**We negate resolved: The United States Should Accede to the United Nations Convention on the Law of the Sea or UNCLOS without reservations**

**Contention One is Drilling**

**NASDAQ[[1]](#endnote-1)** 17 explains that American drilling companies have a renewed interest in the arctic. **Conathan[[2]](#endnote-2)** finds that UNCLOS maximizes international legal certainty to companies wishing to drill. However, until the US joins UNCLOS, no U.S. companies will operate in the arctic, as companies cannot be certain that leases in these regions would not be challenged in international courts. The desire to drill is massive as the **USGS[[3]](#endnote-3)** in 2017 finds, 20%[[4]](#endnote-4) of Arctic oil falls under potentially claimable US territory, amounting to more than 412 billion barrels.

**However, the US increasing its arctic drilling would be disastrous**

**Hedman[[5]](#endnote-5), a Climate Scientist** finds that arctic drilling releases methane rather than carbon dioxide which is problematic because Methane is 20 times more potent than Carbon dioxide.

However, a massive drilling operation in the arctic would make this problem much worse, **Radboud University**[[6]](#endnote-6) concludes that because methane increases the temperature when exposed to the atmosphere, it locks the arctic in vicious cycle of warming, until its essentially gone.

**The impact is harming developing populations**

**Chestney[[7]](#endnote-7) of Reuters** finds in 2018 that a mass release of methane would speed the melting of arctic sea ice and further global warming. The result is greatly sped up effects of climate change with costs totaling trillions and even worse, 80% of the costs would fall onto developing countries experiencing extreme weather and natural disasters. Thus, destroying any possibility of combatting worsening conditions.

This is especially dangerous as **the Economist[[8]](#endnote-8)** finds that global warming would increase the spread of diseases in these countries as they travel faster in high temperature environments, dealing a lethal blow to developing economies as they rely almost entirely on crops and farming which would be devastated by the warming and spread of disease.

**Litton[[9]](#endnote-9)** **of the New England Journal of Medicine** quantifies that an increase of 3°C, increases the population at risk for malaria by 5%, meaning millions of additional people would become infected with malaria each year.

This is critical because over 445,000[[10]](#endnote-10) people die each year from malaria and progress in malaria control has stalled, making it even more pressing.

**Contention Two is Chinese Catastrophe**

**Mogato[[11]](#footnote-1) of Reuters** writes that China has recently reached an agreement with the Philippines to cease all expansion in the South China Sea. Almost all actors are content with the current state of affairs as **Valencia[[12]](#footnote-2) reports for the Diplomat** in 2018 that the Philippines have accepted China’s role in the region and furthermore, we have entered a new state of normalcy that neither side is likely to disturb.

**Affirming reverses this progress as it increases aggression**

Currently, **Valencia[[13]](#footnote-3) 18** finds that freedom of navigation operations or FONOPS are losing their ability to deter expansion, support from allies and overall influence. However, **Kuok[[14]](#footnote-4) of the Brooking Institute** in 2016 states that FONOPs receives a legal backing under UNCLOS, as they receive true innocent passage and regarded as “lawful uses of the sea”.

**Bouchat[[15]](#footnote-5) of the SSI** finds the legal backing would embolden the US to enforce and exercise their interpretation of freedom of navigation more freely and frequently. Problematically, **Cheng[[16]](#endnote-11)** finds that China sees these operations as a threat to their sovereignty. Even worse, **Ku of Foreign Policy[[17]](#footnote-6)** explains that China reacts aggressively to U.S. FONOP’s and uses it as justification for the increased militarization of their territory.

Thus, **Yale University**[[18]](#footnote-7)concludes that the signing of UNCLOS would be perceived by China as another means of containment by the U.S.

Regardless of progress, **Pillsbury[[19]](#endnote-12) of the Hudson Institute** explains that China fundamentally fears and opposes containment, increasing these measures will only serve to harm relations. Ultimately, **The Guardian[[20]](#footnote-8)** concludes in June that increased militarization and containment in the SCS, would directly threaten the current harmony of the region and potential of the negotiations.

**The impact is Increasing Poverty**

**Reuters writes[[21]](#endnote-13)** that rising tensions in the South China Sea directly decrease investment in countries like the Philippines due to the risk of conflict, trade wars and uncertainty. Which would destroy the country’s foreign direct investment or FDI. In fact, **Wang of Forbes writes[[22]](#endnote-14)** that historically, investors pull out of countries with high tensions, which is dangerous as **Klein writes for the World Bank[[23]](#endnote-15)** that FDI is a key factor in economic growth and development, making FDI the most important factor in poverty reduction. Problematically, **the FIES concludes[[24]](#endnote-16)** that 27 million Filipinos already live in poverty. Even worse, the [**Asian Development Bank finds**](https://www.adb.org/countries/philippines/poverty)that the Filipino infant mortality rate is staggeringly high and caused by poverty, meaning this only increases when you accede to UNCLOS.

Thus, we urge you to Negate.

