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# NEG Blocks to AFF

## \*Framing Analysis (First Folx)

Always prioritize impacts to Arctic first people over their arguments.

Olson of the University of North Carolina 2015 writes that our desire to secure other systems in the economy, political sphere, and environment has created a system wherein people currently suffering must be ignored because there are always bigger issues to worry about, providing a justification for the exclusion of those most marginalized.

At the point where there are already many resources invested into these systems and many factors that play into the impacts of their arguments, prefer our case because there is only ONE thing that puts first people at risk of losing representation and that is UNCLOS.



# \*South China Sea

## Topshelf R2R

Link Level Weighing:

1. (Tensions) Xiaoming '18 of the Guardian writes that China has agreed on a framework of conduct in the South China Sea with others regional claimants, thereby agreeing to terms for freedom of navigation. The implication of this is that the status quo is de-escalating in the region, which means the only risk of ruining this stability would be an American provocation.
2. (Interpretation) Hayton '15 of Chatham House writes that recent Chinese actions have indicated that they have shifted towards a higher degree of compliance with UNCLOS, thereby removing one of the most urgent sources of tensions between China and the U.S.

However, acceding to UNCLOS shatters these relations in three ways:

1. Blumenthal from our second contention writes that acceding to UNCLOS wouldn't resolve our disagreements with China, but rather box us into legal wrangling that only escalates tensions.
2. Valencia '18 of the Diplomat indicates that America uses FONOPs against our allies because the US thinks they are in violation of UNCLOS. This has two implications:
  - a. Our enforcement of our interpretation of UNCLOS would be disjointed multilaterally because we are on a different page from our allies about maritime policy in the region.
  - b. Our use of FONOPs against our allies only increases tensions and kills multilateralism by disenchanting them through our use of military force.
3. Xu '16 of the Straits Times writes that China and ASEAN nations have resolved differences through multilateral negotiations, preventing issues from hindering relations at-large. Unfortunately, he continues that America has empirically driven wedges between ASEAN nations and China by encouraging ASEAN nations to instead pursue provocative and escalatory policies that dismantle this system of multilateral resolution. This has two implications:
  - a. America has divided ASEAN because only some of the claimant countries wish to pursue these escalatory policies, indicating that America only harms multilateralism in the region.
  - b. These escalatory policies only alienate China and tear apart solutions that already exist, preventing the solvency my opponents claim.

## A2: Tensions/China's Interpretation Rising

### Link Defense Rhetoric

1. (Tensions) Xiaoming '18 of the Guardian writes that China has agreed on a framework of conduct in the South China Sea with others regional claimants, thereby agreeing to terms for freedom of navigation. The implication of this is that the status quo is de-escalating in the region, which means the only risk of ruining this stability would be an American provocation.
2. (Interpretation) Hayton '15 of Chatham House writes that recent Chinese actions have indicated that they have shifted towards a higher degree of compliance with UNCLOS, thereby removing one of the most urgent sources of tensions between China and the U.S.

Cards:

**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.

Hayton 15 (Bill, 10/31, Associate Fellow, Asia Programme, Chatham House, "Is China Moving Towards Compromise in the South China Sea?", <https://www.chathamhouse.org/expert/comment/china-moving-towards-compromise-south-china-sea#sthash.tfH1P3Xy.dpuf>) //RJ

**China's rhetoric-laden responses to recent developments in the South China Sea have diverted attention from what may be a significant shift in its thinking. Condemnatory language has been mixed with clues that Beijing is preparing to accept a legal regime in the South China Sea closer to the United Nations Convention on the Law of the Sea (UNCLOS) than its vaguely-articulated claim to 'historic rights'. If China continues down this path it may be able to remove the most urgent sources of tension between it and the United States and greatly improve relations with Southeast Asia.** Since 1947, official Chinese maps have featured a 'U-shaped' or '9-dashed' line encompassing a vast area of the South China Sea. The exact meaning of this line has never been made clear – some statements by the Foreign Ministry have led observers to believe it simply defines which features in the sea are claimed by China. However, some Chinese state agencies – including the coastguard, the navy, coastal provinces and the oil industry – have frequently acted in manners suggesting that they regard the line as a national boundary – over 800 nautical miles from uncontested Chinese territory. The latter interpretation would be completely at odds with UNCLOS, threaten freedom of navigation and represent a challenge to the current international maritime order. However, **recent statements by foreign and defence ministry spokespeople seem to be carefully-worded representations of a transition in policy.** In particular **they have given much greater prominence to the provisions of UNCLOS**. This is significant because next year an independent tribunal (the Permanent Court of Arbitration – PCA – based in The Hague) is likely to find China in breach of some of the provisions of UNCLOS in a case brought by the Philippines. On 29 October the PCA ruled that it had jurisdiction in the case and was moving to consider the merits of 15 complaints brought by the Philippines against China. These concern Chinese activities in and around the Spratly Islands in the southern part of the South China Sea, claimed in whole or part by China, Malaysia, Brunei, Vietnam and the Philippines. The Chinese Foreign Ministry's response described the ruling as 'null and void', reaffirmed China's 'indisputable sovereignty over the South China Sea Islands and the adjacent waters', and declared that the tribunal had 'abused relevant procedures', 'deviated from the purposes of UNCLOS' and 'will lead to nothing'. However, the Foreign Ministry's response to another development, the transit of an American warship, the USS Lassen, within 12 nautical miles of Chinese-occupied Subi Reef revealed a different attitude to UNCLOS. The United States chose to sail past Subi because, in its natural state, the reef would be submerged at high tide. Under UNCLOS such 'low tide elevations' are not territory and do not generate a 12nm territorial sea. China has constructed an artificial island on the reef but UNCLOS is equally clear: such structures do not count as 'territory' either. The Lassen's transit was partly a physical demonstration that the US government did not regard Subi Reef as having a territorial sea and partly an exploratory mission to see what kind of legal status China would claim for the reef. **The Chinese response was ambiguous but suggests a move towards compliance with UNCLOS.** For a start **it did not object to the presence of an American warship within the U-shaped line** per se. It didn't even formally object to the Lassen sailing within 12nm of the reef. The Foreign Ministry spokesman did not claim the reef had a 'territorial sea' but referred only to its 'nearby waters'. He did not say the US had 'infringed' Chinese sovereignty but had 'threatened' it. He then repeated the formulation about 'sovereignty over the ...islands and the adjacent waters'. The same language was also used by the Defence Ministry spokesman, Yang Yujun. **This suggests both a degree of consensus within Chinese government circles and a deliberate effort towards trying to fit the**

**country's claims within the language of UNCLOS** – albeit one that is not yet ready to be formally enunciated. Similar language was found in the pages of **the Global Times** newspaper, often the home of hawkish hyperbole. However its **main op-ed article** about the USS Lassen's transit **stressed the importance of staying calm and analysing what the US had actually done. It** then **gave its readers an explanation of the meaning of UNCLOS's provisions on territorial waters and**, remarkably, **informed them that China's holdings in the Spratlys are not habitable islands and therefore do not qualify for a 200nm Exclusive Economic Zone** around them.

Given the paper's ideological bent, this smacks of an effort in 'public opinion management'. Instead **there appears to be a shift of emphasis**. While the US is concerned about lines drawn in the sea, Chinese spokespeople and media outlets are increasingly emphasising sovereignty over the islands themselves. The main national TV news programme Xinwen Lianbo gave particularly unusual prominence to the Lassen's patrol. It used the same formulations of 'adjacent waters' and made no claims to sovereignty over the whole U-shaped line. Instead it raised a spectre: warning the US against interfering with China's activities on the reefs and declaring that 'the Chinese side resolutely defends its own territorial sovereignty'. But the US has never challenged China's sovereignty claims over the islands. It has maintained strict neutrality on the claims as far back as the Second World War. Perhaps, by raising such a non-existent threat, Beijing will be able to declare itself resolute even as it aligns its claims with the provisions of UNCLOS in the coming months and years. An UNCLOS-based solution will give China much less maritime territory and access to fewer resources than would be the case under the most expansive interpretation of the U-shaped line. But by remaining steadfast on the islands it will be able to claim a victory in the eyes of its people.



## A2: Multilateralism

### Link Defense Rhetoric

1. Multilateralism exists right now; Kuok '17 of Foreign Affairs writes that ASEAN nations have asserted their rights to resources and kept China in line with the UNCLOS ruling, despite China's outward rejection of the decision.

### Link Turn Rhetoric

1. Turn; Valencia '18 of the Diplomat indicates that America uses FONOPs against our allies because the US thinks they are in violation of UNCLOS. This has two implications:
  - a. Our enforcement of our interpretation of UNCLOS would be disjointed multilaterally because we are on a different page from our allies about maritime policy in the region.
  - b. Our use of FONOPs against our allies only increases tensions and kills multilateralism by disenchanting them through our use of military force.

### ASEAN-Chinese Relations DA

1. Xu '16 of the Straits Times writes that America has empirically driven wedges between ASEAN nations and China by encouraging ASEAN nations to instead pursue provocative and escalatory policies that dismantle this system of multilateral resolution. This has two implications:
  - a. America has divided ASEAN because only some of the claimant countries wish to pursue these escalatory policies, indicating that America only harms multilateralism in the region.
  - b. These escalatory policies only alienate China and tear apart solutions that already exist, preventing the solvency my opponents claim.

