# AT: Neg

## AT: Military Harmed

#### [LT] Borgerson 09 of Council of Foreign Relations: Ratification protects and ensures strategic mobility of U.S. military forces by giving it the right of freedom of passage in areas.

Scott G. Borgerson [, "The National Interest and the Law of the Sea", Council on Foreign Relations, 04-2009, https://www.cfr.org/report/national-interest-and-law-sea] //ST on 7-9-2018

To date, U.S. military forces have successfully protected American shipping and the homeland from sea-based attack without the benefits of the convention. Why is it imperative to join the convention now? What does the convention provide that distinguishes it from existing treaties and the customary international law upon which the United States has depended for the past five decades? In short, **the convention provides the protection of binding international law in four categories of essential navigation and overflight rights**. Together, **these rights ensure the strategic and operational mobility of U.S. military forces and the free flow of international commerce at sea.** Joining the convention guarantees that 156 states recognize the following basic rights of U.S. military forces, commercial ships, civilian aircraft, and the foreign-flagged vessels that carry commerce vital to U.S. economic security: Strategic Imperatives Strategic Imperatives 23 – **Right of Innocent Passage**. The surface transit of any ship or submarine through the territorial seas of foreign nations without prior notification or permission. – **Right of Transit Passage**. The unimpeded transit of ships, aircraft, and submerged submarines in their normal modes through and over straits used for international navigation, and the approaches to those straits. – **Right of Archipelagic Sealanes Passage.** The unimpeded transit of ships, aircraft, and submerged submarines in their normal modes through and over all normal passage routes used for international navigation of “archipelagic waters,” such as those claimed by the Philippines and Indonesia. – **Freedom of the High Seas. The freedoms of navigation, overflight, and use of the seabed for laying undersea cables or pipes on the high seas and within the exclusive economic zone of a coastal state.**

#### [DL] Dwyer 13 of Naval Postgraduate School: Military officials that have intensely studied UNCLOS and believe that UNCLOS does not harm our military exercises.

Dwyer, William G. [The Evolving Arctic: Current State of U.S. Arctic Policy](http://calhoun.nps.edu/bitstream/handle/10945/37620/13Sep_Dwyer_William.pdf?sequence=1) . Naval Postgraduate School: Monterey, CA, September 2013 (93p). [ [More](https://www.unclosdebate.org/citation/1736/evolving-arctic-current-state-us-arctic-policy) (9 quotes) ]

Conservative political factions are not in favor of working in cooperation with United Nations (parent organization of the International Maritime Organization (IMO) Furthermore, they do not want the United States to subject itself to international tribunals have effectively prevented U.S. accession to UNLCOS. But UNCLOS accession is supported from all the military service chiefs and the Chairmen of the Joint Chiefs, who have traditionally been highly selective with respect to treaties and how they potentially affect U.S. service members. For example, they expressed concern over the Rome Statute of the International Criminal Court (ICC) because it was believed to place U.S. personnel at risk for trial by an international tribunal. But this is not true for UNCLOS because the service chiefs believe UNCLOS will support, rather than thwart, U.S. operations.22 As the principal force behind the negotiation of UNCLOS in Montego Bay back in 1982, the treaty encompasses everything the U.S. military wants, and is not the “bogey man.”

#### [DL] The Navy: High ranking navy officials agree that UNCLOS has no provisions that hamper our military efforts.

Navy JAG, xx-xx-xxxx, Department of the Navy, "The Convention on the Law of the Sea", (), accessed 10-8-2018, http://www.jag.navy.mil/organization/code\_10\_law\_of\_the\_sea.htm //AD

The United Nations Convention on the Law of the Sea (**UNCLOS**) **supports implementation of the National Security Strategy, provides legal certainty in the world's largest maneuver space, and preserves essential navigation and overflight rights**. Over one hundred and sixty nations and the European Union are Party to the Convention – but not the United States, the world's leading maritime nation. **Becoming a Party to the Law of the Sea Convention would help to preserve the Navy's ability to move forces on, over, and under the world's oceans, whenever and wherever needed**, and is an important asset in the modern maritime environment. Specifically, **the Convention recognizes and preserves for our ships and aircraft the freedom to conduct: Innocent passage in territorial waters. Transit passage through international straits (surface, air and subsurface)**, including the approaches to those straits. **Unrestricted military activities in high seas**. Military surveys. **Approach and visit of vessels suspected of engaging in piracy and stateless vessels.**

#### [DL] Bellinger 08 of Institute for Legal Research: The U.S. peacefully respects and follows everything under UNCLOS.

[Bellinger, John B](https://www.unclosdebate.org/author/949/john-b-bellinger). [The United States and the Law of the Sea Convention](http://www.law.berkeley.edu/files/5-bellinger%282%29.pdf) . Institute for Legal Research: Berkeley, CA, 2008 (12p). [ [More](https://www.unclosdebate.org/citation/950/united-states-and-law-sea-convention) (6 quotes) ]
As the nation with the world’s largest navy, an extensive coastline and a continental shelf with enormous oil and gas reserves, and substantial commercial shipping interests, the United States certainly has much more to gain than lose from joining the Law of the Sea Convention. In my view, it is most unfortunate that a small but vocal minority – armed with a series of flawed arguments – has imposed upon the United States a delay that is contrary to our interests. Nevertheless, I am convinced this will change and am confident that the United States Senate will approve the Convention in due course.
In the meantime, the United States will continue to abide by the Convention and work within its framework. Even as we remain outside the Convention, the Legal Adviser’s Office confronts law of the sea issues on a daily basis. For example, we work at the International Maritime Organization and in regional fora to protect the marine environment by elaborating rules for reducing vessel source pollution, ocean dumping, and other sources of marine pollution. We recently achieved U.S. ratification of a treaty – “MARPOL Annex VI” – aimed at limiting air pollution from ships and a protocol limiting land-based sources of marine pollution in the Caribbean Region. A global treaty on ocean dumping – the “London Protocol” -- awaits action by the full Senate. At home, we coordinate with the Department of Justice to ensure that prosecutions involving foreign flag vessels are consistent with the marine pollution chapter of the Convention, and we scrutinize legislative proposals from both the Executive Branch and the Congress to ensure that U.S. marine pollution jurisdiction is applied and enforced in accordance with law of the sea rules. We also negotiate maritime boundary treaties with our neighbors in line with the provisions of the Convention. Most people think the United States has only two neighbors – Canada and Mexico – but by virtue of our island possessions, we actually have over thirty instances in which U.S. maritime claims overlap with those of another country. Less than half of them have been resolved. Some involve disagreements about how much effect to give to islands in determining a maritime boundary. In the case of the Beaufort Sea, Canada argues that the existing treaty establishing the land boundary between Alaska and Canada also determines the maritime boundary. Our office is also assisting a State Department-led Task Force to determine the outer limits of the U.S. continental shelf beyond 200 nautical miles. The U.S. Coast Guard icebreaker Healy has recently conducted several cruises in the Arctic Ocean, including one that mapped areas of the Chukchi Borderland where the U.S. shelf may extend more than 600 miles from shore. U.S. and international efforts to combat terrorism and proliferation have also generated law-of-the-sea-related issues. Consistent with the Convention, we fashion shipboarding agreements to promote the maritime interdiction aspects of the Proliferation Security Initiative. And we bring law of the sea equities into the elaboration of treaties on suppression of criminal acts at sea. In fact, the U.S. Senate has just given its advice and consent to ratification of two protocols that supplement the convention that addresses suppression of unlawful acts at sea – the 2005 so-called “SUA Protocol” and the 2005 “Fixed Platforms” Protocol.

### AT: Drugs

#### [LT] Article 108 of UNCLOS requires that all states shall cooperate in stopping drug trafficking and can also request the cooperation from other countries if they believe that a ship is harboring drugs.

UNCLOS [UNCLOS, 1982, "PREAMBLE TO THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA", (), accessed 8-22-2018, http://www.un.org/depts/los/convention\_agreements/texts/unclos/part7.htm] //AT

1. All States shall cooperate in the suppression of illicit traffic in narcotic drugs and psychotropic substances engaged in by ships on the high seas contrary to international conventions.

2. Any State which has reasonable grounds for believing that a ship flying its flag is engaged in illicit traffic in narcotic drugs or psychotropic substances may request the cooperation of other States to suppress such traffic.

### AT: Tribunals

#### [DL] Leon Panetta 12, former secretary of defense: UNCLOS allows parties to legally reject dispute resolution procedures concerning military activities.

Leon Panetta, (former) Secretary of Defense, 2012, https://www.foreign.senate.gov/imo/media/doc/SecDef\_Leon\_Panetta\_Testimonydocx.pdf SECRETARY OF DEFENSE LEON E. PANETTA LAW OF THE SEA CONVENTION

Third, some allege that in joining, our military would be subject to the jurisdiction of international courts – and that this represents a surrendering of U.S. sovereignty. But once again, this is not the case. The Convention provides that a party may declare it does not accept any dispute resolution procedures for disputes concerning military activities. This election has been made by 20 other nations that have joined the Convention, and the United States would do the same. The bottom line is that neither U.S. military activities nor a U.S. decision as to what constitutes a U.S. military activity would be subject to review by any international court or tribunal

#### [DL] Friedman 04 of BSG: States in UNCLOS themselves determine which activities are military or not. That’s why he concludes that the chance of a tribunal harassing U.S. military operations are equivalent to a meteorite striking the capitol building.

Friedman, Benjamin and Daniel Friedman. [How the Law of the Sea Convention Benefits the United States](http://www.gsinstitute.org/docs/11-20-04_UNCLOS.pdf) . [Bipartisan Security Group](https://www.unclosdebate.org/organization/374/bipartisan-security-group): Washington, D.C., November 2004 (7p). [ [More](https://www.unclosdebate.org/citation/375/how-law-sea-convention-benefits-united-states) (4 quotes) ]

The role of the Law of the Sea Tribunal is to resolve disputes over the Convention. The Convention mandates that the Tribunal resolve all disputes, except those involving military activities. Opponents of the Convention argue that the tribunal could dispute U.S. designations of certain activities as military, forcing the U.S. to limit military operations. Some even claim American “citizens could be dragged before politically motivated foreign jurists.”18 Professor John Norton Moore, the leading U.S. expert on the law of the sea, told the Senate Foreign Relations Committee that the chances of the Tribunal undermining U.S. military operations was comparable to that of a meteorite striking the capitol building.19 Still, administration officials have taken precautions. Upon joining the Convention, the United States would submit a declaration stipulating that it is acceding on the condition that states themselves have the authority to decide whether activities are military.20 Opponents think that even this precaution leaves a chance of the Tribunal harassing the U.S. military. As a party to the Convention, however, the United States can nominate the judges to sit on the tribunal, rendering this wildly remote possibility even more unlikely. If the United States does not ratify the Convention, it has no control over the decisions the Tribunal reaches. The Tribunal will never have power over the U.S. military, but its decisions will form precedents that will help resolve future maritime disputes. Those precedents would affect U.S. interests.

### AT: Piracy

#### [DL] Nobody would ever report the U.S. for actually violating UNCLOS in order to kill pirates.

#### [LT] Ashfaw 10 of Journal of Transnational Law and Policy: Article 100 forces member states to cooperate with other member states for piracy.

