

STATEMENT
OF
THE HONORABLE JOHN GAUGHAN
MARITIME ADMINISTRATOR
OF THE
DEPARTMENT OF TRANSPORTATION
BEFORE THE
SUBCOMMITTEE ON MERCHANT MARINE
OF THE HOUSE MERCHANT
MARINE AND FISHERIES COMMITTEE
ON THE
ADMINISTRATION OF THE CARGO PREFERENCE
LAWS UNDER THE MERCHANT MARINE ACT,
1936, AND THE 1904 CARGO PREFERENCE ACT

JULY 21, 1987

STATEMENT OF THE HONORABLE JOHN GAUGHAN, MARITIME ADMINISTRATOR OF THE DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE OF THE HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE, ON THE ADMINISTRATION OF THE CARGO PREFERENCE LAWS UNDER THE MERCHANT MARINE ACT, 1936, AND THE 1904 CARGO PREFERENCE ACT.

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MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE ON MERCHANT MARINE, MY NAME IS JOHN GAUGHAN, AND I AM THE MARITIME ADMINISTRATOR OF THE DEPARTMENT OF TRANSPORTATION. IT IS A PLEASURE FOR ME TO BE HERE THIS MORNING TO PRESENT THE VIEWS OF THE DEPARTMENT ON THE VARIOUS MATTERS YOU HAVE REQUESTED CONCERNING THE ADMINISTRATION OF THE CARGO PREFERENCE LAWS UNDER THE MERCHANT MARINE ACT, 1936, AND THE 1904 CARGO PREFERENCE ACT.

FIRST, I WOULD LIKE TO BRING YOU UP TO DATE ON THE DEPARTMENT OF TRANSPORTATION'S PROPOSED RULES GOVERNING THE TRANSPORTATION OF CEMENT AND CLINKER PURCHASED WITH FEDERAL HIGHWAY ADMINISTRATION FUNDS. AS YOU WILL RECALL, DURING THE SUBCOMMITTEE'S OVERSIGHT HEARING OF SEPTEMBER 18, 1986, PHILIP W. HASELTINE, DEPUTY ASSISTANT SECRETARY OF TRANSPORTATION FOR POLICY AND INTERNATIONAL AFFAIRS, TESTIFIED ON THE EXTENT TO WHICH THE CARGO PREFERENCE REQUIREMENTS APPLY TO SHIPMENTS OF CLINKER AND CEMENT IMPORTED IN CONNECTION WITH FEDERAL HIGHWAY ADMINISTRATION FEDERAL AID HIGHWAY PROGRAMS. HE INFORMED THE SUBCOMMITTEE THAT THE FEDERAL HIGHWAY ADMINISTRATION AND THE MARITIME ADMINISTRATION WERE WORKING TO EXAMINE THE ISSUE IN LIGHT OF LEGAL PRECEDENT AND ADMINISTRATIVE PRACTICE UNDER THE

CARGO PREFERENCE LAWS. MR. HASELTINE INFORMED THE SUBCOMMITTEE BY LETTER OF OCTOBER 1, 1986, THAT THE DEPARTMENT HAD DETERMINED THAT CARGO PREFERENCE DOES APPLY TO IMPORTED CEMENT AND CLINKER USED IN FEDERAL-AID HIGHWAY PROJECTS. AT THE PRESENT TIME, THIS MATTER IS BEFORE THE DEPARTMENT OF JUSTICE FOR A RULING.

NEXT, MR. CHAIRMAN, I WOULD LIKE TO INFORM THE SUBCOMMITTEE OF DEVELOPMENTS SINCE THE TESTIMONY OF ELAINE CHAO, DEPUTY MARITIME ADMINISTRATOR, AT THE SAME OVERSIGHT HEARING, WITH RESPECT TO THE OCEAN TRANSPORTATION OF IMPORTED CARGO CONTAINERS BY THE NAVAL FACILITIES ENGINEERING COMMAND. AS YOU WILL RECALL, THE NAVY HAD LET A SERIES OF CONTRACTS WITH A FOREIGN SUPPLIER TO BUY STANDARD 20-FOOT CONTAINERS. AT THAT TIME, MS. CHAO TESTIFIED: "THE NAVY HAS CONTENDED TO US THAT THE CARGO PREFERENCE ACT OF 1904 WOULD APPLY TO THE OCEAN TRANSPORTATION OF COMPLETED CONTAINERS (END ITEMS), BUT TAKES THE POSITION THAT IT DOES NOT APPLY WHERE THE COMPONENTS OF THE CONTAINERS (CONTAINER KITS) ARE SHIPPED." SINCE THEN, MR. CHAIRMAN, THE DEPARTMENT HAS CONTINUED TO PRESS FOR THE APPLICATION OF THE CARGO PREFERENCE LAWS TO THE OCEAN TRANSPORTATION OF ITEMS, WHETHER OR NOT TITLE HAS BEEN TAKEN BY THE NAVY. THIS MATTER IS NOW ALSO BEFORE THE DEPARTMENT OF JUSTICE FOR A RULING.

MR. CHAIRMAN, NEITHER OF THESE ISSUES HAS BEEN FINALLY RESOLVED. ALTHOUGH THE RESOLUTION OF THESE PROBLEMS TAKES TIME, WE CONTINUE TO BELIEVE THAT ANY DIFFERENCES BETWEEN GOVERNMENT AGENCIES IN THIS REGARD SHOULD BE RESOLVED ADMINISTRATIVELY. PLEASE BE ASSURED THAT WE WILL CONTINUE OUR EFFORTS TO ASSURE THAT THE U.S.-FLAG MERCHANT MARINE RECEIVES EVERY TON OF CARGO THAT IT IS ENTITLED TO UNDER CURRENT LAW.

FINALLY, MR. CHAIRMAN, I HAVE BEEN REQUESTED TO COMMENT ON THE IMPLEMENTATION OF THE SO-CALLED CARGO PREFERENCE COMPROMISE SET FORTH IN THE FOOD SECURITY ACT OF 1985 (PUBLIC LAW 99-198, APPROVED DECEMBER 23, 1985). THE IMPLEMENTATION OF THIS AMENDMENT TO THE MERCHANT MARINE ACT, 1936, HAS PROCEEDED SMOOTHLY. U.S.-FLAG VESSELS HAVE BEEN AVAILABLE THUS FAR TO TRANSPORT THE INCREASED SHARE OF CARGO. PAYMENT OF THIS DEPARTMENT'S OBLIGATIONS FOR OCEAN FREIGHT DIFFERENTIAL COVERING THE INCREMENTAL CARGO AMOUNTS HAS IN ALL INSTANCES BEEN MADE WITHIN THE TIME AGREED UPON BY THE DEPARTMENT OF TRANSPORTATION AND THE DEPARTMENT OF AGRICULTURE.

MR. CHAIRMAN, THAT CONCLUDES MY PREPARED STATEMENT. I WILL BE PLEASED TO ANSWER ANY QUESTIONS THAT YOU OR THE MEMBERS OF THE SUBCOMMITTEE MAY HAVE. THANK YOU.