

7/20/79 [2]

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memo	<p>From Dodson to Hutcheson (one page) re: DPS memo on maritime policy</p> <p><i>opened per RAC NLC-126-17-36-1-3, 10/24/13</i></p>	6/11/79	A

FILE LOCATION

Carter Presidential Papers- Staff Offices, Office of the Staff Sec.-Pres. Hand-writing File 7/20/79 [2] BOX 140

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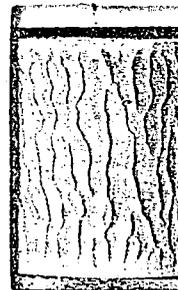
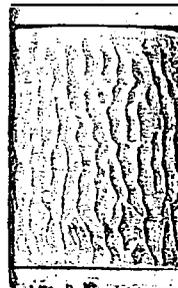
THE WHITE HOUSE
WASHINGTON

7/20/79

Arnie Miller
Tim Kraft

The attached was returned in the President's
outbox and is forwarded to you for
appropriate handling.

Rick Hutcheson



	FOR STAFFING
	FOR INFORMATION
✓	FROM PRESIDENT'S OUTBOX
↑	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND
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	EIZENSTAT
	JORDAN
✓	KRAFT
	LIPSHUTZ
	MOORE
	POWELL
	WATSON
	WEXLER
	BRZEZINSKI
	MCINTYRE
	SCHULTZE

	ARAGON
	BOURNE
	BUTLER
	H. CARTER
	CLOUGH
	COSTANZA
	CRUIKSHANK
	FALLOWS
	FIRST LADY
✓	GAMILL <i>Am</i>
	HARDEN
	HUTCHESON
	JAGODA
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	PRESS
	RAFSHOON
	SCHNEIDERS
	VOORDE
	WARREN
	WISE

	ADAMS
	ANDRUS
	BELL
	BERGLAND
	BLUMENTHAL
	BROWN
	CALIFANO
	HARRIS
	KREPS
	MARSHALL
	SCHLESINGER
	STRAUSS
	VANCE

THE WHITE HOUSE

WASHINGTON

July 19, 1979

①

MEMORANDUM FOR THE PRESIDENT

FROM: TIM KRAFT ^{TK}
ARNIE MILLER ~~AM~~

SUBJECT: Deputy Director of the Peace Corps

We join Dick Celeste in recommending that you appoint Bill Sykes as Deputy Director of the Peace Corps.

Sykes currently serves as Deputy Secretary of the Department of Human Resources in Maryland. He has had considerable experience as a number two person and as a strong internal manager of a major organization. His strengths are in program implementation and follow through. He will be a good complement to Celeste's outside and policy formulation skills.

Sykes has been highly recommended for his managerial abilities by a number of people who are familiar with him. Dick has done a good job of matching his "outside" skills with Sykes' "inside skills". This combination is one we are promoting in every agency.

RECOMMENDATION

Nominate William Sykes to be Deputy Director of the Peace Corps.

approve disapprove

✓

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Peace Corps

Washington, D.C. 20525

July 12, 1979

The President
The White House
Washington, DC 20500

Dear Mr. President:

Since my conversation with you two months ago, I have been searching for the right person to serve as the Deputy Director of the Peace Corps. We cast the net and came up with nearly a dozen especially capable people. The choice has not been easy. I have decided to recommend to you, with enthusiasm, Bill Sykes for this key position.

Bill Sykes currently serves as the Deputy Secretary of the Department of Human Resources in Maryland. He has had strong in-depth managerial experience from the ground up. He has won a fine reputation for his work both in the City of Baltimore (as Director of the Mayor's Office of Human Resources) and at the state level.

Bill is personally committed to the reality of voluntary action, as evidenced by his service on the Maryland State School Board. Frankly, he will balance the abundant overseas experience of other members of my staff with his own hands-on domestic experience.

Moreover, Bill is by every account a learner. What he does not know today regarding the Peace Corps and the Third World, he will know very shortly.

In addition to his professional skills and in-depth experience, Bill has the kind of human characteristics you as President and we at the Peace Corps want--a commitment to meeting human needs, an enthusiasm for work in the public arena, the ability to relate well with people of all walks of life and levels of authority,



The President
July 12, 1979
Page 2

and a widely acclaimed sense of humor.

I have consulted with a broad range of Bill Sykes' associates--ranging from Tom D'Alesandro to Paul Sarbanes to Parren Mitchell to Richard Batteredton. My own people have talked with him at length, as have I. Their testimony and my own observation convince me that Bill will make an outstanding deputy.

I recommend your approval of the appointment of Bill Sykes as Deputy Director of the Peace Corps, an agency we intend to make the source of special pride for you, your Administration and the people of this country.

Sincerely,

A handwritten signature in black ink that reads "Dick Celeste". The signature is written in a cursive, slightly slanted style.

RICHARD F. CELESTE
Director

THE WHITE HOUSE
WASHINGTON

20 Jul 79

Frank Moore

The attached was returned
in the President's outbox
today and is forwarded to
you for appropriate handling.

Rick Hutcheson



THE WHITE HOUSE
WASHINGTON

July 20, 1979

*Frank
all but
Lud
J*

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MEMORANDUM FOR THE PRESIDENT

FROM: FRANK MOORE *F. Moore*

I recommend that you make the following Congressional notification calls today:

ENERGY

- > *Senator Byrd *[Close circle of advisors (-)] [Crisis atmosphere (-)]*
- > *Senator Baker
- > Senator Jackson
- > *Senator Long
- > Senator Hatfield this would be helpful, but I can make if you do not have time
- > Senator Dole again, I can make this one if you do not have time. *Wants to support SALT II - will send private letter*
- > *The Speaker
- > Cong. John Dingell Chairman, Energy Committee *Clayton top*
- > Cong. Don Fuqua Chairman, Science and Technology Committee
- > *Cong. Harley Staggers Chairman, Commerce Committee
- > Cong. Mo Udall Chairman, Interior Committee
- > Cong. Tom Bevill Chairman, Appropriations Subcommittee on Energy
- > Cong. Lud Ashley The Speaker's man on energy (if you do not wish to make this call, I will.)
- > Cong. John Rhodes *move on Chmn, Fed*

TRANSPORTATION

- > Senator Cannon *Spencer Kimball 9/6*
- > Senator Bob Packwood -
- > Cong. Bizz Johnson Chairman, Committee on Transportation
- > Cong. Jim Howard Chairman, Appropriations Subcommittee on Transportation

*Notify on both.

Please have Susan let me know which calls you do not plan to make so that we can.

- > Stennis - re Energy/Xport/Def
- > Energy - Sch → Duncan
- > Xport - Adams → Clayton
- > DoD - Adams - Duncan → Clayton

THE WHITE HOUSE
WASHINGTON

7/20/79

Hamilton:

Please advise when this should
be dated to into effect.

Thanks.

Rick

THE WHITE HOUSE
WASHINGTON

*Do not date
for now*

J

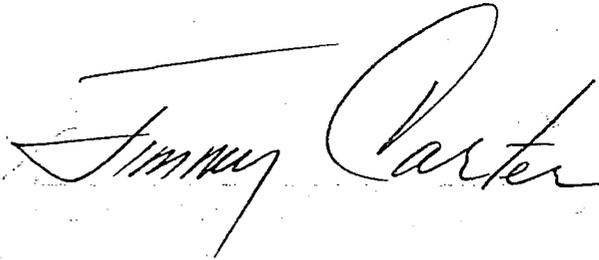
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THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR THE HONORABLE W. GRAHAM CLAYTOR
Secretary of the Navy

In accordance with the provisions of section 3347 of title 5, U. S. Code, you are directed to perform the duties of the office of Secretary of Transportation.

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned in the lower right quadrant of the page.

MEMORANDUM

NATIONAL SECURITY COUNCIL

~~CONFIDENTIAL~~

June 11, 1979

INFORMATION

MEMORANDUM FOR: RICK HUTCHESON

FROM: CHRISTINE DODSON *Christine*

SUBJECT: DPS Memorandum, "Maritime Policy" (U)

The NSC Staff has read the June 6, 1979 "Maritime Policy" memorandum by Stu Eizenstat and Bill Johnston. The NSC is listed as a member of the interagency task force charged with reviewing federal maritime policies, but the staff did not play an active role. Both State and Treasury have actively participated in this review. We understand that Secretary Blumenthal has sent the President an alternative Maritime Policy options paper, taking issue with the entire DPS memorandum. In addition, we understand that State has sent the President a paper on this issue, Christopher to the President, May 30, 1979. (C)

NSC Staff believes that the nettlesome issues are domestic in nature, involving the proper role of government in industry and the proper Administration "voice" on maritime policy. (U)

~~CONFIDENTIAL~~

Review on June 11, 1985

DECLASSIFIED
 Per: Rac Project
 ESDM: 126-17-36-3
 BY KS NARA DATE 10/21/23

THE WHITE HOUSE
WASHINGTON

7/20/79

Stu Eizenstat

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

Rick Hutcheson

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	ARAGON
	BOURNE
	BUTLER
	H. CARTER
	CLOUGH
	COSTANZA
	CRUIKSHANK
	FALLOWS
	FIRST LADY
	GAMMILL
	HARDEN
	HUTCHESON
	JAGODA
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	PRESS
	RAFSHOON
	SCHNEIDERS
	VOORDE
	WARREN
	WISE

	ADAMS
	ANDRUS
	BELL
	BERGLAND
	BLUMENTHAL
	BROWN
	CALIFANO
	HARRIS
	KREPS
	MARSHALL
	SCHLESINGER
	STRAUSS
	VANCE

THE WHITE HOUSE
WASHINGTON

July 19, 1979

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
LYNN DAFT
SUBJECT: Meat Import Legislation

We need your guidance regarding the Administration position on the meat import legislation now pending floor action in the House of Representatives.

We are in agreement with provisions of the bill that was recently reported out of the House Ways and Means Committee, with one exception. While we have consistently argued for a minimum import floor of 1.3 billion pounds, the Committee bill provides for a 1.2 billion pound minimum. In a memorandum dated June 19 (attached), we asked you whether we should stick with the 1.3 billion pound floor or attempt to reach a compromise at 1.25 billion pounds. You responded that we should hold out for 1.3 and that you would veto 1.2.

We have not been able to build much support for the 1.3 billion pound floor in the intervening period for a couple reasons. First, a difference of only 100 million pounds is not considered to be very significant; certainly not worth going to any trouble over. Second, there is concern that 1.3 billion pounds is not really our bottom line and that we would accept a floor of 1.25 billion pounds if it were offered. Those Congressmen we have approached to sponsor a 1.3 billion pound amendment have asked for our assurance that we would accept nothing less than this. Although we have been able to say that a 1.2 billion pound floor is clearly unacceptable, we have not felt that we could rule out acceptance of 1.25, given your response to our earlier memorandum.

There appears to be strong support for the 1.25 floor on the Hill. Congressman Ullman has indicated strong interest and would probably sponsor the amendment, if we let him know that it would be acceptable to you. The cattle producers have unofficially told us they would support this compromise too.

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As before, we believe that we should support the 1.25 compromise. The arguments for and against this position are unchanged from those in the attached memorandum. We are unaware of any change in agency position since that memorandum was prepared either. State continues to strongly favor 1.3; USDA still strongly favors 1.25. But regardless of which option is selected, we need to be clear that this is the lowest level we will accept.

DECISION

- 1.3 billion pounds (State, CEA, COWPS, NSC, Esther Peterson)
- 1.25 billion pounds (USDA, STR, OMB, CL, DPS)

No decrease
J

J

TEN YEARS AGO TODAY ALL HUMANITY WATCHED WITH WONDER AS TWO BRAVE MEN NEIL ARMSTRONG AND BUZZ ALDRIN -- STEPPED BOLDLY ONTO THE MOON WHILE A THIRD ^{BRAVE} ASTRONAUT -- MIKE COLLINS -- WAS IN LUNAR ORBIT.

THE TOUCHDOWN OF THE APOLLO 11 EAGLE IN THE SEA OF TRANQUILITY WAS A STUNNING ACHIEVEMENT, WITHOUT PRECEDENT IN HUMAN EXPERIENCE.

THESE THREE ASTRONAUTS, REPRESENTING THE SPIRIT OF OUR ENTIRE NATION, FULFILLED THE AGE-OLD DREAM OF VENTURING BEYOND EARTH TO THE SURFACE OF ANOTHER WORLD.

AS WE HONOR THESE THREE BOLD EXPLORERS TODAY, WE TAKE PRIDE IN OUR NATION AND IN THE UNEQUALLED TECHNOLOGICAL ABILITY THAT MADE THIS GREAT ENDEAVOR POSSIBLE. *AND WHICH STILL EXISTS*

(=OVER=) (THE PIONEER SPIRIT THAT BUILT.....)

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THE PIONEER SPIRIT THAT BUILT OUR GREAT COUNTRY IS SYMBOLIZED BY THE FOOTPRINTS OF AMERICAN ASTRONAUTS ON THE BLEAK LANDSCAPE OF THE MOON.

THE FIRST LUNAR LANDING AND THOSE THAT FOLLOWED IT WERE DUE TO THE UNIQUE AND SPECIALIZED CONTRIBUTIONS OF TENS OF THOUSANDS OF AMERICANS -- SCIENTISTS, ENGINEERS, ASTRONAUTS, SKILLED CRAFTSMEN, AND MANY OTHERS. WE MUST CONTINUE TO USE THESE SKILLS, AND BUILD UPON THE SUCCESS OF THE APOLLO PROGRAM.

