

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2151

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 8 (legislative day, NOVEMBER 2), 1993

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

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## AN ACT

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:

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.”.

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

2 (a) The Merchant Marine Act, 1936 (46 App. U.S.C.  
3 1101 et seq.) is amended by inserting after title III the  
4 following new title:

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

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

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

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

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

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

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

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

3 “(b) VESSEL ELIGIBILITY, GENERALLY.—Except as  
4 provided in subsection (c), the Secretary shall decide that  
5 a vessel is eligible to be enrolled 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 person that will be a contractor with  
11 respect to an operating agreement for the vessel is  
12 a citizen of the United States;

13 “(3)(A) the vessel is a United States docu-  
14 mented vessel on May 19, 1993;

15 “(B) the vessel is—

16 “(i) in existence on May 19, 1993;

17 “(ii) a United States documented vessel  
18 after May 19, 1993; and

19 “(iii) not more than 10 years of age on the  
20 date of that documentation;

21 “(C) the vessel is built and, if rebuilt, rebuilt in  
22 a United States shipyard;

23 “(D) the vessel is built in a shipyard that is not  
24 a foreign subsidized shipyard under a contract en-  
25 tered into before May 19, 1993;

1           “(E)(i) the vessel is built in a foreign shipyard  
2           under a contract entered into on or before May 19,  
3           1993; and

4           “(ii) the owner has contracted to build another  
5           vessel for enrollment in the Fleet in a United States  
6           shipyard that will be delivered within 30 months  
7           after the effective date of an operating agreement  
8           for the vessel referred to in clause (i), or the Sec-  
9           retary finds and certifies in writing that a United  
10          States shipyard cannot sell a vessel to the owner at  
11          the world price due to the unavailability of series  
12          transition payments under title XIV to build that  
13          vessel; or

14          “(F)(i) the vessel is built under a contract en-  
15          tered into after May 19, 1993;

16          “(ii) the proposed owner of the vessel solicited  
17          nationwide bids for at least 6 months to build the  
18          vessel in a United States shipyard;

19          “(iii) the Secretary finds and certifies in writing  
20          that a United States shipyard cannot sell a vessel to  
21          the proposed owner at the world price due to the un-  
22          availability of series transition payments under title  
23          XIV to build that vessel;

1           “(iv) the vessel is delivered from the foreign  
2 shipyard within 30 months after the Secretary’s cer-  
3 tification under clause (iii); and

4           “(v) the vessel is substantially the same type  
5 and design as the vessel described in the solicitation  
6 made under clause (ii); and

7           “(4) the vessel is self-propelled and is—

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

10           “(B) a roll-on/roll-off vessel with a carry-  
11 ing capacity of at least 80,000 square feet or  
12 500 Twenty-foot Equivalent Units;

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

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

17           “(E) any other type of vessel that is deter-  
18 mined by the Secretary to be suitable for use by  
19 the United States for national defense or mili-  
20 tary purposes in time of war or national emer-  
21 gency.

22           “(c) DETERMINATIONS OF ELIGIBILITY.—

23           “(1) DETERMINATIONS REQUIRED.—The Sec-  
24 retary shall make determinations under subsection

1 (b) for each vessel for which an eligibility decision  
2 application is submitted under this section.

3 “(2) DETERMINATION REGARDING CERTIFI-  
4 CATION.—The Secretary shall—

5 “(A) make the finding and certification  
6 under paragraph (3)(E)(ii) for a vessel, or de-  
7 termine not to, by not later than 60 days after  
8 the date of receipt of an eligibility decision ap-  
9 plication for the vessel; and

10 “(B) make the finding and certification  
11 under paragraph (3)(F)(iii) for a vessel, or de-  
12 termine not to, by not later than 60 days after  
13 the closing date of the solicitation pursuant to  
14 paragraph (3)(F)(ii) for the vessel.

15 “(3) WRITTEN EXPLANATION.—The Secretary  
16 shall provide to the person that submits an eligibility  
17 application for a vessel a written explanation of any  
18 decision that the vessel is not eligible for enrollment  
19 in the Fleet.

20 “(d) LIST OF ELIGIBLE VESSELS.—

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

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

5           “(A) at any time that the conditions for  
6 eligibility under subsection (b) are not fulfilled  
7 for the vessel;

8           “(B) if the status of the person who sub-  
9 mitted an eligibility decision application for the  
10 vessel, as owner or operator of the vessel,  
11 changes and after that change—

12           “(i) the owner or operator of the ves-  
13 sel fails to submit a new eligibility decision  
14 application for the vessel; or

15           “(ii) such an application is not ap-  
16 proved by the Secretary; or

17           “(C) if the vessel carries as cargo any item  
18 that—

19           “(i) is sold or shipped to the United  
20 States;

21           “(ii) is not made in the United States;  
22 and

23           “(iii) the owner or operator of the ves-  
24 sel knows has had fraudulently affixed to  
25 it a label bearing a ‘Made in America’ in-



1                   scription, or any inscription with the same  
2                   meaning.

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

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

9           “(b) PRIORITY FOR AWARDING AGREEMENTS.—Sub-  
10 ject to the availability of appropriations, the Secretary  
11 shall enter into operating agreements according to the fol-  
12 lowing priority:

13                   “(1) VESSELS OWNED BY CITIZENS.—

14                   “(A) PRIORITY.—First, for any vessel that  
15 is—

16                   “(i) owned and operated by persons  
17 who are citizens of the United States  
18 under section 2 of the Shipping Act, 1916;  
19 or

20                   “(ii) less than 5 years of age and  
21 owned and operated by a corporation that  
22 is—

23                   “(I) eligible to document a vessel  
24 under chapter 121 of title 46, United  
25 States Code; and

1           “(II) affiliated with a corporation  
2           operating or managing other United  
3           States documented vessels for the Sec-  
4           retary of Defense or chartering other  
5           vessels to the Secretary of Defense.

6           “(B) LIMITATION ON NUMBER OF OPERAT-  
7           ING AGREEMENTS.—The total number of oper-  
8           ating agreements that may be entered into by  
9           a person under the priority in subparagraph  
10          (A)—

11           “(i) for vessels described in subpara-  
12          graph (A)(i), may not exceed the sum of—

13           “(I) the number of United States  
14          documented vessels the person oper-  
15          ated in the foreign commerce of the  
16          United States (except mixed coastwise  
17          and foreign commerce) on January 1,  
18          1993; and

19           “(II) the number of United  
20          States documented vessels the person  
21          chartered to the Secretary of Defense  
22          on that date; and

23           “(ii) for vessels described in subpara-  
24          graph (A)(ii), may not exceed 4 vessels.

1           “(C) TREATMENT OF RELATED PAR-  
2 TIES.—For purposes of subparagraph (B), a re-  
3 lated party with respect to a person shall be  
4 treated as the person.

5           “(2) OTHER VESSELS OWNED BY CITIZENS AND  
6 GOVERNMENT CONTRACTORS.—To the extent that  
7 amounts are available after applying paragraph (1),  
8 any vessel that is—

9           “(A) owned and operated by—

10           “(i) citizens of the United States  
11 under section 2 of the Shipping Act, 1916,  
12 that have not been awarded an operating  
13 agreement under the priority established  
14 under paragraph (1); or

15           “(ii)(I) eligible to document a vessel  
16 under chapter 121 of title 46, United  
17 States Code; and

18           “(II) affiliated with a corporation op-  
19 erating or managing other United States  
20 documented vessels for the Secretary of  
21 Defense or chartering other vessels to the  
22 Secretary of Defense; and

23           “(B) on the list maintained under section  
24 403(d).

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

4           “(A) owned and operated by a person that  
5 is eligible to document a vessel under chapter  
6 121 of title 46, United States Code; and

7           “(B) on the list maintained under section  
8 403(d).

9           “(c) AWARD OF AGREEMENTS.—

10           “(1) IN GENERAL.—The Secretary shall award  
11 operating agreements within each priority under  
12 subsection (b) (1), (2), and (3) under regulations  
13 prescribed by the Secretary.

