S. HRG. 104–502

OECD SHIPBUILDING SUBSIDIES AGREEMENT

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

S. 1354

DECEMBER 5, 1995

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ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD) SHIPBUILDING SUBSIDIES AGREEMENT

TUESDAY, DECEMBER 5, 1995

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:00 a.m., in room SD–215, Dirksen Senate Office Building, Hon. William V. Roth, Jr. (chairman of the committee) presiding.

Also present: Senators Chafee, Murkowski, Moynihan, Rockefeller, Breaux, and Conrad.

OPENING STATEMENT OF HON. WILLIAM V. ROTH, JR., A U.S. SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The meeting will please be in order.

I am pleased that we have the opportunity today to hold a hearing on the Shipbuilding Subsidy Agreement that was negotiated last year through the OECD.

For too long the world shipbuilding industry has been kept afloat by huge Government subsidies. The result has been distorted international prices for ships and excess shipyard production capacity.

American shipbuilders who want to sell in the international commercial market have been unable to compete against heavily subsidized foreign shipyards.

Without adequate access to the international commercial market, American shipyards have been prevented from expanding their operations, and they remain overly reliant on military contracts.

After 5 years of negotiations in the OECD, the United States and other major shipbuilding countries signed an agreement last December intended to address these and other problems arising from Government subsidies for shipbuilding.

The OECD's shipbuilding agreement will require Congress to pass implementing legislation, most of which will fall under the jurisdiction of the Senate Committee on Finance.

I share the goals that the administration and the industry say they are seeking in the agreement: Elimination of foreign subsidies; an effective and enforceable relief mechanism for U.S. shipyards facing subsidized competition; and a level playing field that will allow U.S. shipbuilders to compete in the international marketplace.

However, it is now our job to review the agreement to see whether it adequately meets these goals. I cannot overemphasize the importance of the Finance Committee's role here. American shipyards need to be assured of access to the international commercial market or they face an uncertain future.

Therefore, I look forward to hearing from our witnesses today, so that the committee can have the benefit of their informed views on the merits of the agreement.

I would also like to note that if Congress proceeds to implement this agreement, there will be only a relatively small window of opportunity to do so. The Shipbuilding Agreement has a target implementation date of January 1, 1996. This target date may be postponed because the U.S. Congress and the Japanese Diet do not have enough time left to implement the agreement before the end of the year.

Although Congress will still have time next year to pass implementing legislation, if it fails to do so I fear that this Shipbuilding Agreement will be effectively dead.

I am now pleased to yield to our distinguished Ranking Member, Senator Moynihan.

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM NEW YORK

Senator MOYNIHAN. I thank you, Mr. Chairman. I thank you for holding this hearing. I am in complete accord with what you have to say.

It has become anomalous that the United States will surely have the world's largest Navy and, for a maritime nation, its smallest merchant marine. There is something mixed up there.

I would note, sir, that our good friend, the ranking minority member of the Committee on Ways and Means, Mr. Gibbons, has submitted a statement that is fully in support of the measure, and expressing the hope that we can work together in this. I suppose as a revenue measure, it had to arise in the House. But we can do it, and should, and you have our complete cooperation.

The CHAIRMAN. Well, thank you very much, Senator Moynihan. We will include Sam Gibbons' statement as part of the record. We are delighted to have it.

[The prepared statement of Hon. Sam Gibbons appears in the appendix, page 59.]

It is indeed a pleasure to recognize our first witness, Deputy USTR, Jeffrey Lang. Welcome.

We ask that all our witnesses try to limit their opening remarks to 5 minutes. Please proceed.

STATEMENT OF HON. JEFFREY M. LANG, DEPUTY U.S. TRADE REPRESENTATIVE, WASHINGTON, DC

Ambassador LANG. Thank you, Mr. Chairman. I will try to do that.

Since we gave our statement in last night, I thought I would just quickly summarize the main points of the agreement and its status now, the legislation that is required, and then submit myself for your questions.

I should say, by way of introduction, that we appreciate your scheduling this hearing so quickly, and also Senator Breaux introducing the bill that is the subject of the hearing, S. 1334, which would implement the agreement.

The global commercial shipbuilding market is reliably projected to be about $265 billion in the next 5 or 6 years. It is a large market. Our participation is minimal, mostly because of foreign subsidies. But if the subsidies were removed, the competitive factors for our industry are pretty good.

You all know the competitive situation in steel pricing these days, and the value of the dollar, obvious technological capabilities in this industry. And even in the wage rate area we are pretty competitive. Hourly cumulative wage rates in this industry are only about $18 an hour, compared to $24 in Japan and $29 in Germany. So we should be able to compete.

Now the elements of the agreement are fairly straightforward. First is an elimination of virtually all subsidies—direct and indirect—much tighter rules than we have in the WTO in this matter.

Second, we have an injurious pricing agreement which mirrors the antidumping law that does not apply to oceangoing vessels because they are not treated as imported. So while there have been minor changes to adjust for that fact, such as exactly how the remedy works, in effect we have a remedy for dumping against producers who sell ships to U.S. persons at unfair prices.

Third is a comprehensive discipline on Government finance for exports. The existing rules on export credits and tied aid for ships are much weaker and less effective than for other products. And the agreement improves that situation.

Four, there is a very effective dispute settlement system, essentially the same kind of system we have in the WTO and the NAFTA, a panel who is in effect compulsory arbitration. And our ultimate retaliation would be in restrictions of goods.

And finally there is an existing standstill provision that covers the period prior to the entry into force. And that is very important because it allows existing programs to continue unchanged prior to entry to force but, at the same time, prohibits the introduction of new subsidies or increasing the level of existing subsidies.

It so happens that during this period we will be able to continue our Title XI export guarantee programs under its existing terms, and not have to cut back on that program until the agreement enters into force.

Now in terms of required legislation, there are essentially four elements we need:

First, the injurious pricing provision, which is the thickest part of the legislation, because it mirrors the changes you made in the antidumping law last year. This essentially restates the whole antidumping law, and has to be enacted.

Second, there is some modification of "home-build" requirements, but not of the coastwise laws, not of the Jones Act, which is explicitly exempted from this agreement.

Third, we have to eliminate a small tariff. It is actually more like a sales tax. It is a 50-percent ad valorem tax on ship repairs done abroad in agreement countries. There is a small budget cost attached to this of about $50 million over 5 years.

And fourth, there have to be some modifications to the ship financing program. And specifically the MERITECH program for research and development has to be modified to be limited to 50 percent for basic, 35 percent for applied research, and 25 percent for development projects.

Those are the standards everybody else will have to meet. And we will have to reduce the percentage of a ship's sales price that can be guaranteed under Title XI from 87.5 percent to 80 percent, and the term of those guarantees from 25 years to 12 years, the same standards everybody else has to meet.

So if you are able to do this, we will have an agreement that covers production of about 80 percent of shipbuilding worldwide.

The agreement was originally scheduled to enter into force on January 1, 1996. As the Chairman indicated, we are probably not going to make that date. It will go into effect 30 days after the date of ratification by all signatories. But I should say that as a practical, political matter, we have detected some pressures building, particularly in Europe, to try to cut back on the advantages of this agreement. And I think we have got maybe 6 months, and then we will begin to see this thing unravel if we do not move quickly on it.

The CHAIRMAN. Thank you, Mr. Ambassador.

As you have pointed out, the current signatories to the Shipbuilding Agreement have, what is it, over 80 percent or 75 percent?

Ambassador LANG. Yes.

The CHAIRMAN. Eighty percent——

Ambassador LANG. Just over 80 percent.

The CHAIRMAN [continuing]. Of the market share of worldwide vessel construction.

But as you have also pointed out, several significant shipbuilding countries, such as the Peoples' Republic of China, Romania, and Poland, are not parties to the agreement.

Are there any plans to get additional countries to sign onto the agreement, once it goes into effect? And if we fail to do it, what are the risks?

Ambassador LANG. Well, there certainly are plans to try to bring all of the producers in the world into the agreement.

It will be easier, I think, to bring some countries than others into the agreement, particularly countries that are WTO members. And there have already been discussions among the parties about moving to do that when and if the agreement enters into force.

The amount of shipbuilding involved, of course, if relatively small. But that is an issue we are very conscious of, and we will form a task force to work on that if and when the agreement is approved, as well as a task force to ensure the enforcement of the agreement itself with respect to the countries who are covered.

The CHAIRMAN. I believe the effectiveness of any international agreement, of course, does depend upon its enforcement mechanism.

Could you go into greater detail as to what these provisions are in the Shipbuilding Agreement that will enable the United States to monitor, identify, and address foreign government subsidies prohibited under the agreement? Please proceed.

Ambassador LANG. Well, first, there are a lot of requirements for reporting and notification under the agreement, not unlike the notification requirements we have under WTO agreements and other OECD agreements.

It is inconsistent with the requirements of the agreement for a country to fail to make those notifications in a timely way. And what we will do is set up an interagency task force to identify the practices that need to be eliminated immediately, and gain information on what is going on in these countries from a wide variety of sources. Of course, our own industry will provide us with information.

There is also a great deal of information available through the OECD Secretariat. There is substantial valuable reporting from our embassies on foreign subsidy programs. And there are a variety of other sources from which we can get the necessary information.

Once we have collected and compiled the information, we will share it with industry, establish some priorities, and go after the problems. It will be a very active effort to make sure these disciplines are adhered to.

The CHAIRMAN. I have one more question. I do see Senator Breaux here. I wonder, would you like to make some opening remarks?

Senator BREAUX. No, Mr. Chairman.

The CHAIRMAN. All right. Fine.

I know that you have been eager to have this hearing, and I am pleased that you could join us today.

South Korea is, of course, currently adding shipbuilding capacity at a very rapid rate. Could this additional capacity undermine the Shipbuilding Agreement and ultimately injure the U.S. industry?

Ambassador LANG. Well, a couple of points about that. First, we are following that situation very closely to see what elements of Government support might be involved. If there are elements of Government support that are inconsistent with the agreement, and the agreement enters into force, of course we will go after them.

In addition, if a country is adding a lot of capacity that creates global overcapacity, they are likely to find themselves in a dumping situation. And the reason the injurious pricing provisions of this agreement are so important is that any of the member countries, including not just us but the European Union, would be able to use the injurious pricing provisions to deal with prices that are too low, in the sense that term is used with respect to dumping.

So it seems to me that we have several safeguards to deal with the potential overcapacity in Korea, and we would be following that situation very closely.

The CHAIRMAN. Thank you.

Senator Moynihan?

Senator MOYNIHAN. Mr. Chairman, just one brief question to follow Ambassador Lang's statement.

Now we have an injurious pricing provision in this agreement. We are not going to allow that to open up the whole of our antidumping statute, or the arrangements which we have put in place and codified in the Uruguay Round negotiations.

Ambassador LANG. I would recommend against doing so, Senator.

What Senator Breaux's bill does is essentially repeat the decisions you have already made with respect to the antidumping law in this new freestanding law that has to be enacted in order to deal with the fact that you do not have importations with respect to oceangoing vessels.

But the policy decisions you made previously with respect to the ordinary antidumping law are unchanged in this legislation.

Senator MOYNIHAN. And it would be your view that they ought to remain unchanged?

Ambassador LANG. Yes, sir.

Senator MOYNIHAN. And you would be vigilant to read the statutory language, which is normally impenetrable to the likes of myself?

Ambassador LANG. Indeed I will. Yes, sir, I will.

Senator MOYNIHAN. Just one little thing. Could you, when you have a moment, send us a table of those shipyard wages? Would I take it that the hourly wages in Japanese shipyards are now a third higher than those in American shipyards?

Ambassador LANG. That is the information the Bureau of Labor Statistics provided us.

Senator MOYNIHAN. Send us something when you have a moment. That is important.

Ambassador LANG. Very well. I will do that, sir.

Senator MOYNIHAN. I appreciate that.

Thank you, Mr. Chairman.

[The information referred to above appears on page 49.]

The CHAIRMAN. Thank you.

Senator Breaux?

OPENING STATEMENT OF HON. JOHN BREAUX, A U.S. SENATOR FROM LOUISIANA

Senator BREAUX. Thank you very much, Mr. Chairman. And thank you particularly for having this hearing. I appreciate it. I requested it, you honored that request, and I thank you for it.

The Ways and Means Committee over on the House side has had their hearing. And I think they have a markup scheduled for sometime this month on the legislation over there.

Let me congratulate Ambassador Lang on this agreement, and also particularly Assistant USTR Don Phillips for the good work that he did over the years on this issue.

This is an agreement that has been negotiated through two different administrations. Carla Hills and the previous administration started these negotiations. This administration has carried through with that commitment, and we now have an agreement.

I would just say in preface to my questions, Mr. Chairman, that the U.S. shipbuilding industry is incredibly important. Over the years that I have been involved in this issue, we have always heard, "Look, if we could just get a level playing field. If we could just eliminate foreign subsidies, we would not need any help from our own Government."

We cannot compete against other governments, but our shipyards have always said that they can compete against other shipyards. So the whole thrust of this negotiation has been to try to eliminate foreign countries' subsidies to their shipbuilding industries so that our yards could compete.

We eliminated unilaterally—which I think was a mistake—during the Reagan administration the construction differential subsidies that we had for our industry. We did it without getting anything in return, which was really ludicrous. But we did it, and that is the law. We quit subsidizing our shipyards through direct shipbuilding subsidies during the Reagan administration.

While have a loan guarantee program, which can still continue under this agreement, direct subsidies were eliminated.

The point I would make, as that chart clearly shows, we cannot win a subsidy war. We are cutting Medicare, Medicaid, earned income tax credit, welfare programs for the people in this country. Does anybody in Congress, anywhere, think that Congress is about to adopt a subsidy program for shipyards, in light of what we are doing to domestic social programs? The answer is clear; it is not going to happen.

That chart shows you the current situation in subsidies for these countries that are part of this agreement. Those red lines that show the subsidies will be gone under this agreement. Look where our loan guarantee subsidy is, about $50 million a year. South Korea, $2.4 billion. Germany, $2.3 billion. Japan, $1.9 billion. Spain, Italy, France, all substantially more than we have. We cannot compete with that. If anyone advocates that we are going to raise our shipbuilding subsidies to match these countries, it is just not going to happen.

Therefore, this agreement, while it may not be perfect, is by far the best opportunity our country has ever had to try to get the countries of the world to do away with their shipbuilding subsidies so everybody can compete on a level playing field.

I thank the folks who have negotiated the treaty over several administrations.

Let me just ask a quick question, Mr. Lang, about the Title XI program that we have. Now you can make loans to shipbuilders that guarantee up to 87.5 percent of the cost of the project. They can take up to 25 years to pay for it. Not a lot of those loans are being made, I would point out. But we could still, under this agreement, have our Title XI program if it would be reduced down to what, 12 years and an 80-percent guarantee? That would be acceptable.

Ambassador LANG. Yes, sir, that is.

Senator BREAUX. What about the Jones Act? Someone would say, well, we have this agreement, and we are going to adversely affect the Jones Act, which requires U.S.-built, U.S.-manned ships for commerce that deals from U.S. ports to U.S. ports. How is that adversely affected, or not affected at all?

Ambassador LANG. Well, it is not affected at all. It is exempted from the operation of the agreement. The argument that I have heard with respect to the Jones Act is that it is somehow vulnerable because the agreement allows, after a 3-year period, for the parties to revisit whether they were going to live with this balance of concessions, in light of the effect of the Jones Act on the world shipbuilding trade.

The reason I am not concerned about that is several-fold. First, the standards for this examination in the first 3 years is that there would be 200,000 tons of Jones Act shipbuilding. In the 5 years

preceding the completion of this negotiation, there was no year in which that shipbuilding exceeded about 15,000 tons—way short of 200,000.

So I think, even in the future, it is unlikely that anybody in the world is going to be able to make an argument that Jones Act shipbuilding is somehow undermining the balance of concessions in this agreement generally.

And second, it is going to take agreement of all the parties to make that kind of finding. I have been involved in this kind of thing for a while, and getting everybody to do the same thing at the same time gets a little difficult sometimes. And I would think many countries would find reasons not to want to attack the Jones Act under those circumstances.

Senator BREAUX. May I have one final question, Mr. Chairman?

The CHAIRMAN. Please.

Senator BREAUX. The final point I would make is that some will argue that we should engage in a subsidy war, that this agreement is not the right way to go, despite for years arguing that if we could just get rid of other countries' subsidies, we can compete with anybody.

What is likely in your experience, and can you make a projection as to what will likely happen if the United States rejects this agreement? Are the countries that are on that chart likely to reduce their subsidies under their agreement anyway, or are they likely to continue to beat our brains out with their subsidies? What do you think is likely to happen?

Ambassador LANG. The likely thing to happen is that, rather than undertake the adjustments that they would need to in a world without subsidies, which means causing some pain to workers in their countries, they would reestablish the subsidy regimes they have had, in order to avoid the social and political consequences.

So I think the subsidies would probably go on, and maybe increase, at least enough to make sure that we could not get into these markets.

Senator BREAUX. Well, I thank you.

Mr. Chairman, I would just summarize by saying that we cannot win a subsidy battle. And the best chance that we have in the international framework is this agreement. It was negotiated by Republicans, it was negotiated by Democrats. I think it is an agreement that deserves our support.

Thank you.

The CHAIRMAN. Thank you, Senator Breaux. And thank you, Ambassador Lang. We look forward to working with you on this matter. It is always a pleasure to see you.

Ambassador LANG. Thank you, Mr. Chairman.

The CHAIRMAN. I would now like to welcome our four witnesses on the second panel: Mr. Albert Bossier, Jr., chairman and CEO of Avondale Industries; Mr. Tom Bowler, president of the American Shipbuilding Association; Mr. John Dane, president of Trinity Marine Group; and Mr. Peter Finnerty, vice president for public affairs with Sea-Land Service.

Gentlemen, we appreciate having you here today. As you heard me indicate earlier, we would ask that each of you restrict your remarks to 5 minutes. We will proceed on an alphabetical basis. So

Mr. Bossier, could you proceed first? Followed by Mr. Bowler, Mr. Dane, and Mr. Finnerty. Please proceed.

STATEMENT OF ALBERT L. BOSSIER, JR., CHAIRMAN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AVONDALE INDUSTRIES, INC., NEW ORLEANS, LA

Mr. BOSSIER. Thank you, Mr. Chairman, and members of the committee.

As president and chief executive officer of Avondale Industries of New Orleans, Louisiana, I appreciate this opportunity to state my strong objections with the OECD Shipbuilding Agreement, and to this implementing legislation.

Avondale was founded in 1938. We are an employee-owned company, and we are the largest private employer in the State of Louisiana. The livelihood of more than 6,000 men and women and their families depend on Avondale. In these times of scarce Navy shipbuilding opportunities, it is essential for Avondale to win commercial contracts to sustain our current work force, and to grow in the future.

Over the last 18 months, we have made tremendous progress in our efforts to track commercial business. This progress is due in large part to the revitalized and expanded Title XI Government Loan Guarantee program and the Oil Pollution Act of 1990.

We at Avondale have recently completed a new state-of-the-art facility which will revolutionize our efficiency and competitiveness in the construction of commercial ships, as well as make our naval shipbuilding more efficient.

This $20 million investment was made possible by the Title XI loan guarantee program. It was also the Title XI program that made it financially feasible for the American Heavy Lift Shipping Company to finance the $140 million conversion of four single-hulled oil tankers to double hulls—a contract which Avondale won in March of this year, and which was our first major commercial shipbuilding contract in many years.

This work represents as many as 1,000 jobs for our employees, and it is generating an additional 2,500 to 3,000 jobs throughout our economy.

Since then, the Title XI loan guarantee program has resulted in two more major commercial shipbuilding opportunities for Avondale. In August of this year, we signed a contract with Primorsk, a Russian shipbuilding company, to build seven double-hulled tankers. And in November, we signed a contract for six more double-hulled tankers for Maritrans, a Philadelphia-based company, for use in the Jones Act trade. MARAD is currently reviewing the Title XI loan applications for both of these contracts.

If this agreement is implemented, these types of business opportunities for our shipyard and other major U.S. shipbuilders will disappear. This will render the Title XI program ineffective, and it will seriously jeopardize the U.S.-built requirements of the Jones Act.

I am very much concerned about the impact this agreement will have on the Jones Act. In previous foreign trade agreements, the United States has resisted the principle that access to U.S. domestic markets should be connected with access to international mar-

kets. Rules for competition and trade in international markets have in the past been established without specific linkage or reciprocal access to domestic markets.

The United States has conceded a precedent, whereby it has to pay for access to international markets by restricting protections applicable to domestic markets. This precedent acknowledges that the ultimate repeal of these laws is a precondition to obtaining completely fair and equal access to international markets, thus making eventual repeal of the Jones Act very likely.

In the first 3 years, the agreement places a 200,000 gross ton cap on vessels delivered for the Jones Act trade annually. It is interesting and important to point out that the U.S. shipbuilders already have contracts in hand that will exceed the 200,000 annual gross ton cap. A shortage of qualified U.S.-built coastwise tankers is anticipated by early next year, as single-hulled vessels are phased out pursuant to OPA–90 legislation.

Changes to Title XI and uncertainties regarding the future of the Jones Act will reduce the likelihood that vessel owners will be able to obtain financing, or be willing to commit their own resources for building ships in the United States.

This agreement, I believe, is a bad deal for major American shipbuilders. I am responsible for the employment of more than 6,000 Americans, and I cannot support an agreement that will put all employees in our company's future at severe risk.

Thank you very much.

The CHAIRMAN. Thank you.

Mr. Bowler?

[The prepared statement of Mr. Bossier appears in the appendix.]

STATEMENT OF R.T.E. "TOM" BOWLER III, PRESIDENT, AMERICAN SHIPBUILDING ASSOCIATION, ARLINGTON, VA

Mr. BOWLER. Mr. Chairman, Senator Breaux, thank you for this opportunity to testify for the American Shipbuilding Association. ASA is the national trade association representing the six largest shipbuilders, employing over 90 percent of the workers engaged in shipbuilding in the United States, and the largest private employers in five States.

ASA strongly opposes this OECD shipbuilding agreement, and requests this committee's support in urging the administration to renegotiate an agreement that will truly provide an effective regime against foreign subsidy practices, and provide our industry with a fair chance to compete in the international market.

Allegations to the contrary—and you may hear some today—our objections to this agreement are not—and I repeat not—founded on interest to see direct subsidies reinstituted in the United States. And we could not agree more with Senator Breaux in his description of the likelihood of those subsidies reappearing.

