

STATEMENT OF KLAUS LUHTA, CHIEF OF STAFF
INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS
TO THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT
MARINE INFRASTRUCTURE, SAFETY AND SECURITY
OF THE
SENATE COMMITTEE ON COMMERCE, SCIENCE AND
TRANSPORTATION
ON THE
STATE OF THE U.S. MARITIME INDUSTRY: STAKEHOLDER
PERSPECTIVES
APRIL 20, 2016

CHAIRWOMAN FISCHER, RANKING MEMBER BOOKER AND MEMBERS
OF THE SUBCOMMITTEE:

Good morning.

I am Klaus Luhta, Chief of Staff to the President of the International Organization of Masters, Mates & Pilots and a licensed professional mariner. I am pleased to appear today and to submit this statement on behalf of Masters Mates & Pilots, the American Maritime Officers, the Marine Engineers' Beneficial Association, the Marine Firemen's Union, the Sailors' Union of the Pacific, and the Seafarers International Union.

Our organizations proudly represent the seafaring men and women who continue the tradition of American mariners since the founding of our Nation to sail into harm's way whenever and wherever needed by our country in order to support and supply our military overseas. It is these same American mariners who ensure that America's foreign and domestic seaborne trade, upon which our economy is based, is not exclusively dependent upon foreign nationals.

The continued operation of the U.S.-flag foreign trade fleet, and the development, implementation and funding of the programs that support our fleet, enhance its economic viability, increase its ability to compete for a larger share of America's foreign trade and ensure its ability to continue to serve as our Nation's fourth arm of defense are extremely important to the jobs of the men and women our labor organizations represent. Consequently, we are extremely pleased that this hearing is being held and we thank you, Madam Chairman, Ranking Member Booker and your Subcommittee for the opportunity to participate in this hearing and to express our views on how Federal policy and programs can further strengthen and enhance the performance of the U.S.-flag maritime industry.

"In Peace and War" is the motto of the US Merchant Marine. The critical need for our industry has been recognized during every international crisis in our nation's history. In 1992, General Colin Powell, then-Chairman of the Joint Chiefs of Staff stated: "Fifty years ago, U.S. merchant vessels . . . were battling the frigid seas of the North Atlantic to provide the lifeline to our allies in Europe. The sacrifice of those mariners was essential to keeping us in the war until we could go on the

offensive . . . In World War II, enemy attacks sank more than 700 U.S.-flag vessels and claimed the lives of more than 6,000 civilian seafarers . . . “

More recently, in 2008, Major General Kathleen Gainey, Commander, Military Surface Deployment and Distribution Command, stated that “The merchant marine has always been there beside us . . . There is no amount of thanks that I could give you, because I am here to tell you, having deployed twice, I know how critical it is that equipment and those supplies are delivered on time. . . You are the fourth arm of defense and you are critical to this nation.”

Finally, in May 2015, Rear Admiral Thomas Shannon, Commander, Military Sealift Command, made clear the continued need for a U.S.-flag merchant marine and its American crews to ensure the military security of our Nation. As stated by Admiral Shannon: “It is our U.S.-flag merchant fleet and our mariners that ensure that our Soldiers, Sailors, Airmen and marines are supplied. From Inchon to Iraq, our mariners and our maritime industry delivered . . . Let us not as a nation sign away our remaining sealift capacity to non-U.S.-flagged fleets sailed by non-U.S. mariners.”

Nevertheless, despite the repeated expressions from leaders in the Department of Defense (DOD) that our Nation needs a U.S.-flag merchant marine, the privately-owned U.S.-flag merchant marine has, in recent years, declined, threatening the ability of our Nation to provide the commercial sealift capability and U.S. citizen mariners that DOD requires. In March 2016, this Subcommittee received testimony from Maritime Administrator Paul Jaenichen on the state of our industry. He pointed out that the number of vessels in the U.S.-flag foreign trade fleet declined from 106 vessels in 2011 to 78 vessels at the end of February 2016. The reduction in vessels and the loss of the associated seafaring billets for American mariners result in a reduction in the pool of available mariners to meet DOD requirements. As further stated by Administrator Jaenichen, there are approximately 11,230 qualified American mariners available to crew commercial or government-owned sealift ships. He cautioned that in the event of a prolonged activation of Maritime Administration and Military Sealift Command surge vessels, an additional 3,200 mariners would be needed.

