

Merchant Vessel *Manukai* operates between California and Hawaii under Jones Act protection



Matson Navigation Company

Hobson's Choice for the American Maritime Industry The Navy or *Nothing*

By DOUGLAS T. TASTAD



U.S. Navy

Great White Fleet helped establish U.S. global presence in 1907

Thomas Hobson, born 1544, kept a livery stable in Cambridge, England. He was not of the customer-is-always-right school. Gentlemen who showed up at his stable for a horse were required to take either the horse nearest the stable door or none. Thus, "Hobson's choice" became an idiom for no choice at all. Those who work in America's maritime fields are increasingly funneled into such a choice: defense and government work—or none.

The U.S. Navy's growing share of the American maritime industry carries no benefit. In fact, nothing could be more detrimental to America's long-term endurance as the world's greatest seagoing power. If there is one problem vexing the Navy today, it is the difficulty of maintaining a reasonably sized force for a reasonable cost. While there is ample room to improve efficiency within the Navy itself, it would be futile

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Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE 2008		2. REPORT TYPE		3. DATES COVERED 00-00-2008 to 00-00-2008	
4. TITLE AND SUBTITLE Hobson's Choice for the American Maritime Industry: The Navy or Nothing				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) National Defense University, Institute for National Strategic Studies, 260 Fifth Ave SW Fort Lesley J. McNair, Washington, DC, 20319				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 6	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

to confront this challenge without also developing a plan to improve America's commercial maritime sector.

American maritime power has traditionally resembled a pyramid, with a vigorous commercial shipping and shipbuilding industry at the base and a powerful Navy at the top. Today, the pyramid is inverted. We have an anemic commercial shipping fleet and virtually no large-scale commercial ship construction—yet we maintain a preeminent naval force. For perspective, this essay first examines the history of the interaction between America's commercial maritime industries and the Navy; next, it reviews this relationship's current troubled state; and finally, it ponders some solutions for correcting a 40-year slide toward a spear tip without a shaft.

The Early Years

Even before the Declaration of Independence, America was becoming a powerhouse of ship construction and the shipping industry. Notwithstanding the mercantile system imposed on the colonies, one-third of all Great Britain's oceangoing tonnage was built in American yards.¹ As whaling and trade dictated a steady demand for vessels, the craftsmen, sawyers, and laborers in shipyards had reliable employment. The yards themselves spun off business vital to the industrialization of early America.

America's Revolutionary War Navy began as an improvised organization of a handful of ships and at its peak comprised 64 mostly small vessels. On paper, its strength was insignificant compared to His Majesty's Service. Nevertheless, it was augmented by a sizable collection of skilled mariners who exchanged their service on merchant vessels engaged in trade for service to their newly formed country as privateers on 1,697 vessels. The sacrifices and heroism of these seamen, who were responsible for the interdiction of 2,283 enemy vessels, became key components of America's naval effort and overall victory.²

The first American naval shipbuilding program, An Act to Provide a Naval Armament, March 18, 1794, was drafted in response to Algerine pirate attacks. It set the tone for most future shipbuilding programs. The contracts were spread throughout the country to stimulate the shipbuilding industry and attract political support. Even the lumber for the vessels was cut and milled in the South and then transported to northern shipyards.

Although delays and overruns were minimal compared with today's projects, the vessels were nearly delayed past the end of the threat they were commissioned to fight. Despite this, the six vessels (see table 1) constructed under this program served valiantly. One, the *Constitution*, remains in commission.³

From the Revolutionary War to the Civil War, shipbuilding, shipping, and other maritime activities boomed on the East Coast. While the South's waterfront was largely unindustrialized and focused on importing manufactured goods and slaves and exporting agricultural products, the North had a thriving indigenous industry along its coastal rivers and harbors. Not only was this a source of friction during the years preceding the Civil War, but a more robust shipbuilding and industrial base also contributed to the North's naval and overall military success. This point remains instructive for today's strategists.