THE 10TH ANNIVERSARY OF THE LUNAR LANDING IS A TIME TO REFLECT ON WHAT WE AS A NATION CAN ACCOMPLISH WITH UNITY, DARING, AND DETERMINATION. WE LANDED ON THE MOON BECAUSE OUR NATION SET A FIRM GOAL AND WE UNITED BEHIND ~~IT~~. *THAT EFFORT.*

(=NEW CARD=) (TODAY, WE FACE AN.....)

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TODAY, WE FACE AN EQUALLY CHALLENGING GOAL IN FIGHTING FOR ENERGY SECURITY. LIKE THE APOLLO MISSION, IT IS A TEST OF OUR RESOURCES AND OUR SPIRIT AS A PEOPLE.

WE WILL WIN ENERGY SECURITY FOR OUR NATION IN THE SAME WAY WE WON THE RACE TO THE MOON: WE WILL MARSHALL THE UNEQUALLED TECHNOLOGICAL AND SCIENTIFIC CAPACITY OF THE AMERICAN PEOPLE;...WE WILL DRAW UPON OUR VAST AND ABUNDANT NATURAL RESOURCES;...WE WILL UNITE AS A PEOPLE IN OUR DETERMINATION TO PRESERVE OUR FREEDOM AND INDEPENDENCE AS A NATION.

I KNOW THAT THE SPIRIT TO UNITE, TO PREVAIL, TO OVERCOME THIS CRISIS IS STRONG AMONG THE AMERICAN PEOPLE TODAY. I HAVE SEEN IT ON THE FACES OF THE PEOPLE I HAVE MET WITH OVER THE LAST TWO WEEKS. I HAVE NO DOUBT THAT WE WILL SUCCEED.

(=OVER=) (OUR NATION FACES ANY NUMBER.....)

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OUR NATION ^{WILL} FACE ^A ~~ANY~~ NUMBER OF DIFFICULT CHALLENGES IN THE YEARS AHEAD. THIS NATION AND THIS GOVERNMENT MUST BE PREPARED TO MEET THESE CHALLENGES.

I AM NOW INVOLVED IN AN INTENSE AND SERIOUS PERIOD OF REVIEW AND EVALUATION, I WILL MAKE THE DECISIONS NECESSARY TO ENSURE THAT MY ADMINISTRATION CAN PROVIDE THE LEADERSHIP THIS COUNTRY NEEDS.

AS PRESIDENT, I AM ALSO DETERMINED TO MAINTAIN AMERICA'S LEADERSHIP IN SPACE. THE FIRST GREAT ERA OF SPACE EXPLORATION IS OVER, BUT THE SECOND -- THE ERA OF THE SPACE SHUTTLE -- IS ABOUT TO BEGIN. ^{WHEN WE HARVEST THE GREAT BENEFITS}

AS THE POET ROBERT BROWNING WROTE OVER A CENTURY AGO, "MAN'S REACH SHOULD EXCEED HIS GRASP....OR, WHAT'S A HEAVEN FOR?"

AS A NATION, WE ALWAYS MUST HAVE THE BOLDNESS TO REACH FOR THE HEAVENS AND SET A BRAVE EXAMPLE FOR ALL PEOPLES OF THIS EARTH.

#

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Jim Guy Tucker

THE AMERICAN FAMILY IS UNDER UNPRECEDENTED PRESSURES, AND IT'S GOOD TO MEET WITH PEOPLE WHO ^{WILL} ~~PLAN TO~~ THINK AND LEARN BEFORE WE ACT.

THE PURPOSE OF THIS CONFERENCE ^{WILL BE} ~~IS~~ NOT TO SET UP SOME BIG, NEW, EXPENSIVE FEDERAL PROGRAM;... IT IS TO SEE WHAT WE CAN DO -- NOT SIMPLY AS A GOVERNMENT -- BUT AS A NATION TO STRENGTHEN AMERICAN FAMILIES. IN SOME INSTANCES, THAT MAY MEAN JUST GETTING GOVERNMENT OUT OF THE ~~THE~~ WAY.

YOU WILL BE LOOKING AT WHAT PUBLIC AND PRIVATE ORGANIZATIONS ARE DOING NOW AT ALL LEVELS, TO SEE HOW THESE ACTIVITIES AFFECT FAMILIES. I HOPE YOU WILL LOOK NOT JUST AT PROGRAMS THAT ARE INTENDED TO AFFECT FAMILIES, BUT ALSO AT THOSE THAT MAY HAVE DAMAGING EFFECTS THAT WERE NEVER FORESEEN.

(=OVER=) (YOU MUST REACH OUT.....)

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YOU MUST REACH OUT NOT ONLY TO SCHOLARS AND EXPERTS, BUT MOST OF ALL TO CITIZENS ALL AROUND THE COUNTRY WHO KNOW FROM EXPERIENCE WHAT MAKES A FAMILY STRONG.

OUR GENERATION HAS BEEN THROUGH A TIME OF GREAT SOCIAL AND TECHNOLOGICAL CHANGE--AFFECTING THE WAY WE LIVE AND WORK, AND THE WAY WE THINK ABOUT OURSELVES. OUR INSTITUTIONS DO NOT SEEM TO OFFER THE SUPPORT THEY ONCE DID FOR THE FAMILY, AND THE SIGNS OF STRAIN ARE ALL AROUND US.

I TALKED LAST SUNDAY ^{NIGHT} ABOUT A CRISIS OF CONFIDENCE IN OUR COUNTRY, AND THE FAMILY IS VERY MUCH PART OF THAT: - PART OF THE PROBLEM, AND CERTAINLY A MAJOR PART OF THE SOLUTION.

(=NEW CARD=) (FOR COUPLES WHO MARRIED.....)

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FOR COUPLES WHO MARRIED IN THE EARLY YEARS OF THIS CENTURY, ONE MARRIAGE IN TEN ENDED IN DIVORCE. FOR MARRIAGES SINCE WORLD WAR II, IT IS ONE IN THREE.

THE RATE OF TEENAGE SUICIDE HAS DOUBLED IN THE PAST 10 YEARS. HALF A MILLION YOUNGSTERS EACH YEAR ARE CLASSIFIED AS RUNAWAYS. TOO MANY OLDER PEOPLE ARE LONELY AND ^{A FRAID,} ~~CUT OFF~~. WITHOUT QUESTION, THE AMERICAN FAMILY IS IN TROUBLE.

THE FAMILY HAS SURVIVED MANY A SOCIAL AND TECHNOLOGICAL REVOLUTION, AND OUR FAMILIES CAN SURVIVE THE CURRENT CHANGES AND STRESSES. THEY ARE TOO PRECIOUS, TOO BASIC, TOO ESSENTIAL NOT TO SURVIVE. ULTIMATELY, THE FAMILY MAY EMERGE STRONGER OUT OF THE CURRENT CHANGES. BUT THIS WILL NOT BE AUTOMATIC OR EASY.

(=OVER=) (CHANGE, AFTER ALL,.....)

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CHANGE, AFTER ALL, IS NOTHING NEW. THE PEOPLE WHO CREATED THIS NATION WERE ENGAGED IN CHANGES THAT SHOOK OLD INSTITUTIONS AND OLD WAYS OF LIVING. THE PIONEERS WHO PUSHED WEST, THE IMMIGRANTS WHO ADDED TO THE RICH DIVERSITY OF OUR PEOPLE, WERE CUT OFF FROM OLD CERTAINTIES JUST AS WE ARE TODAY. THEY, TOO, HAD TO LIVE WITH DRAMATIC, OFTEN WRENCHING CHANGE, AND TO ADAPT TO NEW PATTERNS OF LIVING.

THEY QUICKLY LEARNED TO RELY ON EACH OTHER, ... TO BUILD NEW FAMILIES AND NEW COMMUNITIES. THEY SAW CHANGE NOT AS SOMETHING TO BE FEARED, BUT AS OPPORTUNITY. THEY LEARNED TO HOLD ONTO THEIR REAL VALUES WITHIN THOSE CHANGES, ... TO MAKE CHANGE WORK FOR THEM AS INDIVIDUALS, AS FAMILIES, AS A NATION.

THEN A → CLOSE now A → DIVISION

(=NEW CARD=) (WE OFTEN FEEL NOSTALGIC.....)

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WE OFTEN FEEL NOSTALGIC FOR WHAT WE SEE AS THE SIMPLER WORLD OF THE PAST. WE CAN LEARN FROM THE PAST, BUT WE MUST NOT LIMIT OUR VISION OF WHAT A GOOD FAMILY IS TO WHAT GOOD FAMILIES HAVE BEEN IN FORMER TIMES.

INSTEAD, WE MUST FIND MEANING IN MEETING TODAY'S CHALLENGES AND REALITIES -- HONESTLY, CREATIVELY, WITH COURAGE AND COMPASSION.

OUR PEOPLE ARE SEARCHING FOR FREEDOM AND OPPORTUNITY AS THEY ALWAYS HAVE, AND THAT SEARCH IS HAVING PROFOUND EFFECTS ON THE MODERN FAMILY. FOR MANY IT IS LIBERATING AND REWARDING, BUT IT ALSO LEAVES MANY WHO ARE UNSURE, LONELY AND AFRAID.

LILY TOMLIN JOKES THAT, "WE ARE ALL IN THIS ALONE." BUT FOR TOO MANY OF OUR PEOPLE THOSE WORDS SEEM DESPERATELY, TRAGICALLY TRUE. TOO MANY FEEL THEY HAVE NO ONE ^{TO WHOM} THEY CAN TURN ~~IN~~ IN THEIR MOMENT OF NEED.

(=OVER=) (THESE PROBLEMS ARE.....)

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THESE PROBLEMS ARE REAL. BUT THEY ARE ALSO THE KINDS OF PROBLEMS FAMILIES HAVE ALWAYS SPECIALIZED IN SOLVING.

MANY OF OUR TOUGHEST PROBLEMS -- FROM ENERGY TO THE DECAY OF OUR CITIES; FROM INFLATION TO COPING WITH OLD AGE; EVEN THE STRENGTHENING OF A NATION'S SPIRIT -- CAN BE RESOLVED IF EVERY FAMILY DOES ITS SHARE AND TAKES SERIOUSLY ITS RESPONSIBILITIES TO ITS OWN MEMBERS AND TO ITS COMMUNITY.

FAMILIES ARE MORE THAN JUST HOUSEHOLDS. THEY ARE A NETWORK OF RELATIONSHIPS ROOTED NOT ONLY IN KINSHIP BUT IN SHARED EXPERIENCES, SHARED JOYS AND SORROWS, AND MOST OF ALL -- IN LOVE THAT CROSSES OVER DISTANCES AND GENERATIONS.

(=NEW CARD=) (FAMILIES ARE GROUPS.....)

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FAMILIES ARE GROUPS OF PEOPLE -- SOME SMALL, SOME LARGE -- WHO DO NOT NECESSARILY LIVE TOGETHER IN ONE PLACE, BUT WHO DO TAKE RESPONSIBILITY FOR EACH OTHER.

THERE IS AN OLD YIDDISH PROVERB: "GOD GAVE BURDENS, ALSO SHOULDERS."

NOT ONLY OUR OWN SHOULDERS, BUT SHOULDERS TO HELP US BEAR THE BURDENS THAT ARE TOO HEAVY FOR US ALONE, ...SHOULDERS TO CRY ON, ...SHOULDERS TO RECEIVE PATS OF ENCOURAGEMENT, ...SHOULDERS TO HELP OTHERS BEAR THEIR LOADS.

THAT'S WHAT A FAMILY IS -- A COLLECTION OF SHOULDERS.

WE ARE NOT IN THIS ALONE. *WITH STRONG FAMILIES OUR*
NATION'S STRENGTH
IS ASSURED

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W
W. Shapiro
7/19/79
2nd Draft

12:15

Jerry, Susan
ok
J

REMARKS FOR APOLLO 11 RECEPTION, 7/20/79

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Ten years ago today all humanity watched with wonder as two brave men -- Neil Armstrong and Buzz Aldrin -- stepped boldly onto the moon while a third astronaut, Mike Collins, was in lunar orbit. The touchdown of the Apollo 11 Eagle in the Sea of Tranquility was a stunning achievement, without precedent in human experience. These three astronauts, representing the spirit of our entire nation, fulfilled the age-old dream of venturing beyond earth to the surface of another world.

As we honor these three bold explorers today, we take pride in our nation and in the unequalled technological ability that made this great endeavor possible. The pioneer spirit that built our great country is

symbolized by the footprints of American astronauts on
the bleak landscape of the moon.

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The ^{first} lunar landing and those that followed it were
due to the unique and specialized contributions of tens
of thousands of Americans -- scientists, engineers,
astronauts, skilled craftsmen and many others. We must
continue to use these skills and build upon the success
of the Apollo program.

The tenth anniversary of the lunar landing is a
time to reflect on what we as a nation can accomplish
with unity, daring and determination. We landed on the
moon because our nation set a firm goal and we united
behind it.

Today, we face an equally challenging goal in
fighting for energy security. Like the Apollo mission,
it is a test of our resources and our spirit as a people.

We will win energy security for our nation in the same way we won the race to the moon. We will marshal the unequalled technological and scientific capacity of the American people. We will draw upon our vast and abundant natural resources. We will unite as a people in our determination to preserve our freedom and independence as a nation.

I know that the spirit to unite, to prevail, to overcome this crisis is strong among the American people today. I have seen it on the faces of the people I have met with over the last two weeks. I have no doubt that we will succeed.

Our nation faces any number of difficult challenges in the years ahead. This Nation and this government must be prepared to meet these challenges. I am now involved in an intense and serious period of review and evaluation. I will make the decisions necessary to

ensure that my Administration can provide the leadership
this country needs.

As President, I am also determined to maintain
America's leadership in space. The first great era of
space exploration is over, but the second -- the era of
the Space Shuttle -- is about to begin.