Cards:

Kuok, Lynn. "Progress in the South China Sea? A Year After the Hague Ruling." July 2017. Foreign Affairs Magazine. <https://www.foreignaffairs.com/articles/east-asia/2017-07-21/progress-south-china-sea> //RJ

*July 12 marked the one-year anniversary of a [United Nations tribunal ruling](#) in a case brought by the Philippines against China over the latter's claims and activities in the South China Sea.* **The ruling was a major victory**

**for the Philippines**, particularly the tribunal's decision on China's "nine-dash line," through which Beijing attempts to lay claim to vast areas of the South China Sea. A year to the day after the award, the Philippines issued a conciliatory [statement](#) even as an energy official [announced](#) that Manila would soon offer investors new oil and gas blocks at Reed Bank, off the Philippine coast but within the nine-dash line. Beijing, for its part, has always made clear that it regards the tribunal's decision as "null and void" and of "no binding force." Statements from [Association of Southeast Asian Nations \(ASEAN\)](#) states in the wake of the decision were muted. None urged China to adhere to the ruling; the strongest merely called for respecting international law. **Yet the impact of the decision cannot be**

**determined by words alone. A year after the landmark award, ASEAN states appear to be more willing to assert their rights to resources in their exclusive economic zones (EEZs), and China's behavior is now more in keeping with the tribunal's decision.**

Kuok, Lynn. "Progress in the South China Sea? A Year After the Hague Ruling." July 2017. Foreign Affairs Magazine. <https://www.foreignaffairs.com/articles/east-asia/2017-07-21/progress-south-china-sea> //RJ

Some media reports and **analysts have dismissed the decision as entirely ineffective**. Territorial disputes in [the South China Sea](#) continue to fester and are likely to do so for a long time. China's island-building, construction of facilities, and militarization of features in the area proceed unabated. The disagreement between China and the United States concerning rights concerning navigation, overflight, and military activities, manifested in [U.S. freedom of navigation operations](#) and China's objections to them, likewise persists. **But the tribunal was never meant to resolve those issues**. It did not rule on who has a better claim to sovereignty over land features in the South China Sea—it had no jurisdiction to do so. Rather, it ruled on the status and maritime entitlements of features in the Spratlys, in the south, and Scarborough Shoal, off the Philippine island of Luzon. **The case centered**

**on the interpretation and application of the United Nations Convention on the Law of the Sea**, which governs whether a feature is a full island entitled to a 200-nautical-mile EEZ, a rock entitled to only a 12-nautical-mile territorial sea, or a low-tide elevation or submerged feature not capable of independent sovereignty claims or generating any maritime zones of its own. In addition, **the tribunal did not rule on the lawfulness of China's island-building, facility construction, or militarization of high-tide features**. It did, however, find that China's occupation of and construction on Mischief Reef, a low-tide elevation in the Philippines' EEZ and continental shelf, were problematic given that the feature falls within the Philippines' jurisdiction.

Kuok, Lynn. "Progress in the South China Sea? A Year After the Hague Ruling." July 2017. Foreign Affairs Magazine. <https://www.foreignaffairs.com/articles/east-asia/2017-07-21/progress-south-china-sea> //RJ

In a positive sign, **there have been no public reports of Chinese navy or coast guard vessels supporting illegal fishing within the Indonesian EEZ since the award. This is in stark contrast to highly publicized episodes in Indonesia's EEZ in March, May, and June 2016.** In the first of these incidents, a Chinese coast guard vessel rammed an Indonesian law enforcement vessel to secure the release of a Chinese boat being towed away for illegal fishing. Further, **since October 2016, Beijing has also reportedly permitted Philippine and Vietnamese fishermen to return to Scarborough Shoal after blockading it since 2012. This move is consistent with the tribunal's ruling that fishermen from China, the Philippines, Taiwan, and Vietnam all enjoy traditional fishing rights in the territorial sea of Scarborough Shoal,** and these rights were not extinguished by the UN Convention on the Law of the Sea. A senior Chinese general **reportedly** cut short an official visit to Vietnam in June this year because of news that Hanoi had begun drilling in a disputed area that Beijing had previously leased out to a different entity. But **Beijing has done nothing to stop Hanoi's drilling, nor has it made any public statement condemning it.** **The tribunal's award has made clear that China has no legitimate claim to resources in this area.** Beijing's response was far less bellicose than the threats of war it **allegedly** made in May this year after news that Manila wanted to develop Reed Bank. Exploration in this disputed area had been suspended in late 2014 while legal proceedings were ongoing. Beijing has not responded to Manila's latest announcement that it will resume drilling for oil and gas in December. How Beijing chooses to react in the event that Manila proceeds will be critical.

Mark J. Valencia, 2017 (Mark J. Valencia, Adjunct Senior Scholar at the National Institute for South China Sea Studies, Haikou, China, 5-16-2017, "Trump and the South China Sea: Doing the Right Thing for the Wrong Reason," Diplomat, <https://thediplomat.com/2017/05/trump-and-the-south-china-sea-doing-the-right-thing-for-the-wrong-reason/>, accessed 7-9-2018)AO

**"The United States also claims it wants to maintain the rules-based order in the South China Sea. The UN Convention on the Law of the Sea (UNCLOS) is a key part of that rules-based order. The U.S. says that in addition to China, Cambodia, Malaysia, Indonesia, the Philippines, Thailand, and Vietnam are in violation of aspects of UNCLOS and it has challenged these violations militarily with FONOPs. Ironically, unlike most of Asia and indeed the world, the United States has not ratified UNCLOS and may even be violating some of its provisions.**

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.

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 is a strong supporter of a rule-based international order. However, the international rule of law is what the entire international community follows, not a tool to be exploited by a handful of countries to pursue their political agenda. All regional countries should work together to safeguard the regional peace and stability and prevent our region from gradually sliding into the "South China Sea Trap". China and Asean should stick to the dual-track approach in addressing the South China Sea issue, which highlights that the disputes should be addressed properly through friendly negotiations and consultations among countries directly concerned, and the peace and stability of the South China Sea should be safeguarded by China and Asean countries. Nowadays, the South China Sea issue has become a hot topic disturbing Asean leaders' meetings and the East Asia Summit, and has been hyped as a security issue affecting peace and stability in East Asia. From this perspective, it seems that the US might have succeeded in fishing in troubled waters. But in the longer run, no one will ever gain from increasing tension in the South China Sea.

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

The US' rebalancing strategy has blinded some claimant countries with illusions. They are wishfully thinking that, with US backing increasing, they can deal with the South China Sea issue through confrontation instead of consultation. The US has become used to acting as a policeman or judge on global issues, and indulges itself in making rules and dictating ways to execute them. The US cannot tolerate others challenging its global hegemony and believes that all issues should be dealt with as it pleases. The US does not always practise democracy in international relations, but is dictatorial and overbearing. What the US has been doing has been often criticised, which is quite well known to some American political figures. However, bad habits die hard. It is no coincidence that the changes in US policy have been followed by some South-east Asian countries making changes to their policies on the South China Sea issue. The tension in the South China Sea was intentionally churned and hyped. What the US has been and is now doing will end up in a more split Asean.

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

The US also made efforts to encourage the leaders of some South-east Asian countries to discuss the South China Sea issue at Asean meetings, trying to rally the entire Asean against China. As a result, the differences inside Asean accumulated due to the yawning

gaps among the positions of its member states on the South China Sea issue. With the firm support from the US, the Philippines made up its mind to go back on its bilateral agreements with China to resolve the South China Sea issue through negotiation, and initiated the arbitration case. With the so-called arbitration award being just around the corner, the US claimed in a warning tone, that China will pay a great price if it refused to comply with the award. This well indicated that the US supported certain claimant countries not to address the disputes through bilateral consultations with China, rather encouraging them to seek confrontation with China. This is not unexpected if we connect the dots, because the US has been staying behind the arbitration case as the manipulator, and doing whatever it can to ensure that the Philippines wins the case. It is also highly odd, to say the least, to see the US, which is not even a signatory to Unclos, keep asking the countries, China included, that are already acceding to Unclos, to respect international law.

## A2: Divide & Conquer

### Link Defense Rhetoric

1. Delink- Jia '12 of the South China Morning Post writes that China is engaging in multilateral discussions on issues where ASEAN is unified, while using bilateral talks only when ASEAN positions are not unified.
  - a. In fact, Almuttaqi '16 of the ADR Institute indicates that the reason countries seek bilateral agreements with China is because of the failed attempts for multilateralism in the region, despite American efforts.

Jia, Luo. "China is right to favor bilateral talks to resolve South China Sea Rows." South China Morning Post. September 2012. <https://www.scmp.com/comment/insight-opinion/article/1028305/china-right-favour-bilateral-talks-resolve-south-china-sea> //RJ

**The claim that seeking bilateral negotiations is a technique to divide and conquer is another preposterous remark.** It is a precondition that **there must be a unified position or a union to be divided.** But **as far as territorial and maritime disputes are concerned, does Asean, for example, present a unified position?** Is it necessary for the Association of Southeast Asian Nations to form a union on South China Sea disputes? What good would such a union be in maintaining peace and stability in the South China Sea if China, a major party to the disputes, was excluded? **In fact, there is an existing and much better unified position among China and Asean nations regarding the South China Sea issues, which is reflected in the Declaration on the Conduct of Parties in the South China Sea.** We only need to faithfully implement that document. It states that, "the parties concerned undertake to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly concerned". Obviously, Nuland's statements run counter to this consensus, which right now is only defended by China and some Asean countries. **It might be more reasonable to ask whether the United States is playing the game of divide and conquer.**

Almuttaqi, A Ibrahim. "Renewing the Multilateral Response: Building an ASEAN Coalition." ADR Institute. 2016. <https://adrinstitute.org/2016/07/26/renewing-the-multilateral-response-building-an-asean-coalition/> //RJ

In attempting to address these key questions, this article makes the following three arguments. Firstly, that **ASEAN has failed to adequately respond to the South China Sea indicating age-old problems at the very heart of ASEAN decision-making. Such failures have led to ASEAN member-states to seek unilateral/bilateral approaches that call into question ASEAN's relevance and have wider implications for the law-based regional order that its member-states rely upon.** Second, that an 'ASEAN Coalition' is a problematic concept that raises a number of contentious questions. The limitations that exist within ASEAN suggest **an ASEAN Coalition is neither possible nor viable in the foreseeable future.** Thirdly, whether we try to renew a multilateral approach or build an 'ASEAN Coalition', it is important that any efforts regarding the South China Sea is takes a comprehensive and inclusive approach that seeks a win-win solution rather than a zero-sum game.

## A2: Seat At Table

### Link Defense Rhetoric

1. Fuchs '16 of the National Interest writes that acceding to UNCLOS would not give us a “seat at the table” because jurists are expected to exercise independent reasoning and do not take instructions from member governments.
2. Our second contention makes it explicit that the differences in the South China Sea cannot be resolved through UNCLOS because it misses the historical context in the region.



Fuchs, Michael. "UNCLOS Won't Help America in the South China Sea." National Interest. August 2016.  
<https://nationalinterest.org/feature/unclos-wont-help-america-the-south-china-sea-17235> //RJ

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 American on the panel would have played 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 Washington of "staying behind the arbitration case as the manipulator, and doing whatever it can to ensure that the Philippines wins the case."

## A2: Amendments

### Link Defense Rhetoric

1. Girard '18 of the Diplomat writes that only 27 countries in the world take similar positions to China, indicating that it is a far cry that China has hijacked the agreement. This means other countries would reject amendments, insofar where the vote has to be unanimous.

Girard, Bonnie. "China's Pursuit of Power in Asian Seas." May 2018. The Diplomat.

<https://thediplomat.com/2018/05/chinas-pursuit-of-power-in-asian-seas/> //RJ

The report lists **only 27 countries that take a similar position to China on UNCLOS, agreeing with Beijing that a state may regulate both economic as well as foreign military activities in their EEZs**. Two of those countries, Malaysia

and Vietnam, are in dispute with China over South China Sea islands, perhaps providing an added wrinkle to their respective positions.

