

PRESENTATION BEFORE THE

HOUSE SUBCOMMITTEE ON

COAST GUARD AND NAVIGATION

BY REAR ADMIRAL CLYDE T. LUSK, JR.

U. S. COAST GUARD

23 APRIL 1985

GOOD MORNING. I AM REAR ADMIRAL CLYDE T. LUSK, JR., CHIEF OF THE OFFICE OF MERCHANT MARINE SAFETY, UNITED STATES COAST GUARD. IT IS A PRIVILEGE TO APPEAR BEFORE YOU TODAY TO SUPPORT THIS LEGISLATION (H.R. 1362) THAT WILL COMPLETE THE CODIFICATION OF SUBTITLE II OF TITLE 46, UNITED STATES CODE. THIS LEGISLATION WILL BE PLACED IN THAT CODIFICATION AS PART C, LOADLINES OF VESSELS, AND PART J, MEASUREMENT OF VESSELS.

I WOULD FIRST LIKE TO DISCUSS PART C DEALING WITH LOAD LINES FOR VESSELS. THERE ARE TWO EXISTING LOAD LINE LAWS. ONE IS THE INTERNATIONAL VOYAGE ACT OF 1973 WHICH IMPLEMENTED THE 1966 INTERNATIONAL CONVENTION ON LOAD LINES, AND WHICH IS APPLICABLE TO VESSELS ON INTERNATIONAL VOYAGES. THE OTHER IS THE COASTWISE LOAD LINE ACT OF 1935 WHICH IS APPLICABLE TO VESSELS ON DOMESTIC VOYAGES. THE PROPOSED LEGISLATION COMBINES BOTH EXISTING LAWS INTO A SINGLE LAW.

ADOPTION OF THIS LEGISLATION WILL BENEFIT BOTH THE U.S. INDUSTRY AND THOSE WHO ADMINISTER THE LOAD LINE REGULATIONS. IT WILL PROVIDE A SINGLE LEGAL BASIS FOR ALL LOAD LINE REGULATORY ACTIONS WHILE MAINTAINING RECOGNITION OF THE CURRENT INTERNATIONAL CONVENTION.

THE BENEFITS OF THIS LEGISLATION INCLUDE: INCREASED UNIFORMITY OF APPLICATION, REDUCED CONFUSION IN ENFORCEMENT, A MORE FLEXIBLE EXEMPTION AUTHORITY, AND A MORE EQUITABLE APPROACH TO THE APPLICATION OF PENALTIES.

THIS LEGISLATION PROVIDES FOR A UNIFORM EXEMPTION AUTHORITY WHICH WILL PARTICULARLY BENEFIT OUR DOMESTIC SHIPPING WHICH IS GOVERNED BY THE 50 YEAR OLD COASTWISE ACT. THE 1935 ACT DID NOT CLEARLY ESTABLISH AUTHORITY TO EXEMPT VESSELS FROM THE LOAD LINE REGULATIONS. THIS PROPOSED LEGISLATION AUTHORIZES THE SECRETARY TO PRESCRIBE REGULATIONS WHICH SPECIFY CONDITIONS UNDER WHICH DOMESTIC VOYAGE EXEMPTIONS WOULD BE ISSUED. SUCH REGULATIONS WOULD ACCOUNT FOR SPECIAL OPERATING CONDITIONS AND NEW TECHNOLOGY WHERE SUCH EXEMPTIONS COULD BE ISSUED WITHOUT LOWERING THE LEVEL OF SAFETY. AS A RESULT OF NOT HAVING THIS AUTHORITY, IT WAS RECENTLY NECESSARY FOR INDUSTRY TO REQUEST THE CONGRESS TO MODIFY THE COASTWISE ACT TO PARTIALLY EXEMPT RIVER DRY CARGO BARGES ON GREAT LAKES VOYAGES BETWEEN CHICAGO AND BURNS HARBOR, INDIANA WHERE MEETING ALL THE LOAD LINE REQUIREMENTS DID NOT ENHANCE SAFETY. SIMILAR CONSIDERATIONS WOULD APPLY IN OTHER AREAS SUCH AS LONG ISLAND SOUND AND ALONG THE GULF COAST.

I WILL HIGHLIGHT TWO OTHER ASPECTS OF THIS LEGISLATION WHICH WE CONSIDER IMPORTANT.