As the poet Robert Browning wrote over a century
ago, "Man's reach should exceed his grasp/ Or, what's
a heaven for?"

As a nation, we always must have the boldness to
reach for the heavens and set a brave example for ^{all} the
peoples of this earth.

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THE WHITE HOUSE

WASHINGTON

July 20, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: JERRY RAFSHOON 

Attached are two statement for Friday.

- 1) Apollo 11 Reception
- 2) White House Conference on the Family

Please look these over and give us your changes and comments. I would like to take your final statements and do the underlines for emphasis. I think you have to give your delivery of these more force and more emphasis than you did for the Future Farmers of America. We need to end the week, capturing the forcefulness that you exhibited on Sunday and Monday.

THE WHITE HOUSE
WASHINGTON

7/20/79

Stu Eizenstat

The attached letters were returned in the President's outbox today and are forwarded to you for appropriate handling.

We will hold them until you give us the go ahead.

At that time, they will be given to CL for delivery.

Rick Hutcheson

cc: Frank Moore

THE WHITE HOUSE
WASHINGTON
July 20, 1979

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MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
SUBJECT: Maritime Policy Letters

*Stu -
Inouye
Pending
& Murphy
Comments,
you may wish to
add "rebating"*

Attached are two letters to be sent to Congressman Murphy and Senator Inouye regarding our maritime policy. The letters reflect your decisions and notations on the earlier decision memo. My staff has worked with Fred Kahn's staff to meld the two regulatory options as you suggested. I have also strengthened the section on bilateral agreements concerning our intention to defend the rights of our carriers.

One outstanding issue concerns whether to state our position on rebating in these letters. The letters are silent on this issue. In the memo you sided with the option favoring legalization of rebating. However, the same day that you agreed with the legalization of rebating position you signed Congressman Murphy's bill to strengthen enforcement of anti-rebating laws.

The letters as drafted recognize that this issue is now practically moot, since you have signed a bill that had overwhelming support in the Congress and the Maritime Committees. To redraft the letters to reflect your decision in the memo would put a more pro-competitive spin on your policy letter, but would likely annoy the two designated recipients, Inouye and Murphy, who authored the anti-rebating bill.

I recommend that you sign the letters without including language on rebating. At this point there seems to me to be nothing gained by stating a philosophical position that would antagonize the maritime committees and that stands no chance of enactment. Moreover, including rebating language would put you in the defensive position of having to explain why we signed the Murphy anti-rebating bill in the first place.

You should be aware however that most of the agencies that supported legalization of rebating in the decision memo, including Justice, Treasury, State, CWPS, CEA and OMB, would prefer including language recommending legalization of rebating.

TWO SIGNATURES REQUESTED

THE WHITE HOUSE

WASHINGTON

July 20, 1979

To Chairman John M. Murphy

As you know, for the past year an Interagency Task Force within the Administration has been reviewing federal maritime policies. The conclusions and recommendations of this group were recently forwarded to me. I want to share with you the results of that review and urge action by your Committee to address the issues raised by the Task Force.

I share your belief that the American Merchant Marine is vital to our nation's welfare. More than nine-tenths of all our imports and exports move by sea, and American ships play a large part in facilitating our world trade. The maritime industry, including our ports, ocean shipping companies and shipbuilding yards provides jobs to 1.5 million Americans, and contributes \$22 billion to our economy. Most importantly, our Merchant Marine provides a critical reserve and auxiliary to our Navy in times of war or national emergency.

Over the years the Federal government has played a significant role in the development of our maritime industry. Federal investments have helped to build most of our major harbors and port facilities. Our military and commercial vessel construction programs have provided a key source of employment for our nation's shipyards. Direct federal subsidies and preferential cargo policies have greatly benefitted our ocean shipping companies.

Despite continuing efforts by the Federal government in these areas, with total federal investments in our shipbuilding and ship operating industries reaching \$706 million in 1978, our Merchant Marine faces an increasingly uncertain future. American liner companies have experienced intense competition from the fleets of other nations, with two American liner companies bankrupted within the last year. Our American flag bulk fleet has

developed little capacity to compete internationally, but rather has been largely restricted to the coast-wise trade. Our shipbuilding industry has been unable to win enough new ship construction orders to sustain its current capacity nationwide. Overall the decline of our Merchant Marine is illustrated in simple numbers: from a fleet of 1224 ships in 1950, our fleet had shrunk to 582 ships by this year. Our ships now carry only about 5% of our foreign trade.

We must not allow this unhealthy trend to continue. Steps must be taken to reverse the decline and to begin to improve the strength of this essential industry. This effort will take time, ingenuity and investment from both the public and the private sectors. Under my Administration, the Federal government will continue to play a central role in this effort.

In this period of budget constraint, additional federal actions to support the maritime industry must focus first on improvements in existing programs. In particular, federal regulation of the ocean shipping industry deserves prompt review by the Congress. Current laws appear to need substantial revision. In addition our programs to encourage construction of dry bulk vessels should be overhauled. Our national policies favoring open ports and free competition for cargo must be reaffirmed in light of recent developments around the world. Perhaps most importantly, the Federal government itself must begin to address maritime problems in a more unified and coherent way.

LINER REGULATION

Throughout the world most ocean liner shipping is organized into liner conferences. These groups of ship operators, who meet to set standards for service and tariffs in each trade, are generally recognized and supported by most countries. Recently the United Nations Conference on Trade and Development promulgated a Code of Conduct which sanctioned the existence of, and established standards for these conferences.

In the United States, we have recognized and accepted this international regime of cooperation in the organization of the liner trades. Under our laws, the conferences are granted immunity from antitrust prosecution

if their agreements are filed with and approved by the Federal Maritime Commission. In light of the potential anti-competitive impacts of some aspects of the conference system, our laws place significant restrictions on conferences, for example by requiring that they be open to membership by any new participant in a trade.

In recent years, the system by which we regulate the liner conferences has become increasingly complex, uncertain and time consuming. Delays in the Federal Maritime Commission approval process sometimes stretch on for years. Conflicting views concerning acceptable conference practices are expressed by various executive branch agencies. Shifting decisions by the FMC and the courts have created confusion over the rights and responsibilities of the conferences.

In order to end the uncertainty and delay that currently surrounds federal regulation of ocean shipping, it is necessary to revise substantially our laws governing the liner conferences. Our laws must be rewritten to define clearly the standards of acceptable conference practices and the limits of conference antitrust exemptions, and to reemphasize our commitment to competition in ocean shipping. The process for FMC approval of conference agreements should be expedited. And the jurisdictional responsibilities of the various agencies should be clarified.

Specifically the Shipping Act of 1916 should be amended to:

o Reestablish the primacy of the Federal Maritime Commission in regulating ocean shipping. The FMC, operating under the guidance of the Shipping Act and the antitrust laws should have the basic responsibility to confer antitrust immunity and to enforce the Shipping Act.

o Redefine the limits of the antitrust immunity available to the conferences under Section 15 of the Act. The law should specify a broad group of conference agreements with the least anti-competitive impacts that are presumptively approvable by the FMC. Agreements determined by the FMC to fall into this group should be approved speedily without formal hearings. For example, agreements that promote efficiency and do not significantly threaten competition such as terminal sharing, equipment interchange or space chartering should be presumed

acceptable. Similarly, agreements implementing government-to-government negotiations should receive prompt, presumptive approval by the FMC.

Agreements not defined in law as presumptively acceptable should be subject to a hearing process in which the burden of proof should be on the parties to show that their proposed agreement embodies significant transportation advantages or public benefits that cannot be accomplished in any reasonably available less anti-competitive way. The law should continue to make clear that the most anti-competitive conference structures or practices, such as closed membership or deferred rebates, cannot meet this test and are prohibited.

o Shorten the timetable for FMC action. Presumptively acceptable agreements should be acted on by the FMC within 30 days. Agreements subject to full hearing should be required to be approved or disapproved within one year. If the approval process cannot be completed within these time tables, conditional approval or disapproval should be required, subject to final review when the record is complete.

Amending the Shipping Act in accord with these principles should speed up and greatly simplify the regulatory process that applies to ocean liner shipping. It should continue to protect against anti-competitive abuses while promoting efficiency and stability in the industry.

o Authorize antitrust exemption for Shippers Councils. In other countries around the world, groups of shippers using ocean transportation are permitted to organize themselves into "shippers councils" to discuss their mutual concerns with the shipping conferences. Until now such councils have lacked antitrust protection in the United States.

Because shippers councils can provide a valuable forum for exchange of information and discussion of shared concerns between shippers and ship operators, and because shippers councils can be a valuable counterweight to the collective power of the conferences, these councils should be eligible for antitrust immunity. The approval, after a hearing, of these antitrust exemptions and the policing of these groups' activities to assure that they serve the public interest should be the responsibility

of the FMC. In order to assure that shippers councils function within the limits of their antitrust exemptions, these groups should be required to maintain verbatim records of their meetings.

MERCHANT MARINE PROMOTION

Dry Bulk Initiatives

About 40 percent of U.S. ocean-borne foreign trade, more than 310 million tons, consists of dry bulk cargoes. Continued dry bulk trade growth is forecast. U.S. ships presently carry less than two percent of this trade. There are only 19 dry bulkers in the U.S.-flag fleet, of which 13 are over 30 years old.

There is a need to modernize and expand the dry bulk segment of our fleet. Our heavy dependence on foreign carriage of U.S. bulk cargoes deprives the U.S. economy of seafaring and shipbuilding jobs, adds to the balance of payments deficit, deprives the Government of substantial tax revenues, and leaves the United States dependent on foreign flag shipping for a continued supply of raw materials to support the economy.

Extensive consultation with industry has revealed that the Merchant Marine Act of 1936, even as amended in 1970, is still too restrictive to encourage bulk ship construction and operation. Specifically, restrictions on foreign resales, international trading rights, repair in foreign shipyards, and eligibility to own both foreign and U.S. flag vessels should be significantly revised. Legislation to accomplish these goals is being forwarded to the Congress along with this letter.

Enactment of the proposed legislation would establish the basis for accelerating the rebuilding of the U.S.-flag dry bulk fleet toward a level commensurate with the position of the United States as the world's leading bulk trading country.

Cargo Sharing Agreements

Historically, the United States has pursued a policy of free competition in ocean shipping, including open ports and unrestricted access by ships of all nations to cargo moving internationally. This policy has served well to facilitate our international trade and to hold down shipping costs. Only in a few cases, for example, in

our bilateral trade with the Soviet Union, have we entered into agreements reserving shares of cargo for national flag carriers. In these special circumstances, in which national policies of other nations might operate to exclude American operators from the trade, we have recognized that our national interest required affirmative action by the U.S. Government.

Throughout the world many nations have enacted or are considering measures to limit unrestricted cargo access. The UNCTAD Code of Conduct for Liner Conferences which sanctions cargo sharing on a basis of 40% for the host country, 40% for the trading partner and 20% for third flag carriers, is one example of this trend.

This trend is neither wise nor necessary. As the largest trading nation in the world we have much to gain by a continuation of policies that allow all ships to operate freely to transport cargo. In light of these considerations we will continue to resist the imposition of cargo sharing regimes whether bilaterally or multilaterally.

At the same time we should not allow our interests to be compromised by the actions of other nations which may impede the ability of our ships to participate in world trades. Cargo sharing policies adopted by other nations cannot be allowed to force our ships from any trades in which they should be entitled to compete. While it is our policy to refrain from cargo sharing agreements as a general matter, we will be prepared as in the past to protect the competitive rights of U.S. carriers.

* * * *

Knowing that you share my strong commitment to the revitalization of our Merchant Marine, I hope that we can work together in the weeks and months ahead to fashion a strong legislative program. The reforms I have suggested may provide solutions to some problems. I hope that your Committee can give these proposals early and favorable consideration as part of the legislative process I know you have already begun.

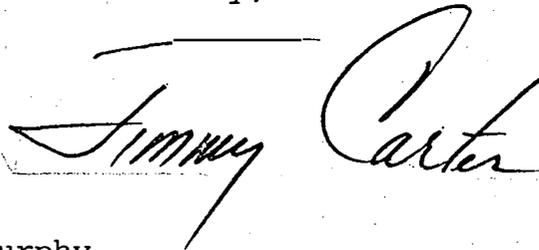
Within the Executive Branch I intend to ensure that federal actions promote rather than harm our Merchant Marine. To help achieve this goal, and to provide a clearer, more unified presentation of the Administration's views I have designated the Maritime Administration

within the Commerce Department as the Administration's chief spokesman in maritime affairs. This will not, of course, prevent other Departments from performing their particular responsibilities or from testifying before the Congress in their areas of special expertise as they may relate to maritime matters. However, in the future, when positions are taken by the Administration, the Maritime Administration will have primary responsibility to articulate and explain them.

I am also urging the Maritime Administration and other executive agencies to vigorously and fully carry out their responsibilities for implementing existing laws aimed at supporting our maritime industry. In particular, provisions in existing laws calling for substantial or exclusive use of American flag vessels should be vigorously pursued, and exemptions in these laws should be reexamined.

Finally, I believe that we must all share in the effort to preserve and enhance our maritime industry. This applies not just to the executive and legislative branches of the Federal government, but to the public as well. For example, I urge American importers and exporters to consider using, where possible, American flag vessels to transport their goods. Similarly, American ocean shipping companies should give every consideration to use of American shipyards to supply their new tonnage. Each of us can make only a small contribution to the important goal of rebuilding our maritime industry. Working together, however, we can be confident of our future as a great maritime nation.

Sincerely,

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned below the word "Sincerely,".