It must be emphasized that it takes many years for an individual to gain the experience and sea-time necessary to obtain U.S. Coast Guard-issued licenses and credentials. Our country and our industry will not be able to recover overnight from the continued downsizing of our fleet and the outsourcing of American maritime jobs when the call goes out for mariners to once again respond to our Nation's need. Young people will not be encouraged to enter an industry that is ignored or abandoned by policy-makers and that promises no realistic future for employment.

Rather, the government, U.S.-flag shipping companies and America's maritime labor organizations should continue to work together, as we did last year to address issues surrounding the Maritime Security Program, to modify and enhance existing programs and to create new programs and opportunities that will increase the number of vessels operating under the U.S.-flag, the amount of cargo carried aboard U.S.-flag vessels, and the shipboard employment opportunities for American licensed and unlicensed merchant mariners. To be available when needed in time of war or other international emergency, the U.S.-flag merchant marine must be supported during time of peace. To ensure that the Department of Defense has the commercial sealift capability and American mariners it needs whenever and wherever needed, U.S.-flag vessels and their U.S. citizen crews must be actively engaged in the carriage of government and commercial cargoes.

The development of meaningful, realistic maritime policies and programs must be accompanied by a reaffirmation from both Congress and the Administration that our country must have a strong, viable and competitive U.S.-flag merchant marine owned and operated by American citizens and crewed by American licensed and unlicensed merchant mariners in order to meet the economic, military and homeland security requirements of our nation. Without this reaffirmation, and without a clear commitment that the government will work diligently to achieve this objective, we will continue to lack the coordinated approach to a national maritime policy our industry needs. Consequently, we again offer our appreciation to you, Madam Chairman, to Ranking Member Booker and the Members of your Subcommittee for taking the initiative to schedule this series of hearings and your willingness to examine ways in which Federal programs and policies can enhance the performance of the U.S.-flag merchant marine.

MARITIME SECURITY PROGRAM

One of the key components of American maritime policy is the Maritime Security Program. This program authorizes a maritime security fleet of 60 privately-owned, militarily-useful U.S.-flag commercial vessels that is supported by an annual stipend intended to help offset the cost of operating under the United States-flag.

The Maritime Security Program (MSP) is a unique government – private shipping industry partnership that gives the Department of Defense (DOD) the commercial sealift capability it needs while saving the American taxpayer the billions of dollars it would take for DOD to develop and maintain this capability itself. Developed under President George H.W. Bush, and first implemented under President Bill Clinton, full funding for MSP has been supported by each President and Congress since 1996.

Since 2009, privately-owned U.S.-flag commercial vessels and their civilian U.S. citizen crews have transported more than 90 percent of the sustainment cargo needed to support U.S. military operations and rebuilding programs in Iraq and Afghanistan. Significantly, vessels enrolled in MSP carried 99 percent of these cargoes. Without the assured U.S.-flag commercial sealift capability provided by MSP, U.S. troops stationed overseas could find themselves dependent on foreign vessels and foreign crews to deliver the supplies and equipment they need to do their job on our behalf.

Last year, Maritime Administrator Paul Jaenichen told the House Coast Guard and Maritime Transportation Subcommittee that “The most significant challenge facing the MSP is the declining Department of Defense cargo due to the drawdown of operations in Iraq and Afghanistan coupled with the over 80 percent reduction in personnel and military bases overseas.”

Echoing the concern that current developments are threatening the continued availability of the U.S.-flag vessels, U.S. crews and global logistics systems provided by MSP to DOD, General Paul Selva, Commander, United States Transportation Command, told the Senate Committee on Armed Services in March 2015, “The reduction in government impelled cargoes due to the drawdown in Afghanistan and reductions in food aid . . . are driving vessel owners to reflag to non-U.S.-flag out of economic necessity . . . With the recent vessel reductions, the mariner base is at the point where future reductions in U.S.-flag capacity puts our ability to fully activate, deploy and sustain forces at increased risk.”

These factors affect the ability of U.S.-flag vessel operators to keep their vessels under the U.S.-flag and to reinvest in new U.S.-flag ships. New ships are long term assets, eligible under existing law to participate in MSP for 25 years. MSP funding must be sufficient to maintain a robust U.S.-flag fleet and provide the long term stability to justify continued commercial investment in ships that cost more than \$100 million each. Adding to this is the ongoing need for continued upgrading and investment in the commercial global intermodal networks that the MSP carriers bring to DOD.

