

STATEMENT OF JOSEPH J. ANGELO  
U.S. COAST GUARD  
BEFORE THE  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
COMMITTEE ON MERCHANT MARINE AND FISHERIES  
U.S. HOUSE OF REPRESENTATIVES  
OCTOBER 28, 1986

GOOD MORNING, MR. CHAIRMAN:

I AM JOSEPH J. ANGELO, ASSISTANT CHIEF OF THE MERCHANT VESSEL INSPECTION AND DOCUMENTATION DIVISION. I AM PLEASED TO APPEAR BEFORE YOU TODAY TO DISCUSS THE COAST GUARD'S RESPONSIBILITIES REGARDING GARBAGE POLLUTION IN THE MARINE ENVIRONMENT AND POSSIBLE SOLUTIONS TO CONTROL THIS INTERNATIONAL PROBLEM. MY COMMENTS TODAY EMBODY THOSE REMARKS GIVEN BY RADM J. WILLIAM KIME, CHIEF OF THE COAST GUARD'S OFFICE OF MARINE SAFETY, SECURITY AND ENVIRONMENTAL PROTECTION BEFORE THE HOUSE SUBCOMMITTEE ON COAST GUARD AND NAVIGATION ON AUGUST 12, 1986.

SPECIFICALLY, I WOULD LIKE TO DESCRIBE CURRENT COAST GUARD AUTHORITY RELATING TO DISPOSAL OF GARBAGE INTO THE OCEAN; THE EXTENT TO WHICH ANNEX V OF THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973 AS MODIFIED BY THE PROTOCOL OF 1978 (MARPOL 73/78) IS DESIGNED TO PROHIBIT THE DISPOSAL OF GARBAGE INTO THE SEA, THE CURRENT STATUS OF ANNEX V AND THE COAST GUARD'S POSITION WITH RESPECT TO ITS POSSIBLE RATIFICATION BY THE UNITED STATES.

FIRST, I'LL ADDRESS THE COAST GUARD'S EXISTING AUTHORITY TO ENFORCE PROHIBITIONS ON THE DISPOSAL OF GARBAGE INTO THE SEA. UNDER THE REFUSE ACT OF 1899 (33 USC 407) WE ENFORCE PROVISIONS THAT PROHIBIT THE DISPOSAL OF ANY REFUSE MATTER, INCLUDING GARBAGE SUCH AS PLASTICS, FROM ANY SOURCE INTO THE NAVIGABLE WATERS OF THE UNITED STATES, INCLUDING THE TERRITORIAL SEAS. HOWEVER, THIS STATUTE IS DIFFICULT TO ENFORCE AND PROSECUTE SINCE A VIOLATION OR CONTRAVENTION CARRIES VERY SMALL CRIMINAL FINES.

ADDITIONALLY, THE FEDERAL WATER POLLUTION CONTROL ACT (FWPCA) AS AMENDED, INCLUDES GARBAGE AS A POLLUTANT. UNDER THE FWPCA, AS AMENDED, A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT IS REQUIRED TO DISCHARGE GARBAGE FROM ANY POINT SOURCE INTO THE NAVIGABLE WATERS OF THE U.S. AND FROM ANY POINT SOURCE OTHER THAN A VESSEL OR OTHER FLOATING CRAFT INTO THE WATERS OF THE CONTIGUOUS ZONE OR OCEAN. ISSUANCE OF THESE PERMITS IS ADMINISTERED BY EPA.

UNDER THE MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT (MPRSA)(33 USC 1401 ET. SEQ.) WHICH IMPLEMENTS THE 1972 CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER (LONDON DUMPING CONVENTION), THE COAST GUARD IS RESPONSIBLE FOR SURVEILLANCE AND OTHER APPROPRIATE ENFORCEMENT ACTIVITIES TO PREVENT UNLAWFUL DUMPING OR TRANSPORTATION OF MATERIALS, INCLUDING PLASTICS, FOR DUMPING. THE CONVENTION, AS IMPLEMENTED BY THE ACT, PROHIBITS THE TRANSPORTING OF PERSISTENT PLASTICS TO SEA FROM U.S. SHORES FOR THE PURPOSE OF DUMPING. THE ACT ALSO PROHIBITS MATERIAL TRANSPORTED FROM OUTSIDE OF THE U.S. FROM BEING DUMPED IN THE TERRITORIAL SEA OR CONTIGUOUS ZONE.