Ashfaw, Sarah. "Something for Everyone: Why the United States should Ratify the Law of the Sea Treaty ." Journal of Transnational Law and Policy. 2010[Text Wrapping Break]<https://www.unclosdebate.org/argument/1591/us-ratification-unclos- would-bolster-counter-piracy-efforts>

Not only does the Convention provide a clear definition of piracy and basis for capture and prosecution of pirates, it also imposes an affirmative obligation upon parties to make efforts to curtail piracy.144 Critics of the Convention argue that it actually impedes the United States’ ability to chase and capture pirates because a ship must cease pursuit if the ship it is chasing enters its own or a third state’s territorial waters.145 They assert that this provision provides pirates with a safe haven to retreat to undeterred, and that the Convention prevents non-territorial state ships from pursuing the pirates.146 This is troubling largely because of the strong presence of Somali pirates.147 For example, under this provision, Somali pirates can attack ships and if they risk getting captured, rush back into their own state’s territorial waters where they would be safe. Somalia, a nation plagued by its own problems of lawlessness and poverty, is in no position to apprehend these criminals.148 In such a circumstance, however, the United States can assert that Article 100 of Part VII of the Convention, which imposes upon member parties the duty to cooperate in the repression of piracy, gives it the authority to continue pursuit.149Somalia is a party to the Convention and where it cannot assist in apprehending and trying pirates, it must cooperate with others who can. This includes permitting states that are working to repress piracy by pursuing pirates to do so within Somalia’s territorial waters.150 Furthermore, a December 2008 United Nations Security Council resolution called upon states to actively assist in combating piracy off of the coast of Somalia and gives them the authority to “undertake all necessary measures ‘appropriate in Somalia’ ” in furtherance of this end for a period of one year.151 In April of 2010, the United Nations Security Council adopted a resolution that calls upon states to criminalize piracy under their domestic law and consider prosecution of and imprisonment of apprehended Somali pirates.152 This resolution also seeks a report from the Secretary General of the United Nations to present options for purposes of “prosecuting and imprisoning persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia.”153 Given this explicit guidance to counter piracy coupled with the Convention’s anti-piracy provisions, criticism that the Convention would preclude apprehending pirates does not hold up.

#### [NU] Ashfaw 10 of Journal of Transnational Law and Policy: The UN security council gave special ability to members for combatting piracy under any conditions.

Ashfaw, Sarah. "Something for Everyone: Why the United States should Ratify the Law of the Sea Treaty ." Journal of Transnational Law and Policy. 2010[Text Wrapping Break]<https://www.unclosdebate.org/argument/1591/us-ratification-unclos- would-bolster-counter-piracy-efforts>

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#### [NU] Adriansen of Univeristy of Oslo: UNCLOS incorporates, without change, all of the provisions of piracy from the 1958 Geneva Convention, and countries that have not ratified UNCLOS are still bound to the same regulations.

Adriansen, the University of Oslo: “Combating Piracy off the Coast Of Somalia. Jurisdiction over Interdiction and Prosecution.” University of Oslo, April 26, 2010. <https://www.duo.uio.no/bitstream/handle/10852/18655/101238.pdf?sequence=3>

A law addressing the issue of piracy can be traced back to the Seventeenth Century. The English act on piracy enacted in 1698 was probably the first law of piracy at the national level. Other States such as Germany and the United States then followed suit to enact their laws of piracy. These older pieces of legislation show that when piracy was first criminalized by law, it was punishable only within the domestic legal domain of a state. Later, the piracy issue came into the international scene since it threatened transnational maritime commerce and transportation. The first legal document governing piracy in international law was the 1856 Treaty of Paris, which ended privateering7 by commissioned pirate ships. The 1889 Montevideo Convention accepted the principle that the suppression of piracy was the responsibility of mankind. The Nyon Agreement of 1937 defined the unidentified attacks in the Mediterranean as ―acts of piracy‖. However, the most important treaty which codified the international law of piracy was the 1958 Geneva Convention on the High Seas8 , which contains eight provisions concerning the suppression of piracy on the High Seas.The 1982 UN Convention on the Law of the Sea (UNCLOS) simply incorporates the anti-piracy provisions of the 1958 Convention without any change 9 Those few states who have yet to ratify UNCLOS, are party to the 1958 Geneva Convention on the High Seas, and are thus bound by the same regulations on piracy.

### AT: Territorial Sea (12 Mile)

#### [DL] Pike 14 of GlobalSecurity: Most pirate attacks take place outside of the 12-mile territorial limit.

John Pike, 14 [, "Pirates," No Publication, 1-15-2014, https://www.globalsecurity.org/military/world/para/pirates.htm] // EKC on 7-12-2018

The attacks often take place well outside the 12 mile territorial limit of Somalia by gangs operating from mother ships. The pirates use automatic weapons and /or rocket propelled grenade launchers. Grenades fired by the pirates have damaged the hull and accommodation of vessels. Vessels attacked have included two Very Large Crude Carriers (VLCCs) and Product and Chemical tankers. In one case a VLCC's bunker tank was breached causing bunker fuel to leak.

### AT: PSI

#### [DL] Song 06 of the Institute of European and American Studies: There are 18 nations worldwide that are in UNCLOS and still conduct PSI operations.

Yann-Huei Song, the Institute of European and American Studies: “The U.S.-Led Proliferation Security Initiative and UNCLOS: Legality, Implementation, and an Assessment.” Academica Sinica, 2006. <http://daais.sinica.edu.tw/download/publication_list/en/99.pdf>

The potential impact of U.S. accession to UNCLOS on the implementation of the PSI was one of the concerns raised by some opponents of the Convention. They argued that the ability of the United States to pursue the goals of the PSI would be hindered by accession to UNCLOS. Reportedly, Republican Senators James Inhofe (Okla.) and John Ensign (Nev.) hold this view. Paul Weyrich, Chairman and CEO of the Free Congress Foundation, opposed U.S. accession to the UNCLOS, because, among other things, President's Bush's PSI would not be recognized, and would thus be prohibited by the Convention. It is argued that these views are arbitrary and shaky, and lack persuasive reasoning. It is incorrect to argue that the PSI is barred by the UNCLOS. After all there are 18 states fully participating in PSI and more than 70 countries which have expressed their support for the Initiative and most of these countries are party to the UNCLOS. Moreover, while the UNCLOS is considered the most important legal instrument in dealing with the rights and obligations of states in the oceans, there are other international treaties, regimes, and frameworks that can be relied upon if interdiction actions against suspect vessels that carry or transport "WMD, their delivery systems and related materials" to and from "states and non-states of proliferation concern" are necessary. The relationship between the PSI and the United Nations Convention on the Law of the Sea (UNCLOS)12 has also been a controversial issue in the U.S. domestic debate about whether the United States should become a party to the Convention (See infra notes 15–19 and 143–153.). UNCLOS, which is considered “[a] Constitution for the Oceans,”13 was opened for signature on December 10, 1982, and entered into force on November 16, 1994. Designed to regulate the use and utilization of 70% of the earth’s surface, UNCLOS has been praised as the most comprehensive political and legislative work ever undertaken by the United Nations. Numerous new concepts related to the use of the oceans were developed in the Convention such as transit passage, archipelagic waters, the exclusive economic zone (EEZ), and the International Sea-Bed Authority. UNCLOS is also seen as a codification of the existing customary international laws of the sea. As of November 2, 2006, 152 states and entities are parties to the Convention.14 However, the United States is the only permanent member of the UN Security Council, the only member of NATO, and the only PSI core partner that is not a party to UNCLOS.

#### [DL] Song furthers: Officials from the military and Department of Defense have clarified that PSI is consistent with UNCLOS.

Yann-Huei Song, 1-31-2007, " The U.S.-Led Proliferation Security Initiative and UNCLOS: Legality, Implementation, and an Assessment," Institute of European and American Studies Academia Sinica, < http://sci-hub.tw/10.1080/00908320601071421 >//SM

Some commentators and maritime security experts in the United States have asserted that activities envisioned as being part of the PSI would be inconsistent with UNCLOS, and that U.S. accession to UNCLOS therefore would prevent or inhibit the United States from implementing PSI.15 There are also Republicans in the U.S. Senate, such as Senator James Inhofe (R-OK) and Senator John Ensign (R-NV), who opposed U.S. accession to UNCLOS on the basis that it could hinder the U.S.-led PSI.16 However, officials from the U.S. Navy, the Department of Defense, and the Department of State, who testified at the six hearings on UNCLOS held during the 108th Congress, clarified: that PSI is consistent with UNCLOS; that U.S. accession to the Convention would not present any difficulties for implementation of the Initiative; and that the United States becoming a party to UNCLOS would strengthen the interdiction efforts under the PSI.17 In January 2005, during the Senate nomination hearing for Condoleezza Rice as U.S. secretary of state, Senator Richard G. Lugar (R-IN) raised a number of law of the sea questions, which included the relationship between the PSI and UNCLOS. Rice pointed out that the Initiative requires participating parties to act consistently with national legal authorities and “relevant international law and frameworks,” which includes the law as it is reflected in UNCLOS.18 John Bolton, during his April 2005 nomination hearing to become U.S. representative to the United Nations, repeated the Bush administration’s position saying that U.S. accession to UNCLOS would not have any negative impact whatsoever on the implementation of the Initiative.19

#### [LT] Belcher 09 of The Lowry Institute: US accession to UNCLOS would legitimize PSI to other countries that are skeptical of UNCLOS being inconsistent with PSI. Critically, she concludes that Malaysia and Indonesia, who are skeptical of PSI’s legality, are key states located in nuclear chokepoints near China, India, and Pakistan.

Emma Belcher, the Belfer Center for Science and International Affairs: “A Tighter Net: Strengthening the Proliferation Security Initiative.” Lowy Institute, August 2009. <https://www.files.ethz.ch/isn/104487/LPolBr_Belcher.pdf>

Australia should use its strong relationship to influence the United States to ratify the United Nations Convention on the Law of the Sea (UNCLOS), and encourage PSI participants to push the limits of Article 27. Given that some states appear to use their concerns over US non-ratification of UNCLOS as a smokescreen for other objections to the PSI, progress by Washington towards ratification would make it harder for states to criticise PSI and would confirm US intent to follow international law at sea. It would create a political opening for such states to join PSI, given the sensitivities of their domestic constituencies, or expose the real reasons for their continued nonparticipation. Views continue to vary within the US on the merits or otherwise of UNCLOS ratification. Friends of the US and of the PSI would do well to focus their lobbying efforts on reluctant members of Congress. In doing so, Australia should encourage the US and other PSI participants to push the limits of Article 27 in favour of interdiction for illicit proliferation purposes. The PSI’s lack of critical state participants weakens its coverage of important sources and trade routes. Nuclear weapon states such as China, India, Pakistan are glaringly absent, as are those located at maritime chokepoints such as Indonesia, Malaysia and Egypt. Some of these countries have poor records in relation to WMD proliferation, including as transit points. In North East Asia, China’s absence from the PSI is important for many reasons. This country: is a major global trading nation and a member of the P5; possesses nuclear weapons and missiles; has major civilian chemical, bioscience and nuclear sectors; and has a crucial relationship with and geographical proximity to the DPRK. North Korea continues to rely on trade with China to prop up its economy and its regime. 30 China cites concerns that the PSI might violate international law as its reason for remaining outside the agreement.31 However, China’s cooperation behind the scenes with the US in some interdiction activities suggests that it is not opposed to interdiction as such. 32 Another, more plausible, reason for China’s refusal formally to participate in the PSI may be its concern not to upset the DPRK and stability on the Korean Peninsula. 33 The DPRK has long held that the PSI directly targets it, and that any PSI activity against it would be considered an act of war. In particular, it warned the Republic of Korea not to become a PSI participant, 34 which the ROK refrained from doing until May 2009, after the North’s second nuclear test. In South East Asia, Singapore’s participation is an important accomplishment, given the size of its port, its massive role as a cargo transit hub and its location on the Malacca Straits, through which much of the world’s shipping flows. However, neighbouring Malaysia and Indonesia remain outside the PSI, which weakens the network’s coverage of this vital maritime region. Malaysia cites legal concerns, as does Indonesia, 39 despite assurances from the US and Australia to the contrary. 40 Likewise, in the Middle East, Egypt’s absence is a problem, including because of its strategic location on the Suez Canal. 41 These states have jurisdiction over some of the world’s critical trade chokepoints, through which proliferators would typically operate.

