DOCUMENT RESUME

06445 - [B1606646]

Cargo Preference Programs for Government-Financed Ocean Shipments Could Be Improved. CED-78-116; B-95832. June 8, 1978. 49 pp. + 7 appendices (7 pp.).

Report to the Congress; by Elmer B. Staats, Comptroller General.

Issue Area: Transportation Systems and Policies: National Policies and Programs (2406); Facilities and Material Management (700).
Contact: Community and Economic Development Div.
Budget Function: Commerce and Transportation: Water Transportation (406).
Organization Concerned: Department of Commerce; Maritime Administration.
Congressional Relevance: House Committee on Merchant Marine and Fisheries; Senate Committee on Commerce, Science, and Transportation; Congress.
Authority: Military Transportation Act of 1904 (10 U.S.C. 2631). Cargo Preference Act of 1954 (P.L. 83-664; 46 U.S.C. 1241(b)). Merchant Marine Act of 1970 (46 U.S.C. 1241(b)). Agricultural Trade Development and Assistance Act of 1954, as amended (P.L. 83-480). National Health Planning and Resources Development Act of 1974. Merchant Marine Act of 1936. 15 U.S.C. 616(a).

Cargo preference laws seek to promote the development and maintenance of an adequate, well-balanced U.S. merchant marine, to promote U.S. commerce, and to aid in the national defense. The laws require use of U.S. flag vessels for 50% to 100% of Federal Government-generated ocean shipments. The Secretary of Commerce is responsible for issuing cargo preference regulations, reviewing the administration of agency cargo preference programs, and reporting on them annually to the Congress. Findings/Conclusions: The three major civilian Government agencies reporting to the Maritime Administration (MarAd) have generally met the U.S. flag shipping requirements. The MarAd had some success in expanding the number of programs with cargo preference requirements but has been hampered by nonspecific legislation and lack of clear-cut authority to determine the applicability of cargo preference legislation to programs. Because of uncertainty about applicability of the legislation to transportation of imports under Federal grant programs, some shipments may have been made on foreign-flag vessels which could have been made on U.S. flag vessels. Reports to the Congress on cargo preference shipments have been incomplete, and some agencies have not fully complied with MarAd reporting regulations. Although MarAd has tried to resolve these problems, improvements are still needed. It is developing a computerized system to improve its cargo preference monitoring and reporting capabilities. Recommendations: The Congress should clarify section 901(b) of the Merchant Marine Act of 1936

concerning the types of programs to be covered under cargo preference legislation and the extent of MarAd's authority to determine the applicability of the legislation to specific programs. The Secretary of Commerce should direct the Assistant Secretary for Maritime Affairs to: include in the annual cargo preference report those agencies not complying with MarAd's determinations under section 901(b) and the reasons why not, amend MarAd's cargo preference regulations to require submission of summary shipment or other data as well as bills of lading for all Federal agency cargo preference shipments, and establish a timetable for identifying all of the Department of Defense's (DOD's) programs that have cargo preference applicability and for developing DOD reporting requirements. (Author/HTW)

4444

BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

Cargo Preference Programs For Government-Financed Ocean Shipments Could Be Improved

Cargo preference laws and the Maritime Administration's implementation thereof require Government agencies to use U. S.-flag vessels for 50 to 100 percent of their ocean cargo shipments and report such shipments to the Maritime Administration. The three major civilian Government agencies reporting to the Maritime Administration have generally met the U. S.-flag shipping requirements. The Maritime Administration has sought to expand the number of Federal programs with cargo preference, but because of nonspecific legislation, it has been only partially successful.

Reports to the Congress on the use of the U.S.-flag vessels for federally financed ocean shipments have been incomplete because of inadequate data available to the Maritime Administration. The Maritime Administration has tried to resolve some of these problems and is currently developing a computerized system to improve its cargo preference monitoring and reporting capabilities.

This report contains recommendations to the Congress and the Secretary of Commerce to provide for more effective implementation of cargo preference legislation.

UNITED STATES GENERAL ACCOUNTING OFFICE

CED-78-116
JUNE 8, 1978

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

B-95832

To the President of the Senate and the
Speaker of the House of Representatives

This report discusses our review of the Maritime Administration's efforts to monitor and regulate Federal agency cargo preference programs. We found a need for clarification of the law and better reporting of ocean shipments by some agencies to the Maritime Administration.

This report contains recommendations to the Congress and to the Secretary of Commerce to provide for more effective implementation of cargo preference legislation.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of Commerce; and the heads of the other departments and agencies discussed in this report.

Comptroller General
of the United States

D I G E S T

The Congress needs to clarify the Merchant Marine Act of 1936 concerning the types of programs to be covered under cargo preference legislation. The Congress should also clarify the Maritime Administration's authority to determine the applicability of cargo preference legislation to specific programs. (See p. 29.)

Cargo preference laws require use of U.S.-flag vessels for 50 to 100 percent of Federal Government-generated ocean shipments. These laws are to promote the development and maintenance of an adequate, well-balanced U.S. merchant marine, to promote U.S. commerce, and to aid in the national defense. (See pp. 1 and 2.)

GAO recommends several actions to the Secretary of Commerce to improve Maritime Administration's management of cargo preference monitoring, regulating, and reporting responsibilities. (See pp. 29, 40, and 41.)

The Secretary of Commerce is responsible for issuing cargo preference regulations, reviewing the administration of agency cargo preference programs, and reporting on them annually to the Congress. GAO's review showed that the three major civilian agencies required to use U.S.-flag vessels and to report on their shipments to the Maritime Administration are generally meeting these U.S.-flag shipping requirements when vessels are available. (See pp. 2 and 7.)

The Maritime Administration had some success in expanding the number of programs with cargo preference requirements. However, it has been hampered in its efforts by nonspecific legislation and lack of clear-cut authority to define which programs should be required to use U.S.-flag vessels. For example, for some time the Maritime Administration and other agencies have debated the applicability of cargo preference to the ocean transportation of imports under Federal grant programs. Consequently, in some cases federally funded or guaranteed cargo that could have been

shipped on U.S.-flag vessels may have been shipped on foreign-flag vessels. (See ch. 3.)

Reports to the Congress on cargo preference shipments have been incomplete; some agencies have not fully complied with the Maritime Administration's reporting regulations. For instance, information on some ocean shipments financed by the Agency for International Development was not reported to the Maritime Administration. Freight forwarders under contract with the General Services Administration did not always furnish copies of bills of lading as required. Also, some Department of Defense ocean shipments have been excluded from the Maritime Administration's reporting system pending the establishment of clearer, workable arrangements between the two agencies. The Maritime Administration has tried to resolve these problems, but improvements are still needed to insure adequate reporting of cargo preference data. (See pp. 32 to 40.)

The Maritime Administration is currently developing a computerized system to improve its capabilities to monitor and report on the ocean shipping activities of Government agencies and to assist as a marketing aid to the U.S. merchant marine. (See p. 42.)

The Department of Commerce concurs with the intent of GAO's recommendations. (See app. VI.)

Contents

		Page
DIGEST		i
CHAPTER		
1	INTRODUCTION	1
	Cargo preference shipments	3
	Impact of the cargo preference laws	4
2	THREE MAJOR AGENCIES REPORTING SHIPMENTS TO MARAD ARE MEETING CARGO PREFERENCE REQUIREMENTS	7
	Department of Agriculture	8
	Agency for International Development	8
	General Services Administration	10
	Conclusions	10
3	DISAGREEMENTS OVER NEED TO REQUIRE CARGO PREFERENCE	12
	Use of U.S.-flag vessels for foreign military sales cargoes	13
	Use of U.S.-flag vessels for shipments resulting from Federal grants	20
	No U.S.-flag shipping requirements for other Federal programs	25
	Conclusions	28
	Recommendation to the Congress	29
	Recommendation to the Secretary of Commerce	29
4	CARGO PREFERENCE REPORTING TO MARAD NEEDS TO BE IMPROVED	30
	Submission of bills of lading by agencies with reporting requirements	30
	Accomplishments achieved by MarAd to improve its annual report	35
	Further opportunities exist for more comprehensive reporting	38
	Conclusions	40
	Recommendations to the Secretary of Commerce	40
5	MARAD PLANS TO IMPROVE ITS MONITORING AND MARKETING ASSISTANCE CAPABILITIES	42
	Limitations of existing data processing system	42
	MarAd's development of a new system	45
	Benefits expected from the new system	47
	Conclusion	48

CHAPTER		Page
6	SCOPE OF REVIEW	49
APPENDIX		
I	Civilian agency-sponsored cargoes calendar year 1975	50
II	Civilian agency-sponsored cargoes calendar year 1974	51
III	Military Sealift Command shipments calendar years 1975 and 1974	52
IV	U.S. oceanborne foreign trade/commercial cargo carried	53
V	Departments and agencies where we reviewed cargo preference programs	54
VI	Letter dated April 7, 1978, from the Assistant Secretary for Maritime Affairs, Department of Commerce	55
VII	Principal Department of Commerce officials responsible for administering the activities discussed in this report	56

ABBREVIATIONS

AID	Agency for International Development
DOD	Department of Defense
Eximbank	Export-Import Bank of the United States
FHWA	Federal Highway Administration
GAO	General Accounting Office
GSA	General Services Administration
HEW	Department of Health, Education, and Welfare
MarAd	Maritime Administration
NCSAS	national cargo shipping analysis system
UMTA	Urban Mass Transportation Administration
USDA	U.S. Department of Agriculture

CHAPTER 1

INTRODUCTION

A well-balanced merchant marine and a prosperous, innovative maritime industry are considered vital components of U.S. seapower. However, U.S. shipping continues to experience substantially higher operating and capital costs than its foreign competitors. Over a prolonged period, this competition has led to a general decline in the capability of the U.S. merchant marine.

The Congress has attempted to foster development and encourage maintenance of the U.S. merchant marine through passage of cargo preference legislation. Basically, this legislation provides that a portion of the oceangoing cargo which involves a Federal interest--that is, goods in which the Government has a property interest or goods that are moving in commerce because of Federal Government involvement--must be carried in privately owned U.S.-flag vessels. The three major cargo preference laws are:

--Military Transportation Act of 1904 (10 U.S.C. 2631) which provides that only vessels of the United States or belonging to the United States may be used in ocean transportation of supplies bought for the armed services. However, the act stipulates that other than U.S.-flag vessels can be used if freight charges for U.S.-flag vessels are unreasonable.

--Public Resolution No. 17 (15 U.S.C. 616(a)), approved in March 1934, provides that where loans are made by an instrumentality of the Government to foster exporting of agricultural or other products, such products be carried exclusively in U.S.-flag vessels unless the Maritime Admininstration (MarAd) certifies that vessels are not available in sufficient numbers, in sufficient tonnage capacity, on necessary sailing schedule, or at reasonable rates. Also, general waivers are permitted to allow recipient country flag vessels to carry up to 50 percent of Public Resolution 17 cargoes between the United States and the recipient country. Public Resolution 17 is primarily applicable to credits of the Export-Import Bank (Eximbank) which finances the sale and shipment of U.S. products.

--The Cargo Preference Act of 1954 (Public Law 664) (46 U.S.C. 1241(b)), which amended section 901(b) of the Merchant Marine Act of 1936, requires that

at least 50 percent of the gross tonnage of goods for U.S. Government use or overseas aid or assisted exports be carried in privately owned U.S.-flag vessels to the extent they are available at fair and reasonable rates. Under this act the use of U.S.-flag vessels is stipulated where the United States (1) procures, contracts, or otherwise obtains for its own account equipment, material, or commodities, (2) furnishes equipment, material, or commodities to or for the account of any foreign nation without provision for reimbursement, (3) advances funds or credits, and (4) guarantees the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities.

The Merchant Marine Act of 1970 (46 U.S.C. 1241(b)(2)), which further amended section 901(b) of the Merchant Marine Act of 1936, provided the Secretary of Commerce with the responsibility and authority to promulgate cargo preference regulations and to monitor the administration of cargo preference legislation. The 1970 act states that each agency involved in shipments of cargo that come under the Cargo Preference Act of 1954 is responsible for administering the program under regulations issued by the Secretary of Commerce. The Secretary of Commerce is responsible for reviewing the administration of the total program and for reporting annually to the Congress.

