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## New MSP Tops Legislative Wrap-Up for 2003

**O**n November 24, MEBA representatives and I watched President Bush sign a sweeping \$400 billion defense bill at an historic ceremony at the Pentagon. In that bill, largely unnoticed by the press and the public, was legislation establishing an upgraded and expanded Maritime Security Program (MSP) that will provide more ships and more jobs for MEBA members.

This bill-signing ceremony capped off efforts by our industry, labor and management, by the Administration, and particularly, the U.S. Transportation Command's General John W. Handy, Maritime Administrator William G. Schubert, and by our many supporters in the Congress. House Armed Services Committee chairman Duncan Hunter (R-CA), Senate Armed Services Committee chairman John Warner (R-VA), and the Senate Commerce, Science and Transportation Committee's chairman John McCain (R-AZ) and Ranking Democrat Sen. Ernest Hollings (D-SC), all played a vital role in ensuring that this program — so important to our Merchant Marine — was completed nearly two years ahead of time. This means that our contracted companies will have adequate lead time to plan for the future to acquire new tonnage, thereby increasing employment opportunities for MEBA officers.

This year a new MSP went through without a single opposing vote. The reason this happened is because our industry, in true partnership with the Maritime Administration and DOD leadership, made it work. MSP and the men and women who make it happen, our mariners, are now completely integrated into defense planning.

Our industry can provide better sealift at a price far cheaper and far more reliable than any other option available to our Armed Forces. And we have driven this point home with outstanding performance in military and reconstruction campaigns in Iraq and Afghanistan. With MSP and a documented record of achievement by MEBA and our industry, there is no question now that the U.S. Merchant Marine is our Nation's "Fourth Arm of Defense." It is not a slogan; it is for real. And because of this performance, we now have a new MSP — and an assured foundation without which any other new measures to bring more ships and jobs to the fleet cannot begin to succeed.

Under the new program, U.S.-flag, U.S.-crewed ships in the MSP fleet will go from 47 to 60. To qualify for the program, vessels must be commercially viable and militarily useful, and generally 15 years of age or less. However, age waivers can be requested.

The program also adds a dimension to our Merchant Marine and yet another potential opportunity to bolster the number of MEBA jobs by authorizing \$250 million for the construction of five militarily useful product tankers. These new ships will operate in the U.S. foreign commerce and will also be made available to the U.S. government when required for national security.

Starting in October, 2005, vessel operators enrolled in the program will receive escalated payments beginning at \$2.6 million per ship for fiscal years 2006 through 2008; \$2.9 million per vessel for fiscal years 2009 through 2011; and \$3.1 million per ship for fiscal years 2012 through 2015. These payments will help ease inflationary pressures and will also help to encourage investments in U.S.-flag shipping operations. By contrast, MSP payments under the existing program have been set at a flat \$2.1 million annually with no increase since the program began in the mid-1990s.

The first five slots of the 60-ship program will be awarded for militarily useful product tankers. The next 47 operating agreements will be awarded to vessels participating in the current program, of which 40 are crewed by MEBA personnel. The remaining eight operating agreements will be awarded to vessels owned and operated by Section 2 U.S. citizens; or owned by a documentation citizen and operated by a Section 2 U.S. citizen.

The new ten-year program will start when the current MSP expires on September 30, 2005. One day later, on October 1, 2005, the follow-on MSP will be launched when new contracts go into effect. However, before the program is up and running, MARAD, DOD, and U.S.-flag operators will be very busy during 2004, as a number of procedural steps begin to unfold. These are the key dates to watch:

- By February 21, 2004, or within 90 days of the November 24th enactment of the new law, MARAD will issue a request for proposals (RFPs) for the construction of up to five product tankers to be constructed in U.S. shipyards.
- On or about July 1, 2004, MARAD will issue interim regulations that will spell out rules governing the new program.
- In the August-September, 2004 time-frame, MARAD will announce that applications will be due in October 2004.
- On or about October 15, 2004, MARAD is expected to require the filing of applications from all vessel operators wishing to enroll in the new program.
- December 31, 2004 is the key date for owners of vessels participating in the current MSP to make application in order to be grandfathered for priority participation in the new program.
- Based on the above October 15, 2004 filing date, action on all contract applications is expected to be decided by MARAD, in conjunction and consultation with DOD by January 12, 2005 or within 90 days of accepting the applications.

These are MARAD's target dates. There is every reason to

believe that the maritime agency, under the watch of Captain Bill Schubert, will meet these target dates.