14           “(2) NUMBER OF AGREEMENTS AWARDED.—  
15 Regulations under paragraph (1) shall provide that  
16 if appropriated amounts are not sufficient for oper-  
17 ating agreements for all vessels within a priority  
18 under subsection (b) (1), (2), or (3), the Secretary  
19 shall award to each person submitting a request a  
20 number of operating agreements that bears approxi-  
21 mately the same ratio to the total number of vessels  
22 in the priority, as the amount of appropriations  
23 available for operating agreements for vessels in the  
24 priority bears to the amount of appropriations nec-

1        essary for operating agreements for all vessels in the  
2        priority.

3           “(3) TREATMENT OF RELATED PARTIES.—For  
4        purposes of paragraph (2), a related party with re-  
5        spect to a person shall be treated as the person.

6           “(d) TIME LIMIT FOR DECISION ON ENTERING OP-  
7        ERATING AGREEMENT.—The Secretary shall enter an op-  
8        erating agreement for a vessel within 90 days after mak-  
9        ing the decision that the vessel is eligible to be enrolled  
10       in the Fleet under section 403(a).

11          “(e) EFFECTIVE DATE OF OPERATING AGREE-  
12        MENT.—The effective date of an operating agreement may  
13       not be later than the later of—

14           “(1) the date the vessel covered by the agree-  
15        ment enters into the trade required under section  
16        405(a)(1)(A);

17           “(2) the date the vessel covered by the agree-  
18        ment is withdrawn from an operating differential  
19        subsidy contract under title VI;

20           “(3) the date of termination of an operating  
21        differential subsidy contract under title VI that ap-  
22        plies to the vessel; or

23           “(4) the date of the expiration or termination  
24        of a charter of the vessel to the United States Gov-  
25        ernment that was entered into before the date of the

1 enactment of the Maritime Security and Competi-  
2 tiveness Act of 1993.

3 “(f) EXPIRATION OF OFFERS FOR AGREEMENTS.—  
4 Unless extended by the Secretary, an offer by the Sec-  
5 retary to enter into an operating agreement under this  
6 section expires 120 days after the date the offer is made.

7 “(g) LENGTH OF AGREEMENTS.—An operating  
8 agreement is effective for 10 years from the effective date  
9 of the agreement.

10 “(h) REPAYMENT REQUIREMENTS.—

11 “(1) NONCOMPLIANCE.—A contractor that fails  
12 to comply with the terms of an operating agreement  
13 shall be liable to the United States Government for  
14 all amounts received by the contractor as payments  
15 for the vessel under this title with respect to the pe-  
16 riod of that noncompliance, and for interest on those  
17 amounts determined under paragraph (3).

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

1 vessel becomes 25 years of age, and for interest on  
2 those amounts determined under paragraph (3).

3 “(3) DETERMINATION OF INTEREST.—Interest  
4 under paragraphs (1) and (2) shall be at an annual  
5 rate equal to 125 percent of the coupon issue yield  
6 equivalent (as determined by the Secretary of the  
7 Treasury) of the average accepted auction price for  
8 auctions of 3 month United States Treasury bills  
9 settled during the quarter preceding the date of the  
10 failure to comply or the failure to replace, respec-  
11 tively.

12 “(i) PROHIBITION ON AGREEMENTS FOR CERTAIN  
13 VESSELS.—The Secretary may not enter into an operating  
14 agreement for a vessel that is owned or operated by a per-  
15 son that was a contractor for the vessel under an operat-  
16 ing agreement terminated under section 405(a)(10), be-  
17 fore the end of the term of the agreement that was termi-  
18 nated.

19 “(j) BINDING OBLIGATION OF GOVERNMENT.—An  
20 operating agreement constitutes a contractual obligation  
21 of the United States Government to pay the amounts pro-  
22 vided for under that agreement.

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

2 “(a) OPERATING AGREEMENT REQUIREMENTS.—An  
3 operating agreement shall, during the effective period of  
4 the agreement, provide the following:

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

7 “(A) shall be operated in the foreign trade  
8 or domestic trade allowed under a registry en-  
9 dorsement for the vessel issued under section  
10 12105 of title 46, United States Code;

11 “(B) may not be operated in the coastwise  
12 trade of the United States or in mixed coast-  
13 wise and foreign trade, except for coastwise  
14 trade allowed under a registry endorsement is-  
15 sued for the vessel under section 12105 of title  
16 46, United States Code; and

17 “(C) shall be documented under chapter  
18 121 of title 46, United States Code.

19 “(2) ANNUAL PAYMENTS.—

20 “(A) IN GENERAL.—The Secretary shall  
21 pay the contractor, in accordance with this sub-  
22 section, the following amounts for each fiscal  
23 year in which the vessel is operated in accord-  
24 ance with the agreement:

25 “(i) For fiscal year 1994, \$2,300,000.



1           “(ii) For each fiscal year thereafter,  
2           \$2,100,000.

3           “(B) LIMITATION.—The Secretary shall  
4           not pay any amount pursuant to this paragraph  
5           for any day in which the vessel is—

6                   “(i) under a charter to the United  
7                   States Government that was entered into  
8                   before the date of the enactment of the  
9                   Maritime Security and Competitiveness Act  
10                  of 1993; or

11                   “(ii) covered by an operating differen-  
12                  tial subsidy contract under title VI.

13           “(3) TERMINATION BASED ON AGE OF VES-  
14           SEL.—

15                   “(A) IN GENERAL.—Except as provided in  
16                   subparagraph (B), the operating agreement  
17                   shall terminate on the later of—

18                   “(i) the date the vessel covered by the  
19                   agreement is 25 years of age, or

20                   “(ii) the date the vessel covered by the  
21                   agreement is 30 years of age, in the case  
22                   of an agreement that covers a vessel that  
23                   is repowered in a United States shipyard  
24                   after the effective date of the operating

1 agreement and before the vessel is 25  
2 years of age.

3 “(B) EXCEPTION.—The operating agree-  
4 ment shall not terminate under subparagraph  
5 (A) if the contractor agrees to acquire a re-  
6 placement for the vessel from among vessels on  
7 the list maintained under section 403(d), and—

8 “(i) in the case of a vessel to be re-  
9 placed with a new vessel, the contractor  
10 enters into a binding contract with a ship-  
11 yard that requires the shipyard to deliver  
12 the replacement vessel by not later than 30  
13 months after the later of the date the oper-  
14 ating agreement is entered into or the date  
15 the operating agreement would otherwise  
16 terminate under subparagraph (A); or

17 “(ii) in the case of a vessel to be re-  
18 placed with an existing vessel, the contrac-  
19 tor acquires the replacement vessel from  
20 among vessels on the list maintained under  
21 section 403(d), by not later than 12  
22 months after the later of the date the oper-  
23 ating agreement is entered into or the date  
24 the operating agreement would otherwise  
25 expire under subparagraph (A).

1 “(4) AVAILABILITY OF VESSEL.—

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

10 “(i) make the vessel covered by the  
11 agreement available to the Secretary under  
12 a time charter; or

13 “(ii) provide space on the vessel cov-  
14 ered by the agreement to the Secretary on  
15 a guaranteed basis.

16 “(B) CONDITION FOR CHARTER.—The  
17 Secretary shall allow a contractor to comply  
18 with this paragraph by providing space on a  
19 vessel under subparagraph (A)(ii) unless the  
20 Secretary determines that it is necessary in the  
21 interest of national security that the contractor  
22 make the vessel available under a time charter.

23 “(5) DELIVERY OF VESSEL.—The contractor  
24 shall deliver a vessel to the Secretary pursuant to a

1 time charter under paragraph (4)(A)(i), as specified  
2 in the request for the vessel—

3 “(A) at the first port in the United States  
4 the vessel is scheduled to call after the date of  
5 receipt of the request;

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

9 “(C) in any other reasonable manner au-  
10 thorized by the agreement and specified in the  
11 request.

12 “(6) DELIVERY COSTS.—In addition to  
13 amounts paid under paragraph (2), the Secretary  
14 shall reimburse the contractor for costs incurred by  
15 the contractor in delivering the vessel covered by the  
16 agreement to the Secretary in accordance with the  
17 agreement.