1. December 15,, 12-15-2017, "Is Arctic Drilling Set for Revival Amid Environment Concerns?," NASDAQ,

Late last month, Eni received permit to drill in Beaufort Sea north of Alaska after a thorough review of the company's well designs and safety protocol. This was the first time United States had issued a permit to drill in its Arctic waters since Shell's unsuccessful attempt in 2015**. Eni plans to drill two exploration wells and two potential sidetrack wells in the next two years.**

**Recently, the Zacks Rank #3 (Hold) company announced its intention to restart production at the Goliat oil field located in the Barents Sea. Along with Eni's Goliat project, Statoil's Snohvit project is also operating in the region.** Several other middling discoveries have been made in the region and some are waiting for development and necessary approvals. You can see [**the complete list of today's Zacks #1 Rank stocks here.**](https://www.zacks.com/stocks/buy-list/?ADID=zp_1link&ICID=zpi%20_1link)

Earlier this month, **Statoil also gave the go-ahead to the $6 billion Arctic project after reducing costs to half**. Previously the project was not considered economically feasible with capex of 100 billion Norwegian kroner and a break-even oil price of $80 a barrel. However, **after having successfully adapted itself to operate amid low oil prices, the company has managed to reduce the investments to 49 billion Norwegian kroner and a break-even oil price of $35 a barrel.**

With this, the Johan Catsberg project - holding around 450-650 million barrels of oil equivalent - has become the biggest offshore project to be approved this year. Being the operator of the project, Statoil owns 50% interest, while Eni and Petoro hold 30% and 20%, respectively. Production from the Catsberg project located in the Barents Sea is anticipated to commence in 2022.

**Next year, Statoil intends to drill 25-30 wells in Norwegian waters, out of which five to six are expected in the Barents Sea.  More than half of Norway's undiscovered oil and gas is expected in Barents Sea which will help address the country's dwindling oil production.** [↑](#endnote-ref-1)
2. Michael Conathan. "Conservatives Disregard Traditional Allies to Oppose the Law of the Sea ." Think Progress. (June 13, 2012) // MLC

Until we ratify the treaty, no U.S. companies will operate on the extended continental shelf. Aside from a small pocket of territory in the western Gulf of Mexico where we have bilaterally negotiated a boundary with Mexico, companies cannot be granted the certainty that leases of these regions would not be challenged in international courts. Without becoming party to the treaty and gaining a seat at the negotiating table where decisions are made about how to partition out extended-shelf claims, we will be unable to assure industries that the international community will recognize a U.S. lease. Businesses, even those with extremely deep pockets such as Big Oil and Lockheed Martin, have been very clear: If we don’t ratify, they won’t operate. Companies want to create those jobs, generate revenue, and increase domestic production. But no certainty means no investment. No treaty means no security, no jobs, no dollars, no resources. It’s that simple.

Donohue, Thomas J. "Statement of Thomas J. Donohue: The Law of the Sea Convention: Perspectives from Business and Industry ." Testimony before the Senate Foreign Relations Committee, June 28, 2012.

Offshore operations are capital-intensive, requiring significant financing and insurance. Oil and natural gas companies do not want to undertake these massive expenditures if their lease sites may be subject to territorial dispute. They operate transnationally, and need to know that the title to the petroleum resources will be respected worldwide and not just in the United States. Availability of clear legal title is crucial to realizing the potential of U.S. offshore areas both now and in the future, as drilling technology continues to advance and make new projects feasible. As ExxonMobil emphasized in its recent letter to this Committee, before it undertakes the immense investments required to explore and develop resources beyond 200 miles, “legal certainty in the property rights being explored and developed is essential.” [↑](#endnote-ref-2)
3. Almond, Roncevert Ganan. “U.S. Ratification of the Law of the Sea Convention.” *The Diplomat*, The Diplomat, 25 May 2017, [thediplomat.com/2017/05/u-s-ratification-of-the-law-of-the-sea-convention/](https://thediplomat.com/2017/05/u-s-ratification-of-the-law-of-the-sea-convention/).

Given that the United States has not ratified UNCLOS, U.S. nationals may not serve as members of the [Commission on the Limits of the Continental Shelf](http://www.un.org/depts/los/clcs_new/commission_members.htm#Members). It is not clear whether the United States, as a non-state party, can even make a legally recognized submission to the commission to assert its claim and fully protect its propriety rights and energy interests. In contrast, Russia, which may be entitled to almost half of the Artic region’s area and coastline, has already made its submission for [vastly extending its continental margin](http://www.un.org/depts/los/clcs_new/submissions_files/rus01/RUS_CLCS_01_2001_LOS_2.jpg), including a claim to the [Lomonosov Ridge](http://www.telegraph.co.uk/news/worldnews/europe/russia/11782413/Russia-claims-resource-rich-swathe-of-Arctic-territory.html), an undersea feature spanning the Arctic from Russia to Canada. Russia and Canada are the two countries with which the United States has potentially overlapping extended continental shelf claims. This maritime boundary dispute is no small matter. **The U.S. Geological Survey** [**estimates**](http://science.sciencemag.org/content/324/5931/1175.full) **that the Arctic holds 22 percent of the world’s undiscovered oil and gas**, amounting to more than 412 billion barrels of oil equivalent. **Legal certainty in maritime delimitation is critically important for Arctic states and their respective energy companies**. On June 8, 2012, Rex Tillerson, as chairman and CEO of ExxonMobil, [wrote to the Senate Foreign Relations Committee](https://seasresearch.wordpress.com/2016/12/15/u-s-secretary-of-state-nominee-tillerson-on-los-convention-in-2012/) to vociferously urge U.S. accession to UNCLOS: [↑](#endnote-ref-3)
4. According to the 2008 U.S. Geological Survey, the Arctic contains 25 percent of the world's oil and natural gas resources, of which approximately 20 percent lies in the territory that the US could lay exclusive claim to under UNCLOS. [↑](#endnote-ref-4)
5. "If We Release A Small Fraction Of Arctic Carbon, 'We're Fucked': Climatologist". 2014. *Motherboard*. Accessed June 30 2018. https://motherboard.vice.com/en\_us/article/vvb3pa/if-we-release-a-small-fraction-of-arctic-carbon-were-fucked-climatologist.

