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Chron File - June 1993 #1 [3]

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Defense Policy-Bell, Robert

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Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. letter	To Warren Christopher from Robin Renwick, KCMG. Record ID: 9304586. (2 pages)	06/04/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 45

FOLDER TITLE:

Chron File - June 1993 #1 [3]

2016-0152-F

vz4411

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Withdrawal/Redaction Marker

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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

3865

June 4, 1993

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT G. BELL *RGB*

FROM: KEITH HAHN *KH*

SUBJECT: OMB Request for Views RE: H.R. 2151, Maritime
Security and Competitiveness Act of 1993

Attached at Tab II is the second installment of the House Merchant Marine and Fisheries Committee effort to legislate the Maritime Revitalization program that was determined to be unaffordable by the NEC-chaired interagency working group about three weeks ago. This IWG decided that we need to let DoD complete its Bottom-Up Review to determine national security sealift requirements before committing a large amount of money to new subsidy programs for the maritime industry. There will be several more draft bills covering the other aspects of the Transportation proposal that were not adopted by the IWG. The IWG now hopes to develop options by October -- too late for this year's budget.

This specific bill seeks to establish a new operating differential subsidy (ODS) program to replace the existing program which will expire in 1996. Under the current ODS program, the federal government pays the difference between wages on U.S.-flag ships and wages on their principal competitor's foreign-flag ships. ODS contracts now cover 54 liner ships and 29 bulk ships, and payments are expected to total \$224 million in 1993 (an average per ship subsidy of about \$3.2 million).

Under this legislation, up to 90 liner and 20 bulk ships would be subsidized, ostensibly to meet defense requirements for sealift capacity. DoD has not yet identified the amount of lift it would need, but estimates are more in the range of 10-20 ships. This bill would offer liners new contracts totalling over \$2 billion over ten years. The contracts would provide annual per ship payments of \$2.6 million for FY96, and \$2.1 every year thereafter. No effort has been made in the bill to identify where these funds would come from, although it is often suggested that DoD should cover these costs.

in draft *in draft*
Concurrences by: Jeremy Rosner, Steve Jones and Alan Kreczko

RECOMMENDATION

That you sign the memorandum at Tab I indicating our non-concurrence in this legislation until the Administration has reviewed all options for revitalizing the Maritime industry and identified sources of funds for this program.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON D C 20506

MEMORANDUM FOR JAMES J. JUKES

FROM: WILLIAM H. ITOH

SUBJECT: OMB Request for Views RE: HR 2151, Maritime
Security and Competitiveness Act of 1993

The National Security Council staff does not concur in the subject draft legislation. We believe that legislation should not be submitted until all options for revitalizing the Maritime industry have been reviewed and sources for required funds have been identified.

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

May 24, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-504

TO: Legislative Liaison Officer -

AGRIC-CR - Robin Rorapaugh (all testimony) - (202)720-7095 - 230
COMMERCE - Michael A. Levitt - (202)482-3086 - 324
DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
JUSTICE - Faith Burton - (202)514-2141 - 217
LABOR - Robert A. Shapiro - (202)219-8201 - 330
STATE - Bill Keppler - (202)647-2137 - 225
TRANSPORTATION - Tom Harlihy - (202)366-4687 - 226
TREASURY - Richard S. Carro - (202)622-1146 - 228
NSC - William H. Itoh - (202)395-3723 - 249
AID - Robert M. Lester - (202)647-8371 - 202
CEA - Francine Obermiller - (202)395-5036 - 242
NEC - Sonia Mathews - (202)456-6722 - 429
USTR - Fred Montgomery - (202)395-3475 - 223

FROM: JAMES J. JUKES (for) *Ji-*
Assistant Director for Legislative Reference

OMB CONTACT: Jim BROWN (395-3473)
Secretary's line (for simple responses): 395-3454

SUBJECT: OMB Request for Views RE: HR 2151, Maritime
Security and Competitiveness Act of 1993