In the meantime, the report points out, the U.S. response to China's increasingly aggressive moves in the two seas, including militarizing the South China Sea islands under dispute, has historically been largely verbal. The United States would "reiterate" its positions on claims, and express "strong concerns" about land reclamation, making "call[s] for a halt" to these activities.

## A2: FONOPS Bad

### Link Defense Rhetoric

1. Valencia '17 of the Diplomat writes that Trump has ended FONOPs against China in order to gain Chinese assistance in defusing the Korean peninsula.

Valencia, Mark. "Trump and the South China Sea: Doing the Right Thing for the Wrong Reason." May 2017. The Diplomat. <https://thediplomat.com/2017/05/trump-and-the-south-china-sea-doing-the-right-thing-for-the-wrong-reason/> //RJ

But President **Trump and** these Cabinet **officials are now singing a different tune** when it comes to China. Despite previously questioning the "One China" policy, Trump subsequently told China's President Xi Jinping that he will honor and observe it. Tillerson "clarified" his earlier remarks, indicating that he is not pushing for a blockade of China-occupied features in the South China Sea. **Mattis** has also walked back his previous belligerent stance, **saying that the U.S. would focus on diplomacy regarding the South China Sea disputes**. According to Mattis, "[A]t this time, we do not see any need for dramatic military moves at all." **The Trump administration has turned down three PACOM (U.S. Pacific Command) requests to carry out new FONOPs against China**. These requests were made largely because that is what PACOM thought the Trump administration wanted. US Pacific Fleet commander Admiral Scott Swift explained rather weakly that "we just present the opportunities... They are either taken advantage of or they're not." **It appears that Trump, in his "let's make a deal" approach to foreign policy, has backed off criticism and actions against China in general and in the South China Sea in particular in return for China's assistance in stopping North Korea's nuclear weapon and missile development programs**. This transactional approach means that his foreign policy is negotiable and not based on principles. But **the immediate effect on U.S.-China relations has been positive. Before this pause, the two were working themselves into a corner that could have led — and still could lead — to confrontation and conflict in the South China Sea. This lull in U.S. criticism and challenges at sea presents an opportunity for a reassessment of, and maybe even a restart in, their policies and relations on this issue.**

## A2: Hypocrisy

### Link Defense Rhetoric

1. Fuchs '16 of National Interest writes that resolving our hypocrisy wouldn't change China's decision calculus because they have made a decision that defending its sovereignty outweighs any harms imposed by the agreement.
  - a. This means that the only way to counteract China comes from the multilateral agreements that ASEAN nations have, because those address the historical context of the region.

Fuchs, Michael. "UNCLOS Won't Help America in the South China Sea." National Interest. August 2016.  
<https://nationalinterest.org/feature/unclos-wont-help-america-the-south-china-sea-17235> //RJ

Second, **the only thing that the United States would achieve by joining UNCLOS**—at least from the perspective of modifying Chinese behavior—**would be to deprive Beijing of its talking point that U.S. exhortations to claimant states to comply with UNCLOS amount to “hypocrisy.” Deprived of this talking point, there’s no reason to believe that Beijing would submit to the tribunal’s authority.** Although U.S. ratification of UNCLOS would be a boost to the prestige of the convention, **Beijing has evidently made a calculated judgment that defending its perceived sovereignty and the strategic value of physical control of large stretches of the South China Sea outweighs whatever reputational damage it suffers as a result of flouting the tribunal’s decision.**

## A2: Overfishing

### Impact Defense Rhetoric

1. The Science Magazine '12 writes that claims that fish stocks will completely collapse by 2050 ignore the current trends of improvement. Ocean Conservancy '17 writes that 43% of overfished populations have been rebuilt already and another 31% are in the process of being rebuilt.

### Fish Sanctions DA

1. McLaughlin of the University of Mississippi writes that statutes under UNCLOS would outlaw the sanctions that America uses to bring other countries into compliance with fishing regulations, thereby preventing any enforcement mechanism for ending overfishing. These sanctions are preferable to accession for two reasons:
  - a. They provide a method for achieving policy objectives immediately without the delays inherent to an international process.
  - b. It is empirically the only method to bring other countries into compliance.



*Netting Better Data on Global Fish Stocks.* (2012). *Science* | AAAS. Retrieved 13 July 2018, from <http://www.sciencemag.org/news/2012/09/netting-better-data-global-fish-stocks>

Meanwhile, even as they discuss measures for sustainable management, conservation scientists and fisheries scientists are locked in a disagreement about whether global fish stocks are in crisis. In 2006, marine ecologist Boris Worm of Dalhousie University in Halifax, Canada, and colleagues published a paper **in Science that projected that if current practices remain unchanged, all fish stocks would collapse by 2048. This projection received heavy criticism from fisheries scientists, who said that the number of recovering stocks actually shows an overall improvement.**

**“U.S. Is Successfully Ending Overfishing and We Can't Afford to Stop Now.” *Ocean Conservancy*, 5 May 2017, [oceanconservancy.org/blog/2013/09/09/u-s-is-successfully-ending-overfishing-and-we-cant-afford-to-stop-now/](http://oceanconservancy.org/blog/2013/09/09/u-s-is-successfully-ending-overfishing-and-we-cant-afford-to-stop-now/).**

Together **Americans are solving** a problem—**overfishing**—and we can't afford to stop now. Ending overfishing means sustainable fishing for generations to come. It means healthy seafood on our dinner plates and sustained livelihoods across the country. Our nation's vital fisheries law, the Magnuson-Stevens Fisheries Conservation & Management Act, has already helped rebuild fish populations like New England scallops, Mid-Atlantic bluefish, Pacific lingcod and Gulf red snapper. A new report by **the National Research Council says 43 percent of overfished populations have been rebuilt already or will be rebuilt within a decade. And if we continue** to allow the Magnuson-Stevens Act to work, **another 31 percent of these populations are on track toward rebuilding as well.**

**McLaughlin 94:** Richard McLaughlin, University of Mississippi, Director, Mississippi-Alabama Sea Grant Legal Program/Adjunct Professor of Law, “UNCLOS and the Demise of the United States' Use of Trade Sanctions to Protect Dolphins, Sea Turtles, Whales, and Other International Marine Living Resources,” *Ecology Law Quarterly*, Jan 1994 //ND. <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1452&context=elq>

“The political strength of this coalition has gained the attention of Congress and the Clinton administration, leading some observers to predict that the momentum toward trade restrictive policies will accelerate in the United States in coming years.”<sup>46</sup> In sum, the purpose of the trade embargo provisions of the Marine Mammal Protection Act,<sup>147</sup> Sea Turtle Conservation Amendments of 1989,<sup>148</sup> **[The] Pelly Amendment,** <sup>149</sup> **and comparable U.S. statutes** <sup>50</sup> is to **force foreign nations to alter their fisheries conservation and management practices so that they comply with [US] standards** deemed adequate by the United States. <sup>151</sup> **Embargoes may be imposed** regardless of **whether the noncomplying practice occurs on the high seas, in a[n] coastal state's exclusive economic zone (EEZ), in a territorial sea, or in internal waters.**<sup>152</sup> For example, a **foreign** nation may require its **fishermen** to **[may] employ new technologies or** <sup>gear</sup> **restrictions that satisfy the conservation standards mandated by the United States.** <sup>153</sup> The impact on fishing operations brought about by these changes will not be limited to one juridical zone but may extend from the nation's internal waters to the high seas. Moreover, U.S. trade sanctions may be triggered even if a foreign nation's activities are fully consistent with its domestic laws, applicable international agreements, and existing customary international law.”

**Those programs would be ended after accession because the US would be stripped of influence over other countries maritime laws**

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"This article examines UNCLOS' compulsory dispute settlement provisions and the important role they may play in the development and implementation of U.S. policy on the protection of international marine living resources. **The United States may have to relinquish its use of unilateral economic sanctions** as a method of protecting dolphins, sea turtles, and whales **if it chooses to become a party to UNCLOS** and the Convention enters into force. 9 **This assertion is based upon an analysis of the substantive rights granted to States Parties under the Convention' ° and its compulsory dispute settlement provisions, which prevent parties from imposing unilateral remedies against other parties.**"

**McLaughlin 94:** Richard McLaughlin, University of Mississippi, Director, Mississippi-Alabama Sea Grant Legal Program/Adjunct Professor of Law, "UNCLOS and the Demise of the United States' Use of Trade Sanctions to Protect Dolphins, Sea Turtles, Whales, and Other International Marine Living Resources," Ecology Law Quarterly, Jan 1994 //ND.  
<https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1452&context=elq>

**Unilateral state action to protect the international environment appeals to the United States for several reasons.'** 31 **First, it provides a method of achieving policy objectives immediately with none of the delays inherent in international bilateral or multilateral negotiations.** 132 **Second, it is less expensive to implement because the United States is not required to provide tradeoffs and incentives to reach agreement.** 33 **Third, and most importantly,** a broad spectrum of U.S. political constituent groups perceive **it as the most effective and, in some instances, the only feasible method to get foreign nations to change their behavior.** 34

# \*Arctic

## A2: Natural Gas

### Link Defense Rhetoric

1. Oil Change International '17 writes that greater supplies of gas wouldn't reduce emissions because the additional gas would displace zero-carbon energy, concluding that emissions could even increase.

### Impact Turn Rhetoric

2. Oil Change International '17 writes that building new natural gas infrastructure would lock-in fossil fuels for 40 years because companies expect to operate their plants for decades to come and won't retire their infrastructure until then.

Oil Change International. "Burning the Gas 'Bridge Fuel' Myth." Nov. 2017.

<http://priceofoil.org/content/uploads/2017/11/gas-briefing-nov-2017-v5.pdf> //RJ

**The problem with building a lot of new gas capacity is that the companies investing in gas infrastructure expect to operate their plants for decades to come. Power plants and related infrastructure like pipelines and LNG terminals are multi-billion dollar investments that require decades of operation to turn a profit. Nobody investing today expects to retire the infrastructure before at least 40 years if not more. This means that gas plants built over the next few years will still be operating beyond 2050, when emissions from the power sector should be nearing zero. What's more, it is hard to shut down a power plant once it's built because of the problem of lock-in. Once the capital has been sunk, the operator will always keep running a plant as long as they can sell power for more than the marginal cost of producing it – even if they make a loss on the invested capital. So it becomes very hard for alternatives to compete with it. Furthermore, there are legal barriers, and lobbying power against the early shutdown of plants.**

Oil Change International. "Burning the Gas 'Bridge Fuel' Myth." Nov. 2017.

