**We** *negate*,

Resolved: The United States should accede to the United Nations Convention on the Law of the Sea without reservations.

**Our first contention is an Arctic Disaster.**

Despite the media attention on the Arctic region, its pristine environment has fortunately been left mostly untouched. For example, Pritchin ‘18 of Chatham House writes that economic sanctions prevent Russia from accessing critical Western technology, locking them out of Arctic resources.

**While the rest of the world is shut out of the region, American companies are poised to abuse the Arctic for a profit.**

Houck ‘13 of Pennsylvania State University writes that 73 billion barrels of oil are in our extended continental shelf, which is currently inaccessible to American companies. However, Stricker ‘18 of Alaska Business Magazine writes that by injecting polymers into the oil, companies have increased production potential by 40%, bringing the price needed to make a profit in the Arctic to just $40 a barrel.

**Fortunately, the absence of accession to UNCLOS restrains American companies from devastating the region.**

Because UNCLOS serves as the basis for claims in the Arctic, the rights for companies to drill remain unclear without accession. Pedrozo ‘13 of the Naval War College continues that the oil industry believes that claiming an extended continental shelf to drill without acceding would be challenged in court internationally. Thus, Ueno ‘12 of the Ocean Policy Research Foundation concludes that the oil industry is ready, willing, and able to explore this area, but have made it clear that they will not drill without the maximum legal certainty from an UNCLOS accession.

**Allowing American companies to drill in the Arctic would have catastrophic impacts globally and would serve as the death knell to developing nations.**

Walsh ‘12 of TIME Magazine explains that the environmental price tag from drilling wouldn’t come from the oil, but rather the 1.7 trillion cubic feet of methane that gets released alongside it, because methane has 20 times the warming potential of Carbon Dioxide.

Overall, Wade ‘15 of Schroder Investment writes that developing nations are extremely reliant on agriculture, increasing susceptibility to climate change **costs**. Thus, Chestney ‘12 of the Scientific American concludes that the environmental price tag of Arctic Drilling would cost the global economy over $60 trillion over coming decades, with 80% of this effect borne by the world’s poorest.

**Our second contention is escalating the South China Sea.**

While tensions have escalated rapidly in the past, Xiaoming ‘18 of the Guardian writes that the overall situation in the South China Sea has been stable because of multilateral frameworks signed between ASEAN nations and China.

Unfortunately, acceding to UNCLOS changes this dynamic in two ways.

**First, by alienating China.**

Xu ‘16 of the Straits Times writes that America has historically driven wedges between ASEAN nations and China by encouraging pursuit of escalatory policies that ruin multilateral cooperation. Unfortunately, accession would do the same, as Fuchs ‘16 of National Interest writes that American accession would energize Chinese resistance because of a perception that America is using international legal regimes to contain them.

**Second, by legal escalation.**

Blumenthal ‘12 of the Diplomat writes that **acceding** to UNCLOS would lead to legal wrangling through UNCLOS between China and the U.S. Problematically, this locks us into a failed system, as Gertner ‘15 of the University of Cambridge explains that UNCLOS doesn’t address the historical factors in the South China Sea, rendering the agreement insufficient to resolve disputes. As a result, Ying ‘16 of Foreign Policy depicts that UNCLOS arbitration only escalates tensions and undermines the multilateral approach that ASEAN nations have taken with China.

**As a result of these two reasons,** **Nemeth** ‘07 of Oklahoma State University quantifies that militarized disputes are twice as likely when both parties are members of UNCLOS. But even *if* conflict doesn’t happen, increased tensions have enormous day-to-day impacts. The Council on Foreign Relations ‘14 writes that 1.5 billion people are reliant on $5 trillion of annual trade for basic necessities, which is why Crabtree ‘16 of CNBC corroborates that even short term increases in tensions can spike prices of basic goods and push millions into poverty and starvation.

**Thus, we negate.**

[**https://www.aspistrategist.org.au/a-step-towards-clearer-waters-china-asean-and-the-south-china-sea/**](https://www.aspistrategist.org.au/a-step-towards-clearer-waters-china-asean-and-the-south-china-sea/)

Pritchin, Stanislav. “Russia’s Untapped Arctic Potential.” Chatham House. Jan. 2018. <https://www.chathamhouse.org/expert/comment/russia-s-untapped-arctic-potential> //RJ

**Russia has vast oil and gas reserves in the Arctic, but is unable to exploit them due to sanctions, the technological shortcomings of state-owned companies Gazprom and Rosneft, and their unwillingness to cooperate with private Russian companies with the relevant experience. The current price of crude on international markets should make extraction** from the bed of the Arctic Ocean **profitable**, **but sanctions are precluding Russia from engaging Western companies with the necessary technological capacity to explore Russia’s Arctic resources. However, Russia has its own self-imposed restriction - private companies in Russia with specialist experience and technology are also unable to support the exploration of Russia’s untapped Arctic reserves.** **Only Gazprom and Rosneft have access to Russia’s Arctic shelf.**

