



Maritime Legal Considerations and Views From Across the Pond

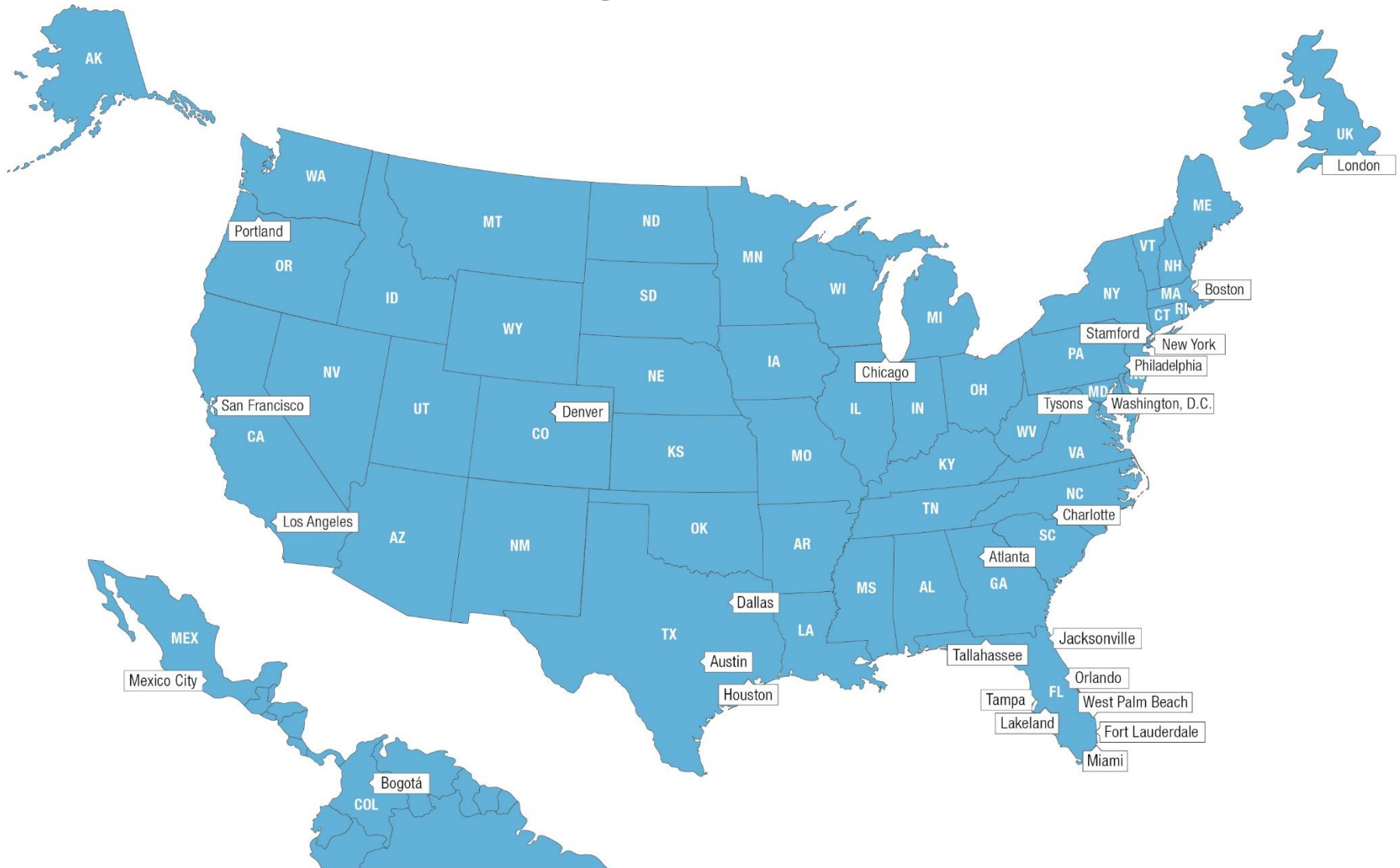
6th MASRWG Conference: MASS Regulation – Unlocking the Future of MASS

Sean T. Pribyl, Esq.
Senior Counsel
Holland & Knight LLP

London, England (virtual)
19 Jan 2021

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Holland & Knight Office Locations



Agenda

- 1. Legal Considerations: Beyond Theory - Practical Applications of the Law to Shipping 4.0
- 2. Building the Business Case for Shipping 4.0
- 3. On the Horizon – Legal Considerations and the Emerging Market

Legal Considerations Beyond Theory - Practical Applications of the Law to Shipping 4.0

'To be, or not to be: that is the question.'