IN SHORT, NONE OF THE FOREGOING ADEQUATELY ADDRESSES THE PROBLEM OF AT SEA DISPOSAL OF SHIP GENERATED GARBAGE. THERE ARE HOWEVER, REGULATIONS UNDER MARPOL 73/78 WHICH ADDRESS THIS ISSUE IN GREATER DETAIL.

MARPOL 73/78, AS YOU MAY KNOW, IS THE PRIMARY INTERNATIONAL REGIME AIMED AT PREVENTING UNNECESSARY AND UNCONTROLLED DISCHARGES OF POLLUTANTS INTO THE OCEANS OF THE WORLD FROM SHIPS. THE COAST GUARD HAS BEEN DIRECTLY INVOLVED IN THIS SUBJECT SINCE THE INTERNATIONAL CONFERENCE ON MARINE POLLUTION WHICH ADOPTED THE 1973 CONVENTION. ANNEX V OF THAT CONVENTION, REGULATIONS FOR THE PREVENTION OF POLLUTION BY GARBAGE FROM SHIPS, OFFERS THE POTENTIAL FOR ESTABLISHING MORE STRINGENT AND ENFORCEABLE DISCHARGE REQUIREMENTS FOR GARBAGE, INCLUDING PLASTICS, THAN CURRENTLY EXIST UNDER U.S. LAW. THIS ANNEX, IN BRIEF, PROHIBITS THE DISPOSAL INTO THE SEA OF ALL PLASTICS, INCLUDING BUT NOT LIMITED TO SYNTHETIC ROPES, SYNTHETIC FISHING NETS AND PLASTIC GARBAGE BAGS. IT PROVIDES THAT THE DISPOSAL INTO THE SEA OF OTHER GARBAGE BE MADE AS FAR AS PRACTICABLE FROM THE NEAREST LAND BUT IN ANY CASE IS PROHIBITED IF THE VESSEL'S DISTANCE FROM THE NEAREST LAND IS LESS THAN:

- o 25 NAUTICAL MILES FOR DUNNAGE, LINING AND PACKING MATERIALS WHICH WILL FLOAT, AND

- o 12 NAUTICAL MILES FOR FOOD WASTES AND ALL OTHER GARBAGE INCLUDING PAPER PRODUCTS, RAGS, GLASS, METAL, BOTTLES, CROCKERY AND SIMILAR REFUSE.

THERE ARE THREE EXCEPTIONS TO THE DISCHARGE PROHIBITIONS:

- (1) DISPOSAL NECESSARY FOR THE PURPOSE OF SECURING THE SAFETY OF THE SHIP AND THOSE ON BOARD OR SAVING LIFE AT SEA; OR
- (2) ESCAPE RESULTING FROM DAMAGE TO A SHIP OR ITS EQUIPMENT; OR
- (3) ACCIDENTAL LOSS OF SYNTHETIC FISHING NETS OR SYNTHETIC MATERIAL INCIDENTAL TO THE REPAIR OF SUCH NETS.

ASSUMING THAT IMPLEMENTING LEGISLATION FOR ANNEX V IS SIMILAR IN APPROACH TO THAT FOR ANNEXES I AND II OF MARPOL 73/78 WHICH IS THE ACT TO PREVENT POLLUTION FROM SHIPS (PUBLIC LAW 96-478), ANNEX V WOULD APPLY TO AND BE ENFORCED BY THE COAST GUARD FOR U.S. VESSELS WHEREVER THEY ARE LOCATED. SIMILARLY THE ANNEX WOULD APPLY TO FOREIGN FLAG VESSELS WHILE IN THE NAVIGABLE WATERS OF THE U.S., INCLUDING THE TERRITORIAL SEA. WHILE SUCH VESSELS ARE IN U.S. PORTS THEY MAY BE BOARDED TO DETERMINE WHETHER THERE HAS BEEN A VIOLATION OF THE ANNEX. FURTHERMORE, ANY PERSON MAY REPORT VIOLATIONS TO AN APPROPRIATE AUTHORITY FOR CONSIDERATION AND ACTION BY THE PERTINENT FLAG STATE.

