

## **The Subcommittee on Coast Guard and Maritime Transportation**

### **Hearing on**

## **President's Fiscal Year 2004 Budgets For The U.S. Coast Guard And The Federal Maritime Commission**

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### **PURPOSE**

The purpose of this hearing is to consider the Administration's fiscal year 2004 budget requests for the U.S. Coast Guard and the Federal Maritime Commission.

### **BACKGROUND**

#### Fiscal Year 2004 Coast Guard Budget Request

The Administration requests \$6.7 billion for fiscal year 2004, for Coast Guard activities that are subject to appropriation. This request is \$581 million, or approximately 10 percent, more than the amount

appropriated for the Coast Guard in fiscal year 2003. This request reflects three primary objectives for the Coast Guard in fiscal year 2004: (1) recapitalize Coast Guard legacy assets and infrastructure; (2) build-out homeland security capabilities; and (3) sustain non-homeland security missions near pre-September 11, 2001, levels. Approximately \$538 million is requested for mandatory military personnel entitlement programs, including retirement pay, and enhanced Coast Guard operations. An additional \$60 million is requested for increased costs for capital acquisitions and for training of Coast Guard Reserve forces.

The following table compares the fiscal year 2002 and 2003 Coast Guard appropriations with the fiscal year 2004 Coast Guard budget request (in millions of dollars):

<b>Coast Guard Account</b>	<b>Fiscal Year 2002 Enacted , (A)</b>	<b>Fiscal Year 2003 Enacted , (B)</b>	<b>Fiscal Year 2004 President's Budget Request (C)</b>	<b>Fiscal Year 2004 Increase (C) –(B)</b>
<b>Operating Expenses</b>	\$3,778.5	\$4,322.1	\$4,729.0	\$406.9 (9.4%)
<b>Reserve Training</b>	83.2	86.5	114.0	27.5 (31.8%)
<b>Environmental Compliance and Restoration</b>	16.9	17.0	17.0	0 (0%)
<b>Acquisition, Construction, &amp; Improvements</b>	702.1	742.1	775.0	32.9 (4.4%)
<b>Research, Development, Testing, and Evaluation</b>	20.2	22.0	22.0	0 (0%)
<b>Alteration of Bridges</b>	15.5	17.2	0.0	-17.2 (-100%)

<b>Retired Pay</b>	876.3	889.0	1,020.0	131.0 (14.7%)
<b>TOTAL</b>	<b>\$</b>	<b>\$</b>	<b>\$6,677.0</b>	<b>\$581.1 (9.5%)</b>

The President has modified the accounting structure and presentation of the fiscal year 2004 Coast Guard budget request. The President's request consolidates six Coast Guard accounts, which previously were requested individually, into two accounts. The Operating Expenses, Environmental Compliance and Restoration, and Reserve Training accounts are now subsumed under one single Operating Expenses account. The new Capital Acquisitions account includes funding previously requested in the Acquisition, Construction, and Improvements; Research, Development, Testing, and Evaluation; and Alteration of Bridges accounts.

#### OPERATING EXPENSES (OE)

The Operating Expenses account provides for the safety of the public and the Coast Guard's workforce, with an enhanced emphasis on its maritime homeland security mission. The budget request for Coast Guard operating expenses in fiscal year 2004 is \$4.7 billion, an increase of \$407 million, or 9.4 percent, over the fiscal year 2003 appropriated level. Operating expenses account for over two-thirds of the Coast Guard's budget and support the operations of the Coast Guard as it carries out its unique duties as a peacetime operating agency and an armed service. These funds support Coast Guard search and rescue, port security, aids to navigation, marine safety, marine environmental protection, and law enforcement missions. This includes funding for 40,275 military and 7,305 civilian personnel.

The Coast Guard's operating expense request includes an additional \$168 million to improve the Coast Guard's search and rescue staffing and training programs, enhance Coast Guard maritime homeland security systems, and increase maritime intelligence capabilities. The budget request also includes \$45 million to continue the operation of other assets acquired in 2003. The President's announced pay raises in fiscal year 2004, a targeted 3.7 percent for Coast Guard military personnel and 2 percent for civilians, would cost the Coast Guard a total of \$64.5 million. In addition, this request increases Coast Guard military personnel by 1,788 and civilians by 188.

#### RESERVE TRAINING

The Coast Guard provides qualified individuals and a limited number of trained Port Security Units for mobilization in the event of national emergency or disaster. The reservists maintain readiness through mobilization exercises and duty alongside regular Coast Guard members during routine and emergency operations. In addition, the Coast Guard Reserve fills critical national security and national defense roles in both Homeland Security and in direct support of the Department of Defense. The Coast Guard Reserve continues to play a pivotal role in both Operation enduring Freedom and Operation Noble

Eagle.

In the immediate wake of the September 11, 2001 terrorist attacks, over 2,500 Coast Guard Reserve personnel were recalled to active duty, and many more have been activated since that time. Today, approximately 3,500 Coast Guard Reservists are serving on active duty.

The fiscal year 2004 budget request proposes funding of \$114 million, an increase of \$27.5 million, or 32 percent, for Coast Guard Reserve training to support a growth to 10,000 Coast Guard Reservists, an increase of 1,000.

#### ENVIRONMENTAL COMPLIANCE AND RESTORATION

For environmental compliance and restoration, funding of \$17 million, the same amount appropriated for fiscal year 2003, has been requested to mitigate environmental problems resulting from the operation of former and current Coast Guard facilities, and to ensure that Coast Guard facilities are in compliance with applicable laws and regulations. A significant portion of program funds will support continued clean up of hazardous waste sites in Kodiak, Alaska; Elizabeth City, North Carolina; and Baltimore, Maryland.

#### ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The Administration requests \$775 million in acquisitions funding for fiscal year 2004, a \$33 million, or 4.4 percent, increase over the amount appropriated in fiscal year 2003. This funding provides for the acquisition, construction, renovation, and improvement of vessels, aircraft, information management resources, shore facilities, and aids to navigation. This request supports the Coast Guard's multi-mission capabilities, providing funding for the Coast Guard's Integrated Deepwater System recapitalization project, Rescue 21 project ("maritime 911"), new coastal patrol boats and response boats, and the Coast Guard personnel responsible for the acquisitions program.

#### RESEARCH, DEVELOPMENT, TESTING, AND EVALUATION

For research, development, testing and evaluation (RDT&E), the Administration proposes to spend \$22 million, the same amount as the fiscal year 2003 appropriated level. This account funds the development of techniques, methods, research, hardware, systems, and planning to improve the productivity of existing Coast Guard missions. The RDT&E program is focusing its research competencies on improvements to maritime homeland security by providing sensors, equipment, and decision-making tools needed for threat awareness, prevention, response, and consequence management at the port level. The Coast Guard is also continuing research in the fields of marine environmental protection and response, risk assessment and competence; and human error reduction and fatigue analysis.

#### ALTERATION OF BRIDGES

The Bridge Alteration program provides the Federal government's share of the costs for altering or removing bridges determined to be obstructions to navigation. Under the Truman-Hobbs Act of 1940, (33 U.S.C. 511et seq.), the Coast Guard shares, with the bridge owner, the cost of altering railroad and publicly-owned highway bridges which obstruct the free movement of vessel traffic.