Hamlet, Act 3, Scene 1



INTERNATIONAL CONVENTIONS



IMO Regulatory Scoping Exercise



The Maritime Safety Committee (MSC) endorsed a framework for a regulatory scoping exercise, as work in progress, including preliminary definitions of Maritime Autonomous Surface Ships (MASS) and degrees of autonomy, as well as a methodology for conducting the exercise and a plan of work.



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4 ALBERT EMBANKMENT
LONDON SE1 7SR
Telephone: +44 (0)20 7735 7511 Fax: +44 (0)20 7587 3210

PROG/129¹
8 December 2020

PROGRAMME OF MEETINGS FOR 2021¹

11 – 15 January	[IMSO Assembly]	Remote meeting
18 – 22 January	33rd meeting of the Editorial and Technical (E&T) Group (IMSB Code) ²	Remote meeting
1 – 5 February	Council Open-ended Working Group on Council Reform ³	Remote meeting
15 – 19 February	SUB-COMMITTEE ON HUMAN ELEMENT, TRAINING AND WATCHKEEPING (HTW) – 7th session	Remote meeting
22 – 26 February	Council Working Group on Applications for Consultative Status of Non-Governmental Organizations ²	Remote meeting
8 – 12 March	IP Code Working Group on the Carriage of More Than 12 Industrial Personnel On Board Vessels Engaged on International Voyages ²	Remote meeting
15 – 19 March	34th meeting of the Editorial and Technical (E&T) Group (IMDG Code) ²	Remote meeting
22 – 26 March	SUB-COMMITTEE ON POLLUTION PREVENTION AND RESPONSE (PPR) – 8th session	Remote meeting
29 March – 1 April	IOPC FUNDS	Remote meeting
7 – 13 April	Communications Working Group on the Revision of SOLAS Chapters III and IV for Modernization of the GMDSS ²	Remote meeting
8 April	COUNCIL – 33rd extraordinary session	Remote meeting
12 – 16 April	44th meeting of the LC Scientific Group – 15th meeting of the LP Scientific Group ²	Remote meeting

¹ Reissued on 15 December 2020: Addition of the 35th meeting of the Editorial and Technical (E&T) Group (IMDG and IMSB Codes).

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19 – 23 April	SUB-COMMITTEE ON NAVIGATION, COMMUNICATIONS AND SEARCH AND RESCUE (NCSR) – 8th session	Remote meeting
26 – 29 April	IMSO Advisory Committee (IMSO AC) – 45th session	Remote meeting
5 – 14 May	MARITIME SAFETY COMMITTEE (MSC) – 103rd session	Remote meeting
24 – 28 May	8th meeting of the Intersessional Working Group on the Reduction of GHG Emissions from Ships ²	Remote meeting
1 – 7 June	FACILITATION COMMITTEE (FAL) – 45th session	Remote meeting
9 – 15 June	4th meeting of the Expert Group on Data Harmonization ²	Remote meeting
10 – 17 June	MARINE ENVIRONMENT PROTECTION COMMITTEE (MEPC) – 76th session	Remote meeting
28 June – 2 July	COUNCIL – 125th session	Remote meeting
5 – 9 July	17th meeting of the Joint IMO/ITU Experts Group on Maritime Radiocommunication Matters ²	Remote meeting
12 – 16 July	SUB-COMMITTEE ON IMPLEMENTATION OF IMO INSTRUMENTS (III) – 7th session	Remote meeting
19 – 21 July	IMSO SES Conference	Remote meeting
26 – 30 July	LEGAL COMMITTEE (LEG) – 108th session	Remote meeting
6 – 10 September	SUB-COMMITTEE ON CARRIAGE OF CARGOES AND CONTAINERS (CCC) – 7th session	To be confirmed
6 – 10 September	26th meeting of the ICAO/IMO Joint Working Group on Search and Rescue ²	Outside IMO HQ
13-17 September	35th meeting of the Editorial and Technical (E&T) Group (IMDG and IMSB Codes) ²	To be confirmed
20 – 24 September	TECHNICAL COOPERATION COMMITTEE (TC) – 71st session	To be confirmed
27 – 30 September	IMSO ADVISORY COMMITTEE (IMSO AC) – 46th session	To be confirmed
4 – 8 October	MARITIME SAFETY COMMITTEE (MSC) – 104th session	To be confirmed
11 – 15 October	27th meeting of the Working Group on the Evaluation of Safety and Pollution Hazards of Chemicals (ESPH) ²	To be confirmed
18 – 22 October	9th meeting of the Intersessional Working Group on Reduction of GHG Emissions from Ships ²	To be confirmed
21 – 22 October	13th meeting of the LP Compliance Group ²	To be confirmed

