure.

Mr. SHAPIRO. But they are subsidized by their governments.

Mr. OBERSTAR. Mr. Keefe, do you have any further expansion on your well thought out observations?

Mr. KEEFE. Yes, sir. What I should have said to Ms. Richardson is that when you asked me about the different things, the enforcement of the cargo preference. I should have probably keyed on that. We have these laws set up. What we have to do is enforce what we have set up.

I can go back 40 years ago, way before my time, the president of my union, his name was Jesse Calhoun, and he was at that point—do you remember him?

Mr. OBERSTAR. I remember him well.

Mr. KEEFE. At that point in time, he was testifying about the U.S. merchant jobs going overseas to foreign flag, U.S. flag going foreign flag. And then in the labor movement, a lot of his counterparts, presidents in the labor movement, listened to him, but now 40 years later, most of those presidents, if they were still around, would realize what he was pointing out basically the warning signal that most of our jobs have gone overseas in all sectors of labor.

So it is very, very difficult once you have lost that workforce, it is very difficult to bring it back. Through these programs, whether it be Maritime Security Program, Cargo Preference Program, any type of tax incentive-type program, that is what keeps us alive because otherwise we are going to die on the vine here.

I am sitting up here with two other officer unions and one unlicensed union, and if you add the three of us together, just the officer unions here, I would be willing to bet that we are probably 15,000 strong today. That is our membership. But I think the unlicensed is probably three times that. But when we are looked at in a business world on cost, it is very, very difficult for U.S. labor to compete with foreign labor. And that is why we need these programs and that is why we need these incentives to keep going.

Mr. OBERSTAR. Thank you.

That really raises the last issue I want to explore, and that is ship registers. We have seen and we are witnessing now the danger of foreign ship registers. The spill in the Gulf, B.P. built or ordered built the drilling ship in South Korea, 350 some million dollars. They registered it in the great maritime trading nation of the Republic of the Marshall Islands, which registered it in a ship register maintained by a foreign entity in Reston, Virginia.

The oversight of the safety and maintenance of that vessel is done by the U.S. Coast Guard under international regulations, which are far less stringent than U.S. regulations. If that were a U.S. vessel, the Coast Guard would spend two to three weeks on an inspection, whereas it is only six to seven or eight hours because it is an international registry.

So why would B.P., a foreign-flag operator, register a vessel in the Marshall Islands? Why would Transocean, a Swiss company which has the drilling operations onboard that vessel, why would they engage in operations in the exclusive economic zone of the United States as foreign operators? Because all of their costs are vastly less than if they were registered in the United States.

So we reported a bill from this Committee. I hope we can bring it to the House Floor this week, I am expecting some go-ahead sign from our House leadership, that will require those vessels and those drilling operations to be U.S. flag. And Mr. Taylor's amendment would require them to be U.S.-built, and Mr. Cummings flag requirement as well, the Chairman of this Subcommittee. We had whole bipartisan support for those provisions when we moved the bill in this Committee.

And there are objections raised that, oh, you will be in violation of the World Trading Organization. Well, I said fine. So are all these other 25 companies. Let someone bring suit. By the 10 years it takes to prosecute a complaint in the WTO, we will have ships built. We will have them operating U.S. flag. We will be having U.S. seafarers on board those vessels. And the U.S. will benefit.

That is our exclusive economic zone and we shouldn't have this slipshod operation. But I just want to point out that various countries now have established second registers, international registers. The Norwegians registered on their international ship register must fly the Norwegian flag; must employ Norwegian ship masters. They can employ mariners from other countries, but those mariners are subject to Norwegian law and collective bargaining agreements.

Suppose we did the same thing for the United States? What would you shipowners think about that? And Mr. Keefe, what would you think about that?

Mr. KEEFE. I went overseas for an ITF meeting and I happened to be speaking with some of my counterparts from Brazil, Australia, what have you, and I happened to speak to some management people before I went over to Sweden. It was over in Stockholm. And at one point, we came this close of signing an agreement. It was over the Isle of Man. And thank God I didn't because when I walked into this meeting over in Stockholm, I started expressing that I was going to go ahead and sign a contract. And the Australian says with a very strong accent, he says: Have you ever heard of cabotage laws? I said yes I have. And he said: Well, we have them, too.

And then he said, well, let me introduce you to the Brazilian man. So I go over and see the Brazilian representative. He says: Oh, you want to sign a contract with so and so? He says, well, you are going to join our union. And I am looking at him. Each country, that I am unaware, they have their own laws, whether it be cabotage; whether they have certain periods of you have to have all

Brazilians, say, on a rig for 30 days, and then after that they extend it 15 or 14, whatever.

I don't know the particulars, but what I was educated going overseas is that most of these countries, even if I was to sign, say, a contract outside of the U.S. is that they have their own restrictions, if you will, whether it be union or what have you, organizations that keep you from going in there.

Mr. SHAPIRO. Mr. Oberstar, with regard to open registries, I could tell you I would be opposed. This Country is in an economic recession. We are coming out of probably our most vulnerable point in the last 40 years, 50 years, maybe longer. We need jobs for Americans and we need jobs for people, and I don't think we ought to set standards to hire foreigners to fill those positions. We ought to train Americans to do them.

Mr. OBERSTAR. Mr. Reinhart?

Mr. REINHART. A second registry would be a registry light. I think we have a good registry. We just have to enforce the U.S.-flag rules and encourage employment for the U.S. merchant marine. Other shipowners can put their flags under these other registries. I don't see a need for a second registry in the United States. We just have to strengthen the one we have.

Mr. OBERSTAR. Strengthen the one we have. Good advice, good counsel, I am for it.

And I thank my colleagues on the Committee for your forbearance. I know I went on, but I will just close by observing that when I had Committee selection, or when Committee selection came up in 1974, I of course first chose the Committee on Public Works, as it was called then. And then the Merchant Marine and Fisheries Committee, because my father had told me when I graduated from high school, he said I want you to advance your education. I want you to realize your dreams. Mine was to serve in the U.S. merchant fleet, but I couldn't. As the oldest of eight children, I had to go out and work and support the family.

And when I called and told him that I had gotten on the Merchant Marine and Fisheries Committee in his honor, this tough underground iron ore miner of 40 years cried over the phone. I am still here pursuing that dream of his.

Mr. CUMMINGS. Mr. Chairman, thank you very, very much.

Mr. LoBiondo, did you have anything else?

Any other Members of the Committee?

Ms. Richardson?

Ms. RICHARDSON. I just had a couple of questions I didn't get to ask to Mr. Johnsen and any of the other operators. The subsidy programs that came before the MSP program have been viewed to be too restrictive. For instance, operators were not able to deploy their ships quickly enough to take advantage of opportunities in different trades. They had to build their ships in a U.S. yard even though the U.S. construction subsidy often didn't cover the full cost differential of building the vessel in the U.S. shipyard compared to a foreign shipyard.

Does the current subsidy program allow enough room for innovation? And does the current system allow you enough latitude to compete in the way that you would like?

Mr. JOHNSEN. The current MSP program is a big improvement over the predecessor programs. It does allow flexibility, and I think Mr. Shapiro alluded to that earlier. That has been an important step.

The next step is to make sure that it is properly funded. If we have the proper funding, we will compete internationally and we will innovate. We have a record of having done that in the past.

Ms. RICHARDSON. OK.

And Mr. Shapiro and Mr. Reinhart, chapter 553 of Title 46, U.S. Code, contains our cargo preference laws which you guys have just been discussing in the last couple minutes. Section 55-305 requires that ships that are foreign-built or rebuilt outside of the U.S. must be documented under the law for three years.

Given that all the vessels receiving the MSP program funding were built in foreign shipyards and that they carry some of the cargo preference, is it time to repeal that rule in your opinion?

Mr. SHAPIRO. Not in my opinion. I think they are two separate trades. The MSP vessels which serve the military have access to carry preference cargoes, but there is a limitation on certain amounts of cargoes that they can carry. There is a bulk trading fleet which is under U.S. flag which was built under Section 615 of the Merchant Marine Act, which was an amendment to the 1936 Act, which permitted vessels built with national defense features and military approval to be built overseas and bought into the U.S. flag right away without waiting three years to re-flag.

There is an excess tonnage today to carry food aid cargo. Most of us who have food aid business are sitting waiting for the government to ship some. We keep hearing it is coming, but it is certainly not coming the way it has been in other years.

The MSP program has access to the program, but it is a limited access based on the commodity, the type of shipment that is being moved.

Mr. REINHART. If I may make one quick comment on your earlier question and then answer this. The flexibility under the current MSP program has worked quite well and the success is proven by satisfying the military's requirement. And that did include a lot of U.S.-flag operators that are documentation citizens, not Section 2. There have been a lot of requests today to strengthen the Section 2 requirements as we go forward. That would be a risk to the flexibility of that program. It has worked quite well with international operators.

Secondly, on the three-year rule and cargo preference, if we are to expand the fleet and grow the business that comes under cargo preference, we may have to find some ways to work with the three-year rule that does not limit the protection in the marketplace so it stays stable. But if we are going to go from 94 ships to 150 ships because we are going to expand the programs, you are going to have to find some legislative language that will bring those ships in without causing instability in the marketplace.

Ms. RICHARDSON. OK.

And then my last question, I have one minute for my labor friends to the left of me. We had quite a lot of stimulus money that was provided, \$787 billion to be exact. Were any of those funds

being able to utilize for job training and to incentivize and help us in your arena in terms of the workers? Any of you can respond.

Mr. KEEFE. We haven't received any. I should take that back. I think we received a very, very, very small amount and it was down at our training school. We brought in a community college that received some of the stimulus to put a few students through our school down in Eastern Maryland, but we directly didn't receive anything.

Mr. DOELL. I believe with the officers unions, we didn't get any in AMO, but we train our own people. We have our own training program, as do the MEBA and the Masters, Mates and Pilots. So I think as far as the licensed unions are concerned, I would say no.

Mr. MARCUS. On behalf of MMP, I would agree with Mr. Keefe and Mr. Doell. Masters, Mates and Pilots has not received any, and to my knowledge the U.S.-flag merchant marine as a whole has not seen any of this funding in terms of building merchant marine programs, be it training or any other program.

Mr. TURNER. I concur with the Captain. SIU, nothing, and the industry as a whole, literally nothing.

Ms. RICHARDSON. OK.

Thank you, gentlemen, for all your testimony.

Mr. CUMMINGS. I want to thank all of you for your participation. It has been extremely helpful.

This hearing is now at an end. Thank you.

[Whereupon, at 12:20 p.m., the Subcommittee was adjourned.]

**Statement of Michael R. Dumas
Vice President and Chief Financial Officer
Intermarine, L.L.C.**

**Before the
Coast Guard and Maritime Transportation Subcommittee
of the
Transportation and Infrastructure Committee
United States House of Representatives**

STATUS OF U.S.-FLAGGED VESSELS IN U.S. FOREIGN TRADE

July 20, 2010

Mr. Chairman and Members of the Subcommittee:

I am Mike Dumas, Vice President and Chief Financial Officer of Intermarine, L.L.C. (Intermarine). I am particularly pleased to have been invited to appear before you today to address the important role of U.S.-flag shipping in support of our country's economic and national security.

Intermarine is a U.S.-owned and U.S.-operated company headquartered in New Orleans, Louisiana, and celebrating its 20th year in the ocean transportation industry. We are proud to be a "Section 2" citizen company owned and controlled by U.S. citizens. With other offices in Houston, South America, Asia and Europe, Intermarine specializes in the ocean transportation of breakbulk and project cargo. Utilizing shallow draft vessels with heavylift capability, Intermarine is able to serve clients – civilian and military – in this specialized, often complex, trade. Our vessels are crewed by the Seafarers International Union (SIU) and American Maritime Officers (AMO). We are indeed proud of the dedication that these U.S.-citizen merchant mariners provide to our vessels, and are grateful to them for their support. In fact, Intermarine's entry into the U.S.-flag trade was strongly encouraged by our labor partners, and we remain committed to working with maritime labor as we grow our U.S.-flag fleet.

