

103^D CONGRESS
1ST SESSION

H. R. 2151

AN ACT

To amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet program, and for other purposes.

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To amend the Merchant Marine Act, 1936, to establish the Maritime Security Fleet program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Maritime Security and
5 Competitiveness Act of 1993”.

6 **SEC. 2. PURPOSE OF THE MERCHANT MARINE ACT, 1936.**

7 Section 101 of the Merchant Marine Act, 1936 (46
8 App. U.S.C. 1101) is amended to read as follows:

1 **“SEC. 101. FOSTERING DEVELOPMENT AND MAINTENANCE**
2 **OF MERCHANT MARINE.**

3 “The Secretary of Transportation shall carry out this
4 Act in a manner that ensures the existence of an operating
5 fleet of United States documented vessels that is—

6 “(1) sufficient to carry the domestic water-
7 borne commerce of the United States and a substan-
8 tial portion of the water-borne export and import
9 foreign commerce of the United States and to pro-
10 vide shipping service essential for maintaining the
11 flow of such domestic and foreign water-borne com-
12 merce at all times;

13 “(2) adequate to serve as a naval auxiliary in
14 time of war or national emergency;

15 “(3) owned and operated by citizens of the
16 United States, to the extent practicable;

17 “(4) composed of the best-equipped, safest, and
18 most modern vessels;

19 “(5) manned with the best trained and efficient
20 personnel who are citizens of the United States; and

21 “(6) supplemented by modern and efficient
22 United States facilities for shipbuilding and ship re-
23 pair.”.

1 **SEC. 3. MARITIME SECURITY FLEET PROGRAM.**

2 (a) The Merchant Marine Act, 1936 (46 App. U.S.C.
3 1101 et seq.) is amended by inserting after title III the
4 following new title:

5 **“TITLE IV—MARITIME SECURITY**
6 **FLEET PROGRAM**

7 **“SEC. 401. ESTABLISHMENT OF MARITIME SECURITY**
8 **FLEET.**

9 “The Secretary of Transportation shall establish a
10 fleet of active commercial vessels to enhance sealift capa-
11 bilities and maintain a presence in international commer-
12 cial shipping of United States documented vessels. The
13 fleet shall be known as the ‘Maritime Security Fleet’.

14 **“SEC. 402. COMPOSITION OF FLEET.**

15 “The Fleet shall consist of privately owned United
16 States documented vessels for which there are in effect
17 operating agreements.

18 **“SEC. 403. VESSELS ELIGIBLE FOR ENROLLMENT IN FLEET.**

19 “(a) IN GENERAL.—A vessel is eligible to be enrolled
20 in the Fleet if the Secretary decides, in accordance with
21 this section, that it is eligible. The Secretary may decide
22 whether a vessel is eligible to be enrolled in the Fleet only
23 pursuant to an eligibility decision application submitted to
24 the Secretary by the owner or operator of the vessel. The
25 Secretary shall make such a decision by not later than
26 90 days after the date of submittal of an eligibility deci-

1 sion application for the vessel by the owner or operator
2 of the vessel.

3 “(b) VESSEL ELIGIBILITY, GENERALLY.—Except as
4 provided in subsection (c), the Secretary shall decide that
5 a vessel is eligible to be enrolled in the Fleet if—

6 “(1) the person that will be the contractor with
7 respect to an operating agreement for the vessel
8 agrees to enter into an operating agreement with the
9 Secretary for the vessel under section 404;

10 “(2) the person that will be a contractor with
11 respect to an operating agreement for the vessel is
12 a citizen of the United States;

13 “(3)(A) the vessel is a United States docu-
14 mented vessel on May 19, 1993;

15 “(B) the vessel is—

16 “(i) in existence on May 19, 1993;

17 “(ii) a United States documented vessel
18 after May 19, 1993; and

19 “(iii) not more than 10 years of age on the
20 date of that documentation;

21 “(C) the vessel is built and, if rebuilt, rebuilt in
22 a United States shipyard;

23 “(D) the vessel is built in a shipyard that is not
24 a foreign subsidized shipyard under a contract en-
25 tered into before May 19, 1993;

1 “(E)(i) the vessel is built in a foreign shipyard
2 under a contract entered into on or before May 19,
3 1993; and

4 “(ii) the owner has contracted to build another
5 vessel for enrollment in the Fleet in a United States
6 shipyard that will be delivered within 30 months
7 after the effective date of an operating agreement
8 for the vessel referred to in clause (i), or the Sec-
9 retary finds and certifies in writing that a United
10 States shipyard cannot sell a vessel to the owner at
11 the world price due to the unavailability of series
12 transition payments under title XIV to build that
13 vessel; or

14 “(F)(i) the vessel is built under a contract en-
15 tered into after May 19, 1993;

16 “(ii) the proposed owner of the vessel solicited
17 nationwide bids for at least 6 months to build the
18 vessel in a United States shipyard;

19 “(iii) the Secretary finds and certifies in writing
20 that a United States shipyard cannot sell a vessel to
21 the proposed owner at the world price due to the un-
22 availability of series transition payments under title
23 XIV to build that vessel;

1 “(iv) the vessel is delivered from the foreign
2 shipyard within 30 months after the Secretary’s cer-
3 tification under clause (iii); and

4 “(v) the vessel is substantially the same type
5 and design as the vessel described in the solicitation
6 made under clause (ii); and

7 “(4) the vessel is self-propelled and is—

8 “(A) a container vessel with a capacity of
9 at least 750 Twenty-foot Equivalent Units;

10 “(B) a roll-on/roll-off vessel with a carry-
11 ing capacity of at least 80,000 square feet or
12 500 Twenty-foot Equivalent Units;

13 “(C) a LASH vessel with a barge capacity
14 of at least 75 barges;

15 “(D) a vessel subject to a contract under
16 title VI on May 19, 1993; or

17 “(E) any other type of vessel that is deter-
18 mined by the Secretary to be suitable for use by
19 the United States for national defense or mili-
20 tary purposes in time of war or national emer-
21 gency.

22 “(c) DETERMINATIONS OF ELIGIBILITY.—

23 “(1) DETERMINATIONS REQUIRED.—The Sec-
24 retary shall make determinations under subsection

1 (b) for each vessel for which an eligibility decision
2 application is submitted under this section.

3 “(2) DETERMINATION REGARDING CERTIFI-
4 CATION.—The Secretary shall—

5 “(A) make the finding and certification
6 under paragraph (3)(E)(ii) for a vessel, or de-
7 termine not to, by not later than 60 days after
8 the date of receipt of an eligibility decision ap-
9 plication for the vessel; and

10 “(B) make the finding and certification
11 under paragraph (3)(F)(iii) for a vessel, or de-
12 termine not to, by not later than 60 days after
13 the closing date of the solicitation pursuant to
14 paragraph (3)(F)(ii) for the vessel.

15 “(3) WRITTEN EXPLANATION.—The Secretary
16 shall provide to the person that submits an eligibility
17 application for a vessel a written explanation of any
18 decision that the vessel is not eligible for enrollment
19 in the Fleet.

20 “(d) LIST OF ELIGIBLE VESSELS.—

21 “(1) IN GENERAL.—The Secretary shall main-
22 tain a list of vessels that the Secretary decides in ac-
23 cordance with this section are eligible to be enrolled
24 in the Fleet.

1 “(2) REMOVAL OF VESSELS FROM LIST.—The
2 Secretary shall remove a vessel from the list main-
3 tained under this subsection, and the vessel shall not
4 be an eligible vessel for purposes of this title—

5 “(A) at any time that the conditions for
6 eligibility under subsection (b) are not fulfilled
7 for the vessel;

8 “(B) if the status of the person who sub-
9 mitted an eligibility decision application for the
10 vessel, as owner or operator of the vessel,
11 changes and after that change—

12 “(i) the owner or operator of the ves-
13 sel fails to submit a new eligibility decision
14 application for the vessel; or

15 “(ii) such an application is not ap-
16 proved by the Secretary; or

17 “(C) if the vessel carries as cargo any item
18 that—

19 “(i) is sold or shipped to the United
20 States;

21 “(ii) is not made in the United States;
22 and

23 “(iii) the owner or operator of the ves-
24 sel knows has had fraudulently affixed to
25 it a label bearing a ‘Made in America’ in-

1 scription, or any inscription with the same
2 meaning.

3 **“SEC. 404. OPERATING AGREEMENTS, GENERALLY.**

4 “(a) REQUIREMENT FOR ENROLLMENT OF VES-
5 SELS.—A vessel may be enrolled in the Fleet only if it
6 is an eligible vessel for which the owner or operator of
7 the vessel applies for and enters into an operating agree-
8 ment with the Secretary under this section.

9 “(b) PRIORITY FOR AWARDING AGREEMENTS.—Sub-
10 ject to the availability of appropriations, the Secretary
11 shall enter into operating agreements according to the fol-
12 lowing priority:

13 “(1) VESSELS OWNED BY CITIZENS.—

14 “(A) PRIORITY.—First, for any vessel that
15 is—

16 “(i) owned and operated by persons
17 who are citizens of the United States
18 under section 2 of the Shipping Act, 1916;
19 or

20 “(ii) less than 5 years of age and
21 owned and operated by a corporation that
22 is—

23 “(I) eligible to document a vessel
24 under chapter 121 of title 46, United
25 States Code; and

1 “(II) affiliated with a corporation
2 operating or managing other United
3 States documented vessels for the Sec-
4 retary of Defense or chartering other
5 vessels to the Secretary of Defense.

6 “(B) LIMITATION ON NUMBER OF OPERAT-
7 ING AGREEMENTS.—The total number of oper-
8 ating agreements that may be entered into by
9 a person under the priority in subparagraph
10 (A)—

11 “(i) for vessels described in subpara-
12 graph (A)(i), may not exceed the sum of—

13 “(I) the number of United States
14 documented vessels the person oper-
15 ated in the foreign commerce of the
16 United States (except mixed coastwise
17 and foreign commerce) on January 1,
18 1993; and

19 “(II) the number of United
20 States documented vessels the person
21 chartered to the Secretary of Defense
22 on that date; and

23 “(ii) for vessels described in subpara-
24 graph (A)(ii), may not exceed 4 vessels.

