12-1-1978

House Committee on Merchant Marine & Fisheries - Legislation

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Recommended Citation
Peter J. Gatti, House Committee on Merchant Marine & Fisheries - Legislation, 10 U. Miami Inter-Am. L. Rev. 985 (1978)
Available at: http://repository.law.miami.edu/umialr/vol10/iss3/14

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Many of the activities of the Merchant Marine and Fisheries Committee affect the international policies of the United States and its relations with the rest of the world. Within the structure of the Committee there are five subcommittees, each charged with jurisdiction over their respective subject matters. These subcommittees are: (a) Merchant Marine; (b) Fish and Wildlife Conservation; (c) Coast Guard and Navigation; (d) Oceanography; and (e) Panama Canal. This Report traces the recent legislative activities of these subcommittees.

(a) Merchant Marine Subcommittee

The Merchant Marine Subcommittee has jurisdiction over cargo preference laws; ports and port matters, including deepwater ports; foreign flag passenger ships; international maritime activities; intermodal transportation; maritime technology and measures related to the regulation of common carriers by water. One of the most vital concerns of this subcommittee has been to enact legislation aimed toward establishing a national shipping policy. Such an undertaking will have strong international impact upon our fellow trading nations. During the 95th Congress this subcommittee has undertaken strong measures toward introducing legislation to increase the size of the American Merchant Fleet. As a result of this action, the United States may augment the amount of international trade carried via American flag ships, thereby improving the United States trade position relative to the rest of the trading world.

Some specific legislation was put forward by this subcommittee in order to strengthen the United States trade capabilities with other trading nations. One such bill, known as the "Controlled Carrier" bill would regulate the rates that a government-owned and operated carrier vessel could charge for cargo. A government-owned carrier is one which is entirely subsidized by its own home government. On the
average, foreign flag carriers can be built and operated much more cheaply than American carriers due to the large differential in material, labor, and operational costs. Foreign carriers can therefore ship cargo with lower overhead expense, which allows the carrier to charge lower rates than the privately-owned merchant carriers of the United States and other maritime nations. This practice of undercutting rates of privately-owned and operated U.S. carriers diverts a substantial portion of the carrier trade to subsidized, less efficient government-controlled carriers. This regulation of rates would be based on a system of justness and reasonableness. Any rates charged by a foreign carrier not meeting this criteria would be unlawful and face immediate suspension. During this period of suspension the Federal Maritime Commission can prescribe minimum rates to be charged by state-controlled carriers. When enacted, this bill will put a halt to the fairly common practice of undercutting rates used by state-controlled carriers, a device which takes away cargo which was once carried on U.S.-owned carriers.

Another piece of legislation in which the Committee has attempted to stop unlawful activities which are a direct threat to the American fleet, involves rebating. Rebating, by definition, is a practice whereby a carrier will issue a refund to a shipper in return for using that cargo ship to carry the shipper’s cargo. The bill which passed the House on March 22, 1978 would stop this illegal practice and open up the cargo market to become a more just and equitable industry.

With similar intentions, the “Closed Conference” and “Equal Access” bills were introduced to stop the illegal and damaging practices presently occurring in the shipping industry. Such practices include rate wars, rebating, and anti-trust actions of state-owned carriers. The “Closed Conference” bill would put American shipping conferences on the same scale as most other world-wide shipping conferences. At the present time, the American conference system is an “open” system. As a direct result, this leaves American conferences open to membership by non-conference or independent carriers offering lower rates. This has led to a decreased volume in the amount carried by U.S. flag carriers. This bill would allow some American conferences to be closed, permitting those members to decide which carriers would be admitted and which would not. This would cut down the overabundance of carriers within American trade routes and set up a more competitive market in which rates would be on a more even level.
The "equal access" bill introduced this Congress would create agreements with other trading nations whereby a fair, competitive market for the shipment of international cargo would occur. These agreements would be on pooling of cargoes, rationalization, apportionment, and related reciprocal ocean transportation. Such agreements would be entered into between American flag carriers and those nations with which we trade.

The legislation described above is just a part of the overall impact that the Committee has on the international arena. As a result of this Committee's concern for international cooperation, the Chairman of this Committee, John Murphy, managed unanimous floor passage for the United States to participate in a global telecommunications system for the maritime world. This system will provide rapid and reliable ship-to-shore communication and will revolutionize maritime search and rescue operations.

