## 1ac ALL ROUNDS

### Plan

#### Thus the plan: The United States Federal Government should exclude crude oil and natural gas production from Exon-Florio reviews.

### Inherency

#### Contention 1- the Status Quo

#### The United States currently submits all foreign investment deals related to oil and gas production to the Committee on Foreign Investment in the United States, known as CFIUS. These restrictions chill foreign investment and send a signal of US protectionism.

Wilson Center 5-31-12 (Chinese Investment in North American Energy, http://www.wilsoncenter.org/event/chinese-investment-north-american-energy)

While Chinese foreign energy investment is on the rise, the more notable story is China’s shift from a net importer of capital to a nation of massive capital outflows, said Adam Lysenko of the Rhodium Group. Energy investment—initially stalled in the wake of the aborted acquisition of Union Oil Company of California (UNOCAL) by China National Offshore Oil Corporation (CNOOC) in 2005—has increased exponentially with $18.3 billion in bids in 2011 alone. Learning lessons about American protectionism, Chinese firms have changed their strategies since the failed UNOCAL deal and now have made multiple smaller investments that will not attract unwanted political attention. In addition to raw materials, Chinese companies are looking to gain expertise in exploiting these resources for use at home. As for alternative energy, Chinese companies are starting to invest in North American production to get around tariffs. Currently, the Committee on Foreign Investment in the United States (CFIUS) process appears adequate, but the political environment is hurting investment unnecessarily. Lysenko added that many Chinese firms are starting new corporations in the emerging alternative energy industry to avoid CFIUS scrutiny. In order to keep Chinese investments growing, the United States has to find a way to separate national security from politics. While Chinese investment has increased exponentially in the last four years, its total impact should not be exaggerated, said Bo Kong from Johns Hopkins School of Advanced International Studies. CNOOC’s difficulty in acquiring UNOCAL jaded many Chinese investors from investing in the United States, which significantly slowed the flow of investment in the North American energy industry. Chinese companies’ hesitancy to repeat the failure of the UNOCAL deal and American companies’ concerns about both political interference and intellectual property (IP) theft have tempered Chinese investment in North America. However, smaller and more diverse investments on the part of Chinese companies and more safeguards to protect U.S. IP should help accelerate investment in the future. All three Chinese state-owned oil companies are also listed on the New York Stock Exchange, which indicates a willingness to be more transparent. Getting more Chinese companies involved in research and development will lead to a greater respect for international IP laws. Historically, Japan and South Korea were not good stewards of intellectual property, but as both nations started to develop their own technology, they began to respect IP laws. Many feel that increased investment by Chinese firms in research and development will lead to a similar evolution. While China is a resource-hungry and growing country, the real benefit to North American investment is not the energy extracted but rather the techniques and knowledge gleaned from U.S. and Canadian companies, which will allow China’s companies to better extract resources at home.

### Prolif

#### Contention 2 iran:

#### Removing restrictions on investment in US oil and gas production is the best way to get China to increase their support for Iran sanctions- that’s critical to effective international pressure.

Downs, China fellow at Brookings, 7-19-12 (Erica S. Downs is a fellow at the John L. Thorton China Center at The Brookings Institution, “Getting China to Turn on Iran,” July 19, http://nationalinterest.org/commentary/getting-china-turn-iran-7215)

Over the past decade, as the United States employed increasingly robust sanctions to gradually ratchet up the pressure on Iran to curb its nuclear ambitions, Washington has struggled with the question of how to elicit more cooperation from China, a major buyer of Iranian crude oil and no fan of sanctions, especially unilateral ones. On June 28, the Obama administration granted China an exemption from U.S. sanctions on the Central Bank of Iran (CBI) for significantly reducing its crude-oil purchases from the Islamic Republic. This suggests that one of the biggest carrots Washington can offer to China in exchange for greater support for the U.S. sanctions regimen is expanded opportunities for China’s national oil companies (NOCs) to invest in oil and natural-gas exploration and production in the United States. The greater the stakes that China’s NOCs have in the United States, the thinking goes, the greater the chance they will think twice about doing business in Iran. The Chinese government responded to the new U.S. sanctions signed into law by President Obama on December 31, 2011, by saying Washington should not expect any cooperation from Beijing. Over the past six months, officials from China’s foreign ministry have repeatedly stated that China’s energy trade with—and investment in—Iran do not violate the various United Nations Security Council resolutions on Iran and that the new U.S. sanctions would not affect China-Iran energy relations. Despite Beijing’s implication that China would continue to import oil from Iran at 2011 levels (more than 550,000 barrels a day), the main Chinese buyer of Iranian crude oil, Sinopec, responded to the new U.S. sanctions by dramatically cutting its purchases from Iran by 25 percent in the first five months of 2012. At the end of every year, Chinese oil traders negotiate their supply contracts with National Iranian Oil Company (NIOC) for the following year. The commencement of their negotiations in late 2011 coincided with growing support in Washington, especially on Capitol Hill, for ratcheting up the pressure on Iran by subjecting foreign firms that do business with the CBI—the primary clearinghouse for Iranian oil transactions—to U.S. financial sanctions. When China’s oil traders sat down at the negotiating table with their Iranian counterparts, Iran’s increasing international isolation was palpable. Sinopec pushed for lower prices and a longer credit period, while NIOC insisted on higher prices and a shorter credit period. The two companies did not sign a new contract until late March 2012 (with Sinopec reportedly extracting some concessions, which have not been disclosed publicly), causing the plunge in China’s crude oil imports from Iran. Moreover, Sinopec recently revealed that it turned down offers to buy additional volumes of Iranian crude at discounted prices. After President Obama signed the new sanctions into law, there was some concern in Washington that the Chinese would undermine his tough policy by purchasing at a discount all of the crude that would otherwise have gone to European and Asian buyers in the absence of sanctions. Sinopec, however, had compelling reasons to decline the opportunity to increase its purchases from Iran; the company does not want to jeopardize its chance to expand in the United States, where it already has signed a deal to invest more than $2 billion in shale assets owned by Devon Energy and is looking to buy assets from Chesapeake Energy. The chair~~man~~ of Sinopec, Fu Chengyu, is acutely aware of how getting on the wrong side of politics in Washington can scuttle a deal; he was the chairman of China National Offshore Oil Corporation (CNOOC) when that company made its ill-fated bid for the U.S. oil company Unocal in 2005. Sinopec is not the only Chinese oil company with an incentive to choose the U.S. market over the Iranian one. Its domestic peers, CNOOC and China National Petroleum Corporation (CNPC), also find the United States to be an attractive investment destination. First, all three companies are eager to gain shale-gas technology and operational expertise through partnerships with U.S. firms. On paper, China has considerable shale-gas resources. The U.S. Energy Information Administration estimates that China’s technically recoverable shale-gas resources are 50 percent greater than those of the United States. But China’s NOCs lack the technology and operational expertise to develop them. Second, they want to expand reserves and production, and an increasing number of opportunities to do so are now in the United States, thanks to the boom in America’s unconventional oil and natural-gas production. Finally, the turmoil in Middle East and North Africa over the past two years has prompted China’s NOCs to seek less risky operating environments. Indeed, Sinopec’s domestic peers also are gravitating toward the United States and away from Iran. CNOOC, which has signed contracts committing it to invest $3.4 billion in Chesapeake Energy’s shale-gas assets in the United States, had a $15 billion contract suspended by the Iranians for lack of progress. China National Petroleum Corporation, which similarly had a $4.7 billion contract frozen by the Iranians for its failure to start work, also is looking for opportunities to partner with U.S. companies in shale-gas projects. Moreover, China’s NOCs have not “backfilled” any projects abandoned by European and Japanese oil companies after their home governments implemented tighter unilateral sanctions in 2010. It isn’t just China’s NOCs that seem to be backing away from Iran in a bid for access to the U.S. market. Consider the announcement made last year by the Chinese telecommunications firm Huawei Technologies that it was planning to scale back its operations in Iran. Although these operations complied with U.S. and European Union laws, there was at least a partial motivation to keep open prospects for doing business in the United States and Europe. The ability of the United States to secure additional Chinese cooperation may depend in part on the scale of the investments made by China’s NOCs in the United States. The more money these companies pump into the American market, the more likely they are to refrain from doing deals with Iran that might jeopardize those business prospects. Consequently, creating a more welcoming environment for Chinese investments just might have a geopolitical payoff in the form of greater Chinese compliance with Iran sanctions. Moreover, letting China’s NOCs take the lead in complying with—or at least not undercutting—U.S. sanctions on Iran is politically palatable to Beijing. Chinese officials can maintain their public opposition to U.S. sanctions while avoiding increased tensions with Washington over the Iranian nuclear issue. This dual stance is attributable to the business decisions made by China’s NOCs.

#### Allowing Chinese majority shares of US oil and gas production is critical garnering Chinese compliance on Iran. Only the signal of the plan solves Iran nuclearization.

Downs, Brookings China Fellow, October ‘12 (Erica, CHINA, IRAN AND THE NEXEN DEAL, OPTIONS POLITIQUES, http://www.irpp.org/po/archive/oct12/downs.pdf)

Meanwhile the expansion of the Chinese NOC footprint in the United States has coincided with the shrinking of their presence in Iran. CNOOC has pulled out of a $16-billion project to develop Iran’s North Pars natural gas ﬁ eld. The Iranians have frozen a $4.7-billion contract held by China National Petroleum Corporation (CNPC) for the development of Phase 11 of the South Pars natural gas ﬁ eld because of CNPC’s failure to start work. Sinopec is behind schedule in developing the Yadavaran oil ﬁ eld. Nor have China’s NOCs “backﬁlled” projects abandoned by European and Japanese oil companies after their home governments implemented tighter unilateral sanctions against Iran in 2010 and the Obama administration indicated that taking over such projects was a red line not to be crossed. It would be more than diplomatically awkward for Washington to lean on China over its projects in Iran and then block its attempts to compensate for the loss of those opportunities by investing in North America. While the Chinese oil majors’ waning enthusiasm for Iran is partially due to the country’s difﬁcult operating and investment climate, it almost certainly reﬂects their ambitions to expand here. One way for Washington — and Ottawa — to spur China’s NOCs to continue their retreat from Iran is to continue to welcome them into North America, not only as passive investors but also as owners. Rolling out the red carpet for China’s NOCs would not only generate much-needed capital for the development of North American oil and natural gas resources, but it may also pay the geopolitical dividend of increased Chinese compliance on the issue of Iran. The road to curbing Iran’s nuclear program may run through the headquarters of CNOOC, CNPC and Sinopec.

#### Iranian nuclearization makes nuclear war inevitable in the Middle East- even small conflicts could escalate to all out war.

