

STATEMENT OF
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BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE
OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES
REGARDING H.R. 1878 A BILL "TO IMPROVE THE
INTERNATIONAL OCEAN COMMERCE TRANSPORTATION
SYSTEM OF THE UNITED STATES"

MARCH 22, 1983

Mr. Chairman and Members of the Subcommittee on Merchant Marine, I am very pleased to appear before you today as the Administration's spokesperson on maritime affairs and to have this opportunity to make a few comments on the important subject of maritime regulatory reform. I am accompanied today by Admiral Harold E. Shear, Administrator of the Maritime Administration, and Stuart Breidbart, Chief Counsel of the Maritime Administration.

Mr. Chairman, the speed with which you reintroduced this legislation reflects your commitment to meaningful reform of the ocean shipping industry. I share your commitment. The Department of Transportation will work as long and hard as needed to obtain a good maritime regulatory reform law.

Shortly after my nomination as Secretary of Transportation and in one of my earliest conversations with my predecessor, Drew Lewis told me that one of his regrets was leaving behind an unfinished maritime regulatory reform bill. I assured him that in my former White House position I strongly supported the Administration's maritime objectives, and the efforts by the Congress to enact needed reforms, and that regulatory reform of the international ocean commerce transportation system of this nation would be

one of my priorities as Secretary of Transportation. It is critical to any effort to revitalize the American merchant marine. Minimizing government intervention in business and putting U.S. carriers on an equal footing with foreign carriers are essential if we are going to improve the competitive position of U.S.-flag operators.

Mr. Chairman, we look forward to quick and favorable House action on maritime regulatory reform legislation in this Congress. Such reform of the maritime industry is an integral part of the Administration's maritime policy because it is so essential to reestablishing the economic health of our merchant marine. The merchant marine must be strong enough to support our commercial interests and to meet the need for logistical support for national defense in time of emergency -- in the future as it has done in the past.

As you know, Mr. Chairman, the passage of the Shipping Act in 1916 demonstrated the Congress' decision that the foreign waterborne commerce of this country should be treated differently from domestic commerce subject to the antitrust laws. Under that Act, carrier agreements had to be filed and approved, but they were specifically exempted from the operation of the Sherman Act and any supplementing antitrust acts which might follow. Over the years, however, that clear Congressional intent has been eroded, and ambiguities have led to highly counterproductive regulatory delays and uncertainties in the administration of the Shipping Act. Eventually, the antitrust immunity which is the core of the Act was undermined. The resulting combination of regulatory and antitrust oversight of the maritime industry has resulted in procedures that are uncertain, expensive and

lengthy. The vague standards that must be met in the pre-approval process have created confusion and inefficiency. We need legislation that will correct procedures presently followed in order to reinstate certainty and predictability in the regulation of liner shipping in our foreign commerce, while adequately protecting all parties -- shippers, carriers and ultimately the American consumer.

As you are all well aware, during the 97th Congress, the Department worked closely with Members of this Committee in the development of regulatory reform legislation. The major objectives of the Administration continue to be:

First, to minimize government intervention in business. The reduction of government involvement in the commercial practices of the maritime industry is consistent with this philosophy and underlies our position. It should not be the responsibility of the Federal government to determine what industry practices might best achieve the efficiencies required by the market place.

Second, to maintain a strong U.S. merchant marine. The President has pledged to reestablish the economic health of our merchant marine, to support our commercial interests abroad, and to meet the need for logistical support for national defense in time of emergency. Restructuring the regulatory framework within which the ocean liner industry operates would be beneficial to the industry, and it is an important step in the implementation of the President's commitment; and

Third, to put U.S. carriers on an equal footing with foreign carriers. In regulating our maritime industry, we are out of step with the rest of the world. U.S. antitrust laws cannot be imposed unilaterally on other nations that favor cooperation among ocean carriers. In the interests of both international comity and fairness, we must recognize the realities of international commerce in which our industry operates and limit its commercial activities only where we can clearly identify other overriding national objectives.