The Secretary of Commerce delegated his authority under the Merchant Marine Act of 1970 to the Assistant Secretary of Commerce for Maritime Affairs, who is the head of the Maritime Administration. Specifically, the Division of National Cargo within the Office of Market Development is responsible for the day-to-day administration of the cargo preference programs. As of June 30, 1977, there were 13 people working in the Division of National Cargo.

MarAd officials also use section 212(d) of the Merchant Marine Act of 1936 as authority in promoting the use of U.S.-flag vessels by Federal agencies. This section authorizes and directs MarAd to establish and maintain liaison with such other boards, commissions, independent establishments, and departments of the United States Government and with such representative trade organizations throughout the United States as may be concerned with waterborne export and import of foreign commerce, to secure preference to U.S. vessels in the shipment of such commodities.

CARGO PREFERENCE SHIPMENTS

Although numerous executive agencies have cargo preference programs, the majority of shipping tonnage subject to cargo preference is generated by the Department of Defense (DOD), U.S. Department of Agriculture (USDA), Department of State's Agency for International Development (AID), and Eximbank. As part of its responsibility to provide services for executive agencies, the General Services Administration (GSA) annually contracts with ocean freight forwarders to provide services to Federal agencies upon request.

During the period we reviewed, DOD generated more preference cargo than any other Federal agency. The Military Sealift Command, DOD's shipping manager, accumulates information on cargoes shipped by it and reports this information quarterly to DOD. Appendix III contains information on the Military Sealift Command's shipments in calendar years 1975 and 1974. Records were not maintained by DOD for ocean shipments not handled by the Military Sealift Command.

USDA- and AID-generated shipments comprise most of all nonmilitary cargoes moving under the Cargo Preference Act of 1954. Title I of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), as amended, authorized the Secretary of Agriculture to enter into agreements with foreign or U.S. private trade entities for financing the sale of U.S. agricultural commodities for export. Since calendar year 1974, this program has generated the largest amount of nonmilitary shipments under the Cargo Preference Act of 1954.

AID makes loans and grants to foreign governments under the Foreign Assistance Act of 1961. This program includes commodity loans and grants whereby U.S. commodities are transferred to foreign countries. AID is also involved in title II of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), as amended. Under this program food is donated to friendly countries and needy peoples around the world.

Eximbank finances a substantial amount of goods involving ocean shipments. Public Resolution 17 requires that all Eximbank-generated cargoes be shipped on U.S.-flag vessels, unless a waiver is granted by MarAd. Eximbank's objectives are to help finance and facilitate exports and imports between the United States and any foreign country or agencies or nationals thereof. Due to Public Resolution 17, Eximbank programs have provided a significant source of revenue for the U.S. merchant marine.

MarAd reports statistics on nonmilitary preference cargo in its annual report to the Congress. Appendixes I and II contain information from MarAd's 1976 and 1975 annual reports describing preference cargo shipments for calendar years 1975 and 1974, respectively.

IMPACT OF THE CARGO PREFERENCE LAWS

Despite the existence of the cargo preference laws, only a small portion of the Nation's imports and exports are carried on U.S.-flag vessels. MarAd data shows that for calendar years 1970-1976 U.S.-flag vessels accounted for about 5.5 percent of the country's total imports and exports. Without the cargo preference laws, the percentage of the Nation's cargo carried by the domestic merchant marine would be even less.

Shipments of U.S. Oceanborne Cargo

Carried by U.S.-Flag Vessels

(Exclusive of DOD Cargo)

Year	Total imports and exports	Total carried in U.S.-flag ships	Percentage carried in U.S.-flag ships
	(thousands of long tons)		
1970	473,246	25,230	5.3
1971	457,434	24,376	5.3
1972	513,566	23,764	4.6
1973	631,572	39,903	6.3
1974	628,515	40,864	6.5
1975	615,567	31,347	5.1
1976	734,394	37,664	5.1

Source: Maritime Administration.

Appendix IV contains information from MarAd's 1976 Annual Report giving a breakdown of U.S. oceanborne cargo by type of vessel; i.e., liner, nonliner, and tanker for calendar years 1970-1975. Also shown is the percentage of U.S. oceanborne cargo carried on U.S.-flag ships for these years.

The Department of Energy, as provided in the Energy Policy and Conservation Act (Public Law 94-163), is required to purchase and provide storage for 500 million barrels of crude oil by 1980. This program, entitled the Strategic

Petroleum Reserve Program, provides for a petroleum reserve to alleviate the impact of severe crude oil supply interruptions. The Department of Energy plans to purchase the crude oil from foreign sources, thus the program must use U.S.-flag vessels for 50 percent of its shipments as provided by the 1954 act. MarAd officials believe that the program will mean substantial revenue for U.S.-flag tanker operators.

According to Department of Energy information, 60 percent of all loaded shipments through March 10, 1978, were loaded on U.S.-flag vessels. Because the first shipments were not made until July 1977, we did not include the program in our review. MarAd officials informed us that they are satisfied with the Department of Energy's administration of cargo preference to date; however, they expressed their concern over the capacity of the U.S.-flag tanker fleet to continue to carry its 50-percent share in view of other commitments on the fleet, such as the Alaskan oil trade.

Historically, cargo preference requirements have affected only that commerce involving a Federal interest and have excluded private trade transactions. At the time our field work was completed in August 1977, however, the Congress was considering a bill that would require U.S.-flag ships to carry up to 9.5 percent of imported oil by 1982 as a way of boosting the U.S. merchant marine. This bill would increase the tonnage carried by U.S.-flag tankers. However, in October 1977 this bill was defeated in the House of Representatives. In a prior report we estimated that the cost to the consumer of this bill would be at least $240 million per year. (PAD-77-82, Sept. 9, 1977.)

It is usually recognized that cargo preference may involve additional cost. For instance, cargo preference for tramp (nonscheduled carriers, typically dry bulk) and tanker cargoes will involve additional costs, whereas liner cargoes (scheduled general cargo vessels) are generally carried at competitive rates by U.S. carriers and should not normally involve additional costs to shippers. However, few agencies have actually accumulated and compiled data on the increased cost of the preference requirement. The exception is USDA for the Public Law 480, title I, Food for Peace sales program. Under this program sales of agricultural commodities to foreign governments are financed by the U.S. Government. The United States pays the difference in ocean freight charges to U.S.-flag vessels to the extent such charges are higher than those charged by foreign-flag vessels. This cost was about $42 million in fiscal year 1976, $16 million for the transition quarter (July 1 to Sept. 30, 1976), and about $1 billion since the program began in 1954 through September 1976.

A study by Gerald R. Jantscher, published in 1975 by the Brookings Institution, estimated the cost of cargo preference to the Federal Government in the billions of dollars. The study estimated costs for the major cargo preference programs as follows:

Program or agency	Time period	Estimate of cargo preference cost
Military Sealift Command	1952 to 1972	$ 3.8 billion
Public Law 480, title I, Food for Peace sales program	1955 to June 1971	840.1 million
Public Law 480, title II, Food for Peace donations	1954 to 1972	125.0 million
Foreign aid cargoes--AID loans and grants	1948 to 1970	600.0 million

CHAPTER 2

THREE MAJOR AGENCIES REPORTING SHIPMENTS TO MARAD ARE MEETING CARGO PREFERENCE REQUIREMENTS

The Cargo Preference Act of 1954 requires that 50 percent of all cargo procured by or for the U.S. Government or with funds or credits advanced by the U.S. Government must be shipped on privately owned U.S.-flag vessels to the extent they are available at fair and reasonable rates. The Merchant Marine Act of 1970 gave MarAd the responsibility for reviewing the administration of agency cargo preference programs and reporting annually to the Congress on the extent of compliance. Both the 1954 and the 1970 acts are incorporated into section 901(b) of the Merchant Marine Act of 1936.

Since passage of the 1970 act, MarAd has made significant progress in administering Cargo Preference Act provisions, as reflected in its annual reports to the Congress. In its first report, covering calendar year 1971, MarAd included statistics on only four agencies engaged in ocean shipping. Through the efforts of the Interagency Liaison Program of MarAd's Division of National Cargo, the number of agencies reporting to MarAd increased to more than 40 by calendar year 1975.

We reviewed calendar years 1975 and 1976 shipping data of the three largest civilian shipping agencies reporting to MarAd to determine their compliance with cargo preference laws. For calendar year 1975 we reviewed the cargo preference statistics included in MarAd's 1976 annual report. For calendar year 1976 (to be included in MarAd's 1977 annual report) we reviewed summary statistics available at each agency and sampled bill of lading information at each agency and MarAd. In general, we found that these agencies are meeting U.S.-flag requirements for their shipments when U.S.-flag vessels are available. The major shipping programs and the results of our tests are described below. The agencies discussed are:

--The Department of Agriculture and the Agency for International Development, whose shipments represented 99 percent of the tonnage reported by MarAd for calendar year 1975.

--The General Services Administration, which annually contracts with ocean freight forwarders at U.S. ports to provide ocean freight forwarding services for Government agencies.

DEPARTMENT OF AGRICULTURE

USDA was responsible for 4.8 million, or about 73 percent, of the approximately 6.5 million long tons 1/ reported by MarAd as shipped under the Cargo Preference Act of 1954 in calendar year 1975. Of the 4.8 million tons reported, virtually the entire tonnage represented shipments made by USDA under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480). Title I provides for the sale of agricultural commodities to friendly countries under credit agreements favorable to the purchasing country.

During our review we compared USDA's title I U.S.-flag shipping percentage for its total calendar year 1976 shipments to the U.S.-flag percentage for a sample of title I calendar year 1976 shipments. For calendar year 1976 USDA reported U.S.-flag shipments of 49.9 percent of total tonnage shipped. Our sample of these shipments verified the accuracy of USDA's reporting.

AGENCY FOR INTERNATIONAL DEVELOPMENT

In calendar year 1975, AID was responsible for 1.7 million tons, or about 26 percent, of the 6.5 million tons reported by MarAd as shipments made under the Cargo Preference Act of 1954. Of the 1.7 million tons reported, AID loans and grants generated shipments totaling approximately 1,450,000 tons, and World Food Program and government-to-government shipments under title II of the Agricultural Trade Development and Assistance Act of 1954 totaled about 250,000 tons.

Loans and grants

AID carries out assistance programs designed to help certain less developed countries develop their human and economic resources, increase productive capacities, and improve the quality of human life, as well as to promote economic or political stability in friendly countries. To carry out its mission, AID administers a commodity import program whereby loans and grants are made to foreign governments to import U.S. goods.

1/A long ton equals 2,240 pounds, hereafter to be referred to as a ton.

In calendar year 1976 AID's shipments under its loan and grant program more than doubled from about 1.5 million tons in 1975 to about 3.3 million tons in 1976. Although the use of U.S.-flag ships rose from 542,815 tons in 1975 to 919,290 tons in 1976, the percentage use of U.S.-flags only rose from 25 percent to 27.9 percent. The nonavailability of U.S.-flag ships for bulk cargoes to the country receiving the largest percentage of AID loan and grant commodities kept these percentages low. MarAd has been working with the country's representatives, AID, and U.S.-flag carriers to increase the availability of U.S.-flag ships for bulk cargoes.

AID's reported data also showed that if those shipments for which U.S.-flag ships were not available are subtracted from total shipments, the percentage of the remaining shipments carried by U.S.-flag vessels was 77 percent in 1975 and 74 percent in 1976. Thus, AID is meeting U.S.-flag shipping requirements when U.S.-flag vessels are available. Our sample of AID's 1976 shipping data showed that for other than the one country where U.S.-flag ships are not available for bulk cargoes, U.S.-flag vessels were being used fc approximately 50 percent of its shipments.

Public Law 480, title II

AID and USDA share the responsibility for administering title II of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480). Title II provides for the donation of agricultural commodities to meet famine or other urgent or extraordinary relief requirements, to combat malnutrition, to promote economic and community development, and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States.

USDA determines the types, quantities, and values of commodities available, while AID manages the program design and monitors implementation of the projects. Title II program activities are carried out by "cooperating sponsors" which can be of three types: (1) nonprofit voluntary agencies, (2) friendly governments operating under bilateral agreements with the U.S. (government-to-government), or (3) the World Food Program, a United Nations-related organization.

Through November 1976 USDA arranged the shipments of title II cargoes sponsored by the World Food Program and by friendly governments and sent copies of bills of lading to MarAd. As of December 1976, 50 percent of World Food

Program shipments are arranged by a private freight forwarder. Voluntary agencies--the major recipients of title II food donations--arrange their own shipments, but until fiscal year 1977 they had not been sending copies of bills of lading to MarAd. (See p. 37 for further discussion.)