In early 2002, the OCEAN ATLAS, an 8,000 deadweight ton multipurpose heavylift vessel, became the first Intermarine vessel to fly the U.S. flag. Three years later, a sistership – the OCEAN TITAN -- joined the Intermarine U.S.-flag fleet. These two vessels are the only heavylift vessels enrolled in the Maritime Security Program (MSP) and the Voluntary Intermodal Sealift Agreement (VISA) program. Anticipating an increase in U.S. export cargo, including cargo financed by the Export-Import Bank (Ex-Im Bank) and a U.S.-flag vessel shortage, Intermarine registered a third sistership, the OCEAN CHARGER, under the U.S.-flag in August 2009. Intermarine's decision to add the OCEAN CHARGER to its U.S.-flag fleet to meet the increasing cargo demand has proven to be prescient, as evidenced by the vessel capacity shortages that you identified in your Subcommittee hearing of March 16, 2010. Our

commitment to supporting the U.S.-flag fleet continues – we are currently in the late stages of adding a fourth heavy-lift vessel, the OCEAN CRESCENT, into the U.S.-flag registry.

Our U.S.-flag vessels routinely call ports from Baltimore to Long Beach and points beyond, providing a consistent source of income for stevedores, cargo handlers, agents and other ancillary product and service providers. When on the Gulf Coast, our vessels typically load and discharge at Industrial Terminals on the Houston Ship Channel, one of the largest, private project and breakbulk terminals in the U.S., and owned by an Intermarine affiliate company. Altogether, Intermarine provides good, well-paying jobs for hundreds of workers in the United States, and it is our fervent hope that we continue to do so for years to come.

Our U.S.-flag vessels carry both civilian and military cargo in the international trade of the United States. We routinely carry government cargo under the following programs:

- Cargo Preference Act of 1954.
- Public Resolution 17 (P.R. 17).
- Military Cargo Preference Act of 1904.

These maritime cargo preference programs are administered by the Maritime Administration (MarAd). Intermarine has been, and remains, committed to working with MarAd, Ex-Im Bank, the Department of Defense (DoD), and other constituents and cargo interests to facilitate the carriage of cargo aboard its U.S.-flagged vessels.

Mr. Chairman, the shipping industry, as you well know, has not been spared its considerable share of pain in this worldwide economic crisis, and the challenges are even more acute for U.S.-flag carriers. Industry freight rates have plummeted, jobs have been lost, and U.S.-flag carriers are increasingly hard-pressed to compete with their non-U.S.-flag counterparts, many of whom are heavily subsidized, directly and indirectly, by foreign governments. U.S.-flag carriers, such as Intermarine and other “Section 2” carriers, struggle to compete with foreign carriers from the Far East to Europe and beyond, who operate under a different set of rules, enjoy cost-of-capital advantages, lower operating costs, and are largely unconstrained by regulatory limitations imposed by U.S. law. The playing field, Mr. Chairman, is decidedly uneven.

In order to address these inequities, we respectfully submit that the following steps should be taken to ensure that U.S.-flag carriers are afforded the opportunity to compete fairly in the international shipping market:

Ensure Full Funding and Reauthorization of the MSP. The Maritime Security Act of 2003 (MSA 2003) reauthorized the MSP program through Fiscal Year 2015. Annual funding under MSA 2003 for the MSP program in Fiscal Years 2009-2011 is set at \$174 million, increasing to \$186 million for Fiscal Years 2012-2015. The MSP program is vital to the continuing viability of the U.S.-flag fleet, and must be fully funded and reauthorized. To more fully support U.S. exports and the U.S.-flag fleet, we would encourage consideration of an MSP program reasonably modified to provide for (1) priority participation by “Section 2” citizens, (2) a more appropriate mixture of vessel types participating in the program, and (3) extended contract periods to provide enhanced

business stability for MSP participants. We would encourage, too, full funding of other maritime and export programs to nurture and promote U.S.-flag shipping.

Protect and Vigorously Enforce Cargo Preference Laws. Cargo preference laws are necessary for the continuing viability of the U.S. merchant marine and are critical to our national security interests. Congress must protect, and MarAd must vigorously enforce, cargo preference laws as written, and work closely with all constituents – U.S.-flag carriers, the Ex-Im Bank and shippers alike – to ensure that cargo preference is the rule, not the exception. Consistent enforcement of cargo preference laws is critical for U.S.-flag carriers who commit substantial capital, equity and debt into U.S.-flag operations. U.S.-flag carriers, and the banks and investors who support them, rely upon the fair and consistent application of cargo preference laws when making these substantial investments. Consistent application of cargo preference laws provides stability to the marketplace and encourages further investment. In short, it is good for business.

Inconsistency in the application and enforcement of cargo preference laws is neither infrequent nor uncommon. A very real and recent example is a determination by the Department of Energy that the cargo preference laws do not apply to its Loan Guarantee Program authorized under the Energy Policy Act of 2005. The U.S.-flag maritime industry has raised strong objections concerning this matter with MarAd, and will work closely with you and your Committee to ensure that the DOE determination is quickly corrected.

We hasten to add that our experience working with MarAd, the Ex-Im Bank, and shippers alike in the carriage of U.S.-flag cargo has been generally positive, and we are excited about the prospect of working with them more closely to support U.S. exports and create U.S. jobs.

Support the Role of U.S.-Flag Carriers in the National Export Initiative. In March 2010, President Obama delivered the keynote address at Ex-Im Bank's 2010 Annual Conference during which he outlined the Administration's plan for doubling U.S. exports within the next five years through the National Export Initiative. In his remarks to the Conference, President Obama stated:

“We remain the number one exporter of goods and services in the world. So we've got a terrific foundation to build on. But we can't be satisfied with number one right now. We shouldn't assume that our leadership is guaranteed. When other markets are growing, and other nations are competing, we've got to get even better. We need to secure our companies a level playing field. We need to guarantee American workers a fair shake. In other words, we need to up our game.”

Mr. Chairman, we respectfully submit that U.S.-flag carriers, in particular “Section 2” companies, and their U.S. mariners and other employees, must be provided a meaningful opportunity to participate in the National Export Initiative. We note with regret that neither the U.S. Department of Transportation nor any of its modal agencies were

included in the membership of the Export Promotion Cabinet (EPC) established by the President to develop and coordinate the National Export Initiative. It is our hope that such representation will be added to the EPC to ensure the proper inclusion of the transportation sector that is vital to the development of U.S. export initiatives. We all want to continue to create jobs, and the jobs of U.S. merchant mariners are no less sacred than those of U.S. factory workers. The level playing field promised by the President to U.S. companies should be extended to U.S.-owned, U.S.-operated, U.S.-flag shipping companies.

Promote an Active and Effective Public-Private Partnership among U.S.-Flag Shipping Constituents. In his remarks to the Conference, President Obama also lauded Ex-Im Bank's vital role in making available record capital to drive U.S. exports during the financial crisis. As carriers of P.R. 17 cargo, we have witnessed a sharp increase in the volume of Ex-Im Bank financing over the last year, through both direct loans and guarantees, and have worked closely with the Ex-Im Bank and MarAd in carrying such cargo. We are grateful for the work being done by Ex-Im Bank and the opportunities it provides, and view our relationship as a shared endeavor. As U.S.-flag carriers like Intermarine rise to meet the challenge of supporting U.S. exports, we hope that Ex-Im Bank receives the support it needs to handle the influx of funding applications. By working closely together, U.S.-flag carriers, Ex-Im Bank, MarAd and other U.S.-flag constituents can effectively support the National Export Initiative, promote U.S. exports abroad and create U.S. jobs at home.

President Obama appropriately emphasized the value of collaboration when he called for the creation of "public-private partnerships to help firms break into new markets with the help of those who have been there – shipping and supply chain companies...". Whether breaking into new markets or shoring up old ones, the President's endorsement of public-private partnerships is strongly endorsed by Intermarine, especially as it would enhance and promote the role of U.S.-flag carriers in the National Export Initiative.

Leverage the Strengths of U.S.-Flag Carriers in Support of DoD and TRANSCOM. Intermarine has long supported the missions of DoD and the U.S. Transportation Command (TRANSCOM). Whether carrying Coast Guard cutters to the Persian Gulf or tanks and Humvees back to the United States, our shallow draft heavylift vessels are uniquely qualified to provide vital support to our fighting men and women around the globe. Perhaps no better example of the vital role our vessels can play in support of national security occurred in 2004, when the OCEAN ATLAS was urgently tasked by the Department of State to divert to Tripoli, Libya, the first American vessel to call on that country in many, many years. There, the vessel was loaded with sensitive cargo which was then safely and securely transported to the U.S. This mission remains a highlight of our company's history, and is a forceful reminder of the importance of having a "Section 2" U.S.-flag fleet.

On behalf of Intermarine, I thank you, Mr. Chairman and the entire Subcommittee, for the opportunity to testify before you today. We look forward to working with you and with all U.S.-flag constituents – public and private, labor and business, civilian and military – to

strengthen the U.S.-flag presence at home and abroad, to support the creation of U.S. jobs through exports, and to continue to provide this country with a viable U.S.-flag presence on the oceans of the world.

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**Statement of Niels M. Johnsen
Chairman of the Board
Central Gulf Lines, Inc.
and
Waterman Steamship Corporation**

**Before the
Coast Guard and Maritime Transportation Subcommittee
of the
Transportation and Infrastructure Committee
United States House of Representatives**

STATUS OF U.S. FLAGGED VESSELS IN U.S. FOREIGN TRADE

July 20, 2010

Mr. Chairman and Members of the Committee:

As the Chairman of Central Gulf Lines, Inc. (Central Gulf) and Waterman Steamship Corporation (Waterman), I appreciate the opportunity you have provided today to address the U.S.-flag merchant marine's ability to compete with foreign-flagged vessels in international commerce. Central Gulf and Waterman are both American-owned, United States-citizen companies, and as such, are more commonly referred to as "Section 2" citizens. Central Gulf and Waterman currently operate 13 U.S.-flag commercial vessels in the international and domestic trades that provide a wide-range of oceangoing commercial freight transportation services, including pure car/truck carriers (PCTC) and domestic coastwise services. Central Gulf and Waterman have also provided from their inception sealift support to the Department of Defense (DoD) for its global military operations. Our U.S.-flag vessels and the dedicated crews that serve on those vessels proudly, willingly, and without hesitation, have delivered vital military equipment, supplies and other materiel into war zones and other hostile areas in direct support of DoD operations including Korea, Vietnam, Operation Desert Shield/Storm, Operation Enduring Freedom in Afghanistan, and Operation Iraqi Freedom.

Mr. Chairman, at your hearing on March 17, 2010, you observed that you "would certainly hope that as we work to expand U.S. exports, we also work to formulate a meaningful U.S. maritime policy that will revitalize our merchant marine and expand the percent of U.S. trade carried in U.S. ships." We agree with your observation, and we, therefore, recommend several specific initiatives.

At the outset, I would like to address a program that has and is currently serving its intended purpose, the Maritime Security Program (MSP). MSP must be a key component of any future maritime policy. MSP is the most cost effective means to ensure that DoD has the access it requires to commercial U.S.-flag shipping and U.S. merchant mariners for the Nation's economic and military security. In fact, when Congress last considered reauthorization of MSP,

General John W. Handy, then Commander in Chief of the U.S. Transportation Command (TRANSCOM), stated in testimony before the House Armed Services Committee, "We simply cannot, as a Nation, fight the fight without the partnership of the commercial maritime industry." Moreover, the Office of Management and Budget (OMB) has recently given MSP the highest possible ratings under its program assessment review for program purpose and design, planning, management, and overall results.

