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# \*\*\*Environment\*\*\*

# A2: Arctic Drilling

## A2: Energy Independent

#### 1. CNBC finds in August 2018 that Trump’s recent policy of energy dominance has flat lined our rate of energy independence.

#### 2. Even if we become a net exporter we will still hit peak oil demand. Sheppard of the Financial Times finds we will hit peak oil demand by 2036 which means we would have to go back to being dependent on middle eastern countries with high oil prices. Instead of waiting for a rise in oil prices and triggering inflation in the US we should already prevent that trend and drill in the Arctic.

Tom Dichristopher, 08-09-2018, America’s rapid march to energy independence has slowed under Trump, CNBC, https://www.cnbc.com/2018/08/09/americas-rapid-march-to-energy-independence-has-slowed-under-trump.html, 9-14-2018

The United States has been sprinting toward energy independence over the last decade, but that progress has come to a halt under President Donald Trump, according to new research from Goldman Sachs. The Trump administration is pushing a policy of “energy dominance,” rolling back regulations and actively pushing sales of the nation’s growing oil and gas supplies to all corners of the globe. But Goldman’s head of energy research is highlighting a surprising trend in light of that policy. The precipitous drop in the nation’s dependence on foreign energy commodities during the Obama administration slowed last year and is set to flatline in 2018. U.S. net energy imports have plunged 95 percent from their peak in 2008 through the end of last year, hitting levels not seen since the 1970s, Goldman’s Damien Courvalin notes in research released Wednesday. However, higher oil prices have created a speed bump to achieving energy independence, and the trade war Trump is pursuing against China threatens to further delay the long-sought goal, he says.

David Sheppard, 7-16-2018, Peak oil demand forecast for 2036, Financial Times, https://www.ft.com/content/a12af4be-85cf-11e8-96dd-fa565ec55929, 9-17-2018

One of the world’s most influential oil consultancies has forecast that global oil demand will peak within 20 years, as a “tectonic” shift in the transport sector towards electric cars and autonomous vehicles gathers pace. Wood Mackenzie, which works closely with companies across the energy industry, said in its long-term outlook that it sees oil consumption topping out around 2036, an earlier date than many energy majors use in their scenario planning. The prediction illustrates how projections of peak oil demand, once confined to the fringes of energy planning, have become accepted within the mainstream, and are already shaping how the world’s biggest oil and gas companies will invest in the future. “A lot of our clients recognise that peak demand is real,” said Ed Rawle, Wood Mackenzie’s head of crude oil research. “It’s just a question of when it arrives.”

## A2: US Drilling in the Arctic Already

#### 1. This is just the land that Trump has leased. The Hill finds in April 2018 that the Trump Administration has leased land in the Arctic Wildlife Refuge a coastal plain in northern Alaska.

#### 2. Acceding would allow us to gain more land. Ryan of the University of Dalton continues finding that by acceding to UNCLOS, the US would expand its areas for mineral exploitation and production by almost 300,000 square miles.

TheHill, 4-30-2018, Trump ramps up Arctic drilling leases where an oil spill would be impossible to contain or clean up, https://thehill.com/opinion/energy-environment/385450-trump-ramps-up-arctic-drilling-leases-where-an-oil-spill-would-be, 9-17-2018

The Trump administration has launched an all-out assault on the Arctic. At least a half-dozen dangerous oil drilling projects are quickly moving forward, threatening pristine habitats with oil spills and undermining global efforts to address climate change. Last week’s announcement of fossil fuel lease-sales in the Arctic National Wildlife Refuge made big news, for good reason. Industrializing the wild coastal plain in northern Alaska, a move authorized by a sneaky rider in the GOP tax cut bill, has long been strongly opposed by most Americans. Yet, drilling into the refuge is just the tip of the iceberg. Trump is aggressively pushing Arctic drilling projects on water and land, selling off vast tracts of public lands and oceans, and rolling back drilling safety regulations meant to prevent catastrophic oil spills. In December, Trump administration officials offered almost the entire National Petroleum Reserve-Alaska, adjacent to the refuge, to the oil industry. It’s the first step toward drilling into a pristine wilderness that’s home to the world’s largest caribou herds and flocks of migratory birds. Trump is aggressively courting the oil industry to launch offshore drilling projects in treacherous federal waters north of Alaska, where a major oil spill would be impossible to contain or clean up.

Marta Kolcz- Ryan. University of Dalton. 2009. AN ARCTIC RACE: HOW THE UNITED STATES’FAILURE TO RATIFY THE LAW OF THE SEACONVENTION COULD ADVERSELY AFFECT ITSINTERESTS IN THEARCTIC <https://www.udayton.edu/law/_resources/documents/law_review/anarctic_race.pdf>

The Convention also gives the United States an opportunity to expand its sovereignty rights over resources on and under the ocean floor beyond 200 nautical miles to the end of its continental shelf, up to 350 nautical miles.140 This mechanism is especially valuable to the United States as it would maximize legal certainty regarding the United States’ rights to energy resources in large offshore areas, including the areas of the Arctic Ocean. However, the United States must ratify the Convention for its claims to be internationally recognized.141 Not surprisingly, the American oil companies favor ratification, as it will allow them to explore oceans beyond 200 miles off the coast, where evolving technologies now make oil and natural gas recoverable.142 If the United States ratifies the Convention it could expand its areas for mineral exploration and production by more than 291,383 square miles.143 The United States’ claim under article 76 would add an area in the Arctic (Chukchi Cap) roughly equal to the area of West Virginia.144 With a successful claim the United States would have the sole right to the exploitation of all the resources on and under the Arctic Ocean bottom. These potential energy resources could make significant contributions to United States energy independence. Because the Convention is the only means of assuring access to the mineral resources beneath the Arctic Ocean, American companies “wishing to engage in deep seabed mining operations will have no choice but to proceed under the flag of a country that has adhered to the treaty.”145

## A2: Subsidiaries

#### 1. [TURN] Other countries have worse environmental regulations than the US. That means acceding brings back these drilling companies to ensure that they are being regulated effectively under US standards and this only happens in the pro world when we gain access to the Arctic.

## A2: Climate Change

#### 1. [TURN]: We would say it’s better that the U.S. drill in the Arctic than any other country because the U.S. is the best at minimizing the environmental cost. This is for three reasons, explained by Eric Smith of Foreign Policy in 2010:

#### First, if the U.S. shuts down drilling, companies will just move to places with weaker environmental standards and drill there.

#### Second, countries that could crowd out the U.S. when it comes to oil production, such as Saudi Arabia, Nigeria, and Russia, are autocracies where there is no political cost for damaging the environment, so leaders don’t care about the environment because they just want to maximize profit. This is not the case in the U.S., where leaders face backlash for harming the environment.

#### Third, the U.S. is *really* good at minimizing greenhouse gas production. For example, when we drill, the methane is recaptured and pumped into the natural gas system or into oil wells, but other countries just let it vent into the air. For instance, Mexico produces less than half the amount of oil as us, but they release six times more methane than we do.

#### We say that given that *somebody’s* going to be drilling, it might as well be the U.S. because we’re the least harmful to the environment. Letting the U.S. drill means countries with worse environmental restrictions will be crowded out of the oil market because there’s only a finite demand for oil. This is a benefit on net to the environment.

#### 2. [TURN]: Vice News finds in 2014 that methane is already being released in the Arctic, creating an exponential warming cycle that has a compounding effect. This means that rapid, runaway climate change is already going to happen. It’s try or die. The pro is the only team that does *anything* to combat the already increasing issue of climate change. We address climate change in three ways.

#### a. First, by cooling the permafrost. Harball of NPR finds in 2018 that U.S. oil drilling companies have permafrost cooling technology that is able to keep the permafrost frozen for longer. That means acceding to UNCLOS allows US oil drilling companies to go to the Arctic and slow down the methane cycle and the harms that come with it.

#### b. Second, by reducing natural seepage. The National Academy of Sciences finds in 2003 that natural oil seepage accounts for 61 percent of total US hydrocarbon pollution [whereas oil spills only account for 3%]. That’s really crucial because UCSB concludes in their 1999 study that drilling in sites seeps reduces natural seepage by 50 percent, reducing pollution overall.

#### c. Third, by incentivizing investment in renewables. Ettlin of Market explains in 2017 that low oil prices incentivize investment in renewables because companies think there is more money to be made there. This is the best, most long-term way to combat climate change.

#### 4. [TURN]: Groves turn from a2: lawsuits.

#### 4. [NON-UNIQUE]: Demand for oil will always exist and as a result, Michael Levi of the Council on Foreign Relations explains in 2015 that even if you suppress U.S. drilling in the Arctic, someone will just drill somewhere else in the world to create oil supply. [For example, Kyree Leary of Futurism explains in January that Norway has already begun drilling in the Arctic.] [This means that the negative environmental impacts they talk about exist in both worlds and aren’t a unique reason to vote for them.]

Eric Smith. Foreign Policy. 30 August 2010. “Think Again: Offshore Drilling.” https://foreignpolicy.com/2010/08/30/think-again-offshore-drilling/

“Stopping Offshore Drilling Is Good for the Environment.” Not in the United States, it isn’t. When BP’s Deepwater Horizon oil rig exploded in the Gulf of Mexico on April 20, it began what is certainly the biggest environmental disaster in U.S. history. Four months later, the spill has finally been contained, but the political fallout has not, and many Americans would like President Barack Obama’s six-month moratorium on offshore drilling in the gulf made permanent. Yet bad as the spill certainly was, such a move would actually do more harm than good. If U.S. fields closed down, oil companies would simply take their business elsewhere, mostly to countries with much weaker environmental standards. Of course, the harm wouldn’t be as visible to Americans. But protecting the U.S. coastline at the expense of other countries is hardly environmentally friendly. With the exception of Canada, the major oil suppliers to the United States — Saudi Arabia, Nigeria, Venezuela, Mexico, and Russia — all have autocratic governments that can get away with damaging their environment without any political repercussions. And they know that protecting the environment costs money and reduces profits. So, by and large, they don’t do it. Some of the resulting disasters remain local. Take Nigeria, which has about 2,000 active oil spills and spills an amount of crude equal to the Exxon Valdez each year. Oil fouls fields, rivers, and Nigeria’s coast. It destroys ecosystems and sickens people, but it doesn’t affect Americans. Other environmental injuries have worldwide effects. Methane, a common byproduct of oil production, is a powerful greenhouse gas. In the United States, methane is typically captured and pumped into the natural gas system or reinjected into oil wells. Relatively little escapes. In many other countries, however, methane is simply vented into the air, where it contributes to global warming. Mexico produces less than half the oil the United States does every year, but it vents six times more methane into the atmosphere. Finally, shipping oil has environmental costs. Oil tankers consume the equivalent of 1 to 3 percent of their oil on their voyages, which contributes to air pollution and global warming. Even worse, some tankers don’t make it. The Amoco Cadiz broke up off the coast of France. The Atlantic Empress and the Aegean Captain collided off Trinidad and Tobago, and many others went down as well (the Castillo de Bellver off South Africa, the Irenes Serenade off Greece, the Torrey Canyon off Britain, the Urquiola off Spain, etc.).

Climate Change, Vice News, 7-29-2014, If We Release a Small Fraction of Arctic Carbon, 'We're Fucked': Climatologist, Motherboard, https://motherboard.vice.com/en\_us/article/vvb3pa/if-we-release-a-small-fraction-of-arctic-carbon-were-fucked-climatologist, 9-18-2018

This week, **scientists made a disturbing discovery in the Arctic Ocean: They saw "vast methane plumes escaping from the seafloor,"** as the Stockholm University put it in a release disclosing the observations. The plume of methane—**a potent greenhouse gas that traps heat more powerfully than carbon dioxide, the chief driver of climate change**—was unsettling to the scientists. But it was even more unnerving to Dr. Jason Box, a widely published climatologist who had been following the expedition. As I was digging into the new development, I stumbled upon his tweet, which, coming from a scientist, was downright chilling: If even a small fraction of Arctic sea floor carbon is released to the atmosphere, we're f'd. — **Jason Box** (@climate\_ice) July 29, 2014 Box, **who is currently a professor of glaciology at the Geological Survey of Denmark and Greenland, has been studying the Arctic for decades.** His accolade-packed Wikipedia page notes that he's made some 20 expeditions to the Arctic since 1994, and served as the lead author on the Greenland section of NOAA's State of the Climate report from 2008-2012. He also runs the Dark Snow project and writes about the latest findings in the field at his blog, Meltfactor. In other words, Box knows the Arctic, and he knows climate change—and the methane plumes had him blitzed enough to bring out the F bombs.  Now, the scientists in the Arctic didn't fully understand why the plumes were occurring. But they speculated that a warmer "tongue" of ocean current was destabilizing methane hydrates on the Arctic slope. I called the scientist at his office in Copenhagen, and he talked frankly and emphatically about the new threat, and about the specter of climate change in general. He also swore like a sailor, which I've often wondered how climatologists refrain from doing, given the urgency of the problem—it's certainly an entirely accurate way to communicate the climate plight.  First of all, I asked Box if he stood by that tweet. He did. He'd revise it a bit, to include **surface carbon— (and) methane (are) locked in the permafrost that's also beginning to leak out—**becauseif we loose enough of either, we're in trouble.  "Even if a small fraction of the Arctic carbon were released to the atmosphere, we're fucked," he told me. What alarmed him was that "the methane bubbles were reaching the surface. That was something new in my survey of methane bubbles," he said.