MarAd and USDA records show that for those shipments reported to MarAd for calendar years 1975 and 1976, a relatively high percentage of cargo was placed on U.S.-flag ships--184,000 tons, or 74 percent, in 1975 and 222,000 tons, or 69 percent, in 1976. We sampled bills of lading for USDA's 1976 shipments and our sample confirmed the high U.S.-flag use that USDA reported to MarAd.

GENERAL SERVICES ADMINISTRATION

GSA annually contracts for ocean freight forwarding services for Government agency export shipments moving through designated ports. Services under these contracts are available to all Government agencies upon request. The contract instructs the freight forwarder to use privately owned U.S.-flag vessels unless otherwise authorized by the shipping agency. For the year July 1, 1976, to June 30, 1977, GSA had contracted with ocean freight forwarders for services at 11 U.S. ports. Under these contracts freight forwarders were to send MarAd a copy of each ocean bill of lading issued. MarAd records shipments made by freight forwarders by the agency whose goods are being shipped. Therefore, GSA is not listed in MarAd's cargo preference statistics.

GSA arranges for ocean transportation through the freight forwarders when procuring goods for other agencies. Quarterly, GSA summarizes shipping data for these shipments. For calendar year 1976 GSA reported shipments of 15,838 tons of which 14,557, or 92 percent, went on U.S.-flag vessels.

To determine cargo preference compliance for calendar year 1976 shipments arranged by GSA and other Federal agencies through GSA freight forwarders, we tested bills of lading furnished by freight forwarders at three ports--San Francisco, Baltimore, and New York. Our tests showed that all three freight forwarders were using U.S.-flag ships for more than 90 percent of all shipments they arranged under GSA contracts.

CONCLUSIONS

AID, USDA, and GSA (through freight forwarders), which accounted for 99 percent of all ocean shipments reported to

MarAd in 1975, are meeting the 50-percent minimum requirement to use privately owned U.S.-flag vessels when such vessels are available. USDA aims to meet the 50-percent U.S.-flag requirement exactly, while GSA freight forwarders use U.S.-flag vessels for over 90 percent of their shipments. AID has been unable to ship 50 percent of its shipments on U.S.-flag ships because they are not available for bulk shipments. When U.S.-flag vessels are available, AID is meeting the 50-percent requirement.

CHAPTER 3

DISAGREEMENTS OVER NEED TO REQUIRE CARGO PREFERENCE

Agencies are using U.S.-flag vessels, as previously discussed, when there is no dispute that their programs or activities come under cargo preference provisions of section 901(b) of the Merchant Marine Act of 1936. However, there are several programs under which agencies are not requiring--despite MarAd's views to the contrary--that preference be given to U.S.-flag vessels. These programs include

--foreign military sales,

--Federal grants,

--Eximbank insurance and medium term loan guarantees,

--Department of State/AID cash grants, and

--Department of Commerce/Economic Development Administration loans.

MarAd has succeeded in bringing some of these programs under the cargo preference umbrella; for others, it has not.

MarAd has been able to promote use of U.S.-flag vessels for foreign military sales direct credits and credit guarantees. At the completion of our field work in August 1977, MarAd was still trying to promote use of U.S.-flag vessels for the foreign military sales offset and coproduction programs and for Federal grants. Pursuit of other programs was pending due to staffing limitations.

MarAd has been hampered in its efforts to promote use of U.S.-flag vessels because other agencies have disputed its interpretation of the applicability of the U.S.-flag shipping requirement as provided in section 901(b) of the Merchant Marine Act of 1936, as amended in 1954 and 1970. MarAd's apparent lack of clear-cut legal authority to apply cargo preference to programs it believes are covered by the law has resulted in

--disputes with other agencies that were resolved only after long periods of negotiations and

--certain programs not requiring the use of U.S.-flag vessels.

Consequently, U.S.-flag carriers have been denied revenues which MarAd believes they are, by law, entitled to.

USE OF U.S.-FLAG VESSELS FOR FOREIGN MILITARY SALES CARGOES

Under the foreign military sales program, DOD sells defense articles and services to eligible allied and friendly nations on both a cash and credit basis in accordance with the provisions of the Foreign Military Sales Act of 1968 (now known as the Arms Export Control Act). Appropriated funds are used to extend direct credit or to guarantee credit to eligible governments to facilitate their acquisition of essential military equipment and related services and training.

In 1974 MarAd made its initial attempts to determine if cargoes generated by the foreign military sales program were adhering to cargo preference requirements. MarAd has concentrated on four types of shipments in connection with use of U.S.-flag vessels for foreign military sales. These shipments involve (1) direct DOD credit sales, (2) sales with DOD credit guarantees, (3) offset purchases, and (4) purchases under coproduction agreements. For all four types of shipments, it is unlikely that the sale and subsequent shipment would have occurred without DOD involvement. Each of these types of shipments is discussed in this section.

Shipments under direct credits

Under direct credit the U.S. Government finances payments required to be made by the borrowing country under the foreign military sale purchase agreement. In fiscal year 1976, $781 million of direct credits were financed under the foreign military sales program, including $750 million for Israel for which repayment was waived.

When MarAd initiated discussions with DOD in 1974, MarAd found that a 100-percent U.S.-flag shipping requirement was imposed on direct credit recipients. However, DOD did not maintain records showing that it monitored this requirement. Effective October 1, 1975, DOD credit agreements were revised to include a requirement for credit recipients to report cargo preference shipments to MarAd in addition to using U.S.-flag vessels.

During its discussions with DOD, MarAd found that Israel, a major direct credit recipient, was not using U.S.-flag vessels for its foreign military sales purchases. Israeli officials expressed a number of reasons why they could not comply with the requirement. One reason was the need for extensive security precautions due to the sensitive nature of arms shipments to Israel. MarAd participated in several meetings with officials from DOD, the Department of State, and the Government of Israel to resolve these problems. These meetings, and MarAd's consultations with U.S.-flag carriers serving Israel, resulted in arrangements whereby Israel's use of U.S.-flag vessels increased. MarAd's cargo preference statistics show that from January to March 1976 U.S.-flag carriers earned only 30 percent of the ocean freight revenue resulting from foreign military sales shipments to Israel. From April to December 1976, however, the U.S. carrier share increased to 47 percent. MarAd's calendar year 1976 statistics showed that Israel used U.S.-flag vessels to carry cargo for 41 percent of the ocean freight revenue generated by its foreign military purchases from the U.S. and that Israel accounted for $10 million of the $20.5 million in U.S.-flag ocean freight revenue reported to MarAd for calendar year 1976 for foreign military sales. In April 1977 DOD requested the Government of Israel to eliminate its 1976 U.S.-flag deficit by using U.S. carriers more during the remainder of 1977.

Shipments under credit guarantees

MarAd also held discussions with DOD and the Departments of State and the Treasury to discuss cargo preference applicability to foreign military sales credit guarantee agreements. Under credit guarantees, DOD guarantees, for a fee, loans for foreign military sales against all political and credit risks of nonpayment. The Departments of Defense and State jointly administer the guarantee program with the Federal Financing Bank making loans for DOD credit guarantees. In fiscal year 1976, DOD guaranteed $1.4 billion of foreign military sales loans.

After determining that the credit guarantee agreements contained no requirement for foreign purchasers to use U.S.-flag vessels, MarAd informed the three agencies that it believed such a requirement should be contained in each guarantee agreement. MarAd obtained initial agreement from DOD and the Federal Financing Bank, but State was reluctant to institute cargo preference provisions. Finally, in a letter to DOD dated July 24, 1975, State proposed that DOD require as a condition of its foreign military sales guarantees that a clause requiring use of U.S.-flag vessels be included in guaranteed loans made by the Federal Financing Bank and other lenders.

MarAd developed procedures for reporting shipments and processing waiver requests and obtained State and DOD approval of the procedures, which became effective October 1, 1975. The procedures include (1) use of U.S.-flag vessels for all direct credit and guaranteed shipments unless a waiver is obtained from DOD and (2) submission of bills of lading to MarAd.

- - - -

In calendar year 1976, the first full year cargo preference provisions were applied to the entire foreign military credit sales program, the U.S. merchant marine earned 55 percent ($20.5 million) of the program freight revenue reported to MarAd. A MarAd letter to DOD, summarizing calendar year 1976 foreign military sales shipments reported to MarAd, stated that more than $19 million of this was paid by countries which previously did not use U.S.-flag vessels. However, as discussed later in this report, MarAd believes it only received about 40 percent of the calendar year 1976 data required for this program. In addition, a MarAd official told us that some countries also reported cash sales which do not have a cargo preference provision. Thus, further improvement in reporting required data to MarAd on foreign military sales is needed.

Shipments of coproduction and offset purchases

During MarAd's discussions with DOD concerning credit and credit guarantee sales programs, MarAd became aware of two other foreign military sales programs generating significant ocean cargo--coproduction and offset purchases.

Under coproduction agreements, the United States and an eligible country jointly participate in producing a U.S. military system or other military item for use by the United States, the cooperating country, or a third country. Actual production can occur in the United States or the participating country. The combined effort may involve strictly government, strictly private industry, or a mix of government and private industry resources. From 1960 through July 1975, 33 coproduction agreements valued at $9.8 billion were signed. Additional agreements valued at $2.1 billion were being considered.

Coproduction agreements are used to expand U.S. allies' military technical know-how and production capabilities. The know-how furnished by the United States may include research, development production data and/or manufacturing

machinery and tools, raw or finished material, components or major subassemblies, managerial skills, procurement assistance, or quality control procedures. These agreements involve the production of such diversified defense items as armored personnel carriers, howitzers, tanks, rifles, machine guns, ammunition, helicopters, antitank rockets, aircraft, and vessels. Under coproduction agreements, ocean shipments of final products and of components to be used in the production of items may occur.

DOD's position has been that if the United States buys the finished product from a foreign country, the shipment of the finished product would be subject to cargo preference. However, DOD maintains that the shipments of components and raw materials used in making the final products are not subject to cargo preference requirements. Contrary to DOD's position, MarAd believes the shipments of components or raw materials under coproduction agreements are subject to cargo preference requirements when the United States buys the final product. For example, there is a memorandum of understanding between the Governments of the United States and Italy, represented by DOD and the Ministry of Defense of Italy, respectively, concerning the development and production of an Italian radar system and its components in Italy. An objective of this program is to make a modern radar system available to the armed forces of both governments. The radar system will include Italian developed and/or manufactured parts, components, assemblies and system concepts to be integrated with parts, components, and assemblies produced in the United States and furnished by the U.S. Government or its selected contractor. MarAd believes that the U.S. parts, components, and assemblies such as those shipped to Italy for incorporation into the radar system to be produced for the U.S. Government should be shipped in accordance with cargo preference requirements. DOD, however, has disagreed with this position.

MarAd also believes that cargo preference laws are applicable to DOD's offset procurement arrangements. Offset procurements refer to reciprocal procurement arrangements whereby the United States, when selling military items to a foreign government, agrees to place offsetting orders in the purchasing country to fill selected military procurement requirements. For example, the U.S. has a memorandum of understanding with Australia which covers an expected Australian purchase of an estimated $700 million in U.S. weapon systems. DOD is committed to assuring a combined U.S. industry and DOD procurement of Australian military-related items of up to 25 percent of the value of each major

Australian order placed under this memorandum of understanding. Thus, this estimated $700 million of Australian purchases has the potential of committing U.S. industry and DOD to purchases of up to $175 million of Australian military-related items. The U.S. also has offset agreements with the United Kingdom, Canada, Norway, and Switzerland. The U.S. offset procurement goal for the Norway agreement is $50 million; the Switzerland agreement is estimated at $134 million. There is no specified goal in the United Kingdom and Canadian agreements.

DOD's first preference in meeting offset commitments is to have the U.S. company or companies and their subcontractors involved in producing the equipment and who would benefit from the sale undertake offset procurement from the buying country. If this does not provide sufficient offset purchases, other alternatives are explored to meet the offset objective, including having other companies under DOD contract help meet the offset procurement goal. DOD has not required use of U.S.-flag vessels for offset purchases by U.S. companies.

