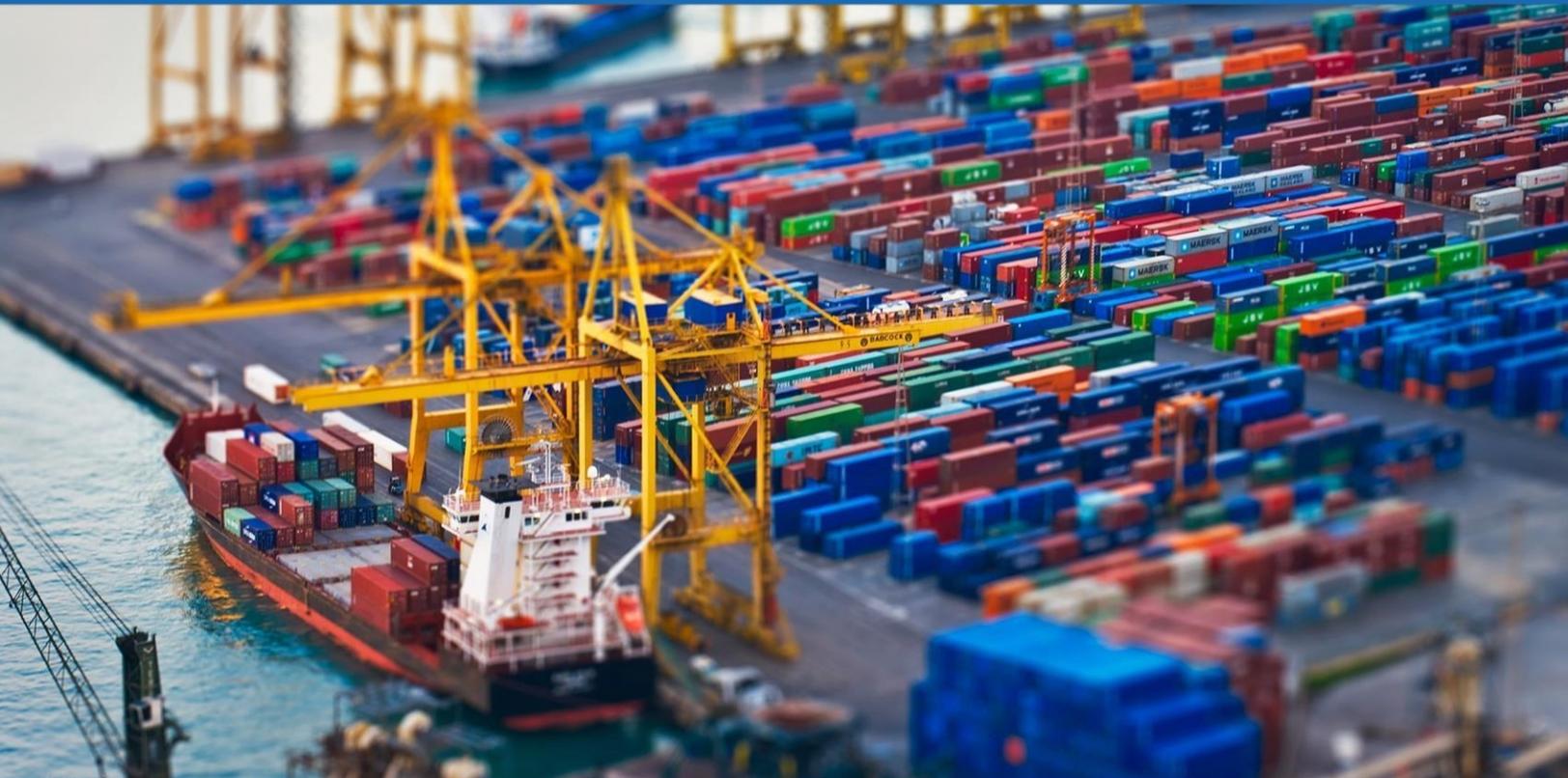


THE JONES ACT IN PERSPECTIVE: A survey of costs and effects of the 1920 Merchant Marine Act

Russ Kashian, Jeff Pagel and Ike Brannon

Edited by Dr. Keli'i Akina, Malia Blom-Hill and Joe Kent



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Executive summary

The *Merchant Marine Act of 1920*, otherwise known as the Jones Act, is the foundation for protectionist cabotage laws that govern shipping in the United States. The law was passed with the intention of preserving national interests and providing for national defense by supporting the U.S. merchant marine.

