

A Look Back at 2009 and at What Lies Ahead in 2010

As has been reported in previous issues of this publication, the first session of the 111th Congress was dominated by the effort to develop and enact health care reform legislation. With the Democrats in the White House for the first time in eight years, and having a clear majority in the House of Representatives and a 60-vote majority in the Senate, it was anticipated that the health care reform effort would move through Congress in a much faster and smoother fashion. However, as is typically the case when Congress attempts to move on legislation that is not only unprecedented but extremely controversial, the process continued through all of 2009 and the beginning of 2010, a year that will also be marked by Congressional elections in November.

Nevertheless, and notwithstanding the amount of time, effort and energy dedicated by Congress to the health care reform battle, MM&P and MIRAID, in conjunction with the other maritime unions and U.S.-flag shipping organizations and companies, made significant progress on legislation important to the survival and growth of our industry.

While we are keenly disappointed that more of our legislative initiatives did not clear both Houses of Congress and make it to the President's desk in the first session of the 111th Congress, we are committed to working harder than ever to achieve our objectives in the second session of this Congress in 2010.

Maritime Security Program

Each year, achieving full funding for the Maritime Security Program (MSP) is one of our most important legislative priorities. MSP supports the continued operation under the U.S. flag of 60 militarily useful commercial vessels crewed by U.S.-citizen mariners. It helps to ensure that U.S.-flag vessel operators will be better able to keep vessels under the U.S. flag and to compete against heavily subsidized foreign-flag and foreign-crewed ships. In the absence of MSP, it is possible if not probable that shipping companies would be forced to re-document their U.S.-flag vessels under foreign flags, replacing their American crews with foreign

C. James Patti



crews and significantly diminishing the commercial sealift capability of the United States.

As a direct result of our efforts, Congress continues to understand the importance to our nation of the U.S.-flag merchant marine and to support the Maritime Security Program. To this end, the omnibus appropriations legislation cleared by the House of Representatives and Senate and signed into law by President Barack Obama contains full funding for the Maritime

Security Program for fiscal year 2010. The \$174 million for MSP will support the continued operation of the 60 U.S.-flag vessels participating in this program and will help guarantee that our industry will continue its role as our nation's fourth arm of defense.

The effort to secure full funding of \$174 million for MSP for the next fiscal year begins in earnest now that the 111th Congress has returned and received the President's budget proposal for fiscal year 2011.

Responses to piracy

Since the attack by Somali pirates on the *Maersk Alabama* in April 2009 and the dramatic rescue of MM&P member Captain Richard Phillips by Navy SEALs, Congress has paid a great deal of attention to ways to prevent and respond to attacks by pirates. MM&P and maritime labor believe that the U.S. government should protect U.S.-flag vessels and U.S.-citizen mariners by providing an armed security force for U.S.-flag vessels when they are operating in waters deemed to be at high risk of pirate attack.

Taking up our cause, Congressman Elijah Cummings (D-Md.), chairman of the House Coast Guard and Maritime Transportation Subcommittee, added language to the Department of Defense authorizations legislation that would require the government to deploy armed security teams on U.S.-flag vessels in high-risk waters. His language, which was actively supported by MM&P and the Marine Engineers' Beneficial Association (MEBA),

became the subject of House-Senate negotiations because the Senate did not add such language to its version of the authorizations legislation.

Unfortunately and shortsightedly, the conferees succumbed to pressure from the Department of Defense and refused to include Cummings' proposal in the final defense authorizations legislation. In its place, they added language (which MM&P and MEBA also supported and which we had hoped would be combined with Cummings' proposal) that provides mariners with protection against lawsuits arising from actions taken in response to a pirate attack. This provision was originally sponsored by Congressman Frank LoBiondo (R-N.J.).

Harbor Maintenance Tax-Marine Highway

Congressman Brian Higgins (D-N.Y.) has introduced HR 3486, legislation that would exempt the waterborne transportation of cargo between American ports, including ports on the Great Lakes, from the multiple application of the Harbor Maintenance Tax (HMT). The bill has broad support within the maritime industry. Higgins introduced the legislation at the request of MM&P, the International Longshoremen's Association (ILA) and MEBA. It is significant that Higgins is a member of the Ways and Means Committee, which has jurisdiction over HMT legislation.

Today, the HMT is imposed on cargo entering U.S. ports from overseas markets. If the same cargo were to be transferred to another vessel for shipment by water to another American port, the HMT would be assessed again. In contrast, shipments moved out of American ports by truck or rail are not taxed again upon arrival in a different port. By discouraging the transportation of domestic cargo by water, the HMT impedes the development of a marine highway system.

We strongly believe that the establishment of a short sea shipping industry should be encouraged and supported by our government. The use of commercial vessels to carry cargo along our coasts would be a cost-effective, efficient and environmentally sound way to supplement the rail and truck traffic that has already pushed to capacity the highway and rail lines in most major transportation corridors. A short sea shipping transportation network would offer shippers another means to transport the ever-increasing volumes of imported cargo expected to move between American ports in coming years. Most importantly, moving this cargo by ship would not add to the congestion that plagues our nation's surface

transportation systems.