Since at least April 1976, MarAd has been trying to convince DOD to require adherence to the Cargo Preference Act of 1954 for shipments made in connection with offset procurement commitments and coproduction agreements. At that time, the Assistant Secretary of Commerce for Maritime Affairs wrote to DOD concerning the need to develop appropriate U.S.-flag cargo preference language for offset and coproduction agreements and the necessity of establishing a monitoring system for shipments generated by these programs. MarAd offered its assistance in developing the appropriate cargo preference language for the programs and the related monitoring system. MarAd also offered to assist in monitoring the shipments, much the same as it did with the foreign military sales credit program.

In June 1976 the Principal Deputy Assistant Secretary of Defense (Installations and Logistics) replied to MarAd that DOD agreed that cargo preference applied to any purchases by DOD of finished supplies under direct contracts and believed DOD's present monitoring system for these purchases is adequate. However, the letter said that (1) coproduction contracts usually involve importation by the contractor or subcontractor of components or raw materials that will be incorporated into items delivered under a DOD contract and (2) DOD has taken the position that these shipments are not subject to the cargo preference law.

In August 1976 the Assistant Secretary of Commerce for Maritime Affairs in a reply to the Principal Deputy

Assistant Secretary's letter registered strong disagreement with DOD's conclusions that shipments of materials by contractors and subcontractors in fulfillment of defense contracts are not governed by the Cargo Preference Act of 1954. In this letter, the Assistant Secretary stated:

> "The statute is manifestly not subject to any interpretation under which contractors' and subcontractors' shipments would be exempt from its application.
>
> "...this law(P.L. 664, the Cargo Preference Act of 1954) was expressly designed to govern the movement of all cargoes for which the Government has contracted, regardless of the situation of title thereto at the time of shipment. During its consideration on PL-664, Congress was made aware of certain procurement practices under which the preference afforded U.S. flag vessels by law had been avoided:
>
>> "'... In recent years, the military agencies have frequently contracted for foreign supplies on a laid-down cost basis, i.e., cost, insurance, and freight, or in some other manner whereby title does not pass until the cargoes reach destination. Where this is done, routing is exclusively controlled by the foreign supplier and American ships have carried little, if any of such cost, insurance, and freight Government cargoes.
>>
>> "'It has been explained to the industry that this nonuse of American ships is legally justifiable on the basis of a contention that the goods are not "purchased" by the United States until arrival and delivery and, therefore, are not subject to the statute.' Statement of Francis Greene for the American Merchant Marine Institute, Pacific Steamship Association and Association of American Shipowners S. 3233 Hearings, House Merchant Marine and Fisheries Committee, June 23-25, 1954, p. 91.
>
> "In regard to such practices, Congress states that PL-664 would:
>
>> "'... plug existing loopholes ... with respect to ... programs financed in any way by Federal funds and ....
>>
>> "'... eliminate the f.o.b. (shipside delivery) and c.a.f. (cargo and freight), procedures by which a high percentage of exports from this country, and

offshore purchases contracted for, financed, or furnished by the United States have been routed in foreign vessels in violation of the spirit if not the letter of existing cargo preference legislation.' Sen Rept. No. 1954, 83 Cong., 2d Sess., p. 5."

Based on the advice of Office of the Secretary of Defense (General Counsel), DOD, in an October 1976 reply to the Assistant Secretary's letter, reiterated its opinion that the Cargo Preference Act of 1954 did not apply to shipments by DOD contractors or subcontractors. This letter also quotes the 1954 act; however, it arrives at a position contrary to MarAd's. In the letter DOD concludes that "Surely, if Congress had intended the preferences to apply to all DOD contract purchases, language would have been used that would have explicitly included these purchases." Notwithstanding these obviously conflicting interpretations of the 1954 act, discussions between MarAd and DOD officials continued.

Finally, in August 1977 the Assistant Secretary of Commerce for Maritime Affairs wrote DOD requesting that as a matter of policy DOD apply cargo preference to contractor purchases through first tier subcontracts. The letter stated that this would resolve DOD's reluctance to apply cargo preference as a matter of law to DOD contractor purchases made through the vehicle of subcontracts and would establish a workable level for monitoring such shipments.

In September 1977 a memorandum was sent from the Assistant Director (Contracts and System Acquisition), Office of the Director, Defense Research and Engineering, to the Deputy Assistant Secretary of Defense (Supply Maintenance and Services), Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics). This memorandum, citing Carter administration and congressional desire to promote the maximum use of U.S.-flag carriers by the U.S. Government in its activities, and the administration's promotion of the oil cargo preference bill (H.R. 1037), stated that it is appropriate for DOD to strengthen cargo preference policy and enforcement in the area of DOD contractor and subcontractor purchases. The memorandum recommends requesting an Armed Services Procurement Regulation amendment to have cargo preference cover DOD prime contractor shipments. MarAd officials said that the proposed amendment will satisfy their desire to require use of U.S.-flag vessels for coproduction and offset purchases. As of March 1978 this proposed amendment had not been approved. Thus, this issue remains unresolved.

USE OF U.S.-FLAG VESSELS FOR SHIPMENTS RESULTING FROM FEDERAL GRANTS

A second major unresolved issue between MarAd and other Federal departments and agencies involves whether recipients of Federal grant funds should be required to comply with cargo preference provisions. MarAd has been meeting with grantor agencies for several years to try to convince them to incorporate cargo preference requirements in their grant agreements. MarAd's General Counsel stated in an April 1977 opinion that cargo preference legislation applies to situations involving Federal grants that are used by domestic, non-Federal entities to finance import cargoes. However, agencies continue to exclude cargo preference clauses from their grant agreements since they do not believe the clauses are required by law. Thus, as was the case with MarAd's attempts to include cargo preference clauses in certain DOD foreign military sales program agreements, MarAd has also been hampered by nonspecific legislation in its attempts to have cargo preference clauses included in Federal grant agreements. Since the volume of grant funds has grown from about $2 billion in fiscal year 1950 to almost $60 billion by fiscal year 1976, including an increased amount of overseas shipments, this issue merits prompt resolution.

Because MarAd has had little success in promoting use of cargo preference clauses in grant agency agreements, MarAd officials have not used their limited resources to identify all Federal grantor agencies and those programs most likely to generate ocean cargo. Although not easily measured, there are situations where Federal grant funds made available to municipalities or other recipients are used to either (1) procure items directly from a foreign supplier or (2) engage an American contractor who, in turn, obtains supplies from foreign sources.

We tried to identify grant programs generating ocean shipments by visiting a number of Federal agencies having grant programs. Since information on grant shipments is not accumulated by these agencies, we had to contact local authorities and contractors involved in the grants. Although information concerning overseas shipments was limited at all levels we contacted, we were able to identify substantial amounts of ocean shipments for several programs.

Urban Mass Transportation Administration

The Department of Transportation's Urban Mass Transportation Administration (UMTA) makes project grants to public

agencies for capital improvements. These grants are made to assist in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for use in mass transportation service in urban areas. UMTA may grant up to 80 percent of the project cost. Capital improvement grant obligations amounted to $1.2 billion for fiscal year 1975 and were estimated at $1.1 billion a year for fiscal years 1976 and 1977. UMTA's grant agreements do not contain cargo preference provisions.

The Urban Mass Transportation Act of 1964 included a prohibition against the use of materials and manufactured goods of foreign origin in federally assisted projects. This provision was repealed the following year, however, since it was felt to be contrary to our foreign trade policy. Since then, UMTA's policy has required that free, open, and unrestricted competitive bidding procedures be employed in those contracts involving Federal participation.

During our review we identified instances where money from relatively recent UMTA grants was used to procure goods from foreign sources requiring ocean shipments. For these shipments there is no commitment on the part of the grantees to use U.S.-flag vessels. The largest procurement indentified involving ocean shipping was the purchase of 392 articulated buses by 11 U.S. cities which are expected to be shipped from Germany to Texas from November 1977 to December 1978. Although all shipping arrangements had not yet been finalized, an initial shipment of 25 buses was made on a Soviet-flag vessel. The dollar and weight estimates for the 392 buses are as follows:

Shipping weight--about 9.2 million pounds or 4,100 tons.

Cost of buses--about $67 million.

Shipping costs--about $1.75 million.

Based on the estimated $1.75 million in ocean freight costs, if only 50 percent of the buses could be shipped on U.S.-flag vessels, the U.S. merchant marine would realize at least $0.87 million in freight revenue.

Under another UMTA grant, 3,800 tons of steel costing approximately $6.8 million were shipped on foreign-flag vessels from Japan to Philadelphia and Newark. There was no indication that any consideration was given by the American contractor to use U.S.-flag vessels. We were not able,

however, to determine the actual freight costs for these shipments. Other identified purchases financed by UMTA grants which have or will involve ocean shipments include:

--A purchase of 100 rapid transit cars, at an estimated cost of $56 million, weighing approximately 7.2 million pounds, or 3,200 tons, with estimated freight costs of $1 million for importation from France. MarAd contacted the local transit authority and convinced them to contact the foreign contractor requesting maximum use of U.S.-flag vessels for shipment of the cars and related subcomponents. Although there was no contractual requirement for the foreign contractor to use U.S.-flag vessels, the contractor agreed to ship all 100 cars on U.S.-flag vessels.

--Ocean shipment of major components of rapid transit cars valued at $9.1 million totaling 2,573,270 pounds of which 1,753,845 pounds (68 percent) was shipped on foreign-flag vessels and the remainder on U.S.-flag vessels. Freight charges totaled $794,429 of which $693,357 (87 percent) was paid to foreign-flag vessels.

--$1.7 million of substation equipment shipped on foreign-flag vessels from England to Boston and New York weighing 112,976 pounds with freight costs of approximately $70,000.

--A $7 million contract for substation equipment for which a portion of the materials will be furnished from foreign sources.

--Shipment of 200 car sets of transit car seats costing $1.3 million from Brazil to California weighing approximately 670,000 pounds of which approximately 65 percent was shipped on foreign-flag vessels. Freight charges were approximately $170,000.

--A purchase of foreign material with an estimated cost of approximately $400,000 weighing approximately 60,000 pounds to be shipped from Germany to Chicago, with estimated ocean freight charges of $4,500.

--A purchase of two double-decker buses costing $303,420 from a foreign source.

--A purchase of rerailing equipment costing $72,523 and weighing about 6,740 pounds, freight charges unknown, which was shipped from Germany as follows--4,740 pounds to Boston on a foreign-flag vessel and 2,000 pounds to Savannah on a U.S.-flag vessel.

--A purchase of trolley wire costing $36,778 which was shipped on a foreign-flag vessel from the United Kingdom to Boston (freight charges unknown).

--A purchase of a mechanical support fitting costing $10,792 which was shipped on a foreign-flag vessel from the United Kingdom to Boston with freight charges of $938.

We identified additional instances of foreign purchases of imports of subcomponents used in fulfilling contracts financed with UMTA grants; however, dollar amounts or shipping data for these foreign purchases were not readily available.

Federal Highway Administration

The Federal Highway Administration (FHWA) through its Federal-Aid Highway Program assists State highway agencies in constructing the interstate highway system; builds or improves primary, secondary, and urban systems roads and streets; provides aid for road repair following disasters; fosters safe highway design; and replaces unsafe bridges. The normal Federal share is 90 percent for interstate projects and 70 percent for most other projects. However, some projects require no State matching of Federal funds. Federal-Aid Highway Program grant obligations totaled $7 billion in fiscal year 1975 and were estimated at $7 billion and $6 billion for fiscal years 1976 and 1977, respectively.

FHWA officials said they did not impose buy American or U.S.-flag shipping requirements on its Federal-Aid Highway Program because they did not believe there was a legal requirement to do so. To determine if foreign products were being imported under Federal-Aid Highway Program projects, we contacted four State agencies. Two States said imports had been used. For these two States we identified three shipments of Japanese steel with a total value of $2 million which was shipped from Japan to the West Coast. Although these shipments went on U.S.-flag vessels, there is no assurance that U.S.-flag vessels are normally used to carry imported cargo since the grant agreements do not have cargo preference provisions.

Department of Health, Education, and Welfare

The Department of Health, Education, and Welfare's (HEW's) health agencies furnish grants to hospitals, universities, and others to purchase equipment for use in research and to help construct needed hospitals. HEW does not have information on whether or not foreign goods were purchased with grant funds. The National Health Planning and Resources Development Act of 1974 authorized $390 million for fiscal years 1975 to 1977 for health facilities construction and modernization grants with additional funds available for loans and loan guarantees with interest subsidies. Budgeted direct costs for National Institutes of Health research grants in fiscal year 1976 included about $47 million for equipment.