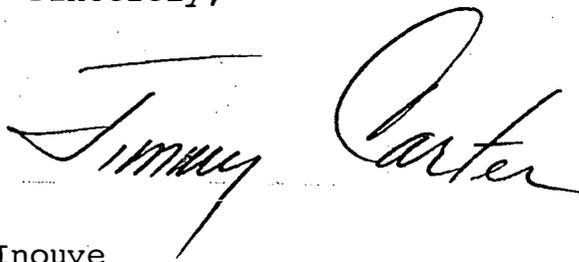
The Honorable John M. Murphy
Chairman
Committee on Merchant Marine
and Fisheries
U.S. House of Representatives
Washington, D.C. 20515

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Sincerely,

A handwritten signature in cursive script that reads "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the typed name.

The Honorable Daniel K. Inouye
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

June 6, 1979

*Stu -
Check & then
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J*

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
BILL JOHNSTON
SUBJECT: Maritime Policy

During the past year an interagency task force* has been reviewing federal maritime policies. This memo summarizes the results of the interagency review, and seeks your guidance on several broad policy issues. Following your decisions we anticipate forwarding a message to Congress recommending legislative changes in current maritime laws. As you recall you promised such a message to Congressman Murphy during your lunch together in February.

Background

In recent years maritime industries throughout the world have been hurt by a number of factors. These include: overbuilding prior to 1973, slower than expected trade growth since then (especially of oil), and aggressive expansion of national fleets by Eastern bloc and developing countries. As a result, there has been considerable overtonnaging in world trades, a sharp reduction in shipyard order books, and heavy losses suffered by many ship operators and builders.

Our industry has generally shared in these difficulties. Two of the nine subsidized liner operators entered bankruptcy in 1978, and two others are reported for sale. Our shipbuilding industry has not yet suffered from the massive layoff's affecting France, Britain, and Japan, but most American yards face layoffs by 1980, and one yard has already closed.

* Commerce, Defense, Labor, Justice, Treasury, State, Transportation, CEA, CWPS, OMB, NSC and FMC.

As worldwide maritime problems have mounted Congress has expressed increasing concern with our national maritime policies. A number of legislative proposals have been offered, including as you remember, cargo preference. While the preference issue is dead for the foreseeable future, Congressional concern has shifted to other areas, especially those involving our laws regulating liner shipping.

Regulation of the Liner Trades

The liner trades differ significantly from bulk and tanker trades. Bulk operators utilize specialized vessels, and generally carry shipload quantities on irregular schedules. Liners, in contrast, carry general freight in less than shipload quantities, and usually operate on a scheduled basis. Most liner service is now containerized.

The key feature of the liner trades is their organization into conferences, or groups of carriers operating in a given trade (e.g., the North Atlantic). Conference members meet to agree on rates, conditions of service, and in some cases even to allocate shares of cargo or revenue or to agree on sailing schedules. Under our shipping laws the conferences may be granted limited anti-trust immunity if their agreements are filed with and approved by the Federal Maritime Commission.

The maritime industry takes the position that conferences provide stable, high quality service at published, non-discriminatory rates. They argue that conferences are intended to promote efficiency by matching shipping capacity with shipping needs, particularly the needs of high volume shippers. In an industry in which there are very low variable costs associated with taking on extra freight to fill up unused cargo space, the conferences tend to minimize the rate wars that periodically break out when available cargoes fall short of available capacity.

The obvious danger of the conferences is their tendency to limit competition and hold prices at artificially high levels. The main check on these natural monopolistic tendencies of conferences is the presence or possibility of independent or non-conference operators entering the trade to undercut conference prices.

The existence of anti-trust immunity for the conference has been the subject of recurrent debate in this country since it was first permitted sixty years ago. The task force has focussed intensively on this issue but has been unable to reach a consensus.

Decision Issue

What changes should we propose in current laws governing ocean liner shipping?

No member of the task force recommends retaining current ocean liner shipping laws intact. But proposed modifications differ sharply.

Option 1

The Justice Department (joined by Treasury, CEA, OMB and CWPS) recommends significant restrictions on the powers granted to the liner conferences. Justice believes that, ideally, the conferences should be abolished or significantly restricted. In light of the international and political repercussions of this action, however, Justice recommends the more moderate goal of reducing the powers enjoyed by the conferences. Specifically they propose that conferences be required to allow their members to set prices individually rather than collectively. (Currently most conferences do not permit such "independent action.") In addition, Justice would prohibit conferences from offering lower rates to shippers who agree to ship exclusively with conference members (dual rate contracts). They would also forbid agreements between conferences, revenue pooling arrangements and other anti-competitive practices. Finally they would continue to prohibit the formation of "shippers councils" which are groups of shippers who meet with the conferences to discuss common concerns, particularly conference rate increases. Shippers councils are actively encouraged in Europe and Japan as countervailing forces to conferences.

In Justice's view this option would lead to increased competition and lower rates and would benefit our importing and exporting industries. They believe that more open competition is equally viable in ocean shipping as in other industries and that freer competition will promote the greatest degree of efficiency in the industry. They argue that the same principles we have applied to international aviation should be applied to ocean shipping, and that proposing to reduce barriers to competition is the course most consistent with the Administration's regulatory reform efforts generally. They fear that allowing shippers councils would tend to legitimize and perpetuate the conference system, and that the councils might be abused by members to promote price fixing.

Other members of the task force believe the Justice option is impractical and counter productive. These critics question whether weaker conferences will lower prices or increase competition. They argue that in some cases the formation of strong conferences has led to more efficient ship utilization and lower

prices than before. It is also possible that new rate competition might actually reduce the number of private liner companies in the world. State points out that conferences are tolerated or sanctioned throughout the world, and that further U.S. efforts to restrict the conferences would put us even more at odds with our trading partners who are already unhappy with our shipping policies. Finally, opponents argue that some U.S. liner operators would be more likely to go bankrupt or to require greater federal subsidies if the conferences were modified as DOJ suggests. For this reason such changes would antagonize the merchant marine industry and the Congressional authorizing committees, and could not be expected to pass.

Option 2

The FMC recommends an opposite course. They believe that the conferences should be allowed greater powers than they now have in order to promote greater shipping efficiency. Essentially the FMC proposes to adopt a European model of conference operations under which the conferences would have the right to restrict their membership (currently conferences operating in American trades must be open to any new entrant), to pool revenues, to sign inter-conference agreements and to strengthen dual rate contracts for exclusive use of conference shipping services. In addition the FMC proposes to allow the formation of shippers councils to balance the strengthened conferences. In order to prevent abuse the FMC proposes that it have additional powers to oversee conference operations and to punish violations of shipping law.

The FMC feels that conferences are the most effective way to match shipping tonnage with shipping needs. They argue that their recommendations will bring our policies more closely into line with those of other nations. And they point out that their approach would have strong support from some elements of our maritime industry and from the merchant marine authorizing committees, and therefore might be expected to pass Congress.

Those opposed to the FMC approach (including all agencies favoring Options 1 and 3) believe that it runs contrary to basic Administration goals of promoting more competition and less federal regulation of transportation. They believe that competition rather than rationalization will be more effective in stimulating efficiency. They argue that the potential for abuse of conference powers will not be adequately checked by shippers councils and increased FMC oversight. Finally, opponents believe that concern among shippers might be great enough to kill the legislation even if the merchant marine authorizing committees were favorable.

Option 3

In light of the significant problems associated with both Options 1 and 2 several agencies (Commerce, Defense, Labor) recommend a more limited approach. This option would reaffirm the primary authority of the FMC to regulate ocean shipping and to exempt legitimate conference activity from anti-trust prosecution. The guidelines for FMC approval of conference agreements would be redefined to provide greater clarity and certainty.

The new law would specify a broad group of conference agreements (those with the least potential for inhibiting competition) that would be presumptively approvable by the FMC. Agreements determined by the FMC to fall into these categories could be automatically and speedily approved without formal hearings. For example, agreements that provided for greater efficiency, such as terminal sharing, equipment interchange, or space chartering would fall into this group. Similarly, agreements stemming from government to government negotiations or agreements approved by a shippers council would be presumptively acceptable. Agreements not defined as acceptable by law (such as revenue pooling and inter-modal agreements) would be subject to a hearing process in which the burden of proof would be on the parties to show that their agreement embodied significant transportation advantages outweighing its anti-competitive impacts. All decisions on contested agreements would be required to be issued (at least provisionally) within one year. Some kinds of conference practices, including closed membership and deferred rebates would continue to be prohibited.

In addition this option would authorize anti-trust exemption for shippers councils (granted by the FMC) subject to certain conditions and limitations (e.g. verbatim transcripts).

Supporters of this option argue that it would rationalize existing anti-trust standards and modestly improve the regulation of ocean shipping. It would speed up and simplify FMC regulation. While it would not be fully satisfactory to the Congress it would at least receive serious hearing. It would be somewhat acceptable to foreign governments by tending to conform our laws more to international standards and by clarifying the nature of the anti-trust exemptions available to conferences.

Supporters of Options 1 and 2 object to this proposal for several reasons. Supporters of Option 1 feel it goes significantly beyond the existing conference system in inhibiting competition, particularly in its inclusion of anti-trust immunity for shippers councils. Justice argues that this option fails to promote greater competition and is inconsistent with other Presidential

initiatives in transportation. OMB argues that modest improvements in our subsidy system would be a more efficient means of ensuring a viable domestic industry. FMC on the other hand feels that this option perpetuates a system that lacks the advantages of full rationalization of service possible under closed conferences.

Recommendation

We strongly recommend Option 3.

Given the limited resources that the Administration can devote to this issue, we see no possibility of favorable Congressional action on the Justice Department option. Moreover, even if unilateral action on our part could significantly weaken the liner conferences, it is not clear that our international trade would benefit from this action or that any trade benefits would outweigh the costs to our maritime industry. In any case the united opposition of our maritime industry, foreign governments and ship operators, and many of our larger shippers (who tolerate conferences and support shippers councils) would prohibit serious consideration of this choice. Politically we would be alienating those most interested in maritime affairs; substantively we would be accomplishing nothing.

Similarly, we see little to recommend the FMC option. This option not only encourages greater use of anti-competitive conference practices, but requires greater federal oversight. While many in the Congress might be more sympathetic to this course, it would encounter significant shipper opposition and would be viewed as a sharp retreat from your goal of promoting greater competition.

Option 3, on the other hand, can be sustained both politically and substantively. Both Congressional maritime committees have assured us that they will give this alternative serious consideration. From a substantive standpoint, option 3 promises reduced, speeded-up and simplified federal regulation. In addition the establishment of shippers councils would tend to exert downward price pressure on the conferences and would help to bring our regulatory regime into greater conformity with existing world practices. We do not believe that properly limited shippers councils represent any significant threat to competition.

Decision

Option 1 _____ (Justice, Treasury, CEA, OMB, CWPS)

Option 2 _____ (FMC)

agreements in both liner and bulk trades. Those agreements typically reserve a percentage of inbound and outbound cargo for the ships of one nation and an identical percentage for its trading partner. The United Nations Committee on Trade and Development (UNCTAD) has formulated a Code of Conduct for Liner Conferences that calls for a standard of 40% for the host country, 40% for the trading partner and 20% for third flag carriers. A modification of this Code (calling for a 40% share reserved for developing countries only) will soon be ratified.

Our policy has been to oppose such multilateral agreements and to resist cargo sharing even on a bilateral basis. We have, however, agreed to bilateral cargo sharing agreements with several South American countries at their insistence. These agreements effectively divided the entire trade between our carriers, and those of the South American flag fleets. In addition, we negotiated a cargo sharing arrangement in 1972 with the Soviet Union which guarantees "substantial participation" by national flag carriers (1/3-1/3-1/3). Recently you approved negotiation of a similar agreement with China.

Option 1

Most agencies (State, Justice, Treasury, OMB, CWPS, CEA, DOT and DPS) agree that despite world trends we should resist further cargo sharing agreements either on a bilateral or multilateral basis. The only exceptions to this policy would be situations in which there appears to be no other way to assure an opportunity for our carriers to participate in a trade. Thus our policy statement would recognize the agreements into which we have already entered -- e.g. Argentina and the Soviet Union -- but would put other nations on notice that we do not intend to enter into such agreements simply on request. Moreover, it would send a message to those currently engaged in UNCTAD discussions of cargo sharing that we do not intend to soften our opposition to multilateral cargo sharing regimes.

Option 2

The Commerce Department, joined by Labor and FMC argues that we should adopt a more flexible attitude toward cargo sharing. They recommend that we be willing to agree, or even to initiate, bilateral or even multilateral cargo sharing agreements where this may be in our national interest. They point out that the world appears to be moving rapidly toward a universal cargo sharing policy that may ultimately involve both developed and developing nations.

They believe if we do not consider adopting a new stance in this area we may soon find ourselves being excluded from an increasing share of world trade. While FMC concedes that we should be cautious in considering such agreements they believe our policy should not foreclose arrangements that promote our national security or economic interests, especially if these interests are threatened by world wide cargo sharing.

Recommendation

We recommend Option 1.

We believe there is little justification at this time for modifying our position on cargo sharing agreements. Such a change would merely encourage world-wide trends. We have pending requests for such agreements from more than a dozen of our South American and Far Eastern trading partners, and a liberalization of our policy now could force us to enter many new cargo sharing agreements immediately.

Ultimately we may have to modify our position if cargo sharing becomes the international regime. In the immediate future we should resist the trend.

Decision

Option 1 _____ (Justice, State, Treasury, CEA, OMB,
CWPS, DOT, DPS)

Option 2 _____ (Commerce, Labor, FMC)

*Sh. check this
out*

Statement of Maritime Policy

The maritime industry has criticized this Administration (and others before it) for failing to devote sufficient attention to maritime affairs. The unions in particular feel they get little support from Cabinet level officers and little notice from the White House. The fact that various departments frequently state contradictory views on maritime matters is often cited as symptomatic of this lack of attention. Because of these complaints and the expectations generated by the task force, we believe that it would be useful if the maritime message to Congress be accompanied by a general statement of support for the maritime industry. Such a statement could help to assure strong maritime support for the Administration.

