# ^^Maritime Domain Awareness CP^^

## MDA – NEG

### 1nc counterplan

**CP Text: The United States federal government should substantially increase its maritime domain awareness through a global cooperative strategy.**

MDA accesses the strongest internal link to naval power—prerequisite to the aff

Mullen 07 Highest Ranked member of the United States Navy; four-star admiral, who served as the 17th Chairman of the Joint Chiefs of Staff (Michael Glenn "Mike" Mullen May 29, 2007, “Navy Maritime Domain Awareness Concept”, http://www.navy.mil/navydata/cno/Navy\_Maritime\_Domain\_Awareness\_Concept\_FINAL\_2007.pdf)//DR. H

As an instrument of national power, Navy is increasingly called upon to perform maritime security operations while deterring regional aggression and denying the use of the maritime domain to international terrorist organizations. Maritime Domain Awareness is a critical enabler for the full range of naval missions and maritime security responsibilities.

The Naval Operating Concept presents a vision for current and emerging Navy missions in support of U.S. strategic maritime objectives. Complementing and resulting from forward naval presence, MDA contributes directly to achieving each of the following strategic objectives: Secure the United States from direct attack by confronting early and at safe distances, those who would threaten us.

Critical to an effective defense-in-depth posture is the ability to interdict changes in maritime trends that indicate emergence of potential threats to global interests overseas, the maritime transportation system and freedom of navigation. Early threat detection and interdiction adds time and space to potential response options, affording defense-in-depth and optimizing the advantages of naval forces. Secure strategic access and retain global freedom of action by ensuring that key regions, lines of communication and the global commons remain accessible to all.

Requisite to a focused, effective response to any perceived maritime threat is transparency of activity in the maritime domain. MDA pursues transparency of maritime activity on a global scale to support the free flow of commerce. Strengthen existing and emerging alliances and partnerships to address common challenges.

Security for maritime commerce, and the transportation system upon which it relies, is a common goal for all participants in the global economy. Maritime security is threatened by transnational threats such as drug trafficking, illegal arms trade, poaching, unlawful immigration, piracy, environmental sabotage and terrorism. As with maritime security itself, MDA on a global scale is beyond the capacity of any single nation. Collaboration to attain MDA and maritime security provides a framework for cooperation that is applicable to a host of other common challenges.

Establish favorable security conditions by countering aggression or coercion targeted at our partners, interests, and operating forces – *including* coalition.

MDA enables leaders at all levels of command to make effective decisions regarding force disposition to deter or counter aggression or coercion by our adversaries. Applicable to strategic influencing, operational maneuver, or tactical employment, MDA contributes directly to maritime dominance by facilitating decision-making superiority and by enabling the selection and execution of the most appropriate response to any emerging threat.

### solves naval power

**We already have a strong Navy—we just need to effectively utilize it using MDA**

**Campion 08** Masters in Strategic Studies, Naval Staff Sergeant (Staff Sergeant Francis, January 29, 2008, “Strategic Maritime Domain Awareness: Supporting the National Strategy for Maritime Security,” pdf)//DR. H

The United States Navy is the largest naval force in the world, with the ability to deploy anywhere in the world to project power, deter aggression and conduct sustained combat operations on the high seas. The U.S. Navy’s mobility, access and combat power make it the cornerstone of Strategic Maritime Domain Awareness. Its inherent expeditionary capability allows it to provide the reach and access to effect both the national and international components of strategic MDA through its ability to deploy tailored naval forces in the form of Aircraft Carrier Strike Groups (CSGs), Expeditionary Strike Groups (ESGs), or Surface Action Groups (SAGs) both near the U.S., in overseas littorals and the open sea.

The multi-mission and rapid response character of the U.S. Navy allows it to maximize awareness and provide security in the air, space, surface, and subsurface components of the maritime domain to protect commercial shipping, maintain open and uninhibited sea lanes and engage adversary forces, terrorists and pirates with designs against the United States or its interests.

Furthermore, a recent U.S. Navy-led initiative, the Maritime Headquarters with a Maritime Operations Center (MHQ with MOC), will give the U.S. and multi-national partner navies an additional operational capability to employ a robust command and control, and intelligence and information sharing capability at the high-operational or theater strategic commander level. MHQ with MOC is currently in the experimental stages and is resident with Commander, United States Second Fleet. When mature, MHQs with MOCs will be resident at U.S. fleet commands worldwide and will provide shared information and knowledge across fleets for MDA, homeland security and homeland defense; and will be globally netted with combatant commander staffs and deployed naval forces.12

Multi-national partner navies augment and amplify the capabilities of the U.S. Navy and one of the benefits of the *Global Maritime Partnership* is that it provides a preponderance of capabilities that are less prevalent in the U.S. Navy, including riverine and coastal patrol forces that offer speed and access to dissuade or engage threats inland and close ashore where larger naval forces and platforms might be unable to operate.

The United States Coast Guard has undergone significant organizational changes and has enjoyed a growth in offensive, defensive and law enforcement capability since September 11th, 2001. It has grown from being primarily a regulatory agency concerned with counter-narcotics, search and rescue, fishery and resources enforcement, and similar competencies to today’s U.S. Coast Guard, which has undertaken additional roles of maritime security, and geographically-sectored security enforcement and inspection throughout the United States. The multi-mission U.S. Coast Guard’s can execute a variety of functions such as law enforcement, national defense, maritime security, environmental protection and humanitarian response.13

Additionally, the U.S. Coast Guard has enjoyed a long history of joint purpose with the global maritime community and cooperation with U.S. and international agencies that allow it to be a key supporter to Strategic MDA. As a member of the U.S. Armed Forces, a law-enforcement and regulatory agency, a member of the U.S. Intelligence Community and a collaborative response partner with federal, state and local authorities with strong civil-military partnerships and broad jurisdiction to counter threats and mitigate hazards14, the U.S. Coast Guard has become a critical asset in effecting Strategic MDA and supporting the NSMS.

J ust as the United States’ international naval partners augment the U.S. Navy’s ability to project power to deter, disrupt and destroy maritime threats, the coast guards of our friends and allies bring capabilities like the U.S. Coast Guard’s to the fore. By providing similar regulatory and military capability to protect their nations’ seaways and critical infrastructure against a variety of terrorist, transnational and criminal threats, multi-national coast guard forces help to protect U.S. interests abroad and support Global and Strategic MDA.

**MDA provides a framework for global cooperation—this is a necessary component of naval power**

**Campion 08** Masters in Strategic Studies, Naval Staff Sergeant (Staff Sergeant Francis, January 29, 2008, “Strategic Maritime Domain Awareness: Supporting the National Strategy for Maritime Security,” pdf)//DR. H

Likewise, an effective construct for information sharing and cooperation is required on the global level. Using the *Global Maritime Partnership*, the U.S. Navy could, in concert with allied and coalition navies, conduct operations, share technology and coalesce capabilities to maximize situational and threat awareness throughout the global maritime domain. The October 2007 United States maritime strategy, *A Cooperative Strategy for 21st Century Seapower* addresses the importance of global maritime cooperation:

Expanded cooperation with the maritime forces of other nations requires more interoperability with multinational partners possessing varying levels of technology. The *Global Maritime Partnership* initiative will serve as a catalyst for increased international interoperability in support of cooperative maritime security.10

Additionally, global naval partners could share information and operate, as required, with other nations’ central and military intelligence agencies, maritime customs, law enforcement, etc., in order to further optimize MDA. Operating and coordinating within this shared construct will allow the U.S. Navy specifically, to employ forward-deployed naval forces to identify and disrupt, or destroy potential threats to the United States miles from the homeland.

Cooperative planning and coordination, information-sharing, common command and control systems and combined operations by the U.S. Navy and U.S. agencies in both the subordinate national domain, and with multinational partners in the global domain provide the inexorable link between both domains that is required to achieve Strategic MDA.

The Strategic MDA Model

The U.S. could implement strategic MDA to effect both National and Global MDA goals within an overarching strategic construct. The following model shown in Figure 1 provides a useful construct by which the U.S. Navy, U.S. Coast Guard, the interagency and global partners could fulfill the aims of the NSMS. Figure 1 depicts the Strategic MDA Model, which links the threats, actions and objectives prescribed in the NSMS across the entire strategic (global linked with national) maritime domain. Additionally, it provides the ways and means for applying strategic MDA, including what is detectable; components and agencies; and the systems and media that provide intelligence and information analysis and dissemination. In total, the model prescribes the ways, means and ends to strategically apply MDA to fulfill the *National Strategy for Maritime Security* that culminates with a construct for operational decision makers to decide and act in order to achieve the desired effects to fulfill the NSMS.

### solves cooperation

**CP provides a global framework for cooperation**

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The potential for international collaboration in space to materially improve maritime security was recently articulated by Guy Thomas, Science and Technology Advisor for the US Coast Guard: “The maritime entities of the world, military, civil, and private alike looked at their situation in the new reality (after 9/11/2001) and quickly understood their vulnerabilities and the potential consequences. Since that terrible day a number of national and international organizations have addressed how to protect their maritime assets, both individually, and in growing numbers, collectively. Most saw increased maritime domain awareness (MDA) as of first importance to the smooth functioning of commerce on the world’s oceans, the crucial supporting frame of the world’s economy, and crucial to their national interests. The potential unique contributions of current and planned space systems, owned by a wide range of nations and available to many others, to international global maritime awareness is a subject of growing interest to many.” 1

Knowing where ships are located is a necessary element of Maritime Domain Awareness, though not sufficient in itself to achieve an “effective understanding” 2 of maritime activity and its impact on safety, security, the environment and the economy. Current practice relies on a diverse set of sensors to garner the positions of ships; a fundamental contribution to the art and practice of ship tracking can be credited to the International Maritime Organization, which in 2004 mandated the use of an Automatic Ship Identification System (AIS) for many commercially important ships. AIS is a “self-reporting” system that broadcasts each participating ship’s identity and position (among many data fields) over VHF channels; the original intent was to provide collision-avoidance information to nearby ships and shore stations. 3 Shortly after the IMO carriage requirements became effective, the US Navy in the Mediterranean began to collaborate with European and African governments to establish a network of shore stations, all of which contributed the AIS signals they received locally to a consolidated data stream, which was then shared among participating nations. This Maritime Safety and Security Information System (MSSIS) has since grown into a network of over 100 AIS base stations in over 60 participating nations around the world, providing current positions for over 15,000 ships. The major strengths of this innovative collaboration are the trust and interdependence it generates, and of course, an unprecedented picture of maritime activity. The major shortcomings are the limited set of ships broadcasting AIS, and the limited reception range for VHF signals; no data is received from non-cooperative vessels, or from the open oceans or areas near nonparticipating nations. Herein lies the key point made by Guy Thomas: the entire planet is “visible” from space, and many of the sensors (including AIS receivers) needed for a much more complete picture of maritime activity are already on orbit or planned.

That space will be the key enabler for truly global situational awareness is suggested by the exceptional composite image of the earth at night (Figure 1). Lights which are clearly visible from space define the “wired” world, served by grid electricity and more recently, internet connectivity. This leaves the oceans, the polar regions, deserts and jungles “unwired” and often undergoverned. Moving data out of these areas, which comprise roughly 84% of the Earth’s surface, is important: a key strategic principle in warfare is to deny the enemy sanctuary, and for illicit activities ranging from illegal trafficking to training terrorists, sanctuary is found in the unwired world. Quite separate from the challenge of moving data out of unwired areas is the related question of generating that data in remote regions; this will be addressed with a review of the State of the Art in unattended sensors in the context of the business case for small satellite systems. This article will focus on the “bent pipe” link that can connect the “unwired” and “wired” regions of the world via satellite, using AIS data as a convenient example of interesting data that is routinely generated by ships that are only in the “wired” world when they are pier-side or close to a shore-based AIS receiver.

This will allow us to develop a concept for collaboration in space with a concrete use-case, that being to extend the current AIS picture from regional near-shore areas to the entire world. Additional utility can be had if the data collection and transport backbone in space, which handles AIS data, would also handle data signals from maritime and terrestrial sensors that transmit short bursts of data . Finally, we advance the notion that approaching the problem as a global governance issue (rather than any one country’s intelligence mission) points us to international collaboration, open to all countries, large and small. Already, a number of national space agencies, regional consortia and commercial interests are active in deploying space-based AIS and data extraction capabilities but it is not clear that these disparate systems are sufficiently interoperable, affordable, and transparent enough to support a global cooperative framework of nations, including those nations with austere finances and inadequate technical infrastructure. The measures of these important system characteristics will be developed in this and the subsequent articles in this series.

### solves terror

**MDA solves the GWOT**

**Goshorn and Galdorisi 06** Galdorisi: Director of the Corporate Strategy Group at SPAWAR Systems Center Pacific, the U.S. Navy’s C4ISR lab, completed a 30-year career as a naval aviator, culminating in 14 years of consecutive experience as executive officer, commanding officer, commodore, and chief of staff, was a Senior Advisor with the Center for Security Strategy and Operations, published more than one hundred articles in professional journals and newspapers, graduate of the United States Naval Academy and holds a Masters Degree in Oceanography from the Naval Postgraduate School and a Masters Degree in International Relations, received the Naval War College’s Admiral John Hayward Award for Academic Achievement, graduate of MIT Sloan School’s Program for Senior Executives, Goshorn: Senior Associate at Wilmer Hale, Special Counsel at US Securities and Exchange Commission, School of International Relations and Pacific Studies, Research Analyst at SPAWAR(Rebekah, George, June 2006, “Maritime Domain Awareness: The Key to Maritime Security Operational Challenges and Technical Solutions,” http://www.dtic.mil/dtic/tr/fulltext/u2/a463128.pdf)//DR. H

This statement, made by former CNO Admiral Vern Clark in December 2004, sums up the essence of where maritime domain awareness (MDA) fits in the continuum of the quest for international maritime security. Simply put, without adequate MDA, the ability to enhance maritime security and win the global war on terrorism (GWOT) will remain elusive.

This challenge has been addressed at the international policy level by the United Nations and by the International Maritime Organization. At the national level, the United States Government has addressed this challenge in a number of policy documents, most importantly, the National Strategy for Maritime Security and The National Plan to Improve Maritime Domain Awareness.

**Solves GWOT—global cooperation is vital**

**Goshorn and Galdorisi 06** Galdorisi: Director of the Corporate Strategy Group at SPAWAR Systems Center Pacific, the U.S. Navy’s C4ISR lab, completed a 30-year career as a naval aviator, culminating in 14 years of consecutive experience as executive officer, commanding officer, commodore, and chief of staff, was a Senior Advisor with the Center for Security Strategy and Operations, published more than one hundred articles in professional journals and newspapers, graduate of the United States Naval Academy and holds a Masters Degree in Oceanography from the Naval Postgraduate School and a Masters Degree in International Relations, received the Naval War College’s Admiral John Hayward Award for Academic Achievement, graduate of MIT Sloan School’s Program for Senior Executives, Goshorn: Senior Associate at Wilmer Hale, Special Counsel at US Securities and Exchange Commission, School of International Relations and Pacific Studies, Research Analyst at SPAWAR(Rebekah, George, June 2006, “Maritime Domain Awareness: The Key to Maritime Security Operational Challenges and Technical Solutions,” http://www.dtic.mil/dtic/tr/fulltext/u2/a463128.pdf)//DR. H

In response to the terrorist attacks on the United States on September 11, 2001, as well as terrorist attacks worldwide, the United Nations Security Council passed a resolution on September 28, 2001 calling for comprehensive measures to combat international terrorism. The IMO published a comprehensive report, Oceans and the Law of the Sea (2002), 12 which brought the scope of the challenge of maritime terrorism into sharp focus and indicated that this is not a futuristic problem, but rather a near-term clear and present danger.

Numerous international agreements such as the International Port and Security (ISPS) Code, the Proliferation Security Initiative (PSI), the Container Security Initiative (CSI), the Customs-Trade Partnership Against Terrorism (C-TPAT) program, the Pacific Regional Maritime Security Cooperation (RMSC) initiative, and a host of others provide an outstanding regional and international overarching policy guidance designed for worldwide maritime security regime.

Concurrently, world navies and coast guards have been increasing their cooperation and coordination at sea in an effort to deal directly with the threat of international terrorism at sea. Extant exercises such as the United States Pacific Command’s biennial Rim of the Pacific Exercise (RIMPAC) now include significant international exercise play designed to hone the skills needed to deal with terrorism at sea. Newer exercises such as the Coalition Warrior Interoperability Demonstration (CWID) also focus heavily on fighting terrorism at sea. 13 At an increasing rate, regional efforts have been emerging such as Cooperation Afloat Readiness and Training (CARAT), an exercise series with the Philippines, Indonesia, Singapore, Malaysia, Brunei, and the United States. Another example of regional collaboration is the South East Asia Cooperation Against Terrorism (SEACAT), whose purpose is to focus on the worldwide seaborne terrorist threat, specifically the troubling transactional and piracy threats found in the Strait of Malacca.

These national and international policy and operational efforts represent a vitally important and indispensable first step in the global war on terrorism. Ultimately, as noted by the United States Navy’s former Chief of Naval Operations, **unless or until the world community united in the global war on terrorism can “tell the good guys from the bad guys,” they have little chance of winning this war.** Only by achieving comprehensive maritime domain awareness can this body of nations defeat this threat. With the nature of this threat fairly well articulated, the policy and operational community has turned to the technical community for the tools to address this MDA challenge.

### solves navy/terror/tech now

**MDA solves Naval Power and terrorism—tech now**

**Goshorn and Galdorisi 06** Galdorisi: Director of the Corporate Strategy Group at SPAWAR Systems Center Pacific, the U.S. Navy’s C4ISR lab, completed a 30-year career as a naval aviator, culminating in 14 years of consecutive experience as executive officer, commanding officer, commodore, and chief of staff, was a Senior Advisor with the Center for Security Strategy and Operations, published more than one hundred articles in professional journals and newspapers, graduate of the United States Naval Academy and holds a Masters Degree in Oceanography from the Naval Postgraduate School and a Masters Degree in International Relations, received the Naval War College’s Admiral John Hayward Award for Academic Achievement, graduate of MIT Sloan School’s Program for Senior Executives, Goshorn: Senior Associate at Wilmer Hale, Special Counsel at US Securities and Exchange Commission, School of International Relations and Pacific Studies, Research Analyst at SPAWAR(Rebekah, George, June 2006, “Maritime Domain Awareness: The Key to Maritime Security Operational Challenges and Technical Solutions,” http://www.dtic.mil/dtic/tr/fulltext/u2/a463128.pdf)//DR. H

• Focused Sensing and Data Acquisition: Forces engaged in the global war on terrorism face a large littoral battlespace in many geographic regions. Yet commanders need situational awareness at some level over the whole battlespace. Depending upon the circumstances, they need more detailed information in some areas than others. This critical need for awareness is the rationale behind the United States Navy’s revolutionary concept of FORCEnet, a means of sampling the battlespace so that forces can maneuver from the sea with the situational awareness needed to prevail in any conflict. Sensing the environment to gain situational awareness involves gathering data about the physical world through electromagnetic, acoustic, seismic, optic, and other measurement means. This can be accomplished with platform-borne sensors or with off-board assets from unattended sensors, unmanned systems, satellites, and intelligence sources. Focused sensing implies a concentration on things of interest, applying available sensing resources to obtain data and information on the area of interest while avoiding the fire-hose effect of gathering an overwhelming amount of data. Clearly, targeting-quality information requires a focusing of our data-sensing capabilities. Networked sensors can be designed to collaborate autonomously to refine and enhance the information delivered.

• Dynamic Interoperable Connectivity: Those fighting the global war on terrorism in the maritime domain must have reliable, secure, and flexible access to all other users and information sources. Dynamic Interoperable Connectivity is the conduit for all information, whether this information moves 10 feet or 10,000 miles, while the actual data path is transparent to the user. This connectivity can involve any number of people and machines, at various locations, all sharing common information resources, resources that serve many more needs than could be satisfied by static connections. This connectivity must be dynamic to address changing real-time needs of the warfighter and changes to the environment as bandwidth demands change with the scenario. As more forces are brought to bear in a conflict, the challenge for technologists is to support more users without slowing down the speed of the network.

• Responsive Information Management: Meeting user information needs at all levels in the global war on terrorism in the maritime domain is the goal of Responsive Information Management. In the United States, the development of the Internet, the introduction of Information Technology for the 21 st Century (IT-21) to afloat users, the Tactical Data Net for the Marine Corps, the Naval Marine Corps Intranet (NMCI) for the shore-based infrastructure, and now FORCEnet all provide naval expeditionary forces as well as joint and coalition forces joining them with access to information that is revolutionizing the operators’ information advantage. The warfighter must have enough information to make informed decisions but not so much as to drive him into information overload.

Additionally, these warfighters must be able to access this universe of information without the need for specialized technical skills. This imperative balances three methods of accessing information: user information pull, producer information push, and preplanned information ordering. User pull provides a call-when-needed capability enabling users at all levels to access the info sphere to support various missions. Producer push enables command centers and higher headquarters to provide information whenever it is perceived that the warfighters have insufficient knowledge to formulate a request. Preplanned information includes both information assembled before a mission and information that is automatically updated during a mission.

• Information Assurance: Forces involved in the global war on terrorism in the maritime domain need to have information superiority in order to dominate. Adversaries will to try to deny the U.S. and its allies this key advantage. The need for information superiority to defeat an adversary makes the job of protecting the C4ISR infrastructure a critical component of achieving maritime domain awareness. Information assurance features provide the access controls, authentication mechanisms, confidentiality, and integrity features that enable the users to assert their identity and to access resources in both peerpeer and client-server interactions. The foundation of this assurance is a clear definition of what is supposed to happen and who is supposed to perform that action. A clear definition of what services a system is supposed to offer and who is authorized to avail themselves of these services enables the user to receive these services without modification, disclosure, interruption, or other unintended actions.

• Consistent Representation: Human comprehension of complex events comes from a shared awareness of the battlespace across all echelons of command. Information is processed, fused, and presented to form an understanding of events, trends, and intentions that combine to provide a consistent picture of the battlespace. For forces involved in the global war on terrorism in the maritime domain to act in a synchronized fashion, this information must be spatially, temporally, and content consistent. While every user at every level is not necessarily required to view the identical common operational picture at all times, each user must have access to the same accurate and timely information, and users at lower echelons of command must have a means to determine both what higher level commanders want to see as well as what they are viewing at various stages of the operation. Importantly, the information display must be easily comprehensible to the viewer. In the press of time-critical action, this information display must support the decision-maker, not add to his stress.

• Distributed Collaboration: This imperative involves maintaining fully connected and transparent interactions among users and providing tools and connectivity for collaboration at the user level. Most systems operators provide support to those warfighters operating in the battlespace. All of these operators involved in the global war on terrorism in the maritime domain need some information technology tools to help collaborate with those people who need support. These tools must support geographically dispersed users in conducting on-line planning, coordination, and synchronized execution thus supporting analysis, planning, and interoperability between and among units. Quick reaction by dispersed forces results from the effective collaboration between and among multiple users. When a force includes allied and coalition partners, many of whom may not have trained extensively with U.S. forces, the need for distributed collaboration is even greater. Collaboration tools must allow interactions at various command levels, and between and among multiple job functions and organizational locations.

• Dynamic Decision Support: Every army that ever marched or navy that ever sailed has been resource-limited. In an era of increasing operational demands, U.S. and allied forces must become more expert in resource allocation in order to achieve maritime domain awareness. Often, mission success or failure hinges on effective use of available resources. This imperative involves providing the tools necessary to identify and allocate resources for any given task or to meet an unplanned contingency. This management of resources is especially important as it relates to people, dynamic spectrum management, collection management, and data and information management. Those supporting the warfighters must be agile and flexible enough to maneuver and allocate information resources rapidly. C4ISR systems designed to help achieve MDA must deliver the status of both friendly and enemy sensors, systems, platforms, and weapons in real time so that forces may self-synchronize and either take advantage of opportunities or hedge against vulnerabilities.

Taken together, these seven functional imperatives describe how a military force approaches the problem and uses technology, along with an intelligent application of doctrine, tactics, techniques, and procedures, to achieve maritime domain awareness in the global war on terrorism. These seven functional imperatives are necessary conditions to achieve this dominance, not attributes that ensure it automatically. For the operator and the technologist, the imperatives provide an essential, common, frame of reference. Figure 2 depicts these seven imperatives (core competencies).