### AT: South China Sea

#### [DL] China’s EEZ claims are inconsistent with the tribunal. If the U.S. conducts FONOPs in their EEZs, the tribunals will prefer them for not actually violating anything.

#### [NU] Riordan 18 of AT: Drafts from the code of conduct will allow China to veto the U.S. military out of the SCS.

Primrose Riordan 18 of Australia Times [Primrose Riordan, 8-7-2018, No Publication, "China ‘moves to limit US power’", (), accessed 8-28-2018, https://www.theaustralian.com.au/national-affairs/foreign-affairs/china-moves-to-limit-us-influence-in-south-china-sea-code-negotiations/news-story/dce7dc7ca3d42cc0ad73a03ec04ce5f7] //AT

But the draft also reportedly includes a proposed clause from China that countries should not hold joint military exercises with countries from outside the region, “unless the parties concerned are notified beforehand and express no objection”. Experts say if the clause is accepted it could effectively allow China to veto US presence in exercises in the region.

#### [NU] Tri 17 of The Diplomat: China is gradually increasing A2/AD to restrict and keep U.S. military intervention out of the region.

Ngo Minh Tri, The Diplomat 17 of Diplomat [Ngo Minh Tri, The Diplomat, 5-19-2017, Diplomat, "China's A2/AD Challenge in the South China Sea: Securing the Air From the Ground", (), accessed 9-6-2018, https://thediplomat.com/2017/05/chinas-a2ad-challenge-in-the-south-china-sea-securing-the-air-from-the-ground/] //AT

Over the last two decades, thanks to Russian technologies combined with its own efforts, including industrial espionage, China has gradually enhanced the capabilities of the People’s Liberation Army (PLA) to challenge U.S. forces in the Asia-Pacific region. A key strategy the Chinese have adopted is what has been popularly called the anti-access/area denial (A2/AD) strategy, with the aim of keeping out U.S. military intervention in its immediate areas of concern, including the disputed waters in the region.

### AT: Submarines

#### [IT] Valencia 17 of Diplomat: ISR operations between U.S. and China have strained relationships.

Mark Valencia, the Diplomat: “Do US Actions in the South China Sea Violate International Law?” The Diplomat, April 24, 2017. <https://thediplomat.com/2017/04/do-us-actions-in-the-south-china-sea-violate-international-law/>

According to the report, the spy plane missions give the United States some geospatial advantages over satellites for signals reception. More important they also spur targeted militaries to react, thus creating communications that can be intercepted. There have been several “dangerous” incidents resulting from these ISR probes. As I have noted before, the U.S.-China relationship was strained by the EP-3 incident as well as the Bowditch (2001), Impeccable (2009), and Cowpens (2013) incidents. In August 2014, and again in September 2015, Chinese jet fighters intercepted U.S. intelligence-gathering aircraft over the South China and Yellow Seas. Clearly the U.S. “rebalancing” to Asia is coming face-to face with China’s naval expansion, rising capabilities and ambitions. Indeed the two have converging strategic trajectories. China is developing what the United States calls an anti-access/area denial (A2/AD) strategy that is designed to control China’s “near seas” and prevent access to them by the United States in the event of a conflict. The U.S. response is Joint Concept for Access and Maneuver in the Global Commons (formerly the Air-Seat Battle Concept) which is intended to cripple China’s command, control, communications, computer and intelligence, surveillance and reconnaissance systems (C4ISR). This means that C4ISR is the “tip of the spear” for both sides and both are trying to dominate this sphere over, on and under China’s near seas.

#### [NU] Oliver 08 of Journal of International and Comparative Law: The 1958 Convention of the Territorial Sea and Contiguous Zone has the exact same submarine restrictions.

[Oliver, John T](https://www.unclosdebate.org/author/1271/john-t-oliver). "National Security and the U.N. Convention on the Law of the Sea: U.S. Coast Guard Perspectives." [ILSA Journal of International and Comparative Law](https://www.unclosdebate.org/citations/source/ILSA%20Journal%20of%20International%20and%20Comparative%20Law). Vol. 15, No. 2 (2008-2009): 573-586
The specific argument that the Convention would prevent the United States from using its submarines to collect intelligence is fallacious. Several sources, including the Minority Views in the Senate Committee on Foreign Relations, note that Article 20 of the Convention requires submarines and other underwater vehicles to navigate on the surface and show their flag when engaged in innocent passage. This is correct, so far as it goes. But the minority report then concludes that this would "fail to protect the significant role submarines have played, especially during the Cold War, in gathering intelligence very close to foreign shorelines." What the minority report fails to mention is that the 1958 Convention on the Territorial Sea and the Contiguous Zone, to which the United States has long been party, contains exactly the same restriction.39 Moreover, the collection of intelligence in any guise within the territorial sea is not "innocent passage."40 Such operations are called espionage, not innocent passage. The United States would never accept foreign submarines or foreign warships engaging in intelligence-gathering operations in the territorial sea off of San Diego or Norfolk. Indeed, when President Reagan signed a proclamation extending the U.S. territorial sea to twelve nm on December 27, 1988, consistent with the Convention, one of the first things that the Coast Guard did was to advise a Soviet military vessel gathering intelligence just a few miles off of Pearl Harbor to leave the area immediately.42 The U.S. military and intelligence communities are well aware that the Convention would have a positive impact on our national security. Moreover, as Senator Richard Lugar, ranking minority member of the Foreign Relations Committee, has argued, it would be unprecedented for the Senate to deny to our nation's military and national security leadership a tool that they have unanimously claimed that they need, especially during a time of war.43

#### [DL] Oliver 08 of Journal of International and Comparative Law: Intelligence gathering is not innocent passage, so submarines don’t have to show their flags.

[Oliver, John T](https://www.unclosdebate.org/author/1271/john-t-oliver). "National Security and the U.N. Convention on the Law of the Sea: U.S. Coast Guard Perspectives." [ILSA Journal of International and Comparative Law](https://www.unclosdebate.org/citations/source/ILSA%20Journal%20of%20International%20and%20Comparative%20Law). Vol. 15, No. 2 (2008-2009): 573-586
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#### [DL] It’s only a 12 mile restriction against the territorial sea, so why can’t we do 13 mile intel gathering?

### AT: Wiretapping

#### [ID] Hinck talks about Russian techniques to cut cables, not U.S. – the article he also cites that says that we need to cut cables to gather intelligence is from 2014. Fung 16 of Washington Post: U.S. subs have antennas that intercept and manipulate cables. We don’t actually break them.

Fung 16 of Washington Post [Brian Fung, "America uses stealthy submarines to hack other countries’ systems," 7-29-2016, https://www.washingtonpost.com/news/the-switch/wp/2016/07/29/america-is-hacking-other-countries-with-stealthy-submarines/?utm\_term=.869375711ad0] //AT on 7-11-2018

These days, some U.S. subs come equipped with sophisticated antennas that can be used to intercept and manipulate other people's communications traffic, particularly on weak or unencrypted networks.

####  [LT] McAdam 12 of Committee of Foreign Relations: Countries are encroaching our abilities to maintain cables right now. However, if we accede to UNCLOS, we gain the legitimacy to enforce the provisions to maintain and protect our undersea cables.

McAdam 12 of CFR [Lowell C. McAdam, 6-28-2012, Committee of Foreign Relations, "Testimony of Lowell C. McAdam", (), accessed 9-9-2018, https://www.foreign.senate.gov/imo/media/doc/McAdamTestimony2.pdf] //AT

First, some nations have attempted to encroach on the ability of U.S. operators to participate effectively in the deployment, maintenance and repair of undersea cables. To oppose these types of foreign encroachments or restrictions effectively, the U.S. must have a seat at the table where it can enforce the Convention’s freedoms to lay, maintain, and repair undersea cables.

#### [DL] They say that Russia and China are tapping, so why can’t we?

#### [NU] Axe 15 of The Week: Underwater wiretapping has fallen out of favor because it is too dangerous to be used against military rivals yet unnecessary for domestic surveillance.

David Axe 15 of The Week [David Axe, 8-20-2015, No Publication, "This is&nbsp;the U.S. Navy's most secretive submarine", (), accessed 8-21-2018, ] //AT

Now that the submarine has returned to the fleet, it will surely resume its secret duties as America's main underwater spy. But the special sub probably won't be listening in on your phone and internet conversations. Too dangerous against military rivals and unnecessary for domestic surveillance, submarine wiretaps seem to have fallen out of favor.

#### [NU] Hinck 18 of Lawfare: The U.S. is already a party to the Convention of the Protection of Submarine Cables, which prohibits damaging cables.

Garrett Hinck 18 of Lawfare [Garrett Hinck, 8-21-2018, Lawfare, "Cutting the Cord: The Legal Regime Protecting Undersea Cables", (), accessed 8-21-2018, https://www.lawfareblog.com/cutting-cord-legal-regime-protecting-undersea-cables] //AT

The earliest international law agreement on the topic is the [Convention on the Protection of Submarine Cables](https://www.loc.gov/law/help/us-treaties/bevans/m-ust000001-0089.pdf), signed in Paris in 1884. The treaty applies to all cables outside the territorial waters of states and requires all states to incorporate its protections into their domestic law. (The relevant U.S. provision is [47 U.S.C. § 21-39](https://www.law.cornell.edu/uscode/text/47/chapter-2).) Article 2 mandates that “the breaking or injury of a submarine cables, done willfully or through culpable negligence...shall be a punishable offense.” In Article 12, the parties agree to implement national legislation to impose the penalties for violating the treaty. Notably, Article 15 says its provisions “shall in no wise [sic] affect the liberty of action of belligerents.” Thus, in wartime, the protections do not apply.

#### [IM] They don’t quantify what percent of intelligence comes from underwater wiretapping or how much intelligence we have gained from wiretapping. We would say this number is really small, because Mauldin of TeleGeography 17 finds that deliberate sabotage accounts for less than 6% of damaged cables.