ANNEX V HAS NOT BEEN RATIFIED BY THE REQUIRED NUMBER OF COUNTRIES REPRESENTING SUFFICIENT TONNAGE TO BRING IT INTO FORCE INTERNATIONALLY, THAT IS 15 STATES REPRESENTING 50% OF THE GROSS TONNAGE OF THE WORLD'S MERCHANT SHIPPING. CURRENTLY ANNEX V HAS BEEN RATIFIED BY 26 STATES REPRESENTING 44.5 PER CENT OF THE WORLD'S GROSS TONNAGE. AS YOU CAN SEE, A SUFFICIENT NUMBER OF COUNTRIES HAVE RATIFIED ANNEX V BUT THE GROSS TONNAGE OF THE VESSELS OF THESE COUNTRIES IS LESS THAN THE REQUIRED 50%. THE DELAY IN ENTRY INTO FORCE OF THIS ANNEX HAS BEEN PRIMARILY DUE TO THE HIGHER PRIORITIES FOR THE ENTRY INTO FORCE AND IMPLEMENTATION OF THE MANDATORY ANNEXES I AND II WHICH PREVENT AND REGULATE ACCIDENTAL AND OPERATIONAL DISCHARGES OF OIL AND HAZARDOUS SUBSTANCES SHIPPED IN BULK. ALSO, CERTAIN COUNTRIES, INCLUDING THE U.S., HAVE NOT

RATIFIED BECAUSE THEY FEEL CHANGES ARE NECESSARY TO MAKE ANNEX V MORE MEANINGFUL AND ENFORCEABLE. AT THE 21ST SESSION (APRIL 1985) OF THE INTERNATIONAL MARITIME ORGANIZATION'S (IMO) MARINE ENVIRONMENT PROTECTION COMMITTEE (MEPC) THE U.S. DELEGATION RECOMMENDED AN AMENDMENT TO ANNEX V TO CLARIFY AND STRENGTHEN THE PROHIBITION ON DISPOSAL OF NONREPAIRABLE SECTIONS OF SYNTHETIC FISHING NETS. AT ITS 23RD SESSION (JULY 7-11, 1986) THE MEPC AGREED TO THIS AMENDMENT. IT FURTHER AGREED WITH THE U.S. DELEGATION PROPOSAL THAT THE AMENDMENT SHOULD BE CIRCULATED IN ACCORDANCE WITH ARTICLE 16 (TACIT AMENDMENT PROCEDURE) OF MARPOL 73/78, AFTER ENTRY INTO FORCE OF ANNEX V. THIS APPROACH WOULD OBTAIN THE NEED TO MAKE AMENDMENTS PRIOR TO ENTRY INTO FORCE, WHICH IS A CONCERN OF COUNTRIES THAT HAVE ALREADY RATIFIED AND WOULD SHOW THOSE COUNTRIES THAT HAVE NOT YET RATIFIED AND HAVE CONCERNS THAT THE ANNEX IN ITS CURRENT FORM IS NOT SUITABLE THAT SOME PROGRESS WAS BEING MADE TO STRENGTHEN THE ANNEX.

HISTORICALLY, RESEARCH AIMED AT DETERMINING THE DEGREE OF HARM TO THE MARINE ENVIRONMENT FROM DISPOSAL OF GARBAGE, AND IN PARTICULAR, PLASTICS HAS NOT BEEN EXTENSIVE. MORE RECENTLY, A CONSIDERABLE AMOUNT OF INFORMATION HAS EMERGED FROM A VARIETY OF GOVERNMENTAL AND NON-GOVERNMENTAL SOURCES WHICH HAS CONCLUDED THAT THE DISPOSAL OF PLASTICS, INCLUDING SYNTHETIC FISHING NETS AND PLASTIC GARBAGE IS A SERIOUS CAUSE OF MORTALITY AND INJURY TO MANY MARINE SPECIES, MAINLY THROUGH ENTANGLEMENT AND INGESTION. THESE INCLUDE MARINE MAMMALS, SEA TURTLES, FISH AND SEA BIRDS. ADDITIONALLY, SEVERAL OF OUR COASTAL STATES, LIKE TEXAS, ARE EXPERIENCING EXTENSIVE BEACH LITTER PROBLEMS ATTRIBUTED DIRECTLY TO THE DISPOSAL OF PLASTIC GARBAGE AND OTHER REFUSE FROM SHIPS. THE U.S. DELEGATION TO THE 23RD SESSION OF MEPC PRESENTED AN INFORMATION PAPER HIGHLIGHTING THESE PROBLEMS AND INFORMED THE COMMITTEE OF

THE U.S. SPONSORED "WORKSHOP ON THE FATE AND IMPACT OF MARINE DEBRIS" HELD IN HONOLULU, HAWAII IN NOVEMBER 1984, AND AN INTERNATIONAL OCEAN DISPOSAL SYMPOSIUM HELD IN CALIFORNIA IN APRIL OF THIS YEAR, WHICH ARRIVED AT A SIMILAR CONCLUSION.