### at: misuse

**No data misuse**

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*Intelligence*is the collection, protection, and analysis of both publicly available and secret information, with the goal of reducing decision makers’ uncertainty about a foreign policy problem. Intelligence is a type of, but is not synonymous with, information. Intelligence is information, or a process of obtaining information, that someone prefers to be kept secret. The targets of intelligence collection and analysis keep information about their capabilities and intentions secret from others. Military forces are a common focus of other countries’ intelligence efforts, and the targets of such intelligence collection try to mask their true capabilities and vulnerabilities in order to maintain the advantage of surprise over potential opponents. In turn, organizations charged with collecting intelligence on such targets do not reveal information about the sources and methods they use, since failing to do so would allow the targets to take countermeasures to secure their secrets from outsiders. Governments use secrecy to prevent others from knowing what they know or what actions they may take. But this understandable effort to secure secrets also makes it difficult for countries that agree to share intelligence to determine whether their partners are abiding by their commitments.  
Intelligence is shared when one state—the sender—gives intelligence in its possession to another state—the recipient. Why do states share intelligence? Sharing intelligence is useful because decision makers often face a great deal of uncertainty when crafting foreign policy. They may be uncertain about the true intentions of friends and foes, the capabilities of others to deliver help or harm, the full range of policy options available to them, and the outcomes of implementing these policies. Intelligence about others’ political intentions and material capabilities is especially important to the areas of defense and security policy, in which policy errors—such as surprise attacks or entanglements in protracted military conflicts—can be very costly. National governments devote substantial resources to collecting and analyzing intelligence. Nonetheless, decision makers are rarely satisfied with the quality and quantity of intelligence made available to them, and they often complain about the failure of intelligence agencies to anticipate important developments. This desire for intelligence is what leads governments to share intelligence with their counterparts overseas. The most important benefit from sharing intelligence is that it can give decision makers new perspectives on the problems they face and the likely effects of the policies they select.  
What senders and recipients decide to exchange varies. Most countries share little or no intelligence with one another. In some cases, one state shares its intelligence in exchange for something else, such as foreign aid, security assurances, or diplomatic support. In other arrangements, the parties share intelligence with one another. Examples include exchanging intelligence from signals intercept stations, reconnaissance aircraft, or satellites covering different areas of the world; pooling resources to analyze an intelligence target of interest to both the countries; coordinating their networks of agents providing human intelligence; or jointly investing in new technologies to collect intelligence or in expensive intelligence assets such as satellites or listening posts. Agreements also vary in how extensively the parties share intelligence. In some relationships, such as that between the United States and Great Britain during the Second World War, the parties routinely share intelligence on a wide range of issues of mutual concern. Other agreements are more limited, with the parties sharing intelligence on some issues but not others. For instance, many current intelligence-sharing arrangements between the United States and countries in the Middle East and South Asia, which focus on intelligence concerning terrorist groups, take this form. Another way that intelligence-sharing agreements differ is how much one state directly controls another state’s collection and analysis of intelligence. During the cold war, instead of direct control, the United States and Britain collaborated closely, but each retained the authority to determine its own intelligence activities. The United States, however, directly managed and oversaw West Germany’s intelligence activities and, more recently, has supervised the restructuring of intelligence and security agencies in Latin America corrupted by drug-trafficking organizations.  
The gains from sharing intelligence are greater if the participating states specialize. Specialization allows each to develop greater expertise regarding the targets and to create more focused and higher-quality collection and analysis techniques than one country could manage alone. Examples are countries that exchange intelligence from their signals intercept stations, reconnaissance aircraft, or satellites covering different areas of the world; that employ different means of collecting intelligence on the same target and sharing the results with one another; or that coordinate their networks of agents providing human intelligence so that they do not overlap. Cooperating states that agree to specialize in particular intelligence efforts can together generate more and better intelligence than would be possible if they each tried to provide adequate coverage of the same targets. This reasoning assumes that the intelligence resources developed for one target cannot be shifted at low cost to another target, which often is the case. For instance, a network of human intelligence agents providing information about one country or issue typically has little information about other countries or issues; listening posts for collecting signals intelligence are often aimed at particular targets and cannot be easily redirected to other targets; and analysts are trained in the language and history of one target and thus would require substantial retraining to address other targets.

**No misuse—public-private cooperation checks**

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The global maritime supply chain, which consists of many different stakeholders, is part of a global multimodal supply chain that connects maritime transport with road and railway networks as well as commercial air transport. If current trade projections materialize, multimodal transport will become even more important to handle global trade flows. In order to advance the security of global supply chains, more information sharing between public and private stakeholders will be needed to avoid security breaches and prevent the abuse of global logistics for illicit activities. This puts a premium on the quality of information sharing. Two aspects are particularly important. First, there is a need for comprehensive risk assessments along the global supply chain in order to determine which components are most vulnerable and how dangerous goods could be passed along different modes of transport. In addition, the public sector should engaged in creating trustworthy information exchange environments. Public agents could act as honest brokers to mitigate the risk of information exchange between corporate actors that are direct competitors and might thus be reluctant to share sensitive information.

### at: links to politics

**MDA programs are empirically popular**

**Boraz 09** United States Naval Lieutenant Commander, 15 Year Veteran of Naval Intelligence, Federal Executive Fellow at the RAND Corporation, Distinguished Graduate of the Naval Postgraduate School, (Commander Stephen, 2009, “Maritime Domain Awareness,” http://www.usnwc.edu/getattachment/26abc82e-a497-4933-9bbc-67881e714c3d/Maritime-Domain-Awareness--Myths-and-Realities---S)//DR. H

It was not long after the attacks of September 11th that government officials began discussing other avenues that terrorists might use to attack American citizens, particularly in the maritime domain. In a speech delivered in January 2002, President George W. Bush noted, “The heart of the Maritime Domain Awareness program is accurate information, intelligence, surveillance, and reconnaissance of all vessels, cargo, and people extending well beyond our traditional maritime boundaries.” 1 By November 2002 Congress had passed the Maritime Transportation Security Act of 2002. 2 The National Security Council and the president continued to explore issues surrounding the safety and security of the U.S. maritime environs. In December 2004, the president signed National Security Presidential Directive 41/Homeland Security Presidential Directive 13, which established policy guidelines. It also directed the secretaries of Homeland Security and Defense to lead the federal effort in developing a comprehensive national strategy that would better integrate and synchronize existing department-level strategies and ensure their effective and efficient implementation. The interagency Maritime Security Policy Coordinating Committee was established to serve as the primary forum for coordinating government maritime security policies; it delivered a National Strategy for Maritime Security in September 2005. 3 Eight additional plans, including the National Plan to Achieve Maritime Domain Awareness, buttress the national strategy. 4

**Deepwater proves the CP is popular**

**Collins 04** Former 4 Star United States Navy Admiral, Served as 22nd [Commandant](http://en.wikipedia.org/wiki/Commandant_of_the_Coast_Guard) of the [United States Coast Guard](http://en.wikipedia.org/wiki/United_States_Coast_Guard) (Thomas, Spring 2004, “The U.S. Coast Guard today,” http://findarticles.com/p/articles/mi\_m0JIW/is\_2\_57/ai\_n6112685/pg\_11/?tag=content;col1)//DR. H

\*Note: Deepwater can’t solve—didn’t prove framework for global cooperation.  
  
The Deepwater program, backed strongly by the Department of Homeland Security as the Coast Guard's top acquisition priority, enjoys broad bipartisan support in Congress. We must move forward to execute the program aggressively so that its modern, more capable platforms and systems are delivered with an appropriate urgency.

Deepwater will provide the means to extend our layered maritime defenses from ports and coastlines many hundreds of miles to sea to increase maritime domain awareness. It is a flexible program, able to meet emerging requirements for maritime security and other missions. When Deepwater is complete, our cutters and aircraft will no longer operate as independent platforms with only limited awareness of what surrounds them in the maritime domain. Instead, they will have the benefit of information from a wide array of mission-capable platforms and sensors--enabling them to share a common operating picture as part of a network-centric force operating in tandem with other cutters, boats, and both manned aircraft and unmanned aerial vehicles. \*\*\*\*   
The Deepwater program, backed strongly by the Department of Homeland Security as the Coast Guard's top acquisition priority, enjoys broad bipartisan support in Congress. We must move forward to execute the program aggressively so that its modern, more capable platforms and systems are delivered with an appropriate urgency.

**Global Cooperation is popular**  
**Rendleman and Faulconer 10** Former member of the United States Air Force, Business Area Executive for Civilian Space at Johns Hopkins University (James, J., July 16, 2010, “Improving international space cooperation: http://www.sciencedirect.com/science/article/pii/S0265964610000640#sec2)//DR. H

International cooperation has the wonderful, if sometimes wasteful, capacity to increase the political will to sustain and fund space programs and associated budgets. As noted, cooperation provides a spacefaring state the basis to draw on additional resources. It also enables a program to weather attempts to rein it in even when faced with contentious and devastating cost-growth or budget realities (which most space programs invariably face). Thus, within the USA, a program often wins some sanctuary from cancellation threats or significant budget reductions to the extent that Congress and the administration feel compelled not to break, stretch, or withdraw from international agreements. Political good will is generated by funding these programs. As an example of the power of this good will, one only need look at the politics surrounding NASA’s manned program. Money has been allocated to the program even when the perceived justification has collapsed. Now the new internationalist US president doesn’t care much for the NASA manned mission, and has even less understanding of its science mission. But critics concede that the president sees value in the votes its engineering and contractor community represents, key especially in vote rich states such as Florida which serve as a nexus for manned US launches.

### at: no tech

**No barriers since 2005**

Mullen 07 Highest Ranked member of the United States Navy; four-star admiral, who served as the 17th Chairman of the Joint Chiefs of Staff (Michael Glenn "Mike" Mullen, May 29, 2007, “Navy Maritime Domain Awareness Concept,” http://www.navy.mil/navydata/cno/Navy\_Maritime\_Domain\_Awareness\_Concept\_FINAL\_2007.pdf)//DR. H

The NSMS and its eight supporting plans, approved by the President in 2005, direct all U.S. government departments and agencies with a stake in the maritime domain to improve their organic processes and capabilities, and eliminate barriers to information-sharing in order to more fully safeguard vital U.S. national security interests in the maritime domain. The National Plan to Achieve MDA formally established a National MDA Implementation Team (MDA-IT) to develop a National MDA CONOPS and an interagency MDA Investment Strategy. Navy, as a member of the National MDA-IT, is integrally involved in the ongoing development of the National MDA CONOPS and Investment Strategy.

**Tech now—recent unilateral approach proves**

**Miller 3/8** Executive Editor Federal News Radio (Jason, March 8, 2012, “Coast Guard searches for IT efficiencies in cloud, mobile,” http://www.federalnewsradio.com/?nid=474&sid=2775802)//DR. H

Rear Adm. Robert Day, the Coast Guard's chief information officer, said the IT advancements will give the agency's cutters and other ships advancements to meet their wide-ranging mission.

"Most of them are really finishing off sensor capabilities that are being installed aboard our newest cutters and our new aircraft. It's across the board, but the bottom line is it's to enhance our ability to do maritime domain awareness," Day said. "To look at targets of interest, classify those targets of interest and apply intelligence to further enhance so we are searching smarter. That we are going from point A to point B and going to a target out there, be it a drug smuggler, migration, human smugglers or even in our fisheries arena, to be able to identify exactly which targets we want to look at. Gone are the days we are just patrolling around in an area and hope we stumble on a target. Now using these new systems, we are able to apply intelligence and smartly leverage capabilities and get them on target and prosecute our mission"

**Recent Google AIS proves tech**

**Hill 5/25** (Chuck, May 25, 2012, “Maritime Domain Awareness, for Us and for Them, by Google,” http://cgblog.org/2012/05/25/maritime-domain-awareness-for-us-and-for-them-by-google/)//DR. H

\*Note: Can’t solve CP—a.) No cooperation, b.) Not global, c.) Only views big vessels

The US Naval Institute and AFSEA have been sponsoring a “Joint Warfighting Conference.” Many of the presentations are available on line and the quality has been excellent. One of the most intriguing presentations was made by Michael Jones, Chief Technology Advocate at Google Ventures.

Using only two people and $3M, Google has begun tracking almost all the vessel traffic on the world’s oceans and they expect to start making this information available to the public. They exploit the the Marine Automatic Identification System (AIS).

**Can be deployed**

**Goshorn and Galdorisi 06** Galdorisi: Director of the Corporate Strategy Group at SPAWAR Systems Center Pacific, the U.S. Navy’s C4ISR lab, completed a 30-year career as a naval aviator, culminating in 14 years of consecutive experience as executive officer, commanding officer, commodore, and chief of staff, was a Senior Advisor with the Center for Security Strategy and Operations, published more than one hundred articles in professional journals and newspapers, graduate of the United States Naval Academy and holds a Masters Degree in Oceanography from the Naval Postgraduate School and a Masters Degree in International Relations, received the Naval War College’s Admiral John Hayward Award for Academic Achievement, graduate of MIT Sloan School’s Program for Senior Executives, Goshorn: Senior Associate at Wilmer Hale, Special Counsel at US Securities and Exchange Commission, School of International Relations and Pacific Studies, Research Analyst at SPAWAR(Rebekah, George, June 2006, “Maritime Domain Awareness: The Key to Maritime Security Operational Challenges and Technical Solutions,” http://www.dtic.mil/dtic/tr/fulltext/u2/a463128.pdf)//DR. H

While The National Plan to Achieve Maritime Domain Awareness identifies many “stakeholders” in the maritime domain awareness arena and many “consumers” of processed MDA, for forward-deployed CSGs and ESGs, the MDA requirement is especially acute. The primary reason for this urgency is that CSGs and ESGs move. While MDA can be used to protect a major port, the port’s body of water is static. New information obtained can be grafted on existing information, and sensors deployed can continue to operate, often indefinitely. Additionally, those charged with protecting that coastal area do so relatively continuously, becoming “subject matter experts” on what is “normal” and what is not, providing them with a tremendous, built-in situational awareness.

However, as CSGs and ESGs range across vast ocean spaces, once an area is transited, most of what was collected on that area is no longer useful. Essentially, surveillance and sampling must be a continuous process with assets moving at least at the speed of advance of the CSG or ESG. For this reason, within the Department of the Navy, while MDA for a number of “stakeholders” is important, a primary focus must be on forward-deployed naval battle formations: CSGs and ESGs. Good work has gone on to leverage information for one “consumer” and make it available to other consumers. From an operator’s perspective, the MDA process breaks down as depicted in Figure 1 below:

## MDA – AFF

### can’t solve

**The CP actually fails**

**Munson 09** currently serves as the intelligence officer at Naval Special Warfare Group Four, previously served on board the USS Essex (LHD-2), and at the Office of Naval Intelligencem, Received a M.A. in security studies in Middle East Affairs from the Naval Postgraduate School (Lieutenant Mark, July 2009, “Looking for Anomalies in All the Wrong Places,” http://www.usni.org/magazines/proceedings/2009-07/looking-anomalies-all-wrong-places)//DR. H

The national and Navy plans to achieve MDA are predicated on the assumption that automated systems can identify terrorists, pirates, or other illicit actors such as smugglers by passively detecting "anomalous" or unusual behavior, an assumption unsupported by any review of the events of the recent past. In the post-Cold War maritime environment, terrorism and other illicit activities have instead been conducted by those who conform to accepted norms of maritime activity precisely by not doing anything that can be described as uncommon or unexpected. An MDA plan focused on finding anomalies will be good for little more than identifying unusual (yet probably explainable) ship movements, ignoring smaller craft and elements of maritime behavior conducted on land, thus not providing the deep understanding of maritime activity necessary to both provide sufficient warning and drive future operations, especially against nonmilitary targets.

### takes 10 years

**Can’t solve—takes 10 years**

Mullen 07 Highest Ranked member of the United States Navy; four-star admiral, who served as the 17th Chairman of the Joint Chiefs of Staff (Michael Glenn "Mike" Mullen, May 29, 2007, “Navy Maritime Domain Awareness Concept,” http://www.navy.mil/navydata/cno/Navy\_Maritime\_Domain\_Awareness\_Concept\_FINAL\_2007.pdf)//DR. H

The time horizon for fully implementing this concept is ten years. Efforts to improve MDA are ongoing. Initial progress may be slow, but will accelerate as barriers to broad-based information sharing are overcome. This concept does not encroach on roles and responsibilities of other agencies within the U.S. government. When working in the international arena, Navy will coordinate with appropriate U.S. government agencies and comply with applicable policy, standards and protocols. Particular attention will be given to close alignment with the Department of Defense (DoD) Chief Information Officer, the Departments of State, Homeland Security, Transportation and the Office of the Director of National Intelligence.

**Technological advances and phased implementation are necessary**

Mullen 07 Highest Ranked member of the United States Navy; four-star admiral, who served as the 17th Chairman of the Joint Chiefs of Staff (Michael Glenn "Mike" Mullen, May 29, 2007, “Navy Maritime Domain Awareness Concept,” http://www.navy.mil/navydata/cno/Navy\_Maritime\_Domain\_Awareness\_Concept\_FINAL\_2007.pdf)//DR. H

This concept envisions technological advances to automate critical information management processes. Until this occurs, some elements in this concept must be performed manually – impacting manning requirements at all levels of command, and potentially increasing costs of implementation. To keep costs manageable, phased implementation of this concept may be necessary. Implications for the operations, allocation and overall structure of naval forces are, as-yet, unforeseen, but may be derived from subsequent Fleet MDA CONOPS development.

### mda misuse

**Turn—other countries misuse MDA turning any CP solvency**

**Kraska 09** Howard S. Levie Chair in Operational Law at Naval War College, Senior Fellow at Foreign Policy Research Institute (FPRI), Guest Investigator at Woods Hole Oceanographic Institution (WHOI) Past Chief, International Negotiations Divison, Strategic Plans & Policy (J-5) atJoint Chiefs of Staff Oceans Law & Policy Adviser, Strategic Plans & Policy (J-5) at Joint Chiefs of Staff Deputy Legal Advisor at Deputy Chief of Naval Operations for Plans, Policy & Operations International Law Attorney at Office of the Judge Advocate General of the Navy (Commander James, December 2009, “The Dark Side of Maritime Domain Awareness,” http://www.usni.org/magazines/proceedings/2009-12/dark-side-maritime-awareness)//DR. H

While maritime domain awareness generates benefits for maritime homeland security and international engagement, it also creates associated risks. The difficulty is that between the United States and its allied nations are wildly divergent views on what constitutes a maritime threat. For DOD, the transportation of weapons of mass destruction by sea is a threat. But non-governmental organizations, other U.S. agencies, and many foreign coastal states have identified other "threats," including the use of sonar, ballast water dumping, the presence of ships near marine mammals, the mere transport of radioactive waste, transits by crude oil tankers, activities by naval oceanographic and survey ships, and the presence of sealift vessels carrying supplies for troops in Iraq and Afghanistan. Thus, MDA could be used to deter or impede lawful activity in the oceans. Its development has been divorced from a calculation of the greater strategic oceans interests of the United States in preserving global freedom of the seas. There is very little appreciation for the second order or unintended consequences of distributing information internationally about activities on the oceans.

Some coastal nations have shown a willingness to use (or more accurately misuse) technical, legal, and policy advances in maritime governance as opportunities to enforce excessive maritime boundary claims, market illegal claims of sovereignty or jurisdiction over the oceans, or impose unlawful restrictions on the rights and freedoms of navigation. Just about every new development in the international law of the sea—from the overarching 1982 Law of the Sea Convention to marine sanctuaries to ship routing measures through choke points—has been adapted by coastal states to justify their overextension into the ocean. The dangers posed by maritime domain awareness are particularly acute because it serves as a targeting mechanism for coastal states to assert their claims over foreign-flagged vessels located offshore.

Numerous foreign coastal nations, including some of the European Union, Canada, Australia, China, Vietnam, North Korea, Libya, and others, have imposed unilateral measures that purport to apply to the offshore passage of foreign-flagged merchant vessels and even warships. Maritime domain awareness helps these countries enforce laws the United States does not accept. This risks upsetting the careful equilibrium between the rights of the coastal state and the freedom of navigation long enjoyed by the world community, and that is reflected in the Law of the Sea Convention.

Similarly, within the United States, some federal departments and agencies as well as individual states—such as California—have demonstrated a cheeky appetite for seeking greater authority to regulate foreign-flagged shipping beyond the territorial sea in an effort to develop or change the law of the sea. Sophisticated environmental law concepts such as "marine spatial planning," the "ecosystem-based approach to management" of ocean areas, and the "precautionary approach" disguise these efforts in an elastic and ambiguous nomenclature that can mean different things to different people. These efforts reflect a coastal state view of the world that is at odds with a liberal order of the oceans based on freedom of navigation.

### no tech/misuse

**Tech still isn’t ready—global MDA leads to misuse**

**Hill 5/25** (Chuck, May 25, 2012, “Maritime Domain Awareness, for Us and for Them, by Google,” http://cgblog.org/2012/05/25/maritime-domain-awareness-for-us-and-for-them-by-google/)//DR. H

\*Note: Can’t solve CP—a.) No cooperation, b.) Not global, c.) only views big vessels

It will probably take a while to sort out all the implications of this technology. It could certainly be useful for SAR, MEP, and fisheries protection. But it also means that the bad guys will have this information as well. Pirates will have better information for selecting and intercepting their targets. Unless Google deletes the information, or cutters turn off AIS, Coast Guard vessel movements will be visible to anyone with the desire to track them. Drug smugglers will know when interdiction vessels are in the area and how many there are. Vessels fishing illegally will have an easier time evading enforcement.

### links to ptx

**Links to politics**

**Carafano 04** Ph.D., Director of The Heritage Foundation’s Allison Center for Foreign Policy Studies, Director of the Kathryn and Shelby Cullom Davis Institute for International Studies and Director (James, March 24, 2004, “Commerce, Science, and Transportation,” Heritage, http://www.heritage.org/research/testimony/commerce-science-and-transportation)//DR. H

Currently, the DHS has only two, very expensive and unattractive options for significantly expanding maritime domain awareness. It can direct additional investments in the land-based equipment and other infrastructures required to expand PAWSS-VTS and require additional craft to carry AIS tracking equipment, or it can rely on the surface and aviation assets of the U.S. armed forces (including the Coast Guard and the U.S. Navy) to cover the large remaining gaps. Neither option appears particularly cost-effective nor sufficiently useful or flexible to ensure preparedness in a protracted conflict against an unpredictable foe.  Proposals to create a maritime-NORAD, might offer the basis for developing more practical alternatives.[11] Such an approach would probably require three elements to produce more promising alternatives to the long-term challenge of enhancing maritime domain awareness: (1) joint cooperation between the Department of Defense (DOD) and the DHS both in research and development and operational monitoring of U.S. waters, (2) close cooperation of the United States' northern and southern neighbors, (3) new and innovative technical solutions.  Border and Transportation Security. Protecting border and transportation systems includes managing the border and ports of entry, ensuring aviation and maritime security, and developing guidelines and programs for protecting national transportation systems. The key principle guiding federal investments in this area should be ensuring the adoption of a layered security system: a combination of effective, mutually supporting initiatives that simultaneously provide useful counterterrorism measures, protect civil liberties, and do not encumber the flow of travel and commerce.  Unlike many strategic challenges, overall, adequacy of resources for implementing new initiatives is not the most significant challenge in this critical mission area. Funding for the DHS role in one layer of the maritime component of border and transportation security, however, is an issue of major concern. In particular, the appropriation for the U.S. Coast Guard's Integrated Deepwater acquisition program- long-term modernization effort to recapitalize the service's fleet of cutters, aircraft, sensors, and command and control-is inadequate.  The Coast Guard's fleet is old, expensive to operate and maintain, and poorly suited for some homeland security missions.[12] Deepwater was to be funded at $330 million (in 1998 dollars) in the first year and $530 million (in constant dollars) per year in the following budgets, but no annual budget before FY 2004 matched the required rate of investment. Meanwhile, the Coast Guard's increased operational tempo and expanded mission requirements since 9/11 have been wearing out the fleet faster than anticipated, putting the modernization program even farther behind schedule.

**Similar programs prove the CP is unpopular**

**Keith and Carafano 06** Keith: Research Assistant in the Douglas and Sarah Allison Center for Foreign Policy Studies, Carafano: Ph.D., Director of The Heritage Foundation’s Allison Center for Foreign Policy Studies, Director of the Kathryn and Shelby Cullom Davis Institute for International Studies and Director (Laura, James, July 7, 2006, "Learning Katrina's Lessons: Coast Guard Modernization Is a Must," Heritage, http://www.heritage.org/Research/NationalSecurity/bg195O.cfn)//DR. H

"The Coast Guard saved tens of thousands of lives during and in the aftermath of Hurricane Katrina. Most of the response was carried out with 'legacy' assets: planes and ships that are increasingly outÂ­dated, worn out, and inadequate. If Deepwater, the Coast Guardâ€™s modernization program, had been implemented more aggressively, the service would have had a much greater capacity to conduct search and rescue missions and to coorÂ­dinate the operations of other federal, state, and city responders working in the disaster area. As a result, the federal disaster response would have seemed less of a disaster. Yet Deepwater is still not fully supported in Washington. Congress and the Administration need to accelerate implementation and fully fund the program at about $1.5 billion per year."

# ^^Harbor Maintenance Tax (HMT) CP^^

## \*\*\*Neg

### 1nc

#### CP TEXT: The United States federal government should repeal the Harbor Maintenance Tax.

#### Repealing HMT is key to sustainable SSS

**Frittelli, 11**—Specialist in Transportation policy (John, “Can Marine Highways Deliver”, Congressional Research Service, 1/14/11, http://www.fas.org/sgp/crs/misc/R41590.pdf)//JLip

Policymakers have been discussing the potential for shifting some freight traffic from roads to river and coastal waterways as a means of mitigating highway congestion. While waterways carry substantial amounts of bulk commodities (e.g., grain and coal), seldom are they used to transport containerized cargo (typically finished goods and manufactured parts) between points within the

contiguous United States. Trucks, which carry most of this cargo, and railroads, which carry some of it in combination with trucks, offer much faster transit. Yet, at a time when many urban highways are congested, a parallel river or coastal waterway may be little used. With passage of the Energy Independence and Security Act of 2007 (P.L. 110-140) and the National Defense Authorization Act for FY2010 (P.L. 111-84), Congress moved this idea forward by requiring the Department of Transportation (DOT) to identify waterways that could potentially

serve as “marine highways” and providing grant funding for their development. DOT has selected several marine highways for grant funding totaling about $80 million. To be eligible, a marine highway must be an alternative to a congested highway or railroad and be financially viable in a reasonable time frame.

The prevailing perception is that coastal and river navigation is too slow to attract shippers that utilize trucks and that the additional cargo handling costs at ports negate any potential savings from using waterborne transport. While there are other significant obstacles as well, under highly specific circumstances, marine highways might attract truck freight. Freight corridors characterized by an imbalance in the directional flow of container equipment; shippers with low

value, heavy cargoes, and waterside production facilities; and connections with coastal hub ports over medium distances may be suitable for container-on-barge (COB) or coastal shipping services. It also appears that marine highways are more suitable to international rather than domestic shippers because the former have lower service expectations. A review of the successes and failures of the few marine highway services currently operating in the contiguous United States, as well as those that have failed in the past, indicates that the potential market is limited. In many instances, marine highways have succeeded in capturing only

a negligible share of container shipments along a given route. One can question, therefore, whether marine highways will divert enough trucks to provide public benefits commensurate with their costs. Congress may also consider repealing a port use charge, the harbor maintenance tax, for containerized domestic shipments as a means of spurring marine highway development. Repealing the tax raises equity issues because waterway users already benefit from reduced

federal user charges compared to trucks, and their other competitor, the railroads, are largely selffinanced. The Jones Act is arguably another potential statutory hindrance to marine highway development, particularly coastal highways. This act requires that all domestic shipping be carried in U.S. built ships. Critics claim the act raises the cost of domestic shipping to such a degree that it cannot compete with truck and rail.

