
REPORT BY THE

Comptroller General

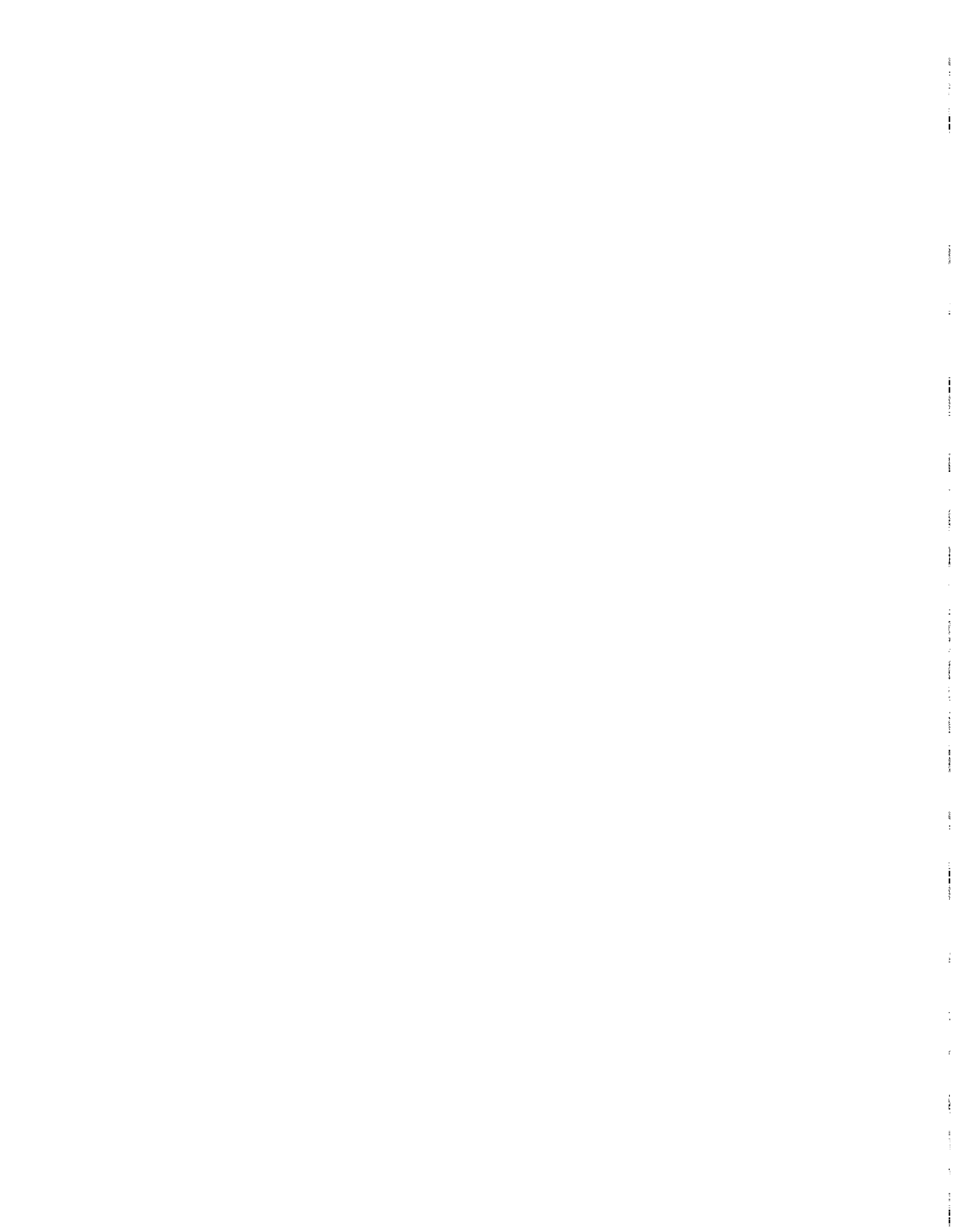
OF THE UNITED STATES

Maritime Subsidy Requirements Hinder U.S.-Flag Operators' Competitive Position

The Maritime Administration provides a subsidy to U.S.-flag operators to help them compete with foreign operators. GAO identified subsidy program requirements and procedures imposed on U.S.-flag operators which increase costs and create other disadvantages; this tends to negate the competitive position the program is supposed to provide.

To improve the competitive position of U.S.-flag operators, GAO recommends that the Congress amend the Merchant Marine Act of 1936 to extend and clarify the Secretary of Transportation's authority to allow subsidized operators to build vessels overseas under certain circumstances, such as when construction subsidy funds are not available. Further, the Congress should consider revising U.S. policies promoting the ship repair industry to make them more equitable to U.S.-flag operators.







COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-199215

The Honorable Walter B. Jones, Chairman
The Honorable Gene Snyder, Ranking
Minority Member
Committee on Merchant Marine
and Fisheries

The Honorable Mario Biaggi, Chairman
The Honorable Paul N. McCloskey, Jr.
Ranking Minority Member, Subcommittee
on Merchant Marine
Committee on Merchant Marine
and Fisheries
House of Representatives

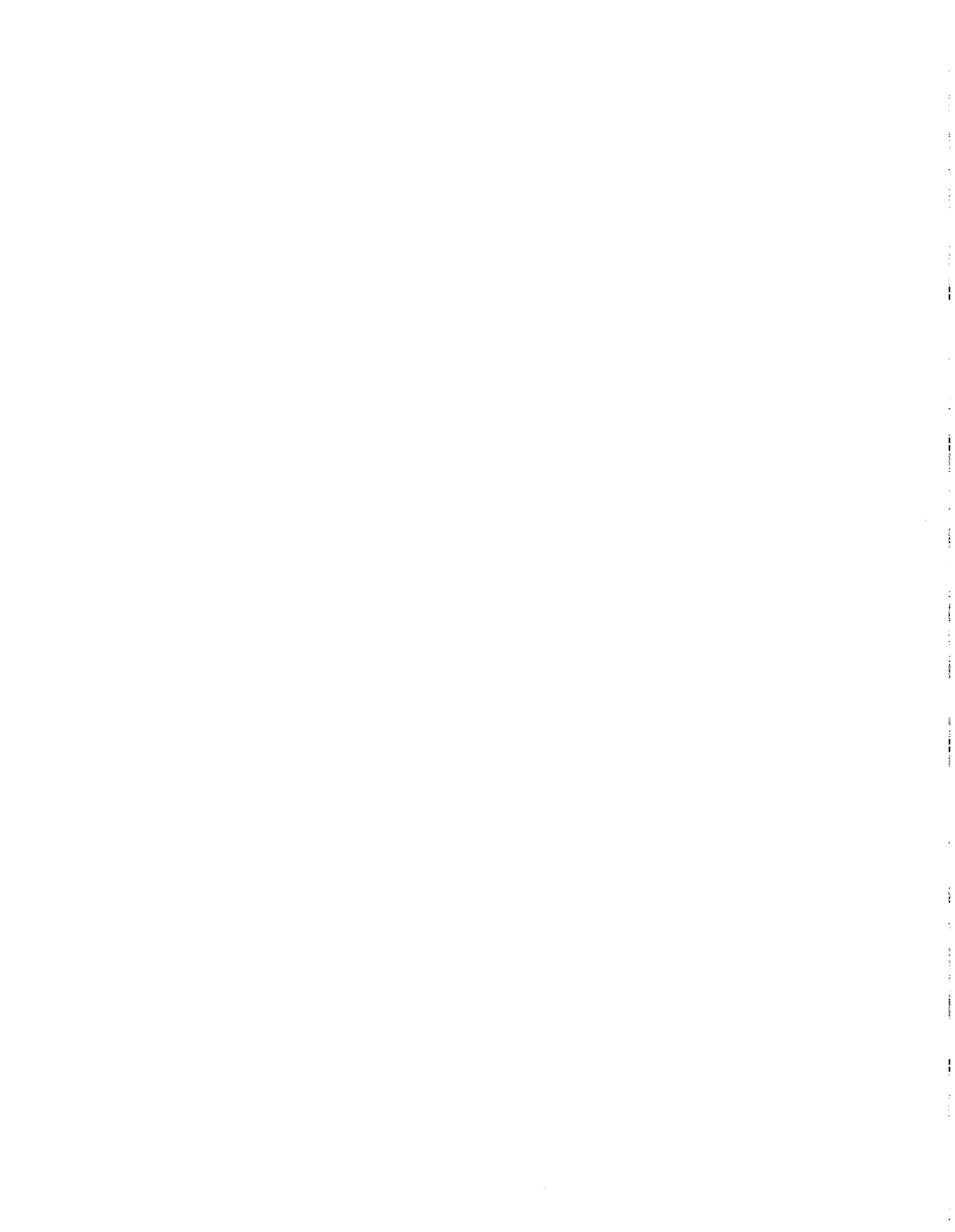
This report describes how certain operating differential subsidy program requirements and procedures prevent the program from achieving its intended purpose. GAO is recommending that the Congress revise certain program requirements. GAO is also recommending action by the Secretary of Transportation to improve the subsidy program's administration.

We made this review in accordance with an April 3, 1980, request from the Chairman (who was also the Subcommittee Chairman) and the Ranking Minority Members, House Committee on Merchant Marine and Fisheries, and its Subcommittee on Merchant Marine, as modified in later discussions with the Committees' offices.

As arranged with the Committees' offices, we are sending copies of this report to the Director, Office of Management and Budget; the Secretary, Department of Transportation; and the Administrator, Maritime Administration. We are also sending copies of this report to interested parties and copies will be available to others who request them.

A handwritten signature in cursive script that reads "Charles A. Bowsher".

Comptroller General
of the United States



COMPTROLLER GENERAL'S REPORT
TO THE CHAIRMEN AND RANKING
MINORITY MEMBERS, HOUSE COM-
MITTEE ON MERCHANT MARINE
AND FISHERIES AND ITS SUB-
COMMITTEE ON MERCHANT MARINE

MARITIME SUBSIDY REQUIREMENTS
HINDER U.S.-FLAG OPERATORS'
COMPETITIVE POSITION

D I G E S T

Since 1936 maritime policy has been to help U.S. operators compete with foreign operators by providing a direct cost subsidy through the Maritime Administration's operating differential subsidy program. The subsidy generally covers the difference between certain U.S. vessel costs and the similar costs of the foreign competition. However, some program requirements and procedures imposed on U.S.-flag operators increase costs and create other disadvantages which tend to negate the competitive position the program is supposed to provide.

GAO recommends that the Congress amend the Merchant Marine Act of 1936 to extend and clarify the Secretary of Transportation's authority to allow subsidized operators to build vessels overseas. Further, the Congress should consider revising U.S. policies promoting the ship repair industry to make the policies more equitable to U.S.-flag operators.

GAO is also making two recommendations to the Secretary of Transportation to improve the administration of the subsidy program and to increase the competitiveness of subsidized operators.

GAO was requested by the House Committee on Merchant Marine and Fisheries and its Subcommittee on Merchant Marine to evaluate the effectiveness of the operating differential subsidy program. GAO agreed that its review would primarily focus on the liner or general cargo segment of the subsidized U.S.-flag fleet which represents about 80 percent of the total subsidized fleet. However, most of the issues discussed in this report also affect the bulk operators. From 1976 to 1980 Maritime Administration's annual operating subsidy appropriations averaged about \$335 million. (See pp. 1 and 2.)

BUILDING VESSELS IN THE
UNITED STATES PLACES
SUBSIDIZED OPERATORS
AT A DISADVANTAGE

To promote U.S. shipyards, the operating subsidy program requires that vessels be built in the United States. Although a construction differential subsidy program provides direct subsidies for purchases of U.S.-built vessels, the construction subsidy rate, limited by law to 50 percent of cost, does not always adequately compensate the operator. In addition, by building vessels in the United States, operators are faced with higher construction financing costs and the possibility of lost business opportunities because of longer construction times. Further, the current Administration plans to limit construction subsidy funds.

Building vessels in the United States limits subsidized operators' ability to compete with foreign competition. The Congress in 1981 provided temporary authority to the Secretary of Transportation to permit subsidized operators to build vessels overseas. GAO believes that the Congress needs to extend and clarify this authority to allow overseas building under certain circumstances, such as when construction subsidy funds are not available. Suggested legislative language is provided in appendix VII. (See pp. 8 to 14 and 26 and 27.)

U.S. POLICIES PROMOTING
AMERICAN SHIP REPAIR YARDS
LIMIT COMPETITIVENESS OF
U.S.-FLAG OPERATORS

Policies to promote U.S. ship repair yards, which include certain subsidy program requirements and a 50-percent tariff on U.S.-flag vessel foreign maintenance and repairs, hurt subsidized operators. The policies either require that vessel maintenance and repairs be performed in the United States or penalize operators for having maintenance and repairs done in foreign repair yards. These program and tariff requirements limit the ability of subsidized operators to compete with foreign-flag operators who can schedule their maintenance and repairs in any geographical location that best suits the efficiency and economy of their operations. In addition, unsubsidized operators must also pay the 50-percent tariff.

Although the subsidy program requirements and the tariff promote the U.S. ship repair industry, GAO believes that the Congress should consider revising U.S. policies promoting the U.S. ship repair industry to make them more equitable to U.S.-flag operators. (See pp. 14 to 19 and 26 and 27.)

REVISIONS NEEDED TO
605(c) HEARING PROCESS

For subsidized U.S.-flag liner operators to effectively compete with foreign-flag operators, they must have the same operating ability, in addition to cost parity, as their competitors. The Maritime Administration, recognizing this need, has taken steps to reduce some of the restrictive requirements placed on subsidized operators. However, of the restrictive requirements remaining, subsidized operators expressed their concern over the section 605(c) hearing process which requires that hearings be held on specific issues relating to operating subsidy applications. This hearing process is costly for the operators--as much as \$500,000--and time-consuming--about 3 years. Although the Maritime Administration is attempting to improve the hearing process, its progress has been too slow. GAO recommends that the Secretary of Transportation direct the Maritime Administrator to assign a high priority to its review of the section 605(c) hearing process and to assign a deadline for the issuance of the revised procedures. (See pp. 19 to 21 and 26 and 27.)

SUBSIDY PAYMENT PROCESS
NEEDS TO BE SHORTENED

The U.S. Government owes subsidized operators millions of dollars. Subsidy payments are delayed due to an extensive and time-consuming process used to compute final liner wage subsidy rates. This process, which currently delays final payments by an average of 3 years, precludes these operators from timely receipt of monies due them and hurts their cash management capability.