Alan Mauldin, 17 [, "Cable Breakage: When and How Cables Go Down," TeleGeography, 5-3-2017, <https://blog.telegeography.com/what-happens-when-submarine-cables-break> and https://blog.telegeography.com/hs-fs/hubfs/2017/submarine-cable-map/faq-graphics/causes-of-cable-faults.png?t=1531270127606&width=640&name=causes-of-cable-faults.png]

Environmental factors like earthquakes also contribute to damage. Less commonly, underwater components can fail. Deliberate sabotage and shark bites are exceedingly rare.

## AT: Hardliners

### AT: China

#### **[NU] Powell 15 of Newsweek: China is already growing suspicious of US containment policies in the South China Sea.**

[Bill, Senior Writer TIME Magazine and Newsweek, Newsweek, “IN WASHINGTON, A STRATEGIC SHIFT ON CHINA—TOWARD CONTAINMENT”, http://www.newsweek.com/washington-shift-china-toward-containment-326591, Accessed June 23 2016, A.H]

The words are dispassionate: “significant competitor”; not "enemy.’’ They are careful: "A more coherent response." That suggests that heretofore the U.S. response to increasing Chinese power has been at least somewhat coherent. But there should be no mistaking the significance of the above sentences. They are the first of many in a lengthy new report issued by the Council on Foreign Relations. For decades, the “council,” as the cognoscenti call it, has been the core of the American foreign policy establishment. When it comes to foreign affairs, it doesn't just regurgitate the conventional wisdom, it creates it.¶ Given that, the just issued report on U.S.-China relations, co-authored by Robert Blackwill, one of the most distinguished American diplomats of his generation, signifies a major shift in establishment thinking about China. And the conclusion is, as these things go, astonishing: The U.S. should place "less strategic emphasis on the goal of integrating China into the international system, and more on balancing China's rise.” Which is to say, we should basically chuck what has been U.S. policy for the past three decades, and try something that sounds almost (but not quite) like containment.¶ Try Newsweek for only $1.25 per week¶ The report comes amidst whispers that senior foreign policy grandees of former administrations—both Democratic and Republican—have started to sour on hopes that Beijing could be brought without much rancor into the existing international order. They worry that President Xi Jinping is more interested in becoming No. 1, as opposed to co-existing with the U.S. at the apex of the international pecking order. It also comes amidst the Obama administration’s so-called pivot to Asia, which it goes to great lengths to insist is not about containing China. The only problem with that claim is that there isn't anybody among traditional U.S. allies in the region who believes it. And the China as rival and not “strategic partner”—which is what the Obama administration used to call it—is increasingly evident. Pushing for support for the Trans Pacific Partnership—a broad free trade deal with 12 Pacific nations—Obama recently told The Wall Street Journal that “if we don't write the rules, China will write the rules out in that region.”¶ As that kind of “us-or-them” rhetoric indicates, even the economic relationship between the two countries—which is its fundamental core—is under some strain. In their recently released annual survey of business conditions in China, the American chambers of commerce in both Shanghai and Beijing recently reported an uptick in the number of their members concerned about increasing regulatory and legal scrutiny from the government in Beijing.¶ The conventional wisdom is that the current leadership in Beijing watches all this and, unified, sets an ever more defiant course both abroad and at home. Beijing, it is said, suspects the U.S. of trying to encircle China—of trying to blunt if not reverse its rise. So it flexes its muscles in the east and south China seas, and moves to exert ever more influence to its west through massive government-led investment plans to create a new “silk road.” (On April 21, Xi was in Islamabad hawking an aid and investment deal with Pakistan with a headline number—$46 billion—that drew attention around the world.)¶ There is, to be sure, an element of truth in all that. But it's also more complicated. No one at any level of the Chinese leadership ever draws attention to himself by publicly questioning the party line; but there remain people in the Beijing government who can safely be called pro-Western, and who believe a strong relationship with the United States is in the country’s best interest. And they are watching, with increasing (if still muted) concern, the tide go out on what has been an era of bipartisan policy in Washington toward Beijing: one that accentuated the economic benefits to both sides in the short run, with the hope that in longer run, increasing prosperity in China would bring about some form of political liberalization.¶ Those days—and hopes—are gone. And the day may be drawing near when a behind-the-scenes debate breaks out in Beijing that poses a straightforward question: Who lost Washington?¶ In the U.S., of course, "Who lost China?" was a rancorous Cold War–era debate in the wake of the 1949 Communist takeover in Beijing. The second-guessing in China over current foreign policy will not, of course, be so public, but that doesn't mean it won't come. A scholar at a government-affiliated think tank with close ties to several senior party officials acknowledges that “there are some questions in the wind now, certainly. No one quite says, “Who lost Washington?”—we're not there yet—but people I would call “internationalists” with a pro-Western bias wonder where this is headed, and “whether we've played our hand intelligently both in terms of relations with Washington but also in our own backyard.”¶ Those questions have to do with the perception that Beijing over the past few years has bullied small neighbors like the Philippines and Vietnam, as well as whether it needed to pick a fight with Japan over the Senkaku Islands. (China refers to them as the Diaoyu Islands and calls them “disputed”; Tokyo denies there’s any doubt they belong to Japan.)¶ Beijing points out—and diplomats in Tokyo concur—that the two countries worked hard over the last year to drain some of the poison out of the islands dispute, which had alarmed Washington, and, as one former U.S. diplomat says, put the “pro-China crowd at the State Department very much on the defensive.’’ For now, the issue has receded, and foreign ministry officials in Beijing say the effort shows that the notion that “nationalistic hawks are running wild” in the Chinese capital, as the government think tank scholar puts it, is overblown.¶ But there’s little question that any measure of trust between Beijing and Washington has diminished; a foreign ministry official late last year told Newsweek that there is "no question" that relations between the two countries were “better when George W. Bush was president than they are today.”¶ The question is, to what extent does that matter to Beijing? Foreign diplomats there seem increasingly to think it’s not that big a deal to Xi & Co.; Beijing is increasingly suspicious of the U.S. as a rival in Asia and increasingly convinced that its own ascendancy is irreversible. The quest for supremacy in the Pacific, therefore, is likely to intensify.¶ If true, those attitudes will have consequences. There is increasing talk in Washington that the U.S. needs to reverse the shrinkage in its Navy. Most of the leading Republican presidential candidates support an increase in the number of aircraft carriers in the U.S. fleet, as well as a modernized version of the so-called Ohio class of nuclear submarines, which are slated to go out of business in just over a decade. Nor is it unthinkable that Hillary Clinton, should she be Barack Obama’s successor in less than two years, would add more military heft to the so-called pivot to Asia—particularly if U.S. policy is to “balance” China’s rise. There is also growing anger over Beijing’s purported cyber offensive against both the U.S. government and big U.S. corporations. (And let’s face it, the Fortune 500 is the core of Beijing’s constituency in the United States.)¶ If China, in fact, doesn’t care that it's “losing Washington,” that only makes it more likely that it will lose it. And at the moment, that appears to be the road Beijing is on.

## AT: Lawsuits (Environment)

### AT: Domestic Lawsuits

#### [NU] Tabuchi 18 of NYT: Oil companies are already being sued for damaging the environment. New York City sued Exxon, BP Oil, Shell, and other oil companies in January because of their climate change.

Brad Plumer and Hiroko Tabuchi 18 of NYT [Brad Plumer and Hiroko Tabuchi, 2-2-2018, No Publication, "Exxon Studies Climate Policies and Sees ‘Little Risk’ to Bottom Line", (), accessed 10-2-2018, https://www.nytimes.com/2018/02/02/climate/exxon-global-warming.html] //AT

Also on Friday, Exxon reported lackluster quarterly earnings as disappointing refinery and chemical results weighed on its bottom line. Its stock fell 5 percent on Friday amid a broader sell-off in the market. Some climate campaigners were unimpressed with Exxon’s climate analysis. “The range of risks that Exxon faces if climate action is taken is far deeper than what’s being presented here,” said Adam Scott, a senior adviser at Oil Change International, an energy research and advocacy group. He and others pointed out that Exxon, for instance, has assumed the development of technologies such as carbon capture that would allow the use of fossil fuels to continue with lower emissions. Also, Exxon didn’t address what might happen if countries agreed to make considerably more aggressive cuts designed to hold global warming to 1.5 degrees Celsius above preindustrial levels, as urged by the Paris agreement. Nor did the company detail the risks from the growing number of lawsuits being filed against fossil fuel companies in various states around the United States. In January, New York City sued Exxon, BP, Shell, and other oil companies, demanding billions of dollars in damages to help the city cope with the effects of global warming. “ExxonMobil’s own analysis assumes the world will continue to burn through oil and gas to drive its profits, keeping us on a path toward global temperatures rising well above the 2 degree Celsius threshold,” said Kathy Mulvey, climate accountability manager at the Union of Concerned Scientists.

#### [DL] DiChristopher 18 of CNBC: Judges in previous climate change litigations have ruled in favor of oil companies, citing that climate change shouldn’t be brought up to the judicial branches, but rather global policies through executive and legislative branches.

Tom Dichristopher 18 of CNBC [Tom Dichristopher, 4-25-2018, CNBC, "Judge throws out New York City's climate change lawsuit against 5 major oil companies", (), accessed 10-2-2018, https://www.cnbc.com/2018/07/19/judge-tosses-nycs-climate-change-lawsuit-against-5-big-oil-companies.html] //AT

A federal judge on Thursday threw out a lawsuit brought by New York City against five major oil companies for their role in contributing to climate change. New York is one of several cities that have filed suit against big oil companies, which the municipalities blame for adverse impacts related to global warming. Echoing the ruling to dismiss two California cases last month, the judge based his ruling in part on the view that problems associated with climate change should be tackled by Congress and the executive branch. New York said five of the biggest oil companies — [BP](https://www.cnbc.com/quotes/?symbol=BP.-GB), [Chevron](https://www.cnbc.com/quotes/?symbol=CVX), [ConocoPhillips](https://www.cnbc.com/quotes/?symbol=COP), [Exxon Mobil](https://www.cnbc.com/quotes/?symbol=XOM) and [Royal Dutch Shell](https://www.cnbc.com/quotes/?symbol=RDSA-GB) — should compensate the city for the cost of mitigating the effects of global warming. The city had argued the five companies were responsible for more than 11 percent of all industrial carbon dioxide and methane emissions since the Industrial Revolution. Attorneys for New York also alleged the companies downplayed the risks of burning fossil fuels while privately acknowledging the threat of global warming for decades. But on Thursday, John F. Keenan, U.S. District Court judge for the Southern District of New York, granted the defendants' request to dismiss the complaint. In his ruling, Keenan agreed with the argument made by attorneys for the companies that the case should be tossed because the city's claims arise under federal common law, which displace the city's state law claims. The judge also ruled that the Clean Air Act displaced the city's claims. He said courts have previously determined that interstate emissions from burning fossil fuels is a "federal concern" that has been "delegated to the Executive Branch as they require a uniform, national solution." "Climate change is a fact of life, as is not contested by Defendants. But the serious problems caused thereby are not for the judiciary to ameliorate. Global warming and solutions thereto must be addressed by the two other branches of government," Keenan wrote. Last month, a federal judge [dismissed climate change cases](https://insideclimatenews.org/news/26062018/california-cities-climate-change-lawsuits-dismissed-fossil-fuels-industry-rising-sea-levels) against oil companies brought by Oakland and San Francisco based on similar grounds. Exxon Mobil also reiterated that view following the ruling. "We have said all along that addressing the risks of climate change is a serious global challenge that should be addressed by policymakers and not by the courts," Scott Silvestri, a media relations manager for Exxon said in a statement. In its own statement, ConocoPhillips said, "We are pleased that a second federal court judge has agreed that climate change is a global issue that requires global policies and solutions addressed through the U.S. legislative and executive branches, not the courts." Lastly, Keenan concluded that the city's claims raise concerns about separation of powers and foreign policy because New York is suing two foreign companies — BP and Shell — and seeking to hold all five firms liable for worldwide greenhouse gas emissions.\

#### [DL] Brosseau 12 of Southern University Law: Only other countries in UNCLOS are allowed to sue the U.S., not individuals or groups.