Specifically this statement would contain:

o A reaffirmation of your campaign statements concerning the need for a strong merchant marine and an adequate ship-building base.

o A commitment to promote development of our dry bulk fleet. Legislation to accomplish this (by relaxing restrictions on dry bulk owners) is waiting for clearance in OMB. Our 1980 budget earmarked \$69 million for this purpose.

o Designation of the Commerce Department (i.e. the Maritime Administration) as the Administration's primary voice in maritime affairs. This would not prevent other agencies such as State and Justice from giving their views on maritime matters or change the normal interagency process for developing Administration positions. It would not change the State Department's preeminent role in foreign affairs or international negotiations, or the Justice Department's responsibility to assess the anti-trust implications of pending legislation. Finally, it would not put the Commerce Department in the position of screening or clearing views. It would simply give the Commerce Department responsibility to present Administration views to the Congress and foster an image of more coherent policy making. It is largely a cosmetic device aimed at insuring that the Administration positions come from a "friendly" quarter and raising the perception of Marad's importance within the Administration.

Other agencies frequently disagree with Marad on policy issues and fear that designation of Marad as the lead agency on maritime issues will be misinterpreted and will in fact strengthen Marad's influence. They fear that Marad may adopt positions that are too protectionist. For this reason State, Justice, Treasury, CWPS, CEA and OMB object to this designation.

Decision

Approve pro-maritime statement including designating Commerce as lead maritime agency _____
(Commerce, FMC, Labor, DPS)

Approve pro-maritime statement without designating a lead agency for maritime matters _____
(OMB, CEA, CWPS, Justice, Treasury, State)

Do not approve pro-maritime statement _____

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

June 7, 1979

MEMORANDUM FOR THE PRESIDENT

From: Mike Blumenthal *Mike*
Fred Kahn *Fred*
Jim McIntyre *Jim*
Charlie Schuitze *CLS*

Subject: Maritime Policy

We believe that a position that favors deregulation and relies more on market competition is just as viable for this Administration in the maritime area as it has been in other transportation fields. We therefore strongly recommend the procompetitive policy options.

Background

Most of the American liner companies have not been financially healthy in the last few years. Total liner tonnage has been stagnant for the past 25 years, while bulk carrier volume has almost tripled. The Conference system and its artificially maintained high rates are one of the major reasons for this contrasting pattern: As soon as shippers gain sufficient volume to send their goods in shipload quantities, they try to avoid the high-priced liners and instead charter bulk carriers at lower, non-Conference rates. Also, the Conference system tends to encourage excessive service competition and "overtonnaging." Thus, a good argument can be made that the American liner companies have been ill-served by the Conference system and by our regulatory regime that has supported it.

Since the companies themselves have the option of leaving the Conferences, there may seem to be little need for action; we are reluctant as a general policy to save lethargic companies from themselves. But taxpayer money is also involved, since sizable direct and indirect subsidies are being paid to these companies: \$307 million

in 1980 outlays for operating subsidies; \$150 million in higher costs paid for ocean transportation because of cargo preference arrangements; \$70 million in the loss of tax revenues because of deferral of income taxes.

What changes should we propose in current laws governing ocean liner shipping?

Option 1 in the DPS memo, the procompetitive option, is far from an extreme, total deregulation position. There are a full range of yet more strongly procompetitive policies which the task force considered. For example, we could withdraw entirely the current antitrust immunity for the Conferences, much as the Civil Aeronautics Board is contemplating vis-a-vis the International Air Transport Association (IATA). Alternatively, we could withdraw the antitrust immunity for the American companies only. In the end, we rejected these alternatives, not on their economic merits, but because of the political problems (domestic and international) that they might create. Thus, the procompetitive option that remains is itself the result of a culling process.

Option 3, recommended by DPS, does not really represent a middle ground, but represents a step backward from the status quo. (This is at least equally true of the State Department option on this point.) It would reaffirm and strengthen the regulatory powers of the FMC, a protectionist agency, and open the possibility of a number of seriously anticompetitive practices being approved by the FMC. We believe the authorization of shippers' councils, for example, is likely to have anticompetitive effects. Shippers' councils, which are supposed to provide a countervailing force to the Conferences, can actually be an impediment to price competition. They may preclude independent actions by individual shippers directed at driving wedges between competing sellers, striking bargains, and undermining the price structure. Also, the councils might become vehicles for collusion on prices generally.

Option 3 would serve to increase the powers and scope of regulation; as such, it is directly contrary to the policies of this Administration in every other transportation area.

We strongly urge the adoption of Option 1. In the event, however, that you decide you cannot endorse Option 1, we urge you to consider a fourth option, a true middle ground: clarifying and strengthening the present legal situation by enacting into law the existing standard (the "Svenska" standard) that has been developed by the FMC and the courts as the criterion for approving agreements. This is usually expressed as follows: "The proponents of an agreement must demonstrate that the agreement is necessary to accomplish a serious transportation need or public benefit, and that there is no less anticompetitive method available for accomplishing that purpose." This would be accompanied by a statement expressing the Administration's continuing interest in and support for procompetitive policies generally and in ocean shipping specifically; stating the Administration's willingness to work with the Congress to take steps toward that end; indicating a commitment to veto anticompetitive bills; and adopting procompetitive positions on the rebating and cargo sharing issues (on which we and DPS are in agreement).

We have been informed that the Department of Justice, which has expressed separate dissenting opinions on the Eizenstat-Johnston memo, endorses the views expressed here.

STRAUSS/BUTLER

EYES ONLY

MEMORANDUM FOR THE PRESIDENT

FROM: BOB STRAUSS
LONDON BUTLER

DATE: JUNE 12, 1979

SUBJECT: MARITIME POLICY MEMO

As you know, we are hopeful that the maritime industry (particularly Paul Hall and other maritime union leaders) will play an important role in support of the Administration over the next 18 months. The policy statement based on your decisions in this memo has been long awaited by the industry. They will be carefully reading it as evidence of our intentions toward the industry.

Because of the importance of the statement, we strongly support the options recommended by Stu on the first (liner regulation) and last (Marad lead agency) issues.

On the other two issues (rebating and cargo sharing), Stu's recommendations run counter to the general desires of the industry. For example, Hall urged us to sign last year's rebating bill and will undoubtedly feel the same way this year. And, of course, all of the unions were very pleased with your decision to seek a cargo sharing agreement with China and want us to seek other such agreements.

If you endorse Stu's recommendations on these issues, it is important that the policy paper you send to Congress puts your recommendations in the proper context. For example, in discussing rebating we should emphasize that fair treatment for our industry is our main goal. Similarly, in discussing cargo sharing we should emphasize that while we favor open seas we will not stand idly by if the rest of the world begins to exclude our ships from other trades through cargo sharing.

Because of the importance of the language in the statement, we recommend that you ask Stu to work with us to draft a policy statement putting your decisions affecting this industry in the most favorable light.

cc: Hamilton Jordan

THE WHITE HOUSE

WASHINGTON

Date: June 6, 1979

MEMORANDUM

FOR ACTION:

Frank Moore (Les Francis) - *concur*
 Zbig Brzezinski - *concur*
 Jim McIntyre
 Charles Schultze
 Alfred Kahn
Joint memo
6/11 pm
6/8
BLU

FOR INFORMATION:

The Vice President
- NC from USC (in safe)

attached

6/8 - London experts comment on MOW

6/11 - Christopher will have revised memo by 6/13 - per Cochran (5/29/79)

MW - hold for LB

(Hold for LB)

6/18 - continue to hold for LB/ISS

FROM: Rick Hutcheson, Staff Secretary

SUBJECT:

Eizenstat Memo Re Maritime Policy

YOUR RESPONSE MUST BE DELIVERED TO THE STAFF SECRETARY BY:

TIME: 12:00 Pm

DAY: Friday

DATE: June 8

ACTION REQUESTED:

Your comments

Other:

STAFF RESPONSE:

I concur.

No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

ID 791537

THE WHITE HOUSE

WASHINGTON

DATE: 17 APR 79

FOR ACTION: FRANK MOORE (LES FRANCIS)

Handwritten: 1000
1000
124
1000
CS

Handwritten: Treas will comment
Thurs pm - attached

Handwritten: Hold for
FBI 4/27 11:30 AM
not wise, es et al

INFO ONLY: THE VICE PRESIDENT

Handwritten: DOT - Attached
JODY POWELL

JACK WATSON

ANNE WEXLER

ZBIG BRZEZINSKI - *attached*

JIM MCINTYRE; *Alfred Kahn*

CHARLES SCHULTZE

JERRY RAFSHOON; L. BUTLER

SUBJECT: EIZENSTAT MEMO RE MARITIME POLICY

Large handwritten note: Note - revised version of memo needs to be circulated to all relevant to EIA

Handwritten: 4/28 - SE memo to be rewritten

Handwritten: 4/30 - Continue to hold - Dunston to rewrite

Handwritten: 5/29 - w/s by

+++++
+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +
+ BY: 1200 PM THURSDAY 19 APR 79 +
+++++

ACTION REQUESTED: YOUR COMMENTS

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

Handwritten: 4/6 - today

FOR ACTION
FYI

<input checked="" type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND
<input type="checkbox"/>	NO DEADLINE
<input type="checkbox"/>	LAST DAY FOR ACTION

<input checked="" type="checkbox"/>	VICE PRESIDENT
<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LIPSHUTZ
<input checked="" type="checkbox"/>	MOORE
<input type="checkbox"/>	POWELL
<input type="checkbox"/>	RAFSHOON
<input type="checkbox"/>	WATSON
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<input checked="" type="checkbox"/>	SCHULTZE
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<input type="checkbox"/>	BERGLAND
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<input type="checkbox"/>	KREPS
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<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VANCE

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<input type="checkbox"/>	ADMIN. CONFIDEN.
<input type="checkbox"/>	CONFIDENTIAL
<input type="checkbox"/>	SECRET
<input type="checkbox"/>	EYES ONLY

*redraft of
791537*

THE WHITE HOUSE
WASHINGTON

1/5/74

There is contradiction in
joint MCI, et al with
Stu's memo re Treas support
of Option 3 on issue one.

Al

WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

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memo	From Dodson to Hutcheson (one page) re:DPS memo on maritime policy	6/11/79	A

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WANTS TO SEE YOU		URGENT	

RETURNED YOUR CALL

Message

*and will comment
on Maritime policy
CIS Friday*

Operator

/	FOR STAFFING
	FOR INFORMATION
	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND
	NO DEADLINE
	LAST DAY FOR ACTION -

ACTION
FYI

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	SECRET
	EYES ONLY

/	VICE PRESIDENT
	EIZENSTAT
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	KRAFT
	LIPSHUTZ
/	MOORE
/	POWELL
/	WATSON
/	WEXLER
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/	MCINTYRE
/	SCHULTZE

	ARAGON
	BOURNE
	BUTLER
	H. CARTER
	CLOUGH
	COSTANZA
	CRUIKSHANK
	FALLOWS
	FIRST LADY
	GAMMILL
	HARDEN
	HUTCHESON
	JAGODA
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	PRESS
/	RAFSHOON
	SCHNEIDERS
	VOORDE
	WARREN
	WISE

	ADAMS
	ANDRUS
	BELL
	BERGLAND
	BLUMENTHAL
	BROWN
	CALIFANO
	HARRIS
	KREPS
	MARSHALL
	SCHLESINGER
	STRAUSS
	VANCE

THE WHITE HOUSE

WASHINGTON

April 16, 1979

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
BILL JOHNSTON
SUBJECT: Maritime Policy

During the past year an interagency task force^{*} has been reviewing federal maritime policies. This memo summarizes the results of the interagency review, and seeks your guidance on a number of broad policy issues. Following your decisions we anticipate forwarding a message to Congress recommending legislative changes in current maritime laws. As you recall you promised such a message to Congressman Murphy last month during your lunch together.

Background

In recent years the American merchant marine has been weakened by the same factors that affect maritime industries throughout the world. These factors include overbuilding prior to 1973, slower than expected trade growth since then (especially of oil), and aggressive expansion of national fleets by Eastern bloc and developing countries. As a result, there has been considerable overtonnaging in world trades, a sharp reduction in shipyard order books, and heavy losses suffered by many ship operators and builders.

Our industry has generally shared in these difficulties. Two of the nine subsidized liner operators entered bankruptcy in 1978, and two others are reported for sale. Our shipbuilding industry has not yet suffered from the massive layoffs affecting France, Britain, and Japan, but most American yards face layoffs by 1980, with some yards likely to close.

As worldwide maritime problems have mounted Congress has expressed increasing concern with our national maritime policies. A number of legislative proposals have been offered, including as you remember, cargo preference. While the

* Commerce, Defense, Labor, Justice, Treasury, State, Transportation, CEA, CWPS, OMB, NSC and FMC.

preference issue is dead for the foreseeable future, Congressional concern has shifted to other areas, especially those involving our laws regulating liner shipping.

Regulation of the Liner Trades

The liner trades differ significantly from bulk and tanker trades. Bulk operators utilize specialized vessels, and generally carry shipload quantities on irregular schedules. Liners, in contrast, carry general freight in less than shipload quantities, and usually operate on a scheduled basis. Most liner service is now containerized.

