

**The original documents are located in Box C1, folder “Presidential Handwriting, 8/27/1974 (2)” of the Presidential Handwriting File at the Gerald R. Ford Presidential Library.**

### **Copyright Notice**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

THE PRESIDENT HAS SEEN *dy*

THE WHITE HOUSE

WASHINGTON

August 27, 1974

*This should be discussed  
at next Cabinet meeting*

MEMORANDUM FOR THE PRESIDENT  
FROM: KEN COLLE *C*  
SUBJECT: CARGO PREFERENCE LEGISLATION

In response to your request, here is additional information on cargo preference which we developed with Commerce, CIEP, OMB, and others.

All concerned departments and agencies remain firmly opposed to any extension of cargo preference to commercial cargoes and Ambassador Eberle questions the advisability of even suggesting that the Administration is willing to seek some compromise on the Energy Transportation Security Act of 1974. This could be interpreted by the Senate to mean that the Administration was willing to see some type of cargo preference legislation and could seriously undermine the efforts of Senator Cotton and others who are leading the Senate fight against the bill. Further, Secretary Kissinger remains firmly opposed to this bill.

In addition, there is no way to effectively modify the legislation to mitigate completely its serious inflationary impact, both on the operating industry and on the construction industry. With respect to operation, past experience with similar legislation as applied to government cargoes indicates that freight rates rise to premium levels because of the higher costs associated with U.S. operation and reduced competition among the operators. With respect to construction, the shipbuilding capacity is not expanding fast enough to accommodate our current and projected construction requirements. Documented serious shortages of labor and materials exist now.

The following is in response to your specific questions:

Discretionary Provisions of Current Bill

There is no discretion in the current bill for you to limit

the application of the Act and no provision for temporary waiver by you in a national emergency. The Secretary of Commerce does have some discretion in administering the Act but this relates only to implementation. He has no discretion with respect to instituting the basic Congressionally mandated cargo preference requirements.

Possible Amendments to Improve the Senate Bill

1. Temporary Waiver. One way to increase Presidential control over cargo preference and provide some flexibility in its application is to provide for temporary relief during an emergency. This could be accomplished through amendment which would permit you to suspend the application of cargo preference for six months (or less) at any time you deem there is a national emergency (e.g., an energy shortage or a strike in the shipping industry).

*This is essential. Paul Hall told me he would accept 2.*

2. Reciprocal or Retaliatory Application of Cargo Preference. The scope of application of cargo preference could be reduced by giving you discretion to apply cargo preference on a reciprocal basis or when necessary to retaliate against nations which have flag or cargo preference systems. Such power would be similar to (A) powers being incorporated in the Trade Reform Act which gives the U.S. authority to respond in kind when scarce commodities are held off the market by other nations and (B) the authority found in Section 19 of the Merchant Marine Act of 1920 (46 USC 876) which gives the Federal Maritime Commission the power to make regulations (not in conflict with law) to meet conditions unfavorable to shipping which result from foreign laws or practices of foreign operations. There are, however, serious doubts about the utility of such powers because much of the existing cargo preference abroad is not found in formal laws but is de facto in nature and adequate power may exist under the Merchant Marine Act of 1920.

3. Minimize the Economic Impact of Cargo Preference By Eliminating "Fair and Reasonable Rates for U.S. Vessels" Test. Under this bill as now drafted, 20% of U.S. imported oil must be carried on U.S. flag commercial vessels "to the extent that such vessels are available at fair and reasonable rates for such vessels". The effect of this language is to insure a level of rates higher than world rates because the vast bulk of the U.S. tanker fleet has high, unsubsidized costs which are used as the basis for determining rates. If U.S. vessels were required to be "available at prevailing world charter market rates", the inflationary impact of the legislation

would be reduced substantially. While the change would neither eliminate the possibility of foreign retaliation nor prevent breach of our treaties of Friendship, Commerce and Navigation, it would reduce costs to U.S. consumers and minimize pressures on the ship construction industry. It would also maintain the incentive to build in the U.S. under the subsidy program.