18 “(7) COMPENSATION.—In addition to amounts  
19 paid under paragraph (2), the Secretary shall pay  
20 the contractor, as provided in the operating agree-  
21 ment, reasonable compensation at reasonable com-  
22 mercial rates for the period of time the vessel is  
23 chartered or the contractor provides space on the  
24 vessel under paragraph (4).

25 “(8) REQUIRED OPERATION.—

1           “(A) IN GENERAL.—A vessel covered by  
2           the operating agreement shall be operated in  
3           the trade required under paragraph (1), and  
4           under conditions eligible for payment under this  
5           title, for at least 320 days in a fiscal year, in-  
6           cluding days during which the vessel is dry-  
7           docked, surveyed, inspected, or repaired.

8           “(B) REDUCTION IN PAYMENTS.—If a ves-  
9           sel operates in the trade required under para-  
10          graph (1), and under conditions eligible for pay-  
11          ment under this title, for less than the time re-  
12          quired under subparagraph (A), the payments  
13          required under paragraph (2) shall be reduced  
14          on a pro-rata basis to reflect the lesser time in  
15          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) OTHER TERMINATION.—The operating  
21          agreement shall terminate if—

22                  “(A) in the case of a vessel that transports  
23                  less than 12,000 tons of bulk cargo under the  
24                  agreement—

1           “(i) the vessel covered by the agree-  
2           ment is not operated under an operating  
3           agreement for one year; and

4           “(ii) a substitute for that vessel is not  
5           operated under the agreement during that  
6           year; or

7           “(B) the contractor notifies the Secretary  
8           that the contractor intends to terminate the  
9           agreement, by not later than 60 days before the  
10          effective date of the termination.

11       “(b) PAYMENTS.—

12           “(1) IN GENERAL.—The amount required to be  
13          paid by the Secretary each year to a contractor  
14          under an operating agreement pursuant to sub-  
15          section (a)(2)—

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

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

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

24           “(ii) section 2631 of title 10, United  
25          States Code; or

1                   “(iii) the Act of March 26, 1934 (48  
2                   Stat. 500).

3                   “(2) REDUCTION FOR PREFERENCE CARGO.—A  
4                   contractor with respect to a vessel may not receive  
5                   any payment under this title for any day in which  
6                   the vessel is engaged in transporting more than  
7                   12,000 tons of preference cargo described in para-  
8                   graph (1)(B) that is bulk cargo (as defined in sec-  
9                   tion 3 of the Shipping Act of 1984).

10                  “(c) REDELIVERY OF VESSELS.—The Secretary  
11                  shall, upon the termination of the need for which a vessel  
12                  is delivered under subsection (a)(4), return the vessel to  
13                  the contractor—

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

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

18                  “(d) TRANSFER OF OPERATING AGREEMENTS.—A  
19                  contractor under an operating agreement may transfer the  
20                  agreement (including all rights and obligations under the  
21                  agreement) to any other person that is a citizen of the  
22                  United States, after notification of the Secretary in ac-  
23                  cordance with regulations prescribed by the Secretary, un-  
24                  less the transfer is disapproved by the Secretary within  
25                  90 days after the date of that notification. A transfer shall

1 not be effective before the end of that 90-day period. A  
2 person to whom an agreement is transferred may receive  
3 payments from the Secretary under the agreement only  
4 if the vessel to be covered by the agreement after the  
5 transfer is on the list maintained under section 403(d).

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

7 “(a) PROHIBITION.—

8 “(1) IN GENERAL.—Except as provided in this  
9 section, a contractor may not receive any payment  
10 under this title—

11 “(A) if the contractor or a related party  
12 with respect to the contractor, directly or indi-  
13 rectly owns, charters, or operates a vessel en-  
14 gaged in the transportation of cargo in non-  
15 contiguous trade other than in accordance with  
16 a waiver under subsection (b), (c), or (d); or

17 “(B) if the contractor is authorized to op-  
18 erate a vessel in noncontiguous trade under  
19 such a waiver, and there is a—

20 “(i) material change in the domestic  
21 ports served by the contractor from the  
22 ports permitted to be served under the  
23 waiver;

24 “(ii) material increase in the annual  
25 number or the frequency of sailings by the



1 contractor from the number or frequency  
2 permitted under the waiver; or

3 “(iii) material increase in the annual  
4 volume of cargo carried or annual capacity  
5 utilized by the contractor from the annual  
6 volume of cargo or annual capacity per-  
7 mitted under the waiver.

8 “(2) LIMITATIONS ON PROHIBITION.—Para-  
9 graph (1) applies to a contractor only in the years  
10 specified for payments under the operating agree-  
11 ment entered into by the contractor.

12 “(b) GENERAL WAIVER AUTHORITY.—

13 “(1) IN GENERAL.—Except as provided in sub-  
14 section (c), the Secretary may waive, in writing, the  
15 application of subsection (a) to a contractor pursu-  
16 ant to an application submitted in accordance with  
17 this subsection, unless the Secretary finds that—

18 “(A) the waiver would result in unfair  
19 competition to any person that operates vessels  
20 as a carrier of cargo in a service exclusively in  
21 the noncontiguous trade for which the waiver is  
22 applied;

23 “(B) subject to paragraph (6), existing  
24 service in that noncontiguous trade is adequate;

25 or

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

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

5                   “(A) the domestic ports permitted to be  
6                   served;

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

9                   “(C)(i) the annual volume of cargo per-  
10                  mitted,

11                   “(ii) for containerized or trailer service, the  
12                  annual 40-foot equivalent unit shipboard con-  
13                  tainer and trailer or vehicle or general cargo ca-  
14                  pacity permitted, or

15                   “(iii) for tug and barge service, the annual  
16                  barge house cubic foot capacity and the annual  
17                  barge deck general cargo capacity, or 40-foot  
18                  equivalent unit container, trailer, or vehicle ca-  
19                  pacity, permitted.

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

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

1           “(B) any proposed material change or in-  
2 crease in a service in a noncontiguous trade  
3 permitted under a previous waiver.

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

5           “(A) NOTICE AND PROCEEDING.—Within  
6 30 days after receipt of an application for a  
7 waiver under this subsection, the Secretary  
8 shall—

9                   “(i) publish a notice of the applica-  
10 tion; and

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

14                           “(I) evidence of the nature,  
15 quantity, and quality of the existing  
16 service in the noncontiguous trade for  
17 which the waiver is applied;

18                           “(II) a description of the pro-  
19 posed service or proposed material  
20 change or increase in a previously per-  
21 mitted service;

22                           “(III) the projected effect of the  
23 proposed service or proposed material  
24 change or increase in existing service;  
25 and

1                   “(IV) recommendations on condi-  
2                   tions that should be contained in any  
3                   waiver for the proposed service or ma-  
4                   terial change or increase.

5                   “(B) INTERVENTION.—An applicant for a  
6                   waiver under this subsection, and any person  
7                   that operates cargo vessels in the noncontiguous  
8                   trade for which a waiver is applied and that has  
9                   any interest in the application, may intervene in  
10                  the proceedings on the application.

11                  “(C) HEARING.—Before deciding whether  
12                  to grant a waiver under this subsection, the  
13                  Secretary shall hold a public hearing in an ex-  
14                  peditious manner, reasonable notice of which  
15                  shall be published.

16                  “(5) DECISION.—The Secretary shall complete  
17                  all proceedings and hearings on an application under  
18                  this subsection and issue a decision on the record  
19                  within 90 days after receipt of the final briefs sub-  
20                  mitted for the record.

21                  “(6) LIMITATION ON CONSIDERATION OF CER-  
22                  TAIN EXISTING SERVICE.—

23                  “(A) LIMITATION.—In determining wheth-  
24                  er to grant a waiver under this subsection for  
25                  noncontiguous trade with Hawaii, the Secretary

1 shall not consider the criterion set forth in  
2 paragraph (1)(B) if a qualified operator—

3 “(i) is a contractor, and

4 “(ii) operates 4 or more vessels in for-  
5 eign commerce in competition with another  
6 contractor.