MSP has proven to be a fundamental element of the U.S. maritime transportation system, providing an active, privately-owned, U.S.-flag and U.S.-crewed fleet of militarily-useful commercial vessels in international trade which are available to support the sustainment of the U.S. armed forces in a contingency. MSP was established by the Maritime Security Act of 1996 and originally provided for the participation of 47 U.S.-flag commercial vessels. Subsequently, due to the success of this program and the strong support of Congress and our partners at the Departments of Transportation and Defense, the program was reauthorized and expanded to 60 ships in 2005. With the expansion of the program by 13 ships, Congress specifically provided that priority must be given to "Section 2" citizen, American-owned companies for vessels enrolled in MSP. As "Section 2" citizen companies, Central Gulf and Waterman strongly supported that priority requirement and urge Congress to continue providing priorities in this and other maritime programs for "Section 2" citizens. Mr. Chairman, if we are going to achieve your goal of revitalizing the American merchant marine, we need to place special emphasis on doing so with American-owned companies.

Of the 60 U.S.-flag vessels currently in MSP, Central Gulf has enrolled four state-of-the-art PCTCs, and Waterman has enrolled two state-of-the-art PCTCs and two self-sustaining container vessels. So, collectively, our companies have eight ships in MSP. These Central Gulf and Waterman vessels include some of the newest and largest roll-on/roll-off vessels in the U.S.-flag fleet. As a result of ramp capabilities and variable spacing of movable interior deck heights, our vessels can accommodate a significant number of large military vehicles and aircraft. Our vessels can quickly transport large quantities of such equipment and other materiel when and where needed by U.S. armed forces around the world.

Mr. Chairman, we are pleased that the House of Representatives has demonstrated its continuing support for MSP by voting in this Congress to extend the program. We look forward to working with you and other members to ensure that the extended program provides for the participation of "Section 2" citizen American owned companies, to ensure that program payments equalize the operating cost of U.S. flag vessels with foreign flag vessels in international commerce, and to provide for the continued full complement of U.S. flag vessels in the program that are required to support the national and economic security of the United States.

As a complement to MSP, DoD must continue to abide by its long-standing "commercial first" policy to provide military cargo to privately-owned U.S.-flag vessels when available in lieu of government owned or controlled vessels. This policy has resulted in military cargo support for the U.S.-flag fleet, and we strongly urge DoD to continue its vigilant compliance with this essential policy.

If MSP is reauthorized and funded at a level to equalize the cost of operating U.S. flag with foreign flag vessels, it will be necessary to continue our efforts to remove trade barriers that exclude or limit U.S. flag companies' access to certain international markets. As you know, the United States has one of the most open markets in the world. Yet, regrettably, many of our trading partners do not reciprocate our "open door" policy.

Over the last twenty years, we have, on a limited basis, with the help of Congress, the Maritime Administration, the Federal Maritime Commission, the Department of Commerce, and the U.S. Trade Representative, gained access to certain previously-closed markets for U.S. flag vessels. If the United States truly wants to revitalize its merchant marine, we need to work with the Congress and the Administration to eliminate unfair and anti-competitive trade practices throughout the world. With an adequate reauthorized MSP, all of my colleagues in the United States merchant marine are prepared to compete effectively in the world market, but we must have access to markets which are currently not fully open to us. We stand ready to work in a collaborative fashion with all facets of the Federal government, particularly the United States Trade Representative, in a sustained effort to eliminate trade barriers wherever they exist around the world.

Mr. Chairman, in addition to facing unfair trade practices abroad, U.S.-flag vessels operating in international trade are forced to compete against foreign-flag vessels whose owners pay little or no taxes. While the tax climate for U.S. vessels has improved through Congressional enactment of the "tonnage tax", we recommend two additional improvements that would be helpful in order to further reduce the tax advantages enjoyed by our foreign competition.

First, we would recommend adoption of legislation that would put our American mariners on an equal tax footing with other U.S. citizens working outside the United States. We would propose that American mariners who are often at sea and away from home for much of the year be treated for tax purposes like American expatriates working overseas where the first \$80,000 of their income is not subject to tax in the United States. This change in the law would make tremendous strides towards equalizing the tax treatment for American mariners.

Second, we would also recommend that changes be made to the Capital Construction Fund (CCF) program, administered by MarAd, that would incentivize U.S.-flag shipowners to repair their ships in United States shipyards. Congressmen Artur Davis of Alabama and Charles Boustany of Louisiana, as members of the House Ways and Means Committee, have introduced legislation that would allow funds to be withdrawn on a tax-free basis from a CCF account to be used for the maintenance and repair of U.S.-flag vessels in shipyards located in the United States. This legislation is broadly supported by U.S.-flag carriers, the Shipbuilders Council of America, and maritime labor, and would provide much needed employment at shipyards throughout the country.

Finally, while we are working towards a new maritime policy for this country, we must not lose sight of the importance of a number of existing Federal programs that provide U.S.-government cargoes for U.S.-flag vessels. First, the Cargo Preference Act of 1904 requires that all U.S. military cargo be transported on U.S.-flag vessels. Also, Public Resolution 17 requires

that all cargoes generated by the Export-Import Bank (Ex-Im Bank) be shipped on U.S.-flag vessels. Finally, the Cargo Preference Act of 1954, as amended by the Food Security Act of 1985, requires that at least 75 percent of government-impelled agricultural cargoes under certain foreign assistance programs must be carried on U.S.-flag vessels. We urge Congress to continue to fully support these maritime cargo reservation programs.

Mr. Chairman, I look forward to working closely with you on this matter of vital importance to our national and economic security. Thank you for allowing me to appear before you today.

STATEMENT SUBMITTED BY THE
AMERICAN MARITIME OFFICERS,
INTERNATIONAL ORGANIZATION OF MASTERS, MATES &
PILOTS,
MARINE ENGINEERS' BENEFICIAL ASSOCIATION
AND THE
SEAFARERS INTERNATIONAL UNION
TO THE
SUBCOMMITTEE ON COAST GUARD AND MARITIME
TRANSPORTATION
OF THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
ON
"THE STATE OF THE UNITED STATES MERCHANT FLEET IN
FOREIGN COMMERCE"

July 20, 2010

Mr. Chairman and Members of the Subcommittee:

This statement is submitted on behalf of the American Maritime Officers (AMO), the International Organization of Masters, Mates & Pilots (MM&P), the Marine Engineers' Beneficial Association (MEBA) and the Seafarers International Union (SIU). We appreciate this opportunity to present our views on the "state of the United States merchant fleet in foreign commerce."

Our maritime labor organizations represent primarily ships' Masters, Licensed Deck Officers and Licensed Engineers, and unlicensed merchant mariners working aboard U.S.-flag commercial vessels operating in our nation's foreign commerce and domestic trades. The development and implementation of programs and policies that support this fleet, enhance its economic viability and increase its ability to compete for a larger share of America's foreign trade are extremely important to the jobs of the men and women our labor organizations represent. Consequently, we are extremely pleased that this hearing is being held and that we have been given the opportunity to present our views.

History has repeatedly proven that it is in the best interest of the United States to maintain and support a strong, active, competitive and militarily-useful privately-owned U.S.-flag merchant marine to protect, strengthen and enhance our nation's economic and military security. In times of war or other international emergency, U.S.-flag commercial vessels and their United States citizen crews have responded quickly, efficiently and effectively to our nation's call, providing the commercial sealift capability and civilian maritime manpower necessary to transport and support American forces overseas.

In 1992, General Colin Powell, then-Chairman of the Joint Chiefs of Staff, told the graduating class of the United States Merchant Marine Academy at Kings Point that:

"Since I became Chairman of the Joint Chiefs of Staff, I have come to appreciate first-hand why our merchant marine has long

been called the nation's fourth arm of defense.

"Fifty years ago, U.S. merchant vessels . . . were battling the frigid seas of the North Atlantic to provide the lifeline to our allies in Europe. The sacrifice of those mariners was essential to keeping us in the war until we could go on the offensive. . . In World War II, enemy attacks sank more than 700 U.S.-flag vessels And claimed the lives of more than 6,000 civilian seafarers . . .

"In war, merchant seamen have long served with valor and distinction by carrying critical supplies and equipment to our troops in far away lands. In peacetime, the merchant marine has another vital role – contributing to our economic security by linking us to trading partners around the world and providing the foundation for our ocean commerce."

Today, U.S.-flag vessels and their U.S. citizen crews are on the front lines in our nation's War against Terror. American vessels and crews carry the supplies and equipment our troops need, whenever and wherever it is needed. Simply put, the continued availability and utilization of U.S.-flag vessels and United States citizen crews provide the best way for our nation to support our troops – to do otherwise is to put the security of our forces overseas in the hands of foreign flag vessels and foreign crews.

Equally important, without a stronger, larger, and more competitive U.S.-flag shipping capability the United States may find itself – and our national economy – at great risk as we become even more dependent on foreign flag shipping operations for the carriage of our export – import trade. If Congress and the Administration do not take steps to attract and retain more vessels for the U.S.-flag, producers and shippers of U.S. commodities can find themselves hostage to foreign shipping interests who can easily dictate the terms and conditions that must be met before they are willing to carry America's commerce.

We believe therefore that it is important that our nation has the United States-flag commercial vessels and the trained and loyal United States citizen crews needed to support our troops, to protect and enhance America's economic interests at home and abroad, and to strengthen United States defense operations around the world.

We further believe that the best way to achieve these goals is for Congress and the Administration to support and fund the existing programs, and to enact those new programs, that enable vessels to remain and operate under the U.S.-flag.

MARITIME SECURITY PROGRAM

One of the cornerstones of American maritime policy is the Maritime Security Program (MSP).

Originally enacted as the Maritime Security Act of 1995 (Public Law 104-239), this statute allowed the Secretary of Transportation, in consultation with the Secretary of Defense, to establish and support a fleet of 47 privately-owned, militarily-useful U.S.-flag commercial vessels to meet the defense and economic requirements of our nation. This program was, by statute, scheduled to expire in ten years unless specifically reauthorized by the Congress.

In 2003, prior to the expiration of the Maritime Security Program, General John W. Handy, Commander in Chief, United States Transportation Command, told Congress that “as we look at operations on multiple fronts in support of the War on Terrorism, it is clear that our limited defense resources will increasingly rely on partnerships with industry to maintain the needed capability and capacity to meet our most demanding wartime scenarios. . . .MSP [Maritime Security Program] is a cost-effective program that assures guaranteed access to required commercial U.S.-flag shipping and U.S. merchant mariners, when needed . . . MSP is a vital element of our military’s strategic sealift and global response capability.”

Equally important, the Department of Defense testified that it would need more than \$10 billion in capital costs and \$1 billion in annual operations costs to replicate the commercial sealift capability and worldwide logistics network that the Maritime Security Program and the commercial maritime industry provide to the Department of Defense at a fraction of the cost: \$174 million in FY’11 and \$186 million in FY’12.

As a result, and with the support of the Department of Defense, legislation to extend, expand and enhance the Maritime Security Program was enacted in October 2003. As signed (Public Law 108-136), the Program (which runs through September 30, 2015) authorizes an increase in the maritime security fleet to 60 militarily-useful privately-owned U.S.-flag commercial vessels. It further

authorizes an annual per vessel payment (\$2.9 million in Fiscal Year 2011 and \$3.1 million in Fiscal Year 2012) in order to help offset the enormous tax and other economic incentives given to foreign flag vessels and foreign crews by foreign governments.

The Maritime Security Program helps retain U.S.-flag vessels and their U.S. citizen crews for the United States and, more specifically, for the use of the Department of Defense in time of war or other international emergency. As of January 1, 2008, sixty-three (63) current or former United States-flag vessels enrolled in the Maritime Security Program participated in Operation Iraqi Freedom. Today, virtually all the military and defense-related cargo moving as a result of the surge operations in Afghanistan is carried by U.S.-flag vessels with U.S. crews, operating as part of the MSP. In fact, more than 85 percent of the supplies and equipment for Iraq and Afghanistan are carried aboard ships crewed by civilian American mariners.