We contacted representatives for nine HEW-funded construction projects and were able to identify foreign purchases for three of them. For two projects four shipments were identified of which three were shipped on foreign-flag vessels. The purchase price of the four shipments totaled about $450,000, and freight charges totaled $6,435 of which $3,794 went to foreign-flag vessels. The other project identified three foreign purchases for which shipping information was not available.

We also visited two institutes of the National Institutes of Health to see if information was available on whether ocean shipments were being generated as a result of Federal research grants. We found that this information is not available at the Federal level. However, HEW officials thought that certain pieces of equipment, such as electron microscopes, might be shipped to the United States for use in Federal-aided research projects. We contacted grant recipients and suppliers and learned that two electron microscopes and one other item were imported with Federal grant funds. We were able to obtain detailed information on only one of the electron microscope shipments. This electron microscope, which cost $75,000 (including installation) and weighed 5,507 pounds, was shipped from Germany to New York on a West German vessel.

- - - -

We contacted these agencies and grant recipients to determine if ocean shipments were being generated by Federal grant funds. We found that they were. Due to the problems encountered in trying to obtain examples of ocean shipments, including the lack of any central source of information on ocean shipments, we did not try to

get information on every ocean shipment for the programs reviewed. In fact, the information obtained represents only a limited sample.

Despite the problems encountered, we identified several Federal agencies generating ocean shipments, with UMTA generating the largest dollar value of identified shipments. MarAd has been meeting with UMTA officials for several years to convince them to insert a cargo preference clause in their grant agreements. However, UMTA had not because it did not believe it was legally required to do so.

On November 1, 1977, MarAd issued a regulation requiring adherence to cargo preference requirements for ocean shipments generated by Federal grants, guarantees, loans, and advances of funds. UMTA, in a letter dated November 28, 1977, agreed to incorporate the MarAd regulation in all its future grants. However, we believe that MarAd will still have problems in getting other grant agencies to impose cargo preference because:

--Agency officials are not always aware of grantee imports and might not include cargo preference clauses in agreements when imports are not expected.

--One agency has a legal opinion from its general counsel stating that the Cargo Preference Act of 1954's language excludes purchases by non-Federal agencies even if Federal grant funds are used and they may use this opinion to resist the new regulation.

--Agency officials complained to us about the administrative burden a cargo preference requirement would impose before the regulation was issued.

--Some agency officials were unfamiliar with cargo preference and may not recognize how it applies to their programs.

NO U.S.-FLAG SHIPPING REQUIREMENTS FOR OTHER FEDERAL PROGRAMS

MarAd has interpreted the cargo preference laws to apply to all cargoes that would not have moved if the Federal Government had not been involved. Under this definition certain additional programs would be subject to U.S.-flag vessel requirements, but MarAd has not yet addressed these programs because of other priorities and limited staff resources. These programs include several Export-Import Bank programs, AID cash grants, and Federal loan programs.

Export-Import Bank

Eximbank is an independent corporate agency of the U.S. Government, chartered by the Congress under the Export-Import Bank Act of 1945, as amended. Its basic purpose is to aid in financing and to facilitate exports of U.S. goods and services.

Although about 85 percent of U.S. manufactured exports go forward without Eximbank's support, many exports cannot be financed by the private sector alone. Eximbank, therefore, plays a limited but critical role in U.S. exporting.

In fiscal year 1976, Eximbank supported nearly $12 billion in U.S. export sales in 157 foreign markets by authorizing $8.6 billion in export financing support ($3.5 billion in export credit insurance, $1.7 billion in guarantees, $2.1 billion in direct loans, $1.2 billion in discount loans, and $144 million in cooperative financing facility loans).

Eximbank requires borrowers under its direct loans, related financial guarantees, and its cooperative financing facility loans to abide by Public Resolution 17, which requires 100-percent use of U.S.-flag vessels unless a waiver is obtained from MarAd. For these programs Eximbank generally supplies some of the loan capital. For the past several years, MarAd has been trying to get Eximbank to report these shipments to it so that it could monitor cargo preference shipments and include more accurate information in its annual report to the Congress. Eximbank borrowers are now required to submit copies of bills of lading to MarAd for shipments loaded on or after October 1, 1977, for direct loans and financial guarantees. Eximbank is not planning to include cargo preference reporting provisions in cooperative financing facility agreements because it believes the existing paperwork requirements are hindering the program's effectiveness.

Eximbank has three major programs which do not require the use of U.S.-flag vessels: the exporter credit insurance program, commercial bank guarantees, and discount loans. For these programs Eximbank does not expend funds unless called upon to meet its contingent obligations. As resources become available, MarAd intends to pursue the applicability of cargo preference requirements to these programs.

Under the Exporter Credit Insurance program, the Foreign Credit Insurance Association (an association of 53 marine

and casualty insurance companies) insures an export credit provided by the private sector against defined commercial risks, while Eximbank provides political risk coverage and reinsures the Foreign Credit Insurance Association against excessive commercial losses. The Exporter Credit Insurance program spreads the risk in export credits among the exporter, the Foreign Credit Insurance Association, and Eximbank, thereby encouraging exporters to sell abroad and the private market to provide the needed financing. Exporter Credit Insurance authorizations in fiscal year 1976 totaled $3.5 billion with an export value of $5.2 billion.

Under the Commercial Bank Guarantee program, Eximbank guarantees the repayment of medium term export loans (181 days to 5 years) provided by U.S. banks. The guarantee protects commercial banks against specific commercial and political risks. It is customary, however, for the bank to retain a share of the commercial risk for its own account--most typically 15 percent. In fiscal year 1976, commercial bank and other guarantees authorized totaled $579 million with an export value of $777 million.

Under the Discount Loan program, Eximbank provides a standby commitment to discount a fixed-interest-rate export note acquired by a U.S. bank. The program is intended to improve the conditions under which medium term export credit is provided by overcoming limitations in the private market's ability to offer fixed-rate financing. During fiscal year 1976, Eximbank authorized $1.2 billion in advance commitments to provide discount loans.

AID cash grant agreements

The Department of State's Agency for International Development is not including a U.S.-flag shipping requirement in its cash grant agreements with Israel and Jordan. AID makes cash grants to foreign nations as part of its Security Supporting Assistance program. In fiscal year 1976, Israel and Jordan received $187 million in cash grants. The use of these funds is unrestricted, and recipients are not required to report expenditures to AID.

MarAd maintains that any ocean cargo generated with cash grant funds is subject to the U.S.-flag provisions of the cargo preference law. AID's position, as stated in a 1962 internal Office of General Counsel memorandum, is that these provisions do not apply to cash grants because

--there is no evidence that AID is financing commodity shipments and

--the grant agreement does not identify the cash grant funds with commodity purchases.

AID officials informed us that this is still the agency's position.

MarAd officials believe that there should be a U.S.-flag shipping clause in each cash grant agreement to cover shipments of any commodities that cash grants may be financing. During our review we found that neither MarAd nor AID has attempted to determine if cash grants are generating ocean shipments.

Loan programs

In general, when a loan or loan guarantee is made by the Federal Government to a private firm (other than loans to finance exports) there is no cargo preference requirement included in the loan agreement. However, these loans may generate ocean cargo. For example, we identified foreign-flag ocean shipments generated by a loan by the Department of Commerce's Economic Development Administration to a U.S. company. The loan did not contain any cargo preference provisions. From January 1976 to March 1977 items worth $200,000 were shipped from Germany to the United States on foreign-flag vessels.

As discussed earlier in the chapter, on November 1, 1977, MarAd issued a regulation stating that cargo preference applies to shipments related to Federal grants, guarantees, loans, and advance-of-funds programs. However, MarAd still faces the task of identifying applicable programs and convincing agencies to insert cargo preference clauses in agreements. Several agencies indicated that they would resist MarAd's efforts to apply cargo preference to these programs.

CONCLUSIONS

Many Federal programs involve the use of Federal funds or guarantees for overseas shipments. Under the regulating and monitoring authority provided in section 901(b) of the Merchant Marine Act of 1936 as amended by the Merchant Marine Act of 1970, MarAd has succeeded in convincing some agencies that cargo preference applies to their programs. Examples of MarAd's progress include DOD's foreign military sales direct credit and credit guarantee programs.

MarAd, however, has not succeeded in having cargo preference provisions included in agreements for all Federal

agency programs where it believes cargo preference is required. MarAd found that agencies responsible for these programs have disputed its interpretation of cargo preference applicability to their programs.

We believe that these disputes have been caused by the (1) lack of clarity in the cargo preference laws as to the types of programs that should be covered and (2) absence of explicit authority in section 901(b) of the 1936 act for MarAd to define which programs should be required to include cargo preference provisions. Because of these disputes, cargo preference may not have been as fully implemented as otherwise possible and, consequently, some federally funded or guaranteed cargoes that could have been shipped on U.S.-flag vessels may have been shipped on foreign-flag vessels.

RECOMMENDATION TO THE CONGRESS

To provide for a more effective cargo preference program that will foster development and maintenance of the U.S. merchant marine, section 901(b) of the Merchant Marine Act of 1936 should be clarified concerning the types of programs to be covered under cargo preference legislation and the extent of MarAd's authority to determine the applicability of cargo preference legislation to specific programs. If the Congress desires, we will assist in drafting amendments to the legislation.

RECOMMENDATION TO THE SECRETARY OF COMMERCE

To make MarAd's annual cargo preference report to the Congress more comprehensive, we recommend that the Secretary direct the Assistant Secretary for Maritime Affairs to include those agencies not complying with MarAd's determinations under section 901(b) and the reasons why not.

CHAPTER 4

CARGO PREFERENCE REPORTING TO MARAD NEEDS TO BE IMPROVED

Under the Merchant Marine Act of 1970 the Secretary of Commerce is responsible for issuing cargo preference regulations and for reporting annually to the Congress on compliance and administration of cargo preference programs. To accomplish these responsibilities, MarAd collects detailed, objective data on preference cargo movements for each shipment subject to the requirements of the Cargo Preference Act of 1954. MarAd established a cargo preference reporting system that requires each shipper agency subject to the requirements of the Cargo Preference Act of 1954 to issue regulations or to establish formal procedures of submitting to MarAd, within prescribed time limits, information about each preference cargo shipment. This rule was published in the Federal Register in April 1971 and was effective for non-DOD shipments made on or after July 1, 1971.

MarAd uses data submitted by agencies to monitor cargo preference adherence and to compile statistics on cargo preference shipments for its annual report. During our review we found that although some agencies have improved in submitting data to MarAd, other agencies have not been submitting all required information. Also, for some programs, agencies have not been submitting any shipping information or started supplying shipping data to MarAd in calendar year 1976. Therefore, MarAd's cargo preference statistics in its annual reports to the Congress have been incomplete, and it has been handicapped in carrying out its regulatory role.

SUBMISSION OF BILLS OF LADING BY AGENCIES WITH REPORTING REQUIREMENTS

To determine the adequacy of agency compliance with MarAd's requirements for submitting bills of lading, we sampled transactions for calendar year 1976 at each of the major nonmilitary shipping agencies. We found that although some programs are submitting bills of lading adequately, others need to improve. The following table summarizes the results of our sample based on the number of bills of lading sampled. Each agency reviewed will be discussed separately.

Results of Sample Based on

the Number of Bills of Lading

Type of shipments	Bills of lading: Number in population	Number in sample	Number not found at MarAd	Percentage not found at MarAd
Public Law 480, title I	a/492	a/188	a/2	1.1
Public Law 480, title II (excluding voluntary agencies)	a/613	a/196	a/6	3.1
AID commodity loans and grants	3,053	494	198	40.1
GSA region III, Springfield, Va. (note b)	767	767	362	47.2
San Francisco freight forwarder (note c)	844	844	157	18.6
Baltimore freight forwarder (note c)	209	209	57	27.3
New York City freight forwarder (note c)	275	275	275	100.0

a/Represents number of shipping authorizations for title I and number of contracts for title II. There may be more than one bill of lading per document.

b/GSA region III includes some shipments arranged by San Francisco, Baltimore, and New York freight forwarders under contract to GSA.

c/Under contract to GSA to provide ocean freight forwarding services to Federal agencies upon request.