Although MARAD will be responsible for publishing new regulations and accepting applications, the agency will work very closely with DOD's U.S. Transportation Command (USTRANSCOM) throughout the decision-making process regarding the approval or denial of applications. Over the next 12 months, as the administrative and regulatory activities move forward, MEBA President Ron Davis and AMC will be working together with our member companies every step of the way to facilitate entry into the new program, and to make sure the numbers of MEBA jobs and MEBA-crewed ships are increased.

2003 also saw another important development for U.S.-flag ships and MEBA jobs. We were able to increase food aid cargoes, and we were able to stop in its tracks an ominous but disguised attempt to misuse "emergency" preference waivers in a way that could have made much of cargo preference a matter of choice — not the matter of law it is.

As you know, cargo preference is one of the three key pillars (along with MSP and the Jones Act) of government priorities to keep vessels and jobs under our flag. Cargo preference laws mandate the U.S.-flag carriage of 75 percent of food aid cargoes shipped by the U.S. Department of Agriculture (USDA) and the U.S. Agency for International Development (USAID), at least 50 percent of all civilian agency shipments, and 100 percent of military cargoes moved overseas by the Department of Defense. Without this assured base of cargo these laws provide, U.S. vessels operating in our foreign commerce would have a difficult time remaining under the U.S. flag for long, even with MSP in place.

During the year, AMC worked to boost funding for emergency food aid shipments to several African nations as part of the omnibus spending bill. This effort, in conjunction with a large broad-based food aid coalition, met with success when \$250 million above the Administration's budget request for fiscal year 2004 was added.

We also took an active role in making sure that cargo preference laws apply to shipments bound for Iraq, as the United States undertakes the largest rebuilding program since the end of World War II — the reconstruction of that nation.

It is hard to imagine that in the context of military and humanitarian operations in Iraq and Afghanistan, with U.S. merchant mariners answering the call of duty every day, that cargo preference should have even been an issue. Yet, some in the federal government actually wanted to waive preference using "emergency" powers when there was no declared emergency and when U.S.-flag vessels and crews were ready, willing, and available.

When the vital wartime supplemental funding bill was debated in Congress earlier this year, we were convinced that waiver authority in the bill was too broad and could affect preference laws. For this reason, we worked successfully to insert a provision in the bill re-

emphasizing the applicability of cargo preference for shipments by government agencies of military, humanitarian, and reconstruction cargoes to the Middle East under Operation Iraqi Freedom and for the post-war rebuilding. This provision sent a clear message from the Congress to government agencies not to ignore U.S.-flag shipping requirements. Had this message not been sent, there is no question that the precedent of widespread use of waiving the U.S.-flag shipping requirements would have been *step one* toward the *end* of cargo preference. So far, it is working as intended.

Finally, 2003 closes with one item of unfinished business that we have addressed in the *Marine Officer* before. A top priority next year will be to finish the job and see that Congress repeals a time-consuming, costly and anti-competitive regulation being imposed on U.S.-flag carriers and crews by the U.S. Customs Service.

This onerous regulation, which makes repairs performed while a U.S. vessel is underway on the high seas subject to a 50 percent *ad valorem* duty, is costing our operators millions of dollars annually, while our foreign-flag competition is not bound by this expense. We are well on our way to seeing this regulation rescinded *retroactively* which means that U.S. flag operators will be entitled to seek refunds from the Customs Service for the duties assessed. As the chairman of the House tax-writing committee put it: "This regulation was wrong from the beginning."

This year's progress is shown by the fact that legislation was cleared by the House of Representatives twice this year — first as part of a miscellaneous trade bill, and later as part of a catch-all tax relief extension measure. The Senate version of the miscellaneous trade bill, also containing the repeal language, has been temporarily stalled in getting to the floor, and Congress adjourned before the legislation could be taken up.

It may well be that we ask our supporters to add the provision to yet another piece of legislation next year. It is not unusual to work on two or three fronts in the same chamber and on different legislative vehicles. In political circles, this approach is known as the "Bennett Johnson method" because the legendary Louisiana Senator was famous for adding the same amendment for his state to a number of bills, thereby guaranteeing passage in one bill or another. With or without the Louisiana Senator's approach, we will get this done.

Before closing, let me say that the new MSP and the congressional re-emphasis of cargo preference are major accomplishments for our industry with long-term, positive implications for the U.S.-flag fleet and MEBA. They are accomplishments that everyone in our industry can take pride in, because without the record of high performance that our Merchant Marine demonstrates every day of every year, none of this would have been possible.

Best wishes to everyone in the MEBA for a happy and blessed holiday season! ✕