

The American Merchant Marine – The Missing Link in Cargo Security

The recent debate on the merits of whether or not a foreign-controlled entity should be allowed to operate terminals in United States ports has illustrated the great concern the government and all citizens have about port security. The underlying issue, however, is in reality vessel and cargo security for which numerous layers of inspection and screening are being implemented by the United States, local and state governmental agencies. However, those layers are not seamless and can be greatly enhanced with little government money. The security of cargo and vessels is necessary in the maintenance of world trade. It is essential in the current environment. That security can had by reforming substantially United States maritime policy for the foreign trade using United States-flag ships and United States citizens to operate them at sea and ashore. In this fashion, from the sealing of containers to their arrivals in the United States, United States Citizens will be involved in the security of cargo operations.

Threats such as the smuggling of weapons of mass destruction in containers into the United States and the misuse of vessels such as liquefied natural gas carriers, chemical carriers and crude oil carriers must be taken quite seriously. A recent scenario reviewed by the Marine Board of the National Academy of Sciences suggested that the sinking of a tank ship after a purposive collision in the Houston Ship Channel would affect commerce for days if not weeks as well as threaten lives and the environment. One has difficulty imaging the extraordinary damage done by an exploding gas carrier or another and larger EXXON VALDEZ crude spill or the

intentional discharge of a laden chemical carrier's cargoes in our waterways.

Ships are creatures of cargo. Without cargo, indeed, there would be little need for ships. Ports are creatures of ships carrying cargo. This paper discusses the use of an existing system which will greatly improve cargo and vessel security which has been proven in times of crisis since at least 1936. The system in place in its critical components, is cost-effective and will, if expanded and integrated with other security measures greatly improve cargo security and therefore national security. It will provide the missing part of seamless and secure cargo importation.

The Merchant Marine Act of 1936 had as an aspiration the training and manning of United States flag ships with United States citizens as officers and mariners. It also tied together United States shipyards and United States-flag ships in an economic triangle of citizen manning, United States built ships and protected trade routes. The system has been modified over the years but has a salient characteristic which still exists. The core cadre of officers on United States flag ships hold licenses issued by the U. S. Coast Guard which require personal background checks. Many of these license holders are Naval Reserve officers having security clearances. All are trained in the operations of modern ships and in handling the cargoes these ships carry. Many are trained in small arms and in ship defense against piracy. They are indeed a first line of defense in United States vessel and cargo security at sea.

It is no great revelation that the United States flag fleet has fallen on hard times. Most ships calling in the United States have foreign officers, foreign crews and fly foreign flags. They are – as the Department of Homeland Security has rightly observed – a potential threat along with their cargoes. A principal reason the United States flag has declined is because of taxation

policies which in effect penalize the United States ship owner in the world markets. Further, the inflexible binding of United States flag ships to United States shipyards has historically created difficulties to vessel owners and operators under the United States flag. A reform in policy is needed which will encourage the use of cost-effective United States shipping assets to secure and manage cargoes and ships which call in United States ports. This is vitally necessary to provide a seamless protection between port of departure and port of arrival in the United States. It should be a priority of the government in securing the nation to reform its policies related to the United States maritime industry so that United States citizens are involved in every step of the cargo movement system.

Ship owning and cargo carriage are a function of capital formation. Capital formation for shipping and ship owning currently is easier outside the United States than in the United States. Several things can be done easily and readily to make United States flag shipping attractive to investors and owners:

1. Taxation and policy should be changed which will permit all United States-flag owners to compete on the world shipping market with other owners. The cost to the government would be small and the effects would very large. The current taxation system for ship owners is onerous and does not recognize the realities of the business. The Alternative Minimum Tax for shipowners should be repealed. Ships should be able to be bought with before-tax dollars rather than after tax dollars. Deduction policies and depreciation schedules should be greatly liberalized. A simplified flat tax on tonnage based on days in the United States should be established for vessels. In 1999 the United Kingdom changed its tax policies to reverse the decline in its merchant fleet. The policy worked and the register has grown substantially.

2. Flag policy should be changed. A simplified registry procedure for United States ships in the foreign trade should be established. The rules governing seamen and officers have been described as “Byzantine.” They should be simplified. The U. S. Coast Guard should convert all its vessel regulations except those having to do with national security to the International Maritime Organization standard used worldwide except in the United States.

