

A Modern Naval Act to Meet the Surging China Threat

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KEY TAKEAWAYS

Fluctuating budgets and inconsistent shipbuilding priorities have weakened America's naval shipbuilders and shrunk the fleet.

While China builds a massive navy to attack Taiwan and threaten our allies, the U.S. struggles with conventional resourcing methods to staunch its shrinking fleet.

A modern Naval Act would set a sustained demand for stable warship designs that will grow industrial capacity to meet the gravest threat from China by 2027.

China's increasing belligerence and Russia's flagrant violations of long-standing international borders in Ukraine have shone a spotlight on America's weak defense posture. Sadly, the nation's first line of defense and most effective means of distant deterrence of Chinese adventurism, the U.S. Navy, has been unable to build the fleet needed to confront this rapidly changing world.

History provides a model for galvanizing public attention for political action. The Naval Act of 1938 is one such example. A new version of the act could put naval shipbuilding on course to deliver the Navy the nation needs, expand the necessary industrial capacity, and do it all economically using good business practices. Arguably the nation has the resources needed to do this and needs only a reprioritization of where limited dollars are spent. Sadly, despite the

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dangers of the day, conventional government resourcing of the Navy has not delivered. A new naval act is needed.

The Danger Is Closer Than Most Think

Today, the nation confronts a rapidly deteriorating security environment, much as it did in 1938. Increasingly, policymakers agree that China plans to attack Taiwan this decade, with some predicting conflict by 2027.¹ As Admiral Philip Davidson, then Commander of U.S. military forces in the Indo-Pacific, testified March 2021 before Congress:

Taiwan is clearly one of their ambitions before then, and I think the threat is manifest during this decade, in fact, in the next six years.²

America should act now to meet this threat. Critically, expanding shipbuilding capacity will take two to three years as the Pentagon identifies vendors to produce military-grade materials. Shipyard construction capacities will likely take longer to expand. Congress should pass legislation in the 118th Congress (2023–2025) to prepare for a potential showdown with China in 2027.

A war with China would be decided at sea, and an American victory will depend on having adequate naval forces. For the communists, victory over Taiwan requires sustaining a successful amphibious assault while preventing U.S. military forces from cutting them off. To do this, the Chinese have built a massive armada of ships, aircraft, and ballistic missiles to suppress land-based threats and hunt down U.S. naval vessels.³ They know that securing the waters around Taiwan is key to their eventual victory. Today the U.S. Navy is inadequate to the task and trending in the wrong direction, as tracked annually since 2015 in The Heritage Foundation's *Index of U.S. Military Strength*.⁴ This situation—and the uncertainty of how a modern naval war may play out—makes it imperative to rebuild a robust shipbuilding industry.

Plans to Nowhere: Navy's 30-Year Shipbuilding Legacy of Undelivered Promises

The Office of Naval Intelligence, which tracks China's naval modernization, assessed that, from 2000 to 2020, China grew its battle fleet by 150, while the U.S. fleet shrank by 21 warships to 297.⁵ Frustration with this warfighting imbalance has resulted in Congress mandating force levels, as in the 12 Carrier Act of 2019, or in 2016 legislating a fleet of 355 warships

sometime in the future—but neither piece of legislation was accompanied by the necessary funding or broad political support.⁶

Even though for 20 years the Navy’s own goals have been for a fleet above 300 ships, the Navy has averaged 10 ships below its own procurement plans since 2017 and has sustained fewer than 300 warships since 2003.⁷ To make matters worse, a third of today’s Reagan-era fleet will reach end of service life by 2030.⁸

A Modern Naval Act

Today’s domestic shipbuilding predicament is not unlike that of the late 1930s: a lackluster defense industrial base, war in Europe, and looming threats in Asia. Reflecting on the success of the nation’s pre–World War II industrial mobilization, one of its architects, Bill Knudsen, attributed it simply to placing orders and getting out of industry’s way.⁹

Then, as now, the need for a strong national defense has been an area of bipartisan agreement, and the Naval Act was a great example of such cooperation. For the Navy, Representative Carl Vinson, a Georgia Democrat, was instrumental in kickstarting naval shipbuilding in the lead-up to war. As chair of the House Naval Affairs Committee (1931–1947), he worked closely with the Senate’s Naval Affairs Committee chair, Florida Republican Senator Park Trammell. Eventually, Vinson convinced the White House to support additional funding of the Navy, and he is credited with the Naval Acts of 1934 and 1938.¹⁰