Kahl, Senior Fellow, the Center for a New American Security, 12 (Colin, former Deputy Assistant Secretary of Defense for the Middle East and Senior Fellow, the Center for a New American Security, Iran and the Bomb, Foreign Affairs; Sep/Oct2012, Vol. 91 Issue 5, p157-162)

Waltz writes that "policymakers and citizens in the Arab world, Europe, Israel, and the United States should take comfort from the fact that history has shown that where nuclear capabilities emerge, so, too, does stability." In fact, the historical record suggests that competition between a nuclear-armed Iran and its principal adversaries would likely follow the pattern known as "the stability-instability paradox," in which the supposed stability created by mutually assured destruction generates greater instability by making provocations, disputes, and conflict below the nuclear threshold seem safe. During the Cold War, for example, nuclear deterrence prevented large-scale conventional or nuclear war between the United States and the Soviet Union. At the same time, however, the superpowers experienced several direct crises and faced off in a series of bloody proxy wars in Korea, Vietnam, Afghanistan, Angola, Nicaragua, El Salvador, and elsewhere. A recent statistical analysis by the political scientist Michael Horowitz demonstrated that inexperienced nuclear powers tend to be more crisis-prone than other types of states, and research by another political scientist, Robert Rauchhaus, has found that nuclear states are more likely to engage in low-level militarized disputes with one another, even if they are less likely to engage in full-scale war. If deterrence operates the way Waltz expects it to, a nuclear-armed Iran might reduce the risk of a major conventional war among Middle Eastern states. But history suggests that Tehran's development of nuclear weapons would encourage Iranian adventurism, leading to more frequent and intense crises in the Middle East. Such crises would entail some inherent risk of a nuclear exchange resulting from a miscalculation, an accident, or an unauthorized use -- a risk that currently does not exist at all. The threat would be particularly high in the initial period after Iran joined the nuclear club. Once the superpowers reached rough nuclear parity during the Cold War, for example, the number of direct crises decreased, and the associated risks of nuclear escalation abated. But during the early years of the Cold War, the superpowers were involved in several crises, and on at least one occasion -- the 1962 Cuban missile crisis -- they came perilously close to nuclear war. Similarly, a stable deterrent relationship between Iran, on the one hand, and the United States and Israel, on the other, would likely emerge over time, but the initial crisis-prone years would be hair-raising. Although all sides would have a profound interest in not allowing events to spiral out of control, the residual risk of inadvertent escalation stemming from decades of distrust and hostility, the absence of direct lines of communication, and organizational mistakes would be nontrivial -- and the consequences of even a low-probability outcome could be devastating.

#### Iranian nuclearization causes regional and global arms racing.

Cirincione 06 (Joseph, Sr. Assoc. & Director @ the Non-Proliferation Project @ the Carnegie Endowment for International Peace, Summer, SAIS Review, “A New Non-Proliferation Strategy”)

The danger posed by the acquisition of nuclear weapons by Iran or North Korea is not that either country would be liable to use these weapons to attack the United States, the nations of Europe, or other countries. Iran, for example, would likely decide to build nuclear weapons only as a means to defend itself from the aggression of other nations. Iranian leaders, like the leaders of other states, would be deterred from using nuclear weapons in a first strike by the certainty of swift and massive retaliation. The danger is that certain actions may be viewed by Iran as a defensive move, however they would trigger dangerous reactions from other states in the region. A nuclear reaction chain could ripple through a region and across the globe, triggering weapon decisions in several, perhaps many, other states. Such developments could weaken Iran's security, not increase it. With these rapid developments and the collapse of existing norms could come increased regional tensions, possibly leading to regional wars and to nuclear catastrophe.3 Existing regional nuclear tensions already pose serious risks. The decades-long conflict between India and Pakistan has made South Asia the region most likely to witness the first use of nuclear weapons since World War II. An active missile race is under way between the two nations, even as India and China continue their rivalry. In Northeast Asia, North Korea's nuclear capabilities remain shrouded in uncertainty but presumably continue to advance. Miscalculation or misunderstanding could bring nuclear war to the Korean peninsula. In the Middle East, Iran's declared peaceful nuclear energy program, together with Israel's nuclear arsenal and the chemical weapons of other Middle Eastern states, adds grave volatility to an already conflict-prone region. If Iran were to decide at some later date to build nuclear weapons, Egypt, Saudi Arabia, or others might initiate or revive nuclear weapon programs. It is entirely possible that the Middle East could go from a region with one nuclear weapon state, to one with two, three, or five such states within a decade-compounded by the existing political and territorial disputes still unresolved.4

#### This risks global nuclear conflict- new prolif risks theft, unauthorized use, terrorism, and crisis escalation.

Busch, Professor of Government-Christopher Newport, 04 (Nathan, “No End in Sight: The Continuing Menace of Nuclear Proliferation” p 281-314)

Summing Up: Will the Further Spread of Nuclear Weapons Be Better or Worse? This study has revealed numerous reasons to be skeptical that the spread of nuclear weapons would increase international stability by helping prevent conventional and nuclear wars. Because there is reason to suspect that emerging NWSs will not handle their nuclear weapons and fissile materials any better than current NWSs have, we should conclude that the further spread of nuclear weapons will tend to undermine international stability in a number of ways. First, because emerging NWSs will probably rely on inadequate command-and-control systems, the risks of accidental and unauthorized use will tend to be fairly high. Second, because emerging NWSs will tend to adopt systems that allow for rapid response, the risks of inadvertent war will also be high, especially during crisis situations. Third, because emerging NWSs will tend to adopt MPC&A systems that are vulnerable to overt attacks and insider thefts, the further spread of nuclear weapons could lead to rapid, destabilizing proliferation and increased opportunities for nuclear terrorism. Finally, there is reason to question whether nuclear weapons will in fact increase stability. Although nuclear weapons can cause states to be cautious about undertaking actions that can be interpreted as aggressive and can prevent states from attacking one another, this may not always be the case. While the presence of nuclear weapons did appear to help constrain U.S. and Soviet actions during the Cold War, this has generally not held true in South Asia. Many analysts conclude that Pakistan invaded Indian-controlled Kargil in 1999, at least in part, because it was confident that its nuclear weapons would deter a large-scale Indian retaliation. The Kargil war was thus in part caused by the presence of nuclear weapons in South Asia. Thus, the optimist argument that nuclear weapons will help prevent conventional war has not always held true. Moreover, this weakness in the optimist argument should also cause us to question the second part of their argument, that nuclear weapons help prevent nuclear war as well. Conventional wars between nuclear powers can run serious risks of escalating to nuclear war."5 Based on a careful examination of nuclear programs in the United States, Russia, China, India, and Pakistan, as well as preliminary studies of the programs in Iraq, North Korea, and Iran, this book concludes that the optimists' arguments about the actions that emerging NWSs will probably take are overly optimistic. While it is impossible to prove that further nuclear proliferation will necessarily precipitate nuclear disasters, the potential consequences are too severe to advocate nuclear weapons proliferation in hopes that the stability predicted by the optimists will indeed occur.

#### Sanctions work- evidence suggests they will bring Iran back to the negotiating table.

Kahl 12 (Colin, Senior Fellow at the Center for a New American Security, Not Time to Attack Iran, Foreign Affairs, 00157120, Mar/Apr2012, Vol. 91, Issue 2)

In making the case for preventive war as the least bad option, Kroenig dismisses any prospect of finding a diplomatic solution to the U.S.-Iranian standoff. He concludes that the Obama administration's dual-track policy of engagement and pressure has failed to arrest Iran's march toward a bomb, leaving Washington with no other choice but to bomb Iran. But this ignores the severe economic strain, isolation, and technical challenges that Iran is experiencing. After years of dismissing the economic effects of sanctions, senior Iranian officials now publicly complain about the intense pain the sanctions are producing. And facing the prospect of U.S. sanctions against Iran's central bank and European actions to halt Iranian oil imports, Tehran signaled in early January some willingness to return to the negotiating table. Washington must test this willingness and, in so doing, provide Iran with a clear strategic choice: address the concerns of the international community regarding its nuclear program and see its isolation lifted or stay on its current path and face substantially higher costs. In framing this choice, Washington must be able to assert that like-minded states are prepared to implement oil-related sanctions, and the Obama administration should continue to emphasize that all options, including military action, remain on the table.

### Economy

#### Chinese FDI to the US declined sharply in 2012 but could rebound if the US takes steps to liberalize its national security FDI policy towards China.

Hanemann 12-28 (Theo, research director at the Rhodium Group and leads the firm’s cross-border investment work, Chinese FDI in the US in 2012, http://rhgroup.net/notes/chinese-direct-investmnet-in-the-u-s-in-2012-a-record-year-amid-a-gloomy-fdi-environment)

AGAINST THE GLOBAL TREND The recent growth of Chinese investment is even more remarkable in light of an otherwise bleak FDI picture in the United States. Before the global financial crisis, the United States was the world’s premier destination for foreign direct investment with annual inflows of $200-300 billion. When the crisis hit in 2009 FDI dropped by more than half. In 2010 and 2011 inflows have somewhat stabilized but declined again sharply in 2012 in light of the fragile situation in Europe (which the major source of FDI for the US) and uncertainties for the US growth outlook. Preliminary data from the Bureau of Economic Analysis shows that FDI dropped by more than 30% in the first three quarters of 2012, which indicates that the full year figure will come in at levels not seen since the crisis year 2009 (Figure 2). These trends suggest that China could follow other Asian economies in becoming an important source of FDI for the United States. China today accounts for less than 1% of total U.S. inward FDI stock, but it has become one of the few bright spots in an otherwise gloomy FDI environment. Compared to five years ago, FDI flows from European economies and Canada were down by more than 50% in the first three quarters of 2012. FDI from Asia was holding up better, and China is among the few countries that invested more in the United States than five years ago – an increase of more than 300% according to official statistics from the Bureau of Economic Analysis (Figure 3). These estimates are likely too low as the BEA Balance of Payments figures do not account for flows through offshore financial centers. Figures from Rhodium Group’s China Investment Monitor, which account for such flows, suggest that the increase was even more significant, by nearly 1,300% over five years. Growing investment from China increasingly brings benefits for local economies, for example in the form of employment. Today Chinese firms already employ 29,000 people in the United States, up from less than 10,000 just five years ago. THE RIGHT POLICY RESPONSE Developments in 2012 also underscored the political hurdles in the process of China becoming a major source of FDI for the US. Compared to other emerging FDI exporters in the past like Japan or Korea, China is not a military ally of the United States but sees itself balancing U.S. hegemony. This puts Chinese investors in the spotlight for a range of existing national security concerns related to foreign ownership, among them ownership of critical infrastructure, political and industrial espionage and ownership and proliferation of defense-relevant technologies. In addition to national security risks there are specific concerns about the economic impacts of Chinese investment due to the role of the government in China’s economy and existing asymmetries in market access between China and the United States. Unfortunately the past year was a step back for the political debate on these issues. 2012 saw little progress on substance but instead a lot of political games and populist rhetoric, for example a report by two members of the U.S. House Intelligence Committee that attacks Chinese telecommunications firms and dismisses mitigation options, or efforts by lawmakers and lobbyists to undermine a series of Chinese technology acquisitions, including Wanxiang’s purchase of A123 Systems and BGI Shenzhen’s bid for Complete Genomics. The negative headlines from such politicization are damaging the perception of the U.S. as an investment destination in China, despite U.S. openness and the hard work that is done by governors, mayors and other local officials to promote inward investment. Political games are also a distraction from advancing the debate on important questions such as the risks from Chinese investment in infrastructure or competitive neutrality of state-owned enterprises. If the United States wants to maximize benefits from China’s beginning outward FDI boom, policymakers need to stop beating the drums and instead focus on solutions that allow the US to maintain an open investment environment while addressing real concerns. Otherwise Chinese investors will carry their cash elsewhere, for the example Europe, where Chinese FDI has topped $10 billion for the second year in a row, almost double of what the United States received over the past two years (Figure 4). Europe’s greater attraction can mostly be explained by commercial opportunities including privatization programs and troubled industrial assets, but different national security sensitivities and the perception that Europe is more welcoming to Chinese investment than the United States did play a role too. It is too early to declare Europe the winner in the race for Chinese investment, but it is time for Washington to move past politics, emphasize openness and tackle structural reforms to ensure the United States remains a top destination for FDI from China and elsewhere.