Elizabeth Harball, 6-11-2018, Oil Industry Copes With Climate Impacts As Permafrost Thaws, NPR.org, https://www.npr.org/2018/06/11/617240387/oil-industry-copes-with-climate-impacts-as-permafrost-thaws, 9-9-2018

satellite. Using these devices, he says oil companies can squeeze the longest possible oil exploration season into steadily shrinking winters. The oil industry has built a vast network of pipelines and buildings on top of permafrost, and has always had to use special engineering to adjust for it. Oil operators have used Yarmak's product since the 1970's, but he says rising temperatures mean it's needed even more. As permafrost thaws, he says, "the doors start to stick, the sheet rock cracks, the floor isn't level any more. Things aren't the way that they planned them." To help, Yarmak manufactures long metal tubes filled with a refrigerant, called thermosyphons. In his company's Anchorage warehouse he points out a dense array of tiny fins that stick out the top. "It's where the heat comes out and goes to the air," he says. These giant tubes are partially buried in the permafrost. The gas inside pulls heat out of the ground and in the process, keeps it frozen. Each tube is custom-made and can cost up to $10,000. Yarmak says oil companies have installed thousands of them across Alaska's Arctic. If the state continues to warm as projected, he expects to be in business a long time to come.

Natural Seepage, C Natural Seepage of Crude Oil into the Marine Environment, National Academies Press, https://www.nap.edu/read/10388/chapter/9#192, 9-17-2018

In addition to the general conclusions discussed above, several specific actions have to be taken to address the issues raised in this report (see Chapters 3, 4, and 5 for greater detail). This study was largely funded by U.S. entities, especially federal agencies. Many of the following recommendations are therefore focused on actions that can be taken by the United States. This does not mean, however, that they are not broadly applicable to the international community. On the contrary, both individual nations and groups of nations should consider how these recommendations could be implemented worldwide. Diffuse sources (natural seeps and runoff from land-based sources) are responsible for the majority of petroleum hydrocarbon inputs into North American waters, with contributions of 61 percent and 21 percent, respectively. In contrast, discharges from extraction and marine transportation of petroleum are responsible for less than 3 percent of the hydrocarbon inputs. Natural seeps represent the largest single petroleum hydrocarbon input but there is a great range in the uncertainty estimation. Federal agencies especially the U.S. Geological Survey (USGS), the Minerals Management Service (MMS), and the National Oceanic and Atmospheric Administration (NOAA) should work to develop more accurate techniques for estimating inputs from natural seeps, especially those adjacent to sensitive habitats. Likely techniques will include remote sensing and ground truthing. This will aid in distinguishing the effects of natural processes from those of anthropogenic activities. Urban runoff and recreational boating require attention because the spills are chronic and often occur in sensitive ecosystems. For example, the range of uncertainty in estimates of land-based petroleum hydrocarbons is four orders

Greg Rehmke, 6-13-2013, Ecological Oil Drilling: Addressing Oil Seepage in California, Master Resource, https://www.masterresource.org/offshore-drilling/oil-drilling-reduces-seepage-california/, 9-17-2018

According to this 1999 press release from the University of California at Santa Barbara: Most of the seepage is methane, a potent greenhouse gas which escapes into the atmosphere…. About 10 percent of the seepage is composed of “higher hydrocarbons,” or reactive organic gases which interact with tailpipe emissions and sunlight, creating air pollution. The researchers state that the production rate of these naturally-occurring reactive organic gases is equal to twice the emission rate from all the on-road vehicle traffic in Santa Barbara County in 1990. According to the articles, studies of the area around Platform Holly showed a 50 percent decrease in natural seepage over 22 years. The researchers show that as the oil was pumped out the reservoir, pressure that drives the seepage dropped. Ecological Drilling Protecting marine ecosystems by reducing the chance of spills from offshore oil production would be a good thing. Offshore drilling technologies and know-how advance as billions of dollars are invested developing new fields in the North Sea.

Brad Plumer, The New York Times. Vox.com. 2 September 2015. “The controversy over Shell's Arctic oil drilling, explained.” https://www.vox.com/2015/9/2/9248593/shell-arctic-drilling-obama

This is part of a bigger conflict that's been simmering for a few years. Sure, Obama has taken steps to curb America's fossil fuel demand — through new regulations on cars, trucks, and power plants. But, greens argue, he hasn't shown nearly the same zeal in restricting fossil fuel supplies. The government still sells publicly owned coal in the Powder River Basin at bargain-basement rates. Obama's wavered over the Keystone XL pipeline. And now comes Shell. The Obama administration, for its part, seems to have a genuine philosophical disagreement on this point. The way to stop global warming, Obama has argued, is to zero out fossil fuel consumption by developing cleaner alternatives. But that takes time. And in the interim, we're still going to need oil. If we block drilling in the United States, some other country will just drill to satisfy that demand instead. Better we do it, with proper safeguards in place, than someone else. (That's hardly the end of the debate; more below.) All the while, Shell is now pushing ahead, drilling an exploratory well in Arctic waters. The company has set its sights on the Chukchi and Beaufort Seas, which contain up to 22 billion barrels of technically recoverable oil. It's an audacious plan — and quite risky. Shell isn't expected to produce oil for at least a decade, and even that's far from guaranteed. The area features violent storms, massive waves, and drifting ice floes, making drilling treacherous. Previous drilling efforts have met with disaster. And worse, any large oil spill here could be a nightmare to clean up.

Guy Ettlin. Market Mogul. 19 September 2017. “How the Oil Price Is Pushing Renewable Energy Forward.” https://themarketmogul.com/rising-oil-price-means-renewable-energy.

What does this mean for renewable energy? 2015 marked an incredibly successful year for renewable energy initiatives. Investments hit a record high of $285.9bn despite disadvantageous currency shifts. Looking at the recent trajectory of investment into renewable energy, one sees that a high supply of oil seems to fuel the market for renewables. This might appear counterintuitive from a consumers’ perspective. After all, low oil prices make oil-based products more accessible, and overall output in that sector should increase. The key here is that the driving force in these trends is made up of the commodity investors. Oil at the current price has stopped providing the desired returns, and with recent technological advances in the renewables industry, green energy is now more often than not making investors more money than fossil fuels. Rising oil prices may reverse this trend, or will at least put increased pressure on the growth of renewable energy investment. The Road Ahead

Kyree Leary. Futurism. 4 January 2018. “Norway Gets the Go Ahead to Drill Into the Arctic.” https://futurism.com/norway-go-ahead-drill-into-arctic/

An Oslo court has approved Norway's plans to drill for oil in the Arctic, despite arguments put forward by environmental groups. The court's ruling goes against the country's plans to go green, as well as the Paris Agreement. Norway recently unveiled plans to ban the use of oil for heating purposes by 2020, but until then, the country will still drill for oil in places where it feels doing so is justified. In support of the plan is a recent ruling by Norway’s government, in which an Oslo court approved the country’s plans to drill for oil in the Arctic. As reported by Reuters, the case was brought forward by environmental groups Greenpeace and Nature and Youth Group, who argued the act of drilling went against citizens’ rights to a healthy environment. Specifically, the groups called out a 2015 oil licensing round in the Arctic that awarded gas and oil companies like Chevron, calling it unconstitutional. Their assertion ultimately failed to sway the court, which stated it was “inappropriate” to attempt to use the country’s constitution in their argument (even going so far as to characterize it as a publicity stunt) instead of putting forth better regulations on greenhouse gases.

### A2: Black Carbon from Ships

#### 1. [TURN] We are reversing that already present trend by drilling in the arctic with new cooling technology.

#### 2. [NONUNIQUE] The Center for Climate and Energy Solutions reports that the US only accounts for 6 percent of BC emission whereas other countries like China and India account for 35 percent.

#### 3. [DELINK] Mooney of the Washington Post finds in April 2018 that the shipping industry has already made plans to lower carbon emissions by from ships by 50%. Thus, the release of black carbon will not be a major problem in the future.

Hannah Hoag Arctic Deeply, 12-23-2015, A Black Carbon Crackdown Could Cool Temperatures, HuffPost, https://www.huffingtonpost.com/entry/black-carbon-crackdown\_us\_567b0a3be4b014efe0d7fa13, 9-17-2018

Black carbon, also known as soot, has an important role in global warming, especially in the Arctic. When it’s in the atmosphere, it traps heat, and when it falls on snow or ice, it speeds up melting. Curbing black carbon emissions could help slow down the planet’s warming On the margins of the Paris climate conference, where governments made plans to keep global average temperatures below 2C (3.6F) by 2100, scientists and policymakers discussed other air pollutants that also contribute to global warming. Emissions of carbon dioxide have a far greater role in climate change, but short-lived climate pollutants such as black carbon – soot – also speed up warming, especially in the Arctic. Black carbon is not a gas, but an aerosol, tiny particles produced from diesel trucks and cars, wildfires, agricultural burning, oil and gas production and shipping that are released into the atmosphere. Black carbon is also causing the Earth’s climate to warm. A recent study found that black carbon is far more harmful to the climate than scientists once thought – its heat-trapping power is second only to carbon dioxide and it holds twice as much heat in the atmosphere than estimates made by the Intergovernmental Panel on Climate Change in 2007. But as its name implies, short-lived climate pollutants such as black carbon don’t stay in the atmosphere for very long. Black carbon usually falls out of the air after about a week. If it lands on snow or ice, it darkens the surface and causes warming and melting by absorbing solar radiation instead of reflecting it. Consequently, the Arctic is very susceptible to warming that results from black carbon. Because black carbon has a short lifetime, atmospheric concentrations can be quickly decreased by reducing emissions. Actions taken to reduce emissions could slow the rate of climate change in a short period of time.

<file:///Users/tusharagashe/Documents/what-is-black-carbon.pdf>

Thus, controlling emissions of soot from fuel sources is an effective way of reducing atmospheric temperatures in the short term. Based on current information, the United States is responsible for about 6 percent of global BC emissions; while it has a history of making reductions to improve air quality, further improvements can be made. The majority of BC emissions come from the developing world: China and India together account for some 25–35 percent of emissions.

Chris Mooney, 04-13-2018, The shipping industry is finally going to cut its climate change emissions. That’s a big deal., Washington Post, https://www.washingtonpost.com/news/energy-environment/wp/2018/04/13/the-global-shipping-industry-is-finally-going-to-cut-its-climate-change-emissions/?utm\_term=.147622557da2, 9-17-2018

Member nations of the United Nations body charged with regulating shipping on the high seas adopted a first-ever strategy Friday to blunt the sector’s large contribution to climate change — bringing another major constituency on board in the international quest to cap the planet’s warming well below an increase of 2 degrees Celsius (3.6 degrees Fahrenheit). The strategy embraced by a committee of the International Maritime Organization would lower emissions from container ships, oil tankers, bulk carriers and other vessels by at least 50 percent by the year 2050 vs. where they stood in 2008. The group also said that emissions from shipping should reach a peak, and begin to decline, as soon as possible. “IMO remains committed to reducing GHG emissions from international shipping and, as a matter of urgency, aims to phase them out as soon as possible in this century,” the group said. But the United States “reserve[d]” its position on the strategy, with Coast Guard official Jeffrey Lantz, who headed the delegation to the London deliberations, saying that the country views “the establishment of an absolute reduction target as premature.” The United States also objected to how responsibilities would be divided between developed and developing countries, and expressed “serious concern about how this document was developed and finalized.” Shipping in recent years has been responsible f

### A2: Oil Spills

#### 1. [MITIGATE] The ITOPF (International Tanker Owners Pollution Federation) finds in 2017 that the number of oil spills have been on a downward trend. Large spills have had a 92% decrease since 1970 and the chance of oil being transported safely in the squo is 99.99%.