ASA member companies initiated in 1989 the filing of the Section 301 trade petition against foreign subsidies. After years of unchecked, massive foreign government intervention in the commercial shipbuilding market, we did not ask our Government to revive direct subsidies for us, but rather sought an effective agreement to bring a quick end to foreign subsidies.

Our decision to file the trade petition was based on international commercial market projections and anticipated deep reductions in Navy shipbuilding here at home. World commercial shipbuilding demand was expected to soar during the 1990's. Approximately $300 billion in fleet replacement and expansion was projected to take place between then and the turn of the century.

In order for ASA shipbuilders to reenter the commercial market and participate in this market upturn, foreign subsidies had to be eliminated well before the completion of this building boom.

Unfortunately, our trade competitors recognized this fact and cleverly stalled the negotiations for 5 years. Then they successfully obtained our trade negotiators' support for an agreement that would not discipline subsidies until the end of the century, after the bulk of the shipbuilding orders will have been placed.

Thus, rather than a 2-year phaseout of foreign subsidies, as we insisted upon at the onset of these negotiations, this agreement allows a 10-year subsidy phaseout from the commencement of the negotiations.

Our negotiators also agreed to allow very generous transition subsidies for foreign governments, primarily in the area of massive facility modernizations. And so, by the time this agreement may have any impact on foreign subsidy practices, foreign shipbuilders will have the most modern commercial shipbuilding facilities in the world, the result of the graph that Senator Breaux showed, and will have a lock on world shipbuilding orders throughout this boom period. The granting of these permanent competitive advantages to our foreign competitors should be unacceptable.

Given the nature of the commercial shipbuilding market, and the many exemptions provided for in this agreement, we question the ultimate effectiveness of this agreement in actually disciplining foreign subsidies.

For instance, here is an article in the Journal of Commerce, October 27. The French transport minister announced a series of measures, such as tax incentives, for ship construction and encouraging private investment in shipbuilding in France. The estimated cost of this program: $260 million a year. According to the transport minister, this program would be structured after the German program, and would not be a violation of the OECD Shipbuilding Agreement.

Similarly, Spain, covered in this article in Tradewinds of October 6, announced that it intends to spend $723 million to modernize its shipyards, and it does not intend to close any of its facilities. It was our understanding that restructuring payments, exempted under the OECD Agreement, were intended to be in conjunction with capacity reductions. Spain says, however, that this program is consistent with the agreement.

If these foreign activities are permitted under the agreement, members of the ASA would like to know how anyone can interpret this as a good deal for the American shipbuilding industry.

Our industry continues to support the goal of a meaningful and effective international subsidy regime. This agreement, however, does not provide such a regime, and it fails to meet the objectives articulated by our industry at the onset of the negotiations.

Accordingly, we respectfully urge you to reconsider the administration's position on this agreement, and would welcome your efforts to obtain a truly meaningful agreement that would discipline subsidies and enable our reentry into this market. Without commercial shipbuilding, our Nation will witness the further erosion of an already very fragile naval shipbuilding industrial base.

Thank you, sir.

The CHAIRMAN. Mr. Dane?

[The prepared statement of Mr. Bowler appears in the appendix.]

STATEMENT OF JOHN DANE III, PRESIDENT, TRINITY MARINE GROUP, INC., GULFPORT, MS

Mr. DANE. Mr. Chairman, and Members of the Finance Committee, I want to thank you for this opportunity to testify in support of the Shipbuilding Trade Agreement Act, S. 1354.

I would also like to thank Senator Breaux for his many years of extraordinary leadership on this issue, and for introducing this legislation that will make the necessary changes in U.S. law to implement the OECD Shipbuilding Agreement.

On behalf of Trinity Marine Group, 1,500 Louisiana shipbuilders, we appreciate the opportunity that this bill provides to increase the export of U.S.-built ships.

The Trinity Marine Group is a shipbuilding and repair company that manages 22 shipyards owned by Trinity Industries, Inc., a $2 billion New York Stock Exchange company.

Trinity Marine Group designs, constructs, converts and repairs a variety of vessels for the defense, oil and gas, marine transportation, fishing and passenger cruise industries. We employ approximately 4,000 Americans in seven States, including Louisiana, Mississippi, Texas, Kentucky, Florida, Tennessee and Missouri.

Today our exports have grown to over 10 percent of our business. I believe this growth proves we can compete in the international marketplace. However, without the benefits of the OECD Shipbuilding Agreement, my company and others like it are unlikely to grow to their full potential, putting at risk the creation of thousands of new jobs and economic opportunities in this country.

I am not here to represent the interests of just one company. I am here to speak for the entire commercial shipbuilding industry. I am testifying on behalf of the American Waterways Shipyard Conference and the Shipbuilders' Council of America, who together represent 58 shipyards in 19 States and 40,000 employees. And we dispute the recent claims that the other people represent 90 percent of the shipbuilders.

I am also here on behalf of the Coalition in support of the OECD Shipbuilding Agreement, in which Trinity Marine Group is an active participant.

U.S. shipyards are competitive with most of their international counterparts in labor, quality and innovation. Unfortunately, foreign governments' subsidies continue to give foreign shipyards an advantage in the global market.

The devaluation of the dollar against foreign currencies now makes U.S. ships, like other U.S. products, more price competitive. These factors promise to bring great success to the U.S. shipyards,

but only if foreign subsidies are ended, and the playing field is leveled.

As Mr. Lang told us, the agreement contains a tough, effective, injurious pricing code, otherwise known as the antidumping provision. This OECD Shipbuilding Agreement imposes a strong and enforceable antidumping mechanism that will end this practice.

The agreement establishes a binding and fair dispute settlement mechanism. An important consideration in evaluating any trade agreement is whether or not it is enforceable and binding on all parties.

The economic gains projected as a result of this agreement are substantial. Using a very conservative analysis, we project that for every 1 percent of the international shipbuilding market that the U.S. garners, between 1,000 and 6,500 shipbuilding jobs will be created. The range is determined by the sophistication of the vessel.

In 1945, 80 to 90 percent of the international ship tonnage was U.S.-built, while today it is less than 1 percent.

Mr. Chairman, a strategy built on providing cash subsidies is no longer an option, as Mr. Breaux and everyone else has said.

Lastly, Mr. Chairman, I want to raise a word of caution about some of the criticisms being voiced by the agreement's opponents. As I am sure you have heard, some argue that the OECD Agreement would force a change in the Jones Act law, that the agreement would place a cap on Jones Act production, and will cause uncertainty in the domestic market, thereby disrupting the Jones Act construction.

Let me assure you, Mr. Chairman, that these arguments are not true, and are being made to hide the real reason why OECD opponents seek to scuttle the agreement. Opponents of the OECD Agreement are still of the misguided notion that the Federal Government will renew its subsidy program or, absent that, they want to continue to receive the subsidies presently given to them by State governments.

Shipbuilders should not be looking for subsidies; we are not. What the OECD Agreement does do is provide for monitoring the level of Jones Act tonnage being built in the United States, with an eye toward resolving whether the U.S.-protected tonnage is distorting the global market. It would be extraordinarily difficult for any nation to argue that the Jones Act tonnage disrupts the global market, since it is expected to be 200,000 to 300,000 tons, when the worldwide market is measured in millions of tons.

The Jones Act construction is the backbone of my business, and I would in no way support any agreement that would endanger this business.

I strongly urge the committee to reject the suggestions that we put aside the current agreement, and reopen negotiations in hopes of attaining a new agreement that would permit the United States to subsidize shipyards.

In the unlikely event that the other parties to the negotiations agree to resume talks, foreign governments will undoubtedly attempt to extract a high price for a new agreement, and that price may include a real elimination of the Jones Act.

The bottom line, Mr. Chairman, is that our industry is far better off with this agreement than with no agreement at all.

Mr. Chairman, thank you for holding these hearings on the OECD Agreement. I encourage the committee to take quick action on S. 1354.

Thank you.

The CHAIRMAN. Thank you, Mr. Dane.

Mr. Finnerty?

[The prepared statement of Mr. Dane appears in the appendix.]

STATEMENT OF PETER J. FINNERTY, VICE PRESIDENT, PUBLIC AFFAIRS, SEA-LAND SERVICE, WASHINGTON, DC

Mr. FINNERTY. I thank you, Mr. Chairman. I too would like to thank the Chair, and also compliment Senator Breaux for his years of assistance and support in trying to move this agreement to implementation.

I am here today, and am privileged to represent the Coalition in support of the OECD Agreement, including the American Institute of Merchant Shipping.

This implementing legislation and the Coalition supporting it extends across the country, and encompasses every sector of the maritime and international trade community, including United States and foreign flag vessel operators, the vast majority of commercial shipbuilding, U.S. exporters, U.S. importers and the ports handling the commerce of our country.

This compares very favorably with the six opposing military shipyards with over 90 percent of their activity being work for the Department of Defense.

The U.S. Trade Representative, and Don Phillips in particular, are to be highly commended for succeeding after 5 difficult years of negotiations in bringing home a multilateral OECD Agreement.

It is the best means of controlling commercial shipbuilding subsidies because it will provide a uniform and structured regime. This will allow commercial shipyards to compete in the world market, while avoiding disruption and litigation in world trade due to shipbuilding subsidy arguments.

There are several points which merit attention, some of which have been raised by the opponents, and all of which require clarification. I will try to touch on them briefly in the few minutes.

First of all, the Jones Act. Our company is the largest Jones Act carrier. We operate 17 oceangoing container ships serving the noncontiguous trades of the United States. We can say without any doubt whatsoever, there is absolutely no change required as a consequence of this OECD Agreement. It is not a cap. There is nothing in the agreement that will create or suggest a difficulty to the Jones Act. And to claim otherwise is a distortion.

There are many, many billions of dollars invested in Jones Act equipment in the United States. Our company, for instance, our most recent Jones Act construction consists of three modern Jones Act container ships that serve the State of Alaska. They were constructed in the late 1980's at a cost of over $200 million. We certainly would be concerned if this agreement was threatening that investment in any way.

With respect to Title XI, I think the point has been amply made, but let me repeat that at present Title XI is serving U.S. shipbuilders well. It is a program that will be capable of continuing under the agreement. The terms will be slightly altered, but only to bring them into conformity with a new level playing field.

The only reason Title XI is an advantage at this time, is that it has terms that exceed what would be perceived as a level playing field as a consequence of the standstill agreement that was put in place when this OECD Agreement was signed. To think that that advantage would continue, and to think that our yards would be able to win a subsidy battle over time is not a valid assumption.

U.S. flag ship operators in the American merchant marine have long labored under the burden of a 50-percent duty that applies to us when we choose to have work performed in foreign shipyards for maintenance or repair of our vessels.

In this day and age, when quite a large number of foreign flag vessels are having their work performed in U.S. shipyards, when we have succeeded in phasing out the application of this duty as a context of the Canadian Free Trade Agreement, and it is near to being phased out in Mexico, as a consequence of NAFTA, and it would have been phased out in the Uruguay Round, but was held as a bargaining chip in the OECD talks, it is indeed long overdue to eliminate this 50-percent duty.

With respect to the capital construction fund, the capital construction fund is a key competitive tax element for U.S. flag ship operators. It is needed to put them on a level playing field with their foreign competition, and it should be retained.

I would point out finally, Mr. Chairman, that in no way does this agreement limit or constrict any support or assistance that the Department of Defense would wish to continue to give to its military shipyards in the future. And I would look forward to answering any questions.

The CHAIRMAN. Well thank you, Mr. Finnerty.

Senator Murkowski, would you like to make an opening statement?

[The prepared statement of Mr. Finnerty appears in the appendix.]

OPENING STATEMENT OF HON. FRANK H. MURKOWSKI, A U.S. SENATOR FROM ALASKA

Senator MURKOWSKI. Thank you very much, Mr. Chairman. I have a cold, so I will keep my remarks short, and hopefully nothing will spread here.

I have been very interested in Senator Breaux's proposal for some time. I have not cosponsored it, but I intend to do so because I think, Mr. Chairman, that it is time we recognize that the long-term future of America's shipbuilding industry is dependent on its ability to be competitive without subsidies.

To expect a continuation of subsidies, I think, at this time in our development, relative to the international competition, is not realistic. And putting this under our trade law protection provides a reasonable process to ensure greater degrees of competitiveness so that our yards can compete. And I recognize that that is easier said than done.

I would hope that during the questions, Mr. Chairman, there will be some response as to how we assure, as a consequence of taking off the 50-percent duty on U.S. Jones Act vessels being repaired in foreign yards, that they are not all repaired in foreign yards. We have a particular situation now under the provision allowing the export of Alaskan oil where U.S. Jones Act tankers will have access to foreign ports. Those foreign ports will have lifting facilities, and we have always assumed that the trade would not utilize those foreign ports because of the 50-percent penalty.

On the other hand, I think it is fair to say that more and more of our yards are competitive internationally as we see more and more foreign ships lifted in our own yards. So perhaps that is the answer.

As we look at the posture of America's merchant marine, and the development of it, I think it is clear that the current policy simply has not worked. We have not been able to maintain competitiveness, even with subsidies. So I guess I am somewhat inclined to say that if it does not work one way, let us try it the other.

Clearly there are some yards that have stripped down, become competitive, and generated some international activity. And I think it is fair to say—and you gentlemen know—that the State of Alaska has the largest tonnage of U.S. passenger ships under the U.S. flag. I think we operate about nine. I think Trinity has received the contract for another Alaska ship a very short time ago.

So we operate under the Jones Act. And those firms, Sea-Land, Tote, American President Lines and others, that have made the investment of living under our shipping laws need to be ensured that there is not going to be a change. And they need the assurance of having an opportunity to amortize their investments.

So I would hope, Mr. Chairman, that there is serious consideration given to this bill by this committee, and that we can move it to the floor. Because I think if you get down to the simple evaluation of what works and what does not work, the other system simply has not worked to provide any measure of international competitiveness. And I hope that this would.

Thank you.

The CHAIRMAN. Thank you.

Mr. Bowler or Mr. Bossier, you both came out in opposition to the proposed agreement. You have heard a number of Senators and others say it is very unlikely that if the agreement failed, you would see the United States win the subsidy war. I think that is correct.

Mr. BOWLER. And we agree with that 100 percent, sir. We certainly are not asking for——

The CHAIRMAN. Please allow me to complete my statement.

Are you saying then that you believe you are better off with no agreement than you would be under the proposed agreement?

If not, what evidence do you have that you think there is an opportunity to negotiate a better agreement?

Mr. BOWLER. We honestly think this is a flawed agreement, and we are better off without it. As Senator Breaux said, in 1981 this country stopped direct subsidies of its shipyards. We certainly felt that was a mistake. However, that happened. Since then, the large yards, and most of the shipbuilding industry in this country, has

focused on Naval shipbuilding. Within the last several years, clearly with Navy shipbuilding going down, we had to turn to other things. And that in fact is happening.

Here is a chart taken from a Wall Street Journal general article of 15 November. It talks about the U.S. shipbuilding industry going back in the commercial shipbuilding. There are some 40 ships here. About half are for the international market, and about half are for Jones Act. Now why is that happening? The reason it is happening is because the Title XI program, in its current form, the Jones Act and OPA–90, is giving U.S. shipbuilders a chance to transition back into the market the only way you can, by building ships.

Now one thing that has not been said is—and all the shipbuilding industry agrees on this fact because we presented this over in Korea in October—is that the industry's commercial shipbuilding aspirations are relatively modest. We would like to be South Korea, with 35 percent of the market, but we would like about 3 to 5 percent of the market. That is about 30 to 40 ships a year—not an insignificant number of ships. But we feel that the programs that are in place right now will give us the best chance of transitioning back into trying to get that relatively modest piece of the commercial shipbuilding market.

The CHAIRMAN. Mr. Bossier, do you have any further comments?

Mr. BOSSIER. I completely agree with what Mr. Bowler said.

I would also like to point out that as we sit here this morning, we have two gentlemen who support the agreement and two gentlemen that do not. Neither one of the two gentlemen who support the agreement operate a shipbuilding business that produces vessels—or have produced vessels—above 40,000 dead weight tons.

We are in what I call the major shipbuilding business. Being in that business, we can be competitive on the international market if we are given enough time to build enough commercial ships. As Tom said, what we need is time. And this agreement has put our international competitors some 7 to 10 years ahead of us. You cannot expect us to come out of the gate immediately and catch up with them, regardless of what you do with this agreement.

So first of all, we need time. Second, the domestic market, which currently the Jones Act market has about 160 vessels in it that range from 30,000 tons all the way up to 168,000 dead weight tons. Those ships, those 160 ships, will have to replaced by the year 2015.

If we maintain the Title XI, in the condition that it is in right now, with the 87.5 percent and the 25 years, if only 60 percent of those vessels are replaced due to OPA–90, that is 100 ships that would have to be built in the next 15 or 20 years just here in the United States. So that is a market that we are going to take away from ourselves by agreeing to put this agreement in force.

The CHAIRMAN. There is one thing that I find hard to follow. My understanding is that one reason you are opposed to the agreement is because of the 10-year phaseout. That takes too long.

Mr. BOWLER. Yes.

The CHAIRMAN. But now you seem to be telling me that you would be better off with no agreement, so that the subsidies would continue. It seems, at least on the surface, somewhat inconsistent.

Mr. BOSSIER. What I am saying is that our foreign competitors are so far ahead of us right now, from a production learning standpoint, we need time to catch up. And we will not get the advantage of that time to catch up because this agreement will eliminate the benefit that the American shipbuilder gets now, and what he is able to offer to domestic owners with the type of financing that is in place right as of this minute. That is what is going to change very quickly.

The CHAIRMAN. Let me ask you one question, Mr. Dane, and then my time is up, and I will defer to the Ranking Member.

You state that you are confident that the Shipbuilding Agreement's injurious pricing provision will protect U.S. shipyards against dumping by foreign shipyards.

My question is, will it not be difficult for the U.S. industry to prove the injury necessary to win an injurious pricing case, particularly because U.S. shipyards have such a small share of the commercial market, and have made few commercial ships recently?

Mr. DANE. We are hoping that Mr. Lang in trade will assist us shipyards to be competitive. We do not have large legal staff and others to pursue it. But we believe that the interest of this agreement, if it is passed by our Government, that our interest is that as a U.S. corporation we will get assistance to pursue these dumped vessels onto the market.

The CHAIRMAN. Mr. Moynihan?

Senator MOYNIHAN. We have heard persuasive arguments on behalf of opposite points of view, which is not unusual. I have listened with great attention, and will pursue the matter, Mr. Chairman.

I do note an interesting thing. It interests me that, to a great degree, American maritime science technology has been developed in response to defense needs—the building of nuclear carriers down in Norfolk and so forth. And there is a sense in which we have to retrofit for simpler purposes and technologies.

Something like that happened in the 1840's. We had developed the Yankee Clipper. They were mostly built in Brooklyn as a point in fact. And they were absolutely magnificent ships. You could not have a public room in this country without a print of one or another of them. And they just roared around the world, partly because they did not have much cargo space. And the British kept on building big, heavy, lugging things that just would wallow through the Trades and the Indian Ocean and so forth. And in the course of 15 years there were no more Yankee Clippers, and there was nothing but a British merchant marine until World War II came along.

I do not know what that has to do with anything, excepting that I miss those Yankee Clippers. [Laughter.]

Thank you, Mr. Chairman.

The CHAIRMAN. According to the early bird rule, I think you are next, Senator Breaux.

Senator BREAUX. What does the early bird get?

The CHAIRMAN. Not much. [Laughter.]

Senator BREAUX. Thank you, Mr. Chairman. I thank the panel for their testimony.

You know, I think this is not a complicated subject. We have an agreement that is pending, and waiting for the Congress to adopt. It simply says that we are going to be able to continue a loan program to our shipyards at exactly the same level that other countries will have. If their program says they can guarantee 80 percent, we can guarantee 80 percent. If they say they can make 12-year loans, we can make 12-year loans. But we are both going to be stopped from making 87-percent loans or 90-percent loans, and doing them for 25 years or more.

In other words, this agreement says we are going to have the same thing they have. But in addition to that, this agreement says that for the first time, countries that are on that chart are not going to be able to have additional subsidies that are killing us.

Now Mr. Bowler, I appreciate your testimony, and where you are coming from on this issue. But I cannot understand why you take this position. While this is not perfect that somehow we are better with nothing, to allow those foreign sudsidies to still continue. While this agreement is not perfect, nothing we are ever going to do is perfect.

And I appreciate your saying well, they had them in the past. So we have been hurt in the past, and therefore somehow we ought to be compensated for what has been going on for the previous years. Well we can go back to the time when we had a construction subsidy ourselves.

There is not going to be any agreement that is ever going to take care of compensating for past practices for 25 years ago. I just do not think it is possible to get that agreement.

But specifically, you said that one of the things you do not like about the agreement is that it phases out subsidies over 10 years. I have looked, I have stretched, I have massaged it. I am probably as good at cooking figures as anybody in politics. But for the life of me I cannot figure out how you get a 10-year phaseout.

The language says that the subsidies and distorted trade practices will end as of January 1, 1996. It says that any ships that Al Bossier has in his shipyard, or anybody else has in his shipyard, that are under the current 87.5-percent loan can continue to be built, completed under the current program. You have a phaseout as long as it is 3 years.

So I can find out that our people can continue to benefit from the current subsidies until they finish the ships that are in the pipeline. It gives them 3 years to do it. Where does 10 come from?

Mr. BOWLER. Let us see. One figure is 1989. In 1989, as I said in my testimony, the Berlin Wall crashed. We were building a 600-ship Navy. We had been out of commercial shipbuilding for almost a decade. And it was clear that Navy shipbuilding was going down. And it was in 1989 when we initiated the trade petition saying let us stop these subsidies.

Senator BREAUX. Well, I understand where you are coming from.

Mr. BOWLER. Let us stop these subsidies. Then again, 5 years the trade negotiations went on, the end date is 1999. The way I add, sir, that is 10 years.

Senator BREAUX. That is almost laughable, and I apologize for laughing. But the fact that somebody called for the end of trade

subsidies in 1980, does that mean that this agreement is really a 16-year phaseout?

Mr. BOWLER. No. The negotiations started in 1989, sir.

Senator BREAUX. Well, the agreement does not go into effect. You cannot say that it is a 10-year phaseout because somebody called for the end of subsidies back in 1989. But I understand how you are trying to get to the 10.

Mr. BOWLER. Trade petition filed, negotiations started; 10 years later, subsidies end.

Senator BREAUX. How long from the time this agreement goes into effect does it call for the end of subsidies, from the time this agreement goes into effect?

Mr. BOWLER. Three years, sir. One January, and then 3 years.

Senator BREAUX. January 1 of what year?

Mr. BOWLER. 1996 and December 31 of—I guess, January 1, 1999.