### NB – Politics

#### HMT repeal popular

**Frittelli, 11**—Specialist in Transportation Policy (John, “Harbor Maintenance Trust Fund Expenditures”, Congressional Research Service, 1/10/11, http://www.fas.org/sgp/crs/misc/R41042.pdf)//JLip

In the 111th Congress, several bills were introduced to either change the tax rate or how revenues from the tax are spent. H.R. 3486, H.R. 638, S. 551, and S. 1509 would repeal the tax on domestic waterborne non-bulk cargo and cargo imported from Canada through the Great Lakes for the purported purpose of mitigating highway congestion by diverting shipments from truck to water modes. Groups supporting this legislation contend that in addition to the HMT rate, the administrative burden of filing the tax discourages potential waterborne shippers, because they do not pay a separate tax when shipping by truck or rail. Others question to what extent this is true, however. Most truck shippers are not located on waterways and therefore would require a truck move to and from the loading and discharge ports to utilize waterborne transportation. These truck and cargo transferring costs could be a significant cost impediment for truck shippers to utilize waterborne transportation, regardless of the HMT.

### 2nc S – Consensus

#### Even if they read solvency evidence the overwhelming consensus of experts favor the CP

**Heim and Tedesco, 9** — General Dynamics NASSCO, AND, Tedesco Consulting (Aimee and Matt, “A Shipbuilder’s Assessment of America’s Marine Highways”, 7/30/2009, http://www.nassco.com/pdfs/Shipbuilder-Assessment-American-Marine-Highway-NASSCO.pdf, Deech)

\*\*\*Note: AMH = America’s Marine Highways

There is overwhelming consensus that the Harbor Maintenance Tax (HMT) not only serves as an unnecessary disincentive to investment in any AMH service, but also discourages any new water-mode option to the movement of domestic freight, especially for cargo that has also traveled on an international leg. The HMT is a tax on all import or domestic cargo that moves through a port, charged on a lift-on or lift-off basis, and is a percentage of the value of the cargo (0.125% of the cargo value). Therefore, cargo that moves over water to two domestic ports is charged the HMT first for the load onto the vessel at the port of embarkation, and then again for the discharge move at the port of debarkation.

### 2nc S XT – Comp/Growth

#### The Harbor Maintenance Tax is a disincentive that discourage shippers to use our maritime systems – kills competitiveness

**Nagle 12** – President of the AAPA (Kurt, “Hearing on Harbor Maintenance Funding and Maritime Tax Issues,” 2/1, http://aapa.files.cms-plus.com/Testimony%20for%20Ways%20and%20Means%20on%20HMT%201FEB2012.pdf)//SV

Encouraging Short Sea Shipping

AAPA has a long-standing policy in support of tax policy that supports short sea shipping, which has the potential to alleviate highway congestion and improve environmental sustainability. AAPA supports tax and program incentives for shippers and certain exceptions from the HMT to encourage more movement of cargo on the water. AAPA strongly supports repealing the Harbor Maintenance Tax for certain domestic port-to-port movements of cargo to encourage more short sea shipping within the United States. This would eliminate the **current tax disincentive** to move containers and certain other cargo by water and off our overly congested roads, which are expensive to maintain. Europe has an extensive short sea shipping industry. By eliminating current federal tax disincentives, the Congress can help spur this fledgling industry in the United States.

Conclusion

Seaports are a vital component of our nation’s infrastructure, and modern, navigable seaports are critical to our international trade and our nation’s economic prosperity. Our trade partners are investing in their water infrastructure in order to address the needs of both today and tomorrow. In order to continue to be a strong maritime trading partner and support our nation’s economic growth, we must look closely at the current disincentives and budget inequities that must be corrected in order for us to continue to maintain a world-class transportation system that encourages full utilization of our maritime assets.

#### The HMT incentivizes shippers to avoid US ports and makes it functionally impossible to help job creation

**Rushmere 11** – Journalist @ Maritime Professional (Martin, “Cross-currents Show Up in the Harbor Maintenance Tax Uproar,” Maritime Professional, 12/29, http://www.maritimeprofessional.com/Blogs/Martin-Rushmere/December-2011/Cross-currents-show-up-in-the-Harbor-Maintenance-T.aspx)//SV

That proposal to apply the Harbor Maintenance Tax to imports taking the long way round through Canada and Mexico is stirring up considerable debate that exposes sharply different viewpoints. So much so that the Shipping Federation of Canada has persuaded the Federal Maritime Commission to extend the time for comments from Dec 22 until Jan. 9.

The World Shipping Council and National Industrial Transportation League (NIT League) have lined up with the National Retail Federation to tell the Federal Maritime Commission to hold its horses. Added to this, the Waterfront Coalition points out a fact that might be news to the commission – going through Prince Rupert gives no advantage for cargo from southern Asian areas s such as Singapore, Vietnam or Bangladesh, while that traders have spread their options anyway, because of the 2001 terrorist attacks and the 2002 Long Beach/Los Angeles lockout.

Seattle business groups want action taken urgently to get cargo back through the Pacific North west, complaining that the HMT is "**incentivizing shippers to avoid US ports**", which "could become a trend that will be difficult, if not impossible, to reverse."

Chicago on the other hand reckons it's a case of "bring it on", as loads of jobs have been created and the railroads have extended their yards.

Yet, perhaps it's all a smoke screen, if remarks by President Obama and Canadian Prime Minister Stephen Harper are to be believed. They have conducted very friendly chats over something called Beyond-the-Border.

Obama says the two countries are "ramping up our effort to get rid of outdated, unjustified regulations that stifle trade and job creation. . . . So we're going to strike a better balance with sensible regulations that unleash trade and job creation, while still protecting public health and safety."

Harper says: "We are pursuing an ambitious global trade agenda, while at the same time ensuring enhanced access to the United States, our largest and most important trading partner. Together, these agreements represent the most significant step forward in Canada-US. cooperation since the North American Free Trade Agreement.”

Says Jay Timmons, president of the National Association of Manufacturers, "Manufacturers in the United States continue to face growing barriers and delays when shipping across the northern border. **This is limiting our export growth and hurting job creation**. Implementing new policies and making needed changes on the border will help streamline the shipment of goods across the border, allowing us to expand exports to help meet the goal of doubling exports by 2014."

To the hapless port operator, it seems that **politics both ignores the real problem** (ensuring that the HMT is used for port maintenance) **while also trying to soft soap and waffle away a real point of dissention**.

#### HMT kills US competitiveness and job growth

**Gooley, 12**—CEO of DC Velocity Magazine (Toby, “The Brewing Battle Over HMT”, DC Velocity Magazine, 1/23/12, http://www.dcvelocity.com/articles/20120123-the-brewing-battle-over-the-hmt/)//JLip

Does the Harbor Maintenance Tax (HMT) on U.S. imports encourage the diversion of cargo through Canada and Mexico? That question—the subject of an ongoing Federal Maritime Commission (FMC) inquiry—may sound like an obscure exercise in policy analysis. But the inquiry has evolved into a debate over much broader issues, including whether government policies are putting U.S. seaports at a competitive disadvantage and are thereby restricting the country's economic growth. Depending on how the government chooses to respond to the FMC's findings, there could be several potential outcomes: Congress could change the way the HMT is assessed and its funds allocated, the United States could end up in a dispute with Canada and the World Trade Organization (WTO), and costs could rise for many importers and exporters. Washington's complaint-- Currently, U.S. importers pay a Harbor Maintenance Tax (HMT) of 0.125 percent on the declared value of imported merchandise. Established in the 1980s, the tax and its associated Harbor Maintenance Trust Fund are designed to help fund the U.S. Army Corps of Engineers' harbor maintenance projects, including dredging. The fund has built up a multibillion-dollar surplus, which critics say is being used to help reduce the federal budget deficit instead of paying for needed waterways improvements. The tax generates an average fee of between $84 and $137 per 40-foot container, according to estimates. For high-value cargo such as auto parts, that figure can be as high as $300. For commodities like lumber and refrigerated produce, it can be less than $20. However, containers that enter the United States by truck or rail via Canadian and Mexican seaports are not subject to the HMT. As the volume of such shipments has grown—notably at the ports of Prince Rupert in Canada and Lázaro Cárdenas in Mexico—lawmakers in California and Washington state have voiced concern that the HMT is at least partly to blame for their neighbors' rising fortunes. The FMC's inquiry was sparked by an [Aug. 29 letter to FMC Chairman Richard A. Lidinsky Jr.](http://www.fmc.gov/assets/1/Page/TAX-110829-ChairmanRichardLidinskyFMC-HarborMaintenanceTax.pdf) from Sens. Patty Murray and Maria Cantwell of Washington. In the letter, the senators asked the FMC to examine the extent to which the HMT and other factors influence diversion of cargo from U.S. West Coast ports to Canadian and Mexican competitors. The exemption for overland shipments, they wrote, has given Mexican and Canadian ports a competitive advantage over U.S. seaports, causing an increase in cargo diversion, a reduction in revenue for the Harbor Maintenance Trust Fund, and the loss of U.S. jobs. They also asked the agency to offer "recommendations for legislative and regulatory responses" to those concerns. The FMC agreed to take up the matter and in its November 2011 notice of inquiry (Docket 11-19) asked for comments on the HMT's influence on cargo routing as well as suggestions for actions the U.S. government could take to improve the competitiveness of U.S. ports. That request drew [dozens of responses](http://www.fmc.gov/11-19/) from private industry and government organizations across North America, as well as from the governments of Canada and Mexico.

#### HMT kills US competitiveness and jobs

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

HMT Results in a Shift in Container-Borne Cargo to Canadian Ports

Port-related jobs currently employ about five million U.S. workers. These workers earn roughly $44 billion in annual personal income. With respect to containerized cargo, the Port of Seattle estimates that each container of goods that arrives in port adds about $1,000 to the local economy ("America's Ports Today" 2006). Containerized cargo (and bulk cargo as well) entering the U.S. through U.S. ports is subject to the HMT. If the cargo is containerized and enters a Canadian port where the container is moved to a truck or train, it avoids the HMT altogether. The HMT puts ports near the Canadian border at a competitive disadvantage. This disadvantage results in job losses at U.S. ports, some of the highest-paid union jobs in the U.S. ("Repeal the Harbor Maintenance Tax Now!" 2006).

#### HMT destroys jobs, competitiveness, and encourages current forms of transportation such as highways

**Lutes, 10**— Deputy managing director, seaport division, port of Seattle, Washington (Phil, HEARING BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE, CUSTOMS, AND GLOBAL COMPETITIVENESS OF THE COMMITTEE ON FINANCE UNITED STATES SENATE ONE HUNDRED ELEVENTH CONGRESS SECOND SESSION, April 29, 2012, pdf.,)//JLip

Lastly, a growing factor that draws cargo away from U.S. ports is the Harbor Maintenance Tax, or the HMT. Increasingly, the HMT is an incentive for importers to route their U.S.-bound cargo through foreign gateways to avoid paying the tax. By coming across a land border, these imports exploit a loophole in the law. Addressing this inequity is important to counter some negative effects. First, it reduces revenue to the HMT trust fund, which pays for the needed channel dredging at American ports. Second, it exports American jobs, both in the goods movement industry and those that depend on a competitive export capability through U.S. sea ports. We estimate that the HMT fund will lose $600 million in revenue over the next 10 years through diversion of cargo to Canadian ports in the land border loophole.

### 2nc S XT – Congestion

#### HMT repeal solves for oil dependence and congestion

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

HMT Discourages the Most Fuel-Efficient Means of Transportation

Water transportation is the most fuel-efficient method of transportation currently available in the United States. Ships can transport a ton of cargo 514 miles using one gallon of diesel fuel, whereas trucks can transport that same ton of cargo only 59 miles on the same gallon of fuel. As an ad valorem tax, the HMT serves to encourage the use of truck transport for higher-value, lower-weight cargo, leaving waterborne transport as a viable option only for lower-value, high-weight cargo. In an era when the U.S. is increasingly dependent on foreign oil, we simply cannot afford to have a tax policy that discourages fuel efficiency in transportation. A recent example of U.S. efforts to make tax policy consistent with fuel efficiency can be found in the modification of {{section}}179. This provision reduced the small business write-off for sport utility vehicles (SUVs) from $100,000 to a maximum of $24,000 ("I.R.C. 179 Expense" 2006). Eliminating the HMT would allow companies to use waterborne transit for items that are currently transported using less fuel-efficient means. This not only reduces America's dependence on foreign oil, but could reduce highway traffic and reduce the number of accidents on our highways (Stewart 2005).

#### HMT serves a disincentive and also makes land transport more preferable

**Heim and Tedesco 9** – General Dynamics NASSCO, AND, Tedesco Consulting (Aimee and Matt, “A Shipbuilder’s Assessment of America’s Marine Highways”, 7/30/2009, http://www.nassco.com/pdfs/Shipbuilder-Assessment-American-Marine-Highway-NASSCO.pdf) //SV

There is overwhelming consensus that the Harbor Maintenance Tax (HMT) not only serves as an unnecessary disincentive to investment in any AMH service, but also discourages any new water-mode option to the movement of domestic freight, especially for cargo that has also traveled on an international leg. The HMT is a tax on all import or domestic cargo that moves through a port, charged on a lift-on or lift-off basis, and is a percentage of the value of the cargo (0.125% of the cargo value). Therefore, cargo that moves over water to two domestic ports is charged the HMT first for the load onto the vessel at the port of embarkation, and then again for the discharge move at the port of debarkation. Commercial economic analyses do not account for external factors that affect the transport mode, nor do they fully attribute public costs to all modes. In assessing the competitiveness of Marine Highways with traditional over-land modes, commercial transportation entities are not fully burdened with the costs of congestion, road wear and tear, road construction, emissions, noise pollution or accidents, and so those costs are not generally included in the calculation. Commercial economic analyses also do not consider the potential public benefits of AMH in assessing the commercial viability of AMH. These benefits include: maritime industrial base improvements, national defense, DoD freight movement, sealift benefits, homeland security benefits, increased national goods movement capacity, and significant economic stimulus.

### 2nc S XT – Dredging

#### HMT repeal key to successful SSS and proper port dredging

**American Maritime Congress, no date** (“Issue Focus: Future Programs”, AmericanMaritimeCongress.com, http://www.americanmaritime.org/issue/)//JLip

Harbor Maintenance Tax Reform - The biggest barrier to seeing Short Sea Shipping (coastwise trade) begin to flourish in America is the Harbor Maintenance Tax. Educating Congress on the need to reform the tax so that transshipped cargo between US ports isn’t subject to double taxation is an agenda item for AMC. Great Lakes Dredging - Inadequate dredging of ports in the Great Lakes are costing Americans millions of dollars each year. Vessels on the Lakes are unable to operate at full capacity, meaning they leave behind hundreds of thousands of tons of cargo each year - requiring more trips, more fuel, more wear and tear, and a greater environmental impact. It is important that we work to remove any and all obstacles to dredging our ports and harbors on the Great Lakes.

#### HMT is the main barrier to dredging

**Murray, 02**—Senator of Washington state (Patty, “Murray Introduces A Bill to End Unfair Tax for Puget Sound Ports”, Senate.gov, 7/24, http://www.murray.senate.gov/public/index.cfm/taxesnewsreleases?ID=d1672d84-ec4a-4b57-a80a-1976dff479e9)//JLip

(WASHINGTON, D.C.) U.S. Senator Patty Murray (D-Wash.) today introduced the "U.S. Port" Act aimed at preserving jobs and maintaining a healthy local economy in the Puget Sound region. Murray's bill would exempt ports within 200 miles of a foreign container port from paying the Harbor Maintenance Tax (HMT), a federal tax imposed on the wholesale value of goods imported by ship into the US and used to fund maintenance and dredging at US ports. Puget Sound ports use limited HMT funds and neither the Ports of Seattle nor Tacoma require dredging to keep the waterways open. "We must do all we can to keep jobs and business in the Puget Sound area," Senator Murray said. "Neither the Port of Tacoma nor the Port of Seattle require dredging to keep waterways open, yet they are saddled with a fee that competing ports like the Port of Vancouver, B.C. do not face. Without this legislation we risk losing some of our community's best jobs to foreign ports." Over the last ten years, container traffic into the Port of Vancouver, B.C., which faces no HMT equivalent, has quadrupled while activity at the Ports of Seattle and Tacoma has only marginally increased. The HMT averages about $125 per import container at the Ports of Seattle and Tacoma. With regular port charges at these ports averaging under $200, the HMT is a substantial additional cost and strain on Puget Sound Ports.

### 2nc S XT – Marine Highways

#### HMT elimination is critical to jumpstart marine highway development

**Meyers, 12** — transportation reporter for POLITICO, former correspondent for The Dallas Morning News and The Washington Post (Jessica, “Federal marine highways project hard to launch”, Politico, 5/22/2012, http://www.politico.com/news/stories/0512/76633.html, Deech)

“I personally don’t think it has happened as well as it should,” Rep. Rick Larsen (D-Wash.), ranking member of the House Coast Guard and Maritime Transportation Subcommittee, told POLITICO. “This administration has yet to request any funding goals for a marine transportation system. We still have a ways to go.” Maritime groups point to the elimination of a so-called double tax as the place to start. All cargo that comes into the country is subject to a harbor maintenance tax. But shippers have to pay an additional tax if goods are off-loaded in one location and shipped to a second port. When freight moves by land, it doesn’t face this second tax. “Putting this forward would be an indication of how serious the government is to help the industry into existence,” said C. James Patti, the president of the Maritime Institute for Research and Industrial Development. “It’s a lightning rod.” Several lawmakers have keyed on the issue. “This system encourages people not to use the water,” Rep. Patrick Tiberi, (R-Ohio), a Ways and Means Committee member, told POLITICO. He has sponsored a bipartisan bill to gut the tax. “It levels the playing field and achieves some balance in the movement of goods,” he said. Like similar bills in previous sessions, it hasn’t gotten far. The tax issue also delves into transport equality. Trucks already pay higher user fees and railroads are mostly self-financed. Even if the bill were to pass, the industry would need enough ships to carry the goods. A longtime law known as the Jones Act allows only American built and manned ships to operate between U.S. ports.

#### Additional ships and HMT repeal are both critical

**Pugh, 9** — Director of the Office of Marine Highways & Passenger Services at the Maritime Administration of the U.S. Department of Transportation, former Deputy Division Chief of the Domestic Ports Division of the U.S. Coast Guard, and former Vice Chairman of the American Association of Port Authorities (Jim, “Jim Pugh AMH 20 Questions”, America’s Marine Highways, no date given but past 2009, http://americasmarinehighways.com/userfiles/Jim%20Pugh%203%20AMH%20Questions.pdf, Deech)

2) What are some of the barriers to making MH a reality on a larger scale? It is difficult to generalize about barriers because most marine highway markets are niche markets. Certainly, there are some institutional barriers like the Jones Act and Harbor Maintenance Tax that preclude some new services from being offered. However, from my perspective, the major barrier to developing new services is the lack of purpose-built vessels to serve the largest market segments in a cost effective manner.

#### HMT is the critical barrier

**Keefe, 9** — maritime journalist (Joseph, “Short sea shipping: still at the dock, but getting ready to sail”, The Maritime Exchange, November/December 2009, http://americasmarinehighways.com/userfiles/ShortSeaShipping%20MarEx%20Dec%20Print%20Ed(1).pdf, Deech)

Short Sea Shipping: A Reality Check

Leading congressional proponents of short sea shipping, including Senator Frank Lautenberg (D-NJ) of the Senate Commerce Committee and Representatives Elijah Cummings (D-MD) and James Oberstar (D-MN) of the House Transportation and Infrastructure Committee, have sponsored key legislation providing (1) relief from the Harbor Maintenance Tax (HMT) for intermodal cargoes in the coastwise trade and on the Great Lakes and (2) a grant program administered by the Department of Transportation. The latter measure was enacted into law in the Department of Defense Authorization Act of 2010. Now Congress must provide funding for these grants and repeal the HMT for short sea shipping to flourish. But even that won’t be enough. Virtually everyone knows that a domestic short sea shipping program is “going nowhere fast” without the elimination of the HMT, which derives absolutely no revenue from short sea shipping because no one is stupid enough to be taxed twice on the same cargo when that box or commodity can be shipped overland without the added expense.

### 2nc S XT – Oil Dependence

#### HMT repeal solves for oil dependence

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

This proposal requires abolishing the HMT and replacing its revenue stream with funds generated from an increase in the federal excise tax on diesel fuel sold for over-the-road use. This excise tax is currently $0.245 cents per gallon. In order to fund the Army Corps of Engineers' dredging and maintenance activities, the required increase in the excise tax would be $0.0112 cents per gallon (2005 diesel excise tax taken from National Energy Information Center, Energy Information Administration, Petroleum Marketing Monthly, February 2006, Explanatory Notes, Table EN1). While this tax increase is borne by the over-the-road transportation industry, as opposed to the marine transport industry, it is fair to propose this burden in order to increase overall fuel efficiency, which favors water transport. As suggested, a tax structure of this type would divert traffic to water transportation and thereby reduce our nation' s dependence on foreign oil. This modal shift would potentially reduce congestion on America's highways as well. (See, for instance, Fruin's calculations and conclusions of cost increase incurred by a proposed shift from waterway to land transportation in the Mississippi Metro area, or the recent modal shift from water to truck for New York trash disposal New York is trying reverse ["City Seeks Ideas as Trash Costs Dwarf Estimate" 2003].) A similar approach has been used successfully in Europe, with the support of the trucking industry.

### 2nc S XT – Ports

#### HMT full repeal is key to successful port operations

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

As Currently Enacted the HMT is Difficult to Properly Enforce

The HMT currently applies to imports and to domestic transportation. With respect to imports, it is collected by the U.S. Customs Service when the goods arrive in a U.S. port and clear customs. Payment is voluntary with respect to domestic shipping. Since the Customs Service doesn't monitor domestic shipping there is no clear enforcement tool for domestically shipped items. While potential compliance problems alone are usually not sufficient to militate elimination of a tax system, when the system is as flawed as the current HMT, it may be better to eliminate the tax altogether than to try to create a new and expensive system to ensure taxpayer compliance.

### 2nc S XT – Shipbuilding

#### HMT discourages manufacturers

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

HMT Unfairly Taxes High-Value Cargo when Compared to Low-Value Cargo

As noted in the preceding section, one effect of the HMT is to impose a large tax burden on high-value cargo. While the intent of the HMT is to provide a revenue source for dredging and harbor maintenance, its effect is to strongly discourage manufacturers of high value, non-bulk items from using waterborne transportation. While this would appear to suggest that a tonnage tax would be a fairer means of generating harbor maintenance revenue, fuel efficiency and other issues and opportunities indicate that generating this revenue elsewhere actually represents better national tax policy.

### 2nc S XT – SSS

#### HMT repeal prerequisite to the plan—SSS is impossible without it

**Frittelli, 11**—Specialist in Transportation policy (John, “Can Marine Highways Deliver”, Congressional Research Service, 1/14/11, http://www.fas.org/sgp/crs/misc/R41590.pdf)//JLip

Another means of promoting short-sea shipping would be to repeal the existing harbor maintenance tax as it pertains to containerized domestic shipments, although the tax remains largely unenforced with respect to domestic shippers. The harbor maintenance tax, enacted in 1986, is essentially a federal port use charge intended to recover some of the costs incurred by the U.S. Army Corps of Engineers to operate and maintain waterside infrastructure in coastal and Great Lakes ports. These costs consist mostly of dredging navigation channels, but also maintaining breakwaters and jetties and operating several locks. (The harbor maintenance tax does not recover the Corps of Engineers’ costs associated with the infrastructure of the inland waterway system, which is funded from a separate barge fuel tax.25) The harbor maintenance tax is assessed at 0.125% of shipment value ($1.25 per $1,000 of shipment value) on imported waterborne and domestic cargo. It is not assessed on waterborne exports, as a 1998 Supreme Court decision found this tax on exports to be unconstitutional. In addition to the amount of the tax, some have claimed that the administrative burden of payment on the part of the shipper discourages would-be waterborne shippers. While highway users also pay federal user charges (taxes on diesel fuel, new truck equipment, and truck weight charges), shippers do not pay these taxes directly; motor carriers do. Waterborne importers pay the harbor maintenance tax as part of the Customs clearance process upon arrival of the shipment, while domestic shippers pay the tax on a quarterly basis. Domestic shippers are charged only once for each shipment, not at both ports. However, if imported goods are offloaded from a vessel at one port and then shipped to another U.S. port on a different vessel, such as a feeder ship or barge, the tax would be assessed at both ports. The tax thus discourages domestic water shipment of import and export containers. The tax could also be particularly cumbersome for domestic vessel operators carrying containers of mixed cargo assembled by consolidators, because these typically hold shipments from multiple customers. Before using a marine highway, the vessel operator would need to assure that each shipper was advised that it would be subject to the tax. In the 111th Congress, bills were introduced that would have exempted containerized domestic shipments from paying the harbor maintenance tax.26 However, according to preliminary estimates by the Corps of Engineers, only about 10% of what is potentially owed is being collected from domestic shippers.27 The Corps also estimates that waterborne shippers pay about 10% of the federal cost of providing navigation infrastructure, either through the harbor maintenance tax or the barge fuel tax.28 This compares with highway user fees (including truckspecific taxes and fees) that cover most of the federal cost of highway infrastructure and railroads, which by and large privately finance their infrastructure. Thus, legislation that further reduces the financial burden on waterway users raises equity and economic efficiency issues with respect to competing modes.

#### HMT repeal vital to successful SSS

**Oberstar, 10**—Chairman-House Committee on Transportation Infrastructure (James L., “Marine Highways and Short Sea Shipping: The Future Is Bright”, Sea Technology Magazine, 1/10, http://www.sea-technology.com/features/2010/0110/marine\_Highways.html)//JLip

Every year, our nation’s highways become more congested, which increases air pollution, decreases the speed of delivery of goods and reduces the amount of goods that a truck can move annually. Shipping goods by water can address all three of these problems by lowering shipping costs, reducing emissions of pollutants and reducing congestion on our highways. In the coming years, the volume of freight transported in the U.S. is expected to increase significantly, and short sea shipping is an attractive option for meeting that increased demand. The federal government has an important role in promoting the expansion of commercial waterways and making them a more integrated component of the nation’s transportation system. Policy initiatives currently being considered by Congress could help address some of the logistical, operational and financial constraints of short sea shipping. For example, several bills have been introduced in the House of Representatives and the Senate to repeal the harbor maintenance tax (HMT) on cargo that is shipped by sea between U.S. ports. The HMT is imposed on cargo entering a port in the United States. If the cargo is then loaded into a rail car or onto a truck and shipped, it is not taxed again. However, if that same cargo is loaded onto another ship, then moved to another port, the HMT is charged again. Shippers pay the HMT, so they are being taxed twice; once when their cargo reaches the United States, then again when it is moved to another port. This is an obvious disincentive limiting the use of our marine highways. The HMT issue is one that the Committee on Transportation and Infrastructure examined in a hearing on October 29, 2008, which was convened to consider how investments in infrastructure can support economic recovery and job creation. Witnesses delivered compelling testimony indicating that the HMT is a significant impediment to short sea shipping. In February 2007, the Coast Guard and Maritime Transportation Subcommittee convened a hearing specifically on short sea shipping. During that hearing, several witnesses discussed the significant disincentive that the HMT places on short sea shipping, particularly in the Great Lakes.