Pedrozo, Raul. "Arctic Climate Change and US Accession to the United Nations convention on the Law of the Sea." *Int'l L. Stud. Ser. US Naval War Col.* 89 (2013): i. http://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1021&context=ils //RJ

As a result of melting sea ice, access to sizeable and lucrative offshore hydrocarbon and other mineral reserves in the Arctic Ocean will occur sooner than projected. **Many of these resources are located beyond 200 nautical miles (nm) off the coast**. According to a 2008 assessment by the U.S. Geological Survey (USGS), “**the total mean undiscovered conventional oil and gas resources in the Arctic are estimated to be approximately 90 billion barrels of oil, 1,669 trillion cubic feet of natural gas, and 44 billion barrels of natural gas liquids**.”17 **The overwhelming majority of these resources—84 percent—is expected to occur in offshore areas.** Over 70 percent “of the mean undiscovered oil resources is estimated to occur in five provinces: Arctic Alaska, Amerasia Basin, East Greenland Rift Basins, East Barents Basins, and West Greenland-East Canada.”18 Similarly, over 70 percent “of the undiscovered natural gas is estimated to occur in three provinces: the West Siberian Basin, the East Barents Basins, and Arctic Alaska.”19 Arctic Alaska, the Amerasia Basin, and the North Chukchi-Wrangel Foreland Basin provinces, portions of which could be claimed by the United States, account for over 40 million barrels of oil, 284 billion cubic feet of natural gas, 6.5 million barrels of natural gas liquids and 94 million barrels of oil and oil-equivalent natural gas. 20 **The value of these resources is estimated to be in the trillions of dollars.**21 All states may claim a 200 nm continental shelf. In addition, **States Parties to UNCLOS may file claims with the Commission on the Limits of the Continental Shelf (CLCS) for exclusive sovereign rights and jurisdiction over the seabed resources of an Extended Continental Shelf (ECS) extending hundreds of miles offshore**.22 **If the United States becomes a party to UNCLOS, it has strong ECS claims over the resources of the Beaufort shelf and the Chukchi shelf.**23

Stricker, Julie. “2018 Oil and Gas Forecast.” Alaska Business. Jan 2018. <http://www.akbizmag.com/Alaska-Business-Monthly/January-2018/2018-Oil-and-Gas-Forecast/> //RJ

**Hilcorp Alaska plans to inject polymers to boost production** at its Schrader Bluff viscous oil deposit, Vice President David Wilkins told the audience at the Resource Development Council conference. **The polymers are expected to loosen the thick oil and increase production as much as 40 percent**. The goal, he says, is **to “develop new oil at $40 to $50 a barrel.**” The company has several projects on the North Slope, including the offshore Liberty deposit, which could add 80,000 barrels of oil per day to the pipeline if approved.

#### **Industry is afraid to exploit ECS because they’re afraid of international lawsuits**

Pedrozo, Raul. "Arctic Climate Change and US Accession to the United Nations convention on the Law of the Sea." *Int'l L. Stud. Ser. US Naval War Col.* 89 (2013): i. http://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1021&context=ils //RJ

Critics suggest accession to UNCLOS is not required in order for the United States to claim an ECS, since the 1958 Continental Shelf Convention and the 1945 Truman Proclamation already support a unilateral U.S. claim. Although that may be true, the metric for determining the outer extent of the ECS is more generous in UNCLOS than in the 1958 Convention or the Truman Proclamation, both of which rely on an “exploitability criterion” to identify the outer limit of the ECS.30 **More importantly, the U.S. oil and gas industry believes that unilaterally claiming an ECS outside UNCLOS may be challenged by other nations in courts throughout the world, and has therefore repeatedly argued that legal certainty/security of tenure to explore and exploit the resources of the ECS can be obtained only through UNCLOS**.31 **The bottom line is that U.S. industry will not invest in offshore oil and gas production in the ECS unless the United States is a party to UNCLOS.**32

**Ueno 2012** (Hideshi Ueno, editorial staff of OPRF MARINT Monthly Report, “Discussion regarding accession to UNCLOS in the United States”, *From the Oceans*, May 2012, https://www.spf.org/oceans/analysis\_en/c1205.html. DOA: July 9th 2018) TG

**First, for years, American oil and gas companies were not technologically ready to take advantage of the convention’s provisions regarding the extended U.S. continental shelf. Now they are. The convention allows countries to claim sovereignty over their continental shelf far out into the ocean, beyond 200 nautical miles from shore**. The relevant area for the United States is probably more than 1.5 times the size of Texas. **U.S. oil and gas companies are now ready, willing, and able to explore this area. But they have made it clear to us that they need the maximum level of international legal certainty before they will or could make the substantial investments**, and, we believe, create many jobs in doing so needed to extract these far-offshore resources. If the Unites States were a party to the convention, we would gain international recognition of our sovereign rights, and therefore be able to give our oil and gas companies this legal certainty. Staying outside the convention, we simply cannot.