#### Protectionist energy restrictions destroy investor confidence, which crushes the dollar and triggers economic recession- the vague CFIUS interpretation of national security chills ALL foreign investment.

Carroll-Emory International Law Review-09 (James, COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY, 23 Emory Int'l L. Rev. 167)

B. National Security and Investor Uncertainty The uncertain interpretation of national security in Exon-Florio, combined with the broad sweep of terms like "energy assets" and "critical infrastructure" make the outcome of the CFIUS process nearly impossible to predict. 150 Continuing to construe the term national security broadly could have a chilling effect on all foreign investment within the United States, as it would send a [\*188] signal that the age of openness to foreign direct investment is coming to a close. 151 Broadly defining national security creates costly uncertainty for foreign investors, as even the most sophisticated legal counsel cannot predict which investments will avoid a politicized CFIUS review. 152 According to Alan Greenspan, regulatory uncertainty deters business investment. 153 Defenders of the current process may point out that presidential vetoes are rare, as there have been none issued since 1990, and some controversial transactions, such as the Alcatel Lucent merger, have recently been approved. 154 Although presidential vetoes of transactions remain relatively scarce, the broad sweep of potential investigations can deter foreign direct investment without the president ever formally vetoing a transaction, as was done in the past to CNOOC and Dubai Ports. 155 Even if the foreign enterprises do not touch upon defense technology, fear of an irrational regulatory regime may discourage deals on the margins. 156 As CFIUS reviews of foreign investment in critical infrastructure continue to be based upon mere political expediency, foreign countries may become wary of investing in the dollar if they see that Congress is willing to limit the amount of investment choices available to them. 157 While a wholesale dumping of American assets is unlikely, continual investigations of relatively innocuous foreign transactions like Unocal and Dubai Ports could lead foreigners to reconsider some of their investments. 158 [\*189] Losing foreign investment in the United States could push the dollar down against other currencies, such as the rising euro. 159 A decline in the dollar fueled by investor pullout could cause interest rates to soar, possibly even worsening the current recession. 160 In an era when the dollar is falling in relation to other currencies, and the trade deficit is continuing to widen, the United States cannot afford to discourage foreign investment. 161 Ironically, although foreign investment is one of the major factors maintaining economic growth, public backlash against such investment only deepens. 162 The housing crisis has exacerbated populist concern over the economy, 163 but while the housing crunch is ongoing, foreign investment is more vital than ever to provide liquidity to American markets. 164

#### And, protectionism sparks great power conflict and exacerbates all global problems.

Patrick, Senior Fellow-CFR, 09 (Stewart, senior fellow and director of the Program on International Institutions and Global Governance at the Council on Foreign Relations, “Protecting Free Trade,” National Interest, March 13, 2009, http://nationalinterest.org/article/protecting-free-trade-3060?page=show)

President Obama has committed to working with U.S. trade partners to avoid "escalating protectionism." He is wise to do so. As never before, U.S. national security requires a commitment to open trade. President Obama and his foreign counterparts should reflect on the lessons of the 1930s-and the insights of Cordell Hull. The longest-serving secretary of state in American history (1933-1944), Hull helped guide the United States through the Depression and World War II. He also understood a fundamental truth: "When goods move, soldiers don't." In the 1930s, global recession had catastrophic political consequences-in part because policymakers took exactly the wrong approach. Starting with America's own Smoot Hawley Tariff of 1930, the world's major trading nations tried to insulate themselves by adopting inward looking protectionist and discriminatory policies. The result was a vicious, self-defeating cycle of tit-for-tat retaliation. As states took refuge in prohibitive tariffs, import quotas, export subsidies and competitive devaluations, international commerce devolved into a desperate competition for dwindling markets. Between 1929 and 1933, the value of world trade plummeted from $50 billion to $15 billion. Global economic activity went into a death spiral, exacerbating the depth and length of the Great Depression. The economic consequences of protectionism were bad enough. The political consequences were worse. As Hull recognized, global economic fragmentation lowered standards of living, drove unemployment higher and increased poverty-accentuating social upheaval and leaving destitute populations "easy prey to dictators and desperadoes." The rise of Nazism in Germany, fascism in Italy and militarism in Japan is impossible to divorce from the economic turmoil, which allowed demagogic leaders to mobilize support among alienated masses nursing nationalist grievances. Open economic warfare poisoned the diplomatic climate and exacerbated great power rivalries, raising, in Hull's view, "constant temptation to use force, or threat of force, to obtain what could have been got through normal processes of trade." Assistant Secretary William Clayton agreed: "Nations which act as enemies in the marketplace cannot long be friends at the council table." This is what makes growing protectionism and discrimination among the world's major trading powers today so alarming. In 2008 world trade declined for the first time since 1982. And despite their pledges, seventeen G-20 members have adopted significant trade restrictions. "Buy American" provisions in the U.S. stimulus package have been matched by similar measures elsewhere, with the EU ambassador to Washington declaring that "Nobody will take this lying down." Brussels has resumed export subsidies to EU dairy farmers and restricted imports from the United States and China. Meanwhile, India is threatening new tariffs on steel imports and cars; Russia has enacted some thirty new tariffs and export subsidies. In a sign of the global mood, WTO antidumping cases are up 40 percent since last year. Even less blatant forms of economic nationalism, such as banks restricting lending to "safer" domestic companies, risk shutting down global capital flows and exacerbating the current crisis. If unchecked, such economic nationalism could raise diplomatic tensions among the world's major powers. At particular risk are U.S. relations with China, Washington's most important bilateral interlocutor in the twenty-first century. China has called the "Buy American" provisions "poison"-not exactly how the Obama administration wants to start off the relationship. U.S. Treasury Secretary Timothy Geithner's ill-timed comments about China's currency "manipulation" and his promise of an "aggressive" U.S. response were not especially helpful either, nor is Congress' preoccupation with "unfair" Chinese trade and currency practices. For its part, Beijing has responded to the global slump by rolling back some of the liberalizing reforms introduced over the past thirty years. Such practices, including state subsidies, collide with the spirit and sometimes the law of open trade. The Obama administration must find common ground with Beijing on a coordinated response, or risk retaliatory protectionism that could severely damage both economies and escalate into political confrontation. A trade war is the last thing the United States needs, given that China holds $1 trillion of our debt and will be critical to solving flashpoints ranging from Iran to North Korea. In the 1930s, authoritarian great-power governments responded to the global downturn by adopting more nationalistic and aggressive policies. Today, the economic crisis may well fuel rising nationalism and regional assertiveness in emerging countries. Russia is a case in point. Although some predict that the economic crisis will temper Moscow's international ambitions, evidence for such geopolitical modesty is slim to date. Neither the collapse of its stock market nor the decline in oil prices has kept Russia from flexing its muscles from Ukraine to Kyrgyzstan. While some expect the economic crisis to challenge Putin's grip on power, there is no guarantee that Washington will find any successor regime less nationalistic and aggressive. Beyond generating great power antagonism, misguided protectionism could also exacerbate political upheaval in the developing world. As Director of National Intelligence Dennis Blair recently testified, the downturn has already aggravated political instability in a quarter of the world's nations. In many emerging countries, including important players like South Africa, Ukraine and Mexico, political stability rests on a precarious balance. Protectionist policies could well push developing economies and emerging market exporters over the edge. In Pakistan, a protracted economic crisis could precipitate the collapse of the regime and fragmentation of the state. No surprise, then, that President Obama is the first U.S. president to receive a daily economic intelligence briefing, distilling the security implications of the global crisis.

#### We’re on the brink of a double dip recession- boosting investor confidence is key.

Rickards, 12 (James, economist and investment banker with 35 years of experience working in capital markets on Wall Street and the author of NYT Bestselling book Currency Wars: The Making of the Next Global Crisis, “Why We Should Still Be Worried about a Double-Dip Recession,” February 27, 2012, http://www.usnews.com/opinion/blogs/economic-intelligence/2012/02/27/why-we-should-still-be-worried-about-a-double-dip-recession)