7 “(B) QUALIFIED OPERATOR.—In this  
8 paragraph, the term ‘qualified operator’ means  
9 a person that on July 1, 1992, offered service  
10 as an operator of containerized vessels, trailer  
11 vessels, or combination container and trailer  
12 vessels in noncontiguous trade with Hawaii and  
13 the Johnston Islands (including a related party  
14 with respect to the person).

15 “(c) WAIVERS FOR EXISTING NONCONTIGUOUS  
16 TRADE OPERATORS.—

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

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

1           “(i) in a noncontiguous trade on July  
2           1, 1992; or

3           “(ii) in furnishing seasonal service in  
4           a season ordinarily covered by its oper-  
5           ation, during the 12 calendar months pre-  
6           ceding July 1, 1992; and

7           “(B) has operated in that service since  
8           that time, except for interruptions of service re-  
9           sulting from military contingency or over which  
10          the contractor (or related party or predecessor  
11          in interest) had no control.

12          “(2) TERMS OF WAIVER.—

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

23                         “(i) the domestic ports called;

24                         “(ii) the number of sailings actually  
25                         made, except as to interruptions in the

1 service in the noncontiguous trade result-  
2 ing from military contingency or over  
3 which the applicant (or related party or  
4 predecessor in interest) had no control;  
5 and

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

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

22 “(i) 104 sailings each year from the  
23 West Coast of the United States to Hawaii  
24 with an annual capacity allocated to the  
25 service of 75 percent of the total capacity

1 of the vessels employed in the service on  
2 July 1, 1992;

3 “(ii) 156 sailings each year in each di-  
4 rection between the East Coast or Gulf  
5 Coast of the United States and Puerto  
6 Rico with an annual capacity allocated to  
7 the service of 75 percent of the total ca-  
8 pacity of its vessels employed in the service  
9 on the date of the enactment of the Mari-  
10 time Security and Competitiveness Act of  
11 1993; and

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

18 “(C) CERTAIN TUGS AND BARGES.—If an  
19 applicant under this subsection was offering  
20 service as an operator of tugs and barges in  
21 noncontiguous trades with Hawaii, Puerto Rico,  
22 and Alaska on July 1, 1992, a waiver under  
23 this subsection for the applicant shall permit a  
24 level of service consisting of—



1           “(i) 17 sailings each year in each di-  
2           rection between ports in Washington, Or-  
3           regon, and Northern California and ports in  
4           Hawaii with an annual barge house cubic  
5           foot capacity and annual barge deck 40-  
6           foot equivalent unit container capacity in  
7           each direction of 100 percent of the total  
8           of the capacity of its vessels employed in  
9           the service during the 6 calendar months  
10          preceding July 1, 1992, annualized;

11          “(ii) 253 sailings each year in each di-  
12          rection between the East Coast or Gulf  
13          Coast of the United States and Puerto  
14          Rico with an annual 40-foot equivalent  
15          unit container or trailer capacity equal to  
16          100 percent of the capacity of its barges  
17          employed in the service on the date of the  
18          enactment of the Maritime Security and  
19          Competitiveness Act of 1993;

20          “(iii) 37 regularly scheduled tandem  
21          tow rail barge sailings and 10 additional  
22          single tow rail barge sailings each year in  
23          each direction between Washington and the  
24          Alaskan port range between and including  
25          Anchorage and Whittier with an annual

1 capacity allocated to the service in each di-  
2 rection of 100 percent of the total rail car  
3 capacity of its vessels employed in the serv-  
4 ice on July 1, 1992;

5 “(iv) 8 regularly scheduled single tow  
6 sailings each year in each direction be-  
7 tween Washington and points in Alaska  
8 (not including the port range between and  
9 including Anchorage and Whittier, except  
10 occasional deviations to discharge inciden-  
11 tal quantities of cargo) with an annual ca-  
12 pacity allocated to the service in each di-  
13 rection of 100 percent of the total capacity  
14 of its vessels employed in the service on  
15 July 1, 1992; and

16 “(v) unscheduled, contract carrier tug  
17 and barge service between points in Alaska  
18 south of the Arctic Circle not served by the  
19 common carrier service permitted under  
20 clause (iii) and points in the contiguous 48  
21 States, with an annual capacity allocated  
22 to that service not exceeding 100 percent  
23 of the total capacity of the equipment that  
24 was dedicated to service south of the Arctic  
25 Circle on July 1, 1992, and actually uti-

1           lized in that service in the 2-year period  
2           preceding that date.

3           “(D) ANNUALIZATION.—Capacity other-  
4           wise required by this paragraph to be permitted  
5           under a waiver under this subsection shall be  
6           annualized if not a seasonal service.

7           “(E) ADJUSTMENTS.—

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

24          “(ii) The increase in permitted capac-  
25          ity under clause (i) in the noncontiguous

1 trade with Alaska shall be allowed only to  
2 the extent the operator actually uses that  
3 increased capacity to carry cargo in the  
4 permitted service in the calendar year im-  
5 mediately following the preceding increase  
6 in gross product. However, if an operator  
7 operating exclusively containerized vessels  
8 in that trade on July 1, 1992, carries an  
9 average load factor of at least 90 percent  
10 of permitted capacity (including the capac-  
11 ity, if any, both authorized and used under  
12 the previous sentence) during 9 months of  
13 any one calendar year, than in the next fol-  
14 lowing calendar year and thereafter, the  
15 requirement that additional capacity must  
16 be used in the immediately following year  
17 does not apply.

18 “(F) SERVICE LEVELS NOT INCREASED BY  
19 TERMINATION OF AGREEMENT.—The termi-  
20 nation of an operating agreement under section  
21 405(a)(10) shall not be considered to increase  
22 a level of service specified in subparagraph (A),  
23 (B), or (C) if the contractor under the agree-  
24 ment enters into another operating agreement  
25 after that termination.

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.—Subject to  
25 the time required for publication of notice and for

1 receipt and evaluation of comments by the Sec-  
2 retary, an application for a waiver under this sub-  
3 section submitted at the same time the applicant ap-  
4 plies for inclusion of a vessel in the Fleet shall be  
5 granted in accordance with the level of service deter-  
6 mined by the Secretary under this subsection by not  
7 later than the date on which the Secretary offers to  
8 the applicant an operating agreement with respect to  
9 that vessel.

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

15 “(d) EMERGENCY WAIVER.—Notwithstanding any  
16 other provision of this section, the Secretary may, without  
17 hearing, temporarily waive the application of subsection  
18 (a)(1)(B) if the Secretary finds that a material change or  
19 increase is essential in order to respond adequately to (1)  
20 an environmental or natural disaster or emergency, or (2)  
21 another emergency declared by the President. Any waiver  
22 shall be for a period of not to exceed 45 days, except that  
23 a waiver may be renewed for 30-day periods if the Sec-  
24 retary finds that adequate capacity continues to be other-  
25 wise unavailable.

1       “(e) ANNUAL REPORT ON WAIVERS.—Each waiver  
2 under this section shall require the person who is granted  
3 the waiver to submit to the Secretary each year an annual  
4 report setting forth for the service authorized by the waiv-  
5 er—

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

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

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

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

16               “(1) the term ‘noncontiguous trade’ means  
17 trade between—

18                       “(A) a point in the contiguous 48 States;

19               and

20                       “(B) a point in Alaska, Hawaii, or Puerto  
21 Rico, other than a point in Alaska north of the  
22 Arctic Circle; and

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

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

1           “(B) an officer, director, agency, or other  
2           executive of a contractor or of a person referred  
3           to in subparagraph (A).

4   **“SEC. 407. OPERATING COMPETING FOREIGN VESSELS.**

5           “(a) IN GENERAL.—Except as provided in this sec-  
6           tion, a contractor (including a related party with respect  
7           to a contractor) may not own, charter, or operate a foreign  
8           vessel in competition with a United States documented  
9           vessel.