In order to ensure the continued availability and operation of the MSP maritime security fleet, the Department of Defense requested, and the House Committee on Armed Services agreed to extend the Maritime Security Program for an additional ten-year period. Section 3502 of HR 5136, the National Defense Authorization Act of Fiscal Year 2011, extends MSP from fiscal year 2015 through fiscal year 2025. This extension gives the Department of Defense the opportunity to undertake long-term planning with the certainty that it can count on the ships, civilian maritime manpower and logistical resources that MSP provides.

We strongly support this extension of the Maritime Security Program. It demonstrates once again that the program works, and that it represents an effective, efficient and economical use of Federal resources.

We would point out that *ExpectMore.gov*, a web site developed by the Office of Management and Budget (OMB), contains the results of an assessment of every Federal program, including the Maritime Security Program. "Effective" is the highest rating a program can achieve and a rating of "effective" means that a program has "set ambitious goals, achieves results, [is] well-managed and improves efficiency." It is especially important to note that *ExpectMore.gov* has rated the Maritime Security Program as "Effective". Only 193 programs out of total 1,015 programs assessed by *ExpectMore.gov* received a rating of "effective".

In explaining why the Maritime Security Program has received the highest rating available under this OMB-developed web site, *ExpectMore.gov* states that "The

Maritime Security Program is an effective program that targets its resources to vessels that are militarily useful in times of need.”

We urge that Congress enact this extension as quickly as possible and that the extended MSP continue to capitalize on the experience and expertise of both the Department of Defense and the Maritime Administration. In our opinion, one of the reasons why the MSP has worked so well is because the required collaborative relationship between DOD and MARAD ensure that our industry will serve both the economic and military requirements of our nation.

It is also essential that Congress approve funding for this program at the Congressionally-authorized level of \$174 million for FY’11. Without full funding, it will be extremely difficult for the vessels in the maritime security fleet to remain under the U.S.-flag and the American maritime jobs and commercial sealift capability they provide to the economic and military security of the United States will be lost. In this context, we would also ask you and your colleagues work with the Maritime Administration and the Administration to ensure that the increase in funding for the MSP for FY’12 as authorized by the Congress in Public Law 108-136 is included in the Administration’s FY’12 budget. As previously mentioned, the Congressionally authorized funding for the MSP increases from \$174 million in fiscal year 2011 to \$186 million in fiscal year 2012.

CARRIAGE OF U.S. GOVERNMENT GENERATED CARGOES

Another cornerstone of U.S. maritime policy that promotes the use of U.S.-flag vessels and furthers the economic and security interests of the United States are the cargo preference statutes. Taken together, these statutes require that a percentage of U.S. government cargoes be transported on U.S.-flag vessels if such vessels are available and available at fair and reasonable rates. Cargo preference statutes and policies provide U.S.-flag vessels with a critical base of cargo, and thereby give U.S.-flag vessels the opportunity to stay active while they compete against lower-cost and oftentimes tax-free foreign flag vessels for the carriage of commercial cargoes in the U.S. foreign trades. This in turn helps to ensure that the U.S.-flag vessels and their American crews remain available to the Department of Defense in time of war or other international emergency.

It is important that existing programs subject to U.S.-flag shipping requirements under the cargo preference program be fully funded and implemented in compliance with the law. We would urge, for example, that proposals to replace

the existing Food for Peace Program with a program that simply provides U.S. taxpayer dollars to other nations to be used by them to purchase foreign agricultural commodities and foreign shipping services should be rejected. As presently implemented, the Food for Peace Program provides U.S. agricultural commodities to needy nations and requires that a percentage of these commodities be transported on U.S.-flag vessels. While serving U.S. humanitarian and foreign aid objectives the Food for Peace program also provides a significant return to the American taxpayer by creating and maintaining American jobs, by generating income for American ports and the domestic agricultural and transportation industries, and by raising revenues for U.S. taxing authorities.

In short, the Food for Peace program is a program that should be emulated, not eliminated. American taxpayers and the Federal government should be proud that there is a Federal program that not only demonstrates the willingness and generosity of the American people to help the world's neediest people, but which at the same time results in significant economic and strategic benefits for our country.

It is equally important that all other Federally-funded cargoes are in fact transported in compliance with the existing cargo preference laws. We recently learned, for example, that the Department of Energy has concluded that the U.S.-flag shipping requirements contained in the Cargo Preference Act of 1954 do not apply to its Loan Guarantee Program under Title XVII of the Energy Policy Act of 2005. It has made this determination despite the fact that the U.S.-flag shipping requirements in the 1954 Act apply to all "guarantees made by or on behalf of the United States." Our maritime labor organizations have joined with a broad coalition of U.S.-flag shipping companies and associations to urge the Maritime Administration to work with DOE to ensure that the U.S.-flag shipping requirements in the 1954 Act are followed as DOE implements its Loan Guarantee Program. (Attached is the letter sent from the maritime industry to the Maritime Administration on this point)

We would note that the Duncan Hunter National Defense Authorization Act of 2009 (Public Law 110-417) gives the Maritime Administration greater authority to implement the cargo preference laws. We would ask this Subcommittee to do what it can to ensure that the Maritime Administration is not blocked in its efforts to demand full compliance with the cargo preference laws by other Federal agencies and to enforce full compliance by these agencies and the shippers responsible for arranging the transportation of these cargoes.

MARITIME TAX REFORM

We believe that any consideration of the state of the United States merchant fleet in foreign commerce should include an examination of America's tax laws and how they apply to U.S.-flag shipping and to American maritime workers. We agree wholeheartedly with President Obama that America's tax laws and policies should encourage, and not discourage, investment in the United States and the employment of American workers. We similarly applaud the President's recent announcement of plans to significantly increase U.S. exports. We believe that U.S.-flag shipping can play a role in this effort and can and should be a provider of ocean transportation services to bring American goods to overseas markets.

We believe very strongly that Congress and the Administration should explore a number of proposals that can help increase the competitiveness of U.S.-flag shipping in the foreign trades, and thereby increase American jobs. As funding is increased to support export financing and as the President's newly-appointed Export Cabinet Group works to promote the sale of U.S. goods abroad, we would urge that the same effort be given to create the economic climate that encourages the utilization of U.S.-flag shipping.

To this end, we believe that there are changes that should be made in our tax laws that can foster the growth of the United States maritime industry, preserve and create jobs for American maritime workers, and help reduce the disparity in tax treatment that gives foreign flag vessels and their crews a significant economic advantage over United States-flag vessels and their American citizen crews as they compete for the carriage of commercial cargoes.

We would note at the outset that we greatly appreciate the support the Members of this Subcommittee gave for the enactment in 2004 of tonnage tax legislation for U.S.-flag vessels. Enacted as part of the American Jobs Creation Act of 2004, the tonnage tax alternative to the normal corporate income tax system was made available to U.S.-flag vessels operating exclusively in the U.S. foreign trades or in the domestic trades for less than 30-days in each year.

The tonnage tax is intended to help American vessels compete on a more equal footing in the international shipping arena. A significant number of foreign flag

and foreign crewed vessels had already enjoyed the advantages of a tonnage tax and many other foreign flag and foreign crewed vessels operated in what is essentially a tax-free environment, enabling them to capture approximately 95 percent of all the commercial cargo entering and leaving our country. In response, Congress wisely enacted the tonnage tax, eliminating one of the tax-related disincentives to operating vessels under the U.S.-flag with U.S. citizen crews.

Nevertheless, as important as the applicability of the tonnage tax is, it is equally important that Congress build on this provision and explore other tax-related provisions that encourage the operation of vessels under the United States-flag and the employment of American mariners.

For example, the limitation that precludes vessels that operate in the domestic trades for more than 30 days from using the tonnage tax for their U.S.-flag operations in the foreign trade should be eliminated as called for in HR 3049. We ask that you support this legislation and work with us for its enactment this year.

The existing 30-day limitation precludes United States shipping companies, which operate vessels in both the foreign and domestic trades, from benefiting from the tonnage tax when it competes against foreign flag vessels in the international trades. We are convinced that unless the 30-day limitation is removed, domestic shipping companies, including those with an experienced record of operating vessels under the U.S.-flag with American crews, will be effectively precluded from successfully expanding their operations into the U.S. foreign trades and recapturing a share of America's trade for American ships. On the other hand, removing the 30-day limitation will help achieve the primary objectives of the tonnage tax, namely, retaining, attracting and expanding U.S.-flag vessel operations.

Another change in the tax code that we support is to extend the existing foreign source income exclusion in section 911 of the Internal Revenue Code to American merchant mariners working commercial vessels operating in the foreign trade. At present, section 911 allows every U.S. citizen working outside the United States – but not American mariners working aboard vessels operating outside U.S. waters – to exclude up to \$80,000 in income from their Federal tax.

This is neither a new issue nor a new proposal. In fact, when he introduced the Merchant Marine Cost Parity Act of 2001, Congressman James Oberstar argued that “U.S. tax laws do not treat U.S. seamen the same as we treat other U.S. citizens working overseas. . . [my legislation] helps to decrease the cost of operating on a U.S.-flag vessel by granting seamen working on U.S.-flag vessels in the foreign trade the same exclusion from taxation on their first \$80,000 in income as we grant every other U.S. citizen working overseas.”

More recently, a report prepared for the United States Maritime Administration by HIS Global Insight, Inc. and released on January 7, 2009 noted that “Most major nations, including traditional maritime nations with developed economies similar to our own as well as flag of convenience nations, either do not tax or sharply reduce taxes on the income of their mariners in international shipping.”

The report concluded that the “Adoption of the merchant mariner exemption would reinforce the tonnage tax incentives enacted in 2004 by reducing the significant competitive disparity in tax burdens by granting merchant mariners tax status similar to that available for nearly all other Americans who work overseas. The exemption would also help U.S.-flag operators compete by reducing tax and manning costs and would increase mariner recruitment and retention . . .”

DOMESTIC SHIPPING REQUIREMENTS

There is one other major area of U.S. maritime policy that we would like to raise. Specifically, I am referring to the body of law commonly referred to as the Jones Act and the requirement that vessels operating between American ports must be built in the United States, owned by United States citizens, crewed by American mariners, and operated in accordance with all U.S. rules, regulations and tax obligations.

We believe very strongly that the construction of vessels in the United States and the operation of these vessels by American citizens for the domestic trades ensure that these maritime and related jobs will not be outsourced and lost to foreign shipyard and seafaring workers. The full enforcement of the Jones Act helps to

guarantee that our nation will have the domestic shipyard mobilization base and the American merchant mariners available to support Department of Defense requirements. Equally important, the full implementation and enforcement of the Jones Act means that the waterborne transportation of America's domestic commerce will not fall under the control of foreign shipping interests but will instead remain under the control of American companies and American crews – American crews who, unlike foreign mariners, are subject to U.S.-government imposed background and security checks as a means to guard against maritime related terrorist incidents.

There are a number of things that we believe Congress can and should do in order to strengthen the domestic maritime industry.

First, Congress should enact legislation to eliminate the double taxation of waterborne commerce moving between American ports. This discriminatory treatment of waterborne cargo under the Harbor Maintenance Tax (HMT) serves as a major impediment to the creation of a short sea shipping marine highway system in the United States. As applied today, the HMT is imposed on cargo entering the United States from an overseas market. If this cargo is then reloaded onto another vessel for transportation along our coasts to another U.S. port, it is taxed again upon its arrival at this second U.S. destination. This double taxation of waterborne cargo under the HMT discourages shippers from using vessels to supplement their rail and truck traffic, thereby increasing congestion on the roads and rails.

We appreciate your efforts Mr. Chairman, and the efforts of many members of this Subcommittee to rectify this situation. We will continue to work with you and your colleagues on the Ways and Means Committee to achieve the enactment of this legislation this year.