Itopf, 01-16-2018, 2017 Tanker Oil Spill Statistics: Positive downward trend continues, No Publication, http://www.itopf.org/news-events/news/article/2017-tanker-oil-spill-statistics-positive-downward-trend-continues/, 9-16-2018

Statistics for oil spills from tankers for close to five decades show a progressive downward trend. The average number of spills greater than, or equal to, 7 tonnes in size has continuously reduced and, since 2010, averages around 7 per year. When we look at large spills, i.e. greater than 700 tonnes, the yearly average, which was around 25 in the 1970s has reduced dramatically to less than 2 since 2010. Download a graph showing the number of large (>700 tonnes) and medium (7-700 tonnes) spills recorded from 1970 to 2017. In 2017, two tanker incidents resulting in spills of over 700 tonnes were reported. The first occurred in the Indian Ocean and the second, which ITOPF attended on site, occurred in the Aegean Sea. Four medium sized spills (7-700 tonnes) were also recorded in 2017. The estimated total amount of oil lost to the environment through tanker incidents in 2017 was approximately 7,000 tonnes, the majority of which can be attributed to the two large incidents mentioned above. Despite an overall increase in oil trading over the past few decades, it is reassuring to note that oil spills involving tankers have decreased significantly meaning that some 99.99% of oil transported by sea arrives safely at its destination. However, accidents still happen, as demonstrated on 6th January by the tragic incident that occurred off the coast of China involving the oil tanker SANCHI. Learning lessons from incidents such as these will assist tanker owners and governments to continue to work together to reach the highest level of safety and environmental stewardship

or about 800 million tons annually of carbon dioxide emissions, according to Dan Rutherford, the marine and aviation program director of the International Council on Clean Transportation, who was in attendance for the deliberations in London this week. That means shipping’s emissions are 2.3 percent of the global total.

# A2: Rare Earth Mining Bad

#### [TURN]: Jones of Yale University finds in 2013 that rare earth metals are key to developing renewable energy. The long term impacts are on our side.

Nicola Jones. Yale Environment 360. 18 November 2013. “A Scarcity of Rare Metals Is Hindering Green Technologies.” A Scarcity of Rare Metals Is Hindering Green Technologies

A Scarcity of Rare Metals Is Hindering Green Technologies A shortage of “rare earth” metals, used in everything from electric car batteries to solar panels to wind turbines, is hampering the growth of renewable energy technologies. Researchers are now working to find alternatives to these critical elements or better ways to recycle them. With the global push to reduce greenhouse gas emissions, it’s ironic that several energy- or resource-saving technologies aren’t being used to the fullest simply because we don’t have enough raw materials to make them. For example, says Alex King, director of the new Critical Materials Institute, every wind farm has a few turbines standing idle because their fragile gearboxes have broken down. They can be fixed, of course, but that takes time — and meanwhile wind power isn’t being gathered. Now you can make a more reliable wind turbine that doesn’t need a gearbox at all, King points out, but you need a truckload of so-called “rare earth” metals to do it, and there simply isn’t the supply. Likewise, we could all be using next-generation fluorescent light bulbs that are twice as efficient as the current standard. But when the U.S. Department of Energy (DOE) tried to make that switch in 2009, companies like General Electric cried foul: they wouldn’t be able to get hold of enough rare earths to make the new bulbs. The move toward new and better technologies — from smart phones to electric cars — means an ever-increasing demand for exotic metals that are scarce thanks to both geology and politics. Thin, cheap solar panels need tellurium, which makes up a scant 0.0000001 percent of the earth’s crust, making it three times rarer than gold. High-performance batteries need lithium, which is only easily extracted from briny pools in the Andes. In 2011, the average price of ‘rare earth’ metals shot up by as much as 750 percent. Platinum, needed as a catalyst in fuel cells that turn hydrogen into energy, comes almost exclusively from South Africa.

## A2: REM Companies Don’t Need UNCLOS

#### [DELINK] Ellen Gallagher of the Temple Law Journal finds in 2014 that companies are hesitant to invest in REM mining because the U.S. cannot protect them from legal challenges that arise from the convention.

Gallagher, Marjorie Ellen. "The Time is Now: The United States Needs to Accede to the United Nations Convention on the Law of the Sea to Exert Influence over the Competing Claims in the South China Sea." Temple International and Comparative Law Journal. Vol. 28. (2014): 1-26. [ More (7 quotes) ]

First, without the protection now guaranteed by UNCLOS, U.S. companies are not likely to invest in deep seabed mining.109 At a hearing before the Senate Foreign Relations Committee, Jay Timmons, President and CEO of the National Association of Manufacturers, spoke on manufacturers' behalf and expressed the hesitancy to invest: "[t]he development of deep seabed claims is incredibly expensive. Companies in the U.S. are reluctant to invest heavily in deep seabed mining because of the risk that their activities would not withstand a legal challenge since the U.S. is not a party to the Convention."110 For instance, the Pacific Ocean contains a large supply of nodules, rock-like substances that contain minerals such as nickel, copper, and cobalt.111 There is currently no cost-effective way to remove these nodules from the ocean floor.112 It is possible that developing a procedure to extract the metal from the nodules will be the most expensive part of the process."113 Further, methane hydrates114 are another potentially enormous alternative energy source found in the ocean with extraction technology in its infancy.115 Unless the United States accedes to UNCLOS, U.S. companies will be less likely to invest in deep seabed mining of the nodules and exploitation of methane hydrates, leaving untouched great resources that would add much revenue to the U.S. Treasury.

### A2: No Chinese Monopoly

#### 1. This is just false. The Seeker evidence from case indicates since the 1990s, China has extracted 95 percent of the world’s rare earth metals.

#### 2. This is seen evident in recent price increases. Northeastern University contextualizes in July of 2018 that the last time China cut off its exports of rare earth metals, global prices increased four-fold and some metal prices skyrocketed 700%.

Bill Ibellejuly, 7-25-2018, At risk in a trade war with China? The rare earth metals that make your smartphone (and your guided missile)., No Publication, https://news.northeastern.edu/2018/07/25/at-risk-in-a-trade-war-with-china-the-rare-earth-metals-that-make-your-smartphone-and-your-guided-missile/, 9-17-2018

The tariffs reflect Trump’s stated goal, signed into an executive order last December, to reduce the country’s dependence on foreign sources for “critical minerals,” and therefore the diminish the risk of disruptions in the supply of materials vital for manufacturers. But efforts to find a new supply of rare earth metals, or devise technologies that supplant the need for them, are still in the early stages. China has not overtly threatened to retaliate in a trade war by limiting the supply of rare earth metals. But it has already demonstrated its ability to do so in the past. In 2010, the Chinese slapped strict quotas on rare earth exports, throwing the world economy into a panic. Prices skyrocketed four-fold in 2010, and then doubled again in the first four months of 2011. For some rare earth metals, the price increased nearly 700 percent in less than two years. “It was a warning shot. They put the squeeze on to show what they can do, and then they open the supply valve again,” said University Distinguished Professor of Engineering Vincent Harris, whose research is focused on finding alternatives to rare earth metals for military radar and communications.

### A2: Japan

#### 1. [MITIGATE] Kuo of the Lowe Institute reports in 2018 that it is unprofitable for Japan to efficiently mine for the newly discovered rare earth metal grove. He concludes that on average it takes 10 years for a rare earth discovery to become a mine and therefore China will continue to hold the monopoly for the near future.

Frederick Kuo, 4-1-2018, Is Japan’s rare earth discovery fool’s gold?, No Publication, https://www.lowyinstitute.org/the-interpreter/japan-s-rare-earth-discovery-fool-s-gold, 9-17-201

Despite the news-grabbing headlines, it may be too soon to celebrate this discovery as Japan’s rare earth El Dorado. The minerals are buried 6000 metres deep in the ocean. While the Japanese researchers who discovered the deposits claim they have also created an efficient method to extract these minerals, questions remain as to how this method could be scaled. Currently, there are no profitable methods of producing rare earth minerals embedded more than 5 kilometres below the seabed. Based on current methods, producing only 1000 tons of metals would require mining more than one million tons of mud. In addition, questions remain as to whether a timeline which allows Japan to wean itself off its dependence on Chinese rare earth materials within the foreseeable future is feasible. Currently, it takes an average of ten years to advance a rare earth discovery on land to a producing mine. The fact that the newly discovered rare earth deposit is embedded in deep seabed, combined with unproven methods of profitable extraction of such minerals, means Japan’s rare earth ambitions will not come to fruition soon.

### A2: Chemicals Released

#### 1. Their evidence is about China we have higher environmental standards our mines and factories won’t be as toxic.

#### 2. We outweigh with green technology in the long term.

#### 3. US Companies developing environmentally friendly mines(in frontlines).

#### 4. Read Lawsuits Turn. With better environmental policy, we ensure that REM mines aren’t as toxic.

### A2: Biodiversity

#### [TURN]: Read Natural Seepage Turn. We solve for biodiversity.

#### [MITIGATE]: Sagoff of the University of Maryland writes in 1997 that biodiversity has no impact to humans. Our species can survive even if 99.9% of all other species went extinct.

Sagoff 97  (Mark, Senior Research Scholar at the Institute for Philosophy and Public policy in School of Public Affairs at University of Maryland, , “INSTITUTE OF BILL OF RIGHTS LAW SYMPOSIUM DEFINING TAKINGS: PRIVATE PROPERTY AND THE FUTURE OF GOVERNMENT REGULATION: MUDDLE OR MUDDLE THROUGH? TAKINGS JURISPRUDENCE MEETS THE ENDANGERED SPECIES ACT”, William and Mary Law Review, pg. 905, <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1679&context=wmlr> //nz)

Although one may agree with ecologists such as Ehrlich and Raven that the earth stands on **the brink of** an episode of **massive extinction, it may not follow** from this grim fact **that human** being**s will suffer** as a result. On the contrary, skeptics such as science writer Colin Tudge have challenged biologists to explain **why we need more than a tenth of the** 10 to **100 million species that grace the earth**. Noting that "cultivated systems often out-produce wild systems by 100-fold or more," Tudge declared that "the argument that humans need the variety of other species is, when you think about it, a theological one." n343 Tudge observed that "the elimination of all but a tiny minority of our fellow creatures does not affect the material well-being of humans one iota."n344 This skeptic challenged ecologists to list more than 10,000 species (other than unthreatened microbes) that are essential to ecosystem productivity or functioning. n345 "The human species could survive just as well if 99.9% of our fellow creatures went extinct, provided only that we retained the appropriate 0.1% that we need." n346   [\*906] The monumental Global Biodiversity Assessment ("the Assessment") identified two positions with respect to redundancy of species. "At one extreme is the idea that each species is unique and important, such that its removal or loss will have demonstrable consequences to the functioning of the community or ecosystem." n347 The authors of the Assessment, a panel of eminent ecologists, endorsed this position, saying it is "unlikely that there is much, if any, ecological redundancy in communities over time scales of decades to centuries, the time period over which environmental policy should operate." n348 These eminent ecologists rejected the opposing view, "the notion that species overlap in function to a sufficient degree that removal or loss of a species will be compensated by others, with negligible overall consequences to the community or ecosystem." n349  Other biologists believe, however, that species are so fabulously redundant in the ecological functions they perform that the life-support systems and processes of the planet and ecological processes in general will function perfectly well with fewer of them, certainly fewer than the millions and millions we can expect to remain **even if every threatened organism becomes extinct**. n350 Even the kind of sparse and miserable world depicted in the movie Blade Runner could provide a "sustainable" context for the human economy as long as people forgot their aesthetic and moral commitment to the glory and beauty of the natural world. n351 The Assessment makes this point. "Although any ecosystem contains hundreds to thousands of species interacting among themselves and their physical environment, the emerging consensus is that the system is driven by a small number of . . . biotic variables on whose interactions the balance of species are, in a sense, carried along." n352   [\*907] To make up your mind on the question of the functional redundancy of species, consider an endangered species of bird, plant, or insect and ask how the ecosystem would fare in its absence. The fact that the creature is endangered suggests an answer: it is already in limbo as far as ecosystem processes are concerned. What crucial ecological services does the black-capped vireo, for example, serve? Are any of the species threatened with extinction necessary to the provision of any ecosystem service on which humans depend? If so, which ones are they?  Ecosystems and the species that compose them have changed, dramatically, continually, and totally in virtually every part of the United States. There is little ecological similarity, for example, between New England today and the land where the Pilgrims died. n353 In view of the constant reconfiguration of the biota, **one may wonder why Americans have not suffered more as a result of ecological catastrophes**. The cast of species in nearly every environment changes constantly-local extinction is commonplace in nature-but the crops still grow. Somehow, it seems, property values keep going up on Martha's Vineyard in spite of the tragic disappearance of the heath hen.  One might argue that the sheer number and variety of creatures available to any ecosystem buffers that system against stress. Accordingly, we should be concerned if the "library" of creatures ready, willing, and able to colonize ecosystems gets too small. (Advances in genetic engineering may well permit us to write a large number of additions to that "library.") In the United States as in many other parts of the world, however, the number of species has been increasing dramatically, not decreasing, as a result of human activity. This is because the hordes of exotic species coming into ecosystems in the United States far exceed the number of species that are becoming extinct.

https://ssl.gstatic.com/ui/v1/icons/mail/images/cleardot.gif

# \*\*\*Foreign Policy\*\*\*

# A2: SCS

#### [BIG DELINK BE CAREFUL ROSHNI]: China won’t listen to UNCLOS. Phillips of the Guardian reports in 2016 that there was already an international tribunal ruling that opposed Chinese claims in the SCS in 2016 but Beijing rejected it and did not accept the ruling.