The Administration requests no funding for the alteration or removal of obstructive railroad bridges.

#### RETIRED PAY

The Coast Guard's mandatory fiscal year 2004 retired pay liability is approximately \$1 billion.

#### BOATING SAFETY

In 1984, the Wallop-Breaux amendments to the Deficit Reduction Act of 1984 created the Aquatic Resources Trust Fund. The Wallop-Breaux Trust Fund consists of two accounts, the Sport Fish Restoration Account and the Boat Safety Account. Annually, up to \$70 million of the motorboat fuel taxes paid by recreational boaters are deposited in the Boat Safety Account to fund state boating safety grant programs coordinated by the Coast Guard.

Subtitle D of title VII of the Transportation Equity Act for the 21<sup>st</sup> Century, P.L. 105-178, is the Sportfishing and Boating Safety Act of 1998. This legislation amends the Recreational Boating Safety Program, administered by the Coast Guard. Under these amendments, states receive \$59 million without appropriation for boating safety programs. An additional \$13 million may be appropriated from the Coast Guard's budget for boating safety programs. This legislation also provides the Coast Guard with \$5 million annually to coordinate and carry out the national recreational boating safety program.

The Administration does not request additional funding above the \$64 million permanently appropriated for the boating safety program and Coast Guard administrative expenses.

#### OIL SPILL LIABILITY TRUST FUND

Established by the Oil Pollution Act of 1990, the Oil Spill Liability Trust Fund provides a source of funds, not subject to appropriation, to pay oil spill removal costs and damages, including assessment of natural resources damages, and Federal expenses necessary to administer the Fund. Each year, the Fund may provide up to \$50 million for emergency response costs and pay all valid claims for oil spill damages resulting from oil spills. The Administration's fiscal year 2004 request from the Oil Spill Liability Trust Fund is \$61.2 million, including \$50 million for emergency response costs, \$10 million for payment of claims, and \$1.2 million for support of the Prince William Sound Oil Spill Recovery Institute in Cordova, Alaska.

#### KEY ISSUES ASSOCIATED WITH THE COAST GUARD'S BUDGET REQUEST

##### Coast Guard's Transition to Department of Homeland Security

On November 25, 2002, the President signed into law the Homeland Security Act of 2002, Public Law 107-296, which creates the new Department of Homeland Security. Under this legislation, the Coast Guard was transferred to the new Department on March 1, 2003. Public Law 107-296 requires that the Coast Guard be kept as a distinct agency and that the Commandant of the Coast Guard report directly to the Secretary of Homeland Security. Functions not related directly to securing the homeland will continue to be allocated to those agencies in which the functions currently reside.

## Maritime Homeland Security

The Coast Guard is the lead Federal agency for Maritime Homeland Security. The Coast Guard's mission is to protect the U.S. Maritime Domain and the U.S. Maritime Transportation System and deny their use and exploitation by terrorists as a means for attacks on U.S. territory, population, and critical infrastructure.

The President's fiscal year 2004 budget request provides \$2.1 billion for the Coast Guard's Maritime Homeland Security missions.

The President includes \$34 million in operating funds to continue building what the Coast Guard calls maritime domain awareness. The goal of maritime domain awareness is the timely possession of information and intelligence, and the ability to conduct surveillance and reconnaissance of all vessels, cargo, and people that operate in the maritime domain well before a potential threat enters U.S. maritime borders. This funding will increase the capabilities of the Coast Guard's intelligence program and fully leverage the Coast Guard's recent inclusion in the Intelligence Community. These resources will significantly enhance the Coast Guard's ability to receive, fuse, disseminate, and transmit secure and non-secure information both internally and among other agencies. In an effort to streamline the performance of port vulnerability assessments, the President has redirected \$11 million in operating funds and moved this requirement from the Coast Guard to the Information Analysis and Infrastructure Protection (IAIP) Directorate within the Department of Homeland Security.

The President has requested \$172 million to provide increased capabilities and capacity for the Coast Guard to perform layered maritime security operations. Included in this funding is \$52 million in capital acquisitions funds to buy nine new 87 foot Coastal Patrol Boats to escort vessels, control movement of High Interest Vessels, intercept and board vessels, and perform coastal surveillance. An additional \$12 million in capital acquisitions funds is requested to provide the Coast Guard with new Medium Port Security Response Boats (Response Boat-Medium) which will increase the duration and scope of maritime patrols. Finally, the Administration has requested \$108 million in operating funds to improve the Coast Guard's maritime homeland security systems and operations.

The President's budget proposal enhances the Coast Guard's presence and response capabilities by providing funds to support six deployable Maritime Safety and Security Teams, each consisting of 73 active duty personnel, and 33 Coast Guard reservists with the capability for harbor patrols, establishment of security zones, vessel interdiction, and waterborne incident response within most critical U.S. ports. This budget request also funds 53 Sea Marshals to conduct armed vessel escorts to preclude commercial vessels from being used by terrorists as weapons; 43 Small Port Security Response Boats (Response Boat-Small) to increase the Coast Guard's presence in our ports; the stand-up of Stations in Washington, DC and Boston; and two Port Security Units to support domestic and overseas operations.

## Search and Rescue

The President's budget places specific emphasis on the Coast Guard's search and rescue mission by providing an additional \$160 million to enhance the Coast Guard's ability to plan and respond to maritime incidents. Annually, the Coast Guard responds to approximately 40,000 calls for assistance.

This amount includes \$20 million to provide an additional 390 search and rescue personnel during fiscal year 2004 to fill critical personnel shortages at Coast Guard field search and rescue units and command centers. In addition, the President requests \$6 million to fund 59 new instructors and other enhancements at the National Motor Lifeboat School and the Boatswainmate 'A' school. Also included in the request is \$134 million to overhaul the critical National Distress and Response System (discussed below).

### Integrated Deepwater System

The Coast Guard's Deepwater Capability Replacement Project is intended to replace or modernize all assets used in the Coast Guard's Deepwater missions, which generally occur more than 50 miles offshore. Coast Guard activities in this zone typically require either extended on-scene presence, long transit distance to reach the operating area, forward deployment of forces, or a combination of these approaches. The Coast Guard has identified fourteen missions in this zone, including alien migration interdiction operations, drug interdiction, and fisheries law enforcement. It is critical that the Coast Guard be able to identify and intercept targets of interest as far from U.S. shores as possible.

The Coast Guard began planning for replacing assets in 1996 because Deepwater-capable assets are nearing the end of their service lives, are technologically limited for performing deepwater missions effectively, and are expensive to operate because of relatively high crew requirements. Instead of proposing a traditional one-for-one asset-replacement program, the Coast Guard hired three industry teams to develop competing proposals for a single, integrated package of ships, aircraft, and associated systems that will optimize performance of deepwater missions while minimizing life-cycle costs.

On June 25, 2002, the Department of Transportation announced the award of a contract valued at \$11 billion for a fleet of new ships and aircraft, plus improved command and control systems, to elevate the Coast Guard's capability to perform their varied core safety missions and homeland security missions. In addition, the contract includes another \$6 billion for operating and maintaining this new system of assets. The contract was awarded to Integrated Coast Guard Systems (ICGS), a joint venture established by Lockheed Martin and Northrup Grumman. Although the Deepwater build-out plan is scheduled to take 20 years, the ICGS contract may extend up to 30 years. The Administration has requested \$500 million in fiscal year 2004 to fund the second year of implementation of the ICGS contract, although this request does not reflect an additional \$78 million of inflation since 1998, the base year of the Coast Guard's notional funding stream.