Maritime Administration staff has suggested to the Maritime Subsidy Board an alternative which uses revised tentative rates; however, the Board would rather find ways to accelerate the current process. While the Maritime Administration is working on ways to accelerate the process, the Board is delaying its decision on the use of

revised tentative rates. GAO believes that steps need to be taken to provide for payment of accrued subsidy owed to liner operators for prior years and to provide for a more timely payment of future wage subsidy. GAO recommends that the Secretary of Transportation direct the Maritime Administrator to implement, on a trial basis, liner wage payment procedures based on a revised tentative wage subsidy rate. (See pp. 21 to 27.)

WAGE SUBSIDY COSTS
CONTINUE TO INCREASE

Two elements primarily influence wage subsidy costs--the high wages of American seamen compared to the lower wages of foreign seamen and the high manning levels on U.S.-flag vessels compared to the lower manning levels on foreign-flag vessels. The Merchant Marine Act of 1970 authorized changes to encourage reductions in subsidy program costs. The Maritime Administration in implementing these changes has had some success. However, Maritime Administration officials are not optimistic about future subsidy reductions because of increasing competition from foreign operators having lower wage costs. (See pp. 29 to 33.)

AGENCY COMMENTS

The Department of Transportation concurs with GAO's conclusions and recommendations. (See p. 28.) The agency's comments are included as appendix I.

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ABBREVIATIONS

APL	American President Lines, Ltd.
CDS	construction differential subsidy
DOT	Department of Transportation
dwt	deadweight tons
GAO	General Accounting Office
M&R	maintenance and repairs
MarAd	Maritime Administration
ODS	operating differential subsidy

CHAPTER 1

INTRODUCTION

The United States privately owned commercial fleet provides waterborne transportation for cargoes moving between U.S. ports and U.S. and foreign ports. America depends on exporting manufactured goods, agriculture products, and other commodities for a large portion of its gross national product. A strong merchant marine provides American shippers with access to world markets, sources of raw materials, and other foreign products for the U.S. economy. In addition, it supports America's military services in peacetime as a major supply link in the defense network and as a transport for people and materials during a national emergency.

The House Subcommittee on Merchant Marine, Committee on Merchant Marine and Fisheries, held extensive hearings in 1979 and 1980 on revitalizing maritime policy and reforming regulations of the maritime industry. At the conclusion of these hearings, the Committee's Chairman (who was also the Subcommittee Chairman) and Ranking Minority Member and the Ranking Minority Member of the Subcommittee in an April 3, 1980, letter, requested that we (1) evaluate the effectiveness of the Maritime Administration (MarAd), Department of Commerce 1/, operating differential subsidy (ODS) program and (2) assess alternatives to the current program. In meetings with the offices of these officials we agreed that our review would primarily focus on the liner segment of the subsidized U.S.-flag fleet as it represents approximately 80 percent of the total subsidized fleet. However, most of the issues discussed in this report also affect the bulk operators. This report is our evaluation of the current program. An assessment of the alternatives was transmitted to the Committees' offices in a separate letter.

MARITIME POLICY

The Merchant Marine Act, 1936, as amended, (46 U.S.C. 1101) declares the U.S. policy as (1) fostering the development of and encouraging the maintenance for the national defense and (2) developing its foreign and domestic commerce through a merchant marine which is:

- Sufficient to carry its domestic waterborne commerce and a substantial portion of the waterborne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign waterborne commerce at all times.

1/The Maritime Administration was transferred from the Department of Commerce to the Department of Transportation by Public Law 97-31 on August 6, 1981.

- Capable of serving as a naval and military auxiliary in time of war or national emergency.
- Owned and operated under the U.S. flag by U.S. citizens insofar as may be practicable.
- Composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with trained and efficient citizen personnel.
- Supplemented by efficient facilities for shipbuilding and ship repair.

AGENCY PROGRAMS

MarAd has as its objective in administering this policy the carriage of a substantial portion, generally considered as 50 percent, of the commercial cargo in U.S. foreign trade. To help U.S.-flag operators maintain a fleet capable of competing with foreign shipping lines, MarAd provides direct financial assistance through the ODS program and the construction differential subsidy (CDS) program. Both are designed to offset the competitive advantages enjoyed by foreign competition. The ODS program is to provide a parity between the costs incurred by a U.S.-flag operator and the costs incurred by a foreign-flag competitor. The CDS program covers the difference in costs between having a vessel constructed in a U.S. shipyard and having the same vessel constructed in a foreign shipyard up to the statutory limit. Appropriations for fiscal years 1976 through 1980 averaged \$335 million annually for ODS and \$121 million annually for CDS.

In addition to direct subsidies, MarAd administers three other programs--Federal ship financing guarantees, capital construction fund, and construction reserve fund. These programs provide financial assistance through Government mortgage guarantees and tax deferrals to help American operators obtain the capital needed to build new vessels.

Other legislation supporting the maritime industry includes the Jones Act and cargo preference laws. Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), known as the Jones Act, requires that, with minor exceptions, all waterborne merchandise transported between points in the United States be carried on U.S.-built and -registered vessels.

Cargo preference laws require Government agencies to use U.S.-flag vessels for 50 to 100 percent of their ocean cargo shipments. The three major cargo preference laws are the Military Transportation Act of 1904 (10 U.S.C. 2631), Public Resolution No. 17 (46 U.S.C. 1241-1), and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)).

STATUS OF U.S. MARITIME INDUSTRY

The above maritime policies and programs have contributed to the developing and maintaining of a U.S.-flag fleet. However, these policies and programs have fallen short of the legislative objective of having a U.S. fleet which carries a substantial portion of the U.S. foreign trade and provides an adequate, well-balanced fleet for national defense and national security.

Ocean cargo carriage is generally classified into three types of trade--liner, tanker, and dry bulk. The liner trade consists of common carrier vessels engaged in the carriage of general cargo. Tanker trade involves transporting liquid cargo and dry bulk trade involves carrying dry cargo--such as ore and grain--in bulk.

During the 20-year period--December 31, 1959, to December 31, 1979--the U.S.-flag fleet decreased from 1,065 to 576 vessels 1/, although the carrying capacity of the fleet increased by 6.5 million deadweight tons (dwt) 2/, from 14.4 to 20.9 million dwt. However, this increase in capacity is accounted for by the tanker fleet. While the U.S.-flag tanker fleet capacity was increasing, the U.S.-flag liner fleet was decreasing in number and deadweight capacity. 3/ The dry bulk fleet, which was never very large, decreased in number but had a slight increase in capacity.

Although the amount of commercial cargo carried in U.S. oceanborne foreign trade increased from 267 million long tons in 1959 to 823 million long tons in 1979, the percentage carried in U.S.-flag vessels decreased from 10.2 percent to 4.2 percent, respectively. Only in the liner trade has the United States maintained more than a token share of the market--about 27 percent in 1979. In the same year U.S.-flag vessels transported about 4 percent of the liquid cargoes and 1 percent of the dry bulk cargo. 4/

1/See appendix II for a summary schedule of number and capacity of U.S.-flag vessels. See appendix III for comparison of U.S.-flag fleet with fleets of other major maritime nations.

2/Deadweight tons--the total lifting capacity of a vessel expressed in long tons of 2,240 pounds.

3/True comparisons of changes in the relative capacity of the liner fleet over a 20-year period cannot be accurately made because of technological advancements which make the newer liner vessels more productive than the vessels they replaced.

4/See appendix IV for more complete statistics on tonnage of commercial cargo carried in U.S. oceanborne foreign trade.

In addition to promoting and maintaining a U.S.-flag fleet, the CDS, ODS, Jones Act, and financial assistance programs encourage the development of the U.S. shipbuilding industry by requiring that vessels participating in these programs be U.S. built. According to MarAd and the Department of Defense, the current shipbuilding and ship repair base is generally considered adequate for peacetime needs. However, this base is considered barely adequate for national emergency purposes.

MARITIME AIDS OF FOREIGN NATIONS

National merchant fleets, whether State owned or privately owned, are important for economic and defense reasons to many world governments. MarAd has found that most nations with a merchant fleet offer some assistance to their maritime industries to further their commercial and political interests. These aids differ from country to country but include operating and construction subsidies, low-interest loans and loan guarantees, accelerated depreciation, tax-free reserve funds, and cargo preference. MarAd periodically releases a publication on these foreign maritime aids. The latest report "Maritime Subsidies" was published in January 1981.

THE ODS PROGRAM

The ODS program, governed by title VI of the 1936 act, is a key program in promoting the U.S.-flag merchant marine. The purpose of ODS is to place operating costs of U.S.-flag vessel operators on parity with costs incurred by their foreign-flag competitors. Since the Merchant Marine Act of 1970, all modern cargo vessels are eligible for the ODS program. Before 1970, bulk vessels were excluded from the ODS program. On September 30, 1980, 22 operators held 26 ODS contracts covering 165 subsidized vessels in operation. From the initiation of the program on January 1, 1937, through September 30, 1980, net ODS accruals amounted to \$5,974.8 million. Of this amount, \$5,824.0 million has been paid, leaving an estimated balance of \$150.8 million due the operators. ^{1/} (See app. V.)

Essential ODS contract requirements

The ODS program is run through contracts between MarAd and vessel operators. Regular, long-term ODS contracts are written for 20 years. Interim ODS contracts (to cover periods when long-term contracts are being processed) and a special program--Soviet grain contracts--are written for up to 1 year. These contracts require the ODS operator to comply with a number of obligations, including:

^{1/}Accrual and expenditure data taken from MarAd's annual report. As discussed later in this report, we found MarAd's accounting system inadequate to reasonably estimate accruals.

- Maintaining U.S. citizenship.
- Operating vessels in an efficient and economical manner.
- Replacing overaged vessels as required.
- Paying annual dividends in conformity with a conservative dividend policy.
- Performing vessel maintenance and repair (M&R) in the United States, except in an emergency, if operators receive M&R subsidy.

Types of ODS programs

Under the 1936 act as amended, MarAd has developed ODS programs for different types of services offered by U.S.-flag vessels. The liner subsidy program is the largest of the subsidy programs. From January 1, 1937, through September 30, 1980, MarAd had paid \$5.6 billion in liner subsidies and reported an outstanding liability as of September 30, 1980, of about \$123 million. There were seven liner operators with 138 vessels in the liner subsidy program at the end of fiscal year 1980. In 1981 another liner operator entered the subsidy program leaving only one unsubsidized U.S.-flag liner operator in foreign trade.

The other operating subsidy programs are the Soviet grain and bulk cargo subsidy programs. The Soviet grain subsidy program was initiated to facilitate U.S.-flag vessel participation in U.S. grain sales to the Soviet Union. The bulk cargo program was initiated to provide subsidy to the bulk segment of the U.S.-flag fleet.

ODS cost elements

Costs covered by each of the three ODS programs are wages, M&R not covered by insurance, hull and machinery insurance, protection and indemnity insurance, and subsistence. Each is described below.

Wages--Covers the difference in wage costs paid by U.S. operators and wage costs to operate the same vessel under a foreign flag. This subsidy accounts for approximately 87 percent of total ODS.

Maintenance and repairs--Covers the difference between the cost of obtaining M&R in the United States and the cost of obtaining them in a foreign country. This subsidy has averaged about 5 percent of ODS.

Hull and machinery insurance--Covers the difference in net premium costs of insuring subsidized vessels and the composite premium costs of foreign competitive vessels. This subsidy amounts to less than 1 percent of ODS.

Protection and indemnity insurance--Covers the difference in the fair and reasonable net premium costs incurred by U.S. operators and their foreign flag competitors. This subsidy amounts to about 6 percent of ODS.

Subsistence--Covers the increased crew feeding costs incurred by U.S. operators operating a passenger vessel over costs incurred to operate the vessel in a foreign-flag service. While no U.S.-flag passenger vessels in foreign service exist, four combination passenger/cargo vessels are eligible for subsistence subsidy. This subsidy amounts to less than 1 percent of ODS. (See app. VI for a breakdown of ODS costs by major element.)

In addition to these general ODS costs, the Soviet grain subsidy program covers stores, supplies, and expendable equipment; fuel; other miscellaneous vessel expenses; vessel depreciation; and certain interest expense.

OBJECTIVES, SCOPE, AND METHODOLOGY

At the request of the Chairman (who was also the Subcommittee Chairman) and Ranking Minority Member of the House Committee on Merchant Marine and Fisheries and the Ranking Minority Member of its Subcommittee on Merchant Marine we reviewed the effectiveness of MarAd's ODS program in providing parity to U.S.-flag operators to compete with foreign-flag operators. As agreed with the Committees' offices, our review primarily covered the subsidized U.S.-flag liner operators. GAO was also requested to analyze alternatives to the current subsidy program, which was provided to the Committees' offices in a separate letter.

To evaluate the effectiveness of MarAd's ODS program, we interviewed MarAd, U.S. Customs Service, and Department of Defense officials; U.S.- and foreign-flag operators; U.S. labor union officials; and U.S. shipyard representatives. We also reviewed legislation and MarAd policies, procedures, records, and studies pertaining to ODS issues identified in our review. We reviewed data and studies provided us by industry representatives supporting their positions concerning ODS-related issues. In addition, we reviewed recent congressional hearings and pending legislation. Using this information, we were able to identify ODS program requirements and procedures imposed on U.S.-flag operators which tend to negate the competitive position ODS attempts to provide. (See ch. 2.)

In addition, we addressed the following concerns, which were orally expressed to us by the Committees' offices during our review.

- The ability of Sea-Land Service, Inc., to operate without subsidy while other U.S.-flag liner operators require subsidy.

- The relationship between the Effective U.S. Controlled Fleet 1/ and MarAd's ODS program.
- United States Lines, Inc., recent application for ODS.
- The legal authority of the Congress to eliminate ODS immediately, despite outstanding 20-year contracts with operators.
- The legal implications of reducing ODS payments (to near zero) using section 606(1) of the Merchant Marine Act, 1936.
- The pros and cons of having foreign unlicensed personnel on U.S.-flag vessels.
- The appropriateness of ODS funds going to the Transportation Institute or any similar organization.
- The continuing high cost of the wage subsidy.