"We are 'sniffing' methane," Ulf Hedman, the science coordinator of the Swedish Polar Research Secretariat, [**wrote in a post**](http://polar.se/en/blogg/mega-flare/) [**highlighted by Climate Change SOS**](http://www.dailykos.com/story/2014/07/28/1317252/--Vast-methane-plumes-escaping-from-the-seafloor-discovered-in-Siberian-Arctic-Sea). **"We see the bubbles on video from the camera mounted on the CTD or the Multicorer. All analysis tells the signs. We are in a Mega flare. We see it in the water column, we read it above the surface, and we follow it up high into the sky with radars and lasers. We see it mixed in the air and carried away with the winds. Methane in the air."  "Methane is more than 20 times more potent than CO2 in trapping infrared as part of the natural greenhouse effect," Box said. "Methane getting to the surface—that's potent stuff." It's especially worrying because the Arctic is warming faster than nearly anywhere else on Earth.** Now, along with melting sea ice and thawing permafrost, we have to add to our list of 'feedback loop' concerns that warming Arctic oceans may be releasing fonts of methane. That is, the warmer the ocean gets, the more methane gets spewed out of those stores on the continental shelf, and the warmer the ocean gets, ad infinitum. [↑](#endnote-ref-5)
6. Radboud University, 11-22-2017, "Methane bubbles are effect and cause of rise in temperature," https://www.ru.nl/english/news-agenda/news/vm/iwwr/2017/methane-bubbles-effect-cause-rise-temperature

**In open tanks filled with water and sediment, the researchers were able to mimic an annual cycle. Four tanks had a 'normal' Dutch climate, and in four other tanks the average temperature was 4 degrees Celsius higher. That led to 50 percent higher emissions of methane bubbles. The biologists predict that a temperature rise of 1 degree Celsius leads to 6 to 20 percent higher emissions of methane bubbles, which in turn leads to additional greenhouse gases in the atmosphere and to an additional temperature increase.** [↑](#endnote-ref-6)
7. **Chestney of Reuters writes in 2018 that,**

<https://www.scientificamerican.com/article/arctic-methane-release-could-cost-60t/>

A **release of methane in the Arctic could speed the melting of sea ice and climate change with a cost to the global economy of up to $60 trillion** over coming decades, according to a paper published in the journal *Nature.* (*Scientific American* is part of Nature Publishing Group.) Researchers at the University of Cambridge and Erasmus University in the Netherlands used economic modeling to calculate the consequences of a release of a 50-gigatonne reservoir of methane from thawing permafrost under the East Siberian Sea. They examined a scenario in which there is a release of methane over a decade as global temperatures rise at their current pace. They also looked at lower and slower releases, yet all produced "steep" economic costs stemming from physical changes to the Arctic. "The global impact of a warming Arctic is an economic time-bomb," said Gail Whiteman, an author of the report and professor of sustainability, management and climate change at the Rotterdam School of Management, part of Erasmus University. "In the absence of climate-change mitigation measures, the model calculates that it would increase mean global climate impacts by $60 trillion," said Chris Hope, a reader in policy modeling at the Cambridge Judge Business School, part of the University of Cambridge. **That approaches the value of the global economy,** which was **around $70 trillion last year.** The costs could be even greater if other factors such as ocean acidification were included, the study said, or reduced to some $37 trillion if action is taken to lower emissions. As much as **[problematically,] 80 percent of the costs would likely be borne by developing countries experiencing** more **extreme weather, flooding, [and] droughts** and poorer health as the Arctic melt affects the global climate, the paper said. [↑](#endnote-ref-7)
8. (The Economist Sep 17th 2009)