The late summer and fall of 2011 was filled with fears of a double-dip recession in the United States coming hard on the heels of the 2007-2009 recession, frequently referred to as the Great Recession. With improved economic news lately including lower unemployment, lower initial claims, higher growth, and higher stock prices, this recession talk has died down. That's why Lakshman Achuthan, the highly respected head of the Economic Cycle Research Institute, caused a stir last week when he repeated his earlier claim that a recession later this year was almost inevitable despite the better news. Achuthan makes the point that improved news on the employment front is a lagging indicator from the end of the last recession and doesn't reveal what's ahead. He adds that higher asset prices in stocks and housing are the expected result of Federal Reserve money printing and don't say much about fundamentals. To make his case for a new recession, he focuses more on year-over-year growth in GDP versus the more popular quarter-over-quarter data, and indicators like changes in industrial production and personal income and spending. [See a collection of political cartoons on the economy.] There's another way to view the economic data since 2007 that casts all recession analyses in a different light. The better analytic mode is to bring back a word mainstream economists have abandoned—depression. When you realize the world has been in a depression since 2007 and will remain so indefinitely based on current policies, talk of recession, double-dip, and economic cycles is seen differently. Economists dislike the concept of depression because it has no well-defined statistical meaning unlike recessions that are conventionally dated using well-understood criteria. They also dismiss the word "depression" because it's, well, too depressing. Economists like to think of themselves as master manipulators of fiscal and monetary policy levers fully capable of avoiding depressions by providing the right amount of "stimulus" at just the right time. They tend to look at a single case—the Great Depression of 1929 to 1940—and a single cause—tight money in 1928, and conclude that easy money is the way to ban depressions from the business cycle. The Great Depression featured a double-dip of its own. Within the start and end dates of the Great Depression, there were two recessions, 1929 to 1933, and 1937 to 1938. In the Keynesian-Monetarist telling, the first of these was caused by tight money, the second was caused by a misguided effort by Franklin Delano Roosevelt to balance the budget. Hence economists added fiscal deficits to their tool kit along with easy money as the all-purpose depression busters. Easy money and big deficits are said to cure all ills. President Obama and Fed Chairman Ben Bernanke are following this script to a "T". [Learn about the many faces of Ben Bernanke.] While tight money in the United States almost certainly contributed to the Great Depression, there were other causes including war reparations owed by Germany and war debts owed by England and France. These massive unpayable debts combined with a mispriced return to a poorly constructed gold standard restricted global credit and trade and caused deflationary pressures. This world-in-debt condition closely resembles the world today where overleveraged financial systems in Europe, the United States, and China are all trying to deleverage at once. Less studied than the causes of the Great Depression is the equally interesting subject of why it lasted so long. The best explanation for this is found not in monetary or fiscal policy but in what economists call regime uncertainty. As FDR skittered among price supports, gold confiscation, court packing, and other ad hoc remedies, business executives waited on the sidelines until some consistency and certainty in policy developed. This situation is also the same today. Will the Bush tax cuts expire or not? Will Obamacare be upheld in the courts or not? Will payroll tax cuts and unemployment benefits be extended? Is corporate tax reform coming? This list goes on with the same effect as in the 1930s. Business investment will remain dormant until some certainty returns and, on current form, that may be years away.

#### And, the plan is a quick injection of capital which is critical to economic recovery.

Xu et al 12 (Ting, China and Economy consultant for Bertelsmann Stiftung, with Thieß Petersen and Tianlong Wang, Cash in Hand: Chinese Foreign Direct Investment in the U.S. and Germany, June,

http://www.bfna.org/sites/default/files/publications/Cash%20in%20Hand%20Second%20Edition%20final.pdf)

Although Chinese FDI has drawn increasing attention in the U.S. and Germany, China still holds less than 0.2 percent of the FDI stocks in both Germany and the U.S. This fact does not match up to the status of the three countries’ leading roles in the global economy. As China continues its economic development and its per-capita income grows, it will enter a new stage of foreign direct investment where its FDI in the U.S. and the EU will continue to experience strong growth. There will be profound implications to the trend, particularly given the current stage of global financial recovery. While the banking sector institutions continue to deleverage as a result of the financial crisis, unleashing investment potential from China can potentially play a much bigger role in bringing those countries that are facing a credit crunch back to growth.

#### And, economic decline causes war.

Royal 2010 Jedediah, Director of Cooperative Threat Reduction at the U.S. Department of Defense, “Economic Integration, Economic Signaling and the Problem of Economic Crises,” in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, pg. 213-215

Less intuitive is how periods of economic decline may increase the likelihood of extern conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defense behavior of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level, Pollins (2008) advances Modelski and Thompson’s (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of a pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crisis could usher in a redistribution of relative power (see also Gilpin, 1981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Fearon, 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner, 1999). Seperately, Pollins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level, Copeland’s (1996, 2000) theory of trade expectations suggests that ‘future expectation of trade’ is a significant variable in understanding economic conditions and security behavious of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations, However, if the expectations of future trade decline, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases, as states will be inclined to use force to gain access to those resources. Crisis could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states. Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write, The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favor. Moreover, the presence of a recession tends to amplify the extent to which international and external conflict self-reinforce each other. (Blomberg & Hess, 2002. P. 89) Economic decline has been linked with an increase in the likelihood of terrorism (Blomberg, Hess, & Weerapana, 2004), which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. ‘Diversionary theory’ suggests that, when facing unpopularity arising from economic decline, sitting governments have increase incentives to fabricate external military conflicts to create a ‘rally around the flag’ effect. Wang (1996), DeRouen (1995), and Blomberg, Hess, and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997), Miller (1999), and Kisangani and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak Presidential popularity, are statistically linked to an increase in the use of force. In summary, recent economic scholarship positively correlated economic integration with an increase in the frequency of economic crises, whereas political science scholarship links economic decline with external conflict at systemic, dyadic and national levels. This implied connection between integration, crisis and armed conflict has not featured prominently in the economic-security debate and deserves more attention.

### Gas

#### Contention 4 is Chinese Gas

#### China is limiting itself to “hands off” oil and gas deals – these small partnerships don’t secure technical expertise to develop Chinese shale – this puts them decades behind gas targets

Mandel 7-17 (Jenny, Reporter for EnergyWire, a daily publication covering the unconventional oil and gas sectors, Previous positions with E&E include editing Land Letter and writing news and feature stories for Greenwire, ClimateWire, and other news outlets, “Will U.S. shale technology make the leap across the Pacific?,” EnergyWire: Tuesday, July 17, 2012, http://www.eenews.net/public/energywire/2012/07/17/1)

Modes of tech transfer Despite the challenges, the allure of a massive new domestic energy source has the Chinese government and private and state-owned companies moving cautiously toward development. Today, virtually all of the key intellectual property behind shale gas extraction lies with North American companies, and one of the first steps the Chinese have taken is to pour money into U.S. and Canadian ventures where those technologies are in use. In 2010 and 2011, China National Offshore Oil Corp. (CNOOC) paid $2.3 billion for partial stakes in plays by Chesapeake Energy Corp. in Texas, Wyoming and Colorado. Earlier this year, Sinopec bought into Oklahoma City-based Devon Energy Corp.'s holdings across Louisiana, Mississippi, Colorado, Ohio and Michigan in a $2.5 billion deal. Chinese companies have also aggressively pursued investment deals in Canadian shale projects. But Johns Hopkins' Kong said attempts by Chinese companies to negotiate North American on-the-job training have been blocked. The deal with Chesapeake, for example, limited the interaction of CNOOC personnel with sensitive technologies by restricting the company's right to send workers into gas fields, Kong said. "The Chinese companies have agreed deliberately not to send their oil workers to American gas fields and not to participate in boardroom decisions," Kong said. "The Chinese companies have agreed to this long-term, slow, gradual approach to gaining know-how in the North American energy sector." The caution stems mostly from a political firestorm that broke out when, in 2005, CNOOC tried to buy Unocal Corp. in an $18.5 billion deal that was eventually withdrawn in the face of opposition from Congress. Since then, there has been a general awareness among Chinese players of the need to move slowly and avoid raising red flags (E&ENews PM, Aug. 2, 2005). So what do Chinese investors gain from these North American investments, then, if not direct access to fracking technologies? "By investing in the U.S. ... they benefit from the spill-over effect," Kong said. They have some personnel involved with the projects, even if they're not learning the nitty-gritty of how to develop a fracking plan, and may be able to pick up some very high-level management expertise that is relevant at home. Home or away? Jane Nakano, a fellow with the Center for Strategic and International Studies' Energy and National Security program, stressed that investing in U.S. projects is not China's most effective means of technology transfer, especially given companies' failure to crack the personnel firewall. "If it's just a matter of getting profits from what comes out of each well or each project, then the amount of money they're pouring into North America does not make economic sense," she said. Rather, Nakano said Chinese gas interests would be best served by opening the domestic market to foreigners. "The most straightforward way would be for them to involve Western or non-Chinese technology holders more proactively" at home, she said. There has been limited involvement by major non-Chinese companies. In 2007, Houston-based Newfield Exploration Co. did a resource study with PetroChina. Royal Dutch Shell PLC has worked with PetroChina under a broader partnership agreement. And Exxon Mobil Corp. has had limited dealings with Sinopec. The first round of bidding on government shale gas leases, which occurred last summer, was open only to state-owned companies, and the final bids awarded parcels to just two large firms. There is speculation that the second round, which could come as early as this month, will expand participation to privately owned companies or even foreign bidders. There are other configurations that could also serve to carry the needed intellectual property into Chinese gas fields. In addition to joint ventures in North America or China with the supermajors, firms could hire foreign service companies to carry out work in China, observing their approach. Chinese companies or government interests could buy up some of the cash-strapped U.S. gas companies that are struggling to stay afloat until U.S. prices rise again and bring their expertise back to the Far East. They could buy U.S. shale resources -- even small ones like those held by individual property owners -- outright, then dictate the terms of development so as to ensure full access to the technologies used. Outside of industry, government-to-government interactions tout cooperation on shale gas, among other forms of energy that could help both U.S. and Chinese carbon emissions reduction efforts. And Chinese scientists work to develop home-grown strategies for shale gas production modeled on what has worked elsewhere. The University of Alberta's Jiang said Chinese shale interests, including both government and industry players, are undecided on how to move forward and how much to focus on domestic development versus lower-cost production overseas. "I don't think they have reached a conclusion one way or the other," he said. As a result, the country pursues "a two legs walking approach -- on the one side they want to explore domestic possibilities, on the other they want to explore possibilities with lower ... prices" elsewhere. That likely means a timeline of a decade, at a minimum, before Chinese shale gas resources are well-understood and a clear path to their development emerges, and potentially as long as two decades, observers say. In the meantime, the Chinese will continue to pursue contracts for natural gas imports to satisfy the strong and growing demand.

#### US gas companies currently negotiate passive deals for China because of CFIUS restrictions.

Knowledge @ Wharton 12 (China's Underground Race for Shale Gas, aug 21, http://knowledge.wharton.upenn.edu/arabic/article.cfm?articleid=2851)

Meanwhile, in the U.S., shale gas leaders, such as Devon Energy and Chesapeake Energy, have been reluctant to impart their technology know-how to the firms' Chinese investors, Sinopec and the China National Offshore Oil Corporation (CNOOC), respectively, notes Bo Kong, assistant research professor at the Johns Hopkins University School for Advanced International Studies (SAIS) in Washington, D.C. The Chinese and U.S. companies designed deals giving the Chinese passive, minority stakes to avoid disapproval by the Committee on Foreign Investment in the U.S. (CFIUS), which axed CNOOC's 2005 bid for Unocal. Also, the Sinopec-Devon and CNOOC-Chesapeake deals were struck at a time when the U.S. shale gas industry was at its peak. Today, with gas prices declining and companies such as Chesapeake struggling financially, Chinese companies may be able to negotiate better terms, says CATF's Sung.