We provided oral briefings on our review results on the above issues to the Committees' offices. The last item--a discussion of the continuing high cost of the wage subsidy--is included in chapter 3 of this report. Also, we provided a letter report to the House Committee on Merchant Marine and Fisheries answering specific questions relating to United States Lines, Inc.'s, acquisition of the operating differential subsidy contract and rights to trade route 5-7-8-9 from Farrell Lines, Inc. (CED-81-154, September 4, 1981).

Another issue of concern to the requesting Committees is whether the trade route concept under the ODS program should be continued. Because of resource and time constraints, we did not analyze this issue during our review. However, we did discuss the issue in some detail with the Committees' offices and provided them with our opinions as to the pertinent questions to consider when addressing this issue.

Due to the large number of items the Committees asked us to review, the majority of our work involved analysis and evaluation of existing data. Our review was conducted from June 1980 through May 1981, in Washington, D.C.; New Orleans, Louisiana; and the New York City metropolitan area.

1/The Effective U.S. Controlled Fleet consists of American-owned vessels registered in Panama, Liberia, or Honduras which can be requisitioned by the President under section 902 of the 1936 act for national defense or national emergencies.

CHAPTER 2

OPERATING DIFFERENTIAL SUBSIDY PROGRAM

REQUIREMENTS AND PROCEDURES PREVENT

OPERATORS FROM ACHIEVING PARITY

The ODS program provides a cost subsidy to U.S.-flag vessel operators to enable them to be competitive with foreign-flag operators in the carriage of cargo in U.S. foreign trade. ODS generally provides cost parity for specific cost elements, such as wages and insurance. However, certain requirements and procedures imposed on the ODS operator increase costs and create other disadvantages which tend to negate the competitive position that ODS is supposed to provide. The following conditions affect both cost parity and operational flexibility.

- ODS vessels must be built in U.S. shipyards.
- ODS operators generally must obtain vessel maintenance and repairs in U.S. shipyards.
- ODS operators are required to go through a long and costly hearing process to obtain a subsidy contract or change their trade routes to provide additional service.
- ODS operators do not receive their final ODS payments until after an extensive and time-consuming process.

During our review, maritime industry officials cited these ODS-related conditions as primary reasons why ODS does not provide true parity. MarAd officials have recognized these problems and have attempted to resolve some of them. MarAd and industry officials believe that both operational and cost parity are important if the U.S.-flag fleet is to be competitive with foreign-flag fleets.

BUILDING VESSELS IN THE UNITED STATES PLACES ODS OPERATORS AT A DISADVANTAGE

One of the ODS operators' major concerns is the 1936 act's requirement that ODS vessels be built in U.S. shipyards. The purpose of this requirement was to promote U.S. shipyards. MarAd has a construction differential subsidy program which provides direct subsidies for purchases of U.S.-built vessels. However, these operators claim, and several studies have found, that CDS, because of its 50-percent statutory limit, does not always adequately compensate U.S.-flag operators for their capital cost disadvantage of building in U.S. shipyards. In addition, it takes about 2 years longer to build oceangoing vessels in the United States than overseas. This extended building time costs the ODS operator money in terms of financing and lost business opportunities. The possibility also exists that CDS funds will not be

available when an operator wants to build a vessel. These factors tend to decrease the ODS operator's competitiveness by raising the operator's costs and discouraging ODS operators from building new vessels. Although this review focused primarily on ODS liner operators, ODS bulk operators are similarly affected by the requirement to build their vessels in the United States.

Background on the CDS program

The 1936 act established CDS to aid in constructing, reconstructing, or reconditioning vessels to be used in U.S. foreign commerce. CDS is to compensate the U.S.-flag operator for the difference between U.S. shipyard prices and fair and representative foreign shipyard prices. Before 1970 the maximum CDS rate was 55 percent of the vessel cost. As part of the Merchant Marine Act of 1970, a major legislative program to promote the U.S. maritime industry, the Congress reduced the maximum CDS rate to 45 percent in 1971 and by a 2 percent annual reduction thereafter, until the CDS rate reached 35 percent in 1976. Further, the 1970 act established a Commission on American Shipbuilding to study and submit a report to the Congress on the status of the U.S. shipbuilding industry.

The Commission reported in 1973 that the goal of a 35 percent CDS rate would be met, barring any major changes in the international shipbuilding industry. The Commission reported that three factors contributed to the steadily improving competitive position of U.S. shipyards. First, the dollar had substantially depreciated in relation to the currencies of other major shipbuilding nations, which resulted in reducing the cost of U.S.-built vessels relative to foreign-built vessels. Second, foreign wage rates were increasing faster than U.S. wage rates. Third, U.S. shipbuilders had invested in new facilities and had become more productive.

However, after that report, major changes did occur in the shipping industry resulting in a worldwide shipbuilding slump. This prolonged slump prompted foreign nations to provide aid to their shipbuilding industries and foreign shipyards to cut their vessel prices. As a result, the differential between U.S. shipyard prices and foreign prices widened beyond the 35 percent limit. Responding to these events, the Congress increased the maximum CDS rate to 50 percent in 1976. From 1976 through 1980 U.S. subsidized operators using the CDS program contracted for 12 new liner vessels at CDS rates ranging from 47.08 to 49.98 percent. MarAd obligated about \$439 million for these vessels during this 5-year period. Also, during this period, bulk operators contracted for 11 new tanker and bulk vessels at CDS rates ranging from 25.48 to 49.43 percent, and MarAd obligated about \$235 million for these vessels.

Fifty-percent subsidy ceiling is inadequate

During our review we discussed the 50-percent ceiling with MarAd officials and representatives of the U.S. vessel operating and shipbuilding industries. These officials generally agreed that the current 50-percent CDS ceiling does not always adequately compensate ODS operators for their higher U.S.-vessel construction costs. Three studies completed during the last several years confirm this. These officials also stated that the lack of an adequate ceiling adversely affects the ODS operators ability to compete with foreign competition.

One industry group, the Shipbuilders Council of America, concurred that the 50-percent ceiling is inadequate and provided us with the results of a study 1/ which supports its views. The study compared the cost to build four vessel types in the United States with the cost to build them in a foreign shipyard. For these four vessel types--a C-8 type container vessel, a dry bulk vessel (32,000 dwt), a LNG vessel (125,000M³) 2/, and a tanker vessel (80,000 dwt)--the study found that reasonable subsidy rates would be 57 percent, 63 percent, 36 percent, and 61 percent, respectively.

In addition to the Council's study, two MarAd studies also indicate that the CDS ceiling is inadequate. The first study, performed by MarAd's Office of Shipbuilding Costs and published in January 1977, was made because of the maritime industry's concern that the actual differential rate for a standard bulk vessel was greater than the maximum 50 percent allowed. The study considered the foreign and domestic cost of a 34,000 dwt bulk vessel--the size most likely to be built at the time by U.S. operators. The final report confirmed the industry's concern, and stated that a rate of 64.6 percent represented an accurate assessment of the difference in building a standard bulk vessel in the United States versus Japan. 3/

1/Data Resources, Inc., "The Economic Impact of the U.S. Shipbuilding and Ship Operating Industries", (Shipbuilders Council of America, October 12, 1979).

2/LNG (125,000M³)--a tanker vessel having a carrying capacity of 125,000 cubic meters of liquefied natural gas.

3/Japan was selected as the appropriate foreign shipbuilding center because a very large percent of the world's bulk vessels were built there during the 1970s.

A MarAd contractor conducted a second study ^{1/} which discussed the construction cost and operation of a 36,000 dwt dry bulk vessel under U.S. flag. This report shows that a 52.5 percent CDS rate was required at that time for a single vessel out of a five-ship series order. The report states that the 50-percent ceiling would have to be withdrawn and a higher ceiling permitted to provide parity with foreign building costs.

We discussed these two MarAd studies with MarAd officials in the Office of Maritime Aids. They concurred that at times the actual differential is greater than 50 percent. However, they believed that the differential has come down since the June 1980 report. In addition, a MarAd Assistant Administrator stated that differential rates for bulk vessels, which are less sophisticated, are higher than differential rates for liner vessels which are close to the 50-percent ceiling.

Unsubsidized operator
claims CDS is inadequate

Sea-Land Service, Inc., the only remaining unsubsidized U.S.-flag liner operator, recently procured 10 new slow-speed, diesel-powered container vessels from Japan and 2 from Korea. Sea-Land, because it does not receive ODS, had the option of building its vessels in the United States with CDS funds or overseas. After a thorough analysis of all alternatives, Sea-Land decided to build its vessels overseas. Congressman Paul N. McCloskey, Jr. asked Sea-Land why it made such a decision "in spite of the Construction Differential Subsidy Program designed to equalize costs between foreign built and subsidized U.S. built vessels."

Sea-Land responded that there were four reasons for deciding to procure its vessels overseas. Among the reasons was cost. Sea-Land stated that the vessels were contracted for \$30 million each. Its ship construction department estimated that U.S. construction cost would have been about \$80 million each. The \$50 million difference would not have been entirely covered by CDS because of the 50-percent limitation which would have limited the CDS on each vessel to \$40 million. Consequently, Sea-Land claims it would have paid a penalty of about \$120 million to build the 12 vessels in U.S. shipyards.

Subsidized operator
claims CDS is inadequate

We discussed the inadequacy of CDS with a Vice President of American President Lines, Ltd. (APL) that contracted for three

^{1/}M. Rosenblatt & Son, Inc., "Development of a Standardized U.S. Flag Dry-Bulk Carrier", (Maritime Administration Contract No. 7-38053, June 1980).

similar, but larger, vessels at about the same time as Sea-Land. However, because it received ODS, APL had to purchase its vessels in the United States. APL's position is similar to Sea-Land's--CDS is inadequate to cover the true differential between the cost of building a vessel in the United States and building it in a foreign shipyard.

The original cost of building APL's vessels in a U.S. shipyard was about \$90 million each. MarAd had determined that the CDS rate was 49.98 percent and that it would pay CDS funds of about \$45 million toward the cost of each vessel. According to APL, the true differential is significantly higher than 49.98 percent and, therefore, APL believes it is paying a penalty of about \$13 million per vessel for building in a U.S. shipyard.

APL believes that it had no choice but to go along with the CDS being offered by MarAd. According to APL, if it had not built its replacement vessels in the United States, it would have been violating its ODS contract.

Building in U.S. shipyards takes longer

Maritime industry officials are concerned over the fact that foreign shipyards build vessels faster than U.S. shipyards. The longer vessel construction time has two effects on the operator. The operator incurs a longer period of construction financing and loses business opportunities. The longer construction time is generally attributed to the lack of mass production in commercial ship building.

One subsidized operator we interviewed stated that the lack of timeliness in getting vessels built in U.S. shipyards was an operational disadvantage. He stated that not only did his vessels' construction financing cost more because of the longer construction period, but he also believed he lost a significant business opportunity. He explained that his firm made a decision to acquire new vessels for a particular service 1-year earlier than the foreign-flag competition. While the foreign-flag competition made its decision to acquire similar vessels a year later, it placed its vessels in service a year earlier than the subsidized U.S.-flag operator because of quicker delivery from foreign shipyards.

Sea-Land believes the delivery terms on its 12 new vessels were much better than any delivery terms that could be expected in U.S. shipyards. Sea-Land's contract required delivery of the first vessel in 15 months--January 1980--and a vessel each month thereafter. The twelfth vessel was delivered in December 1980. APL ordered its three vessels from a U.S. shipyard with delivery of the first vessel in 30 months--September 1981--with subsequent deliveries every 90 days. APL stated that because it has to finance these vessels over a longer construction period it is at

a disadvantage. According to APL this longer financing cost disadvantage is about \$5.2 million per vessel.

A report ^{1/} prepared by a MarAd contractor also stated that the longer U.S. shipyard delivery times have an adverse effect on U.S. vessel operators. The report gives two reasons:

"The first is the cost of opportunities foregone by having to wait an additional period of time before entering the market. The second is the cost of the shipowner's capital being tied up over a longer construction time."

CDS budget projections
inadequate to meet
needs of ODS operators

We discussed with MarAd officials future CDS requirements to meet the vessel replacement obligations in ODS contracts. MarAd's Office of Budget provided us data showing that for fiscal years 1983-86, as much as \$977.5 million could be needed to meet ODS replacement obligations for 17 liner vessels and about \$1.2 billion to meet bulk vessel and other anticipated CDS needs. To meet these CDS needs, the annual CDS budget will have to be increased significantly from its current level.

Notwithstanding these liner vessel replacement obligations and other anticipated needs, the Director of MarAd's Office of Budget told us that the current Administration has demonstrated the desire to reduce CDS expenditures. For instance, the Administration proposed deferring \$92 million of \$245 million in CDS funds available for fiscal year 1981 until fiscal year 1982 and proposed no new funds in the fiscal year 1982 budget. However, the Congress agreed to defer only \$37 million. In addition, pending an Administration review of overall U.S. maritime policy, the Administration's current budget projections for fiscal years 1983-85 are \$100 million annually.

Congressional action to provide
ODS for foreign-built vessels

In 1979 and 1980 the House Subcommittee on Merchant Marine, Committee on Merchant Marine and Fisheries, considered major legislation to revise maritime policy. One area of concern expressed by the Subcommittee and witnesses was the need for a major policy change to allow ODS vessels to be foreign built. However, no new legislation resulted at that time.

^{1/}Ernst & Whinney, "Cost Impact of U.S. Government Regulations on U.S. Flag Ocean Carriers", (Maritime Administration Contract No: 3101-9162-3089, December 1979).

The Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, authorizes ODS operators under limited circumstances to acquire foreign vessels in fiscal years 1982 and 1983 and still be eligible for ODS. Subsidized operators can construct, reconstruct, or acquire vessels overseas only if the Secretary finds and certifies in writing that CDS funds are not available. Vessels so acquired or modified will be treated as U.S. built for the purposes of ODS and certain other purposes. However, the legislation does not address the propriety of using such vessels in domestic trade nor the role of MarAd's other financial assistance programs in such foreign acquisitions or modifications.

The law further provides that:

"The provisions of this section shall be effective for fiscal year 1983 only if the President in his annual budget message for that year requests at least \$100,000,000 in construction differential subsidy or proposes an alternative program that would create equivalent merchant shipbuilding activity in privately owned United States shipyards and the Secretary reports to Congress on the effect such action will have on the shipyard mobilization base at least thirty days prior to making the certification * * *."