The Naval Act of 1938 delivered *Iowa*-class battleships, *Atlanta*-class light cruisers, and the carrier *Hornet* at a critical moment. But more than that, it began an expansion of American naval shipbuilding that would eventually deliver over 6,000 warships—including 94 new aircraft carriers—by the war’s end in 1945.¹¹

However, simply replicating a naval act will not be effective. For one, today’s Pentagon budgeting and planning processes are much changed, notably by the Goldwater–Nichols Act of 1986. An updated naval act is needed to effectively channel growing congressional support for a strong national defense, evident in its raising defense budgets above President Joe Biden’s proposals.

Unleashing Market Forces for Expanded Naval Shipbuilding Requires Predictability

Matthew Paxton, president of the Shipbuilders Council of America, told Congress in 2017 that achieving the then-stated goal of a 355-ship fleet requires “stable and robust funding...to sustain those industrial capabilities which support Navy shipbuilding and ship maintenance and

modernization.”¹² More recently, Chief of Naval Operations Admiral Michael Gilday has voiced concerns over a shipbuilding industry that lacks the capacity to build and support a larger fleet:¹³

We need to give a signal to industry that we need to get to three destroyers a year, instead of 1.5, that we need to maintain two submarines a year. And so part of this is on us to give them a clear set of—a clear aim point so they can plan a work force and infrastructure that’s going to be able to meet the demand. But again, no industry is going to make those kinds of investments unless we give them a higher degree of confidence.¹⁴

To reverse these downward trends, Gilday has on multiple occasions asserted that his budget will need sustained year-on-year growth of 3 percent to 5 percent above inflation.¹⁵ Moreover, the impending production of *Columbia*-class ballistic missile submarines, costing \$15 billion for the lead ship, pose additional challenges to a constrained shipbuilding budget of \$27 billion to \$33 billion annually through 2027.¹⁶ The *Ohio*-class ballistic submarines retire this decade, so the *Columbia*-class are a *must buy* item. To make matters worse, budgets have not been passed on time in 11 of past 12 years, which has negatively impacted contracting for new shipbuilding.¹⁷ To get needed fiscal predictability and sustainability through 2027 would require shipbuilding contracts in excess of \$150 billion—not likely to be absorbed in the annual defense budget.¹⁸

Marrying Political Will with Smart Resourcing

Naval shipbuilding should be elevated to its own legislative act based on proven block buys with firm, fixed-price contracting and full funding. So, what are these mechanisms and why would they work?

Firm, Fixed Price. Naval shipbuilding contracts are typically fixed-price-incentive contracts. The Navy assumes some risk, and this has been found to contribute to underbidding, late delivery, and questionable incentives.¹⁹ While this system is appropriate for some naval shipbuilding contracts, firm, fixed-price contracts—which is prevalent in commercial shipbuilding—make more sense for stable naval warship designs. In fact, the Navy has used it for two non-combatant ships since 2005.²⁰ Such contracting sets a price, with the shipbuilder accepting risks and costs for needed infrastructure and workforce investments. For the taxpayer, the trade-off is higher up-front bids by shipbuilders, which is mitigated by less long-term risk and less exposure to inflationary pressures.

Full Funding. Full funding for naval shipbuilding had been the norm since 1950 but fell out of favor amidst post-Cold War smaller annual budgets and rising costs. In turn, this drove Congress and the Navy to spread expenses over several years—consequentially complicating Congress’s oversight.²¹ As the formal Office of Management and Budget policy stipulates, full funding covers the full cost of a project, preferably in the year a procurement decision is made.²²

Block Buy. The Navy’s first block buy was fiscal year 1998, when it contracted for building the first four *Virginia*-class submarines, promising payments year-to-year as funds appropriated from Congress.²³ The idea is that companies invest in additional capital infrastructure based on their marginal revenue or anticipated profits.²⁴ For example, procurement of the second through sixth Navy oilers saved about \$45 million per ship, of which \$10 million was directly attributed to being a block buy.²⁵ And today, a \$2.9 billion to \$4 billion savings is anticipated from the block buy of two *Ford*-class aircraft carriers in fiscal year 2020.²⁶ The Navy has indicated to the Congressional Budget Office that block buys could save taxpayers from 5 percent to 15 percent.²⁷ However, such savings assume that the President honors the contracts and Congress appropriates the annual monies, but the track record proves that such assurances are not the norm.