1 “(C) TREATMENT OF RELATED PAR-
2 TIES.—For purposes of subparagraph (B), a re-
3 lated party with respect to a person shall be
4 treated as the person.

5 “(2) OTHER VESSELS OWNED BY CITIZENS AND
6 GOVERNMENT CONTRACTORS.—To the extent that
7 amounts are available after applying paragraph (1),
8 any vessel that is—

9 “(A) owned and operated by—

10 “(i) citizens of the United States
11 under section 2 of the Shipping Act, 1916,
12 that have not been awarded an operating
13 agreement under the priority established
14 under paragraph (1); or

15 “(ii)(I) eligible to document a vessel
16 under chapter 121 of title 46, United
17 States Code; and

18 “(II) affiliated with a corporation op-
19 erating or managing other United States
20 documented vessels for the Secretary of
21 Defense or chartering other vessels to the
22 Secretary of Defense; and

23 “(B) on the list maintained under section
24 403(d).

1 “(3) OTHER VESSELS.—To the extent that
2 amounts are available after applying paragraphs (1)
3 and (2), any vessel that is—

4 “(A) owned and operated by a person that
5 is eligible to document a vessel under chapter
6 121 of title 46, United States Code; and

7 “(B) on the list maintained under section
8 403(d).

9 “(c) AWARD OF AGREEMENTS.—

10 “(1) IN GENERAL.—The Secretary shall award
11 operating agreements within each priority under
12 subsection (b) (1), (2), and (3) under regulations
13 prescribed by the Secretary.

14 “(2) NUMBER OF AGREEMENTS AWARDED.—
15 Regulations under paragraph (1) shall provide that
16 if appropriated amounts are not sufficient for oper-
17 ating agreements for all vessels within a priority
18 under subsection (b) (1), (2), or (3), the Secretary
19 shall award to each person submitting a request a
20 number of operating agreements that bears approxi-
21 mately the same ratio to the total number of vessels
22 in the priority, as the amount of appropriations
23 available for operating agreements for vessels in the
24 priority bears to the amount of appropriations nec-

1 essary for operating agreements for all vessels in the
2 priority.

3 “(3) TREATMENT OF RELATED PARTIES.—For
4 purposes of paragraph (2), a related party with re-
5 spect to a person shall be treated as the person.

6 “(d) TIME LIMIT FOR DECISION ON ENTERING OP-
7 ERATING AGREEMENT.—The Secretary shall enter an op-
8 erating agreement for a vessel within 90 days after mak-
9 ing the decision that the vessel is eligible to be enrolled
10 in the Fleet under section 403(a).

11 “(e) EFFECTIVE DATE OF OPERATING AGREE-
12 MENT.—The effective date of an operating agreement may
13 not be later than the later of—

14 “(1) the date the vessel covered by the agree-
15 ment enters into the trade required under section
16 405(a)(1)(A);

17 “(2) the date the vessel covered by the agree-
18 ment is withdrawn from an operating differential
19 subsidy contract under title VI;

20 “(3) the date of termination of an operating
21 differential subsidy contract under title VI that ap-
22 plies to the vessel; or

23 “(4) the date of the expiration or termination
24 of a charter of the vessel to the United States Gov-
25 ernment that was entered into before the date of the

1 enactment of the Maritime Security and Competi-
2 tiveness Act of 1993.

3 “(f) EXPIRATION OF OFFERS FOR AGREEMENTS.—
4 Unless extended by the Secretary, an offer by the Sec-
5 retary to enter into an operating agreement under this
6 section expires 120 days after the date the offer is made.

7 “(g) LENGTH OF AGREEMENTS.—An operating
8 agreement is effective for 10 years from the effective date
9 of the agreement.

10 “(h) REPAYMENT REQUIREMENTS.—

11 “(1) NONCOMPLIANCE.—A contractor that fails
12 to comply with the terms of an operating agreement
13 shall be liable to the United States Government for
14 all amounts received by the contractor as payments
15 for the vessel under this title with respect to the pe-
16 riod of that noncompliance, and for interest on those
17 amounts determined under paragraph (3).

18 “(2) FAILURE TO OPERATE REPLACEMENT VES-
19 SEL.—A contractor under an operating agreement
20 that covers a vessel that is 25 or more years of age
21 and that fails to replace the vessel as provided in
22 section 405(a)(3) (A) or (B) shall be liable to the
23 United States Government for all amounts received
24 by the contractor as payments for the vessel under
25 this title with respect to periods after the date the

1 vessel becomes 25 years of age, and for interest on
2 those amounts determined under paragraph (3).

3 “(3) DETERMINATION OF INTEREST.—Interest
4 under paragraphs (1) and (2) shall be at an annual
5 rate equal to 125 percent of the coupon issue yield
6 equivalent (as determined by the Secretary of the
7 Treasury) of the average accepted auction price for
8 auctions of 3 month United States Treasury bills
9 settled during the quarter preceding the date of the
10 failure to comply or the failure to replace, respec-
11 tively.

12 “(i) PROHIBITION ON AGREEMENTS FOR CERTAIN
13 VESSELS.—The Secretary may not enter into an operating
14 agreement for a vessel that is owned or operated by a per-
15 son that was a contractor for the vessel under an operat-
16 ing agreement terminated under section 405(a)(10), be-
17 fore the end of the term of the agreement that was termi-
18 nated.

19 “(j) BINDING OBLIGATION OF GOVERNMENT.—An
20 operating agreement constitutes a contractual obligation
21 of the United States Government to pay the amounts pro-
22 vided for under that agreement.

1 **“SEC. 405. TERMS OF OPERATING AGREEMENTS.**

2 “(a) OPERATING AGREEMENT REQUIREMENTS.—An
3 operating agreement shall, during the effective period of
4 the agreement, provide the following:

5 “(1) OPERATION AND DOCUMENTATION.—The
6 vessel covered by the operating agreement—

7 “(A) shall be operated in the foreign trade
8 or domestic trade allowed under a registry en-
9 dorsement for the vessel issued under section
10 12105 of title 46, United States Code;

11 “(B) may not be operated in the coastwise
12 trade of the United States or in mixed coast-
13 wise and foreign trade, except for coastwise
14 trade allowed under a registry endorsement is-
15 sued for the vessel under section 12105 of title
16 46, United States Code; and

17 “(C) shall be documented under chapter
18 121 of title 46, United States Code.

19 “(2) ANNUAL PAYMENTS.—

20 “(A) IN GENERAL.—The Secretary shall
21 pay the contractor, in accordance with this sub-
22 section, the following amounts for each fiscal
23 year in which the vessel is operated in accord-
24 ance with the agreement:

25 “(i) For fiscal year 1994, \$2,300,000.

1 “(ii) For each fiscal year thereafter,
2 \$2,100,000.

3 “(B) LIMITATION.—The Secretary shall
4 not pay any amount pursuant to this paragraph
5 for any day in which the vessel is—

6 “(i) under a charter to the United
7 States Government that was entered into
8 before the date of the enactment of the
9 Maritime Security and Competitiveness Act
10 of 1993; or

11 “(ii) covered by an operating differen-
12 tial subsidy contract under title VI.

13 “(3) TERMINATION BASED ON AGE OF VES-
14 SEL.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), the operating agreement
17 shall terminate on the later of—

18 “(i) the date the vessel covered by the
19 agreement is 25 years of age, or

20 “(ii) the date the vessel covered by the
21 agreement is 30 years of age, in the case
22 of an agreement that covers a vessel that
23 is repowered in a United States shipyard
24 after the effective date of the operating

1 agreement and before the vessel is 25
2 years of age.

3 “(B) EXCEPTION.—The operating agree-
4 ment shall not terminate under subparagraph
5 (A) if the contractor agrees to acquire a re-
6 placement for the vessel from among vessels on
7 the list maintained under section 403(d), and—

8 “(i) in the case of a vessel to be re-
9 placed with a new vessel, the contractor
10 enters into a binding contract with a ship-
11 yard that requires the shipyard to deliver
12 the replacement vessel by not later than 30
13 months after the later of the date the oper-
14 ating agreement is entered into or the date
15 the operating agreement would otherwise
16 terminate under subparagraph (A); or

17 “(ii) in the case of a vessel to be re-
18 placed with an existing vessel, the contrac-
19 tor acquires the replacement vessel from
20 among vessels on the list maintained under
21 section 403(d), by not later than 12
22 months after the later of the date the oper-
23 ating agreement is entered into or the date
24 the operating agreement would otherwise
25 expire under subparagraph (A).

1 “(4) AVAILABILITY OF VESSEL.—

2 “(A) IN GENERAL.—On a request of the
3 President during time of war or national emer-
4 gency or when considered by the President, act-
5 ing through the Secretary in consultation with
6 the Secretary of Defense, to be necessary in the
7 interest of national security, and subject to sub-
8 paragraph (B), the contractor as soon as prac-
9 ticable shall, as specified by the Secretary—

10 “(i) make the vessel covered by the
11 agreement available to the Secretary under
12 a time charter; or

13 “(ii) provide space on the vessel cov-
14 ered by the agreement to the Secretary on
15 a guaranteed basis.

16 “(B) CONDITION FOR CHARTER.—The
17 Secretary shall allow a contractor to comply
18 with this paragraph by providing space on a
19 vessel under subparagraph (A)(ii) unless the
20 Secretary determines that it is necessary in the
21 interest of national security that the contractor
22 make the vessel available under a time charter.

