

STATEMENT

OF

MATTHEW V. SCOCOZZA
ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

DEPARTMENT OF TRANSPORTATION

BEFORE THE

SUBCOMMITTEE ON MERCHANT MARINE
OF THE
HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE
U.S. HOUSE OF REPRESENTATIVES

WITH RESPECT TO

H.R. 5071, A BILL "TO DEFINE THE CRITERIA
AND PROCEDURES FOR THE PERMANENT ADMISSION
OF VESSELS BUILT WITH CONSTRUCTION
DIFFERENTIAL SUBSIDY INTO THE DOMESTIC
COASTWISE TRADE."

MAY 8, 1984

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Mr. Chairman and Members of the Subcommittee on Merchant Marine. My name is Matthew V. Scocozza, and I am the Assistant Secretary for Policy and International Affairs of the Department of Transportation.

I appreciate the opportunity to represent the Administration with respect to H.R. 5071, a bill "To define the criteria and procedures for the permanent admission of vessels built with construction-differential subsidy into the domestic coastwise trade."

Pursuant to section 506 of the Merchant Marine Act, 1936, (Act) the Secretary of Transportation (Secretary) may authorize a U.S.-flag vessel constructed with the aid of construction-differential subsidy (CDS), to operate in the domestic trade for periods not exceeding six months in any year, upon the terms and conditions set forth in that section.

H.R. 5071 would amend section 506 to generally prohibit the permanent transfer of a CDS-built vessel to our domestic trades, unless the Secretary first determines, after a hearing on the record, that:

- (1) Existing service in the domestic trade is inadequate under the standard prescribed by section 101 of the Act.
- (2) The vessel cannot find employment in the foreign trade during a protracted period exceeding ordinary cyclical downturns in shipping, and
- (3) With the written concurrence of the Secretary of the Navy, the transfer of the vessel will not adversely affect the national security of the United States.

H.R. 5071 would further require that permission by the Secretary to transfer a CDS-built vessel to the domestic trades under this proposed legislation would be conditioned upon prompt repayment of the entire unamortized CDS received, "with interest thereon at the effective rate of interest on mortgages for similar ships in the coastwise trade from the date of such payment during construction and at delivery until the date of repayment."

Finally, the bill provides that a vessel permitted a permanent transfer to the domestic trade is not thereafter eligible for operating-differential subsidy under Title VI of the Act.

The Administration is opposed to the enactment of H.R. 5071.

Mr. Chairman. As you know, the courts have determined that the Secretary has general authority to allow a CDS-built vessel owner to make full repayment of unamortized CDS plus interest, and be released of domestic trading restrictions under section 506. To date, we have exercised this general authority on two occasions.

H.R. 5071 would impinge on this authority, and statutorily impose a CDS repayment policy. In these matters, the flexibility provided by administrative discretion has the very significant advantage of being able to adjust relatively quickly to changed circumstances. This is especially true with respect to the ocean transportation of petroleum in our domestic trades. We must have the flexibility to meet the national interest requirements of the United States. The Administration is therefore of the strong view that any CDS repayment policy should not be statutorily imposed.

Mr. Chairman and Members of the Subcommittee. As you also know, although the Supreme Court upheld the general authority of the Secretary in this regard, the Court did not address the controversial issue of what circumstances would justify the exercise of that authority.

Therefore, in a Notice of Proposed Rulemaking published on January 31, 1983, the Department proposed to allow any owner or operator of a tanker built with CDS to repay that subsidy in a manner that would place these vessels on an equal competitive

footing with ships built without subsidy. Such a vessel could then be operated in our protected domestic trades. About 150 comments were received when the docket closed last May. This rulemaking clearly involves a major and controversial maritime policy issue, and we are carefully reviewing the entire record. As the rulemaking has not been concluded, it is not appropriate for me to comment further on the proceedings at this time.

Finally, Mr. Chairman, I might mention that we have some technical problems with H.R. 5071, especially the requirement for a finding by the Secretary "after a hearing on the record." This requirement would necessitate a full, formal adjudicatory hearing, as distinguished from the less formal and more speedy proceedings presently in place. This requirement would not appear to be the type of administrative discretion that can quickly adjust to changed circumstances. Indeed, the tedious proceedings mandated by this provision would be very impractical and inconsistent with the Administration's efforts to streamline the administrative process of government, and would impose a time-consuming burden on the applicants as well as on the government.

Mr. Chairman. That concludes my prepared statement. Other than questions concerning our current rulemaking proceeding, I will be please to answer any questions that you or the Members of the Subcommittee may have. Thank you.