

## **SEA Europe input on regulatory issues for possible future EU-US trade agreement**

SEAEurope (Ships and maritime Equipment Association), would like to take the opportunity to raise the following shipbuilding specific regulatory issues and concerns in this public consultation.

### ***1 Jones Act***

The European shipbuilding industry has been effectively excluded from selling vessels to be used in American coastwise trades by the Jones Act and its subsequent revisions. Although some European marine equipment manufacturers have managed selling certain products to US shipbuilders, the Jones Act prevents them from offering integrated marine equipment systems more widely in the US because the use of foreign parts for ship construction is heavily restricted. Such protectionism is contrary to the overall liberalized trade intentions of the two trading partners.

The Jones Act (Merchant Marine Act of 1920, Section 27) requires all waterborne shipping between US ports be carried by vessels built in the US and owned and operated by Americans. The purpose of the Act is to ensure that the nation has a sufficient merchant marine and shipbuilding base to protect the nation's defense and commercial interest. Despite repeated efforts to break a deadlock on cabotage provisions, neither the OECD nor the World Trade Organization has been able to make progress in liberalizing domestic marine or air cabotage, although there has been considerable success in the freeing of international trade in marine services.

Since 2006 increased lobbying within the US has been undertaken to scrap the Jones Act. The major criticism is that the legislation has resulted in much higher building and fleet costs and consequently significantly declined competitiveness of the US merchant marine manufacturers and operators. US ship operators have an economic incentive to continue operating old vessels rather than replace them with newer, safer and more environmental friendly ships. As a result, most of the US merchant fleets are very old. For instance, the average age of Ro Ro in the US is 28 years, bulkers 31 years old, and containerships 29 years old. There is significant need to replace aging vessels. Take Ro Ro for example. In the US there are only 9 vessels in service, whereas in the world there are more than 1000 in service and within Europe, looking at the order book by June 2012 there are already 49. However, the upcoming new environmental regulations, i.e. SO<sub>x</sub> and NO<sub>x</sub> emission limit within the North American Emissions Control Area, will affect shipowners new building investment decisions.

The main supporters to this legislation are arguing without Jones Act all remaining US yards would be deconstructed or outsourced overseas resulting in the utter destruction of the US maritime industry. In turn this would bring higher costs for US

navy vessels and eventually require most navy ships meant for national defense to be built overseas as well.

There have been a few small cracks in the Jones Act fortress: for instance, a foreign-built cruise line was granted exclusive rights for passenger service in the Hawaiian Islands, because the two ships to be built for the route lay uncompleted in a bankrupt US yard. Precedent has been established, albeit on a temporary basis. There have also been exemptions for small passenger (under 12 persons) and rigid inflatable craft, Jones Act repairs (Peters, 2003) and a Presidential exemption for energy security.

SEA Europe understands that the debate on Jones Act is a historical and difficult one. Nevertheless, achieving certain compromise and opening certain market segments must be possible. For example, Europe could negotiate with the US for a liberalization program for passenger ships, Ro Ro and other complex specialized ship types where the demand for saver and greener design and performance is higher. This would bring both parties into a win-win situation. The US yards can still build standard ship types. The US operators will benefit from lower costs and better energy efficiency. The US consumers will be able to benefit from improved safety. The European shipbuilding industry would be able to enter a “new market” which could certainly help during this long crisis and crisis recovery period.

In addition to the Jones Act, the US Government has been providing large financial support to their shipbuilding industry.

## ***2 Federal Ship Financing Program (Title XI Ship Financing)***

The Federal Ship Financing Program (established pursuant to 46 USC Chapter 537) provides for a full faith and credit guarantee by the US Government of debt obligations issued by 1) US or foreign shipowners for the purpose of financing or refinancing either US flag vessels or eligible export vessels constructed, reconstructed or reconditioned in the US shipyards and 2) US shipyards for the purpose of financing advanced shipbuilding technology and modern shipbuilding technology of a privately owned general shipyard facility located in the US.

The amount of the obligations guaranteed by the Government is based on the “actual cost” of the vessels or the Technology as determined by the Secretary. Legislation permits guarantees for up to 87.5% of the actual cost of certain vessels whereas certain other vessels are limited to 75% financing. Amounts outstanding on existing Title XI obligations, or amounts outstanding on obligations not previously guaranteed and applicable to vessels may be refinanced up to the applicable financing level of the depreciated actual costs of the vessels but not exceeding the amount of the existing obligations being refinanced.

### ***3 Small Shipyards Grants Program***

The US Maritime Administration's Small Shipyard Grants Program provides equipment, pays for modernization and technical skills training for US maritime workforce and enable them to compete globally. Based on this program, in March 2012 9.98 Million USD in grants were approved to 15 small shipyards throughout the US.

SEA Europe would like to request for a review of the legitimacy of these state support programs and examine whether they are in line with WTO disciplines. Furthermore, the shipbuilding budget of the US Navy (75 billion USD for FY 2012 -16) is also really something to support the shipbuilding industry.

Enclosed: two articles showing an example of Title XI ship financing support.

\*\*\*\*\*

Brussels 31<sup>st</sup> of October 2012