Most people in the West know that the poor world contributes to climate change, though the scale of its contribution still comes as a surprise. Poor and middle-income countries already account for just over half of total carbon emissions (see chart 1); Brazil produces more CO2 per head than Germany. The lifetime emissions from these countries' planned power stations would match the world's entire industrial pollution since 1850. Less often realised, though, is that **global warming does far more damage to poor countries than they do to the climate.** In a report in 2006 Nicholas (now Lord) **Stern** [It is] calculated that a 2°C rise in global temperature cost about 1% of world GDP. But the World Bank, in its new World Development Report\*, now says the cost to Africa will be more like 4% of GDP and to India, 5%. Even **if environmental costs were distributed equally to every person on earth, developing countries would still bear 80% of the burden** (because they account for 80% of world population). As it is, they bear an even greater share, though their citizens' carbon footprints are much smaller (see chart 2). In all, reckons the World Health Organisation, climate change caused a loss of 5.5m disability-adjusted life years (a measure of harm to human health) in 2000, most of it in Africa and Asia. Estimates by the Global Humanitarian Forum, a Swiss think-tank, and in a study in Comparative Quantification of Health Risks, a scientific journal, put the number of additional deaths attributable to climate change every year at 150,000. The indirect harm, through its impact on water supplies, crop yields and disease is hugely greater. **The poor are more vulnerable than the rich for several reasons. Flimsy housing, poor health and inadequate health care mean that natural disasters of all kinds hurt them more**. When Hurricane Mitch swept through Honduras in 1998, for example, poor households lost 15-20% of their assets but the rich lost only 3%. Global warming aggravates that. **It also increases the chances of catching the life-threatening diseases** that are more prevalent in poorer countries**. In many places cities have been built just above a so-called “malaria line”, above which malaria-bearing mosquitoes cannot survive (Nairobi is one example). Warmer weather allows the bugs to move into previously unaffected altitudes, spreading a disease that is already the biggest killer in Africa**. By 2030 **[because of] climate change** mayexpose 90m more people to malaria in Africa alone. Similarly, meningitis outbreaks in Africa are strongly correlated with drought. Both are likely to increase**.** Diarrhoea is forecast to rise 5% by 2020 in poor countries because of climate change. Dengue fever has been expanding its range: its incidence doubled in parts of the Americas between 1995-97 and 2005-07. On one estimate, **60% of the world's population will be exposed to the disease by 2070.** Next, as Mr Rokonuzzaman's story showed, poor countries are particularly prone to flooding. Ten of the developing world's 15 largest cities are in low-lying coastal areas vulnerable to rising sea levels or coastal surges. They include Shanghai, Mumbai and Cairo. In South and East Asia the floodplains of great rivers have always been home to vast numbers of people and much economic activity. Climate change is overwhelming the social and other arrangements that in the past allowed countries and people to cope with floods. National budgets can ill afford the cost of improving defences. The Netherlands is also affected and is spending $100 per person a year on flood defences. In Bangladesh that sum is a quarter of the average person's annual income. **The biggest vulnerability is that the weather gravely affects developing countries' main economic activities—such as farming and tourism**. Global warming dries out farmland. Since two-thirds of Africa is desert or arid, the continent is heavily exposed. One study predicts that by 2080 as much as a fifth of Africa's farmland will be severely stressed. And that is only one part of the problem. Global warming also seems to be speeding up the earth's hydrologic cycle, causing both floods and droughts (more rains fall in shorter periods, with longer gaps between). In addition, by melting glaciers, global warming reduces nature's storage capacity. Two-thirds of the world's fresh water is stored in glaciers. Their melting leaves poor countries with less of a buffer to protect farmers against changing weather and rainfall patterns. This kind of increasing unpredictability would be dire news at the best of times: hit by drought and flood, the land becomes less productive. It is compounded by another problem. The higher-yielding, pest-resistant seed varieties invented in the 1960s were designed to thrive in stable climes. Old-fashioned seeds are actually better at dealing with variable weather—but are now less widely used. Reinstituting their use will mean less food. In India the gains from the Green Revolution are already shrinking because of local pollution, global warming and waning resistance to pests and disease. A study for the Massachusetts Institute of Technology forecast that yields of the main **Indian crops would decline by a further 4.5-9% over the next 30 years because of climate change**. A recent assessment based on a large number of studies of what might happen **in the long run if carbon continues to be pumped into the atmosphere found** that world **farm production could fall by 16% by the 2080s**, and possibly **[and] by as much as 21% in developing countries**. Although the timescale makes such figures no more than educated guesses, there is not much doubt that climate change is undermining the gains from intensive farming in developing countries—at the very time when population growth and greater wealth mean the world will need to double food production over the next three or four decades. By 2050 the world will have to feed 2 billion to 3 billion more people and cope with the changing (water-hungry) diets of a richer population. Even without climate change, farm productivity would have to rise by 1% a year, which is a lot. With climate change, the rise will have to be 1.8%, says the bank. **If these myriad problems have a silver lining, it is that they give developing countries as big an interest in mitigating the impact of climate change as rich ones**. As the World Bank says, climate-change policy is no longer a simple choice between growth and ecological well-being.Th [↑](#endnote-ref-8)
9. J.K. Litton, 8-16-2018, "Global Climate Change and Infectious Diseases," New England Journal of Medicine, https://www.nejm.org/doi/full/10.1056/NEJMp0912931

The WHO report also includes estimates of the future global burden of disease that will result from climate change.4 It is predicted that by 2030 there will be 10% more diarrheal disease than there would have been with no climate change and that it will primarily affect the health of young children; indeed, the impact on children might well be amplified by the effects of such diseases on malnutrition, development, and cognition. **If global temperatures increase by 2 to 3°C, as expected, it is estimated that the population at risk for malaria will increase by 3 to 5%, which means that millions of additional people would probably become infected with malaria each year** [↑](#endnote-ref-9)
10. ReliefWeb, 11-29-2017, "World Malaria Report 2017," https://reliefweb.int/report/world/world-malaria-report-2017

28 NOVEMBER 2017 | GENEVA - After unprecedented global success in malaria control, progress has stalled, according to the World malaria report 2017. There were an estimated 5 million more malaria cases in 2016 than in 2015. Malaria deaths stood at around 445 000, a similar number to the previous year. [↑](#endnote-ref-10)
11. ppManuel Mogato, 8-16-2017, "Philippines says China agrees on no new expansion in South China Sea," U.S., https://www.reuters.com/article/us-southchinasea-philippines-china-idUSKCN1AV0VJ

**China has assured the Philippines it will not occupy new features or territory in the South China Sea, under a new “status quo” brokered by Manila as both sides try to strengthen their relations, the Philippine defense minister said.**

Philippine Foreign Secretary Alan Peter Cayetano also said the Philippines was working on a “commercial deal” with China to explore and exploit oil and gas resources in disputed areas of the South China Sea with an aim to begin drilling within a year.