#### Only the US has the expertise necessary for China to develop its shale resources- increased Chinese access to US drilling techniques and regulatory methods is critical.

Forbes, manager- Shale Gas Initiative at the World Resources Institute, 12 (Sarah, also the Senior Associate for the Climate and Energy Program at the World Resources Institute, HEARING BEFORE THE U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION: “CHINA’S GLOBAL QUEST FOR RESOURCES AND IMPLICATIONS FOR THE UNITED STATES; CHINA’S PROSPECTS FOR SHALE GAS AND IMPLICATIONS FOR THE U.S.,” January 26, http://pdf.wri.org/testimony/forbes\_testimony\_china\_shale\_gas\_2012-01-26.pdf)

Are there risks as well as opportunities for U.S. companies? From a global perspective, the oil and gas industry is integrated; companies work together on projects all over the world, owning shares in projects and hiring service providers as required for operations. Because of the variation in geology, most of what is needed to develop any oil or gas play is local “know-how,” not technology that is subject to patents. These unique features of the globalized industry result in less dependency on intellectual property protection and the risks of sharing technologies abroad as compared with other industries. For example, while the basic drilling and fracturing technologies needed for shale gas development are relatively uniform, the extraction methodologies depend most heavily on the site-specific geological features of the shale play being developed. Horizontal drilling first occurred in the United States in 1929 and fracing has been performed since 1949 39 . Geological factors that are unique to each well site (e.g., natural gas content, natural fractures of the rock, fracturing ability of the source rock) impact the staging of the fractures, the pressure of the hydraulic fracturing, and the fracturing fluid mixture. It is the experience gained from working many drill sites, in different basins and plays, which is the driving force behind U.S. shale gas development. Chinese companies currently possess the ability to drill wells horizontally and have some experience with fracing 40 , but operators and service providers in the United States currently have a clear global advantage based on the substantial experience with drilling and fracing shales to produce gas and the know-how to use these techniques effectively to maximize output 41 . This being said, the oil industry in China is a very domestic business (especially onshore) and has historically provided international companies with very limited access to onshore resources. Any international involvement typically comes from the creation of partnerships between Chinese companies and foreign companies, which is already happening with shale plays in China, as demonstrated by the PetroChina-Shell and CNOOC-BP JVs. A key question is whether the future shale gas industry in China will be modeled after the offshore oil industry (which includes more JVs) or the onshore oil and gas industry. Future cooperation between governments and businesses should not be limited to financial investments or knowledge sharing on operational practices. Although the United States currently stands as the only country with domestic experience in large-scale shale gas development, the experiences have not been all positive. U.S. regulatory structures, information flow, and enforcement capacities have generally not kept pace with the speed of development in shale formations. Stakeholders affected by U.S. shale gas development have not reached agreement on the risks associated with fracing, although experts agree that practices and regulations should be improved in order for the United States to develop its shale gas resources in an environmentally and socially responsible manner 42 . The growing understanding within state governments of both the level of environmental risks and how to manage them are valuable experiences for Chinese regulators and industrial entities to be aware of and take into account while pursuing and designing Chinese domestic development.

#### Chinese shale development key to displace their coal use—renewables cant be scaled up fast enough.

Hanger 12 (John, Special Counsel at the law firm Eckert Seamans, and former Secretary of the Pennsylvania Department of Environmental Protection and Commissioner of the Pennsylvania Public Utility Commission, “China Gets Cracking on Fracking: The Best Environmental News Of The Year?,” Aug 14, http://johnhanger.blogspot.com/2012/08/china-gets-cracking-on-fracking-good.html)

China sits on natural gas reserves that are estimated to be 50% higher than the massive gas reserves in the USA. http://news.nationalgeographic.com/news/energy/2012/08/120808-china-shale-gas/. Despite this gargantuan gas resource, coal provides China 80% of its electricity, compared to 34% in the USA, as of May 2012. Why the difference? The shale gas boom that is now more than 10 years long in the USA is just getting started in China and so the Chinese remain heavily reliant on coal to make electricity and for their total energy. Around the world, the basic energy choice is coal or gas. China is just the biggest example of this fundamental fact. China's reliance on coal means that its economic growth brings skyrocketing carbon emissions and other air pollution. Indeed, Chinese air quality is infamous around the world, and smog has been so thick that Beijing airport has been unable to land planes for short periods. As of 2011, China was responsible for 29% of the world's carbon emissions, while the US produced 16%, even though the US economy is still considerably bigger than China's. Moreover, US carbon emissions are declining to 1992 levels, but China's emissions skyrocket. Though China is building substantial new wind, solar, and nuclear generation, those investments are not enough to cut Chinese coal consumption, given economic growth that is still 7% in what some describe as an economic slowdown. Shale gas, however, could be big enough to actually displace significant amounts of coal in China. More gas in China means less mercury, soot. lead, smog, and carbon emissions. China's energy plans call for shale gas to provide 6% of its total energy as soon as 2020. If it achieves that goal, China will avoid more than 500 million tons of carbon pollution per year or about 1.5% of today's total carbon emissions.

#### Increasing demand for Chinese coal production causes water shortages which threaten economic collapse and political instability.

Schneider 11 (Keith, senior editor for Circle of Blue-a nonprofit focusing on resource shortages founded in 2000, Choke Point: China—Confronting Water Scarcity and Energy Demand in the World’s Largest Country, Feb 15, http://www.circleofblue.org/waternews/2011/world/choke-point-china%E2%80%94confronting-water-scarcity-and-energy-demand-in-the-world%E2%80%99s-largest-country/)

By any measure, conventional and otherwise, China’s tireless advance to international economic prominence has been nothing less than astonishing. Over the last decade alone, 70 million new jobs emerged from an economy that this year, according to the World Bank and other authorities, generated the world’s largest markets for cars, steel, cement, glass, housing, energy, power plants, wind turbines, solar panels, highways, high-speed rail systems, airports, and other basic supplies and civic equipment to support a modern economy. Yet, like a tectonic fault line, underlying China’s new standing in the world is an increasingly fierce competition between energy and water that threatens to upend China’s progress. Simply put, according to Chinese authorities and government reports, China’s demand for energy, particularly for coal, is outpacing its freshwater supply. Students of Chinese history and geography, of course, understand that tight supplies of fresh water are nothing new in a nation where 80 percent of the rainfall and snowmelt occurs in the south, while just 20 percent of the moisture occurs in the mostly desert regions of the north and west. What’s new is that China’s surging economic growth is prompting the expanding industrial sector, which consumes 70 percent of the nation’s energy, to call on the government to tap new energy supplies, particularly the enormous reserves of coal in the dry north. The problem, say government officials, is that there is not enough water to mine, process, and consume those reserves, and still develop the modern cities and manufacturing centers that China envisions for the region. “Water shortage is the most important challenge to China right now, the biggest problem for future growth,” said Wang Yahua, deputy director of the Center for China Study at Tsinghua University in Beijing. “It’s a puzzle that the country has to solve.” The consequences of diminishing water reserves and rising energy demand have been a special focus of Circle of Blue’s attention for more than a year. In 2010, in our Choke Point: U.S. series, Circle of Blue found that rising energy demand and diminishing freshwater reserves are two trends moving in opposing direction across America. Moreover, the speed and force of the confrontation is occurring in the places where growth is highest and water resources are under the most stress—California, the Southwest, the Rocky Mountain West, and the Southeast. Modernization vs. Water Resources In December, we expanded our reporting to China. Circle of Blue—in collaboration with the China Environment Forum (CEF) at the Washington-based Woodrow Wilson International Center for Scholars—dispatched four teams of researchers and photographers to 10 Chinese provinces. Their assignment: to report on how the world’s largest nation and second-largest economy is achieving its swift modernization, despite scarce and declining reserves of clean fresh water. In essence, Circle of Blue and CEF completed a national tour of the extensive water circulatory system and vast energy production musculature that makes China go. The result of our reporting is Choke Point: China. In a dozen chapters—starting today and posted weekly online through April—Choke Point: China will report in text, photographs, and interactive graphics the powerful evidence of a potentially ruinous confrontation between growth, water, and fuel that is already visible across China and is virtually certain to grow more dire over the next decade. Choke Point: China, though, is not a narrative of doom. Rather, our journalists and photographers found a powerful narrative in two parts and never before told. The first important finding—left largely unsaid in and outside China—is how effectively the national and provincial governments enacted and enforced a range of water conservation and efficiency measures. Circle of Blue met the engineers, plant managers, and workers who operate China’s robust and often state-of-the-art energy and water installations. We interviewed the academics and government executives who oversee the globally significant water conservation policies and practices that have been essential to China’s new prosperity. Those policies, we found, sharply reduced waste, shifted water from agriculture to industry, and slowed the growth in national water consumption. Though China’s economy has grown almost eight-fold since the mid-1990s, water consumption has increased 15 percent, or 1 percent annually. China’s major cities, including Beijing, are retrofitting their sewage treatment systems to recycle wastewater for use in washing clothes, flushing toilets, and other grey-water applications. Here in Baotou, a desert city of 1.5 million in Inner Mongolia, the giant Baotou Iron and Steel Company plant, one of the world’s largest, produces 10 million metric tons of steel annually in a region that receives mere inches of rainfall a year. The plant—which is 49 square kilometers and employs 50,000 workers—recycles 98 percent of its water, a requirement of a 1997 law that prompted owners of industrial plants to conserve water. Three Trends Converging We also discovered a second vital narrative that most industrial executives and government authorities we interviewed were either not fully aware of or were reluctant to acknowledge: the tightening choke point between rising energy demand and declining freshwater reserves that forms the central story line of the next era of China’s unfolding development. Stripped to its essence, China’s globally significant choke point is caused by three converging trends:Production of coal has tripled since 2000 to 3.15 billion metric tons a year. Government analysts project that China’s energy companies will need to produce an additional billion metric tons of coal annually by 2020, representing a 30 percent increase. Fresh water needed for mining, processing, and consuming coal accounts for the largest share of industrial water use in China, or roughly 120 billion cubic meters a year, a fifth of all the water consumed nationally. Though national conservation policies have helped to limit increases, water consumption nevertheless has climbed to a record 599 billion cubic meters annually, which is 50 billion cubic meters (13 trillion gallons) more than in 2000. Over the next decade, according to government projections, China’s water consumption, driven in large part by increasing coal-fired power production, may reach 670 billion cubic meters annually — 71 billion cubic meters a year more than today. China’s total water resource, according to the National Bureau of Statistics, has dropped 13 percent since the start of the century. In other words China’s water supply is 350 billion cubic meters (93 trillion gallons) less than it was at the start of the century. That’s as much water lost to China each year as flows through the mouth of the Mississippi River in nine months. Chinese climatologists and hydrologists attribute much of the drop to climate change, which is disrupting patterns of rain and snowfall. “It’s just impossible, if you haven’t lived it or experienced it, to understand change in China over the past 25 years, and especially since 1992,” said Kang Wu, a senior fellow and China energy scholar at East-West Center in Hawaii. “It’s a new world. It’s a new country. The worry in China and in the rest of the world is can they sustain it? They want to double the size of the economy again in 10 years. How can they do that? It’s a paradox from an economic point of view. They need a resource balance to meet demand, short-term and long-term. If you look out 10, 20, 30 years, it just looks like it’s not possible.” Rapid GDP Growth Will Continue In interviews, national and provincial government leaders, as well as energy industry executives, said China has every intention of continuing its 10 percent annual economic growth. “We believe that this is possible and we can do this with new technology, new ways to use water and energy,” said Xiangkun Ren, who oversees the coal-to-liquids program for Shenhua Group, the largest coal company in the world. Xiangkun acknowledged that avoiding the looming choke point will not be easy. The tightening loop is already visible in the jammed rail lines, huge coal truck traffic jams, and buckling roads that Circle of Blue encountered in Inner Mongolia—the country’s largest coal producer—and which are responsible for transporting billions of tons of coal from existing mines to market. Energy prices are steadily rising, putting new inflationary pressure on the economy. Even as China has launched enormous new programs of solar, wind, hydro, and seawater-cooled nuclear power, all of which use much less fresh water, energy market conditions will get worse without new supplies of coal, the source of 70 percent of the nation’s energy. China’s economy and the new social contract with its citizens, who have come to expect rising incomes and improving opportunities, is at risk, say some authorities.

