

## White Paper

### Ten Points to Rationalize and Revitalize the United States Maritime Industry

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Piecemeal and stopgap measures added to existing and increasingly cumbersome and antiquated laws are not working to foster strong US merchant marine foreign trade fleets and domestic fleets which are essential to the international and internal economy.

Trade requires transport and the most efficient form of transport is by water. Indeed, some 94% of all international trade is by water. International export trade was valued by the World Trade Organization for the United States in 2012 at \$3,882.7 billion, of which approximately 95% was carried by ships.

International trade is the foundation of our national security. Hence a vital, strong, modern and competitive merchant marine is essential to international trade and, therefore, domestic trade.

The Department of Transportation should recognize these facts and take the proper steps required by law to encourage, rationalize and revitalize the United States commercial water shipping sector and infrastructure for both the foreign and domestic trades.

A complete review of all maritime laws should be undertaken. The Congress should be encouraged to amend or abolish antiquated or ineffective laws to take into account the following concepts as national policy for the maritime industry.

**1.Reform the Maritime Laws.** New or amended laws should institute comprehensive and integrated legislative and regulatory reform in both civil and criminal jurisdictions. Laws and regulations should be coordinated with conventions, ratified treaties or those observed as customary law, and international regulations. Mechanisms should be put in place by such laws to ensure that changes in international regulations are easily implemented. These should all be done with the goal of increased employment opportunities in the US flag fleet, shipyards and ports and reducing the tendency toward criminalization of heretofore civil torts of seafarers, putting them on the same footing as shoreside maritime workers. With such a strategy, the US will not only meet but lead international and domestic waterborne economic activities in a vigorous and well-governed maritime industry in all its sectors. archaic

**2. Provide Shipyard Economic Opportunities.** Policy should require that publicly-owned vessels, and any vessels used for government policy purposes from any Department or agency of the government, be built in United States shipyards with all materials purchased and produced in the United States and with all labor supplied by United States citizens or properly certified resident aliens. The policy goal should be to increase employment and to maintain a shipbuilding industrial base ready for times of national need and for the expected opportunities a new national maritime policy will provide.

An example of such an opportunity may be the United States export of liquefied gases which should be carried on vessels manned by U.S. citizens, on vessels either partially or totally constructed in U.S. shipyards, depending on availability of technology for gas containment systems. An established transition period should be allowed for use of foreign technology until domestically-developed systems can be designed and implemented.

**3. Reduce Impediments to the Free Market.** A rational and sensible maritime policy should provide any ship-owner registering or enrolling ships in the United States under its laws the liberties to pursue their own economic interests, independent of shipyard building requirements as might be done under Paragraph 6. Further, policy should provide any ship-owner registering foreign-built ships in the United States for the foreign trade meaningful tariff reduction or deferral, coordinated with a reformed taxation regime for the shipping industry for the purchase of such ships.

Policy should provide expanded government guarantees for shipbuilding in the United States for financially qualified and approved United States ship-owners registering ships in the United States and engaging in the foreign trade, and for ship-owners enrolling ships in the cabotage trades and for ship-owners registering ships in other trades. Before any such guarantees may be awarded the applicant ship-owning entity should provide an assessment and determination of the financial strengths of the applicant by a party that is independent of the entity and its auditors and financiers

**4. Increase Employment Opportunities.** All maritime policies should create comprehensive and integrated employment opportunities by law, maximizing the economic employment of United States citizens and resident aliens in the maritime industry, consistent with the expansion of the foreign trade fleet, domestic fleets and other fleets and for publicly-owned vessels where needed. All employment opportunities must be consistent with national defense and security needs.

Policy should require insofar as practicable that credentialed officers in the foreign trades to be United States citizens or resident aliens and credentialed officers and credentialed ratings in the domestic and cabotage trades and other trades to be United States citizens or resident aliens. Exceptions or waivers would be determined as described in Paragraph 8. A transition period should be included as reformed training and credentialing policies are put in place to ensure a supply of maritime employees meeting those standards and prior to a policy that no exceptions or waivers be granted. .

Policy should require the development of the U.S. Marine Highway System in the cabotage trade in order to (1) stimulate the entire industry including shipbuilding and vessel manning and operation; (2) relieve traffic congestion on major coastal interstate highways; (3) reduce maintenance costs on coastal interstate highways; (4) reduce emission gases nationwide; (5) provide alternatives to north-south land routes experiencing a shortage of willing drivers; and (6) provide a method to recapitalize the current U.S. Ready Reserve Force fleet with a modern dual use fleet of active commercial tonnage and actively sailing mariners. The policy should also (7) establish incentives to encourage large retailers and shippers to partner in developing and using such a system of transportation.

**5. Reform the Maritime Tax Regime.** A modern and rational maritime policy should require a reformed taxation regime for United States ship-owners to be consistent with international practices and a reformation of taxation policy for United States citizens and resident alien mariners in the foreign trade to be consistent with other United States citizens employed as ex-patriots. Such reform is necessary and fair in any maritime policy.

**6. Strengthen Cabotage and Open New Registries.** Cabotage laws should be clearly stated and made more flexible for United States owners.

A sensible and prudent maritime policy should reform and strengthen cabotage laws, clarifying and reinforcing the legal concept of cabotage, which is an important component of United States national security.

A prudent ,maritime policy should establish a new registry for near-foreign and United States possessions and territories, but not sovereign states in voluntary affiliation with the United States. Such a register should provide ships listed in it preference for cargoes originating in the United States or when servicing US naval vessels as extraterritorial possessions. Ships in the register should require manning by all United States officers and ratings as an enhancement to national security.