The Jones Act restricts the carriage of goods and passengers between U.S. ports to vessels built and flagged by the U.S. and crewed predominantly by Americans. As a result, domestic shipping in the U.S. is more expensive to consumers, who lack competitive options, as well as to shipping owners, who must pay more for their ships and have higher personnel costs, due to higher employee wages and benefits.

Meanwhile, since World War II, and despite the intent of the Jones Act, U.S. shipyards have been on the decline. As of 2011, there were only five public domestic shipyards in the U.S. and 20 private ones. Of 171 privately owned U.S. flagged ships, 93 were Jones Act-eligible, and 73 could be categorized as militarily useful.

Between 2006 and 2011, the Jones Act-eligible fleet shrank by just over 17 percent, with the number of each vessel type in that category falling, sometimes by a significant amount. If the Jones Act is intended to maintain the health of the commercial shipbuilding industry, then the shrinking U.S. merchant fleet demonstrates that the Act has been a failure in that regard.

The Jones Act is also intended to protect national defense by developing and sustaining a merchant marine force. However, the U.S. government has other tools to ensure a sufficient private merchant vessel fleet without the Jones Act. Defenders of the Jones Act must explain why national security goals could not be achieved through other means.

As for the affect on consumers, the U.S. International Trade Commission has estimated that reform or repeal of the Jones Act could yield an annual economic gain of between \$5 and \$15 billion.

The economic burden of the Jones Act is felt nationwide, often in unexpected ways, but the highest burden is felt by the noncontiguous territories (including Guam, Puerto Rico, Alaska and Hawaii), which more than the rest of the U.S. depend on shipping for provision of their goods.

Partial reform could lift overall U.S. incomes by hundreds of millions of dollars, with specific industries making substantial gains that would offset losses by the shipping industry. One estimate has placed the cost of coastal water transport falling by approximately 60 percent, which would greatly benefit industries such as petroleum, chemicals, air transport and steel.

Existing studies of the Jones Act show that its national security and job-saving benefits come at a steep price for consumers and U.S. industry. However, more study is needed to further quantify the effect of the Act on key industries and states.

Introduction

For most Americans, the Jones Act is an obscure and confusing piece of legislation—an odd focus for a reform movement. But as citizens of Hawaii, Puerto Rico, and other far-flung states and territories can attest, it has a far greater affect on the our economy and cost of living than most people realize.

The Jones Act (officially the *Merchant Marine Act of 1920*) is a relic of another time, when naval warfare and the nation’s strategic interests meant the cultivation of a strong merchant marine. That is the thinking that led Congress to prop up American shipbuilding and the entire shipping industry with a restrictive protectionist scheme.

Because of the Jones Act, all goods carried by water between U.S. ports must be shipped on U.S.-flag ships that were constructed in the United States, are owned by U.S. citizens, and crewed by U.S. citizens or permanent residents.

Supporters of the Act say that it is necessary for national security and that it saves jobs (hence the strong union support for it). However, analysis of the impact of the Act becomes a masterful demonstration of the law of unintended consequences. Though intended to keep American shipbuilding prosperous, under the Jones Act, shipyards have closed and the U.S. flagged Jones Act fleet has shrunk until it is only a shadow of its former self.

Moreover the economic absurdities caused by the Jones Act are legion. The Act makes it cheaper for U.S. livestock farmers to buy grain from overseas than from American sources. States like Maryland and Virginia import their road salt rather than buy it from Ohio. The east coast of the U.S. cannot afford to get lumber from the Pacific Northwest. And shipping oil from Texas to New England costs about three times as much as shipping it to Europe.

There have been efforts to quantify the economic effect of the Jones Act, but this is one situation where politics and research find themselves in direct conflict. The maritime industry fiercely defends the need for the Act while downplaying its costs. Meanwhile, the Act’s impact is entwined in so many different industries that most analysis to date has focused on geographic considerations.

How can we properly evaluate the Jones Act without some attempt to measure its effect—for good and for bad—on shippers, consumers, employment, industry and the economy as a whole? In this report, we have attempted to collect existing scholarship on the Jones Act to gain a clearer perspective on how it has succeeded (or failed) in its objectives. Through this survey of the existing Jones Act literature, we can also see where future researchers might look to increase our understanding of its economic effects.

One thing is clear: while there is significant debate over the utility of the Act, much work still needs to be done in determining what the Jones Act costs the average American. Legislators in particular are encouraged to ask themselves, “Is the country better off with or without the Jones Act?” It is obvious that those working to revitalize homegrown American industry are already asking that question.

In no other sector of the American economy do the principles of the late 19th century continue to hold sway despite modern realities. By increasing the cost of building ships and requiring higher-priced crews to operate them, and by preventing foreign competitors from shipping between U.S. ports, the Jones Act has raised prices for American consumers, distorted the U.S. economy and stunted the U.S. merchant fleet.