Attached is a copy of the Senate Committee bill and the House version.

Attachments

Calendar No. 991

93<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 8193

[Report No. 93-1031]

---

IN THE SENATE OF THE UNITED STATES

MAY 9, 1974

Received

MAY 13, 1974

Read twice and referred to the Committee on Commerce

JULY 25, 1974

Reported by Mr. MAGNUSÖN, with amendments

[Strike out all after the enacting clause and insert the part printed in italic]

---

## AN ACT

To require that a percentage of United States oil imports be carried on United States-flag vessels.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 ~~That section 901(b)(1) of the Merchant Marine Act,~~  
4 ~~1936, as amended (46 U.S.C. 1241), shall be further~~  
5 ~~amended by striking the colon after the words "in such~~  
6 ~~manner as will insure a fair and reasonable participation of~~  
7 ~~United States-flag commercial vessels in such cargoes by~~  
8 ~~geographical areas", inserting a period, and adding the fol-~~  
9 ~~lowing: "The appropriate agency or agencies shall also take~~  
10 ~~such steps as may be necessary and practicable to assure that~~  
11 ~~at least 20 per centum of the gross tonnage of all liquid petro-~~

1 reum and liquid petroleum products carried in bulk referred  
 2 to as crude oil, unfinished fuels, gasoline, kerosene, aviation  
 3 fuels, naphtha, cracking stocks, distillate heating oil, diesel  
 4 oil, and residual oils imported into the United States on ocean  
 5 vessels, including movements (i) directly from original point  
 6 of production and (ii) from such original point to intermedi-  
 7 ate points for transshipment or refinement and ultimate deliv-  
 8 ery into the United States, shall be transported on privately  
 9 owned United States flag commercial vessels to the extent  
 10 such vessels are available at fair and reasonable rates for  
 11 United States flag commercial vessels, in such manner as  
 12 will insure fair and reasonable participation of United States-  
 13 flag commercial vessels in such cargoes by geographical  
 14 areas: *Provided*, That the quantity required so to be carried  
 15 in United States flag commercial vessels shall be at least 25  
 16 per centum after June 30, 1975, and at least 30 per centum  
 17 after June 30, 1977, if the Secretary of Commerce shall on  
 18 December 31 preceding each such date determine that United  
 19 States tonnage existing or on order and scheduled to be de-  
 20 livered by such date would be adequate to carry such quan-  
 21 tity: *And provided further*, That with respect to the per-  
 22 centage of petroleum and petroleum product required to be  
 23 imported on United States flag commercial vessels, the Sec-  
 24 retary of Commerce may by rule establish reasonable classi-  
 25 fications of persons and imports subject thereto, and persons

1 in the same classification shall be treated in substantially the  
 2 same manner; any person alleging that he is incorrectly  
 3 classified under such rule, or that there is no reasonable basis  
 4 in fact for such classification, or that he is by any agency  
 5 action thereunder treated differently from other persons in  
 6 the same classification, may obtain agency review of such  
 7 incorrect classification or agency action pursuant to the pro-  
 8 visions of title V, United States Code, section 554, with re-  
 9 view to the United States Court of Appeals for the District  
 10 of Columbia. The scope of such review shall be in accordance  
 11 with title V, United States Code, section 706, including the  
 12 contention that the action of the agency was unsupported by  
 13 substantial evidence: *And provided further*, That the provi-  
 14 sions of this section shall not apply to refineries whose total  
 15 refinery capacity (including the refinery capacity of any per-  
 16 son who controls, is controlled by, or is under common con-  
 17 trol with such refiner) does not exceed 30,000 barrels per  
 18 day:".