U.S. POLICIES PROMOTING AMERICAN SHIP REPAIR YARDS LIMIT COMPET- ITIVENESS OF U.S.-FLAG OPERATORS

ODS program requirements and a U.S. Customs Service tariff promote the U.S. ship repair industry but hurt subsidized U.S.-flag operators by either requiring vessel maintenance and repairs to be performed in the United States or by penalizing operators for M&R done in foreign repair yards. These requirements and tariff limit subsidized U.S.-flag operators ability to compete with foreign-flag operators who can schedule their M&R wherever it best suits the efficiency and economy of their operations. In addition, the unsubsidized operators are also affected by the tariff.

Background on ODS M&R subsidy

M&R subsidy was included in the 1936 act to compensate ODS operators for being required to have all M&R, except emergency M&R, performed in the United States where repairs are more costly. M&R costs are eligible for subsidy if deemed fair and reasonable by MarAd, not compensated for by insurance, and done in the United States. If an M&R-subsidized operator has non-emergency M&R done in a foreign repair yard, the operator may be penalized through a reduction in overall ODS subsidy and, of course, doesn't receive any M&R subsidy. Subsidized operators without M&R subsidy may also be penalized through ODS wage reductions if they have M&R done in foreign repair yards.

The M&R subsidy rate is determined from U.S. and foreign price estimates of representative items of M&R. A MarAd contractor collects the foreign cost data from the world's ship repair centers. The difference between U.S. and foreign prices is then expressed as a percentage or rate. Principal categories of M&R include drydocking and underwater repairs, boiler repairs, machinery and electrical repairs, hull and deck repairs, and exterior and interior painting.

For calendar year 1975 1/ the M&R subsidy rate averaged 19.5 percent, which means that for every dollar that the subsidized operator spent on M&R, the Government paid 19.5 cents to the operator. For calendar year 1975 the total amount of M&R subsidy was \$12.8 million or 5.3 percent of the total ODS for that year.

Background on U.S. tariff on foreign M&R

To promote the U.S. ship repair industry, U.S. tariff laws placed a tariff on U.S.-flag vessel foreign repairs. The Tariff Act of 1930 2/, as amended, states that the tariff shall be 50 percent of the cost of the repairs. However, if the repairs had to be made at a foreign yard because of damage due to weather or other casualties, then the Secretary of Treasury is authorized to refund the duties paid. Tariff duties calculated on foreign vessel repairs for 1978, the latest year complete data was available, was \$8,641,060, or about 0.1 percent of the estimated \$7.5 billion of customs duties collected that year. The United States is the only country having a duty on foreign repairs.

Efforts to reduce M&R subsidy

After the 1970 act MarAd started to administratively eliminate the M&R subsidy in new liner subsidy contracts. The primary reasons for this were to reduce (1) the dependence of liner operators on ODS and (2) the Government's ODS expenditures. This effort supported by a Maritime Subsidy Board decision, met with some success. 3/

The Board's decision 4/ stated that it recognized that the operator would have a substantial disadvantage in subsidized

1/Latest year that complete statistics are available.

2/The tariff on U.S.-flag vessel foreign repairs was originally enacted in 1866.

3/The Maritime Subsidy Board is the representative of the Secretary of Transportation. The three-member board administers the maritime aid programs of the 1936 act.

4/Maritime Subsidy Board Decision, Docket No. A-121, December 7, 1977.

costs compared to its foreign-flag competitors and would not be "on a parity" with foreign-flag competitors. However, if the purpose and policy of the 1936 act could be achieved effectively without subsidy, then subsidy should not be awarded. The Board pointed out that the Congress had given the Government the flexibility to pay less than full subsidy if that was all that was necessary to aid the operator. Section 603(b) of the 1936 act was cited as providing for full subsidy payment or such lesser amounts as the parties should agree upon.

Based on this decision, MarAd has entered into ODS contracts with some liner operators where traditionally subsidized costs are excluded. Of the costs excluded, M&R is the most prominent. Hull and machinery insurance subsidy has been excluded where M&R has been. To a lesser extent, the protection and indemnity insurance subsidy has been excluded. As of May 1981, 95 of the 160 subsidized liner vessels were not receiving an M&R subsidy.

We discussed with MarAd officials their efforts to delete M&R from subsidy contracts. We were particularly interested in whether MarAd had considered the effect deleting the M&R subsidy would have on the U.S. ship repair industry. MarAd officials advised us that they had considered the effect on the ship repair industry when they made the initial decision to start deleting the M&R subsidy and believed that it would have little effect. Further, a MarAd official told us that the decisions to delete the M&R subsidy were determined on a case-by-case basis with the primary consideration being the ability of the operator to effectively compete without M&R subsidy.

M&R requirements and tariff
law adversely affect com-
petitiveness of ODS operators

ODS requirements for M&R and the 50-percent tariff on vessel repairs obtained in foreign repair yards limit the ability of ODS operators to compete with foreign operators. Because ODS operators having vessels with an M&R subsidy must obtain all M&R on these vessels in the United States, except in emergencies, their ability to get this work done where it best fits their operations from an overall efficiency and economy perspective is limited. ODS operators having vessels without an M&R subsidy can have their M&R done where it is most convenient and economical. However, if the work is done in a foreign repair yard, the operator generally must pay a 50-percent tariff and may be subject to an ODS penalty.

Operators need flexibility
in scheduling M&R

U.S.-flag operators--subsidized and unsubsidized--informed us that cost is only one consideration in determining where their M&R should be performed. The most important consideration is how to minimize the impact of the M&R work on their operations.

Therefore, operators with an M&R subsidy are operating at a disadvantage to their foreign competitors who can choose where to have M&R performed.

To illustrate this point, one subsidized liner operator, who has vessels with and without M&R subsidy, provided us with data concerning his recent M&R decisions on two of his non-M&R-subsidized vessels. These decisions were based on the overall cost to the operator in terms of dollars and impact on operations. For example, on one of the vessels he received a bid from a U.S. repair yard for \$303,044 and from a foreign repair yard for \$184,000. The operator had the M&R made at the foreign repair yard at a cost of \$184,000 and had to pay the 50-percent tariff of \$92,000. ^{1/} The same operator received bids on another vessel of \$436,000 from a U.S. repair yard and \$187,000 from a foreign repair yard. With the 50-percent tariff the foreign repair yard would have cost \$280,610. In this case the operator chose the U.S. repair yard because of the reduced impact on the operator's service.

In addition, we discussed the issue with two major unsubsidized U.S.-flag operators who stated that they obtain their vessel M&R both in U.S. and foreign repair yards. They added that they choose repair yards not only on the basis of cost, but also on the basis of which repair yard can perform the work with the minimum interruption to their normal operating schedule. They also told us that vessel M&R in foreign repair yards cost them more than their foreign competitors once the 50-percent tariff is added. However, sometimes they are willing to pay this added cost to minimize the effect of the M&R on their cargo service. These operators stated that for them and the ODS operators the 50-percent tariff limits their ability to effectively compete with foreign competition.

Emergency repairs may
also be more costly

U.S. Customs Service's policies concerning the applicability of the tariff on emergency repairs made in foreign countries also hinder the competitiveness of subsidized U.S.-flag operators. These policies differ from MarAd's policies.

^{1/}MarAd's Director of Financial Management informed us that this operator was penalized about \$13,000 through a reduction of wage subsidy for the period of time this vessel was in the foreign repair yard, because had M&R been performed in the United States only a few crew members would have remained on board the vessel. The operator appealed this matter to the Maritime Subsidy Board. The Board in a decision dated July 30, 1981, granted the operator's appeal and approved the payment of wage subsidy for the period of time the vessel was in the foreign repair yard.

The U.S. Customs Service generally places a tariff on all foreign repairs to U.S.-flag vessels except those emergency repairs needed for the safety of the vessel. However, emergency repairs is narrowly defined and is generally limited to those repairs caused by the weather or other natural causes rather than normal breakdowns of equipment.

MarAd's policy in assessing penalties to ODS operators for overseas repairs generally provides that subsidized operators will not be penalized for any emergency repair that is needed to safely and/or economically operate a vessel.

According to one subsidized U.S.-flag operator, when damage is incurred while the vessel is at sea, the vessel must often go to the nearest repair yard where the operator must pay a premium rate for services because the luxury of a bid does not exist. The operator added that, "while a foreign casualty is not a planned evolution with the intent of saving repair dollars otherwise available to U.S.-repair firms, operators are still charged with the 50-percent tariff except under very strict circumstances." The operator gave as an example one of his subsidized vessels without M&R subsidy, which, because of the negligent operation, ran into a pier in a foreign port. Repairs to the vessel were about \$400,000 and the Customs' tariff will cost the operator about \$200,000. The operator went on to state that if the same type of accident would happen to a foreign competitor, such as the Japanese in his trade route, the repairs would only cost the foreign-flag operator \$400,000. MarAd officials considered this repair to be of an emergency nature and did not penalize the operator.

Are the ODS subsidy requirements
and the 50-percent tariff necessary?

The ODS requirement that subsidized U.S.-flag vessels obtain their M&R in the United States, the penalty for foreign repairs to non-M&R-subsidized vessels, and the 50-percent tariff on foreign repairs are supposed to promote the well being of the U.S. ship repair industry. However, their effect on promoting the ship repair industry is not known. According to a recent MarAd analysis, the shipyard and ship repair mobilization base is considered barely adequate for emergency mobilization purposes.

We discussed with MarAd and industry officials the impact the ODS subsidy requirement and penalty and the 50-percent tariff on foreign repairs have on the U.S. ship repair industry. According to MarAd officials, they were not aware of any MarAd evaluation of the impact of these requirements. They told us that MarAd periodically takes an inventory of the mobilization base and has recently concluded that the base is barely adequate for mobilization needs. They also told us that the future prospects for the ship repair industry are adequate.

MarAd officials could not tell us what the impact on the ship repair industry would be in terms of possibly reducing the base below an adequate level if the M&R subsidy, the ODS penalties, and the 50-percent tariff were eliminated. MarAd officials said, however, that if the constraints on foreign ship repairs were eliminated, many U.S.-flag vessels would still obtain M&R in the United States because (1) the United States is where their voyages terminate and therefore U.S. repair yards would be convenient and (2) U.S. repair yards generally have quicker turnaround times. MarAd officials added that many foreign vessels are repaired in U.S. repair yards because of the quality work and faster turnaround times. In addition, a MarAd Assistant Administrator stated that he did not believe the elimination of ODS M&R subsidy for some vessels has had a diminutive effect on the mobilization base.

We also met with representatives of the Shipbuilders Council to determine if the Council was aware of the impact of the M&R requirement and the 50-percent tariff on the ship repair industry. They told us that the M&R requirement and tariff has a positive effect on promoting the ship repair industry, but the Council had not been able to quantify the impact nor has it been able to determine what impact, if any, the M&R subsidy already deleted from some ODS contracts has had.

REVISION TO SECTION 605(c)
HEARING PROCESS NEEDED TO
IMPROVE OPERATIONAL PARITY

In order for subsidized U.S.-flag liner operators to effectively compete against their foreign-flag competitors they must have the same operational ability or operational parity, in addition to cost parity. This means that ODS program requirements must not interfere with the subsidized operator's ability to perform in a manner similar to the competition. MarAd, recognizing this need, has tried to reduce some of the restrictive requirements placed on the U.S.-flag operators. However, of the restrictive requirements remaining, subsidized operators are most concerned about the negative effect the 605(c) hearing process has on operational parity.

Revisions made to ODS requirements

MarAd has made some revisions to reduce the number of restrictive requirements on the subsidized operators in order to provide them operational parity with their foreign-flag counterparts. The revisions have

- broadened service descriptions in new ODS contracts,
- liberalized the required number of sailings,
- allowed operators greater flexibility to transfer and interchange vessels between services, and

--changed the dividend policy to provide more financial decision making flexibility for the operators.

The 605(c) hearing process takes too long and is costly

A requirement that has not been revised is the 605(c) hearing process. Section 605(c) of the 1936 act requires that under certain circumstances, such as applications for ODS or trade route extensions to provide additional service, hearings must be held to determine the adequacy of existing service. In June 1977 a subsidized operator filed a petition before MarAd proposing a rule change. The petition stated that the proceedings under section 605(c) needed to be revised because they caused inordinate delay and were costly. In June 1977, the proposed rule was published in the Federal Register for public comment. About 2 years later, after reviewing public comments, MarAd denied the petition but announced that within 90 days it would issue for comment proposed regulations that would likely reduce some of the delay and expense of the section 605(c) hearing process.

In June 1979, MarAd proposed regulations to clarify existing rules and to introduce a standard discovery order 1/ and a standard forecasting technique. 2/ The MarAd staff stated that they believed these two procedural innovations would reduce delays in almost every phase of section 605(c) proceedings because all parties would be using the same basic data.

Comments from subsidized operators included:

"* * * Under present practices and procedures, Section 605(c) proceedings involve enormous delay and expense and interpose serious obstacles to managerial decision-making by subsidized carriers."

* * * * *

"* * * We doubt that any party can be active through a full section 605(c) hearing with a cost of less than \$200,000 divided among lawyers and economists, with \$500,000 a better estimate for the more elaborate proceedings."

* * * * *

1/Standard discovery order establishes specific information which all parties will be required to furnish.

2/Standard forecasting technique establishes by regulation the method to be used by all parties in offering forecasts of future U.S.-flag liner service adequacy or inadequacy.

"We need not repeat our distress that MarAd created to promote the American Merchant Marine has so administered section 605(c) that it takes a subsidized operator something over 3 years to gain authority to implement a business decision involving any expansion of his contractual operating routes."

In September 1979 the Administrator, MarAd, in testimony on H.R. 4769 commented on the section 605(c) hearing process before the House Subcommittee on Merchant Marine. He stated that the process "entails inordinate delay" and added:

"As I have implied, the 605(c) process is in sore need of improvement. To meet this need we have devised, and are now soliciting comments on, proposed new procedures to simplify and streamline the process."

MarAd does take a long time to conclude 605(c) hearings. We found that for the 16 605(c) hearings concluded in calendar years 1978, 1979, and 1980 the average length of each was about 3 years. The range was 18 to 61 months.

As of May 1981, almost 2 years after MarAd's proposed revision and almost 4 years after an operator had proposed revisions, MarAd had not decided on the revisions necessary to improve the 605(c) hearing process. A MarAd official stated that the revisions have been held up because the General Counsel's office is considering the various types of hearing procedures which could be used. The Maritime Subsidy Board requested on February 19, 1981, that the General Counsel's office report on this matter no later than April 20, 1981. However, as of May 1981, the proposed rule was still under review within the General Counsel's office.