¹ I:\PROG\PROG-129.docx

Legal Considerations – Short Term



Legal Considerations – Long Term



A Tale of Two ... *Interpretations*

Dickens, *A Tale of Two Cities* (1859)

UNITED NATIONS CONFERENCE ON THE LAW OF TREATIES

First and second sessions
Vienna, 26 March – 24 May 1968 and 9 April – 22 May 1978

OFFICIAL RECORDS

Documents of the Conference



UNITED NATIONS

- ...The question is,' said Alice, 'whether you can make words mean so many different things'....

Lewis Carroll, *Through the Looking Glass*

The Pentagon wants to forge ahead with robot warships, but Congress wants to slow the train

By: David B. Larter  June 19, 2020



The Sea Hunter has launched the U.S. Navy down a path of developing a fleet of unmanned ships that could upend the way it has fought since the Cold War. (U.S. Defense Advanced Research Projects Agency)

Pentagon 'Ghost Fleet' Ship Makes Record-Breaking Trip from Mobile to California

By: Megan Eckstein
November 10, 2020 1:52 PM



A Ghost Fleet Overlord test vessel takes part in a capstone demonstration during the conclusion of Phase I of the program



Technology

Saildrone Launches 72-foot Surveyor, Revolutionizing Ocean Seabed Mapping

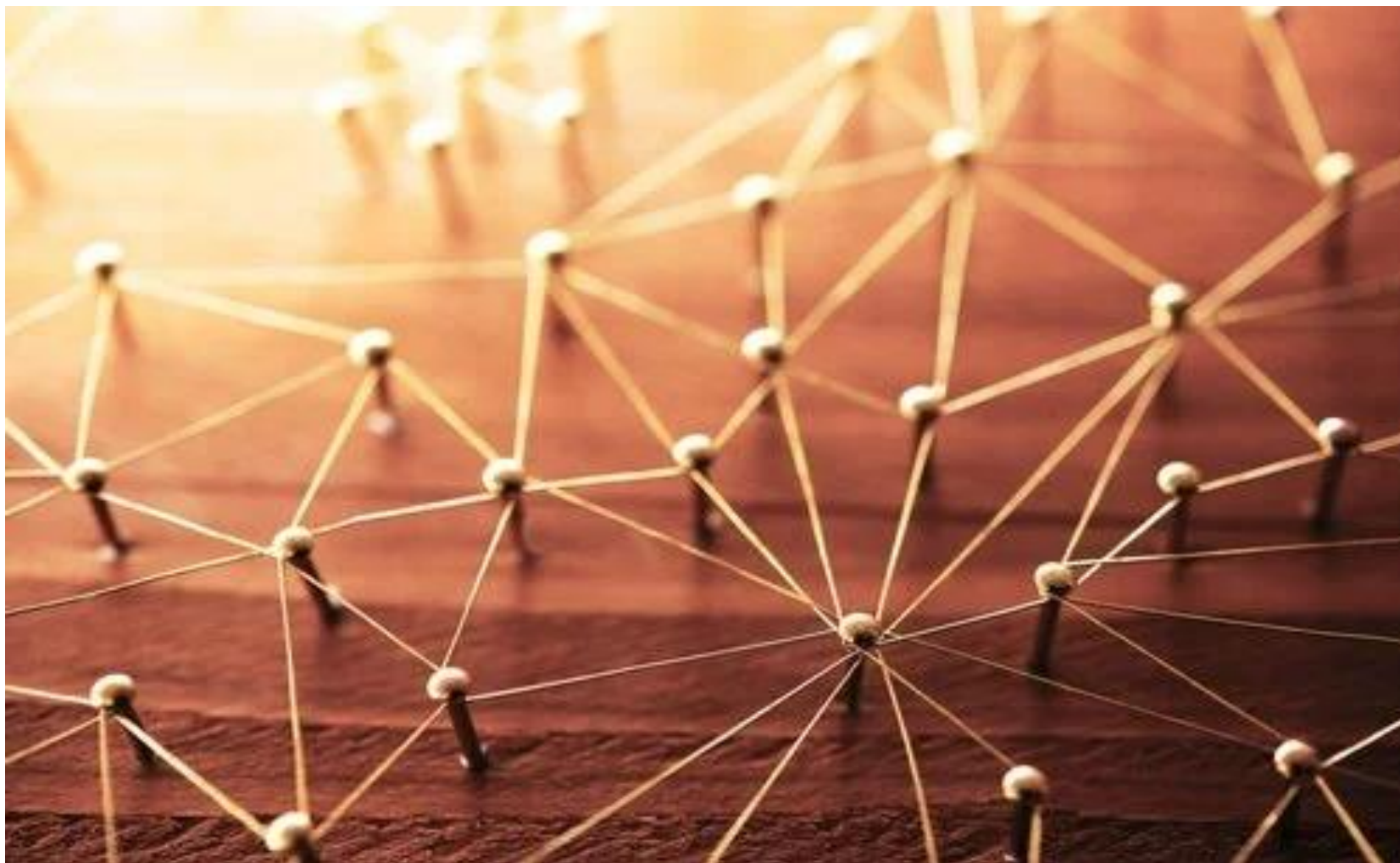
Building the Business Case for Shipping 4.0