Mr. Chairman, we expect the maritime regulatory reform legislation to achieve important transportation benefits. Increased certainty in the kinds of activities that carriers are permitted to engage in will lead to greater long-term planning, service innovation and efficiency, to the benefit of carriers and shippers alike. Present regulation has impaired the ability of the industry to respond to the requirements of the market place.

It is crucial that the legislation define with greater precision the scope of antitrust immunity which has been in force since passage of the Shipping Act of 1916. A more precise definition would provide greater clarity and certainty for operators and users of shipping services. Further, the legislation must recognize the need for international comity in liner shipping, so as to eliminate many of the problems that have arisen in connection with our trading partners.

Streamlined regulatory procedures will reduce the significant costs of regulation for the industry. This is consistent with one of the fundamental themes underlying this Administration's philosophy. We have already seen

many of the cost benefits of reduced Federal oversight of other modes of transportation. The time for achieving these benefits for the ocean shipping community is long overdue.

Mr. Chairman, the Administration continues to support the objective of increased competition and greater price and service flexibility within the conference system. We favor a number of methods of meeting that objective. Elimination of tariff filing and enforcement requirements will reduce government intrusion into the market place, resulting in greater flexibility. Clarification of the authority of conferences to offer intermodal through rates will increase the availability of worldwide intermodal services to shippers on a vastly simplified basis. Service contracts offer a new opportunity for shippers to obtain the most efficient, individualized services to meet their needs. Shippers see service contracts as a way to lower their transportation costs and make them more competitive, resulting in lower prices to consumers. Finally, independent action in all conferences will promote competition and pricing flexibility by allowing a conference carrier to vary from the conference tariff simply by filing an independent rate.

The Administration supports measures to ensure the continued presence of independent carrier competition in our trades. Independents exert pressure on the conferences to maintain reasonable and competitive rates. Furthermore, their presence ensures that shippers will have options other than conference service available to them. In order to guarantee independents the opportunity to operate in our trades, certain activities must be prohibited so that conferences do not engage in retaliatory or predatory practices against independents.

Mr. Chairman, after having listed provisions and objectives supported by the Administration, I must point out two provisions that bring strong opposition from the Administration. The first is a provision that would authorize U.S.-flag carriers to enter into arrangements to implement the cargo reservation schemes of foreign governments. The response of the United States to the restrictive practices of foreign governments must remain the prerogative of the Federal government, since the interests of both shippers and carriers, as well as the foreign relations of the United States, may be vitally affected. I applaud the fact that the House bill contains no such provision. You should be aware, however, that if an enrolled bill includes such a provision, some agencies may recommend that the President veto the bill. Secondly, the Administration continues to strongly oppose the current requirement that tariffs be filed with and enforced by the Federal government.

Finally, Mr. Chairman, we recognize that there has been some criticism of maritime reform on the grounds that the benefits it would provide will come at the expense of the users of ocean shipping services. That is not the case. The shippers that have supported reform legislation represent informed and experienced consumers of shipping services, not only in the U.S. trades but also in other trades around the world. They include many of our most profitable and aggressive exporters of U.S.-made products, and provide millions of jobs for U.S. workers. As such, they have the greatest stake in ensuring that their needs are adequately reflected in this legislation. For example, shippers sought to establish clearly that they are equal partners in negotiating contract rates for their particular needs. The bills pending in the Congress do this by expanding individual carrier's

freedom to negotiate specific service contracts, time/volume rates, and intermodal contract rates. Shippers sought specific prohibitions on certain kinds of carrier conduct that they regarded as potentially adverse to their interests, and the bills contain effective measures to police such misconduct. These shippers believe, as does the Administration, that maritime regulatory reform will benefit both the maritime industry itself and the people it serves.

Please be assured of the Administration's continuing cooperation in working toward the early enactment of meaningful regulatory reform legislation.

That concludes my prepared statement, Mr. Chairman. I will be pleased to answer any questions that you or the other members of the Subcommittee may have.

Thank you.