19 SEC. 2. This Act may be cited as "The Energy Trans-  
 20 portation Security Act of 1974".

21 That this Act may be cited as the "Energy Transportation  
 22 Security Act of 1974".

23 SEC. 2. Section 901(b)(1) of the Merchant Marine Act  
 24 of 1936 is amended by inserting after the words "to the extent  
 25 such vessels are available", the following: "at the range

1 of ports nearest the point where such equipment, materials,  
2 or commodities are manufactured or produced”.

3 SEC. 3. Section 901 of the Merchant Marine Act, 1936,  
4 as amended (46 U.S.C. 1241), is amended by adding  
5 at the end thereof the following new subsection:

6 “(d)(1) The Secretary of Commerce shall take such  
7 steps as are necessary to assure that a quantity equal to  
8 not less than 20 per centum of the gross tonnage of all  
9 oil transported on ocean vessels (whether transported di-  
10 rectly from the original point of production or indirectly  
11 from such point to and from any intermediate points used for  
12 storage, refining, processing, packaging, unloading, or re-  
13 loading of oil) for import into the United States shall be  
14 transported on privately owned United States-flag commer-  
15 cial vessels (to the extent that such vessels are available at  
16 fair and reasonable rates for such vessels), and to insure fair  
17 and reasonable participation of such vessels in such trans-  
18 portation from all geographical areas in which such oil is  
19 produced or refined or both. With respect to any period be-  
20 ginning after June 30, 1975, the quantity of such oil re-  
21 quired to be transported on privately owned United States-  
22 flag commercial vessels shall be equal to not less than 25 per  
23 centum of the gross tonnage of all oil transported on ocean  
24 vessels for import into the United States, and for any period  
25 beginning after June 30, 1977, such quantity shall be equal

1 to not less than 30 per centum of such gross tonnage: Pro-  
2 vided, That (1) the Secretary of Commerce finds and  
3 determines 6 months prior thereto, in the exercise of his sole  
4 discretion, that the tonnage of privately owned United States-  
5 flag commercial vessels, including vessels on order and sched-  
6 uled to be ready for commercial service by such date, will  
7 be adequate to carry such quantity; and (2) in the event  
8 that such tonnage is not found to be adequate to carry such  
9 quantity, there shall be carried on such vessels the basic 20  
10 per centum requirement together with any excess over such  
11 requirement, but not to exceed the applicable per centum re-  
12 quirement, for which such Secretary finds that adequate ton-  
13 nage will be available.

14 “(2) The Secretary of Commerce may by rule establish  
15 a system of reasonable classification of persons and imports  
16 subject to the provisions of this subsection, and such Secretary  
17 shall treat all persons in the same such classification in sub-  
18 stantially the same manner. If any person alleges (A) that  
19 he has been incorrectly classified under any such rule; (B)  
20 that there is no reasonable basis in fact for any such classifica-  
21 tion; or (C) that as a consequence of any agency action,  
22 he is or may be treated substantially differently from any  
23 other person in the same classification, such person may  
24 request, and, upon a reasonable showing, obtain, a hearing  
25 in accordance with section 554 of title 5, United States Code.

1 Upon an agency decision, such person may request judicial  
 2 review in the United States Court of Appeals for the District  
 3 of Columbia. The scope of such review shall be governed by  
 4 section 706 of title 5, United States Code.

5 “(3) The Secretary of Commerce is authorized to grant  
 6 credits toward the fulfillment of the requirements of para-  
 7 graph (1) of this subsection in the case of oil transported  
 8 by privately owned United States-flag commercial vessels,  
 9 over 100,000 deadweight tons, between foreign ports until  
 10 such time as an oil discharge facility, capable of discharging  
 11 fully laden vessels of over 200,000 deadweight tons, is in  
 12 operation on any coast of the United States: Provided, That  
 13 the Secretary of Commerce shall take all reasonable steps  
 14 to assure that the authority provided in this paragraph not  
 15 encourage, directly or indirectly, the construction, operation,  
 16 or maintenance of a fleet of privately owned United States-  
 17 flag commercial vessels different in numbers, types, or sizes  
 18 than the fleet that would otherwise result.