Tom Phillips, 7-12-2016, Beijing rejects tribunal's ruling in South China Sea case, Guardian, https://www.theguardian.com/world/2016/jul/12/philippines-wins-south-china-sea-case-against-china, 9-21-2018

China has said it will not accept a ruling against it in a key international legal case over strategic reefs and atolls that Beijing claims would give it control over disputed waters of the South China Sea. The judgment by an international tribunal in The Hague came down overwhelmingly in favour of claims by the Philippines and is likely to increase global diplomatic pressure on Beijing to scale back military expansion in the area. By depriving certain outcrops of territorial-generating status, the ruling from the permanent court of arbitration effectively punches holes in China’s all-encompassing “nine-dash” line that stretches deep into the South China Sea. The Chinese president, Xi Jinping, said China’s “territorial sovereignty and marine rights” in the seas would not be affected by the ruling, which declared large areas of the sea to be neutral international waters or the exclusive economic zones of other countries. He insisted China was still “committed to resolving disputes” with its neighbours. Chinese state media reacted angrily to the verdict. Xinhua, the country’s official news agency, hit out at what it described as an “ill-founded” ruling that was “naturally null and void”. The Communist party mouthpiece newspaper the People’s Daily said in an editorial that the tribunal had ignored “basic truths” and “trampled” on international laws and norms. “The Chinese government and the Chinese people firmly oppose [the ruling] and will neither acknowledge it nor accept it,” it added. The Philippine foreign affairs secretary, Perfecto Yasay Jr, said the country welcomed the ruling and called for “restraint and sobriety”. The US State Department called on both parties to comply with their obligations, according to a statement from spokesman John Kirby. The ruling makes grim reading for Beijing and contains a series of criticisms of China’s actions and claims. The tribunal declared that “although Chinese navigators and fishermen, as well as those of other states, had historically made use of the islands in the South China Sea, there was no evidence that China had historically exercised exclusive control over the waters or their resources. “The tribunal concluded that there was no legal basis for China to claim historic rights to resources within the sea areas falling within the ‘nine-dash line’.”

### A2: Hardliners

#### 1. [DELINK]: NPR finds in March 2018 that President Xi Jinping is poised to rule the country indefinitely as he has abolished presidential term limits and has amassed power levels never seen since the Mao Zedong era.

#### 2. [DELINK]: The US has been conducting military operations and FONOPS in the SCS for more years now and hardliners have not come into power. There is no probability that they come to power after UNCLOS accession

James Doubek, 3-11-2018, China Removes Presidential Term Limits, Enabling Xi Jinping To Rule Indefinitely, NPR.org, https://www.npr.org/sections/thetwo-way/2018/03/11/592694991/china-removes-presidential-term-limits-enabling-xi-jinping-to-rule-indefinitely, 9-17-2018

President Xi Jinping of China is poised to rule the country indefinitely after Chinese lawmakers passed changes to the country's constitution abolishing presidential term limits. The amendment was sure to pass the country's rubber-stamp legislature, the National People's Congress, which voted 2,958 in favor, two opposed and three abstaining. Since Xi assumed leadership of China's Communist Party in 2012, he has rapidly consolidated power to levels not seen since the era of Mao Zedong. The constitutional change officially allows him to remain in office after the end of his second term in 2023. "In some ways, the move represents the end of China's 40-year-long reform era," NPR's Anthony Kuhn explained last month, when the proposed changes were announced. "The era began after the death of Chairman Mao Zedong in 1976, when China tried to move away from the political violence and cult of personality that characterized his rule." The two-consecutive-term limit to China's presidency was put in place by Chinese leader Deng Xiaoping in 1982 "in order to avoid the kind of chaos and tumult that can sometimes happen when you have a single authoritarian leader, as China had with Mao Zedong," Elizabeth Economy of the Council on Foreign Relations told NPR's All Things Considered. The change in presidency aligns it with the other posts Xi holds, as head of the Communist Party and head of the military, neither of which have term limits, Kuhn says.

### A2: US-China War

#### 1. [NONUNIQUE] Keck writes in 2013 that China clashes won’t escalate – diplomatic backchannels and mutually assured destruction check escalation.

#### 2. [DELINK] Bisley furthers in 2014 that trade and investment between the two powers ensures that war won’t occur (China is the US’s 2nd most important trade partner and the US is China’s 1st). Bisley furthers that every year, around 1000 officials from the two countries meet under the Strategic and Economic Dialogue, demonstrably improving US-China relations across the policy spectrum, leading to collaboration.

#### 3. [DELINK]: Crabtree finds in 2016 that the threat of nuclear retaliation is the main deterrent of a conflict erupting between both countries. Additionally, China’s increased interdependence and share cooperation on terrorism and climate change decreased the likelihood of a war breaking out.

Keck, Zachary. [Former Deputy Editor of E-International Relations]. “Why China and the U.S. (Probably) Won’t Go to War.” The Diplomat, 2013. http://thediplomat.com/ 2013/07/why-china-and-the-us-probably-wont-go-to-war/

These can and should be supplemented with clear and open communication channels, which can be especially useful when unexpected crises arise, like an exchange of fire between low-level naval officers in the increasingly crowded waters in the region. While this possibility is real and frightening, it’s hard to imagine a plausible scenario where it leads to a nuclear exchange between China and the United States. After all, at each stage of the crisis leaders know that if it is not properly contained, a nuclear war could ensue, and the complete destruction of a leader’s country is a more frightening possibility than losing credibility among hawkish elements of society. In any case, measured means of retaliation would be available to the party wronged, and behind-the-scenes diplomacy could help facilitate the process of finding mutually acceptable retaliatory measures.

Bisley, Nick. [Professor, is Executive Director of La Trobe Asia at La Trobe Univer- sity]. ”It’s not 1914 all over again: Asia is preparing to avoid war”. The Conversa- tion, 2014. h􏰦p://theconversation.com/its-not-1914-all-over-again-asia-is-preparing-to- avoid-war-22875

Asia is cast as a region as complacent about the risks of war as Europe was in its belle époque. Analogies are an understandable way of trying to make sense of unfamiliar circumstances. In this case, however, the historical parallel is deeply misleading. Asia is experiencing a period of uncertainty and strategic risk unseen since the US and China reconciled their differences in the mid-1970s. Tensions among key powers are at very high levels: Japanese prime minister Shinzo Abe recently invoked the 1914 analogy. But there are very good reasons, notwithstanding these issues, why Asia is not about to tumble into a great power war. China is America’s second most important trading partner. Conversely, the US is by far the most important country with which China trades. Trade and investment’s “golden straitjacket” is a basic reason to be optimistic. Why should this be seen as being more effective than the high levels of interdependence between Britain and Germany before World War One? Because Beijing and Washing- ton are not content to rely on markets alone to keep the peace. They are acutely aware of how much they have at stake. The two powers have established a wide range of institutional links to manage their relations. These are designed to improve the level and quality of their communication, to lower the risks of misunderstanding spiralling out of control and to manage the trajectory of their relation- ship. Every year, around 1000 officials from all ministries led by the top political figures in each country meet under the auspices of the Strategic and Economic Dialogue. The dialogue has demonstrably improved US-China relations across the policy spectrum, leading to collaboration in a wide range of areas. These range from disaster relief to humanitarian aid exercises, from joint training of Afghan diplomats to marine conser- vation efforts, in which Chinese law enforcement officials are hosted on US Coast Guard vessels to enforce maritime legal regimes. Unlike the near total absence of diplomatic engagement by Germany and Britain in the lead-up to 1914, today’s two would-be com- batants have a deep level of interaction and practical co-operation. Just as the exten- sive array of common interests has led Beijing and Washington to do a lot of bilateral work, Asian states have been busy the past 15 years. These nations have created a broad range of multilateral institutions and mechanisms intended to improve trust, generate a sense of common cause and promote regional prosperity. Some organisations, like the Asia-Pacific Economic Cooperation (APEC), have a high profile with its annual leaders’ meeting involving, as it often does, the common embarrassment of heads of government dressing up in national garb. Others like the ASEAN Regional Forum and the ASEAN Defence Ministers’ Meeting Plus Process are less in the public eye. But there are more than 15 separate multilateral bodies that have a focus on regional security concerns. All these organisations are trying to build what might be described as an infrastructure for peace in the region. While these mechanisms are not flawless, and many have rightly been criticised for being long on dialogue and short on action, they have been crucial in managing specific crises and allowing countries to clearly state their commitments and priorities. Again, this is in stark contrast to the secret diplomatic dealings in the lead-up to 1914.

Crabtree 16 (James Crabtree, Lee Kuan Yew School of Public Policy, “Five reasons why America and China will not go to war” 5/31/16, Mr James Crabtree, Senior Visiting Research Fellow at the LKY School and Contributing Editor of the Financial Times, hosted an panel discussion titled “Must America and China Clash? The Troubled Future of Sino-US Relations” The panelists were Mr Gideon Rachman, Chief Foreign Affairs Columnist for the Financial Times; Dr Tim Huxley, Executive Director of The International Institute for Strategic Studies – Asia; and Professor Huang Jing, Director of the LKY School’s Centre on Asia and Globalisation, and Lee Foundation Professor on US-China Relations. <http://global-is-asian.nus.edu.sg/index.php/five-reasons-why-america-and-china-will-not-go-to-war/> )

Despite these worrisome signs, however, war between the two countries **is unlikely**, according to experts at a recent panel discussion on the US-China relationship, organised by the Lee Kuan Yew School of Public Policy. The main deterrent is the **threat of nuclear retaliation.** While clashes between ruling powers and rising powers – as the US and China are now, respectively – have led to war in the past, these instances occurred **before the nuclear age.** Mr Gideon Rachman, who is the chief foreign affairs columnist for the Financial Times, noted that both the US and China now possess nuclear weapons. He said: “The stakes were much lower in the past. The leadership of both countries are **rational**, and **neither wants a conflict** – one hopes that because they are both nuclear powers, that it won’t come to war.” Mr Rachman said, however, that the tensions between the two countries were unlikely to lead to war: “Rising powers do tend to clash with established powers, and this has led to war in 12 out of 16 cases since the 1500s. But these instances were before the nuclear age, when the stakes were much lower. One hopes that because both China and the US are nuclear powers, it won’t come to war.” Consensus for war is unlikely China’s economic rise has also increased its **interdependence** with the US. China is the US’s largest goods trading partner, with US$598 billion (S$825 billion) in total, two-way goods trade in 2015. China was also the US’s third-largest goods export market in that year, as well as its largest supplier of goods imports. The multi-faceted relationship between the two countries reduces the likelihood that either side can achieve an internal consensus for war. Even if territorial disputes lead to growing tensions, the financial interests of both countries in maintaining a good relationship might trump such disagreements. “China’s rise has diversified the US’s interests to such an extent that it’s difficult for any US leader to strike a consensus-based China policy,” said Professor Huang Jing, who is director of the LKY School’s Centre on Asia and Globalisation, and the Lee Foundation Professor on US-China Relations. “That gives me hope that the interdependence between the US and China is unprecedented in such a way that you cannot reach a strategic consensus for launching a war against the other side,” he said. Foreign entanglement fatigue The US’s other foreign entanglements and priorities may also **dissuade it** from war with China. Mr Rachman noted: “The Chinese may have overstepped the mark (in the South China Sea), but they have been quite intelligent in making each move small enough to make it hard for the US to respond aggressively. “The US also has all these other things going in the Middle East, including its fight against ISIS (the Islamic State of Iraq and the Levant, a terrorist group).” Cooperation, not conflict In fact, the US and China have **shared interests** that might encourage cooperation rather than conflict. In 2014, US President Barack Obama and Chinese President Xi Jinping announced a historic US-China agreement to combat climate change. The two countries also worked together, and with others, to forge the global climate agreement in Paris in late 2015. Terrorism and North Korea’s nuclear threat are other **common concerns**. Dr Tim Huxley, executive director of The International Institute for Strategic Studies – Asia, said: “Both the US and China agree that there should be more cooperation and intelligence-sharing in the security sphere.” The tensions between the two countries may worsen in the short term, but is unlikely to lead to outright war. Prof Huang summed up their relationship: “They might have a messy engagement with each other, with constant negotiation, but they both want to optimise common interests and manage conflicts. If they both see that they are very close to a fight, they will step back.”