The key feature of the liner trades is their organization into conferences, or groups of carriers operating in a given trade (e.g., the North Atlantic). Conference members meet to agree on rates, conditions of service, and in some cases even to allocate shares of cargo or revenue or to agree on sailing schedules. Under our shipping laws the conferences may be granted limited anti-trust immunity if their agreements are filed with and approved by the Federal Maritime Commission.

The theory of conferences is that they provide stable, high quality service at published, non-discriminatory rates. Conferences are intended to promote efficiency by matching shipping capacity with shipping needs, particularly the needs of high volume shippers. In an industry in which there are very low variable costs associated with taking on extra freight to fill up unused cargo space, the conferences tend to minimize the rate wars that periodically break out when available cargoes fall short of available capacity. The main check on the natural monopolistic tendencies of conferences is the presence or possibility of independent or non-conference operators entering the trade to undercut conference prices.

The existence of anti-trust immunity for the conferences has been the subject of recurrent debate in this country since it was first permitted sixty years ago. The task force has focussed intensively on this issue but has been unable to reach a consensus.

Decision Issue

What changes should we propose in current laws governing ocean liner shipping?

No member of the task force recommends retaining current ocean liner shipping laws intact. But proposed modifications differ sharply.

Option 1

The Justice Department (joined by Treasury, CEA, OMB and CWPS) recommends significant restrictions on the powers granted to the liner conferences. Justice believes that, ideally, the conferences should be abolished or significantly restricted. In light of the international and political repercussions of this action, however, Justice recommends the more moderate goal of reducing the powers enjoyed by the conferences. Specifically they propose that conferences be required to allow their members to set prices individually rather than collectively. (Currently most conferences do not permit such "independent action.") In addition, Justice would prohibit conferences from offering lower rates to shippers who agree to ship exclusively with conference members (dual rate contracts). They would also forbid agreements between conferences, revenue pooling arrangements and other anti-competitive practices. Finally they would continue to prohibit the formation of "shippers councils" which are groups of shippers who meet with the conferences to discuss common concerns, particularly conference rate increases. Shippers councils are actively encouraged in Europe and Japan as countervailing forces to conferences.

In Justice's view this option would lead to increased competition and lower rates and would benefit our importing and exporting industries. They believe that open competition is equally viable in ocean shipping as in other industries and that free competition will promote the greatest degree of efficiency in the industry. They argue that the same principles we have applied to international aviation should be applied to ocean shipping. They fear that allowing shippers councils would tend to legitimize and perpetuate the conference system, and that the councils might be abused by members to promote price fixing.

Other members of the task force oppose the Justice option as impractical and counter productive. Some critics question whether these changes will lower prices or increase competition. They point out that in some cases the formation of strong conferences has led to more efficient ship utilization and lower prices than before. It is also possible that new rate competition might actually reduce the number of private liner companies in the world. State points out that conferences are tolerated or sanctioned throughout the world, and that

further U.S. efforts to restrict the conferences would put us even more at odds with our trading partners who are already unhappy with our shipping policies. Finally, opponents argue that some US liner operators would be more likely to go bankrupt or to require greater federal subsidies if the conferences were modified as DOJ suggests. For this reason such changes would antagonize the merchant marine industry and the Congressional authorizing committees, and could not be expected to pass.

Option 2

The FMC recommends an opposite course. They believe that the conferences should be allowed greater powers than they now have in order to promote greater shipping efficiency. Essentially the FMC proposes to adopt a European model of conference operations under which the conferences would have the right to restrict their membership (currently conferences operating in American trades must be open to any new entrant), to pool revenues, to sign inter-conference agreements and to strengthen dual rate contracts for exclusive use of conference shipping services. In addition the FMC proposes to allow the formation of shippers councils to balance the strengthened conferences. In order to prevent abuse the FMC proposes that it have additional powers to oversee conference operations and to punish violations of shipping law.

The FMC feels that conferences are the most effective way to match shipping tonnage with shipping needs. They argue that their recommendation will bring our policies more closely into line with those of other nations. And they point out that their approach would have strong support from some elements of our maritime industry and from the merchant marine authorizing committees, and therefore might be expected to pass Congress.

Those opposed to the FMC approach (including all agencies favoring Options 1 and 3) believe that it runs contrary to basic Administration goals of promoting more competition and less federal regulation of transportation. They believe that competition rather than rationalization will be more effective in stimulating efficiency. They argue that the potential for abuse of conference powers will not be adequately checked by shippers councils and increased FMC oversight. Finally, opponents believe that concern among shippers might be great enough to kill the legislation even if the merchant marine authorizing committees were favorable.

Option 3

In light of the significant problems associated with both Options 1 and 2 several agencies (Commerce, Defense, Labor) recommend a more limited approach. This option would reaffirm the primary authority of the FMC to regulate ocean shipping and to exempt legitimate conference activity from anti-trust prosecution. The guidelines for FMC approval of conference agreements would be redefined to provide greater clarity and certainty.

The new law would specify a broad group of conference agreements (those with the least potential for inhibiting competition) that would be presumptively approvable by the FMC. Agreements determined by the FMC to fall into these categories could be automatically and speedily approved without formal hearings. For example, agreements that provided for greater efficiency, such as terminal sharing, equipment interchange, or space chartering would fall into this group. Similarly, agreements stemming from government to government negotiations or agreements approved by a shippers council would be presumptively acceptable. The FMC would have the authority to establish (through hearings and regulation) other types of agreements falling into the "automatically approvable" category. All types of agreements not defined as acceptable by law or regulation (such as revenue pooling and inter-modal agreements) would be subject to a hearing process in which the burden of proof would be on the parties to show that their agreement embodied significant transportation advantages outweighing its anti-competitive impacts. All decisions on contested agreements would be required to be issued (at least provisionally) within one year. Some kinds of conference practices, including closed membership and deferred rebates would continue to be prohibited.

In addition this option would authorize anti-trust exemption for shippers councils (granted by the FMC) subject to certain conditions and limitations (e.g. verbatim transcripts).

Supporters of this option argue that it would essentially codify existing anti-trust standards and modestly improve the regulation of ocean shipping. It would speed up and simplify FMC regulation, and might tend to promote somewhat greater competition. While it would not be fully satisfactory to the Congress it would at least receive serious hearing. It would be somewhat acceptable to foreign governments by tending to conform our laws more to international standards and by clarifying the nature of the anti-trust exemptions available to conferences.

Supporters of options 1 and 2 object to this proposal for several reasons. The Justice Department feels it goes too far toward sanctioning the existing conference system. They argue that this option fails to promote greater competition and is inconsistent with other Presidential initiatives in transportation. They fear that shippers councils might be abused by members to inhibit competition. FMC on the other hand feels that this option perpetuates a system that lacks the advantages of full rationalization of service possible under closed conferences.

Recommendation

We strongly recommend Option 3.

Given the limited resources that the Administration can devote to this issue, we see no possibility of favorable Congressional action on the Justice Department option. Moreover, even if unilateral action on our part could significantly weaken the liner conferences, it is not clear that our international trade would benefit from this action or that any trade benefits would outweigh the costs to our maritime industry. In any case the united opposition of our maritime industry, foreign governments and ship operators, and many of our larger shippers (who tolerate conferences and support shippers councils) would prohibit serious consideration of this choice. Subsequently we could expect to be excluded from the real Congressional debate.

Similarly, we see little to recommend the FMC option. This option not only encourages greater use of anti-competitive conference practices, but requires greater federal oversight. While many in the Congress might be more sympathetic to this course, it would encounter significant shipper opposition and would be viewed as a sharp retreat from your goal of promoting greater competition.

Option 3, on the other hand, can be sustained both politically and substantively. Both Congressional maritime committees have assured us that they will give this alternative serious consideration. From a substantive standpoint, option 3 promises reduced, speeded-up and simplified federal regulation. Over time it is possible that the new anti-trust definition could pressure the conferences toward more competitive practices. In any case the establishment of shippers councils would tend to exert downward price pressure on the conferences and would help to bring our regulatory regime into greater conformity with existing world practices. We do not believe that properly limited shippers councils represent any significant threat to competition.

Decision

Option 1 _____ (Justice, Treasury, CEA, OMB, CWPS)

Option 2 _____ (FMC)

Option 3 _____ (Commerce, Defense, Labor, DPS)

Decision Issue

Should we legalize rebating?

Background

Our laws prohibit a conference or an independent carrier from charging a shipper less than the rates it has filed with the FMC. In times of overcapacity, however, surreptitious rate reductions are common. This practice of "rebating" has been the subject of a number of investigations by the FMC. These investigations have led to indictments and convictions of some American companies and disputes with foreign companies and governments who have generally refused to supply necessary documents. Because the FMC has been better able to enforce our laws against our carriers than against foreigners, our carriers have complained that they are being treated unfairly. Last year Congress reacted by passing legislation mandating greater enforcement efforts against foreign carriers. You vetoed that "anti-rebating" bill sponsored by Congressman Murphy and Senator Inouye.

Option 1

Most members of the task force recommend that we simply legalize rebating. They argue that rebating is a form of price competition (even though it is conducted secretly) and that we should favor all forms of competition that result in lower costs. They believe that the difficulties of enforcing our laws against foreigners will always result in inequitable treatment of our carriers. They argue that even if our laws permit conferences, they should not actively enforce conference pricing restrictions.

Option 2

The FMC and the Commerce Department disagree. They believe that prohibitions against rebating are important to prevent price discrimination against small shippers and smaller ports. They believe that higher cost US operators will be at a disadvantage

if rebating is legalized, and that Soviet carriers in particular may be helped. They feel that price competition should be open rather than secret, and that without laws against rebating the conference system will be irreparably weakened. They note that we already limit the powers of the conferences and that without rebating restrictions some conferences may not be able to function.

In order to address the problems of unequal treatment they believe that all operators should be required to submit to audits by "neutral bodies." These neutral bodies (accounting firms, for example) would certify to the FMC that the firm was actually charging the rates it had filed with the FMC. Failure to submit such certification could lead to severe FMC imposed sanctions.

Supporters of this scheme argue that it will preserve the common carrier obligations of shipping companies and equalize the treatment of our carriers and foreigners. It would be far more likely to receive favorable action from the Congress than legalization of rebating.

Recommendation

Both options differ from the Murphy bill you vetoed last year. Murphy would have granted the FMC much greater powers to penalize foreign carriers who failed to produce documents necessary to FMC investigations of rebating. It would have placed us directly at odds with our trading partners by extending the reach and strength of our anti-rebating laws. Both options 1 and 2 would minimize our difficulties with foreign governments. Under option 1 we would simply legalize rebating, thus conforming our laws to those of most other nations. Option 2 would create a buffer (the neutral bodies) between our enforcement efforts and the "sovereignty" of foreign nations and their shipping companies.

You should be aware that Congressman Murphy and Senator Inouye have already stated their intention to repass last year's anti-rebating bill. Option 1 will place you directly at odds with them and will have little support in Congress. If you wish to avoid this possible veto situation option 2 is much more likely to carry weight in Congress.

Despite this likely opposition, we recommend option 1, legalization of rebating. In the long run it does not appear that we will ever be able to enforce our rebating laws against foreign carriers as effectively as against our own. Moreover, we believe that the government responsibility to ensure fair competition can be adequately enforced under the anti-trust laws without placing the government in the position of seeking to punish those who cut their rates, even secretly.

Decision

Option 1 _____ (Justice, Treasury, OMB, CEA, CWPS,
State, DOT, DPS)

Option 2 _____ (Commerce, FMC, Labor)

Decision Issue

What policy should we adopt regarding cargo sharing agreements?

Background

The world shipping surplus and increasing pressure from developing nations has generated an international trend toward cargo sharing agreements in both liner and bulk trades. Those agreements typically reserve a percentage of inbound and outbound cargo for the ships of one nation and an identical percentage for its trading partner. The United Nations Committee on Trade and Development (UNCTAD) has formulated a Code of Conduct for Liner Conferences that calls for a standard of 40% for the host country, 40% for the trading partner and 20% for third flag carriers. A modification of this Code (calling for a 40% share reserved for developing countries only) will soon be ratified.

Our policy has been to oppose such multilateral agreements and to resist cargo sharing even on a bilateral basis. We have, however, agreed to bilateral cargo sharing agreements with several South American countries at their insistence. These agreements effectively divided the entire trade between our carriers and those of the South American flag fleets. In addition, we negotiated a cargo sharing arrangement in 1972 with the Soviet Union which guarantees "substantial participation" by national flag carriers (1/3-1/3-1/3). Currently we face a decision on whether to enter into a similar agreement with China.

Option 1

The Justice Department (joined by Treasury, State, DOT, CEA, OMB and CWPS) argues that we should adopt a policy of opposing all cargo sharing arrangements, both multilateral and bilateral. They argue that such agreements violate our principles of promoting free trade and could lead to higher shipping costs. They believe that we should agree to such agreements only in exceptional circumstances such as when it is the only way to insure a chance of participation by US carriers in a trade.

Option 2

The Commerce Department, joined by Labor and FMC argues that we should adopt a more flexible attitude toward cargo sharing. They recommend that we be willing to agree, or even to initiate, bilateral cargo sharing agreements where this may be in our national interest. They point out that this is our de facto policy and that in some cases it has served to enhance the carriage of goods in American vessels without inhibiting our trade. In the cases in which our trading partner controls all cargo (Communist and other state controlled economies) they argue that this may be the only way to preserve any market share for American operators. Soviet, Eastern bloc or developing countries for example, who are seeking to expand their fleets as a matter of national security or economic policy, are likely to channel most or all cargo to their own carriers in the absence of cargo sharing agreements. While Commerce concedes that we should be cautious in considering such agreements they believe our policy should not foreclose arrangements that promote our national security or economic interests.

Recommendation

We recommend Option 2.