10          “(b) EXCEPTION.—Subsection (a) does not apply to  
11          a foreign vessel if—

12                 “(1)(A) the contractor has applied for an oper-  
13                 ating agreement for a vessel to be operated in the  
14                 same service as the foreign vessel; and

15                 “(B) the Secretary, due to the unavailability of  
16                 funds, does not award an operating agreement to  
17                 that contractor for a United States documented ves-  
18                 sel for that service within 60 days after that applica-  
19                 tion is submitted;

20                 “(2) the Secretary, after notice and an oppor-  
21                 tunity for a hearing, under special circumstances,  
22                 and for good cause shown, waives subsection (a) for  
23                 the contractor for a specified period of time; or

24                 “(3) the foreign vessel was operated by that  
25                 contractor on August 5, 1993.



1 **“SEC. 408. FUNDING FOR OPERATING AGREEMENTS.**

2       “(a) AUTHORIZATION OF APPROPRIATIONS.—For en-  
3 tering into operating agreements under this title there are  
4 authorized to be appropriated to the Secretary  
5 \$1,200,000,000 for fiscal year 1995. Amounts appro-  
6 priated under this subsection shall remain available until  
7 expended.

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

14 **“SEC. 409. DEFINITIONS.**

15       “In this title:

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

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

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

4           “(4) FLEET.—The term ‘Fleet’ means the Mar-  
5           itime Security Fleet established under section 402.

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

9           “(6) RELATED PARTY.—The term ‘related  
10          party’ means, with respect to a contractor or other  
11          person—

12                 “(A) a holding company, subsidiary, affili-  
13                 ate, or association of the person; and

14                 “(B) an officer, director, other executive,  
15                 or agent of the person or of an entity referred  
16                 to in paragraph (1).

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

19           “(8) UNITED STATES DOCUMENTED VESSEL.—  
20          The term ‘United States documented vessel’ means  
21          a vessel that is documented under chapter 121 of  
22          title 46, United States Code.”.

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

24          (a) TERMINATION OF EXISTING CONTRACTS.—Not-  
25          withstanding any other provision of this Act, any contract

1 in effect under title VI of the Merchant Marine Act, 1936  
2 (46 App. U.S.C. 1171 et seq.), on the day before the date  
3 of enactment of this Act shall continue in effect under its  
4 terms and terminate as set forth in the contract, unless  
5 voluntarily terminated on an earlier date by the persons  
6 (other than the United States Government) that are par-  
7 ties to the contract.

8 (b) AGE ACCELERATION OF BULK CARGO ODS VES-  
9 SELS.—Section 506 of the Merchant Marine Act, 1936  
10 (46 App. U.S.C. 1156) is amended—

11 (1) by inserting “(a)” after “SEC. 506.”; and  
12 (2) by adding at the end the following new sub-  
13 section:

14 “(b) For purposes of this section, any liquid or dry  
15 bulk cargo vessel for which operating-differential subsidy  
16 is required to be paid under a contract under title VI that  
17 is in force on May 19, 1993, shall, effective upon the ter-  
18 mination date of the contract (as set forth in the contract  
19 as in effect on May 19, 1993, be deemed to have reached  
20 the age of 20 years.”.

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

1 **“SEC. 616. LIMITATION ON APPLICATION OF RESTRICTIONS**  
2 **ON OPERATIONS.**

3 “(a) Sections 605(c) and 804, this section, and the  
4 essential service requirements in section 601(a) and  
5 603(a), do not apply to a contractor if—

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

10 “(2) all of those vessels for which operating  
11 agreements are offered by the Secretary under title  
12 IV are enrolled in the Maritime Security Fleet.

13 “(b)(1) With respect to the operations of a contractor  
14 receiving operating-differential subsidy for liner vessels on  
15 a particular trade route, as defined in that contractor’s  
16 contract in effect on January 1, 1993, that operator shall  
17 not be subject to the restrictions of either section 605(c)  
18 or section 804 with respect to operations on that trade  
19 route, commencing at such time as—

20 “(A) that operator transfers 50 percent or more  
21 of its vessels that were operating on that trade route  
22 as of January 1, 1993, from the operating-differen-  
23 tial subsidy program to the Maritime Security Fleet  
24 program under title IV; or

25 “(B) that operator is the only contractor receiv-  
26 ing operating-differential subsidy with respect to

1 that trade route, and all other United States-flag  
2 liner operators operating a vessel on that trade route  
3 are operating on that trade route only vessels for  
4 which there are in effect operating agreements under  
5 title IV.

6 “(2) With respect to any contractor receiving operat-  
7 ing-differential subsidy for liner vessels on Maritime Ad-  
8 ministration Essential Trade Route 1, 2, or 8, that opera-  
9 tor shall not be subject to the restrictions of either section  
10 605(c) or section 804 with respect to operations on any  
11 of those trade routes, commencing at such time as pay-  
12 ments begin to accrue on behalf of another United States-  
13 flag operator that is a party to an operating agreement  
14 under title IV which provides liner service on Maritime  
15 Administration Essential Trade Route 2.”.

16 (d) ELIMINATION OF TRADE ROUTE RESTRIC-  
17 TIONS.—Section 809(a) of the Merchant Marine Act,  
18 1936 (46 U.S.C. 1213(a)) is amended by adding at the  
19 end the following: “This subsection shall not apply to con-  
20 tracts under title IV or funds for such contracts.”.

21 **SEC. 5. ELIMINATION OF CONSTRUCTION DIFFERENTIAL**  
22 **SUBSIDY RESTRICTIONS.**

23 Title V of the Merchant Marine Act, 1936 (46 App.  
24 U.S.C. 1151 et seq.), is amended by adding at the end  
25 the following:

1 **“SEC. 512. LIMITATION ON RESTRICTIONS.**

2 “Notwithstanding any other provision of law or con-  
3 tract, all restrictions and requirements under sections  
4 503, 506, and 802 applicable to a liner vessel constructed,  
5 reconstructed, or reconditioned with the aid of construc-  
6 tion-differential subsidy shall terminate upon the expira-  
7 tion of the 25-year period beginning on the date of the  
8 original delivery of the vessel from the shipyard.”.

9 **SEC. 6. DEFINITIONS APPLICABLE TO MERCHANT MARINE**  
10 **ACT, 1936.**

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

13 (1) by striking subsection (a) and inserting the  
14 following:

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

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

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

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

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

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

1       “(h) The term ‘foreign subsidized shipyard’ means a  
2 shipyard that—

3           “(1) receives or benefits from, directly or indi-  
4 rectly, a shipyard subsidy for the construction of  
5 vessels; and

6           “(2) is located in a foreign country that has not  
7 signed a trade agreement with the United States  
8 that provides for the elimination of subsidies for  
9 that shipyard.

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

11           “(1) Officially supported export credits and de-  
12 velopment assistance.

13           “(2) Direct official operating support to the  
14 commercial shipbuilding and repair industry, or to a  
15 related entity that favors the operation of shipbuild-  
16 ing and repair, including—

17           “(A) grants;

18           “(B) loans and loan guarantees other than  
19 those available on the commercial market;

20           “(C) forgiveness of debt;

21           “(D) equity infusions on terms inconsistent  
22 with commercially reasonable investment prac-  
23 tices;

24           “(E) preferential provision of goods and  
25 services; and

1           “(F) public sector ownership of commercial  
2           shipyards on terms inconsistent with commer-  
3           cially reasonable investment practices.

4           “(3) Direct official support for investment in  
5           the commercial shipbuilding and repair industry, or  
6           to a related entity that favors the operation of ship-  
7           building and repair, including the kinds of support  
8           listed in clauses (i) through (v) of subparagraph (B),  
9           and any restructuring support, except public support  
10          for social purposes directly and effectively linked to  
11          shipyard closures.

12          “(4) Assistance in the form of grants, pref-  
13          erential loans, preferential tax treatment, or other-  
14          wise, that benefits or is directly related to shipbuild-  
15          ing and repair for purposes of research and develop-  
16          ment that is not equally open to domestic and for-  
17          eign enterprises.

18          “(5) Tax policies and practices that favor the  
19          shipbuilding and repair industry, directly or indi-  
20          rectly, such as tax credits, deductions, exemptions  
21          and preferences, including accelerated depreciation,  
22          if the benefits are not generally available to persons  
23          or firms not engaged in shipbuilding or repair.

24          “(6) Any official regulation or practice that au-  
25          thorizes or encourages persons or firms engaged in



1 shipbuilding or repair to enter into anticompetitive  
2 arrangements.