A competitive maritime policy should establish a bare-boat charter registry where ships can enter and leave the registry easily, irrespective of source, if meeting safety requirements, with low costs and no penalizations and having all United States officers and ratings as an enhancement to national security. Time limits for charters may be set to regulate the cabotage trade and near foreign trades as demand fluctuates. This is in the alternative to chartering waived foreign tonnage with foreign officers and ratings and permits United States owners to have available such ships as needed.

**7. Rebuild the Marine Infrastructure.** A fiscally sound maritime policy should reform the taxation regime for incoming cargo and port and harbor infrastructure and establish trust funds related to the purposes of such taxes. In the case of waterways, ports and harbors, policy should isolate those funds and expend them regularly to maintain and improve the ports and harbors infrastructure essential to currently and future trading of large ships (such as Super Post- Panamax vessels), in current or new maritime trades and provide increased employment opportunities for United States dredging companies and ports and in the fleets in the domestic and foreign and other trades under United States registry. The proper policy should require any

contracts let and paid for by these funds to be only to entities registered in the United States and meaningfully controlled by United States citizens.

**8. Coordinate the Stakeholders.** A necessary maritime policy is the establishment of The Office of the independent National Maritime Transportation Coordinator, which would (1) deal with the disparate needs and requirements of the stakeholders in the maritime industry; (2) make more efficient communications among the stakeholders; (3) mediate disputes presented voluntarily among or between commercial stakeholders; (4) and determine interagency disputes in consultation with other industry stakeholders; and (5) other similar duties. The purpose of the establishment of this office is the efficient operation and reform of the marine transportation system and to make decisions regarding the application of certain laws.

Specifically, the policy should require that entities enjoying the privileges of registering or enrolling vessels in the United States be meaningfully controlled by United States citizens as necessary for national security and the necessity and convenience of the public as determined by the Coordinator after appropriate consultation with the stakeholders and following the requirements of the Administrative Procedures Act.

Further rationalization would remove authority for cabotage waivers from the Maritime Administration and give those powers to the Coordinator. Policy should require agencies in disputes regarding maritime transportation and related matters with other agencies to submit such disputes to the Coordinator for decisions based on national need, economic need and appropriate governance.

**9. Rationalize and Remediate Federal Agency Organization.** An intelligent, efficient and correct policy should be designed to integrate and improve the usefulness of federal agencies that regulate US foreign and domestic maritime trades, entities and labor. It would also increase coordination with the Departments of Transportation and Homeland Security and Defense.

This should be done by transferring the Coast Guard functions of maritime safety and mariner credentialing and qualifying to the Maritime Administration within the Department of Transportation, including the adjudication of credentialing cases.

Matters of international regulation and representation should be moved to the Maritime Administration from the Coast Guard to focus the Coast Guard's law enforcement mission and allow the civil aspects of regulation be performed by a civil agency as is done in all maritime states except the United States. This includes putting flag registration and marine safety inspections in shipyards under the purview of the Maritime Administration. The Coast Guard and the Maritime Administration can coordinate at-sea inspections and port state control activities.

A clear, obvious and necessary remedial policy to enhance national security in the maritime industry and to remove redundancies of cost, effort and effectiveness, is the removal of the Transportation Worker Identification Credential program from the Transportation Security Agency as it relates to mariners and port and harbor workers. The TWIC program should be integrated with Coast Guard programs under

exclusively Coast Guard management. The Coast Guard has the experience, expertise and knowledge substantively greater than the Transportation Security Administration as to the maritime industry and has performed, and performs, the same or similar functions as the Credential program and is capable of facilitating the purpose of the program within the maritime industry with greater effect to rational and effective maritime security than the current agency manager.

The placement and maintenance of aids to navigation should properly be a business of the U. S. Army Corps of Engineers, the agency responsible for rivers, harbors and waterways rather than the Coast Guard. The Corps of Engineers is capable and experienced in the waterways and can perform this function efficiently and can coordinate effectively with the Maritime Administration on seafarer and other maritime civil matters. Such a move would permit the Coast Guard concentrate on security and criminal matters as a law enforcement agency. Similarly, other civil maritime agencies such as the National Oceanic and Administration and the Marine Fisheries Service should be placed under Maritime Administration coordination with the training of their officers at Maritime Administration facilities.

**10. Provide for Research and Development and Training.** An enlightened maritime policy should coordinate and establish research funds administered through the Maritime Administration and made available to all public and private and organized labor training facilities. The purpose would be to develop technologies for training mariners, establish clear career paths in all segments of the industry, especially in the petroleum industry, and meet national security and defense needs.

Policy should be designed to integrate the needs and requirements of the maritime degree-granting institutions and fund them appropriately and adequately to meet national shipping needs.

Such an enlightened policy should establish the United States Maritime Institute to fund research and development of maritime matters as an independent body administered by the Maritime Administration but under the direction of a board of comprising members. Comprising members should be drawn from the Departments of Defense, Homeland Security, Commerce, Transportation, Interior and selected independent agencies and foreign and domestic academic institutions along with United States ship-owning and shipyard and labor and ports entities and non-governmental organizations. Policy should remove the International Maritime Organization functions of the U.S. Coast Guard to the Maritime Administration to free the Coast Guard to perform more efficiently its domestic functions under the Department of Homeland Security as a law enforcement agency. The Maritime Administration would then function as a civil agency.