Senator BREAUX. And how many years between 1996 and 1999?

Mr. BOWLER. Three years, sir.

Senator BREAUX. Thank you.

Al, you have the Maritrans ships, and those are Title XI ships. You have how many in your contract?

Mr. BOSSIER. Six.

Senator BREAUX. Six. And your terms for those on the MARAD are what, 87.5 percent, 25 years?

Mr. BOSSIER. Eighty-seven and a half percent, 25 years.

Senator BREAUX. So under the OECD Agreement, those ships would not be affected, right?

Mr. BOSSIER. Those particular vessels would not be affected. Any future vessels that would come in under this agreement would get 80-percent financing and 12 years. And I guess the best way I can put that is I do not think there are many people in this room who had to finance their homes, if they had the choice of doing it in 30 years or 15 years, did not take the 30-year financing.

Senator BREAUX. Oh, I understand. Eighty-seven is much better than 80, but there is a difference in——

Mr. BOSSIER. Twenty-five years is much better than 12.

Senator BREAUX. And 25 is much better than 12.

But the difference that you would have in the future, you would still have the Title XI available under the OECD Agreement. It would be comparable to what other countries have. Is that not correct?

Mr. BOSSIER. That is correct, except that our Jones Act fleet operators would most probably feel, not only feel but find it unaffordable and less favorable financing terms.

We have to draw the distinction between the international business, which are the Russian tankers that we have, and the domestic business. And the domestic owners look forward to the 25-year financing.

Senator BREAUX. I appreciate that. I am going to get to the Jones Act.

But under Title XI, under this agreement you would still be able to have the same type of loan guarantee program from your Government that any other shipyard that is in this agreement would have from their government. Is that not correct?

Mr. BOSSIER. That is correct, except that it would most probably be unaffordable for Jones Act owners. So we would lose the potential under the Jones Act.

Senator BREAUX. Now you are a Jones Act operator, Mr. Finnerty, maybe the largest Jones Act operator in the United States of America.

Please comment on that concern about the Jones Act. I do not understand. Your board should fire you for advocating a bill that is going to put your industry in danger.

Mr. FINNERTY. Senator Breaux, thank you very much for a chance to add a comment.

The earlier reference to the 160 Jones Act vessels is what first caught my ear. And now a comment that Jones Act operators would find it unaffordable to finance the replacement of their fleet.

As Mr. Bossier points out, the Oil Pollution Act and a number of other aspects that are unrelated to this agreement will require the replacement, beginning in a very major way in a year or two, of the Jones Act tankers. Many of those tanker companies might not even use Title XI. Our company has never used Title XI. We go to Wall Street, we go out and finance our equipment on the market.

Title XI is a very important consideration, certainly, in the international marketplace. But as you point out, the agreement is going to level that playing field. They will be in the same posture as all of the other countries and the other shipyards that they are competing against. But they have a major advantage in the Jones Act trade. Only the American yards can compete for those ships. And with or without Title XI, they will get 100 percent of that construction.

Senator BREAUX. Now I thank the panel. Of course all of us have been working on these issues for longer than we all probably want to remember. And hopefully, 1 day we will get some agreements on all these things.

But the final point, Avondale—I think Mr. Bowler's argument is that we need to keep Title XI just like we have it. It gives us an advantage, and it is important. I understand that.

But the days of Congress providing additional subsidies to compete in a subsidy war are over. A Member of this committee, in fact, zeroed out the Maritime Subsidy Program in the Appropriations Committee. Our colleague from Texas, Senator Gramm, zeroed it out. That was where he was coming from. He reduced the Title XI program by 50 percent. I mean, we are struggling just to keep anything that we have to aid this industry, which I think is very important.

And if we have an opportunity, after years of negotiating with all the countries in the world, to have an agreement that for the first time says we are going to have the same loan program that every other country has that could build ships—80 percent of the ships—and in addition get them to agree to eliminate their subsidies, that is an opportunity that we cannot afford to pass up.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Breaux.

Senator Murkowski?

Senator MURKOWSKI. Thank you, Mr. Chairman.

I would like to follow up on Mr. Finnerty's remarks relative to vessels that are coming up under the OPA–90 replacement requirement, which are all Jones Act vessels. They are all tankers.

I wonder, for the record, if any of you gentlemen would supply us with the number of those vessels and the anticipated time frame when they are either going to have to be double-hulled or have replacement hulls.

Mr. FINNERTY. We would be happy to submit that for the record.

Senator MURKOWSKI. Do you have any idea? How many Jones Act tankers do we have?

Mr. FINNERTY. Well, I think the number mentioned was 160.

Mr. BOWLER. One hundred sixty.

Mr. BOSSIER. There are 108 vessels that are from 53,000 deadweight tons to 168,000 deadweight tons. And 52 vessels that are from 28,000 deadweight tons to 52,990 deadweight tons. Between now and the year 2015, they all will go out of service because of OPA–90.

Senator MURKOWSKI. Between now and the year 2015.

Mr. BOWLER. By 2015, they have to be double-hulled, sir.

Mr. DANE. And there are about 70, I believe, that are going to be phased out by 2015.

Senator MURKOWSKI. As those are mandated Jones Act vessels, I assume that America's shipbuilding industry will competitively be in the business of bidding for that new business.

Mr. DANE. We are in that business now, Senator. We are building Jones Act double-hulled barges and/or, as Al said, he has an order for six tankers.

Senator MURKOWSKI. Mr. Bossier, you are in that business as well?

Mr. BOSSIER. That is correct. In fact, I have orders for 10 tankers, not six. And all of them are backed by Title XI financing loan guarantees.

Senator MURKOWSKI. But that would drop from 87 to 80 percent under the proposal.

Mr. BOSSIER. Twenty-five years to 12.

Senator MURKOWSKI. That 7 percent really is not a factor in the funding, financeability of those packages?

Mr. BOSSIER. Twelve versus 25 years, I absolutely think that it is a factor.

Mr. DANE. All the operators are going to have to operate under the same 12 years, so the competitive nature of how they will bid for rates to haul oil is going to be affected equally, Senator. So if all the American Jones Act operators are going to refinance under 12 years, they are going to be competing on a level playing field for their financing and their day rates. So there is no difference and no problem, as I see it.

And we have many operators who have gone to MARAD now. We had one last week who only wants 80 percent. He cannot justify an 87.5 percent loan. He will come up with 20 percent equity. Not everyone that we are dealing with, as Mr. Finnerty said, wants or needs 87.5 percent.

Mr. BOSSIER. I would say that of all the applicants that MARAD has at this minute—and there are some representatives from

MARAD here today—that is most probably the only person that asked for 80 percent out of 20 or 30 applications.

Senator MURKOWSKI. Well, you know, if you are applying for a guarantee, and the difference is between 80 and 87 percent, and that is what causes you not to be able to qualify, why you are pretty close to the ragged edge anyway, are you not?

Mr. DANE. Yes, sir.

Senator MURKOWSKI. It seems to me that 7 percent would not be the key to determine the appropriateness of a guarantee based on your pay back ability or your contractual commitments.

Is that really a problem, or is it the term?

Mr. BOSSIER. It depends on each company. The 25 versus 12 years is certainly a factor.

Senator MURKOWSKI. I want to get into that later, but I am trying to take this piece by piece. Seven percent is not much. If you cannot qualify on 7 percent differential on your financeability, you are in trouble anyway. This is what I am suggesting.

Mr. BOSSIER. Sixty percent more than 12.5 percent.

Mr. BOWLER. Senator, I think that one analogy that we used earlier, in the earlier hearing, is that attractive financing in the housing industry is important. And if you were, or your son or daughter were going down to in fact buy a $100,000 house, and the choice was you put $12,500 down and you finance it over 25 years, or 20 and 12, it ends up, I think—and I will make sure I am accurate—about a difference of $200 a month mortgage. And for a lot of people that is significant. Financing and terms drive this business like they drive the housing industry.

Senator MURKOWSKI. In business you are going to put up as little equity as you have to.

Mr. BOSSIER. Yes, sir.

Senator MURKOWSKI. But most of the folks that are in the business are obviously pretty sophisticated, to get the bonding, to get the financing, to have the know-how. You are a pretty sophisticated business group to start out. So I personally do not think the 7 percent differential on a guarantee is a major factor.

To get back to the term, however, as you are taking it from 25 years to 12 years, that is a factor unless everybody is in the same situation. And the people that are obviously going to be faced with the reality of contractual commitments are those that are contracting for your ships that are going to have to amortize them in basically 12 years instead of 25.

So I assume that means that the price of transportation costs is basically going to have to go up because you have got a residual value after 12 years, but you are in business to try to amortize in the shortest period of time.

So if indeed these ships are all coming due in the year 2015, and many of them by the year 2000, it seems to me that there is going to be a tremendous increase in activity in U.S. yards to meet the mandate of OPA–90.

Let me ask one more question, Mr. Bowler and Mr. Bossier. Do you see any request by the owners of those ships and/or the oil industry to extend that time frame, based perhaps on their belief that they cannot replace the ships as mandated under OPA–90, and we may be faced with hearings before the Commerce Commit-

tee and this committee relative to a request to extend the time frame because of the inability of America's yards, or the financing community, or the industry to meet that time frame?

Mr. BOSSIER. It is my opinion that you are going to get requests for waivers. There will be a plentiful amount of requests for waivers if you reduce this financing to 12 years.

Senator MURKOWSKI. Mr. Bowler?

Mr. BOWLER. I would certainly agree with Al. Clearly, the fact that you have got the attractive financing will tilt in favor of earlier replacement of single-hulled ships.

I think the country would love to have by the year 2000 all of the single hulls out of our waters, rather than waiting until 2015. So presumably there will be pressure with attractive financing for earlier replacement, to more environmentally safe vessels. And I agree with Al. Without it, there is going to be upward pressure on requests for waivers.

Senator MURKOWSKI. Mr. Dane and Mr. Finnerty, how do we assure ourselves that we do not get in a situation where the industry comes and says we cannot meet OPA–90?

Mr. DANE. The industry is going to respond to economics. The largest Jones Act tanker operator is on record as being against 87.5 percent and 25-year financing because it distorts the supply and demand where it is too easy to get in the business. Actually people will overbuild tankers in the near term, weaken the rates. There will be financial trouble, and then the stronger companies that are not going to invest due to weak rates, and there will be a rush at the end.

I agree with Al that, as a shipbuilder, we would prefer a level building. And the sooner either the Congress adopts the OECD, and people know what is going to happen for the future, then these grey, murky waters, I think the tanker market will stabilize, and ships will be built.

And unfortunately, oil transporters are not paying one penny of premium for a new double-hulled tanker. That is the problem why ships are not being built. If that were addressed somehow legislatively, that would help building. But right now an oil company or a refinery is just going to go to the cheapest rate possible. And right now single-hull older ships are the way to go.

Mr. FINNERTY. Senator, I would just like to add that the certainty that would be created by implementing this agreement, and creating a multilateral regime, would induce investment, not only here in the United States but also by potential investors overseas as well.

In the international marketplace, as you well know, the number of ships are all the way up in the thousands. And we are talking here about an agreement that will touch on all of that trade over time. So the sooner it is put into place, the sooner there will be certainty in the financial markets, and the people and companies can adjust and go forward with the investments we are talking about.

Senator MURKOWSKI. My last question is to Senator Breaux. Since you have increased the equity from 87 to basically 80 percent, so there is a differential there, and you have changed the term from 25 to 15, that is cutting on both ends. What is the jus-

tification for decreasing the term? I am just curious to know what the rationale is behind that.

Senator BREAUX. The justification, I would say to the Senator, is that we are trying to get every country to operate under the same terms and conditions. And through the negotiations, 12 years and 80 percent was their agreement.

Now that is protecting our people because nobody can do any better than that. Everybody will probably do just as well. But for the first time it puts everybody on the same playing field. No country will have an advantage of a government loan guarantee. All will be equal, and these gentlemen will be able to compete on the basis of quality, performance, productivity and what have you. And I think our guys can do a hell of a job if everything is equal.

Senator MURKOWSKI. Thanks, John. Thanks, Mr. Chairman.

I think this marks an historic turnaround in America's shipbuilding industry. And we were talking about significant turnarounds, as evidenced by the last election, and I think this is one of them. It will be interesting to see the base of support for it.

But I kind of come down again on the principle that what we have had before certainly has not worked in the international marketplace, and I think American technology and American ingenuity can bring American shipbuilding back in a competitive atmosphere. in a competitive atmosphere.

Thanks very much, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Chafee?

Senator CHAFEE. Thank you, Mr. Chairman.

I have a request, if I might. I have several questions here to the USTR, and I wonder if he might answer those in writing to the committee.

The CHAIRMAN. Yes.

[The questions and answers appear in the appendix.]

Senator CHAFEE. And then I just want to say, Mr. Chairman, I appreciate your scheduling this hearing, and I apologize for coming in late.

I also want to congratulate Senator Breaux, who I know has worked very hard on achieving this agreement and seeing that it gets consideration.

I just have a couple of questions for either Mr. Dane or Mr. Finnerty. And if these have been answered before, just tell me and I will look in the record.

There are some exceptions to the subsidy restrictions, including, as I understand it, monies spent for "social assistance" Has that question been discussed?

Mr. DANE. No, sir.

Senator CHAFEE. Also excepted are monies that go to vessel component manufacturers. Are these not pretty big exceptions, Mr. Finnerty?

Mr. DANE. My understanding—and I would be happy to get some research on the point and submit it to you, Senator—is that with respect to components, there is adequate coverage.

The agreement specifically bans, and I quote, "any assistance to suppliers of goods and services"—that is to say components—"to

the shipbuilding repair industry if such assistance specifically provides benefits to that industry of a country."

As for social issues, there are some countries that are in the midst of actually reducing their shipbuilding capacity. And there are funds that are allowed, subsidies for these displaced people. It is for the intent purpose though of reducing their capacity, not making them better or more competitive in shipbuilding.

Senator CHAFEE. Oh, I see. All right.

What about the exception for government R&D expenditures? Is that not quite a loophole?

Mr. DANE. Trade talked on that a little bit in terms of what percentage, depending on what type of research and development. And we are, as you know, a 50–50 share, what our U.S. Government is doing to help us on research grants. That will be modified somewhat.

Senator CHAFEE. But what is the situation in Japan, for example, on government R&D? Is that investment shared also? How does that work?

Mr. DANE. I cannot answer specifically on R&D. But on this chart they are getting $1.98 billion in subsidies. Considering the limited $50 million that we get, I believe our subsidies are research subsidies.

So to answer you specifically, I do not know. But with the big difference in the numbers, obviously Japan is doing a heck of a lot.

Senator CHAFEE. All right. Fine. Thank you.

I will submit the other questions for the record, Mr. Chairman.

Thank you.

The CHAIRMAN. Thank you, Senator Chafee.

Unless there are further questions, gentlemen we thank you very much for being here today. Your testimony has indeed been very helpful.

Senator MOYNIHAN. Excellent.

[Whereupon, at 11:29 a.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED

PREPARED STATEMENT OF ALBERT BOSSIER, JR.

Thank you, Mr. Chairman, and members of the Committee. As President and CEO of Avondale Industries of New Orleans, Louisiana, I appreciate this opportunity to state my strong objections with the OECD shipbuilding agreement and to this implementing legislation. Avondale Industries was founded in 1938. We are an employee-owned company, and we are the largest private employer in the state of Louisiana. The livelihood of more than 6,000 men and women, and their families, depends on Avondale. In these times of scarce Navy shipbuilding opportunities, it is essential for Avondale to win commercial contracts to sustain our current work force, and to grow.

Over the last 18 months, we have made tremendous progress in our efforts to attract commercial business. This progress is due, in large part, to the revitalized, and expanded, Title XI Government Loan Guarantee Program, and the Oil Pollution Act of 1990 (OPA-90). OPA-90 requires that single-hulled oil tankers plying U.S. waters be replaced with double-hulled ships between 1995 and the year 2015. Construction contracts for double-hulled tankers for the domestic coastwise trade, commonly referred to as the Jones Act, are just beginning to be placed with Avondale and other U.S. shipyards.

We at Avondale have recently completed a new state-of-the-art facility, which will revolutionize our efficiency and competitiveness in the construction of commercial ships, as well as make our naval shipbuilding more efficient. This $20 million investment will maximize throughput efficiencies in the cutting and assembly of steel in the construction process of commercial ship modules. The Title XI loan guarantee program made this investment possible, and affordable for my company.

It was Title XI that also made it financially feasible for American Heavy Lift Shipping Co. to finance a $140 million conversion of four single-hulled oil tankers to double hulls—a contract which Avondale competitively won in March of this year and which was our first major commercial shipbuilding contract in a number of years. This work represents as many as one thousand jobs for our employees, and it will generate an additional 2500 to 3000 jobs throughout the economy. These four American Heavy Lift tankers will serve the U.S. coastwise trade in compliance with the environmental construction standards of OPA-90.

Since then, the Title XI Loan Guarantee Program has resulted in two more major commercial shipbuilding opportunities for Avondale. In August of this year, we signed a letter of intent with Primorsk, a Russian shipping company to build seven double-hulled oil tankers. And in November, we signed a letter of intent for six more double-hulled tankers for Maritrans, a Philadelphia based company, for use in the Jones Act trade. MARAD is reviewing the Title XI loan guarantee applications for both of these contracts.

If this agreement is implemented, these types of business opportunities, for my shipyard and other U.S. shipbuilders, will disappear. This agreement will render the Title XI program ineffective, and it will seriously jeopardize the U.S.-build requirement of the Jones Act.

With respect to Title XI, the program will be reduced from its current terms of 87.5 percent of a 25-year loan to only 80 percent of a 12-year loan. In the world of shipbuilding, as with home mortgages, financing rates and terms determine a project's affordability. Thus, owners who need to replace their fleets, will most likely find it unaffordable under these less favorable financing terms.

I am very concerned about the impact this agreement will have on the Jones Act. For example, the agreement states—and I quote—"Recognizing that a permanent

derogation for the coastwise laws could undermine the balance of rights and obligations of the Parties under the Agreement and is unacceptable to the other Parties . . . ." Despite the use of the word "could," this is a significant U.S. concession.

In previous foreign trade agreements, the U.S. has resisted the principle that access to the U.S. domestic market should be connected with access to international markets. Rules for competition and trade in international markets have in the past been established without specific linkage or reciprocal access to domestic cabotage markets. The U.S. has conceded a precedent whereby it has to "pay" for access to international markets by restricting protections applicable to domestic markets. This precedent acknowledges that the ultimate repeal of these laws is a precondition to obtaining completely fair and equal access to international markets—thus making eventual repeal more likely.

In the first three years, the agreement places a 200,000 gross ton cap on vessels delivered for the Jones Act trade annually. The Parties Group may authorize one or more responsive measures against a U.S. shipbuilder seeking international market access if the tonnage cap is breached. These measures include imposition of a charge, or restriction on bids or contracts aimed at affecting a loss of sales opportunities comparable to that resulting from deliveries of coastwise vessels in excess of the threshold. The agreement further states that deliveries in excess of the threshold significantly undermine the balance of rights and obligations under the agreement. It is important to point out that U.S. shipbuilders already have contracts in hand that will exceed the 200,000 annual gross ton cap.

After three years, the Parties Group may reexamine the measures provided for in the agreement and decide to modify the measures which can be taken—regardless of the tonnage delivered to this trade.

A shortage of qualified U.S.-built coastwise tankers is anticipated by the year 1996, as single-hulled vessels are phased out pursuant to OPA-90. Changes to Title XI and uncertainties regarding the future of the Jones Act will reduce the likelihood that vessel owners will be able to obtain financing or be willing to commit their own resources for building ships in the United States for the Jones Act. As the shortage of qualified vessels increases, pressure could build to waive the U.S.-build requirement for double-hulled tankers. These waiver requests, coupled with foreign government attacks on the Jones Act, will only hasten the law's repeal.

This agreement is a bad deal for American shipbuilders. I am responsible for the employment of more than 6,000 Americans. I cannot support an agreement that will put my employees and my company's future at severe risk.

PREPARED STATEMENT OF R.T.E. BOWLER III

Thank you, Mr. Chairman, members of the Subcommittee, for this opportunity to testify today on behalf of the member companies of the American Shipbuilding Association (ASA) on S. 1354 which implements the Organization for Economic Cooperation and Development (OECD) Agreement on Shipbuilding. ASA represents America's six largest shipbuilding companies employing over 90 percent of all shipbuilding workers in the United States.

ASA member companies are: Avondale Shipyards, General Dynamics' Bath Iron Works Corporation, General Dynamics' Electric Boat Division, Ingalls Shipbuilding, National Steel and Shipbuilding Company, and Newport News Shipbuilding. These shipbuilders are the largest private employers in five states: Louisiana, Maine, Rhode Island, Mississippi, and Virginia. They are also a major source of business for thousands of firms—large and small—that make up the marine supplier industrial base in 46 of the United States.

Every economic and military power throughout history has recognized the need to manufacture ships for their commerce and national security. The ancient Ottoman Empire, Roman Empire, Spain, and the British Empire all had one thing in common—they controlled their seas. America rediscovered this necessity in the Allied victory of World War II. Most recently, ships were critical once again in the Persian Gulf conflict, where 95 percent of all military cargoes were transported by sea.

A 1988 report by the U.S. Commission on Merchant Marine and Defense found that for every job created in a shipyard, five more were created throughout the domestic economy. Countries such as Japan and S. Korea, and now China, have recognized the tremendous benefits of shipbuilding in developing their national economies. As a result, Japan, in the 1960's, targeted shipbuilding, and South Korea followed the Japanese example in the 1970's. Japan and S. Korea now dominate commercial shipbuilding with 70 percent of the total market.

Unfortunately, U.S. policy makers either forgot, or chose to ignore, the critical importance of shipbuilding to our economic strength and to our military might. In

1981, the U.S. Government unilaterally terminated direct subsidies to the U.S. shipbuilding industry. Foreign nations responded by dramatically increasing their own domestic shipbuilding subsidies. These foreign subsidies, in the form of direct grants, construction and modernization of shipbuilding facilities, research and development, and subsidized loans, enabled foreign shipbuilders to dramatically increase their market share. Unable to compete against such government support, American shipbuilders—who had historically been producers of both commercial and naval vessels—lost their commercial shipbuilding market share. Since 1981, more than 140,000 American shipbuilding jobs have been lost as U.S. shipbuilding capacity was cut in half.