# A2: Russia

#### [DELINK]: Russia’s own “Fundamentals of Public Policy of the Russian Federation in the Arctic for the period up to 2020 and Beyond” writes that one of Russia’s top priorities in the Arctic strategies is the preservation of peace and cooperation through mutual bilateral and multilateral agreements among Arctic states, thus UNCLOS.

Dovile Petkunaite, The City College of New York, “Cooperation or Conflict in the Arctic? UNCLOS and the Barents and Beaufort Sea Disputes,” <https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1049&context=cc_etds_theses>

Another important document which defines Russia‟s views on the Arctic is the “Fundamentals of Public Policy of the Russian Federation in the Arctic for the period up to 2020 and Beyond.” 30 This document reveals information about a strategy that was adopted in September 2008. It clearly states that Arctic is a region of great importance to Russia due to its potential for gas and oil resources, and profitable maritime transport through the Northern Sea Route (NSR). The NSR is a crucial element in the maritime connection between Asia and Europe. Among the interest of the Russian Federation in the Arctic is the preservation of peace and cooperation in the area. The expansion of the resource base in the Arctic through the use of advanced technologies to extract the resources is listed among the aims and priorities of Russia. One of the top priorities, listed in the Arctic strategy, is defining the limits of the continental shelf by 2015. Moreover, it identifies international cooperation as its priority in the region, which will be enforced through mutual bilateral and multilateral agreements among the Arctic states. Russia‟s Arctic strategy document suggests that its country does not believe in the military confrontation in the region. However, it speaks to the possibility of tensions that may develop due to the potential of resources in certain areas of the Arctic, specifically in the Barents Sea. 31 Interestingly, Russia is determined to establish a special Arctic military formation which would protect its country‟s interests in military and political situations should any arise. Russia‟s Arctic policy document targeted the presence of NATO in the Arctic region, as NATO identified the Arctic as an area of increasing strategic interest among the states. In general, Russia is focused on maintaining and strengthening its leading position in the Arctic.

# A2: Weakens Proliferation Security Initiative

#### 1. [DELINK] Ivey explains in 2007 that almost all member states of PSI are members of the convention. This is because the PSI requires its countries to act consistent with international law.

#### 2. [NONUNIQUE] Kane finds in 2013 that there are other international treaties to combat nuclear proliferation and the trafficking on WMDs besides the PSI, such as START, the Treaty on Non-Proliferation, and the Non-Proliferation Treaty.

#### 3. [TURN]: Not joining UNCLOS actually weakens PSI. The Brookings Institute finds in 2004 that the 1958 Convention on High Seas, the current convention the US abides to is far more restrictive in interdictions and UNCLOS actually provides more justifications for member states to interdict ships for nonproliferation purposes.

#### 4. [TURN]: UNCLOS helps PSI. Song of the Foreign Policy Research Institute reports in 2007 that “accession to UNCLOS could help increase U.S. credibility and leadership in dealing with proliferation,” as PSI seeks to do.

#### 5. [TURN]: Belcher of the Council of Foreign Relations finds in 2011 that U.S. ratification of UNCLOS would help the U.S. garner greater support for the PSI from countries such as China and Indonesia, who are afraid the PSI is inconsistent with UNCLOS.

Ivey, Matthew W. "National Security Implications in the Global War on Terrorism of the United States Accession to the United Nations Convention on the Law of the Sea." [Dartmouth Law Journal](https://www.unclosdebate.org/citations/source/Dartmouth%20Law%20Journal). Vol. 7, No. 2 (2009): 117-131.

PSI specifically states that it will be implemented as is consistent with national law and international law.28 **All of the PSI partners, with the exception of the United States, are already parties to UNCLOS. This fact demonstrates that state national security interests under the PSI are not put in jeopardy by becoming a party to UNCLOS. Indeed, John Bolton, former United States ambassador to the United Nations, argued that UNCLOS will not impede the goals of the PSI in testimony before the Senate Armed Services Committee, stating: "If the Senate were to ratify the Law of the Sea Treaty and the president were to make the treaty [...] it would not have any negative impact whatsoever on PSI."**

Sam Kane, Center for Arms Control and Non-Proliferation, "Fact Sheet: The Proliferation Security Initiative (PSI) - The Center for Arms Control and Non-Proliferation", 7/6/2013, https://armscontrolcenter.org/fact-sheet-the-proliferation-security-initiative-psi/

PSI is not the only international initiative aimed at preventing the trafficking of WMD-related materials. Rather, it exists as part of a broader web of efforts and international agreements with likeminded objectives, such as: — UN Security Council Resolution 1540: resolution passed in 2004 that requires states to pass domestic laws criminalizing the trafficking of WMD-related materials. — International Maritime Organization’s Suppression of Unlawful Acts (SUA) Protocol 2005: protocol that “makes it an international offense to unlawfully…transport [WMD-related materials] by sea” and provides mechanisms by which such vessels can be interdicted and boarded. — The Global Initiative to Combat Nuclear Terrorism: a partnership, founded in 2006, and currently involving 85 countries, that seeks to develop the interstate cooperation needed to prevent acts of nuclear terrorism. — UN Security Council Resolution 1874: resolution passed in 2009 that authorizes states to inspect cargo being sent to and from North Korea, if a state has “reasonable grounds” to believe that that cargo contains WMD-related materials. — The Beijing Convention: a convention passed in 2010 that requires states to pass domestic laws criminalizing the illicit air transfer of WMD-related materials.

David B. Sandalow, 8-19-2004, Law of the Sea Convention: Should the U.S. Join?, Brookings, https://www.brookings.edu/research/law-of-the-sea-convention-should-the-u-s-join/, 9-17-2018

Some columnists and think tank analysts have argued that U.S. accession to the Convention is unnecessary because excessive maritime claims can be addressed by invoking customary international law and with “operational assertions” by the U.S. military. But such an approach is less certain, more risky, and more costly than taking advantage of the Convention. Customary law is by nature subject to varying interpretations and change over time. Operational assertions—sending military ship and aircraft into contested areas—involve risk to naval personnel as well as political costs. Such assertions should be conducted aggressively where needed, but avoided where possible. In addition, some columnists and think tank analysts have argued that U.S. accession to the Convention would interfere with the Proliferation Security Initiative (PSI), under which the United States and more than a dozen allies have agreed to interdict some ships that may present a nonproliferation risk. In fact, the Convention expands the list of justifications for ship interdictions set forth in its predecessor, the 1958 Convention on the High Seas, to which the United States has been a party for more than forty years. Among the many legal bases that may be applicable to interdictions under the PSI are the jurisdiction of coastal states in their territorial seas, the right to board stateless vessels, an agreement concerning high-seas boarding with a flag state (the country of origin of an oceangoing vessel) and the inherent right of self-defense. Indeed several allies have recently expressed concern about the U.S. failure to ratify the Convention, asserting that this failure could weaken the PSI. Finally, some treaty opponents have argued that joining the Convention would hamper U.S. intelligence activities, citing a supposed restriction on intelligence-gathering and submerged transit of submarines in coastal waters. This argument is based on a simple misreading of Articles 19 and 20 of the Convention, which impose no restrictions on any activity but simply establish conditions for invoking the “right of innocent passage.”

Emma Belcher. Council on Foreign Relations. July 2011. “The Proliferation Security Initiative.” https://www.cfr.org/content/publications/attachments/IIGG\_WorkingPaper6\_PSI.pdf

The United States should signal intent to comply with international law by ratifying UNCLOS. U.S. ratification of UNCLOS would help the United States garner greater support for the PSI. It would signal U.S. intent to conform to international law at sea and that the PSI is fully consistent with UNCLOS, doubt over which states such as China and Indonesia cite as reasons for their nonpartici- pation. Continued refusal by these states to participate following U.S. ratification would reveal the legal argument as a smokescreen for their real objections.61 Thus, rather than an impediment to the PSI, as some argue, UNCLOS ratification could strengthen the PSI.62 Policymakers should add incentives for participation in the PSI.

Yann-Huei Song, Foreign Policy Research Institute. Taylor & Francis Online. 2007. “The U.S.-Led Proliferation Security Initiative and UNCLOS: Legality, Implementation, and an Assessment.” https://www.tandfonline.com/doi/full/10.1080/00908320601071421?scroll=top&needAccess=true

This article examines the relationship between the U.S.-led Proliferation Security Initiative (PSI) and the 1982 United Nations Convention on the Law of the Sea (UNCLOS). It attempts to answer the questions of whether the PSI is legal or illegal under UNCLOS and whether U.S. accession to UNCLOS would enhance or create difficulties for the implementation of the PSI. The author concludes that U.S. accession to the Convention would not affect adversely the implementation and effectiveness of the PSI. On the contrary, accession to UNCLOS could help increase U.S. credibility and leadership in dealing with the threat to international peace and security posed by weapons of mass destruction proliferation. It also suggests that all the relevant information needs to be gathered and examined carefully in order to answer the question of whether a PSI interdiction action is legal under UNCLOS or not.

### A2: Less Interdictions

#### [DELINK]: This isn’t true. Ivey of Dartmouth University explains in 2009 that UNCLOS provisions are sufficient for the U.S. to continue carrying out Maritime Interdiction Operations.

Ivey, Matthew W. "National Security Implications in the Global War on Terrorism of the United States Accession to the United Nations Convention on the Law of the Sea." Dartmouth Law Journal. Vol. 7, No. 2 (2009): 117-131.

Maritime Interdiction Operations (MIOs) involve the boarding of vessels by the military for investigation of possible violations of international law or other hostile activity. 47 In 2007, piracy increased byalmost 14 percent, costing transport vessels upwards of $15 billion a year. 48 Most recently, in April 2009, Somali pirates took hostage the captain of theU.S. flag ship, Maersk Alabama . Furthermore, as indicated by the PSI, thethreat of the spread of WMD has never been more serious. 49 Indeed, MIOshave been a key tool in curbing these threats and thus vital to theprevention of future acts of terrorism. 50 Prior to Operation Iraqi Freedom,MIOs largely involved boarding of vessels in the Arabian Gulf to ensurecompliance with the United Nations Oil For Food Program that wasinitiated after Iraq’s unsuccessful invasion of Kuwait. 51 After September 11,2001 and the subsequent military operations in Iraq and Afghanistan, MIOshave expanded commensurate with an increased terrorist threat. 52 Proponents of UNCLOS assert that the treaty does not significantlyimpact the way the United States military conducts MIOs. 53 Duringpeacetime, UNCLOS permits the following: the boarding of vessels that areflying the flag of the boarding state, the boarding of vessels that consent toboarding, the boarding of vessels that are entering coastal state ports, andthe boarding of stateless vessels. 54 During wartime or armed conflict,UNCLOS allows boardings in self-defense if under attack or threat of attack and in accordance with other established maritime law and laws of armed conflict. 55 These provisions are sufficient for the United States tocontinue to carryout MIO missions as currently employed.Opponents to UNCLOS assert that becoming a party to Conventionwill directly undercut the United States’ ability to conduct boardings andseizures in the furtherance of the MIO mission. 56 Opponents point toprovisions of UNCLOS that require international arbitration within tendays of a boarding and detention, or the Law of the Sea Tribunal will have jurisdiction to hear appeals for “prompt release.” 57

#### [NON-UNIQUE]: Ivey continues that the U.S. *is* a signatory of the 1958 iteration of UNCLOS, which dictates governing activities in the high seas, involving interdiction. These are the same regulations found in the 1982 edition of UNCLOS that we are debating today. That means the U.S. already follows interdiction laws under UNCLOS. Thus, the ability to interdict is the same in both world

Ivey, Matthew W. "National Security Implications in the Global War on Terrorism of the United States Accession to the United Nations Convention on the Law of the Sea." Dartmouth Law Journal. Vol. 7, No. 2 (2009): 117-131.