Recommendations

Inspired by the successful Naval Act of 1938 and leveraging savings of block buys, Congress should:

Create a Naval Act of 2023. This one-time legislation would authorize and appropriate needed funds for a large block buy for a new total of \$152.3 billion before anticipated savings. (See Table 1.) Importantly, ships in this block buy would be of approved designs and in production today at numbers already stipulated in the current approved Future Years Defense Program that runs through 2027. That said, resourcing programs not listed or in development would still reside in the annual budget—the National Defense Authorization Act and associated appropriation bill.

Establish a Naval Affairs Executive Council. This council would conduct routine shipyard site inspections, formal confidential inquiries, and contract reviews and assess shipbuilding- and maintenance-capacity investments. It should be comprised of veterans of the shipbuilding industry and naval technical experts who make periodic reports and recommendations to Congress.

TABLE 1

A Modern Naval Act for 2023

Vessels	NUMBER OF SHIPS					Cost in Billions
	2023	2024	2025	2026	2027	
Aircraft Carrier (CVN-78)*	—	—	2	—	—	\$26
Destroyers (DDG-51)	2	2	2	2	2	\$22.0
Frigates (FFG-62)**	1	3	3	4	4	\$15.3
Attack Submarines (SSN-774)	2	2	2	3	3	\$46.7
Ballistic Missile Submarines (SSBN-826)***	—	1	—	1	1	\$36.3
<i>San Antonio</i> -class (LPD-17)	1	—	1	—	—	\$3.3
<i>America</i> -class (LHA-6)	1	—	—	—	—	\$2.6
				Total Cost		\$152.3
				10% Block Buy Saving		\$137.1
				Ships		45

* A block buy of the next two Ford-class CVN-82 and CVN-83 is anticipated by fiscal year 2025, with an assumed cost of \$13 billion per hull, not including advanced procurement already made for CVN-82.

** Does not include the \$1 billion anticipated cost for establishing a second shipyard for frigates, which would replicate the existing shipyard.

*** Uses the accelerated build plan in the April 2022 long-range shipbuilding plan, with an additional SSBN ordered in 2027.

NOTES: The number of ships come from the December 2020 long-range shipbuilding plan, stipulated in the current approved Future Years Defense Program for the next five years. Costs come from the April 2022 long-range plan.

SOURCES:

- Office of the Chief of Naval Operations, “Report to Congress on the Annual Long-range Plan for Construction of Naval Vessels,” December 9, 2020, https://media.defense.gov/2020/Dec/10/2002549918/-1/-1/1/SHIPBUILDING%20PLAN%20DEC%2020_NAVY_OSD_OMB_FINAL.PDF (accessed September 26, 2022).
- Office of the Chief of Naval Operations, “Report to Congress on the Annual Long-range Plan for Construction of Naval Vessels for Fiscal Year 2023,” April 2022, <https://media.defense.gov/2022/Apr/20/2002980535/-1/-1/0/PB23%20SHIPBUILDING%20PLAN%2018%20APR%202022%20FINAL.PDF> (accessed September 26, 2022).
- “Navy Ford (CVN-78) Class Aircraft Carrier Program: Background and Issues for Congress,” Congressional Research Service Report No. 20643, updated August 26, 2022, <https://sgp.fas.org/crs/weapons/RS20643.pdf> (accessed September 26, 2022).

Conclusion

A 2023 naval act, as it did in 1938, can grow the nation’s naval shipbuilding capacity for a war that could occur with China this decade. As a discrete legislative act, it would draw attention to a national security priority while not

competing directly with other military service budget needs. Fully funding a naval act in its first year is not a blank check: Congress's oversight power over the act's execution is left intact. It does this while further protecting shipbuilding from fluctuating and tardy budgets that have retarded needed capacity investments. A modern naval act, echoing the nation's historic success in preparing for war in the Pacific, would galvanize meaningful action. Congress has indicated that it is willing to make the needed investments. A new naval act is one way of acting on that intention.