Second, Congress should support the Title XI ship construction loan guarantee program and appropriate the funds necessary for this program. The Title XI program is essential to assist shipping companies to obtain the commercial financing they need to build, upgrade and expand their fleets in American shipyards. We would encourage this Committee and the Congress to examine ways to help the Title XI program work more efficiently to achieve its critically

important objectives. For example, it has been the policy of the Maritime Administration not to approve a Title XI application until and unless the funds sufficient to support the Title XI award had first been appropriated. We believe the Maritime Administration should revisit this policy, and consider granting approval of applications subject to the subsequent appropriation of funds. In so doing, Congress will know that the funds it appropriates will in fact be used to construct vessels in the United States and to put Americans to work.

We further believe the Maritime Administration should consider an expedited Title XI application review process for ship construction projects in which the applicant is seeking to replace a vessel with a newer vessel on a route it has served. We believe this will help American shipping companies upgrade and modernize their fleets, creating even greater economic and environmental benefits for the United States.

Finally, we would ask that Congress enact legislation that would eliminate another anomaly in the tax law that impedes the ability of American companies to repair their vessels in United States shipyards. Under existing law (Title VI of the Merchant Marine Act of 1936), American companies are able to establish a tax deferred Capital Construction Fund (CCF) in order to accumulate the capital necessary to build vessels in the United States. Unfortunately, the statute does not allow a company to withdraw its funds without penalty from a CCF to be used for the maintenance and repair of its vessels in an American shipyard. Expanding the permissible use of CCF funds to include maintenance and repair will help reduce the outsourcing of business and jobs from the domestic ship repair industry to the benefit of the foreign ship repair industry.

CONCLUSION

If Congress and the Administration believe as we do that the economic and military security of the United States are best served if our country has a strong, competitive U.S.-flag shipping capability, there are a number of important and innovative steps that can be taken to achieve this objective. We have raised what we consider to be many of the most important, immediate steps that should be

considered, and we look forward to working with you Mr. Chairman and your Subcommittee on these and other essential maritime initiatives.



July 7, 2010

The Honorable David T. Matsuda
Maritime Administrator
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Dear Mr. Matsuda:

We write to support the required application of the Cargo Preference Act of 1954, as amended (1954 Act), to the Department of Energy's Loan Guarantee Program.

We are all members of USA Maritime which is a coalition of carriers and maritime unions committed to promoting and protecting the U.S. maritime industry. We all support the rigorous enforcement of the cargo preference laws. The cargo preference laws, as you know, provide essential cargo to a fleet of privately owned U.S.-flag vessels available to the United States in times of war and national emergency.

We understand that the Department of Energy (DOE) may have concluded that the 1954 Act does not apply to its Loan Guarantee Program authorized under Title XVII of the Energy Policy Act of 2005. Specifically, the DOE web-site provides that the 1954 Act does not apply because imports for use in guaranteed projects "do not fall into any of the categories of transactions involving maritime transport that are specified by the Cargo Preference Act . . .".

We respectfully believe this conclusion is in error. The Title XVII loan guarantees issuable by DOE consist of Federal financing no different than other forms of Federal government programs that are plainly covered by the 1954 Act.

As MARAD's regulations make clear, the 1954 Act applies to all "guarantees made by or on behalf of the United States." Similarly, MARAD's web site indicates that the 1954 Act applies to "cargo that is moving . . . in connection with a guarantee provided by the Federal Government." The Title XVII loan guarantees are undoubtedly "guarantees made by or on behalf of the United States" or "provided by the Federal Government" as the full faith and credit of the United States is pledged under those guarantees.

David T. Matsuda
July 7, 2010
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It is possible that there is a misunderstanding regarding the application of the phrase “with Federal funds” in the 1954 Act. The 1954 Act provides that it applies whenever the Federal government “provides financing in any way with Federal funds.” Title XVII authorizes DOE to issue some guarantees where the “cost” of the guarantee – as defined in the Federal Credit Reform Act – is paid by the private project sponsor rather than the Federal government. The term “cost” is defined with reference to the Federal Credit Reform Act to mean the net present value estimate of what the Federal government may have to pay over the life of the guarantee to cover defaults and other payments less receipts such as fees. As MARAD is well aware, these estimates are often at variance with experience.

Although this authority exists, DOE’s solicitations for loan guarantee applications indicate to the contrary that Federal government appropriations will be used for most if not all guarantees. For example, DOE’s October 7, 2009 solicitation indicates it will directly pay the “subsidy cost” for all guarantees covered by the solicitation. Therefore, regardless of the interpretation of “with Federal funds,” the 1954 Act definitively applies to these guarantees.

And, in any event, the 1954 Act applies when the Federal government provides financing “*in any way*” with Federal funds. The credit subsidy cost potentially payable by a project sponsor is only the *estimated* cost, not the actual or total cost. If there are defaults in the program, the Federal government, not the private project sponsors, must make good on the guarantees regardless of whether the cost was correctly estimated. The fact that the Federal government remains the fund provider, regardless of the private cost set aside, makes the program just as much a Federally funded program to which the 1954 Act applies as when all the funding comes from the Federal government at the outset.

We also wish to point out that not applying the 1954 Act to the DOE Loan Guarantee Program would be contrary to the spirit and purpose of the stimulus bill which provided substantial funding to the Program. The purpose of that bill is first and foremost to create jobs, and the application of the 1954 Act would create and sustain jobs aboard U.S.-flag vessels and ashore in related industries.

At least 50 percent of the goods that will be shipped by water that will be financed by the DOE guarantees must be shipped in privately owned U.S.-flag commercial vessels. We urge MARAD to work immediately with DOE to ensure that the 1954 Act requirements are fully applied to the DOE Loan Guarantee Program.

Thank you for your attention to this important matter. We look forward to working with you and your staff on cargo preference and other matters important to the U.S.-flag industry.

Very truly yours,

James L. Henry
Chairman, USA Maritime
Chairman & President,
Transportation Institute

Don Keefe
President
Marine Engineers' Beneficial Association

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Niels M. Johnsen
Chairman
Central Gulf Lines, Inc.
Waterman Steamship Corporation

Tom Bethel
President
American Maritime Officers

**Department of Transportation
Statement of the Maritime Administrator
David T. Matsuda
Before the
Sub-Committee on Coast Guard and Maritime Transportation
United States House of Representatives**

**On the
State of the United States' Merchant Fleet in Foreign Commerce**

July 20, 2010

Good afternoon, Mr. Chairman and Members of the Committee. Thank you for the invitation to testify on the state of the United States' Merchant Fleet in foreign commerce, an industry that is vital to the economic and defense security of our Nation. The Maritime Administration looks forward to working with the Committee to find ways to strengthen our U.S.-flag maritime industry as a whole, including our Jones Act trade. It is my hope that our discussions today will lay the groundwork for legislative initiatives and policies that will add new permanent capacity to our Nation's merchant marine.

The United States is the world's largest trading nation and our national policy is to maintain a U.S.-flag merchant marine sufficient to carry our waterborne domestic commerce and a substantial part of our foreign commerce.¹ The portion of our Nation's international trade carried on U.S.-flag ships, however, has declined from a high of 92.5 percent in 1826 to 57.6 percent 1947 to a low of less than 2 percent today. In fact, today there are no U.S.-flag carriers listed among the top 20 global carriers.

In 1947, the U.S.-flag fleet consisted of around 980 privately-owned vessels over 1,000 gross tons and above, representing over 40% of the world's shipping capacity. These large U.S. carriers created many of the technological innovations now used by the rest of the world. For example, one key innovation from the 1950's was containerization of cargo, an American idea that completely reshaped international commerce. However, U.S. maritime programs have not been successful in inducing or even maintaining capacity within the Nation's domestic merchant marine.

Today, there are 115 self-propelled, U.S.-flag ships engaged in the U.S. foreign commerce. This fleet is composed of 5 tankers, 11 dry bulk, 28 roll-on/roll-off vessels, 61 container ships, and 10 multipurpose ships. All of these ships participate in the Federal Government's cargo preference program. Twelve of the vessels are Jones Act qualified and do not regularly carry foreign commerce. Sixty of them participate in the Maritime Security Program, which has been successful in maintaining the required number of militarily-useful ships and their crews that could be called upon to respond to possible military contingencies.

¹ 46 USC § 50101.

As the U.S.-flag commercial fleet operating in foreign commerce has declined in number, so too have direct shipboard jobs for American workers. Further, technological innovations such as increased automation, have reduced average crew sizes from 45 to 20 or less per vessel even as typical vessel capacity has increased. This impact has been felt in the international and Jones Act trade causing the number of U.S. mariners to decrease from about 69,100 in 1970 to about 20,500 in 2009.

The primary source of personnel to meet military sealift demands is the commercial U.S.-flag shipping industry. These men and women crew the government's Ready Reserve Force and surge vessels which are activated for emergencies like the recent one in Haiti. As a whole, these mariners are part of an aging workforce, with the average age currently over 42 years.

The ability of the U.S. merchant marine to respond to major military contingencies worldwide is dependent on adequate U.S.-flag active/reserve sealift resources, including a skilled U.S. maritime labor pool. In coordination with the U.S. Coast Guard, our mariner outreach program tracks maritime workforce trends.

One method of attracting new individuals to a professional maritime career is through a collegiate maritime program, such as the U.S. Merchant Marine Academy (USMMA) or one of the six state maritime academies located in Texas, California, New York, Michigan, Maine, and Massachusetts. The Maritime Administration is responsible for directly overseeing the USMMA at Kings Point, New York. The agency also provides training vessels, student incentive payments, and other support to the six state maritime academies. These academies offer four-year undergraduate engineering and logistics programs, and their graduates find employment as licensed mariners and in shoreside occupations such as shipyard management and transportation logistics. Collectively, the USMMA and the six state academies graduate more than 700 highly trained, U.S. Coast Guard licensed deck and engineering officers each year.

I'd like to take this opportunity to highlight a little known fact about the U.S. Merchant Marine Academy and the state maritime academies – they accepted women earlier than either West Point or Annapolis. In 1974 the U.S. Merchant Marine Academy became the first federal service academy to enroll women students, two years ahead of the Army, Navy, Air Force or Coast Guard academies.

The Maritime Administration is also working with 19 maritime high schools around the nation to attract young men and women into the industry by learning about the merchant marine while still in high school. Last February, I had the opportunity to visit one such high school in Baltimore, Maryland. I was impressed with the dedication the students at the Maritime Industries Academy demonstrated towards learning about a key component of our nation's economy: maritime transportation. These young men and women are the future of this industry and I will be working with the school to help them achieve success.

The Maritime Administration also has a role in implementing international training standards for mariners. Mariners must receive a significant amount of training to be

qualified to work aboard a ship. In addition, they must receive recurring training to maintain proficiency. Lastly, the training that mariners are required to have is constantly increasing. The reason is for this increase is to improve safety, security, and environmental compliance.

Economic Issues

Our economy depends on the ability of goods, both imports and exports, to move smoothly through the international supply chain. As President Obama stated on March 11th when he launched the National Export Initiative (NEI), the United States exported more than a trillion dollars of manufactured goods in 2008, supporting more than 20 percent of all manufacturing jobs. There were also exports of nearly \$100 billion in agricultural goods. To facilitate this, the U.S. transportation industry employs millions of people on our ships and tugs, in our ports and shipyards, operating our trucks and railroads, and in related activities. U.S. trade with the rest of the world is projected to continue growing and reach about 3.2 billion tons by 2038. Most of these goods, about 75 percent, are now and will continue to be transported by sea. The Maritime Administration and U.S. merchant marine have a key role to play in the NEI, as the utilization of U.S.-flag ships to carry our commerce is itself a “service export.”