#### HMT is the biggest barrier to SSS

**American Maritime Congress, no date** (“Issue Focus: Future Programs”, AmericanMaritimeCongress.com, http://www.americanmaritime.org/issue/)//JLip

Short Sea Shipping (Coastwise Trade) - As our nation’s highways continue to fill up with passenger and freight traffic, the maritime industry has been exploring ways to solve our America’s growing transportation needs. One of the most obvious ways is to rebuild our national coastwise trading industry.

Short Sea Shipping, historically referred to as the coastwise trade, would effectively remove thousands of trucks from major coastal and inland highways. This reduces the burden on our highways and railways, and lowers the cost and time of transportation for shippers. Instead of cargo entering mega-ports on each coast and then loading containers and freight on trucks and rail, the cargo is transshipped to smaller ports for distribution closer to the eventual destination: the consumer. Coastwise trading is being effectively utilized in Europe today. However, because of unnecessary government regulation and outdated tax policy, short sea shipping has yet to take hold in the United States. One of the major barriers to short sea shipping is the Harbor Maintenance Tax. This tax, which was designed as a user-fee to pay for the dredging and upkeep of ports across America, taxes each individual cargo that enters a port. When the cargo is transshipped to another destination, that cargo is taxed again. The resulting multiple taxation of the cargo significantly reduces whatever direct savings would have been realized by the shipper. AMC is working with the Administration and Congress to address this problem and remove all of the barriers to rebuilding an effective coastwise trade in the United States

#### HMT kills SSS effectiveness – our evidence is in the context of the Aff

**Kennedy 8** – JD Candidate @ Tulane University School of Law (Sean, “Short Sea Shipping in the United States-The New Marine Highways”, Tulane Maritime Law Journal, Winter 2008, HeinOnline)//SV

The National Port and Waterways Institute study of the public benefits of SSS points to the HMT as a “major impediment” to the implementation of SSS and urges that the “tax should not be applied to domestic traffic,” especially since “Short sea vessels do not require deep channels.” In its October 2005 study of the HMT, the National Port and Waterways Institute contends that, if the HMT were withdrawn, “short sea services may generate $27.5 million in financial savings and $61 million in combined financial and external savings” – **savings that are four times greater** than lost HMT. The argument is that the introduction of SSS services would create new activity, so the elimination of the HMT with the respect to such new services would not reduce the existing collections. In a statement before the House Subcommittee on Coast Guard and Maritime Transportation, Congressman Elijah Cummings supported an HMT exemption for SSS voyages, stating, “It is critical that our nation takes every possible step to make water a mode competitive with roads and rails by supporting the development of short sea shipping. To that end, I strongly believe we should exempt these voyages from the Harbor Maintenance Tax ….” So far, Congress has yet to allow an exemption from the HMT to SSS operators.

#### SSS is GREAT…BUT HMT repeal is a vital prerequisite to any success

**Bonner, 11**— New York State Bar Association, Maritime Law Association of the United States; *Treasurer*, 1998-2006; *Vice-President*, 2006-2010; *President*, 2010-2012, Purdue University, B.A., 1971 Fordham University, J.D., 1978 Member, Fordham Law Review, 1977-1978, Lieutenant in the U.S. Navy from 1971 to 1975, currently the President of the United States Maritime Law Association (Patrick J., “Harbor Maintenance Tax—Letter 1”, The Maritime Law Association of the United States, 10/14/11, http://www.mlaus.org/mboard/discussion.cfm?t=11)//JLip

\*NOTE: The MLA is a nationwide bar association founded in 1899. We have a membership of about 3,000 attorneys, judges, law professors, and others interested in maritime law and commerce. The MLA's attorney members, most of whom are specialists in admiralty law, represent all maritime interests -- ship owners, charterers, cargo owners, banks, marine insurers, seamen, longshoremen, passengers, shipyards, ports, shore terminals, etc. Over our history we have responded to numerous requests to assist Congress and the Executive Branch in crafting legislation and regulatory betterments to maritime law.

I write on behalf of The Maritime Law Association of the United States ("MLA"). The MLA is a nationwide bar association founded in 1899. We have a membership of about 3,000 attorneys, judges, law professors, and others interested in maritime law and commerce. The MLA's attorney members, most of whom are specialists in admiralty law, represent all maritime interests -- ship owners, charterers, cargo owners, banks, marine insurers, seamen, longshoremen, passengers, shipyards, ports, shore terminals, etc. Over our history we have responded to numerous requests to assist Congress and the Executive Branch in crafting legislation and regulatory betterments to maritime law. In 2007 Congress enacted a Short Sea Transportation program to encourage the development of America's Marine Highway on our coastal and inland waters as an "extension of the surface transportation system." With the program still in its early stages, removing a major tax disincentive for marine highway users is essential, as recognized by the Department of Transportation's April 2010 Report to Congress, "America's Marine Highway." We ask that you take up legislation to exempt certain non-bulk cargo from the Harbor Maintenance Tax ("HMT") in order to further develop America's Marine Highway. The MLA supported this goal with a formal Resolution in November 2008 (copy enclosed). Specifically, Congress should repeal the HMT as it applies to the domestic movement of non-bulk cargo and also in commerce between the U.S. and Canada via the Great Lakes because the HMT is an impediment to fully developing America's

Marine Highway: the HMT's tax and administrative burdens discourage shippers from fully utilizing domestic and Great Lakes marine transportation. So much is being said now about the need to increase American jobs by investing in our infrastructure and transportation system. A critical part of that system is the U.S. maritime sector, where increased use of America's Marine Highway will result in the creation of port, shipyard, and shipboard jobs. Increased use of America's Marine Highway is also an energy efficient and environmentally sustainable means of safely mitigating landside gridlock while cost­ effectively utilizing already existing waterway corridors to meet growing transportation needs. For example, the marine highway is not only the most efficient mode of transportation in the U.S. on a ton/mile basis, air pollution emissions are also the lowest.

#### HMT stands as a HUGE barrier to SSS

**Darcy 09** Master of Science in Transportation, B.S. Ocean Engineering, Department of Civil and Environmental Engineering, Supervised by Mark Welsh: Professor of the Practice of Naval Construction and Engineering and Henry Marcus: Professor of Marine Systems (Joseph, June 2009, “Short Sea Shipping: Barriers, Incentives and Feasibility of Truck Ferry,” pdf)

The Harbor Maintenance Tax (HMT) is a legislative issue that hinders the use of SSS in the United States. The HMT assesses goods landed at U.S. ports as to the value of the goods. The HMT was created to gather monies for the Army Corps of Engineers’ dredging operations in U.S. ports. Currently, the HMT assesses 0.125% (or $125 per %100,000) of the value of the cargo once unloaded in the U.S. This tax not only affects the goods imported, but also impacts those import goods transshipped by sea from one U.S. port to another. According to a GAO estimate in 2007, the current surplus in the HMT account is approximately $4.7B, and expected to grow to $8B by fiscal year 2011. An illustration of the HMT’s impact is the Detroit-Windsor ferry. The ferry operates “international” service by ferrying trucks across the Detroit River to Windsor, Canada. Trucks wanting to avoid the traffic at the bridge border crossing may take the ferry (significantly reducing crossing time); however those entering the U.S. by this ferry are subject to the HMT, while trucks crossing the bridge are not. Similarly, goods entering the port of Long Beach, CA from overseas are assessed the HMT once landed, but if they are loaded on a ship to Seattle, WA, these same goods are assessed the HMT again once they land in Seattle. Congressman Cummings has introduced a bill to Congress to amend the Harbor Maintenance Tax law [43]. This shows promise, however, as noted previously, measures like this have been on the Congressional calendar for the past 6-7 years with no result. Former Secretary of Transportation, Mary Peters stated that the “Harbor Maintenance Tax is the most significant impediment under current law to the initiation of [SSS] [17].”

### 2nc S XT – Trade

#### HMT repeal key to international trade—and that’s reverse causal

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

HMT Is a Barrier to International Trade

Our trading partners in Europe, particularly those who are members of the European Community, have routinely expressed strong opposition to the HMT. Its imposition on imports (many of which come from Europe) but not on exports is perceived as a tariff on imported goods. While this was clearly not the intention of the Supreme Court's U.S. Shoe decision (United States v. United States Shoe Corporation), the decision's effect is unavoidable. Eliminating the HMT would eliminate this inadvertent "tariff."

#### HMT kills trade—repeal key to solve

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HMT has Prevented Some Types of Waterborne Transport from Flourishing in the Great Lakes

Both Roll-On/Roll-Off (RORO) and various truck ferry services have been very difficult to establish on the Great Lakes due in large part to the existence of the HMT. It effectively transfers goods and products that could be shipped on the Great Lakes to both truck- and rail-based transportation systems. The HMT creates a disincentive for maritime shipping of both ferry cargo and containerized cargo. As an ad valorem tax, the HMT imposes a requirement that containerized cargo be valued for the purpose of assessing HMT. The burden of the HMT is twofold: First, the HMT represents an added cost of 0.125 percent for the product shipped. But also, compliance with the HMT requires valuation of items within any container or vehicle transported onboard a ship, requiring a substantial volume of paperwork (Stewart 2005). There is currently one operating truck-only ferry on the Great Lakes, the Detroit/Windsor Truck Ferry, ferry service to various islands such as the Erie Islands and the Apostle Islands, and a RO-Pax (Roll-On/ Roll-Off with Passenger Service), the Michigan Car Ferry Service on Lake Michigan (Price and Vickerman 2004). The opportunities for additional truck ferry and RO/RO service on the Great Lakes are substantially limited by the imposition of the HMT. Previous research has indicated that the HMT (applied to both imports and exports at the time) was an important factor and perhaps even the primary factor in the termination of RO/RO service between Duluth, Minnesota and Thunder Bay, Canada (Stewart, Lavoie, and Shutes 2003).

#### HMT repeal key to US international trade and relations

**McIntosh, Skalberg, Skurla, 09**—Department of Economics Labovitz School of Business and Economics UMN, Accounting Department Labovitz School of Business and Economics UMN, Labovitz School of Business and Economics Bureau of Business and Economic Research UMN (Christopher, Randall, and James, “Analyzing Alternatives to the Harbor Maintenance Tax”, pdf.)//JLip

Skalberg and Skurla (2006) discuss an additional proposal; abolish the HMT and generate revenues from an increase in the federal diesel fuel excise tax. Their calculations estimate that the rate would need to be increased about 4.6% to fully fund USACE O&M expenditures (―increase of $0.0112 cents per gallon,‖ in Skalberg, GLMRI grant report 2006, p. 38). There may be justification for such an increase. Several studies indicate the modal advantages of maritime shipping when considering externalities, or costs not incorporated in market prices. (See, for example, the Great Lakes Commission, 1993 and 2005; and Texas

Transportation Institute, 2007.) Inland marine shipping leads to lower energy consumption, lower emissions, fewer injuries and fatalities, and less congestion on a corresponding rate per ton basis than rail or truck movements. Skalberg and Skurla (2006, p. 38) report that a similar approach, ―has been used successfully in Europe, with the support of the trucking industry.‖ Rate analysis and the feasibility of this proposal are left as an area for future research. The HMT is not fulfilling its intended goal. **The EU could ask for a dispute settlement panel against its previously charged GATT violations at any time**. While the proceedings would likely cause a delay, 15 additional months is not much time to make important policy changes if the U.S. was found in violation. One thing is clear; it is time to seriously consider what should be done about the HMT.

#### HMT violates trade agreements and favored internationally

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

HMT Violates GATT

After the decision in U.S. Shoe, the HMT applies to imports but not to exports. On February 6, 1998, the European Communities brought a Request for Consultations (RC) against the United States in the World Trade Organization's Dispute Settlement Body. Canada, Japan, and Norway ("Request for Consultations ... Canada, Japan, Norway" 1998) also joined in the RC. The RC alleged that the HMT violated Articles I, II, II, VIII, and X of GATT, as well as the Understanding on the Interpretation of Article II: I(B) of GATT ("Dispute Settlement: United States-Harbor Maintenance Tax" 2006). The European Community's RC was introduced a few weeks before the Supreme Court's decision in U.S. Shoe, but the U.S. Shoe decision at least arguably makes the EC's claim against the HMT even stronger. By dropping the HMT on exports, but maintaining it on imports, the U.S. has unintentionally violated the national treatment obligation under GATT ("Request for Consultations by the European Communities" 1998). This in effect allows tax-free port use to products originating in the U.S. but imposes a tax on imported products, a direct violation of the national treatment clause of GATT Article III (Lundell, S., Princess Cruises, Inc. v. United States). One important exception to this rule applies to user fees, which are imposed for services actually rendered. However, as the Supreme Court noted in U.S. Shoe, the HMT is not a valid user fee because it has little or no direct relationship to services provided to importers (United States v. United States Shoe Corporation). The WTO has not acted on the European Community's RC. No panel has been established to act on the Request for Consultations ("Dispute Settlement: United States-Harbor Maintenance Tax" 2006). Abolishing the HMT would clearly be viewed favorably by our European and other trading partners.

#### EU views HMT as US violation of WTO

**Frittelli, 11**—Specialist in Transportation Policy (John, “Harbor Maintenance Trust Fund Expenditures”, Congressional Research Service, 1/10/11, http://www.fas.org/sgp/crs/misc/R41042.pdf)//JLip

Trading Partner Objections: The federal government is statutorily required to continue collecting the HMT from non-export cargo and passenger ships. The European Union sees the application of the HMT to imports as a discriminatory import tariff that violates U.S. obligations under the World Trade Organization (WTO). In February 1998, the European Union requested WTO consultations on the issue. A first round of consultations took place in March 1998. Second round negotiations, which included Japan, Norway, and Canada, took place in June 1998. The European Union indicated that if satisfactory legislation was not passed by January 1, 2000, it would ask for a WTO dispute resolution panel. As of 2009, however, the European Union has not requested a panel.

### A2 K2 Funding

#### HMT Revenue only small portion of US transportation revenue

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

HMT Revenue Is a Small Portion of Total Transportation Tax Revenue and a Small Portion of Transportation Spending

The HMT represents only 3 percent of the U.S. government's revenue from transportation sources. While government spending on water transport is 6 percent of the total transportation budget, this apparent "imbalance" is more than justified by the importance of water transport as both a strategic military tool and the fuel efficiency of waterborne transport as identified previously. The significance of these funding levels is that while the HMT stands as a meaningful barrier to specific types of water transport, it actually provides a very small percentage of the federal government's transportation budget.

### A2 S Deficits

#### Harbor Maintenance tax is pre-requisite

**Cook 12** Involved with Jones Act issues for more than 40 years and served as General Counsel of the Maritime Administration from 1970-1973, Currently Counsel to Seward & Kissel LLP in Washington, DC. (H. Clayton Cook, Esq. has been The Dual-Use Vessel Program and Americas Marine Highway Next Steps, http://www.maritime-executive.com/article/the-dual-use-vessel-program-and-america-s-marine-highway-next-steps)//DR. H

Finally, and of critical importance, although not an infrastructure financing problem, the Harbor Maintenance Tax, a tax in the amount of 1.25 percent based on the value of the contents of every container or ro/ro trailer that is discharged from a vessel at a U.S. location, must be repealed. In present circumstances, this tax will prevent even the most efficient coastwise operation from being cost-competitive with highway and rail container and trailer movements.

### A2 HMT Good

#### There is no offense – HMT revenues disappear and are never allocated for use

**Rushmere 12** – Journalist @ Maritime Professional (Martin, “Harbor Maintenance Tax gets a novel proposal,” Maritime Professional, 1/28, http://www.maritimeprofessional.com/Blogs/Martin-Rushmere/January-2012/Harbor-Maintenance-Tax-gets-a-novel-proposal.aspx)//SV

Interstate Commerce Act, World Trade Organization, Smoot-Hawley. They're all flickering, again, in a tangle across the floor of the Senate and House of Reps. Only, the esteemed and honorable members don't seem to realize it.

As the lawmakers get ever more frenzied about protecting jobs and ports, so the rhetoric ratchets up and remedies get wilder. This time it's ex-congress member Helen Bentley, who is also a former board member of the Federal Maritime Commission. She suggests that ALL imports, no matter which country or port they go through, should be whacked for the Harbor Maintenance Tax.

Some of the novelty of this proposal is diminished by the fact that she was speaking to Washington state importers and exporters, telling them what they want to hear in the time-honored political tradition, but it's still somewhat startling. She also blithely asserts that the FMC is studying the proposal, which is stretching it a bit. Chairman Richard Lidinsky has a whole heap of suggestions in front of him and he is duty bound to consider them all equally, at least in theory.

However, and I am quoting various news sources here, "During a September 2011 speech, FMC Chairman Richard Lidinsky said the agency faces important legal issues, including where does water-borne commerce begin and end, and where the responsibility lies. "

As various comments have stated on Maritime Professional, the legal issues will have maritime lawyers in three or four countries licking their lips – while politicians who hold different and opposing views to Helen Bentley will have ample material to hurl allegations about a trade war, previous disastrous similar attempts like Smoot-Hawley, and the probability that this could be the first of a barrage of all sorts beggar-thy-neighbor policies.

But, Helen Bentley is missing the real outrage of the HMT. The money is going nowhere, which is the truest description that can be made of its allocation. As an industry veteran puts it: "I think Congress needs to actually appropriate the money that is currently collected under the HMT for those purposes for which it is collected – like dredging.  At this point, the HMT funds disappear into a black hole in the bowels of the federal government, never to be seen again."

Dredging is becoming a serious problem, which Maritime Professional has also pointed out, bigger than the HMT. Some maritimers are looking for the American Association of Port Authorities to put a discreet word in Helen Bentley's ear – and those of others – to make sure the priorities and dangers are known.

#### HMT being misused and not effective

**Landrieu, 11**—U.S. Senator of Louisiana (Mary L., “To Keep Commerce Flowing, Landrieu Proposes to Fix Harbor Fund”, Senator.gov, 2/17/11, http://landrieu.senate.gov/mediacenter/pressreleases/02-17-2011-2.cfm)//JLip

WASHINGTON — United States Senator Mary L. Landrieu, D-La., today introduced the Harbor Maintenance Act of 2011 as an original co-sponsor to correct funding inequities in the operation and the maintenance of U.S. ports and harbors. Of the 149 ports nationwide, six of the top 10 are located along the Gulf Coast. Port of South Louisiana, Port of New Orleans, Port of Lake Charles, Port of Baton Rouge, Port of Plaquemines and the Port of Morgan City rank among the top 100 for total tonnage in the United States. ''As gateways to domestic and international trade, Louisiana's ports and harbors are vital to the country's global competitiveness and American jobs," Sen. Landrieu said. "They drive industries and support the delivery of products through the entire economy. Although Louisiana's port system makes up the largest in the world, the critical federal waterways that serve our ports have not been adequately maintained." The Harbor Maintenance Tax (HMT) and Harbor Maintenance Trust Fund (HMTF) were established in 1986 to fund operations and maintenance of federal ports and harbors. However, this funding is not being used to address the backlog of necessary maintenance dredging needed to sustain our vital infrastructure. The HMT is charged against the value of imports and domestic cargo arriving at U.S. ports that have federally maintained harbors and channels and deposited into the HMTF. Today, the HMTF has a balance of approximately $5.7 billion.

#### HMT just excess revenue—creates more problems than benefits

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

HMT Generates Substantially More Revenue than the U.S. Currently Needs for Harbor Maintenance

The HMT has been a very effective (perhaps too effective) vehicle for generating revenue for the Army Corps of Engineers dredging and harbor maintenance activities. There is currently a $3.1 billion surplus in the Harbor Maintenance Trust Fund, an amount sufficient to support the Army Corps of Engineer's dredging and harbor maintenance at the current rate for 3 1/2 years. The HMT could be abolished currently, and a replacement revenue stream could be deferred or phased in over a period as long as three years without risking any of the Corps' ability to complete important dredging and harbor repairs.

#### HMT income distributed unfairly

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

Income from HMT is not Fairly Allocated to the Commercial Ports that Generate HMT Revenues

As previously noted, the HMT was enacted to fund dredging and maintenance of commercial ports. Unfortunately, the HMT is used for a variety of waterway projects that are unrelated to dredging and maintenance of commercial ports. Even if the HMT were lowered so that it produced only enough revenue to fund current and future harbor maintenance and dredging expenses, the allocation of funds is currently unfair. In some cases HMT revenues have been spent on maintenance of harbors that provide little or no commercial trade, and hence contribute virtually nothing to the HMTF. In other cases HMT revenues are collected at ports that do not require or fund maintenance through HMTF expenditures. The Great Lakes Boating Federation, in making a case for federal support for recreational boating, notes that recreational boaters benefit from large breakwaters protecting cities like Cleveland and Chicago, built and maintained by the Army Corps of Engineers(http://www.greatlakesboatingfedera tion.org/action/infrastructure.html). On the other hand, commercial interests, as represented by the AAPA note in testimony before a House subcommittee, "Ports like Seattle and Tacoma, which need little or no maintenance dredging, have long suffered the inequity of competing for cargos that must pay significant fees for essentially no service" (Nagle 1999). Calculation and direct comparison of collections and expenditures is currently compromised by lack of data; as noted in the arguments for reform of the HMT and for increased intermodal support by the National Ports and Waterways Institute (NPWI) at the University of New Orleans, since all domestic shipment databases are weight-based, almost no information is available on the value of shipments. The NPWI study makes estimates from ACE lake-wise waterborne commerce data for average value per ton, and shows lake-wise commodity tonnage shipped.

#### HMT is just a burden—no benefits

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

HMT does not Allocate its Tax Burden to Either (1) Ports that Require the Largest Dredging Expenditures or (2) Vessels that Require the Deepest Drafts

While the U.S. Supreme Court made it clear that the HMT is to be classed as a tax (United States v. United States Shoe Corporation) and not a user fee, a tax that is enacted to recover the government's cost for providing a specific service should be fairly applied to the users of those services, to be perceived by the public and the stakeholders as an equitable tax. Dredging expenses (but not necessarily other port maintenance) are largely a function of draft depth of ships traveling through the Great Lakes and St. Lawrence Seaway and the amount of sediment deposited in various locations on the system from rivers and other runoff. The HMT does not attempt to account for these differences in its imposition of an ad valorem tax.

#### HMT income not fairly distributed to ports

**Skalberg, 07**—CPA, J.D., L.L.M., Assistant Professor Department of Accounting of University of Minnesota (Randall K., Name: Transportation Journal Publisher: American Society of Transportation and Logistics, Inc. Audience: Academic; Trade Format: Newsletter Subject: Business; Transportation industry, Source Volume: 46 Source Issue: 3, Event Code: 920 Taxes Computer Subject: Tax law, 6/22/07, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//JLip

Income from the HMT Is Used for Work at Some Ports but not Others

The Port of Seattle incurred $792,500 in HMT-funded expenses for the years 1999-2004. International imports to Seattle incurred $27,966,250 in HMT for 2004 alone. Seattle is a naturally deep water port, containing at least fifteen berths that are at least fifty feet deep. The Port of Seattle handled 20,564,860 metric tons of cargo in 2005 with this minimal amount of HMT ("Container Terminals" 2006). By comparison, the Port of Wilmington, North Carolina incurred $95,015,705 in HMT-funded expenses during the same five-year period, while international imports shipped through Wilmington incurred only $1,790,000 in HMT for 2004. HMT collections were estimated using USACE value of cargo.

#### HMT needs to be repealed for a litany of reasons – unfair tax on high-value cargo, international trade barrier, and container-trade off

**Skalberg 7** - Associate Professor Taxation and Business Law @ University of Minnesota Duluth (Randall, “The U.S. Harbor Maintenance Tax: A Bad Idea Whose Time Has Passed?” Transportation Journal, 6/22, http://www.freepatentsonline.com/article/Transportation-Journal/167507807.html)//SV

#### HMT Unfairly Taxes High-Value Cargo when Compared to Low-Value Cargo As noted in the preceding section, one effect of the HMT is to impose a large tax burden on high-value cargo. While the intent of the HMT is to provide a revenue source for dredging and harbor maintenance, its effect is to strongly discourage manufacturers of high value, non-bulk items from using waterborne transportation. While this would appear to suggest that a tonnage tax would be a fairer means of generating harbor maintenance revenue, fuel efficiency and other issues and opportunities indicate that generating this revenue elsewhere actually represents better national tax policy. HMT has Prevented Some Types of Waterborne Transport from Flourishing in the Great Lakes Both Roll-On/Roll-Off (RORO) and various truck ferry services have been very difficult to establish on the Great Lakes due in large part to the existence of the HMT. It effectively transfers goods and products that could be shipped on the Great Lakes to both truck- and rail-based transportation systems. The HMT creates a disincentive for maritime shipping of both ferry cargo and containerized cargo. As an ad valorem tax, the HMT imposes a requirement that containerized cargo be valued for the purpose of assessing HMT. The burden of the HMT is twofold: First, the HMT represents an added cost of 0.125 percent for the product shipped. But also, compliance with the HMT requires valuation of items within any container or vehicle transported onboard a ship, requiring a substantial volume of paperwork (Stewart 2005). There is currently one operating truck-only ferry on the Great Lakes, the Detroit/Windsor Truck Ferry, ferry service to various islands such as the Erie Islands and the Apostle Islands, and a RO-Pax (Roll-On/ Roll-Off with Passenger Service), the Michigan Car Ferry Service on Lake Michigan (Price and Vickerman 2004). The opportunities for additional truck ferry and RO/RO service on the Great Lakes are substantially limited by the imposition of the HMT. Previous research has indicated that the HMT (applied to both imports and exports at the time) was an important factor and perhaps even the primary factor in the termination of RO/RO service between Duluth, Minnesota and Thunder Bay, Canada (Stewart, Lavoie, and Shutes 2003). As Currently Enacted the HMT is Difficult to Properly Enforce The HMT currently applies to imports and to domestic transportation. With respect to imports, it is collected by the U.S. Customs Service when the goods arrive in a U.S. port and clear customs. Payment is voluntary with respect to domestic shipping. Since the Customs Service doesn't monitor domestic shipping there is no clear enforcement tool for domestically shipped items. While potential compliance problems alone are usually not sufficient to militate elimination of a tax system, when the system is as flawed as the current HMT, it may be better to eliminate the tax altogether than to try to create a new and expensive system to ensure taxpayer compliance. HMT Is a Barrier to International Trade Our trading partners in Europe, particularly those who are members of the European Community, have routinely expressed strong opposition to the HMT. Its imposition on imports (many of which come from Europe) but not on exports is perceived as a tariff on imported goods. While this was clearly not the intention of the Supreme Court's U.S. Shoe decision (United States v. United States Shoe Corporation), the decision's effect is unavoidable. Eliminating the HMT would eliminate this inadvertent "tariff." HMT Results in a Shift in Container-Borne Cargo to Canadian Ports Port-related jobs currently employ about five million U.S. workers. These workers earn roughly $44 billion in annual personal income. With respect to containerized cargo, the Port of Seattle estimates that each container of goods that arrives in port adds about $1,000 to the local economy ("America's Ports Today" 2006). Containerized cargo (and bulk cargo as well) entering the U.S. through U.S. ports is subject to the HMT. If the cargo is containerized and enters a Canadian port where the container is moved to a truck or train, it avoids the HMT altogether. The HMT puts ports near the Canadian border at a competitive disadvantage. This disadvantage results in job losses at U.S. ports, some of the highest-paid union jobs in the U.S. ("Repeal the Harbor Maintenance Tax Now!" 2006).