#### **Methane would be emitted in significant amounts; methane has 20 times warming potential of CO2; 1.7 trillion cubic ft. of natural gas exists in the Arctic**

**Walsh 12** (Bryan Walsh, senior writer for TIME magazine covering energy and the environment, 20 July 2012, “It’s Not Just Spills—the Climate Risks of Arctic Drilling” http://science.time.com/2012/07/20/its-not-just-spills-the-climate-risks-of-arctic-drilling/ DOA 7/8/18) MDS

But a new report by the NGO Clean Air Task Force (CATF) shows that an oil spill isn’t the only risk that Arctic drilling poses to the environment. **Methane** and black carbon, two potent greenhouses gases, **will likely be emitted in significant amounts if drilling in the Arctic proves as lucrative as many oil companies are hoping for**. Exactly how much additional greenhouse gas will be released by the production of Arctic oil isn’t clear—and depends on whether drillers and regulators take steps to reduce the warming side effects of drilling. “It’s ironic that climate change has led to the opening of the Arctic for drilling, but we aren’t paying much attention to the climate change that drilling will help cause,” says Jonathan Banks, senior climate policy advisor for CATF and the author of the report. **The main problem isn’t the oil itself**—although, of course, if the 90 billion barrels of oil believed to be obtainable in the Arctic are burned in cars or trucks, the carbon released will help undoubtedly help intensify climate change. **It’s chiefly the natural gas that will be produced along with that oil. Natural gas is essentially methane—and methane is a powerful, albeit short-lived greenhouse gas, with more than 20 times the warming potential of plain old carbon dioxide**. By some estimates, **there’s as much as 1.7 trillion cubic ft. of natural gas to be found in the Arctic**. But companies like Shell aren’t braving the elements in the Arctic to bring back natural gas. They’re there for the oil, which is worth far more—and not incidentally, is a lot easier to store and transport than gas. Natural gas either needs a pipeline network that can allow it to be shipped from the well to a consumer, or it needs to be cooled to super-low temperatures, after which it can be shipped on an LNG tanker. (Oil, by contrast, can be loaded without any intermediary steps onto a tanker.) There are neither many pipelines nor many LNG facilities in the far North, which means it’s not easy nor cheap for oil companies to actually do anything with the natural gas they’ll be producing alongside all that lovely oil. “The race in the Arctic is about the oil,” says Banks. “But the gas that goes along with it can be a huge source of carbon.”

**Wade 15** Keith Wade, 7-27-2015, "How climate change will impact developed and developing countries," Schroder Investment Management, <https://www.schroders.com/en/ch/asset-management/insights/economics/climate-change-and-the-global-economy-regional-effects/> //DF

The effects of climate change will not be uniformly distributed across the globe and there are likely to be winners and losers as the planet warms. Applying a broad brush to climate effects, **developing countries are more likely to disproportionately experience the negative effects of global warming. Not only do many developing countries have naturally warmer climates than those in the developed world, they also rely more heavily on climate sensitive sectors such as agriculture, forestry and tourism. As temperatures rise further, regions such as Africa will face declining crop yields and will struggle to produce sufficient food for domestic consumption, whilst their major exports will likely fall in volume.**  This effect will be made worse for these regions if developed countries are able to offset the fall in agricultural output with new sources, potentially from their own domestic economies as their land becomes more suitable for growing crops. Developing countries may also be less likely to create drought resistant harvests given the lack of research funding.

**Chestney 12** Nina Chestney, 2012, "Arctic Methane Release Could Cost Economy $60 Trillion," Scientific American <https://www.scientificamerican.com/article/arctic-methane-release-could-cost-60t/> //DF

LONDON (Reuters) - **A release of methane in the Arctic could speed the melting of sea ice and climate change with a cost to the global economy of up to $60 trillion over coming decades**, according to a paper published in the journal Nature. (Scientific American is part of Nature Publishing Group.) Researchers at the University of Cambridge and Erasmus University in the Netherlands used economic modeling to calculate the consequences of a release of a 50-gigatonne reservoir of methane from thawing permafrost under the East Siberian Sea. They examined a scenario in which there is a release of methane over a decade as global temperatures rise at their current pace. They also looked at lower and slower releases, yet all produced "steep" economic costs stemming from physical changes to the Arctic. "The global impact of a warming Arctic is an economic time-bomb," said Gail Whiteman, an author of the report and professor of sustainability, management and climate change at the Rotterdam School of Management, part of Erasmus University. "In the absence of climate-change mitigation measures, the model calculates that it would increase mean global climate impacts by $60 trillion," said Chris Hope, a reader in policy modeling at the Cambridge Judge Business School, part of the University of Cambridge. That approaches the value of the global economy, which was around $70 trillion last year. The costs could be even greater if other factors such as ocean acidification were included, the study said, or reduced to some $37 trillion if action is taken to lower emissions. **As much as 80 percent of the costs would likely be borne by developing countries experiencing more extreme weather, flooding, droughts and poorer health as the Arctic melt affects the global climate**, the paper said. Methane is a greenhouse gas usually trapped as methane hydrate in sediment beneath the seabed. As temperatures rise, the hydrate breaks down and methane is released from the seabed, mostly dissolving into the seawater.