Rise and Decline of Maritime America

Alfred Thayer Mahan framed modern American naval and maritime strategy in *The Influence of Sea Power upon History*. Mahan's thesis is simple: maritime and naval power that can win a decisive engagement is a requirement for a leading and powerful

is doubtful. History has proved that such a purely military sea power can be built up by a despot, as was done by Louis XIV. . . . [E]xperience showed that his navy was like a growth which having no root soon withers away."⁴

Mahan's policies were eventually embraced. From a broad naval buildup and the Great White Fleet to a rise of merchant shipping and the Jones Act of 1920, preventing foreign shippers from engaging in domestic trade, America's seapower surged. This culminated in perhaps the most important industrial achievement in the modern era: America's unparalleled production of merchant and combatant shipping in World War II. Between 1939 and 1945, the 100 merchant shipyards overseen by the U.S. Maritime Commission produced 5,777 vessels of over 56 million deadweight tons.⁵ Once built, these ships were sailed into harm's way by a solid corps of well-trained American seamen who delivered the supplies necessary to win the war. This leads to the obvious question: Could we make a similar effort today?

The current state of America's maritime industry is bleak, and its malaise is negatively impacting the Navy. The lack of American-flagged shipping means that the Navy's core function of keeping sea lines open has lost

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country. One of Mahan's most repeated themes is that seapower "includes not only the military strength afloat . . . but also the peaceful commerce and shipping from which alone a military fleet naturally and healthfully springs, and on which it securely rests." Contemplating the call for a strong Navy in 1889, Mahan wrote, "Can this navy be had without restoring the merchant shipping? It

some of its legitimacy, if not relevance. Worse, America is now reliant on foreign operators to carry military cargo. On the shipbuilding side, our large-scale industry has deteriorated to the point that it is no longer commercially self-sustaining. Even the lucrative Navy contracts, now accounting for the vast majority of the industry's revenue, may soon fail to convince yard owners and many of the last remaining component suppliers to stay in business.⁶

Ship construction, component production, and ship registration have now almost completely moved overseas. Foreign firms are leveraging their dominance at sea and in the shipbuilding arena to assume control of shoreside operations in the United States. Unfortunately, even in the midst of this decline, entrenched American interests in both the shipping and shipbuilding industries seem more concerned with defending

Table 1. The First American Naval Shipbuilding Program

USS <i>Constitution</i> *	Boston, MA
USS <i>United States</i>	Philadelphia, PA
USS <i>President</i>	New York, NY
USS <i>Congress</i>	Portsmouth, NH
USS <i>Constellation</i>	Baltimore, MD
USS <i>Chesapeake</i>	Gosport, VA

* Oldest commissioned warship afloat in the world

their slice of the status quo than seeking the bold initiatives to reverse the trend.

The largest U.S. employer of merchant seaman is no longer a U.S. shipping company; it is the Navy's Military Sealift Command (MSC). In fact, this command nearly outstrips the next largest employer by an order of magnitude. With precious few American commercial vessels plying the oceans today, those civilian mariners who choose to remain employed at sea are increasingly obliged to work for MSC, with a few maintaining Maritime Administration (MARAD) reserve vessels. MSC operates 115 ships while MARAD holds an additional 49.⁷ When combined, these figures nearly rival the total privately owned fleet (see table 2).

outside of the four large naval shipyards, there are now only eight yards capable of producing oceangoing vessels in America

Outmoded Legislation

The main driver of modern American merchant shipping has been the Jones Act of 1920. To understand the current predicament confronting America in the marine fields, one must have a general knowledge of this law. The Jones Act prevents foreign shippers from

engaging in domestic trade. To ship cargo between two American ports, one must use an American-flagged and -crewed vessel owned by Americans, built in America, and receiving major maintenance in American shipyards. Even if a vessel is American-flagged, it can only engage in nondomestic trade if it does not meet all these requirements.⁸ The Jones Act legislation has been successful at keeping a large number of coastal-sized ships and barges in the American registry, but the numbers of oceangoing ships continue to dwindle.