Consequently, significant reductions in the amounts of defense and other government cargoes available to U.S.-flag vessels; the proliferation of tax and other economic incentives available to foreign flag vessels and crews but not to U.S.-flag vessels and crews; the regulatory compliance requirements imposed only on U.S.-flag vessels by the U.S. government; and the growing competition for cargoes from foreign flag of convenience vessel operations which fail to meet the standards applicable to U.S.-flag vessels necessitate full funding for the MSP.

We are extremely pleased that Congress, due in no small measure to your assistance Madam Chairman and the support of this Subcommittee, increased funding for the Maritime Security Program for fiscal year 2016. This increase, which provided each vessel participating in the MSP with \$3.5 million rather than the previously authorized \$3.1 million for FY'16, represented an important first step in ensuring that the funding levels provided by the Maritime Security Program more realistically reflect the reductions in the amount of cargo available to U.S.-flag vessels.

In addition, and especially important, we are pleased that Congress recognized that further adjustments in funding for the Maritime Security Program are needed. Language was included in Public Law 114-113, the Consolidated Appropriations Act of 2016 signed into law by President Obama that includes \$299,997,000 for MSP for FY'17. As authorized by PL 114-113, each vessel participating in the MSP would receive \$4,999,950 million in FY'17.

We believe it is absolutely essential to the continued operation of the 60-ship maritime security fleet that Congress appropriate the authorized \$299,997,000 million for the Maritime Security Program for FY'17. As noted by Senators Booker and Wicker and fourteen of their colleagues in a March 17, 2016 letter to the Senate Transportation Appropriations Subcommittee, "The Program utilizes existing U.S. maritime private sector capabilities at a fraction of the cost of what it would take if

the Federal government were to replicate the vessel capacity and global intermodal systems made available to the Department of Defense by MSP contractors who continuously develop and maintain modern logistics systems for commercial and defense purposes. The cost to the government of replicating the vessels and intermodal system is estimated at least \$65 billion.”

In January 2016, General Darren McDew, Commander, United States Transportation Command, stated: “As a military professional and senior leader, I think about and plan for what the future may hold and I would tell you we must prepare for the real possibility we will not enjoy the uncontested seas and international support experienced in 1991. If either of those possibilities becomes a reality, and if we remain committed to responding to security incidents around the globe, the only way of guaranteeing we decisively meet our national objectives is with U.S. ships operated by U.S. mariners.”

Therefore, to ensure that the privately-owned militarily-useful U.S.-flag vessels enrolled in the MSP, the MSP vessel operators’ worldwide logistics systems, and their U.S. citizen crews remain available to DOD to advance America’s security interests and to support and supply American troops overseas, we ask your help to secure full FY’17 funding for the Maritime Security Program at the level authorized by PL 114-113.

CARRIAGE OF U.S. GOVERNMENT GENERATED CARGOES

U.S.-flag cargo preference shipping requirements are an essential means to help ensure the continued availability of the privately-owned U.S.-flag commercial fleet which, along with its associated American maritime manpower, is a critical national defense asset. Without a fully and appropriately funded Maritime Security Program and without full compliance with cargo preference requirements, the U.S. Government and the American taxpayer would necessarily spend far in excess of the cost of these programs to replicate the national security capabilities of the privately-owned U.S.-flag commercial fleet.

All too often in the past, Federal agencies and departments have ignored U.S.-flag shipping requirements for the carriage of cargoes financed in whole or part by the American taxpayer and Federal government. Not only are U.S.-flag vessels denied

cargoes that by law should be transported by U.S.-flag vessels when available at fair and reasonable rates, but there is no recourse in the law when it is ultimately determined that the law was violated. We would encourage Congress and the Administration to make clear to all Federal shipper agencies that privately-owned U.S.-flag commercial vessels must be used for the carriage of U.S. government generated cargoes as required by law.

Along these same lines, we continue to support legislation that would make clear that the Maritime Administration has ultimate responsibility to determine if a Federal program is in fact subject to U.S.-flag cargo preference shipping requirements.

It is equally important that the Maritime Administration regularly exercise this responsibility, and that Congress ensure that this is in fact done. To this end, Congress should require that the Maritime Administration report to Congress on a regular basis and to document its actions and efforts, specifying the programs, departments and agencies it has reviewed as well as the actions taken to ensure full compliance with cargo preference requirements.

