

ShipTechnology

Jones Act at 100: could this be the time for a change?

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June 2020 marked the 100th anniversary of the Jones Act, one of the world's strictest cabotage laws, which is designed to protect US shipping from outside competition. The policy has often been debated in the US as, while it supports the domestic maritime industry, many see it as unfairly restricting the broader economy. Is now the right time for the regulation to change?

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In June 1920, the US Congress introduced a cabotage law that aimed to encourage the use of American ships and protect them from competition, known as the Jones Act. A century later, the policy is still in place, though the industry it serves has radically changed.

According to [Investopedia](#), the law requires "all goods shipped between US ports to be transported on ships that are built, owned and operated by United States citizens or permanent residents". However, having been defined by the World Economic Forum as the "most restrictive of global cabotage laws" and "an anomaly in an otherwise open market like the US", the controversial act is cyclically up for scrutiny.

Many criticize the strictness of its requirements and its validity for the US's declining shipping sector. On the other hand, those in support of it emphasize its crucial role in protecting local shipbuilding and other segments of the industry in the face of rapidly growing competition from Asian superpowers like South Korea and China.

As the coronavirus pandemic rages on across the US, bringing the local economy to its knees, President Donald Trump has been considering modifying it and opening up local waterways to foreign vessels. But how would a Jones Act-free industry fare without its protection, and would the overall economy benefit from its reform?

What makes the Jones Act so controversial?

A section of the 1920 Merchant Marine Act, the Jones Act states that only US-flagged and built ships are allowed to move goods between the country's ports. Vessels also need to be registered in the US and at least 75% of the crew must be formed by American citizens.

Many maritime stakeholders and politicians believe the policy plays a vital role for the economy and national security. "The Jones Act has been a pillar of American security and prosperity for a century. With the pandemic at hand, it is more valuable than ever to our security and economic interests," four members of the US Congress with jurisdiction over maritime matters wrote on Defence News. "This policy provides stability to the US maritime industry and helps to sustain 650,000 American jobs, resulting in \$150bn in economic benefits each year."

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Not everyone agrees with this view. Experts such as Anne Krueger, senior research professor of International Economics at Johns Hopkins University’s School for Advanced International Studies, believe that the policy lost its economic benefits long ago. “The Jones Act brings almost no advantage to the American economy,” she comments.

“The shipbuilding industry has virtually disappeared except for barges and similar river-boat devices; ships are mostly foreign flags and land only in ports on the coasts; instead of more environmentally seaborne traffic, there is more truck and rail freight congesting highways and generating unnecessary pollution.”

Earlier in March President Trump – who never publicly supported the policy – was eager to temporarily waive the act to support the energy sector during the Covid-19 crisis. However, the fierce backlash from Jones Act advocates such as the American Maritime Partnership virtually vetoed the decision, and the waiver never came into force.

Later in July, Trump also abandoned his previous plans to reform the Jones Act due to pressures from members of the industry, who – according to allegations by the Washington Examiner – eventually forced him to back off.

According to Colin Grabow, a policy analyst at the Cato Institute’s Herbert A. Stiefel Center for Trade Policy Studies, this type of vehement support for the Jones Act – and the lack of an equally strong opposition to it – has been crucial in keeping the policy alive for so many years.

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The author of ‘The Jones Act: A Burden America Can No Longer Bear’, Grabow recently defined it as a “textbook case of concentrated benefits and diffuse costs”. “While many sectors of the economy are hurt by this law, a lot of them regard it as an annoyance,” he explains. “It is a cost, but it’s perhaps not an existential issue for them.

“In contrast, the beneficiaries of this law are the shipping companies that don’t have to face foreign competition, so the shipbuilding industry and US shipyards [...] very much regard this law as existential, and they lobby for it accordingly. They devote an immense amount of resources to ensuring that this law stays on the books.”

Beyond US borders, the Jones Act is criticised for creating unfair economic burdens for trade partners such as Hawaii, Puerto Rico and Alaska.

“It is estimated that the cost of shipping from a mainland Gulf Coast port to Puerto Rico is two/three times the cost of shipping from a Gulf Coast Port to eastern Canada, which is of course further away,” comments professor Krueger. “Quite clearly, if there were no Jones Act the Hawaiian cost of living would fall and there would be more purchases from the mainland and fewer from Asia.”