23 “(5) DELIVERY OF VESSEL.—The contractor
24 shall deliver a vessel to the Secretary pursuant to a

1 time charter under paragraph (4)(A)(i), as specified
2 in the request for the vessel—

3 “(A) at the first port in the United States
4 the vessel is scheduled to call after the date of
5 receipt of the request;

6 “(B) at the port in the United States to
7 which the vessel is nearest on the date of re-
8 ceipt of the request; or

9 “(C) in any other reasonable manner au-
10 thorized by the agreement and specified in the
11 request.

12 “(6) DELIVERY COSTS.—In addition to
13 amounts paid under paragraph (2), the Secretary
14 shall reimburse the contractor for costs incurred by
15 the contractor in delivering the vessel covered by the
16 agreement to the Secretary in accordance with the
17 agreement.

18 “(7) COMPENSATION.—In addition to amounts
19 paid under paragraph (2), the Secretary shall pay
20 the contractor, as provided in the operating agree-
21 ment, reasonable compensation at reasonable com-
22 mercial rates for the period of time the vessel is
23 chartered or the contractor provides space on the
24 vessel under paragraph (4).

25 “(8) REQUIRED OPERATION.—

1 “(A) IN GENERAL.—A vessel covered by
2 the operating agreement shall be operated in
3 the trade required under paragraph (1), and
4 under conditions eligible for payment under this
5 title, for at least 320 days in a fiscal year, in-
6 cluding days during which the vessel is dry-
7 docked, surveyed, inspected, or repaired.

8 “(B) REDUCTION IN PAYMENTS.—If a ves-
9 sel operates in the trade required under para-
10 graph (1), and under conditions eligible for pay-
11 ment under this title, for less than the time re-
12 quired under subparagraph (A), the payments
13 required under paragraph (2) shall be reduced
14 on a pro-rata basis to reflect the lesser time in
15 that operation.

16 “(9) SUBSTITUTION OF VESSELS AUTHOR-
17 IZED.—The contractor may substitute for the vessel
18 covered by the agreement another vessel on the list
19 maintained under section 403(d).

20 “(10) OTHER TERMINATION.—The operating
21 agreement shall terminate if—

22 “(A) in the case of a vessel that transports
23 less than 12,000 tons of bulk cargo under the
24 agreement—

1 “(i) the vessel covered by the agree-
2 ment is not operated under an operating
3 agreement for one year; and

4 “(ii) a substitute for that vessel is not
5 operated under the agreement during that
6 year; or

7 “(B) the contractor notifies the Secretary
8 that the contractor intends to terminate the
9 agreement, by not later than 60 days before the
10 effective date of the termination.

11 “(b) PAYMENTS.—

12 “(1) IN GENERAL.—The amount required to be
13 paid by the Secretary each year to a contractor
14 under an operating agreement pursuant to sub-
15 section (a)(2)—

16 “(A) shall be paid at a pro rated amount
17 at the beginning of each month in equal install-
18 ments; and

19 “(B) except as provided in paragraph (2),
20 may not be reduced by reason of operation of
21 the vessel covered by the agreement to carry ci-
22 vilian or military preference cargoes under—

23 “(i) section 901(a), 901(b), or 901b;

24 “(ii) section 2631 of title 10, United
25 States Code; or

1 “(iii) the Act of March 26, 1934 (48
2 Stat. 500).

3 “(2) REDUCTION FOR PREFERENCE CARGO.—A
4 contractor with respect to a vessel may not receive
5 any payment under this title for any day in which
6 the vessel is engaged in transporting more than
7 12,000 tons of preference cargo described in para-
8 graph (1)(B) that is bulk cargo (as defined in sec-
9 tion 3 of the Shipping Act of 1984).

10 “(c) REDELIVERY OF VESSELS.—The Secretary
11 shall, upon the termination of the need for which a vessel
12 is delivered under subsection (a)(4), return the vessel to
13 the contractor—

14 “(1) at a place that is mutually agreed upon by
15 the Secretary of Defense and the contractor; and

16 “(2) in the condition in which it was delivered
17 to the Secretary, excluding normal wear and tear.

18 “(d) TRANSFER OF OPERATING AGREEMENTS.—A
19 contractor under an operating agreement may transfer the
20 agreement (including all rights and obligations under the
21 agreement) to any other person that is a citizen of the
22 United States, after notification of the Secretary in ac-
23 cordance with regulations prescribed by the Secretary, un-
24 less the transfer is disapproved by the Secretary within
25 90 days after the date of that notification. A transfer shall

1 not be effective before the end of that 90-day period. A
2 person to whom an agreement is transferred may receive
3 payments from the Secretary under the agreement only
4 if the vessel to be covered by the agreement after the
5 transfer is on the list maintained under section 403(d).

6 **“SEC. 406. NONCONTIGUOUS TRADE RESTRICTIONS.**

7 “(a) PROHIBITION.—

8 “(1) IN GENERAL.—Except as provided in this
9 section, a contractor may not receive any payment
10 under this title—

11 “(A) if the contractor or a related party
12 with respect to the contractor, directly or indi-
13 rectly owns, charters, or operates a vessel en-
14 gaged in the transportation of cargo in non-
15 contiguous trade other than in accordance with
16 a waiver under subsection (b), (c), or (d); or

17 “(B) if the contractor is authorized to op-
18 erate a vessel in noncontiguous trade under
19 such a waiver, and there is a—

20 “(i) material change in the domestic
21 ports served by the contractor from the
22 ports permitted to be served under the
23 waiver;

24 “(ii) material increase in the annual
25 number or the frequency of sailings by the

1 contractor from the number or frequency
2 permitted under the waiver; or

3 “(iii) material increase in the annual
4 volume of cargo carried or annual capacity
5 utilized by the contractor from the annual
6 volume of cargo or annual capacity per-
7 mitted under the waiver.

8 “(2) LIMITATIONS ON PROHIBITION.—Para-
9 graph (1) applies to a contractor only in the years
10 specified for payments under the operating agree-
11 ment entered into by the contractor.

12 “(b) GENERAL WAIVER AUTHORITY.—

13 “(1) IN GENERAL.—Except as provided in sub-
14 section (c), the Secretary may waive, in writing, the
15 application of subsection (a) to a contractor pursu-
16 ant to an application submitted in accordance with
17 this subsection, unless the Secretary finds that—

18 “(A) the waiver would result in unfair
19 competition to any person that operates vessels
20 as a carrier of cargo in a service exclusively in
21 the noncontiguous trade for which the waiver is
22 applied;

23 “(B) subject to paragraph (6), existing
24 service in that noncontiguous trade is adequate;

25 or

1 “(C) the waiver will result in prejudice to
2 the objects or policy of this title or Act.

3 “(2) TERMS OF WAIVER.—Any waiver granted
4 by the Secretary under this subsection shall state—

5 “(A) the domestic ports permitted to be
6 served;

7 “(B) the annual number or frequency of
8 sailings that may be provided; and

9 “(C)(i) the annual volume of cargo per-
10 mitted,

11 “(ii) for containerized or trailer service, the
12 annual 40-foot equivalent unit shipboard con-
13 tainer and trailer or vehicle or general cargo ca-
14 pacity permitted, or

15 “(iii) for tug and barge service, the annual
16 barge house cubic foot capacity and the annual
17 barge deck general cargo capacity, or 40-foot
18 equivalent unit container, trailer, or vehicle ca-
19 pacity, permitted.

20 “(3) APPLICATIONS FOR WAIVERS.—An appli-
21 cation for a waiver under this subsection may be
22 submitted by a contractor and shall describe, as ap-
23 plicable, the nature and scope of—

24 “(A) the service proposed to be conducted
25 in a noncontiguous trade under the waiver; or

1 “(B) any proposed material change or in-
2 crease in a service in a noncontiguous trade
3 permitted under a previous waiver.

4 “(4) ACTION ON APPLICATION AND HEARING.—

5 “(A) NOTICE AND PROCEEDING.—Within
6 30 days after receipt of an application for a
7 waiver under this subsection, the Secretary
8 shall—

9 “(i) publish a notice of the applica-
10 tion; and

11 “(ii) begin a proceeding on the appli-
12 cation under section 554 of title 5, United
13 States Code, to receive—

14 “(I) evidence of the nature,
15 quantity, and quality of the existing
16 service in the noncontiguous trade for
17 which the waiver is applied;

18 “(II) a description of the pro-
19 posed service or proposed material
20 change or increase in a previously per-
21 mitted service;

22 “(III) the projected effect of the
23 proposed service or proposed material
24 change or increase in existing service;
25 and

1 “(IV) recommendations on condi-
2 tions that should be contained in any
3 waiver for the proposed service or ma-
4 terial change or increase.

5 “(B) INTERVENTION.—An applicant for a
6 waiver under this subsection, and any person
7 that operates cargo vessels in the noncontiguous
8 trade for which a waiver is applied and that has
9 any interest in the application, may intervene in
10 the proceedings on the application.

11 “(C) HEARING.—Before deciding whether
12 to grant a waiver under this subsection, the
13 Secretary shall hold a public hearing in an ex-
14 peditious manner, reasonable notice of which
15 shall be published.

16 “(5) DECISION.—The Secretary shall complete
17 all proceedings and hearings on an application under
18 this subsection and issue a decision on the record
19 within 90 days after receipt of the final briefs sub-
20 mitted for the record.

21 “(6) LIMITATION ON CONSIDERATION OF CER-
22 TAIN EXISTING SERVICE.—

23 “(A) LIMITATION.—In determining wheth-
24 er to grant a waiver under this subsection for
25 noncontiguous trade with Hawaii, the Secretary

1 shall not consider the criterion set forth in
2 paragraph (1)(B) if a qualified operator—

3 “(i) is a contractor, and

4 “(ii) operates 4 or more vessels in for-
5 eign commerce in competition with another
6 contractor.