DEADLINE: 5:00 P.M. FRIDAY June 4, 1993

COMMENTS: A House Merchant Marine and Fisheries subcommittee will hold a hearing on this bill on May 25.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
Meg DiBari
John McClelland
Bob Damus
Vince Foster
Cyndi Vallina
Alan Rhinesmith
Michael Deich
Roger Adkins

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103D CONGRESS
1ST SESSION**H.R.** 2151

IN THE HOUSE OF REPRESENTATIVES

Mr. STUPPES (for himself and Mr. LIPINSKI) introduced the following bill;
which was referred to the Committee on _____

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

7 Section 101 of the Merchant Marine Act, 1936 (46

8 App. U.S.C. 1101) is amended to read as follows:

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1 "SEC. 101. FOSTERING DEVELOPMENT AND MAINTENANCE
2 OF MERCHANT MARINE.

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

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

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

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

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

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

21 "(6) supplemented by modern and efficient
22 United States facilities for shipbuilding and ship re-
23 pair."

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1 SEC. 2. MARITIME SECURITY FLEET PROGRAM

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

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

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

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

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

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

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

19 "(a) IN GENERAL.—A vessel is eligible to be enrolled
20 in the Fleet if the Secretary decides, in accordance with
21 this section, that it is eligible. The Secretary may decide
22 whether a vessel is eligible to be enrolled in the Fleet only
23 pursuant to an eligibility decision application submitted to
24 the Secretary by the owner or operator of the vessel. The

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

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

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

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

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

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

18 “(B) the vessel is—

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

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

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

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

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

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

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

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

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

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

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

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

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

10 “(d) LIST OF ELIGIBLE VESSELS.—

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

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

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

22 “(B) if the status of the person who sub-
23 mitted an eligibility decision application for the
24 vessel, as owner or operator of the vessel.

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

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

6 “SEC. 404. OPERATING AGREEMENTS, GENERALLY.

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

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

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

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

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

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

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

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

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

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

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

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

20 "(c) PROHIBITION ON ENTERING AGREEMENTS.—

21 The Secretary may not enter into an operating agreement
22 for a fiscal year only to the extent that annual appropria-
23 tions laws place a limit on the total amount of operating
24 agreements that the Secretary may enter into and obligate

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

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

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

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

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

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

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

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

12 “(j) REPAYMENT REQUIREMENTS.—

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

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

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

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

7 "SEC. 405. TERMS OF OPERATING AGREEMENTS.

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

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

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

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

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

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

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

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

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

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

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

24 “(ii) in the case of a vessel to be replaced

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

7 "(4) AVAILABILITY OF VESSEL.—

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

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

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

22 "(B) CONDITION FOR CHARTER.—The
23 Secretary shall allow a contractor to comply
24 with this paragraph by providing space on a

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

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

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

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

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

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

22 "(7) COMPENSATION.—The Secretary shall pay
23 the contractor, as provided in the operating agree-
24 ment, reasonable compensation at reasonable com-

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

3 "(3) REQUIRED OPERATION.—

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

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

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

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

23 "(A) the vessel covered by the agreement
24 not operated under an operating agreement for

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

3 “(b) PAYMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

21 "SEC. 406. NONCONTIGUOUS TRADE RESTRICTIONS.

22 "(a) PROHIBITION.—

23 "(1) IN GENERAL.—Except as provided in this
24 section, a contractor may not receive any payment

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

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

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

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

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

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

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1 “(b) GENERAL WAIVER AUTHORITY.—

2 “(1) IN GENERAL.—Except as provided in sub-

3 section (c), the Secretary shall waive, in writing, the

4 application of subsection (a) to a contractor pursu-

5 ant to an application submitted in accordance with

6 this subsection, unless the Secretary finds that—

7 “(A) the waiver would result in unfair

8 competition to any person that operates vessels

9 as a carrier of cargo in a service exclusively in

10 the noncontiguous trade for which the waiver is

11 applied;

12 “(B) existing service in that noncontiguous

13 trade is adequate; or

14 “(C) the waiver will result in prejudice to

15 the objects or policy of this title or Act.