**Xiaoming June 27 2018** (Liu Xiaoming, June 27 2018, "China will not tolerate US military muscle-flexing off our shores", *The Guardian*, https://www.theguardian.com/commentisfree/2018/jun/27/china-not-tolerate-trump-military-muscle-south-china-sea, Accessed 07/01/2018) IW

Second, is there any problem with freedom of navigation **in the South China Sea**? The reality is that **more than 100,000 merchant ships pass through these waters every year and none has ever run into any difficulty with freedom of navigation**. Despite some disputes between China and some of its neighbours, **maintaining stability in the South China Sea has been a matter of consensus for all the countries in this region. The overall situation has been stable, thanks to the joint efforts of all the regional partners.** Last August, for example, the foreign ministers of China and the Association of Southeast Asian Nations **(ASEAN) countries agreed on the framework of a code of conduct. The parties have agreed to hold at least three more rounds of consultations before the end of this year. The South China Sea is calm and the region is in harmony.** The so-called “safeguarding freedom of navigation” issue is a bogus argument. The reason for hyping it up could be either an excuse to get gunboats into the region to make trouble, or a premeditated intervention in the affairs of the South China Sea, instigation of discord among the parties involved and impairment of regional stability.

#### **US has generally ruined the SCS region by driving wedges between China & ASEAN nations**

Xu, Bu. “U.S. ‘rebalancing’ is fishing in S. China Sea’s Troubled Waters.” May 2016. The Straits Times. <https://www.straitstimes.com/opinion/us-rebalancing-is-fishing-in-s-china-seas-troubled-waters> //RJ

**China and some littoral countries of the South China Sea have had disputes over territorial and maritime interests for more than three decades, but China and the relevant claimant countries have managed to address differences and control risks, not letting the issue hinder the sustained growth of bilateral ties among them and China-Asean relations at large.** In November 2002, China and Asean countries signed the Declaration on the Conduct of Parties in the South China Sea (DOC), stipulating that China and Asean countries will resolve their territorial and jurisdictional disputes by peaceful means through friendly consultations and negotiations, and conduct relevant maritime cooperation. **However, since the US adopted the so-called rebalancing strategy in the Asia-Pacific, the South China Sea issue has become increasingly prominent**. **Since 2009, some US senior officials have repeatedly made irresponsible remarks about China's policy, rendered support to the countries having disputes with China, and gone even further to drive wedges between China and South-east Asian countries**. I would argue that 2009 marked the watershed of the South China Sea issue and the US acted as the main driving force behind the tension in the South China Sea. This conclusion is based on the following foundations.

#### **Fuchs and Sutton 2016 (Michael Fuchs, senior fellow at the Center for American Progress and deputy assistant sec. of state for East Asia, and Trevor Sutton, senior fellow at Center For American Progress and worked on East Asia Affairs in the office of the Secretary of Defense. August 3, 2016. National Interest. “UNCLOS Won’t Help America in the South China Sea”,** [**http://nationalinterest.org/feature/unclos-wont-help-america-the-south-china-sea-17235**](http://nationalinterest.org/feature/unclos-wont-help-america-the-south-china-sea-17235) **. DOA: June 25, 2018.) ALP**

First, **while the United States has a strong interest in peaceful resolution of competing territorial claims in the South China Sea, it is not itself a claimant, and thus UNCLOS would provide no additional tools for the United States to use in addressing disputes in the South China Sea. While U.S. ratification of UNCLOS would allow U.S. nationals to serve on arbitration panels, such representatives are expected to exercise independent reasoning and do not take instructions from member governments. If anything, the presence of an America**n **on the panel would** have **play**ed **to the suspicions of hardliners in China who view international legal regimes as a vehicle for advancing U.S. interests**. If this sounds farfetched, consider that the Chinese ambassador to ASEAN recently [accused](http://www.straitstimes.com/opinion/us-rebalancing-is-fishing-in-s-china-seas-troubled-waters) Washington of “staying behind the arbitration case as the manipulator, and doing whatever it can to ensure that the Philippines wins the case.”