Nevertheless, opponents of UNCLOS find that United States accession to the treaty would directly contradict the goals of PSI.31 Specifically, opponents assert that if the United States does not become a party to the Convention, it will be free from any constraints in relation to ocean law, and thus, better suited to pursue the goals of PSI.32 This argument, however, is weakened by the fact that the United States is already a party to the 1958 Convention on the Law of the Sea, subjecting it to many of the same provisions articulated in the current iteration of UNCLOS.33 While the 1982 Convention modified many elements of the 1958 Convention, several key provisions remained in place, including many governing activities in territorial seas, continguous zones, and the high seas. Additionally, because UNCLOS is largely rooted in customary law, opponents of UNCLOS assert that the United States is already subject to many of its provisions implicitly.34 In the absence of a treaty, the United States must rely on and abide by customary law, which is defined by the pattern and practice of states. Since so many nations are already a party to UNCLOS, their practices largely influence the body of customary law on which the United States must rely if it does not ratify UNCLOS.

# A2: Harms Ability to Fight Piracy

#### 1. [TURN]: Will Rogers of the Center for New American Security writes in 2012 that ratifying UNCLOS will give the U.S. the ability to shape the legal authorities the international community relies on to combat piracy. [This is key because in the squo, even if the U.S. intercepts a pirate, it is hard to gain the legal authority to process that pirate in the legal forums of the country in which they have been intercepted in. Ratifying UNCLOS makes this possible.]

#### 2. [DELINK] The US can still effectively fight piracy under UNCLOS. Two reasons:

#### a. Karim of the Wisconsin International Law Journal in 2014 finds that Article 311 of UNCLSO provides room for two states to agree to modify UNCLOS provisions in order to fight piracy meaning Somalia or any other state can allow foreign states to come into their territorial waters and assist with piracy.

#### b. Kontorovich of the American Society of International Law finds in 2009 that UN Security Council resolutions which supersede UNCLOS provisions allows for nations to take action against pirates in territorial waters.

#### 3. [MITIGATE] Presse of PRI finds in January 2018 that piracy has hit a 20 year low worldwide.

file:///Users/tusharagashe/Documents/Karim\_final.pdf

For the purpose of this article, the geographic limitation of the UNCLOS piracy definition is not a significant bottleneck in the process of the operationalization of the role of national courts in the global context. If there is a firm political will from states to operationalize the role of their respective national courts, the national courts can still plaan instrumental role in combating maritime piracy and armed robbery by ensuring the prompt prosecution of alleged offenders. However, some countries may not be able to patrol their waters and prosecute pirates due to their financial and institutional deficiencies. In these areas, regional initiatives may supplement the international legal framework, which may provide a wider enforcement jurisdiction to regional (or extra-regional) countries. Article 311(3) of UNCLOS provides room for agreements by two or more states or agreements modifying the convention for specific issues based on reciprocity. This provision could be utilized in piracyprone regions.28 Thus, the geographic limitation of UNCLOS’ piracy definition is not a significant problem because, with the consent of the coastal state, other states can intervene in territorial waters to combat maritime armed robbery. For example, the increasing occurrence of piracy and armed robbery off the coast of Somalia has exerted a considerable pressure on global trade, creating an unprecedented willingness from different states and organizations to participate in an anti-piracy action. The situation prompted the call for “one of the largest anti-piracy flotillas in modern history.”29 For the first time, the Security Council took action against piracy under Chapter VII of the UN Charter30 and determined that piracy and armed robbery in the territorial waters and high seas off the coast of Somalia “exacerbate the situation in Somalia which continues to constitute a threat to international peace and security in the region.”31 However, piracy, or Somali piracy per se, has not been recognized as a threat to international peace and security. The most important aspect of these Security Council resolutions has been the authorization of action against armed robbery in the territorial waters of Somalia.32

Eugene Kontorovich, 02-06-2009, International Legal Responses to Piracy off the Coast of Somalia, No Publication, https://www.asil.org/insights/volume/13/issue/2/international-legal-responses-piracy-coast-somalia, 9-17-2018

In 2008, the United Nations Security Council passed five separate resolutions dealing with Somali piracy -- more resolutions than on any other subject last year.[2] Each of these was passed pursuant to Chapter VII of the UN Charter, under which the Council may authorize the use of military force against threats to international security. These resolutions have bolstered the authority of the multinational armada by expanding the authority of the navies beyond acts permitted under the customary international law of piracy. Absent Security Council authority to use force, international law permits nations to act against foreign piracy only on the high seas.[3] In the Gulf of Aden, where international shipping must pass through a narrow corridor, pirates are able to launch attacks in international waters and then quickly return to Somali territorial waters. The Council responded to this problem on June 2 by passing Resolution 1816, which authorizes nations to take action against pirates even in sovereign Somali waters.[4] That resolution noted that it was passed with the consent of the government of Somalia âœwhich lacks the capacity to interdict pirates or patrol and secure its territorial waters.â[5] On December 16, 2008, the Council passed an even broader resolution, drafted and promoted by the United States (in the last weeks of the Bush administration) extending the authorization of military force to land-based operations in Somalia mainland.[6] For a one-year period, Resolution 1851 authorizes nations to âœundertake all necessary measures that are appropriate in Somalia, for the purpose of suppressing acts of piracy and armed robbery at sea.â[7] Concerns raised by other Council members led the U.S. to withdraw draft language referring to operations in Somali âœairspace,â though the U.S. argues that the effect of the resolution remains the same, and that use of Somali airspace is permitted.[8]

Agence France-Presse, , 1-11-2018, Report: Pirate attacks fall to 20-year low, but danger remains, Public Radio International, https://www.pri.org/stories/2018-01-11/report-pirate-attacks-fall-20-year-low-danger-remains, 9-17-2018

A total of 180 incidents of piracy and armed robbery against ships were recorded last year, the lowest number since 1995 and down from 191 in 2016, the bureau said in its annual report. Some countries such as Indonesia, the world's biggest archipelago nation, saw a drop in incidents, with 43 attacks in its waters last year, down more than half in the past two years. However a handful of countries witnessed a steady climb in attacks.  Twenty-two incidents were recorded in the Philippines, a jump from 10 in 2016, with most of them low-level attacks on vessels anchored at Manila and Batangas, south of the capital, the country's two busiest ports. There were also kidnappings of crew in the southern Philippines, the bureau said. Islamic militants have been increasingly targeting seafarers in the strife-torn region, abducting them and demanding ransoms for their release. The number of attacks in Bangladesh jumped three-fold to 11 in 2017, with most in Chittagong, the country's busiest port. The Gulf of Guinea off the west coast of Africa remained an attack hotspot in 2017. Out of 16 incidents of vessels being fired on reported worldwide last year, seven occurred in the gulf. There were 10 incidents of kidnapping involving 65 crew members in or around waters off Nigeria, which lies next to the Gulf of Guinea, according to the Kuala Lumpur-based IMB's report, which was released Wednesday. Waters off Somalia remained dangerous, with nine incidents recorded last year, up from two in 2016. A dramatic attack on a container ship far off the Somali coast saw pirates firing rockets at the vessel after a failed attempt to board it.  "This dramatic incident... demonstrates that Somali pirates retain the capability and intent to launch attacks against merchant vessels hundreds of miles from their coastline," said IMB director Pottengal Mukundan.

Rogers, Will. Security at Sea: The Case for Ratifying the Law of the Sea Convention. Center for a New American Security: Washington, D.C., April 25, 2012 (11p).

The continued failure to ratify LOSC will not prohibit the United States from taking action against piracy. The United States conducts counterpiracy operations today despite its reluctance to ratify LOSC. The U.S. Navy and Coast Guard often execute such operations using the legal authorities granted under the 1988 Convention for the Suppression of Unlawful Acts of Violence Against the Safety of Maritime Navigation (SUA Convention) – to which the United States is a party.15 Regardless, U.S. Navy and Coast Guard officials continually argue that LOSC adds legitimacy to counter-piracy efforts. In an era of hybrid threats in the maritime domain, this added legitimacy will make it easier for the United States to cooperate with international partners in this area. Ratifying LOSC will also enhance U.S. counterpiracy efforts by improving America’s ability to shape the legal authorities the international community relies on to combat piracy, especially in instances where existing agreements do not account for advancements in technology. The United States, for example, relies increasingly on remote sensing systems and a fleet of low- and high-altitude remotely piloted vehicles to provide persistent surveillance where the United States lacks a sustained maritime presence. These technologies may help U.S. maritime officials track piracy activities and facilitate a faster response. However, as one analyst notes, use of these technologies may not be clearly protected within existing international maritime treaties, including LOSC: “[R]emote sensing from satellites and high-flying surveillance aircraft have for decades undertaken maritime scientific research and surveys in others[’] EEZs without the permission – or even the advance knowledge – required by the 1982 UNCLOS.”16 As the United States continues to field remotely piloted or semi-autonomous vehicles and sensors – including maritime ones – it will need to be prepared to challenge efforts to constrain or prohibit their use. April 2012 Policy brief cNAS.org 4 Ratifying LOSC will allow the United States to participate in international fora such as the Law of the Sea Tribunal, which would enable it to challenge states that may seek to constrain American use of remote sensing and remotely operated technologies, or otherwise seek to adopt narrow legal definitions that prevent U.S. law enforcement officials from combating piracy. Since debates at this tribunal will occur whether or not the United States is a member, U.S. interests will be better served by ratifying LOSC so that it can shape and participate in these debates, and try to prevent less favorable rules and norms from being adopted.

## A2: Cannot Intercept Skiffs

#### 1. [DELINK]: This is not true. Nations consistently intercept skiffs under UNCLOS. For example, Crippa of the International Piracy Ransoms Task Force writes in 2013 that Sweden, a UNCLOS signatory, routinely intercepts skiffs off the Somali coast.

Matteo Crippa. The Report of the International Piracy Ransoms Task Force. 4 Janurary 2013. “Liability for the Destruction of Suspected Pirate Skiffs?” https://piracy-law.com/2013/01/04/is-there-a-liability-for-the-destruction-of-suspected-pirate-skiffs/

In one of their latest reported joint anti-piracy operation, EUNAVFOR and Combined Task Force 151 announced the disruption of potential piracy attacks off the Somali coast. In November 2012, the Romanian frigate ROS Regele Ferdinand, under EUNAVFOR command, and Turkish warship TCG Gemlik, of Combined Task Force 151, apprehended nine suspected pirates at sea off the coast of Somalia. Earlier, a Swedish EUNAVFOR maritime patrol aircraft located the skiff at 420 nautical miles east of Mogadishu, an area known for pirate activities. At the scene, the TGC Gemlik sent a boarding team to intercept and search the suspected vessel, which for over an hour tried to evade capture. The suspected pirates were then embarked onto the ROS Regele Ferdinand for futher questioning and evidence collection to assess the possibility of their prosecution. No fishing supplies were found on board, while it remains unclear whether the suspects were armed. Shortly after their apprehension, the suspected pirates were released onto a Somali beach for lack of sufficient evidence to proceed to their prosecution. According to EUNAVFOR, despite the strong suspicion that it was a pirate boat, it was determined that there was not sufficient evidence to build a case and prosecute the suspected pirates, as they were not caught actually committing any crime. In additon, building a case against the suspects would be too time-consuming and onerous. However, their skiff and other effects on board, including fuel and ladders, were instead destroyed. According to EUNAVFOR, this will prevent the suspected pirates from using the skiff to attack ships in the future. By means of example, this incident, by no means uncommon, raises the question of the diffferent evidentiary grounds and standards of proof for the prosecution of suspected pirates and the destruction of boats and equipment belonging to them. While the destruction of a pirate vessel can prevent the perpetration of further piracy attacks, the sinking of a fishing boat, however small, might put a strain to the fishermen’s livelihoods. Article 106 of UNCLOS (and Article 110(3)) provides for the possible liability for any loss or damange caused by the seizure of a suspected pirate ship when effected without adequate grounds.