The ancient origins of the Jones Act

Countries have used protectionist policy for centuries to control international navigation, relying on both commercial and military means to do so. Adam Smith, often considered the father of free trade, averred that some protectionist policies can be justified, if they pertain to industries that are essential to the defense of a country. However, he recognized such policies restrict foreign commerce and growth, and that states should take heed so that restrictive policies are not used to support an ailing industry under the guise of defense.

The United States has had a protectionist shipping policy since its inception. In fact, few industries in the U.S. have had the federal government play as active a role in its operations as in the merchant shipping industry.

Prior to World War I, the U.S. maritime industry operated under an 1817 law, *An Act Concerning the Navigation of the United States*, that required all domestic trade to be conducted by U.S.-flagged vessels. After World War I, Congress legislated the *Merchant Marine Act of 1920*¹, more popularly known as the Jones Act, which provides the foundation of current cabotage laws. “Cabotage” refers to the shipping of goods between two points within a country. The purpose of the legislation was to maintain a merchant fleet with the capability of assisting the military interests of the United States.

The Jones Act states that,

“It is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States; and it is hereby declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine.”²

Inherent in the law is the restriction of foreign vessels from engaging in domestic trade — a restriction that serves to protect the domestic fleet and ensure that U.S.-flagged maritime vessels are strong and war-

¹ Act of June 5 (1920). Public-No. 261-66th Congress. H.R. 10378.

² *Merchant Marine Act 1920*

ready. The Jones Act represents some of the most restrictive cabotage policies among industrialized nations and in the world. Attorneys Charlie Papazivas and Bryant Gardner concluded that the Jones Act goes above and beyond standard interstate commerce law in its imposition of domestic build, citizen crew and operation regulations.³

Much has been written about the Jones Act and its impact on the broader economy as well as the shipping industry; we will discuss the most pertinent research done on each of the three distinct parts of the Jones Act, explore the rationale for protectionist policy, and conclude by analyzing the effects of the Act throughout the economy.

How the Jones Act restricts shipping

The Jones Act is meant to address three related areas: cabotage, seamen's rights and protection of U.S. maritime interests.

The purpose of cabotage is to make it cost ineffective for foreign vessels to engage in domestic maritime trade. While cabotage can be used to increase the price of transporting goods through duties, the Jones Act simply restricts the carriage of goods or passengers between U.S. ports to vessels built and flagged by the U.S. altogether. In general, foreign-built and foreign-flagged vessels are completely prohibited from coastwise traffic in the U.S., creating a protectionist barrier for domestic vessels to operate.

In essence, the Jones Act effects a transfer from U.S. consumers of water transportation services to U.S. maritime carriers, with the result being that domestic shippers can charge rates substantially above comparable world prices, increasing the revenue of domestic shippers by billions of dollars a year.

Consumers in Hawaii, Alaska, Puerto Rico and Guam have the prices of their goods pushed up more than U.S. mainland consumers, since a much greater proportion of their goods are supplied via ship. These higher prices have an impact that goes beyond higher costs of living: The Federal Reserve Bank of New York⁴ and the World Economic Forum⁵ both recently concluded that the Jones Act hinders Puerto Rico's economic development. Given the island's longstanding economic troubles, this is not a little thing.

Foreign countries also impose varying degrees of cabotage — Ernest Sapir and Andre Lutz have observed that the shipping sectors in Brazil and South Korea receive heavy protection from the state⁶ — and a U.S.

³ Papazivas, C., & Gardner, B. E. (2009). Is the Jones Act redundant? *U.S.F. Maritime Law Journal*, 21(1).

⁴ Federal Reserve Bank of New York. (2012, June 29). *Report on the competitiveness of Puerto Rico's economy*. Abel, J., Bram, J., Deitz, R., Klitgaard, T., & Orr, J.

⁵ World Economic Forum. (2013). *Enabling trade valuing growth opportunities*. Moavenzadeh, J. Retrieved from http://www3.weforum.org/docs/WEF_SCT_EnablingTrade_Report_2013.pdf

⁶ Sapir, A., and E. Lutz. (1981). Trade in services: Economic determinants and development related issues. World Bank Staff Working Paper 480.

Department of Transportation study found that most countries have some form of laws restricting foreign cabotage.⁷

Another intent of the Jones Act is to establish certain American seamen's rights, which it does in various ways. The first is a provision known as "personal injury to or death of seamen," which provides injured sailors the ability to make claims and collect from their ship owners. The operative provision in the *Merchant Marine Act of 1920* states that, "Any sailor who shall suffer personal injury in the course of his employment may, at his election, maintain an action for damages at law, with the right to trial by jury, and in such action all statutes of the United States modifying or extending the common-law right or remedy in cases of personal injury." In essence, it grants seamen the right to bring legal action against ship owners, extending the rights set forth under international maritime law.