(b) Fish and Wildlife Conservation Subcommittee

The Subcommittee on Fish and Wildlife Conservation and the Environment has jurisdiction over matters dealing with national environmental policy and conservation of fish and wildlife. This subcommittee has responsibility involving matters concerning research, inland coastal and offshore fisheries, and international agreements.

Under the Fishery Conservation and Management Act, the United States enacted the 200-mile fishery conservation law. Known popularly as the 200-mile limit law, this Act provides that no foreign fishing vessel shall be allowed to fish within 200 miles of the United States unless the foreign nation has signed a Governing International Fishery Agreement with the United States, has secured a permit for each of its fishing vessels planning to fish in such zone, and has paid appropriate fees associated with the issuance of such permits.

Several international agreements have been reached with countries desiring to fish within the 200-mile limit. House Joint Resolution 240 permits those nations to secure an exemption from the Fishery Conservation and Management Act of 1976. In the 95th Congress, legislation allowing these exemptions has been embodied under H.R. 3753, International Fisheries Agreement; Canadian Fisheries Agreement, H.R. 5638; and Mexican Fishery Agreement, H.R. 9794.

Mr. Murphy of New York, in May 1977, introduced legislation to implement "The Agreed Measures for the Conservation of Antarctic Fauna and Flora." Nine countries—South Africa, Argentina, Norway,
the Soviet Union, the United Kingdom, Chile, New Zealand, France, and Poland—have all agreed to these measures. The United States has not. The Agreement provides for the regulation of those activities of its national citizens in Antarctica which might harm the native plants and animals there.

In May of 1966, the United States signed the International Convention for the Conservation of Atlantic Tunas. The Convention was formed in response to the increasing exploitation of tuna resources of the Atlantic Ocean by a large number of nations in Europe, Africa, the Americas, and Asia. The Convention established a Commission to conduct research on “the abundance of tuna and tuna-like fishes . . . . and the effects of natural and human factors upon their abundance”. H.R. 6205 authorized appropriations through fiscal year 1980 and continued the United States support for the Convention among 18 member nations.

The problem of maintaining an environment which is capable of supporting our fish and wildlife requires cooperation with other nations. This Subcommittee has taken a lead on many of these international issues in order to maintain a balance of our natural resources within our United States today, in order that we may enjoy them tomorrow as well.

(c) Coast Guard and Navigation Subcommittee

The Subcommittee on Coast Guard and Navigation has jurisdiction over life-saving services, lighthouses, communications radar, navigation aids, registering and licensing of vessels, navigation laws, and inspection of Merchant Marine vessels. This Subcommittee’s jurisdiction includes overseeing such duties as enforcement or assistance in enforcement of all applicable laws on and under the high seas and waters subject to the jurisdiction of the United States, the promotion of maritime safety, port safety, and protection of the marine environment. The Subcommittee is vitally concerned with marine and environmental safety. These programs have an obvious impact upon both countries having business within the territorial waters of the United States, and those that must conform to international standards agreed upon with other nations.

H.R. 186, the International Navigation Rules Act, implements the Convention on the International Regulation for Preventing Collisions at Sea, 1972, making those regulations applicable to all U.S. vessels while on the high seas or in waters subject to the jurisdiction of the United States.
H.R. 8159, the "International Safe Container Act" implements the International Convention for Safe Containers. The bill establishes uniform structural requirements for intermodal cargo containers subject to the jurisdiction of the United States, designed to be transported interchangeably by sea and land carriers, and moving in, or designed to move in, international trade.

During the winter of 1976-77, the United States was a victimized host to an increase of explosive accidents within or near our territorial waters. These involved oil tankers of foreign registry, thereby creating grave concern as to the competence of vessel personnel and the condition of these vessels themselves. This Subcommittee began extensive hearings which culminated in bill H.R. 3796 (S.682), the Tanker Safety Act. This bill seeks to amend the Ports and Waterways Safety Act of 1972. This legislation seeks extensive domestic and foreign tanker inspections and examinations for overall safety. The Subcommittee has been actively involved on the international scene within the Intergovernmental Maritime Consultative Organization (IMCO) in getting the major maritime powers to recognize the problem in tanker safety and to advance the schedules for discussions of tanker construction and equipment standards and the training and certification of seafarers.