<http://priceofoil.org/content/uploads/2017/11/gas-briefing-nov-2017-v5.pdf> //RJ

Indeed, several studies in the United States have modeled the competition between different fuels, finding that **greater supplies of gas will not significantly reduce emissions** (absent other regulatory measures on climate), **in large part because some of the additional gas displaces zero-carbon energy as well as coal.**<sup>15</sup> **A global study**,<sup>16</sup> using five integrated assessment models, **found that increased gas availability or reduced gas cost led to either equivalent emissions, or in some cases higher emissions.**<sup>17</sup>

## A2: Dispute Settlement

### Link Defense Rhetoric

1. Sharp '11 of Defence Studies writes that Russia is unlikely to engage in any military confrontation in the region because it would severely damage its economic security, which is explanatory for their conciliatory approach to the Arctic.
2. Aerandir '12 of the Naval Postgraduate School writes that Russia included a reservation to opt out of the UNCLOS dispute settlement, which means acceding wouldn't help American check back on conflict in the Arctic.
3. (General) Freedberg '17 of Breaking Defense writes that there are two reasons conflict in the Arctic is unlikely:
  - a. There aren't historical problems in the region, which means conflicts can be resolved through peaceful means.
  - b. The dispute in the Arctic is over resources, not over use of military and freedom of navigation.

Sharp, Todd. "The Implications of Ice Melt on Arctic Security." Defence Studies. June 2011.

<https://www.tandfonline.com/doi/abs/10.1080/14702436.2011.590318?scroll=top&needAccess=true&journalCode=fdef20> //RJ

**From Russia's security strategy,<sup>40</sup> and evidence of Russia's pragmatism in its approach to the Arctic,** it is

possible to draw two broad security conclusions: **First, Russia is unlikely to engage in any military confrontation that could potentially damage its economic security. This is consistent with Russia's broadly conciliatory approach to the Arctic, despite its often-inflammatory rhetoric, and symbolic actions such as placing a Russian flag on the seabed beneath the North Pole.** Russia's approach is underpinned by a belief that it has both the law, and scientific evidence in its favour, and that it therefore has a legal right to a significant unclaimed portion of Arctic seabed, particularly along the Lomonosov Ridge. If Russia's claim to the CLCS is eventually successful, it stands to gain approximately 460,000 square miles, or half of the Arctic's seabed and the rich resources contained therein.<sup>41</sup>

Aerandir, Mate. "BREAKING THE ICE: POTENTIAL U.S.-RUSSIAN MARITIME CONFLICT IN THE ARCTIC."

Dec. 2012. Naval Postgraduate School. <http://www.dtic.mil/dtic/tr/fulltext/u2/a573497.pdf> //RJ

**In the case of Russia in particular, upon acceding to the UNCLOS in 1997** and in accordance with Article 298 therein, **it declared that it does not accept the procedures**, provided for in Section 2 of Part XV of the Convention, **entailing binding decisions with respect to disputes concerning the interpretation** or application of articles 15, 74 and 83 **of the Convention, relating to sea boundary delimitations, or those involving historic bays or titles; disputes concerning military activities, including military activities by government vessels and aircraft, and disputes concerning law-enforcement activities in regard to the exercise of sovereign rights or jurisdiction; and disputes** in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations.<sup>151</sup>

In effect, Moscow declared that it would accept delimitation of disputed boundaries only on a bilateral basis, negotiated outside the UNCLOS regime. Russia's pending resubmission<sup>152</sup> to the CLCS of its excessive continental shelf claims has been interpreted as merely a diplomatic maneuver of convenience to gain recognition for its claims and not an earnest effort to use the UNCLOS as a peaceful dispute resolution mechanism.

Nemeth, Stephen. "Ruling the Sea: Institutionalization and Privatization of the Global Ocean Commons."

University of Iowa. 2008. [https://ir.uiowa.edu/cgi/viewcontent.cgi?article=1003&context=polisci\\_pubs](https://ir.uiowa.edu/cgi/viewcontent.cgi?article=1003&context=polisci_pubs) //RJ

While it appears that neither privatization nor institutionalization predicts 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** ( $\chi^2 = 4.63$ ,  $p=0.031$ ). 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.**

Freedberg, Sydney. "Is The Arctic The Next South China Sea? Not Likely." Breaking Defense. Aug. 2017.  
<https://breakingdefense.com/2017/08/is-the-arctic-the-next-south-china-sea-not-really/> //RJ

**The Arctic will remain inhospitable, hard to exploit, and far removed from the world's great hubs of economic activity – which are increasingly shifting to Asia, where the South China Sea happens to be. What conflicts arise up north can probably be settled by peaceful means, because the poles are literally the only places on Earth with no history of warfare over territorial claims.**

In fact, while the Russians and Chinese are increasingly asserting themselves, so far they've been strikingly well-behaved. "Today, there are some competing claims, but...it's an orderly process and no one is building islands, drilling in someone else's potential EEZ (Exclusive Economic Zone), or harassing each other's vessels," said Bryan Clark, a retired Navy strategist now with the Center for Strategic & Budgetary Assessments. "Unlike the South China Sea, the Arctic will not be a transit area for 30-40 percent of world trade; will not be adjacent to the homes of more than one billion people; and not subject to multiple overlapping and unresolvable claims."

Freedberg, Sydney. "Is The Arctic The Next South China Sea? Not Likely." Breaking Defense. Aug. 2017.  
<https://breakingdefense.com/2017/08/is-the-arctic-the-next-south-china-sea-not-really/> //RJ

Further afield, Moscow is pressing a claim to the seabed all the way to the North Pole. Denmark, which owns Greenland, has also claimed the polar seabed, and Canada may as well. (The US has done surveys but can't submit a claim because it hasn't ratified UNCLOS).

**Unlike the overlapping claims in the South China Sea, however, the Arctic claims don't concern who can sail, fish, or conduct military operations in the water. Instead, they only cover mineral rights to the sea floor and below.**

That's sensitive, since everything from oil to natural gas to [manganese nodules](#) is down there, but at least **it doesn't affect freedom of navigation for ships, submarines, and planes.**

## A2: Veto Power - Royalties Good

### Link Defense

1. Groves '11 of the Heritage Foundation writes that while the US would hold a veto over the ISA, the ISA only makes recommendations and has no real effect on policy, which is why he concludes that the US would be powerless from stopping the ISA from distributing royalties to corrupt and undemocratic states.
2. Houck '13 of Pennsylvania State University writes that countries aren't going to pay royalties anyways because most of the oil and gas would be extracted in the first six years of drilling. This has two implications on their case:
  - a. This means no royalties ever get paid so their impact never manifests.
  - b. Mingay '06 of the International Journal of Marine and Coastal Law writes that royalties create a perverse incentive for companies to rush and drill in order to avoid paying royalties.

**Houck 13** James W. Houck [Penn State Law], 2013, "The Opportunity Costs of Ignoring the Law of Sea Convention in the Arctic," Penn State Law eLibrary,

[https://elibrary.law.psu.edu/cgi/viewcontent.cgi?article=1240&context=fac\\_works](https://elibrary.law.psu.edu/cgi/viewcontent.cgi?article=1240&context=fac_works) //DF

These arguments have proven a successful rallying point for UNCLOS opponents and a potential political millstone for senators who might otherwise be inclined to support the convention. The arguments have retained force despite the fact that the United States itself originally conceived the royalty plan under the Nixon Administration, with the full support of U.S. industry—support that has remained consistent across nearly four decades. Royalties were proposed as a modest concession in return for agreement on the U.S.-sponsored extended continental shelf regime.<sup>138</sup> Indeed, **most of the oil and gas that may be recovered would be in the first six years and thus would not ever be subject to royalty payments.** The “UN-style bureaucracy” argument has also endured despite the fact that opponents have presented no evidence that the ISA is either inefficient, overstaffed, or corrupt at any time throughout the nearly 19 years since its founding in 1994.

**Groves 11** Steven Groves, 6-7-2011, "U.N. Convention on the Law of the Sea Erodes U.S. Sovereignty over U.S. Extended Continental Shelf," Heritage Foundation, <https://www.heritage.org/report/un-convention-the-law-the-sea-erodes-us-sovereignty-over-us-extended-continental-shelf> //DF

UNCLOS provisions direct that international royalties generated by resource exploitation of the ECS be distributed to certain recipients to the exclusion of others. The Authority is required to distribute the revenue only to UNCLOS members and to preference developing countries, particularly those that are landlocked or the “least developed,” and to “peoples who have not attained full independence or other self-governing status.”<sup>[51]</sup> If the United States joined UNCLOS, it would be one of more than 160 nations that are party to the convention and would have limited control over the disposition of Article 82 revenue. All final decisions on the “equitable sharing of...payments and contributions made pursuant to article 82” are made by the Assembly, the “supreme organ” of the Authority. The Assembly consists of all nations that are party to UNCLOS.<sup>[52]</sup> **The United States would have only one vote in any Assembly decision, whether it dealt with Article 82 revenue or some other matter.**<sup>[53]</sup> Some UNCLOS proponents maintain that the United States, if it joined the convention, would have a “veto” over such decisions because **the U.S. would hold a permanent seat on the 36-member Council,** which is the executive organ of the Authority.<sup>[54]</sup> In fact, **UNCLOS empowers the Council only to make recommendations to the Assembly on the disposition of Article 82 revenue, which the Assembly may approve or disapprove.**<sup>[55]</sup> Any Council recommendation that is disapproved by the Assembly is returned to the Council “for reconsideration in the light of the views expressed by the Assembly.”<sup>[56]</sup> Therefore, in function and form, the Assembly makes final determinations regarding the disposition of Article 82 revenue. Thus, it is unlikely that the United States would be able to prevent the Authority from distributing Article 82 revenue to Cuba and Sudan, UNCLOS members that the U.S. State Department has designated as state sponsors of terrorism.<sup>[57]</sup> It would also be difficult for the United States to block the Authority from sending funds to the undemocratic, despotic, and/or brutal regimes in Belarus, Burma, China, Somalia, and Zimbabwe.<sup>[58]</sup> Finally, the United States would have limited ability to stop the transfer of Article 82 revenue **to corrupt regimes, especially given that 13 of the 20 most corrupt nations in the world are UNCLOS members.**<sup>[59]</sup> By virtue of its seat on the Council, the United States might be able to hinder decisions to distribute Article 82 revenue for purposes to which it objects. Whether the United States would be steadfast in its objections to such distributions and whether the Assembly would make any such distributions without the consent of the Council are open questions.<sup>[60]</sup>

Mingay, George. "Article 82 of the LOS Convention—Revenue Sharing—The Mining Industry's Perspective." The International Journal of Marine and Coastal Law. Vol. 21, No. 3 (2006): 335-346. <http://scihub.tw/10.1163/157180806778884705> //RJ

While Moore’s view is also that Article 82 is a “small quid pro quo”,<sup>11</sup> the Article may nonetheless have undesirable consequences. For example, Rainer Lagoni observed in New Delhi in 2002 that **in providing**



**for five years where the revenue share is nil per cent before slowly climbing by one per cent a year there is an incentive of the mining industry to extract resource at a far faster rate than they might otherwise do.**<sup>12</sup> This may lead to an inefficient, even wasteful use of resource, particularly when taking into account the gearing of refinery resources to the raw resource available.