The Coast Guard's Deepwater build-out plan was based on a 20 year notional funding stream of \$500 million (in 1998 dollars) per year going to the prime contractor beginning in fiscal year 2003. In addition to the annual \$500 million acquisition cost there is approximately \$25 million (in 1998 dollars) in government program fees required to administer a project of this magnitude on an annual recurring basis. The President's Budget Requests have not adjusted to this indexed funding stream resulting in the project operating below notional funding levels since fiscal year 2003, the first full year of funding. The President's fiscal year 2003 Budget requested \$500 million for Deepwater while \$478 million was appropriated in the fiscal year 2003 Omnibus Appropriations Act. The expectation of a reduced funding level prompted the Coast Guard to restructure its fiscal year 2003 Deepwater spending plan, potentially delaying acquisition of two Maritime Patrol Aircraft.

### Rescue 21 (National Distress and Response System Modernization Project)

This project will fully modernize the existing VHF-FM National Distress and Response System and provide improved distress alerting and response coordination capability, along with improved command and control for all Coast Guard missions. The new system will include direction finding, asset tracking, digital selective calling, and multi-channel transmitting and receiving capability.

On September 24, 2002, the Coast Guard awarded a \$611 million multi-year contract to General Dynamics Decision Systems to modernize the National Distress and Response System. The Department of Transportation fiscal year 2002 appropriation requires this project to be completed by the end of fiscal year 2006, and the Coast Guard expects that it will meet this deadline.

The existing National Distress and Response System provides two-way voice communications coverage for the majority of Coast Guard missions in coastal areas and navigable waterways where commercial and recreational traffic exists. The Coast Guard's system monitors the international VHF maritime distress frequency (Channel 16) and acts as the primary command and control network to coordinate Coast Guard search and rescue response activities. The secondary function of the system is to provide command, control, and communications for Coast Guard missions involving national security, maritime safety, law enforcement, and marine environmental protection. The national distress and communication capability of the existing communications system, built in the 1970's, is inadequate. The current system is unable to accommodate the significant growth in maritime commerce and recreational boating.

The President's request provides \$134 million in acquisitions funds to deploy initial operating capability in Atlantic City and the Eastern Shore. This request will also support a deployment of low-rate initial production of the system in four regions: Seattle, Port Angeles, St. Petersburg, and Mobile. Finally, the Coast Guard will use these funds to conduct site surveys of potential tower locations in preparation for the fiscal year 2004 regional deployments.

After successful testing of the initial operating capability regions and achievement of other project milestones, additional regional systems will be deployed from these regions. By deploying the system from one region to the next adjacent region, the overall number of remote transceiver sites required will be reduced, keeping costs as low as possible. The Coast Guard's priority is to first complete the Continental U.S., then proceed to the Great Lakes, then regions outside of the Continental U.S., and finally the Western Rivers.

## FEDERAL MARITIME COMMISSION BACKGROUND

### Fiscal Year 2004 Federal Maritime Commission Budget Request

The Administration requests \$18.47 million for the operation of the Federal Maritime Commission for fiscal year 2004. Approximately \$16.70 million was appropriated for FMC operations in fiscal year 2003.

The Federal Maritime Commission (FMC) is an independent agency formed in 1961 following the abolition of the Federal Maritime Board. The Commission is responsible for enforcing international shipping rules and regulations involving carriers (container ship operators), shippers (companies owning goods to be transported), and transportation facilitators such as freight forwarders, nonvessel operating common carriers, and customs brokers.

The FMC is composed of five commissioners, appointed by the President with the advice and consent of the Senate. The current Chairman of the FMC is the Honorable Steven R. Blust.

The FMC is primarily engaged in administering the Shipping Act of 1984. However, the FMC also enforces the Foreign Shipping Practices Act and Section 19 of the Merchant Marine Act, 1920. Under these authorities, the FMC protects shippers and carriers from restrictive or unfair practices of foreign governments and foreign-flag carriers. Under these laws, the FMC has the authority to take action against the offending

carriers, including the imposition of per voyage fees and the prevention of trade with the United States.

The FMC also enforces the laws related to cruise vessel financial responsibility to ensure that cruise vessel operators have sufficient resources to pay judgments to passengers for personal injury or death or for nonperformance of a voyage.

#### Shipping Act of 1984

The major responsibility of the Federal Maritime Commission is to enforce the provisions of the Shipping Act of 1984, the Act that establishes the system of economic regulation of the international waterborne commerce of the United States.

Most goods move in international commerce either as bulk commodities or as dry cargo. Bulk cargoes, such as oil, coal, or bulk grains are normally shipped as full shiploads chartered expressly for the purpose of carrying the cargo to a given location at a given time. Most other goods, including all manufactured goods and finished products, are shipped by "liner" service. Liner shipping operates on a given route and schedule, by taking partial shiploads from many different cargo owners. Ships in liner service hold out their services as "common carriers," requiring them to charge a given rate for carrying the same cargo to the same destination.

Traditionally, these international liner shipping companies (carriers), have organized into small groups in a given trade route (conferences) to set rates, and make other agreements related to ocean transportation in a given trade. Before the Shipping Act of 1984 was enacted, international ocean shipping was regulated under the Shipping Act of 1916. The 1916 Act required "open" conferences and limited the antitrust immunity available to conferences for collective actions such as rate-setting. The 1916 Act required conferences to file agreements with the FMC, which were reviewed and approved for antitrust purposes under a "public interest" test. The Act also contained prohibited practices, such as deferred rebates and retaliatory or discriminatory rates or services.

#### Ocean Shipping Reform Act of 1998

Public Law 105-258, the Ocean Shipping Reform Act of 1998 (the Reform Act), amends the Shipping Act of 1984 and other related U.S. shipping laws to encourage competition in international ocean shipping and growth in United States exports. The most important provisions of the Reform Act provide American businesses with the freedom to keep their ocean transportation contract prices confidential.

The Reform Act is a major step forward in the process of deregulating international ocean shipping. The Reform Act maintains antitrust immunity for ocean carrier conferences, requires private tariff publication and enforcement of tariffs by the Federal Maritime Commission, and authorizes confidential transportation rates.

The Reform Act eliminates the requirement for ocean common carriers to file tariffs with the FMC. Instead, carriers must make their tariffs publicly available by means of an electronic filing system.

The Reform Act reduces the number of days before which a member of an ocean shipping conference is required to give notice to conference members of an independent action on a rate or service item from ten to five days. The Reform Act also forbids ocean conferences from prohibiting or restricting conference members from negotiating service contracts, requiring conference members to disclose negotiations on service contracts, and adopting mandatory rules or requirements affecting the rights of conference members to negotiate and enter into service contracts.

Finally, the Reform Act clarifies section 19 of the Merchant Marine Act of 1920, to prohibit unfair pricing of liner services by foreign carriers and further tightens the oversight of controlled carrier tariffs.

