# MarAd strategy session aimed at boosting U.S.-flag fleet

Premium

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By Eric Kulisch

The United States needs a larger U.S.-flag fleet to support national security requirements and boost the economy, and that requires adopting policies to help expand international cargo opportunities for domestic vessel operators, Acting Maritime Administrator Paul "Chip" Jaenichen said Tuesday during a symposium at Department of Transportation headquarters in Washington to gather industry input on a new national maritime strategy.

Jaenicehn has repeatedly expressed concern about the viability of the ocean-going U.S. fleet since taking leadership of the Maritime Administration last June, but suggested yesterday that the fleet's activity could more than double either through additional cargo contracts with the government or private-sector shippers. The increase in cargo volume would lead companies to invest in more vessels and hire more mariners.

"My concern is that with [less than] 2 percent of our vessel calls in this country on U.S.-flag vessels we do not have control over our supply chain," the former Navy officer told a small group of reporters. "I think there's an opportunity to put some of this cargo on U.S.-flag ships, but there's a competitiveness issue that has to be resolved to make it happen. We have the best-trained mariners in the world. We have to make sure we have the capacity to be able to support our supply chain."

U.S.-flag vessels operate at a disadvantage in the global market because of higher operating and capital costs. Under the 1920 Jones Act, trade between two points in the United States must move on ships registered and built in the United States and be crewed by U.S. seafarers. U.S. safety and environmental regulations are often stricter than those of many foreign registries, and U.S. shipyards and rates for U.S. seafarers are much more expensive than their foreign counterparts. Ships transporting goods between U.S. and international destinations can be built overseas and operated by foreign companies.

The U.S. government has created several programs to help U.S. shipping companies compete in international trade and ensure the U.S. military has adequate sealift during surge periods. These include the Maritime Security Program, which provides an annual $3.1 million subsidy to operators of U.S.-flag vessels engaged in foreign trade who make their vessels available to the military during times of need, and the Voluntary Intermodal Sealift Agreement, under which the military is promised access to private freight transportation assets in emergencies and participants get preference in bidding on Defense Department cargo during peacetime. Also, Congress requires a certain amount of U.S. humanitarian food aid to poor countries be shipped on U.S.-flag vessels.

The U.S. ocean-going merchant fleet consists of 175 vessels as of May 1, down from a peak of 1,242 in 1951, according to MarAd. More than half the vessels are eligible to operate in the coastal, Alaska, Hawaii and Puerto Rico trades under the Jones Act.

Government-impelled cargo business is declining for the domestic merchant marine as U.S. military involvement subsides in Iraq and Afghanistan, so MarAd is trying to increase commercial cargo opportunities.

Jaenichen said tax reform or other innovative steps, rather than purely increasing MSP stipends, are ways to make U.S.-flag vessels more attractive to shippers. (He previously has suggested shippers could receive tax incentives for using U.S.-flag carriers and others have proposed tax breaks for domestic operators to reduce their cost structure.) Some changes can be done through rulemaking, but the majority will require congressional authorization, he said. The acting administrator has previously stated that one of his priorities is to generate rulemakings to better enforce cargo preference laws, as allowed under the 2009 National Defense Authorization Act.

"Now, will we be able to support more than 10 percent [of blue-water traffic on U.S. vessels]? I don't think so," he said. "We've been at less than 10 percent since 1960. The question is, what is the right number? I don't know the answer to that. It's a political decision.

"I think business will go to wherever they can get the cheapest rate, but I'd like to see it on a U.S.-flag ship," he said.

Jaenichen said providing better government service to U.S.-flag vessels is one option that should be studied to make the fleet more competitive. He suggested that U.S.-flag vessels, for example, could receive front-of-the-line treatment for clearing U.S. Customs, which would allow customers' cargo to get to market sooner.

How that would work is unclear because Customs individually clears containers based on their risk profile and customs documentation, with provisional clearance often granted while the vessel is still at sea if everything is in order. Also unclear is whether the reference was to bulk vessels, which are handled differently by border security officials. But, Jaenichen stressed that the idea was simply a byproduct of brainstorming sessions and not a well-formulated proposal.

"What I've been told is that shippers will pay a premium if there is actually better service that will go with it. We need to figure out if there's opportunities for those kinds of things. The industry has been affected by any number of regulations. That's how we got here today. There's no one thing that's miraculously going to bring it back. It's going to have to be a package," he said.

In January, Jaenichen convened a three-day National Maritime Strategy Symposium in Washington focused on expanding international trade for domestic carriers. The second session on Tuesday was intended to identify domestic maritime opportunities, such as conversion of highway traffic to inland waterways and coastal routes, that can be incorporated into a national maritime strategic plan.

In 2012, 572 million short tons moved on inland waterways, followed by 152.2 million short tons of coastwise moves and 84.4 million tons through the Great Lakes, according to the U.S. Army Corps of Engineers. Barges were the dominant mode for moving U.S. grain to ports for export, hauling 43 percent of the volume compared to 41 percent by rail and 15 percent by truck, according to Agriculture Department figures.

Congress asked MarAd to develop a sealift strategy, but the agency is going beyond that Defense-related issue to look at a broader set of policies and regulations aimed at strengthening the marine transportation system, including ports, shipyards and the U.S. Merchant Marine. The last U.S. maritime strategy dates back to 1936 and was modified in 1970.

MarAd's maritime strategic plan will be incorporated by the Department of Transportation in its pending national freight plan, Jaenichen insisted.