We further reaffirm our position that Congress should restore the U.S.-flag share of PL 480 Food for Peace and other humanitarian food aid cargoes to the 75 percent level that was in place beginning in 1985 until reduced to 50 percent in 2012. Food aid cargoes are the single greatest source of preference cargoes. It has provided more than half of the dry preference cargo tonnage available since 2002 and the availability of food aid cargoes will continue to become even more important as Department of Defense cargoes further decline with the drawdown of operations in Iraq and Afghanistan and the broad reduction in overseas and bases. It is no coincidence that the size of the U.S.-flag fleet has shrunk by more than 26 percent since the 2012 reduction of the U.S.-flag share of food aid cargoes.

It is important to note that the GAO has reported that when the statutory share of food aid cargoes to be carried by U.S.-flag vessels was reduced from 75 percent to 50 percent, USDA shipping costs were not affected at all and USAID shipping costs fell by less than 9 percent. The cost of increasing cargo preference requirements for food aid cargoes back to 75 percent has in the past been scored at only \$11 million per year.

In May, 2011, General Duncan McNabb, Commander, United States Transportation Command, stated “The movement of U.S. international food aid has been a major contributor to the cargo we have moved under the cargo preference law that our U.S.-flag commercial sealift industry depends upon.” Similarly, in July 2015, Jeff Marootian, Assistant Secretary for Administration, United States Department of Transportation, stated “Cargo preference is a pillar that ensures America can activate and sustain a sealift fleet adequate to deploy and support the United States Armed Forces anywhere in the world . . . This program, which benefits both the public and private sectors, is less a burden on the taxpayer than the other options to provide the same capability.”

In addition, we would encourage the Department of Defense (DOD) to ensure that its policies fully encourage and promote the utilization of U.S.-flag commercial vessels. More specifically, DOD should give first priority to U.S.-flag carriers for the full end-to-end movement of defense shipments that include an ocean leg, thereby making use of the carrier’s entire network as committed to under Voluntary Intermodal Sealift Agreement (VISA) contracts.

We would urge that U.S.-flag vessels carrying U.S. Government cargoes be given priority loading and discharging rights in order to minimize or eliminate the costs to the U.S. Government associated with delays while U.S.-flag vessels wait to load and discharge taxpayer-financed cargoes.

ENCOURAGING THE USE OF US-FLAG VESSELS FOR ENERGY EXPORTS

The export of liquefied natural gas from the United States creates a tremendous opportunity to increase the size of the U.S.-flag commercial fleet and to provide much-needed new employment opportunities for American mariners.

To realize this opportunity, we believe that the Secretary of Transportation should be required to report to the Congress on the steps taken to develop and implement a program to promote the carriage of LNG exports on U.S.-flag LNG vessels.

Secondly, in order to address one of the major competitive impediments to operating a U.S.-flag rather than a foreign flag LNG vessel, Congress should extend the provisions of section 911 of the Internal Revenue Code (the foreign source income

exclusion) to American mariners working aboard LNG vessels engaged in the carriage of LNG exports from the United States. In the short term, extending section 911 to Americans working aboard vessels carrying LNG exports and thereby treating American mariners in the same fashion that foreign mariners are treated by their flag nations, we would be eliminating a significant economic disincentive to the employment of American mariners aboard foreign flag LNG ships. Without this opportunity for employment, Americans would not attain the seetime requirements and training needed to operate vessels in this trade, preventing the operation of LNG vessels under the U.S.-flag.

Finally, Congress should allow foreign built, foreign flag LNG vessels to document under the U.S.-flag to engage in the carriage of LNG exports in international trade without the need for any vessel construction-related changes provided they meet commonly accepted international standards. In other words, foreign flag LNG vessels meeting International Maritime Organization (IMO) requirements and holding a valid United States Coast Guard Certificate of Compliance for foreign flag LNG vessels entering U.S. waters would be deemed in compliance with all U.S. standards required for documentation under the U.S. flag.

CONCLUSION

Those of us who make our living going to sea in this honorable and fundamental American industry want our daughters and sons to have the same opportunities. A healthy U.S. Merchant Marine will safeguard our country's military, economic and homeland security. We stand ready to work with you to achieve these objectives.

Thank you.