7 “(B) QUALIFIED OPERATOR.—In this
8 paragraph, the term ‘qualified operator’ means
9 a person that on July 1, 1992, offered service
10 as an operator of containerized vessels, trailer
11 vessels, or combination container and trailer
12 vessels in noncontiguous trade with Hawaii and
13 the Johnston Islands (including a related party
14 with respect to the person).

15 “(c) WAIVERS FOR EXISTING NONCONTIGUOUS
16 TRADE OPERATORS.—

17 “(1) IN GENERAL.—The Secretary shall waive
18 the application of subsection (a) to a contractor pur-
19 suant to an application submitted in accordance with
20 this subsection if the Secretary finds that the con-
21 tractor, or a related party or predecessor in interest
22 with respect to the contractor—

23 “(A) engaged in bona fide operation of a
24 vessel as a carrier of cargo by water—

1 “(i) in a noncontiguous trade on July
2 1, 1992; or

3 “(ii) in furnishing seasonal service in
4 a season ordinarily covered by its oper-
5 ation, during the 12 calendar months pre-
6 ceding July 1, 1992; and

7 “(B) has operated in that service since
8 that time, except for interruptions of service re-
9 sulting from military contingency or over which
10 the contractor (or related party or predecessor
11 in interest) had no control.

12 “(2) TERMS OF WAIVER.—

13 “(A) IN GENERAL.—Except as otherwise
14 provided in this paragraph, the level of service
15 permitted under a waiver under this subsection
16 shall be the level of service provided by the ap-
17 plicant (or related party or predecessor in inter-
18 est) in the relevant noncontiguous trade during,
19 for year-round service, the 6 calendar months
20 preceding July 1, 1992, or for seasonal service,
21 the 12 calendar months preceding July 1, 1992,
22 determined by—

23 “(i) the domestic ports called;

24 “(ii) the number of sailings actually
25 made, except as to interruptions in the

1 service in the noncontiguous trade result-
2 ing from military contingency or over
3 which the applicant (or related party or
4 predecessor in interest) had no control;
5 and

6 “(iii) the volume of cargo carried or,
7 for containerized or trailer service, the 40-
8 foot equivalent unit shipboard container,
9 trailer, or vehicle or general cargo capacity
10 employed, or, for tug and barge service,
11 the barge house cubic foot capacity and
12 barge deck general cargo capacity or 40-
13 foot equivalent unit container, trailer, or
14 vehicle capacity, employed.

15 “(B) CERTAIN CONTAINERIZED VES-
16 SELS.—If an applicant under this subsection
17 was offering service as an operator of container-
18 ized vessels in noncontiguous trades with Ha-
19 waii, Puerto Rico, and Alaska on July 1, 1992,
20 a waiver under this subsection for the applicant
21 shall permit a level of service consisting of—

22 “(i) 104 sailings each year from the
23 West Coast of the United States to Hawaii
24 with an annual capacity allocated to the
25 service of 75 percent of the total capacity

1 of the vessels employed in the service on
2 July 1, 1992;

3 “(ii) 156 sailings each year in each di-
4 rection between the East Coast or Gulf
5 Coast of the United States and Puerto
6 Rico with an annual capacity allocated to
7 the service of 75 percent of the total ca-
8 pacity of its vessels employed in the service
9 on the date of the enactment of the Mari-
10 time Security and Competitiveness Act of
11 1993; and

12 “(iii) 103 sailings each year in each
13 direction between Washington and Alaska
14 with an annual capacity allocated to the
15 service in each direction of 100 percent of
16 the total capacity of its vessels employed in
17 the service on July 1, 1992.

18 “(C) CERTAIN TUGS AND BARGES.—If an
19 applicant under this subsection was offering
20 service as an operator of tugs and barges in
21 noncontiguous trades with Hawaii, Puerto Rico,
22 and Alaska on July 1, 1992, a waiver under
23 this subsection for the applicant shall permit a
24 level of service consisting of—

1 “(i) 17 sailings each year in each di-
2 rection between ports in Washington, Or-
3 regon, and Northern California and ports in
4 Hawaii with an annual barge house cubic
5 foot capacity and annual barge deck 40-
6 foot equivalent unit container capacity in
7 each direction of 100 percent of the total
8 of the capacity of its vessels employed in
9 the service during the 6 calendar months
10 preceding July 1, 1992, annualized;

11 “(ii) 253 sailings each year in each di-
12 rection between the East Coast or Gulf
13 Coast of the United States and Puerto
14 Rico with an annual 40-foot equivalent
15 unit container or trailer capacity equal to
16 100 percent of the capacity of its barges
17 employed in the service on the date of the
18 enactment of the Maritime Security and
19 Competitiveness Act of 1993;

20 “(iii) 37 regularly scheduled tandem
21 tow rail barge sailings and 10 additional
22 single tow rail barge sailings each year in
23 each direction between Washington and the
24 Alaskan port range between and including
25 Anchorage and Whittier with an annual

1 capacity allocated to the service in each di-
2 rection of 100 percent of the total rail car
3 capacity of its vessels employed in the serv-
4 ice on July 1, 1992;

5 “(iv) 8 regularly scheduled single tow
6 sailings each year in each direction be-
7 tween Washington and points in Alaska
8 (not including the port range between and
9 including Anchorage and Whittier, except
10 occasional deviations to discharge inciden-
11 tal quantities of cargo) with an annual ca-
12 pacity allocated to the service in each di-
13 rection of 100 percent of the total capacity
14 of its vessels employed in the service on
15 July 1, 1992; and

16 “(v) unscheduled, contract carrier tug
17 and barge service between points in Alaska
18 south of the Arctic Circle not served by the
19 common carrier service permitted under
20 clause (iii) and points in the contiguous 48
21 States, with an annual capacity allocated
22 to that service not exceeding 100 percent
23 of the total capacity of the equipment that
24 was dedicated to service south of the Arctic
25 Circle on July 1, 1992, and actually uti-

1 lized in that service in the 2-year period
2 preceding that date.

3 “(D) ANNUALIZATION.—Capacity other-
4 wise required by this paragraph to be permitted
5 under a waiver under this subsection shall be
6 annualized if not a seasonal service.

7 “(E) ADJUSTMENTS.—

8 “(i) Each written waiver granted by
9 the Secretary under this subsection shall
10 contain a statement that the annual capac-
11 ity permitted under this waiver in any di-
12 rection shall increase for a calendar year
13 by the percentage of increase during the
14 preceding calendar year in the real gross
15 product of the State or territory to which
16 goods are transported in the noncontiguous
17 trade covered by the waiver, or its equiva-
18 lent economic measure as determined by
19 the Secretary if the real gross product is
20 not available, and that the increase shall
21 not be considered to be a material change
22 or increase for purposes of subsection
23 (a)(1)(B).

24 “(ii) The increase in permitted capac-
25 ity under clause (i) in the noncontiguous

1 trade with Alaska shall be allowed only to
2 the extent the operator actually uses that
3 increased capacity to carry cargo in the
4 permitted service in the calendar year im-
5 mediately following the preceding increase
6 in gross product. However, if an operator
7 operating exclusively containerized vessels
8 in that trade on July 1, 1992, carries an
9 average load factor of at least 90 percent
10 of permitted capacity (including the capac-
11 ity, if any, both authorized and used under
12 the previous sentence) during 9 months of
13 any one calendar year, than in the next fol-
14 lowing calendar year and thereafter, the
15 requirement that additional capacity must
16 be used in the immediately following year
17 does not apply.

18 “(F) SERVICE LEVELS NOT INCREASED BY
19 TERMINATION OF AGREEMENT.—The termi-
20 nation of an operating agreement under section
21 405(a)(10) shall not be considered to increase
22 a level of service specified in subparagraph (A),
23 (B), or (C) if the contractor under the agree-
24 ment enters into another operating agreement
25 after that termination.

1 “(3) APPLICATIONS FOR WAIVERS.—For a
2 waiver under this subsection a contractor shall sub-
3 mit to the Secretary an application certifying the
4 facts required to be found under paragraph (1) (A)
5 or (B), as applicable.

6 “(4) ACTION ON APPLICATION.—

7 “(A) NOTICE.—The Secretary shall pub-
8 lish a notice of receipt of an application for a
9 waiver under this subsection within 30 days
10 after receiving the application.

11 “(B) HEARING PROHIBITED.—The Sec-
12 retary may not conduct a hearing on an appli-
13 cation for a waiver under this subsection.

14 “(C) SUBMISSION OF COMMENTS.—The
15 Secretary shall give every person operating a
16 cargo vessel in a noncontiguous trade for which
17 a waiver is applied for under this subsection
18 and who has any interest in the application a
19 reasonable opportunity to submit comments on
20 the application and on the description of the
21 service that would be permitted by any waiver
22 that is granted by the Secretary under the ap-
23 plication.

24 “(5) DECISION ON APPLICATION.—Subject to
25 the time required for publication of notice and for

1 receipt and evaluation of comments by the Sec-
2 retary, an application for a waiver under this sub-
3 section submitted at the same time the applicant ap-
4 plies for inclusion of a vessel in the Fleet shall be
5 granted in accordance with the level of service deter-
6 mined by the Secretary under this subsection by not
7 later than the date on which the Secretary offers to
8 the applicant an operating agreement with respect to
9 that vessel.

10 “(6) CHANGE OR INCREASE IN SERVICE.—Any
11 material change or increase in a service that is sub-
12 ject to a waiver under this subsection is not author-
13 ized except to the extent the change or increase is
14 permitted by a waiver under subsection (b).

15 “(d) EMERGENCY WAIVER.—Notwithstanding any
16 other provision of this section, the Secretary may, without
17 hearing, temporarily waive the application of subsection
18 (a)(1)(B) if the Secretary finds that a material change or
19 increase is essential in order to respond adequately to (1)
20 an environmental or natural disaster or emergency, or (2)
21 another emergency declared by the President. Any waiver
22 shall be for a period of not to exceed 45 days, except that
23 a waiver may be renewed for 30-day periods if the Sec-
24 retary finds that adequate capacity continues to be other-
25 wise unavailable.