...since last year's conference



Best of Times, worst of times

Dickens, A Tale of Two Cities (1859)





Gibbs & Cox, Inc. teamed with L3Harris Technologies for the US Navy's Medium Unmanned Surface Vehicle (MUSV) Program

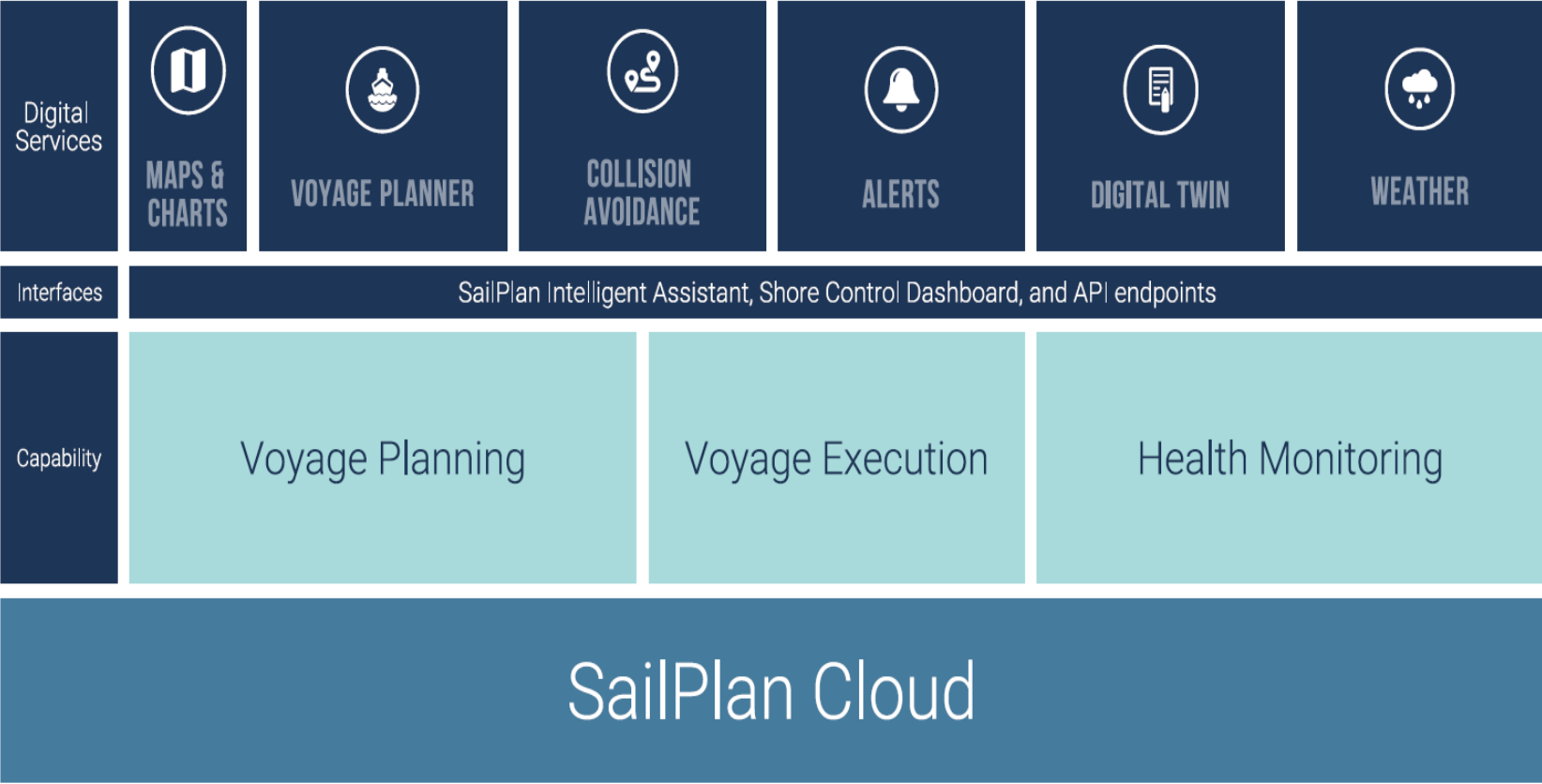


First Harvest Navigation Selects Sea Machines to Launch U.S.' Inaugural Autonomous Hybrid Cargo Vessel