The Jones Act has also ensured that over 200 small shipyards in America continue working on commercial fishing boats, tugs, barges, and smaller craft as well as brown water Navy, Coast Guard, Army, and other government contracts. Many of these yards make their way with casual (even work release) labor, bare minimum reinvestment, and niche markets. However, many are also doing quite well, as orders for offshore supply vessels and other small craft are currently strong. The fact remains that these yards are generally not capable of producing the large oceangoing vessels that underpin a nation's maritime power.

The largest yards have generally ceased relying on commercial work or have gone out of business. Only three commercial oceangoing vessels were produced in America in 2006. Outside of the four large naval shipyards, there are now only eight yards capable

of producing oceangoing vessels in America.⁹ These yards, six of which are owned by General Dynamics and Northrop Grumman, are surviving on government shipbuilding work that accounts for 70 percent of the entire industry's revenue. Jones Act vessel repair and government programs such as Title XI loan guarantees rounded out the equation.¹⁰ Now, even the Title XI loan program has been scrapped.

It is telling that the domestic shipping company Horizon Lines continues to operate some of the 30- and 40-year-old ships once owned by Sea Land. The fact that some of these vessels are actually powered with relatively inefficient steam plants, and fuel prices are at an all-time high, speaks volumes about the industry. Indeed, Horizon Lines touts itself as America's largest domestic carrier. Unfortunately, the five new vessels it is adding to its aging fleet cannot engage in domestic trade because they are being produced in South Korean yards.¹¹

The crux of the problem is that shipping companies, while vigorously defending the Jones Act when it comes to foreign shippers entering the domestic trade, are trying to wait until there is such a capacity shortage and U.S. yards are in such a lowly state that waivers will be granted for foreign builds. Meanwhile, large U.S. yards are generally not actively seeking ways to become competitive. Rather, they exploit Navy contracts while waiting for

Table 2. U.S.-Flag Privately Owned Oceangoing Fleet, by Type

Vessel Type	2001		2002		2003		2004		2005	
	No.	DWT	No.	DWT	No.	DWT	No.	DWT	No.	DWT
Tankers	84	5.5	77	5.2	68	4.3	60	4.4	60	4.4
Roll-on/Roll-off	32	0.6	32	0.6	35	0.7	35	0.8	41	0.9
General Cargo	12	0.3	7	0.1	9	0.2	8	0.2	8	0.2
Container Ship	78	2.9	75	2.9	74	3	78	3.2	74	3.1
Dry Bulk	15	0.8	14	0.7	14	0.7	15	0.7	14	0.6
Total	221	10.1	205	9.5	200	8.9	196	9.3	197	9.2
Ships from Above Totals Able to Engage in Jones Act (Purely Domestic) Trade										
Vessel Type	2001		2002		2003		2004		2005	
	No.	DWT	No.	DWT	No.	DWT	No.	DWT	No.	DWT
Tankers	78	4.9	73	4.9	64	4.3	57	4.1	56	4.2
Roll-on/Roll-off	12	0.2	12	0.2	14	0.3	14	0.3	15	0.3
General Cargo	6	0.2	2	0	2	0	2	0	2	0
Container Ship	32	0.9	29	0.8	28	0.8	28	0.8	29	0.8
Dry Bulk	4	0.2	3	0.1	3	0.1	3	0.1	3	0.1
Total	132	6.4	119	6	111	5.5	104	5.3	105	5.4

Source: Department of Transportation, Maritime Administration, "U.S.-Flag Oceangoing Fleet 2005," April 2006, available at <www.marad.dot.gov/MARAD_statistics/2005%20STATISTICS/U%20S%20-flag%20fleet%202005.pdf>.

Key: DWT = deadweight tonnage

the legislated culling of single hull tankers and the sheer age of the U.S. fleet to begin forcing Jones Act shippers to come to them.

Foreign companies will continue to take advantage of the current situation. British Aerospace Engineering and Aker Kvaerner (Norway) are now operating several yards in the United States. Aker in Philadelphia is probably the most aggressive American yard on commercial new build projects. Asian and European shipping lines may now control as much as 95 percent of U.S. import/export ocean cargo. In a natural extension, their businesses reach far inland through intermodal logistics networks.