1 “(e) ANNUAL REPORT ON WAIVERS.—Each waiver
2 under this section shall require the person who is granted
3 the waiver to submit to the Secretary each year an annual
4 report setting forth for the service authorized by the waiv-
5 er—

6 “(1) the ports served during the year;

7 “(2) the number or frequency of sailings per-
8 formed during the year; and

9 “(3) the volume of cargo carried or, for contain-
10 erized or trailer service, the annual 40-foot equiva-
11 lent unit shipboard container, trailer, or vehicle ca-
12 pacity utilized during the year, or for tug and barge
13 service, the annual barge house and barge deck ca-
14 pacity utilized during the year.

15 “(f) DEFINITIONS.—In this section—

16 “(1) the term ‘noncontiguous trade’ means
17 trade between—

18 “(A) a point in the contiguous 48 States;

19 and

20 “(B) a point in Alaska, Hawaii, or Puerto
21 Rico, other than a point in Alaska north of the
22 Arctic Circle; and

23 “(2) the term ‘related party’ means—

24 “(A) a holding company, subsidiary, affili-
25 ate, or associate of a contractor; and

1 “(B) an officer, director, agency, or other
2 executive of a contractor or of a person referred
3 to in subparagraph (A).

4 **“SEC. 407. OPERATING COMPETING FOREIGN VESSELS.**

5 “(a) IN GENERAL.—Except as provided in this sec-
6 tion, a contractor (including a related party with respect
7 to a contractor) may not own, charter, or operate a foreign
8 vessel in competition with a United States documented
9 vessel.

10 “(b) EXCEPTION.—Subsection (a) does not apply to
11 a foreign vessel if—

12 “(1)(A) the contractor has applied for an oper-
13 ating agreement for a vessel to be operated in the
14 same service as the foreign vessel; and

15 “(B) the Secretary, due to the unavailability of
16 funds, does not award an operating agreement to
17 that contractor for a United States documented ves-
18 sel for that service within 60 days after that applica-
19 tion is submitted;

20 “(2) the Secretary, after notice and an oppor-
21 tunity for a hearing, under special circumstances,
22 and for good cause shown, waives subsection (a) for
23 the contractor for a specified period of time; or

24 “(3) the foreign vessel was operated by that
25 contractor on August 5, 1993.

1 **“SEC. 408. FUNDING FOR OPERATING AGREEMENTS.**

2 “(a) AUTHORIZATION OF APPROPRIATIONS.—For en-
3 tering into operating agreements under this title there are
4 authorized to be appropriated to the Secretary
5 \$1,200,000,000 for fiscal year 1995. Amounts appro-
6 priated under this subsection shall remain available until
7 expended.

8 “(b) TRANSFER OF BALANCES FROM OPERATING
9 DIFFERENTIAL SUBSIDY PROGRAM.—Any amounts other-
10 wise available for operating differential subsidy contracts
11 under title VI that are no longer required for those con-
12 tracts are available, until expended, for operating agree-
13 ments.

14 **“SEC. 409. DEFINITIONS.**

15 “In this title:

16 “(1) CONTRACTOR.—The term ‘contractor’
17 means an owner or operator of a vessel that enters
18 into an operating agreement for the vessel with the
19 Secretary.

20 “(2) ELIGIBILITY DECISION APPLICATION.—
21 The term ‘eligibility decision application’ means an
22 application for a decision by the Secretary under
23 section 403 that a vessel is eligible to be enrolled in
24 the Fleet.

1 “(3) ELIGIBLE VESSEL.—The term ‘eligible ves-
2 sel’ means a vessel that the Secretary decides under
3 section 403 is eligible to be enrolled in the Fleet.

4 “(4) FLEET.—The term ‘Fleet’ means the Mar-
5 itime Security Fleet established under section 402.

6 “(5) OPERATING AGREEMENT.—The term ‘op-
7 erating agreement’ means an operating agreement
8 entered into by the Secretary under section 404.

9 “(6) RELATED PARTY.—The term ‘related
10 party’ means, with respect to a contractor or other
11 person—

12 “(A) a holding company, subsidiary, affili-
13 ate, or association of the person; and

14 “(B) an officer, director, other executive,
15 or agent of the person or of an entity referred
16 to in paragraph (1).

17 “(7) SECRETARY.—The term ‘Secretary’ means
18 the Secretary of Transportation.

19 “(8) UNITED STATES DOCUMENTED VESSEL.—
20 The term ‘United States documented vessel’ means
21 a vessel that is documented under chapter 121 of
22 title 46, United States Code.”.

23 **SEC. 4. OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS.**

24 (a) TERMINATION OF EXISTING CONTRACTS.—Not-
25 withstanding any other provision of this Act, any contract

1 in effect under title VI of the Merchant Marine Act, 1936
2 (46 App. U.S.C. 1171 et seq.), on the day before the date
3 of enactment of this Act shall continue in effect under its
4 terms and terminate as set forth in the contract, unless
5 voluntarily terminated on an earlier date by the persons
6 (other than the United States Government) that are par-
7 ties to the contract.

8 (b) AGE ACCELERATION OF BULK CARGO ODS VES-
9 SELS.—Section 506 of the Merchant Marine Act, 1936
10 (46 App. U.S.C. 1156) is amended—

11 (1) by inserting “(a)” after “SEC. 506.”; and
12 (2) by adding at the end the following new sub-
13 section:

14 “(b) For purposes of this section, any liquid or dry
15 bulk cargo vessel for which operating-differential subsidy
16 is required to be paid under a contract under title VI that
17 is in force on May 19, 1993, shall, effective upon the ter-
18 mination date of the contract (as set forth in the contract
19 as in effect on May 19, 1993, be deemed to have reached
20 the age of 20 years.”.

21 (c) RESTRICTIONS ON OPERATIONS OF ODS VES-
22 SELS.—Title VI of the Merchant Marine Act, 1936 (46
23 App. U.S.C. 1171 et seq.), as amended by this Act, is fur-
24 ther amended by adding at the end the following:

1 **“SEC. 616. LIMITATION ON APPLICATION OF RESTRICTIONS**
2 **ON OPERATIONS.**

3 “(a) Sections 605(c) and 804, this section, and the
4 essential service requirements in section 601(a) and
5 603(a), do not apply to a contractor if—

6 “(1) the contractor submits an eligibility deci-
7 sion application to the Secretary under title IV for
8 all of the vessels operated by the contractor under
9 an operating-differential subsidy contract; and

10 “(2) all of those vessels for which operating
11 agreements are offered by the Secretary under title
12 IV are enrolled in the Maritime Security Fleet.

13 “(b)(1) With respect to the operations of a contractor
14 receiving operating-differential subsidy for liner vessels on
15 a particular trade route, as defined in that contractor’s
16 contract in effect on January 1, 1993, that operator shall
17 not be subject to the restrictions of either section 605(c)
18 or section 804 with respect to operations on that trade
19 route, commencing at such time as—

20 “(A) that operator transfers 50 percent or more
21 of its vessels that were operating on that trade route
22 as of January 1, 1993, from the operating-differen-
23 tial subsidy program to the Maritime Security Fleet
24 program under title IV; or

25 “(B) that operator is the only contractor receiv-
26 ing operating-differential subsidy with respect to

1 that trade route, and all other United States-flag
2 liner operators operating a vessel on that trade route
3 are operating on that trade route only vessels for
4 which there are in effect operating agreements under
5 title IV.

6 “(2) With respect to any contractor receiving operat-
7 ing-differential subsidy for liner vessels on Maritime Ad-
8 ministration Essential Trade Route 1, 2, or 8, that opera-
9 tor shall not be subject to the restrictions of either section
10 605(c) or section 804 with respect to operations on any
11 of those trade routes, commencing at such time as pay-
12 ments begin to accrue on behalf of another United States-
13 flag operator that is a party to an operating agreement
14 under title IV which provides liner service on Maritime
15 Administration Essential Trade Route 2.”.

16 (d) ELIMINATION OF TRADE ROUTE RESTRIC-
17 TIONS.—Section 809(a) of the Merchant Marine Act,
18 1936 (46 U.S.C. 1213(a)) is amended by adding at the
19 end the following: “This subsection shall not apply to con-
20 tracts under title IV or funds for such contracts.”.

21 **SEC. 5. ELIMINATION OF CONSTRUCTION DIFFERENTIAL**
22 **SUBSIDY RESTRICTIONS.**

23 Title V of the Merchant Marine Act, 1936 (46 App.
24 U.S.C. 1151 et seq.), is amended by adding at the end
25 the following:

1 **“SEC. 512. LIMITATION ON RESTRICTIONS.**

2 “Notwithstanding any other provision of law or con-
3 tract, all restrictions and requirements under sections
4 503, 506, and 802 applicable to a liner vessel constructed,
5 reconstructed, or reconditioned with the aid of construc-
6 tion-differential subsidy shall terminate upon the expira-
7 tion of the 25-year period beginning on the date of the
8 original delivery of the vessel from the shipyard.”.

9 **SEC. 6. DEFINITIONS APPLICABLE TO MERCHANT MARINE**
10 **ACT, 1936.**

11 Section 905 of the Merchant Marine Act, 1936 (46
12 App. U.S.C. 1244), is amended—

13 (1) by striking subsection (a) and inserting the
14 following:

15 “(a) Each of the terms ‘foreign commerce’ and ‘for-
16 eign trade’ mean—

17 “(1) trade between the United States and a for-
18 eign country; or

19 “(2) trade between foreign ports.”;

20 (2) by striking subsection (c) and inserting the
21 following:

22 “(c) The term ‘citizen of the United States’ means
23 a person eligible to own a documented vessel under chap-
24 ter 121 of title 46, United States Code.”, and

25 (3) by adding at the end the following:

1 “(h) The term ‘foreign subsidized shipyard’ means a
2 shipyard that—

3 “(1) receives or benefits from, directly or indi-
4 rectly, a shipyard subsidy for the construction of
5 vessels; and

6 “(2) is located in a foreign country that has not
7 signed a trade agreement with the United States
8 that provides for the elimination of subsidies for
9 that shipyard.