#### Chinese economic collapse causes Asian and Middle East conflict- China will turn outwardly aggressive.

Newmeyer 09 DR. JACQUELINE NEWMYER - LONG TERM STRATEGY GROUP- THE CENTER FOR NATIONAL POLICY “ECONOMIC CRISIS: IMPACT ON CHINESE MILITARY MODERNIZATION” APRIL 8, 2009, http://cnponline.org/index.php?ht=a/GetDocumentAction/i/12503

So I think either way, either because of the insecurity that is stoked by what’s happening inside China and perceptions about economic slowdown, and/or because of demonization issues and popular discourse, I think that there’s a real chance that the Chinese leadership could feel compelled, for reasons of state security, to take actions that appear more belligerent abroad. And that could have effects leading up to possibly even military conflict or the use of military force against outside actors in addition to whatever force is used inside China to maintain stability. So I think that would be a real, kind of operational test for the PLA, a modernized force now. So, in conclusion, what struck me in thinking about and preparing for this presentation was there was less divergence between the sort of steady state and the more dramatic impact of the economic downturn scenarios than I expected. Either way, I think there is a chance, or a likelihood, of increased friction between China and other external countries, particular countries, that would affected in the case of increased arm transfers, actors in the Middle East would be affected, possibly also the U.S., and in the case of more serious concern about internal unrest in China, I think China’s relations with the West, and with India, or with Japan would be implicated there. So I think contrary to our hopes which would be that the downturn would have the effect of causing China to turn inwards and reduce the chances for any kind of external problem, I think, in fact, there’s reason to think, and to worry, that the downturn would lead to a greater chance of conflict abroad for China.

#### And, pollution from coal causes environmental protests that threaten CCP rule.

LeVine 12 (Steve, author of The Oil and the Glory, Foreign Policy contributor, CHINA The Cost of Coal , The Weekly Wrap -- Aug. 3, 2012, <http://oilandglory.foreignpolicy.com/posts/2012/08/03/the_weekly_wrap_aug_3_2012_part_i>)

China's moment of coal truth: A question that has vexed us for some time is when we will witness an inflection point in ordinary Chinese tolerance for the coal-borne pollution in their air. At that time, we have argued, we will likely also see a sharp turn away from coal consumption, and more use of cleaner natural gas -- Communist Party leaders will see to it for reasons of political survival. With this shift will come important knock-on events, including a materially smaller increase in projected global CO2 emissions. According to Bernstein Research, that tipping point may now be past. In a note to clients yesterday, Michael W. Parker and Alex Leung argue that the moment of truth became apparent to them in two pollution protests over the last month in the cities of Shifang and Qidong. In the former, violent July protests resulted in the scrapping of a planned metals plant; in the latter last week, the ax fell on a waste pipeline connected to a paper mill, again because of an agitated local citizenry. Their paper's title -- Who Are You Going to Believe: Me or Your Smog-Irritated, Burning, Weeping, Lying Eyes? -- is a reference to what the authors regard as a general outside blindness to a conspicuous new political day. One reason no one is noticing, they say, is the curse of history itself. The record of surging economies -- comparing China with, say Japan -- suggests that a burning aspiration for cleaner surroundings over economic betterment should reach critical mass in China only in about a decade. Yet, "the clear signal from Shifang and Qidong is that China has reached the point today, where the population is ready to take to the streets in protest of worsening environmental conditions," the two researchers write. They go on: Since we all agree that the Chinese government is focused on social harmony, the practical implication is that the government will do whatever is required to ensure that people aren't in the streets protesting not just food prices or lack of jobs, but also the environment. Few observers seem to classify the environment as the kind of issue that could excite the Chinese population into the street or the kind of issue that could result in changing political decision making and economic outcomes. And yet that is exactly what we are seeing.

#### Those pollution protests causes Chinese instability and CCP lashout

Nankivell 05 (Nathan, Senior Researcher @ Office of the Special Advisor Policy, Maritime Forces Pacific Headquarters, Canadian Department of National Defence, China's Pollution and the Threat to Domestic and Regional Stability, China Brief Vol: 5 Issue: 22, http://www.jamestown.org/programs/chinabrief/single/?tx\_ttnews%5Btt\_news%5D=3904&tx\_ttnews%5BbackPid%5D=195&no\_cache=1)

As the impact of pollution on human health becomes more obvious and widespread, it is leading to greater political mobilization and social unrest from those citizens who suffer the most. The latest statement from the October 2005 Central Committee meeting in Shanghai illustrates Beijing’s increasing concern regarding the correlation between unrest and pollution issues. There were more than 74,000 incidents of protest and unrest recorded in China in 2004, up from 58,000 the year before (Asia Times, November 16, 2004). While there are no clear statistics linking this number of protests, riots, and unrest specifically to pollution issues, the fact that pollution was one of four social problems linked to disharmony by the Central Committee implies that there is at least the perception of a strong correlation. For the CCP and neighboring states, social unrest must be viewed as a primary security concern for three reasons: it is creating greater political mobilization, it threatens to forge linkages with democracy movements, and demonstrations are proving more difficult to contain. These three factors have the potential to challenge the CCP’s total political control, thus potentially destabilizing a state with a huge military arsenal and a history of violent, internal conflict that cannot be downplayed or ignored. Protests are uniting a variety of actors throughout local communities. Pollution issues are indiscriminate. The effects, though not equally felt by each person within a community, impact rich and poor, farmers and businessmen, families and individuals alike. As local communities respond to pollution issues through united opposition, it is leaving Beijing with no easy target upon which to blame unrest, and no simple option for how to quell whole communities with a common grievance. Moreover, protests serve as a venue for the politically disaffected who are unhappy with the current state of governance, and may be open to considering alternative forms of political rule. Environmental experts like Elizabeth Economy note that protests afford an opportunity for the environmental movement to forge linkages with democracy advocates. She notes in her book, The River Runs Black, that several environmentalists argue that change is only possible through greater democratization and notes that the environmental and democracy movements united in Eastern Europe prior to the end of the Cold War. It is conceivable that in this way, environmentally-motivated protests might help to spread democracy and undermine CCP rule. A further key challenge is trying to contain protests once they begin. The steady introduction of new media like cell phones, email, and text messaging are preventing China’s authorities from silencing and hiding unrest. Moreover, the ability to send and receive information ensures that domestic and international observers will be made aware of unrest, making it far more difficult for local authorities to employ state-sanctioned force. The security ramifications of greater social unrest cannot be overlooked. Linkages between environmental and democracy advocates potentially challenge the Party’s monolithic control of power. In the past, similar challenges by Falun Gong and the Tiananmen protestors have been met by force and detainment. In an extreme situation, such as national water shortages, social unrest could generate widespread, coordinated action and political mobilization that would serve as a midwife to anti-CCP political challenges, create divisions within the Party over how to deal with the environment, or lead to a massive show of force. Any of these outcomes would mark an erosion or alteration to the CCP’s current power dynamic. And while many would treat political change in China, especially the implosion of the Party, as a welcome development, it must be noted that any slippage of the Party’s dominance would most likely be accompanied by a period of transitional violence. Though most violence would be directed toward dissident Chinese, a ripple effect would be felt in neighboring states through immigration, impediments to trade, and an increased military presence along the Chinese border. All of these situations would alter security assumptions in the region.

#### This causes the CCP to launch WMDs and kill billions to try to hold onto power

Renxin 05 Renxin, Journalist, 8-3-2K5 (San, “CCP Gambles Insanely to Avoid Death,” Epoch Times, www.theepochtimes.com/news/5-8-3/30931.html)

Since the Party’s life is “above all else,” it would not be surprising if the CCP resorts to the use of biological, chemical, and nuclear weapons in its attempt to postpone its life. The CCP, that disregards human life, would not hesitate to kill two hundred million Americans, coupled with seven or eight hundred million Chinese, to achieve its ends. The “speech,” free of all disguises, lets the public see the CCP for what it really is: with evil filling its every cell, the CCP intends to fight all of mankind in its desperate attempt to cling to life. And that is the theme of the “speech.” The theme is murderous and utterly evil. We did witness in China beggars who demanded money from people by threatening to stab themselves with knives or prick their throats on long nails. But we have never, until now, seen a rogue who blackmails the world to die with it by wielding biological, chemical, and nuclear weapons. Anyhow, the bloody confession affirmed the CCP’s bloodiness: a monstrous murderer, who has killed 80 million Chinese people, now plans to hold one billion people hostage and gamble with their lives. As the CCP is known to be a clique with a closed system, it is extraordinary for it to reveal its top secret on its own. One might ask: what is the CCP’s purpose to make public its gambling plan on its deathbed? The answer is: the “speech” would have the effect of killing three birds with one stone. Its intentions are the following: Expressing the CCP’s resolve that it “not be buried by either heaven or earth” (direct quote from the “speech”). But then, isn’t the CCP opposed to the universe if it claims not to be buried by heaven and earth? Feeling the urgent need to harden its image as a soft egg in the face of the Nine Commentaries. Preparing publicity for its final battle with mankind by threatening war and trumpeting violence. So, strictly speaking, what the CCP has leaked out is more of an attempt to clutch at straws to save its life rather than to launch a trial balloon. Of course, the way the “speech” was presented had been carefully prepared. It did not have a usual opening or ending, and the audience, time, place, and background related to the “speech” were all kept unidentified. One may speculate or imagine as one may, but never verify. The aim was obviously to create a mysterious setting. In short, the “speech” came out as something one finds difficult to tell whether it is false or true.