FIRST, WE SUPPORT THE INCREASE IN CIVIL PENALTIES. THE MONETARY PENALTIES HAVE NOT BEEN INCREASED SINCE THEY WERE FIRST ESTABLISHED IN 1929. ADDITIONALLY, WE SUPPORT THE CHANGE IN CONCEPT FROM A FIXED DOLLAR AMOUNT PER INCH OF DRAFT OVERLOAD TO AN AMOUNT COMMENSURATE WITH THE ECONOMIC BENEFIT OF THE OVERLOAD. THIS FOLLOWS THE EXAMPLE OF OTHER COUNTRIES IN RECENT CHANGES TO THEIR LOAD LINE STATUTES.

SECOND, THE PROVISION TO ASSESS FEES FOR LOAD LINE SERVICES IS IN KEEPING WITH THE ADMINISTRATION'S POLICY OF CHARGING THE AFFECTED PUBLIC FOR BENEFITS RECEIVED. INDUSTRY IS PRESENTLY PAYING FOR LOAD LINE SERVICES

PERFORMED BY THIRD PARTY ORGANIZATIONS WHICH HAVE BEEN DELEGATED AUTHORITY UNDER THE EXISTING STATUTES. THE COAST GUARD INTENDS TO CONTINUE TO AUTHORIZE COMPETENT PRIVATE ORGANIZATIONS, SUCH AS THE AMERICAN BUREAU OF SHIPPING, TO PERFORM SUCH SERVICES.

I WILL NOW ADDRESS PART J OF THE DRAFT STATUTE, WHICH DEALS WITH THE TONNAGE MEASUREMENT OF U. S. VESSELS.

THE INTERNATIONAL CONVENTION ON TONNAGE MEASUREMENT OF SHIPS, 1969, ENTERED INTO FORCE INTERNATIONALLY ON JULY 18TH, 1982, AND BECAME EFFECTIVE FOR THE UNITED STATES ON FEBRUARY 10TH, 1983. THE CONVENTION HAS BEEN ACCEPTED BY OVER 60 MARITIME NATIONS. THIS LEGISLATION WILL, AMONG OTHER THINGS, MAKE THIS INTERNATIONAL SYSTEM THE NEW BASIC UNITED STATES SYSTEM FOR MEASURING VESSELS OF 79 FEET AND LARGER.

THE CONVENTION PRESENTLY APPLIES ONLY TO VESSELS ENGAGED ON INTERNATIONAL VOYAGES. BECAUSE THE CONVENTION PROVIDES FOR THE FIRST TIME A SINGLE, INTERNATIONALLY RECOGNIZED, RELIABLE, AND UNIFORM SYSTEM FOR ESTABLISHING GROSS AND NET TONNAGES, THE COAST GUARD BELIEVES THAT SUBSTANTIAL BENEFITS WILL RESULT FROM APPLYING THIS SYSTEM TO ALL U. S. VESSELS OF 79 FEET AND LARGER THAT REQUIRE TONNAGE MEASUREMENT.

ADOPTING THIS SYSTEM DOMESTICALLY WILL ELIMINATE THE CURRENT REQUIREMENT AND THE ATTENDANT CONFUSION FOR ISSUING TWO SEPARATE TONNAGE ASSIGNMENTS FOR A VESSEL, ONE TO BE USED WHEN IT OPERATES DOMESTICALLY AND THE OTHER WHEN IT OPERATES INTERNATIONALLY.

THE LEGISLATION WILL ENABLE CONGRESS AND REGULATORY AGENCIES TO ESTABLISH TONNAGE CUT-OFFS FOR APPLICATION OF RULES FOR VESSELS WITH THE CONFIDENCE THAT THE TONNAGES WILL ALWAYS REPRESENT THE SIZES OF THE VESSELS. SUCH IS NOT THE CASE NOW.

CONVENTION GROSS TONNAGES OF THE GREAT MAJORITY OF VESSELS WILL BE VERY NEARLY THE SAME AS THE GROSS TONNAGES DETERMINED UNDER PRESENT REGULATIONS.

CONVENTION NET TONNAGES WILL REFLECT A MORE UNIFORM BASE FOR ASSESSING TOLLS, PORT DUES, TONNAGE DUTIES AND THE LIKE WHEN THE CHARGES ARE A FUNCTION OF THE VESSEL'S EARNING CAPACITY.