Company testing driverless water taxi service on Tennessee River



Product: The SailPlan Platform



Advantage at Sea

Prevailing with
Integrated All-Domain Naval Power



Executive Order on Maintaining American Leadership in Artificial Intelligence

— INFRASTRUCTURE & TECHNOLOGY | Issued on: February 11, 2019

Ensuring American Leadership in Automated Vehicle Technologies

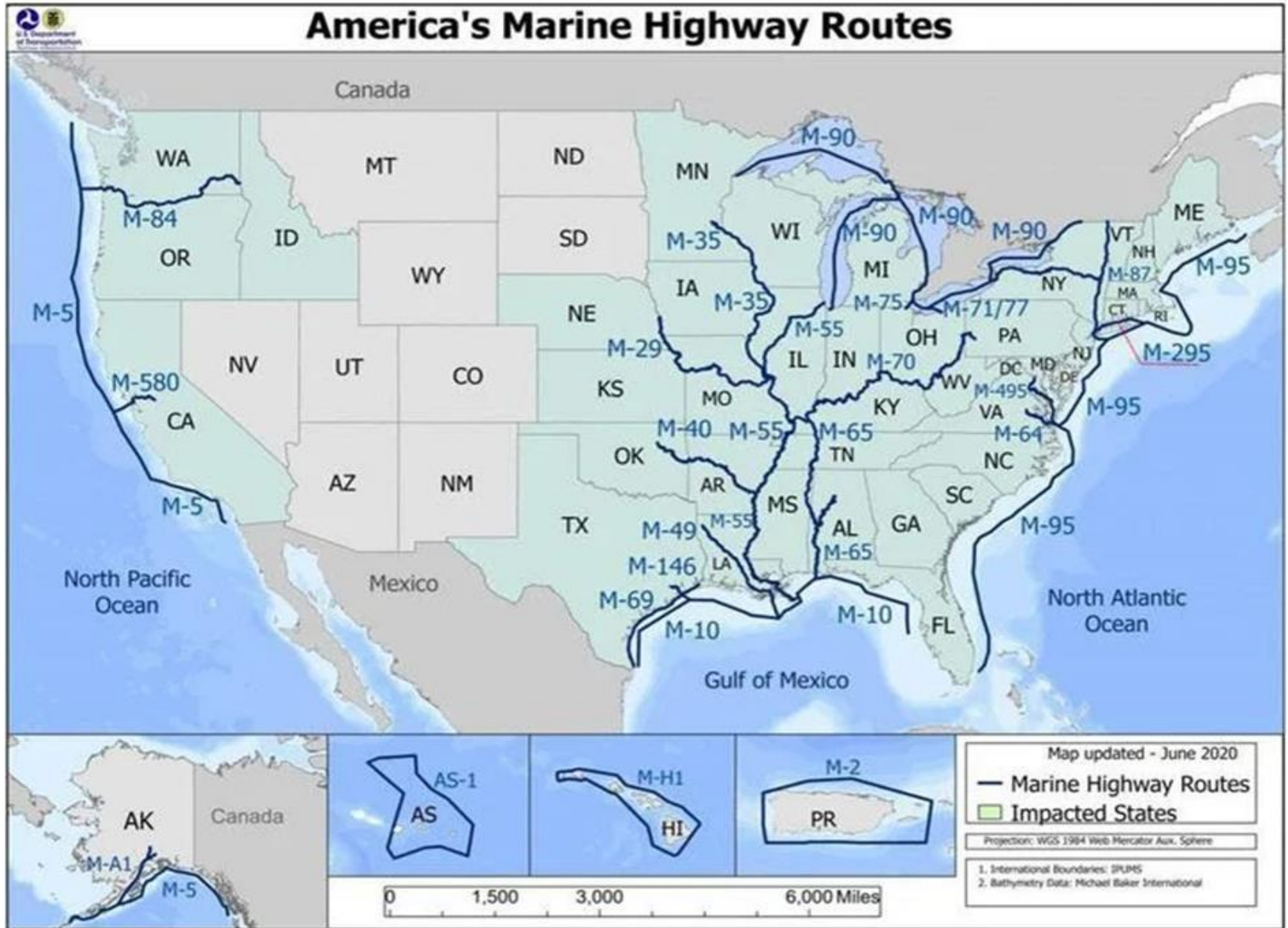
Automated Vehicles 4.0

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Russell T. Vought
Director

SUBJECT: Guidance for Regulation of Artificial Intelligence Applications





Et tu, Coast Guard?

Julius Caesar, Act 3, Scene 1



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington DC 20515

Peter A. DeFazio
Chairman
Katherine W. Dedrick
Staff Director

Tom Graves
Ranking Member
Paul J. Sans
Republican Staff Director

December 10, 2020

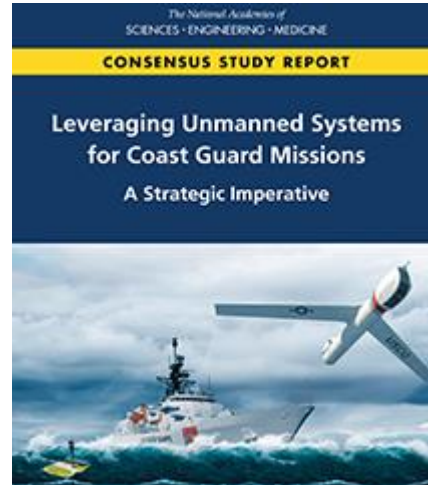
Admiral Karl L. Schultz
Commandant
United States Coast Guard
U.S. Coast Guard Headquarters
2703 Martin Luther King Jr. Ave. SE
Washington, D.C. 20593

Dear Admiral Schultz:

The Committee on Transportation and Infrastructure (Committee or T&I) has a keen interest in the United States Coast Guard's (Coast Guard's or Service's) ability to effectively and efficiently perform its many critical missions. That is why in section 812 of the *Frank LaBiondo Coast Guard Authorization Act of 2018* the Committee directed the Coast Guard to enter into an agreement with the National Academy of Sciences (NAS) to assess the availability of unmanned systems (UxS) for use by the Coast Guard in improving marine domain awareness. That report, *Leveraging Unmanned Systems for Coast Guard Missions: A Strategic Imperative*, has been completed and provided to the Coast Guard.¹

To date, Coast Guard initiatives designed to assess the applicability of UxS to mission areas and to introduce their capabilities into the fleet and force structure have been slower and more ad hoc than the adoption and integration of UxS in military, science, and industrial applications. However, now that these technologies have matured and are more readily and reliably available, it is time for the Coast Guard to establish proactively a formal means to identify, investigate, and integrate these promising systems. This will allow the Coast Guard to establish funding needs and make a compelling case to Congress and the Administration for the additional resources to acquire and use these technologies.