## A2: Can’t Enter Territorial Waters

#### 1. [DELINK] Nobody would stop the U.S. from intercepting pirates. Sarah Ashfaw of the Journal of Transnational law and Policy explains in 2010 that even if a pirate went into territorial waters, Article 100 of Part IV of the Convention would give the U.S. authority to continue pursuit because it requires countries to cooperate in the repression of piracy.

Ashfaw, Sarah. "Something for Everyone: Why the United States should Ratify the Law of the Sea Treaty ." Journal of Transnational Law and Policy. Vol. 19, No. 2 (Spring 2010): 357-399.

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.149 Somalia 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.

## A2: Economic Harms

#### 1. [MITIGATE]: Statista indicates there are only 180 pirate attacks per year. We would say that this is insignificant in comparison to the hundreds of millions of Americans and foreign citizens that are benefited when you affirm and mitigate recessions and oil wars.

Statista. “Number of pirate attacks against ships worldwide from 2009 to 2017.” https://www.statista.com/statistics/266292/number-of-pirate-attacks-worldwide-since-2006/

This statistic depicts the number of pirate attacks against ships worldwide from 2009 through 2017. There were 180 such incidents in 2017. Although the term “pirate” may conjure up images of bearded men with eye patches, wooden legs and parrots who were convicted and buried centuries ago, pirate attacks are indeed posing a threat to today’s shipping lines all over the world.

## A2: Lack of Foreign Aid

#### 1. [TURN – DON’T READ WITH ROGERS LINK TURN]: Ana Swanson of the Washington Post reports in 2015 that foreign aid historically lowers economic growth. In a study of dozens of countries who receive aid, those who received less aid saw more economic growth. Nobel Prize winner in economics Angus Deaton warrants: foreign aid means a government has no accountability to its people, setting the stage for corruption that harms the poor. Moreover, we’d argue that foreign aid undercuts the necessity for internal economic development.

Ana Swanson. The Washington Post. 12 October 2015. “Why trying to help poor countries might actually hurt them.” https://www.washingtonpost.com/news/wonk/wp/2015/10/13/why-trying-to-help-poor-countries-might-actually-hurt-them/?utm\_term=.b25d04e13ca4

The data suggested that the claims of the aid community were sometimes not borne out. Even as the level of foreign aid into Africa soared through the 1980s and 1990s, African economies were doing worse than ever, as the chart below, from a paper by economist Bill Easterly of New York University, shows. The effect wasn't limited to Africa. Many economists were noticing that an influx of foreign aid did not seem to produce economic growth in countries around the world. Rather, lots of foreign aid flowing into a country tended to be correlated with lower economic growth, as this chart from a paper by Arvind Subramanian and Raghuram Rajan shows. The countries that receive less aid, those on the left-hand side of the chart, tend to have higher growth -- while those that receive more aid, on the right-hand side, have lower growth. Raghuram G. Rajan and Arvind Subramanian, "Aid and Growth: What Does the Cross-Country Evidence Really Show?" Why was this happening? The answer wasn't immediately clear, but Deaton and other economists argued that it had to do with how foreign money changed the relationship between a government and its people. Think of it this way: In order to have the funding to run a country, a government needs to collect taxes from its people. Since the people ultimately hold the purse strings, they have a certain amount of control over their government. If leaders don't deliver the basic services they promise, the people have the power to cut them off. Deaton argued that foreign aid can weaken this relationship, leaving a government less accountable to its people, the congress or parliament, and the courts. "My critique of aid has been more to do with countries where they get an enormous amount of aid relative to everything else that goes on in that country," Deaton said in an interview with Wonkblog. "For instance, most governments depend on their people for taxes in order to run themselves and provide services to their people. Governments that get all their money from aid don’t have that at all, and I think of that as very corrosive."

### A2 Somalia

#### 1. [DELINK] Somalia waived off its UNCLOS provision. Ryan Kelley of the Minnesota Law Review finds in 2011 Somalia had to waive its right of territorial water under UNCLOS to allow the US to intervene in its water.

#### 2. [MITIGATE] Piracy in Somalia ahs significantly dropped. Fox of Euractiv finds in July 2018 that only one pirate attack has been recorded in Somalia this year.

Kelley, Ryan P. "UNCLOS, but No Cigar: Overcoming Obstacles to the Prosecution of Maritime Piracy ." Minnesota Law Review. Vol. 95, No. 6 (June 1, 2011)

Several factors make naval patrols the only true legal and practical option.117 Only warships can seize pirates under UNCLOS,118 and the IMO strongly cautions against arming merchant ship crews or carrying private security forces on-board because of the possibility for escalation of violence during pirate attacks.119 Moreover, Somalia lacks the power to control its own maritime territory, and so international antipiracy efforts necessarily do the job for it. The UNCLOS provisions that protect coastal states’ sovereignty would hamper antipiracy efforts. Since UNCLOS permits the establishment of a state’s territorial sea at the waters within twelve nautical miles from the coastal low-water line,120 and Somalia is a signatory of the treaty,121 pirates operating in a vast area around Somalia’s long coastline could theoretically harass and hijack ships with a manner of double impunity. States have thus gone to great lengths to address that obstacle. Yet safeguarding their ability to exercise jurisdiction in foreign territorial waters for enforcement purposes did not provide the broad and flexible adjudica- tive jurisdiction states today require. The Somali Transitional Federal Government (TFG) and other semi-autonomous regions within Somalia are actively en- gaging with antipiracy efforts.122 Somalia went further than waiving its expulsion right under UNCLOS.123 It actively requested international assistance to combat unlawful acts in its waters and piracy,124 perhaps because it could not do so itself, but also because neither UNCLOS nor SUA would otherwise permit foreign navies to intervene in its waters.125 The Security Council subsequently passed a number of resolutions on the matter, which have authorized a robust use of military force.126 Notably, Resolution 1816 provides authorization for foreign states cooperating with the TFG to enter its territorial waters for the purpose of repressing piracy, provided the TFG notifies the Secretary General in advance of the agreement.127 Resolu- tion 1950 provides the most recent extension of that permission from the date of its adoption.128 Further, Resolution 1851 argu- ably extends that permission to land-based operations as well, which the French military has undertaken.129

Benjamin Fox, 7-30-2018, UK loses EU anti-piracy missions to France and Spain, euractiv, https://www.euractiv.com/section/defence-and-security/news/uk-loses-eu-anti-piracy-missions-to-france-and-spain/, 9-17-2018

Meanwhile, Vice Admiral Antonio Martorell Lacave from the Spanish Navy has been appointed to take over as new Operation Commander from Stickland after Brexit day. The number of attacks off the coast of Somalia in the Indian Ocean has dropped in recent years from a peak of 176 in 2011 to seven in 2017. Only one has been recorded so far in 2018, according to the International Maritime Bureau. The decision by EU leaders also sees Italy, which bid for EU NAVFOR, lose out again. The Italian government had put Rome forward as its candidate city. It also put Rome forward to host the EMA – losing out following a draw of lots – and threatened to take legal action against the European Commission early this year when it was revealed that the new office premises in Amsterdam would not be ready in time.

# A2: Unilateralism Better

## A2: Hard Power is Key in SCS

#### FONOPS happen in aff world if not to a greater extent so we would still be continuing hard power strategies.

#### Hard Power is the squo and that obviously is not stopping militarization so no solvency

## A2: U.S. Loses Presence in Strait of Hormuz

#### [TURN]: This opposite is true. Rogers of the Center for New American Security reports in 2012 that Iran challenges Freedom of Navigation Operations from countries that aren’t signatories to UNCLOS. They aren’t able to do this to countries that are. Therefore, the U.S. is guaranteed passage in the pro world.

Rogers, Will. Security at Sea: The Case for Ratifying the Law of the Sea Convention. Center for a New American Security: Washington, D.C., April 25, 2012

Ratification will also help the United States deflate Iran’s recent challenges to U.S. freedom of naviga- tion through the Strait of Hormuz. Historically, Iran has stated that the right to freedom of navigation does not extend to non-signatories of the convention and has passed domestic legislation that is inconsistent with international law, specifically by requiring warships to seek approval from Iran before exercising innocent passage through the strait.11 Ratifying LOSC would nullify Iran’s challenges should it ever choose to close the strait to U.S. or other flagged ships. Moreover, ratifying LOSC will provide the U.S. Navy the strongest legal footing for countering an Iranian anti-access campaign in the Persian Gulf.

## A2: Renewable energy not developing

Justin Worland May 1, 2017, 5-1-2017, "How Batteries Could Revolutionize Renewable Energy," Time, <http://time.com/4756648/batteries-clean-energy-renewables/>

#### Times finds that developing batteries that can store energy is the best way to increase renewable energy technology.

All over California, there’s evidence of the state’s goal to lead the country in renewable energy. Enormous farms of shiny solar panels have popped up across southern California, and gigantic wind turbines dot the landscape outside nearly all the major cities. There are less flashy—and less visible—investments in renewables going on, too. Tucked away in warehouses, trailers and industrial parks are lithium ion batteries that, if all goes well, will play a critical role in helping California hit its ambitious target: to have 50% of all electricity come from renewables by 2050. Some green energy sources come with a built-in challenge: the wind and the sun can’t be turned on and off at will. When it’s windy and sunny, an abundance of energy may be harnessed—but any excesses go to waste. That’s where batteries, the most common type of energy storage, come in. Batteries solve that problem by allowing utility companies to collect excess electricity and store it for times when the sun may not be shining or the wind not blowing. In 2013, California launched an aggressive effort to ramp up large-scale energy storage with an initial goal of building 1,325 megawatts of storage by 2020, the equivalent capacity of two average sized coal-fired power plants. Today, the state is already home to 36% of the country’s battery storage capacity with projects continuing to open on a regular basis, according to a Climate Group [report](https://www.theclimategroup.org/sites/default/files/downloads/etp_californiacasestudy_apr2017.pdf). Oregon and Massachusetts have since announced their own storage targets. Meanwhile, dozens of cities have made commitments to get 100% of their electricity from renewables.

Katherine Hignett, 12-1-2017, "The biggest lithium-ion battery in the world is now live in Australia, courtesy of Elon Musk," Newsweek, <https://www.newsweek.com/elon-musk-largest-lithium-ion-battery-switched-728065>

Tesla is leading the charge and has already started developing a giant lithium ion battery that was store renewable energy longer than any previous batteries.

Elon Musk’s giant lithium-ion battery is now live in Australia. Completed weeks ahead of schedule, Tesla has won a massive money-back bet with the Australian government. The 129-megawatt-hour battery—the largest in the world—will store and dispatch energy generated by a nearby wind farm. This should provide a reliable electricity supply for 3,000 homes, according to the Wall Street Journal. Elon Musk tweeted that he would complete the giant battery within 100 days of signing the contract, repeating the [claims made by Tesla vice-president, Lyndon Rive, at the launch of the Powerwall 2 battery.](http://www.afr.com/news/tesla-battery-boss-we-can-solve-sas-power-woes-in-100-days-20170308-gut8xh) If the company failed, Musk promised to give Australia the battery for free. Part of a $390 million government energy plan, this could have proved an expensive gamble for the entrepreneur, [Reuters reports](https://www.reuters.com/article/us-australia-power-tesla/tesla-cranks-up-big-battery-in-australia-idUSKBN1DN0B4). Tesla will get the system installed and working 100 days from contract signature or it is free. That serious enough for you? Today’s big switch-on marks only 63 days since the September 29 signing, slashing the 100-day window by over one third. The mammoth powerbank was [completed just last week](http://www.newsweek.com/elon-musk-built-worlds-largest-lithium-ion-battery-record-time-721149). “Congratulations to the Tesla crew and South Australian authorities who worked so hard to get this manufactured and installed in record time!” Musk tweeted.