Another protection provided to seamen is the origins-of-crewmen requirement, which mandates that fully 75 percent of a ship's crew must be U.S. citizens. This requirement artificially maintains seafaring wages above the levels set outside the U.S. via international competition. Crew requirements decrease labor competition, inflate wages and increase the costs of transported goods. The difference is significant; Patrick Holland estimated that U.S. crews cost nearly 4.5 times more than foreign crews.⁸ Given that wages and other employee compensation comprise nearly 80 percent of the operating cost difference between U.S. and international ships, it is hard to overstate its significance.⁹

Proponents of protectionist laws pertaining to the merchant marine invariably defend them from the context of their necessity to national defense. John Frittelli outlines in a Congressional Research Service report the oft-made argument that the U.S. government needs to provide support to maintain a commercial shipbuilding industry, including not only a skilled labor pool of welders and fitters but also the industrial infrastructure that can be called upon when our national security is threatened.¹⁰

However, he finds this rationale to be unconvincing; given the long time needed to build new ships, the relatively limited demand of the government during the recent conflicts, and the expanded inventory of government-owned sealift ships, the defense argument about protecting the shipbuilding industry does not hold up.

Today, the U.S. has fewer public and private shipyards than any time in the recent past. For instance, the 15 public shipyards in the U.S. during World War II have diminished to just five public domestic shipyards as of 2011, which perform solely maintenance and decommissions on the existing naval fleet.¹¹

⁷ U.S. Department of Transportation, Maritime Administration. (1991). *A survey of world cabotage laws: Summary of responses from countries*. Washington, DC.

⁸ Holland, P. (2015). Help Puerto Rico by repealing the Jones Act. *Economics21*. Retrieved Aug. 2, 2016 from <https://economics21.org/html/help-puerto-rico-repealing-jones-act-1403.html>

⁹ U.S. International Trade Commission. (2002). *The Economic Effects of Significant U.S. Import Restraints: Third Update*. Washington, D.C.

¹⁰ Congressional Research Service. (2013, July). *The Jones Act: An overview*. CRS Report for Congress, Order Code RS21566. Frittelli, J. F.

¹¹ Colton, T. (2011). Shipbuilding history. Retrieved Aug. 2, 2016 from <http://shipbuildinghistory.com/>

The large private shipbuilders operate 20 domestic shipyards, and they are the ones who produce the Navy's big ships and submarines. There has been substantial retrenchment here as well, with 38 companies operating 60 shipyards exiting the market since the 1940s.¹² Furthermore, William Yost has noted that the majority of port terminals in the U.S. are actually leased to foreign shipping companies by the port authorities.¹³

The policy machinations that keep these shipyards going come at a steep cost: Joseph Francois, Hugh Arce, and their co-authors estimate in a study published in the *Journal of Canadian Economics* that the Jones Act protects about 1,800 jobs in shipyards, including shipbuilding and repair, while ensuring an additional \$163 million of domestic activity in these sectors.¹⁴ This comes at an annual economic cost of roughly \$3 billion — a horrible return on investment even by government standards.

Allen Ferguson offers a straightforward critique of the alleged military necessity of the Jones Act:

“For such a subsidy to be rational requires one to believe (1) that a future war will be so long, so large in its logistics demands and with such great attrition of the commercial fleet that large injections of additional ships will be needed; (2) that the then-existing reserve fleet will be inadequate; and (3) that it will be impossible to obtain adequate capacity either by purchasing then-existing ships on the world market or by having new vessels built abroad.”¹⁵

Ferguson cites three specific military objectives of the Jones Act: (1) having a commercial fleet that can support the military in emergencies; (2) having a reserve fleet for the same purpose; and (3) having a shipbuilding capability to supply new ships in wartime. However, it's not clear that the commercial fleet would match the military's needs all that well. Richard Smith notes that the U.S. Navy highly values intermodal vessels, particularly roll-on/roll-off vessels, and that it also desires to have access to a variety of smaller tankers with a capacity of 80,000 deadweight tons or less in a pinch as well.¹⁶

Table 1, published by the United States Maritime Administration, shows the existing stock of privately owned ships sailing under the U.S. flag.

¹² Blom-Hill, M. (2013). The sinking ship of cabotage. *Labor Watch*.