The defense minister, **Delfin Lorenzana, told a congressional hearing the Philippines and China had reached a “modus vivendi”, or a way to get along, in the South China Sea that prohibits new occupation of islands.**

**“The Chinese will not occupy new features in the South China Sea nor they are going to build structures in Scarborough Shoal,” Lorenzana told lawmakers late on Monday, referring to a prime fishing ground close to the Philippines that China blockaded from 2012 to 2016.** [↑](#footnote-ref-1)
12. Mark J. Valencia, The Diplomat, 4-26-2018, "The South China Sea: Reality Is Slowly Sinking In," Diplomat, https://thediplomat.com/2018/04/the-south-china-sea-reality-is-slowly-sinking-in/

**Indications that the United States was unlikely to militarily support even an ally like the Philippines regarding the South China Sea disputes surfaced when China muscled its way to control of the Philippines-claimed Scarborough Shoal**. The Philippines had hoped that the United States would intervene on its behalf, but it was not to be. This led to current President Rodrigo Duterte’s blunt pragmatic assessment that “America would never die for us” — a reference to U.S. vagueness on whether or not it would come to the aid of the Philippine military in a conflict in the Spratlys or Scarborough Shoal. **Duerte has also stated that “China is now in power and they have military superiority in the region.”**

When the United States subsequently conducted a freedom of navigation near the disputed Scarborough Shoal it got no support from the Philippines. To the contrary, Philippine presidential spokesperson Harry Roque said, “For us, that [China’s protest against the U.S. warship’s passage] is really a problem of America because we have come to a point that we now have an independent foreign policy. The problem of America today is no longer the problem of the Philippines” — and apparently vice versa.

**In Washington, there Duterte’s volte-face was seen as a tipping point toward the demise of the Obama administration’s pivot to Asia**. Max Boot, a senior fellow at the Council on Foreign Relations, concluded that Duterte’s renovated foreign policy “is a potential disaster” [because] “China could either neutralize this vital American ally, or even potentially turn the Philippines into a PLA Navy base.”

Even the New York Times editorialized that “Such an alarming about face would be a serious blow to regional stability and to [then] President Obama’s policy of strengthening relations with Asian countries as a counterpoint to a newly aggressive China.”

**As a result of these probably predictable developments, the South China Sea situation appears to have at least temporarily settled into a “new normal” that neither China nor the United States are likely to disturb**. In this new normal, both will continue their naval and air force displays of power in the South China Sea; defend their policies, positions, and actions; criticize each others’; and enhance relations with regional countries, including military relations. The United States will continue its sporadic and provocative freedom of navigation operations (FONOPs) against China’s claims and China will continue to respond by sharply criticizing them and using them as an excuse to further militarize its features.

**But the United States will not try to remove Chinese forces on the disputed features nor will it “blockade” them**, as briefly suggested by Rex Tillerson during his confirmation hearings for the secretary of state position. Washington will also not directly intervene militarily to defend other claimants against China’s assertiveness. As for China, it will not occupy new features and hopefully will not threaten or use force against other claimants or their commercial proxies. But if either side crosses a “red line,” all bets are off.

Hopes of U.S. military intervention in the South China Sea were put to rest after the July 2016 international arbitration panel’s decision against China’s historic maritime claims and the now clearly empty rhetoric from idealist international lawyers and U.S. officials that international law and order must be upheld. China, on the other hand, steadfastly ignore the decision and the ruling is now largely forgotten.

 [↑](#footnote-ref-2)
13. Mark J. Valencia, The Diplomat, 1-31-2018, "The South China Sea and the Decline of US Influence," Diplomat, https://thediplomat.com/2018/01/the-south-china-sea-and-the-decline-of-us-influence/

**A recent example of this decline of U.S. soft power was the reaction of the Philippines regarding the January 17 USS Hopper freedom of navigation operation (FONOP) near Scarborough Shoal**. The Shoal is claimed by China, Taiwan, and the Philippines. The U.S. Navy guided missile destroyer sailed through the 12 nautical mile territorial sea around the disputed feature. The Hopper’s transit was in innocent passage, which is generally considered legal (if somewhat provocative). China requires permission for innocent passage by warships and objected.

**For the United States, this FONOP was a demonstration of international law. But it got no support from its ally, the Philippines. Indeed, to Washington’s chagrin, Philippine presidential spokesperson Harry Roque told the Straits Times, “For us, that [referring to China’s protest against the FONOP] is really a problem of America because we have come to a point that we now have an independent foreign policy… The problem of America today is no longer the problem of the Philippines.”**

The U.S. Embassy in Manila responded, “[We] believe that ‘U.S. military personnel partnering with the [Armed Forces of the Philippines] is a more accurate description of the role of any U.S. military presence here.”

**Some U.S. observers seemed shocked at the Philippines’ position, but this reality has been evolving for some time**. It clearly manifested itself last August when ASEAN leaders and their dialogue partners, including China and the United States, held a series of key security meetings in the Philippines, which then held ASEAN’s rotating chair. The joint communiqué of the ASEAN Foreign Ministers Meeting strongly favored China’s preferences over its opponents within ASEAN as well as the United States. Some saw this as a new diplomatic low for Washington. Indeed, according to Philippine analyst Richard Heydarian, it was “a slam dunk diplomatic victory for China.” [↑](#footnote-ref-3)
14. No Author, xx-xx-xxxx, "," No Publication, https://www.brookings.edu/wp-content/uploads/2016/07/The-US-FON-Program-in-the-South-China-Sea.pdf