## A2: Royalties Good

### Link Defense Rhetoric

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### Link Turn Rhetoric

1. Groves '11 of the Heritage Foundation writes that royalties are no-strings attached money with zero regulation over how they are spent. Thus, Murray '13 of the National Center for Policy Analysis writes that royalties are funneled into the hands of corrupt governments, allowing them to consolidate control and worsen the conditions of their peoples because they are now less dependent on their support. Indeed, Moyini '07 of the IGAD writes that empirically, resource-based royalties almost never get to the communities that need them.

Dichter, '05 [9/12/05, (Amherst and Boston: University of Massachusetts Press, 2003). "Time to Stop Fooling Ourselves about Foreign Aid A Practitioner's View", <http://www.cato.org/sites/cato.org/files/pubs/pdf/fpb86.pdf>]

The foreign aid industry has for decades tried one approach after another in an effort to make aid work. A career of field experience in the aid industry, however, confirms the empirical record that aid is unimportant to growth or poverty reduction and suggests that aid is not likely to work in the future. The belief that foreign assistance has been generally ineffective, moreover, appears to be widespread among aid practitioners with long field experience. The current effort by the United Nations to double worldwide aid flows is part of a pattern to reinvent foreign aid. Since the 1950s, the industry has alternately focused on promoting industrialization, agriculture, poverty reduction, health, institutions, and so on. The UN has sponsored numerous grandiose resolutions that have also failed to spur development. We have come to the point where new ideas on making aid work are recycled old ideas. In practice, the aid industry has not changed much. The ineffectiveness of aid has little to do with a lack of resources. Its roots lie instead in the complex nature of poverty and the flawed nature of institutions and governments in poor countries. The aid industry's bureaucratic continuing growth also undermines effectiveness and accountability. Rich nations should reject calls for increasing aid and should probably reduce such funding

**Houck 13** James W. Houck [Penn State Law], 2013, "The Opportunity Costs of Ignoring the Law of Sea Convention in the Arctic," Penn State Law eLibrary,

[https://elibrary.law.psu.edu/cgi/viewcontent.cgi?article=1240&context=fac\\_works](https://elibrary.law.psu.edu/cgi/viewcontent.cgi?article=1240&context=fac_works) //DF

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While Moore's view is also that Article 82 is a “small quid pro quo”,<sup>11</sup> the Article may nonetheless have undesirable consequences. For example, Rainer Lagoni observed in New Delhi in 2002 that **in providing for five years where the revenue share is nil per cent before slowly climbing by one per cent a year there is an incentive of the mining industry to extract resource at a far faster rate than they might otherwise do.**<sup>12</sup> This may lead to an inefficient, even wasteful use of resource, particularly when taking into account the gearing of refinery resources to the raw resource available.

**Moyini,** Yakobo. “IGAD Environment and Natural Resources Strategy.” *Igad.int*, Intergovernmental Authority on Development, 2007, [igad.int/attachments/159\\_IGAD\\_ENR\\_Strategy.pdf](http://igad.int/attachments/159_IGAD_ENR_Strategy.pdf).

“In most IGAD countries, **the revenues that governments receive from the utilisation of natural resources are based on some arbitrary ‘royalty’ figure or percentage. The amounts paid to governments are often nowhere near the true economic values of these resources. Furthermore, the sharing of even the little that is received by government with the communities where the resources occur – derivation funds – is almost non-existent, or sub-optimal, indicating very low level of governance in environment and natural resources.** While the IGAD member states have developed fairly comprehensive laws and regulations governing environment and natural resources management, degradation still occurs due to the low level of enforcement of the laws. The task/process of enforcement is quite expensive and member states may not have the wherewithal to support it. Therefore, there is urgent need to identify suitable incentives and disincentives measures to complement regulatory enforcement.”

**Groves, Steven.** U.N. Convention on the Law of the Sea Erodes U.S. Sovereignty over U.S. Extended Continental Shelf. Heritage Foundation: Washington, D.C., June 7, 2011 (1-13p).

**UNCLOS is silent on how UNCLOS nations that receive Article 82 royalty revenue should spend it. UNCLOS does not require recipient nations to spend the revenue on anything related to the oceans or the maritime environment.** Nor does it require them to spend the revenue on humanitarian or development projects, even though most, if not all, of the eligible recipients are supposed to be poor, developing countries. **Recipients are apparently free to spend the funds on military expenditures or**

simply deposit them into the personal bank accounts of national leaders. Finally, UNCLOS does not require that Article 82 revenue be spent in a transparent or accountable manner. Apparently, the Authority simply hands over substantial amounts of money to the recipient nation to be spent however that nation sees fit, no matter how corrupt or inept that nation's leadership is.

Murray, Iain. [LOST at Sea: Why America Should Reject the Law of the Sea Treaty](#). National Center for Policy Analysis: Washington, D.C., March 2013 (20p).

There are also the costs from the redistribution of payments from the Authority to governments of developing countries. Many of these governments are less than savory, and traditional aid funds or revenues from existing natural resources are already being channeled into the pockets of the governing class and used to keep them in power. An additional revenue stream from the Authority would further cement their positions and worsen the condition of their peoples, further suppressing global growth. Add to this the aforementioned risk of allocating funds to separatist or terrorist organizations, which could turn the Authority into a backdoor source of funding for the arms trade. Thus, if the Authority works in the way it is constituted, it would represent a perverse cost to the poorest people in the world.

## A2: Energy Independence

### Link Defense Rhetoric

1. The US Energy Information Administration writes that energy independence will occur within the next three years anyways, indicating that the Arctic is by no means necessary for this goal.

### Impact Defense Rhetoric (Middle East)

1. Kagan '12 of the Brookings Institute writes that even if the US gets oil from countries outside of the Middle East, the US is still forced into Middle Eastern affairs because they can shock global oil prices by controlling supply. The implication is that even with energy independence, America is still forced to purchase from the Middle East because of the geopolitical risks associated with not doing so.

### Petrostate Instability DA

1. Alter '13 of the New York Times writes that energy independence would be really bad because the sudden supply created from American production would drive down prices of oil, shaking the foundation of undemocratic petrostates across the globe. When this happens, he continues that these countries will pursue more aggressive policies to fan the flames of nationalism and maintain control of government, concluding that conflicts in the Middle East or with Russia could easily happen.

U.S. Energy Information Administration. "The United States is projected to become a net energy exporter in most AEO18 cases." U.S. Government. Feb. 2018.

<https://www.eia.gov/todayinenergy/detail.php?id=34912> //RJ

EIA projects that **the United States will become a net energy exporter in 2022** in the newly released **Annual Energy Outlook 2018 (AEO2018) Reference case**, primarily driven by changes in petroleum and natural gas markets. **The transition from net energy importer to net energy exporter occurs even earlier in some sensitivity cases that modify assumptions about oil prices or resource extraction**. Sensitivity cases with less energy production project that the United States will remain a net energy importer through 2050.

Kagan, Robert. "United States Can't Pivot from the Middle East." Brookings Institute. 20 Nov., 2012.

<<https://www.brookings.edu/opinions/united-states-cant-pivot-away-from-middle-east/>> //RJ

The irony, of course, is that **every time the Obama administration tries to turn toward Asia, the Middle East drags it back** — literally, in the case of [Secretary of State Hillary Clinton](#). **It's an illusion to think we will not continue to be drawn into Middle East affairs**. The world is no longer neatly divided by distinct regions, if it ever was. Events in the Middle East affect the world, just as events in Asia do.

**Wherever the United States gets its oil, global energy prices are affected by whether oil flows freely from the Middle East**, and **U.S. allies in Europe and Asia still depend on that as a main source**. If Iran acquires a nuclear weapon, it will affect not just the Middle East but the global non-proliferation regime. The success or failure of the experiment to marry Islamism and democracy that is playing out in Egypt, Tunisia and elsewhere will affect politics across the Islamic world, from Morocco to Pakistan to Southeast Asia as well as in Europe. And if Syria collapses, the chances are high that well-armed terrorist groups will gain a foothold in a nation with the world's largest chemical weapons stockpiles.

Alter, Benjamin. "The Dark Side of Energy Independence." April 2013. New York Times.

<https://www.nytimes.com/2013/04/28/opinion/sunday/the-dark-side-of-energy-independence.html>  
//RJ

That's because **America's oil and gas bonanza will drive down global energy prices, undercutting the foundations of petrostates everywhere**. According to Francisco Blanch, the head of commodities research at Bank of America Merrill Lynch, oil could fall to just \$50 a barrel within the next two years, which could unleash unrest in regions crucial to American interests. **Far from releasing the United States from the burden of global leadership, this process would force Washington to assume an even greater international role than it currently plays**. If there's one part of the world that America would like to be less encumbered by, it's the volatile and oil-rich Middle East. **But energy independence will not spell the end of American engagement in that region**. On the contrary, **lower energy prices will undermine the stability of the Persian Gulf monarchies, whose hefty oil revenues have allowed them to win their populations' loyalties through patronage and a lack of taxation**. These countries do not always share American values or help advance American interests, but **anything that destabilizes them would create problems that Washington could not afford to ignore**.

Alter, Benjamin. "The Dark Side of Energy Independence." April 2013. New York Times.