#### And, Chinese pollution causes nuclear war with Russia

Nankivell 05 (Nathan, Senior Researcher @ Office of the Special Advisor Policy, Maritime Forces Pacific Headquarters, Canadian Department of National Defence, China's Pollution and the Threat to Domestic and Regional Stability, China Brief Vol: 5 Issue: 22, http://www.jamestown.org/programs/chinabrief/single/?tx\_ttnews%5Btt\_news%5D=3904&tx\_ttnews%5BbackPid%5D=195&no\_cache=1)

In addition to the concerns already mentioned, pollution, if linked to a specific issue like water shortage, could have important geopolitical ramifications. China’s northern plains, home to hundreds of millions, face acute water shortages. Growing demand, a decade of drought, inefficient delivery methods, and increasing water pollution have reduced per capita water holdings to critical levels. Although Beijing hopes to relieve some of the pressures via the North-South Water Diversion project, it requires tens of billions of dollars and its completion is, at best, still several years away and, at worst, impossible. Yet just to the north lies one of the most under-populated areas in Asia, the Russian Far East. While there is little agreement among scholars about whether resource shortages lead to greater cooperation or conflict, either scenario encompasses security considerations. Russian politicians already allege possible Chinese territorial designs on the region. They note Russia’s falling population in the Far East, currently estimated at some 6 to 7 million, and argue that the growing Chinese population along the border, more than 80 million, may soon take over. While these concerns smack of inflated nationalism and scare tactics, there could be some truth to them. The method by which China might annex the territory can only be speculated upon, but would surely result in full-scale war between two powerful, nuclear-equipped nations.

#### Participating in oil joint ventures boosts US-China energy coop, allowing them to learn from us and control air pollution and environmental degradation.

Wu, Brookings Visiting Fellow, 08 (Richard Weixing Hu, Advancing Sino-U.S. Energy Cooperation Amid Oil Price Hikes, March, http://www.brookings.edu/research/opinions/2008/03/energy-hu)

Fourth, both governments should encourage their energy companies to collaborate in jointly enlarging the global oil supply, and should support the transfer of energy technologies transfer. It would be good for both countries to avoid negative global competition for oil, politically. Commercially, energy companies from both countries could form joint ventures in extracting oil and other forms of energy, so that they could enlarge energy supply for global markets as well as for domestic markets. Both governments should avoid providing cover for their energy companies to compete in third countries. Actually, they have a common enemy in dissuading resource nationalism and market monopoly in the world energy market. U.S. companies also have a big role to play in helping China’s development of energy efficiency and green-energy technology. Given the growing size of its economy, China’s energy efficiency and environmentally sustainable use of energy means a big reduction of pollutants into air and a considerable contribution to the common course of global environmental protection.

#### And, politicization of Chinese energy deals independently undermines US-China energy relations, which causes hostile Chinese naval modernization.

Lieberthal and Herberg 06 (Kenneth, Distinguished Fellow and Director for China at The William Davidson institute, and research associate of the China Center at the University of Michigan, and Mikkal, Director of the asian Energy security program at The national bureau of asian research, China’s Search for Energy Security: Implications for U.S. Policy\*, http://www.nbr.org/publications/nbranalysis/pdf/vol17no1.pdf)

Both the United States and China will benefit if they can develop a collaborative relationship on energy issues—as opposed to the current trajectory characterized by growing mistrust, suspicion, and competition. In reality, the fundamental global energy interests of China and the United states largely converge. China’s new energy security challenges mirror the United states’ own long-standing energy security challenges. Both countries share an interest in avoiding global supply disruptions, maintaining stability in the Persian Gulf, accelerating the development of new oil and gas resources, expanding the development and use of clean coal technologies, increasing global energy supply diversification, creating greater transit and fuel flexibility, expanding and improving emergency oil-sharing arrangements, and managing the environmental fallout from unrestrained fossil fuel consumption . What can the United States do to make constructive cooperation more likely? Is attaining such cooperation a feasible objective for U.S. policy? Thus far the U.S. response to China’s energy rise has been relatively ad hoc, reactive, and counterproductive. Compounded by China’s own lack of transparency, U.S. reactions have suffered from a poor understanding of China on many levels, including China’s energy dilemmas, the complex interests driving Beijing’s global energy approach, the goals and relationships that characterize Chinese energy institutions and state energy companies, and the linkages between energy and other issues in the People’s Republic of China (PRC). U.S. Congressional reaction to China National Offshore Oil Corporation’s (CNOOC) 2005 bid for Unocal both revealed how little some U.S. policymakers understand about China’s global energy push and showed how divisive these issues have become for an already strained U .s .-China relationship . The failed bid also demonstrated that, in today’s atmosphere of high energy prices and fears over long-term energy scarcity, both the United states and China are focused intently on their national energy security and tend to assume the worst of the other’s intentions. Moreover, the energy policymaking institutions of both China and the United States make effective energy cooperation very difficult. Therefore, the central question hinges on whether the United States and China will be able to reduce their existing mistrust, which is exacerbated by broader strategic tensions, and devise prudent and serious ways to begin working together to achieve mutual interests in energy . In fact, energy cooperation could actually contribute to building the trust required for potentially broader international cooperation between China and the United States. The United States and China seem to hold fundamentally different views of global energy markets. This reality makes effective dialogue on energy issues both more difficult and more necessary. China’s energy strategy currently appears rooted in a statist, mercantilist mentality among political leaders in Beijing. The United States, on the other hand, has a stated policy of relying largely on global markets to deliver energy supply security. 4 The United States does not always fully appreciate how its own colossal weight in global energy and geopolitics affects China’s concerns regarding U.S. ability to threaten China’s energy interests. Ed Morse, an expert on energy and politics, sums up the problem by asserting that, “The U.S . is mostly ‘brawn’ and limited ‘brain’ .” 5 Suspicions remain high both in Beijing and Washington regarding the other’s intentions on key energy security and supply questions. Without a more sophisticated policy response in both Washington and Beijing, the risk is that energy issues are becoming not a source of constructive cooperation but rather a deepening source of competition, misperceptions, and excuses for obstructing one another’s interests. If Beijing believes that the United States is attempting to use energy politics as an instrument to weaken and contain China, then Beijing will be more likely to use its growing energy influence to frustrate U.S. foreign and security policies. The array of negative results from such a scenario might include increasing Chinese “hoarding” of oil and natural gas fields and supplies, tying Chinese energy investments abroad ever more closely to dubious regimes, promoting security cooperation with adversarial governments, and politicizing global energy markets. Such fallout would also increase the leverage of government hard-liners in Beijing who want to develop blue-water naval capabilities to challenge U.S. control of the SLOCs through which large shares of China’s future oil and natural gas supplies will flow. 6 A wide range of other negative outcomes could be imagined. It is therefore in the best interests of both countries to try to understand each other’s energy insecurities and find new ways to work toward cooperative outcomes.

#### Chinese naval modernization causes miscalculation, risking conflict with the US.

United States-China Economic and Security Review Commission 09 (“THE IMPLICATIONS OF CHINA’S NAVAL MODERNIZATION FOR THE UNITED STATES,” HEARING BEFORE THE U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION ONE HUNDRED ELEVENTH CONGRESS FIRST SESSION, June 11, http://www.uscc.gov/hearings/2009hearings/transcripts/09\_06\_11\_trans/09\_06\_11\_trans.pdf)

In this hearing, witnesses told the Commission that the Chinese People’s Liberation Army (PLA) is rapidly modernizing its naval forces and improving its naval capabilities. Furthermore, although the PLA Navy has been modernizing for at least two decades, the rate of modernization has increased in recent years. This naval modernization consists of two main components: a technical side and an institutional side. The technical side is primarily comprised of large-scale acquisitions of new, more advanced vessels, aircraft, weapons, and command and control systems. On the institutional side, the PLA Navy has sought to improve the quality of its personnel and its training in order to better utilize newly acquired naval platforms and weapons. Although nominally defensive, China’s strategy of naval modernization could affect how the United States and its allies deploy forces, protect bases and troops, and conduct military operations in East and Southeast Asia. In addition, as the PLA Navy continues to improve its capabilities, it will more frequently interact with other regional navies, including the U.S. Navy. As China’s recent aggressive behavior in the South China Sea demonstrates, a greater PLA Navy presence in the region could increase the potential for conflict between the United States and China over existing international maritime norms and practices. A key component of China’s naval modernization that the hearing’s expert witnesses pointed out was the technical modernization made in recent years. Since at least 2004, the PLA Navy has acquired numerous new vessels and aircraft, to include 21 submarines, eight destroyers, and 24 advanced fighters. Moreover, recent high-level remarks within the Chinese government indicate that Beijing is planning on building aircraft carriers. In addition, the PLA Navy has increased its arsenal of advanced weapons, particularly antiship cruise missiles, land attack cruise missiles, and advanced naval mines. Of particular importance for the United States is the PLA’s apparent desire to develop anti-ship ballistic missiles (ASBM), which are intended to degrade the force-multiplying effect of U.S. aircraft carriers. Finally, tying these various platforms and weapons together are advances in the PLA’s C4ISR system (Command, Control, Communications, Computers, Intelligence, Surveillance, and Reconnaissance system). The PLA Navy has also begun modernizing and improving its capabilities to use these new acquisitions. Witnesses testified that the PLA Navy has taken several important steps towards improving the quality of its personnel. These steps include raising the standards for entry and promotion for both enlisted personnel and officers, as well as creating a non-commissioned officer corps—a key requirement for a modern military. Furthermore, the PLA Navy has sought to improve the quality of its training, for both individuals and units. These changes will help the PLA develop its naval capabilities, and help to shape the PLA Navy into a modern force. Taken together, these modernization efforts have several implications for the national security of the United States and its allies. First, the Commission’s witnesses testified that China’s naval modernization increasingly allows the PLA to deny the U.S. military access to China’s littoral waters and the Western Pacific. As the PLA Navy improves its capabilities, advanced Chinese naval platforms and weapons in the hands of well-trained, professional soldiers will increase the dangers confronting U.S. forward-deployed forces, possibly requiring them to operate at a distance in order to maintain safety. For example, witnesses stated that the PLA currently deploys several types of advanced anti-ship cruise missiles that form the backbone of China’s anti-access and sea denial strategy. 1 Furthermore, PLA anti-ship ballistic missiles could become a potential “game changer” in naval warfare should they become operational. 2 It was also pointed out that although the U.S. Navy has ample forces and capabilities to deal with the PLA Navy in the near and midterms, the outcome of a naval confrontation in the long term is less certain. 3 A second implication of China’s naval modernization is the direct relationship between greater capabilities and a more robust naval presence. As the PLA Navy improves its capabilities, it is likely that its vessels will more frequently be encountered by other navies in the region and around the globe. For example, a few years ago the PLA Navy would have been unlikely to execute its on-going anti-piracy deployment in the Gulf of Aden. In addition, in recent years there has been a dramatic increase in PLA Navy port calls both within and outside of the region. An increased PLA Navy presence in the region is not by itself negative. However it could be problematic when coupled with Beijing’s failure to conform to current international maritime norms and practices in regards to Exclusive Economic Zones (EEZ). Of key importance here is the possibility for misinterpretation and inadvertent conflict arising from Beijing’s view of maritime law. According to one witness, some influential PLA scholars wrote that any military action, including freedom of navigation and overflight acts, in its EEZ could be “considered a use of force or a threat to use force”—a very liberal take on the United Nations Convention on the Law of the Sea. 4 Such an interpretation by the PRC could lead to a serious incident at sea between the PLA Navy and the U.S. or other regional navies. Furthermore, some witnesses pointed out that if the PLA feels it is the stronger of the parties involved, it may be more inclined to resort to violence. A final implication of China’s naval modernization is its potential threat to U.S. allies in the region. Besides numerical superiority, the PLA Navy also enjoys a growing qualitative superiority versus most navies in East and Southeast Asia. While the Japanese Navy is possibly the only navy (besides the U.S. Navy) that is qualitatively better than the PLA Navy, Article 9 of Japan’s constitution prohibits it from developing the power projection capability that is necessary in modern naval warfare. Complicating this dynamic is Japan’s near total reliance on overseas oil imports which travel routes within increasingly easy reach of the PLA Navy. In the South China Sea’s region Beijing clearly possesses the superior navy, with the potential development of a Chinese aircraft carrier only widening the gap between the PLA Navy and regional navies. As a consequence, a naval arms race in East Asia may ensue.