#### HMT Useless

**Lutes, 10**—Deputy managing director, seaport division, port of Seattle, Washington (Phil, Hearing on “Doubling U.S. Exports: Are U.S. Seaports Ready for the Challenge?”, Subcommittee on International Trade, Customs and Global Competitiveness Senate Committee on Finance, 4/29/10, http://www.finance.senate.gov/imo/media/doc/042910pltest.pdf)//JLip

HARBOR MAINTENANCE TAX – LAND BORDER LOOPHOLE: One of the key factors drawing cargo away from U.S. ports is the Harbor Maintenance Tax, or HMT. You could say that the HMT is a good idea that has had unintended consequences. The idea was to raise money for critical channel dredging by taxing shippers bringing goods into U.S. ports. After all, the shippers benefit from the infrastructure why shouldn’t they help pay for it?

## \*\*\*Aff

### Links to Politics

#### HMT popular—Congress wants to use it for harbor maintenance

**Bayles 12** (Cara Bayles “Congressman lobbies for dredging money March 18, 2012” http://www.houmatoday.com/article/20120318/ARTICLES/120319619)//NJain

Next year’s federal budget could set aside more money for harbor dredging, and locals are hoping the money will trickle down to projects they say are vital for the area’s economy.

Congressman Jeff Landry, R-New Iberia, is leading a bipartisan effort among 72 House members requesting that the Budget Committee allocate money from the Harbor Maintenance Trust Fund.

The fund was created in 1986 to bankroll Army Corps of Engineers projects. The Harbor Maintenance Tax of 0.125 percent on imported and domestic cargo pays for it, and a 2011 study from the Congressional Research Service says the fund’s spending has remained flat, though an increase in U.S. imports have seen it swell.

#### Repealing HMT would be unpopular

**ACG America 12**—Trade association for the construction industry (“Harbor Maintenance Trust Fund” May 23, http://www.agc.org/galleries/advy/Infrastructure%20Investment%20-%20Harbor%20Maintenance%20Trust%20Fund%202012.pdf)//NJain

Support H.R. 104, Realize America’s Maritime Promise Act, and S. 412, Harbor Maintenance Act of 2011. H.R. 104 and S. 412 introduced by Charles W. Boustany (R-La.) and Senator Carl Levin (D-Mich.) respectively, would fully invest future revenues raised from HMT to fund the operation and maintenance of Federal ports and harbors, as intended. Both bills have generated significant bipartisan cosponsorship in their respective chambers, as H.R. 104 has 187 cosponsors and S. 412 has 35 cosponsors. Urge your congressman and senators to support these bills and the future of America’s ports.

### Competitiveness Turn

#### HMT Repeal kills competitiveness

**Frittelli, 11**—Specialist in Transportation Policy (John, “Harbor Maintenance Trust Fund Expenditures”, Congressional Research Service, 1/10/11, http://www.fas.org/sgp/crs/misc/R41042.pdf)//JLip

If U.S. ports subject to the HMT shipped more cargo between them, they would have more of an economic interest in the maintenance of each other’s navigation channels.10 However, domestic shipping on the Great Lakes and along the coasts is only one-fifth the tonnage of U.S. foreign waterborne trade and domestic vessels account for less than one in every ten ship calls at U.S. ports. Besides Alaskan and Hawaiian ports which ship goods to and from California and Washington State ports, the only other U.S. ports with significant domestic volume are Duluth, Minnesota, which ships iron ore to Indiana and Ohio Great Lakes ports, and certain Gulf Coast ports, which ship significant amounts of petroleum or chemical products between them. Thus, for most U.S. ports, the relationship with one another is more competitive than complementary. This is in contrast to the harbor maintenance funding mechanism, which creates a national pool of funds and redistributes the tax revenues from busy U.S. ports with low maintenance costs to less busy ports with higher maintenance costs.

### Funding Turn

#### HMT key source of port funding—repeal drains funding

**Frittelli, 11**—Specialist in Transportation Policy (John, “Harbor Maintenance Trust Fund Expenditures”, Congressional Research Service, 1/10/11, http://www.fas.org/sgp/crs/misc/R41042.pdf)//JLip

In the administration of the tax, there is no attempt to identify particular port usage and allocate funds accordingly. In other words, the HMT generates a national pool of funds, which is distributed without regard to which ports used triggered collection of the tax. However, the tax is meant to be a port user charge and comparing where the tax is assessed and where the revenues are spent raises a number of policy issues. As indicated above, almost all the tax revenues are generated by importers. This means that ports which handle a large amount of imported containerized cargo are likely to be exceptional in the amount of HMT revenues they generate since containerized cargo is generally higher in value than other cargo types. Data on cargo value is collected by the federal government only for international cargo, not domestic, so it is not possible to calculate the total amount of HMT revenue that could be collected at each port. To provide a rough indication of which ports likely generate the most HMT revenues, the top 25 ports by imported cargo value in 2005 are listed in Table 2 (2005 is the latest year available; the ranking is fairly stable from year to year). HMT revenue generation is quite concentrated. The top 15 ports account for 75% of the total value of imported cargo and the top 25 ports account for over 85% of the total value.

#### HMT key to maintenance of ports and dredging expenses.

Skalberg 07- University of Minnesota, J.D. University of Minnesota, B.S.B. (Randall K., “The U.S. Harbor maintenance tax: a bad idea whose time has passed?”, Transportation Journal, June 22, 2007, Volume 46, Issue 3)//PN

The HMT was enacted as part of the Water Resources Development Act of 1986 (United States v. United States Shoe Corporation). Prior to the HMT's enactment, general funds from the U.S. Treasury were used to cover the federal government's share of costs to maintain and deepen both inland ports and coastal ports. The HMT was intended to recover a portion of the federal government's cost of maintaining the nation's deep draft navigation channels ("The History of the Harbor Maintenance Tax" 2006). The Act created both the HMT and the Harbor Maintenance Trust Fund (HMTF). The HMTF is the trust fund that holds HMT revenues from the time they are collected until they are disbursed by Congressional appropriation (Kumar 2002). Originally, the HMT was intended to recover only 40 percent of port maintenance costs. However, in 1990 the HMT was more than tripled by Congress to its current rate, equal to 0.125 percent of the value of the commercial cargo involved (United States v. United States Shoe Corporation). This dramatic increase in the HMT was intended to recover 100 percent of maintenance dredging expenses. The HMT currently is imposed at the time of unloading (United States v. United States Shoe Corporation) on importers and domestic shippers, but the term "domestic shipper" would include foreign flag vessels traveling between U.S. ports (United States v. United States Shoe Corporation). The HMT was created as an ad valorem tax in an attempt to minimize its impact on U.S. exports, especially price-sensitive bulk commodities (American Association of Port Authorities 2006). The impact on U.S. exports was eliminated by a U.S. Supreme Court decision in March 1998, where the court held that the HMT was unconstitutional as applied to exports (United States v. United States Shoe Corporation). One might have expected that this dramatic change in application of the HMT would have resulted in a major drop in HMT revenues. However, the decrease in HMT revenue from 1997 to its low-water mark in 1999 was only 21.99 percent (Kumar 2002). By 2001, HMT revenues had once again exceeded their pre-1998 levels (Kumar 2002).

### Army COE Turn

#### HMT key to US Army Corps of Engineers and NOAA- necessary funding covered by revenue

Grier, Hawnn, Lane, and Patel 05- Transportation Research Board (David V., Arthur F., John M., and Shilpa, “Harbor Maintenance Trust Fund”, Section 210 of WRDA 1986 (P.L. 99-662) specifically authorizes Transportation Research Record: Journal of the Transportation Research Board,

No. 1909,Transportation Research Board of the National Academies, 2005, pp. 54-61)//PN The status and the performance of the Harbor Maintenance Trust Fund (HMTF) are evaluated. The harbor maintenance tax (HMT) and HMTF were established by Title XIV of the Water Resources Development Act of 1986. The HMT is applied as a 0.125% ad valorem fee on the value of commercial cargo loaded or unloaded on vessels using federally main- tained harbor projects. The HMTF is authorized to be used to recover 100% of the U.S. Army Corps of Engineers eligible operation and main- tenance (O&M) expenditures for commercial navigation, along with 100% of the O&M cost of the St. Lawrence Seaway by the St. Lawrence Seaway Development Corporation, certain costs of the National Oceanic and Atmospheric Administration, and costs to administer the HMTF. The U.S. Supreme Court found that the HMT violated the export clause of the U.S. Constitution; as a result, the U.S. Customs Service halted HMT collections on U.S. exports in ﬁscal year 1998. However, the rev- enue stream from HMT collections on imports, domestic shipments, passengers, foreign trade zone cargo, and interest earnings should be sufficient to recover eligible expenditures for the foreseeable future.

### Port Maintenance Turn

#### HMT necessary for port maintenance- dredging

AAPA 09- American Association of Port Authorities, Alliance of the Ports of Canada, the Caribbean, Latin America, and the United States (American Association of Authorities, “Questions and Answers About America’s Ports and the Harbor Maintenance Tax”, AAPA, 2009, http://www.aapa-ports.org/Issues/content.cfm?ItemNumber=1004)

In 1986, Congress created the Harbor Maintenance Trust Fund to pay for a portion of channel maintenance dredging. (Previously the Federal Government funded maintenance dredging of Federal navigation channels from General Treasury revenues.) Originally, revenue for the Harbor Maintenance Trust Fund was generated by assessing a .04 percent fee (the "Harbor Maintenance Tax" or HMT) on the value of export, import and domestic cargo moving through the nation’s deep draft ports. At the same time, local cost-sharing was instituted for funding new construction projects (widening and deepening) projects.

The HMT ultimately added hundreds of dollars to the cost of shipping a single container of high value cargo, and has caused traffic to be diverted to non-U.S. ports to avoid payment. The imposition of the HMT caused a rail-barge service on the Great Lakes to go out of business.

### **A2 User/Tonnage Fees S**

#### **No replacement for HMT- user fees fail.**

AAPA 09- American Association of Port Authorities, Alliance of the Ports of Canada, the Caribbean, Latin America, and the United States (American Association of Authorities, “Questions and Answers About America’s Ports and the Harbor Maintenance Tax”, AAPA, 2009, http://www.aapa-ports.org/Issues/content.cfm?ItemNumber=1004)

Q.    Why was it enacted in the first place?

A.     The cost sharing plan enacted in 1986 passed Congress after a long stalemate over water resources development policy. Although the benefits are clearly national in scope, the HMT and cost-sharing reforms were instituted in an effort to recover the cost of maintenance dredging from navigation channel users.

Q.    How do ports propose funding maintenance dredging rather than the HMT?

A.     Ports are advocating a return to funding navigation channel maintenance from the U.S. General Treasury, as was the case before 1986. There is no user-fee system that can equitably raise revenues from the users of navigation channels in reasonable relation to the distribution of benefits to the nation. Many options were considered in developing the ad valorem HMT funding mechanism for maintenance dredging. Unfortunately, the only option to survive the debates from 1981 to 1986, the HMT, was found unconstitutional by the Supreme Court. It does not appear that there are significant new or old options that would work better today.

#### Vessel tonnage fee fails-dredging related to shipping of exports greater than imports

AAPA 09- American Association of Port Authorities, Alliance of the Ports of Canada, the Caribbean, Latin America, and the United States (American Association of Authorities, “Questions and Answers About America’s Ports and the Harbor Maintenance Tax”, AAPA, 2009, http://www.aapa-ports.org/Issues/content.cfm?ItemNumber=1004)

Q. Why not assess a vessel tonnage fee to pay for maintenance dredging? A. The assessment of a tonnage fee on cargo or vessels would severely affect bulk commodities, such as grain or coal, which compete in international markets where pennies a ton can make or break a sale. For example, maintaining a channel at 43 feet instead of 44 feet may mean the difference of 750 fewer tons of coal loaded on a single ship, often five percent of a ship’s total cargo potential. These shipments, which are amongst our Nation’s leading export products, now use the most cost-effective route--typically moving by barges down rivers to coastal harbors. Those harbors, in turn, tend to require significant maintenance dredging because of the river sediment. In general, dredging demands related to the shipping of these types of export products are greater than those related to import products.

#### Other methods of raising revenue for ports fail- insufficient funds

AAPA 09- American Association of Port Authorities, Alliance of the Ports of Canada, the Caribbean, Latin America, and the United States (American Association of Authorities, “Questions and Answers About America’s Ports and the Harbor Maintenance Tax”, AAPA, 2009, http://www.aapa-ports.org/Issues/content.cfm?ItemNumber=1004)

Q.    Can’t ports pay for their own dredging?

A.     Requiring local ports to raise their own funding for maintenance dredging could pit U.S. ports against each other, the result of which could impact commerce and national security. The concept also alters the fundamental Federal role in maintaining the national navigation system. Like a tonnage tax, local funding, if passed on to port users, could increase transportation costs, pricing bulk commodities out of international markets either through increased charges at the currently utilized port(s) or by increasing inland transportation costs due to diversion from the inland waterway system.

Recognizing that these options could be injurious to the nation’s trading position, and to individual ports, Congress in 1986 chose to enact a uniform ad valorem tax on cargo. By applying a uniform fee on all cargo moving through any port in the country, the tax did not affect the competitive position of any port. (This is true relative to U.S. ports, but ignores the fact that cargo has been diverted to Canadian ports to avoid paying the fee.)

Q.     How about asking other waterways users to pay for dredging?

A.     Other options for raising revenue from direct users of the navigation channels are not likely to produce sufficient funds. In addition, direct navigation users are already significantly taxed. A 1993 General Accounting Office study found that 12 Federal agencies levy 117 assessments on waterborne trade. In 1996, receipts from these fees were 154 percent of the level raised only ten years earlier, making our exports more expensive and less competitive in international markets.

### A2 Unconstitutional

#### HMT is constitutional - Supreme Court ruled taxation of imports and domestic transportation is permissible

Skalberg 07- University of Minnesota, J.D. University of Minnesota, B.S.B. (Randall K., “The U.S. Harbor maintenance tax: a bad idea whose time has passed?”, Transportation Journal, June 22, 2007, Volume 46, Issue 3)//PN

LEGAL CHALLENGES TO THE HMT's VALIDITY The principal legal challenge to the HMT began with a constitutional challenge based on the export clause of the U.S. Constitution. The U.S. Shoe Corporation brought an action on November 3, 1994 against the U.S. government in the Court of International Trade (CIT). U.S. Shoe sought a refund of the HMT it had paid on exports, arguing that the HMT was an unconstitutional tax as applied to exports (United States v. United States Shoe Corporation). Both the CIT and the Court of Appeals for the Federal Circuit held that the HMT was a tax, not a user fee, and that as a tax, it violated the Export Clause. The U.S. Supreme Court agreed to hear the case after the decision by the Federal Circuit. The first step in the Supreme Court's analysis of the HMT was to determine whether the CIT had proper jurisdiction over the case as filed by U.S. Shoe. The scope of the CIT's jurisdiction is established by 28 U.S.C. [section] 1581. The HMT's own jurisdictional provision states that for jurisdictional purposes, the HMT "shall be treated as if such tax were a customs duty" (United States v. United States Shoe Corporation). The CIT's jurisdictional statute states that the CIT has jurisdiction over any civil action against the U.S. that "... arises out of any law of the United States providing for--(1) revenue from imports or tonnage; (4) administration and enforcement with respect to the matters referred to in paragraphs (1) -(3) of this subsection...." (United States v. United States Shoe Corporation). The Supreme Court found HMT claims to be within the jurisdiction of the CIT because at that time, the HMT applied to both imports and exports and its specific jurisdictional provision references revenue from imports. Even though the lawsuit involved the HMT's applicability to exports, it was possible for the CIT to rely on jurisdiction created over imports (United States v. United States Shoe Corporation). The Supreme Court then turned to the issue of whether the HMT was a tax, which would potentially be impermissible under the Export Clause, or whether it qualified as a user fee, which might survive Export Clause scrutiny. The Court found that the HMT is a tax, basing its decision on the Congressional description of the HMT as a "tax on any port use" (United States v. United States Shoe Corporation). The Court went on to analyze the HMT and determined that it is not a user fee. It distinguished prior cases involving user fees such as the civil aircraft registration fee (Evansville Airport v. Delta Airlines) and other valid user charges that involved either the Dormant Commerce Clause or the Takings Clause, finding that the Export Clause contained a "simple direct and unqualified prohibition on any taxes or duties ... on exports" (United States v. United States Shoe Corporation). The Court then analogized the HMT to the excise tax on tobacco that was the subject of the Court' s 1876 decision in Pace v. Burgess. In Pace, the stamps required to sell tobacco in the export market '"bore no proportion whatever to the quantity or value of the package on which [the stamp] was affixed' and the fee was not excessive" (United States v. United States Shoe Corporation). Since the amount of HMT paid by an exporter "does not correlate reliably with the federal harbor services used or useable exporter" (United States v. United States Shoe Corporation) it imposes a tax, not a user fee, and as such was invalid as applied to exports. The Court invalidated the HMT as it applied to exports, but since the Export Clause does not prohibit taxing imports or domestic transportation, the HMT continues to apply to both imported items and domestic transportation.

# ^^Jones Act CP^^

## \*\*\*Neg

### S – Econ

**Jones Act harms international relations and hurts economy- oil spill proves.**

**Bonney 10** - writer for journal of commerce, (joseph, june 25, “McCain Seeks Jones Act Repeal”, <http://www.joc.com/government-regulation/mccain-seeks-jones-act-repeal>).

Sen. John McCain introduced legislation to “fully repeal” the Jones Act, which he said is preventing non-U.S.-flag vessels from helping clean up the Gulf of Mexico oil spill. The Arizona Republican said the 1920 law, which restricts domestic waterborne transportation to U.S.-flag, U.S.-owned ships crewed, built and owned by Americans, “hinders free trade and favors labor unions over consumers.” McCain said the law restricts shipping and raises costs to consumers in Hawaii, Alaska, Puerto Rico and Guam. He cited a 1999 U.S. International Trade Commission Study that suggested Jones Act repeal would cut shipping costs in those markets by 22 percent. He criticized the Obama administration for failing to temporarily waive the [**Jones Act**](http://en.wikipedia.org/wiki/Merchant_Marine_Act_of_1920) to allow foreign-flag vessels to help with the cleanup from the BP rig explosion in the Gulf. “Within a week of the explosion, 13 countries, including several European nations, offered assistance from vessels and crews with experience in removing oil spill debris, and as of June 21, the State Department has acknowledged that overall, ‘it has had 21 aid offers from 17 countries.’ However, due to the Jones Act, these vessels are not permitted in U.S. waters,” McCain said. The Maritime Cabotage Task Force, a lobbying group representing Jones Act carriers, shipyards and dredgers, quoted the National Incident Command as saying that “no waivers of the Jones Act … have been required, because none of the foreign vessels currently operating as part of the BP Deepwater Horizon response has required such a waiver.” The group said the State Department reported that offers from Mexican skimmers, Norwegian skimming systems and other assets from Canada, Germany and the Netherlands, have been accepted for work in international waters beyond three miles from shore. The cabotage task force said that if foreign-flag vessels are needed for cleanup within domestic waters, it would not oppose waivers to the Jones Act.

**Prefer our ev –**

**A. Variables – their’s omits incalculable indirect costs**

**Papavizas and Gardner, 09**(Constantine- Partner, Winston & Strawn LLP (Washington, D.C.). B.A., Georgetown University; M.I.A., Columbia University; J.D., George Washington University. And Bryant E.- Partner, Winston & Strawn LLP (Washington, D.C.). B.A., Tulane University; J.D. Tulane University. “Is the Jones Act Redundent?” May, 4. <http://www.winston.com/siteFiles/Publications/15%20Papavitzas_Gardner%2021.1.pdf>)

The decline of the U.S. merchant marine in the second half of the 19th century, and particularly the non-competitiveness of U.S. shipyards, led to criticism of U.S. maritime laws including cabotage requirements. 93 By the 1880’s, many U.S. maritime laws were being criticized as “antiquated” including certain citizenship requirements and the U.S.-build requirement contained in section 4347 of Revised Statutes, the predecessor of the Jones Act. 94 The 1892 case United States v. 250 Kegs of Nails 95 is a good example of the commercial considerations underpinning that criticism. That case involved a shipper (as noted above) who went to the trouble of shipping nails to Europe and back in different foreign-flag vessels to circumvent U.S. coastwise laws. 96 It was not until after World War II, however, that economists turned toward a serious analysis of the Jones Act and its economic effects. 97 A 1975 Brookings Institute study, for example, reviewed all major aids to the U.S.-flag maritime industry. 98 That study addressed the Jones Act as having “indirect” and “direct” costs. According to the study, the “indirect costs,” i.e. “the costs that shippers pay to send their goods by other forms. of transport” or “the aggregate loss throughout the economy,” “are impossible to reckon.” 99 Moreover, “[e]ven the direct costs of cabotage are incapable of exact measurement.” 100 By “direct costs,” the study addressed “the additional costs attributable to the cabotage laws of operating vessels in the U.S. domestic trades” by dividing the Jones Act into a “building restriction” and an “operating restriction.” 101

b. Scope – several industries lose billions

Mccain, 10 (John- Us senator, former Chairman of the Senate Committee on Commerce, Science and Transportation. “McCain introduces legislation to repeal Jones Act.” *MarineLog*. June 25. http://www.marinelog.com/DOCS/NEWSMMIX/2010jun00252.html)

Today I am pleased to introduce legislation that would fully repeal the Jones Act, a 1920s law that hinders free trade and favors labor unions over consumers. Specifically, the Jones Act requires that all goods shipped between waterborne ports of the United States be carried by vessels built in the United States and owned and operated by Americans. This restriction only serves to raise shipping costs, thereby making U.S. farmers less competitive and increasing costs for American consumers. "This was highlighted by a 1999 U.S. International Trade Commission economic study, which suggested that a repeal of the Jones Act would lower shipping costs by approximately 22 percent. Also, a 2002 economic study from the same Commission found that repealing the Jones Act would have an annual positive welfare effect of $656 million on the overall U.S. economy. Since these studies are the most recent statistics available, imagine the impact a repeal of the Jones Act would have today: far more than a $656 million annual positive welfare impact - maybe closer to $1 billion. These statistics demonstrate that a repeal of the Jones Act could prove to be a true stimulus to our economy in the midst of such difficult economic times. "The Jones Act also adds a real, direct cost to consumers - particularly consumers in Hawaii and Alaska. A 1988 GAO report found that the Jones Act was costing Alaskan families between $1,921 and $4,821 annually for increased prices paid on goods shipped from the mainland. In 1997, a Hawaii government official asserted that 'Hawaii residents pay an additional $1 billion per year in higher prices because of the Jones Act. This amounts to approximately $3,000 for every household in Hawaii.'" "This antiquated and protectionist law has been predominantly featured in the news as of late due to the Gulf Coast oil spill. Within a week of the explosion, 13 countries, including several European nations, offered assistance from vessels and crews with experience in removing oil spill debris, and as of June 21st, the State Department has acknowledged that overall 'it has had 21 aid offers from 17 countries.' However, due to the Jones Act, these vessels are not permitted in U.S. waters. "The Administration has the ability to grant a waiver of the Jones Act to any vessel - just as the previous Administration did during Hurricane Katrina - to allow the international community to assist in recovery efforts. Unfortunately, this Administration has not done so. "Therefore, some Senators have put forward legislation to waive the Jones Act during emergency situations, and I am proud to co-sponsor this legislation. However, the best course of action is to permanently repeal the Jones Act in order to boost the economy, saving consumers hundreds of millions of dollars. I hope my colleagues will join me in this effort to repeal this unnecessary, antiquated legislation in order to spur job creation and promote free trade."

