The original documents are located in Box 3, folder "Cargo Preference - Oil" of the Loen and Leppert Files at the Gerald R. Ford Presidential Library.

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THE WHITE HOUSE

WASHINGTON

September 9, 1974

MEMORANDUM FOR THE PRESIDENT

FROM: KEN COLE

SUBJECT: CARGO PREFERENCE

The Senate passed the Oil Cargo Preference bill by a vote of 42 to 28 after making substantial amendments to the House-passed version. Both bills require that a fixed percent of all oil imports be carried on U.S. Flag ships. The Senate version of the bill limits the Presidential waiver authority, reduces oil import fees, and adds other provisions which make it even more objectionable to your advisers than the House bill. Tab A, prepared with the help of OMB and CIEP, contains an analysis of the key differences and the potential for compromise.

All the departments and agencies with a direct interest in this legislation remain adamantly opposed. Secretary Kissinger and Bill Eberle feel that it will substantially weaken our negotiating position with other nations by compromising our strong principle of opposing this kind of discriminatory practice. At the pre-Summit Conference of Economists last week which you attended, this legislation was specifically noted as an example of the kind of action that must be avoided if we are going to control inflation.

As the attached analysis indicates, there is room for substantial compromise on most of the issues. The Senate restrictions on Presidential waiver can be ameliorated by adopting the House language which applies the normal waiver for emergency situations that now exist in the Merchant Marine Act of 1936, which this bill would amend. The general feeling of your advisers is that you could declare an emergency due to double-digit inflation.

Because of the intense feeling on this issue by so many of your key department and agency heads, I recommend that a meeting be set up after you have reviewed this material, to enable them to present their views to you directly.

Set up a cargo preference meeting:

Yes ______________ No ______________ See me ______________

Major Differences Between the House and Senate Version of H.R. 8193

1. Presidential Waiver Authority

House: The cargo preference provisions amend a section of the Merchant Marine Act of 1936, which includes Presidential emergency waiver authority without restrictions as to length of time or justification.

Senate: A new subsection of the Merchant Marine Act of 1936 is created and provides for waiver authority on Presidential determination that an emergency exists for a period not to exceed six months.

Possible Compromise: The Senate flatly rejected several amendments offered by Senator Cotton which would have substantially increased the flexibility of the Presidential waiver provision. It appears to be a reasonable assumption that the Conferees will not move outside the scope of the waiver provision defined by both bills and, thus, the best we can hope for is probably the House language. A possible fall-back position would be to adopt the Senate version without its restrictive time limitation and inability to renew. There could be some provision which would allow for the Presidential waiver to lapse after six months, or longer, and give the President the authority to renew it as many times as he deems necessary. The drawback here would be that this would require the President to take the political heat of continually having to make a finding that an emergency exists.

2. U.S. Construction Requirement

House: The amended portion of the Merchant Marine Act of 1936 includes provision for allowing foreign-built ships to transfer to the U.S. Flag and be eligible for cargo carriage after a three-year waiting period.

Senate: The new subsection requires that all ships engaged in the trade be built American. U.S. built ships currently operating under foreign flags may transfer to the U.S. Flag and be eligible for cargoes after a three-year waiting period.

Possible Compromise: The Senate version is expected to have a substantial inflationary impact on U.S. ship construction because the shipbuilding industry is

currently operating at capacity, with labor and material shortages already in existence. A possible compromise here could be to permit the Secretary of Commerce to make a finding of whether or not U.S. shipyards can, in fact, handle the increased demand and, if not, he could permit a transfer of excess tonnage from the world market to the U.S. Flag fleet.

3. Antipollution Requirement

House: No such provisions.

Senate: Requires that ships built for the trade have best available pollution prevention technology, segregated ballast capacity and double bottoms.

Possible Compromise: The double bottom requirement in the Senate version will add significantly to the cost of ship construction and, although it is billed as an antipollution measure, it may significantly increase the possibility of a major oil spillage. We should go along with the best available pollution prevention technology and segregated ballast capacity but delete the double bottom requirement.

4. Reduction of Import License Fees

House: No such provisions.

Senate: When cargoes are carried on U.S. Flag ships and cost savings are passed to the consumer, there would be a 42¢ per barrel reduction in import fees for residual fuel oil and a 15¢ per barrel reduction in import fees for all other oil cargoes.

Possible Compromise: The principle effect of this action will be to reduce Treasury receipts by some $200 million a year and undercut the purpose of the fee which is to encourage the development of domestic oil. The likely compromise will be to lower the amount of fee reduction.

5. Appropriation Restriction (Mondale Amendment)

House: No such provisions.

Senate: Would require that 10% of funds appropriated under the Merchant Marine Act of 1936 be allocated to each of the four major port ranges (Atlantic, Gulf, Great Lakes and Pacific).

Possible Compromise: The intent of this restriction is to insure the expenditure of subsidy funds in the Great Lakes region. However, no U.S. Flag line has found it profitable to operate out of the Great Lakes in foreign trade, even with subsidy, due to the fact that they are only open part of the year and the St. Lawrence Seaway can only accommodate the small uneconomical ships. As a result, if such a limitation stays in the bill, it will set a bad precedent in terms of designating use of appropriated funds and, in all likelihood, there will not be sufficient applications to utilize 10% of the funds in the Great Lakes area. Perhaps the best compromise here would be to make this provision discretionary with the Secretary of Commerce and limit its impact to simply indicating an intent of Congress that the Great Lakes share in these funds, if appropriate.

M. Duval
9/9/74