While foreign shipbuilders honed their commercial shipbuilding skills, American shipbuilders focused their efforts on building the most superior naval vessels in the world. Today, ASA shipbuilders make up this Nation's critical Navy shipbuilding industrial base. This year, however, marks the lowest level of Navy shipbuilding in 47 years. The President's fiscal year 1996 budget requests funding for only three Navy ships. Over the next five years, an average of only five ships per year are expected to be ordered for the U.S. Navy. At the turn of the century, however, the Navy projects that 10 to 12 ships will have to be ordered annually if the Nation is to sustain a 346-ship fleet. Without these core shipbuilders, these military requirements cannot be met. If we are to survive this six-year period of limited Navy ship orders, we must recapture commercial market share.

At the outset of the OECD negotiations in 1989, ASA member shipbuilders insisted that for an agreement to be acceptable it would have to be specific, comprehensive, enforceable, and provide a level field on which American shipbuilders could compete. No ASA shipbuilder—and no spokesperson for this industry—ever said that any agreement, regardless of its content, would be acceptable or better than no agreement at all. Unfortunately, this agreement hurts, rather than helps, our chances at recapturing commercial market share.

During these negotiations a confluence of circumstances have allowed our foreign competitors to secure a permanent advantage in the world commercial shipbuilding market. The circumstances I refer to are these: First, since 1981, U.S. shipbuilders have been engaged almost exclusively in building Navy ships that helped bring a welcome end to the Cold War. But 1985 started a ten year decline in defense budgets, resulting in only three new combatant ships being ordered by the Navy this year.

Second, much of the world's commercial fleet began reaching block obsolescence starting in the late 1980's. Combined with expected demand for new tonnage, the worldwide shipbuilding market was projected at over 150 million gross tons throughout the 1990's, valued at more than $350 billion. Because of this projected surge in demand, U.S. shipbuilders saw the early 1990's as their window of opportunity to reenter the commercial shipbuilding market.

Third, because of this upturn in demand for new ships, our foreign competitors had no incentive to reach an agreement quickly. Consequently, our foreign competitors cleverly took advantage of our trade negotiators by reaching an agreement which would allow their subsidies to continue just long enough to capture this market upturn thereby excluding U.S. shipbuilders. Foreign subsidies will remain available for ships delivered up until January 1, 1999, and foreign government-funded facility investment has just recently been completed or will be finished within the next two years.

While our foreign competitors were making sure that the negotiations dragged on over a five-year period, U.S. shipbuilders experienced a dramatic downturn in their Navy shipbuilding market. The longer the negotiations continued, the more time foreign shipyards had to complete their facility modernization projects, and fill their orderbooks with the worldwide demand for new tonnage, before any agreement disciplining subsidies could ever take effect. These tactics, combined with the phase-out terms of the agreement, ensure that foreign shipbuilders will continue to reap the rewards of the demand for new orders throughout this decade. Meanwhile, the window of opportunity for U.S. shipbuilders to reenter the commercial market slammed shut.

Our primary concerns with the agreement are:

(1) The transition terms benefit foreign shipbuilders to the detriment of U.S. shipbuilders;

(2) Construction opportunities for U.S. shipbuilders for our domestic coastwise trade could be undermined;

(3) The U.S. Title XI Loan Guarantee Program will be rendered ineffective, and;

(4) Loopholes, exemptions, and questionable enforceability beg the question of whether this agreement will be effective in eliminating foreign subsidies.

EXTENDED PHASE-OUT PERIOD OF FOREIGN SUBSIDIES

The American shipbuilding industry insisted from day one that foreign government subsidies would have to be phased-out within two years at most. That was in 1989, when the U.S. shipbuilding industry withdrew its Section 301 trade petition at the request of USTR in exchange for a commitment from the U.S. Government to enter multilateral negotiations. The agreement before us allows for almost a ten-year phase-out of foreign subsidy practices—not two years, but 10. By January of 1999, foreign shipbuilders will have enjoyed almost twenty years of one-sided government subsidies. These practices have enabled Japan, S. Korea, and Europe to increase and maintain market share at the expense of American shipbuilders. These practices have given foreign shipbuilders a significant competitive advantage over American shipbuilders—an advantage that this agreement will lock-in permanently. This phase-out schedule is totally unacceptable.

SPECIFIC FOREIGN PRACTICES TO BE COVERED

American shipbuilders also insisted that they would not support an agreement if foreign governments did not provide specific lists of their current programs and practices which would be affected by the agreement. The U.S. Government provided the other parties with a detailed list of every conceivable U.S. law or regulation that may be covered at the outset of the negotiations. Foreign governments, on the other hand, have yet to provide comparable details. In fact, Japan and S. Korea industry officials have maintained that this agreement will have no impact on their current practices whatsoever.

During these negotiations, foreign governments refused to curtail their subsidies. In 1990, for example, S. Korea provided almost a $1 billion bailout of its Daewoo shipyard, which had been selling ships below the cost of production. The European Union approved, in 1992, a $4 billion shipyard modernization program for former East German shipbuilders. During these negotiations, the six top shipbuilding nations provided $5 billion to $8 billion in subsidies annually to their industries.

SPECIAL TRANSITION SUBSIDIES TO FOREIGN SHIPBUILDERS

To add insult to injury, the U.S. Government agreed that these foreign governments were entitled to additional subsidy allowances above and beyond their current practices. Section A of Annex II authorizes over $2 billion for the countries of Spain, S. Korea, Portugal, Belgium, and France for investment assistance and for social measures not otherwise exempted under Annex I of the agreement. A $480 million special deal for France is not even referenced in the agreement, because it was approved after the negotiations were supposedly concluded. Since December, in spite of repeated inquiries, we have yet to receive any details on this special French subsidy package. ASA shipbuilders cannot accept these one-sided transition terms.

NEGATIVE IMPACT ON THE JONES ACT

USTR has stated that it had to agree to these special concessions for foreign governments in order to preserve the Jones Act and Passenger Vessel Act of the United States. The Merchant Marine Act of 1920 and the Passenger Vessel Act of 1886 require that vessels transporting cargo or passengers in the U.S. domestic trade be U.S.-owned, U.S.-built, and U.S.-crewed. Although USTR stated at the outset that the Jones Act would not be subject to negotiation, the agreement jeopardizes these domestic coastwise trade laws.

Annex II, Section A provides for the foreign subsidy exemptions mentioned above, and Section B addresses the Jones Act. No caveats or restrictive wording accompany the foreign exemptions. However, the section dealing with U.S. coastwise laws is riddled with caveats, exceptions, restrictive language. It also establishes a structural format by which foreign governments may continually challenge these laws. Section B, 2(b) of Annex II states—and I quote—"Recognizing that a permanent derogation for the coastwise laws could undermine the balance of rights and obligations of the Parties under the Agreement and is unacceptable to the other Parties . . . "

Despite the use of the word "could," this is a significant U.S. concession. In previous foreign trade agreements the U.S. has resisted the principle that access to the U.S. domestic market should be connected with access to international markets. Rules for competition and trade in international markets have in the past been established without specific linkage or reciprocal access to domestic cabotage markets. The U.S. has conceded a precedent whereby it has to "pay" for access to international markets by restricting protections applicable to domestic markets. This precedent acknowledges that the ultimate repeal of these laws is a precondition to

obtaining completely fair and equal access to international markets—thus making eventual repeal more likely.

After three years, the Parties Group may reexamine the measures provided for in the agreement and decide to modify the measures which can be taken—regardless of the tonnage delivered to this trade. Furthermore, the agreement states that a Party may withdraw from the agreement at any time after four years "if Part B of Annex II remains in effect (the Jones Act)."

In the real world of market investment and market finance, the uncertainties created in this agreement with respect to the future of the Jones Act will have an adverse impact on potential shipbuilding orders for this trade, and further hasten its repeal. ASA finds the treatment of the Jones Act unacceptable.

IMPACT ON TITLE XI LOAN GUARANTEES

The Title XI Loan Guarantee Program provides a government guarantee on commercial loans for ships built in the United States. This program was essentially dormant throughout the 1980's. In fiscal year 1994, Congress revived and amended the program as part of the National Defense Authorization Act. Prior to FY'94, a Title XI loan guarantee was available only to U.S. citizen shipowners who registered their ships under the laws of the United States. The FY'94 amendments made the terms of the program more favorable and made the guarantees available for ship exports and shipyard facility modernization. These guarantees can cover up to 87.5 percent of a 25-year loan.

The revitalization of this program was responsible for a member ASA company obtaining an export order for four double-hulled oil tankers. This contract marked the first commercial ships to be built in the United States for export in almost 40 years. Because of this program, another ASA company is converting four single-hulled U.S.-flagged tankers to double hulls, and another has contracts to build four double-hulled ships for the Jones Act trade. Also, two of our shipyards, Avondale and Newport News Shipbuilding have contracts in hand, subject to MARAD Title XI Loan Guarantee approval to build up to 29 more double-hulled tankers for both the Jones Act trade and the international market.

The agreement calls for major modifications to this program. The guarantees will be reduced from 87.5 percent of the loan to only 80 percent of the loan. Rather than the guarantee being available for 25 year loans, it will only cover 12-year loans. As a result, the only program which has actually helped U.S. shipbuilders will be rendered ineffective. ASA opposes these changes to the Title XI program.

EXEMPTIONS FOR RESEARCH AND DEVELOPMENT

Annex I specifically provides for an exception for government funded research and development in the area of commercial shipbuilding and marine components. Throughout the 1980's, and until 1994, the U.S. Government contributed no more than $1 to $2 million annually for commercial shipbuilding research—which was matched by U.S. industry. By comparison, we know that Japan was providing close to $1 billion in some years during this same period.

In fiscal year 1994, the U.S. Government recognized the need to do more in this area, and initiated the MARITECH program. Under MARITECH, shipbuilders must match the governments contribution along a 50/50 share line. For FY'96, the President has requested $50 million for this program.

The agreement allows governments to continue to fund 100 percent of "fundamental research;" 50 percent of "basic industrial research;" 35 percent of "applied research" (which is defined as research through development of a prototype); and, 25 percent of "development" (which is defined as to include development of pre-production models). The government percentage for each of the above categories may be increased by 25 percent if the research and development is for environmental or safety purposes. One would be hard pressed to find a research or development project that could not be placed in a safety or environmental category. Thus, this exception will ensure a 15 to 50 percent advantage to foreign governments above what is currently being provided to U.S. shipbuilders, since no U.S. program is funded above a 50/50 share line. Furthermore, there is no restriction on the cumulative amount of money a foreign government can spend on commercial research and development—as long as the share lines are followed. This exception is far too broad and unacceptable to ASA.

LOOPHOLE FOR MARINE COMPONENT MANUFACTURERS

The agreement will not apply to subsidies for the manufacture of vessel components, such as bridge equipment, engines or machinery. Even though the agreement prohibits indirect subsidy to any person "where the benefit is passed, or may reason-

ably be expected to be passed, to the shipbuilder or ship repairer indirectly," we are concerned that the transparency provisions of the agreement can be interpreted to not apply to vessel components.

Approximately 50 percent of the value of a ship is in its components. This percentage will vary, but 50 percent is a reasonable average to use. If subsidies continue to flow to foreign vessel component manufacturers, this agreement would have little impact on subsidized ship prices. Furthermore, because of the exception to government funded research and development, foreign component manufacturers can continue to reap government benefits not provided to U.S. vessel component manufacturers.

INJURIOUS PRICING PROVISIONS

Annex III of the Agreement deals with injurious pricing—or the selling of ships below normal prices. Under the procedures of the agreement, a "domestic industry" must file a complaint with its government, the "investigating party." A "domestic industry" is defined generally as "the domestic producers as a whole of the like vessels."

The agreement provides a direct and indirect means for a builder to file an injurious pricing allegation. A shipbuilder may bring a direct injurious pricing action only against a buyer which is a company or who is a national of the shipbuilder's country. If the buyer is not a company or national of the shipbuilder's country, an indirect procedure, known as a "third country" complaint, would have to be pursued.

A U.S. shipbuilder, upon filing a direct or indirect injurious pricing charge, would have to present evidence of both the practice and how the practice has injured the U.S. shipbuilding industry. Injury is very difficult to prove for all industries—even those which enjoy a significant portion of the commercial market. U.S. shipbuilders, who have less than one percent of the commercial shipbuilding market, and who have built relatively few commercial ships over the past 15 years, will be hard pressed to prove that they are injured by these practices.

A U.S. shipbuilder would have limited, indirect recourse against a sale to a non-U.S. buyer. Under the "third country" procedures, the United States, as the "third country" would apply to the country of the vessel buyer to bring an injurious pricing action on behalf of the United States. Since the buyer's country has discretion to pursue an action on behalf of the third country, this provision may be of little assistance to the third country shipbuilder. If for example, the buyer's country doesn't find it to be in its best interest to bring an action, then there would be little or no recourse for a third country against unfair, or below normal, pricing practices.

Injurious pricing practices are a concern to American shipbuilders. Japan and S. Korea obtained their 40 percent and 30 percent market share, respectively, in part, by selling ships below their cost of production. Currently, S. Korean shipyards are in the midst of doubling their shipbuilding capacity—during a time when excess capacity already exists. Injurious pricing normally accompanies excess capacity. If S. Korean shipbuilders resume their previous practices, U.S. shipbuilders have little expectation that this agreement will be effective in correcting the practice. Even if the buyer's country were to agree to bring a case on our behalf, and even if there were compelling evidence of injurious pricing, it would be very difficult to prove injury.

OTHER LOOPHOLES AND GENERAL CONCERNS

Annex I, Sections A and B, states that tax policies which are beneficial to the shipbuilding industry are a violation of the agreement. This implementing legislation to this agreement will recommend repeal of the U.S.-build requirement associated with the Capital Construction Fund (CCF). The CCF, which is a tax-deferred program for shipowners for the purpose of building ships, will continue to be available for U.S. shipowners. I would like to make it clear that American shipbuilders do not support our government undertaking a policy or practice of subsidizing foreign ship construction—which would be the effect of this provision. Furthermore, the fact that this tax policy can continue under the agreement, as long as it is not available solely for ships built in the United States, begs the question of just what this agreement does and does not cover. ASA supports continuation of the CCF in its current statutory form.

Section C of Annex I, entitled "Official Regulations and Practices" probably provides another reason why the Asian shipbuilders do not believe this agreement will affect them. Although this section states that anti-competitive arrangements such as price fixing, bid-rigging, market allocation, and other predatory practices are to be disallowed, an accompanying footnote states that the parties recognize that differences exist among countries' competition policies or laws and regulations, and

that the agreement is not intended to unify competition policies among the Parties **"nor to compel a Party to amend its national competition laws and regulations."** (Emphasis added)

It is well known that the U.S. Government has some of the strictest anti—trust laws in the world. While these laws will continue to govern our practices, Japanese and other foreign shipbuilders would be allowed to continue their practices, which would be considered anti-competitive and illegal in the U.S.

Although ASA questions just how effective this agreement will be on ending foreign shipbuilding subsidy practices, we are absolutely certain that it will preclude the U.S. Government from ever assisting U.S. shipbuilders—even if it were for national defense purposes.

This agreement will outlaw creative ideas in the future aimed at preserving the U.S. defense shipbuilding industrial base. It will tie the hands of American shipbuilders while foreign governments continue their current practices or find more clever and more discreet ways to continue to subsidize their shipbuilders. President Clinton, in a speech last June in the Pacific Northwest, said, and I quote: "The American business community and American workers want stable jobs in a global economy. They need the United States Government out there doing for them what other governments are doing for their business communities. If we don't do that, we will pay a big price . . . "

I do not think the President would support this agreement if he knew the details, and truly understood what its impact will be on our defense shipbuilding industrial base. This agreement locks in the competitive advantage foreign shipbuilders have over us as a result of years of government subsidies. It provides overly generous transition terms for foreign governments until January 1, 1999, and special restructuring deals above and beyond their current subsidy practices. By contrast, American shipbuilders, who have received no direct subsidies from their government in 15 years, and who have only recently benefitted from indirect programs, such as Title XI and MARITECH, are supposed to magically overcome a 20-year disadvantage in commercial shipbuilding. The terms of this agreement are not in keeping with President Clinton's, or the Congress', vision of the role of our government with respect to industry. Although ASA recognizes that the art of negotiation is the process of give and take, our assessment of this agreement is that we gave and we were taken.

We urge this Committee and Congress to insist that the Administration renegotiate this agreement. We ask for an agreement that is truly equitable for American shipbuilders. Too much is at stake to accept anything less.

PREPARED STATEMENT OF JOHN DANE III

Mr. Chairman and members of the Finance Committee, I want to thank you for this opportunity to testify in support of the Shipbuilding Trade Agreement Act (S. 1354). I would also like to thank Senator Breaux for his many years of extraordinary leadership on this issue and for introducing this legislation that will make the necessary changes in U.S. law to implement the OECD Shipbuilding Agreement.

My name is John Dane III and I am President of Trinity Marine Group, headquartered in Gulfport, Mississippi. Trinity Marine Group is a shipbuilding and repair company that manages 22 shipyards owned by Trinity Industries, Inc., a $2.0 billion NYSE Company. Trinity Marine Group designs, constructs, converts and repairs a variety of vessels for the defense, oil and gas, marine transportation, fishing, and passenger cruise industries. We employ approximately 4,000 Americans in seven states including Louisiana, Mississippi, Texas, Kentucky, Florida, Tennessee and Missouri. Trinity Marine Group has grown from a company with less than $40 million in sales in 1987 to over $400 million in sales during the last fiscal year. Today, our exports have grown to over ten percent of our business. I believe this growth proves we can compete in the international marketplace. However, without the benefits of the OECD Shipbuilding Agreement, my company and others like it are unlikely to grow to their full potential, putting at risk the creation of thousands of new jobs and economic opportunities in this country.

The OECD Shipbuilding Agreement is, without a doubt, vital to the future growth and overall well-being of Trinity and the industry as a whole. That is why I am here today. I am not here to represent the interests of just one company; I am here to speak for the entire commercial shipyard industry. I am testifying on behalf of the American Waterways Shipyard Conference and the Shipbuilders Council of America, who together represent 58 shipyards in 19 states. I am also here on behalf of the Coalition in Support of the OECD Shipbuilding Agreement, in which Trinity Marine Group is an active participant. The Coalition is an industry-wide group whose mem-

bers include U.S. shipbuilders, and vessel owners and operators, as well as ports and shippers.

The OECD Shipbuilding Agreement will allow U.S. shipyards to do what they do best—compete. U.S. commercial shipyards have emerged from a severe depression in the 1980s caused by the collapse of the offshore oil business. They are lean, efficient and ready to meet the expanding needs of the commercial shipbuilding market. U.S. shipyards are now competitive with most of their international counterparts in labor cost, quality and innovation. Unfortunately, foreign government subsidies continue to give foreign shipyards an advantage in the global market. U.S. shipyards are artificially denied important market opportunities, despite their efficiencies and the relative cost and quality of their products, due to existing foreign government subsidies. The OECD Shipbuilding Agreement will dramatically change this unfair situation.

U.S. shipyards today have a unique opportunity to sell ships on the international market. In addition to the manufacturing and technological advances we have made in recent years, the devaluation of the dollar against foreign currencies now makes U.S. ships, like other U.S. products, more price competitive. These factors promise to bring great success to U.S. shipyards, but only if foreign subsidies are ended and the playing field is leveled. The OECD Agreement will make that possible.

In bringing about fair and open competition and ending all direct and indirect subsidies, the Agreement gives signatory countries which do not subsidize their shipyards two very effective advantages. First, the Agreement contains a tough, effective injurious pricing code, otherwise known as the "anti-dumping" provision. An unfair practice in international competition for shipbuilding, as well as a host of other products, is selling finished products at prices below the cost of production for the purpose of securing market dominance. The OECD Shipbuilding Agreement imposes a strong and enforceable "anti-dumping" mechanism that will end this practice.

Second, the Agreement establishes a binding and fair dispute settlement mechanism. An important consideration in evaluating any trade agreement is whether or not it is enforceable and binding on all parties. It is counterproductive for the U.S. to adhere to an agreement that is not binding on our trading partners or is difficult to enforce. This Agreement puts into place a process which gives U.S. shipyards the opportunity to obtain quick and effective action in response to any violations.

I want to briefly draw your attention to a set of actions undertaken at the federal level that seeks to boost the competitive position of U.S. shipyards. The Administration's shipyard initiative includes not only the negotiation of this international Agreement on shipbuilding subsidies, but also revitalization of the Title XI Loan Guarantee Program, the establishment of marketing assistance and the MARITECH program, and the reform of burdensome maritime regulations. This initiative package helps U.S. shipyards compete in the international market, but it does not provide direct cash payments of any kind. I repeat, it is not a subsidy program. Those U.S. shipyards that are financially stable and have invested in the equipment necessary to compete in the worldwide shipbuilding market want the chance to compete in an open, subsidy-free market. All we are asking for is a level playing field. Given an equal chance, U.S. shipyards today will prosper and help sustain the economic growth necessary to create jobs and economic opportunities for American workers.

The economic gains projected as a result of this Agreement are substantial. Using a very conservative analysis, we project that for every one percent of the international shipbuilding market the U.S. garners, between 1,000 and 6,500 shipbuilding jobs will be created. The range is determined by the sophistication of vessels built. An additional 15 percent can be added to these figures for support and administrative positions at shipyards, making a total of 1,150 to 7,475 direct shipbuilding jobs created for every one percent of the world shipbuilding market the U.S. obtains.

And this is only the tip of the iceberg. Thousands of additional jobs will be created when shipyards purchase the materials they will need to build these new vessels. The Agreement will be a boon to U.S. marine equipment manufacturers and steel workers. And the benefits do not stop there. The wages generated by building export vessels will be pumped throughout the U.S. economy, creating and sustaining untold numbers of other manufacturing and service jobs. I must emphasize that these are new dollars being added to the U.S. economy from export sales, not reshuffled domestic dollars.

Mr. Chairman, an economic strategy built on providing cash subsidies to U.S. shipbuilders is no longer an option. First, I don't need to tell you that the U.S. Government does not have the financial resources to match the large subsidies provided to foreign shipyards by their governments. Second, and even more important, subsidies do not address the critical necessity of fundamentally improving our ability to compete. In fact, subsidies breed inefficiencies in American industry. Subsidies

do not force us to make improvements in elements such as labor efficiencies, material handling, design and management, and innovation. These are all areas where U.S. shipyards have spent the last ten years making the long-term investments necessary to compete at home and abroad. And I might add, at times, to the detriment of our near-term bottom line.

