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BEFORE

HOUSE SUBCOMMITTEE ON MERCHANT MARINE

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ROOM 1334 LONGWORTH HOUSE OFFICE BUILDING

H.R. 3655
(THE EQUITABLE AUTOMOBILE TRANSPORTATION ACT OF 1985)

H.R. 3662
(THE MARITIME AGREEMENTS ACT OF 1985)

Thank you, Mr. Chairman, for the opportunity to join my Maritime Administration colleague in explaining why the Administration does not support the two bills on which I have been asked to testify: H.R. 3655, the Equitable Automobile Transportation Act of 1985, and H.R. 3662, the Maritime Agreements Act of 1985. If I may, I will speak to the latter proposal first.

H.R. 3662, the Maritime Agreements Act of 1985

This proposal would require the United States to enter into bilateral maritime agreements with the governments of our most significant suppliers and export markets. These agreements would contain cargo-sharing provisions for our trade in petroleum, agricultural products and manufactured goods. The bill before us today would for the first time take American cargo reservation and sharing beyond the realm of government cargoes into the private sector.

We fully understand and are sympathetic to the problems which give rise to this proposed legislation. The number of ships in the U.S. commercial ocean fleet has dropped from 723 to 597 during the past five years.* The cargo capacity of our ships remains unchanged at 24 million tons. Globally, however, shipping faces a significant problem of oversupply: too many ships chasing too few goods.

We do not believe, however, that mandating by legislation that the federal government intrude directly into the marketplace to allocate cargoes, and attempting to force our trading partners to do the same, is the answer to this supply and demand problem. The United States has not taken this path in the past, and we should not do so in the future. I might note that the previous Administration concluded that cargo reservation schemes were "neither wise nor necessary for the U.S.", and that we would resist their imposition, bilaterally and multilaterally. This Administration has an even firmer policy, and cannot support such a massive intervention by the government into the private sector.

*(Includes Great Lakes Vessels)

There are some countries which do not agree that the private sector should be allowed to compete freely to carry the world's trade. Some of the developing countries, as well as the socialist state trading countries, believe government direction of commercial cargoes, or even absolute control of them, can overcome economic reality. This Administration has worked assiduously to convince others this is not the path to development. We have had some modest success in this endeavor, but enactment of H.R. 3662 would undermine our credibility and leadership.

For the United States to reverse completely a policy we and to a large extent our colleagues in the Organization for Economic Cooperation and Development (OECD) have pursued for so long would set world shipping on an irreversible course of ever greater government interference in the marketplace. These OECD countries would resist strongly entering into cargo-sharing agreements with the U.S., and would probably refuse to do so.

Perhaps one of the reasons such an interventionist approach has some appeal is a perception our trading partners subsidize heavily their ocean carriers, or reserve substantial amounts of cargo for them. In reality, there is little evidence that this is the case, especially among our major bilateral trading partners who--along with our consumers, farmers, businessmen and exporters--would be most affected by this proposed legislation. Virtually none of them have operating subsidy programs, and with few exceptions, they do not have cargo-preference policies which affect their trades with the U.S.

The bulk trades are even less restricted by government rules, regulations and preference schemes. Although some of our major oil suppliers or agricultural export recipients may have some restrictions in their liner trades, these are not significant as far as their bilateral trades with the U.S. are concerned, because they have little liner trade with the U.S.

One specific statist approach to a global shipping regime is beginning to prove troublesome for our crosstraders: the U.N. Code of Conduct for Liner Conferences. Among the Code's many provisions is one designed to build up the merchant fleets of developing countries. "Unless otherwise mutually agreed," the Code provides, the "lines of each of the two countries, the foreign trade of which is carried by the conference, shall have equal rights to participate", and third country lines "shall have the right to acquire a significant part, such as 20 percent...".

Although the Code calls for the "right to participate" and not a guarantee of a market share, some developing countries have seized on this language, and sought to enter into bilateral cargo sharing agreements along the 40/40/20 principle, as it has come to be called. The U.S. has not signed the Code, but most of the Western European maritime countries have become parties to it, with reservations. Merely becoming a party to the Code does not automatically lead to cargo sharing. A country must enter into bilateral agreements containing cargo-sharing provisions, attempt unilaterally to impose them, or not oppose such conference agreements.