Brousseau, James D. "[Frozen in Time: A Fresh Look at the Law of the Sea and Why the United States Continues to Fight against It](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2667035) ." [Southern University Law Review](https://www.unclosdebate.org/citations/source/Southern%20University%20Law%20Review). Vol. 42, No. 1 (2014): 143-179. [ [More](https://www.unclosdebate.org/citation/2123/frozen-time-fresh-look-law-sea-and-why-united-states-continues-fight-against-it) (13 quotes) ]
UNCLOS cannot be understood as creating substantive causes of action or other individual legal rights that can be invoked in US courts.160 Internationally, there is no remedy open to individuals or groups, only to State parties to the Convention.161 Furthermore, even if a State were to successfully challenge US climate policies, by alleging that such policies were resulting in the pollution of the marine environment, the UNCLOS dispute resolution mechanisms outlined in article 297 would still be unavailable.162 Specifically, article 297(1)(c) sets out the exclusive basis upon which a State party may bring a dispute before an international tribunal for an act of alleged pollution to the marine environment.163 The aggrieved State, in stating its claim, must invoke a “specified” international rule applicable to the US. Because no provision of UNCLOS applies any additional substantive rules concerning climate change, it would, therefore, not be possible for a UNCLOS State party to rely on the dispute resolution procedures of article 297 for creating an adequate forum to challenge US climate change policies.164

### AT: International Lawsuits

#### [DL] Borgerson 09 of Council on Foreign Relations: The U.S. is only required under UNCLOS to follow laws that it already passed, not any new laws. Thus, the U.S. won’t be exposed to any lawsuits.

[Borgerson, Scott G](https://www.unclosdebate.org/author/31/scott-g-borgerson). [The National Interest and the Law of the Sea](http://www.cfr.org/oceans/national-interest-law-sea/p19156) . [Council on Foreign Relations](https://www.unclosdebate.org/organization/30/council-foreign-relations): Washington, D.C., May 2009 (82p). [ [More](https://www.unclosdebate.org/citation/29/national-interest-and-law-sea) (22 quotes) ]
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.

#### [DL] Hudzik 10 of Washington University: The U.S. can’t be sued since it already complies with all of the environmental provisions under UNCLOS.

Hudzik, Elizabeth M. "[A Treaty on Thin Ice: Debunking the Arguments against U.S. Ratification of the Law of the Sea in a time of Global Climate Crisis](http://openscholarship.wustl.edu/law_globalstudies/vol9/iss2/6/) ." [Washington University Global Studies Law Review](https://www.unclosdebate.org/citations/source/Washington%20University%20Global%20Studies%20Law%20Review). Vol. 9, No. 2 (2010) [ [More](https://www.unclosdebate.org/citation/5/treaty-thin-ice-debunking-arguments-against-us-ratification-law-sea-time-global-climate) (6 quotes) ]
Fundamental differences on environmental policy have also been raised as objections to UNCLOS. Opponents see UNCLOS as a 'back door' for environmental activists to circumvent the U.S. Congress on international environmental law.70 Alternatively, accession might encourage foreign governments to bring action against the United States for environmental transgressions under the treaty‘s mandatory dispute resolution protocol.71 Use of the outlined dispute resolution process against the United States seems unlikely, though, since the United States already complies with or exceeds the environmental standards set out in UNCLOS.72 Further, provisions meant to protect the sustainability of the world‘s oceans are of global concern73 and benefit U.S. ocean-based industries.74 Even while it complies with the substance of the environmental provisions, the United States may be seen as a block to global environmental action until it actually ratifies UNCLOS.75

#### [DL] Conathan 12 of ThinkProgress: The legal team of the State Department found that there is nothing in UNCLOS that forces U.S. climate policy change.

Michael Conathan. "[Conservatives Disregard Traditional Allies to Oppose the Law of the Sea](http://thinkprogress.org/climate/2012/06/13/498060/conservatives-disregard-traditional-allies-to-oppose-the-law-of-the-sea/) ." [Think Progress](https://www.unclosdebate.org/citations/source/Think%20Progress). (June 13, 2012) [ [More](https://www.unclosdebate.org/news/827/conservatives-disregard-traditional-allies-oppose-law-sea) ]
But some, like Sen. James Risch (R-ID), have posited that ratification would compromise our sovereignty by forcing the United States to abide by other treaties and impose overly restrictive environmental regulations. Insinuating that ratification of Law of the Sea could force the United States to join other international agreements on climate change or other environmental protections, Sen. Risch told Secretary of State Hillary Clinton at a Foreign Relations Committee hearing last month that the Law of the Sea treaty had “Kyoto written all over it,” a reference to the Kyoto Protocol, the international agreement linked to the U.N. Framework Convention on Climate Change. In response, Secretary Clinton cited the State Department legal team, saying, “there is nothing in the [Law of the Sea Convention] that commits the United States to implement any commitments on greenhouse gases under any regime, and it contains no obligation to implement any particular climate change policies.” While Sen. Risch and his allies would likely disagree with such claims, they cannot deny that diplomats such as Secretary Clinton are the very people who would establish the U.S. position. So whose opinion should carry more weight: protectionist fear mongers or actual diplomats and policymakers?

## AT: Oil Drilling

### AT: Acceding Allows Oil Drilling

#### [NU] Groves 12 of Heritage: Many companies have already leased and developed land claims for oil development in the ECS. He concludes that we have already leased 65 blocks of our ECS for oil and that the certainty is already there for oil companies.

Groves 12 of Heritage Foundation [Steven Groves, 5-14-2012, Heritage Foundation, "U.S. Accession to U.N. Convention on the Law of the Sea Unnecessary to Develop Oil and Gas Resources", accessed 8-13-2018, https://www.heritage.org/report/us-accession-un-convention-the-law-the-sea-unnecessary-develop-oil-and-gas-resources] //AT

Reality tells a different story. The ECS area on the U.S. portion of the western gap has been available for development since August 2001. Specifically, the Bureau of Ocean Energy Management (BOEM)22 offered the northern portion of the western gap for lease almost immedi- ately after the 2000 U.S.–Mexico ECS delimitation treaty was ratified. That treaty entered into force on January 17, 2001. Seven months later, on August 22, BOEM offered the area of U.S. ECS in the western gap in Lease Sale 180. In that lease sale, three U.S. companies (Texaco, Hess, and Burlington Resources Offshore) and one foreign company (Brazil’s Petrobras) submit- ted successful bids totaling more than $2 million for seven lease blocks in the western gap.23 BOEM has offered the ECS blocks in the western gap in 19 lease sales between August 2001 (Lease Sale 180) and March 2010 (Lease Sale 213). In connection with those sales, seven U.S. companies (Burlington, Chevron, Devon Energy, Hess, Mariner Energy, NARCA Corporation, and Texaco) submitted bids to lease blocks in the western gap. Five foreign companies—British Petroleum, Eni Petroleum (Italy), Maersk Oil (Denmark), Petrobras, and Total (France)—also bid on western gap ECS blocks during those sales. BOEM collected more than $47 million in bids in connection with lease sales on those blocks. Of the approximate 320 blocks located in whole or in part on the western gap ECS, 65 (approximately 20 percent) are currently held under active leases by nine U.S. and foreign oil exploration companies.24 The successful delimitation and subsequent leasing of areas in the Gulf of Mexico demonstrate that the United States does not need to achieve universal international recognition of its ECS. The United States identified and demarcated areas of ECS in the western gap in cooperation with the only other relevant nation, Mexico, and that area was subsequently offered for development to U.S. and foreign oil and gas companies.25 All of this was achieved without U.S. accession to UNCLOS or CLCS approval. Even though approximately 20 percent of the only area of U.S. ECS that has been made available for lease by BOEM is currently under an active lease, the U.S. oil and gas industry has supported and will likely continue to support U.S. accession to UNCLOS in order to achieve even greater “certainty.” That is their prerogative, of course, and achieving a maximum amount of certainty is a legitimate and desirable goal for a capital-intensive commercial enterprise. However, the successful delimitation of the ECS in the western gap and the U.S. government’s continuing lease sales of ECS blocks would appear to have provided the certainty necessary for several major U.S. and foreign oil exploration companies to secure leases for the development of the U.S. ECS.

#### [NU] U.S. Department of Commerce: The U.S. already has full rights to its EEZ for drilling.

Us Department Of Commerce, National Oceanic and Atmospheric Administration xx of No Publication [Us Department Of Commerce, National Oceanic and Atmospheric Administration, xx-xx-xxxx, No Publication, "What is the EEZ?", (), accessed 12-2-2018, https://oceanservice.noaa.gov/facts/eez.html] //AT

Within the EEZ, the U.S. has:

Sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, whether living and nonliving, of the seabed and subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;

### AT: Companies Will Drill

#### [DL] Carrington 18 of The Guardian: Companies won’t drill in the Arctic because they fear public relations backlash and their investors are discouraging them from doing so, making them risk financial repercussions.

Damian Carrington, the Guardian: “Investors urge fossil fuel firms to shun Trump's Arctic drilling plans.” The Guardian, May 14, 2018. <https://www.theguardian.com/environment/2018/may/14/investors-urge-fossil-fuel-firms-shun-trump-arctic-drilling-plans-alaskan-wilderness>

Investors managing more than $2.5tn have warned oil firms and banks to shun moves by the US president, Donald Trump, to open the Arctic national wildlife refuge (ANWR) to drilling. Companies extracting oil and gas from the wilderness area in Alaska would face “enormous reputational risk and public backlash”, the investors say in a letter sent on Monday to 100 fossil fuel and the banks that finance them. Exploiting the area would also be an “irresponsible business decision”, the group argues, as global action on climate change will reduce oil demand and mean such projects have a high risk of losing money. An accompanying letter from the indigenous Gwich’in people say it would be “deeply unethical” to destroy their homelands.

#### [DL] Lioudis 18 of Investopedia: The cost of production for offshore oil rigs is 15 to 20 times higher than onshore land oil rigs, with the average price for an offshore oil rig being $650 million.