**c. Scale – it costs BILLIONS**

**Papavizas and Gardner, 09** (Constantine- Partner, Winston & Strawn LLP (Washington, D.C.). B.A., Georgetown University; M.I.A., Columbia University; J.D., George Washington University. And Bryant E.- Partner, Winston & Strawn LLP (Washington, D.C.). B.A., Tulane University; J.D. Tulane University. “Is the Jones Act Redundent?” May, 4. <http://www.winston.com/siteFiles/Publications/15%20Papavitzas_Gardner%2021.1.pdf>)

Possibly the most important study of the Jones Act has been undertaken by the U.S. International Trade Commission (“ITC”). 106 Commencing in 1989, the ITC began an investigation entitled “The Economic Effects of Significant U.S. Import Restraints.” The ITC issued its most recent update of that investigation in February 2007. 107 In that investigation, the ITC identified the Jones Act and related restrictions as one of many U.S. import restraints. 108 In its first report on import restraints, the ITC estimated that the cost to the U.S. economy from the Jones Act ranged from $3.6 billion to $9.8 billion per year. 109 To arrive at this estimate, the ITC assumed that world-wide ocean transportation rates would apply in the U.S. coastwise trade if the Jones Act were repealed. 110 The ITC also found that, at least in the type of carriage selected as representative for its study, that world-wide rates were substantially lower than U.S. coastwise rates. 111 Opponents of the Jones Act capitalized on the ITC reports. 112 They argued that the ITC validated their view that the Jones Act should be repealed or reformed. 113 An outspoken critic asserted, for example, that “the International Trade Commission study of the consumer cost of the Jones Act is without a doubt one of the better (and courageous, given the political silliness surrounding the issue) studies ever done on this two century old anachronism.” 114

**d. Compliance costs – they ignore them**

**Solomon 10** - senior fellow for Dc transportation sector ( Mark, June 30th, “McCain introduces bill to repeal Jones Act,” <http://www.dcvelocity.com/articles/20100630mccain_bill_to_repeal_jones_act/>).

In a bill introduced on Friday, McCain called the Jones Act "antiquated and protectionist" and said it favors labor unions over U.S. consumers. He cited several studies that showed that a repeal of the Jones Act could provide a boost to the U.S. economy of between $650 million and $1 billion by introducing lower-cost foreign competition and labor into what are now U.S. monopoly trades. McCain said the burden of the Jones Act falls most heavily on residents of Alaska and Hawaii, states that rely heavily on goods shipped via Jones Act vessels from the mainland. The senator cited a comment made in 1997 by a Hawaiian government official that Hawaiian residents at the time paid $1 billion more a year in higher prices because of the cost of complying with the Jones Act.

### Politics Wall – 2nc

**Increasing GOP support**

**Zimmerman, 10** (Malia- staffwriter for the Hawaii Reporter. “Sen. John McCain, others file bill to repeal Jones Act.” June, 25. <http://seshippingnews.typepad.com/south_east_shipping_news/2010/06/sen-john-mccain-others-file-bill-to-repeal-jones-act.html>)

Day 66 of the BP oil rig disaster: With no end in sight to gas and oil billowing from the BP undersea oil well, and the gulf coast states suffering from the environmental and economic havoc, GOP congress members are becoming more aggressive in their push against the Jones Act, and for foreign aid, to help in the massive cleanup effort. Friday U.S. Senator John McCain, R-AZ, introduced legislation for a total repeal of the 1920 maritime law, which mandates that all goods shipped between U.S. ports be transported in U.S.-built, U.S.-owned and U.S.-manned ships. Hawaii Congress member Charles **Djou**, R, D-HI, in a letter June 23, joined GOP congress members from Florida and Texas in asking President Barack Obama for a Jones Act exemption in the Gulf of Mexico. Djou says the law is deterring foreign countries from bringing in highly trained workers and the latest technology to lend their expertise. Today Djou says: “I agree with Sen. McCain and look forward to working with him to repeal or reform this antiquated First World War era legislation.” The Jones Act is a hot political issue in recent days as the environmental damage from the oil leak continues to spread throughout the oceans and beaches in Louisiana, Mississippi, Alabama and Florida, wiping out wildlife and ocean life and the local fishing industries. Republicans say that foreign nations should not have to fill out extensive paperwork, replace their workers with American crews that they have to train on the latest technology or hire attorneys to help with the paperwork – all in an effort to help America through this disaster. "The situation in the Gulf of Mexico is unacceptable. My colleagues and I agree with the President that no resource can be spared in the relief and recovery efforts,” Djou says. “The Jones Act has been waived before in times of crisis and should be again. Doing so would send a clear message that we welcome any and all assistance in dealing with the largest environmental disaster in our nation’s history.”

### Politics – GOP XT

**GOP has mad love for the CP son**

**Quezon, 10**(Travis- Hawaii Independent's executive editor. “Republicans point to oil spill in push for Jones Act repeal.” *The Hawaii Independent.* June, 30. http://hawaiiindependent.net/story/u.s.-sen.-mccain-pushes-for-repeal-of-jones-act/)

HONOLULU—As the BP oil spill continues to cloud the Gulf of Mexico, Republican lawmakers are leading another charge to urge Congress to repeal the Jones Act—a bill established in 1920 that regulates U.S. commerce in maritime waters and between ports and requires that carriers maintain a fleet that is U.S.-built and crewed with U.S. citizens. Earlier this month, Congressman Charles Djou (R, HI) supported state lawmakers along the Gulf Coast in introducing legislation to quickly waive the Jones Act to allow foreign vessels to assist in the cleanup efforts. Djou also joined Texas and Florida Congressmembers John Culberson (R, TX), Ginny Brown-Waite (R, FL), Thomas Rooney (R, FL), and Ron Paul (R, TX) in sending a letter to President Barack Obama urging him to use his executive authority to waive the Jones Act. In the letter, the lawmakers say that current waiver procedures are inhibiting foreign resources from assisting in the spill and creating unnecessary bureaucratic delays. “The situation in the Gulf of Mexico is unacceptable,” Djou said in a statment. “My colleagues and I agree with the President that no resource can be spared in the relief and recovery efforts. ... The Jones Act has been waived before in times of crisis and should be again. Doing so would send a clear message that we welcome any and all assistance in dealing with the largest environmental disaster in our nation’s history.” U.S. Senator John McCain (R, AZ) wants to take it a step further—repeal the Jones Act altogether. McCain said the Jones Act hinders free trade and favors labor unions over consumers. The former presidential candidate said requiring that goods be shipped between U.S. ports on American vessels raises shipping costs, makes U.S. farmers less competitive, and increases costs for American consumers. “Some senators have put forward legislation to waive the Jones Act during emergency situations, and I am proud to co-sponsor this legislation,” McCain said. “However, the best course of action is to permanently repeal the Jones Act in order to boost the economy, saving consumers hundreds of millions of dollars.” A spokesperson for Djou told The Hawaii Independent that the Hawaii Congressman supports McCain’s effort to repeal the Jones Act entirely

### A2 Jones k2 Competitiveness

**The Jones Act decimates** **competitiveness**

**Hensarling, 12** (Cody- Writer for the Grassroot Institute of Hawaii. “The Jones Act: Reform Needed.” *Grassroot Institue of Hawaii*. Jan 30. <http://new.grassrootinstitute.org/the-jones-act-reform-needed/>)

The high cost and lack of competitiveness of major U.S. shipbuilding currently burdens the businesses and residents of the noncontiguous jurisdictions with several adverse consequences.” – Michael Hansen, Hawaii Shippers Council In last Thursday’s edition of the Hawaii Free Press, Michael Hansen, President of the Hawaii Shippers Council, has a stirring piece calling for the “noncontiguous jurisdictions” (including Hawaii) to be exempted from the U.S.-Build requirement for large deep draft oceangoing commercial ships contained in the Jones Act. Admittedly, for those unfamiliar with the current controversy regarding the Jones Act, a lot of that last statement may be confusing. Whether you are read up on the Jones Act or not, Hansen’s article is worth reading in its entirety and can be found here: http://www.hawaiifreepress.com/ArticlesMain/tabid/56/articleType/ArticleView/articleId/5974/USBuild-requirement-for-ships-Dilemma-for-Hawaii-Guam-Alaska-and-Puerto-Rico.aspx. I will seek to provide an introduction to the issue for the uniformed in what remains of this post. The Jones Act requires that all ships transporting cargo or passengers between US ports must do so on US-flag, US-owned, US-crewed, and US-built vessels. The most onerous requirement of the four is the requirement that the ships be US-built. Currently, due to the protectionist bubble of Jones Act regulations, US shipyards are not competitive with international (particularly Chinese, South Korean, and Japanese) shipyards. American yards do not employ techniques such as specialization of the types of ships built and basing production on series lines, to allow for a more regular and predictable stream of production. The remaining US yards tend to focus on military production, and generally have large cost overlays and delays when producing commercial vessels. In fact, according to Hansen, the cost of building large oceangoing ships in the United States is at least three times greater than at the internationally competitive shipyards in Japan and South Korea. The cost to produce ships in the United States is not competitive with the cost of production in other nations, yet many shippers, including six who primarily engage in shipping between noncontiguous jurisdictions, are required by law to pay the higher cost to purchase US-made ships. This has led to two major consequences. First off, most of these shippers have not replaced older ships that have exceeded the recommended twenty year service as a shipping vessel. This poses a greater risk the longer these ships go without being replaced. Secondly, the cost of compliance with the Jones Act has caused and is causing the shippers to pass on the cost through higher prices for consumers. Hansen’s article gets much more in depth when it comes to consequences, but at its core, the main problem with the US-build requirement in the Jones Act is that it is an outdated, self-defeating form of protectionism. Those who believe in free markets should sympathize with the plight of the shippers and consumers affected and call for reform of these regulations.

### A2 Jones k2 Shipping Costs

**Jones Act increases shipping costs and hurts industry competitiveness**

**Hansen, 12**(Michael- Hawaii Shippers Council. “US-Build requirement for ships: Dilemma for Hawaii, Guam, Alaska, and Puerto Rico.” *Hawaii Free Press.* Jan 26. http://www.hawaiifreepress.com/ArticlesMain/tabid/56/articleType/ArticleView/articleId/5974/USBuild-requirement-for-ships-Dilemma-for-Hawaii-Guam-Alaska-and-Puerto-Rico.aspx)

The ability to access new ships at a reasonable cost profoundly affects the capacity of ship operators to provide shipping services. Clearly, the acquisition cost of a ship is a key component of any shipping company’s capital structure. However, it is also essential for operators to regularly replace their fleets at realistic intervals with technically modern ships at internationally competitive prices. New ships allow operators to keep abreast of new designs and technology, avoid higher operating and maintenance costs incurred by older ships, and achieve the necessary efficiencies to charge reasonable freight rates and provide adequate service levels. The major U.S. shipbuilding yards do not deliver new ships meeting these specifications because they have become uncompetitive under the protectionist shield of the Jones Act. The cost of building large oceangoing ships in the United States is at least three times greater than at the internationally competitive shipyards in Japan and South Korea. The process of contracting for a commercial oceangoing ship from a major U.S. shipbuilding yard is cumbersome, fraught with difficulties and subject to delays in delivery and significant cost overruns. These contracting practices reflect the U.S. shipyards heavy reliance on military construction. While, the few deep draft commercial ships constructed each year in the United States are typically built under license to a foreign shipbuilder, and not to a domestic design. The high cost and lack of competitiveness of major U.S. shipbuilding currently burdens the businesses and residents of the noncontiguous jurisdictions with several adverse consequences: · Imposes large barriers to entry thus restricting competition in the noncontiguous trades. · Limits the construction of new ships by the existing domestic ship-operators who either don’t have the financial resources or have chosen not to build as it doesn’t make sense. · Results in the operation of older and inefficient ships well past what would be considered their useful life in international trades. · Leads inevitably to higher freight costs including excessive bunker (fuel) surcharges as operating older ships is inherently more expensive due to elevated fuel consumption, larger crews, less efficient cargo handling and significantly more maintenance. · Lessens the level of service as older ships are withheld from service and not replaced. In the future, if it becomes necessary to substantially replace the oceangoing noncontiguous fleet within the current restrictions of the Jones Act, much higher freight rates would be required to justify constructing the ships in the U.S.

### A2 Perm – x Pt of Jones

**Without a full repeal of the Jones Act the shipping industry will fail**

**Hansen, 12** (Michael- Hawaii Shippers Council. “US-Build requirement for ships: Dilemma for Hawaii, Guam, Alaska, and Puerto Rico.” *Hawaii Free Press.* Jan 26. http://www.hawaiifreepress.com/ArticlesMain/tabid/56/articleType/ArticleView/articleId/5974/USBuild-requirement-for-ships-Dilemma-for-Hawaii-Guam-Alaska-and-Puerto-Rico.aspx)

The very limited number of U.S. shipyards still building commercial deep-draft oceangoing ships could not possibly achieve the necessary efficiencies to build the several different types and classes of ships needed in the Jones Act market at internationally competitive prices. A shipyard must export most of their production as do the East Asian yards to successfully achieve series production of a particular type and class of ships. This is true for any shipyard anywhere in the world as no single domestic ship market is large enough to allow its shipbuilders to achieve these levels of specialization and production. The U.S. shipbuilding industry is at the end of a long historic decline that has seen the number major shipyards drop by more than 70% since 1970. Today, there are eight yards normally classified as “active major shipbuilding yards” theoretically capable of building large self-propelled commercial ships. Five of the eight yards exclusively do military construction. Three (including two of the yards performing only military construction) are widely thought to be subject to closure in the near term. The three yards accepting commercial business are: · Aker Philadelphia Shipyard Inc., Philadelphia, Pennsylvania · National Steel & Shipbuilding Co. (NASSCO), San Diego, California · VT-Halter Marine Inc., Pascagoula, Mississippi The total production of commercial deep draft ships in the U.S. is too low to permit specialization and series production. Since the termination of the Construction Differential Subsidy (CDS) program in the mid-1980, the major U.S. shipyards have delivered an average of fewer than 3 deep draft commercial ships per year. In 2011 only a single commercial deep draft oceangoing ship was delivered by a U.S. yard, the product tanker, OVERSEAS TAMPA, by Aker Philadelphia. No commercial ships are scheduled for delivery in 2012, three ships are scheduled for delivery in 2013 and two in 2014.

## \*\*\*Aff

### Competitiveness S Def – 2ac

**Repealing the Jones Act increases international competition- empirics prove**

**Brackins, 08** (Daniel- Founder and President of the Bastiat Institute. “The Negative Effects of the Jones Act on the Economy of Hawaii.” <http://www.bastiatinstitute.org/wp-content/uploads/2009/08/Jones-Act-Study1.pdf>)

In comparison to other nations without cabotage restrictions there has been a decline in the U.S. shipping fleet, losing out to the competition of these other nations (Competition, 2006). This is occurring despite the protectionist policies of the United States. A comparison of vessels operating can be seen in figures 3 and 4. It must be noted that the protectionist policies of the U.S. has reduced the number of U.S. flagged ships in operation. On the other hand countries that exercise free trade policies, without cabotage laws, such as Panama, Singapore, and Hong Kong have a flourishing merchant fleet. Open competition has created incentives for companies to operate in these nations. Even U.S. shipping companies are aware of this benefit. Despite having to pay a 36% penalty fee under Jones Act laws, Matson has some of its ships repaired in Shanghai, China. Matson spokeman Jeff Hull stated, “[despite the fee] it’s still considerably cheaper” (Little, 2001). The U.S. government pays out $100 million in ship subsidies every year and underwrites more than $1 billion in loans. It spends half a billion dollars a year on the added cost of shipping its cargo on American vessels and employs an entire government agency to preserve the U.S. merchant marine. American ships are still the most expensive in the world despite these efforts (Little, 2001). This increased cost forces shipping companies in other nations to purchase vessels from nations such as Norway where they are cheaper.

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### Navy S Def – 2ac

**Repeal of Jones Act destroys naval shipbuilding sector**

**Montroll et al, 07** (Mark-PROFESSOR INDUSTRIAL COLLEGE OF THE ARMED FORCES NATIONAL DEFENSE UNIVERSITY. “Shipbuilding” July 10. http://www.ndu.edu/icaf/programs/academic/industry/reports/2005/pdf/icaf-is-report-shipbuilding-2005.pdf)

The commercial shipbuilding sector gets significantly less attention than the naval shipbuilding sector, but is just as vital to the national security. Commercial ships not only guarantee access to vital transportation capability, but provide industrial base sustainment and a surge capability for ship construction. They supplement the shipbuilding industry with trained personnel, maritime engineering experience and an existing supply base. The outlook for our commercial yards is dire. As discussed earlier, the Jones Act fleet is such a small market for large commercial vessels that the build rate to replace Jones Act vessels is minimal. To make the commercial market viable the government would have to play a key role. Without subsidies it is virtually impossible to compete with the Asian shipyards. If the Jones Act were repealed, commercial ship construction in the US would cease. There is no other economic reality than that. No domestic commercial shipbuilding industry would mean that in a very few years the US would be completely dependent on foreign owned and flagged vessels for the transport of all sea commerce into and out of the country.

### Links to Politics – 2ac

**CP links to politics – congress sees as key to military and economy**

**AMO, 12** (Staff writer for the American Maritime Officer. “Congressional representatives highlight defense transportation

role of U.S. merchant fleet, urge strong support for Jones Act.” https://www.amo-union.org/News/2012/201206/201206.pdf)

In a letter dated May 17 to Secretary of Homeland Security Janet Napolitano, 15 members of Congress emphasized the important roles of the U.S. merchant marine in defense transportation, sealift operations and domestic security, and urged the administration to make a strong statement of unwavering support for American mariners and enforcement of the Jones Act. In the letter, the Congressional representatives noted President Obama proclaimed May 18 to be National Defense Transportation Day. “As you know, the Jones Act is an important piece of our defense transportation network as it helps ensure that our military can deploy to far corners of the globe,” they wrote. The representatives pointed to the dominant role of commercial U.S.-flagged vessels in sealift missions. “During Operation Enduring Freedom and Operation Iraqi Freedom, privately owned domestic vessels helped move 90 percent of all Iraq- and Afghanistan-bound cargo,” they wrote. The representatives cited statements from the U.S. Department of Defense underscoring the importance of the U.S. merchant fleet and domestic maritime industry to national defense: “we believe that the ability of the nation to build and maintain a U.S.-flagged fleet is in the national interest; we also believe it is in the interest of the DOD for U.S. shipbuilders to maintain a construction capability for commercial vessels.” The representatives also noted the U.S. merchant fleet’s cost-effective contributions to commerce and vital service to homeland security. “The Jones Act is important to our economic security, supporting 500,000 jobs and adding more than $100 billion to our economy,” they wrote. “In return, our domestic mariners move approximately one quarter of domestic cargo for only two percent of the total transportation costs of our nation. This low-cost transportation system makes the products Americans buy less expensive and our exports more competitive in international markets. “Finally, the Jones Act is vital to our nation’s domestic security. The security of our ports, waterways and coastal waters is of equal importance as the security of our borders. Each year, more than one billion tons of cargo are transported through these ports and waterways. The Jones Act ensures that U.S. built, U.S. crewed vessels move this cargo within the United States, thereby ensuring that Homeland Security officials are not forced to monitor tens of thousands of foreign-crewed vessels throughout our inland and coastal waters.” Signing the letter were Representatives Jeff Landry (R-LA), Elijah Cummings (D-MD), Don Young (R-AK), Colleen Hanabusa (D-HI), Frank LoBiondo (R-NJ), Mazie Hirono (D-HI), Bill Cassidy (R-LA), Adam Smith (DWA), Steve Scalise (R-LA), Edward Markey (D-MA), Steven Palazzo (R-MS), Nick Rahall II (D-WV), Steve Southerland II (R-FL), Tim Bishop (D-NY) and Rick Larsen (D-WA).

^^Law of the Sea CP^^

## \*\*\*Neg

### Solves Econ

**$1.2 trillion dollars of resources – only ratifying gives us access**

Carmen et al. 10

[Herbert Carmen, Senior Military Fellow at Center for A New American Strategy, Christine Parthemore was a Fellow at CNAS, directed the Natural Security Program, Adjunct Professor in Johns Hopkins University's Global Security Studies Program, Will Rogers is the Bacevich Fellow at CNAS, "BROADENING HORIZONS: CLIMATE CHANGE AND THE U.S. ARMED FORCES," 4/28/12, http://www.cnas.org/files/documents/publications/CNAS\_Broadening%20Horizons\_Carmen%20Parthemore%20Rogers.pdf] //SH

Ratifying the UN Convention on the Law of the Sea (UNCLOS) is perhaps the most important next policy step in ensuring that the United States and DOD are prepared to adapt to a changing climate and realize the opportunities that climate change may enable. Senate ratification of this treaty would afford the United States a major leadership role in maritime security issues that it presently cannot fully perform from the sidelines. UNCLOS gives the United States legal certainty in securing resource rights in its Exclusive Economic Zones (EEZs). By the nature of its coastline, the United States enjoys the largest EEZ in the world, which includes Alaska’s connection to a changing Arctic Ocean. For these economic and security reasons, UNCLOS ratification has long enjoyed strong support across the maritime services – not only for ensuring U.S. interests given the opening Arctic, but across the oceans worldwide. Reductions in Arctic summer sea ice have created new opportunities for access to maritime trade routes and sea lines of communication, and potential access to vast supplies of zinc, nickel, palladium, precious stones and other various minerals, as well as oil and natural gas under the ocean with an estimated value of 1.2 trillion dollars. Many of these resources lie in the extended continental shelf up to 600 nautical miles of the Alaska coast. As access to the Arctic and industry technologies continue to improve, heightened energy needs could spur private corporations to increase exploration and exploitation of these reserves. UNCLOS establishes the process for mining firms to obtain access and exclusive rights to these resources and title to the minerals once recovered. A failure to ratify UNCLOS prevents the United States from submitting a claim for rights in the extended continental shelf and prevents firms from securing these rights. This will hinder growth in the emerging seabed mining industry and related industries in the United States – as well as the jobs supporting those industries – because corporations will wisely seek the protection and legal certainty afforded only to member nations of UNCLOS before investing in these opportunities. Ratification of UNCLOS therefore protects and adds certainty to U.S. economic interests.

**Solves the economy**

Rogers 11

[William, Fellow at the Center for a New American Security, "To Secure U.S. Interests in the Arctic, Ratifying UNCLOS is Key," 5/17/11, http://www.cnas.org/blogs/naturalsecurity/2011/05/secure-us-interests-arctic-ratifying-unclos-key.html]//SH

Ratifying UNCLOS would also help the United States protect certain economic interests by enabling it to claim legal rights to minerals and other Arctic resources. For example, the UN convention would give the United States the legal right to claiming and securing resources in its Exclusive Economic Zones, and would provide mining firms and other private industry an established procedure for securing rights to and sustainably extracting those resources. As we wrote in our 2010 report, the economic stakes of failing to ratify UNCLOS could be high: A failure to ratify UNCLOS prevents the United States from submitting claims for rights in the extended continental shelf and prevents firms from securing these rights. This will hinder growth in the emerging seabed mining industry and related industries in the United States – as well as the jobs supporting those industries – because corporations will wisely seek the protection and legal certainty afforded only to member nations of UNCLOS before investing in these opportunities.

**UNCLOS is necessary to access vast amounts of resources in the Arctic**

Becker 10

[Michael, Co-Chair, Law of the Sea Committee, ABA Section of International Law; Associate, Patterson Belknap Webb & Tyler LLP; J.D., Yale Law School, B.A., Amherst College. “RUSSIA AND THE ARCTIC: OPPORTUNITIES FOR ENGAGEMENT WITHIN THE EXISTING LEGAL FRAMEWORK," American University International Law Review May 1, 2010, http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1068&context=auilr]//SH

In an energy-driven world, the prospect of extensive and undiscovered hydrocarbon deposits has fueled the current focus on the Arctic. USGS scientists estimate that the Arctic contains conventional oil and gas resources totaling approximately 90 billion barrels of oil, 1,669 trillion cubic feet of natural gas, and 44 billion barrels of natural gas liquids.48 This could amount to “just over a fifth of the world’s undiscovered, recoverable oil and natural-gas resources.”49 These numbers highlight the importance of the UNCLOS provisions that govern the exploitation of resources in the continental shelf and beyond. By reaching agreements with neighboring states as to the delimitation of its continental shelf within the 200 nm limit50—and by “certifying” claims to the extended continental shelf beyond that limit with the Commission on Limits of the Continental Shelf (“Commission”)—each Arctic coastal state can secure legal certainty over the scope of its jurisdiction. This is a prerequisite to resource recovery projects that require massive amounts of public and private investment.

**Key to econ – new tech and industry**

Borgerson 9

[Scott, fellow for ocean governance at the Council on Foreign Relations (CFR). Fmr. Assistant professor at the U.S. Coast Guard Academy. U.S. Merchant Marine officer master’s license, a board member of the Institute for Global Maritime Studies. BS w/ high honors @ U.S. Coast Guard Academy. MALD and PhD in international relations, @ Fletcher School of Law and Diplomacy at Tufts University, "The National Interest and the Law of the Sea," 2009, http://www.cfr.org/content/publications/attachments/LawoftheSea\_CSR46.pdf]//SH

The vastness of ocean space and the limits of our knowledge concerning the oceans’ future economic potential also make it critically important that the United States plays a central role in the future implementation of the convention. The convention facilitates the conduct of marine scientific research to expand understanding of the marine realm. As knowledge increases and as technology advances, the oceans may hold enormous, and as yet only dimly perceived, potential. When coupled with America’s unrivaled capacity for technological innovation, new ocean uses may become essential to helping drive economic prosperity for future generations. In the midst of a historic economic crisis, the United States needs to position itself by joining the treaty in order to secure its share of ocean industries of the future and the highpaying jobs they will create.