16 “(2) TERMS OF WAIVER.—Any waiver granted

17 by the Secretary under this subsection shall state—

18 “(A) the domestic ports permitted to be

19 served;

20 “(B) the annual number or frequency of

21 sailings that may be provided; and

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

23 mitted,

24 “(ii) for containerized or trailer service, the

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

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

8 "(3) APPLICATIONS FOR WAIVERS.—An applica-
9 tion for a waiver under this subsection may be sub-
10 mitted by a contractor and shall describe, as applica-
11 ble, the nature and scope of—

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

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

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

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

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

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

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

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

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

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

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

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

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

8 “(2) TERMS OF WAIVER.—

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

19 “(i) the domestic ports called;

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

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1 predecessor in interest) had no control;
2 and

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

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

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

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“(ii) 156 sailings each year in each di-

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rection between the East Coast or Gulf

3

Coast of the United States and Puerto

4

Rico with an annual capacity allocated to

5

the service of 75 percent of the total ca-

6

capacity of its vessels employed in the service

7

on July 1, 1992; and

8

“(iii) 103 sailings each year in each

9

direction between Washington and Alaska

10

with an annual capacity allocated to the

11

service in each direction of 100 percent of

12

the total capacity of its vessels employed in

13

the service on July 1, 1992.

14

“(C) CERTAIN TUGS AND BARGES.—If an

15

applicant under this subsection was offering

16

service as an operator of tugs and barges in

17

noncontiguous trades with Hawaii, Puerto Rico,

18

and Alaska on July 1, 1992, a waiver under

19

this subsection shall permit the applicant to

20

conduct—

21

“(i) 17 sailings each year in each di-

22

rection between ports in Washington, Or-

23

egon, and Northern California and ports in

24

Hawaii with an annual barge house cubic

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

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

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

23 "(iv) 8 regularly scheduled single tow
24

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

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

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

22 "(E) ADJUSTMENTS.—

23 "(i) IN GENERAL.—The annual capac-
24 ity permitted under a waiver under this

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

8 “(ii) LIMITATION.—An increase in ca-
9 pacity under this subparagraph shall apply
10 only to the extent the contractor actually
11 uses the increased capacity to carry cargo
12 in the permitted service in the calendar
13 year immediately following the preceding
14 increase in gross product. However, if a
15 contractor operating exclusively container-
16 ized vessels in that trade on July 1, 1992,
17 carries an average load factor of at least
18 90 percent of permitted capacity (including
19 the capacity, if any, both authorized and
20 used under the previous sentence) during 9
21 months of any one calendar year, then in
22 the next following calendar year and there-
23 after, the requirement that additional ca-
24 pacity shall be used in the immediately fol-

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

6 “(4) ACTION ON APPLICATION.—

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

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

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

24 “(5) DECISION ON APPLICATION.—

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

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

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

23 “(d) ANNUAL REPORT ON WAIVERS.—Each waiver
24 under this section shall require the person who is granted

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

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

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

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

12 “(e) DEFINITIONS.—In this section—

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

15 “(A) the contiguous 48 States; and

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

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

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

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

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

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

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

13 "SEC. 408. DEFINITIONS.

14 "In this title:

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

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

24 "(3) ELIGIBLE VESSEL.—The term 'eligible ves-

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

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

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

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

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

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

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1 (c) LIMITATION ON PAYMENTS.—Notwithstanding
2 section 403(a)(2) of the Merchant Marine Act, 1936, as
3 amended by this Act, or the terms of any operating agree-
4 ment (as that term is used in that section), the United
5 States Government is not obligated to pay, and the Sec-
6 retary of Transportation may not pay, any amount pursu-
7 ant to that section for any day in which a vessel that is
8 covered by an operating agreement is under a charter to
9 the United States Government that was entered into be-
10 fore the date of the enactment of this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 "SEC. 616. LIMITATION ON APPLICATION OF RESTRICTIONS
22 ON OPERATIONS.