We urge you to adopt the following recommendations from the NAS report and to realign plans, operations, budgets, and policies to enable the Service to capitalize on UxS through purposeful strategic action:



Coast Guard

[Docket No. USCG-2019-0698]

RIN 1625-AC54

Request for Information on Integration of Automated and Autonomous Commercial Vessels and Vessel Technologies Into the Maritime Transportation System



U.S. Coast Guard to Test Autonomous Response Boat

Mike Schuler

On the Horizon – Legal Considerations and the Emerging Market



IUMI
International
Union of
Marine Insurance



**AUTONOMOUS SHIPS AND
THE LAW**

Edited by
Henrik Rungtorn, Erik Rosing and Trond Solvang



IGP&I



**INTERNATIONAL
MARITIME
ORGANIZATION**

BIMCO

‘But soft! What light through yonder window breaks?’ ... *Applying soft law*

Romeo and Juliet, Act 2 Scene 2



'We know what we are, but know not what we may be.' ... *What is on the horizon?*

Hamlet, Act 4, Scene 5

- Safe + Smart + Sustainable
- Make it “real” - market will follow and create real economic advantages in the supply chain
- Hype? Or not?
- NEED DATA + more collaboration
- Think broader than just MASS – unknown transport applications
- Reduce GHG – transport goods via internal waterways (off roads)
- Emerging regulations - help shape regulatory or non-regulatory actions applicable to development and deployment of AI



Thank You



Sean T. Pribyl

Washington, DC
202.469.5203

Sean.Pribyl@hklaw.com

H&K Autonomous Transportation Team

AUTONOMOUS VEHICLES & CONNECTED TRANSPORTATION

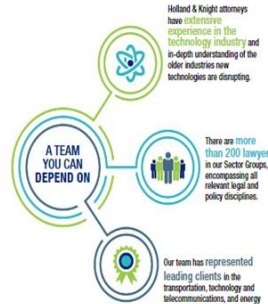
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At Holland & Knight, our attorneys and professionals help clients seize opportunities and overcome challenges where new technologies and established industries converge. We understand the business and legal nuances of the transportation and technology industries and how their players operate, providing our clients with comprehensive insight on what it takes to compete in today's evolving marketplace.

INDUSTRY KNOWLEDGE. INSIDER PERSPECTIVE.

Members of our Technology & Telecommunications and Transportation & Infrastructure Industry Sector Groups have key government and industry backgrounds. Our teams include:

- former members of Congress with transportation, technology and telecommunications policy experience
- a former general counsel of the National Transportation Safety Board
- a former general counsel of a leading software company
- software and mechanical engineers
- a senior patent litigator who developed some of the earliest autonomous vehicle technology while working as a software engineer at a Tier 1 auto supplier before attending law school
- a senior patent prosecutor who was a software engineer for a Tier 1 auto supplier before becoming a lawyer



AT THE FOREFRONT OF TRANSPORTATION TECHNOLOGY.

Few firms have handled a broader range of matters in the emerging transportation technology space. Our experience includes advising leading and emerging technology, telecommunications and transportation companies on the following:

- Business model development
- Corporate formation, financing, and mergers and acquisitions
- Intellectual property development, protection and commercialization
- Data security and privacy
- Federal, state and local policy and regulatory matters
- Employment matters, including employee misclassification, class action claims
- Spectrum acquisition and other telecommunications regulatory matters
- Insurance and risk management issues
- Land use, real estate development, and environmental matters
- Product liability counseling and defense work



2021 U.S. News – Best Lawyers Guide
Received **national first-tier rankings** in 35 practices, including “Law Firm of the Year” for Transportation Law



2020 Chambers Global Guide
The World's Leading Lawyers for Business
Firm recognized in several categories, including Shipping: Finance and Shipping: Litigation; 20 lawyers recognized among the best in the world



Who's Who Legal: Transport 2021 Guide
22 firm attorneys listed among the world's best transport lawyers, including 3 in shipping