Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

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May 17, 2013

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Coast Guard and Maritime Transportation
FROM: Staff, Subcommittee on Coast Guard and Maritime Transportation
RE: Hearing on "Maritime Transportation: The Role of U.S. Ships and Mariners."

PURPOSE

On Tuesday, May 21, 2013, at 9:30 a.m., in 2167 Rayburn House Office Building, the Subcommittee on Coast Guard and Maritime Transportation will meet to examine the contributions of U.S.-flagged vessels and American mariners to our economy and national security.

BACKGROUND

U.S. Maritime Industry Statistics

Currently, there are more than 40,000 non-fishing related commercial vessels documented (flagged) in the United States. The vast majority of these vessels are engaged in domestic waterborne commerce, moving over 100 million passengers and $400 billion worth of goods between ports in the U.S. on an annual basis. Each year, the domestic fleet carries over a billion tons of cargo through the inland waterways, across the Great Lakes, and along the coasts, contributing $100 billion in economic output.

Of the 40,000 U.S.-flagged vessels, approximately 93 are currently employed in international commerce moving goods between U.S. and foreign ports. Over the last 35 years, the number of U.S.-flagged vessels sailing in the international trade has dropped from 850. The percentage of international commercial cargoes carried on U.S.-flagged vessels has fallen from 25 percent in 1955 to approximately 2 percent today.

There are currently 117 U.S. shipyards that build new vessels. There are over 200 additional facilities engaged in ship repair. Of the 117, only 6 are major shipyards capable of building large naval vessels and oceangoing commercial ships. Since 1983, the U.S. has lost approximately 300 shipyards.

The U.S. maritime industry currently employs more than 260,000 Americans. This includes approximately 65,000 mariners, 95,000 port workers, and 100,000 shipyard employees. These jobs represent approximately $29 billion in annual wages.

Throughout our history, the Navy has relied on U.S. flag commercial vessels to carry weapons and supplies and ferry troops to the battlefield. During Operations Enduring Freedom and Iraqi Freedom, U.S.-flag commercial vessels transported 63 percent of all military cargos moved to Afghanistan and Iraq. An additional 35 percent of the total cargo was carried on government-owned sealift vessels activated from reserve status and crewed by American mariners.

U.S. Maritime Laws and Programs

Since 1789, Congress has passed several laws to help keep the U.S. maritime sector competitive in the global economy and maintain a sealift and shipyard industrial capacity necessary for our national security. Current laws and programs include:

Jones Act

The Jones Act first came into effect as part of the Merchant Marine Act of 1920 to encourage a strong U.S. Merchant Marine for both national defense and economic security. The Jones Act contains a number of provisions designed to protect U.S. shipbuilding and mariner jobs:

1. U.S. Owned and Flagged - Chapter 551 of title 46, United States Code, requires that merchandise and passengers being transported by water between two points in the U.S. must travel on U.S.-citizen owned vessels flagged in the U.S. with a coastwise endorsement;

2. U.S. Built - Chapter 121 of title 46, United States Code, requires vessels seeking a coastwise endorsement to have been built in the United States. Chapters 551 and 801 of title 46, United States Code, also place restrictions on the involvement of foreign-owned, -built, and -flagged vessels in towing, dredging, and salvage activities in U.S. waters;

3. U.S. Crewed - Chapter 81 of title 46, United States Code, requires the master, all of the officers, and at least three-quarters of the crew to be U.S. citizens in order for a vessel to be documented in the United States; and

4. Rebuild/Reflag Prohibition - Chapter 121 also prohibits vessels that were once eligible to engage in coastwise trade and then later sold to a foreign citizen, or documented under a foreign registry, or rebuilt outside the U.S. from engaging in the coastwise trade (a vessel may be considered rebuilt when work performed on

its hull or superstructure constitutes more than 7.5 percent of the vessel's steelweight prior to the work).

The Coast Guard is responsible for reviewing applications from vessel owners seeking a coastwise endorsement to participate in the Jones Act trade. The Coast Guard determines whether the owners meet the U.S. citizenship requirements and whether the vessel was built in the U.S., or the extent to which it was rebuilt outside the U.S., before it will issue a coastwise endorsement. Customs and Border Protection determines whether the cargo to be moved on a vessel constitutes "merchandise" under section 55102 of title 46, United States Code, and is therefore subject to the Jones Act.

Section 501 of title 46, United States Code, provides a mechanism to waive the Jones Act and other vessel navigation and inspection laws. The Jones Act can be waived by the Secretaries of Defense and Homeland Security in the interest of national defense. Waivers by the Secretary of Homeland Security first require a determination by the Administrator of the Maritime Administration (MARAD) that U.S.-flagged, -owned, -built, and -crewed vessels are not available to meet national defense requirements.

Domestic Shipbuilding Programs

In addition to the Jones Act, the federal government supports the viability of the domestic shipbuilding industry through a combination of laws and programs including:

1. Tariffs – Under the Smoot-Hawley Act of 1930, U.S. vessel operators are liable for a 50 percent duty on maintenance and repairs performed on their vessels at overseas shipyards.

2. Capital Construction Fund – First established by the Merchant Marine Act of 1936 (46 U.S.C. 53501 et seq.), the Capital Construction Fund (CCF) enables U.S. vessel owners and operators to defer federal income taxes on their income by depositing the income in a CCF. Income deposited in a CCF may only be used to finance the construction, reconstruction, or acquisition of a vessel built or rebuilt in a U.S. shipyard. As of 2010, over 180 companies had established a CCF.