I WOULD LIKE TO QUALIFY THE FOREGOING BY NOTING THAT THE COAST GUARD HAS NOT ENGAGED IN ANY RESEARCH EFFORTS ON GARBAGE POLLUTION, RELYING INSTEAD ON THE INPUT FROM THE MORE APPROPRIATE AGENCIES SUCH AS THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA), NATIONAL MARINE FISHERIES SERVICE (NMFS), AND THE MARINE MAMMAL COMMISSION (MMC). NEVERTHELESS, THE COAST GUARD IS CONVINCED THAT THE DISPOSAL OF GARBAGE FROM SHIPS INCIDENTAL TO NORMAL OPERATIONS, IS HAVING AN ADVERSE IMPACT ON THE MARINE ENVIRONMENT. HOW ADVERSE? ONE MAY ONLY SPECULATE AS TO THE LONG TERM EFFECTS ON THE MARINE ECOSYSTEM. HOWEVER, WE CERTAINLY BELIEVE THAT COMMON SENSE DICTATES THAT WE CAN NOT ALLOW GARBAGE POLLUTION IN THE MARINE ENVIRONMENT TO CONTINUE UNCHECKED.

WHAT CAN WE DO ABOUT GARBAGE POLLUTION? OBVIOUSLY, WE NEED A CONCERTED EFFORT ON THE PART OF GOVERNMENTS THROUGHOUT THE WORLD, FOCUSING ON BOTH THE ESTABLISHMENT OF APPROPRIATE LEGAL AUTHORITY AND EDUCATION. THIS IS AN INTERNATIONAL PROBLEM AND REQUIRES AN INTERNATIONAL SOLUTION. THE COAST GUARD BELIEVES THE BEST VEHICLE THROUGH WHICH A LEGAL FRAMEWORK CAN BE ESTABLISHED TO COMBAT GARBAGE POLLUTION OF THE MARINE ENVIRONMENT IS ANNEX V.

THERE ARE SEVERAL ADVANTAGES TO RATIFYING ANNEX V AND CONTINUING OUR EFFORTS AT IMO IN LIEU OF ESTABLISHING UNILATERAL DOMESTIC REQUIREMENTS TO ADDRESS THE PROBLEM. ANNEX V OFFERS HARMONY AND UNIFORMITY THROUGH THE

ESTABLISHMENT OF INTERNATIONAL STANDARDS TO SOLVE AN INTERNATIONAL PROBLEM. AS PREVIOUSLY MENTIONED, ANNEX V WOULD NOT ONLY PROHIBIT THE DISCHARGE OF PLASTICS INTO THE OCEANS OF THE WORLD, BUT WOULD ALSO REGULATE DISPOSAL OF FORMS OF GARBAGE OTHER THAN PLASTICS BEYOND THE TERRITORIAL SEA UP TO 25 NAUTICAL MILES FROM THE NEAREST LAND. ALSO, SUCH ACTIONS WOULD DEMONSTRATE TO THE WORLD OUR RESOLVE TO PROTECT THE MARINE ENVIRONMENT GIVING DUE CONSIDERATION TO THE JOINT EFFORTS OF THE INTERNATIONAL COMMUNITY.

AT THE JULY 2, 1986 PUBLIC MEETING OF THE NATIONAL COMMITTEE FOR THE PREVENTION OF MARINE POLLUTION (NCPMP), HELD IN PREPARATION FOR THE 23RD SESSION OF THE MEPC, MEMBERS OF THE MARINE INDUSTRY, ENVIRONMENTAL ORGANIZATIONS AND OTHER PUBLIC INTERESTS WERE ASKED TO COMMENT ON ANNEX V REGULATIONS AND THE DESIRABILITY OF U.S. RATIFICATION. THOSE ATTENDING THE MEETING WERE UNANIMOUS IN THEIR SUPPORT FOR RATIFICATION. AS HEAD OF THE U.S. DELEGATION ADM KIME ANNOUNCED TO THE MEPC HIS INTENTION TO RECOMMEND U.S. RATIFICATION OF ANNEX V. THIS RECOMMENDATION WAS SUBSEQUENTLY INCLUDED IN THE OFFICIAL DELEGATION REPORT TO THE SECRETARY OF STATE. OUR RATIFICATION WOULD INCREASE THE GROSS TONNAGE OF VESSELS OF COUNTRIES PARTY TO ANNEX V TO 49% OF THE WORLD'S GROSS TONNAGE. WHILE U.S. RATIFICATION ITSELF WILL NOT BRING ANNEX V INTO FORCE, IT IS LIKELY THAT OUR EFFORTS WILL PROMPT OTHER COUNTRIES TO ACT QUICKLY.