The failure to challenge excessive maritime claims might work in favor of the state seeking to make them,26 especially if the objecting state had the power to challenge them and did not. President Jimmy Carter, in announcing the FON Program, alluded to how the United States “[d]ue to its preeminent position in world affairs … feels compelled actively to protect its rights from unlawful encroachment by coastal states.”27 **Although the Convention does not require warships exercising innocent passage to give notice or seek authorization**, a court called upon to interpret the provisions on innocent passage might say that the practice of states has been to give notice and/or seek authorization and interpret the law accordingly. **Similarly,** despite **military activities historically being regarded as “lawful uses of the sea**”, a court called upon to interpret Article 58 on rights and duties of other states in EEZ might say that coastal states have insisted that military activities in their EEZ are unlawful and user states have abstained from engaging in such activities. It might then conclude that this is how parties have chosen to interpret the Convention. FON operations are undertaken to avoid these outcomes and to ensure that the agreement reached at UNCLOS III is supported by actual state practice. As Ambassador Negroponte warns, “[**t]he rights and freedoms of the sea will be lost over time if they are not used.”**28

In addition to maintaining legal rights, other important objectives of the FON Program are to have states recognize and respect legal rights and to discourage efforts to transgress those rights by making excessive maritime claims—the exercise of rights is significantly less costly if it is generally accepted as being lawful.29 The U.S. Ambassador to UNCLOS III and Chairman of the National Security Council Interagency Task Force on the Law of the Sea John Norton Moore highlights in the context of straits passage: [↑](#footnote-ref-4)
15. Bouchat, Clarence J. The Paracel Islands and U.S. Interests and Approaches in the South China Sea. Strategic Studies Institute, U.S. Army War College: Carlisle, PA, June 2014. http://ssi.armywarcollege.edu/pdffiles/pub1207.pdf

**“Another very important step for the U.S. Government, to better ensure the freedom of navigation rights it now exercises, is to formally ratify the UNCLOS treaty**. This step is not just to return to equal footing with other members on moral, diplomatic, and legal grounds in order to better support the rules-basedorder that the United States government espouses, but also to be able to directly guide and protect U.S. interests in international fora and on the seas.437 The United States signed UNCLOS in 1994 after successfully negotiating an amendment to the document to correct earlier concerns by the industrialized states, but has not formally ratified it through the Senate. The most important UNCLOS provisions, like maritime jurisdictions and right-of-passage, are in accord with U.S. policy so that U.S. domestic law generally adheres to UNCLOS statutes, as it also does with customary international law.438 The Department of State and DoD both support ratification to give the United States “greater credibility in invoking the convention’s rules and a greater ability to enforce them.”439 This treaty has come before the Senate several times, as recently as 2012, only to be tabled despite bipartisan support, mainly due to economic concerns with Part XI stipulations that cover the deep seabed.440 **A direct American voice in the Law of the Sea Treaty debates could advocate for freedom of navigation** and other U.S. interests as international law inevitably evolves**, in order to counter the historic trend to circumscribe rights on the high seas by reducing its openness and limiting areas of operations. Foreign military navigation rights through an EEZ are a prime example of such restrictions with 26 countries supporting** China’s and Vietnam’s **restrictive positions**, including major maritime states like India and Brazil.441 **The Senate 89 needs to ratify this treaty to allow the United States to defend actively its existing maritime legal interests and rights.”** [↑](#footnote-ref-5)
16. Dean Cheng, xx-xx-xxxx, "Wanted: A Strategy to Limit China's Grand Plans for the South China Sea," Heritage Foundation, https://www.heritage.org/homeland-security/commentary/wanted-strategy-limit-chinas-grand-plans-the-south-china-sea

On January 17, the USS Hopper, a U.S. Arleigh-Burke-class destroyer, conducted the first FONOPs of 2018. This one occurred near Scarborough Shoal, much farther north than the previous operations. Like those earlier FONOPs, it rapidly drew a rebuke from the People’s Republic of China.

**China’s Defense Ministry spokesman declared that the repeated “illegal” entry** (feifa jinru; 非法进入) **of American warships to Chinese island groupings and maritime regions in the South China Sea endangered both sides. He condemned the operations as a threat to Chinese sovereignty and security and said they disrupted regional security and stability.** [↑](#endnote-ref-11)
17. Julian G. Ku, 5-16-2016, "Freedom of Navigation Operations in the South China Sea Aren't Enough," Foreign Policy, https://foreignpolicy.com/2016/05/16/freedom-of-navigation-operations-in-the-south-china-sea-arent-enough-unclos-fonop-philippines-tribunal/

**Despite this very limited challenge, China’s reaction to the U.S. FONOP has also been largely the same. Fighter jets were scrambled, and naval assets were deployed to shadow the U.S. ship during its passage.** But two new aspects to China’s rhetorical response are worth noting. **The shift in China’s rhetoric also reveals the limits of the U.S. reliance on FONOPs as a tool to deter Chinese expansionism in the region.**

**First, the Chinese defense ministry has begun to**[**suggest**](http://www.reuters.com/article/us-southchinasea-usa-china-idUSKCN0Y10DM)**that the continuation of U.S. FONOPs justifies its construction of “defensive facilities” in the South China Sea**. Since the most recent round of U.S. FONOPs in the region began in October 2015 (after a four-year hiatus) and the Chinese land reclamation has been going on for almost two full years, this post-hoc justification for Chinese militarization of the region is hard to swallow.