<https://www.nytimes.com/2013/04/28/opinion/sunday/the-dark-side-of-energy-independence.html>  
//RJ

**Outside the Middle East, declining global energy prices could have equally destabilizing effects. Russia rode its way out of the post-Soviet doldrums on a wave of rising revenues from oil** and natural gas sales. Today, roughly half the country's 83 regions could not stay afloat without federal aid, which President Vladimir V. Putin has been able to supply generously thanks to huge oil profits. **As in the gulf monarchies, such transfers have allowed the government to neutralize political opposition**. But discontent is still on the rise, as evidenced by the occasional protests that have shaken Moscow since 2011. **Even a temporary drop in oil prices would constrain Mr. Putin's ability to pay off his enemies**; experts at the Russian School of Economics predict that the country's oil wealth fund, a stash of petrodollars reserved for times of need, would be depleted if prices fell to \$60 a barrel for just one year. **If he's unable to buy loyalty through patronage, Mr. Putin could turn to more pernicious methods like bullying neighbors and fanning the flames of nationalism. With outstanding border disputes and age-old rivals circling Russian territory, another conflict along the lines of the 2008 war against Georgia is not out of the question.**



# \*Environment

## A2: REMs

### Link Defense Rhetoric

1. The problem doesn't lie in supply; Plumer '12 of the Washington Post writes that rare earth metals aren't actually that rare, and America used to be a producer. The problem is that America was outcompeted by China's nonexistent environmental policies which lowered the cost of production. Thus, the Institute for Economic Research '18 writes that America has enough supply of REMs, but faces regulatory and economic hurdles to production.
2. Stone '18 of Earther writes that there are two reasons why deep sea REM mining is far in the future;
  - a. The technology for REM mining doesn't exist and won't exist for decades.
  - b. Even if it did exist, China's onshore REM mining would drop the price and outcompete any high-cost deep sea miners of REMs.

### Impact Turn Rhetoric

1. Heffernan '15 of High Country News writes that more than half of rare earth metals are used for oil refining. The implication is that the majority of REMs are used to make oil more efficient, which means it actually sets renewables backwards. That's important, because Slav '18 of OilPrice writes that high oil prices spur investment in renewables by making them more competitive. Thus, REMs that make oil production more efficient only serve to undercut renewable investment.

### Impact Calculus

1. Realize that Arctic Drilling would halt any renewable progress in two ways:
  - a. First, supply contracts. Kammen '14 of the National Geographic writes that the high-capital cost to begin large fossil fuel projects lock countries into fossil fuels and prevent them from shifting investment into renewable projects as the price of renewables drop. The implication is that starting more fossil fuel investment now would prevent later shifts to renewables.
  - b. Second, outcompeting renewables. If America is able to access the Arctic, it increases the supply of oil, thus driving down price for fossil fuels. This makes fossil fuel energy cheaper than renewable energy, thus outcompeting and shutting out renewables.

Plumer, Brad. Washington Post. October 2012.

[https://www.washingtonpost.com/news/wonk/wp/2012/10/19/chinas-chokehold-over-rare-earth-metals-is-slipping/?utm\\_term=.3ea9b46c32dc](https://www.washingtonpost.com/news/wonk/wp/2012/10/19/chinas-chokehold-over-rare-earth-metals-is-slipping/?utm_term=.3ea9b46c32dc)

So what happened here? One key thing to note is that, despite their colorful name, rare earth metals aren't actually all that rare. At one point or another during the twentieth century, Brazil, India, the United States and South Africa were all major producers. It's just that, in the 1980s, China decided to ramp up production massively, driving out competitors and cornering the market. (China managed to do this, in part, by going easy on environmental oversight of mining, which can be [a horrifically dirty process.](#))

Stone, Maddie. "Don't Get Too Excited Over Japan's New 'Semi-Infinite' Rare Earth Stash." Earther. April 2018. <https://earther.gizmodo.com/dont-get-too-excited-over-japans-new-semi-infinite-rare-1825185977//RJ>

**There's just one teeny, tiny problem** (the same one that always arises when people find exciting new metal deposits on the ocean floor). **Deep ocean mining technology doesn't exist, and it probably won't for decades.** As [John Wiltshire](#), a prospecting geologist and director of Hawaii's Undersea Research Lab noted to Earther, if you look at the top 20 largest mining companies globally, none of their websites reference any ocean mining projects. "That's gotta tell you something," he said. While acknowledging that the researchers have found "a very good deposit," Wiltshire says **anyone interested in commercially extracting this stuff is going to need to invest billions developing the tech for scraping, blasting, and cutting the seafloor,** hauling the valuable bits thousands of feet up to the surface, and mitigating any environmental impacts ([which could be huge](#)). **"It's just a feat outside the realm of what mining companies are willing to do today,"** [David Abraham](#), a senior fellow New America and rare metals expert, told Earther. **"It's just like if we find things on comets and asteroids."** Meanwhile, Wiltshire said, **China is moving to solidify its future monopoly on the rare earth market. State-backed companies are working to secure mining rights and bring new deposits online in Africa and South America that are "guaranteed to drop the price and produce at a loss long enough to clean out any high cost ocean competitors."**

IER 2018 (The Institute for Energy Research is a Washington, D.C.-based non-profit organization that conducts research and analysis on the functions, operations, and government regulation of global energy markets, "The United States Is Dependent on Other Nations for Critical and Strategic Minerals", *IER*, February 23<sup>rd</sup> 2018, <https://instituteforenergyresearch.org/analysis/united-states-dependent-nations-critical-strategic-minerals/>. DOA: July 13th 2018) TG

According to the deputy associate director of the Geological Survey, **the United States has "deposits of every element in the periodic table" but faces economic and regulatory hurdles to production. The United States was ranked as the world's largest producer of these minerals until 1995, when China took its place. The United States has bountiful supplies of critical and strategic minerals necessary for all technologies, including energy.** It is a good thing that the Trump Administration is looking to change policies to accommodate the production of more of those minerals in the United States.

Kammen, Daniel. "Why You Don't Need Fossil Fuel to Fight Poverty. (Clean Energy Does it Better.)" National Geographic. Feb. 2014. <https://www.nationalgeographic.com/environment/great-energy-challenge/2014/why-you-dont-need-fossil-fuel-to-fight-poverty-clean-energy-does-it-better/> //RJ

Moreover, **the high capital cost of large centralized fossil fuel projects typically result in long-term power purchase agreements, thus locking countries into expensive long-term fossil fuel supply contracts, sometimes over two decades, thus forgoing the opportunity to displace more expensive fossil fuel projects with cheaper renewable energy projects as the costs of renewables drop.** And, large centralized fossil fuel projects can take several years to construct before generating electricity, while renewable energy can be more quickly deployed and does not saddle poor communities with expensive long term fossil fuel supply costs. According to a Baker McKenzie survey of 140 senior business executives from project developers, bank, investors and service providers, "renewables [in Africa] can be installed much more rapidly than conventional fossil fuel generation. Solar PV also has [a natural advantage over other renewable technologies](#) in that it can be deployed on a relatively small scale – 85% of survey respondents believe that [solar PV's suitability for rural, off-grid applications](#) is a strong driver for its installation."

Heffernan, Tim. "Why rare-earth mining in the West is a bust." High Country News. June 2015. <https://www.hcn.org/issues/47.11/why-rare-earth-mining-in-the-west-is-a-bust> //RJ

Modern life, or at least its smooth functioning, does depend on rare-earth elements. But it's absurd to single them out as uniquely vital to the U.S. economy, let alone as a unique vulnerability. **American manufacturers in 2014 imported just \$210 million worth of rare earths, or about 12,000 tons, just 8 percent of global production.** (China's share of those imports was 75 percent, not 90-plus.) **No American manufacturer or defense contractor — not even the Pentagon itself — has ever indicated supply problems.** Moreover, **more than half of rare earths are simply used as catalysts in petroleum refining; most of the rest go into cars, digital devices and lighting.** And the rest of the world is happy to sell America as much oil, autos and gadgetry as it wants.

Slav, Irina. "The Oil Rally is Helping Renewables." OilPrice. Jan. 2018.

<https://oilprice.com/Energy/Energy-General/The-Oil-Rally-Is-Helping-Renewables.html> //RJ

**It may sound counterintuitive, but higher crude oil prices have proved to be a boon for the renewable energy industry,** at least when it comes to adoption of clean energy solutions and products—notably electric cars. This year, **thanks to the oil price rally, EVs, solar and wind power will continue to grow,** according to the latest [outlook](#) from Bloomberg New Energy Finance. **Falling costs of lithium-ion batteries will be the driver behind greater EV adoption,** BNEF's chief editor Angus McCrone notes in the report. **Costs will be falling for wind and solar installations, too, thanks to tech advancements and to the successful application of economies of scale.** But lower costs for batteries are not the only thing spurring on EVs, of course. **The oil price rally is making EVs more competitive against vehicles running on internal combustion engines. This makes sense, and one might speculate that the effect will be particularly marked this year, as gasoline prices jumped rather quickly, and drivers are averse to this kind of price shock.**

## A2: Environmental Lawsuits

### Link Defense Rhetoric

1. Borgerson '09 of the Council on Foreign Relations writes that the court majority opinion holds that the provisions of the convention only bind the U.S. into acting in accordance with its own laws or other ratified international agreements. The implication is that environmental lawsuits wouldn't meaningfully change the way we operate environmentally.
2. Kelly '09 of the Senate Foreign Relations Committee writes that oil companies support the ratification of UNCLOS, indicating that the agreement is on-net beneficial for oil and not for the environment.
3. Environmental lawsuits literally always lose; O'Brien '18 of Forbes writes that federal judges continue to reject lawsuits brought against the oil industry over climate change. The implication of this is that the oil industry doesn't fear environmental lawsuits because they always win these court cases.
4. Insofar where the most polluting countries in the world are China and India and neither of them have been sued, it seems unreasonable to expect America to be sued and forced to comply with environmental regulations.

[Borgerson, Scott G. The National Interest and the Law of the Sea . Council on Foreign Relations:](#)  
Washington, D.C., May 2009 (82p).

**It is true that Articles 194 and Part XV, section 5 require states to take “all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source”**

and “adopt laws and regulations to prevent, reduce and control pollution of the marine environment from” the land and atmosphere under their jurisdiction.

Convention provisions also call for states to reduce pollution by “the best practicable means at their disposal and in accordance with their capabilities” and to “endeavor to establish global and regional rules” to prevent and control pollution.

**The majority opinion holds that these provisions of the convention only bind the United States to act in accordance with its own laws or appropriately ratified international agreements**

and cannot be used as a “back door” to compel enforcement of international agreements the Senate has not ratified.