Lastly, Mr. Chairman, I want to raise a word of caution about some of the criticisms being voiced by the Agreement's opponents. As I am sure you have heard, some argue that the OECD Agreement would force a change in the Jones Act law, that the Agreement would place a cap on Jones Act production, and that it will cause uncertainty in the domestic market, thereby disrupting Jones Act construction. Let me assure you, Mr. Chairman, that these arguments are not true, and are being made to obfuscate the real reason why OECD opponents seek to scuttle the Agreement. Opponents of the OECD Agreement are still of the misguided notion that the federal government will renew its subsidy programs, or absent that, they want to continue to receive subsidies presently being given to them by state governments. Shipbuilders should not be looking for subsidies.

What the OECD Agreement does do is prohibit the other signatories from continuing their home-build requirements while it protects the Jones Act, i.e. our home-build requirement. The U.S. domestic industry was specifically protected by this Agreement. Furthermore, the Agreement provides for monitoring of the level of Jones Act tonnage being constructed in the U.S. with an eye toward resolving whether this U.S.-protected tonnage is distorting the global market. The Agreement says that if Jones Act construction exceeds 200,000 tons annually, and if an OECD party actually believes that this construction level in the U.S. is disrupting the global market, and if that OECD party can convince the other signatory parties to the Agreement of the same, then the aggrieved nation can impose restrictions on U.S. Jones Act shipbuilders of an equivalent nature and magnitude in its domestic market. Even in that unlikely event, this places no limit on the amount of Jones Act tonnage that may be constructed in the U.S. in any year. Nor does it mandate any change to the statutory integrity of the Jones Act. Moreover, it would be extraordinarily difficult for any nation to argue that Jones Act tonnage disrupts the global market since Jones Act tonnage is expected to be on the order of 2-300,000 tons annually over the next 20 years while the worldwide tonnage is measured in the tens of millions.

Likewise, the assertion that the Agreement will disrupt the domestic marketplace is without merit. Jones Act construction is the backbone of my business, and I would in no way support any agreement that would endanger this business. Nor would the other American shipyards that build Jones Act vessels. The vast majority of Jones Act shipbuilders are represented by the American Waterways Shipyard Conference and the Shipbuilders Council of America and, as I stated to you earlier, they are among the Agreement's most ardent supporters. In addition, both the American Waterways Operators and the American Institute of Merchant Shipping, who together represent a significant portion of the Jones Act fleet, enthusiastically support this Agreement.

I would also strongly urge the Committee to reject the suggestion that we put aside the current Agreement and reopen negotiations in hopes of obtaining a new agreement that would permit the U.S. to subsidize shipyards. That strategy is dangerous, counter-productive for U.S. commercial interests and destined to fail. In the unlikely event that the other parties to the negotiations agree to resume talks, foreign governments will undoubtedly attempt to extract a high price for a new agreement—a price the U.S. will be unable and unwilling to pay, a price that may include the elimination of the U.S.-build provisions of the Jones Act. In effect, there will be no agreement. This will tragically preclude U.S. shipyards from competing in an open and fair international marketplace. Consequently, the jobs and economic growth that would be created through expanded international opportunities will be lost. The bottom line is, Mr. Chairman, our industry is far better off with this Agreement than with no Agreement at all.

In closing, Mr. Chairman and members of the Committee, the United States is a maritime nation. Ever since the early days of the Republic, vessels of all types and sizes have played a key role in the economic development and military history of our nation. We must do what is necessary to sustain our strong maritime heritage. Historically, the U.S. has been a builder of mighty and reliable vessels serving the military and commercial sectors of our economy. I have no doubt that given the opportunity to compete in an open and fair marketplace, U.S. shipyards will once again take their rightful place as a leader in world shipbuilding community. All we need is a fair chance to compete and succeed.

As you know, the parties to the OECD Shipbuilding Agreement intended for it to enter into force on January 1, 1996. Failure by the U.S. to make substantial

progress toward implementation will signal a lack of commitment by the U.S. and may cause other parties to abandon the Agreement. The return to a full scale subsidy war to compete for global market share will mean the end to the last hope of American shipyards to compete in the international market. Please do not let this happen!

Mr. Chairman, thank you for holding this hearing on the OECD Agreement I encourage the Committee to take quick action on S. 1354 and report it favorably to the full Senate for consideration. I'd be happy to answer any questions you have.

PREPARED STATEMENT OF PETER J. FINNERTY

INTRODUCTION

I am Peter J. Finnerty, Vice-President of Public Affairs for Sea-Land Service, Inc. and Vice-President, CSX Corporation. Thank you for this opportunity to present testimony in support of the OECD Shipbuilding Agreement to eliminate subsidies for commercial shipbuilding.

Sea-Land Service is a global container transportation company with 90 containerships (37 U.S.-flag), 190,000 containers, providing service between over 100 countries and 195 gross revenues approaching $4 billion. It is a unit of CSX Corporation.

I am testifying on behalf of the American Institute of Merchant Shipping (AIMS) and the Coalition in Support of the OECD Commercial Shipbuilding Agreement. AIMS is a national trade association representing 23 U.S.-flag ocean shipping companies which own or operate approximately eleven million deadweight tons of tankers, dry bulk carriers, containerships, and other oceangoing vessels engaged in the domestic and international trades of the United States. AIMS represents a majority of U.S.-flag tanker and liner tonnage.

The Coalition encompasses virtually every sector of the maritime industry including both liner and tank vessel owners and operators, exporters, importers, ports, and a majority of U.S. commercial shipyards (with the exception of the six shipyards which recently left the Shipbuilders Council of America (SCA) to form their own group). Several members of this Coalition personally attended the long running negotiations in Paris and participated actively in the debate over the elimination of commercial shipyard subsidies in the U.S. I can assure you that we are all vitally interested in this issue and this multilateral solution.

A list of AIMS member companies, as well as a list of organizations comprising the Coalition, is attached.

BACKGROUND OF THE AGREEMENT

On July 17, 1994, an agreement among the key commercial shipbuilding nations was reached which, if implemented, will establish a multinational shipbuilding accord to eliminate commercial shipbuilding subsidies and other trade distortive practices. The Agreement, negotiated under the auspices of the OECD, was signed by Japan, Korea, Norway, the United States, and the European Union consisting of the United Kingdom, Germany, France, Italy, Spain, Ireland, the Netherlands, Belgium, Luxembourg, Greece, Portugal, Denmark, Austria, Sweden and Finland. It applies to the construction and repair of self-propelled commercial seagoing vessels of 100 gross tons and above. The participating countries account for almost 80% of world commercial shipyard production.

The official signing of the Agreement on December 21, 1994, marked the end of nearly five years of negotiation which began in 1989 after the SCA withdrew its Sec. 301 unfair trade complaint against foreign shipbuilding subsidies in favor of pursuing a multilateral agreement.

During the long period of negotiations, two bills (H.R. 1402 by Rep. Sam Gibbons (D-FL) and S. 990 by Sen. John Breaux (D-LA)) were introduced in an attempt to expedite the international negotiations through unilateral action on the part of the United States. We have always opposed such unilateral action on this issue and, as my testimony will explain, we believe that a multinational approach is the only reasonable method of opening worldwide commercial shipbuilding markets for U.S. shipbuilders and avoiding trade disruptions.

On July 18, 1995, the Subcommittee on Trade of the House Committee on Ways and Means held a hearing on the OECD Shipbuilding Agreement during which members of the Subcommittee, including Chairman Phillip Crane and Rep. Sam Gibbons, Ranking Member of the full Committee, expressed support for implementing the Agreement. Chairman Bill Archer has also expressed his support for the Agreement in a November 14, 1995, letter.

Although the House has not yet introduced implementing legislation, we believe the Agreement concluded by USTR is more than adequate to provide for the elimination of subsidies and the enforcement of the Agreement's terms. In this regard, the OECD Agreement has four key elements:

1. Language to eliminate virtually all commercial subsidies, direct and indirect.
2. An injurious pricing code designed to prevent dumping in the commercial shipbuilding industry.
3. A comprehensive discipline on government financing for exports and domestic ship sales designed to avoid trade distortive effects.
4. A dispute settlement mechanism.

The Agreement also contains a "standstill agreement" providing that the subsidy levels under existing programs will not be increased and that no new subsidy programs will be introduced while the signatory nations are implementing the Agreement. Importantly, the Agreement specifically grants the U.S. a derogation which allows it to maintain the home build provisions of the Jones Act (46 U.S.C. Sec. 883). This statute imposes a strict U.S. build requirement which provides U.S. shipbuilders with complete and absolute protection against imports of any foreign-made vessel for use in the domestic trade of the U.S.

DISCIPLINING COMMERCIAL SHIPBUILDING SUBSIDIES IS BEST ACHIEVED BY INTERNATIONAL AGREEMENT

The multilateral OECD agreement offers the best chance of disciplining commercial shipbuilding subsidies worldwide. The few opponents of the OECD agreement claim that it would be better to have no agreement at all than to implement this Agreement. Although we do not claim that the OECD agreement is perfect, we are convinced that implementing it would be far better for U.S. commercial shipbuilding and trade than to maintain the status quo (heavy subsidization by competing foreign shipbuilding countries) or to attempt some type of unilateral action.

Foreign shipbuilding nations are subsidizing their shipyards. Without the OECD agreement foreign subsidies will continue and the situation may worsen for U.S. shipyards. In order to become competitive with their foreign counterparts in the absence of the OECD agreement, U.S. shipyards would require massive subsidies to offset higher U.S. construction costs and the effect of foreign subsidies. Given the current climate of Congress, under which no federal agency or program is immune from the budget axe, it is highly unlikely that any meaningful subsidy program would be funded.

The other, equally undesirable alternative is for the U.S. to attempt some kind of unilateral action. This would be disastrous. The USTR testified before this Subcommittee in March 1991 that, of the available options, a multilateral agreement "is the only reasonable one . . . based on a solid, rational analysis of the commercial needs of the industry." A few months later, on July 9, 1991, then Ambassador S. Linn Williams testified before your Subcommittee on attempts by the U.S. Congress to pass legislation to address the problem unilaterally. The Ambassador stated that such action "would not be an effective means of eliminating trade distorting practices in the shipbuilding sector . . . and might actually result in less favorable conditions for U.S. shipbuilders than an international agreement."

Furthermore, the multilateral OECD agreement is a far superior means of controlling commercial shipbuilding subsidies because it will provide a uniform and structured regime. If each country were to determine individually the definition of a subsidy and the limitations on its subsidy reform, the likely result would be a chaotic and ineffective system. Moreover, it is very likely that the biggest shipbuilding nations would continue to subsidize their yards.

Clearly, of the alternatives available to assist U.S. commercial shipyards to become more competitive, the only one politically and economically practical is the implementation of the multilateral OECD agreement.

REPEAL OF THE 50% AD VALOREM DUTY ON U.S.-FLAG SHIP REPAIRS

From the perspective of the owners and operators of U.S.-flag vessels, one of the most significant and beneficial results of implementing the OECD agreement will be the repeal of the 50% ad valorem duty currently levied on maintenance and repair of U.S.-flag vessels in foreign shipyards. It is no secret that the U.S.-flag fleet is under intense competition. The vessel repair duty, which is only levied on U.S.-flag vessels, has burdened U.S. shipowners and trade for 120 years. The time has come to eliminate this duty. As the U.S.-flag fleet continues its contraction this onerous duty cannot be justified. U.S. operators are already burdened with many costly requirements to which their foreign-flag competitors are not subject. U.S.-flag

vessels must be able to perform repairs wherever it is most convenient and cost-effective, just as their foreign-flag competitors do. A large number of foreign-flag vessels are now maintained and repaired in U.S. yards. It is unreasonable to impose the 50% duty on U.S.-flag vessels repaired abroad.

Although the repeal of the ad valorem duty will result in only a small loss of tax revenues, efforts are continuing to eliminate any remaining PAYGO problems. There has been some dispute about how much this loss will be, but at most the Department of Treasury estimates it will cost only $50 million over the next five years. We believe that this amount does not take into account the effect of the continuing and rapid contraction of the U.S.-flag fleet. Also, only about half of the revenue collected in recent years was from repairs done in OECD signatory countries. In addition, the duty does not apply to Canada and is being phased out for Mexico under NAFTA.

CAPITAL CONSTRUCTION FUND (CCF)

The CCF program, set forth in Sec. 607 of the Merchant Marine Act of 1936, is designed to encourage U.S. ship operators to construct, reconstruct, and acquire U.S.-flag vessels. U.S. operators enter into binding contracts with the government which allows them to defer income tax on amounts deposited in a CCF to be used for an approved U.S.-flag shipbuilding program. The deferred tax is later recouped by Treasury because the tax basis of the U.S.-flag vessels purchased with the CCF funds is reduced dollar for dollar to compensate for the tax deferral. This program should be maintained. It is sorely needed by the U.S.-flag ship operators left in service.

ESTIMATE OF REVENUE IMPACT OF REPEAL OF "U.S.-BUILD" REQUIREMENT FROM CAPITAL CONSTRUCTION FUND PROVISIONS UNDER OECD SHIPBUILDING AGREEMENT

Elimination of the "U.S.-build" requirement for the CCF program will not result in a revenue loss to the government. As described below, the U.S.-flag fleet engaged in foreign commerce is shrinking dramatically due to unrelated circumstances. The repeal of the U.S.-build requirement for the CCF will not alter that trend.

U.S.-flag carriers in domestic (Jones Act) service will continue to build all vessels in the U.S. in compliance with the statutory requirement in Sec. 27 of the Shipping Act of 1920. There will be few Jones Act ships constructed in the near future because the existing fleet is adequate for many years of service.

U.S.-flag vessels in export-import commerce are rapidly decreasing in number. Many liner ships are leaving service due to scrapping at the end of their useful lives. In addition, new U.S.-flag liner ships are being flagged to foreign registry due to competitive pressures. Sea-Land reflagged five large containerships to Marshall Islands registry early this year.

The three largest U.S. carriers are now bringing fifteen new containerships into service. American President Lines has built six large (4,800 TEU) new ships; Sea-Land has built five large (4,400 TEU) ships; and Lykes Bros. S.S. Co. has built four (2,480 TEU) ships. All fifteen of these newest additions to their fleets will be registered in the Marshall Islands or other foreign registry. These companies cannot justify the substantial added expense of U.S. registry for liner vessel operations. U.S. registry means higher labor costs and higher regulatory compliance costs, making U.S.-flag vessels noncompetitive with foreign competition.

The remaining U.S.-flag fleet is expected to experience added reflagging in the next few years, absent enactment and funding of a new Maritime Security Program (MSP). Yet, if the MSP is enacted, it will assure only about 47 ships.

U.S.-flag tankers operate mainly in the Jones Act trade and will experience a sharp drop in numbers due to the strict regulatory requirements imposed by OPA 90. Alaskan oil is declining in volume and will result in fewer tankers.

The combination of these factors will result in a sharp reduction in the size of the U.S.-flag fleet. Consequently, there will not be a revenue loss resulting from the repeal of the "U.S.-build" requirement for the CCF.

METHODOLOGY OF REVENUE ESTIMATE

The attached Chart A estimates the revenue loss of the Agreement, based upon the most currently available public information, for the years 1988-1992, the average ad valorem duty collected under the Vessel Repair Statute by the U.S. Customs Service for U.S.-flag vessels engaged in the foreign commerce of the United States was $4.36/deadweight ton. The projection reflected on the previous chart for duty collections under the Vessel Repair Statute for the years 1995-2000 was calculated by multiplying the projected deadweight tonnage of U.S.-flag vessels over the period by the average ad valorem duty per deadweight ton ($4.36) and adjusting the result

downward to reflect the historical percentage (53%) of the total annual duty paid on repairs done in signatory countries.

Assumptions and Related Historical Data Employed in the Projection of the Ad Valorem Duty to be Collected by Customs Under the Vessel Repair Statute for Years 1996-2000

A. THE DECLINING U.S.-FLAG FLEET

The figures in Chart A relate to privately-owned U.S.-flag vessels engaged in the foreign trade of the United States (i.e., vessels that regularly operate between U.S. ports and foreign ports). U.S.-flag vessels that are laid up or which operate exclusively in the domestic trade of the United States (i.e., vessels that only operate between U.S. ports) are not included in these figures. Most U.S.-flag vessels in the domestic trade are not repaired in foreign shipyards and, as such, are not subject to the 50% foreign repair duty.

As Chart B official U.S. Navy estimate demonstrates, the U.S.-flag fleet has been declining steadily over the past 5-10 years. This decline has resulted from a variety of factors including relatively high U.S. labor costs, burdensome Coast Guard vessel and inspection standards, inequitable tax treatment of U.S.-flag operators, dwindling federal support for the U.S.-flag fleet and increasingly aggressive foreign competition. The reference in the Chart B to the "EUSC fleet" relates to the Effective-United States-Controlled fleet—or, in other words, U.S. owned, foreign-flag vessels that are not subject to the foreign repair duty. As the U.S.-flag liner fleet declines, the EUSC liner fleet is experiencing a corresponding increase.

Currently, 36 U.S.-flag liner vessels and 27 U.S.-flag bulk vessels receive operating differential subsidy (ODS) from the U.S. Maritime Administration pursuant to long-term ODS contracts. The contracts for liner vessels will begin to terminate on December 31, 1996, and will all be terminated by December 31, 1997. The Maritime Administration has clearly stated that no new ODS contracts will be entered into after the existing agreements expire. Absent a new promotional program, most, if not all, of the U.S.-flag vessels receiving ODS will leave the U.S.-flag, resulting in a dramatic decline of U.S.-flag vessels in the 1996-97 time frame. As foreign-flag vessels, these vessels obviously will not be subject to the foreign repair duty.

Bills are pending in the House (H.R. 1350) and Senate (S. 1139) that, if enacted, would provide, subject to annual appropriations, operating subsidies under a new program to no more than 50 U.S.-flag ships commencing in 1996. This bill has been reported out of the House National Security Committee and is scheduled on the House floor today. Additionally, the Senate passed version of the FY 1995 Commerce, Justice, State Appropriations bill, which funds the Maritime Administration, includes $46 million in funding for the new program envisioned by H.R. 1350 and S. 1139. Thus, the actual implementation and funding of the proposed MSP program remains uncertain. Accordingly, "Chart A" assumes the existing ODS program will terminate, the new program proposed in H.R. 1350 was not enacted and funded, and significant re-flagging of vessels currently under the U.S.-flag to foreign registry occurs in the 1996-1997 time frame. This dramatic decline in the U.S.-flag fleet will obviously create a significant downward trend in collections by the Customs Service of duty under the Vessel Repair Statute, completely apart from implementing the OECD agreement.

B. COLLECTION UNDER THE VESSEL REPAIR STATUTE

Chart A includes the most currently available public data on the collections by the Customs Service of the foreign repair duty for the years 1988-1992. The annual duty collected has varied year by year due to a variety of factors, including the settlement in any given year of prior duty protest claims, the aging of the fleet, occasional large repair projects in foreign shipyards, the size of vessels repaired in any given year, and the non-availability of U.S. shipyards in 1991-1992 due to the repair/maintenance work done at that time on DOD vessels in connection with Desert Shield/Desert Storm.

Chart A above reflects duty paid in the years 1988-1992 by U.S.-flag carriers for foreign repairs in all foreign countries. The proposed legislation to implement the OECD agreement on shipbuilding would only repeal the foreign repair duty for repairs done in countries that are signatories to the OECD agreement on shipbuilding. Repairs in these countries have historically generated 53% of the total annual duty paid. Countries such as Singapore, China and Brazil, where significant foreign repairs are conducted are not signatories and, as such, duty for repairs in such non-signatory countries will continue to be paid—and should not be included in a revenue estimate of the cost of the partial repeal.

In 1988, as part of the Canadian Free Trade Agreement, the duty charged under the Vessel Repair Statute for repairs on U.S.-flag vessels in Canada was eliminated. And, in 1993, as part of NAFTA, the duty charged under the Vessel Repair Statute for repairs on U.S.-flag vessels in Mexico was reduced and is in the process of being phased out according to the following schedule: 1995: 30%; 1996: 20%; 1997: 10%; 1998 and thereafter: 0%. These changes will obviously result in lower duty receipts over the next five years from repairs to U.S.-flag vessels in Canada and Mexico.

THE JONES ACT IS NOT AFFECTED

The few opponents of the Agreement continue to raise concern that the Agreement has a negative impact on the cabotage provisions of the Jones Act. The cabotage provision of the Jones Act requires vessels engaged in the coastwise trades of the U.S. to be U.S.-built, U.S.-flagged and U.S.-manned. It represents a cornerstone of U.S. maritime policy.

To our knowledge, three arguments have been raised with respect to the Jones Act:

1. that the Agreement would force a change in U.S. Jones Act law itself;
2. that the Agreement would place a cap on U.S. Jones Act production; and
3. that the Agreement will cause uncertainty in the Jones Act marketplace thereby disrupting Jones Act construction.

This is complete nonsense.

First, throughout the OECD agreement negotiations the U.S. position was to ensure the complete continuation of the Jones Act law. And, in fact, our negotiators achieved that goal. Under the Agreement, there is absolutely no scenario under which the U.S. would be required to change a word of the Jones Act. The Agreement provides for the monitoring of the volume of Jones Act ship construction in the U.S. with an eye toward resolving whether this category of ship construction is distorting the global commercial shipbuilding market.

The Agreement provides that (1) if Jones Act tonnage exceeds a certain threshold, and (2) if an OECD party nation actually believes that this tonnage is disrupting the global market and can convince the other OECD parties of the same, then the only consequence of the Agreement is that the aggrieved nation can impose restrictions on U.S. Jones Act shipbuilders of an equivalent nature and magnitude in their nation. There is absolutely no limit on the amount of Jones Act tonnage that may be constructed in any year. And, since future Jones Act tonnage is expected to be only on the order of 200,000-300,000 tons per year, while annual global construction tonnage is measured in the tens of millions of tons, the impact of such a restriction is really nil.

To the charge that the Agreement will cause uncertainty in the Jones Act marketplace, I would simply respond that Sea-Land is the largest Jones Act operator and we are among the most ardent supporters of the Agreement. Certainly, Mr. Chairman, we would not support this Agreement if it had a negative impact on the Jones Act. Sea-Land and the other members of AIMS, collectively with our colleagues from the American Waterways Operators (AWO), represent virtually the entire market for Jones Act ships. In addition, the Shipbuilders Council of America and the American Waterways Shipyard Conference, who are active members of our Coalition, represent nearly the entire Jones Act-related commercial shipbuilding industry. Clearly, there is no uncertainty in the Jones Act market or supply industries concerning this Agreement.

It is our belief that the Jones Act-related provisions of the Agreement represent an adequate and satisfactory compromise. In fact, the Agreement has no practical effect on the Jones Act. This is the multilateral compromise that U.S. shipbuilding, ship operating, and international trading interests asked USTR to achieve.