While we believe cargo sharing is only warranted in a few circumstances we believe it is unrealistic to foreclose it as a matter of principle. For example, it appears that unless we are prepared to enter into a cargo sharing agreement with China that the rapidly developing, state controlled Chinese liner shipping industry could eventually preclude US participation in this trade. The domestic political support for such an agreement may soon become overwhelming, not only from our own liner companies but from important union leaders. For Paul Hall and other leaders for example, this issue is one of overriding importance.

Moreover, recent world developments, such as the adoption by the European Community of a modified liner cargo sharing regime with the developing countries, appear to be rapidly moving the world toward universal cargo sharing.

Specifically we recommend that you allow consideration of bilateral cargo sharing agreements in circumstances in which it can be agreed that this would be in our national interest and would not negatively impact our trade. As this relates to China it would authorize negotiation of a cargo sharing agreement applying primarily to liners, rather than the bulk trades. (This is because American liner rates are not significantly above world

levels, while our bulk operators generally charge rates far above currently depressed market prices. An agreement mandating an American share at these bulk rates would inhibit trade in wheat and other bulk products.)

In future circumstances we would continue to view bilateral agreements with caution but would consider them on a case by case basis.

Decision

Option 1 _____ (Justice, State, Treasury, CEA, OMB, CWPS, DOT)

Option 2 _____ (Commerce, Labor, FMC, DPS)

Statement of Maritime Policy

The maritime industry has criticized this Administration (and others before it) for failing to devote sufficient attention to maritime affairs. The unions in particular feel they get little support from Cabinet level officers and little notice from the White House. The fact that various departments frequently state contradictory views on maritime matters is often cited as symptomatic of this lack of attention. Because of these complaints and the expectations generated by the task force, we believe that it would be useful if the maritime message to Congress be accompanied by a general statement of support for the maritime industry. Such a statement could help to assure strong maritime support for the Administration.

Specifically this statement would contain:

- o A reaffirmation of your campaign statements concerning the need for a strong merchant marine and an adequate shipbuilding base.
- o A commitment to promote development of our dry bulk fleet. Legislation to accomplish this (by relaxing restrictions on dry bulk owners) has already been cleared by OMB. No new budget impacts are involved.
- o Designation of the Commerce Department (i.e. the Maritime Administration) as the Administration's primary voice in maritime affairs. This would not prevent other agencies such as State and Justice from giving their views on maritime matters or change the normal interagency process for developing Administration positions. It would simply give the Commerce Department responsibility to present Administration views and foster an image of more coherent policy making.



DEPUTY
UNDER SECRETARY

OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

APR 20 1979

MEMORANDUM TO: Rick Hutcheson, Staff Secretary
The White House

SUBJECT: President's Option Paper on
Maritime Policy

The attached paper is to be included in the President's
maritime decision paper, per Bill Johnston's request.


John J. Fearnside

Attachment



DEPUTY
UNDER SECRETARY

OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

APR 20 1979

Mr. Bill Johnston
Domestic Policy Staff
Executive Office of the President
Old Executive Office Building
Room 231
Washington, D.C. 20503

Dear Bill:

We have reviewed your draft maritime decision paper and, for the regulatory policy decision, we agree that a middle position similar to that represented by your option 3 should be recommended to the President.

If the President wishes however, to adopt a somewhat more competitive stance than option 3 while still maintaining the conference system, we would suggest:

- some form of mandatory right of independent action such as already exists in a number of conferences and rate agreements,
- prohibition of interconference agreements and agreements between conferences and independents.

We propose that a third option be offered for the rebating decision. Option 3 would propose legislation which gave all members of all conferences operating to and from the U.S. one year from enactment to agree to the same access to their records abroad as the FMC and the Department of Justice have to U.S. firms' records here for rebating investigation purposes. At the end of the one year period, rebating would be legalized in all conferences in which any member or members refused to agree to the reciprocal access to records abroad.

We support a pragmatic approach toward bilateral agreements as your option 2 for the cargo sharing decision suggests.

Sincerely,


John J. Fearnside
Deputy Under Secretary

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RL
U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

APR 24 1979

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The Interagency Maritime Study highlights two issues for your policy decision. I should like to call your attention to the very strong views of the labor unions on these matters -- views which are generally shared by the Department of Labor. Paul Hall, President of the Seafarers' Union and of the AFL-CIO Maritime Trades Department, is also Chairman of both the Labor Policy Advisory Committee to the Multilateral Trade Negotiations and of the AFL-CIO Executive Council Task Force on International Trade. For him, the MTN and these non-MTN maritime trade issues are inseparable.

U.S. Policy on Cargo-Sharing Agreements

While Justice is opposed to all such accords, Commerce and Labor believe that we should favor cargo sharing.

Cargo sharing has assumed considerable international importance within recent months. It is now a major topic in several international fora: in our negotiations with China toward a bilateral maritime agreement; at the May UNCTAD V Conference; and, now with European Community support, in discussions on a Code of Conduct for Liner Conferences providing for cargo sharing between developed and developing countries.

The unions vigorously support cargo sharing as a means of stemming the decline in the U.S. flag share of U.S. ocean-borne foreign trade, which has now fallen to 4.5 percent. The Department of Labor agrees because we want to prevent a further diminution of our merchant fleet and because the objectives of cargo-sharing agreements are identical with those of the Merchant Marine Act, which you have specifically endorsed.

Changes in Laws Governing Liner Shipping

The Department of Labor along with Commerce and Defense proposes to allow the Federal Maritime Commission to permit more flexible cooperative arrangements, such as freight terminal sharing, to promote efficiency and competitiveness for U.S. lines. Also shippers councils would be permitted under limited conditions.

The Maritime unions favor action in this direction. They foresee bankruptcies and layoffs resulting from confused, cut-throat competition if the existing conference system is weakened.

Sincerely,



* Secretary of Labor

NATIONAL SECURITY COUNCIL

April 19, 1979

MEMORANDUM FOR: RICK HUTCHESON

FROM: CHRISTINE DODSON *Christine*

SUBJECT: DDP Memorandum, "Maritime Policy",
April 16, 1979 (U)

The NSC Staff has read the "Maritime Policy" memorandum by Stu Eizenstat and Bill Johnston. The NSC is listed as a member of the interagency task force charged with reviewing federal maritime policies, but the staff did not play an active role. Both State and Treasury have actively participated in this review. We understand that Secretary Blumenthal is sending the President a memorandum on Maritime Policy which takes issue with the entire DPS memorandum and offers a complete alternative. (U)

NSC Staff believes that the nettlesome issues are domestic in nature, involving the proper role of government in industry and the proper Administration "voice" on maritime policy. (U)

SE

April 17, 1979

Rick H.

Y

JOHNSTON, DPS

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levels, while our bulk operators generally charge rates far above currently depressed market prices. An agreement mandating an American share at these bulk rates would inhibit trade in wheat and other bulk products.)

In future circumstances we would continue to view bilateral agreements with caution but would consider them on a case by case basis.

Decision

Option 1 _____ (Justice, State, Treasury, CEA, OMB, CWPS, DOT)

Option 2 _____ (Commerce, Labor, FMC, DPS)

Statement of Maritime Policy

The maritime industry has criticized this Administration (and others before it) for failing to devote sufficient attention to maritime affairs. The unions in particular feel they get little support from Cabinet level officers and little notice from the White House. The fact that various departments frequently state contradictory views on maritime matters is often cited as symptomatic of this lack of attention. Because of these complaints and the expectations generated by the task force, we believe that it would be useful if the maritime message to Congress be accompanied by a general statement of support for the maritime industry. Such a statement could help to assure strong maritime support for the Administration.

Specifically this statement would contain:

- o A reaffirmation of your campaign statements concerning the need for a strong merchant marine and an adequate shipbuilding base.
- o A commitment to promote development of our dry bulk fleet. Legislation to accomplish this (by relaxing restrictions on dry bulk owners) is waiting for clearance in OMB. Our 1980 budget earmarked \$100 million for this purpose.
- o Designation of the Commerce Department (i.e. the Maritime Administration) as the Administration's primary voice in maritime affairs. This would not prevent other agencies such as State and Justice from giving their views on maritime matters or change the normal interagency process for developing Administration positions. It would simply give the Commerce Department responsibility to present Administration views and foster an image of more coherent policy making.



Office of the Attorney General
Washington, D. C. 20530

April 12, 1979

MEMORANDUM FOR THE PRESIDENT

Re: Ocean Shipping Transportation

For the past year, the Justice Department has participated on the interagency task force you established to study the ocean shipping industry. We are vitally interested in this subject because an exemption from the antitrust laws created in 1916 allows regulated ocean shipping companies to fix rates, conduct that would be a felony in most other industries. The Justice Department has completed two studies of this industry within the last two years and the Department of Transportation recently commissioned a third study. These studies all conclude that competition has been unnecessarily stifled under the present system. As you have been so vigorous in pointing out, inflation is nurtured when competition is stifled.

R 2

I am concerned that the options paper being presented for your review does not adequately set forth for your consideration the merits of pursuing vigorously a strong procompetitive program in this area. My concern arises from the fact that Option III, which I understand will be the recommended option, is characterized as one that may tend to promote somewhat greater competition. In my view it would have just the opposite effect. Option III would create shippers councils which could facilitate price fixing by shippers as well as carriers; and it would make presumptively approvable any agreement--no matter how anticompetitive--that had been considered and approved by both carriers and a shippers council. It would also permit the FMC to make presumptively approvable anticompetitive agreements that now require careful public interest oversight.

Although the Department has not been permitted to review the analysis and recommendation sections of the options paper, the manner in which the options themselves are presented invites the reader to conclude

that Option I, the procompetitive option supported by this Department, the Treasury Department, the Council of Economic Advisors, the Office of Management and Budget, the Council on Wage and Price Stability, and endorsed by your own National Commission for the Review of Antitrust Laws and Procedures is really an unrealistic extreme. I wish to assure you that in my opinion, Option I represents a careful and responsible assessment of what its sponsoring agencies believe is justified on the merits and by practical political realities. Had we not taken practical domestic and foreign policy considerations into account, we would have recommended a much broader repeal of antitrust immunity than Option I recommends.

I have identified five factors that I believe are relevant to your decision. These factors are set forth below. On balance, I believe these factors support adoption of Option I.

Economic Policy. Ideally, the Administration's attitude toward maritime regulatory policy should be founded on a rigorous economic analysis of the liner shipping industry. Such an analysis was conducted as part of the interagency study, and, I believe it shows that there is no substantial economic justification for the extensive collusion that now characterizes liner transportation. This is fully documented in the Department of Justice's submissions and further supported by a study commissioned by the Department of Transportation. Accordingly, Option I should be preferred unless countervailing noneconomic considerations require some alternative that is less ideal. However, none of the other relevant factors suggests that a more procompetitive policy is not the best solution.

Diplomatic Considerations. A number of foreign governments are concerned with our regulatory approach to liner shipping and have expressed dissatisfaction with even the present, limited restrictions on ocean carrier collusion. This dissatisfaction, however, is unlikely to abate unless the United States virtually abandons any attempt to regulate liner shipping, a clearly unacceptable alternative. It thus appears that the United States must live with this dispute

on a continuing basis. Given this reality, it further appears that little would be lost diplomatically by structuring our shipping policy so as to place a greater emphasis on competition. It is important to recognize in this regard that Option I is hardly an extreme revision of the existing system, but is in fact a substantial compromise with traditional U.S. economic policy that has been structured to minimize diplomatic confrontations.

National Defense. Defense preparedness is of course an important element in any conceivable shipping policy. However, to the extent we need to foster a merchant marine for defense purposes, the most efficient means of doing so is through a direct subsidy that can be focused on our particular needs. Moreover, reliance on a cartel system would probably not generate the particular kind of vessels defense experts believe to be necessary. For example, container operations are vulnerable to military attack, and, therefore, the military prefers development of Ro-Ro vessels. Nevertheless, most investment and subsidy occurs in the container area. We have recommended revisions in our subsidy programs to take better account of real defense needs.

Compatibility with Other Policies. It is important that any policy position on liner shipping be consistent with the Administration's policies on related issues. Under your leadership, the Administration has pursued a vigorously procompetitive policy in international aviation. As well, the Administration has successfully advocated a similar policy with respect to domestic aviation, and will probably endorse procompetitive reforms for the trucking industry. To fail to do the same for liner shipping would undermine the credibility of these policies, especially in international aviation where the U.S. is subject to the allegation that we support competition primarily because it would prove beneficial for U.S. carriers. No such claim can be made with respect to the shipping industry. Hence, a procompetitive shipping policy would affirmatively demonstrate to foreign governments the sincerity of our advocacy of competitive regimes.

Congressional Reaction. Any Administration policy should have some acceptability to Congress, and it is therefore significant that some congressional committees might not be sympathetic to a more competitively-oriented policy. However, it would be a mistake to assume that Option III would be well-received on the Hill. The interagency study is expected to produce a definitive statement of the Administration's position. Option III hardly satisfies this expectation and would therefore be a source of major disappointment with the Administration. In addition, congressional observers would likely view this option as a signal that the Administration lacks the will to resist the numerous anticompetitive proposals that emerged during the 95th Congress. An openly procompetitive policy, on the other hand, may well deter any determined effort to enact the anticompetitive proposals that surfaced during the past session of Congress. I believe that, in the long run, it is better to take a substantively defensible position that may not be welcome in every corner, than to vacillate and eventually have to take a defensive stance.

Finally, I should like to add a few additional words on shippers councils:

(1) The economic justification for shippers councils rests on the assumption that they are necessary to constrain the power of liner cartels. However, they are only arguably necessary if U.S. policy favors a strengthened conference system. Option I would restrict the power of conferences sufficiently to make shippers councils totally unnecessary.