**Kelly 03** Paul L. Kelly, 10-21-2003, “Statement of Paul L. Kelly: On the United Nations Convention on the Law of the Sea,” Testimony before the Senate Foreign Relations Committee,

<https://www.unclosdebate.org/argument/856/offshore-oil-and-gas-development-dependent-legal-protection-unclos> //DF

In conclusion, **from an energy perspective we see potential future pressures building in terms of both marine boundary and continental shelf delineations and in marine transportation. We believe the LOS Convention offers the U.S. the chance to exercise needed leadership in addressing these pressures and protecting the many vital U.S. ocean interests.** Notwithstanding the United States' view of customary international law, the U.S. petroleum industry is concerned that failure by the United States to become a party to the Convention could adversely affect U.S. companies' operations offshore other countries. In November 1998, the U.S. lost its provisional right of participation in the International Seabed Authority by not being a party to the Convention. At present there is no U.S. participation, even as an observer, in the Continental Shelf Commission--the body that decides claims of OCS areas beyond 200 miles--during its important developmental phase. The U.S. lost an opportunity to elect a U.S. commissioner in 2002, and we will not have another opportunity to elect a Commissioner until 2007. The United States should also be in a position to exercise leadership and influence on how the International Seabed Authority will implement its role in being the conduit for revenue sharing from broad margin States such as the U.S., yet the U.S. cannot secure membership on key subsidiary bodies of the Seabed Authority until it accedes to the Convention. Clearly United States views would undoubtedly carry much greater weight as a party to the Convention than they do as an outsider. With 143 countries and the European Union having ratified the Convention, the Convention will be implemented with or without our participation and will be sure to affect our interests. **It is for these reasons that the U.S. oil and natural gas industry supports Senate ratification of the Convention at the earliest date possible.**

O'Brien, John. “Losing Streak Emerges As NYC, Hired Guns Defeated In Climate Change Case By Big Oil.” Forbes. Jul. 2018. <https://www.forbes.com/sites/legalnewsline/2018/07/19/losing-streak-emerges-as-nyc-hired-guns-lose-climate-change-case-against-big-oil/#739263e5e77e> //RJ

**Federal judges continue to reject** the efforts of private lawyers who hold a financial stake in **lawsuits brought by government officials against the oil industry over the alleged effects of climate change.**

On Thursday, a New York federal judge dismissed

the lawsuit brought by New York City and attorneys at Hagens Berman working on a contingency fee against five of the biggest oil companies in the world, finding that **the issue has**

**already been decided by the U.S. Supreme Court. It's not the job of the judiciary to regulate**

**greenhouse gases,** Judge John Keenan wrote. **That task rests with the federal government,** says Keenan's opinion, endorsing the

thoughts of the California federal judge who tossed lawsuits from San Francisco and Oakland in June. **It's another blow to the group of plaintiffs that has climate change cases in federal court.**

## A2: Offshore Wind

### Link Defense Rhetoric

1. McDonnell '13 of Mother Jones writes that America lacks the boats to even set up offshore wind turbines, and American law prevents us from outsourcing to get these boats from other countries. The implication is that even if there is legal certainty, there simply isn't the capacity to expand offshore wind.
2. Schroeder '10 of the University of Berkeley writes that a lack of a federal regulatory framework over offshore wind prevents it from being successful, as local opposition have stalled development. The implication is that a host of regulatory problems prevent offshore wind from coming to fruition at a large scale.

### Impact Turn Rhetoric

1. Ervin '16 of the Hill outlines that historically, offshore wind production has led to the premature closing of nuclear energy plants due to the subsidies that allow wind energy to outcompete. Problematically, Burrows '11 of the Carolina Journal writes that 90% of the CO2 that has been saved in the past 35 years is due to nuclear energy, not renewables. Thus, Ervin concludes that this tradeoff between offshore wind and nuclear energy has resulted in a net increase in carbon emissions.

### Prices DA Rhetoric

1. Bacque '15 of the Times Dispatch writes that offshore wind energy costs twice as much for consumers than traditional energy sources.

### Bats Impact Defense

1. Froese '17 of Windpower writes that we're developing methods to prevent bat fatalities, and are able to reduce the number of bat deaths by 93% without hurting energy production.
2. McKracken '03 of the US Department of the Interior writes that there are literally 150 million bats from a single species in just 7 caves in the Southwest, which indicates there are hundreds of millions of bats if not billions of bats. Indeed, Curiosity '16 writes that there are 10 billion bats in the world. Their impact is literally a tiny fraction of the benefits to agriculture that bats give.

### Weighing

1. Vesper '18 of Scientific American writes that warming climates from emissions push bats to migrate earlier, putting them out of sync with crop seasons, thus diminishing their ability to

serve as the pest control their case advocates. This indicates that global warming serves as a prerequisite to bats in the first place.

Roberts, David, NPR, 14 June 2018, <https://www.vox.com/energy-and-environment/2018/5/25/17393156/offshore-wind-us-massachusetts-rhode-island-zinke>

In 2017, Rhode Island Gov. Gina Raimondo set a goal of increasing the state's clean energy tenfold, to 1,000 MW, by 2020. So on the same day, **Rhode Island** selected the winner of its own solicitation (which it ran in partnership with Massachusetts): the Revolution Wind project, by developer Deepwater Wind, to **start[ed] construction 30 miles off the coast**, about 12 miles south of Martha's Vineyard, in 2022.

McDonnell 13—Tim is an environmental journalist for sources including *Sierra*, *Climate Desk*, and *Mother Jones*, 2013, ("Top 4 Reasons the US Still Doesn't Have a Single Offshore Wind Turbine," February 28, 2013, Available online at <http://www.motherjones.com/blue-marble/2013/02/us-rough-seas-offshore-wind>, accessed on 7/31/14)

Not a single ship in the United States is equipped to handle wind turbines: Forget about whales and yacht routes. **How the hell do you go about lodging a 450-ton, over-400-foot tall turbine into the ocean floor? Answer: With one massive mother of a boat. But there's a problem,** says Chris van Beek, Deepwater's president: "At this point, **there is not an existing vessel in the US that can do this job.**" The world's relatively small fleet of turbine-ready ships—500-foot, \$200 million behemoths—is docked primarily in Europe; **an obscure 1920 law called the Jones Act requires ships sailing between two US ports to be US-flagged, and once the foundation of an offshore turbine is laid it counts as a "port." Consequently, turbine installation ships cruising in from, say, Hamburg, wouldn't be able to dock in the States.** On top of that, given the pittance of offshore projects in the works in the United States, bringing the ships in from abroad can be cost-prohibitive. Offshore turbines could find themselves all dressed up with nowhere to go. Weeks Marine of New Jersey is working to solve the problem by building the first country's first turbine ship. They've completed the hull and hope to have the boat seaworthy by 2014, possibly in time to chip in on putting up Cape Wind.

SCHROEDER 10 J.D., University of California, Berkeley, School of Law, 2010. M.E.M., Yale School of Forestry & Environmental Studies, 2004; B.A., Yale University, 2003 [Erica Schroeder, COMMENT: Turning Offshore Wind On, October, 2010, California Law Review, 98 Calif. L. Rev. 1631]

In spite of the impressive growth in the U.S. wind industry, the United States has not kept pace with other countries in developing offshore wind facilities. Though offshore wind has been used in other countries for nearly twenty years, n11 **none of the** United States' **current wind capacity comes from offshore wind.** n12 An estimated 900,000 MW of potential wind energy capacity exists off the coasts of the United States n13 - an estimated 98,000 MW of it in [\*1633] shallow waters. n14 This shallow-water capacity could power between 22 and 29 million homes, n15 or between 20 and 26 percent of all U.S. homes. n16 The nation has failed to take advantage of this promising resource. **This failure can be ascribed in part** to the unevenly balanced distribution of the costs and benefits of offshore wind technology, as well as **to the incoherent regulatory framework** in the United States for managing coastal



resources. n17 **While the most compelling benefits** of offshore wind **are** frequently regional, national, or even **global**, **the costs are almost exclusively local. The U.S. regulatory framework is not set up to handle this cost-benefit gap. As a result, local opposition has stalled** offshore wind power **development**, and inadequate attention has been paid to its wide-ranging benefits. The Cape Wind project in Massachusetts is a stark example of how local forces have hindered offshore wind power development. The project is expected to have a maximum production of 450 MW and an average daily production of 170 MW, or 75 percent of the 230-MW average demand of Cape Cod and neighboring islands. n18 In addition to this electricity boon to energy-constrained Massachusetts, n19 Cape Wind will reduce regional air pollution and global carbon dioxide emissions. n20 Nonetheless, local opponents to Cape Wind protest its effect on the surrounding environment, including its aesthetic impacts. n21 **Without an effective way to champion** the regional, national, and [\*1634] global benefits of **offshore wind, policymakers have been unable to keep local interests from controlling the process** through protest and litigation. After about ten years of waiting and fighting, Cape Wind developers have still not begun construction. Although the failure of offshore wind power in the United States is discouraging, the Coastal Zone Management Act (CZMA) offers a potential solution. With specific revisions, the CZMA could serve as the impetus that offshore wind power needs for success in the United States.

Ervin 2016 (Dan Ervin Ph.D. is Professor of Finance at Salisbury University's Perdue School of Business, "The problem with off-shore wind energy", The Hill, September 23rd 2016, <http://thehill.com/blogs/congress-blog/energy-environment/297456-the-problem-with-off-shore-wind-energy>. DOA: July 17th 2018) TG

Offshore wind is potentially an enormous supply of energy, except for the fact that no one has come up with a practical and affordable way to capture it. At present, there is zero electricity being produced from offshore wind in the United States. In December, this country's first offshore-wind power is expected to flow into the electric grid from five wind turbines off the coast of Block Island near Rhode Island. The turbines are slated to begin operating by the end of this year, but that's the extent of offshore wind power in the U.S. Each of the giant turbines – at a height of 589 feet, they tower over even large vessels and can be seen from shore – is estimated to produce 125,000 megawatt-hours of electricity annually, which is enough to power 17,000 homes. Deepwater Wind, developer of the Block Island turbines, estimates that the cost to build them was \$300 million. Massachusetts, New York and other Northeastern states are watching to see how it all turns out. New York recently adopted a mandate requiring the state to get 50% of its electricity from renewables by 2030. **Carbon mitigation was the driving force behind the mandate. But obtaining renewable energy from subsidized wind power is at best a counterproductive policy that's led to the premature closing of several nuclear plants in California, Vermont, Massachusetts and Wisconsin – and has raised carbon emissions in the process. And it's going to keep happening unless there are energy policy changes.**