In short, the United States should be a welcoming place for the shipowner.

3. As a national security matter the liberalization of taxation and regulation should be partially offset by the requirement that only United States citizens man United States ships. The current training facilities in the United States can readily supply sufficient officers and mariners for an expanding registry. To attract officers and seamen, those persons should be treated as any other citizen under the tax laws for purposes of excluding certain income from taxation. The certificating and licensing procedures should be simplified and streamlined. Persons with Department of Defense security clearances should not have to be subjected to a separate U. S. Coast Guard clearance procedures.

It has been argued that the cost to an owner using United States citizens is in excess of \$750,000 per year more expensive than using low-wage foreign officers and seamen. Many statistics are cited. Most of the data are for dry bulk carriers and for vessels which do not call in the United States. Dry bulk carriers offer little danger to the national security as vessels. Ships not calling United States ports offer little threat. For container ships and tank ships and specialized carriers which offer, if misused, a direct threat to the national security, the difference in price the owner must pay for United States officers and seamen can be offset by an improved taxation policy and efficiencies in the regulation of the industry. The costs to the government and

owners to secure vessels and cargoes is substantial. The use of United States citizens would reduce cargo and vessel security outlays in both the private and public sectors.

3. Cargo policy can be changed. The national security requires that some cargoes be carried on United States ships. As a matter of self-defense as a sovereign, such a policy does not violate any World Trade Organization agreements. Currently there is cargo preference for bulk cargo under P. L. 480 for United States flag ships if available. Some Department of Defense cargoes must also be carried under United States flag ships. It is a fairly easy matter for the Department of Homeland Security to identify in the harmonized tariff system those cargoes which are “sensitive cargoes” which require carriage on United States flag ships. With United States officers and mariners, additional inspections can be performed at sea and the cargo can be fully controlled from place of departure to arrival. United States officers and crews on all United States ships carrying sensitive cargoes would be allowed preferential clearance and entry. Department of Defense cargoes could also be carried on United States ships preferentially.

4. Ship policy can be changed. With the changes in tax laws for owners, the Title XI program of ship-building guarantees should be greatly expanded with the national security in mind for both newbuildings and conversions. Cargo and vessel security systems should be covered and the policies of the loan guarantee program liberalized to attract owners under the reformed policy. Approval cycles should be streamlined and accelerated. Policies should be developed to encourage the use of United States shipyards for repair and newbuildings and conversions. Such a policy should recognize the necessary interests of shipyards as a vital component of cargo and vessel security both in the current emergency and in the future. The current loan guarantee system can be reordered to encourage newbuildings in United States

yards. The cost to the government is small. The effects on the national security are enormous.

5. The United States Merchant Marine Academy and the various state maritime colleges and union training schools can be used to supply officers and mariners for the United States Offshore Registry. These citizens can be trained from the beginning in proper cargo security procedures and methods and be refreshed regularly as a part of the current licensing and credentialing scheme. The advantage of the United States Offshore registry to the government is very simple. On each vessel of the registry all personnel are cleared, secure members of the anti-terrorism team who are on the front line of detecting and stopping cargoes dangerous to the national security from entering the country. The trained officers and unlicensed personnel of the ships as directed by owners who are United States citizens can add an integrated layer of protection to the nation not now present.

The United States is a trading nation, yet very little cargo is carried on United States flag ships. A policy in place which would target a 2.5% cargo carriage growth rate per year on United States ships by both competitive means and by designating sensitive cargoes would in a decade provide a critical mass of cargo and vessel security for the nation. The objective would be that one half of all cargoes bound for the country should be carried on United States ships manned with trained and secure United States citizens. Such a policy change would provide thousands of new jobs for United States officers and mariners and shipyards. It would cost the government little and would substantially increase the nation's cargo security and national security. It would violate no international shipping policies and would be good for the nation and for the world.

As an industrial nation, the vital shipyard workforce necessary to its trade survival and its military projection of force is also threatened. The reformed United States registry, if carefully

and appropriately established would forge a new alliance of United States owners with United States yards and the United States Navy and United States Coast Guard for the protection of the national industrial base and the trade upon which the country is dependent. A reformed United States flagged fleet would show the American flag worldwide.