**UNCLOS is awesome – we get lots of land and stop wars!!!**

Conley et al 12

[Heather A. Conley, director and senior fellow at CSIS, B.A. in international studies from West Virginia Wesleyan College and her M.A. in international relations from the Johns Hopkins University Paul H. Nitze School of Advanced International Studies. Terry Toland, associate for CSIS, Clark University with a B.A. in international relations and a concentration in holocaust and genocide studies. He received his M.A. in international relations and international economics from the Johns Hopkins University Paul H. Nitze School of Advanced International Studies. Jamie Kraut, pursing a Master of Arts in Law and Diplomacy at the Fletcher School, with a dual concentration in International Security Studies and Public International Law. Ms. Kraut previously served as the research assistant in the CSIS, interned in the arms control division at the Defense Threat Reduction Agency (DTRA), Department of Defense, at Fort Belvoir, preparing for the UN Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons 2006 Review Conference, Tufts University with a B.A. in International Relations and French. Andreas Østhagen, advisor at North Norway European Office in Brussels, which represents the political leadership of North Norway in Norway’s relationship with the European Union, holds a master’s degree in European international relations from the London School of Economics and a bachelor’s degree in political economy from the Norwegian University of Science and Technology, " A New Security Architecture for the Arctic," Jan 2012]//SH

UNCLOS holds specific value for the Arctic security environment as it lays out a set of rules on how to divide disputed territory and resolve possible tensions. It also represents the only path for Arctic coastal states to submit scientific claims to extend their outer continental shelf, which provides important clarity for future economic development. While the five Arctic coastal states are limited by their exclusive economic zone of 200 nautical miles from their coasts, the convention allows them to extend their economic zone if they can prove that the Arctic's seafloor's underwater ridges are a geological extension of the country's own continental shelf. Within 10 years of ratifying the UNCLOS, countries must submit evidence to the UN Commission on the Limis of the Contientnal Shelf, the governing body created to deliberate on these submissions, to make heir case for an extended continental shelf. Unfortunately, as UNCLOS nears its 40th anniversary, the United States has yet to ratify the treaty despite strong urging from the U.S. Defense and State Departments, as well as from the Joint Chiefs of Staff. It its "Arctic Roadmap," the U.S. Navy actively supports accession to UNCLOS because it provides "effective governance: freedom of navigation, treaty vs. customary law, environmental laws, and extended continental shelf claim. Joining UNCLOS would give the U.S. government a clear framework in which it could more effectively confront growing difficulties pertaining to freedom of navigation in the Arctic region. By not ratifying the U.N. Convention on the Law of the Sea, the United States is at a considerable economic disadvantage as the other Arctic coastal states submit their claims. The United States maintains the world's largest EEZ and has 360 major commercial ports. With potential claims f up to 600 miles of possible resource-rich continental shelf territory in the Arctic, remaining outside the UNCLOS only erodes the position of the United States in the region.

**Only ratifying UNCLOS ensures development of these resources**

O'Rourke 12

[M.A. in Advanced International Studies from University's Paul Nitze School, naval analyst for the CRS,, "Changes in the Arctic: Background and Issues for Congress," April 2012, pdf]//SH

Even if the commodity prices and environmental costs were favorable toward exploration and development, uncertainty over U.S. claims to the extended continental shelf—because the United States is a non-party to UNCLOS—may influence private sector decisions to invest in Arctic oil, gas, and mineral resource development.

### Solves Hegemony

UNCLOS key to hegemony – countries model our refusal

Smith 11

[Reginald, Militray Professor in National Security Studies, Colonel, Masters in National Security and strategic Studies from U.S. Naval War College, "The Arctic A New Partnership Paradigm or Next 'Cold War'?", 2011, pdf]//SH

The significance of the declaration is paramount to cooperation in that UNCLOS provides the international rallying point for the Arctic states.78 Similarly important, by virtue of the unanimous and strong affirmation of UNCLOS, the declaration effectively delegitimized the notion to administer the Arctic along the lines of an Antarctic-like treaty preserving the notions of sovereignty and resource exploitation in the region.79 With U.S. participation and declaration of support for UNCLOS in these venues, failure to ratify the treaty suggests that U.S. credibility and legitimacy, and hence the ability to build cohesive multilateral partnerships, are appreciably degraded. This conclusion is illustrated in Malaysia’s and Indonesia’s refusal to join the Proliferation Security Initiative using the U.S. refusal to accede to UNCLOS as their main argument.80 Accession to the treaty appears to be a key first step to preserving U.S. vital interests in the Arctic and building necessary credibility for regional and global partnerships in the political spectrum. Equally important to political partnerships in the region are those available through military collaboration of the Arctic nations.

Ratification boosts hegemony and gives the US access to tons of resources

Bert 12

[Melissa, captain in the U.S. Coast Guard and a military fellow at the Council on Foreign Relations, "POLICY INNOVATION MEMORANDUM NO. 14," Council on Foreign Relations, pdf] //SH

Governance in the Arctic requires leadership. The United States is uniquely positioned to provide such leadership, but it is hampered by its reliance on the eight-nation Arctic Council. However, more than 160 countries view the LSOC as the critical instrument defining conduct at sea and maritime obligations. The convention also addresses resource division, maritime traffic, and pollution regulation, and is relied upon for dispute resolution. The LOSC is particularly important in the Arctic, because it stipulates that the region beyond each country’s exclusive economic zone (EEZ) be divided between bordering nations that can prove their underwater continental shelves extend directly from their land borders. Nations will have exclusive economic rights to the oil, gas, and mineral resources extracted from those outer continental shelves, making the convention’s determinations substantial. According to geologists, the U.S. portion is projected to be the world’s largest underwater extension of land—over 3.3 million square miles—bigger than the lower forty-eight states combined. In 3 addition to global credibility and protection of Arctic shelf claims, the convention is important because it sets international pollution standards and requires signatories to protect the marine environment.

### Etc Impacts

**UNCLOS necessary to stop Cuban oil spills**

Rogers 12

[Will, Bacevich Fellow at CNAS, "Law of the Sea Ratification Central to Securing U.S. Maritime Interests," 4/4/12, http://www.cnas.org/blogs/naturalsecurity/2012/04/law-sea-ratification-central-securing-us-maritime-interests.html] //SH

As the U.S. Gulf Coast continues to reel from the devastating months-long oil spill that plagued the region in 2010, the United States is likely to be hamstrung in managing future disasters unless it ratifies UNCLOS. Offshore oil drilling in non-U.S. waters is a particular worry for U.S. officials – including the Coast Guard. Recent activities along Cuba’s continental shelf have exacerbated concerns that an oil spill akin to the Deepwater Horizon incident could impact an area of the U.S. coastline that stretches from eastern Florida to North Carolina’s outer banks. Reports suggest that Cuba’s capacity to respond to a major oil spill is minuscule, with only five percent of the assets needed to respond to an accident. Given that Washington does not maintain official diplomatic ties with Havana, it is unclear how the United States and Cuba would cooperate around an oil spill that could have economic and environmental implications for U.S. coastal communities. Ratifying UNCLOS would give the United States additional tools to manage these challenges that are quickly manifesting off the U.S. coast. For one, the hurdles that the United States may encounter in making overtures to Cuba in the wake of an oil spill off its coast may be blunted, as UNCLOS provides a basic framework for states – even states with very few or no diplomatic ties – to cooperate around shared environmental concerns. At the very least, ratifying UNCLOS would potentially give the United States added legitimacy in conducting oil spill responses in Cuba’s 200-natutical mile EEZ – Exclusive Economic Zone, even without a request for assistance from the Cuban government. Such flexibility would be critical for preventing a Cuban offshore accident from contaminating U.S. waters and coastal communities.

**UNCLOS gives us leverage on China – prevents South China Sea conflict**

Truman National Security Project 12

[national security leadership institute, "Why the U.N. Law of the Seas Treaty Means Jobs — And Security — for America," 6/14/12, http://trumanproject.org/doctrine-blog/why-the-u-n-law-of-the-seas-treaty-means-jobs-and-security-for-america/]//SH

Economic security is vital to our national security. Yet, there are very few laws that pass through Congress that share such a strategic nexus. The U.N. Convention on the Law of the Sea (UNCLOS) has that nexus – if ratified, it will provide economic benefits and strengthen our national security. Unfortunately, the Senate has failed to ratify the international treaty even after the Senate Foreign Relations Committee unanimously approved it in 2004, and Presidents Bill Clinton and George W. Bush advocated for its ratification. In fact, there are few pieces of legislative work that enjoy such bi-partisan support. The Chamber of Commerce and domestic industries to include shipping, fisheries, telecommunications, and energy agree that ratification means new or approved markets. Even non-governmental organizations who are concerned with the protection of natural resources have consistently supported accession to the treaty. UNCLOS creates Exclusive Economic Zones, or sovereign rights to manage an ocean’s natural resources within a 200 mile zone starting from a member nation’s coast. No country stands to benefit more than the United States – the exclusive zone that the United States would inherit by ratifying UNCLOS is bigger than its lower 48 states combined. In other words, access to opportunity – opportunity to mine seabed mineral resources, tap oil and gas fields, and lay fiber optic cables with international legal protection and certainty. Enter China – our strongest competitor on both the economic and national security fronts, and a perfect example as to why these two fronts can never again be viewed as mutually exclusive. There is a new arena for U.S.-Chinese competition – the South China Sea. The South China Sea is quickly becoming the center of gravity for geo-political tensions in the Asia-Pacific region. This body of water is simply too valuable to international commerce – half the world’s oil, gas, and shipping tonnage traverses through the South China Sea. Bottom-line, the South China Sea easily rivals the Persian Gulf in global economic importance, and like the Persian Gulf, this body of water must remain open for business. The legal certainty that UNCLOS provides as a treaty would be critical to U.S. leadership on the world’s oceans and in potential flash points like the South China Sea. As it currently stands, the U.S. has to rely on customary international law and its ambiguous norms to secure navigational rights and protect its vessels from foreign harassment. UNCLOS would ensure Freedom of Navigation and Innocent Passage for our military and commercial vessels in the South China Sea. Because China has already ratified the Treaty, it could not block our vessels from passing through its territorial waters. UNCLOS would also allow the U.S. to challenge China’s behavior on the firmest legal ground. China regularly violates the economic rights of other South China Sea countries by laying claim to ocean territory with valuable natural resources reserved to our allies in the region. Recently, China has been attempting to expand its property in the South China Sea and has been in a tense ship to ship standoff with the Philippines over the Scarborogh Shoal and its natural resources. Territorial disputes will continue to arise with Vietnam, Taiwan, Brunei, and Malaysia also claiming property in the Sea. As China has been slowing expanding its territorial claims through boundary lines that are conveniently vague and widely unaccepted, it relies on its economic muscle to prevent other South China Sea nations from collectively bringing claims under the Treaty, and instead takes on each claimant member nation individually. If the United States ratifies UNCLOS, we could use our legal standing under the Treaty and our own economic muscle to prevent China from pushing its neighbors around. Since the rise of China as a player in the global market, the United States has struggled to keep the economic powerhouse from manipulating everything from currency to intellectual property rights to international laws. Ratifying UNCLOS would be a means to hold China accountable while the United States begins its strategic pivot towards Asia and looks to build its economy at home.

**Every second we delay has a tangible impact**

Borgerson 9

[Scott, fellow for ocean governance at the Council on Foreign Relations (CFR). Fmr. Assistant professor at the U.S. Coast Guard Academy. U.S. Merchant Marine officer master’s license, a board member of the Institute for Global Maritime Studies. BS w/ high honors @ U.S. Coast Guard Academy. MALD and PhD in international relations, @ Fletcher School of Law and Diplomacy at Tufts University, "The National Interest and the Law of the Sea," 2009, http://www.cfr.org/content/publications/attachments/LawoftheSea\_CSR46.pdf]//SH

On balance, the arguments in favor of the convention far outweigh those opposed, which is the reason the convention has attracted such a diverse and bipartisan constituency. As presidents Clinton and George W. Bush forcefully argued in their written communications with the Senate (Appendix II), objections to the 1982 convention were substantively addressed in the 1994 agreement on implementation. Continuing to treat most parts of the convention as customary international law, as the United States does now, literally leaves it without a seat at the table in important decision-making bodies established by the convention, such as the Commission on the Limits of the Continental Shelf (CLCS); weakens the hand the United States can play in negotiations over critical maritime issues, such as rights in the opening of the Arctic Ocean; and directly undercuts U.S. ability to respond to emerging challenges, such as increasing piracy in the Indian Ocean. Joining or not joining the convention is more than an academic debate. There are tangible costs that grow by the day if the United States remains outside the convention.

**Solves pollution**

UNCLOS no date

[United Nations Convention on the Law of the Sea text, http://www.un.org/Depts/los/convention\_agreements/texts/unclos/unclos\_e.pdf]

States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from or through the atmosphere, applicable to the air space under their sovereignty and to vessels flying their flag or vessels or aircraft of their registry, taking into account internationally agreed rules, standards and recommended practices and procedures and the safety of air navigation. 2. States shall take other measures as may be necessary to prevent, reduce and control such pollution. 3. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution.

### Solves Oil Dependence

**Oil dependence is inevitable – LOST is continued access and domestic production**

Weaver 8

[Jacqueline Lang, White Professor of Law at University of Houston, "Energy policy: Drop ideas of independence," 2/24/8, http://www.chron.com/opinion/outlook/article/Energy-policy-Drop-ideas-of-independence-1774842.php]

Domestic oil production reduces reliance on foreign sources, but our oil production peaked decades ago. Competing studies and conflicting expert opinions differ about the precise date of "global reckoning" — the year when conventional world petroleum supplies peak — but no one denies that day is approaching. Rather than worrying about whether "peak oil" will arrive in 2012 or 2032 (either way, it's right around the corner for our children and grandchildren), our next president should focus the incoming administration on some basic energy realities. He or she should start with dropping "energy independence" from the lexicon of the Oval Office. The United States consumes a quarter of the world's petroleum, and it is unrealistic and misleading to suggest that we can sustain our consumption from domestic production alone. Cabinet members mustered by the incoming president need to accept the reality that we will continue to depend on other nations to supply much of our oil and gas. Earlier this month, Secretary of State Condoleezza Rice told a Senate Foreign Relations Committee hearing that she intends to appoint an "energy envoy" to address the "politics of energy" that is "warping diplomacy in certain parts of the world." Secretary Rice is a latecomer to a reality that has been obvious for a long time: Namely, that today's petropolitics may be a tame harbinger of a harsher future ahead of us. Without exception, foreign policies crafted by the incoming administration must connect to answering global energy needs, and the new secretaries overseeing the departments of State, Commerce and Energy must work collaboratively to formulate policies that contribute to that goal. Energy diplomacy in an age of energy internationalization is the new game in town — and success will hinge on the skill of the people who play it. The new team we install in Washington should understand that unilateral decision-making must end if the United States is to hold any hope of answering its energy needs in world markets. In numerous ways, including our failure to embrace the Kyoto Protocol, we have acted apart from the world. It is time for us to join the mainstream of countries seeking solutions to global warming — and also time to ratify the U.N. Convention on the Law of the Sea — so that the United States can optimize its access to Arctic petroleum reserves. The sooner we realize that energy policy cannot be made apart from climate-change issues or broader foreign policy, the sooner we can participate in (if not actually lead) the world search for solutions.

**Solves dependence – offshore drilling and energy security**

Kelly 7

[Paul, consultant on energy and ocean policy, member of US Secretary of Interior's Outer Continental Shelf Policy Committee, serving as chairman, "Law of the Sea Convention Membership Vital to US Energy Market," December 2007, World Oil, http://www.worldoil.com/December-2007-Law-of-the-Sea-Convention-membership-vital-to-US-energy-market.html]

Last month, the US Senate Foreign Relations Committee voted 17-4 in favor of US ratification of the Law of the Sea Convention. Next, the matter goes to the full Senate for approval. The convention lays out a comprehensive international framework to govern the world's ungoverned spaces: the deep and vast oceans. This is a critical opportunity which must not be missed, especially from the viewpoint of future potential oil and natural gas supply in America, and globally. The United States has taken a long and winding road to this moment of decision. The Law of the Sea Convention was negotiated for decades and agreed to in 1982. President Reagan directed the country to follow the Convention, with the exception of some rules on mining. After these rules were amended to meet US demands, President Clinton agreed to sign the Convention, but it stalled in the Senate due largely to the opposition of Senator Jesse Helms, while he chaired the Foreign Relations Committee. Now, the Convention has the support of President Bush and a strong majority of that Committee. More than 150 nations are members, including every major power except the US. Trading route rights. Oil is traded in a global market with US companies as leading participants. The Convention's protection of navigational rights and freedoms advances the interests of energy security in the US, particularly in view of the dangerous world conditions we have faced since the tragic events of September 11, 2001. About 44% of US maritime commerce consists of petroleum and petroleum products. Trading routes are secured by provisions in the Convention combining customary rules of international law, such as the right of innocent passage through territorial seas, with new rights of passage through straits and archipelagoes. US accession to the Convention would put us in a much better position to invoke such rules and rights. Continental shelf ownership. The Convention is also important with regard to our efforts to develop domestic offshore oil and natural gas resources. The Convention secures each coastal nation's exclusive rights to the living and non-living resources of the 200-mile exclusive economic zone. This rule puts 4.1-million square miles of ocean under US jurisdiction, a total area that is larger than the US land area. The petroleum industry has been in favor of the Convention since 1973, when US negotiators consulted with industry leaders through the National Petroleum Council about the Treaty provisions and, in particular, those provisions that enable nations to extend the definition of their continental shelves beyond the 200-mile zone, thereby claiming living and non-living resources in and below an extended seabed. Determination of continental shelf resources is accomplished by a nation filing a submission supported by seismic, bathymetric and sediment data for review by an International Commission on the Limits of the Continental Shelf. Russia's recent symbolic planting of their flag in deep waters below the North Pole is a reflection of a submission it has made claiming a vast stretch of the Lomonosov Ridge, which Denmark also claims as part of Greenland. Russia, Norway, Britain, Ireland, Brazil and Australia are a handful of the countries that have already made submissions, and many more are preparing their own submissions. Meanwhile, the United States' hands are tied because it is not a member of the Convention. Until we sign, we cannot make a submission, nor can we appoint an American scientist to the Commission that reviews all the submissions. Some of the most recent deepwater discoveries in the Gulf of Mexico are relatively close to the 200-mile limit, and the US should be prepared to take advantage of prospects beyond that limit. Also, we need to protect our interests in the Arctic where, according to geoscientists, the US case for proving an extended continental shelf off Alaska to 350 miles or more looks very good. From a global perspective, far-from-shore deepwater discoveries have ignited interest in the Convention's provisions all across the world. The United States Geological Survey estimates that about one quarter of the world's undiscovered oil and natural gas lies below Arctic waters, which explains competitive actions by countries bordering on that region. Urgency to join. The Continental Shelf Commission is expected to have a very heavy workload reviewing coastal state submissions in the coming months. Looking ahead, there could be an historic dividing up of many millions of square miles of offshore territory, with management rights to all its living and non-living resources on or under the seabed. This will have important economic impacts on coastal nations, including enhanced energy supplies and revenues. An advisor who is working with developing nations preparing their submissions said recently, "This will probably be the last big shift in ownership of territory in the history of the Earth. Many countries don't realize how serious it is." How much longer can the US afford to be a laggard in this process? Let's hope the US Senate finally realizes how serious it is and approves the Law of the Sea Convention without further delay.

### Politics No Link

**Avoids politics - broad support**

FCNL 12

[Friend's Committee on National Legislation, largest non-partisan group of lobbyists in Washington, "The Law of the Sea," April 2012, http://fcnl.org/issues/ppdc/PPDC\_factsheet\_LOS.pdf]//SH

The Law of the Sea receives broad bipartisan support among policymakers, military officials, the Navy, environmental, religious, and foreign policy organizations, as well as institutions such as the American Bar Association; American Petroleum Institute; US Chamber of Commerce; Marine Conservation Institute; AFL-CIO; National Fisheries Institute; United States Oil and Gas Association, and many more

**Everyone likes UNCLOS, but won’t vote for fear of filibuster**

Borgerson 9

[Scott, fellow for ocean governance at the Council on Foreign Relations (CFR). Fmr. Assistant professor at the U.S. Coast Guard Academy. U.S. Merchant Marine officer master’s license, a board member of the Institute for Global Maritime Studies. BS w/ high honors @ U.S. Coast Guard Academy. MALD and PhD in international relations, @ Fletcher School of Law and Diplomacy at Tufts University, "The National Interest and the Law of the Sea," 2009, http://www.cfr.org/content/publications/attachments/LawoftheSea\_CSR46.pdf]//SH

“President Bill Clinton submitted the Law of the Sea Convention to the Senate for its approval in 1994, but despite numerous congressional hearings and even though the Senate Foreign Relations Committee (SFRC) twice recommended that the Senate give its consent,2 the convention has yet to make it to the Senate floor.3 The convention actually enjoys broad bipartisan support in Congress; has been endorsed by both the Clinton and George W. Bush administrations; is championed by the Joints Chiefs of Staff; and has been recommended by a wide array of interest groups in the United States, including the foremost national security, commercial, and environmental organizations.4 Still, largely because of the threat of a filibuster from a vocal opposition, the convention has yet to receive a full Senate vote.”

**Bipartisan support – UNCLOS is fundamentally different than other issues**

Rhoades 12

[Matt, Director of Legislative Affairs at the Truman National Security Project, "Congress and the Law of the Seas," 6/6/12, http://trumanproject.org/doctrine-blog/congress-and-the-law-of-the-seas/]//SH

Congress has worked hard over the past year to solidify a reputation for short-term fixes and kicking-the-can down the road. But there is one big thing that even this Congress can do this year: ratify the treaty on the Law of the Seas. Unlike taxes, health care, and gun control, this is not a partisan issue. The treaty was first submitted to Congress back in 1994 by President Clinton. And President Bush – twice – tried to get the Senate to approve it. The Senate Foreign Relations Committee voted on it in 2004 and 2007, and the treaty passed by a combined vote of 36 to 4. What happened next? Nothing. Even with overwhelming bipartisan support in Congress, the treaty stalled both times. It shouldn’t have then and it shouldn’t now. There are two key constituencies supporting the treaty that we would be wise to listen to: The business community. Industry wants the treaty ratified for two reasons, it will provide certainty and predictability to business owners and it provides a legal basis for claims to natural resources on the ocean floor. The U.S. military. More specifically, the U.S. Navy. Every living Chief Naval Officer supports ratification of the treaty because the treaty is important for counter-piracy and counter-narcotics operations. It also helps the Navy slow the proliferation of Weapons of Mass Destruction.

**Could be aff or neg politics**

Borgerson 9

[Scott, fellow for ocean governance at the Council on Foreign Relations (CFR). Fmr. Assistant professor at the U.S. Coast Guard Academy. U.S. Merchant Marine officer master’s license, a board member of the Institute for Global Maritime Studies. BS w/ high honors @ U.S. Coast Guard Academy. MALD and PhD in international relations, @ Fletcher School of Law and Diplomacy at Tufts University, "The National Interest and the Law of the Sea," 2009, http://www.cfr.org/content/publications/attachments/LawoftheSea\_CSR46.pdf]//SH

Proponents of the convention, who can be assumed to include almost all Democrats and moderate Republicans (by most accounts, a large enough bloc to achieve a two-thirds majority, as required by the Constitution for the United States to join the convention), have been frustrated to date by a passionate minority that strongly believes it is not in U.S. interests to join the convention. Opponents of the treaty argue that the convention unnecessarily commits the United States to follow rules designed by states hoping to constrain American freedom of action. Their specific objections to the convention are crystallized in the minority views submitted for the record the last time the convention was favorably voted out of the SFRC in December 2007: “[C]ertain provisions of the [convention], particularly those dealing with navigation, have merit,” but overall and especially in regard to the dispute resolution, “[i]t is puzzling why we would want to submit to a judicial authority selected by the United Nations, given the organization’s corruption scandals, and the fact that of the 152 countries Party to the treaty, the median voting coincidence with the United States in the General Assembly was less than 20 percent. This treaty subjects the United States to a governing body that is hostile to American interests.” 16 Other provisions found objectionable included “taxes” assessed to outer continental shelf activities; fear of judicial activism by the Law of the Sea Tribunal, especially with regard to articles relating to landbased sources of pollution that are called a “backdoor Kyoto Protocol”; and a belief the convention will severely curtail U.S. intelligence-gathering activities.

**It's bipartisan – lots of industries support it**

Carmen et al. 10

[Herbert Carmen, Senior Military Fellow at Center for A New American Strategy, Christine Parthemore was a Fellow at CNAS, directed the Natural Security Program, Adjunct Professor in Johns Hopkins University's Global Security Studies Program, Will Rogers is the Bacevich Fellow at CNAS, "BROADENING HORIZONS: CLIMATE CHANGE AND THE U.S. ARMED FORCES," 4/28/12, http://www.cnas.org/files/documents/publications/CNAS\_Broadening%20Horizons\_Carmen%20Parthemore%20Rogers.pdf] //SH

Economic security is vital to our national security. Yet, there are very few laws that pass through Congress that share such a strategic nexus. The U.N. Convention on the Law of the Sea (UNCLOS) has that nexus – if ratified, it will provide economic benefits and strengthen our national security. Unfortunately, the Senate has failed to ratify the international treaty even after the Senate Foreign Relations Committee unanimously approved it in 2004, and Presidents Bill Clinton and George W. Bush advocated for its ratification. In fact, there are few pieces of legislative work that enjoy such bi-partisan support. The Chamber of Commerce and domestic industries to include shipping, fisheries, telecommunications, and energy agree that ratification means new or approved markets. Even non-governmental organizations who are concerned with the protection of natural resources have consistently supported accession to the treaty.

**Everyone loves LOST**

Harris 12

[Gail, former US naval officer, Intelligence Officer in a Navy aviation squadron, "US must remove UNCLOS handcuffs," 3/23/12, http://thediplomat.com/2012/03/23/u-s-must-remove-unclos-handcuffs/]//SH

The strange thing is that the treaty actually has widespread, bi-partisan support – a rarity in Washington these days. Both Presidents Bill Clinton and George W. Bush pushed for its approval. The Senate Foreign Relations Committee approved it, including through a unanimous decision to recommend the treaty in March 2004. The Joint Chiefs of Staff, the former U.S. ambassador to the United Nations, chiefs of naval operations, and the U.S. Chamber of Commerce are for it. When business interests line up with national security objectives, it signals how important and pressing the issue is.

**Bipart support**

Patrick 12

[Stewart M., Senior Fellow and Director, Program on International Institutions and Global Governance, former member of the State Department, "Governing and Protecting the World’s Oceans: Still At Sea in Rio," http://blogs.cfr.org/patrick/2012/06/22/governing-and-protecting-the-worlds-oceans-still-at-sea-in-rio/]//SH

By failing to ratify UNCLOS, the United States is falling behind on global oceans leadership. The United States remains the world’s leading naval power; with nearly three hundred naval ships and four thousand aircraft, its fleet exceeds that of the next thirteen largest navies combined. However, despite widespread bipartisan support among political, military, business, and environmental leaders, the United States has failed to ratify the UN Convention on the Law of the Sea (UNCLOS), which provides an overarching framework for the rights, responsibilities, and jurisdictions of states on the high seas. By failing to ratify the convention, the United States forfeits a seat at decision-making forums critical to its economic growth and core national security interests. In a recent Senate testimony, Secretary of State Clinton argued, “Whatever arguments may have existed for delaying U.S. accession no longer exist and truly cannot even be taken with a straight face.”