At present, a few European maritime nations have a limited number of agreements with developing countries to apply the Code's cargo-sharing provisions in their bilateral trades. It is important to note that these provisions are not applied in trade among the OECD countries. Further, most of the OECD countries which have signed the Code did so with the provision that in any cargo-sharing agreements with developing countries, by governments or conferences, the 60 percent of the conference trade not "reserved" for the developing country's conference lines would be open to competition by all, on a basis of reciprocity. I would note that Japan has not become a party to the Liner Code.

Mr. Chairman, I go into this detail because I believe the topic has an important bearing on our discussions today. Bilateral agreements by others with U.N. Liner Code-inspired cargo-sharing provisions have so far had little impact on our bilateral trades, the focus of H.R. 3662. As for our crosstrades, only a few European maritime nations have such agreements to apply the Code's provisions, and these are with only a handful of developing countries. The developing countries have some agreements among themselves, or their conferences do, and we are certainly concerned about the potential damage to our crosstrading interests such arrangements could cause. On the whole, however, we have had few concrete problems brought to our attention by our carriers which can be traced directly to the U.N. Liner Code.

We already have statutory tools to enable us to overcome trade discrimination. Section 13(B)(5) of the Shipping Act of 1984 provides the Federal Maritime Commission with sufficient power to retaliate and obtain redress should our carriers be disadvantaged in foreign-to-foreign trades. We have made others aware of this provision of the law, told them we would use it, and believe this has had the salutary effect intended. Thus the United States has been able to protect its interests without engaging in the practice of dictating market shares by government fiat. The world of commercial shipping has not turned to bilateralism, and it does not appear this will happen in the near future.

In our bilateral trades, we have been generally successful in overcoming unfair laws, practices or policies disadvantageous to our carriers. Admittedly, the process can take time. The delay is often due to a carrier's own reluctance to invoke our laws or even to have us do it for fear of creating an atmosphere that would make its future operations in the country concerned more difficult. The potential to use Section 19 of the Merchant Marine Act of 1920 has usually proven sufficient to protect our interests.

Problems remain for our carriers, and it is fair to assume they will continue to arise as others struggle with the same demand and supply imbalance we face. We are pursuing these vigorously, and I would be pleased to answer any specific questions you may have.

Although we are inalterably opposed to cargo-sharing agreements, we still have our outmoded agreements with Brazil and Argentina containing such restrictive provisions; however, these apply only to government-impelled cargo. In the case of Brazil, we renegotiated the agreement in December for one year only; previous extensions had been for longer periods. We obtained some improvements in practical, doing business problems, and agreed to negotiate over the next year to reduce substantially the share of cargo in the southbound trade subject to definition as "government cargo". We have told Brazil we will be unable to renew our agreement unless this issue is resolved to our satisfaction. Our agreement with Argentina has apparently not caused as many problems for our carriers, but we continue to keep it very much in mind.

Finally, I would note that in some circumstances cargo-sharing arrangements provide the only means to ensure fair access and opportunity for our carriers in the 100% socialized trades of the communist countries. We believe such an arrangement would be required in any agreement with the Soviet Union, and have said so in our current discussions with the USSR. We are still considering whether to pursue negotiations with China.

In conclusion, H.R. 3662, if enacted, would run directly counter to our domestic and foreign economic policy, our transportation policy, and our maritime policy. It would severely undercut our international leadership in work to keep shipping open to competition, which benefits our carriers as well as our economy. The resulting increased transportation costs would seriously disadvantage our consumers, exporters, businessmen and industry. Our farmers, already facing severe problems in world markets, would be especially hard hit. In the long run, our own carriers would become increasingly less competitive and our efforts to protect their interests abroad would suffer as we became less credible as a voice for free and fair competition.

H.R. 3655, the Equitable Automobile Transportation Act of 1985

The other proposed bill I have been asked to address, H.R. 3655, would prohibit the importation of automobiles from any Japanese manufacturer who did not certify that as many of his motor vehicles exported to the U.S. were carried on U.S.-documented vessels as on Japanese vessels, the latter defined to include any vessel with more than three Japanese citizen crewmembers.