Burrows, associate editor of Carolina Journal, 11 (Sara, 12-28-11, "Wind Power Does Not Help Economy or Environment, Experts Say", [http://www.carolinajournal.com/exclusives/display\\_exclusive.html?id=8597](http://www.carolinajournal.com/exclusives/display_exclusive.html?id=8597), bachelor's degree in journalism from San Diego State University, GIE) WILMINGTON — State law requires North Carolina utility companies to generate 7.5 percent of their electricity from renewable sources by 2018. The standard can't be met without wind, an energy source some scientists call counterproductive. **Electricity generated from the wind is inefficient, extremely expensive, and bad for the environment**, argued scientists and economists at a forum sponsored by the John Locke Foundation Dec. 5, at the University of North Carolina-Wilmington. John Droz, a fellow at the American Tradition Institute, is a physicist, economist, and self-described environmentalist. He spent most of his professional life working in management at General Electric. Droz said he initially supported wind energy. But after some research, he concluded that **wind is neither economically viable nor environmentally responsible**. For the first hundred years after electricity was invented, Droz said, there

were six guiding principles that helped determine which sources we would use in the United States. Traditionally, energy sources were expected to: provide large amounts of electricity; provide reliable and predictable electricity; provide electricity supplies that can be increased or decreased to satisfy demand; meet the demand for either a base load (operating 24 hours a day, seven days a week) or a peak load; have a compact facility; and provide electricity economically. “These criteria became the basis for what developed into the most successful grid system on the planet, which has a large amount to do with our country’s economic success,” Droz said. Today, the power sources that meet those standards are coal, nuclear, natural gas, and hydro, he said. Sources that failed to meet the standards, like oil, which became too expensive, were pushed out of the electricity business. “That’s how the market works when left on its own,” Droz said. But recently a nonmarket-driven principle has been added to the list. The state and federal governments have decided that sources of electricity also must make a positive environmental impact, reducing carbon emissions and fighting global warming. This principle is mandated by the state government — through a law known as the Renewable Energy Portfolio Standard (REPS) or Senate Bill 3 — and subsidized by both the state and federal governments. Before S.B. 3 mandated renewable energy in 2007, a program called NC Green Power allowed North Carolinians to decide if they want to help put renewable energy on the grid voluntarily. “The problem was the public was not supporting NC Green Power,” said Daren Bakst, director of legal and regulatory studies for the John Locke Foundation. “There was no support whatsoever. It was embarrassing how bad it was.” Bakst said there is no way utilities will be able to meet the 7.5 percent renewable energy mandate without including wind energy in their portfolio. There are only two places in the state wind power can work, he said: in the mountains and on the coast. Because the state’s Ridge Law prohibits tall structures from being constructed in the mountains, “there’s going to be intense pressure to allow wind power plants on the coast” over the next couple of years, Bakst said. Talks are under way about building a wind power project in Beaufort County. “One of the justifications for allowing the project is the fact that S.B. 3 exists,” Bakst said. “If you didn’t have the mandate, there wouldn’t be any proposed wind power plants,” he said. “Even with all the subsidies wind power gets, we wouldn’t be discussing it, because the subsidies by themselves weren’t enough. The state actually had to mandate it.” Droz said the mandate will cost North Carolinians millions of dollars in higher energy bills and won’t help the environment in the least. **Wind doesn’t meet any of the six traditional market-driven criteria for what makes a good energy source**, he said. “Because of the wide fluctuations of **wind**, it **typically produces less than 30 percent of its nameplate capacity**,” Droz said. “This problem is made worse by the fact that there is no practical or economical way to store the electricity produced.” **It’s not reliable or predictable and cannot be counted on to provide power** on demand, he said. Wind power plants aren’t compact either, he added. They cover more than 1,000 times the surface area of a conventional facility. Most importantly to Droz, **wind power is not economical. The cost of running a wind power plant is higher than any other type of plant**. “The more wind power an energy company uses, the higher the consumer’s electric bill,” he said. **“Denmark, which uses more wind power than any country in the world, has the highest cost of electricity of any country in the world.”** Their residential electricity rate is more than three times as much as ours.” Finally, **wind does not make a consequential reduction in carbon emissions**, said Droz. **“No scientific study has ever proven that wind power saves a meaningful amount of CO2.”** A National Academy of Sciences study says U.S. CO2 savings by 2020 will be at about 1.8 percent. **“More than 90 percent of all CO2 saved in the last 35 years is due to nuclear power, very little due to renewables.”** he said. David Schnare, director of the Environmental Law Center at the American Tradition Institute, suggested wind turbines actually create more pollution than other energy sources. Because wind is inconsistent and its energy cannot be stored, wind power plants must be backed up by another type of power plant. “In Colorado, [sulfur dioxide and nitrogen oxide] — which create smog — were significantly higher than they would have been had they not cycled the coal plants to compensate for wind generation,” Schnare said. “Cycling a coal plant causes more pollution than letting it run constantly.” Droz said a law mandating wind power “makes about as much sense as an edict mandating that a certain percentage of our trucks and automobiles must be operated by horse power in a few years.” It’s a step backward that will decrease our standard of living. Big oil companies like BP have become wind-power investors because they can use their investment in wind power to offset corporate tax liabilities, he said. “The company that pioneered wind power to avoid paying taxes was Enron.”

**Bacque 3-22, 15** – Times Dispatch

Peter, “Va. to get wind energy research lease offer from federal agency,”

[http://www.timesdispatch.com/business/energy/va-to-get-wind-energy-research-lease-offer-from-federal/article\\_631454cd-b8d8-5f66-bfcc-559f763125c5.html](http://www.timesdispatch.com/business/energy/va-to-get-wind-energy-research-lease-offer-from-federal/article_631454cd-b8d8-5f66-bfcc-559f763125c5.html)

The lure of wind power is that the fuel — the natural wind — is notionally free. The idea that wind energy is free is *misleading*, said Mary C. Doswell, Dominion’s senior vice president for alternative

energy solutions: It's expensive to build and maintain high-tech wind turbines in the harsh maritime environment and to bring the harvested power to land. Those costs eventually would have to be borne by the company's ratepayers. Electricity from sea-based wind now costs more than twice as much to produce as energy from Dominion Virginia Power's current sources of generation, the company says.

Froese, Michelle. "How the wind industry is protecting bats." Windpower. Apr. 2017.  
<https://www.windpowerengineering.com/business-news-projects/project-update-wind-industry-protecting-bats/> //RJ

Ongoing [research and collaborative efforts](#) are keys to protecting all bat species. In fact one recent study by W.F. Frick of Bat Conservation International (and published in "Biological Conservation") has credited collaboration work for one conservation method — **curtailment of wind turbines under high-risk conditions**. The study **pointed to a reduction of bat fatalities by 44 to 93% using this method, while minimizing the impact on power generation**. Research continues to further refine and improve the effectiveness of such mitigation techniques.

Inga Vesper. "Bats Are Migrating Earlier, and It Could Wreak Havoc on Farming." Scientific American. Apr. 2018. <https://www.scientificamerican.com/article/bats-are-migrating-earlier-and-it-could-wreak-havoc-on-farming/> //RJ

Every year migratory bats travel from Mexico to Bracken Cave near San Antonio, Tex., where they spend the summer consuming insects that would otherwise devour common food crops. **But the bats have been showing up far earlier than they did two decades ago, possibly because of a warming climate, new research suggests. This trend creates a risky situation in which bats may not find enough food for themselves and their young, as the insects they prey on may not yet have arrived or hatched. If bat colonies shrink as a result of this schedule snafu, their pest control effect could fall out of sync with crop-growing seasons—potentially causing hefty losses**, scientists say. "If the whole system becomes unreliable, then it will be a big, big problem for agriculture," says Jennifer Krauel, a bat biologist at the University of Tennessee, Knoxville, who was not involved in the new research. "I don't think the bats will go away entirely, but even a reduced colony size will have an effect."

Dwyer, Kieran. "[UNCLOS: Securing the United States' Future in Offshore Wind Energy](#) ." [Minnesota Journal of International Law](#). Vol. 18, No. 1 (2009): 265-290.

**Part XI of UNCLOS has been the major sticking point for U.S. ratification and will present concerns for offshore wind energy whether the United States ratifies or not. Additionally, environmental and shipping concerns in UNCLOS pose two possible restrictions on the development of offshore wind power. UNCLOS requires commitment to the protection of the marine environment. UNCLOS also requires that states not interfere with the innocent passage of ships traveling along recognized sea lanes**. These restrictions, however, will not create new obstacles for development of offshore wind power as existing U.S. law already requires similar considerations for offshore projects.

## \*Interdiction

### A2: PSI

1. Valencia '07 of the Arms Control Association writes that states are able to simply transport nuclear weapons on their own flag vessels or on those of nonparticipating states.
2. Valencia '07 continues that most WMDs are homemade and not transported over the open seas.

**Valencia 07** Mark J. Valencia [visiting senior fellow at the Maritime Institute of Malaysia and author of The Proliferation Security Initiative: Making Waves in Asia (2006).], 6-2-2007, "The Proliferation Security Initiative: A Glass Half-Full," Arms Control Association,

[https://www.armscontrol.org/act/2007\\_06/Valencia](https://www.armscontrol.org/act/2007_06/Valencia) //DF

Reflecting the Bush administration's philosophical disdain for the UN, the PSI was conceived, originated, and implemented outside the UN system. In reality, it remains a U.S.-initiated and -driven ad hoc activity designed primarily to deter trade in WMD components and "related materials" to and from North Korea and now Iran. **It is far from clear that 12 successful interdictions in two years or even 30 in three years<sup>[18]</sup> mean that the PSI is effective. State and nonstate actors that want to avoid**

**PSI interdictions can still transport WMD components on their own flag vessels or aircraft or on those of nonparticipating states**, such as Cambodia. This is particularly applicable to warships and government ships operated for noncommercial purposes, which under Article 32 of the 1982 UN Convention on the Law of the Sea have immunity from other state's jurisdiction

**Valencia 07** Mark J. Valencia [visiting senior fellow at the Maritime Institute of Malaysia and author of The Proliferation Security Initiative: Making Waves in Asia (2006).], 6-2-2007, "The Proliferation Security Initiative: A Glass Half-Full," Arms Control Association,

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As is often stated by its proponents, the PSI is an activity rather than an organization, and thus it lacks an independent budget or coordinating mechanism. Although these features may enhance its flexibility, as well as the speed of decision-making and resultant action, they also constrain its capacity. Moreover, placing such emphasis on interdictions may undermine other nonproliferation efforts. Perhaps **the**

**greatest obstacle to PSI effectiveness is the dual-use nature of WMD materials and technologies. Few**

if any **countries export "turn-key" weapons of mass destruction**. The harsh reality is that **countries and nonstate actors can build their own weapons of mass destruction** from items that have civilian application. **This means that it is very difficult to make decisions regarding "good cause" for interdiction and that such decisions will inevitably be politically influenced** and based on who is sending or receiving the shipment. Moreover, a proliferation of interdictions of dual-use materials may hamper legitimate commerce and thus engender opposition, even from allies.