#### **Blumenthal ’12 – right now, China is using the loose interpretations of UNCLOS to justify expansion of Chinese hegemony in the South China Sea. Unfortunately, he furthers that acceding to the treaty would legitimize these faulty interpretations of international law and create diplomatic wrangling.**

Blumenthal, Dan. “Why to Forget UNCLOS.” Diplomat. Feb. 2012. <https://thediplomat.com/2012/02/why-to-forget-unclos/>

The Obama administration seems determined to put political science theories to the test by “binding” China into the rules-based order over which the United States presides. Only this time, China is already a signatory to the rules in question. The Obama administration seems to think it is the United States that needs the binding. The timing of this new push over the U.N. Convention on the Law of Sea, signed by President Bill Clinton and then defeated by the Senate in 1994, is curious. One need only scan the past three years of Chinese activities in the South China, East China, and Yellow seas to find evidence that China intends to change the maritime status quo in ways detrimental to U.S. interests. Despite ratifying UNCLOS, China’s maritime behavior in East Asiaruns contrary to international law and custom as they have been commonly understood for centuries. *Where customary international law has protected the traditionally expansive understanding of freedom of the seas* – allowing open access to all but narrow bands of territorial waters along national coastlines – *China is trying to curtail that access, fence off its peripheral waters, and deny to other maritime nations* the *freedom of navigation* they have long and lawfully enjoyed. What’s the argument for signing UNCLOS when China itself doesn’t adhere to the law? When it turns out that the letter of the law is less clear than its proponents think? *Given these problems, U.S. ratification of UNCLOS won’t resolve Sino-U.S. disagreements; it will only lead to endless legal and diplomatic wrangling.* Arguments for UNCLOS ratification now are even more bizarre given that international law and the balance of power favor the United States. *To ratify the treaty at this time would be to signal approval to other states of faulty interpretations of international law while committing the United States to endless dispute resolution in international bodies that haven’t historically favored its interests*. *Washington would put itself in a position where it might have to ignore the treaty’s dispute resolution clauses to further its interests*. Why sign a treaty we will have to violate? *In doing so*, *wouldn’t Washington cede the moral high ground it now holds by simply following established custom*? No, *ratification of UNCLOS will not help Washington and Beijing resolve their maritime disputes*. Rather, *resolution lies in the United States’ continued exercise of its rights in international waters, diplomatic negotiations with China and American friends and allies, and continued military supremacy.* Through military and diplomatic pressure and “lawfare” China is trying to carve out a sphere of control in most of the South China Sea and parts of the East and Yellow Seas. Consider the following incidents: — In 2001, a Chinese J-8 fighter collided with an unarmed U.S. EP-3 surveillance aircraft over international waters in China’s exclusive economic zone, forcing an emergency landing on Hainan island and putting at risk the lives of American servicemen and women. — In 2009, China harassed unarmed U.S. naval vessels in the Yellow Sea and South China Sea, including the USNS *Impeccable*. — Last year, China unilaterally declared a fishing ban in parts of the South China Sea that China doesn’t own. — Also in 2011, a Chinese fishing boat cut the survey cables of a PetroVietnam ship in an area more than 1,000 kilometers (622 miles) from China’s Hainan island. — Beijing has also been asserting its territorial claims close to the Philippines’ Palawan Province, which lies near the Spratlys, a potentially oil- and gas-rich chain of islands, disputed by China, the Philippines, Taiwan, Vietnam, Malaysia and Brunei. Last March, two Chinese vessels tried to drive away a Philippine oil exploration ship from Reed Bank, another area west of Palawan. Two Philippine air force planes were deployed, but the Chinese vessels had disappeared by the time they reached the submerged bank. This inventory of incidents reveals that China is relying on military pressure to accomplish its two primary goals in its peripheral waters: halting U.S. military activities that centuries of custom have deemed lawful and realizing its expansionist territorial claims. *Though China has ratified UNCLOS, it has proceeded to undermine it*. For example, its statements that the United States is acting illegally in conducting surveillance in China’s exclusive economic zone (EEZ) are inconsistent with the custom that maritime nations enjoy high seas rights in all but a coastal state’s territorial waters (which extend only 12 nautical miles from a country’s shores). The EEZ is a creation of UNCLOS meant to protect coastal states’ rights to economic resources in an area up to 200 nautical miles from the coast. U.S. military activities in China’s EEZ, such as naval exercises or surveillance flights, are not prejudicial to China’s exploitation of resources there. In other words, they are lawful. The U.S. relies on customary international law as well as those UNCLOS provisions that are consistent with customary international law to guide its military activities. Specifically, Article 58 of UNCLOS, provides that in the EEZ “all states, whether coastal or land-locked, enjoy, subject to the relevant provisions of this convention, the freedoms…of navigation and overflight…and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships [and] aircraft.” *China alleges that these activities constitute a use of force* and that the U.S. is “preparing the battlefield” by conducting such activity. *The Chinese claim that these actions undermine China’s security*. *This is a mischievous interpretation of UNCLOS and one that’s indicative of a larger challenge: this kind of clever lawyering pokes holes in UNCLOS*. In so doing, *China is attempting to rewrite long-established and accepted international law.* Such lawyering was on display in the dispute over the USNS *Bowditch* surveying operations in the Yellow Sea in the early 2000s. The unarmed *Bowditch* was conducting hydrographic surveys in the Yellow Sea, including acoustic data tests that are useful to detect submarines**.** The U.S. has argued that naval hydrographic and oceanographic surveys shouldn’t be considered “marine scientific research” (as such surveys are not for scientific purposes), an activity that coastal states are allowed to regulate in their EEZs under UNCLOS. China doesn’t agree, and has won some international sympathy for its position. Now some in and out of China claim that because information collected by a foreign military may have economic and scientific value, UNCLOS permits coastal states to restrict such military surveys in their EEZs. The Chinese justified their claim that the Bowditch was conducting what UNCLOS calls “marine scientific research” in its EEZ by referring to UNCLOS Article 258. This provision states: “the deployment and use of any type of scientific research installations or equipment in any area of the marine environment shall be subject to the same conditions as prescribed in this Convention for the conduct of marine scientific research in any such area.” The Bowditch deployed scientific equipment, the Chinese argue, and thus needed Chinese permission before it began its work. Traditionally the freedom of the high seas has included the use of the seas for military maneuvers or exercises, including the use of weapons. This freedom – including the freedom to operate in EEZs – was supposed to be incorporated into UNCLOS[AJH1] . But the language in the provisions pertaining to conduct of military activity in EEZs leaves far too much wriggle room for mischief. *For example, China says that foreign warships must obtain its approval before they can do anything but pass through its exclusive economic zone.