Last year, Americans purchased almost 11 million cars. Approximately 2.2 million of these were imported from Japan, and 600,000 from the rest of the world. Nearly 80% of the some 335 vessels engaged globally in the oceanborne transport of automobiles are specially-built vessels known as pure car carriers.

Relatively recently, a number of U.S. companies began expressing a strong interest in carrying cars from Japan to the U.S. These firms do not have idle carriers available; they would have to build them. Some of these companies have not succeeded in their direct dealings with Japanese auto manufacturers and have turned to the U.S Government for assistance. They have cited the close interrelationship of various Japanese industries and shipping interests, and pointed out that without longer-term contracts than the Japanese companies were willing to offer, financing specialized ship construction would be extremely difficult.

While the question is first and foremost one between the two private sectors of our respective countries, we have recognized the legitimacy of some of these companies' concerns. Government and industry work closely together in Japan, and we consequently raised the issue with the Japanese Government at the highest levels. We urged that it use its good offices with its automobile manufacturers to insure U.S. firms obtain a fair and equitable chance to compete for the opportunity to transport automobiles from Japan to the U.S.

We have been told in reply that there are no barriers to U.S. companies' participation in this trade if they are price competitive in their offers. Frankly, we are not in a position to know whether U.S. offers are competitive, but given the one-sidedness of the trade, we have persisted in addressing the issue.

As you are aware, some of these efforts have borne fruit. We undertook them even though no unfair trade practices against a foreign government had been alleged. In January, Nissan announced that a U.S. company, Marine Transport Lines (MTL), had been awarded a contract to deliver cars under a three-year voyage charter. Under the contract, MTL is to construct a car carrier in Japan capable of carrying 4,000 vehicles per voyage; it is estimated it will carry 40,000 cars annually. Nissan says its decision was made on a purely commercial basis, and this is reassuring. Such contracts should be purely commercial. Also in January, Toyota announced that it intended to transport ten percent of its car exports to the U.S. on U.S.-flag vessels, and as a first step just this past Tuesday announced a contract to carry 30,000 cars annually on a U.S.-flag vessel.

Despite some progress, we have not taken this subject off our agenda with the Government of Japan. Indeed, our Deputy Special Trade Representative just raised the issue in Tokyo. But our assurances at the highest levels to the Japanese Government that we respect the impartial decisions of the market, if they are impartial and not dictated by outside forces, would not be credible if this proposed legislation were enacted. Furthermore, it would affect adversely our efforts to resolve a broad range of trade problems with Japan because it calls for an approach and policy directly contrary to what we have espoused and asked Japan to emulate in other sectors.

Just as importantly, this Administration has been a major voice in working with other market economy countries to resist the imposition of government interference in world shipping markets. This legislation would undercut those efforts. As I noted earlier, the world is not turning overwhelmingly to bilateralism, in part due to U.S. leadership. We have adequate tools at our disposal to fight unfair trade practices -- Section 19 of the Merchant Marine Act of 1920 and Section 13(B)(5) of the Shipping Act of 1984. We should not undercut our position of strength by engaging in such practices ourselves. I believe most U.S. businessmen would not approve of the U.S. Government interfering in the marketplace to the extent called for in this legislation, and would agree that their overall global interests would not be served by setting this kind of example.

The factors which determine automobile carriage in the international shipping market and affect the relative competitiveness of U.S. carriers are essentially the same as for other non-liner or bulk products. While Japanese shipping companies are the largest operators of pure car carriers in the world, the presence in the trade of vessels from Hong Kong, Norway, Sweden, Denmark and Greece suggests others can compete. U.S. firms do not have any significant leading edge technology which would justify higher prices, and therefore must compete on the basis of cost, reliability and service. We are confident that they can do so successfully if given a genuine opportunity, and so we will work to insure that our firms are not disadvantaged by foreign governments and that they get a fair chance to compete.

Finally, the proposed legislation appears to be incompatible with our Treaty of Friendship, Commerce and Navigation (FCN) with Japan. Article XIX of the Treaty guarantees that "vessels of either party shall be accorded national and most-favored nation (MFN) treatment by the other Party with respect to the right to carry all products that may be carried by vessel to or from the territories of the other Party." Limiting Japanese car carriers while not similarly restricting third-flag carriers would appear to be inconsistent with our MFN obligations under the Treaty.

I would be pleased to answer any questions.