HR 3486 was introduced with twelve cosponsors, including Congressman John McHugh. McHugh had introduced identical legislation earlier in the session and Higgins agreed to reintroduce the bill and take the lead on this important initiative since McHugh was leaving Congress to serve as President Obama's Secretary of the Army. By the end of the first session of the 111th Congress, the legislation had attracted a bipartisan group of 34 cosponsors. We will continue to work closely with Higgins and his staff to have HR 3486 added to the next appropriate tax legislation considered by the Ways and Means Committee. Enactment of HR 3486 is one of our top legislative priorities for the 111th Congress.

Belated Thank-You to WW II Merchant Mariners

With the strong support of MM&P, the House of Representatives passed legislation that finally recognizes the service of World War II merchant mariners. HR 23, sponsored by Congressman Bob Filner (D-Calif.), would provide a \$1,000 monthly benefit to merchant mariners who served in World War II. Filner is chairman of the Committee on Veterans' Affairs.

"We believe our country has an obligation to the remaining WW II merchant mariners to fully acknowledge their service and to give them the measure of benefit called for" in this legislation, said MM&P and the other maritime unions in a letter to Congress expressing support for HR 23. The National Association for Uniformed Services called for enactment of HR 23 to provide "recognition of the heroic service put forth during World War II by the thousands of young men who volunteered for service in the U.S. merchant marine. These forgotten heroes have struggled for more than six decades for honorable recognition by the nation they proudly served."

The next step in the legislative process is for similar legislation, S 663, to be considered by the Senate Committee on Veterans' Affairs, chaired by Sen. Daniel Akaka (D-Hawaii). S 663 has been introduced by Sen. Ben Nelson (D-Neb.) and has 44 cosponsors. Unfortunately, Akaka has not been willing to bring this legislation before his committee for action, and unless we are successful in overcoming his opposition, it is unlikely this long-overdue legislation will be enacted into law. MM&P and other seafaring unions will be doing everything possible to achieve this goal in 2011.



GETTY IMAGES

MIRAIID and MM&P are working to bring about changes in the tax code that would encourage the employment of U.S.-citizen mariners.

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But America's tax laws do not offer the same benefits to shipping companies that operate their vessels under the U.S. flag and employ American-citizen licensed and unlicensed seafaring personnel on their U.S. and foreign-flag vessels as do foreign nations. In fact, most foreign governments have long recognized the fact that the tax regime is one of the most significant factors a company considers in deciding where to register its vessels and what citizen crews to employ. Consequently, most foreign-flag fleets operate in what is essentially a tax-free environment, which gives them a significant competitive advantage over their U.S.-flag competition. The disparity in tax treatment has caused a decrease in the number of vessels operating under the U.S. flag, the outsourcing of employment opportunities for American maritime workers and almost total domination of America's foreign commerce by foreign-flag vessels.

One change in the tax code that could improve the competitive position of U.S.-flag vessels and lead to an increase in employment opportunities for American mariners is to extend the existing foreign source income exclusion in section 911 of the Internal Revenue Code to American merchant mariners working aboard American-owned commercial vessels operating in the foreign trade. At present, section 911 allows every U.S. citizen working outside the United States—but not American mariners working aboard vessels operating outside U.S. waters—to exclude up to \$80,000 in income from their federal tax. Extending section 911 to American mariners working aboard U.S. owned commercial vessels would help American vessels and American crews compete more equitably against foreign-flag vessels and their tax-exempt crews.

According to a 2009 report prepared by IHS Global Insight for the Maritime Administration, "Most major maritime nations, including traditional maritime nations

Tax Equity for American Merchant Mariners

We agree with President Barack Obama that the implementation of the Internal Revenue Code should encourage, rather than discourage, the employment of American workers. We believe this principle should include

with developed economies similar to our own (European Union nations) and flag-of-convenience nations, either do not tax or sharply reduce taxes on the income of their mariners in international shipping. Seafarers on U.K.-flag vessels, for example, are granted a complete tax rebate for income earned on vessels in international trade, if they do not reside or work at home for more than six months...

"Adoption of the merchant mariner exemption would reinforce the tonnage tax incentives enacted in 2004 by reducing the significant competitive disparity in tax burdens by granting merchant mariners tax status similar to that available for nearly all other Americans who work overseas," the report concluded. "The exemption would also help U.S.-flag operators compete by reducing tax and manning costs and would increase mariner recruitment and retention . . ."

Of course, the issue of taxation is also extremely important in ensuring that a sufficient number of trained and qualified U.S.-citizen mariners are available to crew the government and privately owned vessels used by the Department of Defense to support American troops overseas and to enhance our nation's seapower capability.

MIRAIID and MM&P will continue to work to bring about changes in the tax code that would encourage the employment of U.S.-citizen mariners.

MM&P Political Contribution Fund

As we head into the 2010 Congressional elections, it is essential for every MM&P member to become involved in the process and to support our union's Political Contribution Fund (PCF). The candidates elected to the House and Senate in 2010 will be in a position to affect the future viability and growth of our industry. Their actions will determine whether American-flag vessels will remain under the U.S. flag or whether American shipboard jobs will be outsourced to the benefit of foreign shipping interests.

Through the PCF, our union works to support candidates who, regardless of their political party affiliation, believe our country needs a strong U.S.-flag merchant marine. The MM&P PCF supports candidates who understand that it is critically important to our nation's economic and military security that the federal government fully fund and implement the Maritime Security Program; that the Jones Act be maintained and enforced; and that the cargo preference laws remain in place. Equally important, we vigorously support candidates who will fight with us to preserve employment opportunities for American maritime workers.