## A2: U.S. Exposed to Lawsuits

#### [DELINK]: Hudzik of the Washington University Law Review explains in 2010 that it is unlikely that any countries sue the U.S. over environmental regulations because “the United States already complies with or exceeds the environmental standards set out in 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 ." Washington University Global Studies Law Review. Vol. 9, No. 2 (2010)

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

#### [TURN]: Bellinger of the Council on Foreign Relations reports in 2012 that the risk that the U.S is sued if it tries to claim resources on its extended continental shelf without signing UNCLOS is higher than the risk of environmental litigation under UNCLOS. On net, it’s better to sign the treaty than to not.

Bellinger, John B. "Testimony of John B. Bellinger III: On Law of The Sea Convention (June 14, 2012) ." Testimony before the June 14, 2012, June 14, 2012

In addition, the U.S. would not be subject to dispute resolution for allegedly violating the Kyoto protocol or any other environmental treaty, including agreements governing pollution from land-based sources. The Convention’s dispute settlement system applies only to disputes “concerning the interpretation or application” of the Convention itself, not to the alleged violation of other treaties. Articles 297 and 298 of the Convention further exclude certain potentially sensitive disputes from dispute settlement. Finally, as I have noted previously, those who are rightly concerned about international litigation against the United States should be much more concerned about subjecting the United States and U.S. businesses to international claims if the United States were to try to claim the resources on its extended continental shelf or on the deep seabed without becoming party to the Law of the Sea Convention. In my view, the risk of environmental litigation against the United States if it joins the Convention is low. The risk of international litigation against the United States if it were unilaterally to claim the resources on its extended continental shelf or on the deep seabed, without becoming party to the Convention, is much higher. \*\*\* In closing, I want to focus on the bigger picture. In deciding whether to accede to the Law of the Sea Convention, as with any treaty, the question for the President and the Senate is whether the treaty, on balance, is in the national interest of the United States. Do the advantages of the treaty outweigh its disadvantages? Can the disadvantages or risks be mitigated? Can the United States achieve its objectives in other ways?

#### [TURN]: We’d say the potential for lawsuits is a good thing because Groves of the Heritage Foundation explains that acceding to UNCLOS would force the U.S. to adopt even *better* environmental standards that prevent the pollution of the marine environment and the atmosphere.

Steven Groves, 03-12-2012, Accession to U.N. Convention on the Law of the Sea Would Expose the U.S. to Baseless Climate Change Lawsuits, Heritage Foundation, https://www.heritage.org/global-politics/report/accession-un-convention-the-law-the-sea-would-expose-the-us-baseless-climate, 9-17-2018

Accession to UNCLOS would obligate the United States to affirm and adopt the no-harm rule, specifically within the context of the marine environment. Accession to the convention also would commit the U.S. to “take all measures…necessary to prevent, reduce and control” the “release of toxic, harmful or noxious substances…from or through the atmosphere.”[71] Regrettably, the no-harm rule’s internationalization has transformed it over time from a sensible principle to regulate conduct between two neighboring countries into a seemingly unconstrained doctrine to impute global liability for alleged acts of atmospheric pollution. Contemporary legal academics take a breathtakingly expansive view of the rule: “While Trail Smelter focused on pollution of U.S. territory directly traceable to a Canadian smelter, the no-harm rule now extends to relations between all States, however distant and has also extended its scope from territories of States to common spaces and the environment as a whole.”[72] The no-harm rule is cited in legal and environmental journals as a basis for establishing state responsibility for climate change damages.[73] Acceding to UNCLOS would commit the U.S. to controlling its pollutants, including alleged “harmful substances” such as carbon emissions and other GHG, in such a way that they do not spread beyond U.S. territory and negatively impact the marine environment. The U.S. would also be obligated to adopt laws and regulations to prevent the pollution of the marine environment from the atmosphere and could be liable under international law for failing to enact legislation necessary to prevent atmospheric pollution. Such domestic laws and regulations “shall” take into account “internationally agreed rules, standards and recommended practices and procedures.”[74] UNCLOS contemplates a central role for “competent international organizations” and “diplomatic conferences” in establishing “global and regional rules, standards and recommended practices and procedures” to prevent atmospheric pollution.[75] As to which diplomatic conferences and global standards may be relevant to establishing U.S. obligations under the convention, the 1992 U.N. Conference on Environment and Development (“Earth Summit”) and the U.N. Framework Convention on Climate Change (UNFCCC) are instructive.

## Lawsuits Turn

#### In the status quo, the US has weak environmental regulation as Vox News reports in June of 2018 that Trump has rolled back environmental policies that were created after the Deepwater Horizon oil spill in favor of pursuing business interests over the environment. However, acceding reverses this trend as Groves of the Heritage foundation finds that joining the UNCLOS would subject the US to environmental lawsuits. That’s crucial because these lawsuits would force the US to adopt stricter regulations to control pollution in the marine environment ensuring that the US implements better environmental policy for the future.

# A2: Royalties to Corrupt Governments

#### 1. [DELINK] US has special veto power. The CFR finds in 2009 that the US has special veto power over how the ISA revenue gets distributed and therefore can choose which party gets royalties.

#### 2. [DELINK] Article 82 has never been enforced. Harisson of Oxford finds in 2017 that recent oil discoveries off the shore of Canada have triggered a debate over the implementation of the never before used article. The ISA still cannot decide between who pays the royalty the coastal state or industry.

#### 3. [MITIGATE] Royalties are graduated. Sandalow of Brookings writes in 2004 that royalties are paid after the first five years and increase every year by 1% and is capped off at 7% of production.

file:///Users/tusharagashe/Documents/LawoftheSea\_CSR46.pdf

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.

David B. Sandalow, 8-19-2004, Law of the Sea Convention: Should the U.S. Join?, Brookings, https://www.brookings.edu/research/law-of-the-sea-convention-should-the-u-s-join/, 9-17-2018

For these reasons and others, the American Petroleum Institute, the International Association of Drilling Contractors, and the National Ocean Industries Association all support U.S. ratification of the Convention. Some opponents of ratification have objected to the Convention’s provisions concerning revenue sharing of proceeds from the outer continental shelf. Under the Convention, no payments are owed for the first five years of production (which are typically the most productive). Beginning in year six, payments equal to 1 percent of the value of production at the site, increasing 1 percent each year to a maximum of 7 percent, are owed to the International Seabed Authority. Significantly, the U.S. oil and gas industry, which would likely make these payments, does not oppose the Convention’s revenue sharing provisions. After noting “the significant resource potential of the broad U.S. continental shelf,” Paul Kelly of Rowan Industries, representing the American Petroleum Institute and other major industry groups, told the Senate Foreign Relations Committee in October 2003 that “on balance the package contained in the Convention, including the modest revenue sharing provision, clearly serves U.S. interests.”

Rowland J, 12-1-2017, Article 82 of UNCLOS: The day of reckoning approaches, OUP Academic, https://academic.oup.com/jwelb/article-abstract/10/6/488/4060652?redirectedFrom=PDF, 9-17-2018

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.

# \*\*\*Miscellaneous\*\*\*

# A2: Technology Sharing Bad

#### [DELINK]: Taft of Global Security finds in 2004 that the US is not required to share technology which is contrary to the interests of its national security.

#### [DELINK]: There’s no such provision. Moore of the Journal of International Affairs finds in 2005 that the 1994 Agreement removed the provision of a mandatory technology transfer for seabed mining.

WILLIAM H. TAFT IV, LEGAL ADVISER, U.S. DEPARTMENT OF STATE, 2004, [http://www.globalsecurity.org/military//library/congress/2004\_hr/040408-taft.pdf](http://www.globalsecurity.org/military/library/congress/2004_hr/040408-taft.pdf)

**No technology transfers are required by the Convention.** Mandatory technology transfers were eliminated by Section 5 of the Annex to the Agreement amending Part XI of the Convention. Article 302 of the Convention explicitly provides that **nothing in the Convention requires a party to disclose information the disclosure of which is contrary to the essential interests of its security.**

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

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 44 Appendix I 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.”

Moore, John Norton, Schachte Jr., William L., Journal of International Affairs, 0022197X, Fall/Winter2005,

**The mandatory technology transfer pro visions** of the deep seabed mining sections in the original convention, to which the United States objected**, were eliminated in the 1994 agreement. Any transfer of funds to nations from deep seabed mining revenues, or oil and gas development beyond 200 miles, is subject to a U.S. veto. As such, we not only have a veto over where our seabed mining revenue would go, but also over that of all nations world wide.**This new power is simply lost if we fail to adhere.

# A2: Military

### A2 Can’t conduct Military/Intelligence Operations through Submarines

#### [DELINK]: Wilson finds in 2009 that Article 298 excludes US military operations from an international tribunal and that the US reserves the right to determine what is a military activity. This means that US military activities are exempt from the other provisions of UNCLOS, so the territorial waters rule doesn’t apply to the fight against piracy.

Brian Wilson, James Kraska, 8/7/2009, “American Security and Law of the Sea” https://www.tandfonline.com/doi/full/10.1080/00908320903077001?src=recsys#\_i5

The United States, as authorized by Article 298, would exempt “military activities” from compulsory dispute resolution. Under the Convention, a state party has the exclusive right to determine what constitutes a “military activity.” The U.S. declaration states: The Government of the United States of America declares, in accordance with article 298(1), that it does not accept any of the procedures provided for in section 2 of Part XV (including, inter alia, the Seabed Disputes Chamber procedure referred to in article 287(2)) with respect to the categories of disputes set forth in sub-paragraphs (a), (b), and (c) of article 298(1). The United States further declares that its consent to accession to the Convention is conditioned upon the understanding that, under article 298(1)(b), each State Party has the exclusive right to determine whether its activities are or were ‘‘military activities’’ and that such determinations are not subject to review. 37 37. Senate Executive Report 110-9, supra note 2, Declaration 2, at 19. View all notes The legal effect of the declaration is to exclude from the jurisdiction of any court, arbitral panel, or the ITLOS any dispute involving the United States arising from military and intelligence activities, as well as matters under consideration at the UN Security Council. The declaration also recognizes that the United States reserves an exclusive right to determine whether a questioned activity constitutes a “military” activity. 38 38. Ibid., at 11. View all notes Once removed from review or jurisdiction, U.S. military activities are exempt from exposure to arbitration or outside court ruling, or review by a compulsory international panel or other state. The declaration represents a cornerstone U.S. interpretation and is virtually identical to the one recommended in the 1994 SFRC transmittal package. 39 39. See Commentary, supra note 10, at X. View all notes Testifying in 2003, the Department of State Legal Adviser stated that the declaration was essential in order to protect U.S. military activities, such as military surveys and reconnaissance flights, that are conducted over foreign coastal state EEZs, ensuring that those activities are not inappropriately subjected to international dispute resolution procedures.

# A2: US Won’t Follow UNCLOS

#### The UN’s Vienna Convention on the Law of Treaties defines a reservation to a treaty as “a unilateral statement whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty.”

For quite some time and under several administrations, the United States government has been reluctant to enter into multilateral treaties (also known as conventions) that impose obligations directly on the national government, unless it can attach significant reservations to those treaties. A prominent case in point is the International Covenant on Civil and Political Rights. [1] When the United States became a party in 1992, it attached reservations that had the effect of excluding any U. S. obligations under the Covenant that might add anything to already-existing U. S. law. [2] The United States has been less inclined to attach significant reservations when the treaties regulate private conduct, such as conventions on international sales of goods or on the civil aspects of international child abduction. The Vienna Convention on the Law of Treaties is the authoritative instrument on the international law of treaties. Most of its provisions are thought to reflect customary international law, so they are considered binding even on nation-states (such as the United States) that are not formally parties to the Vienna Convention. It defines a reservation to a treaty as "a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State." [3] A reservation is permissible unless the treaty itself prohibits it, or the treaty permits only certain reservations not including the one in question, or the reservation is incompatible with the object and purpose of the treaty. [4] Under traditional international law, a state that attaches an impermissible reservation cannot become a party to the treaty unless all other parties agree to the reservation. Recently, however, the U.N. Human Rights Committee - the body that administers and interprets the Covenant on Civil and Political Rights - has taken the view that an unacceptable reservation to the Covenant will normally be severable, in the sense that the reserving party would be a party to the Covenant without benefit of the reservation. [5] The Human Rights Commission's view is controversial, but in any event it does not appear to extend beyond human rights treaties.