¹³ Yost III, W. H. (2013). Jonesing for a taste of competition: Why an antiquated maritime law needs reform. *Roger Williams UL Rev.*, 18, 52.

¹⁴ Francois, J. F., Arce, H. M., Reinert, K. A., & Flynn, J. E. (1996). Commercial policy and the domestic carrying trade. *Canadian Journal of Economics*, 181-198.

¹⁵ Ferguson, A. R. (1994). Reform of maritime policy: Building blocks of an integrated program. *Regulation*, 17, 28.

¹⁶ Smith, R. A. (2004). *The Jones Act: An economic and political evaluation* (Doctoral dissertation). Retrieved Apr. 5, 2017 from <http://hdl.handle.net/1721.1/33431>

Table 1

Type of Vessel	Number of Vessels in the Fleet	Jones Act Eligible	Militarily Useful	Militarily Useful and Jones Act Eligible
Ro-Ro	28	9	28	9
Tanker	57	51	45	39
Containership	62	23	62	23
General Cargo	19	8	13	2
Dry Bulk	5	2	0	0
Total Number of Vessels	171	93	148	73
Share of Total Vessels	-	54.4%	86.5%	42.7%

*U.S. Department of Transportation, Maritime Administration

The report lists 171 ships in the ocean-going fleet, 93 of which were Jones Act-eligible, and 73 that could be categorized as militarily useful. The dearth of ships available to the military calls into question the validity of the first two military objectives: to provide a commercial fleet and reserve fleet to the military during emergencies. Although a majority of vessels are militarily useful, the military objectives neglect the important question — namely, whether the sailors who operate the ships are qualified to operate a sea vessel in a time of war. Nationalizing the militarily useful ships during war may be a politically expedient maneuver during a conflict, but without trained sailors, even these might not be immediately useful to our defense.

For some perspective, *Statista* estimates that there are just over 50,000 ocean-going cargo vessels currently in operation in the world at this time.¹⁷ In other words, the Jones Act has played a role in reducing the U.S. contribution to less than .5 percent of the global total.

Rob Quartel notes that by the end of the first Gulf War, America’s subsidized merchant fleet had directly contributed only six aging ships to the 460-ship armada that transported military materials into Saudi Arabian ports.¹⁸

Other ways to achieve national security goals of the Jones Act

The U.S. government has other tools to ensure a sufficient private merchant vessel fleet without the Jones Act. For instance, the Maritime Security Program, established in 1996, is another program intended to make available privately owned ships for military purposes. The 2004 *National Defense Authorization Act* expanded its reach. The act requires consultation between the Secretary of Transportation and the Secretary of Defense to establish a fleet of 60 active ships that are commercially viable, militarily useful and privately owned to meet national defense and other security requirements. The idea is to maintain a

¹⁷ Statista. (2016). Retrieved Aug. 2, 2016 from <https://www.statista.com/markets/419/transportation-logistics/>

¹⁸ Quartel, R. (1991). America's welfare queen fleet: The need for maritime policy reform. *Regulation*, 14, 58.

modern U.S.-flag fleet that can provide military access to vessels as well as a total global, intermodal transportation network. Members of the program are required to make their vessels available during times of war or national defense. Defenders of the Jones Act who cite the need for a militarily adaptable merchant fleet as the rationale for its continued existence should consider whether there is a more efficient way to accomplish that.

Table 2

Type of vessel	Number of vessels in MSP*	Average age by vessel type
Ro-Ro	16	2000
Tanker	2	2010
Containership	34	2002
General cargo	6	2009
Dry bulk	0	-
Total number of vessels	58	-
Average age of MSP fleet*	-	2002

*Maritime Security Program (MSP)
Maritime Security Program fleet

The composition of U.S. non-military ships removes the need for the Jones Act

America’s privately owned merchant fleet has been shrinking in recent years, for a variety of reasons. From 2006-2011, the size of the entire fleet decreased by 6.6 percent, with the largest decreases in integrated tug/barge, which saw two-thirds of its fleet disappear, and roll-on/roll-off, which lost 20 percent of its total.¹⁹ Only container ships increased in number during the six-year period, but that was by just 8 percent.

The Jones Act-eligible fleet shrank by just over 17 percent over the same six-year period as well, with the number of each vessel type in that category falling. The declines were significant. For instance, the number of integrated tug/barge and roll-on/roll-off ships each decreased by more than 40 percent.

One of the main rationales for the Jones Act is to maintain a commercial shipbuilding industry with a skilled labor pool and industrial infrastructure. The concomitant contractions in both the overall fleet as

¹⁹ U.S. Department of Transportation, Maritime Administration. (2013). *2011 U.S. water transportation statistical snapshot*. Washington, DC.

well as in the number of Jones-Act eligible vessels demonstrate that the Jones Act has accomplished relatively little of its intended goals.