3 “(7) Any indirect support directly related, in  
4 law or in fact, to shipbuilding and repair at national  
5 yards, including any public assistance favoring ship-  
6 owners with an indirect effect on shipbuilding or re-  
7 pair activities, and any assistance provided to suppli-  
8 ers of significant inputs to shipbuilding, which re-  
9 sults in benefits to domestic shipbuilders.

10 “(8) Any export subsidy identified in the Illus-  
11 trative List of Export Subsidies in the Annex to the  
12 Agreement on Interpretation and Application of Ar-  
13 ticles VI, XVI, and XXIII of the General Agreement  
14 on Tariffs and Trade or any other export subsidy  
15 that may be prohibited as a result of the Uruguay  
16 Round of trade negotiations.”.

17 **SEC. 7. GOVERNMENT-IMPELLED CARGOES.**

18 (a) **VESSELS ELIGIBLE FOR CARGOES.**—Section  
19 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C.  
20 1241(b)) is amended—

21 (1) in paragraph (1), by striking “For purposes  
22 of this section, the term ‘privately owned United  
23 States-flag commercial vessels’” and all that follows  
24 through the end of the paragraph; and

1           (2) by adding at the end the following new  
2 paragraphs:

3           “(3) In this section and section 901b, the term ‘pri-  
4 vately owned United States-flag commercial vessel’ means  
5 a privately owned vessel that is documented under chapter  
6 121 of title 46, United States Code, that—

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

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

10           “(C) does not transport under section 901b or  
11 this section on any voyage more than 12,000 tons of  
12 bulk cargo (as defined in section 3 of the Shipping  
13 Act of 1984), and—

14           “(i) was built in a foreign shipyard under  
15 a contract entered into on or before May 19,  
16 1993;

17           “(ii) is built under a contract entered into  
18 after that date, in a foreign shipyard that on  
19 the date the contract is entered is not a foreign  
20 subsidized shipyard; or

21           “(iii) is subject to an operating agreement  
22 under title IV;

23           “(D)(i) is built under a contract entered into  
24 after May 19, 1993, in a foreign shipyard that on

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

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

6 “(E) has been documented under chapter 121  
7 of title 46, United States Code, for at least 3 con-  
8 secutive years, did not transport any equipment, ma-  
9 terials, or commodities during that period under this  
10 section or section 901b, and—

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

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

17 “(4) In paragraph (3), the term ‘built’ includes re-  
18 built.”.

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

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

1 **SEC. 8. VESSEL FINANCING.**

2 (a) **ELIMINATION OF MORTGAGEE RESTRICTIONS.**—  
3 Section 31322(a) of title 46, United States Code, is  
4 amended to read as follows:

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

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

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

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

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

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

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

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

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

26 (1) in subsection (c)—

1 (A) by striking “31328” and inserting  
2 “12106(e)”; and

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

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

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

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

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

17 (d) LEASE FINANCING.—Section 12106 of title 46,  
18 United States Code, is amended by adding at the end the  
19 following new subsections:

20 “(e)(1) A certificate of documentation for a vessel  
21 may be endorsed with a coastwise endorsement if—

22 “(A) the vessel is eligible for documentation  
23 under section 12102;

24 “(B) the vessel is otherwise qualified under this  
25 section to be employed in the coastwise trade;

1           “(C) the person that owns the vessel, or any  
2 other person that owns or controls the person that  
3 owns the vessel, is primarily engaged in leasing or  
4 other financing transactions;

5           “(D) the vessel is under a demise charter to a  
6 person qualifying as a citizen of the United States  
7 for engaging in the coastwise trade under section 2  
8 of the Shipping Act, 1916; and

9           “(E) the demise charter is for—

10                   “(i) a period of at least 3 years; or

11                   “(ii) such shorter period as may be pre-  
12 scribed by the Secretary.

13           “(2) On termination of a demise charter required  
14 under paragraph (1)(D), the coastwise endorsement may  
15 be continued for a period not to exceed 6 months on any  
16 terms and conditions that the Secretary of Transportation  
17 may prescribe.

18           “(f) For purposes of the first proviso of section 27  
19 of the Merchant Marine Act, 1920, section 2 of the Ship-  
20 ping Act, 1916, and section 12102(a), a vessel meeting  
21 the criteria of subsection (d) or (e) is deemed to be owned  
22 exclusively by citizens of the United States.”.

1 **SEC. 9. PLACEMENT OF VESSELS UNDER FOREIGN REG-**  
2 **ISTRY.**

3 (a) IN GENERAL.—Section 9 of the Shipping Act,  
4 1916 (46 App. U.S.C. 808), as amended by this Act, is  
5 further amended by adding at the end the following:

6 “(e) Notwithstanding subsection (c)(2), the Merchant  
7 Marine Act, 1936, or any contract entered into with the  
8 Secretary under that Act, a vessel may be placed under  
9 a foreign registry, without approval of the Secretary, if—

10 “(1)(A) the Secretary determines that at least  
11 one replacement vessel of a capacity that is equiva-  
12 lent or greater, as measured by deadweight tons,  
13 gross tons, or container equivalent units, as appro-  
14 priate, is documented under chapter 121 of title 46,  
15 United States Code, by the owner of the vessel  
16 placed under the foreign registry; and

17 “(B) the replacement vessel is not more than  
18 10 years of age on the date of that documentation;

19 “(2)(A) the owner of the vessel has applied for  
20 an operating agreement under title IV of the Mer-  
21 chant Marine Act, 1936; and

22 “(B) the Secretary, due to the unavailability of  
23 funds, has not awarded that owner an operating  
24 agreement within 60 days after the date of that ap-  
25 plication; or

1           “(3)(A) before the expiration of an operating  
2 agreement entered into under title IV of the Mer-  
3 chant Marine Act, 1936, the owner has applied for  
4 a new operating agreement; and

5           “(B) the Secretary, due to the unavailability of  
6 funds, has not awarded the owner an operating  
7 agreement before the later of—

8                   “(i) 60 days after the application for a new  
9 operating agreement; or

10                   “(ii) the date of expiration of the operating  
11 agreement.

12           “(f) The Secretary shall give notice and an oppor-  
13 tunity for a hearing for all approvals applied for under  
14 subsection (c)(2) for oceangoing merchant vessels that are  
15 of at least 3,000 gross tons.”.

16           (b) APPLICATION.—The amendment made by sub-  
17 section (a) applies to vessels that are placed under foreign  
18 registry after the date of enactment of this Act and re-  
19 placement vessels documented in the United States after  
20 that date.

21           (c) COURT SALES OF VESSELS.—Section 31329 of  
22 title 46, United States Code, is amended to read as fol-  
23 lows:



1 **“§ 31329. Court sales of documented vessels**

2 “When a documented vessel is sold by order of a dis-  
3 trict court to a mortgagee not eligible to own a docu-  
4 mented vessel—

5 “(1) that sale is not a sale foreign within the  
6 terms of the first proviso of section 27 of the Mer-  
7 chant Marine Act, 1920 (46 App. U.S.C. 883); and

8 “(2) unless the vessel is transferred to a foreign  
9 registry, the vessel may be operated only with the  
10 approval of the Secretary of Transportation.”.

11 **SEC. 10. SERIES CONSTRUCTION ASSISTANCE.**

12 The Merchant Marine Act, 1936 (46 App. U.S.C.  
13 1101 et seq.) is amended by adding at the end the follow-  
14 ing:

15 **“TITLE XIV—SERIES**  
16 **CONSTRUCTION ASSISTANCE**

17 **“SEC. 1401. PAYMENT OF ASSISTANCE AUTHORIZED.**

18 “(a) IN GENERAL.—The Secretary of Transportation  
19 (hereinafter in this title referred to as the ‘Secretary’)  
20 may, subject to the availability of appropriations, pay as-  
21 sistance in accordance with this title to the owner of a  
22 shipyard that is located in the United States for the con-  
23 struction (including outfitting and equipping) of any com-  
24 mercial vessel that is one of a series of vessels for which  
25 payment of assistance under this section to the owner is  
26 approved by the Secretary under section 1402.