In our opinion, attacks on the Agreement based on the Jones Act are frivolous arguments that represent nothing more than an attempt to block the Agreement and seek renewed direct subsidies.

CONCLUSION

Implementing this long-awaited international OECD agreement offers the best chance of ensuring that operators of U.S.-flag vessels will be able to acquire and repair their vessels on the world market at internationally competitive prices—just as their foreign competitors do. By repealing the duty on foreign ship repairs, a significant cost disadvantage borne by U.S.-flag vessel operators will be eliminated. More importantly, it will allow U.S. commercial shipyards to become more competitive in the international arena.

This Agreement is widely supported by the full spectrum of the U.S. maritime community because it is the only economically and politically feasible means to

eliminate commercial shipbuilding subsidies. However, time is of the essence. During a recent trip to Washington, Ambassador Olberg, Chairman of the OECD Working Party Six on Shipbuilding, and Mr. Wolfgang Hubner, Head of the Maritime Transport and Shipbuilding Division of the OECD, met with several members of Congress, USTR officials, and industry members to emphasize the need for action. Although the Ambassador assured us that the other parties to the OECD Shipbuilding Agreement are still committed to its enactment, he also stated that if the U.S., as the originator of the negotiations, fails to implement the agreement, the other nations would quickly return to heavy subsidization. Since then, the European Union has stated that its members may continue to pay subsidies on shipbuilding contracts until October 1, 1996, nine months after the originally agreed upon stop-date of January 1, 1996. This change could be reversed if the U.S. promptly implements the Agreement.

In light of these facts, we urge this Committee and Congress to act now to bring the product of five years of tough negotiations to fruition.

Thank you for this opportunity to testify. I am anxious to respond to any questions.

Chart A

U.S.–FLAG DEADWEIGHT TONNAGE IN FOREIGN TRADE AND AD VALOREM DUTY COLLECTED BY CUSTOMS UNDER THE VESSEL REPAIR STATUTE IN THE YEARS 1988 THROUGH 1992 AND PROJECTED COLLECTIONS FOR YEARS 1996 THROUGH 2005

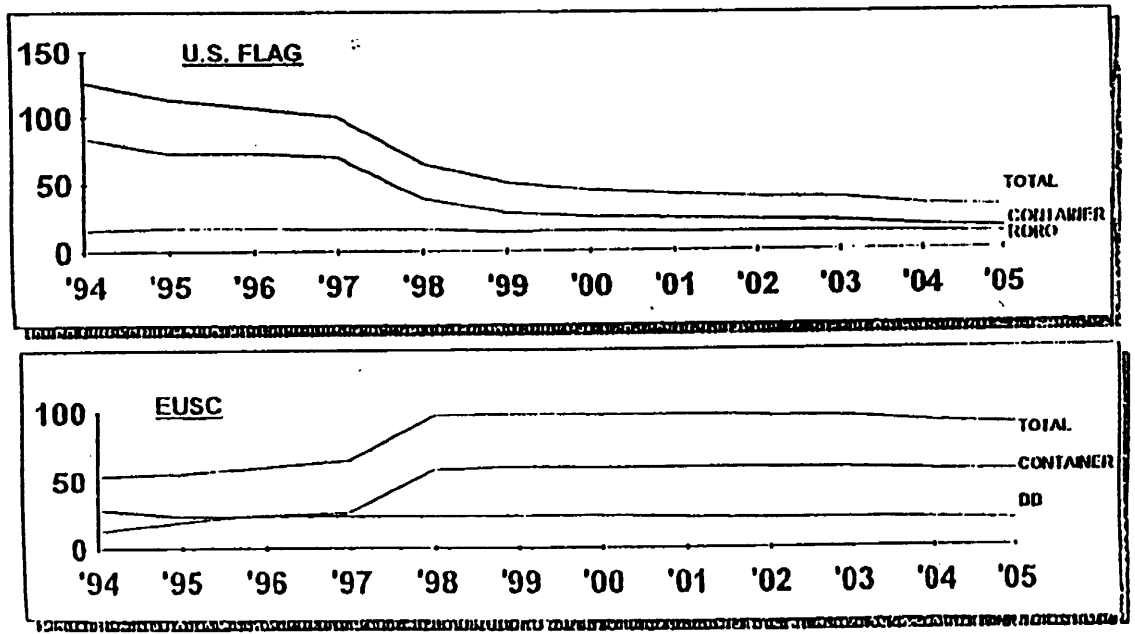
YEAR	VESSELS	DEADWEIGHT	AD VALOREM OECD ENACTED	AD VALOREM OECD NOT ENACTED
1988	126 [1]	3,948,000 [1]	$14,576,455 [2]	
1989	141 [1]	5,263,000 [1]	26,934,016 [2]	
1990	131 [1]	4,761,000 [1]	16,682,424 [2]	
1991	127 [1]	5,364,000 [1]	21,103,298 [2]	
1992	112 [1]	4,944,000 [1]	26,613,598 [2]	
1993	131 [1]	5,487,000 [1]	NOT AVAILABLE	
1994	135 [1]	5,494,000 [1]	NOT AVAILABLE	
1995	128 [1]	4,633,000 [1]	NOT AVAILABLE	
1996	82	2,968,000	6,082,000	12,940,000
1997	62	2,244,000	4,598,000	9,784,000
1998	42	1,520,000	3,115,000	6,627,000
1999	30	1,086,000	2,225,000	4,735,000
2000	30	1,086,000	2,225,000	4,735,000
2001	30	1,086,000	2,225,000	4,735,000
2002	30	1,086,000	2,225,000	4,735,000
2003	30	1,086,000	2,225,000	4,735,000
2004	30	1,086,000	2,225,000	4,735,000
2005	30	1,086,000	2,225,000	4,735,000
PROJECTED AD VALOREM FOR YEARS 1996–2000			$18,245,000 [4]	$38,821,000 [5]
PROJECTED AD VALOREM FOR YEARS 2001–2005			$11,125,000 [4]	$23,675,000 [5]
PROJECTED AD VALOREM FOR YEARS 1996–2002			$22,695,000 [4]	$48,291,000 [5]
PROJECTED AD VALOREM FOR YEARS 1996–2005			$29,370,000 [4]	$62,496,000 [5]
PROJECTED REVENUE LOSS YEARS 1996–2000			$20,576,000	
PROJECTED REVENUE LOSS YEARS 2001–2005			$12,550,000	
PROJECTED REVENUE LOSS YEARS 1996–2002			$25,596,000	
PROJECTED REVENUE LOSS YEARS 1996–2005			$33,126,000	
AVERAGE AD VALOREM PER DEADWEIGHT TON YEARS 1988–1992			$4.36	

YEARS 1988 THROUGH 1995 ACTUAL DATA
YEARS 1996 THROUGH 2005 PROJECTED DATA

[1] SOURCE: MARITIME ADMINISTRATION
[2] SOURCE: CARRIER RULINGS BRANCH, U.S. CUSTOMS SERVICE
[3] SOURCE: GLOBAL TRADE TALK, MAY/JUNE 1993, U.S. CUSTOMS SERVICE
[4] ADJUSTED FOR ENACTMENT OF OECD AGREEMENT
[5] ASSUMES OECD NOT ENACTED

CHART 8

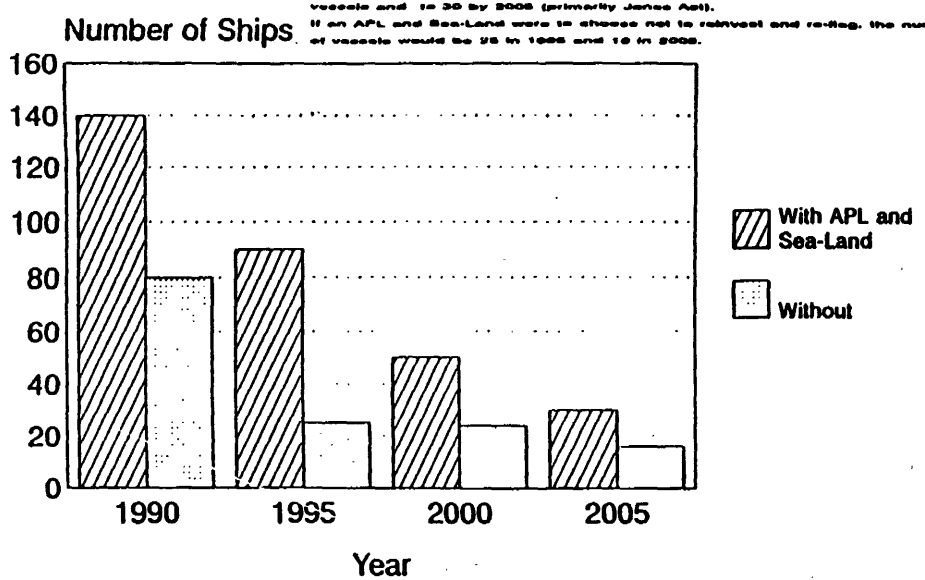
U.S. FLAG/EUSC FLEET FORECAST



U.S. Flag Oceangoing Commercial General Cargo Fleet 1990-2005
(Assumes No Supportive Maritime Policy)

CHART C

According to the Maritime Administration, without a supportive maritime policy, by the year 1995 the commercial general cargo fleet will deteriorate to 80 vessels and to 30 by 2005 (primarily Jones Act).
If an APL and Sea-Land were to choose not to reinvest and re-flag, the number of vessels would be 25 in 1995 and 10 in 2005.



Excludes dry bulk ships.
Source: Briefing by Dr. Robert Martinez, Dep. Administrator

PREPARED STATEMENT OF HON. ORRIN G. HATCH

Mr. Chairman, I would like to compliment our colleague, the Senator from Louisiana, for his leadership in developing the implementing legislation for the OECD Shipbuilding Trade Agreement

The many trade agreements with which I have been associated during my tenure on this committee have all had their pros and cons. This is no different. There will be disappointments, I am sure. But they will be offset by the expected gains that can be realized under the agreement. All legislation, not unlike important court decisions, are balancing acts.

I have weighed the advantages and disadvantages of this agreement, and have come down on the side of Senator Breaux's bill. While I would prefer a quicker phaseout of foreign subsidies, something that I find especially troubling, the evidence of U.S. shipyards' ability to attract the interest of foreign customers is clear.

In fact, I believe the industry reports that 42 foreign ship orders are now in their marketing pipeline. That fact, Mr. Chairman, is not inconsequential to this agreement.

At the same time, we retain out ability to pursue anti-dumping actions where price-related market distortions occur. And we have incorporated into the OECD agreement an impressive dispute settlement provision with binding commitments attached to it.

The implementing bill will aid U.S. shipbuilders, as well as a host of industrial sectors that contribute to it. They include the steel industry, a matter of interest to my state, Utah, which is the home of Geneva Steel, the largest steel plant West of the Mississippi. Up to 7,500 jobs could be added to the U.S. economy, including those in the supportive sectors. I hasten to add that many functions of shipbuilding have become capital-, rather than labor-intensive, principally because of heavy investment in automation. This job statistic is therefore all the more impressive.

In closing, I commend my colleague from Louisiana and ask that my name be added to the bill as a cosponsor. I also thank the chair.

PREPARED STATEMENT OF AMBASSADOR JEFFREY LANG

Thank you for the opportunity to present to you today the Administration's views on legislation to implement the OECD Shipbuilding Agreement (technically known as "The Agreement Respecting Normal Competitive Conditions in the Commercial Shipbuilding and Repair Industry"). This Agreement, signed in December 1994, marked the conclusion of nearly five years of negotiations under both Republican and Democratic Administrations. The Agreement was signed by those countries representing roughly 80 percent of global shipbuilding—the European Union, Japan, Korea, Norway and the United States. We urge Congress to enact legislation which enables us to bring the Shipbuilding Agreement into force as quickly as possible.

We believe the Agreement is sound, balanced, and achieves the basic objective of our shipbuilding industry, Congress and the Executive Branch, which was to level the playing field by eliminating unfair foreign subsidies and other distortive practices affecting international shipbuilding. The Agreement, while not perfect, is the only viable approach to dealing with these practices. It should enable our shipyards to compete successfully and win a significant share of the global commercial shipbuilding market.

The Agreement is the key element of the "Shipyard Revitalization Plan" announced by President Clinton in October 1993 to strengthen the competitiveness of America's shipyards. While the impetus for negotiations for an Agreement came from our shipbuilding industry, Congress demonstrated a high level of interest in and support for the conclusion of an Agreement throughout this process.

The Shipbuilding Agreement was intended to enter into force on January 1, 1996, after ratification by all signatory parties. U.S. ratification is dependent on the passage of implementing legislation, such as S. 1354, which was drafted in consultation with the Administration and introduced by Senator Breaux, that will bring U.S. programs into compliance with the agreement and that will enable us to administer certain provisions of the Agreement—in particular, its injurious pricing discipline which is essential to prevent dumping of ships. The delay in moving this legislation, which makes it extremely unlikely that the Agreement will come into effect as scheduled, is now causing other parties to the Agreement to question the seriousness of the U.S. commitment to the Agreement. It also means that foreign subsidies, which would have ended this year, will continue into next year.

We believe that the consequences of the loss of the disciplines contained in this agreement will be disastrous for the U.S. shipbuilding industry. Therefore, Senator

Breaux, we very much welcome your leadership in introducing S. 1354 and Mr. Chairman we appreciate the opportunity to appear at this hearing. The Administration strongly supports the bill and we hope that this committee will favorably report it or a similar bill at an early date.

HISTORY OF THE NEGOTIATIONS

Prior to 1981, the U.S. Government granted Construction Differential Subsidies (CDS) to U.S. commercial shipbuilders to offset both higher U.S. construction costs and the effects of foreign subsidies. At their peak, grants of up to 50 percent of the value of a vessel were offered. The Congress took action in 1981 to end the CDS program. After that time, very few commercial ships were built in the United States, and most of those built were for the coastwise trade. Military contracts kept most of the industry busy during the 1980's. Unfortunately, in this same period, foreign governments continued their subsidy programs, which have made it virtually impossible for U.S. shipbuilders to participate in the world commercial market. With the end of the Cold War and the resulting shrinkage in demand for military ships, U.S. shipbuilders realized they must take steps to compete in the global commercial shipbuilding market in order to survive. In 1989, the Shipbuilders Council of America (SCA) petitioned the U.S. Government under Section 301 to take action against the foreign subsidy practices of Korea, Japan, Germany and Norway. With the strong support of the SCA and numerous members of the U.S. Congress, the Bush Administration subsequently acted to start multilateral negotiations in the OECD designed to reduce or eliminate the trade distorting practices of the most important shipbuilding nations. The negotiations broke down completely in 1992. Due to strong Congressional interest and the resolve of President Clinton to implement an effective program to strengthen the competitiveness of our industry, the negotiations were revived in June 1993. An agreement was reached in July 1994, which we have now put before the Committee.

FAVORABLE PROSPECTS FOR U.S. INDUSTRY

U.S. commercial shipbuilders have much to gain from the entry into force of the OECD Agreement to eliminate trade distorting practices in the world shipbuilding industry.

Growth in domestic military and commercial markets is expected to be small but significant growth is reliably projected for the highly competitive international shipbuilding market. International trade is expanding more than twice as fast as global output, which creates a need for more ships. The global commercial shipbuilding market is projected to amount to $265 billion during the 1992 to 2001 period. At present U.S. participation in this market is minimal because our efforts to penetrate the global commercial market have been severely hampered by heavy foreign government shipyard subsidies. The OECD Agreement, by eliminating such subsidies, will create the environment for U.S. industry to compete for this growing market based on market forces. And we believe U.S. shipbuilders can—and will—compete successfully in such a global environment. There are a number of competitive factors favoring U.S. shipyards, including: competitive wage rates; competitive steel pricing; the value of the dollar in relation to the currencies of most other major shipbuilding nations; strong technological capabilities; a narrowing cost gap with other shipbuilding nations; and good production facilities.

Throughout the OECD negotiating process, our industry steadfastly asserted that, if the problem of foreign subsidies were effectively dealt with, they could make good use of these advantages to compete successfully.

BASIC ELEMENTS OF THE OECD SHIPBUILDING AGREEMENT

The Agreement contains four major elements:

- The elimination of virtually all subsidies granted either directly or indirectly to shipbuilders. The discipline imposed on such subsidies is much more specific and tighter than that imposed in any other sector and than that provided in more general disciplines of the WTO Subsidies Agreement.
- An injurious pricing code designed to prevent dumping in the shipbuilding industry. At this time, there is no such remedy. Since ships are generally not viewed as imports, it is impractical to use our antidumping laws. Thus, there has been no means of discouraging or dealing with dumping in the shipbuilding sector.
- A comprehensive discipline on government financing for exports and domestic ship sales intended to eliminate trade-distortive financing. Existing international rules on export credits and tied aid for ships are weaker and less effective than for other products. The Agreement will greatly improve this situation.

- An effective and binding dispute settlement mechanism. Dispute settlement panels will be established, as necessary, to determine whether subsidy or other government measures are consistent with the Agreement and to ensure that the injurious pricing code is being properly implemented. Failure to comply with a panel's finding may result in the imposition of sanctions. For example, GATT concessions may be withdrawn by the complaining party in the event of failure to comply with a panel finding that a signatory government has bestowed prohibited subsidies.

The Agreement also includes a "standstill" provision that covers the period prior to its entry into force. The standstill allows existing government programs to continue unchanged prior to entry into force but prohibits the introduction of new subsidies and the increase in the level of existing subsidies during the transition period. While this allows other countries to continue existing subsidy programs until entry into force, it also allows us to continue to operate our Title XI export credit guarantee program under its existing terms.

We believe the Agreement will achieve several goals:

—First, it will be good for the U.S. shipbuilding and repair industry because it will create an economically rational climate for international shipbuilding that will give our shipyards the incentive to adapt to its requirements and enable competitive U.S. yards to win contracts.

—Second, it will benefit our maritime industry because it will avoid the eruption of damaging trade conflicts in the shipbuilding sector and the spillover of the distortive effects of shipbuilding subsidies into the shipping sector.

—Third, it is consistent with broader trade and budgetary policies that aim to eliminate distortive government subsidies and avoid government spending.

REQUIRED LEGISLATION

In order for the Agreement to enter into force, Congress must enact implementing legislation.

The following four elements are essential in implementing legislation:

- First, authorization to implement the injurious pricing (antidumping) mechanism contained in the Agreement. This is the longest and technically most complex portion of the legislation. The provisions on injurious pricing track those adopted last year to implement the WTO Antidumping Agreement but are modified to address the special features of the Shipbuilding Agreement and the nature of ship transactions.
- Second, the bill provides for modification of "home build" requirements, other than those pertaining to the coastwise laws, to allow for the eligibility of ships produced in other Agreement countries.
- Third, elimination of the 50 percent ad valorem tariff on ship repairs done abroad in Agreement countries.
- Fourth, modification of the Title XI Ship Financing program to ensure that the terms and conditions of such financing will be in accordance with Agreement rules.

Legislation is necessary to modify a number of maritime programs to bring them into compliance with the Agreement. These programs are the Operating Subsidy Differential, Cargo Preference, Capital Construction Fund and the Construction Reserve Fund. These programs currently have so-called home-build provisions, which limit their applicability to ships built in the United States. The home build aspects of these programs would be changed to permit eligibility of ships built in other OECD Agreement countries. However, the home build requirements of our coastwise trade laws (Jones Act) will not be modified. Signatory countries are also required to eliminate any customs duties on newly built vessels and on vessel repairs. The legislation requires us to eliminate our 50 percent ad valorem duty on ship repairs done abroad in other Agreement countries. The benefits of these changes are limited to OECD Agreement countries; countries not undertaking the disciplines of the Agreement will continue to be ineligible for these programs and subject to the ship repair duty.

The Agreement also requires us to harmonize the terms of our research and development program (MARITECH) and our ship financing program (Title XI loan guarantee program) with the terms of the Agreement. In the case of MARITECH, the program will have to be administered to ensure that government assistance is provided as a percentage of the cost of a project and is limited to amounts set out in the Agreement—50 percent for basic industrial research, 35 percent for applied research, and 25 percent for development projects. In the case of Title XI guarantees for export and domestic financing, we will have to reduce the percentage of a ship's sales price that may be guaranteed from 87.5 percent to 80 percent, and the dura-

tion of government guarantee from 25 years to 12 years. These same terms will also apply to other Agreement signatory countries.

Because of the small revenue loss resulting from the elimination of ship repair duties, it will be necessary to develop revenue offsets to meet PAYGO requirements. We look forward to working with the Committee to come to a practical solution to this relatively minor problem.

CRITICISM OF THE AGREEMENT

Criticism of the Agreement has focused on three points: that it still permits some foreign government support; that it requires changes in U.S. programs; and that it does not allow for the introduction of new U.S. subsidy programs. Critics have also charged that the Agreement is unbalanced and should be renegotiated to obtain more concessions for the United States. We believe that these criticisms are unfounded and that this agreement is balanced and beneficial to the U.S.

There are only four specific, limited exceptions to the Agreement's prohibition of subsidies and other distortive government practices.

- Government support is permitted for worker retirement, severance, or retraining associated with the closure or downsizing of shipyards. This assistance must be strictly' limited for the exclusive benefit of workers.
- Government assistance for research and development is allowed under certain conditions, provided it is granted in accordance with the terms of the Agreement. This exception is consistent with our desire to maintain a strong MARITECH program.
- Certain restructuring assistance programs for Belgium, Portugal and Spain, primarily intended to address the social cost of downsizing or closing shipyards will be allowed to continue for a limited time after entry into force of the Agreement. Frankly, we would have preferred not to except these programs, but they were already in operation prior to conclusion of the negotiations and would have no doubt continued, unrestrained, absent an Agreement. We believe we are better served by incorporating them into the Agreement, which limits their duration, amount and purpose.
- The Agreement exempts "build in America" requirements contained in the Jones Act and other U.S. coastwise trade laws. This is the only permanent exemption to the Agreement's rules.

These exceptions are quite limited and, for the most part, benefit the U.S. as much as any other party. Combined with the new discipline over subsidies and dumping contained in the Agreement, we believe a fair and balanced deal has been reached that will be greatly beneficial to U.S. industry. Under the Agreement, other countries are required to give up their much more substantial support to their shipyards, while only modest changes will be required to U.S. programs—a reasonable price to pay for the tough and comprehensive disciplines the Agreement will impose on the far more extensive government support programs of our trading partners.

For example, the European Union (EU) will have to eliminate government grants to shipyards based on ship contracts or ship operation, which amount to a percentage of contract value. In the past, so-called contract aid has been as high as 28 percent of contract price. (It is now 9 percent.) Except for the few temporarily "grandfathered" programs mentioned above, restructuring support, including debt forgiveness—which has been common in Europe, Korea and Japan—will not be allowed other than for worker assistance tied to shipyard closures or capacity reductions.