Our commercial competitors have nearly totally usurped American production of cargo vessels and other maritime related equipment. This means that most of the technological developments in vessel design, maritime components, and shipbuilding will occur outside the United States. In America, the Navy will continue to have to chase technological improvements with huge outlays at its in-house and contractor facilities in attempts to stay ahead of the curve.

As our shipbuilding and shipping industries go, so goes the surrounding industrial and service base. Take port management, for example. The irony of the Dubai Ports World saga of 2006 is that there was no competitive American bidder for the British-owned Peninsular and Oriental Steam Navigation Company (P&O) terminals in America, much less P&O ports in general. Dubai Ports World was bidding against the Port of Singapore Authority for these operations on the East Coast of the United States.

Government Misadventure

In most marketplaces, an increase in market share is accompanied by the beneficial effects of increased leverage with suppliers in terms of quality, schedule, and price. Government contracting may be the exception that proves the rule. One need only look at Navy shipbuilding from the LCS (littoral combat ship) to the DDX (next generation destroyer) to catch a glimpse of an industry devoid of private sector influence. Work on LCS 3 was halted in 2007 when the first vessel's price came in at \$411 million rather than the \$220 million target.¹²

The excuses for the vessel's projected cost are proliferating at nearly the same rate as the overruns. The plans were not complete when the vessel was put out for bid, the

production schedule was compressed, and an ungainly dual contractor scheme all worked against the program. These factors certainly played a role, but if the contractors had more experience satisfying clients without unlimited resources to cover cost overruns, the outcome would not be so predictable.

Consider the LPD-17, which is the first of the Navy's new class of helicopter carrier landing ships. After an \$804 million cost overrun, the vessel was completed for the astronomical price of \$1.76 billion.¹³ What level of quality does this kind of money purchase? One year after Avondale shipyard in Pascagoula, Mississippi, delivered LPD-17, it had to be taken for repairs to its home station of Norfolk. Among the hundreds of systems that were not fully functional, its failed steering system derailed the customary preshipyard sea trials to investigate the extent of repairs necessary.

Even before construction of the first Navy DDX, the program is rife with budget blowouts. "The mission of the DDG 1000 [guided missile destroyer] Zumwalt Class is to provide affordable and credible independent forward presence/deterrence and to operate as an integral part of the Naval, Joint, or Combined Maritime Forces,"¹⁴ yet in congressional testimony given in 2005, the Under Secretary

of Defense for Acquisition, Logistics, and Technology projected that the first DDX will cost \$3.3 billion with follow-on ships to cost \$2.6 billion a copy in fiscal year 2007 dollars.¹⁵ This amount of money—for a destroyer, no matter how advanced—must be approaching some kind of limit.

The Navy is not the only sea Service that has been having difficulty completing a program on schedule and on budget. The Department of Homeland Security Inspector General recently released a blistering audit regarding the Coast Guard's first two new National Security Cutters. The vessels suffer from lengthy delays, serious quality problems, and a price tag that may well leap to over \$500 million a copy.¹⁶ Once a stimulant within a productive commercial base, government shipbuilding now seems to merely provide fixes to junkies who will not clean up and cannot survive in the global marketplace.

Solutions?

Solutions to the quandary confronting America's maritime industries are not easily found. The first step, as always, is admitting the problem. Yet politicians from both parties and the relevant bureaucracies continue propagating statements to the effect that we have a vital, even growing, maritime sector.

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Launching of Military Sealift Command dry cargo/ammunition ship USNS *Amelia Earhart*, April 2008



U.S. Navy (Steve Vasquez)

Under the Clinton administration, roughly 29,300 small vessels and barges appeared in MARAD's count of the "fleet."¹⁷ This tally begged the question of how small a rowboat-for-hire needed to be before it would make the list—and MARAD was obligated to revise its count. Likewise, the Department of Defense and U.S. citizens concerned about national security must insist on more than just rearranging the proverbial deck chairs. America's maritime sector needs a course correction that will tangibly revitalize America's large-scale shipping and shipbuilding

Maritime Commission, followed by a merger of these two bureaucracies with the licensing and regulatory arm of the Coast Guard.