Nick K. Lioudis 18 of Investopedia [Nick K. Lioudis, 3-5-2018, Investopedia, "How do average costs compare among various oil drilling rigs?", (), accessed 10-2-2018, https://www.investopedia.com/ask/answers/061115/how-do-average-costs-compare-different-types-oil-drilling-rigs.asp] //AT
Average costs vary widely between different types of oil rigs, ranging from around $20 million to as high as $1 billion. The cost of oil rigs and drilling equipment invariably represents a very large [capital expenditure](https://www.investopedia.com/terms/c/capitalexpenditure.asp) for an oil producer. The massively greater investment required in drilling equipment is one reason why [oil producers are willing](https://www.investopedia.com/investing/worlds-top-oil-producers/) to undertake the time and expense of doing extensive seismological surveys to determine proven and [probable reserves](https://www.investopedia.com/terms/p/probable-reserves.asp) available for recovery prior to drilling. For land drilling, equipment represents one of the two major expenses for an oil producer, the other being the cost of establishing [infrastructure](https://www.investopedia.com/terms/i/infrastructure.asp) access for roads, water and electricity. For [offshore drilling](https://www.investopedia.com/articles/fundamental-analysis/10/a-primer-on-offshore-drilling.asp), the higher cost of drilling equipment often represents nearly 90% of an oil producer's total investment. The [price of oil](https://www.investopedia.com/articles/economics/08/determining-oil-prices.asp) rigs for land drilling in the U.S. typically starts at around $18 million to $20 million and rises to around $25 million, but it can be nearly twice that amount depending on the specific rig purchased. The least-expensive rigs are those classified as U.S. small footprint land rigs. U.S. shale-ready rigs tend to cost about $3 million to $5 million more than small footprint rigs. International land rigs, designed to meet a wider range of specifications that vary from one country to another, generally range from $25 million to $40 million. The average cost for offshore rigs can be as much as 15 to 20 times greater than the average cost for land rigs. The least-expensive offshore rigs typically cost nearly $200 million. The [average price](https://www.investopedia.com/terms/a/averageprice.asp) for offshore oil-drilling rigs is approximately $650 million. Following the oil crisis that began in 2014, offshore rig firms believed that a recovery on the rig rental market would take place in 2018 due to increased demand, with average prices projected to rise above their current value of $200,000 per day. Rigs vary in price according to, among other things, the depth to which they are designed to drill, and in the case of offshore rigs, the depth of water in which they are designed to operate.

#### [DL] Harvey 15 of The Guardian: Previous attempts to drill in the Arctic in the past have failed because our technology was not sufficient.

Fiona Harvey 15 of Guardian [Fiona Harvey, 9-18-2015, Guardian, "Drilling for Arctic oil is not viable yet, says IEA chief", (), accessed 8-20-2018, https://www.theguardian.com/environment/2015/sep/18/arctic-oil-not-for-today-or-tomorrow-says-iea-chief-fatih-birol] //AT

But the intervention of Fatih Birol, incoming executive director of the International [Energy](https://www.theguardian.com/environment/energy) Agency (IEA), is likely to carry more weight with governments and businesses. He told the Guardian that the technology was not ready, and faces hurdles that may prove too costly to overcome. “I believe that [Arctic](https://www.theguardian.com/world/arctic) oil is not for today, and not for tomorrow – maybe for the day after tomorrow,” he said. “It’s geologically difficult, technologically difficult, lots of environmental challenges, and the cost of production is very, very high, especially if you look at the current oil price levels.”

#### [DL] Tabuchi 18 of The New York Times: Companies don’t want to invest in offshore drilling because they fear that the next presidential administration would create policies that harm their drilling.

Hiroko Tabuchi 18 of No Publication [Hiroko Tabuchi, 1-23-2018, No Publication, "Trump Would Open Nearly All U.S. Waters to Drilling. But Will They Drill?", (), accessed 10-5-2018, https://www.nytimes.com/interactive/2018/01/23/climate/trump-offshore-oil-drilling.html] //AT

Stated another way: Almost two-thirds of the nation’s oil reserves that companies can hope to drill for while still turning a profit lie in seas already open to drilling. Meanwhile, there’s little recoverable oil and gas in the South Atlantic or the Straits of Florida, or off the Washington and Oregon coast, or off Alaska outside the north shore. The abundance of cheap oil and gas from onshore fracking in the United States has already diminished the incentive for companies to go drill in new offshore zones. Given the risks and costs of building wells in seas that have seen little development to date, not to mention the possibility that a new administration could again change offshore policy down the road, analysts don’t expect a rush into newly opened waters soon.

#### [DL] Tabuchi 18 of The New York Times: The fracking boom for natural gas onshore has diminished incentive for offshore drilling. Fracking is easier, less expensive, less risky, and has a huge abundance of supply onshore, which is why companies aren’t drilling for natural gas offshore despite Trump opening up borders.

Hiroko Tabuchi 18 of No Publication [Hiroko Tabuchi, 1-23-2018, No Publication, "Trump Would Open Nearly All U.S. Waters to Drilling. But Will They Drill?", (), accessed 12-2-2018, https://www.nytimes.com/interactive/2018/01/23/climate/trump-offshore-oil-drilling.html] //AT

The abundance of cheap oil and gas from onshore fracking in the United States has already diminished the incentive for companies to go drill in new offshore zones. Given the risks and costs of building wells in seas that have seen little development to date, not to mention the possibility that a new administration could again change offshore policy down the road, analysts don’t expect a rush into newly opened waters soon.

#### [DL] Gramer 17 of Foreign Policy: The shale boom is more profitable than Arctic drilling, disincentivizing drilling in the Arctic.

Robbie Gramer 17 of Foreign Policy [Robbie Gramer, 3-24-2017, Foreign Policy, "Oil Companies Cool on Arctic Drilling. Trump Wants It Anyway.", (), accessed 11-20-2018, https://foreignpolicy.com/2017/03/24/oil-companies-cool-on-arctic-drilling-trump-wants-it-anyway-energy-alaska-environment/] //AT

Part of the reason is the shale revolution in the United States, which undercut frontier projects like deepwater or the Arctic. “Shale is more accessible and is going to come ahead of the Arctic,” said Bud Coote of the Atlantic Council, formerly a CIA energy analyst. When oil companies like Shell did venture to the waters off Alaska several years ago, oil went for more than $100 a barrel. That made all the extra costs involved in drilling at the edge of the earth a bit more bearable. “I think it has to be back up in that range” for companies to head north again, he told Foreign Policy. Yet crude has hovered around $50 a barrel since late 2014.

### AT: Nat Gas

#### [DL] USCUSA: Natural gas emits 50 to 60 percent less CO2 than coal does when combusted.

USCUSA [Juan Declet-Barreto, xx-xx-xxxx, Union of Concerned Scientists, "Environmental Impacts of Natural Gas", (), accessed 12-2-2018, https://www.ucsusa.org/clean-energy/coal-and-other-fossil-fuels/environmental-impacts-of-natural-gas#.XAR4EWhKjIV] //AT

Natural gas emits 50 to 60 percent less carbon dioxide (CO2) when combusted in a new, efficient natural gas power plant compared with emissions from a typical new coal plant [[1](https://www.ucsusa.org/clean-energy/coal-and-other-fossil-fuels/environmental-impacts-of-natural-gas#references)]. Considering only tailpipe emissions, natural gas also emits 15 to 20 percent less heat-trapping gases than gasoline when burned in today’s typical vehicle [[2](https://www.ucsusa.org/clean-energy/coal-and-other-fossil-fuels/environmental-impacts-of-natural-gas#references)].

### AT: Renewables

#### [DL] Clements 18 of Forbes: Oil and natural gas aren’t substitutes to renewables, because renewables are strictly sources of energy, while oil and natural gas primarily goes into fuel – only 1% of oil is actually used in electricity.

Jude Clemente 18 of Forbes [Jude Clemente, 1-15-2018, Forbes, "The Offshore U.S. Oil And Natural Gas Treasure Trove", (), accessed 12-2-2018, https://www.forbes.com/sites/judeclemente/2018/01/19/the-offshore-u-s-oil-and-natural-gas-treasure-trove/#6a1dcc484fc8] //AT

Importantly, the push for more wind and solar will not displace our oil demand because they are strictly sources of electricity, and electricity accounts for just 1% of our oil usage. This is why the U.S. Department of Energy's (DOE) National Energy Modeling System projects that U.S. oil demand will actually rise in the years ahead, [here](https://www.eia.gov/outlooks/ieo/pdf/ieotab_5.pdf). As for natural gas, more demand stems from its lower emissions, and [gas' ability to backup wind and solar power](https://www.forbes.com/sites/judeclemente/2017/12/31/natural-gas-is-the-flexibility-needed-for-more-wind-and-solar/#159dd49a5777). DOE says our own natural gas usage [will increase 14-16%](https://www.eia.gov/outlooks/aeo/tables_ref.php) by 2040, not to mention [our surging exports](https://www.forbes.com/sites/judeclemente/2017/10/15/u-s-exports-of-liquefied-natural-gas-deserve-policy-support/2/#5da1422e7668).

### AT: Tranfield

#### **[DL] Conerly 18 of Forbes: Oil prices have recently dropped by $20 per barrel and have matched the same exact prices as last year.**

Bill Conerly xx of Forbes [Bill Conerly, xx-xx-xxxx, Forbes, "Why Are Oil Prices Dropping Sharply? Global Economy Forecasts Lowered", (), accessed 11-20-2018, https://www.forbes.com/sites/billconerly/2018/11/15/why-are-oil-prices-dropping-sharply-global-economy-forecast-softer/#5c533d67697a] //AT

That’s why oil prices tend to jump up and down. Current prices (as of this writing, $56) are about equal to year-ago prices.  It’s been just a bit over four years since prices were over $100, and less than three years since they were $27. [FocusEconomics](http://www.focus-economics.com/%22%20%5Ct%20%22_blank), which compiles forecasts of countries all over the world, sees lower global economic growth being forecast for both 2019 and 2020.

## AT: Orientalism

#### [NU] Hubinette 03, Orientalist Expert: Orientalism will always exist when we have hegemonic power.

**Hübinette- 03’** orientalist expert- has written many scholarly articles relating orientalism and Western Dominance (Tobias, “Orientalism Past and Present”, 9/7/03, [http://www.tobias](http://www.tobias/) hubinette.se/orientalism.pd)//AK

Since the end of the 1970s, most academic institutions in the West have more or less accepted the critique on classical orientalism and tried to distance themselves from their predecessors. Instead, it is in the form of popular orientalism that the discourse has managed to survive in the West as a romantic and colonial nostalgia reproduced in arts, movies and literature. This kind of popular orientalism is for example extremely well-represented in commercials here in Sweden. So finally there is a time to ask ourselves- is there a way out of orientalism , and can we imagine a world beyond orientalism? can we imagine a world beyond orientalism? Well, my personal guess is that **orientalism will always exist in one or another form as long as the West has hegemonic power.** **Orientalism is strongly intertwined with the Western self-image to such an extant that if orientalism goes, then Western world power or even the West itself must also go**. And isn´t that what we are seeing today, a slow but unstoppable power shift from the West towards East Asia with China and Japan in the forefront, maybe also South Asia with India as a leading nation, while the academic world itself is undergoing of a rapid Asianization, giving way to a more or less higher competence of higher diaspora Asians in the subjects involved.

## AT: Proliferation (Jones/Sid)

### AT: South China Sea

#### [IT] Deudney of John Hopkins University: U.S. hegemony and military security alliances prevent proliferation under a security umbrella. That’s why Kurlantzick 15 of The National found that when U.S. military force is insufficient, other countries that rely on the umbrella proliferate their own armies.