Congress two years ago instructed the DOT to define the national freight network as part of that plan, but limited the study to highways. DOT officials have said they intend to use look more broadly at the freight system to include rail, navigable waterways, inland ports and freight intermodal connectors, as they put together the strategic plan and a report about the network's condition and performance. Waterborne transport is a key element because the highway system will not be able to keep up with estimated population and trade growth in the next 35 years, is more environmentally friendly from an emissions standpoint, and reduces wear and tear on surface infrastructure, DOT officials say.

"So, while we invest billions in our highways and bridges, we need to spend that same kind of money going forward to make sure our infrastructure on the waterborne side can support that," the administrator said.

Once the maritime strategy is drafted it will be shared with the Marine Transportation System National Advisory Committee, comprised of 29 representatives from the public and private sector, as well as other experts before a final plan is sent to the Office of Management and Budget for inter-agency and White House review.

An action plan will be a big part of the strategy because many policy elements are in place today but are difficult to implement given existing bureaucratic and political constraints, Jaenichen said.

Jaenichen expressed optimism in his opening speech about the state of the domestic industry, noting that nearly 30 self-propelled ocean-going tankers and container ships are being built or are on order at U.S. shipyards and that cheap, domestic sources of natural gas will make it possible for Jones Act carriers to use liquefied natural gas as a propulsion fuel and reduce operating costs.

"Now, we need to take some actions to build on that momentum," he said in his informal meeting with the press.

Jaenichen faces a tough road trying to get a national maritime strategy adopted, said Denise Rucker Krepp, a former MarAd chief counsel who currently advocates on behalf of the U.S. domestic ship recycling industry.

Other agencies are opposed to cargo preference laws for U.S. carriers and as long as Jaenichen remains unconfirmed by the Senate as MarAd's permanent leader, he will be at a disadvantage fighting for his agenda against other agency heads, she said.

It will take three-to-six months to write the strategy and equally as long to get it through the DOT chain of command, she predicted. But the real roadblocks will come at OMB.

"Based on what happened with the cargo preference regulations, it could be years before the Agency for International Development, Agriculture, Energy and the State Department let this thing loose. It's not in their interest to have a strong maritime industry. It's in their interest to force everybody to use foreign-flagged vessels so they can get what they perceive is cheaper prices" for transporting commodities, Krepp said.

Congress, in the 2012 surface transportation reauthorization bill, cut the requirement for food aid exports moving on U.S.-flag vessels from 75 percent to 50 percent.

AID and the State Department argue that it is more beneficial to buy grain and other food for humanitarian efforts in the local region because it is cheaper and supports local farmers. And their purchases of U.S. commodities for international transport can go further if transportation costs are less.

Jaenichen testified earlier this year that allowing up to 25 percent of food aid to be done by "local purchase" is likely to sideline four to six ships and cost 200 to 275 mariner jobs.

"Jaenichen has strong leadership skills. But just because he has doesn't mean he can overcome the obstacles that are going to be put in his place by these other agencies," said Krepp, who also once served as senior counselor to the House Homeland Security Committee and now teaches at Pennsylvania State University in addition to running KDRKrepp Consulting.

Krepp also questioned the Obama administration's support for the Jones Act.

In brief remarks to the symposium audience, Transportation Secretary Anthony Foxx said, "You can rest assured of this department's fierce support for the Jones Act."

But, Krepp said the Department of Homeland Security's 2011 waiver to allow foreign vessels to carry oil to the Northeast following the release of 30 million barrels of oil from the Strategic Petroleum Reserve is an indication of how the law will be chipped away.

The shale oil production boom enabled by fracking is creating demand to move light, sweet crude oil and petroleum products from refineries and storage farms in the Gulf region to areas on the East Coast, but there is limited pipeline capacity to do so. Krepp said the oil industry will complain that there aren't enough Jones Act vessels to get product to market.

The Department of Energy, the U.S. Trade Representative and the National Security Council also favor increased exports of U.S. oil and natural gas and will want to break the Jones Act, she claimed.

There currently are no U.S.-flag LNG carriers, but they could be built, she insisted.

Some members of Congress want to require future LNG exports be transported by U.S. ships.

At a transportation infrastructure summit hosted by the U.S. Chamber of Commerce in February, Stephen Brown, vice president of federal government affairs for independent oil refiner Tesoro Corp., assailed the Jones Act as an anti-competitive drag on business.

"The Jones Act is a major component that holds free trade and free markets hostage, if you will," he said.

Tesoro's maritime arm operates three mid-size, U.S.-flagged tankers and seven tug-barge units under charter, mostly along the West Coast and Alaska, according to a slide presentation one of its officials made at the ASBA Cargo Conference in October.

"It costs more to move the same volume of product — gas, diesel or crude — from the Port of Houston to New York harbor than it does to the Port of Rotterdam. And it's not just a dollar more. It's a factor of three or four times more," Brown said.

"It's just shocking that you have members of Congress from East Coast states who oppose relaxing export bans [of oil or fuel] because they are worried about the impact on gasoline prices and what their constituents will pay, when they support the Jones Act that already imposes artificially high costs for these same products on their consumers day in and day out," he added.

"Our view is you can't have a debate on energy exports unless you are willing to face inconvenient truths like the Jones Act."

Congress needs to repeal the Jones Act, or at least make it easier to move fuel along the coasts as domestic energy production reaches historic levels, Brown said.