Recycling a joke about the Department of Agriculture, the number of employees in this bureaucracy should be limited to no more than the number of merchant seaman billets in the fleet they monitor. It may be glib to say so, but the job security of the above three organizations detaches them from the success or failure of their mission. The focus of a newly formed entity must be a reinvigorated shipping and shipbuilding base

high barriers to entry into large shipbuilding coupled with the fact that domestic producers will be at a cost disadvantage are problems that demand government involvement

industries. The waypoints for such a correction include a reform of the oversight agency responsible, a reformulation of the Jones Act, personnel and vessel stimuli, a new strategy for the shipbuilding industry, a way to force foreign operators to share cost burdens, and common sense tort reform.

If there is little private sector influence left in America's maritime industry, what government influence there is can only be described as a failure. The Navy has been an enabler of some bad habits, but the oversight agency with responsibility is the Maritime Administration of the Department of Transportation. It is time for institutional reform of the Maritime Administration and the Federal

in the United States, and it must be staffed with those who have the vision, creativity, latitude, and funds to achieve the possible.

The Jones Act is a sacred cow for many in the industry, but regardless of whether it has contributed to, or merely presided over, the industry's decline, the industry is in trouble. The act must be reformulated for progress to be made. As it stands now, there is sparse investment in the commercial maritime sector because no company wants to be the last to make an uneconomic investment in either a Jones Act vessel or shipbuilding capacity in a climate where the Jones Act appears to be less and less sustainable.

Both sides have to give up some of their claim to a shrinking market for the stalemate to be broken. Here is a compromise: allow foreign-built ships of over 10,000 deadweight tons to engage in domestic trade, but require American shipyard maintenance for all work except emergency repairs. Some may argue that this would be the death knell for American shipbuilding. However, it must be pointed out that domestic airlines are not required to buy domestically built airplanes, yet Boeing is doing quite well. This approach recognizes that increasing the size of America's merchant fleet is critical to the success of any plan and that stimulating large vessel repair in America is achievable in the short term. While the small number of ships that America might produce over the next decade would probably fall off the order books immediately following this change, increasing the ship repair base holds the prospect of reinvigorating the infrastructure necessary for ship construction. The reality is that revitalization of new ship construction in America will require a successful process spanning decades.

Much has been written about the impending shortage of seafarers in the United States. Currently, we face the inertia of declining prospects for a full career in the industry leading to fewer applicants. For a prospective sailor, the upfront cost of regulatory fees, union dues, and mandatory pension plans are as expensive as they have ever been. However, the odds against getting on one's first ship as an applicant in a seaman's union, coupled with the odds against sailing long enough draw a retirement, make a sailor's personal investment in a career at sea a long shot at best.

A reformed Maritime Administration might begin by implementing a program of Merchant Marine personnel and vessel incentives:

- a retirement program akin to the Federal Railroad Retirement Program
- removal of state and Federal taxation on revenues of shipping companies and the wages of merchant seaman earned on American-flagged ships in international trade
- a Federal health insurance scheme for seamen to level the cost structure for U.S. vessels employing American seamen.

The shipbuilding subset of problems facing the maritime industry in the United



Navy Secretary Donald C. Winter (right) tours English shipbuilding facility to look for practices applicable to U.S. industry

U.S. Navy (Shawn P. Eklund)

States will be the most difficult to address. Asian shipyards now enjoy economies of scale, access to a healthy industrial base, and comparatively inexpensive labor. The high barriers to entry into large shipbuilding coupled with the fact that domestic producers will be at a cost disadvantage are problems that demand government involvement.

Capital investment in new yards and owner incentives should be a priority. However, rather than just subsidizing head-to-head competition with Japanese, South Korean, and Chinese yards over standardized box ships and tankers, the U.S. Government should back programs chartered through American shipyards (in exchange for a willingness to accept market reforms) to create propulsion methods for the post-oil economy and other significant new maritime technology that could allow U.S. yards to leapfrog their competition.