NEED FOR IMPROVING ODS PAYMENT PROCESS

ODS operators have millions of dollars in accounts receivable 1/ due from the U.S. Government because of the extensive

1/We found that MarAd's automated accounting system is inadequate to reasonably estimate the total amounts payable to the ODS operators. MarAd officials told us that they are working to improve the system and that if we needed the amount payable for a particular operator that amount could be computed using a time-consuming manual process. We plan, after issuance of this report, to pursue with MarAd officials the matter of this inadequacy of MarAd's accounting system.

and time-consuming process MarAd uses to compute final ODS rates and, consequently, make final ODS payments. These procedures, which delay final payments by several years, preclude the ODS operators from the timely receipt of monies due them and hurts their cash management ability.

As wage subsidy accounts for about 87 percent of the ODS program cost and the liner operators' wage subsidy accounts for most of it, our review of the ODS payment process concentrated on the payment of ODS wage subsidy to liner operators. However, during our review we found that final wage subsidy payments to bulk operators and the final payment of other subsidy cost elements to both liner and bulk operators have also taken long periods of time.

ODS wage subsidy

The wage subsidy covers the difference in wage costs paid by U.S.-flag operators and what the wage costs would be if the vessel was operated under a foreign flag. Information concerning the actual wage costs of the U.S.-flag operator to operate a vessel is readily available to MarAd. However, determining what the wage costs would be to operate the vessel under a foreign flag is much more difficult and time-consuming. Therefore, MarAd has developed procedures using tentative rates to reimburse the subsidized operators on a monthly basis until the final rates are determined.

ODS liner wage payment procedures

For each liner voyage terminated during a month, the ODS operator submits a billing to MarAd based on a tentative ODS wage rate for the number of days the vessel operated. The tentative rate is based on the best information available at the time concerning the operator's wage costs, foreign exchange rates, and foreign competition (who the foreign competition is for each operator and the applicable foreign wage costs). By October 1 of each wage year ^{1/}, a tentative rate is established for the wage year. Adjustments to billings submitted from July 1 (based on the previous years tentative rate) through establishment of the tentative rate can be made. However, after the tentative rate is established, no further adjustments are made to the ODS wage rate until final rates are established.

MarAd procedures provide for establishing final ODS wage subsidy rates within 18 months of the close of the wage year. The 18-month period is considered necessary to determine the foreign competition--operators and cost information--in order to compute the cost of operating the ODS vessel under a foreign

^{1/}ODS wage subsidy rates are based on a base wage year which by law, runs from July 1 through June 30.

flag. It is a slow and precise process which includes an analysis of each operator's trade routes to identify the predominant foreign operators. ^{1/} After identifying the predominant competition, the wage cost of a composite foreign operator is determined, on a weighted average basis, to be used to compute the final ODS wage rate. The composite foreign operator represents the foreign competition on a particular trade route.

Delays in finalizing ODS liner wage rates costly to operators

Although MarAd procedures provide for finalizing ODS liner wage rates within 18 months of the close of the wage year, the actual period averages 3 years. As of May 1981, wage year 1978 was the most recent year for which all final ODS liner wage rates had been computed. We discussed this matter with officials in MarAd's Office of Maritime Aids and were informed that the major delay involves collecting the foreign competition and foreign cost data. Once this information is collected, it only takes about 3 months to compute the final rates and generally 3 to 4 months to get the operator's concurrence and the Maritime Subsidy Board's approval. A Board official stated that MarAd is attempting to speed up the process and believes MarAd has made progress in making quicker determinations of the foreign competition.

Because the tentative rates used by MarAd to pay liner operators' interim monthly billings have generally been lower than the final rates, delays in finalizing wage rates mean that MarAd owes liner operators subsidies for periods averaging 3 years. This can be costly to the ODS liner operators. If the operators are low on operating funds, they must resort to borrowing, which, at the interest rates which have existed for the last several years, is very expensive. If the operator is fortunate enough to be in a sound cash position, the absence of faster final payments by MarAd prevents the operator from possibly taking advantage of new investment opportunities. However, regardless of the operators' cash position, the long time that they must wait to receive final payment puts them at a disadvantage to their foreign competition. Generally, accounts receivables in the industry turn-over quickly. Bills are due when cargoes are received at the port or within 14 days, and an account is overdue after 60 days.

As previously mentioned, we attempted to determine from MarAd's accounting system a reasonable estimate of what MarAd owed the operators. However, after reviewing MarAd's books and

^{1/}Only the predominant foreign operators--those whose carriage comprise at least 60 percent of the competition and each foreign operator carrying at least 15 percent of the trade--are considered in the foreign competition computation.

discussions with MarAd officials, we concluded that MarAd's system could not provide a reasonable estimate. MarAd did, however, assist us by requesting from the operators the amounts that the operators were carrying on their books as receivables from MarAd. The following schedule shows the conservative estimated amounts that eight liner operators had recorded on their books as of March 1981 as ODS receivables from MarAd.

Calendar year	Amount recorded as receivables from MarAd
1977	\$ 4,011,112
1978	3,077,431
1979	13,954,028
1980	<u>18,703,778</u>
Total	<u>\$39,746,349</u>

To further identify the extent of this problem, we reviewed the final ODS liner wage payments made for 1975. 1/ We found that the final payments totaled over \$18 million. Nine operators received about \$18.7 million, and one operator had to pay back \$0.6 million. 2/ The length of time for these final payments averaged 3 years.

As indicated above, an operator could be overpaid by the tentative rates, which amounts to an interest-free loan while MarAd computes the final rates. This, of course, is a benefit to these operators, although it distorts the purpose of the ODS program.

An alternative to
the current procedures

According to Office of Maritime Aids officials, it would be possible in about 3 months after the close of the wage year to develop a revised tentative wage subsidy rate based on more current information than what was used to compute the tentative rate. These officials told us that generally, after 3 months, MarAd's Office of Maritime Aids has enough information on actual operator costs, exchange rates, and foreign competition to develop a fairly accurate final subsidy rate.

1/Although final rates have been computed through wage year 1978 (June 1978), calendar year 1975 was the latest year all final payments had been made at the time of our review.

2/In 1975 there were 10 ODS liner operators.

Officials in MarAd's Office of Maritime Aids informed us that in 1979 they used this revised tentative ODS rate approach to help out an operator experiencing a particularly tight cash flow problem. For wage year 1977, MarAd computed the final subsidy due the operator as amounting to about \$2.6 million. Based on this calculation the operator was paid an advance of \$1.6 million. The final payment was computed at \$2.8 million, only \$0.2 million more than the estimate.

Officials in MarAd's Office of Maritime Aids informed us that going to a system of revised tentative wage subsidy rates for all liner operators would substantially reduce the operators' accounts receivables within about 6 months after the wage year closed. These officials believe that the computation of revised tentative rates would only have a minimal effect on MarAd's workload while providing much greater benefit to the already competitively disadvantaged U.S.-flag fleet. Officials in MarAd's Office of Financial Management agreed with the above assessment of the benefit of revised tentative rates and stated that the use of such rates to adjust MarAd's accounts would add greater integrity to MarAd's accounting system.

In the fall of 1979 MarAd's subsidy program officials recommended to the Maritime Subsidy Board that a revised tentative rate payment system be adopted. A Board representative stated that the Board prefers that MarAd continue its efforts to develop a way of speeding up the current final rate process. The Board also expressed its concern about the possible administrative burden that a revised tentative rate system might impose.

In response to the Board, MarAd is attempting to develop a quicker way of determining the predominant competition. MarAd officials believe that they are making some progress in this regard. However, until MarAd develops a system that can provide final rates within 18 months as provided for by MarAd's procedures, Maritime Aids officials believe that MarAd should adopt a payment system using revised tentative wage subsidy rates. In addition, these officials believe that the added administrative burden of a revised tentative wage rate payment system would be minimal compared to the benefits.

Late payments of wage subsidy to bulk operators

Final wage subsidy payments to bulk operators have also taken several years. In May 1981, MarAd made the first final wage subsidy payments to bulk operators since the program's inception. MarAd officials informed us that the delay was due to the fact that bulk service is worldwide and MarAd and the bulk operators could not agree on who was the foreign competition. The problem has been resolved and final wage rates have been calculated for 1973 through 1977 and MarAd hopes to complete final payments soon. As of March 1981, MarAd estimated it owed about \$6 million to bulk operators for these years. ODS owed to the

bulk operators for long periods of time hurts their financial management capability.

CONCLUSIONS

MarAd's ODS program provides a cost subsidy to U.S.-flag operators to enable them to be competitive with foreign-flag operators in the carriage of cargo in U.S. foreign trade. However, while ODS generally provides cost parity for specific costs incurred by the U.S. operator, certain requirements and procedures imposed on the ODS operator increase costs and create other disadvantages which tend to negate the competitive position that ODS is supposed to provide.

The requirement that ODS operators build their vessels in U.S. shipyards adversely affects the ability of both liner and bulk operators to compete with foreign competitors. Although MarAd has a CDS program which provides direct subsidies for purchases of U.S.-built vessels, the CDS rate which is limited to a 50-percent ceiling, is not always adequate to compensate the operator for purchasing higher cost U.S.-built vessels. In addition, by building their vessels in the United States, operators are faced with higher construction financing costs and the possibility of lost business opportunities because U.S. shipyards take longer to build vessels. The possibility also exists that CDS funds will not be available.

The Budget Reconciliation Act of 1981 provides authority, under certain circumstances, for ODS operators to acquire or modify vessels overseas during fiscal years 1982 and 1983. However, this is only a temporary measure and will not serve as a permanent fix to the above problems. In addition, it did not address the use of such vessels in domestic trade nor the role of MarAd's other financial assistance programs in such foreign acquisitions or modifications.

The ODS requirements that encourage U.S. maintenance and repairs and penalize operators obtaining foreign M&R are supposed to promote the U.S. ship repair industry. The purpose of the 50-percent tariff on foreign M&R is the same. These M&R requirements and the tariff have hurt ODS operators' ability to obtain M&R where it best suits the efficiency and economy of their operations. We believe that it is not in the best interest of the ODS program for subsidized operators to have restrictions, tariffs, and penalties placed on them which interfere with the efficient and economical operation of their vessels. In addition, the 50-percent tariff affects unsubsidized operators. Therefore, we believe that U.S. policies for promoting the ship repair industry need to be revised to make them more equitable to U.S.-flag operators.

The 605(c) hearing process for some ODS applications limits the ODS liner operator's ability to effectively compete with foreign competition. This process is both costly and time

consuming. While we recognize that MarAd is trying to improve operational hindrances, such as the 605(c) hearing process, its actions regarding improving the process have been too slow.

The U.S. Government owes ODS operators millions of dollars due to the excessive and time-consuming process MarAd uses to compute final ODS liner wage rates. While MarAd staff has suggested to the Maritime Subsidy Board an alternative which employs using revised tentative rates, the Board has expressed its preference for finding ways to accelerate the current process. While MarAd is working on ways to accelerate the process, the Board is delaying its decision on a revised tentative rate process.

RECOMMENDATION TO THE CONGRESS

The Congress should amend the Merchant Marine Act of 1936 to extend and clarify the Secretary of Transportation's authority to allow subsidized operators to build vessels overseas. The Congress should require the Secretary, in permitting overseas building, to consider the adequacy of the CDS ceiling, vessel delivery dates, the availability of CDS funds, and the effect of overseas building on the U.S. shipbuilding base. In revising the 1936 act, the Congress should consider the propriety of using such vessels in domestic trade and the role of MarAd's other financial assistance programs in aiding the operator to build these vessels. See appendix VII for suggested legislative language.

MATTER FOR CONSIDERATION BY THE CONGRESS

The Congress should consider revising U.S. policies for promoting the U.S. ship repair industry with the objective of making them more equitable to U.S.-flag operators. The Congress, when considering these policies, should address the effect of the M&R subsidy, M&R penalties, and the M&R 50-percent tariff on U.S.-flag operators.

RECOMMENDATIONS TO THE SECRETARY OF TRANSPORTATION

We recommend that the Secretary of Transportation direct the Administrator, MarAd, to:

- Assign a high priority to its review of the section 605(c) hearing process and to assign a deadline for the issuance of the revised procedures.
- Implement, on a trial basis, ODS liner wage payment procedures based on a revised tentative wage subsidy rate. During this trial period, the costs and benefits of these payment procedures should be evaluated to determine whether the procedures should be permanently adopted.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Transportation (DOT) concurs with our conclusions and recommendations. (See app. I.) DOT believes our recommendation to the Congress to allow, on a case-by-case basis, subsidized operators to build overseas to be a prudent alternative to the present requirements of the 1936 act. In addition, DOT supports our suggestion to the Congress to consider revising U.S. policies for promoting the U.S. ship repair industry.

Concerning our recommendation to the Secretary of Transportation "to assign a high priority to its review of the section 605(c) hearing process and to assign a deadline for the issuance of the revised procedures," DOT concurs that the process has excessively delayed applicants applying for ODS or amendments to the ODS contracts. On July 27, 1981, a MarAd task force, under the chairmanship of the Secretary, Maritime Subsidy Board, was convened to establish a schedule leading to a final recommendation to the Board on changes to the Code of Federal Regulations to simplify and speed hearings under section 605(c). Tentatively, MarAd expects that final recommendations on procedural process, standard discovery order, and standard forecasting technique can be sent to the Board by the end of October 1981. DOT cautioned, however, that even if the final recommendations of the task force are adopted by the Board, these modifications may not produce sweeping reductions in the time required for an evidentiary hearing under section 605(c). DOT did not address the issue of the excessive costs of these proceedings.

DOT supports the acceleration of final ODS payments to subsidized operators, but pointed out that a practical consideration the Board must deal with is the availability of ODS funds if tentative wage rates are revised. DOT stated that funds will not be available for this purpose in fiscal years 1981 and 1982. We believe subsidized operators should be paid all monies owed them. Timely receipt of subsidy by operators is important for the maintenance of cost parity--the principle upon which the program is based.

To resolve budgetary problems created by the acceleration of subsidy payments, DOT could request a supplemental appropriation for fiscal year 1982 and incorporate accelerated subsidy payments in future years' budget requests. DOT, in these requests, should point out to the Congress that the additional funds requested represent the more timely payment of monies owed to the operators. It does not represent an increase in subsidy program costs.