Public Law 480 shipments

The Department of Agriculture approves the ocean shipment of agricultural products sold to foreign governments under title I of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480). In calendar year 1976, USDA also arranged shipment of donated commodities under the Public Law 480, title II, Food for Peace program for shipments not handled by voluntary agencies. 1/ USDA submits to MarAd bills of lading for all Public Law 480, Food for Peace, title I shipments and for title II shipments that it arranges. Our sample revealed that USDA

1/ As of December 1976, 50 percent of World Food Program shipments are arranged by a private freight forwarder. (See p. 9.)

has been doing a good job submitting bills of lading as we located well over 95 percent of our calendar year 1976 bill of lading sample at MarAd.

AID loans and grants shipments

AID requires foreign countries purchasing commodities with AID loans and grants to ship 50 percent on U.S.-flag vessels when available. The U.S. suppliers must submit copies of bills of lading to MarAd and certify that this has been done when they request reimbursement from AID. However, AID does not monitor this requirement. We did not find bills of lading at MarAd for 40 percent of the calendar year 1976 loan and grant shipments included in our sample. Bill of lading submission for some countries' suppliers appeared better than others. For our sample, we found 78 percent of the Israeli bills of lading at MarAd, while we found only 34 percent of the bills of lading for non-Israeli shipments at MarAd.

We discussed this problem with MarAd officials. They said that MarAd has been forced to use summary data on loans and grants shipments submitted by AID for its annual report shipping statistics. This is because of the obvious deficiencies in bill of lading submission when comparing tonnage of AID bills of lading submitted to MarAd with AID summary statistics. MarAd officials said that they still prefer to receive bills of lading for cargo preference shipments. However, due to problems in obtaining bills of lading for AID loans and grants, starting in calendar year 1977 MarAd plans to use AID disbursement reports to obtain information on non-Israeli shipments while using bill of lading data for Israeli shipments. We concur with MarAd that 100-percent bill of lading submission is more desirable and believe that MarAd and AID should continue to work toward this goal.

Shipment by freight forwarders under GSA contract

The General Services Administration contracts annually with commercial freight forwarders, which then provide forwarding services for Government agencies. The contracts require the freight forwarders to submit copies of bills of lading to MarAd and monthly shipping reports to GSA. During our review we found that freight forwarders were not always adhering to these requirements.

In calendar year 1976, GSA arranged with freight forwarders for the shipment of 15,838 long tons of cargo,

the largest percentage of which originated in region III. We reviewed all region III bills of lading and also bills of lading for three freight forwarders under contract to GSA. Our review showed that freight forwarders under contract to GSA are not always sending copies of bills of lading to MarAd. More specifically:

--The New York freight forwarder did not have a procedure for sending bills of lading to MarAd, and we found none of our sample bills of lading at MarAd.

--The San Francisco freight forwarder was sending almost 95 percent of bills of lading for GSA-arranged shipments to MarAd but was not sending any bills of lading to MarAd for shipments arranged by certain other agencies.

--The Baltimore freight forwarder had a procedure providing for submission of bills of lading to MarAd but did not always adhere to this procedure as 27 percent of the bills of lading for this forwarder were not located at MarAd.

--Bills of lading for GSA region III shipments from certain freight forwarders were consistently not sent to MarAd and bills of lading for region III shipments from other freight forwarders were sporadically sent to MarAd. Overall, bills of lading for 47 percent of region III's shipments were not located at MarAd.

We discussed with MarAd officials the freight forwarders' noncompliance with the requirement to submit bills of lading. They said they had suspected that the freight forwarders were not adequately complying, but they were unable to obtain copies of freight fowarder reports from GSA and thus were unable to evaluate the adequacy of freight forwarder compliance. Consequently, they concentrated on other Federal agency programs where they could demonstrate noncompliance. We also discussed this matter with GSA officials, who said that they had assumed that the freight forwarders were sending bills of lading to MarAd. Because GSA was not enforcing the contract clause for freight forwarder monthly submission of shipping reports, total shipping data was not available at GSA. Therefore, neither GSA nor MarAd could compare bills of lading received by MarAd with total shipments made by the freight forwarders as neither had total freight forwarder shipping information.

On November 23, 1977, GSA informed MarAd that on the basis of our suggestion and a subsequent meeting with a

MarAd official, GSA revised its procedures. GSA is now requiring both bills of lading and shipping reports to be submitted to GSA. After GSA reviews these documents, they will be sent to MarAd. This new procedure will simplify freight forwarder reporting since all documents will now go to GSA and will also allow MarAd to more effectively monitor freight forwarder cargo preference requirements. On November 16, 1977, the GSA freight forwarders were advised of these new procedures.

MarAd's 1971 regulations state that submission of bills of lading satisfies its cargo preference reporting requirements and that agencies are not required to submit summary data. However, MarAd has been receiving summary shipment data from USDA and AID which assisted it in concluding that USDA bill of lading submission was fairly complete but AID data was insufficient and could not be used. Because no summary data was submitted to MarAd for GSA freight forwarders, MarAd could only guess as to GSA reporting compliance.

Our sample showed that submission of summary data, although not required, could have aided MarAd in monitoring bill of lading submission. For example, for one freight forwarder under contract to GSA we were able to obtain copies of freight forwarder shipping reports for 12 months in calendar year 1976. These reports were very useful in evaluating this freight forwarder's bill of lading submission and revealed that the freight forwarder was not submitting bills of lading to MarAd for shipments of several agencies. If MarAd had received these summary reports, it could have evaluated the adequacy of bill of lading data being submitted by freight forwarders under contract to GSA and requested GSA to make any needed corrections. Without summary data on total shipments, MarAd has no way of knowing if it has received all bills of lading. To enable MarAd to have more complete, and therefore more useful, data, agencies need to take prompt corrective action when comparison of bills of lading with summary data reveals that MarAd is not receiving reports on all shipments as required.

But first, MarAd needs to amend its regulations to require submission of available summary shipment or other data as well as bills of lading which give more detailed shipment information.

ACCOMPLISHMENTS ACHIEVED BY MARAD TO IMPROVE ITS ANNUAL REPORT

MarAd has accomplished a number of goals that will enable it to more comprehensively and accurately report on the extent of Government-wide compliance with cargo preference requirements.

Among these more recent accomplishments are

--having the Federal Procurement Regulations amended to include a contract clause requiring submission of ocean bills of lading directly to MarAd;

--obtaining Eximbank's agreement to require its loan recipients to report to MarAd on their ocean shipping activities;

--bringing the direct credit and credit guarantee portions of DOD's foreign military sales program under reporting coverage; and

--incorporating AID's title II, Public Law 480, voluntary agency shipments in the reporting system.

Amendment of Federal Procurement Regulations

In the past, GSA's contracts with its suppliers included a standard Federal Procurement Regulation clause requiring the use of privately owned U.S.-flag vessels for commodity shipments. However, the clause did not require submission to MarAd of copies of bills of lading for these shipments. Thus, MarAd's annual reports have been incomplete because MarAd has not received information on shipments made by GSA contractors or by contractors of other agencies using Federal Procurement Regulation language in their contracts.

In November 1976, at MarAd's request, GSA amended the Federal Procurement Regulations to include a contract clause requiring submission of ocean bills of lading to MarAd effective January 4, 1977. In December 1976 GSA regulations were changed to insert this clause in future GSA contracts with suppliers. MarAd officials anticipate that other agencies will do likewise and that their contractors will begin reporting directly to MarAd on their ocean shipment transactions.

Agreement reached on Eximbank's reporting of ocean shipments

The Export-Import Bank has historically taken the position that it was exempt from the reporting requirements of the Cargo Preference Act of 1954 and did not report to MarAd its direct loans, related financial guarantees, and cooperative financing facility loans shipments. Lacking specific data on Eximbank's ocean shipments, MarAd developed a formula to estimate the volume of such shipments. We found several mathematical inconsistencies in MarAd's formula, and therefore the statistics included in MarAd's annual report were of questionable reliability. In essence, precise and reliable data was unavailable for one of the major non-military shippers in the Federal Government.

However, MarAd and Eximbank officials informed us in July 1977 that agreement had been reached whereby Eximbank will require recipients under the above programs to submit bills of lading directly to MarAd. It is planned that in the future, each of Eximbank's agreements under these programs will incorporate this provision as a contractual requirement. This action--culminating years of discussion and disagreement between the two parties--represents a positive step in improving the reliability and accuracy of MarAd's reporting process. Until this new procedure is fully implemented, MarAd officials plan to estimate Eximbank shipments using a revised formula which they devised after discussion with us on deficiencies in the old formula.

Reporting of direct credit and credit guarantees under the foreign military sales program

In October 1975, because of MarAd's effort, as discussed on pages 13 to 15, the Department of Defense instituted a procedure whereby U.S.-flag vessels would be used for shipping goods financed by direct credits and credit guarantees under the foreign military sales program. As part of the procedure, DOD and MarAd agreed that bills of lading would be submitted to MarAd to enable it to monitor and report on the extent of compliance.

Since calendar year 1976 was the first year this procedure was in operation, we did not try to determine the percentage of bills of lading actually submitted to MarAd. However, MarAd officials estimate that they received only 40 percent of the required bills of lading during the first year of operation. They expect increased submission of bills of lading in the future as a result of an active monitoring

system. This includes an agreement between MarAd and DOD in which DOD will provide MarAd with appropriate shipping data for the Military Sealift Command's shipments under this program starting with fiscal year 1977. MarAd officials believe that they now receive adequate data to effectively monitor the program.

AID shipments under the title II, Public Law 480 program recently included in the reporting system

Under title II, Public Law 480, the Federal Government pays for both the commodities purchased and the related freight charges of shipments made by voluntary agencies to foreign countries. During fiscal years 1972 to 1976, the freight revenue for these voluntary agency shipments totaled about $253 million. Although AID did not submit bills of lading to MarAd, it did require maximum use of U.S.-flag vessels by voluntary agencies and it submitted an annual report to MarAd showing cargo preference compliance. This annual report did not include all the information MarAd requires, did not report shipments within the time limits MarAd's regulation established, and was on a fiscal year basis while MarAd reports on a calendar year basis.

Since 1971 MarAd has had discussions with AID about submitting bills of lading on the title II, voluntary agency shipments. AID's policy was to encourage maximum use of U.S.-flag vessels for these shipments, and therefore AID did not believe submission of bills of lading to MarAd was required. This position contradicted an internal AID legal position that voluntary agency shipments were clearly subject to cargo preference requirements. However, in July 1976 AID shifted from its policy of maximizing use of U.S.-flag vessels to a policy requiring that at least 50 percent of financed cargo move on U.S.-flag vessels. In August 1976 AID issued an instruction to the voluntary agencies recognizing the applicability of MarAd's reporting requirements to Public Law 480, title II shipments. The instruction requires voluntary agencies to submit all title II bills of lading to AID within 15 days of issuance. AID then forwards the bills of lading to MarAd.

We sampled Public Law 480, title II voluntary agencies' shipments made from September 1 to December 31, 1976, from an AID computer run listing voluntary agency shipments. Our sample consisted of 241 of the 522 shipments listed separately on the computer run. We found only 32 percent of the bills of lading for our sample shipments had been submitted to MarAd. We broke the sample down into months

and found an improving trend: 21 percent of September shipments, 33 percent of October, 36 percent of November, and 39 percent of December.

Although the trend is toward improvement, we believe that even the 39 percent of bills of lading found at MarAd for December 1976 is quite low and that there is still a major problem in bill of lading information being submitted to MarAd for voluntary agency shipments. We discussed the results of our sample with AID officials, who assured us that all title II voluntary agency bills of lading are now being submitted to MarAd.

FURTHER OPPORTUNITIES EXIST FOR MORE COMPREHENSIVE REPORTING

Despite MarAd's efforts to improve its annual compliance report, major gaps in report coverage and opportunities for improvement still exist. The most significant omission is that MarAd's annual reports, to date, have excluded the substantial shipping activities conducted by the Department of Defense.

In addition, in at least one instance, there is disagreement between MarAd and the responsible program agency--AID--over whether a specific activity is required to be reported under the cargo preference legislation.

Omission of DOD ocean shipments from MarAd's annual compliance report

In 1971 when MarAd issued its regulation requiring reporting of cargo preference shipments, it specifically excluded DOD from its provisions, stating that a separate regulation would be issued covering DOD shipments. Over 6 years later, this separate regulation has still not been issued, and MarAd officials informed us that none is planned until they establish clear workable requirements for DOD shipments and develop an improved information system capable of handling the volume and requirements needed to process DOD shipments. (See pp. 45 and 46.)