## **WITNESSES**

### **PANEL I**

[Admiral Thomas H. Collins](#)

Commandant  
United States Coast Guard

[Master Chief Franklin A. Welch](#)

Master Chief Petty Officer United States Coast Guard

### **PANEL II**

[The Honorable Steven R. Blust](#)

Chairman  
Federal Maritime Commission

Accompanied by:

Amy W. Larson, Acting General Counsel and  
Bruce A. Dombrowski, Executive Director

DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD  
STATEMENT OF  
ADMIRAL THOMAS H. COLLINS  
ON THE  
FISCAL YEAR 2004 BUDGET  
BEFORE THE  
SUBCOMMITTEE ON COAST GUARD AND MARITIME  
TRANSPORTATION  
U.S. HOUSE OF REPRESENTATIVES  
MARCH 13, 2003

INTRODUCTION

Good morning, Mr. Chairman and distinguished members of the Subcommittee. It is a pleasure to appear before you today to discuss the Coast Guard's fiscal year 2004 budget request and its impact on the essential daily services we provide the American public.

I am pleased to begin by saying that, as a result of support from the President, Secretary Ridge and the Department of Homeland Security, the Coast Guard's fiscal year 2004 budget contains significant increases to address all of our essential mission needs. The Coast Guard is the lead federal agency for the maritime component of Homeland Security and that, alongside Search and Rescue, is our top priority. In fiscal year 2004, we will continue to build upon the resource capabilities provided in last year's supplemental and the fiscal year 2003 budget to provide layered maritime security operations, driven by

performance and risk-based analysis. The Coast Guard will continue to make the ports less vulnerable to terrorists while still facilitating the use of the Marine Transportation System for legitimate purposes.

The President has clearly indicated that protecting the American homeland is our number one priority and the Coast Guard has a critical role in that effort. The President's National Strategy for Homeland Security (dated 16 July 2002) stated:

*“The Budget for Fiscal Year 2004 will continue to support the recapitalization of the U.S. Coast Guard’s aging fleet, as well as targeted improvements in the areas of maritime domain awareness and command and control systems...”*

To that end, the Coast Guard’s fiscal year 2004 budget proposes budget authority of \$6.77 billion dollars and continues our effort to establish a new level of maritime safety and security. The Coast Guard’s goal is to create sufficient capability to implement the maritime component of the President’s National Strategy for Homeland Security while sustaining all our traditional missions in the way the American public expects and needs.

## **TRANSFORMATION**

To implement the President’s strategy, the Coast Guard must conduct a broad transformation of how we deliver services so that we can maintain the highest standards of operational excellence. Over the past few years, the Coast Guard has endeavored to gradually transform itself to meet future maritime

threats but since September 11, 2001, that effort has become more urgent. The President's National Security Strategy requires

transformation in all the military services, because the nation is facing new threats from an elusive and determined enemy. A convergence of three significant factors has clearly illustrated the need for a transformed U.S. Coast Guard:

- The need to increase Maritime Homeland Security capability.
- The need to sustain our performance across all Coast Guard missions; and
- The need to quickly implement the comprehensive requirements of the Maritime Transportation Security Act of 2002.

Immediately after the terrorist attacks on our nation, the Coast Guard established new port security zones, placed Sea Marshals on inbound merchant ships, conducted additional patrols off the coasts, established Maritime Safety and Security Teams to protect major ports and implemented new procedures to monitor vessel and crew movements within ports and coastal approaches. These increased responsibilities stretched already thin resources nearly to the breaking point and made it extremely difficult to continue serving other missions. To fill in the gaps, we activated nearly a third of our entire Selected Reserve force, and have quickly and effectively deployed the resources requested by the Administration and provided by Congress.

The fiscal year 2004 budget provides the resources to continue the broad transformation that is necessary for the Coast Guard to provide the strength and security our nation requires. This transformation will not change the Coast Guard's essential character since it will remain a maritime, multi-mission, military service. Instead, the transformation will enable the Coast Guard to maintain operational excellence while conducting increased homeland security operations and sustaining traditional missions. To fulfill its responsibility to the American public, the Coast Guard is attempting to accomplish three primary objectives in fiscal year 2004:

- Recapitalize legacy assets and infrastructure.
- Increase Maritime Homeland Security Capabilities; and
- Sustain non-Homeland Security missions

### **RECAPITALIZING THE COAST GUARD**

To truly transform the Coast Guard, aging assets and infrastructure must be recapitalized. In addition to Rescue 21 (formerly known as National Distress and Response System Modernization Project or NDRSMP), which is on schedule for completion in Fiscal Year 2006, the Coast Guard's Integrated Deepwater System (IDS) will meet America's future maritime needs. Since September 11<sup>th</sup>, the Coast Guard is reassessing the scale and timing of the flexible Deepwater project. Based on the organization's current capacity levels and the required capabilities immediately needed for Homeland Security and the other missions the American public expects, the continued

funding of Deepwater is imperative and makes both programmatic and business sense. The Coast Guard is requesting \$500 million for the IDS.

Several programmatic considerations reveal why the IDS is so essential for the safety and security of the American public:

- Homeland Security necessitates pushing America's maritime borders outward, away from ports and waterways so layered, maritime security operations can be implemented. *Deepwater provides this capability.*
- Maritime Domain Awareness (MDA) – knowledge of all activities and elements in the maritime domain – is critical to maritime security. IDS will improve current MDA by providing more capable sensors to collect vital information. *Deepwater provides this capability.*
- A network-centric system of Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance (C4ISR) is required for effective accomplishment of all Coast Guard missions. *Deepwater provides this capability.*
- Interdiction of illegal drugs and migrants and protection of living marine resources are important elements of Homeland Security and require capable Deepwater assets. *Deepwater provides this capability.*

The primary role of the Integrated Deepwater System in the Coast Guard Homeland Security mission is to fortify maritime security. The Deepwater Program will ensure the Coast Guard

can continue to fulfill its mission of safeguarding the sovereignty, security, and safety of our homeland waters. The IDS concept pushes our borders out, through an effective use of MDA combined with layered assets throughout ports, waterways, coastal regions and far offshore to surveil, detect, classify, identify and prosecute those who would bring harm to our nation and our economically-critical natural resources. Deepwater assets will be able to counter threats throughout the maritime domain to thwart catastrophes to vulnerable infrastructure (oil rigs, deepwater channels, shipping) and keep commerce, especially military materiel load-out, safe in the near shore zones at harbor entrances and between ports. New assets include the conversion of five 110' patrol boats to more capable 123' patrol craft, seven Short Range Prosecutor small boats, funding for the first National Security Cutter (to be delivered in FY 2006), the continued development of an organization-wide C4ISR network including a Common Operating Picture (COP), command and control system at four shore-based command centers and the establishment of an integrated logistics system.

From a business perspective, the flexible IDS framework was designed to adapt to the kinds of changes the Coast Guard has experienced since the notional funding baseline was established in 1998 and particularly since September 11, 2001. The IDS acquisition will replace or modernize obsolete and maintenance intensive assets that are not capable of meeting the current mission demand. The IDS will provide the required capabilities the Coast Guard needs to perform an enhanced level of maritime security operations sustain growing traditional missions and respond to any future crises, man-made or otherwise, that

threaten America.

Rescue 21 is also a transformational project as it will dramatically improve the Coast Guard's command and control communications network in the inland and coastal zone areas for SAR and all other Coast Guard missions. The improved Rescue 21 system will meet safety requirements for growing maritime traffic, as well as International

Convention for the Safety of Life at Sea (SOLAS) treaty requirements. It will be also be a critical component of our homeland security operations as it facilitates more effective monitoring and control of coastal assets.