* A Chinese Defense Ministry spokesman, Senior Col. Geng Yansheng, [stated in 2010](http://www.abs-cbnnews.com/global-filipino/world/07/30/10/china-says-will-respect-south-seas-navigation-freedom): “We will, in accordance with the demands of international law, respect the freedom of *passage* of ships or aircraft from relevant countries which are in compliance with international law” (emphasis added). *Chinese officials are trying to limit U.S. naval activity in China’s EEZ’s to “passage” from one destination to another.* This means that *the Chinese are claiming that heretofore lawful activities*(task-force maneuvering, flight operations, military exercises, weapons testing and firing, surveillance and reconnaissance operations and other intelligence-gathering activities, and military marine data collection or military surveys)conducted in EEZs *should now be treated as prejudicial to Chinese rights*, including China’s duty to protect the marine environment. *If these interpretations gain currency, UNCLOS will prove prejudicial to the rights of maritime nations such as the United States*. Law should provide clarity, but *UNCLOS is unclear as to what military activities are allowed in a country’s EEZ*. *China is cynically exploiting the law’s vagaries to further its political goals and its desire to project power. Herein lies a major danger in U.S. ratification of UNCLOS. In adopting, promoting, and acting on new interpretations of international law, China is attempting to upset the status quo and establish new norms of maritime behavior. By signing up to UNCLOS, the United States might unintentionally signal approval of these errant interpretations.* In 2009, China asserted “indisputable sovereignty over the islands of the South China Sea and the adjacent waters” and claimed to “enjoy sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof.” In support of these claims, Beijing submitted to the U.N. Commission on the Law of the Sea a map featuring the now-famous U-shaped line, which encompasses almost the entirety of the South China Sea and skirts the coasts of the Philippines, Malaysia, Brunei, and Vietnam. UNCLOS makes a distinction between islands and other features, such as rocks. An island is defined as “a naturally formed area of land, surrounded by water, which is above water at high tide.” Islands are entitled to a 200 nautical mile EEZ. Other features found at sea – including rocks, reefs, islets, and sandbanks – were not given this entitlement: “rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.” *China appears to be claiming a series of “rocks” and “reefs” – calling them islands – so that it can also claim the EEZ’s around them. Call it creeping territorial expansionism. If it works, China will have established the legal basis for claiming most of the South China Sea as its territory.* China has compelling reasons to claim control over this wide expanse of waters. The South China Sea is thought to be resource-rich. The numbers vary, but high-end Chinese estimates suggest that the sea contains over 200 billion barrels of oil and 2 quadrillion cubic feet of natural gas. The sea is home to rich fishing grounds as well. If Beijing were to succeed in establishing its claims to features throughout the South China Sea, the resulting EEZ would allow China – and China alone – to harvest those resources. China likewise has security interests in its extensive South China Sea claims. As noted above, *Beijing has reinterpreted international law to assert that it can deny access to its EEZ by foreign military vessels. Successful realization of China’s claims is the first step toward keeping foreign military assets out of those waters.* There are three broad reasons why it wishes to do so. Firstly, sovereignty over the South China Sea would grant China significant, additional strategic depth. At present, from China’s point of view, its coastal cities – key centers of economic activity – are vulnerable to attack from the sea. Keeping foreign warships and military aircraft distant from China’s shores would make it easier for the PLA to defend China’s southern coastline. It would also enable China to more easily project power close to its neighbors’ shores and thus threaten U.S. allies like the Philippines and friends such as Singapore and Indonesia. Second, China is highly dependent on resource imports from the Middle East. In 2010, 47 percent of China’s oil imports came from the Middle East; 30 percent came from Africa[AJH2] . These imports pass through chokepoints that China doesn’t control, notably the Malacca Strait, but also the Lombok and Sunda Straits in Indonesian waters. Chinese defense officials have referred to this situation as the “Malacca dilemma.” Chinese sovereignty over the South China Sea would allow it to more easily project power into those straits and, on the flip side, make it more difficult for the United States to do so. This would make it more difficult for the United States to conduct operations in these vital waters against China, while making it easier for China to operate against the United States – and our allies Japan, South Korea, and Taiwan. It would also enable the Chinese navy to more easily project power into the Indian Ocean, where American and Indian vessels have long operated unimpeded. Third, Chinese control over the South China Sea would make it easier for the PLA Navy to project power into the Pacific Ocean. Such control would, in particular, make it more difficult for the United States to monitor Chinese submarines deploying from their underground base at Hainan Island. A Chinese Navy that can more easily sail into the Pacific is one that can more easily threaten U.S. assets and U.S. territories in the region. The United States clearly has an interest in seeing China fail to make its South China claims a reality – even if it somehow did so without resorting to force. The question is, how does the United States succeed? *Proponents of UNCLOS ratification claim that the United States can’t counter China’s claims without ratifying UNCLOS itself. Yet the United States already acts in accordance with international law and custom, whereas China, which has ratified UNCLOS, uses UNCLOS to flaunt the law. By twisting the UNCLOS into pretzels, China is changing the rules of the game*. *The liberal order made rules to accommodate the rights and interests of those who decided to participate in it.* It turns out *China doesn’t much like those rules and is attempting to overturn them* – *especially those rules that protect freedom of navigation and those that make it difficult for China to pursue its territorial ambitions in Asia*. *Ratifying UNCLOS isn’t an effective way to combat that effort.* These disputes are about power politics and *neither China nor the United States will allow them to be settled in court – UNCLOS approved or otherwise.* Rather, *the United States must continue doing what it has always done*. It should continue to operate naval vessels in international waters – including in other countries’ EEZs – where and when it wants to do so. Operations should run the gamut of peaceful activities – surveillance activities, exercises, and so on. And *Washington must clearly state its intention to continue abiding by centuries-old customary international law pertaining to freedom of the seas including provisions of UNCLOS that are consistent with those practices*. In interactions with Chinese counterparts, American diplomats should repeatedly and consistently restate the American position – there should be no question as to where the United States stands. As it does so, the U.S. should engage China in diplomacy, pointing out – among other matters – that China itself conducts military activity in other countries’ EEZs. We need rules of the road with China to manage competition, not wishful thinking about what U.N. bodies can resolve. It has always been practice that has determined international law of the oceans. China understands this, and is working to shift law and custom through its own practices. *Only by continuing to act on the high seas as it always has can the United States hope to maintain a system of international rules that serves its own interests. Ratifying UNCLOS could very well have the opposite effect.*