**Deudney et. al 11** [Daniel is associate professor of Political Science at John’s Hopkins University. Edited by Michael Mastanduno, Professor of Government and Dean of Faculty at Dartmouth College, and G. John Ikenberry, Professor of Politics and International Affairs at Princeton University, William Wolforth, the Daniel Webster Professor at Dartmouth College, where he teaches in the Department of Government, “Unipolarity and nuclear weapons” 2011 International Relations Theory and the Consequences of Unipolarity pg. 305]

The diffusion of nuclear weapons in the international system is significantly entangled with the role of the unipolar hegemonic state. The existence of a unipolar state playing the role of a liberal hegemon has arguably been a major constraint on the rate and extent of proliferation. The extended military alliance system of the United States has been a major reason why many potentially nuclear states have forgone acquisition. Starting with Germany and Japan, and extending to a long list of European and East Asian states, the American alliances are widely understood to provide a “nuclear umbrella.” Overall, without such a state playing this role, proliferation would likely have been much more extensive.

The liberal features of the American hegemonic sate also have contributed to constrain the rate and extent of proliferation. American leadership, and the general liberal internationalist vision of law-governed cooperative international politics, both enabled and infuses the non-proliferation regime. Similarly, the robust and inclusive liberal world trading system that has been a distinctive and salient feature of the American liberal hegemonic system offers integrating states paths to secure themselves that make nuclear acquisition less attractive.

**Kurlantzick ’15** (Joshua, Senior ­Fellow for South East Asia at the Council on Foreign Relations, The National. “Power trip: might China’s struggles with its neighbors bring war to Asia?” January 15, 2015. <http://www.thenational.ae/arts-lifestyle/the-review/power-trip-might-chinas-struggles-with-its-neighbours-bring-war-to-asia>)

From the air, the Spratly Islands, a cluster of miniature rocks and sandbars 425,000 kilometres square in the middle of the South China Sea, are almost imperceptible. Even up close, the Spratlys do not look like much – a few islands have tiny rocky beaches or occasional makeshift buildings. A tiny contingent of Filipino marines camps on a rusty hulk of an American ship from the Second World War grounded in the Spratlys. It’s hard to believe these outcroppings could be at the centre of an international dispute, let alone one that could lead to a future Asian war. But the Spratlys are not only claimed by China as Beijing’s exclusive economic zone. The Philippines, Vietnam, Malaysia, Indonesia and Brunei angrily retort that parts of the South China Sea belong to them, including areas that Beijing insists is China’s alone. The South East Asian countries and China have been unable to resolve their overlapping claims to the sea, believed to be rich in oil and strategically vital – more than US$5 trillion (Dh18.4 trillion) in trade passes through annually. The Philippines and Vietnam have asked an international tribunal to rule on what areas of the South China Sea are within Beijing’s exclusive economic zones but any decision will be meaningless; China argues that the tribunal has no power. In the past three years, under President Xi Jinping, Beijing has for the first time since Mao stated its desire to be the dominant power in Asia. China’s leadership is asserting long-dormant claims to unsettled land borders and large portions of Asia’s waters, including the South China Sea and the East China Sea in North East Asia, and demanding that it, not America or Japan, lead regional organisations. With the United States desperately trying to maintain its influence in Asia, countries like Vietnam, the Philippines and many others that relied on US protection are scrambling to build up their own armies and navies. China does not appear threatened. In November, during a forum sponsored by a Chinese military organisation, China’s vice foreign minister Liu Zhenmin declared that “Asian countries bear primary responsibility for the security of their region”, a statement interpreted as a warning to the United States. While the forum was being held, satellite photos revealed that China had been secretly building a landing strip in the Spratlys – one that could allow Chinese military aircraft to land in the archipelago in case war broke out. Indeed, despite pledges to boost US assistance to Asian countries, a recent report by the Senate Foreign Relations Committee found that America is still only spending a measly 4 per cent of its aid money in South East Asia

## AT: Rare Earth Minerals

#### [NU] Investing News Network 17: Due to the projected increase of demand by 10% in the next 10 years, companies are already mining for rare earth minerals due to the profit opportunities.

Investing News Network, 12-11-2017, "Rare Earths Outlook 2018: Diversifying Supply and Spotlight on NdPr", (), accessed 7-15-2018, https://investingnews.com/daily/resource-investing/critical-metals-investing/rare-earth-investing/rare-earth-outlook/ //LZ

**Rare earths outlook: Demand** Neodymium and praseodymium demand represented 14 percent of total global rare earths demand in 2017, and that amount is expected to increase to over 24 percent by 2027. **“Price increases are expected to be more gradual in 2018, reducing price shocks to consumers and maintaining good selling conditions for producers. Supply in China is expected to remain at a similar level, causing neodymium oxide to move further into supply deficit and become increasingly reliant upon stockpiled material,” said Merriman. Don Lay, president, CEO and director at Medallion Resources (TSXV:MDL), said a key challenge in 2017 has been “getting people to pay attention to the core drivers that are happening in driving new REE demand, [which] has little chance of being met by** new projects. He added, “demand for the magnet metals is growing — and this is being reflected in the pricing and [with] a new bull market germinating.” **Medallion is pursuing production of rare earths by sourcing and processing the by-product mineral monazite, which is rich in NdPr. Lay said he expects a better market in 2018 as the company works towards the completion of metallurgical testwork and monazite feedstock agreements. Adamas Intelligence estimates that the value of global annual rare earth oxides for the production of rare earth permanent magnets totaled $1.44 billion in 2016. The firm sees demand for magnet-oriented rare earth oxides increasing to $6.07 billion by 2025, representing a CAGR of 17.4 percent. Topf 13 (Andrew Topf editor at MINING.com Investing News “Rare Earths Outlook: Prices to Rise, Western Producers Cutting Into Chinese Monopoly” December 23, 2013** [**http://rareearthinvestingnews.com/19313-rare-earths-outlook-prices-to-rise-western-producers-cutting-into-chinese-monopoly.html**](http://rareearthinvestingnews.com/19313-rare-earths-outlook-prices-to-rise-western-producers-cutting-into-chinese-monopoly.html)**) //LZ “**New suppliers like Molycorp and Lynas are already significant-enough producers to influence the price (Molycorp is running at about 7,000 tons per year, compared to China’s current run rate of some 20,000+ tons per year), **and with ongoing investment likely to raise this figure,** China’s days of having a stranglehold on the market are, if not over, then at least severely limited.” **Of course, this is all dependent on Molycorp and Lynas reaching stated production goals. Both companies have faced roadblocks in this respect, with Molycorp falling behind its stated 15,000 tonnes per year target, and Lynas also admitting output trouble. Referring specifically to magnets, a large market for rare earth metals, Molycorp spokesman Jim Sims told Bloomberg** that Molycorp and Lynas “are increasing their production so there’s a growing diversity of supply for those rare-earth materials that eventually go into the magnets.” The article also said that while China is the primary source of REEs for the production of magnets, a U.S.-Japanese joint venture “has developed the technology for producing these magnets and is building a facility in Japan,” **referring to a JV signed in 2010 between Molycorp and Hitachi (TYO:6501) to produce neodymium-iron-boron (NdFeB) alloys and magnets**. The news **from the Pentagon** came a few months after Russia announced that it would spend $1 billion to produce rare earths **in a** bid to reduce its dependence on China. **The funds would come from Rostec and and investment company IST Group, which agreed to plow a billion dollars into Russian rare earths production by 2018. Then there’s the step that Greenland took in October of lifting its moratorium on rare earth and uranium mining. The ban’s removal is likely to attract foreign investors to the Arctic landmass in search of its prized rare earth deposits. While that could still be a ways off,** there is already a sign that Chinese rare earths dominance is under threat. **An article last Friday in Xinhua,** the Chinese state-owned news agency, said that Chinese rare rare earth miners are being forced to phase out excessive production capacity as overseas suppliers chip away at their dominance in the global market.

#### [NU] Eilperin 17 of the Washington Post: Trump signed executive order pushing for increased REM production that identifies new mineral sources and increases activity.

Juliet Eilperin, Washington Post, 12-20-2017, "Trump signs executive order to expand critical minerals production, says it will end America’s ‘vulnerability’", (), accessed 7-15-2018, https://www.washingtonpost.com/news/energy-environment/wp/2017/12/19/zinke-wants-to-expand-critical-minerals-production-saying-we-are-vulnerable-as-a-nation/?noredirect=on&amp;utm\_term=.bd71b1a93ed5 //LZ

**President Trump** signed [an executive order](https://www.doi.gov/sites/doi.gov/files/uploads/2017minerals.eo_.pdf) Wednesday instructing his deputies to devise “a strategy to reduce the Nation’s reliance on critical minerals” that are largely imported and used to produce everything from smartphones to weaponry. The executive order says **that the federal government will be “identifying new sources of critical minerals” and “increasing activity at all levels of the supply chain**, including exploration, mining, concentration, separation, alloying, recycling and reprocessing critical minerals.”

#### [NU] Groves 12 of Heritage Foundation: No legal barriers prevent the U.S access to deep seabed resources. U.S corporation and citizens have the right to develop the resources of deep seabed regardless if the U.S accedes to UNCLOS.

Steven Groves, June 14, 2012, Heritage, "", (), accessed 7-15-2018, https://www.foreign.senate.gov/imo/media/doc/Groves%20prepared%20testimony%20for%20UNCLOS%20hearing%20(final).pdf //LZ

Proponents of U.S. accession to UNCLOS contend that by failing to join the convention the United States is forbidden from mining the deep seabed—the ocean floor lying beyond the ECS and designated as “the Area.” However, no legal barriers prevent U.S. access, exploration, and exploitation of the resources of the deep seabed. The United States has long held that U.S. corporations and citizens have the right to develop the resources of the deep seabed and may do so whether or not the United States accedes to UNCLOS.

#### [DL] Burrow 16 of Harvard: Companies have found new methods to mine for rare earth minerals in a new, environmentally friendly way.

Leah Burrow, 06-17-2016, SEAS Harvard, "A clean way to extract rare earth metals", (), accessed 10-8-2018, https://www.seas.harvard.edu/news/2016/06/clean-way-to-extract-rare-earth-metals //AD

**Rare earth metals** — those 17 chemically similar elements at the bottom of the periodic table — **are in almost every piece of technology** we use from cell phones to wind turbines to electric cars. Because these elements are so similar to each other, the **process of separating them is time consuming, expensive, and dangerous.** Processing one ton of rare earths can produce 2,000 tons of toxic waste. Now, **researchers from the Harvard John A. Paulson School of Engineering and Applied Sciences (SEAS) may have found a clean alternative**. As part of their research at SEAS, from 2009 to 2015, David Clarke, the Extended Tarr Family Professor of Materials, and his then graduate student, William Bonificio, have **developed a method to separate rare earths using bacteria filters and solutions with pH no lower than hydrochloric acid.** “This is a radically different way of doing separation,” said Clarke. **“We have an opportunity to harness the diversity of bacterial surface chemistry to separate and recover these valuable metals in a way that is environmentally benign.”**

### AT: Environment

#### [IT] Ali 14 of the University of Delaware: Green technology is dependent on these rare earth metals, meaning that deep-sea mining is needed for continued green tech innovation.

