COMPTROLLER GENERAL OF THE UNITED STATES
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IN REPLY REFER TO: B-95832 CED7-338

APR 5 1977

The Honorable John M. Murphy, Chairman
Committee on Merchant Marine
and Fisheries
House of Representatives

Dear Mr. Chairman:

We would like to take this opportunity to comment on H.R. 1037, a bill which would amend section 901 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241), by adding a new subsection to require that specified percentages of United States oil imports be carried on United States flag vessels. Inasmuch as the proposed legislation involves a matter of policy for determination by the Congress, we make no recommendations with respect to its enactment. However, we offer the following comments for your consideration.

The bill would require the Secretary of Commerce to take such steps as are necessary to assure that 20 percent of the gross tonnage of all oil transported in bulk on ocean vessels for import into the United States, whether direct from production sites or indirectly via intermediate points is transported on privately-owned, United States flag vessels, to the extent such vessels are available at fair and reasonable rates. The percentage would be increased to 25 percent after June 30, 1978, and to 30 percent after June 30, 1980, subject to the Secretary of Commerce's determinations that enough privately-owned, United States flag vessels were available to carry the additional tonnage.

Our current audit work at the Maritime Administration indicates that these goals may not be realistic or related to any defined American merchant marine fleet requirement. The Assistant Secretary of Commerce for Maritime Affairs recently stated that current information indicated that, without affecting Maritime Administration and Navy shipbuilding programs, it appeared very unlikely that sufficient United States tanker capacity could be generated by 1980 to carry more than 7 to 12 percent of U.S. oil imports.

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Additionally, during the past several months we have discussed with Maritime Administration officials a need for defining an adequate merchant marine fleet in terms of numbers and types of vessels to achieve the overall goals of the Merchant Marine Act of 1936. We suggest that the Congress request the Maritime Administration to provide data as to what percentages of carriage are necessary to obtain an adequate fleet. Recognizing the above, the Congress may wish to lower the 20, 25, and 30 percent goals of this bill until the Maritime Administration, in cooperation with the Department of Defense, can outline for the Congress the number and types of tankers needed to meet the goals of the Merchant Marine Act of 1936.

The intent of the bill is not clear as to whether or not subsidies would be provided to vessels participating in the carriage of the reserved oil trade. Since the bill does not state otherwise, vessels participating in the reserved oil trade would be eligible for construction and operating subsidies under other sections of the Merchant Marine Act of 1936. Consequently, in addition to having the benefit of reserved trade, these vessels also would receive subsidies.

As you know, vessels engaged in the protected coast-wise trade of the United States do not receive subsidies. Therefore, we are uncertain if it is the intent of the Congress to treat the vessels serving under this bill in a manner consistent with vessels serving in the coast-wise trade or to provide these vessels with subsidies. We believe that this is a matter that should be clearly defined by the Congress because (1) without subsidies, the consumer would bear the cost of this bill and (2) with subsidies, such cost would be borne by the Treasury. If it is the desire of the Congress not to provide subsidies, this should be explicitly stated in the bill.

Further, if subsidies are not desired, it appears to us that it would not be equitable for vessels already built with construction subsidy to participate and compete under the provisions of this bill with vessels to be built without subsidy. Therefore, if subsidies are not desired, a provision should be included in the bill directing the Secretary of Commerce to equalize competition either by recapturing the subsidy or by considering this cost

advantage in determining fair and reasonable rates for the previously subsidized vessels.

Section 2, subsection (d)(4) contains definitions of terms used in the bill. The definition of a United States-commercial flag vessel indicates the desire of the Congress to allow vessels that are not currently under United States flag registry to become eligible for carriage under this bill. Among other qualifications, the vessel must have been built in the United States. We believe that this qualification might preclude any meaningful number of tankers from transferring to United States flag registry.

According to Maritime Administration officials, if this bill were enacted, there would be enough shipbuilding activity to keep American shipyards busy well into the 1980's. We believe that the Congress should consider allowing some foreign built vessels meeting United States tanker safety standards to be registered under the United States flag for the purpose of carrying cargo preference oil. This would reduce the potential for the United States to be adding tankers to its merchant fleet while the rest of the world is experiencing a severe tanker surplus. Also, because of the capital investment of foreign built vessels, allowing such vessels to transfer to United States registry would reduce the cost of this bill to the American consumer or taxpayer.

In addition, we believe that, in order to assure effective implementation of this bill, the term "fair and reasonable" as used on page 2, lines 6-7, should be further defined. We suggest that the Congress provide the Secretary of Commerce with guidelines as to the amount of profit that vessels could earn operating under the provisions of this bill and still have their rates considered fair and reasonable.

Section 2, subsections (d)(2) and (d)(5), concern the proposed regulation and monitoring of the importers covered by this bill. Our reviews concerning the Maritime Administration's monitoring and regulating of the current cargo preference legislation--the Military Transportation

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Act of 1904, Public Resolution 17, and the Cargo Preference Act of 1954--indicates that the Maritime Administration has had difficulty in getting the cooperation of all the Federal agencies covered by these laws and in assuring that the information received from such agencies is adequate for monitoring purposes. One of the reasons for this apparently was the lack of resources. Therefore, we are concerned about the Maritime Administration's ability to effectively regulate and monitor the provisions of this bill without a significant amount of additional resources. If the Congress wishes immediate implementation of this bill, it might consider authorizing the necessary resources to carry out the bill.

In addition to the above, there is much uncertainty as to the cost of the bill to both the consumer and the Treasury. GAO, in response to your request of March 4, 1977, is reviewing the various cost studies that have been provided to your Committee. We anticipate completing our review within 2 months.

In reviewing this bill a number of other issues were raised by our staff. We believe that these issues should be addressed by the Congress in its consideration of this bill. A listing of these issues is enclosed.

Sincerely yours,

Deputy Comptroller General
of the United States

Enclosure

ENCLOSURE

OTHER ISSUES CONCERNING H.R. 1037

- The building of the large number of tankers required to meet the goals of this bill might "crowd out" the building of other types of vessels needed by the United States merchant fleet or by the Navy.

- With the Federal Government emphasizing self dependence on energy and the use of alternatives to oil, would H.R. 1037 be contradictory to these other energy policies?

- Establishing a cargo preference policy for oil imports might be precedent setting. Therefore, when evaluating the cost of H.R. 1037, consideration should also be given to the possible cost of future cargo preference legislation for the dry bulk and liner trades.

- An oil cargo preference policy might impact on international trading agreements, policies, and practices.

- There is a large number of American-owned, foreign flag vessels which are collectively referred to as the United States Effective Control Fleet. This fleet, along with the United States flag tanker fleet, is capable of providing about 75 percent of total United States petroleum imports. The Committee may wish to consider the availability or non-availability of the United States Effective Control Fleet in a time of national emergency in determining the need for this bill.

- This bill might impose cargo preference at rates too high to be meaningful until the mid-1980's. Would it be more feasible to impose 10 and 15 percent goals for 1978 and 1980, thereby allowing the Maritime Administration and the Congress time to evaluate the effects, including the cost, of cargo preference?