3. Title XI Federal Ship Financing Program – Established by Title XI of the Merchant Marine Act of 1936 (46 U.S.C. 53701et seq.), the Title XI program provides federal government loan guarantees to (1) vessel operators for the purpose of financing or refinancing the construction or reconstruction of vessels in U.S. shipyards, and (2) U.S. shipyards for the purpose of financing advanced shipbuilding technology for a facility located in the U.S. Loan guarantees cannot exceed 87.5 percent of the project's actual cost.

   The Title XI program has not received funding for new loan guarantees since FY 2011. No funds are requested in MARAD's FY 2014 budget request. There is currently $38 million in Title XI loan subsidies available, which equates to approximately $420 million in available loan guarantees. MARAD has pending applications for $525 million in loan guarantees.

4. Small Shipyard Grants – Section 3508 of the National Defense Authorization Act for Fiscal Year 2009 (P.L. 110-417) established the Assistance to Small Shipyards Grant Program. Under the program, U.S. owned and operated shipyards with less than 1,200 production employees are eligible to receive matching grants from MARAD to finance capital improvements and equipment purchases.

   The FY 2014 budget does not include funds for the grant program. On March 23, 2013, MARAD posted a notice soliciting grant applications for the $10 million the program received in FY 2013. Since 2010, the number of grant applications has exceeded the funds available.

Cargo Preference

To ensure sealift capacity and guarantee a skilled cadre of U.S. seafarers, several laws were enacted beginning in 1904 to require certain percentages of government impelled cargo to be carried on U.S.-owned, -flagged, and -crewed vessels. Government impelled cargo is ocean borne cargo moved either as a direct result of federal government involvement, or indirectly through financial sponsorship of a federal program, or in connection with a guarantee provided by the federal government. The following is a breakdown of the percentages of cargo required to be carried on U.S.-owned, -flagged, and -crewed vessels under the Cargo Preference Program:

1. Military Cargo – 100 percent (governed by Military Cargo Preference Act of 1904, 10 U.S.C. 2631);

2. Export-Import Bank – 100 percent (governed by Public Resolution 17, 48 Stat. 500);

3. Federal Civilian Agencies Cargo – at least 50 percent (governed by Cargo Preference Act of 1954, 46 U.S.C. 55301 et seq.); and

4. Agricultural Cargoes – at least 50 percent (governed by the Food Security Act of 1985, 46 U.S.C. 55311 et seq. Section 100124 of Public Law 112-141 reduced the level from 75%).

<u>Food For Peace:</u> Under the Food for Peace program, the U.S. Agency for International Development purchases agricultural commodities grown by U.S. farmers and distributes it to starving populations around the world. Pursuant to cargo preference laws, 50 percent of Food for Peace cargo must move on U.S.-owned, -flagged, and -crewed vessels. The President's FY 2014 budget proposes to restructure the Food for Peace program and cut funding available to purchase and transport U.S. agricultural commodities from 75 percent to 55 percent. This decrease in cargo is expected to reduce the number of U.S.-flagged vessels and jobs for American mariners. The President's FY

2014 budget proposes to offset some of the job losses by providing an additional $25 million to the Maritime Security Program to support activities yet to be specified.

Enforcement: Section 3511 of the National Defense Authorization Act for Fiscal Year 2009 (P.L. 110-417) authorized the Secretary of Transportation to audit cargos shipped by other federal agencies to determine compliance with cargo preference laws and to impose penalties, including fines, on agencies and individuals found in violation. The provision required MARAD to promulgate regulations to carry out the new authorities. MARAD has yet to write such regulations.

Maritime Security Program:

The Maritime Security Act of 1996 (P.L. 104-239) established the Maritime Security Program (MSP), replacing the Operating Differential Subsidy Program established under the Merchant Marine Act of 1936. MSP provides direct financial assistance to the operators of U.S.-owned, -flagged, and -crewed vessels to make their vessels available to support military sealift during times of war or national emergency. Currently, 13 vessel operators operating 60 vessels receive $2.1 million per vessel per year under MSP.

Section 3508 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239) reauthorized MSP through FY 2025. MARAD recently informed MSP participants that due to the FY 2013 sequester, it will not be able pay the full monthly stipend in August 2013 or any stipend in September 2013.

Marine Highways Program:

Section 1121 of the Energy Independence and Security Act of 2007 (P.L. 110-140) directs the Secretary of Transportation to establish a short sea transportation program and designate short sea transportation projects to mitigate landside congestion or promote short sea transportation. Using this authority, the Secretary has designated 11 Marine Highway Corridors, 4 Connectors, and 3 Crossings.

In 2010, the Secretary designated eight Marine Highway Projects along the Corridors, Connectors and Crossings. Designated Marine Highway Projects may compete for Marine Highway Grants to acquire equipment and make other improvements to facilitate service along a designated Corridor. To date, $7 million has been awarded to six entities for this purpose. MARAD's FY 2014 budget does not include funding for further Marine Highway Grants.

WITNESSES

Panel I

The Honorable John Porcari
Deputy Secretary
Department of Transportation

General William M. Fraser, III
Commander
U.S. Transportation Command

Panel II

Mr. Fred Harris
CEO
NASSCO
on behalf of
Shipbuilders Council of America

Joseph H. Pyne
Chairman and CEO
Kirby Corporation
on behalf of
American Maritime Partnership

Mr. Augustin Tellez
Executive Vice President
Seafarers International Union

Mr. Mike Jewell
President
Marine Engineers' Beneficial Association