Table 3

U.S.-flag, oceangoing, privately owned merchant fleet, 2011
Self-propelled, cargo-carrying vessels of 1,000 gross tons and above
(Tonnages in Thousands)

Vessel Type	2006	2007	2008	2009	2010	2011	% Ch. 06-11
Containership	73	70	78	76	80	79	8.2
Non-Jones Act eligible	45	43	50	49	53	53	17.8
Jones Act eligible	28	27	28	27	27	26	-7.1
Dry Bulk	12	12	12	12	12	12	0
Non-Jones Act eligible	8	8	8	8	8	8	0
Jones Act eligible	4	4	4	4	4	4	0
General Cargo	20	20	19	19	18	20	0
Non-Jones Act eligible	12	12	10	10	11	13	8.3
Jones Act eligible	8	8	9	9	7	7	-12.5
Integrated tug/barge (ITB)	12	12	12	9	9	4	-66.7
Non-Jones Act eligible	0	0	0	0	0	0	0
Jones Act eligible	12	12	12	9	9	4	-66.7
Roll-on/roll-off	49	43	43	42	40	39	-20.4
Non-Jones Act eligible	29	27	27	29	27	27	-6.9
Jones Act eligible	20	16	16	13	13	12	-40
Tanker	63	63	61	59	62	60	-4.8
Non-Jones Act eligible	6	7	6	6	6	6	0
Jones Act eligible	57	56	55	53	56	54	-5.3
Total oceangoing fleet	229	220	225	217	221	214	-6.6
Non-Jones Act eligible	100	97	101	102	106	107	7
Jones Act eligible	129	123	124	115	115	107	-17.1

Note: Fleet as of January 31st, 2011.

For a current list of the U.S.-flag oceangoing, cargo-carrying, privately-owned merchant fleet, please visit the MARAD Data and Statistics Website at www.marad.dot.gov/data_statistics.

Source: HIS-Fairplay, www.ihsfairplay.com.

The economic impact of the Jones Act is significant

Several empirical studies have attempted to estimate the economic effects of the Jones Act, the most comprehensive of which is a report published by the U.S. International Trade Commission, which estimated the annual economic gain from repealing the act to the residents of Puerto Rico, Alaska and Hawaii to be between \$5 billion to \$15 billion (in current-value dollars).²⁰

The ITC estimated that foreign suppliers have a 59 percent cost advantage in shipbuilding, based on a weighted average of cost differentials for different types of cargo. An inherent difficulty with the estimates has to do with determining what would be the domestic shipping rates for international shippers, as they are excluded from competing in the domestic market. The ITC remedies this lapse by analyzing the complete liberalization regime under two scenarios: Under the first, foreign suppliers operate 20 percent cheaper than U.S. suppliers, since their estimate is that foreign suppliers operate at a cost that is about 80 percent of U.S. suppliers. In the second, foreign suppliers have just a 10 percent cost advantage. Scenario one results in an economic gain of \$262 million; scenario two results in a net economic gain of \$119 million.

We believe these estimates are conservative. In a separate study, Justin Lewis found coastal water transport in the United States would be about 60 percent cheaper, and that consumers using these services would stand to gain over \$500 million annually, by relaxing or eliminating the Jones Act.²¹

Allen Ferguson makes an important distinction regarding any potential employment changes from a relaxation of the Jones Act, namely that there are a greater number of shoreside employees involved in everything from the administration of ocean carriers to providing services and goods to the carriers and their clients.²² However, their incomes and employment are largely independent of the flag flown by the fleets.

Joseph Francois and Hugh Arce broke down the gains by industry sector incurred from a complete liberalization of the Jones Act. They found that the greatest gains in economic activity would occur in the water sector (\$1.5 billion), petroleum (\$158 million), chemicals (\$103 million), air transportation (\$91 million), steel (\$50 million), plastics (\$40 million) and lumber (\$32 million).²³

²⁰ U.S. International Trade Commission. (2002). *The Economic Effects of Significant U.S. Import Restraints: Third Update*. Washington, D.C.; See also, U.S. International Trade Commission. (1991). *The Economic Effects of Significant U.S. Import Restraints*. Washington, D.C.

²¹ Lewis, J. (2013). Veiled waters: Examining the Jones Act's consumer welfare effect. *Issues in Political Economy*, 77-107.

²² Ferguson, A. R. (1994). Reform of maritime policy: Building blocks of an integrated program. *Regulation*, 17, 28.