Defense Issues

The U.S. merchant marine has supported every conflict and crisis since our Nation’s founding. They U.S. mariners are our valuable eyes and ears. Our national policy calls for a merchant marine capable of serving as a naval and military auxiliary in time of war or national emergency. Almost 95 percent of our military supplies move by water and over 85 percent of our strategic commodities are imported by water. Much of this is moved by the military using their own ships or chartered vessels, and under cargo preference laws, a portion is also moved by the merchant marine. Time and again, the U.S. merchant marine and its citizen mariners have brought the equipment from the fort to the foxhole. They are among the first into a war zone and the last out. Of the five Federal service academies, only the U.S. Merchant Marine Academy is entitled to carry a battle flag, as it has sent its students aboard U.S. merchant vessels into every conflict, and many have died in that service to our country.

The Wilson-Weeks Agreement of 1954 and Presidential Directive 28 of 1989 mandate that U.S.-flag merchant marine vessels are given priority to carry Department of Defense (DOD) materiel in times of both peace and conflict. The Government-owned cargo fleet is sized to provide the capacity that our U.S. commercial fleet cannot provide, such as during surge conditions when a very large amount of cargo must be quickly transported overseas. The Voluntary Intermodal Sealift Agreement provides DOD with assured access to a global intermodal infrastructure. Our commercial merchant marine already has access to operations and assets in or adjacent to every country where there might be a threat in the future.

Maintaining the U.S. Merchant Marine

The U.S. merchant marine is among the safest, most secure and environmentally-responsible in the world. Federal requirements are designed to ensure U.S. crews are trained, vessels are built and maintained to safe operating standards, and operations have no unnecessary adverse impact on the environment. However, operating vessels under the U.S. flag under these requirements imposes higher wage, maintenance, repair, and insurance costs; increased regulatory burden; and tax implications. Transport of commercial cargoes does not generate sufficient revenue to cover the cost of operations under the U.S. flag.

Two federal programs administered by the Maritime Administration are a major reason vessels remain under or seek U.S. registry – the Cargo Preference Program and the Maritime Security Program. Of the foreign trade currently carried by U.S. flag ships, a significant share is attributable to preference cargoes that provide a revenue base upon which the carriers can build commercial cargo orders. Our latest 5 year data review shows that the program generates over 16 million revenue tons of cargo and over \$1.3 billion of ocean freight revenue annually. Military cargoes represent about 64% of the revenue while food aid is 29% and other programs are 7%. Preference cargoes provide a minimum revenue base of 5% to 7% of cargoes for liner vessels and over 50% vessels in tramp or charter service.

The Maritime Security Program provides an annual stipend to partially offset the cost differential of operating under U.S.-flag registry. The ten year authorization for the Maritime Security Program expires in 2015 and carriers have expressed some concern about the need to take steps to reauthorize the program well before that time in order to maintain some continuity and availability of U.S.-flag ships and the future business prospects for their assets. Shipbuilding is expensive and investors need to have confidence in order to commit their dollars to building vessels with a 25-plus year life. The concern that the program may not be renewed, or renewed at a sufficient level, could negatively affect future investment decisions.

At this time, I will be pleased to answer any questions the Committee may have. Thank you.

The Statement of
John F. Reinhart
President and CEO of Maersk Line, Limited
before the
Subcommittee on Coast Guard and Maritime Transportation
Committee on Transportation & Infrastructure
U. S. House of Representatives
July 20, 2010

Mr. Chairman and Members of the Committee, I am John Reinhart, President and CEO of Maersk Line, Limited ("MLL"), a U.S. company based in Norfolk, Virginia. We provide U.S. flag transportation, ship management and technical services to government and commercial customers. Our company is managed by U.S. citizens, employs thousands of U.S. merchant mariners and over 200 shore side personnel, pays U.S. taxes, and is one of the largest owners and operators of U.S.-flag ships. We are part of the A.P. Moller-Maersk Group, an international transportation and energy company.

I appreciate the opportunity to testify before you today about the state of the U.S. merchant marine operating in international commerce, and applaud the Committee for its commitment to a strong U.S. merchant marine, which is critical to both U.S. economic and national security. I look forward to working with the Committee on issues affecting the competitiveness of U.S.-flag ships.

The A.P. Moller-Maersk Group has had a presence in the U.S. and U.S. international trade for more than 90 years, and our company or its predecessor U.S. entities have been partners with America supporting the military in protecting U.S. interests around the globe for more than 50 years. Our core businesses include not only U.S.-flag transportation services that offer flexible and reliable end-to-end transport for our commercial and government customers, but also world-class maritime technical services and ship management and chartering services (including operating noncombatant ships for the U.S. government). Our employees hold some of the highest level security clearances from the U.S. government, and through our core businesses, have participated in classified or top secret programs for the Department of Defense. Our commercial and government customers rely on our experience, maritime expertise and global intermodal capability.

As your committee knows, the global maritime industry – like many other industries -- has faced unprecedented economic challenges in the wake of the global economic recession of the past two years. Notwithstanding the severe economic downturn and its impacts on our commercial business, MLL has continued to provide critical services to the U.S. government, including carrying military cargoes supporting the wars in Iraq and Afghanistan and humanitarian aid cargoes to Africa. As a result of a U.S. government and industry partnership, MLL has maintained - and in many areas even enhanced - our U.S.-flag fleet and its capabilities to support this nation's commitments around the globe.

The success of our business is based on our ability to provide competitive international transportation services to our customers. But the foundation of our U.S.-flag business is the U.S. laws and policies designed to ensure a strong and economically viable U.S.-flag merchant marine for national defense and economic security—the Maritime Security Act (which authorized the Maritime Security Program), cargo preference laws, a tonnage tax regime, and other U.S.-flag programs that Congress has

enacted. These programs have allowed our company to invest in and grow our contributions to the nation's sealift requirements. Here are a few quick highlights:

- We own, operate, or charter 33 vessels that are enrolled in government sealift readiness programs like VISA (Voluntary Intermodal Sealift Agreement), compared to just 4 vessels 10 years ago.
- We have modernized nearly our entire U.S.-flag fleet, investing \$1.6B in U.S.-flag tonnage in just the last 10 years, including \$400 million in 2009 and \$320 million in chartered assets over the past two years.
- We have the flexibility to accommodate DOD requirements for Sealift capacity in several different areas of international trade, with 24 container vessels, recent additions of four (4) roll-on/roll-off vessels, and three tankers in our U.S.-flag fleet.
- Since 2008 MLL has added seven additional vessels to U.S.-flag fleet, creating more than 240 new American mariner billets and putting more than 600 U.S. citizen mariners to work.
- We were recently awarded a contract to manage 10 prepositioning ships for the Military Sealift Command.
- We train more than 200 cadets and unlicensed apprentices each year on our vessels.

The programs that Congress has enacted to support the U.S.-flag are working for the government and the industry, and must be supported and maintained to ensure the future of a privately-owned, commercially-viable U.S.-flag fleet. One fact that demonstrates the success of these programs is that U.S.-flag vessels engaged in foreign commerce between 2002 and 2006 carried almost 60 percent of the cargo to support the wars in Iraq and Afghanistan. Recently, almost all support cargo has been carried into the war theaters by these vessels -- compared to carrying about 21 percent of the cargo in support of Desert Shield and Desert Storm.

As your Committee considers how to further strengthen the U.S.-flag merchant marine in foreign commerce, please remember that it is not just ocean transportation that both government and commercial shippers demand. Customers want to book and move cargo door-to-door seamlessly from any point in the world to any other point in the world. Customers expect and demand global expertise and infrastructure. Customers expect and demand modern assets and business practices. So the expertise in supply chain management and global logistics that are a part of our DNA and accessible through our sister companies such as Maersk Line, Maersk Tankers, DAMCO and Hoegh Autoliners are of critical importance and value to our U.S. government customers, and particularly the U.S. military, as well as our commercial customers.

Let me give you some real-world detail: we deliver military cargoes in the harshest of environments, including Afghanistan, with 'end to end' service directly to the military's forward operating bases. U.S.-flag carriers with international capabilities and global networks have answered the call to create other gateways to allow military and relief cargoes to move thousands of miles over land through Latvia, Russia, Uzbekistan as well as Georgia, Armenia, and Azerbaijan in addition to the primary gateway of Pakistan. The Department of Defense and the U.S. Transportation Command, the logistics arm of the U.S. Department of Defense, continue to rely on the service we are providing our warfighters. In fact, when required, we have figured out a way to provide satellite tracking every 30 minutes on containers and equipment in Afghanistan to support the warfighter's need to know where materiel is in theatre, a capability we have created specifically for the U.S. military.

As an American company and as American citizens, we are proud of our service to the nation, and recognize that our U.S. government services are a key part of our business. But our U.S.-flag vessels carry much more cargo for commercial customers, such as Wal-Mart and Target stores, than

U.S. government cargoes. Because we utilize commercial services to support both commercial and government customers, the U.S. government is able to procure our services to meet national defense sealift needs at costs far less than what it would cost the Government to maintain a dedicated organic fleet of vessels and supporting infrastructure to replicate those same services. The commercial business is highly competitive, with transportation decisions in foreign commerce still largely based on price. It is more costly to operate vessels under U.S. registry than under the registries of many other nations, which is one reason why less than 5 percent of the seaborne U.S. foreign commerce moves on U.S.-flag vessels. Even very slight differentials in cost affect the sustainability of our U.S.-flag business. Again, that's why the integrated, inter-related programs that support the U.S.-Flag fleet are so important. Take away any one of the programs that Congress has enacted – MSP, Cargo Preference, Tonnage Tax, etc. – and the platform fails. It simply cannot withstand the weight of costs in the U.S. system versus the cost structure of international registries. We thank the Committee for its unwavering support for these programs and strongly urge your continued vigilance in supporting and improving them so that we can maintain a U.S.-flag fleet to meet U.S. economic and national security needs. I cannot stress this point enough.

We need to avoid complacency because there is more that can and should be done to strengthen the U.S.-flag fleet, especially as it pertains to controlling and offsetting the higher costs associated with operating under U.S. registry.

There are many remaining opportunities to reduce the gap between U.S.-flag and foreign flag operating costs, starting with harmonizing U.S. regulations with international standards. There is a significant operating cost differential in the complexity of complying with U.S. federal and local regulations that are different than international standards. All merchant vessels that call the United States must comply with international standards. However, U.S.-flag vessels calling the United States often must comply with different standards than foreign flag competitors, reducing U.S.-flag competitiveness in international markets. Exacerbating the problem is an increase in state regulation of merchant vessels, particularly with respect to environmental issues. We would urge the Committee to closely examine the increasing burden on U.S.-flag operators, and work with the industry to find ways to more closely align U.S. and international standards to achieve uniformity, thereby reducing the adverse competitive impacts on U.S.-flag operators.

As for cargo development, opportunities clearly exist to increase the U.S. merchant fleet. For instance, we are excited about potential opportunities for growth in the energy sector. Sustaining and maintaining the Strategic Petroleum Reserve could be structured to create demand for a number of additional U.S.-flag tankers when and if that program ramps up. Similarly, the opportunity for LNG distribution and wind services also holds potential for growth of the U.S. fleet. While recognizing future opportunities, we would like to offer a word of caution: without the solid foundation of U.S. laws and policies supporting a U.S.-flag fleet, the ability of those vessels to compete in the international trades will not be sustainable. Therefore, we need to ensure that the letter, spirit and intent of cargo preference laws are being met and that Congress continues to support the Maritime Security Program.

In closing, let me reiterate our company's commitment to our nation's sealift requirements and the honor it is to serve. Everyday our colleagues, mariners and partners feel pride and satisfaction in helping our government fulfill its missions. We are proud to be a part of the U.S. merchant marine and we stand ready to work with Congress, the Administration, the military and the agencies to find new ways to support our mutual goal of ensuring a viable U.S.-flag merchant marine in the international trades to support U.S. economic and national security.

I look forward to your questions.