(2) Shippers councils create significant potential costs. These fora may facilitate outright collusion or cooperative behavior among shippers in respect of domestic markets; and further may serve as a mechanism for eliminating interconference competition. These costs are avoidable under Option I.

(3) While the U.S. endorsement of shippers councils could be well-received by European countries, this would be the only "benefit" of such action. However, even this "benefit" could wholly be offset in the

course of future legislative debates. Considerable confusion would arise as to whether the U.S. was supporting the European model of a conference system and thus, it would be more difficult for the Administration to oppose legislative proposals to "perfect" the cartel. Indeed, the industry would be able to argue that shippers councils eliminate the need for any regulatory restraints on conference power and that they create even a greater need for conference flexibility. In my view, supporting shippers councils would send precisely the wrong signal to the Congress.

Respectfully,

A handwritten signature in black ink, appearing to read "Griffin B. Bell". The signature is fluid and cursive, with a prominent initial "G" and a long, sweeping underline.

Griffin B. Bell
Attorney General



THE SECRETARY OF THE TREASURY
WASHINGTON 20220

April 19, 1979

MEMORANDUM FOR THE PRESIDENT

Subject: DPS Memorandum on Maritime Policy

While Treasury is not capable of judging the political aspects of making policy in the maritime area, Mike and I want you to be fully aware of our position on this matter as viewed from an economic perspective.

I. REGULATION OF LINER SHIPPING

Current U.S. shipping policy and regulation is another classic case of the problem presented when a well-entrenched regulatory system produces anti-competitive, inflationary and inefficient results. The choice is always whether the situation can best be improved by moving toward deregulation or whether more efficient and differently focused regulation is the proper remedy. We feel strongly that the better economic analysis drives one toward Option 1 of the DPS paper, partial deregulation. This view is based on our assessment of liner shipping which is attached as Annex A.

II. CARGO SHARING

The DPS memorandum advocates a "more flexible" attitude toward cargo sharing in general and endorses a cargo sharing agreement with China. The general cargo sharing issue is only beginning to be explored in the Administration, while the China maritime agreement will be considered by the PRC Committee on U.S.-China Economic Relations in the near future. I believe it would be premature for you to decide these issues at this time.

III. SHIPPING SPOKESAGENCY

The DPS memorandum recommends that you name the Maritime Administration as the spokesagency for all shipping questions. This designation would almost certainly ensure a pro-regulatory and pro-subsidy policy direction, and a decision on this issue should await the decision on the substantive issues.


Robert Carswell
Acting Secretary

Attachment: Annex A

ANNEX A

State of the Industry

The liner shipping market essentially is stagnant -- total volume carried to and from the United States has hovered around 50 million tons for over twenty years, in the face of strong overall growth in U.S. trade volumes. Meanwhile, bulk and charter carriage has expanded significantly, not only because of increased trade volumes and improved technologies, but also because legalized price fixing by liner carriers has stimulated shippers to turn to bulk and chartered carriage, where rates are freely competitive.

U.S. flag liners, despite the stagnant market, have increased their share of the U.S. market from 22 percent in 1967 to over 30 percent in 1977. This is a good record. But greater efficiency will be vital simply to hold this market position. Greater competition should encourage improved efficiencies without endangering vigorous participation by U.S. carriers in our liner trades.

U.S. liner carriers have sharply diverse performance records. Some U.S. carriers are world leaders in shipping technology and are growing fast. Others are inefficient and hurting. Two went bankrupt in 1978.

Many U.S. flag carriers are directly subsidized by the United States. The efficient carriers enjoy U.S. tax and cargo preference benefits, but generally avoid direct U.S. government subsidies because of the accompanying loss of managerial flexibility.

Government Assistance

The U.S. Government provides extensive support to U.S. carriers, including: direct operating and construction subsidies (about \$550 million of 1977 budget entitlements); loan guarantees to finance vessel construction (\$5.8 billion of outstanding guarantees); tax preferences (shipping is one of the most favorably taxed industries in the United States); and preference for carriage of government cargo (\$350 million in revenues from commercial cargo in 1976, plus an undetermined amount from military cargo).

In 1978 Congress passed, and you signed, legislation intended to protect U.S. carriers from predatory competition by state-owned foreign carriers, primarily the Soviets.

These various forms of assistance should be considered in deciding the future course of regulatory policy affecting U.S. carriers.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

APR 27 1979

MEMORANDUM FOR: The President
FROM: James T. McIntyre, Jr. *JTM*
SUBJECT: Maritime Policy

Stu has provided you with a memorandum covering three issues arising out of the interagency task force reviewing Federal maritime policies. I would like to briefly comment on those issues and the recommendations for Administration action in this area.

At the heart of the issues presented is one fundamental public policy question: should we or should we not promote increased competition and decreased Federal regulation in this sector of the economy? Thus far, the Administration has established a clear record of supporting increased competition and decreased Federal regulation--in the airline industry, in the freight rail industry, and in intercity buses. I believe that we can extend these principles--if even in a modest way--to the ocean shipping industry. Most of the recommendations presented to you in the issue memorandum have the effect of moving us in the opposite direction.

What changes should we propose in current laws governing ocean liner shipping?

The recommendation presented by the Domestic Policy Staff (DPS) on this issue would give the Federal Maritime Commission (FMC) increased regulatory authority over the ocean liner industry. It would significantly extend FMC's discretionary authority in granting antitrust immunity to service agreements and other practices of shipping conferences which the courts have held the FMC does not now have. We believe that sanctioning such practices results in a wasteful use of resources and ultimately higher prices to the consumer. Excessive service competition among carriers has resulted in the unnecessary build up of liner fleets or "overtonnaging". Although conference carriers have increasingly sought FMC approval of service agreements to limiting overtonnaging on trade routes, we believe this approach is not an effective way to provide ocean transportation services at the lowest cost.

Another reason I find the DPS recommendation particularly troublesome is that, on balance, the FMC has not been an effective agency. Its performance has been criticized by Congressional committees and its significant decisions have

often been overturned by the courts because the Commission has failed to justify the anticompetitive impact of its actions.

In view of this poor performance record, we have little assurance that implementing the proposals contained in the DPS recommended option (Option #3) would lead to increased competition in ocean shipping. We would recommend that the Administration begin to prod the conferences toward greater price competition through various means such as requiring the conferences to permit individual carriers to take independent price actions when they so desire. Accordingly we support the Justice option (Option #1) on this issue.

Finally, while it is true that price fixing arrangements do protect carriers from competition, it should be noted that this is a highly inefficient method of promoting our merchant marine. Not only does this lead to higher prices for importers, exporters, and ultimately consumers, but--since 70 percent of our liner cargo is carried in foreign flag vessels--these price fixing agreements also provide substantial benefits to foreign flag carriers. In the event that the adoption of our recommendation has an adverse effect on the U.S.-flag liner operators, we are prepared to support reforming the operating subsidy system and even providing further subsidies should that prove necessary.

Should we legalize rebating?

At present, the Shipping Act outlaws rebating by ocean liner operators in the foreign trade of the United States. DPS recommends that the Shipping Act's prohibition on rebating be withdrawn. This is a form of price competition which we believe should be allowed, and we therefore agree with the DPS recommendation in this area.

What policy should we adopt toward cargo sharing agreements?

We disagree with the DPS recommendation that we adopt a more flexible attitude toward cargo-sharing agreements. The Administration has traditionally favored free trade and competition. Our current policy is to oppose bilateral or multilateral cargo sharing agreements except in unusual cases. The current policy allows for flexibility when necessary and is also consistent with U.S. international aviation policies. In extraordinary cases, we have participated in cargo-sharing agreements in the past and probably will in the future. We see no reason to change this policy. To announce an openness to such agreements would only invite more nations to propose or

insist on them. We especially object to initiating such agreements when "it is in our national interest". To do so would be to say that we support them when they are in our favor and oppose them when they are not. The current policy is also consistent with the U.S. international aviation policies.

Statement of Maritime Policy

DPS notes that the maritime industry has criticized the Administration for failing to devote sufficient attention to maritime affairs. This strikes me as ironic in view of the wide range of Federal programs which we have continued to support in the maritime area, including:

- \$218 million in estimated 1980 outlays for the construction in the United States of commercial liner and bulk vessels;
- \$307 million in 1980 outlays for operating subsidies, primarily in support of seven subsidized U.S. flag liner companies;
- approximately \$150 million in higher costs paid for ocean transportation of government-impelled cargo (e.g., food for peace shipments and Strategic Petroleum Reserve oil imports) because of the requirement that at least 50 percent of these shipments be in U.S.-flag vessels;
- loss of tax revenues, valued at \$70 million in 1980, which results from the indefinite deferral of income taxes on shipping income which is earmarked for investment in new ship construction in the United States; and
- Federal loan guarantees for domestic ship construction with an implicit interest subsidy estimated at \$195 million for 1980.

The above listing does not include the benefits derived by the industry from the Jones Act, which restricts commercial water transportation between U.S. ports solely to U.S. built and operated vessels.

Given this level of support we question the continued need to reaffirm our commitment to this industry.

We also disagree with DPS that the Maritime Administration of the Commerce Department (MARAD) should be designated as the Administration's primary spokesman in maritime affairs, especially if you decide on a pro-deregulation approach. MARAD

is extremely industry oriented and we believe that its designation as chief spokesman would result in more anti-competitive policies. At a minimum, we suggest that this role should be shared with the State Department and possibly the Department of Transportation. We believe that they are more likely to promote the free trade and pro-competitive positions that are consistent with the Administration's general policies.

Conclusion

Unless you issue a strong statement in favor of deregulation and competition, or at least in opposition to further anti-competitive measures, we believe that your best course would be to announce no major changes in maritime policy at this time, or to suggest that you will be willing to work with Congress on developing an acceptable reform of the industry. There are several bills currently pending before Congress which will be affected by your decision. Most of these bills are anti-competitive. It is likely that many of these bills will receive favorable action by the Congress, particularly if the Administration tacitly supports them or even if it takes no position on them.

We believe it is time to start the reform process in the maritime area. While the DPS memorandum may be accurate in saying there is little Congressional support for such action at this time, that could also be said of the aviation and rail areas just a few years ago.

DEPARTMENT OF STATE
WASHINGTON

May 30, 1979

MEMORANDUM FOR: THE PRESIDENT

FROM: Warren Christopher, Acting *W.C.*

SUBJECT: State Department Comments on Domestic Policy Staff Memorandum on Maritime Policy

The purpose of this memorandum is to furnish our views on two issues presented in the DPS memorandum, and to state our somewhat different suggestion on the subject of liner conference regulation.

Bilateral Cargo-sharing and MarAd's Role. The State Department would like to see competition play a more prominent role in shipping, but we recognize that there are obvious practical obstacles to a dramatic change in the pro-competitive direction. Two options presented in the DPS memorandum would, however, result in a major change in the anti-competitive direction. The first would be a weakening of our present strong presumption against bilateral cargo-sharing agreements (Option 2, Issue 3 in the DPS paper). Such a change would be unambiguously protectionist, would substantially reduce competition, and would create strong inflationary pressures. We urge you to select Option 1.

A second and perhaps less obvious wrong step would be designation of Commerce's Maritime Administration as the Administration's primary voice in maritime affairs (Option 4, Issue 4). MarAd has a single clearly defined constituency -- the U.S.-flag merchant marine -- and the proposed elevation of MarAd's role would send a signal that this constituency will be given priority over others, many of which are more important to the U.S. economy. (For every employee involved in U.S.-flag ocean shipping, there are scores involved in producing the products shipped.) Any lack of coordination within the U.S. Government on maritime matters can be cured by giving your Domestic Policy Staff and/or OMB a stronger mandate to ensure that the various agencies adhere to Administration policies.

Liner Conference Regulation. On the first issue presented in the DPS memorandum--liner conference regulation--Option 3 is presented as a middle ground between the pro- and anti-competitive extremes of Options 1 and 2. We endorse the search for a middle ground, but believe that modifications of Option 3 would make it more consistent with the Administration's general deregulation philosophy, as well as with international realities.

-- First, Option 3's attempt to identify two categories of conference agreements will result in legal confusion and, as a result, more litigation and regulation. A better approach would be to make all conference agreements presumptively approvable. This would shorten and simplify the regulatory process, while giving Justice and others the chance to challenge agreements that are unduly anti-competitive. This recommendation would have strong support in Congress and be welcomed by both U.S. and foreign carriers.

-- As a partial balance to this suggested modification, so-called "loyalty arrangements" that require a shipper to move all his cargo on conference carriers should be prohibited. These arrangements create artificial barriers that protect liner conferences from competition by independents--carriers who are not conference members. By remaining silent on this issue, the DPS paper appears to endorse present laws that sanction loyalty arrangements.

-- Similarly, shippers' councils should not be given antitrust exemptions as recommended under Option 3. It is not clear that these councils would be effective in achieving price reductions, and yet they create new anti-competitive dangers and set a dangerous precedent for other industries. There is no strong pressure among U.S. shippers for the right to form shippers' councils.

-- Finally, approval of Option 3, even as modified, should be linked to approval of the pro-competitive options on the other two substantive issues presented to you--rebating and cargo-sharing. The endorsement of conferences involved in Option 3 should be balanced by legalizing rebating and by continuing a strong presumption against cargo-sharing.

If you wish to consider further any of these modifications of Option 3, we will provide you immediately with a more detailed discussion and comments by other agencies.

THE WHITE HOUSE
WASHINGTON

April 17, 1979

Rick H.

TO: ~~JOANNE HURLEY~~

FROM: BILL JOHNSTON, DPS

This is a revised page 11 to the Maritime Policy memo to the President. OMB asked that we make this change. Would you see that it is forwarded to the President?
Thank you.....