1       “(b) AMOUNT OF ASSISTANCE.—The total amount of  
2 assistance paid under this section with respect to a vessel  
3 shall be equal to the series transition payment determined  
4 for the vessel under section 1403(a).

5       **“SEC. 1402. APPROVAL OF ASSISTANCE FOR CONSTRU-**  
6                                   **CTION OF SERIES OF VESSELS.**

7       “(a) APPROVAL OF ASSISTANCE.—

8               “(1) IN GENERAL.—The Secretary may approve  
9 payment of assistance under section 1401 for con-  
10 struction of a series of vessels in a shipyard if—

11                       “(A) the owner of the shipyard submits an  
12 application for that assistance in accordance  
13 with section 1405;

14                       “(B) the Secretary makes the determina-  
15 tions described in subsection (b); and

16                       “(C) the Secretary determines that pay-  
17 ment of the assistance will contribute to main-  
18 taining national vessel construction capabilities  
19 that are essential in time of war or national  
20 emergency.

21               “(2) LIMITATION.—The Secretary may not ap-  
22 prove assistance under this section for a series of  
23 vessels if the series transition payment determined  
24 under section 1403(a) for any vessel in the series is  
25 greater than 50 percent of the estimate of the cost

1 of constructing the vessel determined by the Sec-  
2 retary under section 1403(b)(2).

3 “(b) DETERMINATIONS BY SECRETARY.—The Sec-  
4 retary may not approve assistance for construction of a  
5 series of vessels in a shipyard unless the Secretary has  
6 determined the following:

7 “(1) VESSEL REQUIREMENTS.—The vessels  
8 are—

9 “(A) commercial vessels of at least 10,000  
10 gross tons; and

11 “(B) commercially marketable on the inter-  
12 national market.

13 “(2) SHIPYARD REQUIREMENTS.—The shipyard  
14 in which the vessels will be constructed—

15 “(A) is located in the United States; and

16 “(B) upon completion of construction of  
17 the vessels, will be capable of constructing addi-  
18 tional vessels of the same type as those in the  
19 series for a price that is competitive in the  
20 international market.

21 “(3) APPLICANT REQUIREMENTS.—The appli-  
22 cant for the assistance—

23 “(A) has the ability, financial resources,  
24 and other qualifications necessary for construc-  
25 tion of the vessels;

1           “(B) has entered into a contract for the  
2           construction of each of the first 2 vessels to be  
3           constructed in the series, which may include a  
4           contract for a vessel that will be constructed  
5           without assistance under this title; and

6           “(C) is the owner of the shipyard in which  
7           the vessels will be constructed.

8           “(4) CONTRACT REQUIREMENTS.—Each of the  
9           contracts required under paragraph (3)(B) are bind-  
10          ing obligations on the applicant and all other parties  
11          to the contracts, except that such a contract may be  
12          contingent on—

13                 “(A) the approval of assistance under this  
14                 title for construction of a vessel under the con-  
15                 tract; and

16                 “(B) the making of a guarantee or com-  
17                 mitment to guarantee obligations under title XI  
18                 for construction under the contract.

19           “(5) PURCHASER REQUIREMENTS.—Each per-  
20          son that is a purchaser of a vessel under a contract  
21          required under paragraph (3)(B)—

22                 “(A) has the ability, financial resources,  
23                 and other qualifications necessary to own and  
24                 operate the vessel in commercial service; and

25                 “(B) is a party to the contract.

1           “(6) SERIES TRANSITION PAYMENT.—The se-  
2           ries transition payment under section 1403 for each  
3           vessel in the series.

4           “(c) PRIORITY FOR CERTAIN SERIES OF VESSELS.—  
5           In approving assistance under this title, the Secretary may  
6           give priority to a series of vessels—

7                   “(1) if a smaller number of vessels in the series  
8                   are required to be constructed with assistance before  
9                   construction of that type of vessel becomes cost ef-  
10                  fective;

11                   “(2) for which the total of the series transition  
12                   payments determined under section 1403 for all ves-  
13                   sels in the series is less than that total for other se-  
14                   ries of vessels for which applications are submitted  
15                   for assistance under this title;

16                   “(3) that will be constructed in a shipyard with  
17                   respect to which assistance under this title has not  
18                   been provided; or

19                   “(4) that would contribute to the preservation  
20                   of a shipyard that would be essential in a time of  
21                   war or national emergency.

22           **“SEC. 1403. DETERMINATION OF SERIES TRANSITION PAY-**  
23   **MENTS.**

24           “(a) IN GENERAL.—The Secretary shall determine  
25           the series transition payment for each vessel in a series

1 of vessels for which an application for assistance under  
2 this title is received by the Secretary.

3 “(b) AMOUNT OF SERIES TRANSITION PAYMENT.—

4 The series transition payment for a vessel under sub-  
5 section (a) is equal to the difference of—

6 “(1) the estimated cost of completing construc-  
7 tion of the vessel, as included in the application for  
8 assistance submitted under section 1405; minus

9 “(2) a reasonable estimate of the cost of con-  
10 structing the vessel under similar plans and speci-  
11 fications in a foreign shipyard that is considered by  
12 the Secretary to be a fair and representative exam-  
13 ple for purposes of determining the payment.

14 **“SEC. 1404. SERIES CONSTRUCTION AGREEMENT.**

15 “(a) IN GENERAL.—

16 “(1) IN GENERAL.—The Secretary shall, for  
17 each series of vessels for which assistance is ap-  
18 proved under section 1402, enter into a series con-  
19 struction agreement with the owner of the shipyard  
20 in which the series of vessels will be constructed,  
21 under which the Secretary is required to pay the  
22 owner assistance in accordance with a schedule es-  
23 tablished under paragraph (2).

24 “(2) SCHEDULE FOR PAYMENTS.—An agree-  
25 ment under this subsection shall establish a schedule

1 for the payment of assistance under the agreement,  
2 that is based on the construction schedule for vessels  
3 for which the assistance is paid.

4 “(3) TERMINATION OF AGREEMENT.—An  
5 agreement under this subsection shall authorize the  
6 Secretary to terminate the agreement if—

7 “(A) a contract required under section  
8 1402(b)(3)(B) is terminated by the purchaser  
9 of the vessel under the contract, and the owner  
10 of the shipyard does not enter into a new con-  
11 tract for construction of the vessel within a pe-  
12 riod which shall be specified in the agreement;  
13 or

14 “(B) the owner of the shipyard fails to  
15 enter into contracts for construction of all ves-  
16 sels in the series of vessels to which the agree-  
17 ment applies, within a period which shall be  
18 specified in the agreement.

19 “(4) CONTINUING EFFECT OF AGREEMENT  
20 WITH RESPECT TO VESSELS COVERED BY CON-  
21 TRACTS.—The termination of a series construction  
22 agreement under paragraph (3) shall not affect the  
23 effectiveness of the agreement with respect to vessels  
24 for which a construction contract is in effect on the  
25 date of termination.

1       “(b) BINDING OBLIGATION OF THE UNITED  
2 STATES.—

3           “(1) IN GENERAL.—Except as provided in para-  
4 graph (2), a requirement that the Secretary make  
5 payments under a series construction agreement  
6 under subsection (a) shall constitute a binding obli-  
7 gation of the United States.

8           “(2) TERMINATION OF OBLIGATION.—If the  
9 Secretary terminates a series construction agreement  
10 pursuant to subsection (a)(3), the obligation of the  
11 United States under paragraph (1) to make pay-  
12 ments under the agreement shall terminate with re-  
13 spect to vessels for which no construction contract is  
14 in effect on the date of termination of the agree-  
15 ment.

16           “(3) CONTINUING AVAILABILITY OF  
17 AMOUNTS.—Amounts to be used to liquidate an obli-  
18 gation under paragraph (1) that terminates under  
19 paragraph (2) shall remain available to the Sec-  
20 retary for the payment of assistance under this title.

21 **“SEC. 1405. APPLICATIONS FOR ASSISTANCE.**

22           “(a) SUBMITTAL.—A person desiring assistance  
23 under this title shall, in accordance with this section, sub-  
24 mit an application to the Secretary.