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However, politicians in these states tend to favour the Jones Act. “Even though [these states] are arguably the most harmed or directly affected by this law all their politicians support it because

while they are hurt by it, they are also disproportionately home to interest groups that profit from it,” adds Grabow.

In contrast with this view, a study by Reeve & Associates and TZ Economics recently found the Jones Act has had positive economic effects on Hawaii, including job creation, investment in infrastructure and the presence of a solid network of consumer and industrial goods transportation.

National security and sustainability

Supporters of the Jones Act make national security and sustainability two of their strongest arguments. Regarding the former, they say that the benefits include both building vessels for the military and making sure that US seafarers are at their helm. “[...] National security concerns are why the Jones Act continues to enjoy broad support in Congress,” the four members of Congress wrote in June. “Indeed, military leaders have consistently described the Jones Act as crucial to national security.”

Yet professor Krueger dismisses this claim by saying: “The fact that foreign seamen man the ships that enter coastal ports demonstrates that that argument doesn’t have much, if any, weight.” Grabow adds that, to this date, there has never been a case of foreign terrorist seafarers entering US waters, despite the fact that about five million non-US crew workers are sailing in the US every year.

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Meanwhile, the environmental argument relies on the fact that under the Jones Act, US vessels have to comply with Environmental Protection Agency (EPA) regulations. “There’s an argument made by supporters of the Jones Act that the ships are subject to more stringent regulations that produce benefits for the environment and that they produce less damage to the environment,” comments Grabow. “I think this argument is largely without merit. What the Jones Act is known for is being disproportionately old and composed of old vessels.”

Indeed, he claims that out of the existing 98 Jones Act ships 35 are at least 20 years old approaching retirement. In addition, he argues that the policy discourages the use of maritime transport – which is significantly more sustainable than its air or road alternatives – by “making it artificially costly”.

How would a repeal impact US shipbuilding?

The Cato Institute is a long-term advocate of scrapping the Jones Act, yet its opponents argue a repeal could be fatal for the maritime industry. “American maritime workers deliver nearly one billion tonnes of goods each year with a fleet of 40,000 vessels,” the American Maritime Partnership wrote in June. “This commerce sustains nearly 650,000 American jobs, \$41.6bn in labour compensation, and more than \$154.8bn in annual economic output.”

But according to Grabow, this is no longer the case as the US maritime industry – especially shipbuilding – is currently losing its power to Asian competitors. Government figures show that between 1983 and 2013 some 300 shipyards went out of business, while employment in this segment is down to 94,000 in 2018 from 186,700 in 1981.

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“The reality is that the US barely has a commercial shipbuilding industry,” Grabow comments. “In 2019 we built two [large] ships, this year there are supposed to be another two delivered, next year just one and in 2022 there are zero orders scheduled to be delivered. So this is an industry that barely exists.”

What the sector lacks, he claims, is to be competitive again, which the repeal of the Jones Act could help support. “In the short run, [repealing it] would be pretty bad especially for most players,” he says. Yet in the long run, the US has a chance of specialising in higher value-added vessels, for example in the offshore wind sector. “The US has traditionally proven itself to be in a range of manufacturing sectors and within transportation to be very inventive and innovative, and competitive,” Grabow adds.

Could a reform be the right compromise?

For Grabow, the answer is yes. Despite advocating for its complete repeal, he concedes that carrying out a series of “incremental reforms” would be just as acceptable.

An example is the Jones Act’s US build clause, which could be valid only for certain vessels instead of all of them. “You could limit the repeal of the domestic building requirement to just large ocean-going ships,” he comments. “And you could keep the requirement in place for smaller vessels like tugboats and barges, which is what the US Jones Act fleet is overwhelmingly composed of.”

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The liquefied natural gas (LNG) sector also has the potential for change. “The US is one of the world’s leading exporters of LNG,” he says. “And yet, we cannot send natural gas from the US mainland to Puerto Rico because there are no ships to transport it, the US has not built an LNG carrier since the 1970s.”

Ultimately, he admits that repealing or amending the Jones Act would hit some segments of the industry, which would have a hard time staying afloat. However, many other aspects of the US maritime industry would be positively impacted by it. “There would be greater use of US ports [and] more use of coast transport, so more opportunities for repair work and maintenance to ships,” he concludes.

“Anyone connected to the waterborne industry would benefit because by making the water transport less expensive, more affordable and more competitive we will see more use of it and everyone within that realm will benefit from it.”