²³ Francois, J. F., Arce, H. M., Reinert, K. A., & Flynn, J. E. (1996). Commercial policy and the domestic carrying trade. *Canadian Journal of Economics*, 181-198.

The lost jobs would be concentrated in the cabotage, consulting, shipbuilding, repair, and other related service sectors, while employment gains would occur in the water, agriculture, trade, and durable and nondurable manufacturing sectors.

Representatives of the American domestic shipping industry objected to the ITC's analysis and other cost estimates of the Jones Act, stating that the reports failed to consider the application of U.S. laws to foreign ships operating in domestic commerce, as well as the full compliance costs these ships would face.

The American Maritime Partnership questioned the ITC's estimates and produced its own report attempting to quantify the cost of the Jones Act.²⁴ The criticism seems to have stung the ITC, at least politically: Since 2004, the ITC has stated that it is "unable to estimate" the cost of the Jones Act, declaring that "[i]t is not clear to what extent these laws would affect the cost and operation of foreign vessels in the U.S. market, so the Commission is unable to provide an estimate of the welfare gains that would result from removing [the Jones Act]."

However, the American Maritime Partnership's report is far from the last word on the issue, and we find several aspects of it wanting.

For starters, while it points out that many U.S. laws would add compliance costs to foreign ships operating in domestic commerce if the Jones Act were liberalized, we take issue with this study's estimate of those compliance costs.

Second, the report failed to discuss proposed moderate reforms of the Jones Act, such as the elimination of the domestic ship build requirement. It is a point made in greater detail by a piece put out by the Hawaii Shippers Council, which²⁵ also pointed out that foreign flag ships are currently used in non-contiguous trades with American Samoa and the U.S. Virgin Islands, and occasionally in the rest of the U.S. during emergencies.

In addition, it may be possible to calculate the cost of Jones Act liberalization if it were done concomitantly with other policy changes, ones that would reach well beyond the shipping industry. Under this scenario, the ITC's highest estimates of \$15 billion may actually understate the full benefits of a repeal, as we could conceivably see a much higher increase in demand for shipping goods by water with a comprehensive tax and labor market regulatory reform.

Finally, while it may be true that the Jones Act costs are difficult to estimate, given the numerous related laws associated with domestic transport as well as other issues, that doesn't mean it is *impossible* to estimate, or that we can simply pretend that those costs are nonexistent. The Office of Information and Regulatory Affairs, which is tasked to ensure that all major regulations pass some sort of cost-benefit test,

²⁴ Beason, S., Conner, D., Milonas, N., & Ruge, M. (2015, January). Myth and conjecture? The 'cost' of the Jones Act. *Journal of Maritime Law & Commerce*, 46(1).

²⁵ Hansen, M., (2015, May 1). Jones Act industry lawyer addresses full repeal strawman. *Hawaii Free Press*.

has repeatedly insisted that agencies refrain from throwing up their hands and ask for a pass when they want to pass a difficult-to-quantify regulation.²⁶

The Jones Act especially affects non-contiguous U.S. locales

The two geographic areas that bear a disproportionate burden of the Jones Act's restrictions are Hawaii and Puerto Rico, with Alaska not too far behind. According to Patrick Holland, the Jones Act raises the cost of gasoline in Puerto Rico by 15 cents a gallon, and its state-run authority pays 30 percent more than it otherwise would for liquefied natural gas.²⁷ Shipping prices contribute greatly to the generally high cost of living in Hawaii — which is fully 12 percent higher than the next most expensive state in the union, Connecticut.

While Jones Act restrictions hinder Hawaii, Alaska and Puerto Rico residents, they also have negative effects on the different commodities produced in each locale. As a bulk shipper's value per unit decreases, shipping costs increase disproportionately. In the timber trade, for example, the Jones Act makes it almost prohibitively expensive to ship lumber from the Pacific Northwest to the East Coast.²⁸ In the road salt industry, the mid-Atlantic states import road salt from Chile and Mexico rather than buying it from mines in Ohio and Louisiana, due to cheaper transport costs.²⁹

The impact of the Jones Act goes beyond shipping costs

The Jones Act does more than just alter the immediate pricing calculus: its presence reduces the economic forces that would boost cost efficiency and encourage innovation in the domestic shipping market in the long run, which would reduce shipping and energy costs and increase competition and innovation elsewhere as well, leading to greater U.S. competitiveness in international markets. For instance, shipping oil from Texas to New England costs about \$6 per barrel, while shipping to Europe costs just \$2 per barrel.