ADDITIONALLY, SECRETARY DOLE HAS RECEIVED MANY LETTERS FROM ENVIRONMENTAL ORGANIZATIONS AND PRIVATE CITIZENS EXPRESSING THEIR SUPPORT FOR RATIFICATION. IN THEIR COMMENTS TO THE COAST GUARD, THE MARINE INDUSTRY QUALIFIED THEIR SUPPORT WITH THE PROVISION THAT ADEQUATE RECEPTION FACILITIES FOR GARBAGE BE PROVIDED IN ALL PORTS AS WOULD BE REQUIRED UNDER ANNEX V. FACILITIES FOR

RECEIVING GARBAGE BROUGHT ASHORE FROM FOREIGN VESSELS ARE CURRENTLY REGULATED AND APPROVED BY THE DEPARTMENT OF AGRICULTURE. DEPARTMENT OF AGRICULTURE REPRESENTATIVES HAVE RELAYED THAT THEY ANTICIPATE RECEPTION FACILITY VOIDS BEING FILLED BY PRIVATE INDUSTRY AND DO NOT FORESEE ANY MAJOR DIFFICULTIES.

AS I MENTIONED PREVIOUSLY, ESTABLISHING LEGAL AUTHORITY IS ONLY THE FIRST HURDLE AND WILL NOT BY ITSELF GUARANTEE SUCCESS. THE COAST GUARD PERCEIVES THAT ENFORCEMENT OF ANNEX V PROVISIONS, OR ANY GARBAGE DISPOSAL REGULATIONS FOR THE MARINE ENVIRONMENT, AS BEING VERY DIFFICULT, A PROBLEM SHARED BY DOMESTIC LAW. BUT IT IS A BEGINNING, AND IT WILL SERVE TO INSTILL THE PROPER ATTITUDE THAT WE CANNOT CONTINUE "BUSINESS AS USUAL" BY DISCARDING TONS OF GARBAGE INTO THE WORLD'S OCEANS WITHOUT NEGATIVE CONSEQUENCES. EDUCATING USERS OF THE MARINE ENVIRONMENT AS TO THESE CONSEQUENCES WILL PLAY A CRITICAL ROLE IN ACHIEVING A REDUCTION IN GARBAGE. AS A RESULT OF OUR INITIATIVE AT ITS 23RD SESSION LAST MONTH, THE MEPC WILL BE CONSIDERING A DETAILED U.S. PAPER ON IMPROVING THE EFFECTIVENESS AND ENFORCEABILITY OF ANNEX V AT THE COMMITTEE'S NEXT SESSION IN FEBRUARY 1987. NOAA IS TAKING THE LEAD IN PREPARING THIS PAPER AND IT WILL INCLUDE A DETAILED EXAMINATION OF THE PROBLEM OF DISPOSAL INTO THE SEA OF ALL PLASTICS, MEANS TO ACCOMPLISH EFFECTIVE IMPLEMENTATION OF ANNEX V, DATA COLLECTION, RESEARCH COORDINATION AND COOPERATION WITH OTHER INTERNATIONAL BODIES, WHICH COULD POSSIBLY RESULT IN FUTURE AMENDMENTS TO ANNEX V.

IN CONCLUSION, GARBAGE PRESENTS A REAL HAZARD TO THE MARINE ENVIRONMENT AND CONTROLLING THIS PROBLEM PRESENTS A FORMIDABLE CHALLENGE TO THE UNITED STATES AND THE INTERNATIONAL COMMUNITY. THE COAST GUARD BELIEVES THE U.S. INTEREST WOULD BE BEST SERVED BY BECOMING A PARTY TO ANNEX V OF MARPOL AND,

THEREFORE STRONGLY SUPPORTS U.S. RATIFICATION. AT THE CURRENT TIME WE ARE WORKING WITH THE DEPARTMENT OF STATE IN DRAFTING THE NECESSARY DOCUMENTS TO SUBMIT TO THE PRESIDENT.

THANK YOU. I WOULD BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY WISH TO ASK.