### Links to Poltics

**Links to politics**

AP 12

[Associated Press, "China's Sea Claims Excessive, Says US," 5/24/12, http://www.mb.com.ph/articles/360386/chinas-sea-claims-excessive-says-us] //SH

Despite considerable bipartisan support and the backing of pro-business groups, Democrat committee chairman Sen. John Kerry acknowledged the difficulty in moving the treaty, especially in an election year in the United States. Several Republican lawmakers voiced opposition Wednesday to the convention.

**Conservatives hate UNCLOS**

Ferland 12

[Elizabeth, writer for gCaptain, top-visited maritime and offshore industry news blog in the world, "Opposition to the U.N. Convention on the Law of the Sea," 6/24/12, http://gcaptain.com/opposition-u-n-convention/]/SH

The military, business leaders, environmentalists, and labor groups all support the ratification of the U.N. Convention on the Law of the Sea (UNCLOS). In testimony to the Senate Foreign Relations Committee, Navy Adm. James Winnefeld Jr. spoke in favor of accession to UNCLOS, saying that the Treaty will protect U.S. access to the maritime domain, fortify U.S. credibility as the world’s leading naval power, and will allow the United States to bring to bear the full force of its influence on maritime disputes. Despite widespread support for accession to UNCLOS there remain opposition from a vocal conservative minority of purported defenders of U.S. sovereignty.

### AT: UNCLOS Bad – General

**All the arguments against UNCLOS are just wrong**

Borgerson 9

[Scott, fellow for ocean governance at the Council on Foreign Relations (CFR). Fmr. Assistant professor at the U.S. Coast Guard Academy. U.S. Merchant Marine officer master’s license, a board member of the Institute for Global Maritime Studies. BS w/ high honors @ U.S. Coast Guard Academy. MALD and PhD in international relations, @ Fletcher School of Law and Diplomacy at Tufts University, "The National Interest and the Law of the Sea," 2009, http://www.cfr.org/content/publications/attachments/LawoftheSea\_CSR46.pdf] //SH

Proponents of the convention, who can be assumed to include almost all Democrats and moderate Republicans (by most accounts, a large enough bloc to achieve a two-thirds majority, as required by the 18 The National Interest and the Law of the Sea Constitution for the United States to join the convention), have been frustrated to date by a passionate minority that strongly believes it is not in U.S. interests to join the convention. Opponents of the treaty argue that the convention unnecessarily commits the United States to follow rules designed by states hoping to constrain American freedom of action. Their specific objections to the convention are crystallized in the minority views submitted for the record the last time the convention was favorably voted out of the SFRC in December 2007: “[C]ertain provisions of the [convention], particularly those dealing with navigation, have merit,” but overall and especially in regard to the dispute resolution, “[i]t is puzzling why we would want to submit to a judicial authority selected by the United Nations, given the organization’s corruption scandals, and the fact that of the 152 countries Party to the treaty, the median voting coincidence with the United States in the General Assembly was less than 20 percent. This treaty subjects the United States to a governing body that is hostile to American interests.” 16 Other provisions found objectionable included “taxes” assessed to outer continental shelf activities; fear of judicial activism by the Law of the Sea Tribunal, especially with regard to articles relating to landbased sources of pollution that are called a “backdoor Kyoto Protocol”; and a belief the convention will severely curtail U.S. intelligence-gathering activities. On an item-by-item assessment, however, these arguments are found to be lacking (Appendix I in far greater detail addresses the convention’s opponents’ critical concerns). With regard to dispute settlement, the United States has indicated that it would choose arbitration as stated in the draft resolution of advice and consent; it cannot be forced into any other dispute settlement mechanism. Specifically, Article 287 of the convention reads: “[I]f the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree.” Under no circumstances can the United States be subjected to any dispute resolution procedures without its consent. Also, the convention does not assess a “tax” but, rather, includes modest revenue sharing provisions from exploitation of oil and gas from the seabed beyond the EEZ that have been supported by every president since Richard Nixon, including Ronald Reagan. These resources were far outside any earlier claim made by the United States, and the agreement Oceans and National Interests 19 to the modest payments was part of a package deal that included willingness to recognize extension of U.S. control over the resources on the continental margin beyond two hundred nautical miles, which may encompass well over a million square kilometers of potentially exploitable minerals. That the payments are, indeed, modest is attested to by the support of the U.S. oil and gas industry for these convention provisions. With regard to a “backdoor Kyoto Protocol,” Bush administration officials testified before the SFRC that the convention does not apply the Kyoto Protocol to the United States, either directly or indirectly. The convention’s provisions include no cause for legal action regarding land-based sources of pollution; they only represent agreement that states are responsible for addressing pollution under their own laws and enforcement. Lastly, the heads of the U.S. Navy and intelligence agencies have testified before the Senate Intelligence Committee that the convention does not impede intelligence-gathering activities; on the contrary, the rights afforded to the United States by the convention significantly empower U.S. intelligence-gathering abilities.

**Lack of ratification prevents accesses to resources**

Borgerson 9

[Scott, fellow for ocean governance at the Council on Foreign Relations (CFR). Fmr. Assistant professor at the U.S. Coast Guard Academy. U.S. Merchant Marine officer master’s license, a board member of the Institute for Global Maritime Studies. BS w/ high honors @ U.S. Coast Guard Academy. MALD and PhD in international relations, @ Fletcher School of Law and Diplomacy at Tufts University, "The National Interest and the Law of the Sea," 2009, http://www.cfr.org/content/publications/attachments/LawoftheSea\_CSR46.pdf] //SH

The second major economic issue that makes acceding to the convention urgent is the ongoing work of the International Seabed Authority, which oversees the minerals regime established by the convention Strategic Imperatives 29 for seabed areas outside national jurisdiction. The ISA’s charter, as amended in the 1994 Agreement on Implementation, governs the international seabed based essentially on free market principles. By remaining a nonparty, the United States cannot fill its permanent seat on the ISA and is thus unable to exercise its special veto power over decisions on certain specified matters. U.S. deep-sea mining companies used to be among the world’s most promising, but they have withered away without the legal protection that would come with the United States being a state party. American energy and deep-seabed companies have been put at a disadvantage in making investments for seabed minerals projects by the legal uncertainty accompanying the United States remaining a nonparty. Furthermore, U.S. firms cannot obtain international recognition of mine sites or title to recovered minerals

### AT: UNCLOS Bad – ISA

**We have permanent veto power – solves the ISA turn**

Borgerson 9

[Scott, fellow for ocean governance at the Council on Foreign Relations (CFR). Fmr. Assistant professor at the U.S. Coast Guard Academy. U.S. Merchant Marine officer master’s license, a board member of the Institute for Global Maritime Studies. BS w/ high honors @ U.S. Coast Guard Academy. MALD and PhD in international relations, @ Fletcher School of Law and Diplomacy at Tufts University, "The National Interest and the Law of the Sea," 2009, http://www.cfr.org/content/publications/attachments/LawoftheSea\_CSR46.pdf] //SH

The majority opinion holds that the convention extends the sovereignty of coastal nations in a manner that significantly benefits the United States. Some minority opinion leaders have expressed concerns that joining the convention will erode U.S. sovereignty by observing that: –– Amendments to the convention may become binding on the United States without the advice and consent of the Senate. Article 316 of the convention has always required that most amendments be specifically ratified by a state before binding that state. The only exceptions to this requirement are for amendments to the Statute of the International Tribunal of the Law of the Sea, Annex VI, and for amendments relating to provisions on seabed mining. Amendments to Annex VI can only be adopted “without objection” per Article 313 or by consensus. In either case, the United States can block passage if necessary to obtain the advice and consent of the Senate. President Reagan’s specific objection regarding amendments to seabed-mining provisions was remedied by the interaction of the 1994 agreement and the convention. Convention Article 161, paragraph 8(d) requires consensus of the ISA council to adopt amendments to Part XI, which contains the seabed-mining provisions. Section 3, paragraph 15(a) of the annex to the 1994 agreement provides the United States a permanent seat on the council by virtue of being the largest economy on the date of entry into force of the convention. Together these sections effectively give the United States a “permanent veto” over binding amendments to the seabed provisions of the convention. Similar to concerns regarding distribution of benefits to national liberation movements, the United States must join the convention and claim a seat on the ISA to enjoy these protections against unfavorable amendments. Failure to join the convention and participate in the ISA risks “poisoning” the convention to U.S. accession by the addition of unacceptable amendments

**We would decide ISA policies**

Borgerson 9

[Scott, fellow for ocean governance at the Council on Foreign Relations (CFR). Fmr. Assistant professor at the U.S. Coast Guard Academy. U.S. Merchant Marine officer master’s license, a board member of the Institute for Global Maritime Studies. BS w/ high honors @ U.S. Coast Guard Academy. MALD and PhD in international relations, @ Fletcher School of Law and Diplomacy at Tufts University, "The National Interest and the Law of the Sea," 2009, http://www.cfr.org/content/publications/attachments/LawoftheSea\_CSR46.pdf] //SH

This language does appear in the convention and was not affected by the 1994 agreement. The convention uses this designation to establish a defined legal regime that will protect deep-seabed 46 Appendix I investment by providing internationally enforceable property rights. To administer these rights, the ISA is empowered to levy application fees, review and act on claims, and then collect royalties from seabed exploitation operations. This process mirrors that used by countries around the world to promote exploitation of resources within the EEZ. The International Tribunal for the Law of the Sea is empowered to resolve some disputes related to Part XI of the convention in its Seabed Disputes Chamber. While these provisions of the convention are undeniable, they do not aggregate to a loss of sovereignty since the United States exercises no sovereign rights over seabed resources beyond the limits of national jurisdiction. These provisions provide a mechanism for private interests to acquire longterm, commercially exploitable rights that could not be guaranteed under U.S. law alone. Upon joining the convention the United States will not gain control over deep-seabed resources but will gain unique and significant influence as the only nation guaranteed a permanent seat on the Council of the ISA.

### AT: UNCLOS Bad – Lawsuits

**We don't have to do anything we don't want to**

Giles 9

[Special Assistant to the Director of Legislation at Association of the U.S. Navy, MA in International Affairs from George Washington University, BA political science from Southwestern, "Why we need the Law

of the Sea treaty," December 2009, http://www.oceanlaw.org/downloads/articles/AUSN-law-of-sea-treaty.pdf] //SH

As provisional members of UNCLOS between 1994 and 1998, the US was part of the negotiations to establish the Rules, Regulations and Procedures of the International Seabed Authority (ISA), the body which regulates deep sea mining. These rules can only be amended with the consensus of the ISA Council, of which the US would be a permanent member. In other words, the US would have veto power over any provisions related to deep sea mining.10 Amendments to nonseabed dispute settlement provisions could be blocked by the US as well. In all other provisions, amendments may be adopted through a Conference of Parties or a simplified procedure – both of which could be blocked by the US. In either of these cases, amendments only apply to those parties which explicitly ratify or accede to them, and to new parties to the Convention. Those countries that have not ratified them are not affected by the amendments.

**No suing – ITLOS has no power and disputes will be resolved between countries**

Bederman 8

[Professor of Law at Emory University, "The Old Isolationism and the New Law of the Sea: Reflections on Advice and Consent for UNCLOS," 1/18/2008, Harvard Law Journal, http://meetings.abanet.org/webupload/commupload/IC965000/relatedresources/49\_Online\_Bederman\_1\_18\_08.pdf] //SH

Those who practice and profess international law should be profoundly grateful for this political moment. We can (and must) seek to inform the public about the realities of the institutional and dispute-settlement regimes in UNCLOS. The truth is, of course, that UNCLOS has relatively weak features in this regard, especially compared with such institutions as the WTO. The International Tribunal for the Law of the Sea (ITLOS) will have virtually no docket of cases, aside from applications for prompt release of vessels and crews and the occasional matter regarding fishing rights.19 The vast majority of disputes under UNCLOS will be resolved by ad hoc arbitrators, hand-picked by the parties.20 Likewise, the International Seabed Authority (ISA) is likely to be a rather sclerotic organization, given its limited mandate (with the modifications made to Part XI in 1994)21 until such time (if ever) that deep seabed mining for manganese nodules has even the remote prospect of profitability. Ironically, the work of one UNCLOS institution that does bear attention – the Continental Shelf Commission, which is the technical body that will rule on any U.S. application to extend its claims in the Arctic – has not yet been fully evaluated. As for the “international tax” that the ISA will assess on continental shelf oil and gas production beyond 200 nautical miles,22 that provision, ironically, was based on a proposal made by the Nixon Administration as an alternative to the cumbersome regime for manganese nodules.23

**Court has no control – we won't be subject to other countries' bad intentions**

Neukom 8

[William, President of the American Bar Association, "statement submitted to the Committee on Foreign Relations of the United States Senate regarding the Convention on the Law of the Sea," 9/27/7, http://meetings.abanet.org/webupload/commupload/IC965000/relatedresources/2007sept27sfrcstatements\_t.pdf] //SH

“Opponents have also raised alarmist objections regarding the jurisdiction of the International Tribunal on the Law of the Sea created under the Convention which are patently untrue. The United States, in accordance with provisions of choice in the Convention will elect arbitral procedures for certain categories of disputes Justice. The United States also will opt out of all mandatory dispute settlement with respect to military and certain other activities. Thus, contrary to opponents’ claims, the Convention does not and will not award any control over US military activities to any international court or international bureaucracy.”rather than submit to the jurisdiction of that Tribunal or the International Court of

**Not ratifying cedes sovereignty**

Bert 12

[Melissa, captain in the U.S. Coast Guard and a military fellow at the Council on Foreign Relations, "POLICY INNOVATION MEMORANDUM NO. 14," Council on Foreign Relations, pdf] //SH

Critics argue that the LOSC cedes American sovereignty to the United Nations. But the failure to ratify it has the opposite effect: it leaves the United States less able to protect its interests in the Arctic and elsewhere. The diminished influence is particularly evident at the International Maritime Organization (IMO), the international body that “operationalizes” the LOSC through its international port and shipping rules. By remaining a nonparty, the United States lacks the credibility to promote U.S. interests in the Arctic, such as by transforming U.S. recommendations into binding international laws.

## \*\*\*Aff

### UNCLOS Bad – Suits

**UNCLOS requires us to pay lots of money and we'll get sued**

Groves 11

[Steven, Bernard and Barbara Lomas Fellow in Heritage’s Margaret Thatcher Center for Freedom, "Accession to the U.N. Convention on the Law of the Sea Is Unnecessary to Secure U.S. Navigational Rights and Freedoms," 8/24/11, http://www.heritage.org/research/reports/2011/08/accession-to-un-convention-law-of-the-sea-is-unnecessary-to-secure-us-navigational-rights-freedoms] //SH

The United Nations Convention on the Law of the Sea (UNCLOS) is a controversial and fatally flawed treaty. Accession to the convention would result in a dangerous and irreversible loss of American sovereignty. It would require the U.S. Treasury to transfer tens, if not hundreds, of billions of dollars to an unaccountable international organization in Jamaica, which in turn is empowered to redistribute those American dollars to countries with interests that are inimical to the U.S. The convention’s mandatory dispute mechanisms will result ultimately in troublesome and costly legal judgments if the United States is deemed to have “violated” the convention—most likely when the United States has acted in its own best interests. On the surface, UNCLOS sounds like a treaty that it would be worthwhile to join, as it relates to navigational rights and freedoms, development of the natural resources of the deep seabed, protection of the marine environment, and many other matters regarding the world’s oceans.[1] However, in July 1982, President Ronald Reagan announced that he would not sign the convention because of “several major problems in the Convention’s deep seabed mining provisions.”[2] Those provisions underwent revision during the 1990s, and the Clinton Administration signed an agreement regarding those revisions in July 1994 and subsequently transmitted the convention to the U.S. Senate for its advice and consent. Although the Senate has held several hearings since 1994 regarding UNCLOS, it has never given its consent, and the United States remains a non-party to the convention. There are many reasons why accession to UNCLOS would not advance U.S. national interests and would in fact harm those interests. The convention creates the International Seabed Authority (ISA) and an attendant international bureaucracy that serve as unaccountable gatekeepers to exploration of the deep seabed. If the United States joined the convention, it would be required to transfer royalties generated from oil and gas development on the U.S. continental shelf to the ISA for redistribution to the “developing world.”[3] The United States would also be compelled under Part XV of the convention to submit to international dispute resolution mechanisms, potentially exposing it to specious environmental claims.

**Many bad things happen if we ratify UNCLOS**

Heritage Foundation 11

[American conservative think tank, "U.N. Convention on the Law of the Sea: It’s Still a Bad Idea," 7/7/11, http://www.heritage.org/research/factsheets/2011/07/un-convention-on-the-law-of-the-sea-its-still-a-bad-idea] //SH

The U.S. Has Much to Lose … Another Unaccountable International Bureaucracy: UNCLOS establishes the International Seabed Authority (ISA), a new U.N.-style bureaucracy located in Kingston, Jamaica. As only one of more than 160 countries in the ISA, the U.S. would have limited authority over its decisions regarding the deep seabed. Just like the U.N. General Assembly, proceedings at the ISA would be dominated by anti-U.S. interests. Redistribution of U.S. Wealth to the “Developing World”: The U.S. currently enjoys full sovereignty over its entire continental shelf. It can claim all its mineral resources (e.g., oil and gas) and can collect royalty revenue from oil and gas companies for exploitation. If the U.S. joined UNCLOS, Article 82 would require the U.S. to transfer a significant portion of any such royalties to the ISA for “redistribution” to the so-called developing world, including corrupt and despotic regimes. Mandatory Dispute Resolution: Under Part XV, the U.S. would be required to engage in mandatory dispute resolution for any claim brought against it by another member of UNCLOS. This may open the U.S. to any number of specious allegations brought by opportunistic nations, including allegations of environmental degradation or polluting the ocean environment with carbon emissions or even from land-based sources. U.S. Economic Interests at Risk: UNCLOS claims the deep seabed resources of the oceans as “the common heritage of mankind" and forbids mining unless permission is first received by the ISA, which, of course, takes into account the interests of “developing states” regarding the exploitation of those resources. UNCLOS encourages technology transfers from advanced mining companies to support the mining activities by developing states, which is likely to discourage U.S. companies from participating in such activities. The Convention Was Not “Fixed” in 1994: During the early 1990s the deep seabed mining provisions of UNCLOS were renegotiated in the “1994 Agreement.” This addendum to the convention was signed by the Clinton Administration in July 1994. While the 1994 Agreement improved many provisions of the convention, it did not secure “veto” power for the U.S. over the decisions of the ISA.

### Arctic War Defense

**Arctic war won't happen – their authors ignore history and don't their methods are non-falsifiable**

Ruby 12

[Bryon, John Gardner Fellow at the U.S. Department of State, "Conflict or Cooperation? Arctic Geopolitics and Climate Change," 2012, Berkley Undergraduate Journal (Peer Reviewed), http://escholarship.org/uc/item/6z7864c7] //SH

Looking to what were perceived as inauspicious climatic and geopolitical conditions, Scott Borgerson, an International Affairs Fellow at the Council of Foreign Relations, published a seminal article on Arctic geopolitics in 2008 entitled “Arctic Meltdown: The Economic and Security Implications of Global Warming,” which posited that a coming resource race among the Arctic powers and energy-hungry countries like China would likely erupt in outright conflict or the type of “armed brinksmanship” that has plagued resource-rich but territorially disputed locations like the Spratley Islands for generations (Borgerson 2008, 71). However, despite Borgerson’s tenable portrayal of the Arctic as the next great geopolitical powder keg, not every political theorist or international relations expert took his speculations at face value. Critics hailing from neo-liberal, realist, and constructivists camps have all since weighed in on the debate, some discrediting his claims while others supporting and expanding upon them (see Gluck 2010, Ebinger & Zambetakis 2009, Gerhardt et al 2010, and Zellen 2009). What is consistent throughout most of the literature concerning the Arctic is that the authors take retrospective approaches. That is, they are reacting to events and basing their speculations off those events, rather than attempting to situate Arctic geopolitics within a larger historical context. Even fewer compare or contrast what they see as drivers of (or impediments to) conflict with similar historical situations. While there is admittedly nothing wrong with taking a retrospective approach (as this paper will inevitably have to do exactly that to some degree as well), the omission of the analytical legwork of historical comparison or quantitative data analysis renders the arguments promulgated by the myriad theoretical camps ultimately unconvincing. This paper, then, will be an attempt to begin forging a more "methodologically robust" approach—so to speak—of addressing the following question: could there be armed conflict over the Arctic?

**No Canadian aggression – their stance is one of defense**

Ruby 12

[Bryon, John Gardner Fellow at the U.S. Department of State, "Conflict or Cooperation? Arctic Geopolitics and Climate Change," 2012, Berkley Undergraduate Journal (Peer Reviewed), http://escholarship.org/uc/item/6z7864c7] //SH

I would conclude from this research that the answer is no. First, it is important to note the motives behind Canada’s bellicose rhetoric and aggressive diplomacy: domestic linkages stemming from notions of Canadian pride. As both historical examples and polling data have demonstrated, Canadians respond vociferously to encroachments on their northern territories, as they perceive the Arctic to be intrinsic to, and formative, of their national identity (EKOS 2011). This renders their direction of aggression towards a defensive posture, rather than an offensive one. If anything, Canada’s rugged and deliberate reinforcing of clear-cut borders and sovereignty in its Arctic territory may serve to further stabilize the region by upholding Westphalian conceptions of interstate interactions, thereby directly answering Borgerson’s fears of a semi-anarchic polar region. Second, two of the current territorial disputes in which Canada is engaged are with the United States over a maritime border in the Beaufort Sea and control over the Northwest Passage. Given the strength of the U.S.-Canada dyad, it seems unlikely these disputes will be resolved through anything other than diplomacy. Moreover, as the domestic fervor with regards to Hans Island cools off, and with Norway and Russia already in agreement with their border, it appears that these territorial disputes—which could have at one time served as flashpoints for conflict—are quickly becoming artifacts in their respective countries’ diplomatic history.

## ^^Arctic Environmental Regime CP^^

### 1nc

**Text: The United States Federal government should develop an international framework for protection of the Arctic environment.**

**CP solves environmental damage in the Arctic**

WWF no date

[World Wildlife Fund, international non-governmental organization working on issues regarding the conservation, research and restoration of the environment, "Arctic Governance," no date, http://www.worldwildlife.org/what/wherewework/arctic/WWFBinaryitem10870.pdf]

Therefore, the main challenge for protection of the arctic marine environment is the development of international rules, standards and systems for marine environmental protection in the face of rapidly increasing offshore activity which is accompanied by potentially adverse effects on the arctic marine environment There is an urgent need for a comprehensive international environmental regime specially tailored for the unique arctic conditions by which new and existing activities can be managed so that development occurs in a sustainable manner. This regime is needed before the anticipated acceleration of the exploitation of arctic resources in the coming decade. The Arctic Ocean may be ice-free in the summer as early as 2013. The longer the delay in developing international environmental rules, the more likely it is that unplanned and unregulated development will damage the very resources most necessary for a sustainable future in the Arctic. WWF International’s Arctic Programme proposes the adoption of a simple framework convention to improve the governance of the Arctic. This convention would provide a framework for arctic environmental issues, a harmonious uniform approach as opposed to a fragmented regime based on national approaches. The framework convention would allow for sustainable ecosystem-based management of the region. The framework convention could be negotiated between the eight key Arctic countries and it would be a relatively simple instrument. It would contain the following functional elements: It would recognize the validity and authority of existing international agreements such as UNCLOS. It would recognize the overarching role of certain principles pursuant to which those instruments and other newly negotiated sub-agreements might be implemented in the Arctic. These principles would include such concepts as: resilience-based ecosystem management, the precautionary principle, stakeholder participation particularly with Indigenous peoples, and assessment and management of cumulative impacts. It would provide for the monitoring and assessment of environmental and socio-economic conditions throughout the Arctic and the reporting thereon. It would authorize the parties to enter into specific protocols as might be deemed necessary to either supplement the authorities of existing instruments or to provide for new specific management regimes. Initial areas for such protocols might include activities such as: oil & gas development, fisheries management, and shipping safety. A framework convention could incorporate more serious obligations on the part of arctic governments to protect the marine environment and manage the regional resources sustainably. It could also provide a harmonized approach to enforcement and ensuring compliance. Enclosed or semi-enclosed waters are normally governed by a regional governance arrangement and this is explicitly encouraged by UNCLOS. The Arctic Ocean would fall into this category. The modern trend of environmental governance is to apply ecosystem-based approach to regional marine governance. The most critical factors causing change in the Arctic are global in nature, and the consequences, in terms of ecological changes and new development opportunities, will affect the entire arctic region and beyond, as arctic systems interact with global systems. No state acting on its own can manage these changes properly.

**More solvency**

WWF 10

[World Wildlife Fund, international non-governmental organization working on issues regarding the conservation, research and restoration of the environment, "Reforming Arctic Governance: Limit a Little, Save a Lot," 2010, http://www.worldwildlife.org/what/wherewework/arctic/WWFBinaryitem16033.pdf]

The report authors conclude that the best option from a legal and regulatory perspective is to develop a new international framework agreement covering the entire Arctic, across all sectors. Such a legally binding agreement for the marine Arctic would address the identified governance gaps. This option would allow for management on an ecosystem level, which is the best tool for ensuring sustainable management of marine resources in the Arctic. The new Arctic Sea emerging from the melting ice requires a regional regime tailor- made for arctic conditions developed under the overarching framework of the United Nations Convention on the Law of the Sea (UNCLOS). Such a regional regulatory and governance framework should ensure: n Protection and preservation of the ecological processes in the arctic marine environment n Long-term conservation and sustainable and equitable use of marine resources n Socio-economic benefits for present and future generations, in particular for Indigenous peoples of the Arctic region n Action to address the unprecedented natural changes the Arctic is facing A new legally binding comprehensive agreement with a new institutional setup which will be able to ensure protection and preservation of the Arctic Ocean and sustainable ecosystem-based management of its resources would be an optimal solution in WWF’s view. However, WWF would welcome any solution which allows reaching these goals in a comprehensive and binding manner.