The United States does not have such elaborate or expensive government aid programs. As mentioned previously, we will be required to modify a number of maritime programs to bring them into compliance with the Agreement. We are also required to harmonize the terms of our research and development program (MARITECH) and notably our ship financing program (Title XI loan guarantee agreement) with the terms of the Agreement. We must also eliminate our 50 percent ad valorem duty on ship repairs done abroad in agreement countries.

The United States will not be allowed to introduce new subsidy programs for its commercial shipbuilders; however, all other signatory countries will be similarly restrained. And given our budgetary constraints, the prospect of such subsidies is unrealistic.

We have also heard the argument that the OECD Agreement is unbalanced against

U.S. interests, and should be renegotiated so that the United States can be exempted from Agreement discipline to keep its programs intact while other signatories must adhere strictly to Agreement discipline and even eliminate those exceptions to the Agreement not favored by U.S. shipbuilders. The allegation is that only under such circumstances can our commercial shipbuilding industry reestablish its

competitiveness; this will allow it to recapture or help catch up with the unfair subsidy benefits that have accrued to our trading partners since 1981, the year the U.S. Congress eliminated the Construction Differential Program—the primary U.S. commercial shipbuilding subsidy program.

We believe the OECD Shipbuilding Agreement is already balanced but, in any event, renegotiation of it is out of the question. If anything, we believe we paid a modest price to obtain major foreign concessions to end commercial shipbuilding subsidization practices. It is an illusion to believe we can attain the goals of our critics. Any attempt to reopen negotiations would only incite other parties to seek to extract a higher price from the United States thereby destroying all chances of reaching a new agreement.

CONCLUSIONS

The end of the Cold War and the rise of the global economy have created new challenges and opportunities for the U.S. commercial shipbuilding industry. But our shipbuilding industry has been competing against unfair foreign subsidies of other nations and predatory pricing practices of foreign shipbuilders. In today's harsh budgetary climate, the United States cannot participate in the game of ever escalating subsidy wars with other shipbuilding nations. Our industry needs a level playing field where everyone competes by the same rules. The Shipbuilding Agreement allows the U.S. shipbuilding. industry to compete by restoring fair competitive conditions to the market. The OECD Shipbuilding Agreement is the only viable approach to follow if our commercial shipbuilding industry is to grow and thrive in the global shipbuilding market.

A broad coalition of interests support this bill. They represent shipyards, suppliers to shipbuilders, ship operators, unions and state port authorities. Mr. Chairman, there is growing foreign concern about the prospects for Congressional approval of legislation that would implement the OECD Shipbuilding Agreement. Moreover, our delay in acting on the legislation has dulled their sense of urgency in completing their own ratification processes.

It is also starting to have serious adverse practical effects on our industry. The EU has recently extended its shipbuilding subsidy programs, which allow for direct subsidies of 9 percent of contract value. If the implementing legislation had been passed and entry into force of the Agreement secured as scheduled, these subsidies would have been terminated by the end of this year. Moreover, we are deeply concerned that if U.S. ratification is delayed much longer, the Agreement will begin to unravel. For example, the EU Council has announced that it will review this matter on June 1, 1996, and if all parties to the Agreement have not ratified it by that time, it will assume their problems are so serious that the Agreement will never be ratified

The Agreement was originally scheduled to enter into force on January 1, 1996, after ratification by all signatories. If not on January 1, the Agreement will go into force 30 days after ratification by all signatory parties. We urge Congress to enact shipbuilding legislation as soon as feasible While our trading partners understand that the Congress has focused the major part of its time and efforts these last few months on budget reconciliation, there are great social pressures building in some Agreement countries—Spain, France and Greece—to grant new subsidies to their shipbuilding industries. We fear that unless our Congress takes prompt action to approve the legislation necessary to allow us to ratify this Agreement early next year, the Agreement will unravel. This would open the door to a return to the unbridled subsidization of foreign shipyards and the chronic dumping that have characterized the world shipbuilding market in recent decades—the same forces that motivated us to persevere through five long years of difficult negotiations to achieve an agreement. The standstill aspect of the Agreement would then terminate and competitor nations would be likely to act quickly to extend and increase their subsidies. In such an environment, we fear that the modest tools, such as Title XI, at our industry's disposal would quickly be overwhelmed. I don't think anyone here will disagree that, given our commitment to reducing the deficit; the U.S. government will not be able, or willing, to combat such foreign subsidy programs. At that point, our five-year negotiating effort will be lost and our industry will be facing a more precarious competitive environment than ever.

Mr. Chairman, thank you, Senator Breaux and others on the committee for support and for the opportunity to present my views to this Committee today. I look forward to working with you to ensure the prompt passage of implementing legislation.

SHIPBUILDING HOURLY COMPENSATION COSTS FOR PRODUCTION WORKERS, INCLUDING FRINGES

COUNTRY	1988 $/HOUR	1989 $/HOUR	1990 $/HOUR	1991 $/HOUR	1992 $/HOUR	1993 $/HOUR
GERMANY	20.18	19.48	23.92	24.82	27.91	29.26
NORWAY	19.51	19.24	21.46	21.68	24.43	21.87
DENMARK	16.37	15.63	19.47	19.74	21.97	20.66
NETHERLANDS	15.78	15.27	18.22	18.14	20.32	19.48
ITALY	14.65	15.17	18.55	19.77	20.69	16.82
JAPAN	14.83	14.62	14.96	17.57	19.68	23.39
FRANCE	14.09	13.51	16.43	16.33	18.30	17.26
USA	14.52	14.82	15.56	16.66	17.58	18.26
U.K.	11.04	11.22	14.18	15.51	16.40	16.97
KOREA	3.87	5.17	6.24*	7.44	8.10	8.32

*BASED ON SEVERAL DISCUSSIONS WITH KOREAN SHIPBUILDERS, THIS RATE IS CLOSER TO $10.

Note: Japan breaks in series at 1990, 1991 and 1993
Source: Bureau of Labor Statistics, April 1995

QUESTIONS SUBMITTED FOR THE RECORD BY SENATOR CHAFEE

Question 1:

The Agreement allows for special transition rules for certain countries -- i.e., Belgium, Spain, and Portugal. Why are these transition rules provided? Do the transition rules give those countries an advantage over the United States?

Answer:

The Agreement allows four specific limited exceptions to its prohibition of subsidies and other distortive government measures: a) government support for worker retirement, severance, or retraining associated with the closure or downsizing of shipyards; b) government assistance for research and development if granted in accordance with the terms of the Agreement; c) certain restructuring assistance programs for Belgium, Portugal and Spain, intended primarily to address the social costs of downsizing or closuring shipyards; and d) "build in America" requirements contained in the Jones Act and other U.S. coastwise trade laws. This last exemption is the only permanent exemption to the Agreement's rules.

These exceptions are quite limited and, for the most part, benefit the United States as much as any other party. The amounts of funding, the purposes, and the deadlines for the restructuring programs for Belgium, Portugal and Spain are specified in the Agreement.

We would have preferred not to except these programs, but they were already in operation prior to conclusion of the negotiations. Inclusion in the Agreement of these limited exceptions was critical to the European Union's decision to ratify and participate in the Agreement. In the absence of a Shipbuilding Agreement, these programs would be implemented anyway. We believe we are better served by incorporating them into the Agreement, thereby limiting their duration, amount and purpose. Failure to abide by those terms would be a violation of the Agreement and actionable under its dispute settlement provisions.

The preponderance of the funds provided under these restructuring programs are earmarked for social costs associated with shipyard closures and capacity reductions. Only modest amounts may be provided for assistance that would otherwise be prohibited by the Agreement, mostly for new investments -- Spain, $76 million; Portugal $32 million; and Belgium, $40 million.

Question 2:

Since the Agreement was reached, Spain has announced a new multi-million dollar program relating to worker retirement and yard modernization, and France has announced a new multimillion dollar tax program relating to private capital investment in ship construction. Are these programs in violation of the Agreement? Why or why not?

Answer:

We are aware that there have been several press reports alleging that Spain and France have initiated new subsidy programs. However, on the basis of subsequent follow up with European government officials, we believe these reports to be unfounded or inaccurate.

One report indicates that a $260 million French program to aid its shipbuilding industry was announced by former Transport Minister Pons. However, Pons is not the French Minister responsible for shipbuilding, rather Industry Minister Gallard held that responsibility. Neither Gallard nor his successor have announced such new programs. Both the Government of France and the Commission of the European Union (EU) have assured us that any French government programs will be in compliance with the Agreement.

Other reports have alleged Spain's intent to spend $723 million to modernize its shipyards. However, the only shipbuilding initiatives announced by Spain this year are measures to cut capacity and subsidies to bring Spain into conformance with the OECD Agreement. Indeed, during September the Government of Spain faced massive strikes and demonstrations by labor unions protesting its plans to reduce shipbuilding subsidies. The current plan would result in loss of 5,282 shipbuilding jobs, leaving 5,000 workers still employed in yards while one shipyard would close and another be reduced by 50 percent.

To conclude, as far as we are now aware, no new government programs have been introduced that are inconsistent with the Agreement. However, we will continue to monitor this situation and investigate thoroughly any allegation of violation.

Question 3:

The new injurious pricing code is one of the cornerstones of this Agreement.

A. Are you confident that it can and will be an effective means of preventing dumping in the commercial ship market worldwide?

Answer:

We believe the injurious pricing code will be a strong tool, both to address any injurious dumping of vessels that occurs, as well as to deter such dumping from even taking place. The code is modeled closely on the WTO antidumping agreement, with certain modifications that reflect the unique circumstances of vessel transactions. Implementing legislation that has been introduced in both the House and Senate largely tracks current U.S. antidumping law, which over the years has been an effective mechanism to combat dumping of a wide array of products.

The injurious pricing code permits a country to take forceful action where dumping and injury are found. First, a country may levy an injurious pricing charge against the offending foreign shipyard in the amount of the injurious pricing margin. If this is not paid, the country may

impose "countermeasures" that deny on-and off-loading privileges to certain ships subsequently built by that shipyard.

Agreement signatories account for approximately 80 percent of worldwide production of commercial vessels.

B. How would the code work in situations where the U.S. is the "third party?" Won't it be difficult to convince other nations to bring a pricing complaint on our behalf? Is that realistic, given that the economic and political interests of other nations are not necessarily the same as ours?

Answer:

Like the WTO antidumping agreement, the injurious pricing code provides that a Party may request another Party to conduct an injurious pricing investigation with regard to the sale of a vessel to a buyer of that other Party. If the other Party agrees to conduct such an investigation, the standards, procedures and remedies would be analogous to a standard investigation, except that injury would be assessed with regard to the industry located in the requesting Party.

It is impossible to predict in advance how a U.S. request for such an investigation would be received by another Party. It may depend on the particular circumstances of the industry involved and the sale at issue.

In any event, if U.S. producers lose a sale in another country due to dumping from a third country, it may well be that producers located in the country of sale are themselves harmed by the dumping, and thus would petition their own government to take action under the injurious pricing code. In this regard, it should be noted that the EU was the foremost proponent of the injurious pricing discipline in the negotiations and its industry can be expected to avail itself of this remedy when injurious pricing occurs.

Question 4:

The Agreement does not address the question of compensation by U.S. industry for past injury. Was this issue raised during the negotiations? Would it be possible to negotiate an Agreement that includes such compensation?

Answer:

The Agreement is sound, balanced and achieves the basic objective of our shipbuilding industry, Congress and the Executive Branch, which was to level the playing field by eliminating unfair foreign subsidies and other distortive practices affecting international shipbuilding. In the negotiations, the United States specifically sought: a) a comprehensive discipline on the use of market-distorting subsidies for vessels; b) an effective mechanism to combat foreign dumping practices; c) disciplines on the use of export credit guarantees; and d) an effective dispute

settlement system to enforce these disciplines. In each of these areas, the Agreement fully achieved our goals.

The United States did not seek, as an objective, compensation for past injury during the course of negotiations, although there was some preliminary sparring on this point in the discussions. We are unaware of any multilateral or plurilateral trade agreement to which the United States is or has been a party that includes a mechanism for retroactive compensation for past policies by some agreement parties to another agreement party. It would have been unrealistic of the United States, in the context of the shipbuilding Agreement, to seek such an extraordinary measure. The United States did cite the extensive government assistance and shipyard aids provided by foreign governments as an argument justifying our request for a permanent exception to the Agreement for our Jones Act "home build" practices.

Question 5:

Obviously, no Agreement is perfect. However, some say that this Agreement is not good enough and does not protect U.S. interests. Would it be possible to go back to the table, and achieve a better deal? Why or why not?

Answer:

We believe the Agreement is the best Agreement the United States can get. If anything, we believe we paid a modest price to obtain major foreign concessions to end extensive commercial shipbuilding subsidization practices. Most notably, we will be required to harmonize the terms of our ship financing program (Title XI loan guarantee agreement) with the terms of the Agreement. Other countries have much more elaborate and expensive government aid programs. The United States does not have comparable programs, having eliminated its Construction Differential Subsidies in 1981. For example, the European Union will have to eliminate government grants to shipyards. Europe, Korea and Japan will have to end most of their restructuring supports for shipyards, including the practice of debt forgiveness.

Not only will other countries be required to eliminate much more expensive programs than ours, the United States was able to obtain a permanent exemption to the Agreement for the "home build" provisions of the Jones Act and other U.S. coastwise trade laws -- a provision deemed critical by the U.S. industry and Congress. Other Parties to the Agreement are required to eliminate their "home build" requirements.

We believe the OECD Shipbuilding Agreement is already balanced but, in any event, any attempt at renegotiation would not be successful. It is an illusion to believe we can relax the discipline applying to the United States while maintaining tight disciplines on other countries. Any attempts to reopen negotiations would only incite other parties to seek to extract a higher price from the United States thereby destroying all chances of reaching a new agreement.

QUESTIONS ALREADY ASKED BY JHC AT HEARING

Question:

As I understand it, there are two exceptions to the subsidies restrictions: monies spent for "social assistance," and monies that go to vessel component manufacturers.

A. Aren't those fairly broad exceptions? Please explain how the exceptions are defined.

Answer:

The four specific limited exceptions to the Agreement are contained in our answer to Question 1 above. The Agreement does not contain an exception for vessel component manufacturers. The only "social assistance" support that a government may provide is for worker retirement, severance, or retraining associated with the closure or downsizing of shipyards, as specified in Annex I, Section B.1(h) of the Agreement. This assistance must be strictly limited for the exclusive benefit of workers.

B. Doesn't exempting monies that go to vessel component manufacturers undercut the Agreement, as some 50 percent of the value of a ship may come from its component parts?

Answer:

Subsidies to vessel component manufacturers are prohibited. Agreement Annex I, Section B.2(e) prohibits any assistance provided to suppliers of goods and services to the shipbuilding and repair industry if such assistance specifically provides benefits to that industry.

Question:

I understand the Agreement contains an exception for government R&D expenditures. Isn't that a potentially large loophole? Won't member nations define as much support as they can as "R&D"?

Answer:

The terms "fundamental research", "basic industrial research," "applied research," "development," and eligible R & D costs are specifically defined in Note 5 of the Accompanying Notes to Annex I of the Agreement. These definitions make it unlikely that this exception will be used as a "loophole" to the Agreement.

The Agreement allows unlimited aid for fundamental research, 50 percent aid for basic industrial research projects, 35 percent aid for applied research projects, and 25 percent aid for development projects. These same terms apply to all Parties to the Agreement. The lack of discipline over fundamental research is not a "loophole" since it includes only "activities independently conducted by higher education or research establishments for the enlargement of general scientific and technical knowledge, not linked to industrial or commercial objectives."

The R&D exception is consistent with our desire to maintain a strong MARITECH program.

We would also point out that the WTO Subsidies Code provides exceptions for R&D assistance by governments; in fact the limits on such assistance set by the Shipbuilding Agreement are, in most instances, significantly tighter than those set by the WTO.

Responses to questions for the record submitted by Senator Murkowski

Question 1A:

Assuming that elimination of the tariff is part of the price for eliminating foreign shipbuilding subsidies, what are the tradeoffs for the government, for shipyards, for vessel operators? For any given category of U.S.-flag vessel, would repair in overseas yards become more prevalent?

Answer:

According to estimates from the congressional Budget Office, the government will face a loss of approximately $36 million in revenue over the next five years, representing payments by vessel operators who would have repairs done in countries that are parties to the agreement. By the same token, this sum represents a savings to U.S.-flag vessel operators, who have long sought repeal of this tax. The impact on U.S. repair yards is less able to be quantified. It is not clear to what extent the imposition of this tax has discouraged repairs in foreign yards, since the repair schedules of other ships are often dictated by other factors and carriers are frequently willing to pay the tax. Also, countries that are not parties to the Agreement (such as Singapore) will continue to have their repair operations subject to the tax. About half of the present payments of the ad valorem tax stems from repairs in such countries. However, repeal of the tax will without question have the effect of making repairs in countries that are parties to the Agreement less costly by the amount of the tax; although the elimination of subsidies as a result of the disciplines of the agreement and the high labor costs in many of these countries will tend to offset the reduction in duties. Since the Department of the Treasury does not maintain a breakdown of repairs by category of vessel, we are unable to estimate whether certain vessel categories would be more affected than others.

Question 1B:

Projected impacts - both financial and employment-related -- on shipyards currently doing such repairs, and whether such impacts might be offset by new construction.

Answer:

We do not have precise forecasts available as to the impact on U.S. yards of repealing the duty on repairs in Agreement signatories. However, we believe that any adverse effects will be mitigated by three important factors. First, American shipyards benefit from the geographic advantage of being located in the world's most important trading nation. Thus, nearby location, timeliness of repairs and competitive prices can give U.S. shipyards an edge over many foreign repair yards. Secondly, we agree, as the question suggests, that potential loss of repair business will be offset to some degree by new

construction orders resulting from the elimination of foreign subsidies and the establishment of a level playing field that will be achieved through the Agreement. Thirdly, though we do not have a breakdown of the percentage of military versus commercial repair work performed at U.S. yards, we believe that military work (which is unaffected by the agreement) will continue to provide a significant portion of the total market for U.S. repair yards -- particularly with the closure of several naval repair yards.

Finally, we would note that the Shipbuilders Council of America (SCA), which represents most U.S. repair yards, is strongly supportive of the agreement.

Question 1C:

Suggested methods to encourage continued reliance on U.S. ship repairs.

Answer:

The entry into force of this Agreement will require the elimination of foreign subsidies, including those that may be provided to ship repair yards. By eliminating distortive foreign government supports, the Agreement will have the effect of making U.S. repair yards more competitive worldwide. The yards themselves are taking steps to become lean, efficient, and ready to compete in the commercial market.

Question 1D:

Other factors or limitations affecting this provision of the agreement.

Answer:

None.

COMMUNICATIONS

STATEMENT OF THE AFL–CIO MARITIME TRADES DEPARTMENT

American maritime labor unions have followed with considerable interest and anticipation the United States Trade Representative's (USTR) efforts to secure fair competition in international commercial shipbuilding markets. Following abandonment of Construction Differential Subsidy (CDS) funding as part of the 1981 Budget Reconciliation Act, domestic shipyard employment has shrunk by 80,000 skilled technicians and laborers. Additional hundreds of thousands of jobs in related industrial pursuits also have been eliminated. In many instances, their occupational talents have been lost forever when most workers were forced to settle for employment demanding alternate skills.

The American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) and the Maritime Trades Department, AFL-CIO (MTD), along with its 40 affiliated unions, have promoted federal government intervention to bring fair play to international shipbuilding practices. Recognizing the failure of unilateral U.S. action to spur similar action by other Organizations for Economic Cooperation and Development (OECD) member states and independent shipbuilding nations, resumption in CDS funding and expansion of the Title XI Mortgage Loan Guarantee was urged throughout the 1980s. This was done in response to the increased public funding of overseas shipyards by foreign governments that saw an opportunity to capitalize on U.S. abandonment of the American shipbuilding industry.

These foreign subsidies were considerable. Direct and indirect support ranged between $4 to $7 billion annually for the major OECD shipbuilding nations (Japan, South Korea, Italy, Germany, France, and Spain). The end result of these huge subsidy outlays was predictable: American shipyards were driven out of commercial construction and had to rely, almost exclusively, on naval building and repair work to survive. Yet even during a period of broad expansion, the Navy's ship needs were inadequate to maintain the shipyard mobilization base in place at the time. In the process, seven large shipbuilding yards and hundreds of related suppliers were forced to cease operations.

For the last ten years, maritime unions have worked with management to improve production costs through workplace compromises on wages, benefits and terms and conditions of employment. As a result American labor costs are now lower than the compensation paid to workers in many foreign shipyards. Despite significant productivity improvements, foreign subsidies proved too large a hurdle to overcome without renewed federal government involvement. The MTD and AFL-CIC also have lent support to the industry's efforts to eliminate foreign shipbuilding subsidies.

Dissuaded by the federal government from pursuing a solution through a 1974 Trade Act, Section 301 filing -- the industry's preferred venue for securing relief -- the MTD supported the USTR's efforts to utilize the OECD to address existing competitive disadvantages. Any enthusiasm for meaningful settlement of differences quickly evaporated, however. Starting in 1989, OECD negotiators commenced discussions on international subsidy practices. Five years passed before an agreement could be fashioned by reluctant trading partners, and only after the threat of congressional action to initiate prohibitive duties on merchant vessels built with subsidies. For foreign shipyards, this extended period of negotiations meant a continuation of massive government support and an opportunity to gain further penetration of the international shipbuilding marketplace.

Starting in 1994, American shipyards were finally accorded a measure of government funding for research activities through Maritech and reactivation of and changes in the Title XI loan guarantee program that assisted in the acquisition of private sector financing for ship projects and shipyard modernization. These annual industry supports are meager by international standards; still they helped stimulate the first orders for commercial vessels built for export in over 30 years. The pending OECD agreement calls for significant reduction in the amount and terms of Title XI loan guarantees from 87.5 percent to 80 percent of the loan, and from 25 years to 12 years duration, respectively. Both Title XI changes will have a dampening effect on new ship orders from American shipyards.

Although any government may still fund shipyard research and development activities, American shipyards remain at a distinct disadvantage. Government assistance is permitted, provided it follows public-private share guidelines. The share formulae allowed by the OECD pact ranged from 100 percent for "fundamental research" to 25 percent for "development", with intermediary levels for "basic industrial research" and applied research". An additional 25 percent public funding is permitted when the research is deemed to have environmental or safety related benefits. U.S. government funding, however, has been limited by Congress to a 50-50 ratio in recent years, regardless of the program's scope. It is likely, therefore, that foreign shipyards will enjoy a research and development funding percentage advantage that runs from 15 to 50 percent higher.