10 “(i) The term ‘subsidy’ includes any of the following:

11 “(1) Officially supported export credits and de-
12 velopment assistance.

13 “(2) Direct official operating support to the
14 commercial shipbuilding and repair industry, or to a
15 related entity that favors the operation of shipbuild-
16 ing and repair, including—

17 “(A) grants;

18 “(B) loans and loan guarantees other than
19 those available on the commercial market;

20 “(C) forgiveness of debt;

21 “(D) equity infusions on terms inconsistent
22 with commercially reasonable investment prac-
23 tices;

24 “(E) preferential provision of goods and
25 services; and

1 “(F) public sector ownership of commercial
2 shipyards on terms inconsistent with commer-
3 cially reasonable investment practices.

4 “(3) Direct official support for investment in
5 the commercial shipbuilding and repair industry, or
6 to a related entity that favors the operation of ship-
7 building and repair, including the kinds of support
8 listed in clauses (i) through (v) of subparagraph (B),
9 and any restructuring support, except public support
10 for social purposes directly and effectively linked to
11 shipyard closures.

12 “(4) Assistance in the form of grants, pref-
13 erential loans, preferential tax treatment, or other-
14 wise, that benefits or is directly related to shipbuild-
15 ing and repair for purposes of research and develop-
16 ment that is not equally open to domestic and for-
17 eign enterprises.

18 “(5) Tax policies and practices that favor the
19 shipbuilding and repair industry, directly or indi-
20 rectly, such as tax credits, deductions, exemptions
21 and preferences, including accelerated depreciation,
22 if the benefits are not generally available to persons
23 or firms not engaged in shipbuilding or repair.

24 “(6) Any official regulation or practice that au-
25 thorizes or encourages persons or firms engaged in

1 shipbuilding or repair to enter into anticompetitive
2 arrangements.

3 “(7) Any indirect support directly related, in
4 law or in fact, to shipbuilding and repair at national
5 yards, including any public assistance favoring ship-
6 owners with an indirect effect on shipbuilding or re-
7 pair activities, and any assistance provided to suppli-
8 ers of significant inputs to shipbuilding, which re-
9 sults in benefits to domestic shipbuilders.

10 “(8) Any export subsidy identified in the Illus-
11 trative List of Export Subsidies in the Annex to the
12 Agreement on Interpretation and Application of Ar-
13 ticles VI, XVI, and XXIII of the General Agreement
14 on Tariffs and Trade or any other export subsidy
15 that may be prohibited as a result of the Uruguay
16 Round of trade negotiations.”.

17 **SEC. 7. GOVERNMENT-IMPELLED CARGOES.**

18 (a) **VESSELS ELIGIBLE FOR CARGOES.**—Section
19 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C.
20 1241(b)) is amended—

21 (1) in paragraph (1), by striking “For purposes
22 of this section, the term ‘privately owned United
23 States-flag commercial vessels’” and all that follows
24 through the end of the paragraph; and

1 (2) by adding at the end the following new
2 paragraphs:

3 “(3) In this section and section 901b, the term ‘pri-
4 vately owned United States-flag commercial vessel’ means
5 a privately owned vessel that is documented under chapter
6 121 of title 46, United States Code, that—

7 “(A) was built in the United States;

8 “(B) was documented under chapter 121 of
9 title 46, United States Code, before May 19, 1993;

10 “(C) does not transport under section 901b or
11 this section on any voyage more than 12,000 tons of
12 bulk cargo (as defined in section 3 of the Shipping
13 Act of 1984), and—

14 “(i) was built in a foreign shipyard under
15 a contract entered into on or before May 19,
16 1993;

17 “(ii) is built under a contract entered into
18 after that date, in a foreign shipyard that on
19 the date the contract is entered is not a foreign
20 subsidized shipyard; or

21 “(iii) is subject to an operating agreement
22 under title IV;

23 “(D)(i) is built under a contract entered into
24 after May 19, 1993, in a foreign shipyard that on

1 the date the contract was entered is not a foreign
2 subsidized shipyard; and

3 “(ii) has not been documented in a foreign
4 country before it is documented under chapter 121
5 of title 46, United States Code; or

6 “(E) has been documented under chapter 121
7 of title 46, United States Code, for at least 3 con-
8 secutive years, did not transport any equipment, ma-
9 terials, or commodities during that period under this
10 section or section 901b, and—

11 “(i) was built in a foreign shipyard under
12 a contract entered into before May 19, 1993; or

13 “(ii) is built under a contract entered into
14 after that date, in a foreign shipyard that on
15 the date the contract was entered is not a for-
16 eign subsidized shipyard.

17 “(4) In paragraph (3), the term ‘built’ includes re-
18 built.”.

19 (b) CLERICAL AMENDMENT.—Section 901b of the
20 Merchant Marine Act, 1936 (46 App. U.S.C. 1241f) is
21 amended by adding at the end the following:

22 “(f) For the definition of the term ‘privately owned
23 United States-flag commercial vessel’, see section
24 901(b)(3).”.

1 **SEC. 8. VESSEL FINANCING.**

2 (a) **ELIMINATION OF MORTGAGEE RESTRICTIONS.**—
3 Section 31322(a) of title 46, United States Code, is
4 amended to read as follows:

5 “(a) A preferred mortgage is a mortgage, whenever
6 made, that—

7 “(1) includes the whole of the vessel;

8 “(2) is filed in substantial compliance with sec-
9 tion 31321 of this title; and

10 “(3)(A) covers a documented vessel; or

11 “(B) covers a vessel for which an application
12 for documentation is filed that is in substantial com-
13 pliance with the requirements of chapter 121 of this
14 title and the regulations prescribed under that chap-
15 ter.”.

16 (b) **ELIMINATION OF TRUSTEE RESTRICTIONS.**—

17 (1) **REPEAL.**—Section 31328 of title 46, United
18 States Code, is repealed.

19 (2) **CONFORMING AMENDMENT.**—Section
20 31330(b) of title 46, United States Code, is amend-
21 ed in paragraphs (1), (2), and (3) by striking
22 “31328 or” each place it appears.

23 (c) **REMOVAL OF MORTGAGE RESTRICTIONS.**—Sec-
24 tion 9 of the Shipping Act, 1916 (46 App. U.S.C. 808),
25 as amended by this Act, is further amended—

26 (1) in subsection (c)—

1 (A) by striking “31328” and inserting
2 “12106(e)”; and

3 (B) in paragraph (1) by striking “mort-
4 gage,” each place it appears; and
5 (2) in subsection (d)—

6 (A) in paragraph (1) by striking “transfer,
7 or mortgage” and inserting “or transfer”;

8 (B) in paragraph (2) by striking “trans-
9 fers, or mortgages” and inserting “or trans-
10 fers”;

11 (C) in paragraph (3)(B) by striking
12 “transfers, or mortgages” and inserting “or
13 transfers”; and

14 (D) in paragraph (4) by striking “trans-
15 fers, or mortgages” and inserting “or trans-
16 fers”.

17 (d) LEASE FINANCING.—Section 12106 of title 46,
18 United States Code, is amended by adding at the end the
19 following new subsections:

20 “(e)(1) A certificate of documentation for a vessel
21 may be endorsed with a coastwise endorsement if—

22 “(A) the vessel is eligible for documentation
23 under section 12102;

24 “(B) the vessel is otherwise qualified under this
25 section to be employed in the coastwise trade;

1 “(C) the person that owns the vessel, or any
2 other person that owns or controls the person that
3 owns the vessel, is primarily engaged in leasing or
4 other financing transactions;

5 “(D) the vessel is under a demise charter to a
6 person qualifying as a citizen of the United States
7 for engaging in the coastwise trade under section 2
8 of the Shipping Act, 1916; and

9 “(E) the demise charter is for—

10 “(i) a period of at least 3 years; or

11 “(ii) such shorter period as may be pre-
12 scribed by the Secretary.

13 “(2) On termination of a demise charter required
14 under paragraph (1)(D), the coastwise endorsement may
15 be continued for a period not to exceed 6 months on any
16 terms and conditions that the Secretary of Transportation
17 may prescribe.

18 “(f) For purposes of the first proviso of section 27
19 of the Merchant Marine Act, 1920, section 2 of the Ship-
20 ping Act, 1916, and section 12102(a), a vessel meeting
21 the criteria of subsection (d) or (e) is deemed to be owned
22 exclusively by citizens of the United States.”.

1 **SEC. 9. PLACEMENT OF VESSELS UNDER FOREIGN REG-**
2 **ISTRY.**

3 (a) IN GENERAL.—Section 9 of the Shipping Act,
4 1916 (46 App. U.S.C. 808), as amended by this Act, is
5 further amended by adding at the end the following:

6 “(e) Notwithstanding subsection (c)(2), the Merchant
7 Marine Act, 1936, or any contract entered into with the
8 Secretary under that Act, a vessel may be placed under
9 a foreign registry, without approval of the Secretary, if—

10 “(1)(A) the Secretary determines that at least
11 one replacement vessel of a capacity that is equiva-
12 lent or greater, as measured by deadweight tons,
13 gross tons, or container equivalent units, as appro-
14 priate, is documented under chapter 121 of title 46,
15 United States Code, by the owner of the vessel
16 placed under the foreign registry; and

17 “(B) the replacement vessel is not more than
18 10 years of age on the date of that documentation;

19 “(2)(A) the owner of the vessel has applied for
20 an operating agreement under title IV of the Mer-
21 chant Marine Act, 1936; and

22 “(B) the Secretary, due to the unavailability of
23 funds, has not awarded that owner an operating
24 agreement within 60 days after the date of that ap-
25 plication; or

1 “(3)(A) before the expiration of an operating
2 agreement entered into under title IV of the Mer-
3 chant Marine Act, 1936, the owner has applied for
4 a new operating agreement; and

5 “(B) the Secretary, due to the unavailability of
6 funds, has not awarded the owner an operating
7 agreement before the later of—

8 “(i) 60 days after the application for a new
9 operating agreement; or

10 “(ii) the date of expiration of the operating
11 agreement.