### **HOMELAND SECURITY CAPABILITIES**

The Coast Guard is the lead federal agency for Maritime Homeland Security. As such, the Coast Guard's mission, in conjunction with joint and interagency forces, is to protect the U.S. Maritime Domain and the U.S. Marine Transportation System and deny their use and exploitation by terrorists as a means for attacks on U.S. territory, population and critical infrastructure. The Coast Guard will prepare for, and in the event of an attack, conduct emergency response operations. When directed, the Coast Guard, as the supported or supporting commander, will conduct military homeland defense operations in our traditional role as one of the five Armed Services.

This budget submission is aligned with the Strategic Goals and Critical Mission Areas in the President's National Strategy for Homeland Security. The Coast Guard has developed a Strategy

that implements the maritime component of the President's plan and the FY 2004 budget continues to support those goals. It addresses both event-driven and prevention-based operations through the following Strategic Objectives:

- Prevent terrorist attacks within, and terrorist exploitation of, the U.S. Maritime Domain.
- Reduce America's vulnerability to terrorism within the U.S. Maritime Domain.
- Protect U.S. population centers, critical infrastructure, maritime borders, ports, coastal approaches and boundaries and "seams" among them.
- Protect the U.S. Marine Transportation System while preserving the freedom of maritime domain for legitimate pursuits.
- Minimize the damage and recover from attacks that may occur within the U.S. Maritime Domain as either the Lead Federal Agency or a supporting agency.

The threats to the security of the United States extend beyond overt terrorism. Countering illegal drug and contraband smuggling, preventing illegal immigration via maritime routes, preserving living marine resources from foreign encroachment, preventing environmental damage and responding to spills of oil and hazardous substances are all critical elements of national and economic security. Every Homeland Security dollar directed to the Coast Guard will contribute to a careful balance between our safety and security missions, both of which must be properly resourced for effective mission accomplishment.

Maritime Domain Awareness is the catalyst for effective Maritime Homeland Security and the fiscal year 2004 budget provides the resources to enhance the Coast Guard's ability to receive, fuse, disseminate and transmit intelligence data and leverage our recent inclusion in the National Intelligence Community. It includes new personnel, hardware and software to support the underlying information architecture for MDA, funds leased satellite channels and other connectivity solutions for our entire cutter fleet and

establishes a prototype Joint Harbor Operations Center (JHOC) in Hampton Roads, VA, to provide surveillance as well as command and control capability for the critical infrastructure in this area.

The fiscal year 2004 request also provides the capability and capacity to conduct layered maritime security operations. Six new, deployable Maritime Safety and Security Teams (MSST), for a total of 12 teams, and over 50 Sea Marshals will be added throughout the country to protect our most critical ports. To increase Coast Guard presence in our ports and waterways, we are requesting 43 fully crewed and outfitted Port Security Response Boats, nine 87' Coastal Patrol Boats and the commencement of the Response Boat Medium acquisition which will replace our aging fleet of 41' utility boats. We are also standing-up Stations Boston and Washington D.C. to increase security and safety in these critical ports where more resources were needed. We are establishing two new Port Security Units, for a total of eight, to support domestic and

overseas operational planning.

### **SUSTAINING TRADITIONAL MISSIONS**

The fiscal year 2004 budget restores the Coast Guard's multi-mission focus to near pre-September 11, 2001 levels. We will utilize performance and risk-based analysis to strike a careful balance between our safety and security missions as we attend to our "new normalcy". This delicate balance is critical to protecting America's economic and national security by preventing illegal activity on our maritime borders. It will also enable the Coast Guard to maintain its surge capability, which was evident before and after September 11, 2001. One of the Coast Guard's greatest attributes is our innate flexibility to immediately shift mission focus to meet America's greatest threat while maintaining other mission areas for the American public.

While its primary focus is Search and Rescue (SAR), the Rescue 21 project will transform the Coast Guard's command and control capabilities for all mission areas. Coupling this major acquisition with a staffing increase of nearly 400 new personnel at our SAR stations and Command Centers will ensure Coast Guard shore-side command and control networks and response units are properly equipped and staffed for multi-mission effectiveness. We are also requesting funds for the Great Lakes Icebreaker to ensure delivery in fiscal year 2006. This ship will perform aids to navigation functions as well as break ice to keep this critical commerce route open year-round.

This budget also requests funding to fully train, support, and

sustain the Coast Guard's Selected Reserve Force. The Reserve is significantly more than an augmentation force. It is an integral part of Team Coast Guard and provides daily support of all Coast Guard missions. Today's Coast Guard depends on Reserve personnel for day-to-day activities in addition to the qualified military surge capacity a trained Reserve Force provides. The Coast Guard Reserve fills critical national security and national defense roles in both Homeland Security and direct support of Department of Defense Combatant Commanders. The Coast Guard Reserve provides the nation's only deployable port security capability and a cost-effective surge capacity for Coast Guard operations including quick response to natural or man-made disasters such as floods, hurricane relief, major pollution cleanup efforts, and rapid response to major catastrophes.

The Coast Guard started an incremental reserve growth from 8,000 to 9,000 in fiscal year 2003 and now 10,000 in fiscal year 2004. A robust and well-trained Reserve force of 10,000 SELRES members is an integral part of the Coast Guard's plan to provide critical infrastructure protection, coastal and port security, and defense readiness. Funding is essential to properly maintain readiness, alignment with DoD counterparts and to provide critical capabilities for DoD Combatant Commanders.

## **CONCLUSION**

There are challenges facing the Coast Guard: the obsolescence of our aging asset fleet; the complexity of recruiting, retaining, and training the talented workforce necessary to execute our

missions; and moving into the new Department of Homeland Security

The President's fiscal year 2004 budget provides immediate capability for our Homeland Security responsibilities and continues to build upon past efforts to restore service readiness and shape the Coast Guard's future. It also demonstrates strong support for both the Deepwater project and Rescue 21. This budget will enable the Coast Guard to maintain operational excellence across all mission areas to meet the America's future maritime safety and security needs.

I close with a quote from the National Strategy for Homeland Security which crystallizes the need for a transformed, multi-mission capable Coast Guard:

*"The United States asks much of its U.S. Coast Guard and we will ensure the service has the resources needed to accomplish its multiple missions."*

I have asked every member of the Coast Guard to continue to focus intently and act boldly on the three elements of my organizational direction: improving Readiness, practicing good Stewardship of the public trust and enhancing the growth, development and well being of our People. With this diligence in executing our multi-year resource plan, we will fulfill our operational commitment to America and maintain our high standards of excellence.

Semper Paratus.

Thank you for the opportunity to testify before you today. I will be happy to answer any questions you may have.

DEPARTMENT OF HOMELAND SECURITY  
U. S. COAST GUARD  
STATEMENT OF  
THE MASTER CHIEF PETTY OF THE COAST GUARD  
FRANKLIN A. WELCH  
ON THE  
FISCAL YEAR 2004 BUDGET AUTHORIZATION  
BEFORE THE  
SUBCOMMITTEE ON COAST GUARD AND MARITIME  
TRANSPORTATION  
U.S. HOUSE OF REPRESENTATIVES  
13 MARCH 2003

Mr. Chairman and distinguished members of this subcommittee, I sincerely appreciate the opportunity to appear before you today as the Master Chief Petty Officer of the Coast Guard in order to present my views regarding the Coast Guard men and women that I proudly represent. Since this is my first testimony before you, I view it as a major milestone towards upholding my commitment to our workforce and their families and to represent them in the most honorable and tireless fashion.