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Endnotes

1. See John Feng, "U.S. Forces Must Not Let China 'Dictate the Terms' in the Pacific: Admiral," *Newsweek*, June 9, 2022, <https://www.newsweek.com/china-taiwan-american-military-admiral-philip-davidson-us-indo-pacific-command-1714118> (accessed September 19, 2022), and Admiral Philip Davidson, Commander, Indo-Pacific, "Indo-Pacific Command in Review of the Defense Authorization Request for Fiscal Year 2022 and the Future Years Defense Program," testimony before the Armed Services Committee, U.S. Senate, March 9, 2021, p. 48, https://www.armed-services.senate.gov/imo/media/doc/21-10_03-09-2021.pdf (accessed September 30, 2022).
2. Davidson, "Indo-Pacific Command in Review of the Defense Authorization Request for Fiscal Year 2022 and the Future Years Defense Program," p. 48.
3. U.S. Department of Defense, *Annual Report to Congress: Military and Security Developments Involving the People's Republic of China 2021*, November 3, 2021, pp. 43–44 and 48–53, <https://media.defense.gov/2021/Nov/03/2002885874/-1/-1/0/2021-CMPR-FINAL.PDF> (accessed October 5, 2022).
4. Dakota Wood, *Index of U.S. Military Strength* (Washington, DC: The Heritage Foundation, 2022), <https://www.heritage.org/military>.
5. Ronald O'Rourke, "China Naval Modernization: Implications for U.S. Navy Capabilities," Congressional Research Service *Report for Congress*, March 8, 2022, p. 9, <https://crsreports.congress.gov/product/pdf/RL/RL33153> (accessed October 1, 2022).
6. Securing the Homeland by Increasing Our Power on the Seas (SHIPS) Act, S. 1414, 115th Cong., 2017, <https://www.congress.gov/bill/115th-congress/senate-bill/1414/text> (accessed September 20, 2022), and 12 Carrier Act, H.R. 700, 116th Congress, 2019, <https://www.congress.gov/bill/116th-congress/house-bill/700/text> (accessed September 20, 2022).
7. Matthew Hipple, "20 Years of Naval Trends Guarantee a FY23 Shipbuilding Plan Failure," Center for International Maritime Security, May 9, 2022, <https://cimsec.org/20-years-of-naval-trends-guarantee-a-fy23-shipbuilding-plan-failure/> (accessed September 19, 2022).
8. U.S. Navy, "Ship Battle Forces," Naval Vessel Register, October 4, 2022, <https://www.nvr.navy.mil/NVRSHIPS/SHIPBATTLEFORCE.HTML> (accessed October 4, 2022).
9. Arthur Herman, *Freedom's Forge: How American Business Produced Victory in World War II* (New York: Random House, 2012), p. 334.
10. In the 1930s the Navy was funded separately. Today it is funded together with all military branches in a single defense budget. While there were several important naval acts in the nation's history, the Naval Act of 1938 stands out due to its timing and impact in the early stages of World War II. This act is also known as the Second Vinson Act, named after Representative Vinson, who was instrumental in advocating for a stronger Navy. The first Vinson Act, in 1934, authorized the resumption of battleship production halted under the terms of the Washington Naval Treaty of 1922, which limited warship production as an early form of arms control.
11. Naval History and Heritage Command, "U.S. Navy Active Ship Force Levels," <https://www.history.navy.mil/research/histories/ship-histories/us-ship-force-levels.html#1938> (accessed October 12, 2022).
12. Matthew Paxton, "Hearing to Receive Testimony on Industry Perspectives on Options and Considerations for Achieving a 355 Ship Navy," Armed Services Committee, U.S. Senate, May 24, 2017, https://www.armed-services.senate.gov/imo/media/doc/17-52_05-24-17.pdf (accessed October 5, 2022).
13. Mallory Shelbourne, "CNO Gilday: Industrial Capacity Largest Barrier to Growing the Fleet," USNI News, August 25, 2022, <https://news.usni.org/2022/08/25/cno-gilday-industrial-capacity-largest-barrier-to-growing-the-fleet> (accessed September 19, 2022).
14. The Heritage Foundation, "Navigating the Navy's Future featuring Chief of Naval Operations Admiral Michael Gilday," August 25, 2022, video at 34-minute mark, <https://www.heritage.org/defense/event/navigating-the-navys-future-featuring-chief-naval-operations-admiral-michael-gilday>. See also Shelbourne, "CNO Gilday."
15. Chief of Naval Operations, "Chief of Naval Operations Navigation Plan," July 26, 2022, p. 12, https://media.defense.gov/2022/Jul/26/2003042389/-1/-1/1/NAVIGATION%20PLAN%202022_SIGNED.PDF (accessed September 19, 2022).
16. U.S. Department of the Navy, "Budget Card FY 2023 Budget," 2022, https://www.secnav.navy.mil/fmc/fmb/Documents/23pres/DON_Budget_Card.pdf (accessed September 22, 2022).
17. Government Accountability Office, *Defense Budget: DOD Has Adopted Practices to Manage within the Constraints of Continuing Resolutions*, GAO-21-541, September 21, 2021, pp. 5–7, 12–13, and 15–16, <https://www.gao.gov/assets/gao-21-541.pdf> (accessed September 24, 2022).
18. Office of the Chief of Naval Operations, *Report to Congress on the Annual Long-Range Plan for Construction of Naval Vessels for Fiscal Year 2023*, April 2022, p. 13, <https://s3.documentcloud.org/documents/21660365/fy2023-pb23-shipbuilding-plan-18-apr-2022-final.pdf> (accessed September 19, 2022).
19. Government Accountability Office, *Navy Shipbuilding: Need to Document Rationale for the Use of Fixed-Price Incentive Contracts and Study Effectiveness of Added Incentives*, GAO-17-211, March 2017, pp. 7, 15–16, and 35–36, <https://www.gao.gov/assets/gao-17-211.pdf> (accessed October 9, 2022).
20. *Ibid.*, pp. 1 and 13.
21. Stephen Daggett and Ronald O'Rourke, "Defense Procurement: Full Funding Policy—Background, Issues, and Options for Congress," Congressional Research Service *Report for Congress*, June 15, 2007, pp. 3 and 10–11, <https://crsreports.congress.gov/product/pdf/RL/RL31404> (accessed October 9, 2022).