12 “(f) The Secretary shall give notice and an oppor-
13 tunity for a hearing for all approvals applied for under
14 subsection (c)(2) for oceangoing merchant vessels that are
15 of at least 3,000 gross tons.”.

16 (b) APPLICATION.—The amendment made by sub-
17 section (a) applies to vessels that are placed under foreign
18 registry after the date of enactment of this Act and re-
19 placement vessels documented in the United States after
20 that date.

21 (c) COURT SALES OF VESSELS.—Section 31329 of
22 title 46, United States Code, is amended to read as fol-
23 lows:

1 **“§ 31329. Court sales of documented vessels**

2 “When a documented vessel is sold by order of a dis-
3 trict court to a mortgagee not eligible to own a docu-
4 mented vessel—

5 “(1) that sale is not a sale foreign within the
6 terms of the first proviso of section 27 of the Mer-
7 chant Marine Act, 1920 (46 App. U.S.C. 883); and

8 “(2) unless the vessel is transferred to a foreign
9 registry, the vessel may be operated only with the
10 approval of the Secretary of Transportation.”.

11 **SEC. 10. SERIES CONSTRUCTION ASSISTANCE.**

12 The Merchant Marine Act, 1936 (46 App. U.S.C.
13 1101 et seq.) is amended by adding at the end the follow-
14 ing:

15 **“TITLE XIV—SERIES**
16 **CONSTRUCTION ASSISTANCE**

17 **“SEC. 1401. PAYMENT OF ASSISTANCE AUTHORIZED.**

18 “(a) IN GENERAL.—The Secretary of Transportation
19 (hereinafter in this title referred to as the ‘Secretary’)
20 may, subject to the availability of appropriations, pay as-
21 sistance in accordance with this title to the owner of a
22 shipyard that is located in the United States for the con-
23 struction (including outfitting and equipping) of any com-
24 mercial vessel that is one of a series of vessels for which
25 payment of assistance under this section to the owner is
26 approved by the Secretary under section 1402.

1 “(b) AMOUNT OF ASSISTANCE.—The total amount of
2 assistance paid under this section with respect to a vessel
3 shall be equal to the series transition payment determined
4 for the vessel under section 1403(a).

5 **“SEC. 1402. APPROVAL OF ASSISTANCE FOR CONSTRU-**
6 **CTION OF SERIES OF VESSELS.**

7 “(a) APPROVAL OF ASSISTANCE.—

8 “(1) IN GENERAL.—The Secretary may approve
9 payment of assistance under section 1401 for con-
10 struction of a series of vessels in a shipyard if—

11 “(A) the owner of the shipyard submits an
12 application for that assistance in accordance
13 with section 1405;

14 “(B) the Secretary makes the determina-
15 tions described in subsection (b); and

16 “(C) the Secretary determines that pay-
17 ment of the assistance will contribute to main-
18 taining national vessel construction capabilities
19 that are essential in time of war or national
20 emergency.

21 “(2) LIMITATION.—The Secretary may not ap-
22 prove assistance under this section for a series of
23 vessels if the series transition payment determined
24 under section 1403(a) for any vessel in the series is
25 greater than 50 percent of the estimate of the cost

1 of constructing the vessel determined by the Sec-
2 retary under section 1403(b)(2).

3 “(b) DETERMINATIONS BY SECRETARY.—The Sec-
4 retary may not approve assistance for construction of a
5 series of vessels in a shipyard unless the Secretary has
6 determined the following:

7 “(1) VESSEL REQUIREMENTS.—The vessels
8 are—

9 “(A) commercial vessels of at least 10,000
10 gross tons; and

11 “(B) commercially marketable on the inter-
12 national market.

13 “(2) SHIPYARD REQUIREMENTS.—The shipyard
14 in which the vessels will be constructed—

15 “(A) is located in the United States; and

16 “(B) upon completion of construction of
17 the vessels, will be capable of constructing addi-
18 tional vessels of the same type as those in the
19 series for a price that is competitive in the
20 international market.

21 “(3) APPLICANT REQUIREMENTS.—The appli-
22 cant for the assistance—

23 “(A) has the ability, financial resources,
24 and other qualifications necessary for construc-
25 tion of the vessels;

1 “(B) has entered into a contract for the
2 construction of each of the first 2 vessels to be
3 constructed in the series, which may include a
4 contract for a vessel that will be constructed
5 without assistance under this title; and

6 “(C) is the owner of the shipyard in which
7 the vessels will be constructed.

8 “(4) CONTRACT REQUIREMENTS.—Each of the
9 contracts required under paragraph (3)(B) are bind-
10 ing obligations on the applicant and all other parties
11 to the contracts, except that such a contract may be
12 contingent on—

13 “(A) the approval of assistance under this
14 title for construction of a vessel under the con-
15 tract; and

16 “(B) the making of a guarantee or com-
17 mitment to guarantee obligations under title XI
18 for construction under the contract.

19 “(5) PURCHASER REQUIREMENTS.—Each per-
20 son that is a purchaser of a vessel under a contract
21 required under paragraph (3)(B)—

22 “(A) has the ability, financial resources,
23 and other qualifications necessary to own and
24 operate the vessel in commercial service; and

25 “(B) is a party to the contract.

1 “(6) SERIES TRANSITION PAYMENT.—The se-
2 ries transition payment under section 1403 for each
3 vessel in the series.

4 “(c) PRIORITY FOR CERTAIN SERIES OF VESSELS.—
5 In approving assistance under this title, the Secretary may
6 give priority to a series of vessels—

7 “(1) if a smaller number of vessels in the series
8 are required to be constructed with assistance before
9 construction of that type of vessel becomes cost ef-
10 fective;

11 “(2) for which the total of the series transition
12 payments determined under section 1403 for all ves-
13 sels in the series is less than that total for other se-
14 ries of vessels for which applications are submitted
15 for assistance under this title;

16 “(3) that will be constructed in a shipyard with
17 respect to which assistance under this title has not
18 been provided; or

19 “(4) that would contribute to the preservation
20 of a shipyard that would be essential in a time of
21 war or national emergency.

22 **“SEC. 1403. DETERMINATION OF SERIES TRANSITION PAY-**
23 **MENTS.**

24 “(a) IN GENERAL.—The Secretary shall determine
25 the series transition payment for each vessel in a series

1 of vessels for which an application for assistance under
2 this title is received by the Secretary.

3 “(b) AMOUNT OF SERIES TRANSITION PAYMENT.—

4 The series transition payment for a vessel under sub-
5 section (a) is equal to the difference of—

6 “(1) the estimated cost of completing construc-
7 tion of the vessel, as included in the application for
8 assistance submitted under section 1405; minus

9 “(2) a reasonable estimate of the cost of con-
10 structing the vessel under similar plans and speci-
11 fications in a foreign shipyard that is considered by
12 the Secretary to be a fair and representative exam-
13 ple for purposes of determining the payment.

14 **“SEC. 1404. SERIES CONSTRUCTION AGREEMENT.**

15 “(a) IN GENERAL.—

16 “(1) IN GENERAL.—The Secretary shall, for
17 each series of vessels for which assistance is ap-
18 proved under section 1402, enter into a series con-
19 struction agreement with the owner of the shipyard
20 in which the series of vessels will be constructed,
21 under which the Secretary is required to pay the
22 owner assistance in accordance with a schedule es-
23 tablished under paragraph (2).

24 “(2) SCHEDULE FOR PAYMENTS.—An agree-
25 ment under this subsection shall establish a schedule

1 for the payment of assistance under the agreement,
2 that is based on the construction schedule for vessels
3 for which the assistance is paid.

4 “(3) TERMINATION OF AGREEMENT.—An
5 agreement under this subsection shall authorize the
6 Secretary to terminate the agreement if—

7 “(A) a contract required under section
8 1402(b)(3)(B) is terminated by the purchaser
9 of the vessel under the contract, and the owner
10 of the shipyard does not enter into a new con-
11 tract for construction of the vessel within a pe-
12 riod which shall be specified in the agreement;
13 or

14 “(B) the owner of the shipyard fails to
15 enter into contracts for construction of all ves-
16 sels in the series of vessels to which the agree-
17 ment applies, within a period which shall be
18 specified in the agreement.

19 “(4) CONTINUING EFFECT OF AGREEMENT
20 WITH RESPECT TO VESSELS COVERED BY CON-
21 TRACTS.—The termination of a series construction
22 agreement under paragraph (3) shall not affect the
23 effectiveness of the agreement with respect to vessels
24 for which a construction contract is in effect on the
25 date of termination.

1 “(b) BINDING OBLIGATION OF THE UNITED
2 STATES.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), a requirement that the Secretary make
5 payments under a series construction agreement
6 under subsection (a) shall constitute a binding obli-
7 gation of the United States.

8 “(2) TERMINATION OF OBLIGATION.—If the
9 Secretary terminates a series construction agreement
10 pursuant to subsection (a)(3), the obligation of the
11 United States under paragraph (1) to make pay-
12 ments under the agreement shall terminate with re-
13 spect to vessels for which no construction contract is
14 in effect on the date of termination of the agree-
15 ment.

16 “(3) CONTINUING AVAILABILITY OF
17 AMOUNTS.—Amounts to be used to liquidate an obli-
18 gation under paragraph (1) that terminates under
19 paragraph (2) shall remain available to the Sec-
20 retary for the payment of assistance under this title.