The Jones Act creates a significant cost difference between American-crewed and built ships and foreign ships. Anna Sussman reported in *The Wall Street Journal* that the average daily cost for vessels operating between California and Alaska is about \$11,500 for crewing alone, compared to \$2,000 for a foreign

²⁶ The Office of Management and Budget (2012) *Draft report to Congress on the benefits and costs of federal regulations and unfunded mandates on state, local, and tribal entities*; pp 9-10. Washington, D.C. Retrieved from https://obamawhitehouse.archives.gov/sites/default/files/omb/oira/draft_2012_cost_benefit_report.pdf

²⁷ Holland, P. (2015). Help Puerto Rico by repealing the Jones Act. *Economics21*. Retrieved Aug. 2, 2016 from <https://economics21.org/html/help-puerto-rico-repealing-jones-act-1403.html>

²⁸ Austin, J. W., & Darr, D. R. (1975). The Jones Act and the Douglas-fir region softwood lumber industry in perspective. *Journal of Forestry*, 73(10), 644-648.

²⁹ U.S. House of Representatives, Subcommittee on Coast Guard and Maritime Transportation. (July 12, 1996). *Hearing on The Impact of U.S. Coastwise Trade Laws on the Transportation System in the United States*. Washington, D.C.

crew.³⁰ Paul Slater, an investment banker with long-time ties to the shipping industry, wrote in the *Financial Times* that the expense of constructing a ship in America is nearly four times what it would cost in Asia, where most ships are built these days.³¹

The politics of the Jones Act

Support for and disapproval of the Jones Act spans the political spectrum and is not a clearly defined partisan issue. Multiple forms of legislation have been introduced throughout the years to reform the Act, and two opposing groups have helped shaped the political battle over reform.

The Jones Act Reform Coalition, a lobbying group that would prefer to save money by using foreign-registered ships, introduced legislation on multiple occasions, but each time the bills withered, usually without even hearings.

On the other side, the American Maritime Partnership, a collection of maritime interests such as shipping companies and unions, vehemently defends the Jones Act, claiming it has been very successful in maintaining a strong American domestic fleet.³²

In 1997, a resolution introduced in Congress stating that “section 27 of the Merchant Marine Act, 1920, popularly known as the Jones Act, and related statutes are critically important components of our Nation’s economic and military security and should be fully and strongly supported” was cosponsored by 244 members of Congress.

³⁰ Sussman, A. (Aug. 20, 2014,). Refiners seek Jones Act workarounds as crude export debate heats up. *Reuters*.

³¹ Slater, P. (2011). Maritime industry leader: Throw out Jones Act requirement for U.S.-built ships. *Hawaii Free Press*.

³² Blom-Hill, M. (2013). The sinking ship of cabotage. *Labor Watch*.

Conclusion

A review of the economic literature devoted to the Jones Act shows that its justifications are slight and that whatever it does achieve comes at a steep cost to consumers, especially those who live in the noncontiguous states and territories, such as Guam, Puerto Rico, Alaska and Hawaii.

In addition, analysis of the impact of the Jones Act on non-maritime industries raises an interesting question: Is it possible to better quantify the effect of the Jones Act on the economic/industrial sectors that would be most affected by a change in existing cabotage law?

Currently, the question of how to revitalize American industry has been a topic of great political interest in Washington, DC and the halls of government. A thorough analysis of the Jones Act's cost to industry could play a vital role in shaping this debate and creating a framework which would allow policymakers to properly evaluate how the Act impacts the American economy as whole.

Moreover, there remains the bottom-line question of the ultimate price tag of the Act for consumers. As discussed above, the various political and lobbying interests involved in the Jones Act have weighed in on the issue, but it is difficult to arrive at a definitive answer. Because it concerns shipping, the tendrils of the Act have worked their way into so much of our economy that the numbers can become an endless subject of dispute. However, that only underlines how important it is to attempt such an evaluation.

The most practical way to approach the issue may be to work within geographic limitations. Much as researchers did in the case of Puerto Rico, new analysis should attempt to quantify the cost of the Jones Act in key states. In this way, we could get a snapshot of its regional economic impact and begin to understand how it affects the nation as a whole. Such research would also help reformers identify better ways of achieving the objectives of the Jones Act without creating a drag on the economy or job creation.

The idea that the government needs to ensure that we have a sufficient capacity to produce ships in case of a war is specious. We could still build ships in the U.S. without the Jones Act, and there's no reason to think that we could not continue to obtain ships built in other countries — most notably South Korea and Japan — that currently dominate shipbuilding.

By increasing the cost of building ships and requiring higher-priced crews to operate them, and by preventing foreign competitors from shipping between U.S. ports, the Jones Act has raised prices for American consumers, distorted the U.S. economy and stunted the U.S. merchant fleet.

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