1       “(b) CONTENTS OF APPLICATION.—An application  
2 for assistance under this title with respect to a series of  
3 vessels shall include the following:

4           “(1) A detailed description of the type of ves-  
5 sels included in the series, including plans and speci-  
6 fications for the vessels.

7           “(2) Detailed estimates of the cost of complet-  
8 ing construction of each of the vessels in the series,  
9 including such estimates from subcontractors for the  
10 construction as may be required by the Secretary.

11          “(3) Copies of the contracts required under sec-  
12 tion 1402(b)(3)(B).

13          “(4) Other information required by the Sec-  
14 retary to fulfill the requirements of this title.

15       “(c) REGULATIONS.—The Secretary shall issue regu-  
16 lations setting forth the procedures for submitting an ap-  
17 plication for assistance under this title.

18 **“SEC. 1406. RESTRICTION ON VESSEL OPERATIONS.**

19       “A vessel for which assistance is paid under this  
20 title—

21           “(1) may be operated only in foreign trade or  
22 domestic trade authorized under a registry endorse-  
23 ment for the vessel issued under section 12105 of  
24 title 46, United States Code; and

1           “(2) may not be operated in the coastwise trade  
2           of the United States (including mixed coastwise and  
3           foreign trade), except coastwise trade authorized  
4           under a registry endorsement for the vessel issued  
5           under section 12105 of title 46, United States Code.

6   **“SEC. 1407. VESSEL DESIGN AWARDS.**

7           “The Secretary, subject to the availability of appro-  
8           priations, may make an award to a United States shipyard  
9           on an equal matching basis for the cost of vessel designs  
10          and document and bid preparation for vessels described  
11          in section 403(b)(4).”.

12   **SEC. 11. EFFECTIVE DATE.**

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

16   **SEC. 12. REGULATIONS.**

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

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

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

6 **SEC. 13. EXPANSION OF STANDING FOR MARITIME UNIONS.**

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

10 “(c) STANDING FOR MARITIME UNION REPRESENTA-  
11 TIVES.—The duly-elected representative of any organiza-  
12 tion that is certified by the Secretary of Labor as the prop-  
13 er collective bargaining agency for officers or crew em-  
14 ployed on any type of United States documented vessel  
15 is an interested party in, and has standing to challenge,  
16 any proposed or final order, action, or rule of the Sec-  
17 retary of Transportation under this Act or section 9(c)(2)  
18 of the Shipping Act, 1916.”.

19 **SEC. 14. STUDY.**

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

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

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

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

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

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

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

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

1 **SEC. 15. CARGO PREFERENCE ADMINISTRATIVE REFORM.**

2 (a) FINDINGS.—The Congress finds and declares  
3 that—

4 (1) the Congress continues to support the cargo  
5 preference program as an important element of sup-  
6 port for the United States-flag merchant marine be-  
7 cause the United States merchant marine is critical  
8 to the economic and national security of the United  
9 States;

10 (2) reserving a small portion of Government  
11 cargo for United States-flag vessels encourages com-  
12 petition among United States-flag vessels; and

13 (3) administering the cargo preference program  
14 in a centralized, commercially based manner reduces  
15 costs of the program.

16 (b) ADMINISTRATIVE REFORM.—Section 901 of the  
17 Merchant Marine Act, 1936 (46 App. U.S.C. 1241) is  
18 amended by adding at the end the following new sub-  
19 sections:

20 “(d) A privately owned United States-flag commercial  
21 vessel transporting any equipment, materials, or commod-  
22 ities under this section or section 901b shall be engaged  
23 under terms no less favorable than the most favorable  
24 terms offered to any foreign-flag vessel transporting  
25 equipment, materials, or commodities under this section  
26 or section 901b.

1       “(e) A contract for the ocean transportation of any  
2 equipment, materials, or commodities under this section  
3 or section 901b, to the extent the Secretary of Transpor-  
4 tation, in consultation with the heads of other appropriate  
5 agencies, determines necessary to further the purposes of  
6 this section and section 901b, shall be based on contracts  
7 used for commercial shipments.

8       “(f) The Secretary of Transportation shall partici-  
9 pate in negotiations relating to agreements with recipient  
10 countries for equipment, materials, or commodities subject  
11 to this section or section 901b to the extent the Secretary,  
12 in consultation with the heads of other appropriate agen-  
13 cies, considers to be necessary to ensure agreement provi-  
14 sions relating to or affecting the transportation of such  
15 equipment, materials, or commodities permit fair and rea-  
16 sonable transportation services to be provided.

17       “(g) No later than 180 days after the date of the  
18 enactment of the Maritime Security and Competitiveness  
19 Act of 1993, the heads of appropriate Federal agencies,  
20 or their representatives, shall transmit to the Secretary  
21 of Transportation recommendations relating to the meth-  
22 odology used by the Secretary of Transportation to deter-  
23 mine whether rates for United States-flag vessels are fair  
24 and reasonable in compliance with section 901(b) and will  
25 achieve the policy objectives of this Act.”.

1 (c) Within 90 days after the date of enactment of  
2 this Act, the Secretary of Transportation shall take ac-  
3 tions to ensure and maintain a significant increase of gov-  
4 ernment-impelled cargo through Great Lakes ports,  
5 through administrative waivers and action and through an  
6 exemption of cargo preference requirements.

7 **SEC. 16. WAGES FOR WHICH PREFERRED MARITIME LIEN**  
8 **MAY BE ESTABLISHED.**

9 (a) IN GENERAL.—Section 31301(5)(D) of title 46,  
10 United States Code, is amended by inserting before the  
11 semicolon the following: “(including any payment de-  
12 scribed in paragraph (5), (6), (7), (8), or (9) of section  
13 302(c) of the Labor Management Relations Act, 1947 for  
14 any individual as a member of the crew of the vessel, that  
15 is due from and unpaid by an owner or managing operator  
16 of the vessel)”.

17 (b) INCURRING OBLIGATIONS BEFORE EXECUTING  
18 PREFERRED MORTGAGES.—Section 31323(b)(2) of title  
19 46, United States Code, is amended by inserting before  
20 the semicolon the following: “(including any payment de-  
21 scribed in paragraph (5), (6), (7), (8), or (9) of section  
22 302(c) of the Labor Management Relations Act, 1947 for  
23 any member of the crew of the vessel)”.

24 (c) MASTER’S LIEN FOR WAGES.—Section 11112 of  
25 title 46, United States Code, is amended by inserting after

1 “wages” the following: “(including any payment described  
2 in paragraph (5), (6), (7), (8), or (9) of section 302(c)  
3 of the Labor Management Relations Act, 1947 for an indi-  
4 vidual as master of the vessel, that is due from and unpaid  
5 by an owner or managing operator of the vessel)”.

6 (d) APPLICATION.—The amendments made by sub-  
7 sections (a), (b), and (c) shall apply with respect to pay-  
8 ments that first become due on or after the date of the  
9 enactment of this Act.

10 **SEC. 17. COMPLIANCE WITH BUY AMERICAN ACT.**

11 No funds appropriated pursuant to this Act may be  
12 expended by an entity unless the entity agrees that in ex-  
13 pending the assistance the entity will comply with sections  
14 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-  
15 10c, popularly known as the “Buy American Act”).

16 **SEC. 18. SENSE OF CONGRESS; REQUIREMENT REGARDING**  
17 **NOTICE.**

18 (a) PURCHASE OF AMERICAN-MADE EQUIPMENT  
19 AND PRODUCTS.—In the case of any equipment or prod-  
20 ucts that may be authorized to be purchased with financial  
21 assistance provided under this Act, it is the sense of the  
22 Congress that entities receiving such assistance should, in  
23 expending the assistance, purchase only American-made  
24 equipment and products.



1 (b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In  
 2 providing financial assistance under this Act, the head of  
 3 each Federal agency shall provide to each recipient of the  
 4 assistance a notice describing the statement made in sub-  
 5 section (a) by the Congress.

Passed the House of Representatives November 4,  
 1993.

Attest: DONNALD K. ANDERSON,  
*Clerk.*

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