#### **UNCLOS fails – it doesn’t account historical problems**

Lin & Gertner 15 (Dr. Kun-Chin, PhD/MA in political science (UC Berkeley), Dr. Andres, politics and international studies from the University of Cambridge, Chatham House fellows, “Maritime Security in the Asia-Pacific”, <https://www.chathamhouse.org/sites/files/chathamhouse/> field/field\_document/20150731MaritimeSecurityAsiaPacificLinGertner-0.pdf) //RJ

**Asia and the West share common economic interests and political objectives** in desiring stability, peace and prosperity in the region. **Both broadly accept a vision of an Asia-Pacific that supports regional powers’ aspirations to be responsible geopolitical players; and that promotes multilateralism and international legal norms, such as UNCLOS**. **However, the principles of UNCLOS can be problematic**, as **they have largely been generated outside the Asian context**. **UNCLOS lacks sensitivity towards the region’s historical** inter-sovereign and tributary **relations**, **and ignores the traumatic colonial experiences of most Asian powers**. Without recognizing the underlying economic interests and social realities of maritime governance, as well as the complex historical circumstances, **the centrality of UNCLOS in settling sovereignty and territorial disputes is insufficient as a means for adjudicating contending national interests**.72 Over the past four decades, the International Tribunal for the Law of the Sea (ITLOS) – which is arbitrating on the Philippines’ case against China, despite the latter’s refusal to participate – has encountered difficulties in adjudicating similar disputes involving historical titles and rights in other regions.

**Ying, Fu. “Why China Says No to the Arbitration on the South China Sea”. Foreign Policy. 2016.**

**https://foreignpolicy.com/2016/07/10/why-china-says-no-to-the-arbitration-on-the-south-china-sea/**

**This arbitration cannot resolve the disputes** between China and the Philippines in the South China Sea. Instead, **it will only increase tensions and undermine peace and stability in the region.** If the coastal countries in the South China Sea region do not intend to aggravate tensions, they have to return to the path of seeking resolution through negotiation. **China and the countries in the Association of Southeast Asian Nations *(*ASEAN) have agreed to handle the issue through a dual-track approach** — in other words, **to resolve disputes through peaceful negotiations. Consultations on the code of conduct in the South China Sea region are making progress**. The momentum should not be interrupted.