**Second, the Chinese foreign ministry has started directly engaging with the narrower U.S. legal argument against a prior notification requirement for warships. In fact, it tried to isolate the U.S. legal position. Drawing a distinction between commercial and military vessels**, the Chinese foreign ministry spokesman [stated](http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/t1362394.shtml) that “no country, except the United States believes in military vessels sailing wherever they want, which is against international law.” The spokesman went on to say the **U.N. Convention on the Law of the Sea (UNCLOS) “allows innocent passage by foreign vessels through others’ territorial waters, but there is no specific term stating that military vessels have such a right.” China then pointed out that several other countries agree with China on this interpretation of UNCLOS**. [↑](#footnote-ref-6)
18. Yale, 3-13-2013, "US Must Adopt Law of the Sea," No Publication, https://yaleglobal.yale.edu/content/us-must-adopt-law-sea

Third, the administration must elevate its legal strategy for managing these disputes. Ratification of UNCLOS to which the US de facto adheres is essential, as former Secretary of State Hillary Clinton [testified](http://www.foreign.senate.gov/hearings/the-law-of-the-sea-convention-treaty-doc-103-39-the-us-national-security-and-strategic-imperatives-for-ratification) before the Senate last year, to ensure that US navigational rights and its ability to credibly challenge other countries’ behavior are on the strongest legal footing. Given that the contesting parties are actively resorting to the Convention to bolster their claims, ratification is critical for US credibility. Even China whose claims are largely based on [historical record](http://www.washingtonpost.com/world/asia_pacific/china-wages-a-quiet-war-of-maps-with-its-neighbors/2013/02/14/d682b704-76b3-11e2-aa12-e6cf1d31106b_story.html) cites UNCLOS to which it is a party, for example, in adopting a “[straight base line approach](http://www.asil.org/pdfs/insights/insight130213.pdf)” to its claim in the East China Sea. In January, the Philippines filed a [claim](http://www.dfa.gov.ph/index.php/newsroom/dfa-releases/7300-statement-by-secretary-of-foreign-affairs-albert-del-rosario-on-the-unclos-arbitral-proceedings-against-china-to-achieve-a-peaceful-and-durable-solution-to-the-dispute-in-the-wps) with an UNCLOS tribunal alleging that China’s nine-dash claim to the South China Sea is contrary to UNCLOS. Conceding that China has [not accepted](http://www.un.org/Depts/los/convention_agreements/convention_declarations.htm#China%20after%20ratification) the tribunal’s jurisdiction on sovereignty claims and maritime boundaries, the Philippines has argued that the tribunal can assess the “interpretation and application” of China’s obligations under UNCLOS. While China has stated that it will not participate in the proceeding, the Philippines intends to pursue its claim. Whether other parties bring such claims remains to be seen. Although arbitration offers a clean and contained alternative to fluctuating diplomacy and skirmishes, precluding US “interference” as China desires, China does not view arbitration as a bilateral solution and, moreover, assumes that time is on its side. As such, for the United States to have the standing to call for a much needed rules-based approach to these disputes, it must formally adopt the rules. Asia’s maritime disputes are a disruptive force for US interests; however, they present an opportunity. A shortsighted view would conclude that the opportunity presented is a strategic opening for the United States and a regional tilt given recent Chinese heavy handedness. The reality is that states in the region have no interest in choosing sides. According to the National Intelligence Council’s [Global Trends 2030](http://gt2030.com/) report, they will instead increasingly be pulled in both directions: economically toward China and security-wise toward the US. Moreover, given Sino-US economic interdependence, *a China that perceives itself subject to* [*containment*](http://www.nytimes.com/2013/01/26/opinion/work-with-china-dont-contain-it.html) and doubles down militarily is not in US interests. [↑](#footnote-ref-7)
19. Congress Must Reform Military Sustainment As It Did Acquisition, 2-10-2015, "China's 7 Fears When it Comes to America," No Publication, https://www.realcleardefense.com/articles/2015/02/11/chinas\_7\_fears\_when\_it\_comes\_to\_america\_107620.html

**The behavior of most strategic actors is influenced by their psychological peculiarities: factors such as emotions, culture, and fears. China seems to fear blockades of its long coastline, and the string of islands off most of its coast makes the leadership feel even more vulnerable**. Many in the Chinese military fear that China could be easily blockaded by a foreign power because of the maritime geography of the first island chain stretching from Japan to the Philippines that is perceived to be vulnerable to fortification. The islands are seen as a natural geographical obstacle blocking China’s access to the open ocean. Indeed, a former Japanese naval chief of staff has boasted that Chinese submarines would be unable to slip into the deep waters of the Pacific through the Ryukyu island chain, north or south of Taiwan, or through the Bashi (Luzon) Strait without being detected by U.S. and Japanese antisubmarine forces. Chinese military authors frequently discuss the need for training exercises and a military campaign plan to break out of an island blockade. One operations-research analysis describes seven lines of enemy capabilities that Chinese submarines would have to overcome to break a blockade. The United States, in their estimation, has supposedly built a blockade system of antisubmarine nets, hydroacoustic systems, underwater mines, surface warships, antisubmarine aircraft, submarines, and reconnaissance satellites. [↑](#endnote-ref-12)
20. Liu Xiaoming, 6-27-2018, "China will not tolerate US military muscle-flexing off our shores," Guardian, https://www.theguardian.com/commentisfree/2018/jun/27/china-not-tolerate-trump-military-muscle-south-china-sea

**Last August, for example, the foreign ministers of China and the Association of Southeast Asian Nations (Asean) countries agreed on the framework of a code of conduct. The parties have agreed to hold at least three more rounds of consultations before the end of this year.**

**The South China Sea is calm and the region is in harmony. The so-called “safeguarding freedom of navigation” issue is a bogus argument. The reason for hyping it up could be either an excuse to get gunboats into the region to make trouble, or a premeditated intervention in the affairs of the South China Sea, instigation of discord among the parties involved and impairment of regional stability.**