19 “(4) As used in this subsection—

20 “(A) ‘oil’ means crude oil and the following prod-  
 21 ucts refined or derived from crude oil: unfinished fuels,  
 22 gasoline, kerosene, aviation fuels, naphtha, cracking  
 23 stocks, distillate heating oil, diesel oil, and residual oils;

24 “(B) ‘privately owned United States-flag com-  
 25 mercial vessels’ are vessels of United States registry (or

1 if at any time documented under the laws of any foreign  
 2 nation, then documented under the laws of the United  
 3 States for not less than the three previous years), built  
 4 in the United States, which are not more than 20 years  
 5 old or which have been reconstructed and are not  
 6 beyond their economic lives (as determined by the Secre-  
 7 tary of Commerce), and with respect to which the owner  
 8 or lessee thereof has entered into a capital construction  
 9 fund agreement with such Secretary pursuant to which  
 10 such vessel shall be replaced at the end of its 20 year life,  
 11 or at the end of its extended economic life in case of re-  
 12 construction, and such agreement includes a mandatory  
 13 deposit schedule to finance such replacement: Provided,  
 14 That any such vessel in excess of 20,000 deadweight  
 15 tons, the construction of which is contracted for after De-  
 16 cember 31, 1974, or the delivery of which is made after  
 17 December 31, 1978, shall be constructed and operated  
 18 using the best available pollution prevention technology,  
 19 and shall be equipped with a segregated ballast capacity  
 20 determined appropriate by the Secretary of Transporta-  
 21 tion which shall be achieved in part by fitting, throughout  
 22 the cargo length, a double bottom of a minimum height  
 23 of one-fifteenth of the beam or such other appropriate  
 24 height as determined by the Secretary of Transportation;  
 25 and



1           “(C) ‘United States’ means any of the several  
2 States, the District of Columbia, the Commonwealth  
3 of Puerto Rico.

4           “(5) Each department, agency, or other instrumentality  
5 of the United States which is affected by any obligation  
6 imposed under this subsection, and any officer or employee  
7 thereof, shall take all appropriate action to assure compliance  
8 with such obligation and with regulations which shall be  
9 issued by the Secretary of Commerce to implement and  
10 enforce the provisions of this subsection. Each citizen of the  
11 United States and each person subject to the jurisdiction of  
12 the United States shall comply with such obligation and any  
13 applicable regulations issued by such Secretary under this  
14 subsection.

15           “(6) The Secretary of Commerce shall review, evalu-  
16 ate, and report annually to the Congress and the President  
17 on the implementation of the provisions of this subsection and  
18 the effectiveness of such provisions. Each such report shall  
19 include, but not be limited to, a study of (1) the adequacy and  
20 availability of construction and reconstruction facilities in the  
21 United States for the vessels needed to meet the provisions of  
22 paragraph (1) of this subsection, and (2) the reasonableness  
23 of the prices charged and delivery dates for the construction  
24 and reconstruction of such vessels.”

25           SEC. 4. The provisions of this Act shall not apply

1 to any refiner whose total refinery capacity (including  
2 the refinery capacity of any person who controls, is con-  
3 trolled by, or is under common control with such refiner) does  
4 not exceed 30,000 barrels per day: Provided, That the total  
5 quantity of such oil imported by or for such refiner does not in  
6 any year exceed the rated refining capacity of such refiner.

7           SEC. 5. License fees payable pursuant to Presidential  
8 proclamation for imports of crude oil imported into the  
9 United States shall be reduced by 15 cents per barrel for a  
10 period of 5 years from the date of enactment of this Act  
11 if the Secretary of the Treasury determines—

12           (a) such crude oil is transported by privately owned  
13 United States-flag commercial vessels; and

14           (b) the amount resulting from the nonpayment of  
15 such license fees is passed on to the ultimate consumers  
16 of such crude oil in whatever form it is when ultimately  
17 consumed.