As we greet the uncertainties of the early 21<sup>st</sup> century, the Coast Guard is faced with more challenges than ever before; both at home and abroad. Currently, one of our most significant challenges is improving the retention of our trained workforce, while at the same time continuing to provide an arduous and sustained level of service that is without precedent during my 23 years of service. We are a military, maritime, multi-mission service that has a tremendous role in the protection of our

homeland, while continuing to provide peacetime, domestic services at a level that our public has come to expect and rely upon. We accomplish our many missions through a workforce that is smaller than New York City's Police Department, and we do so with men and women who have an average time in service of only eight years. By 2005, our average time in service is expected to decrease to a mere six years. This predicted reduction of time in service also equates to reduced experience levels of our front-line service members. But, as proven time and again, our men and women remain remarkably positive, ready and capable of serving our nation with the same quiet and humble professionalism that the Coast Guard has become so well known for.

We operate and maintain one of the oldest cutter fleets in the world and yet, we remain capable of living up to our motto of, "Semper Paratus," when translated means, "Always Ready!" In many respects, I believe that our historical ability to always meet the call to duty masks the fact that our workforce has to overcome the inefficiencies of an aging and antiquated operational system. I submit to you today that there is a definite correlation between the inadequacies of our cutter and aircraft fleet, both in terms of operational resource capability and quality of life that further hampers our efforts to retain our dedicated men and women of the Coast Guard and Coast Guard Reserve. It is also worthy of mention that I have served the Coast Guard at sea for 13 years, sailing aboard six cutters and commanding two of them; one of which was in a post-September 11, 2001, operational environment.

The need for a modern fleet of cutters and aircraft is very real and paramount to the continued operational effectiveness of the United States Coast Guard. The Coast Guard continues to pursue our Integrated Deepwater Systems project in an effort to modernize our fleet so that it will become more capable of maximizing the effectiveness of our men and women, as well as providing more capable platforms in service to our country. Your continued support of this crucial initiative is tremendously appreciated.

While retention efforts cannot be exclusively linked to aging operational platforms, they are certainly a contributing factor. Of equal importance to our member's most basic needs are the recent enhancements to military basic pay, sea pay, and basic allowance for housing rates. Each of these initiatives has been extremely helpful as we strive to retain our existing workforce as well as recruit new members from the civilian sector. I would like to thank you for championing these reforms and I look forward to your continued support on future initiatives to ensure that our volunteer men and women are compensated at levels that they justly deserve.

I also applaud your efforts in making positive changes to the educational benefits and increased educational opportunities for our service members. Increases in the Montgomery GI Bill benefit, as well as the Coast Guard's tuition assistance program have allowed many of our people to pursue degrees while remaining in the service. This initiative has led to more enlisted personnel applying for Officer Candidate School, and ultimately, a more highly educated workforce, regardless of organizational

position.

Although great improvements have been made in terms of our pay, benefits and compensation package, the Coast Guard and our families continue to face a lack of affordable and adequate housing in many of our assignment areas. Despite increases in the basic allowance for housing, many of our married members, particularly those with children, face financial difficulty in several communities. The fundamental disadvantage the Coast Guard faces in terms of family housing is principally due to where we are typically assigned; in remote, high-cost, coastal resort locations. These locales command the highest monthly rental rates, particularly during their peak tourist seasons. While basic allowance for housing reform has helped, availability, affordability and quality of reasonable proximity family housing remains a problematic issue for our men and women in the Coast Guard.

The habitability of our unaccompanied personnel housing is also problematic. So much so that I believe that their associated inadequacies directly contribute to many of our people's decisions to leave the service. Fundamentally, it is a "sense of worth" issue, and I maintain that our unaccompanied and/or single members deserve adequate housing opportunities just as much as our family members. I believe that addressing the needs of single family members is absolutely critical for the long-term health of our service. After all, our single members are our potential future families, provided we demonstrate our commitment to them in their formative years. We are currently exploring methods to improve furnishings and existing

infrastructure within the Coast Guard budget model and seek your understanding of the issue.

We also face many challenges within the existing medical and dental care contracts, particularly regarding high cost and limited accessibility to providers. These challenges, just as those associated with quality and affordable housing, are primarily the result of the geographical locations that many of our men and women serve in. I can reasonably deduce that since many of our units reside in high cost areas and are far removed from Department of Defense facilities, health and dental care costs, as well as the number of providers, vary widely from location to location while allowable charges remain the same. The resultant variances are causing undue financial hardships for many of our family members. The current situation stands to be exacerbated by the proposed 4.4 percent reduction in provider reimbursement rates.

In conclusion, the importance of addressing quality-of-life issues such as providing the right resources for our people to efficiently perform their duties, improving military pay, providing affordable and quality housing, health and dental care, coupled with today's intense operational environment can not be overstated. While we have made monumental progress throughout my career, I appreciate your continued vigilance and support of our men and women who dedicate themselves in service to our great country. It is through them that the United States of America will always prevail.

Again, I thank you for the opportunity to address these issues

with you today and I look forward to working with you to further ensure that the United States Coast Guard continues to stand ready to meet the challenges and demands that of 2003 and beyond. . I look forward to answering any questions that you may have.

**STATEMENT OF THE HONORABLE STEVEN R.  
BLUST CHAIRMAN, FEDERAL MARITIME COMMISSION  
800 NORTH CAPITOL ST., N.W. WASHINGTON, D.C.  
20573 (202) 523-5911  
BEFORE THE COMMITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE SUBCOMMITTEE ON COAST GUARD  
AND MARITIME TRANSPORTATION  
UNITED STATES HOUSE OF REPRESENTATIVES  
MARCH 13, 2003**

Mr. Chairman and members of the Subcommittee, it is a pleasure to appear before you today to present the President's fiscal year 2004 budget for the Federal Maritime Commission. With me today are Amy W. Larson, the Commission's Acting General Counsel, and Bruce A. Dombrowski, our Executive Director.

The President's budget for the Commission provides for \$18,471,000 for fiscal year 2004. This represents an increase of \$1,880,000 over our fiscal year 2003

appropriation, and an increase of \$1,031,000 over the President's fiscal year 2003 request. This budget provides for 137 workyears of employment.

As you are aware, the budget estimates submitted to you on February 3 represented the President's budget for fiscal year 2004 compared to the President's budget for fiscal year 2003, the latter being the latest approved budget at the time.

Subsequent to submission of that request, the Commission received its final fiscal year 2003 appropriation of \$16,591,000, which is \$849,000 lower than the President's fiscal year 2003 budget. In order to reflect the Commission's budget status appropriately, all comparisons in the statement to follow are between the

President's fiscal year 2004 budget and the Commission's actual fiscal year 2003 appropriation.