#### [IT] Fredenburg 17 of the National Review: Rare-earth minerals are used extensively in various types of crucial military technologies, but according to Emily Zeng of the Financial Times in 2017, China controls 95% of all the mined rare-earth elements in the world and has in the past refused to trade these elements with other nations. Mining by the US would reduce military dependence on China, especially when tensions are so high.

## AT: Royalties

#### [DL] Harrison 17 of Oxford: Article 82 has never been used to force payment of royalties.

Rowland J 17 of OUP Academic [Rowland J, 12-1-2017, OUP Academic, "Article 82 of UNCLOS: The day of reckoning approaches", (), accessed 8-21-2018, https://academic.oup.com/jwelb/article-abstract/10/6/488/4060652?redirectedFrom=fulltext] //AT

Article 82 of the United Nations Convention on the Law of the Sea (UNCLOS) obligates coastal states to make payments to the international community in respect of the exploitation of non-living resources of the extended continental shelf beyond 200 nautical miles. Payments are to begin at the rate of 1 per cent in the sixth year of production, increasing by 1 per cent per year to a maximum of 7 per cent in the twelfth year. The payments are to be made through the International Seabed Authority to parties identified by the Authority “on the basis of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and land-locked among them.” To date, Article 82 has not been triggered. Recent petroleum discoveries beyond 200 nautical miles off Canada's east coast, however, have the potential for commercial development and may well be the first in the world to trigger Article 82. If so, Canada's approach to the implementation of Article 82 could be precedent-setting, with significant implications for the international offshore industry and for potential recipients of required payments. The implementation of Article 82 presents many issues. The most significant is: Who will bear the cost of satisfying the coastal state's obligation: the coastal state or industry? Several other issues with practical implications for industry arise from specific elements of Article 82. The goal of this article is to identify and generate discussion of the issues within industry, with a view to contributing to their resolution by government.

#### [DL] Pedrozo 13 of International Law Studies: The U.S. can offset royalties by using its own foreign aid that it gives right now – if royalties are going to a country that already receives U.S. funding, then the U.S. has no additional obligation to pay them more since they already give that country significant foreign aid.

[Pedrozo, Raul](https://www.unclosdebate.org/author/2/raul-pedrozo). "[Arctic Climate Change and U.S. Accession to the United Nations Convention on the Law of the Sea](http://www.usnwc.edu/getattachment/e9991b89-1193-4b32-a87e-315e06e4a5f2/Arctic-Climate-Change-and-U-S--Accession-to-the-Un.aspx) ." [International Law Studies](https://www.unclosdebate.org/citations/source/International%20Law%20Studies). Vol. 89. (2013): 757-775. [ [More](https://www.unclosdebate.org/citation/1063/arctic-climate-change-and-us-accession-united-nations-convention-law-sea) (10 quotes) ]
Payments are to be distributed by the ISBA to States Parties of UNCLOS in accordance with Article 82(4) on the basis of equitable criteria that take into account economic development factors. Of note, this distribution is distinct from the distribution of revenues generated from deep seabed mining operations under Part XI of the Convention. As a State Party to UNCLOS, the United States would have a permanent seat in the ISBA to ensure both kinds of distributions are made in ways acceptable to the United States—Section 3(15) of the Annex to the IA guarantees the United States a seat on the ISBA Council in perpetuity.28 Any ISBA decision regarding revenue sharing must be approved by the Council.29 Additionally, if distributions are made to a country that is already receiving U.S. foreign aid, the United States could offset aid to that country by the amount of distributions paid by the ISBA, in essence eliminating any increase financial burden to the American taxpayers.

#### [NU] Forbes 14: The U.S. gives approximately $48.4 billion to 96% of the world’s countries.

Steve Forbes 14 of Forbes [Steve Forbes, xx-xx-xxxx, Forbes, "U.S. Gives Financial Aid to 96% of All Countries", (), accessed 10-20-2018, https://www.forbes.com/sites/othercomments/2014/10/15/u-s-gives-financial-aid-to-96-of-all-countries/#adb0f22ccb9c] //AT

U.S. Gives Financial Aid to 96% of All Countries According to the federal government, for fiscal year 2012, “The United States remained the world’s largest bilateral donor, obligating approximately $48.4 billion—$31.2 billion in economic assistance and $17.2 billion in military assistance.” However, “obligated” funds are not the same as “dispersed.” The U.S. disbursed $33.2 billion—$19 billion in economic assistance to 184 countries and $14.2 billion in military assistance to 142 countries. Out of the top six U.S. foreign aid recipients, five of them were Muslim countries. And yet it seems the U.S. can’t buy good press in the Middle East. The UN boasts 193 members, and the U.S. provided economic assistance to 184 of them, or 96% of the countries in the world. To be sure, the amount of assistance drops significantly after the top 10 countries or so, but still.… Of course, State Department officials might claim that some of that money is to help the poor. But China has the second largest economy in the world—and is a major buyer of U.S. debt. So we borrow money from China in order to give them financial assistance?

### AT: Corruption

#### [LT] Khalifa 12 of Seapower: The U.S. will gain veto power in the ISA under UNCLOS. Indeed, Borgerson 09 of Council on Foreign Relations finds that the U.S. will be able to prevent funds from channeling into terrorist groups if they accede by vetoing.

Daisy R. Khalifa. "[Law of the Sea Goes Public](http://www.seapower-digital.com/seapower/201206#pg1) ." [Seapower](https://www.unclosdebate.org/citations/source/Seapower). (June 1, 2012)

“The Convention also guarantees the U.S. a permanent seat on the council of the International Seabed Authority, the organization created to recognize min- ing claims beyond the continental margin, with veto power over rules and regulations, amendments and distribution plans for royalty payments,” she said. “The Authority will receive royalty payments whether or not the U.S. is a party, but the U.S. will only be able to exercise its veto over how those funds are distributed if we join the Convention.”

Borgerson, Scott G. The National Interest and the Law of the Sea . Council on Foreign Relations: Washington, D.C., May 2009

The U.S. safeguard against such transfers becomes operative through the interaction of the convention and the 1994 agreement. Convention Article 161, paragraph 8(d) requires consensus of the ISA council to distribute economic benefits, pursuant to Article 162. Section 3, paragraph 15(a) of the annex to the 1994 agreement provides the United States a permanent seat on the council by virtue of being the largest economy on the date of entry into force of the convention. Together these sections effectively give the United States a “permanent veto” over distribution of economic benefits, hence preventing funds from being channeled to potential terrorist groups or other organizations likely to act counter to U.S. national security interests. Notably, the United States is the only nation with access to such a “permanent veto,” which is only available upon joining the convention. Accordingly, President Reagan’s concern regarding potential distribution of funds contrary to national security interests remains valid until the United States joins the convention.

### AT: Econ

#### [LT] Taft 04 of Department of State: While no countries mine in the deep seabed right now, acceding to UNCLOS allows these companies to start mining. Even if these companies are taxed, the minimal taxes are outweighed by the total revenue.

William H. Taft Iv, Legal Adviser, U.S. Department Of State, 2004http://www.globalsecurity.org/military//library/congress/2004\_hr/040408- taft.pdf

 The Convention does not provide for or authorize taxation of individuals or corporations. It does include revenue sharing provisions for oil/gas activities on the continental shelf beyond 200 miles and administrative fees for deep seabed mining operations. The amounts involved are modest in relation to the total economic benefits, and none of the revenues would go to the United Nations or be subject to its control. U.S. consent would be required for any expenditure of such revenues. With respect to deep seabed mining, because the United States is a non-party, U.S. companies currently lack the practical ability to engage in such mining under U.S. authority. Becoming a Party will give our firms such ability and will open up new revenue opportunities for them when deep seabed mining becomes economically viable. The alternative is no deep seabed mining for U.S. firms, except through other nations under the Convention. These minimal costs are worth it.

## AT: Tech Transfer

#### [DL] Sandalow 04 of Columbia University: Tech transfers were removed from the 1994 amendments to UNCLOS. Borgerson 09 of CFR finds that it does not force tech transfer, it only encourages it.

David Sandalow, Columbia University: “Law of the Sea Convention: Should the U.S. Join?” Brookings Institution, August 18, 2004. <https://www.brookings.edu/research/law-of-the-sea-convention-should-the-u-s-join/>

The 1994 agreement also recognized the longstanding view that the deep ocean floor is part of the global commons and beyond the reach of national jurisdiction. The agreement addresses in full all concerns identified by President Reagan a decade earlier. Technology transfer requirements—a principal objection in 1982—were deleted from the agreement. The 1994 agreement is a legally binding modification of Part XI the Law of the Sea Convention.

Scott G. Borgerson, Council on Foreign Relations: “The National Interest and the Law of the Sea.” CFR, May 2009. <https://cfrd8-files.cfr.org/sites/default/files/pdf/2009/04/LawoftheSea_CSR46.pdf>

U.S. Technological Advantage. It is true that the 1982 form of the convention mandated private technology transfer detrimental to U.S. national security and economic interests. That was one of the factors specifically cited when President Reagan rejected the convention. Article 144 of the convention does encourage technology transfer, calls for parties to “cooperate in promoting the transfer of technology and scientific knowledge,” and remains in force following the adoption of the 1994 agreement but does not mandate technology transfer. Such transfer, mandated by Annex III Article 5 of the convention, was eliminated by section 5 of the annex to the 1994 agreement. Additional protection against national security damage through technology transfer is provided by Article 302 of the convention: “[N]othing in this Convention shall be deemed to require a State Party, in the fulfillment of its obligations under this Convention, to supply information the disclosure of which is contrary to the essential interests of its security.”

#### [DL] Borgerson 09 of CFR: Tech transfers that harm national security don’t have to be transferred under UNCLOS.

Scott G. Borgerson, Council on Foreign Relations: “The National Interest and the Law of the Sea.” CFR, May 2009. https://cfrd8-files.cfr.org/sites/default/files/pdf/2009/04/LawoftheSea\_CSR46.pdf

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# Misc. Cards

#### Shell pulled out

Arthur Neslen 15 of Guardian [Arthur Neslen, 9-28-2015, Guardian, "Shell has frozen its Arctic oil drilling –&nbsp;but it's still hungry for fossil fuels", (), accessed 8-20-2018, https://www.theguardian.com/environment/2015/sep/28/shell-has-frozen-its-arctic-oil-drilling-but-the-fight-isnt-over] //AT

Shell’s decision to put its [Arctic](https://www.theguardian.com/world/arctic) oil exploration plans in deep freeze will have several knock-on effects for global oil exploration, environmental protests and the future of the company itself. The broader Arctic retreat by energy firms once bullish about polar prospects has now left just two working operations in the region: BP’s Prudhoe Bay field, which feeds the Trans-Alaskan pipeline, and Gazprom’s largely symbolic Prirazlomnoye platform in the Pechora Sea. Publicly, [Shell blames](https://www.theguardian.com/business/2015/sep/28/shell-ceases-alaska-arctic-drilling-exploratory-well-oil-gas-disappoints) disappointing exploratory results, high operating costs and strict US environmental regulations for its decision to quit Alaska’s Berger field after about $7bn (£4.6bn) of investment. But company sources also accept that Arctic oil polarised debate in a way that damaged the firm. “We were acutely aware of the reputational element to this programme,” one said.