As a result of the increase in oil tanker accidents, H.R. 6803, the Comprehensive Oil Pollution Liability and Compensation Act, was introduced to establish a system of liability and compensation for damages caused by oil pollution in the navigable waters of the United States, their connecting or tributary waters, and in certain high seas areas.

From the standpoint of international affairs, the Coast Guard and Navigation Subcommittee, through the Coast Guard agency, has involved itself with negotiations with foreign governments and participates in the activities of international organizations such as IMCO. From an operational standpoint this Subcommittee has oversight responsibility in the implementation of international agreements, for which the negotiations have been and are conducted through the Department of State. Specifically, these include various fisheries agreements, such as the International Convention for the Northwest Atlantic Fisheries, the International Convention for the High Seas Fisheries of the North Pacific Ocean, the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific and Bering Sea, and the Convention between
the United States and Canada for the Protection, Preservation and Extension of the Salmon Fishery of the Fraser River System.¹

(d) Oceanography Subcommittee

The Subcommittee on Oceanography has jurisdiction over marine sciences, oceanographic research, ocean engineering, ocean environmental protection, resource development and conservation, and coastal zone management. By virtue of the fact that our planet is covered by two-thirds water, this Subcommittee's work directly affects our country's position with other nations.

One of the major pieces of legislation to affect international cooperation will be the enactment of "deep seabed mining." While initial discussions began on this topic more than ten years ago at the Law of the Sea Conference, no final agreements have been reached. In order to move ahead with this all important industry, this legislation was introduced to encourage and regulate the development of hard mineral resources from the deep ocean floor, and to insure that the development is carried out in a manner that will protect the quality of the environment. It is intended by this legislation to act only as an interim measure until a superseding international agreement can be reached. But it is believed that the measures adopted by this legislation will serve as fundamental guidelines for the international negotiators to the Law of the Sea Conference.

(e) Panama Canal Subcommittee

One of the most discussed topics within national and international circles has been the matter of the Panama Canal. The effect the new treaties have on the operation and the maintenance of the Canal falls within the primary jurisdiction of the Subcommittee of the Panama Canal of the Merchant Marine and Fisheries Committee. There are two treaties dealing with Panama over the Canal. The first is the treaty itself as it concerns the Canal, and secondly, the treaty concerning the permanent neutrality and operation of the Panama Canal.

Under the Canal treaty, the United States will retain operating control and the right to defend the Canal until December 31, 1999, after which Panama will assume control. Once the treaty takes effect, Panama will assume general territorial jurisdiction over the present

¹. For a complete listing of Coast Guard involvement in International Instruments, see Appendices A and B.
Canal Zone. In addition, the United States has pledged its best efforts outside the treaty to arrange on behalf of Panama, economic loans, loan guarantees and credits of up to $300 million.

Under the treaty concerning the permanent neutrality and operation of the Panama Canal, the United States and Panama are granted rights to permanently maintain the neutrality of the Canal. Despite the Senate's consent to ratification, the treaties will not go into effect immediately. Implementing legislation still remains outstanding and is not expected until the next Congress. The Panama Canal Subcommittee is presently drafting major alternatives and relevant background information with respect to legislative implementation of the 1978 Panama Canal Treaties.

House Concurrent Resolution 347 was introduced by Mr. Hansen and expresses the sense of the Congress that any U.S. right, title, or interest in the Canal Zone should not be conveyed to any foreign government without specific authorization by an Act of Congress.

H.R. 13176 was introduced on June 16, 1978 by Chairman Murphy and establishes a United States Interoceanic Canal Study Council to assess alternative routes for the construction of a new sea-level canal linking the Atlantic and Pacific oceans and, after determination by the President of the importance of a sea-level canal, a joint United States—Panama Sea-level Canal Study Commission to update the 1970 report of the Atlantic-Pacific Interoceanic Canal Study Commission and to prepare an accompanying environmental impact report.