CHAPTER 3

WAGE SUBSIDY COSTS CONTINUE TO INCREASE

The Congress is concerned about the high wage subsidy costs. The Merchant Marine Act of 1970 authorized changes to the ODS program to encourage reductions in wage subsidy costs. MarAd has had some success in implementing these changes. However, the program costs continue to increase and MarAd officials are not optimistic about reducing future wage subsidy costs.

Wage subsidy is paid to subsidized U.S.-flag operators for the difference between the cost of operating a vessel with a highly paid American crew and the cost of operating the vessel with a generally lesser paid foreign crew. Two elements influence wage subsidy costs--the wages of American seamen compared to the wages of foreign seamen and the manning levels on U.S.-flag vessels compared to foreign manning levels.

Wage subsidy represents about 87 percent of liner ODS program costs and has had an average annual outlay of about \$232 million over the last 10 years. Total subsidy outlays for liner operators have increased from an annual average of \$193 million for the period 1961-70 to an annual average of \$266 million for 1971-80. Of total wages including fringe benefits paid by subsidized operators, about 73 percent has been reimbursed by MarAd.

COSTS OF AMERICAN AND FOREIGN CREWS

American crew costs are the highest in the world. As of April 1, 1981, monthly costs of a subsidized U.S. operator for selected jobs were generally higher than operators from other countries with high standards of living as shown below. 1/

	<u>Monthly crew costs</u>		
<u>Country</u>	<u>Master</u>	<u>2d Engineer</u>	<u>Able Seamen</u>
United States	\$17,387	\$8,212	\$3,301
Japan	9,705	3,920	3,643
West Germany	7,401	4,174	2,200
Sweden	8,695	4,813	2,605
Denmark	5,945	2,899	2,428

1/The data provided by MarAd represents the cost of a typical operator in these countries and includes such costs as base wages, vacation pay, overtime, and other fringe benefits.

Moreover, American crew costs are significantly higher than those countries with relatively lower standards of living as shown below.

<u>Monthly crew costs</u>			
<u>Country</u>	<u>Master</u>	<u>2d Engineer</u>	<u>Able Seamen</u>
Korea	\$2,800	\$ 905	\$ 644
Taiwan (Panama flag)	2,505	1,295	770
Hong Kong (Liberia flag)	2,708	1,293	721
Ghana	2,062	1,610	442

Efforts to control wage costs of subsidized seamen

The 1936 act charged MarAd with the responsibility for determining the fair and reasonableness of American subsidized wages. However, before 1970, subsidized operators had little incentive to negotiate with the unions for the lowest wage cost, since MarAd subsidized the total difference between the U.S. wages and the foreign competition's wages. Whenever MarAd disallowed certain costs, under these operator-union agreements, such as training costs and severance pay which MarAd believed did not meet the fair and reasonable criteria, the operators would take MarAd to court. MarAd, after long and costly court battles, would always lose. The courts would rule that the unions and operators collective-bargaining agreements were fair and reasonable because of the adversary manner under which they were negotiated.

The 1970 act established a wage index system to control wage costs. Subsidizable wage costs are computed on the basis of an index the Bureau of Labor Statistics developed. The wage index consists of the average annual change in wages and benefits for American employees covered by collective-bargaining agreements. Equal weight is given to changes in the transportation industries (excluding the offshore maritime industry) and to changes in non-agricultural industries (other than transportation). If the wage increases agreed to by the operators and unions exceed this index, MarAd will not subsidize this difference. Our review of the relative increases in the subsidized seamen's wages before and after 1970 showed that the wage index system has been effective in keeping these wage increases in line with those of other U.S. workers. However, annual American seamen wage and fringe benefit increases in major union contracts, including cost of living increases, have still averaged 9.4 percent since the wage index system went into effect.

Increasing competition from low wage operators

The composition of the predominant foreign competition has changed over the last several years. Developed maritime countries with relatively high standards of living and high wages are being replaced on some trade routes by low wage operators from countries with lower standards of living. As these lower wage operators carry a larger percentage of the trade, the ODS wage differential tends to be driven upward. We discussed the increasing number of low wage operators with a Maritime Aids official who concurred that these operators are becoming more prevalent. Based on calendar year 1975 foreign flag competition data, low wage operators were included as part of the predominant competition 13 times, whereas in 1979 they were included 26 times. According to a Maritime Aids official, this trend is likely to continue.

In addition to low wage maritime nations becoming more prevalent in the predominant competition, two other factors have caused ODS wage rates to increase. The first is using low wage, non-nationals on vessels operated by traditionally high wage operators. Based on 1979 foreign-flag competition data, foreign-flag operators using crews with some low wage non-nationals were part of predominant competition 12 times compared to calendar year 1975 when they were part of the competition 9 times. The second factor is servicing of U.S. trade by relatively low cost state-controlled operators, such as the Soviets, Poles, and Yugoslavs. According to a Maritime Aids official, these operators, whose wages are lower than high cost, developed maritime nations, could push ODS rates upward.

MANNING LEVELS ON U.S.-FLAG VESSELS COMPARED TO FOREIGN-FLAG VESSELS

The high manning levels on U.S.-flag vessels have long been recognized as a major reason for the high cost of operating a U.S.-flag vessel. The Congress indicated its concern over the high manning levels on subsidized U.S.-flag vessels compared to lower manning levels on foreign-flag vessels by providing in the 1970 act that the Secretary of Transportation determine, before awarding a construction subsidy contract, the subsidized manning levels. In determining the crew necessary for the efficient and economical operation of the vessel, the Secretary of Transportation considers the wage and manning scales of the collective-bargaining units, and provides representatives of the collective-bargaining units an opportunity to comment. Before the 1970 act, the unions and the operators negotiated the manning levels after the construction subsidy contract was signed and MarAd was bound to subsidize the negotiated manning levels. Under the 1970 act, if a manning level greater than that determined by MarAd is negotiated by the unions and the operators, MarAd does not subsidize the excess crew. According to MarAd officials, there are a few instances where operators and unions have negotiated higher manning levels than what MarAd would subsidize.

MarAd has generally been successful in reducing the manning levels on subsidized U.S.-flag vessels. For some liner vessels built after the 1970 act, manning levels have been reduced to a crew as low as 32, whereas, 20-year-old liner vessels had crews as low as 45 ranging to 58. In addition to reduced manning on new U.S.-flag vessels, vessels built before the 1970 act but sold subsequent to it have also had crew reductions negotiated by the new operator and the unions. Also, certain attrition agreements negotiated between East and Gulf Coast liner operators and a union have reduced manning levels. As of July 1980, MarAd statistics showed that the average manning per vessel for the entire subsidized liner fleet was about 41 while the average manning per vessel as of December 1970 was about 56. The average manning for subsidized liner vessels built after 1970 is about 37. For subsidized U.S.-flag bulk vessels built after 1970 the manning has averaged 26 crew members whereas prior to the 1970 act crews of up to 45 were common.

Potential for future manning reductions

Notwithstanding the manning reductions achieved by MarAd, U.S.-flag liner vessels are still generally among the highest manned vessels of the world's maritime nations. Manning levels on U.S.-flag vessels are primarily influenced by Coast Guard regulations, union agreements, and vessel type. Foreign-flag vessels are generally able to have lower manning levels because of differences between foreign and American crews' work customs and duties, and because they are not governed by Coast Guard minimum manning requirements. Although some foreign-flag vessels are manned under operator-union contracted manning levels, these contracts generally call for a manning level lower than those negotiated by American labor unions for similar vessels. For example, average manning on U.S.-flag LASH vessels 1/ is about 34, but foreign-flag manning of LASH vessels averages about 28.

A MarAd contracted study 2/, which reviewed the manning on subsidized and non-subsidized vessels, found that union agreements concerning manning levels on U.S.-flag vessels add an additional 42 percent in crew cost when compared to Coast Guard minimum safety requirements. The study stated that these extra costs resulted from additional deck and engineering personnel plus personnel in the stewards department. The report also stated that U.S.-vessel operators would choose a crew complement of

1/Lighter aboard ship (LASH) vessel is a type of liner vessel which carries barges.

2/Ernst & Whinney, "Cost Impact of U.S. Government Regulations on U.S. Flag Ocean Carriers", (Maritime Administration Contract No. 3101-9162-3089, December 1979).

about 10 percent more than the minimum required by the Coast Guard plus the stewards department. The total crew complement was 23 percent higher than the minimum Coast Guard requirement on a new technologically advanced vessel. A MarAd Assistant Administrator said that U.S.-flag subsidized liner operators would like about 3 to 5 crew members less per vessel than is provided for in the union agreements.

We discussed the possibility of future manning reductions with MarAd officials who believe that diesel-powered vessels now being built in the United States offer one of the best opportunities for manning reductions. The first of the diesel-powered container vessels will carry a crew of about 34. This is an improvement over the manning levels on older U.S.-flag liner vessels. Further, it is expected that any future vessels of this type will have manning levels of 31 or possibly less. In addition, MarAd officials believe that other technologically advanced vessels, such as the integrated tug-barge, also offer opportunities for manning reductions.

Impact of manning reductions on defense readiness

We discussed with MarAd officials the impact on the manpower mobilization base of the reduced number of vessels in the U.S.-flag merchant marine and the lower manning levels per vessel. We were particularly concerned about the ability of the United States to man its ready reserve ^{1/} and national defense reserve fleet. ^{2/} We were informed that MarAd does not consider this a problem, since an adequate number of mariners are still available for such duty. During 1979 and 1980, MarAd obtained letters from the maritime unions pledging their support during an emergency mobilization.

^{1/}The Ready Reserve Fleet consists of vessels which can be activated in 5 to 10 days.

^{2/}The National Defense Reserve Fleet consists of about 320 vessels anchored at three locations in the United States. In case of a mobilization, the U.S. Government can activate these vessels.



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

Assistant Secretary
for Administration

120 Seventh Street, S.W.
Washington, D.C. 20590

AUG 28 1981

Mr. Henry Eschwege
Director, Community and Economic
Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Eschwege:

Enclosed are two copies of the Department of Transportation's (DOT) reply to the General Accounting Office (GAO) draft report, "Evaluation of Maritime Administration's Ship Operating Differential Subsidy Program," dated July 16, 1981.

I am transmitting the comments prepared by the Maritime Administration (MARAD) in their entirety. As you know the report and the comments were prepared while MARAD was a part of the Department of Commerce. In view of the technical nature of the report, the recency of the MARAD transfer, and the developing nature of Administration policy on subsidies, we choose, at this time, not to amend the Maritime Administration's comments.

Secretary Lewis stated that with the transfer of MARAD to the DOT, the Administration will now be in a better position to develop a comprehensive maritime policy and this policy will include consideration of the operating differential program. The GAO evaluation will be used by the Office of the Secretary during the development of such policy. Further, I am sure that the new Maritime Administrator will fully utilize your evaluation in developing internal operating policies and in his management of MARAD.

If we can further assist you, please let us know

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Fairman".
Robert L. Fairman

Department of TransportationMaritime Administration

This refers to the undated draft Report to the Congress by the Comptroller General of the United States entitled "Evaluation of Maritime Administration's Ship Operating Differential Subsidy Program." The GAO recommendations and our comments are set forth below.

MATTERS FOR CONSIDERATION BY THE CONGRESSRecommendation

"We are asking the Congress to consider revising the Merchant Marine Act of 1936 to permit the Secretary...to allow on a case-by-case basis, subsidized operators to build vessels overseas. The Congress should require the Secretary, in permitting overseas building of such vessels, to consider the adequacy of the CDS ceiling, vessel delivery dates, the availability of CDS funds and the effect of overseas building on the U.S. shipbuilding base."

Comment

The proposal stated above reflects GAO's concern that the requirement of the operating-differential subsidy (ODS) program that subsidized vessels be built exclusively in the United States is no longer tenable under present conditions, and the requirement that vessels be built in the United States negates, to an extent, the competitive position that ODS is supposed to provide. The proposal also reflects GAO's understanding of the effect of the Administration's plans to limit construction-differential subsidy (CDS) funds in 1981 and in the future on the U.S.-flag fleet. It is noted that Congress has addressed this issue in the Omnibus Budget Reconciliation Act of 1981.

To promote and maintain a competitive U.S.-flag merchant fleet, new vessels must be constructed for documentation under the U.S.-flag. With little or no CDS funds available, the requirement to build vessels in the U.S. would make it next to impossible to achieve a strong and competitive U.S.-flag merchant fleet as envisaged by the Merchant Marine Act, 1936, as amended (the Act). GAO cites several factors relevant to the problem; namely, the CDS rate of 50 percent is not always adequate to compensate the operator for purchasing U.S.-built vessels and further that the operators are faced with higher financing costs and longer vessel construction time in the United States. We concur that these drawbacks are in conflict with the ODS program which is designed to enable the subsidized operator to compete on favorable terms with foreign-flag operators using vessels built in foreign yards.

Most important of all, however, is the limitation on present and future money for payment of CDS in amounts sufficient to maintain an adequate U.S.-flag merchant marine without recourse to foreign building. In our opinion, the GAO proposal includes the factors that the Secretary should consider before exercising his discretion to permit building overseas on a case-by-case basis.

We are of the opinion that the GAO proposal should be considered a prudent alternative to the Act's present requirement that subsidized operators construct their vessels in the United States in view of present and anticipated conditions affecting competitive operation of an adequate U.S.-flag merchant marine.

Recommendation

"Further, the Congress should consider revising U.S. policies for promoting the U.S. ship repair industry with the objective of making them more equitable to U.S.-flag operators. The Congress in its consideration of these policies should address the effect of the M&R subsidy, M&R penalties, and M&R 50 percent tariff on U.S.-flag operators."

Comment

In general, we support the recommendation. U.S.-flag operators who do not receive subsidy for maintenance and repairs (M&R) are free to decide whether to perform repairs in a U.S. or foreign repair facility based on economic and operational considerations. However, whenever a non-emergency repair is performed in a foreign country, the U.S.-flag operator must pay a 50 percent duty on the cost of the foreign repairs. This places the U.S.-flag operator at a cost disadvantage with respect to its foreign competitors who may repair anywhere in the world without incurring the additional expense of a tariff.