IN THE LONG TERM, ADOPTION OF CONVENTION MEASUREMENT SHOULD FREE VESSEL OWNERS FROM THE INCENTIVE TO DESIGN, BUILD, AND OPERATE VESSELS WITH UNDESIRABLE, COSTLY, SOMETIMES USELESS, OR EVEN POTENTIALLY UNSAFE STRUCTURAL FEATURES WHICH ARE NOW EMPLOYED SOLELY TO REACH DESIRED TONNAGE PARAMETERS.

MOST IMPORTANTLY, OUR SHIPPING INDUSTRIES WILL BE ASSURED OF UNIFORM AND EQUITABLE TREATMENT, BOTH DOMESTICALLY AND INTERNATIONALLY, WITH RESPECT TO CHARGES BASED ON TONNAGES AND TO REGULATIONS CONTROLLED BY TONNAGES.

I WILL BRIEFLY DISCUSS SOME OTHER ASPECTS OF THIS PROPOSED LEGISLATION.

FIRST, IT PROVIDES FOR THE CONTINUED MEASUREMENT UNDER THE PRESENT SYSTEMS, AT THE OWNER'S OPTION, FOR ESTABLISHING REGULATORY TONNAGES. THESE TONNAGES MAY BE USED IN DETERMINING THE APPLICATION OF CURRENT U. S. REGULATIONS. THIS PROVISION WILL ALLEVIATE DOMESTIC REGULATORY IMPACTS TO SMALLER VESSELS AS A RESULT OF CHANGING THE BASIC TONNAGE MEASUREMENT SYSTEM.

SECOND, IT INCORPORATES THE INTERNATIONAL MARITIME ORGANIZATION'S INTERIM TONNAGE MEASUREMENT SCHEMES. THIS WILL PERMIT THE USE OF EXISTING U. S. TONNAGE SYSTEMS UNTIL 1994 TO DETERMINE TONNAGES OF CERTAIN NEW CONVENTION-MEASURED VESSELS. THESE TONNAGES MAY BE USED INDEFINITELY WHEN REGULATIONS OF OTHER INTERNATIONAL CONVENTIONS ARE APPLIED.

THIRD, IT PROVIDES AUTHORITY TO THE SECRETARY TO DELEGATE TO OTHER PERSONS THE TASKS OF MEASURING VESSELS AND ISSUING TONNAGE CERTIFICATES, SUBJECT TO APPROPRIATE FEDERAL OVERSIGHT, ADMINISTRATION AND CONTROL. THIS IS CONSISTENT WITH THE ADMINISTRATION'S OBJECTIVE TO REDUCE FEDERAL ACTIVITIES THAT MAY BE PERFORMED BY THE PRIVATE SECTOR.

FOURTH, IT REPEALS THE PROVISIONS OF 46 U.S.C. 2110 WHICH PROHIBIT THE CHARGING OF FEES FOR TONNAGE MEASUREMENT. THIS WILL ENABLE RECOVERY OF COSTS FOR PROVIDING THESE SERVICES.

FIFTH, IT EXTENDS THE APPLICATION OF OPTIONAL SIMPLIFIED MEASUREMENT TO VESSELS LESS THAN 79 FEET THAT ENGAGE ON INTERNATIONAL VOYAGES. THIS PROVISION WILL SIGNIFICANTLY REDUCE FORMAL MEASUREMENT.

SIXTH, AND LASTLY, THIS LEGISLATION INCORPORATES THE CONVENTION PROVISION THAT EXCLUDES VESSELS OPERATING EXCLUSIVELY ON THE GREAT LAKES FROM CONVENTION MEASUREMENT.

MR. CHAIRMAN, WE STRONGLY BELIEVE THAT IT WILL BE TO THE ADVANTAGE OF THE UNITED STATES TO APPROVE THIS LEGISLATION. THANK YOU FOR PROVIDING ME WITH THIS OPPORTUNITY TO SPEAK IN BEHALF OF THIS LEGISLATION. THIS CONCLUDES MY PREPARED STATEMENT. I, AND MEMBERS OF MY STAFF, WILL BE PLEASED TO RESPOND TO ANY QUESTIONS YOU OR MEMBERS OF THE SUBCOMMITTEE MAY HAVE.