According to MarAd officials, because MarAd had originally concentrated on civilian agency programs and because its computer system had been unable to meet military security requirements, MarAd had not been reporting DOD cargo preference shipments to the Congress. MarAd officials, stated that in anticipation of their improved computer system, they are now doing more to record and report military cargoes. For instance, in calendar year 1976, MarAd began

to accumulate shipment data on foreign military credit and credit guarantee sales. Such shipments reported to MarAd in calendar year 1976 totaled about 125,500 tons. No data on other military shipments has been gathered by MarAd or reported to the Congress.

MarAd officials do not believe that a DOD regulation could be effectively written until all of DOD's programs subject to cargo preference are identified and the specifics of each taken into account. These officials stated that their approach has been to identify DOD programs having cargo preference applicability and to work with DOD to establish a reporting system that fits a specific program. However, they believe that once these reporting arrangements are worked out with DOD for each specific program, an overall DOD regulation would be superfluous.

Unresolved difference over whether AID voluntary agency shipments should be reported

Another matter relating to the comprehensiveness of MarAd's annual report involves an unresolved dispute between MarAd and AID as to whether freight charges paid under section 216 of the Foreign Assistance Act of 1961, as amended, are required to be reported under the cargo preference requirements. Under section 216, AID is authorized to pay the freight on certain ocean shipments of goods donated by voluntary agencies to needy countries. AID has not submitted shipping information to MarAd for these voluntary agency shipments where it pays only freight charges, although as a matter of policy AID applies the same U.S.-flag vessel usage requirement to these shipments as it does for Public Law 480, title II, voluntary agency shipments.

In fiscal year 1976, AID paid freight charges of $9.79 million for these shipments, of which $6.45 million, or 66 percent, was for U.S.-flag vessels. Although AID requires that 50 percent of these shipments be carried on U.S.-flag vessels, it maintains that the shipments are not subject to cargo preference provisions because AID only pays for the freight. Therefore, AID does not want to require bill of lading submission to MarAd for these shipments. MarAd informed us that these shipments are subject to its regulation because they are federally financed and that it wants to receive bills of lading for these shipments. At October 31, 1977, MarAd and AID had not resolved this issue.

CONCLUSIONS

Since 1970, when MarAd became responsible for reporting to the Congress on cargo preference programs, it has made progress in obtaining data on cargo preference shipments. In 1971 MarAd issued regulations that covered reporting of cargo preference data to MarAd for non-DOD agencies. These regulations provided for the submission of bills of lading for cargo preference shipments to meet an agency's cargo preference reporting responsibility. Several agencies have delegated the responsibility to submit bills of lading to freight forwarders or other involved parties. No monitoring has been done by these agencies to see that the delegated responsibility is being met. In a few cases MarAd has obtained summary data from agencies and has been able to use this to evaluate adequacy of bill of lading submission. When MarAd has not received summary data, it has had no way to evaluate the adequacy of bill of lading submission. Since MarAd has been expanding its coverage of cargo preference shipments, the need to require available summary data to insure reliability of reported shipping data becomes even more important.

In its 1971 cargo preference regulations, MarAd said that regulations for DOD would be issued separately; however, they have have not been issued. MarAd officials do not believe that a regulation could be effectively written until all of DOD's programs subject to cargo preference are identified and the specifics of each taken into account. Since DOD is the Government's largest shipper, MarAd's reports to the Congress will be incomplete until all of DOD's programs that have cargo preference applicability are identified and reporting procedures worked out with DOD.

MarAd has also had difficulty in convincing a few agencies to report certain shipments because they did not believe MarAd had the authority. These agencies claimed that (1) the reporting provision of the 1970 act did not apply and (2) their shipments were not subject to cargo preference laws even though 50-percent use of U.S.-flag vessels was required by the agencies. We believe that these situations should be reported to the Congress.

RECOMMENDATIONS TO THE SECRETARY OF COMMERCE

To improve the completeness of the cargo preference data submitted to MarAd and to improve MarAd's monitoring ability, we recommend that the Secretary of Commerce direct the Assistant Secretary for Maritime Affairs to:

--Amend MarAd's cargo preference regulations to require submission to MarAd of available summary shipment or other data as well as bills of lading for all Federal agency cargo preference shipments.

--Establish a timetable for identifying all of DOD's programs that have cargo preference applicability and for developing DOD reporting requirements.

Further, our recommendation on page 29 that MarAd report instances of noncompliance in its annual report to the Congress applies also to instances of agencies that do not comply with MarAd's reporting requirements.

CHAPTER 5

MARAD PLANS TO IMPROVE ITS MONITORING AND MARKETING ASSISTANCE CAPABILITIES

MarAd is currently developing an analysis system designed to improve its capabilities to monitor and report on the ocean shipping activities of Government agencies as well as to assist as a marketing aid to the U.S. merchant marine. The system--called the national cargo shipping analysis system (NCSAS)--has been under development for several years and has involved an investment of about $250,000. The benefits to be derived from this new capability appear to be high.

LIMITATIONS OF EXISTING DATA PROCESSING SYSTEM

Since 1970 MarAd has had the legal responsibility for reviewing the administration of cargo preference programs and annually reporting the extent of agencies' compliance to the Congress. To accomplish its responsibilities MarAd has required that all agencies, as previously mentioned, provide it with copies of their ocean bills of lading listing the details of their shipments. To process the anticipated volume of data, MarAd established a modified automated data processing system.

A December 1976 MarAd memorandum stated that at the time the modified computer system was established, in 1972, the possibility that other types of data and programs on cargo preference would exist was not envisioned. As a result, the current system is limited in scope and restricted in its ability to handle full monitoring of the cargo preference laws. The existing system can no longer process all the types of data that MarAd receives.

In 1974 MarAd placed renewed emphasis on enforcement of the cargo preference laws. As a result the number of agencies reporting on their ocean shipments increased from 9 to 35. In 1975 the number increased to 45. With the use of its current computer system, MarAd has been able to capture data for each shipment generated by programs of some 40 civilian Government agencies. MarAd has been recording an average of 20,000 ocean bills of lading annually. The reports generated by the current computer system provide the tools to determine if each Government agency is shipping at least 50 percent of its cargo on U.S.-flag vessels. However, the current system has not permitted full use of data submitted

to MarAd. Also, the current system does not have the capability to capture data for shipments under Export-Import Bank, foreign military sales direct credit and credit guarantee, coproduction, offset, military assistance, and other programs. MarAd anticipates that these programs will increase the number of bills of lading it processes to 70,000 annually. The main reasons the current computer system cannot handle these programs are an inability to handle waiver data and an inability to meet military security requirements.

Need for capability to handle waiver data

Several programs require use of U.S.-flag vessels unless waivers are obtained from MarAd. Monitoring these programs is much more complex than just seeing that U.S.-flag vessels are used to carry 50 percent of applicable cargoes. For programs requiring 100-percent use of U.S.-flag vessels, MarAd has been manually processing waiver data because of the inability of the current computer system to handle such data.

There are two types of waivers--general and statutory. General waivers authorize vessels flying the flag of the country which is receiving the credit or credit guarantee to carry up to 50 percent of the cargo generated. General waivers apply to a particular credit agreement. Statutory waivers are granted by MarAd when U.S.-flag vessels are unavailable at fair and reasonable rates for a particular shipment.

To monitor programs with waiver provisions, MarAd must be able to keep track of individual loans for which general waivers have been granted to ensure that 50 percent of the loan cargo is shipped on U.S.-flag vessels. All cargo under loans for which general waivers have not been issued must be shipped on U.S.-flag vessels unless a statutory waiver has been obtained. MarAd needs to ensure that statutory waivers have been obtained for all foreign-flag shipments under these loans. If a foreign-flag vessel was used for a shipment not covered by a general or statutory waiver or if foreign-flag vessels are used more than 50 percent under general waivers, MarAd needs to look into the situation.

In the past, MarAd has been manually handling waiver data. However, since calendar year 1976 the need to computerize monitoring of waivers has increased.

In 1974 MarAd began an intensive effort to identify other agencies and programs that should be brought under

cargo preference enforcement and monitoring procedures. One such program identified was the foreign military sales program. Although MarAd was successful in bringing part of this program under the umbrella of cargo preference, it created problems in data processing. MarAd succeeded in requiring 100-percent use of U.S.-flag vessels for direct credit and credit guarantees under the foreign military sales program unless the recipient country obtains from DOD a general waiver to carry up to 50 percent of the shipments on its own flag vessels. Because MarAd's current computer system is unable to handle waiver data and security of the current computer system is inadequate, MarAd has had to process foreign military sales data manually.

MarAd reported that during the first 9 months of calendar year 1976, it processed more than 3,000 bills of lading and 1,000 pages of control documents for the foreign military sales program. This increased the documents processed by 20 percent and the data elements collected by 100 percent over the 1975 level collected under the civilian agencies' programs. MarAd estimates that for the full calendar year 1976, it will have captured only around 40 percent of shipments under the foreign military sales program. Eventually, MarAd estimates that data processed under this program will exceed 1975 levels by over 250 percent. According to MarAd, in calendar year 1976 it took 1.5 staff-years to process this data. MarAd estimates that it will take at least 3.75 staff-years to manually process the data anticipated for the foreign military sales program for calendar year 1977.

MarAd has also succeeded in convincing Eximbank to require its loan recipients to begin submitting copies of bills of lading to MarAd for ocean shipments financed by Eximbank programs. The new bill of lading submission requirement is to begin with October 1977 shipments. Eximbank programs require 100-percent use of U.S.-flag vessels unless a waiver has been obtained from MarAd. In the past MarAd has been manually monitoring general waivers and assuming that if a waiver was not obtained, the goods were shipped on a U.S.-flag vessel. The submission of all bills of lading to MarAd will greatly enhance MarAd's monitoring ability but will create processing problems if the waiver data cannot be handled by computer. As noted previously, the current computer system cannot meet this requirement.

Need for capability to handle military data

MarAd's current computer system not only fails to satisfy military data security requirements, but it cannot be redesigned to safeguard the data within the parameters set forth by the Department of Defense. This is significant because DOD generates a large volume of ocean cargo which is subject to cargo preference laws. As discussed above, in calendar year 1976 MarAd began manually processing ocean shipment data received from sales recipients for the foreign military sales program. Even the limited data accumulated by MarAd for this program in calendar year 1976 accounted for $37 million in ocean freight charges. As discussed in chapter 3, MarAd is also trying to require use of U.S.-flag vessels for purchases under coproduction and offset agreements. However, MarAd needs to have an adequate computer system that responds to the requirements of these programs and meets DOD's security requirements.

As shown by the statistics in appendix III, DOD's Military Sealift Command, the single agency manager for DOD ocean shipments, is a major Government shipper. However, MarAd has not been receiving the majority of data on Military Sealift Command shipments. MarAd officials told us that they had not pursued the possibility of obtaining data on these shipments because they knew that the Command was meeting cargo preference requirements and that their current computer system could not meet the security requirements needed to obtain the detailed data on shipments that MarAd would like. In March 1978 MarAd officials informed us that DOD has agreed to provide it with Military Sealift Command data contingent upon MarAd's computer meeting security requirements.

MARAD'S DEVELOPMENT OF A NEW SYSTEM

To overcome its data problems, MarAd has for the past several years been designing a new software package that will give it increased processing capability. The capability needed is expected to cost approximately $250,000.

In August 1975 MarAd, through its Division of National Cargo, drafted the conceptual design for a new computer system. In May 1976 a request for proposal was issued for design, analysis, and implementation of a new system called national cargo shipping analysis system. In July 1977 the contractor furnished MarAd with draft systems specifications documents. The system is to be capable of providing MarAd with the ability to monitor, analyze, and report on the

ocean shipping activities of Government agencies and their programs. NCSAS is to be able to handle waiver data and to meet military security requirements.

Description of NCSAS

NCSAS, as designed, will consist of three modules which will provide MarAd with greater capability to monitor, analyze, and report on the ocean shipping activities of Government agencies. The modules, corresponding to the three major cargo preference laws, are civilian agency shipments, military shipments, and Export-Import Bank shipments. Each module will provide considerably more information than MarAd currently contains in its data base and, in some cases, totally new information.

Civilian agencies' shipments (Module I)

This module will encompass all shipments generated by funds of the various civilian agencies. Although the approximately 60 agencies, subagencies, and independent offices involved use different methods of cargo shipment--some handling cargo movements themselves, some using the services of freight forwarders, and some using contractors to arrange ocean shipments--this module will capture the data regardless of the method used.