Nemeth, Stephen. “UNCLOS and the Management of Maritime Conflicts” Oklahoma State University. 2007.

While it appears that neither privatization nor institutionalization predict state decisions to employ militarized force over maritime claims, **we do find a stronger relationship if we control for the revisionist status of the states in the dyad**. **The challenger state is identified by the ICOW Project as the state challenging the status quo maritime boundary or resource extraction rights, while the target state is the state defending the status quo.** **If distributional issues are not resolved by the establishment of EEZs or through the institutional mechanisms created by UNCLOS, then challengers may be willing to employ militarized force as they are more likely to view the existing distribution of maritime resources as unacceptable**. When controlling for revisionist types, we find a significant relationship between UNCLOS membership and militarization of maritime claims. **Militarized disputes occur in 5% of claim dyad-years if the challenger belongs to UNCLOS, compared to 2.6% of claim dyad-years where the challenger state does not belong to UNCLOS** (χ2 = 4.63, p=0.031). Thus we have some evidence that UNCLOS fails in its goal of promoting peaceful settlement of maritime claims if it fails to address potential distributional problems stemming from the agreement.

Crabtree, Justina. “Why disruption in the South China Sea could have ‘gigantic’ consequences for global trade.” CNBC. 2016. <https://www.cnbc.com/2016/07/18/why-disruption-in-the-south-china-sea-could-have-gigantic-consequences-for-global-trade.html>

With tension rising in recent years over territory in the South China Sea, analysts have explained to CNBC what conflict in the region could mean for global trade. "Should conflict arise … the consequences for global trade would be gigantic," Francois Godement, director of the Asia and China program at the European Council on Foreign Relations, told CNBC via telephone. Ratings agency Fitch supported the claim by warning in a report Wednesday that, "**The potential economic implications (of geopolitical risks in Asia) could be severe in the event of a sudden escalation.**" The report came after a ruling by the Hague on Tuesday which rejected China's claims to almost all of the South China Sea, in a case raised by the Philippines. The present situation in the area is being watched closely by stakeholders in the region's annual $5 trillion shipping industry.

Crabtree, Justina. “Why disruption in the South China Sea could have ‘gigantic’ consequences for global trade.” CNBC. 2016. <https://www.cnbc.com/2016/07/18/why-disruption-in-the-south-china-sea-could-have-gigantic-consequences-for-global-trade.html>

The South China Sea is a vital trading passage for China, Japan and Korea, as well as other nations on the western rim of the Pacific, serving as their only bulk trading route with key markets in the Americas and Europe, amongst others. **Over $5 trillion of annual shipping trade passes through the region**, and, according to the *Wall Street Journal*, **U.S.-only imports and exports make up $1.2 trillion of this.** The waters allow domestic goods, oil and raw materials to transit to destinations around the world

**Xu, Beina. “South CHina Sea Tensions.” CFR. 2014.**

[**https://www.cfr.org/backgrounder/south-china-sea-tensions**](https://www.cfr.org/backgrounder/south-china-sea-tensions)

**Annual fishing bans and arrests of fishermen are a convenient proxy for sovereignty claims since they can be presented as legitimate attempts to enforce marine resources protection, according to** [**a report**](http://www.crisisgroup.org/en/regions/asia/north-east-asia/china/223-stirring-up-the-south-china-sea-i.aspx) **by the International Crisis Group. “This is an issue that doesn’t make big headlines, but 1.5 billion people live there and rely heavily on fisheries for food and jobs,” Rosenberg says. “That’s where most of the conflict goes on, and most of these have been dealt with on a routine conflict management basis.”**

Houck, James. “The Opportunity Costs of Ignoring the Law of Sea Convention in the Arctic.” Pennsylvania State University. Oct. 2015. <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2681207> //RJ

The potential implications of this extended continental shelf regime are profound. With one of the largest coastlines in the world, the United States is expected to have over 291,000 square miles of extended continental shelf.89 **The U.S. continental margin off the coast of Alaska alone may extend to a minimum of 600 miles from the Alaskan baseline.90 Alaska’s extended continental shelf lies over the Arctic Alaska province, one of the many oil- and gas-rich basins in the Arctic.91 It is estimated that there may be almost 73 billion barrels of oil and oil-equivalent natural gas located in the Arctic Alaska province, the second highest estimated production capability of all Arctic provinces.**92 **The continental shelf within the 200-mile EEZ** under the Beaufort and Chukchi Seas alone **may have** over **23 billion barrels of oil** and 104 trillion cubic feet of natural gas.93 Not only would development of these resources promote energy independence, a U.S. national security objective,94 it would also create almost 55,000 jobs per year nationwide and generate over $193 billion in federal, state, and local revenue over a fifty-year period.95 Due to delays in Arctic oil and gas exploration in the Chukchi and Beaufort Seas, both within the U.S. 200-mile EEZ, the earliest estimated date of extraction is sometime after 2019.96