The relations between the United States and Panama and the work of this Subcommittee over the Canal will most certainly be looked upon as a barometer in judging our relationships with other Latin American countries. As for the other trading nations of the world, our relationship with Panama will be watched closely since any change will affect them in the years to come.
INTERNATIONAL INSTRUMENTS IN WHICH THE U.S. COAST GUARD IS VITALLY CONCERNED


5. Inter-American Convention on Facilitation of International Waterborne Transportation (1963), Senate Executive Doc. Q 89th Congress 2d Sess.


17. Agreement on Great Lakes Water Quality, 15 April 1972, 11 ILM 694, TIAS 7312.


21 Convention on the High Seas (Geneva, 1958), 23 UST 2312, TIAS 5200, 45 UNTS 82.


25. Convention concerning the Liability of the Shipowner in Case of Sickness Injury or Death of Seamen (1936), 54 Stat. Pt. 2, Pg. 1693; TS 951; 40 UNTS 169.


27. Convention concerning the Medical Examination of Seafarers (1946), International Labor Organization Convention No. 73.

28. Convention concerning the Certification of Able Seamen (1946), 5 UST 605; TIAS 2949; 94 UNTS 11.


33. Agreement on Pacific Ocean Weather Stations (Washington, 1950), 1 UST 569; TIAS 2103; 70 UNTS 115 Amends: 2 UST 720; TIAS 2228; 87 UNTS 390; 3 UST 3062 TIAS 2488; 207 UNTS 340; 5 UST 2765; TIAS 3132; 238 UNTS 306.

34. International Telecommunication Convention (Montreux, 1965), 18 UST 575; TIAS 6267.

35. International Telecommunication Union Radio Regulations (Geneva, 1959), 12 UST 2377; TIAS 4893 Amend: 15 UST 887; TIAS 5603; 18 UST 2091; TIAS 6332; 19 UST 6717; TIAS 6590.


41. Exchange of Notes regarding Rescue Coordination Facilities in Honduras (Tegucigalpa-1952), (Treaty Office-State Dept.).

42. Authorization for Aircraft engaged in Search and Rescue Operations to Fly over and Land in Jamaica (1950), (Treaty Office-State Dept.).

43. Treaty between the United States of America and Mexico to Facilitate Assistance to and Salvage of Vessels in Territorial Waters (Mexico City, 1935), 49 Stat. 3359; TS 905; IV TRENWITH 4496; 168 LNTS 135.


46. Customs Convention on Containers (Geneva, 1956), 20 UST 301; TIAS 6634; 338 UNTS 103.

47. U.S.-CANADA Agreement for the Promotion of Safety on the Great Lakes by Means of Radio (OTTAWA, 1952), 3 UST 4962; TIAS 2666; 205 UNTS 293.

48. U.S.-CANADA Agreement Relating to the Coordination and Use of Radio Frequencies Above 30 MHz (OTTAWA, 1962), 13 UST 2418; TIAS 5205; 462 UNTS 68 (1965 Amend-16 UNTS 923; TIAS 5833; 549 UNTS 300).


50. U.S.-CANADA Load Line Convention (WASHINGTON, 9 December 1933), 49 Stat 2685; TS 869; 6 Bevans 54.


APPENDIX B

INTERNATIONAL FISHERIES ENFORCEMENT

United States at-sea enforcement of International Fisheries Agreements is a responsibility of the Coast Guard. In recognition of this responsibility, the State Department has requested Coast Guard representation during negotiations of International Fishery Agreements when agenda items concern enforcement procedures. Those major International Fishery Agreements which the Coast Guard has helped to negotiate, enforces, or otherwise has an interest in are as follows:


6. Convention for the Preservation of Halibut Fishery of Northern Pacific Ocean and Bearing Sea (Ottawa, 1953), 5 UST 5; TIAS 2900; 22 UNTS 77.


21. U.S.S.R.-U.S. Agreement Relating to the Consideration of Claims Resulting from Damage to Fishing Vessels or Gear and Measures to Prevent Fishing Conflicts (Moscow, 1973), TIAS 7575.

27. Convention for the Extension of Port Privileges to Halibut Fishing Vessels on the Pacific Coast of the United States of America and Canada (Ottawa, 1950), 1 UST 536; TIAS 6890; Protocol 1972; TIAS 7397.


30. Agreement Adopting the North Atlantic Coast Fisheries Arbitration-U.S.-Canada (Washington, 1912), 37 Stat 1634.