Amend the title so as to read: “An Act to regulate com-  
merce and strengthen national security by requiring that a  
percentage of the oil imported into the United States be  
transported on United States-flag vessels.”.

Passed the House of Representatives May 8, 1974.

Attest:

W. PAT JENNINGS,

Clerk.

Calendar No. 991

93<sup>d</sup> CONGRESS  
2<sup>d</sup> SESSION

# H. R. 8193

[Report No. 93-1031]

---

---

## AN ACT

To require that a percentage of United States oil imports be carried on United States-flag vessels.

---

---

MAY 9, 1974

Received

MAY 13, 1974

Read twice and referred to the Committee on  
Commerce

JULY 25, 1974

Reported with amendments

## TEXT OF H.R. 8193, AS REPORTED

AN ACT To regulate commerce and strengthen national security by requiring that a percentage of the oil imported into the United States be transported on United States-flag vessels

That this Act may be cited as the "Energy Transportation Security Act of 1974".

SEC. 2. Section 901(b)(1) of the Merchant Marine Act of 1936 is amended by inserting after the words "to the extent such vessels are available", the following: "at the range of ports nearest the point where such equipment, materials, or commodities are manufactured or produced".

SEC. 3. Section 901 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241), is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary of Commerce shall take such steps as are necessary to assure that a quantity equal to not less than 20 per centum of the gross tonnage of all oil transported on ocean vessels (whether transported directly from the original point of production or indirectly from such point to and from any intermediate points used for storage, refining, processing, packaging, unloading, or reloading of oil) for import into the United States shall be transported on privately owned United States-flag commercial vessels (to the extent that such vessels are available at fair and reasonable rates for such vessels), and to insure fair and reasonable participation of such vessels in such transportation from all geographical areas in which such oil is produced or refined or both. With respect to any period beginning after June 30, 1975, the quantity of such oil required to be transported on privately owned United States-flag commercial vessels shall be equal to not less than 25 per centum of the gross tonnage of all oil transported on ocean vessels for import into the United States, and for any period beginning after June 30, 1977, such quantity shall be equal to not less than 90 per centum of such gross tonnage: *Provided*, That (1) the Secretary of Commerce finds and determines 6 months prior thereto, in the exercise of his sole discretion, that the tonnage of privately owned United States-flag commercial vessels, including vessels on order and scheduled to be ready for commercial service by such date, will be adequate to carry such quantity; and (2) in the event that such tonnage is not found to be adequate to carry such quantity, there shall be carried on such vessels the basic 20 per centum requirement together with any excess over such requirement, but not to exceed the applicable per centum requirement, for which such Secretary finds that adequate tonnage will be available.

"(2) The Secretary of Commerce may by rule establish a system of reasonable classification of persons and imports subject to the provisions of this subsection, and such Secretary shall treat all persons in the same such classification in substantially the same manner. If any person alleges (A) that he has been incorrectly classified under any such rule; (B) that there is no reasonable basis in fact for any such classification; or (C) that as a consequence of any agency action, he is or may be treated substantially differently from any other person in the same classification, such person may request, and, upon a reasonable showing, obtain, a hearing in accordance with section

554 of title 5, United States Code. Upon an agency decision, such person may request judicial review in the United States Court of Appeals for the District of Columbia. The scope of such review shall be governed by section 706 of title 5, United States Code.

“(3) The Secretary of Commerce is authorized to grant credits toward the fulfillment of the requirements of paragraph (1) of this subsection in the case of oil transported by privately owned United States-flag commercial vessels, over 100,000 deadweight tons, between foreign ports until such time as an oil discharge facility, capable of discharging fully laden vessels of over 200,000 deadweight tons, is in operation on any coast of the United States: *Provided*, That the Secretary of Commerce shall take all reasonable steps to assure that the authority provided in this paragraph not encourage, directly or indirectly, the construction, operation, or maintenance of a fleet of privately owned United States-flag commercial vessels different in numbers, types, or sizes from the fleet that would otherwise result.