More importantly, as long as the funding share ratio falls within OECD limits, no cap is placed on the total government funding for any maritime research project. A post-1981 comparison between the United States and Japan is rather telling. American yards received federal research funding of only several million dollars yearly up through 1994, while the Japanese government lavished annual funding of close to $1 billion upon its commercial shipbuilding base. As a result, the Japanese have the largest share of the world's new ship order book, while the United States is only now reentering the commercial shipbuilding market. Due to budgetary constraints that continue to influence federal planning, it is unlikely that American shipyards - regardless of a research project's value - will be able to match the governmental support that their foreign counterparts will receive.

A review of foreign government shipyard support during the ten year period between the onset of OECD negotiations and the effective termination date of shipbuilding subsidies shows clearly that American shipyards have been placed in a nearly impossible competitive position. Months after negotiations started, Daewoo Shipyard was granted a $1 billion subsidy by South Korea. In 1992, East German shipyards benefitted from a $4 billion relief package from the European Union. Throughout the negotiations, the six major shipbuilding nations made available between $5 and $8 billion annually. Nor will the phase-in period of the OECD pact bring any relaxation in government support for shipbuilding. France, Portugal, Belgium, Spain and South Korea may allocate over $2 billion under the subsidy pact for investment and social relief. U.S. trade negotiators - while well intentioned - regrettably failed to factor in the overwhelming advantage gained by foreign shipyards from hundreds of billions of dollars in unmatched government support over the last decade and a half.

In addition to the financial advantages available to them under the OECD pact, foreign shipbuilding interests also were able to secure an opening in the prohibition against foreign building for domestic trade vessels. Traditionally, the United States government held that the that the Jones Act was not to be linked to the outcome of any international trade negotiations. This appears to no longer be the case. Under the pact, foreign governments were provided opportunities to challenge the sanctity of the nation's cabotage laws.

We have concerns over governmental supports being made available to foreign marine equipment manufacturers who, in turn, will share any benefits indirectly with foreign shipbuilders. Although this practice is proscribed under the OECD pact, it is uncertain whether the transparency provisions can be easily misinterpreted to allow subsidies to marine industrial producers. Inasmuch as components often comprise 50 percent of total ship construction costs, this indirect subsidization looms as an important issue. The sanctioning of this practice would

place U.S. shipyards - operating without expectation of similar federal assistance - at a significant cost disadvantage.

American shipyards and their workforces have every reason to be concerned about the shortcomings of the OECD agreement. Under present industry conditions it is inconceivable to expect that American shipyards will be able to secure an adequate share of the sizeable ship construction market that is expected to develop over the next ten years. Since the abandonment of federal shipbuilding support in 1981, American shipbuilding unions have cooperated with management to improve their competitive position. Significant productivity gains have been achieved through a variety of measures, including radically different work rules. But labor-related cost savings can only generate a limited reduction that must be amplified through other mechanisms, including government incentives. Foreign shipbuilding nations have understood this point clearly over the last two decades as American shipbuilders were left to fend for themselves. The present OECD agreement strips away the modest U.S. government supports and protections presently in place and basically condemns American shipyards to a marginal status for the foreseeable future. With vague guarantees of compliance and questionable enforcement procedures for violations of the subsidy agreement, the MTD and AFL-CIO do not believe that the present OECD shipbuilding agreement is in the nation's best interests. We call for U.S. trade negotiators to seek a new agreement that takes into consideration the longstanding unfair advantages many foreign shipyards have enjoyed through massive government subsidies. The stakes for the nation's industrial base and national security are too great to ignore the inadequacies of the present OECD subsidy agreement.

STATEMENT OF HON. SAM M. GIBBONS

The OECD Agreement on Shipbuilding is one of the best trade agreements that has been negotiated during my 33-year tenure in Congress. It deserves to be approved by Congress and implemented into U.S. law forthwith. This agreement was supposed to have entered into force on January 1, 1996. Unfortunately, it looks as though entry into force of the agreement will now be delayed, largely because the Congress has been unable to process the implementing legislation for the agreement on a timely basis. Therefore, I am encouraged that the Finance Committee is holding a hearing on the agreement today and look forward to working with the Members of the Committee on moving this legislation forward as rapidly as possible. At the same time, if the Congress does not pass this implementing legislation by early next year, I fear that the agreement itself will be in jeopardy and could very well collapse.

Before turning to the agreement itself and describing why I think it should be approved by the Congress, I would like to review briefly for the Committee how we got to where we are today. This history is important so that we can put this agreement in its proper perspective.

A BRIEF HISTORICAL PERSPECTIVE

On June 8, 1989, the Shipbuilders Council of America (SCA) filed a petition under section 301 of the Trade Act of 1974, seeking action by the U.S. Trade Representative (USTR) against the shipbuilding subsidies of Japan, South Korea, Germany, and Norway. The U.S. shipbuilding industry had seen the last of its subsidy programs terminated in 1981, and believed that it would be impossible to reenter the world commercial shipbuilding market unless their foreign competitors ceased receiving massive government assistance. The U.S. industry had virtually abandoned this market in the 1980s as it concentrated on building naval ships in response to the U.S. defense buildup. However, as the industry looked to the future in the late 1980s, it was becoming increasingly evident that defense budgets would shrink and U.S. ship builders would have to shift capacity to the commercial market place in order to survive.

After consultations between then-USTR Carla Hills and the SCA, it was agreed that the 301 petition would be withdrawn, without prejudice, while USTR pursued a multilateral agreement to end shipbuilding subsidies in the Organization for Economic Cooperation and Development (OECD) or the Uruguay Round of GATT nego-

tiations. Unfortunately, but not surprisingly, progress was painfully slow in the OECD discussions because the United States lacked any real leverage in the negotiations. After all, the United States was asking the other shipbuilding nations to eliminate those types of subsidies that the United States had unilaterally terminated nearly a decade earlier.

Given the slow pace of the negotiations, I chaired a hearing of the Subcommittee on Trade of the Committee on Ways and Means on March 21, 1991, to review the status of the OECD negotiations and to explore available options to deal with the problem. After that hearing, I concluded that one option would be to pursue legislation that would provide, under U.S. law, unilateral trade remedies to U.S. shipbuilders against foreign subsidized commercial ships. In my view, absent an international agreement, such legislation was necessary due to the lack of adequate protection under U.S. antidumping and countervailing duty laws against unfair foreign trade practices. Traditional U.S. trade law lacked such protection because ships engaged in international commerce are not considered to be imported goods since they literally stop at water's edge and do not enter the United States as articles of commerce.

My legislation, known as the "Shipbuilding Trade Reform Act of 1991," was passed by the House of Representatives by a vote of 339-78 on May 13, 1992. However, the Senate failed to pass comparable legislation before the end of the 102nd Congress. Although my legislation failed to pass the 102nd Congress, it set off alarm bells in foreign capitals and succeeded in giving much needed impetus to the international negotiating process. There fore, in order to keep the pressure on the international negotiators, I introduced the legislation again at the beginning of the 103rd Congress. The Subcommittee on Trade of the Committee on Ways and Means approved an amended version of my "Shipbuilding Reform Act of 1993" on November 9, 1993. Fortunately, it was not necessary to move the legislation beyond this point because, by this time, the OECD talks had continued to gather momentum, which ultimately resulted in the agreement the Finance Committee is considering today.

THE OECD AGREEMENT

The Administration will no doubt describe for the Committee the OECD agreement in some detail and will outline in general terms what needs to be accomplished legislatively to implement the agreement. Generally speaking, the agreement contains four major elements:

- The elimination of virtually all subsidies granted either directly to shipbuilders or indirectly through ship operators.
- An injurious pricing code designed to prevent dumping in the shipbuilding industry.
- A comprehensive discipline on government financing for exports and domestic ship sales designed to avoid trade-distortive financing.
- An effective, and binding, dispute settlement mechanism. Dispute settlement panels will be established as necessary in order to determine whether subsidy or other government measures are consistent with the agreement, and to ensure that the injurious pricing code is being properly implemented. Failure to comply with a panel's finding may result in the imposition of sanctions, i.e., the withdrawal of World Trade Organization (WTO)/General Agreement on Tariffs and Trade (GATT) concessions or the denial of off-loading privileges.

There are certain exceptions to the agreement's prohibition of subsidies and other distortive government practices:

- Government support is permitted for worker retirement, severance, or retraining associated with the closure or downsizing of shipyards.
- Government assistance for research and development is allowed under certain conditions, provided it is granted in accordance with the terms of the agreement.
- Certain restructuring assistance programs for Belgium, Portugal, and Spain, intended to address the social cost of downsizing or closing shipyards, will be allowed to continue for a limited time after entry into force of the agreement.
- The agreement exempts "build in U.S." requirements contained in the Jones Act and other U.S. coastwise (cabotage) maritime laws, a critical provision from the U.S. industry's perspective.

WHY THE OECD AGREEMENT SHOULD BE APPROVED

The OECD Shipbuilding Agreement successfully addresses the destructive pattern of heavy government subsidies and chronic predatory pricing that has long characterized the global commercial shipbuilding industry. It is the most far-reaching

international agreement ever negotiated to deal with subsidies and other distortive trade practices in any commodity, service, or industry sector.

For example, with respect to subsidies, the agreement imposes far stronger disciplines than the subsidy rules of the WTO. It requires other countries to give up the substantial support to their shipyards, in return for modest changes in U.S. programs (as well as no changes in the Jones Act). For instance, the European Union (EU) will have to eliminate government grants to shipyards currently amounting to around 9 percent of contract value, as well as equity infusions inconsistent with normal provision of risk capital.

The agreement establishes, for the first time in history, a strict mechanism for protecting the international shipbuilding market from dumping practices. As I noted previously, until this agreement, there has been no way to deal with predatory pricing since traditional antidumping law is not applicable to ships.

The agreement establishes a separate discipline governing government export credit and tied-aid programs much tougher than what exists today.

The binding enforcement mechanism against subsidies and dumping is tougher than what exists in the WTO or in other international agreements.

In sum, this agreement is in the best interest of the United States and should be approved and implemented by the United States Congress. The agreement has the support of a broad cross-section of economic interests in this country.

RESPONDING TO CRITICISMS OF THE AGREEMENT

At the same time, I am deeply troubled by the fact that there are a number of shipyards in this country whose representatives have spoken out in opposition to this agreement. As I understand it, their opposition is based primarily on the fact that certain U.S. maritime programs must be modified to implement this agreement. While some changes to U.S. maritime law will indeed be required, I have urged these shipyards to reconsider their position on the basis of one compelling factor. The OECD Shipbuilding Agreement is the best chance we have to create unsubsidized competition and equitable conditions of trade in the global commercial shipbuilding market.

If we reject this agreement, we will be right back where we started in 1989. Our trading partners will undoubtedly continue their subsidizing ways, will respond in kind to any favorable financing or other programs we might be able to provide under Title 11, and will continue to engage in predatory pricing practices with impunity. In today's budgetary climate, we will certainly continue to lose a subsidy war with our trading partners. Moreover, in the absence of the OECD Agreement, our ability to pursue other legislative options in Congress (such as my earlier legislation) for dealing with this issue are, at best, uncertain. Finally, I am not persuaded that renegotiation of the agreement, as some are advocating, is a viable option. After all, this agreement took five years to conclude, and was the product of hard bargaining and concessions on all sides. We should be under no illusion that we can simply go back to the negotiating table and modify the agreement to allow those practices we want to keep, while prohibiting those of our trading partners that we want to eliminate.

CONCLUSION

The OECD Agreement on Shipbuilding, like every other trade agreement into which we have ever entered, is not a perfect instrument that achieves all the objectives of all who have an interest in it. However, it is a sound, balanced agreement that will substantially level the playing field for the U.S. shipbuilding industry in the international shipbuilding market for many years to come.

I have been working with Members on both sides of the aisle in the Ways and Means Committee to move the implementing legislation forward. In this regard, I will be cosponsoring an implementing bill with Chairman Archer and Mr. Crane of the Ways and Means Committee, which will be introduced in the next few days. I look forward to working with the Finance Committee to implement this important agreement. I also intend to listen carefully to the concerns of those who currently oppose the agreement and to any realistic options they may propose to address any valid concerns raised during the course of Congressional consideration of this agreement.

At this point, time is of the essence. If we do not pass the implementing legislation very soon, there is a considerable risk that our trading partners will decide that the United States has given them an opportunity to back away from this agreement. There are strong forces in some of those countries fighting to do just that. If this

agreement fails because of Congressional delay or inaction, it would be a terrible legacy for the 104th Congress in the field of international trade.

STATEMENT OF THE SHIPPERS FOR COMPETITIVE OCEAN TRANSPORTATION (SCOT)

Shippers for Competitive Ocean Transportation, SCOT, strongly support S. 1354 and urge the Senate Finance committee to promptly approve this legislation and to send it to the full Senate for approval.

SCOT represents a cross section of major U.S. importers and exporters and major industry associations on certain maritime issues. The shippers represented by SCOT believe that multilateral action as provided in the OECD Shipbuilding Agreement is the only constructive and effective way to deal with distorting international shipbuilding subsidies. It will provide a more favorable environment for efficient U.S. shipyards to compete in the world commercial shipbuilding market.

SCOT is a member of the coalition In Support of the OECD Commercial Shipbuilding Agreement and we strongly support the testimony of Peter J. Finnerty on behalf of that coalition before the Senate Finance committee on December 5, 1995.

I will underscore only a few of the points covered in that testimony that are of particular concern to U.S. shippers.

There are three methods of attacking the problem of foreign shipyard subsidies; massive new U.S. subsidies to offset the subsidies of other countries and any cost disadvantage of U.S. shipyards, unilateral action, or multilateral action as set forth in the OECD Shipbuilding Agreement.

Ccongress, the Administration and U.S. voters have recognized the critical need to balance the Federal Budget as soon as practical. Massive new shipyard subsidies are simply not economically or political feasible at this time.

SCOT aggressively opposed unilateral action to attempt to force other countries to eliminate their subsidies as provided in legislation introduced by Congressman Gibbons and others in 1991 and in 1993. While we support the objective of the legislation, unilateral action would not work and would have placed U.S. exporters and importers at a severe disadvantage in world markets. This would increase our already unacceptable unfavorable trade balance. Shippers will continue to aggressively oppose unilateral action that places U.S. exports at risk. A major shipbuilding country can consider elimination of its subsidies only of their competitors simultaneously eliminate their subsidies. This will not occur with unilateral action

This leaves a multilateral agreement as the only method by which shipyards subsidies of other countries can be eliminated. The present Agreement took over 5 years to negotiate and without prompt U.S. support could fall apart. Those who advocate renegotiation open the Agreement to prolonged delay. It is unlikely that any new agreement, if one is ever reached, would continue to exempt the Jones Act or be better for U.S. interests.

Shippers believe that the present Agreement represents a practical and realistic compromise and the only hope of action to reduce subsidies in this century.

One of major objections raised to approval of the present Agreement is that it limits the terms of future financial assistance under Title XI. The proposed limits are the same as will be imposed on every other shipbuilding country who signs the Agreement, many of whom have financial assistance programs more extensive and beneficial than those of the U.S. We cannot expect to limit financial assistance programs of other countries unless we are willing to accept the same limits.

Commenting as taxpayers as well as shippers it is important for Congress to recognize that the immediate funds appropriated by Congress to support the Title XI program represent only the tip of an iceberg of exposure to future payments by taxpayers should recipients of loans default. Careful evaluation of the risk involved in each loan is essential to protect taxpayers, and even under the best circumstances it is important to recognize that investment is ships is highly risky. No private investor would gamble on a high risk investment with the prospect of payout over 25 years. U.S. taxpayers should not be asked to take that risk. The OECD Agreement requires the U.S. and all other shipbuilding countries who sign the Agreement to require repayment in 12 years, and even that is a long term for high risk investments. The OECD Agreement further limits government guarantee to 80%, again a reasonable limit.

Others have dealt with the myth that this agreement significantly undermines the protection of U.S. flag carriers and U.S. shipyards of under the Jones Act.

In summary the shippers represented by SCOT support passage of S. 1354 an believe that further delay in enactment of the legislation and U.S. signing of the

OECD Shipbuilding Agreement will be detrimental to U.S. shippers and to the U.S. economy.

STATEMENT OF MIKE THORNE, EXECUTIVE DIRECTOR, THE PORT OF PORTLAND

Mr. Chairman, the Port of Portland, as the owner of the Portland Ship Yard, has a direct and immediate interest in the Shipbuilding Agreement negotiated under the auspices of the Organization of Economic Cooperation and Development (OECD). We believe that at least one provision of the Agreement, if implemented, would have a significant detrimental impact on our shipyard, Portland area taxpayers, and more than one thousand workers employed at and around our shipyard. Our main concern relates to the elimination of the long-standing U.S. statutory requirement for payment of a 50 percent ad valorem duty on foreign repair work on U.S. flag vessels.

Portland Ship Yard Background

The Port of Portland owns and maintains one of the largest and most modern ship repair facilities in the U.S. Portland Ship Yard (PSY) is unusual in that it is owned by a public port authority, yet operated by a private repair contractor. Dry Dock 4 at PSY is the largest floating dry dock in the Americas.

Voters in Metropolitan Portland, Oregon undertook a major investment at PSY in 1976, pledging the credit of their real property to approve an $84 million ship yard expansion program. At the heart of the project was the acquisition of Dry Dock 4 to handle Very Large Crude Carriers (VLCC's) carrying Alaska North Slope oil.

While the bulk of work at the yard remains oil tankers, other repair jobs include cruise vessels, various government ships and tugs and barges. The focus at PSY is repair work, not new construction. While PSY competes with West Coast yards on some repair bids, most of the competition for PSY comes from overseas yards around the Pacific Rim.

Ad Valorem Duty Provisions of the OECD Agreement

Portland Ship Yard leaves the discussion of the overall OECD Shipbuilding Agreement to others participating in the December 5, 1995, hearing. As a leading ship repair, overhaul, and maintenance facility, we will focus our comments on the proposed elimination of the 50 percent ad valorem tariff on ship repairs. We recognize that the elimination of this tariff would apply only to ships repaired in yards of the signatory countries, including South Korea, Japan, Norway, the European Union, and the United States.

The current vessel repair statute, enacted in 1866, imposes a 50 percent duty on the value of "expenses of repairs" made in a foreign country upon United States-flag vessels. (Act of July 18, 1866, 19 U S.C. Section 1466 et seq.)

Under existing law, the vessel owner is required, upon first arrival of the ship in the United States, to declare to the Customs Service all repair work done outside the United States. As part of the entry process, the vessel owner estimates the duties owed and then deposits the estimated amount of duties with the Customs Service.

This statute, designed to enforce the requirement that U.S. flag ships be repaired in U.S. yards, has been the subject of significant litigation over its 130-year history. Most recently, the provisions were confirmed and applied in the case of Texaco Marine Services v. United States.

Under other statutory authority, the privileges and requirements for "U.S.-flag" vessels are set forth. They include the requirement that such vessels be crewed with U.S. citizens, that the majority ownership be by U.S. citizens, that the ships be built and maintained to U.S. Coast Guard standard, and that the ships be repaired in U.S. yards. The ad valorem duty is, therefore, not designed as a revenue raising measure, but as an enforcement mechanism to achieve long-standing national policy objectives in support of maintaining a strong shipyard infrastructure in this country.

Throughout its 130-year history, these maritime policy objectives have been achieved in great measure due to the ad valorem duty. Through statute and regulation, the Congress and the Customs Service have from time to time modified the basic ad valorem duty, so as to facilitate necessary "voyage repairs" in case of emergency.

During negotiations on this agreement, foreign governments received added subsidies and a transitional period to complete these special aid packages. More than $2 billion in special assistance is included for foreign yards and at least one other package—an estimated $480 million program in France—was announced after negotiations were complete.

The result is a decidedly one-sided agreement that puts the U.S. industry at a disadvantage. In the interest of balance, Congress should consider retaining the ad valorem duty or, at a minimum, phasing it out over a similar transition period as was provided for foreign assistance programs.

Competition

Portland understands that the anticipated time for effect of the OECD Agreement has been moved from January 1, 1996, to July 15, 1996. The United States should utilize the additional time provided to study the circumstances of other countries continuing to subsidize their shipyards and to reach a conclusion as to whether the U.S.

should modify the Agreement to allow U.S. yards a more level playing field by requiring U.S. vessels to continue to be subject to ad valorem duties for overseas repairs. Congress should not move ahead unless it is sure that U.S. yards are truly capable of competing with foreign yards and possibly place U.S. yards in a permanent position of disadvantage.

The Portland Ship Yard, like all other ship repair yards in the United States, is competing on something less than a level playing field. We appreciate the efforts to eliminate massive subsidies by certain foreign governments to their shipyards. But even if and when these are eliminated under the Agreement, PSY and other U.S. yards will still face unequal competition, and arguably unfair competition as well

U.S. shipyards must comply with stringent Federal and State labor regulations. We pay wages that can support families. We comply with significant environmental requirements. We comply with Occupational Safety and Health Administration regulation, inspection, and oversight We provide health care, disability, vacation, and other benefits. This list goes on and on. Meanwhile, our foreign competitors, including those shipyards located in countries which are signatory to the Shipbuilding Agreement, do not face such costly demands. OSHA, retirement funds, health care benefits, and environmental mandates do not characterize shipyard work in Korea, the location of the nearest competing shipyards of concern to PSY.

We can compete on a level playing field. For example, nearby Canadian yards are faced with similar labor, health, and environmental requirements. PSY contractors have competed successfully with these Canadian yards for cruise ship repair/maintenance business.

But many other foreign competitors are another story. Unless their governments impose the same requirements on their shipyards, or our government removes the regulatory burden on ours, there will be no level playing field.

The 50 percent ad valorem duty is the only means available to maintain a level playing field. The "invisible subsidies" which is how we would characterize the lack of regulatory burden on competing Asian shipyards, will remain in place even once the Shipbuilding Agreement becomes effective. But the Agreement would eliminate the only means we have to counter these "invisible subsidies"--the ad valorem duty on repairs.

Position

Our position is that the 50 percent ad valorem duty must remain in effect, at least considerably longer than the Agreement, as presently constituted, would allow.

Direct employment at PSY is more than 1,000 workers with family-wage jobs. Added to that total are workers employed by subcontractors at the yard. The Port of Portland cannot support an international agreement that puts these jobs at risk. We encourage Congress to call for re-negotiation of this agreement, taking into account the concerns listed in our statement.