From the standpoint of operational flexibility, U.S.-flag operators who receive subsidy for M&R are at a distinct disadvantage vis-a-vis their foreign competitors. The Act requires that U.S.-flag operators who receive subsidy for M&R shall perform repairs in the U.S., except in an emergency. To give effect to this requirement in the Act, the subsidy contracts provide for the imposition of a penalty in the same amount as the cost of the foreign repairs. Penalties are not assessed for the performance of emergency repairs.

The 50 percent duty in fact must be paid for many repairs which MarAd would classify as emergency repairs since the standards employed by the U.S. Treasury Department to determine emergency repairs are more stringent than the standards used by MarAd.

In addition to limiting the flexibility of subsidized liner operators, these requirements have worked a particular hardship on subsidized operators of bulk cargo vessels. To provide these vessels with the same operational flexibility enjoyed by competing foreign-flag bulk vessels, MarAd has permitted bulk cargo vessels to engage in foreign-to-foreign operations. However, when non-emergency repairs become necessary, the Act would in effect require that these vessels interrupt ongoing profitable operations abroad and return to the U.S. for repairs. In many cases, the return voyages would be long and costly and substantial revenues would be lost during the interruption of service. Because of these significant economic considerations, some subsidized bulk vessel operators have chosen to repair abroad and have requested that in view of the economic considerations involved, the ODS penalty be waived. The penalty provision in the subsidy contracts precludes waiving the penalty entirely; however, fines have been mitigated on the basis that the circumstances in each case constituted "special circumstances."

Accordingly, together with its consideration of the necessity for the 50 percent duty levied by the U.S. Treasury Department for foreign repairs, the Congress should review the requirements in the Act for the performance

of non-emergency repairs of subsidized vessels in the U.S. with a view toward providing the operators of such vessels with the same operational flexibility enjoyed by their foreign-flag competitors.

RECOMMENDATIONS TO THE SECRETARY

Recommendation

The draft report recommends that the Secretary direct MarAd "to assign a high priority to its review of the section 605(c) hearing process and to assign a deadline for the issuance of the revised procedures,..."

Comment

We concur with the GAO that the section 605(c) hearing process has resulted in excessive delay to an applicant applying for ODS or amendment to its ODS contract. Although section 605(c) appears to be an unnecessary burden to the applicant, its primary purpose is to safeguard the incumbent U.S.-flag operator(s) against overtonnaging of the trade. It seems clear that Congress intended to give those citizens of the United States that have competing services a proper hearing on the issue of need. Under our system of law and concept of fairness, the Congress would not have acted and would not want MarAd to act without giving the interested parties notice of the proposed action and an opportunity to be heard on the specific issues. The principal unanswered question at this time is whether a significant decrease in the time required for a section 605(c) proceeding can be achieved consistent with the statutory requirements and our responsibilities thereunder.

A task force of representatives of five MarAd offices convened on July 27, 1981, under the chairmanship of the Secretary, Maritime Administration/Maritime Subsidy Board, to establish a schedule leading to a final recommendation to the Maritime Subsidy Board on changes to the Code of Federal Regulations (46 CFR) intended to simplify and speed hearings under section 605(c) of the Merchant Marine Act, 1936, as amended. Subcommittees were formed to complete review and prepare recommendations on a standard discovery order, standard forecasting technique and procedural process. Recommendations from each subcommittee to the full committee are scheduled for completion by August 31, 1981. However, the work of the subcommittee on standard forecasting technique is dependent on the availability of computer resources and may require some additional time. The recommendations will address each major comment from the responses received to the Federal Register Notice of June 25, 1979, describing proposed regulations and amendments to regulations to expedite proceedings under section 605(c).

Tentatively it is expected that the final recommendations on procedural process, standard discovery order and standard forecasting technique can be sent to the Maritime Subsidy Board by the end of October 1981.

It should be noted that even if the final recommendation of the task force on standard discovery, forecasting technique and procedural process is adopted by the Maritime Subsidy Board as anticipated, these modifications may not produce sweeping reductions in the time required for an evidentiary hearing under section 605(c). The requirements of section 605(c) are statutory requirements and as long as these requirements remain in effect, proceedings under section 605(c) will probably still require a significant amount of time.

Recommendation

The draft report also recommends that the Secretary direct MarAd "to immediately implement, on a trial basis, ODS liner wage payment procedures based on a revised tentative wage subsidy rate. During the trial period, the costs and benefits of these payment procedures should be evaluated to determine whether the procedures should be permanently adopted."

Comment

MarAd supports the acceleration of final ODS payments to the subsidized operators. At the present time, the Maritime Subsidy Board is considering a procedure for revising tentative wage subsidy rates based on the latest U.S. and foreign cost information available to bring these rates in closer conformity with final wage rates. Due to the continuing trend toward lower cost competition, this would normally result in additional subsidy payments to the operators and narrow the gap between wage payments made on a tentative basis and wage payments which would be made when final wage rates are calculated.

The Board's considerations, however, have included the review of other mechanisms to accelerate final ODS payments. The most significant of these is the accelerated annual determination of foreign-flag competition which has the greatest impact on ODS rate calculations. Recent changes in procedures have resulted in a marked improvement in the time schedule for completing the foreign-flag competition. If foreign wage costs can be obtained at approximately the same accelerated pace, the result will be a significant improvement in the time required for calculating final wage rates.

Another practical consideration the Board must deal with is the availability of ODS funds to pay the additional amounts which would be due if tentative wage rates are revised. At the present time, there are no funds available for this purpose in either fiscal year 1981 or fiscal year 1982.

Implementation of this procedure will therefore exacerbate an already difficult problem with respect to the availability of ODS funds. When viewed together with other ODS requirements, the Board's options at this time are limited.

[See GAO note below.]

GAO Note: A portion of the agency's comments, addressing material no longer in the report, has been deleted. As noted on p. 6, this material, along with the related agency comments, has been provided to the Committees' offices in a separate letter.

SUMMARY SCHEDULE OF NUMBER AND CAPACITY OF

U.S.-FLAG VESSELS

Type of service	Number of vessels	Total capacity (note a) (dwt)	Number of vessels	Total capacity (note a) (dwt)	Number of vessels	Total capacity (note a) (dwt)	Difference 1979 - 1959	
							Vessels	Capacity (note a) (dwt)
Non-subsidized U.S. vessels in								
Foreign trade								
General cargo	65	1,098,900	254	2,914,400	203	2,222,500	- 138	- 1,123,600
Bulk cargo	9	222,700	27	567,200	8	101,100	1	121,600
Tanker cargo	72	5,802,500	42	1,276,600	32	628,500	40	5,174,000
Total	146	7,124,100	323	4,758,200	243	2,952,100	- 97	4,172,000
Domestic trade								
General cargo	45	725,800	62	681,100	110	1,076,800	- 65	- 351,000
Bulk cargo	8	194,000	11	206,100	25	297,000	- 17	- 103,000
Tanker cargo	180	7,967,200	220	5,048,400	272	5,366,200	- 92	2,601,000
Total	233	8,887,000	293	5,935,600	407	6,740,000	- 174	2,147,000
Total active foreign and domestic	379	16,011,100	616	10,693,800	650	9,692,100	- 271	- 6,312,000
Temporarily inactive or laid-up status								
General cargo/bulk	9	111,100	64	728,700	62	650,400	- 53	- 539,300
Tankers	14	697,100	12	222,300	44	752,200	- 30	- 55,100
Total inactive or laid-up vessels	23	808,200	76	951,000	106	1,402,600	- 83	- 594,400
Total non-subsidized U.S. vessels	402	16,819,300	692	11,644,800	756	11,094,700	- 354	- 5,224,600
Subsidized U.S. vessels in								
Foreign trade								
General cargo	153	2,670,600	256	3,182,400	309	3,345,000	- 156	- 674,400
Bulk cargo	2	164,400	-	-	-	-	2	164,400
Tanker cargo	19	1,201,900	-	-	-	-	19	1,201,900
Total subsidized U.S. vessels	174	4,036,900	256	3,182,400	309	3,345,000	- 135	- 691,900
Total U.S.-flag fleet	576	20,856,200	948	14,827,200	1,065	14,439,700	- 489	- 6,416,500

a/ Deadweight tons (dwt)-- The total lifting capacity of a vessel, expressed in tons of 2,240 pounds.

Source: Maritime Administration

MERCHANT FLEETS OF THE WORLD

OCEANGOING VESSELS OF 1,000 GROSS TONS AND OVER

RANKED BY DEADWEIGHT TONS

<u>Country</u>	<u>December 31, 1979</u>			<u>December 31, 1959</u>		
	<u>Rank</u>	<u>Number of ships</u>	<u>DWT</u> (000 omitted)	<u>Rank</u>	<u>Number of ships</u>	<u>DWT</u> (000 omitted)
Liberia	1	2,380	158,702	2	1,015	19,092
Greece	2	2,876	63,542	13	409	4,085
Japan	3	1,751	61,192	5	956	8,554
United Kingdom	4	1,110	41,937	1	2,466	24,996
Norway	5	632	39,494	3	1,332	15,507
Panama	6	2,347	35,257	6	542	6,584
U.S.S.R.	7	2,512	21,590	12	858	4,551
U.S. (privately owned)	8	569	20,540	4	1,023	13,976
France	9	359	19,884	9	631	5,724
Italy	10	624	18,489	7	678	6,364
Spain	11	506	12,656	15	324	1,789
Germany (Federal Republic of)	12	502	12,485	8	892	6,044
Netherlands	-	-	-	10	555	5,452
Singapore	13	667	12,341	-	-	-
Sweden	-	-	-	11	577	4,963
China (People's Republic)	14	645	9,372	-	-	-
Denmark	-	-	-	14	356	2,870
India	15	363	9,100	-	-	-
All others (note a)		<u>6,955</u>	<u>114,321</u>	-	b/ <u>4,571</u>	<u>35,463</u>
Total		<u>24,798</u>	<u>650,902</u>		<u>17,185</u>	<u>166,014</u>

a/Includes 296 United States Government-owned vessels of 3,049,000 deadweight tons.

b/Includes 1,973 United States Government-owned vessels of 19,317,000 deadweight tons.

Source: Maritime Administration

TONNAGE OF COMMERCIAL CARGO

Year	Liner cargo (tons)	Percent carried on U.S.-flag	Tanker cargo (tons)	Percent carried on U.S.-flag	Non-liner cargo (tons)	Percent carried on U.S.-flag	Total cargo (tons)	Percent carried on U.S.-flag	Percent of dollar value carried on U.S.-flag
1979	57028	27.5	423374	3.7	342696	1.0	823098	4.2	14.7
1978	56491	28.3	410300	2.8	308858	1.5	775649	4.1	15.7
1977	47754	30.2	438554	3.3	289024	2.0	775332	4.5	16.4
1976	49753	30.9	359371	3.8	289639	1.7	698763	4.8	17.8
1975	44250	30.7	295985	4.7	275332	1.4	615567	5.1	17.5
1974	51418	29.8	294375	7.0	282722	1.8	628515	6.5	17.7
1973	51244	25.8	298418	7.4	281910	1.6	631572	6.3	18.9
1972	44641	21.9	226361	4.5	242564	1.6	513566	4.6	18.4
1971	44209	22.9	192484	4.9	220741	2.1	457434	5.3	19.6
1970	50387	23.5	182136	4.4	240723	2.2	473246	5.3	20.7
1969	41912	23.1	173531	3.2	212036	2.2	427479	4.6	19.3
1968	46083	24.0	163085	4.6	209454	3.0	418622	6.0	20.7
1967	47933	22.2	149286	3.0	190367	2.8	387586	5.3	21.7
1966	49906	22.9	152839	5.2	189505	3.6	392250	6.7	22.5
1965	49189	22.8	150462	5.5	171634	4.8	371285	7.5	21.4
1964	50319	28.1	121124	5.4	161389	6.1	332832	9.2	25.8
1963	48838	27.7	126544	5.4	136195	6.0	311577	9.2	25.1
1962	48276	26.2	123329	6.9	125179	6.7	296784	10.0	25.1
1961	48977	25.8	116674	5.1	106713	7.3	272364	9.7	25.6
1960	50678	28.6	118207	6.9	109008	7.7	277893	11.1	26.4
1959	48074	28.1	112082	4.8	106880	7.7	267036	10.2	26.1

a/Includes government sponsored cargos--excludes Department of Defense Cargo and Translake Cargos.