Our fiscal year 2004 budget request contains \$13,708,000 for salaries and benefits to support the Commission's programs. This is an increase of \$849,000 over our fiscal year 2003 appropriation. This includes all salaries, including those for the additional employees we plan to hire in fiscal year 2003, promotions, within-grade increases, and an anticipated cost of living adjustment. The funding includes annualization of the fiscal year 2003 cost of living adjustment increase at the 3.1 percent level originally anticipated. However, it does not contain funding for the recently approved additional one percent

fiscal year 2003 pay increase. The Commission must fund the resulting \$140,000 increase in fiscal year 2004. Further, it does not contain funding for any additional positions; it only will fund positions anticipated to be on board at the beginning of fiscal year 2004.

Official travel has been decreased \$2,000 from our fiscal year 2003 level. This decrease takes into consideration additional travel expenses to be incurred in fiscal year 2003 for three significant investigatory proceedings the Commission is pursuing. Nonetheless, travel remains an essential aspect of our effort to provide better service to the ocean transportation industry and to accomplish our oversight duties more effectively. Lastly,

administrative expenses will have increased \$1,033,000 over fiscal year 2003. The Commission is planning for a substantial increase in rent as a result of a new long-term lease for Commission space. Other administrative expenses will be incurred in fiscal year 2004 to support increases in our customary business expenses, such as maintaining government and commercial contracts, and for items such as telephones, postage, and supplies.

As we have noted in prior years, the Commission's budget contains primarily non •discretionary spending. It is composed of mandatory or essential expenses such as salaries and benefits, rent and guard services, health services, accounting services, telephone and other communication

costs, supplies, mandatory training, and printing and copying costs. These items represent the basic expenses any organization faces in order to conduct its day•to•day operations, and are crucial to allow us to meet the responsibilities Congress has entrusted to the agency effectively.

As you know, Mr. Chairman, the Commission is responsible for the regulation of oceanborne transportation in the foreign commerce of the United States. Since its inception in 1916, the Commission and its predecessor agencies have effectively administered Congress's directives for the ocean transportation industry, and its long-standing expertise and experience have been recognized by Congress, as well as by the

industry the Commission oversees, courts, and other Nations. Working with the industry, we have developed a regulatory system that allows for necessary oversight with minimal disruption to the efficient flow of U.S. imports and exports.

As this Committee knows first-hand, the ocean transportation industry has changed dramatically since September 11, 2001. The security and safety of our Nation's transportation infrastructure is of critical importance to the free flow of trade. The Commission is committed to helping front-line organizations ensure the safe and efficient movement of cargo into and out of the United States. Our oversight of ocean common carriers, ocean transportation intermediaries ("OTIs"), including ocean

freight forwarders and non-vessel-operating common carriers ("NVOCCs"), and marine terminal operators, is a vital link in the effort to protect our Nation's seaports.

Pursuant to the Shipping Act of 1984 ("Shipping Act"), as amended by the Ocean Shipping Reform Act of 1998 ("OSRA"), 46 U.S.C. app. § 1701 et seq., the Commission licenses those OTIs in the United States who have met the qualifications set forth in the Commission's rules. Moreover, all OTIs must secure evidence of financial responsibility, usually in the form of a surety bond, to operate in the U.S. foreign commerce.

Additionally, ocean common carriers and marine terminal operators must register with the Commission. Our enforcement efforts include monitoring and surveillance of those

regulated entities to ensure compliance with the Shipping Act and other statutes within our jurisdiction. We continue to investigate malpractices in the U.S. foreign trades, including incidents of cargo misdescriptions, to ensure that the cargo being imported into the United States is accurately described in the appropriate shipping documentation.

Various members of the Commission's staff participate in interagency groups as well as international maritime discussions to facilitate the exchange of information regarding operational and security elements of ocean commerce. In addition, we continue to exchange information with the U.S. Customs Service through a Memorandum of Understanding. The resulting cooperation

between the Commission's Area Representatives and Customs has led to several joint field operations to investigate entities suspected of violating either or both agencies' statutes or regulations. We expect to extend our cooperative efforts, including sharing our vast collection of commercial information, to other agencies involved in maritime transportation.

We have also initiated a series of informational seminars to be conducted by the Commission's Area Representatives and other Commission personnel at various locations around the country. At these seminars, we provide information to the industry and the shipping public with respect to the Commission's functions and

services, as well as instruction regarding the regulatory obligations of providers and users of ocean liner shipping services in the U.S. foreign trades in accordance with the statutes administered by the Commission.

We are pleased with the success of our first outreach seminar, held on February 25<sup>th</sup> in Miami, which was attended by over 80 people, including representatives of ocean freight forwarders, NVOCCs, ocean common carriers, and their agents. Our staff gave a formal presentation on the Commission's oversight responsibilities and services and then fielded many questions from individuals with particular issues or concerns regarding their businesses. We will host a seminar next week in New Orleans, and other locations for upcoming seminars include

Seattle, Los Angeles, and New York.

The Commission continues to exercise its authority to address restrictive or unfair foreign shipping practices under section 19 of the Merchant Marine Act, 1920; the Foreign Shipping Practices Act of 1988 ("FSPA"); and the Controlled Carrier Act of 1978. Section 19 empowers the Commission to make rules and regulations to address conditions unfavorable to shipping in our foreign trades; FSPA allows the Commission to address adverse conditions affecting U.S. carriers in our foreign trades that do not exist for foreign carriers in the U.S. And, under the Controlled Carrier Act, the Commission can review the rates and rules of government-controlled carriers to ensure that they are not unjust or unreasonable.

As we have advised this Committee previously, in August 1998, the Commission initiated a proceeding to investigate whether the laws, rules or policies of the Government of the People's Republic of China might have an adverse impact on U.S. shipping and warrant action under section 19 or the FSPA. The Commission sought information from interested parties, including shippers, ocean transportation intermediaries, vessel operators, and others in the ocean transportation industry, on Chinese policies and practices regarding port access, the licensing of multi-modal transport operations, and the establishment of representative and branch offices. The initial responses indicated that Chinese laws and regulations discriminate against

and disadvantage U.S. carriers and other non-Chinese shipping lines. In late 1999 and early 2000, the Commission obtained further information from two more parties: China Shipping Container Lines, a new Chinese government-controlled carrier in the trade, and A.P. Moller Maersk, which had just taken over the substantial U.S.-flag China service of Sea-Land Service, Inc.

The Commission issued a Notice of Inquiry ("NOI") on March 12, 2002, and a Further Notice of Inquiry ("FNOI") on June 28, 2002. The Commission's issuance of the NOI was prompted by the adoption, on December 21, 2001, of a new Chinese law, the Regulations on International Maritime Transport ("RIMT") (effective January 1,

2002) and the news that the Chinese Ministry of Communications ("MOC") intended to issue regulations implementing and interpreting the requirements of the RIMT ("Implementing Rules"). The NOI also was prompted by concerns raised by the National Customs Brokers and Forwarders Association of America, Inc. ("NCBFAA"), a trade association of ocean freight forwarders and NVOCCs. The FNOI was issued in response to the MOC's June 21, 2002, release of a "Notice Inviting Comments on Implementing Rules for the Regulations of the PRC on International Maritime Transportation." The Commission's FNOI specifically requested information about the impact of the Implementing Rules. Generally, the Commission was concerned that the RIMT and

the draft Implementing Rules may have changed the restrictions and requirements it was continuing to scrutinize in this proceeding.