“(4) As used in this subsection—

“(A) ‘oil’ means crude oil and the following products refined or derived from crude oil: unfinished fuels, gasoline, kerosene, aviation fuels, naphtha, cracking stocks, distillate heating oil, diesel oil, and residual oils;

“(B) ‘privately owned United States-flag commercial vessels’ are vessels of United States registry (or if at any time documented under the laws of any foreign nation, then documented under the laws of the United States for not less than the three previous years), built in the United States, which are not more than 20 years old or which have been reconstructed and are not beyond their economic lives (as determined by the Secretary of Commerce), and with respect to which the owner or lessee thereof has entered into a capital construction fund agreement with such Secretary pursuant to which such vessel shall be replaced at the end of its 20 year life, or at the end of its extended economic life in case of reconstruction, and such agreement includes a mandatory deposit schedule to finance such replacement: *Provided*, That any such vessel in excess of 20,000 deadweight tons, the construction of which is contracted for after December 31, 1974, or the delivery of which is made after December 31, 1978, shall be constructed and operated using the best available pollution prevention technology, and shall be equipped with a segregated ballast capacity determined appropriate by the Secretary of Transportation which shall be achieved in part by fitting, throughout the cargo length, a double bottom of a minimum height of one-fifteenth of the beam or such other appropriate height as determined by the Secretary of Transportation; and

“(C) ‘United States’ means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico.

“(5) Each department, agency, or other instrumentality of the United States which is affected by any obligation imposed under this subsection, and any officer or employee thereof, shall take all appropriate action to assure compliance with such obligation and with regulations which shall be issued by the Secretary of Commerce to implement and enforce the provisions of this subsection. Each citizen of the

United States and each person subject to the jurisdiction of the United States shall comply with such obligation and any applicable regulations issued by such Secretary under this subsection.

“(6) The Secretary of Commerce shall review, evaluate, and report annually to the Congress and the President on the implementation of the provisions of this subsection and the effectiveness of such provisions. Each such report shall include, but not be limited to, a study of (1) the adequacy and availability of construction and reconstruction facilities in the United States for the vessels needed to meet the provisions of paragraph (1) of this subsection, and (2) the reasonableness of the prices charged and delivery dates for the construction and reconstruction of such vessels.”

SEC. 4. The provision of this Act shall not apply to any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with such refiner) does not exceed 30,000 barrels per day: *Provided*, That the total quantity of such oil imported by or for such refiner does not in any year exceed the rated refining capacity of such refiner.

SEC. 5. License fees payable pursuant to Presidential proclamation for imports of crude oil imported into the United States shall be reduced by 15 cents per barrel for a period of 5 years from the date of enactment of this Act if the Secretary of the Treasury determines—

(a) such crude oil is transported by privately owned United States-flag commercial vessels; and

(b) the amount resulting from the nonpayment of such license fees is passed on to the ultimate consumers of such crude oil in whatever form it is when ultimately consumed.

THE WHITE HOUSE  
WASHINGTON

File

~~Shank~~

~~Shank~~

Should anyone else receive a copy  
of this?


yes - Ash

THE WHITE HOUSE

WASHINGTON

September 3, 1974

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: KENNETH R. COLE, JR.  
FROM: JERRY H. JONES   
SUBJECT: Cargo Preference Legislation

Your memorandum to the President of August 27 on the above subject has been reviewed and the following notation was made:

-- This should be discussed at next Cabinet meeting.

Also, please note that on page 2 the following notation was made next to the item regarding temporary waiver:

-- This is essential. Paul Hall told me he would accept.

Please follow-up with the appropriate action.

Thank you.

cc: Al Haig  
Roy Ash