Ship operators flying the American flag are at a severe disadvantage when it comes to operating in the global shipping market. International investor drive for returns dictates that ships seek the lowest common denominator of Third World crewing, low taxation, and lax to nonexistent security, safety, and environmental regulation. This outsourcing is not unique to the shipping industry, and neither is it without hidden cost. American consumers and taxpayers are currently paying the lion's share of increased costs for shipping security following 9/11.

The Maritime Administration should consider requiring a terror insurance policy on all foreign vessels entering American waters starting at \$1 billion and increasing with the number of flag-of-convenience (FOC) vessels a shipping line or its partners operate. Currently, the "Wild West" of FOC is what troubles security experts most, yet these operators bear little if any financial liability.¹⁸ Sensible regulation would force these operators to accept some liability for their security practices, or lack thereof, and it may just slightly level the field for American ship owners at the same time.

Foreign competition is not the only deterrent to American vessel ownership. Unfortunately, America's own legal system deters investment in the shipping sector. Crew injuries resulting from the practices of care-less ship operators are deplorable, and those injured deserve compensation. However, we must guard against injury cases becoming the industry's new pension plans as lawyers

troll for clients by promising massive financial rewards and no upfront costs.

Investors in American maritime power should enjoy some level of protection against frivolous lawsuits; the owners and operators of FOC ships will certainly never face a crew member claiming an injury in court. Vessel operators willing to buck the trend and fly an American flag deserve relief from the raised insurance costs, legal fees, and extreme settlements brought on by maritime attorneys seeking injury case clients. Everyone is in favor of protecting American sailors' rights and welfare—protection of a livelihood, not from a livelihood.

Some may argue that the complexity of building modern Navy vessels so far outstrips commercial shipbuilding that the latter is irrelevant to the former. It may also be said that commercial shipping no longer fully addresses the Navy's needs for fast, on-call transport. Indeed, it is true that the nature of war has changed since World War II. Even if America had a burgeoning Merchant Marine and a thriving shipbuilding industry, it would still need a military sealift command and solely focused Navy shipyards.

Unfortunately, the American Merchant Marine and the private shipbuilding industry are both a long way from thriving. The truth is that our wartime logistics could be crippled at any time should the foreign shipping companies we rely on refuse to ship our military cargo. Moreover, the depression of America's commercial ship construction industry now means that even a slight pullback in Navy ship construction leads to shutdowns and job losses. The commercial maritime sector no longer underpins America's Navy; rather, the Navy is hostage to what industry is left. We are already seeing the Stockholm Syndrome in the Navy's response to quality control problems, time delays, and cost overruns. The Navy feels compelled to simply keep paying up. The Navy or nothing? This is one choice America can no longer afford. **JFQ**

NOTES

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⁶ Cynthia Brown, President of the American Shipbuilding Association, testimony before the House Armed Services Committee, Subcommittee on Projection Forces, March 30, 2004, available at <www.globalsecurity.org/military/library/congress/2004_hr/040330-brown.pdf>.

⁷ See Military Sealift Command Web site at <www.msc.navy.mil/inventory/>.

⁸ See Maritime Cabotage Task Force Web site at <www.mctf.com/jones_act.shtml>.

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¹⁴ See <www.defenselink.mil/contracts/contract.aspx?contractid=3442>.

¹⁵ See Kenneth J. Krieg, Under Secretary of Defense (Acquisition, Technology, and Logistics), testimony before the Armed Services Subcommittee on Projection of Forces, July 19, 2005, available at <www.globalsecurity.org/military/library/congress/2005_hr/050719-krieg.pdf>.

¹⁶ Department of Homeland Security, Office of the Inspector General, *Acquisition of the National Security Cutter (U.S. Coast Guard)*, January 2007, available at <www.dhs.gov/xoig/assets/mgmt/rpts/OIG_07-23_Jan07.pdf>.

¹⁷ "New MARAD Tally Shows Larger U.S. Fleet," available at <www.amo-union.org/newspaper/morgue/2-2000/Sections/News/marad.htm>.

¹⁸ Flag-of-convenience vessels are those registered in countries (Liberia and Panama are prime examples) that provide lax oversight of a vessel's ownership, environmental, or safety compliance.