Ocean bills of lading will continue to be the primary source document used in the module. Information will be generated, however, on such items as the Government program under which the shipment is made, contractor or freight forwarder identification, commodity shipped, weight and value of the commodity, points of origin and destination, flag of vessel used, and freight revenue derived by the ocean carrier.

Military shipments (Module II)

The military shipment module will provide the capability of recording both U.S. military shipments as well as foreign government military shipments made with U.S. funds. The data base will be developed from copies of loan, credit, and grant agreements as well as from bills of lading and DOD manifests.

This module will have the capability to identify and accumulate shipping data by country; loan, credit, or grant agreement; and freight forwarder. Because of the sensitive nature of these shipments, this module will incorporate security measures to prevent unauthorized access to the data.

Eximbank shipments (Module III)

This module will provide coverage of shipments generated by Government corporations and related instrumentalities of the Government. Initially, this module will encompass Eximbank and the Overseas Private Investment Corporation, with others to be added in the future. Both of these organizations have identical operations in that their loan recipients are responsible for arranging their own shipping requirements--usually through freight forwarders or manufacturers/contractors. This module will capture the data regardless of who actually arranges the shipment.

BENEFITS EXPECTED FROM THE NEW SYSTEM

NCSAS represents a significant improvement in MarAd's ability to process the voluminous amount of data it is currently receiving and which is likely to increase in the future. This improved capability will enable MarAd to:

--More effectively monitor--on a comprehensive, Government-wide basis--agencies' compliance with the various cargo preference laws.

--Reduce the amount of processing that is currently performed manually, thereby improving the efficiency of its internal operations.

--Meet the security requirements to process military shipment data

In addition, one of the major features of the new system is that it is designed to foster growth of U.S.-flag carrier participation in military and civilian shipment programs. Essentially, this will be accomplished by providing the U.S.-flag carriers with definite marketing leads to Government and military contractors. It is also envisioned that the system will provide the data base to determine if U.S.-flag service patterns should be adjusted to take advantage of Government and military-impelled shipments.

MarAd estimates that with the new system U.S.-flag carriers will be able to generate millions of dollars of additional freight revenue annually. This is in direct support of the U.S. policy to foster development and maintenance of a strong, capable, well-equipped merchant marine.

CONCLUSION

The benefits to be derived from this new capability appear to be high. The Department of Commerce should, therefore, closely monitor the progress of the system development and assure that implementation can occur on a timely basis. Completion of NCSAS will assure the needed capability for MarAd to fully carry out its cargo preference responsibilities.

CHAPTER 6

SCOPE OF REVIEW

We reviewed the cargo preference programs of nine Federal departments and agencies (see app. V) to:

--Assess how effectively the programs were promoting use of U.S.-flag vessels.

--Determine how effectively the Maritime Administration reviewed cargo preference programs and reported on them to the Congress.

--Identify any problems in implementing cargo preference programs.

We reviewed programs in operation through December 1976 and MarAd's operations through August 1977. These nine departments and agencies generated over 95 percent of reported shipments subject to the cargo preference laws.

We also examined MarAd's policies, procedures, and guidance issued to agencies on cargo preference as well as MarAd and agency cargo preference reporting procedures.

We took statistical samples of agency bills of lading 1/ which were matched against those received by MarAd, and we met with agency and MarAd officials to obtain information on program implementation and management procedures.

1/We selected bills of lading at agencies and matched them with MarAd's files. The bills of lading were either selected randomly or in a few cases a 100-percent sample was selected.

CIVILIAN AGENCY-SPONSORED CARGOES

CALENDAR YEAR 1975

Shipper	Cargo Preference Act of 1954 Cargoes: Total long tons shipped	Long tons carried by U.S.-flag ships	Percentage carried by U.S.-flag ships
Agency for International Development (note a)	1,700,572	542,815	32
Department of Agriculture	4,761,882	2,400,949	50
Department of the Interior:			
Bonneville Power Administration (note a)	5,975	2,234	37
Bureau of Reclamation (note b)	118	1	1
Department of Commerce	264	215	81
Inter-American Development Bank	22,570	11,228	50
National Aeronautics and Space Administration	416	353	85
Smithsonian Institution	236	186	79
Department of State	7,797	6,664	85
Tennessee Valley Authority	4,470	4,023	90
Department of Transportation	338	200	59
Department of the Treasury	114	114	100
U.S. Information Agency	3,717	3,347	90
Other (note c)	221	200	90

	Public Resolution 17 Cargoes: Total freight revenue	U.S.-flag freight revenue	Percentage U.S.-flag
Export-Import Bank	$166,365,453	$128,091,741	77

a/ If shipments for which U.S.-flag vessels were not available were deducted from total shipments, U.S.-flag participation in the remaining shipments would be 77.5 percent for AID and 79 percent for the Bonneville Power Administration.

b/ Virtually all cargo originated at foreign ports where U.S.-flag service was not available to U.S. ports where cargo was assigned.

c/ Cargoes of agencies which generate less than 100 tons of ocean cargoes per year.

Source: 1976 Maritime Administration Annual Report.

CIVILIAN AGENCY-SPONSORED CARGOES

CALENDAR YEAR 1974

Shipper	Cargo Preference Act of 1954 Cargoes: Total long tons shipped	Long tons carried by U.S.-flag ships	Percentage carried by U.S.-flag ships
Agency for International Development (note a)	3,607,796	1,271,182	35
Bonneville Power Administration (note a)	7,647	3,279	43
Department of Agriculture	1,378,583	692,849	50
Department of State	8,152	6,068	74
Federal Highway Administration	965	756	78
Inter-American Development Bank (note a)	20,844	5,754	28
International Exchange Service	195	193	99
National Aeronautics and Space Administration	497	401	81
Tennessee Valley Authority	1,810	1,161	64
U.S. Information Agency	5,010	4,181	83
U.S. Travel Service	189	173	92
Other (note b)	315	277	88

	Public Resolution 17 Cargoes: Total freight revenue	U.S.-flag freight revenue	Percentage U.S.-flag
Export-Import Bank	$192,000,259	$154,690,621	81

---

a/ If shipments for which U.S.-flag vessels were not available were deducted from total shipments, U.S.-flag participation in the remaining shipments would be 64 percent for AID, 67 percent for the Bonneville Power Administration, and 62 percent for the Inter-American Development Bank.

b/ Cargoes of agencies which generate less than 100 tons of ocean cargoes per year.

Source: 1975 Maritime Administration Annual Report.

MILITARY SEALIFT COMMAND SHIPMENTS

CALENDAR YEARS 1975 AND 1974

	Calendar year 1975		Calendar Year 1974	
Dry cargo	Measurement tons (note a)	Percentage	Measurement tons	Percentage
	(000 omitted)		(000 omitted)	
U.S.-flag vessels (privately owned)	6,930	85.9	8,345	82.7
U.S.-flag vessels (Government owned)	303	3.7	365	3.6
Foreign-flag vessels (U.S.-flag vessels not available)	838	10.4	1,375	13.7
Total dry cargo	8,071	100.0	10,085	100.0
Petroleum	Long tons (note b)	Percentage	Long tons	Percentage
	(000 omitted)		(000 omitted)	
U.S.-flag vessels (privately owned)	6,307	55.1	6,568	49.1
U.S.-flag vessels (Government owned)	2,217	19.3	3,403	25.5
Foreign-flag vessels (U.S.-flag vessels not available)	2,927	25.6	3,404	25.4
Total petroleum cargo	11,451	100.0	13,375	100.0

---

a/A measurement ton is 40 cubic feet.

b/A long ton is 2,240 pounds.

Source: Military Sealift Command, Financial and Statistical Reports, Part II.

U.S. OCEANBORNE FOREIGN TRADE/COMMERCIAL CARGO CARRIED

	Calendar year					
	1970	1971	1972	1973	1974	1975
Total long tons	(millions of long tons)					
Total tons	473.2	457.4	513.6	631.6	628.5	612.0
U.S.-flag tons	25.2	24.4	23.8	39.9	40.9	31.0
U.S. percent of total	5.3	5.3	4.6	6.3	6.5	5.1
Liner total tons	50.4	44.2	44.6	51.3	51.4	45.0
Liner U.S.-flag tons	11.8	10.1	9.8	13.2	15.3	13.6
Liner U.S. percent	23.5	22.9	21.9	25.8	29.8	30.3
Non-liner total tons	240.7	220.7	242.6	281.9	282.7	272.7
Non-liner U.S.-flag tons	5.4	4.8	3.8	4.5	5.0	3.8
Non-liner U.S. percent	2.2	2.1	1.6	1.6	1.8	1.4
Tanker total tons	182.1	192.5	226.4	298.4	294.4	294.3
Tanker U.S.-flag tons	8.0	9.5	10.2	22.2	20.5	13.7
Tanker U.S. percent	4.4	4.9	4.5	7.4	7.0	4.6
	1970	1971	1972	1973	1974	1975
Dollar value	(billions)					
Total value	$49.7	$50.4	$60.5	$84.0	$124.2	$127.3
U.S.-flag value	10.3	9.9	11.1	15.9	22.0	22.3
U.S. percent of total	20.7	19.6	18.4	18.9	17.7	17.5
Liner total value	33.5	32.4	37.4	49.6	63.4	64.2
Liner U.S.-flag value	9.7	9.2	10.3	14.4	19.4	20.0
Liner U.S. percent	28.8	28.4	27.7	29.1	30.6	31.2
Non-liner total value	12.2	13.2	17.4	25.2	34.7	36.3
Non-liner U.S.-flag value	.4	.4	.4	.7	.8	1.0
Non-liner U.S. percent	3.3	3.1	2.4	2.5	2.3	2.7
Tanker total value	4.0	4.9	5.7	9.2	26.0	26.7
Tanker U.S.-flag value	.2	.3	.4	.8	1.8	1.4
Tanker U.S. percent	5.6	5.5	6.2	9.1	6.9	5.1

Note: Includes Government-sponsored cargo; excludes Department of Defense cargo and U.S./Canada translakes cargo.

Source: 1976 Maritime Administration Annual Report.

DEPARTMENTS AND AGENCIES WHERE WE REVIEWED

CARGO PREFERENCE PROGRAMS

Department of Agriculture:
- Agricultural Stabilization and Conservation Service
- Office of the General Sales Manager

Department of Commerce:
- Economic Development Administration
- Maritime Administration

Department of Defense:
- Defense Security Assistance Agency
- Military Sealift Command
- Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)

Department of Health, Education, and Welfare:
- Health Resources Administration
- National Institutes of Health

Department of Housing and Urban Development

Department of State:
- Agency for International Development

Department of Transportation:
- Federal Highway Administration
- Urban Mass Transportation Administration

Export-Import Bank of the United States

General Services Administration:
- Federal Supply Service

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Maritime Affairs
Washington, D.C. 20230

APR 7 1978

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

Dear Mr. Eschwege:

This refers to your letter of February 1, 1978, requesting our comments on your draft report entitled "Cargo Preference Programs for Government Financed Ocean Shipments Could be Improved."

In reviewing the draft report we have worked closely with your staff and consider this to be a constructive report. We believe that the report is reflective of the professional and comprehensive efforts of the GAO audit team under the direction of Mr. Joel L. Slotsky, and we concur with the intent of its recommendations.

I appreciate the opportunity to comment on this draft report. If I can be of further assistance please let me know.

Sincerely,

ROBERT J. BLACKWELL
Assistant Secretary
for Maritime Affairs

PRINCIPAL DEPARTMENT OF COMMERCE OFFICIALS RESPONSIBLE FOR ADMINISTERING THE ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
SECRETARY OF COMMERCE:		
Juanita M. Kreps	Jan. 1977	Present
Elliot L. Richardson	Feb. 1976	Jan. 1977
Rogers C. B. Morton	May 1975	Feb. 1976
John K. Tabor (acting)	Mar. 1975	Apr. 1975
Frederick B. Dent	Feb. 1973	Mar. 1975
Peter G. Peterson	Feb. 1972	Feb. 1973
Maurice H. Stans	Jan. 1969	Feb. 1972
ASSISTANT SECRETARY FOR MARITIME AFFAIRS (note a):		
Robert J. Blackwell	July 1972	Present
Andrew E. Gibson	Mar. 1969	July 1972

a/Before Oct. 21, 1970, this position was entitled Maritime Administrator.

(06551)