Pending the Commission's consideration of the matter, MOC announced finalized Implementing Rules which became effective on March 1, 2003. The Commission obtained a translation of these Final Rules on February 20, 2003, and we are currently in the process of determining whether these revisions adequately address the concerns raised in this proceeding or whether further action is merited.

As you may be aware, the Commission also had occasion to address restrictive port practices in Japan in 1997. The Commission took action under section 19 against various

restrictive conditions in the harbor services industry in Japan, including a system that required carriers to receive permission from the Japan Harbor Transportation Association (a cartel of Japanese terminal and stevedore companies) before making any operational changes, and prevented non-Japanese carriers from offering or performing for themselves or others terminal and stevedoring operations routinely undertaken by carriers at U.S. ports. As a result of these conditions, both U.S. carriers and U.S. trade were burdened with unreasonably high costs and inefficiencies.

The Commission found these conditions to be unfavorable to shipping in the U.S. trade and imposed a fee of \$100,000 per voyage on

Japanese ocean common carriers entering U.S. ports. The Commission subsequently compromised the outstanding fines after government negotiators reached an accord under which some changes to the system of prior approval would be put in place and other changes in port practices would be sought legislatively. We also imposed semiannual reporting requirements on U.S. and Japanese lines to keep us apprised of the anticipated changes in the system, and received one-time reports in August, 2001, from additional carriers serving the trade. Since we last updated this Committee, Japan has revised its Harbor Transportation Business Law and has made other changes in port operations. Unfortunately, I cannot report to you that those changes have

resolved fully the challenging conditions affecting the operations of non-Japanese carriers in Japanese ports. Although Japan maintains that its "deregulation" of shipping has resulted in major improvements, including increased competition in Japanese ports, the U.S. executive agencies with maritime responsibilities and others continue to express dissatisfaction with the results of Japan's deregulation efforts. We are hopeful that attempts to address the problem through bilateral talks will be renewed. In the meantime, we continue to monitor closely developments in Japan that affect our shipping interests.

With respect to our oversight of passenger vessel operators, the Commission has undertaken to update and improve its

administration of Public Law 89-777, which requires cruise lines to demonstrate financial responsibility to ensure that passengers are indemnified for nonperformance of a voyage, or in the event of death or injury. We recently completed a rulemaking that eliminated self-insurance as a mechanism that cruise lines may use to demonstrate their financial responsibility. Self-insurance proved to be an inadequate guarantee of financial responsibility in the face of bankruptcies that have occurred within the industry.

Several commenters in that proceeding also suggested that the Commission's \$15 million ceiling on nonperformance coverage should be raised or eliminated, believing that amount

to be inadequate for some cruise lines who have passenger revenue in the hundreds of millions of dollars, and that a ceiling would artificially limit the protections available to consumers in the event of an incident or catastrophe of a large scale. After reviewing the matter, the Commission issued a proposed rule that would eliminate the ceiling. The current ceiling has not been adjusted since 1991, and is no longer consistent with the reality of an industry that has undergone both dramatic growth and consolidation. The proposed rule would require cruise lines to provide coverage, in the form of bonds or other securities, for all of their unearned passenger revenue, meaning revenue taken in for cruises not yet performed. However, the proposed rule

excepts monies taken in pursuant to credit card transactions, because consumers are protected in those transactions by the Fair Credit Billing Act.

The Commission will receive comments on this proposed rule through April 8, 2003, and we hope that affected industry participants and the public in general will supply us with their perspectives and analysis of the proposed rule. Indeed, the Commission welcomes comments that might suggest a different approach to reaching the goal of ensuring that all passengers are fully protected.

The monitoring of carrier activities and commercial conditions in the U.S. liner trades is an integral part of the Commission's responsibilities under the

Shipping Act. The Commission administers a variety of monitoring programs and other research activities designed to keep it informed of current trade conditions, emerging trends and carrier pricing and service activities. These monitoring programs help ensure that carriers operating in the U.S. trades comply with the statutory standards of the Shipping Act and the Commission's regulations, while allowing for the free flow of goods shipped under service contracts and tariffs.

As you know, OSRA made significant changes in the area of service contracting. To assist ocean carriers with their statutory obligation to file service contracts, the Commission developed an Internet-based system for the filing of service contracts

which is flexible, does not require contract terms to be filed in any prescribed order, and allows carriers to submit service contracts using various software applications. We continue to enhance the system to meet the needs of the agency and the industry. Improvements developed in fiscal years 2002 and 2003 to further refine the system have proven beneficial to the Commission's oversight of service contracts. Of particular importance has been the adaptation of an advanced search feature that has been very helpful in facilitating the Commission's analysis of service contract data in recent proceedings concerning carriers' service contracting practices in some of the major U.S. trades.

The Commission initiated a fact-finding proceeding last August to investigate whether service contract practices of the Transpacific Stabilization Agreement ("TSA") during negotiation of service contracts for 2002/2003 violated the anti-discrimination provisions and other prohibited acts of the Shipping Act. The Commission concluded that the allegations made in a petition by two groups representing NVOCCs and ocean freight forwarders (NCBFAA and the International Association of NVOCCs) should be examined through the investigative tools and processes available to the Commission. The groups alleged that TSA members had agreed to complete the negotiation and signing of service contracts with proprietary shippers before negotiating with NVOCCs. They

further contended that TSA members colluded to charge NVOCCs significantly higher rates than proprietary shippers for the same services by subjecting NVOCC service contracts to a discriminatory general rate increase and peak season surcharge not applied to the service contracts of proprietary shippers.

Commissioner Joseph Brennan was designated to act as Fact Finding Officer on behalf of the Commission and to report on his findings. Commissioner Brennan has held hearings in San Francisco, Los Angeles/Long Beach, Seattle, and Washington, D.C., to hear testimony from each of the carriers and a number of NVOCCs and shippers, and has used the Commission's section 15 powers to require submission of information and

documents by the carriers. The report of the Fact Finding Officer is due to the Commission on April 11, 2003.

We continue to enhance our Alternative Dispute Resolution ("ADR") program to provide those involved in ocean transportation a means to settle disputes without becoming embroiled in potentially costly and time-consuming formal litigation. The Commission's Dispute Resolution Specialist and other staff have undergone training in ADR and, particularly, in mediation. Mediation is the most frequently used ADR process and has been employed to resolve disputes in several formal Commission proceedings. The number of parties who have availed themselves of our ADR program is growing and settlements

were reached in a majority of mediated proceedings between private litigants, excluding those cases involving bankrupt parties. The Commission's administrative law judges have found this program to be very useful to resolution of their cases, and almost always encourage parties to utilize Commission ADR resources.

A cornerstone of the ADR program is the assistance provided by the staff of the Commission's Office of Consumer Complaints, which responds to consumer inquiries and complaints and attempts to informally resolve disputes, particularly those involving cruises and shipments of cargo. The number of cases resolved by this office continues to grow, with the office involved in resolution of more than 500 disputes

during FY 2002. We continue to encourage disputants to use ADR to resolve their disputes with a minimum of litigation.

Mr. Chairman, I hope that my comments have served to give you a clear indication of the important work to be accomplished by the Federal Maritime Commission. I respectfully request favorable consideration of the President's budget for the Commission so that we may continue to perform our vital statutory functions in fiscal year 2004.