INDUSTRY PREDICTIONS FOR 2020 FROM THE MARITIME PROFESSIONALS AT K&L GATES

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U.S. Maritime Alert

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K&L Gates maritime professionals work at the intersection of the U.S. federal government and the maritime business. We asked some of them for their predictions about the year ahead regarding the Trump administration, the second session of the 116th Congress, and the maritime industry. Here's what they said:

“Congressional support for the Jones Act remains, and will remain, as strong as ever in its history as the law celebrates its 100th birthday on June 5. There is generally a very good reason why a law lasts 100-plus years and still enjoys overwhelming bipartisan congressional support. With the Jones Act, its basis in American economic, national, and homeland security remains as relevant today as it was 100 years ago. By the way, other popular federal actions, including the ratification of a women's right to vote via the 19th Amendment to the U.S. Constitution and the creation of the National Park Service, have recently celebrated or will also celebrate their 100th birthday this year. Good laws stand the test of time.”

-Mark Ruge, Partner

“The Vessel Incidental Discharge Act (VIDA) requires the Environmental Protection Agency (EPA) to issue final regulations on performance standards for vessel incidental discharges, including ballast water, by December 2020. To meet this deadline, expect the EPA to publish proposed regulations during the first quarter of calendar year 2020. These regulations will replace the EPA's Vessel General Permit (VGP). While we expect the EPA's VIDA regulations to incorporate most VGP requirements, we expect there will be some differences. VIDA also requires the U.S. Coast Guard to finalize its VIDA regulations two years after the EPA's final regulations are issued, so that clock should start later this year as well.”

-Jim Sartucci, Government Affairs Counselor

“Sealift readiness of the Organic Surge Fleet is the number one wartime readiness concern for the United States Transportation Command, and the deteriorated state of the fleet was highlighted at the most recent Turbo Activation exercise. Only 39 of the 61 ships in the government-owned fleet were ready for tasking at the time of the exercise, and of those directed to full operating status, 27 were able to achieve ready-for-sea status in the prescribed 120-hour timeframe. The government has authority to purchase seven used foreign-built ships off the commercial market and will need further authority from Congress to recapitalize the 19 others identified. Given the importance of this issue, the Navy and the Maritime Administration are poised move out on the authorized 'buy used' plan to address the readiness of the Organic Surge Fleet.”

-Doug Hall, Government Affairs Analyst

“Economic sanctions compliance issues will become increasingly important for all segments of the ocean transportation supply system. U.S. authorities have put the shipping industry on notice that shipping is deemed a

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“key artery to evade sanctions.” Political instability in the Middle East, the ongoing trade war with China, and more aggressive use of economic sanctions as a policy tool generally will drive increased activity. U.S. authorities are already making good on the threat with increased enforcement actions — including several high-profile cases — targeting vessels, owners, and operators. This trend will likely accelerate. The industry should expect increased enforcement actions against vessel interests and increased due diligence requirements from all industry participants, including ship owners, operators, insurers, financial institutions, commodity traders, flag registries, and classification societies.”

-Michael Scanlon, Partner

“In December, House Speaker Nancy Pelosi announced her intention to bring a bipartisan climate change bill to the House floor during 2020, and committees of jurisdiction are working on titles for this legislation. The Subcommittee on Coast Guard and Maritime Transportation will consider policy options for reducing maritime greenhouse gas emissions in a hearing focused on investments and innovation needed to transition to a carbon-free maritime fleet. While a number of Republicans have expressed interest in climate legislation, it is unlikely that the Senate would pass or the President would sign a comprehensive climate change bill in 2020. But maritime climate language would still be relevant, and a maritime title could be included in separate legislation. (Note that in this Congress, the Senate Environment and Public Works Committee for the first time included a climate title in the Senate Surface Transportation bill.) Furthermore, any maritime title would be considered for future maritime emissions reduction legislation.”

-Laurie Purpuro, Government Affairs Advisor

“The new global International Maritime Organization (IMO) low fuel requirements are now in effect. While some prices have risen, and there are some reports of fuel unavailability, the real date that matters is March 1, when no vessel is permitted to carry high-sulfur fuel unless they are using approved scrubber technology. In the first year of the ultra-low sulfur fuel requirement in Emissions Control Areas (2015), well over 3,000 reports were filed by companies who were unable to obtain compliant fuel with only a handful of enforcement actions taken. Unlike those requirements, the IMO and port states have encouraged companies to plan ahead for the 2020 fuel requirement and document those plans in a ship implementation plan. It is widely suspected that if vessels do not plan properly and are unable to obtain complaint fuel, they will face enforcement actions, fines, and penalties.”

-Barry Hartman, Partner

“Commercial U.S.-flag operations are critical to the national defense capabilities of the country. With the Maritime Security Program (MSP), which supports 60 U.S.-flag ships in the international trades, authorized now through 2035, a foundation is set for the future of commercial sealift to support the military. However, critical questions remain about the commercial capacity of the U.S. fleet to meet the long-term needs for defense sealift, and it is anticipated that both the Administration and Congress will continue evaluating those needs. For example, Congress has already required a study on the need for U.S.-flag tankers to support U.S. military operations in the international trades. There has also been discussion about expanding MSP. We can expect U.S. Transportation Command and the Maritime Administration, with oversight from Congress, to continue the discussion in the coming year about how to best deal with the nation's commercial sealift needs.”

-Darrell Conner, Government Affairs Counselor

“For U.S. and international companies, the ability to work quickly, closely, effectively, and efficiently with the U.S. government and its many agencies will become more important than at any time in recent history. The volatility of

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U.S. and foreign international policies, shifting regulations and interpretations, pivoting alliances, and the general decline of traditional multilaterally based free trade policies will generate uncertainty and multiply risk. Up-to-the-minute understanding of current U.S. sanctions, investment restrictions, security and economic regulations, and the ability to communicate directly and credibly with agencies such as the Federal Maritime Commission; Coast Guard; Customs; the Departments of Justice, State, Defense, and Commerce; and even the White House and Congress may be vital to success. Surging U.S. defense budgets and changing global military concerns will also provide alert companies with new and improved contracting opportunities."

-Emanuel "Manny" Rouvelas, Partner

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