21 **“SEC. 1405. APPLICATIONS FOR ASSISTANCE.**

22 “(a) SUBMITTAL.—A person desiring assistance
23 under this title shall, in accordance with this section, sub-
24 mit an application to the Secretary.

1 “(b) CONTENTS OF APPLICATION.—An application
2 for assistance under this title with respect to a series of
3 vessels shall include the following:

4 “(1) A detailed description of the type of ves-
5 sels included in the series, including plans and speci-
6 fications for the vessels.

7 “(2) Detailed estimates of the cost of complet-
8 ing construction of each of the vessels in the series,
9 including such estimates from subcontractors for the
10 construction as may be required by the Secretary.

11 “(3) Copies of the contracts required under sec-
12 tion 1402(b)(3)(B).

13 “(4) Other information required by the Sec-
14 retary to fulfill the requirements of this title.

15 “(c) REGULATIONS.—The Secretary shall issue regu-
16 lations setting forth the procedures for submitting an ap-
17 plication for assistance under this title.

18 **“SEC. 1406. RESTRICTION ON VESSEL OPERATIONS.**

19 “A vessel for which assistance is paid under this
20 title—

21 “(1) may be operated only in foreign trade or
22 domestic trade authorized under a registry endorse-
23 ment for the vessel issued under section 12105 of
24 title 46, United States Code; and

1 “(2) may not be operated in the coastwise trade
2 of the United States (including mixed coastwise and
3 foreign trade), except coastwise trade authorized
4 under a registry endorsement for the vessel issued
5 under section 12105 of title 46, United States Code.

6 **“SEC. 1407. VESSEL DESIGN AWARDS.**

7 “The Secretary, subject to the availability of appro-
8 priations, may make an award to a United States shipyard
9 on an equal matching basis for the cost of vessel designs
10 and document and bid preparation for vessels described
11 in section 403(b)(4).”.

12 **SEC. 11. EFFECTIVE DATE.**

13 The amendments made by this Act are effective on
14 the date which is 120 days after the date of enactment
15 of this Act.

16 **SEC. 12. REGULATIONS.**

17 (a) IN GENERAL.—The Secretary of Transportation
18 shall prescribe regulations as necessary to carry out this
19 Act.

20 (b) INTERIM REGULATIONS.—The Secretary of
21 Transportation may prescribe interim regulations nec-
22 essary to carry out this Act and for accepting eligibility
23 decision applications under section 403 of the Merchant
24 Marine Act, 1936, as amended by this Act. For this pur-
25 pose, the Secretary of Transportation is excepted from

1 compliance with the notice and comment requirements of
2 section 553 of title 5, United States Code. All regulations
3 prescribed under the authority of this subsection that are
4 not earlier superseded by final rules shall expire 270 days
5 after the date of enactment of this Act.

6 **SEC. 13. EXPANSION OF STANDING FOR MARITIME UNIONS.**

7 Section 301 of the Merchant Marine Act, 1936 (46
8 App. U.S.C. 1131) is amended by adding at the end the
9 following:

10 “(c) STANDING FOR MARITIME UNION REPRESENTA-
11 TIVES.—The duly-elected representative of any organiza-
12 tion that is certified by the Secretary of Labor as the prop-
13 er collective bargaining agency for officers or crew em-
14 ployed on any type of United States documented vessel
15 is an interested party in, and has standing to challenge,
16 any proposed or final order, action, or rule of the Sec-
17 retary of Transportation under this Act or section 9(c)(2)
18 of the Shipping Act, 1916.”.

19 **SEC. 14. STUDY.**

20 (a) IN GENERAL.—After providing public notice and
21 opportunity for comment, the Secretary of Transportation
22 shall conduct a study of—

23 (1) the impact of this Act on the international
24 competitiveness of United States documented vessels
25 and whether this Act has had a favorable or unfa-

1 vorable impact on the ability of United States docu-
2 mented vessels to compete successfully with foreign-
3 flag vessels;

4 (2) whether continuation of the Maritime Secu-
5 rity Fleet program established by this Act would as-
6 sist the international competitiveness of United
7 States documented vessels;

8 (3) whether the Maritime Security Fleet pro-
9 gram should be continued, modified, or discontinued;

10 (4) alternatives that are or should be available
11 to operators of United States documented vessels if
12 the Maritime Security Fleet program is discon-
13 tinued; and

14 (5) any other issues related to promoting the
15 international competitiveness of United States docu-
16 mented vessels that the Secretary considers appro-
17 priate.

18 (b) REPORT.—The Secretary of Transportation shall
19 submit to the Congress a report on the findings and con-
20 clusions of the study required by subsection (a) by not
21 later than 4 years after the date of enactment of this Act,
22 which shall include such recommendations as the Sec-
23 retary considers appropriate.

1 **SEC. 15. CARGO PREFERENCE ADMINISTRATIVE REFORM.**

2 (a) FINDINGS.—The Congress finds and declares
3 that—

4 (1) the Congress continues to support the cargo
5 preference program as an important element of sup-
6 port for the United States-flag merchant marine be-
7 cause the United States merchant marine is critical
8 to the economic and national security of the United
9 States;

10 (2) reserving a small portion of Government
11 cargo for United States-flag vessels encourages com-
12 petition among United States-flag vessels; and

13 (3) administering the cargo preference program
14 in a centralized, commercially based manner reduces
15 costs of the program.

16 (b) ADMINISTRATIVE REFORM.—Section 901 of the
17 Merchant Marine Act, 1936 (46 App. U.S.C. 1241) is
18 amended by adding at the end the following new sub-
19 sections:

20 “(d) A privately owned United States-flag commercial
21 vessel transporting any equipment, materials, or commod-
22 ities under this section or section 901b shall be engaged
23 under terms no less favorable than the most favorable
24 terms offered to any foreign-flag vessel transporting
25 equipment, materials, or commodities under this section
26 or section 901b.

1 “(e) A contract for the ocean transportation of any
2 equipment, materials, or commodities under this section
3 or section 901b, to the extent the Secretary of Transpor-
4 tation, in consultation with the heads of other appropriate
5 agencies, determines necessary to further the purposes of
6 this section and section 901b, shall be based on contracts
7 used for commercial shipments.

8 “(f) The Secretary of Transportation shall partici-
9 pate in negotiations relating to agreements with recipient
10 countries for equipment, materials, or commodities subject
11 to this section or section 901b to the extent the Secretary,
12 in consultation with the heads of other appropriate agen-
13 cies, considers to be necessary to ensure agreement provi-
14 sions relating to or affecting the transportation of such
15 equipment, materials, or commodities permit fair and rea-
16 sonable transportation services to be provided.

17 “(g) No later than 180 days after the date of the
18 enactment of the Maritime Security and Competitiveness
19 Act of 1993, the heads of appropriate Federal agencies,
20 or their representatives, shall transmit to the Secretary
21 of Transportation recommendations relating to the meth-
22 odology used by the Secretary of Transportation to deter-
23 mine whether rates for United States-flag vessels are fair
24 and reasonable in compliance with section 901(b) and will
25 achieve the policy objectives of this Act.”.

1 (c) Within 90 days after the date of enactment of
2 this Act, the Secretary of Transportation shall take ac-
3 tions to ensure and maintain a significant increase of gov-
4 ernment-impelled cargo through Great Lakes ports,
5 through administrative waivers and action and through an
6 exemption of cargo preference requirements.

7 **SEC. 16. WAGES FOR WHICH PREFERRED MARITIME LIEN**
8 **MAY BE ESTABLISHED.**

9 (a) IN GENERAL.—Section 31301(5)(D) of title 46,
10 United States Code, is amended by inserting before the
11 semicolon the following: “(including any payment de-
12 scribed in paragraph (5), (6), (7), (8), or (9) of section
13 302(c) of the Labor Management Relations Act, 1947 for
14 any individual as a member of the crew of the vessel, that
15 is due from and unpaid by an owner or managing operator
16 of the vessel)”.

17 (b) INCURRING OBLIGATIONS BEFORE EXECUTING
18 PREFERRED MORTGAGES.—Section 31323(b)(2) of title
19 46, United States Code, is amended by inserting before
20 the semicolon the following: “(including any payment de-
21 scribed in paragraph (5), (6), (7), (8), or (9) of section
22 302(c) of the Labor Management Relations Act, 1947 for
23 any member of the crew of the vessel)”.

24 (c) MASTER’S LIEN FOR WAGES.—Section 11112 of
25 title 46, United States Code, is amended by inserting after

1 “wages” the following: “(including any payment described
2 in paragraph (5), (6), (7), (8), or (9) of section 302(c)
3 of the Labor Management Relations Act, 1947 for an indi-
4 vidual as master of the vessel, that is due from and unpaid
5 by an owner or managing operator of the vessel)”.

6 (d) APPLICATION.—The amendments made by sub-
7 sections (a), (b), and (c) shall apply with respect to pay-
8 ments that first become due on or after the date of the
9 enactment of this Act.

10 **SEC. 17. COMPLIANCE WITH BUY AMERICAN ACT.**

11 No funds appropriated pursuant to this Act may be
12 expended by an entity unless the entity agrees that in ex-
13 pending the assistance the entity will comply with sections
14 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-
15 10c, popularly known as the “Buy American Act”).

16 **SEC. 18. SENSE OF CONGRESS; REQUIREMENT REGARDING**
17 **NOTICE.**

18 (a) PURCHASE OF AMERICAN-MADE EQUIPMENT
19 AND PRODUCTS.—In the case of any equipment or prod-
20 ucts that may be authorized to be purchased with financial
21 assistance provided under this Act, it is the sense of the
22 Congress that entities receiving such assistance should, in
23 expending the assistance, purchase only American-made
24 equipment and products.

1 (b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In
2 providing financial assistance under this Act, the head of
3 each Federal agency shall provide to each recipient of the
4 assistance a notice describing the statement made in sub-
5 section (a) by the Congress.

Passed the House of Representatives November 4,
1993.

Attest:

Clerk.