The third question concerns militarisation of the South China Sea? **The US, the self-professed opponent to “militarisation”, keeps sending destroyers, cruisers, carriers, reconnaissance flights and strategic bombers, fully loaded with advanced offensive weapons, to this region in total disregard of others’ sovereignty and security or the peace and stability of the area**. What is “militarisation” or “troublemaking” if not this blatant show of force? Instead of getting this straight, some countries followed suit by condescendingly accusing China of “not playing by the rules”. **This is not only making a mess of the regional situation but also assisting the troublemakers.** [↑](#footnote-ref-8)
21. **Reuters**, 5-21-**2014**, "Geopolitical tensions could hurt Asia growth, investments: IMF deputy MD," **Chicago Tribune**, http://www.chicagotribune.com/news/ct-xpm-2014-05-21-sns-rt-us-imf-asia-risks-20140521-story.html

ANILA (Reuters) **- Rising territorial conflicts in the waters in Southeast Asia and political tensions in Thailand could dampen strong growth in the region and hurt investments** if left unresolved, a senior official of the International Monetary Fund said on Wednesday. **"If the tension gets higher, it could have large impacts on the economies, especially in the case of this region where the countries are interconnected through supply chains,"** Naoyuki Shinohara, IMF deputy managing director, told Reuters on the sidelines of the World Economic Forum on East Asia in Manila. "So, if the tension gets larger, the negative impact could be significant, depending on how it develops," he said. The IMF is closely watching the situation, but there is no evidence, yet Southeast Asia economies were being affected and it was too early to revisit the Fund's 2014 regional growth forecasts, Shinohara said. [↑](#endnote-ref-13)
22. Yue **Wang**, 4-25-**2018**, "Amid Growing Trade Tensions, Chinese Investors Pull Back From U.S. Tech," Forbes, https://www.forbes.com/sites/ywang/2018/07/05/amid-growing-trade-tensions-chinese-investors-pull-back-from-u-s-tech/#7e82b24f643e

**The escalating trade tensions between Washington and Beijing is casting a shadow over cross-border investment, with many Chinese dealmakers sharply scaling back the amount of money they are putting into U.S.-based companies. Chinese investors committed just $3.1 billion on U.S.-based assets so far this year, a more than 60% decrease from the total value of deals announced in the first half of 2017**, according to Dealogic. The data firm said technology-related transactions have been particularly hard hit, tumbling 72% to $344 million in announced deals so far this year. “There is a big impact on Chinese investments in U.S. startups that work on fundamental or deep technologies,” says Guo Wei, founder of UpHonest Capital, a cross-border venture capital firm that raises money from China-based backers. Guo says Chinese investors are increasingly concerned about regulatory uncertainties like prolonged reviews and additional procedures, which are complicating their investment strategies amid the already cut-throat competition for deals in Silicon Valley. [↑](#endnote-ref-14)
23. **Klein**, xx-xx-xxxx, "Foreign Direct Investment and Poverty Reduction: Policy Research Working Papers," **World Bank**, https://elibrary.worldbank.org/doi/abs/10.1596/1813-9450-2613

(June 2001) In the 1990s, foreign direct investment began to swamp all other cross-border capital flows into developing countries. Does foreign direct investment support sound development? In particular, does it contribute to poverty reduction? **Foreign direct investment is a key ingredient of successful economic growth and development in developing countries—partly because the very essence of economic development is the rapid and efficient transfer and cross-border adoption of “best practices.”** Foreign direct investment is especially well suited to effecting this transfer and translating it into broad-based growth, not least by upgrading human capital**. Growth is the single most important factor in poverty reduction, so foreign direct investment is also central to achieving that important World Bank goal**. Government-led programs that improve social safety nets and explicitly redistribute assets and income might direct more of the fruits of growth to the poor. But these are complements—not alternatives—to sensible growth-oriented policies. And growth is needed to fund these government-led programs. Moreover, the delivery of social services to the poor—from insurance schemes to such basic services as water and energy—can clearly benefit from reliance on foreign investors. In short, foreign direct investment remains one of the most effective tools in the fight against poverty. This paper—a product of the Private Sector Advisory Services Department—is part of a larger effort in the department to analyze the role of private sector development in poverty reduction. The authors may be contacted at mklein@worldbank.org, caaron@ifc.org, or bhadjimichael@worldbank.org. [↑](#endnote-ref-15)
24. **No Author**, xx-xx-xxxx, "Official Poverty Statistics,", **Philippines Statistics Authority**, https://psa.gov.ph/tags/official-poverty-statistics

Read more about Nine Percent of Filipinos Aged 6 to 24 years are Out of School (Results from the 2017 Annual Poverty Indicators Survey) One in Every Ten Filipinos Aged 6 to 24 Years is an Out of School Child and Youth Almost ten percent of the estimated 39 million Filipinos 6 to 24 years old were out-of-school children and youth (OSCY), according to the results of the 2016 Annual Poverty Indicators Survey (APIS). In this report, OSCY refers to family members 6 to 14 years old who are not attending formal school; and family members 15 to 24 years old who are currently out of school, not gainfully employed, and have not finished college or post-secondary course. Read more **about One in Every Ten Filipinos Aged 6 to 24 Years is an Out of School Child and Youth Poverty incidence among Filipinos registered at 26.3%, as of first semester of 2015** - PSA The Philippine Statistics Authority (PSA) releases its latest report today on the country's official poverty statistics for the first semester of 2015. **The PSA report provides the estimates of poverty incidence using income data from the first visit of the Family Income and Expenditure Survey (FIES) conducted in July 2015.** [↑](#endnote-ref-16)