STATEMENT OF PHILIP J. SHAPIRO
PRESIDENT AND CHIEF EXECUTIVE OFFICER
LIBERTY MARITIME CORPORATION
LAKE SUCCESS, NEW YORK

BEFORE THE
SUBCOMMITTEE ON COAST GUARD AND MARINE TRANSPORTATION
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

JULY 20, 2010

STATE OF THE UNITED STATES' MERCHANT FLEET IN FOREIGN COMMERCE

1979 Marcus Avenue
Lake Success, New York 11042
516.488.8800

STATEMENT OF PHILIP J. SHAPIRO
PRESIDENT AND CHIEF EXECUTIVE OFFICER
LIBERTY MARITIME CORPORATION
LAKE SUCCESS, NEW YORK

Background

Formed in 1988, Liberty Maritime Corporation is the proud operator of nine U.S.-flag vessels, eight of which are owned by Liberty Shipping Group LLC. Over the last ten years, the Liberty Shipping Group has invested almost \$250 million in private capital to construct new vessels for the U.S.-flag fleet. Liberty Maritime and its affiliates are 100 percent U.S. citizen-owned and 100 percent U.S. citizen-controlled.

Six of Liberty's vessels are modern dry bulk vessels primarily engaged in the carriage of U.S. Government international food-aid cargoes. Through its 20 plus years of operating history, Liberty Maritime has successfully delivered over 28 million tons of U.S. food aid to over 30 countries around the world on over 500 voyages.

The other three vessels Liberty operates are roll-on/roll-off (Ro/Ro) vessels configured as Pure Car Truck Carriers or PCTC's. Those vessels, built in the 2005, 2009 and 2010 are among the most modern vessels in the U.S.-flag fleet. The M/V LIBERTY PROMISE and M/V LIBERTY PRIDE, delivered in August 2009 and April 2010, respectively, can each carry about 6,500 cars and have a high degree of military utility because of their flexible deck configuration, ultra strong ramps and other factors.

Liberty also participates in the Maritime Security Program. The M/V ALLIANCE NEW YORK, a 2005-built Ro/Ro operates in the international trades under a Maritime Security Program Operating Agreement. The LIBERTY PROMISE and the LIBERTY PRIDE – although already found eligible for the Maritime Security Program by the Maritime Administration – operate “naked” without an MSP Operating Agreement because there are no agreements currently available even for vessels as highly qualified vessels as the PROMISE and the PRIDE.

Liberty is no stranger to the tribulations of the international market. On April 14, 2009, Liberty's vessel the M/V LIBERTY SUN was attacked by pirates off the coast of Kenya while en route to deliver a U.S. Government food-aid cargo to Mombasa. Liberty's crew performed admirably in implementing the company's security plan and in warding off the attack without a boarding. Fortunately, no one on the crew was hurt although the vessel was hit by rocket propelled grenades and automatic weapons fire.

Piracy remains a very serious threat to all commercial vessels and particularly U.S.-flag vessels delivering much needed U.S. Government food aid to Africa. The U.S. Government has done many things to assist U.S.-flag ship owners to protect their vessels, although issues remain including the ability to carry firearms aboard vessels in certain foreign ports, potential liability in the event a vessel's crew or protection team act in self defense and obtaining reimbursement for the cost of private armed security to protect the vessel, cargo and crew.

Importance of the Privately Owned U.S.-Flag Commercial Fleet

U.S. Government vessel promotional programs have long recognized an essential truth of strategic maritime capability. That truth is that it is far more efficient and economical over the long term to support a privately owned commercial fleet during peacetime to have available in times of war or national emergency than it is either to rely on the vicissitudes of the international market or to maintain on stand-by status a fleet of inactive government-owned ships.

In the case of dependence on the international market, the U.S. Government has seen through its own experience as well as that of other governments (such as that of the United Kingdom in the Falklands War or Canada in Operations Desert Storm/Desert Shield) that foreign vessels are not always available when needed or reliable when chartered. Moreover, as the U.S. Government found when it needed Ro/Ro's in Operations Desert Storm/Desert Shield, foreign flag Ro/Ro's, when available, were only available at very high charter rates.

In the case of dependence on inactive government-owned vessels, the cost of maintaining such vessels is often much higher than the cost to keep available a privately owned U.S.-flag commercial vessel. The reasons for this are obvious – the private operator has a high incentive to operate efficiently to maximize earnings and the U.S. Government is able to leverage the owner's receipts from the ongoing carriage of cargoes to pay for maintenance, a well trained, loyal and motivated crew and other aspects of vessel operation.

Although we recognize the importance of the U.S. shipbuilding base to national security, the cost of constructing military stand-by vessels in U.S. shipyards has proven to be substantially in excess of the cost of private construction without corresponding differences in capability. When such higher construction costs are properly amortized to determine the cost per ton or cost per vehicle for the carriage by a government-built and government-owned vessel versus a privately-built and privately-owned vessel – the comparison inevitably favors private building and private ownership.

The two essential U.S. Government programs which support a privately owned U.S.-flag commercial fleet in the foreign trade are the Maritime Security Program and our nation's cargo preference laws.

Maritime Security Program

The Maritime Security Program ("MSP") is vital to the retention of a privately owned U.S.-flag commercial fleet. MSP provides the essential financial support to ensure that U.S.-flag vessels can compete successfully in the international market. Without MSP, the U.S.-flag fleet

engaged in foreign trade would essentially disappear, and the U.S. Government would lose the enormous sealift capability of those vessels and associated equipment, terminals, systems and people.

It is therefore critical that MSP – which will expire in 2015 -- be reauthorized for an additional ten years. MSP has proven to be a very successful U.S. Government program whereby the U.S. Government obtains far more in capability than it would by other means and the sealift capability obtained through MSP is essential to national security. MSP is essentially the perfect marriage between the private sector and the Government to achieve mutually beneficial objectives and it should be retained for an additional ten years.

In connection with MSP reauthorization, Liberty Maritime respectfully recommends that certain changes be made in the program as follows –

Expansion --

Liberty Maritime strongly recommends that MSP be expanded. Liberty Maritime believes that U.S. Department of Defense would benefit in particular from the addition of more roll-on/roll-off capacity which can be achieved through expansion of the program. Special consideration should be given to vessels which have been committed already to the U.S.-flag which qualified under existing MSP criteria as evidenced by a Maritime Administration approval to that effect but were unable to obtain an MSP agreement because they have all been allocated. Consideration should also be given to reducing the size of the Ready Reserve Force and to applying the funding saved by such reduction to increasing the size of the MSP fleet. By so doing, the Government can effectively swap out old, obsolete roll-on/roll-off capacity for new, modern vessel capacity and save money on a vessel-per-vessel basis given the relatively high cost of maintaining an inactive Ready Reserve Force.

Citizenship –

MSP was originally designed as a U.S. citizen program in 1996. That was done for good policy reasons. The MSP fleet contains a substantial portion of the U.S. Government's emergency sealift capability. There should never be any question about the reliability of those vessels. History shows that only U.S. citizen control over vessel ownership and operation ensures U.S. Government access in all circumstances. Such access should not be dependent upon whether the home country of the vessel owner approves of U.S. foreign policy or not. In the past, this has also applied to U.S. allies, including NATO allies. The U.S. Government should never be faced with requests for accommodations from MSP carriers when they might be caught between the conflicting demands of home governments and the U.S. Government.

Regrettably, the U.S. Maritime Administration, through a series of rulings in the late 1990's, diluted the U.S. citizenship content Congress expected in MSP. Today, all but eleven MSP Agreements are effectively controlled by foreign citizens. MARAD has been too easily persuaded that vessel documentation trumps all and has unfortunately lost sight of the key concept of U.S. citizen control and, most particularly, of independent control. There simply is no substitute for U.S. citizen control of every facet of vessel ownership, operation and management.

Liberty Maritime respectfully urges that Congress reserve a majority of the program to U.S. citizens and that it impose strict citizenship requirements that MARAD will be required to enforce as written.

In 2006, Congress amended the MSP authorization law to require that any MSP Agreement transferred be transferred to a qualified U.S. citizen because Congress was unhappy with the gradual foreign takeover of MSP. Although the language of that amendment is plain, MARAD has permitted transfers of contracts since 2006 to persons who appear to be dependent on foreign persons and should not have qualified as independent U.S. citizens under the law. More restrictive statutory language is apparently required to ensure that the intent of Congress is followed in the future.

Grandfathering –

When MSP was renewed in 2005, 47 out of the 60 contracts were re-awarded to the same persons who had those contracts in 2004. The statute was also revised to accommodate MARAD's dilution of the original U.S. citizenship requirements for those 47 contracts. The thirteen new contracts were, however, supposed to be reserved to qualified U.S. section 2 citizens. In the end, most of the thirteen contracts were awarded to existing contractors including non-citizens because of further MARAD accommodations. This is despite the fact that numerous vessels were reportedly offered by qualified section 2 U.S. citizens when MARAD solicited for agreement applicants in 2005 and many of those vessels were reportedly found technically superior to the vessels actually taken. Congress should restrict grandfathering in the reauthorization to ensure that the best vessels receive contract awards.

Reflagging Standards –

Current law provides that foreign-built vessels re-documented in the United States eligible to participate in the Maritime Security Program need only comply with international standards. The purpose of this requirement is to facilitate reflagging and ensure that the U.S. Government has access to the best and most modern equipment. Liberty Maritime has experienced in the last year the undermining of this requirement by certain government agencies which claim that the reflag-with-international-standards-provision only applies to Coast Guard standards, not to any other standard that might be imposed by the U.S. Government. Although Liberty Maritime believes that this interpretation is in error and that the law covers all standards regardless of their source or which agency enforces them, Liberty Maritime respectfully recommends that the law be clarified to ensure that international standards apply across the board.

Cargo Preference

Although MSP is essential, it is not alone sufficient to support an active privately owned U.S.-flag commercial fleet. The reservation of government-impelled cargoes via cargo preference laws is also essential to support a vibrant fleet. Toward that end, Liberty Maritime respectfully urges Congress to continue to give MARAD the tools and the backing to ensure that

the cargo preference laws are applied appropriately to government programs and that there is full U.S. Government agency compliance with those laws.

P.L. 480 In-Kind Food Aid –

Liberty Maritime, along with many other interests comprising the coalition USA Maritime, has been most concerned with efforts to convert the U.S. Government's highly successful P.L. 480 international food aid program into a cash give-away program referred to as "local and regional purchase."

A June 2010 study by the highly respected economist firm of Promar International recently confirmed the common sense notion that P.L. 480 supports many, many U.S. jobs as an ancillary benefit of feeding the world's hungry. Specifically, the Promar study found (for fiscal year 2009) that the handling, processing and transporting of commodities from farm to U.S. ports plus the cost of moving the commodities to foreign ports (i.e. excluding U.S. farm and inland foreign destination impacts) provided almost a \$2 billion output of all U.S. industries, about \$500 million in household earnings and over 13,000 direct jobs.

The Promar study also disputes an often repeated myth about the cost of food aid transportation. Critics of in-kind food aid have mixed and matched concepts and numbers to create the misleading impression that ocean transportation is an enormous burden to the food aid program. In fact, ocean freight costs for the P.L. 480 Title II program (the largest food aid program by far) in fiscal year 2009 were \$336 million or only 14.5 percent of the program total.

Moreover, when the MARAD reimbursement of certain costs are taken into account, that percentage shrinks to 10.6. Indeed, the cost for fiscal year 2008 when the numbers were last available to deliver a pound of food to the ultimate recipients was 45 cents whereas average U.S. retail prices in U.S. grocery markets included a cost of 48 cents per pound for flour, 76 cents for rice and \$1.36 for beans.

Liberty Maritime strongly urges Congress to continue to support the P.L. 480 program both because of its long-standing and continuing success as a humanitarian relief program and as a program that supports U.S. jobs.

Application of Cargo Preference Generally –

U.S. Government agencies have in the past occasionally disregarded U.S. cargo preference laws. For example, the Department of Energy recently indicated on its web site that the Cargo Preference Act of 1954 did not apply to loan guarantees DOE might issue. As those guarantees involve the full faith and credit of the U.S. Government, DOE's interpretation is incorrect. The Cargo Preference Act does indeed apply to any imported goods purchased with money financed with such U.S. Government guarantees.