Source: Maritime Administration

CARRIED IN U.S. OCEANBORNE FOREIGN TRADE (note a)

ODS ACCRUALS AND OUTLAYS

JANUARY 1, 1937, TO SEPTEMBER 30, 1980

Calendar Year of Operation	Accruals			Outlays		
	Subsidies	Recapture	Net Subsidy Accrual	In FY 1980	Total Amount of Net Accrual Paid	Net Accrual Liability
1937-1955	\$ 682,457,954	\$157,632,946	\$ 524,825,008	\$ -0-	\$ 524,825,008	\$ -0-
1956-1960	751,430,098	63,755,409	687,674,689	-0-	687,674,689	-0-
1961	170,884,261	2,042,748	168,841,513	-0-	168,841,513	-0-
1962	179,727,400	4,929,404	174,797,996	-0-	174,467,393	330,603
1963	189,119,876	(1,415,917)	190,535,793	-0-	190,535,793	-0-
1964	220,334,818	674,506	219,660,312	-0-	219,660,312	-0-
1965	183,913,236	1,014,005	182,899,231	-0-	182,899,231	-0-
1966	202,734,069	3,229,471	199,504,598	-0-	199,504,598	-0-
1967	220,579,702	5,162,831	215,416,871	-0-	215,416,871	-0-
1968	222,862,970	3,673,790	219,189,180	-0-	219,189,180	-0-
1969	233,201,233	2,217,144	230,984,089	-0-	228,038,947	2,945,142
1970	232,686,761	(1,908,643)	234,595,404	-0-	234,449,812	145,592
1971	203,401,051	(2,821,259)	206,222,310	-0-	205,261,360	960,950
1972	192,512,930	-0-	192,512,930	-0-	190,732,158	1,780,772
1973	220,831,202	-0-	220,831,202	-0-	219,468,476	1,362,726
1974	228,590,811	-0-	228,590,811	-0-	218,554,166	10,036,645
1975	264,993,597	-0-	264,993,597	(1,371,429)	258,615,299	6,378,298
1976	283,679,736	-0-	283,679,736	(2,823,465)	269,037,444	14,642,292
1977	300,272,673	-0-	300,272,673	2,109,191	288,365,481	11,907,192
1978	292,991,393	-0-	292,991,393	3,450,153	276,780,116	16,211,277
1979	276,213,227	-0-	276,213,227	88,190,103	262,564,174	13,649,053
1980	313,139,000	-0-	313,139,000	245,397,837	245,397,837	67,741,163
Total Regular ODS	\$6,066,557,998	\$238,186,435	\$5,828,371,563	\$334,952,390	\$5,680,279,858	\$148,091,705
Soviet Grain Programs	\$ 146,444,444	-0-	\$ 146,444,444	\$ 6,415,846	\$ 143,741,984	\$ 2,702,460
Total ODS	\$6,213,002,442	\$238,186,435	\$5,974,816,007	\$341,368,236	\$5,824,021,842	\$150,794,165

Source: Maritime Administration's 1980 Annual Report

ODS COST ELEMENTS, SUBSIDY PAYMENTS,

AND PERCENT OF SUBSIDY

1970 THROUGH 1975

		<u>WAGES</u>	<u>SUBSISTENCE</u>	<u>M&R</u>	<u>H&M</u>	<u>P&I(p)</u>	<u>P&I(d)</u>	<u>TOTAL</u>
----- (millions) -----								
1970	Domestic Costs	\$255.5	\$9.5	\$35.8	\$13.6	\$11.3	\$10.7	\$336.4
	Subsidy	\$194.9	\$3.2	\$11.4	\$ 2.2	\$ 7.0	\$ 9.7	\$228.4
	Percent of Subsidy by item to total subsidy	85.33%	1.40%	4.99%	0.96%	3.06%	4.25%	100.00%
1971	Domestic Costs	227.4	7.1	31.8	12.5	8.3	10.3	297.4
	Subsidy	165.1	1.9	10.0	1.9	4.6	8.8	192.3
	Percent of Subsidy by item to total subsidy	85.86%	0.99%	5.20%	0.99%	2.39%	4.58%	100.00%
1972	Domestic Costs	237.4	3.1	34.5	12.3	8.8	7.8	303.7
	Subsidy	178.2	1.3	10.9	2.1	5.5	6.8	204.8
	Percent of Subsidy by item to total subsidy	87.01%	0.63%	5.32%	1.03%	2.69%	3.32%	100.00%
1973	Domestic Costs	266.9	1.2	36.9	12.8	12.1	8.4	338.3
	Subsidy	195.8	0.5	9.8	1.5	5.9	7.3	220.8
	Percent of Subsidy by item to total subsidy	88.68%	0.23%	4.44%	0.68%	2.67%	3.31%	100.00%
1974	Domestic Costs	268.4	1.2	45.3	12.8	13.3	8.6	349.6
	Subsidy	198.0	0.5	8.6	1.2	5.5	7.2	221.0
	Percent of Subsidy by item to total subsidy	89.59%	0.23%	3.89%	0.54%	2.49%	3.26%	100.00%
1975	Domestic Costs	298.9	1.5	65.7	13.9	15.9	10.2	406.1
	Subsidy	213.8	0.6	12.8	1.0	5.9	8.0	242.1
	Percent of Subsidy by item of total subsidy	88.31%	0.25%	5.29%	0.41%	2.44%	3.30%	100.00%
<u>TOTAL</u>	Domestic Costs	<u>\$1554.3</u>	<u>\$23.6</u>	<u>\$250.0</u>	<u>\$77.9</u>	<u>\$69.7</u>	<u>\$56.0</u>	<u>\$2031.5</u>
	Subsidy	<u>\$1145.8</u>	<u>\$ 8.0</u>	<u>\$ 63.5</u>	<u>\$ 9.9</u>	<u>\$34.4</u>	<u>\$47.8</u>	<u>\$1309.4</u>
	Percent of Subsidy by item to total subsidy	87.51%	0.61%	4.85%	0.76%	2.63%	3.65%	100.00%

Source: Maritime Administration

SUGGESTED LEGISLATIVE LANGUAGE

Section 615 of the Merchant Marine Act of 1936 is amended to read as follows:

"Sec. 615(a). Upon application by any operator receiving or applying for operating differential subsidy under this title, the Secretary of Transportation may, as he determines appropriate on the basis of his written findings, authorize such operator to construct 1/ its vessels of over five thousand deadweight tons in a foreign shipyard. For purposes of making his written determination to authorize the construction of a vessel in a foreign shipyard, the Secretary of Transportation shall take into consideration the ability of the construction differential subsidy account to fund such operator's application for construction differential subsidy; the adequacy of the construction differential ceiling provided in section 502(b) of this Act to compensate such operators for the difference between the estimated fair and reasonable foreign cost of construction and the same domestic cost of construction; the estimated vessel delivery dates for foreign versus domestically constructed vessels; and the effect of foreign construction of vessels on the domestic shipyard mobilization base.

1/Since our report and recommendation only addressed the construction of new vessels in foreign shipyards, we have limited the suggested legislative language to include only "construction" and not the "reconstruction" and "acquisition" of vessels. In the Omnibus Budget Reconciliation Act of 1981, the Congress provided temporary authority for construction, reconstruction, or acquisition of vessels in foreign shipyards. Should Congress desire to permit the "reconstruction" and "acquisition" of foreign vessels in the permanent authority, the suggested legislative language should be changed accordingly.

"(b) Vessels constructed pursuant to this section shall be deemed to have been domestically built for the purposes of this title (46 U.S.C. § 1171 et seq.), section 901(b) of this Act (46 U.S.C. 1241(b)), and section 5(7) of the Port and Tanker Safety Act of 1978 (46 U.S.C. §391(a)(7)): 1/ Provided, That the provisions of title XI of the Act (46 U.S.C. §1271 et seq.), as amended, and sections 511 (46 U.S.C. §1161) and 607 (46 U.S.C. §1177) of this Act shall apply to vessels constructed pursuant to this section. 2/

"(c) The Secretary of Transportation shall annually report to Congress the reasons for his determination under subsection (a) of this section and the effect such determinations will have on the shipyard mobilization base.

"(d) For purposes of this section, the amount of funds available at any time in the construction differential subsidy account shall mean the difference between the amounts annually appropriated for construction differential subsidy plus any amounts remaining available for such purposes from prior years' appropriations less the amounts thereof previously obligated."

1/Should Congress desire that vessels constructed overseas pursuant to this section participate in domestic trade to the same extent that vessels receiving operating differential subsidies presently participate, section 27 of the Merchant Marine Act of 1920 (46 U.S.C. §883), as amended, should be revised accordingly.

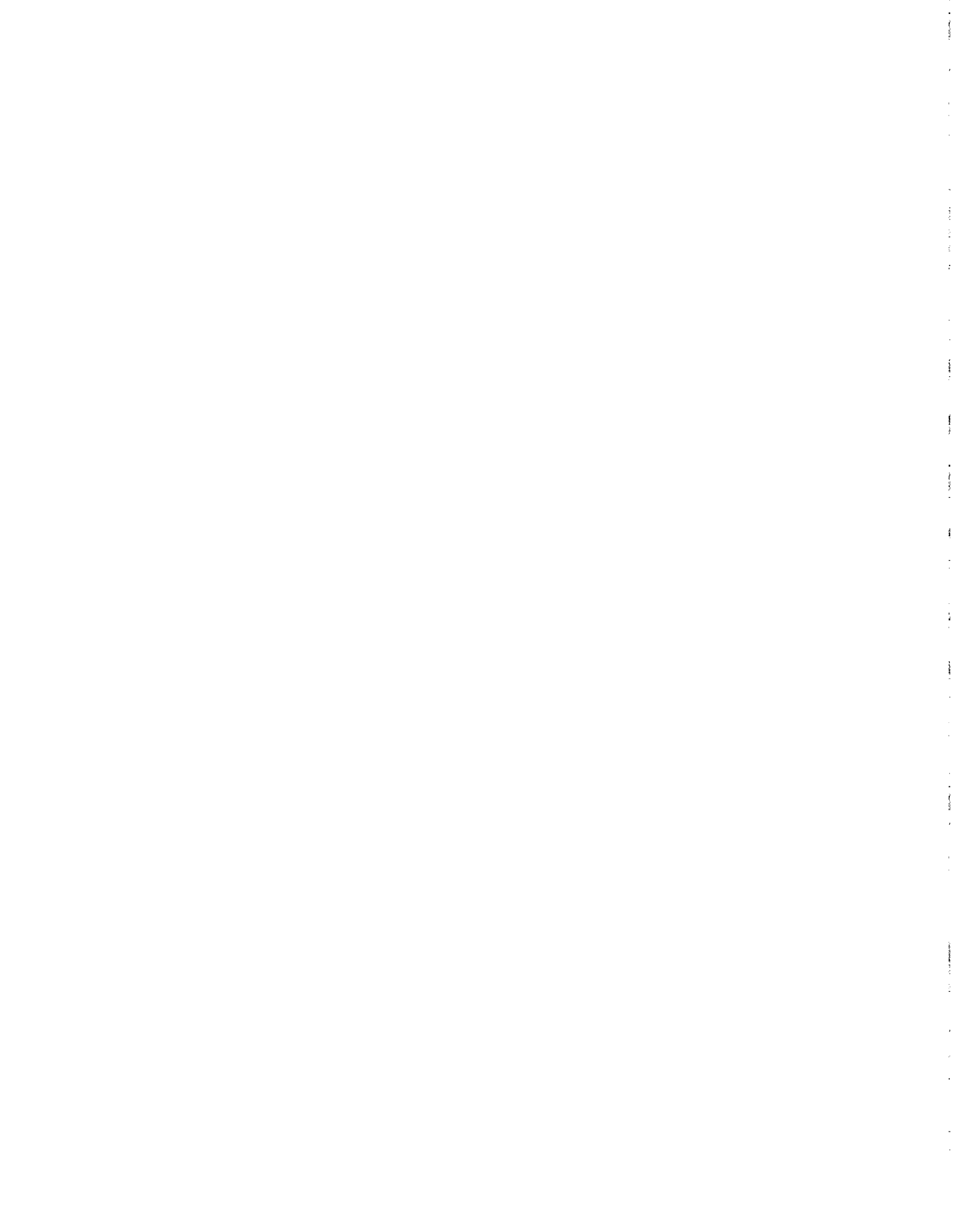
2/Subsection (b) as written extends the benefits of MarAd's other financial assistance programs to foreign built vessels to the same extent that such benefits are presently available to domestically built vessels. However, should the Congress desire to limit the availability of the other financial assistance programs to operators who, pursuant to this section, construct a vessel in a foreign shipyard, the language of subsection (b) should read "shall not apply."

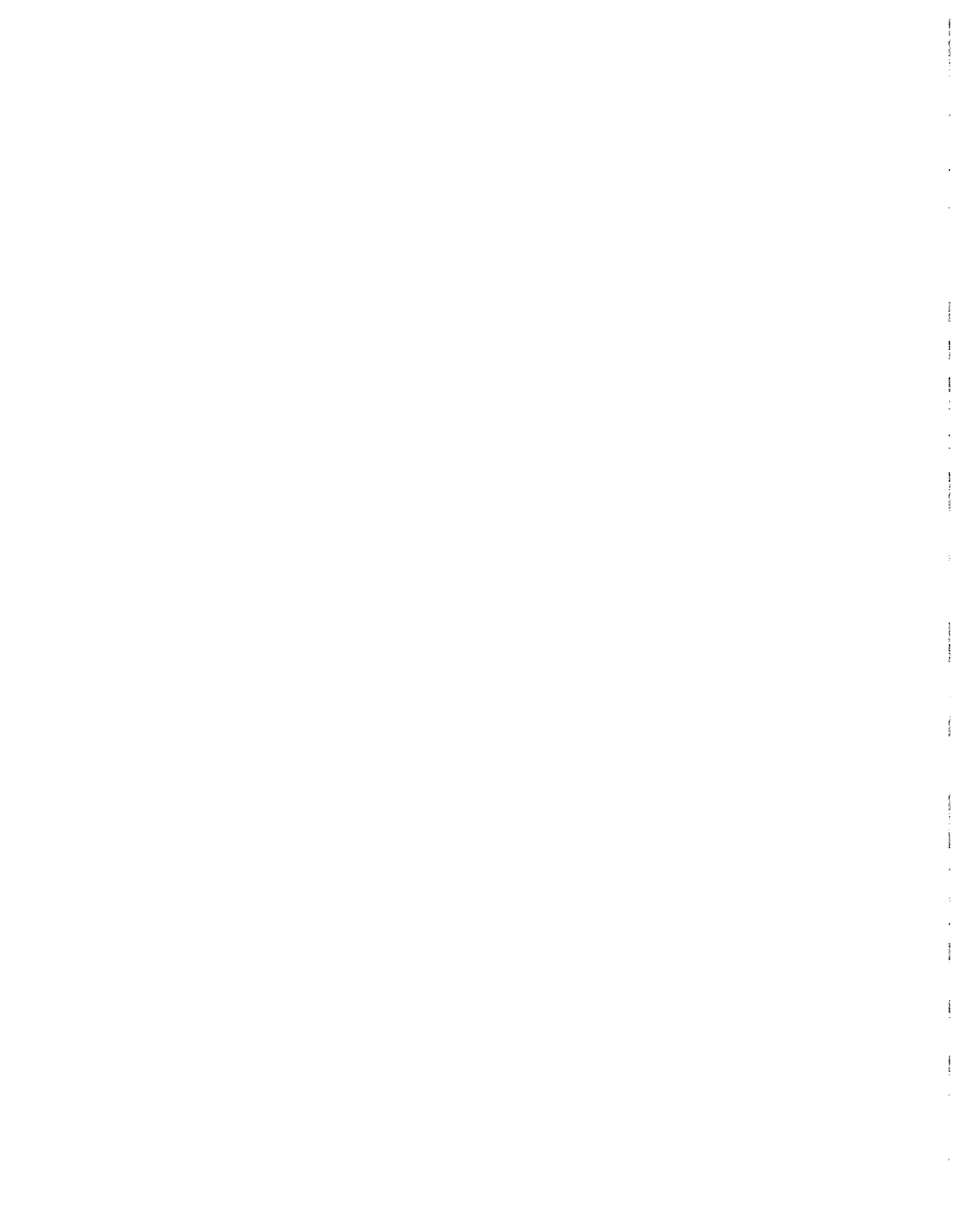
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