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22. Office of Management and Budget, "Policies, Laws, and Other General Requirements for Budget Estimates," OMB Circular A-11, August 15, 2022, § 31.4, p. 3, <https://www.whitehouse.gov/wp-content/uploads/2018/06/s31.pdf> (accessed October 9, 2022).
 23. Ronald O'Rourke, "Multiyear Procurement (MYP) and Block Buy Contracting in Defense Acquisition: Background and Issues for Congress," Congressional Research Service *Report for Congress*, September 27, 2022, p. 10, <https://crsreports.congress.gov/product/pdf/R/R41909> (accessed September 19, 2022).
 24. Walter Nicholson, *Microeconomic Theory: Basic Principles and Extensions* (Fort Worth: Dryden Press, 1998), pp. 702–703.
 25. Armed Services Committee, U.S. Senate, "FY2016 National Defense Authorization Act Report Section 118 Fleet Replenishment Oiler Program," S. 1376, 114-49, November 25, 2015, <https://www.congress.gov/congressional-report/114th-congress/senate-report/49/1> (accessed September 19, 2022), and Ronald O'Rourke, "Navy John Lewis (TAO-205) Class Oiler Shipbuilding Program: Background and Issues for Congress," Congressional Research Service *Report for Congress*, August 26, 2022, <https://crsreports.congress.gov/product/pdf/R/R43546> (accessed October 9, 2022).
 26. Ronald O'Rourke, "Navy Ford (CVN-78) Class Aircraft Carrier Program: Background and Issues for Congress," Congressional Research Service *Report for Congress*, August 26, 2022, pp. 7 and 34–37, <https://sgp.fas.org/crs/weapons/RS20643.pdf> (accessed September 19, 2022).
 27. O'Rourke, "Multiyear Procurement (MYP) and Block Buy Contracting in Defense Acquisition."