Similarly, the Export-Import Bank has recently indicated that it may seek in its authorizing legislation in 2011 broader cargo preference exemptions. Liberty Maritime

respectfully opposes such a change and urges Congress to take into account the deleterious effect on U.S. sealift capability such a change would have.

Liberty strongly urges Congress to ensure that MARAD performs its statutory function and mandate so as to ensure that the cargo preference laws are applied appropriately.

Conclusion

Liberty Maritime supports a strong and vibrant privately owned U.S.-flag commercial fleet and has proven that it is willing to invest significant capital to achieve that objective. Liberty Maritime also supports the 10-year reauthorization of an improved Maritime Security Program, well funded U.S. in-kind food aid programs and strong and vigorous enforcement of the cargo preference laws.

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BEFORE THE
COAST GUARD & MARITIME TRANSPORTATION
SUBCOMMITTEE

HOUSE COMMITTEE ON TRANSPORTATION &
INFRASTRUCTURE

JULY 20, 2010

I.

Good afternoon Chairman Cummings, Ranking Member LoBiondo, and members of the Committee.

Thank you for the opportunity to appear before you today to discuss the future of the U.S. Flag international fleet.

My name is Raymond Ebeling and I am the Chairman and CEO of American Roll-On Roll-Off Carrier, LLC (ARC), a New Jersey-headquartered company. We own and operate nine roll-on roll-off (Ro-Ro) vessels in international trade, eight of which are enrolled in the Maritime Security Program (MSP). We are the largest U.S. Flag Ro-Ro operator, and the third largest U.S. Flag international carrier overall.

ARC operates 3 ships in the U.S. – Europe trade and has carried over 90% of U.S. Military vehicles in the trade since 1990. We also operate 6 large Ro-Ro's in the Mideast trade, including our newest ship the M/V ENDURANCE, which is the largest Ro-Ro ship in the U.S. Flag commercial fleet. We have carried approximately 3500 life-saving MRAP (Mine-Resistant Ambush-Protected) vehicles to Iraq, as well as numerous military unit moves and project and reconstruction cargoes. I also serve as the Chairman and CEO of American Auto Logistics (AAL), a logistics management firm which manages the global transportation and logistics of all Department of Defense service members' privately owned vehicles, approximately 65,000 of which are shipped annually.

I have worked in the industry since 1970, including executive positions at now defunct U.S. carriers Sea-Land Service and Sea Train Lines and have also been on several advisory commissions to the Government, including being appointed by President George H.W. Bush as a Commissioner on the Advisory Commission on Conferences in Ocean Shipping.

I have also had the privilege of serving as Chairman of the National Defense Transportation Association (NDTA) since 2005. NDTA is an educational organization comprised of 10,000 transportation and logistics professionals, split about equally between Government employees and service members on the one hand, and private sector professionals on the other. The NDTA's core mission is building and strengthening the partnership between private sector companies involved in Sealift, Airlift, distribution, trucking, rail and passenger travel and accommodations on the one hand, and the U.S. Department of Defense (DOD), U.S. Transportation Command (USTRANSCOM), and all its component commands on the other.

II.

When I started in the industry forty years ago, the U.S. Flag international fleet was the dominant player in the U.S. international trades. There were more than a dozen large U.S. carriers, operating hundreds of ships. There was also a strong group of Japanese carriers and European carriers, most of whom had not yet invested in containerships. The container and intermodal revolutions had just begun. They were started in the U.S. trades and were led by U.S. carriers.

Ten years ago, the U.S. Flag international fleet appeared threatened with extinction, following the sale of the two largest U.S. carriers, to Danish and Singaporean interests.

Today, although smaller, the U.S. Flag fleet is resurgent and revitalized, largely the result of the commitment of the Department of Defense to the utilization of the U.S. Flag commercial fleet, the

enforcement by the Maritime Administration of the cargo preference laws, and the support of the Maritime Security Program (MSP). U.S. Flag shipping requires, for its survival, that the U.S. Government maintain these committed support programs and a long term maritime policy.

To the question why the industry cannot survive without Government support programs, the answer lies in the reality of the global economy. The global economy requires you to be a globally competitive, low cost, service provider to survive. This applies to capital cost, operating cost, and labor cost. For international shipping, competent, well trained foreign crews can, today, be obtained for significantly lower cost than a U.S. crew. In a theoretical free enterprise economic model, and absent DOD cargoes, preference cargo and the MSP program, there would be no U.S. crews and no U.S. Flag international carriers.

In the next five years, the U.S. Flag international shipping industry will again face critical challenges. It is important to understand the reasons underlying the ebb and flow of the relative success of the U.S. Flag international fleet, as absent such an understanding, we risk the further decline or disappearance of an active U.S. Flag fleet operating in international commerce, and all of the benefits that attach to it.

To facilitate such an understanding, I would point to 3 critical success factors: (1) Department of Defense support; (2) active and effective enforcement of the cargo preference laws; (3) the importance of the Maritime Security Program.

III.

It is no coincidence that the historical highpoints for the U.S. Flag international shipping industry have occurred in the years following World War II, during and immediately after the Vietnam War, and now, during OIF and OEF.

Over 90% of all military equipment is shipped overseas by sea because of the scale and scope of the cargo, and cost efficiency of moving it by sea versus air, and most of it is shipped via the U.S. Flag international fleet.

The commitment U.S. carriers make to the national security of the U.S., through programs like MSP and iron-clad contracts like the Voluntary Intermodal Sealift Agreement (VISA), and the global shipping, intermodal, and logistics services U.S. carriers provide to the Department of Defense are a clear best value buy for the taxpayer.

It is well documented that the U.S. does not have a sufficient organic fleet, nor the intermodal and logistics capabilities, to do the job entirely on its own. There is, and should always be, a strong core organic fleet which manages the surge phase of a contingency – but there is not sufficient organic capability to provide long term sustainment without industry's contribution. Keep in mind that 6 of the 7 years of OIF and 8 of 9 years of OEF have been in the sustainment phase.

Particularly when viewed against the requirements of operating an integrated global network of ships, marine terminals, intermodal services, information systems, and logistics services, the U.S. Government does not possess that capacity and capability; nor need it, nor should it attempt to duplicate it. The most recent estimate by the U.S. Government for it to obtain total shipping and logistics capability comparable to that offered by the MSP based U.S. Flag international carriers was \$65 billion – to obtain it – not to manage, maintain, or operate it.

The NDTA has also recently commissioned independent studies that have shown that the cost of a U.S. Government owned, maintained, managed, and operated fleet would be 12 times greater, annually, than the cost of the MSP fleet.

Hence the positive case for the Department of Defense to utilize the commercial fleet as the best value to the taxpayer for Sealift. While the present case for the U.S. Flag international fleet is positive, the future is more problematic, and conditions are changing very quickly. Globally, there is a vast over-supply of ships, as demand in the U.S. and other economies nearly collapsed last year and the recovery has been slow. Closer to home, U.S. carriers are keenly aware that there will be a significant decline in DOD business in coming years.

The survival of the U.S. Flag international fleet is absolutely dependent on the full support of USTRANSCOM and DOD. We have a great Industry – Government partnership now, with clear and significant mutual benefit, and we must maintain it.

IV.

Cargo preference is the reservation, by law, for transportation on U.S. Flag vessels of all, or a portion of all, ocean-borne cargo which moves in international trade, either as a direct result of the Federal Government's involvement, or indirectly because of the financial sponsorship of a Federal program or guarantee provided by the Federal Government. These laws are part of the long standing statutory program to support the privately owned and operated U.S. Flag fleet and merchant marine. Preference cargoes are a key incentive for U.S. Flag operators operating in international trade to remain under U.S. registry.

Proper management by the U.S. Maritime Administration, and full cooperation of the shipper agencies such as the Department of Defense, Export-Import Bank, USAID, and other Government shipping agencies is critically important to the U.S. international fleet, and to the survival of the U.S. Merchant Marine, which provides the loyal, competent, well-trained mariners for our vessels.

The recent announcement by President Obama of an initiative to double exports over the next five years is an exciting and welcome prospect to manufacturers, exporters, and U.S. carriers. For those programs financed in whole or in part by the Government, and therefore subject to the cargo preference laws, such exports will provide a crucial new pool of cargo.

We were very pleased that Congress passed legislation in 2008 to give the Maritime Administration stronger cargo preference enforcement tools and look forward to MARAD's new rules and regulations to close the loop on this matter and ensure that the cargo preference laws of the United States are managed properly so that a viable U.S. Flag international fleet and Merchant Marine are maintained.

V.

The Maritime Security Program is a proven, successful national security program enacted to ensure that the United States has the U.S. Flag sealift capability and trained U.S. citizen merchant mariners it needs in time of war or other international emergency. It is one of the most cost effective defense-related private industry and government partnerships. MSP ensures that we will in fact be able to support our troops overseas by guaranteeing that U.S. Flag vessels and U.S. citizen crews will continue to be available to transport the

supplies and equipment our troops need. Today, virtually all the military and defense related cargoes moving as a result of the recently announced surge operations in Afghanistan are moving on U.S. Flag vessels, operating as part of the Maritime Security Program.

The MSP fleet not only enables the U.S. Government to provide Sealift for U.S. Armed Forces utilizing the resources of the U.S. Flag commercial fleet, but also enables the Government to pursue constructive overseas economic and agricultural assistance programs, the cargoes for which fall under the jurisdiction of the aforementioned cargo preference laws.

MSP is an incredibly well conceived program and has been an outstanding success. The relationship between commercial industry, maritime labor, the Maritime Administration and the Department of Defense has solidified into a true partnership. The initial program for 47 ships was expanded to the current MSP fleet of 60 ships upon reauthorization in 2005. The program is subject to the annual appropriations process and continued full funding of the program is vital. The program is authorized until 2015 and it is critical that it is extended significantly beyond 2015 at the earliest possible date.

It is increasingly difficult to finance the purchase of a new ship, a 30 year asset, and which may cost \$100 million, based on a program that expires in a little over four years. For the international fleet to be stabilized, the MSP Program must be extended to 2030 or later, or simply made permanent.

ARC and all of the carriers in the MSP fleet are U.S. companies. ARC is incorporated in Delaware, headquartered in New Jersey, has a U.S. citizen Board of Directors, employs all U.S. citizens, many with high level security clearance, owns and has registered nine vessels in the U.S., employs U.S. citizen merchant mariner crews, participates in the VISA contract, and abides by all U.S. tax, environmental, and other laws and regulations. ARC has been one of the most enthusiastic investors in the U.S. Flag fleet in recent years, having increased its fleet from just 2 ships in 1990, and 4 ships in 2004, to 9 ships today, having added 5 additional ships since the MSP Program was enhanced in 2005.

What saved the U.S. Flag international fleet in the dark days following near extinction a decade ago was access to capital, specifically access to overseas capital. We note that at least 80% of the capital invested in the MSP fleet is based on investment of capital from overseas investors. A conservative estimate of the market value of the ships enrolled in the MSP Program is \$2.5 billion. Given the fact that over 80% of the capital invested in the MSP fleet has come from U.S. carriers with overseas investors, those U.S. carriers have now invested over \$2 billion dollars in the U.S. Flag international fleet.

Our primary customer, the U.S. Department of Defense, is well aware that the U.S. companies in the MSP and VISA programs include overseas investors and is not concerned by it because of the strength of the MSP program, the VISA contract, and most importantly, the true partnership that exists between USTRANSCOM and the U.S. international carriers.

We must recognize those facts and reality, and maintain an MSP program without barriers to overseas investment in order to continue to maintain and enhance the U.S. Flag international fleet.

IV.

Thank you for the opportunity to offer my opinion on the critical factors pertinent to maintaining a strong U.S. Flag international fleet, and I look forward to your questions.