23 "Sections 605(c), 804, and 805, this section, and the
24 essential service requirements in section 601(a) and

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

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

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

15 **SEC. 8. DEFINITIONS APPLICABLE TO MERCHANT MARINE**
16 **ACT, 1936.**

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

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

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

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

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

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

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

7 "(h) The term 'foreign subsidized shipyard' means a
8 shipyard that—

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

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

16 "(i) The term 'subsidy' includes any of the following:

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

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

23 "(i) grants;

24 "(ii) loans and loan guarantees other than

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1 “(iii) forgiveness of debt;

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

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

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

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

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

24 “(E) Tax policies and practice that favor the

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

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

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

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

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

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

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

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

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

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

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

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

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

25 "(ii) is built under a contract entered into

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

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

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

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

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

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

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

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

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1 SEC. 7. VESSEL FINANCING.

2 (a) ELIMINATION OF MORTGAGEE RESTRICTIONS.—

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

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

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

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

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

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

16 (b) ELIMINATION OF TRUSTEE RESTRICTIONS.—

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

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

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

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1 (A) by striking "and sections
2 31322(a)(1)(D) and 31323 of title 46, United
3 States Code,"; and

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

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

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

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

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

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

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

23 "(e) Notwithstanding subsection (c)(2), the Merchant
24 Marine Act, 1936, or any contract entered into with the

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

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

13 SEC. 9. EFFECTIVE DATE

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

17 SEC. 10. REGULATIONS

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

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

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

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

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

11 "(c) **STANDING FOR MARITIME UNION REP-**
12 **RESENTATIVES.**—The duly-elected representative of any
13 organization that is certified by the Secretary of Labor
14 as the proper collective bargaining agency for officers or
15 crew employed on any type of United States documented
16 vessel is an interested party in, and has standing to chal-
17 lenge, any proposed or final order, action, or rule of the
18 Secretary of Transportation under this Act."

19 **SEC. 12. STUDY.**

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

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

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

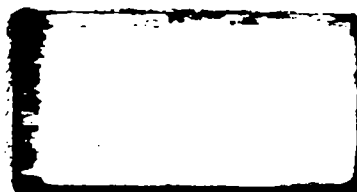
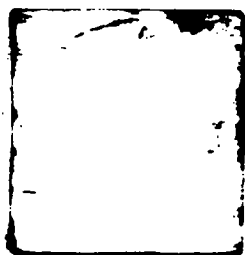
4 (2) whether continuation of the Maritime Secu-
5 rity Fleet program established by this Act would as-
6 sist the international competitiveness of United
7 States documented vessels;

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

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

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

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



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1 (A) by striking "and sections
2 31322(a)(1)(D) and 31323 of title 46, United
3 States Code,"; and

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

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

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10 fers, or mortgages" and inserting "or trans-
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13 "transfers, or mortgages" and inserting "or
14 transfers"; and

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

18 **SEC. 2. PLACEMENT OF VESSELS UNDER FOREIGN REG-**
19 **ISTRY.**

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

23 "(e) Notwithstanding subsection (c)(2), the Merchant
24 Marine Act, 1936, or any contract entered into with the

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

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

13 SEC. 2. EFFECTIVE DATE.

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

17 SEC. 10. REGULATIONS.

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

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

25 Marine Act 1920 as amended by the Merchant Marine Act 1936

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1 poss. the Secretary of Transportation is excepted from
2 compliance with the notice and comment requirements of
3 section 553 of title 5, United States Code. All regulations
4 prescribed under the authority of this subsection that are
5 not earlier superseded by final rules shall expire 270 days
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13 organization that is certified by the Secretary of Labor
14 as the proper collective bargaining agency for officers or
15 crew employed on any type of United States documented
16 vessel is an interested party in, and has standing to chal-
17 lenge, any proposed or final order, action, or rule of the
18 Secretary of Transportation under this Act.”.

19 **SEC. 12. STUDY.**

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

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

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

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

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

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

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

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