#### South China Sea war causes extinction

Wittner 11 (Wittner, Emeritus Professor of History at the State University of New York/Albany and former editor of Peace & Change, a journal of peace research, “COMMENTARY: Is a Nuclear War with China Possible?,” November 28, http://www.nytimes.com/2012/06/13/opinion/avoiding-a-us-china-war.html)

While nuclear weapons exist, there remains a danger that they will be used. After all, for centuries national conflicts have led to wars, with nations employing their deadliest weapons. The current deterioration of U.S. relations with China might end up providing us with yet another example of this phenomenon. The gathering tension between the United States and China is clear enough. Disturbed by China’s growing economic and military strength, the U.S. government recently challenged China’s claims in the South China Sea, increased the U.S. military presence in Australia, and deepened U.S. military ties with other nations in the Pacific region. According to Secretary of State Hillary Clinton, the United States was “asserting our own position as a Pacific power.” But need this lead to nuclear war? Not necessarily. And yet, there are signs that it could. After all, both the United States and China possess large numbers of nuclear weapons. The U.S. government threatened to attack China with nuclear weapons during the Korean War and, later, during the conflict over the future of China’s offshore islands, Quemoy and Matsu. In the midst of the latter confrontation, President Dwight Eisenhower declared publicly, and chillingly, that U.S. nuclear weapons would “be used just exactly as you would use a bullet or anything else.” Of course, China didn’t have nuclear weapons then. Now that it does, perhaps the behavior of national leaders will be more temperate. But the loose nuclear threats of U.S. and Soviet government officials during the Cold War, when both nations had vast nuclear arsenals, should convince us that, even as the military ante is raised, nuclear saber-rattling persists. Some pundits argue that nuclear weapons prevent wars between nuclear-armed nations; and, admittedly, there haven’t been very many—at least not yet. But the Kargil War of 1999, between nuclear-armed India and nuclear-armed Pakistan, should convince us that such wars can occur. Indeed, in that case, the conflict almost slipped into a nuclear war. Pakistan’s foreign secretary threatened that, if the war escalated, his country felt free to use “any weapon” in its arsenal. During the conflict, Pakistan did move nuclear weapons toward its border, while India, it is claimed, readied its own nuclear missiles for an attack on Pakistan. At the least, though, don’t nuclear weapons deter a nuclear attack? Do they? Obviously, NATO leaders didn’t feel deterred, for, throughout the Cold War, NATO’s strategy was to respond to a Soviet conventional military attack on Western Europe by launching a Western nuclear attack on the nuclear-armed Soviet Union. Furthermore, if U.S. government officials really believed that nuclear deterrence worked, they would not have resorted to championing “Star Wars” and its modern variant, national missile defense. Why are these vastly expensive—and probably unworkable—military defense systems needed if other nuclear powers are deterred from attacking by U.S. nuclear might? Of course, the bottom line for those Americans convinced that nuclear weapons safeguard them from a Chinese nuclear attack might be that the U.S. nuclear arsenal is far greater than its Chinese counterpart. Today, it is estimated that the U.S. government possesses over five thousand nuclear warheads, while the Chinese government has a total inventory of roughly three hundred. Moreover, only about forty of these Chinese nuclear weapons can reach the United States. Surely the United States would “win” any nuclear war with China. But what would that “victory” entail? A nuclear attack by China would immediately slaughter at least 10 million Americans in a great storm of blast and fire, while leaving many more dying horribly of sickness and radiation poisoning. The Chinese death toll in a nuclear war would be far higher. Both nations would be reduced to smoldering, radioactive wastelands. Also, radioactive debris sent aloft by the nuclear explosions would blot out the sun and bring on a “nuclear winter” around the globe—destroying agriculture, creating worldwide famine, and generating chaos and destruction. Moreover, in another decade the extent of this catastrophe would be far worse. The Chinese government is currently expanding its nuclear arsenal, and by the year 2020 it is expected to more than double its number of nuclear weapons that can hit the United States. The U.S. government, in turn, has plans to spend hundreds of billions of dollars “modernizing” its nuclear weapons and nuclear production facilities over the next decade. To avert the enormous disaster of a U.S.-China nuclear war, there are two obvious actions that can be taken. The first is to get rid of nuclear weapons, as the nuclear powers have agreed to do but thus far have resisted doing. The second, conducted while the nuclear disarmament process is occurring, is to improve U.S.-China relations. If the American and Chinese people are interested in ensuring their survival and that of the world, they should be working to encourage these policies.

### Solvency

#### Narrowing the definition of national security to exclude “energy assets” insulates the CFIUS process from protectionist manipulation.

Carroll-Emory International Law Review-9 23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

Conclusion Exon-Florio should be amended to more narrowly define national security. The open-ended nature of the current definition has allowed the process to become politicized. Instead, national security should be specifically defined so as to prevent acquisition of industries that are critical to the military aspects of our national defense and that have capacities that are not duplicable by other market entities. The definition should also serve to ensure that export control laws are not circumvented by foreign acquisition of American companies. The following proposed definition would once again focus on preventing foreign governments from gaining unique military capabilities through private transactions that could threaten American national security: National Security shall be defined so as to consider the following factors in reviewing foreign acquisitions: A. Potential effect upon assets essential to the military aspects of national defense, specifically those firms whose contributions to the national defense cannot be easily replaced by another domestic corporation; B. Whether the acquisition poses a substantial risk of espionage or terrorism that can be certified by the relevant United States intelligence agencies; C. Whether the acquisition would pose a unique risk of weapons proliferation of critical military assets that cannot be otherwise dealt with by United States laws, particularly to countries that are not allies of the United States; [\*198] D. Economic security, or any other factor not mentioned in this section, shall not be considered by the CFIUS process. 222 Such an interpretation of national security would heavily scrutinize acquisition of, or joint ventures with, Lockheed Martin or any other company that makes a large contribution to the defense industrial base. Certain high-tech companies that produce computer chips that give the U.S. armed forces technological advantages over other countries might also fall under this definition. China should not be allowed to acquire a controlling interest in the present-day equivalent of Fairchild Semiconductor. This proposed definition of national security would be even more limited than the original Exon-Florio signed by President Reagan, as Exon-Florio was designed to apply mainly to defense-based technological acquisitions. 223 The main difference between this definition of national security and the original Exon-Florio legislation is that this definition would codify national security to explicitly prevent protectionist use of the CFIUS for political ends. Any consideration of economic security or protection of energy assets from foreign acquisition would be excluded from this definition, as inclusion of such economic factors can only encourage protectionism and politicization of the CFIUS process. 224 The narrower definition of national security would eliminate the mandatory reviews of every foreign-government-controlled transaction as required by FINSA. 225 Instead, the CFIUS would be given flexibility to decide which transactions truly threaten national security, without being bound to review every governmental acquisition. Narrowing the definition of national security in this manner would allow the CFIUS to focus its resources on real national security threats, rather than waste resources analyzing nearly every transaction involving a foreign governmental takeover. 226 The CFIUS should certainly consider the prospect of terrorism and take every step possible to safeguard against such a risk. In many cases, safeguards such as extra scans on containers should be put in place to minimize the risk of [\*199] terrorism. These safeguards should be applied regardless of whether the ownership is foreign or domestic. 227 Protectionism cannot replace the Department of Homeland Security when it comes to defending critical infrastructure. 228 Besides, the terrorists who struck on 9/11 did not own substantial property within the United States. Nor would the CFIUS regulations have stopped the subsequent terrorist incidents, such as Richard Reid's attempted shoe bomb or the anthrax shipments. In fact, there is no evidence that any company has been used as a front for a terrorist plot. 229 However, transactions should be blocked by the CFIUS on the basis of homeland security only when there is evidence of a clear and present threat of terrorism, or perhaps of espionage or sabotage. If the term "critical infrastructure" must be kept in FINSA, then members of Congress and the CFIUS must do a better job articulating what exactly constitutes critical infrastructure and what they consider the link between foreign ownership of critical infrastructure and threats to national security. 230 Explicitly laying out such guidelines will illustrate the boundaries to foreign investors and will make CFIUS decisions seem less arbitrary and political. 231 Additionally, screening employees of foreign corporations that purchase critical infrastructure can often identify potential security vulnerabilities without taking the drastic step of vetoing a transaction. 232 Limiting the Exon-Florio definition of national security only to military threats may seem odd and reactionary in the post-9/11 world, where unconventional threats abound. However, counter-terrorism requires appropriate tools, and regulating foreign direct investment simply falls short of being a cost-effective method of ensuring homeland security. 233 Focusing on the nationality of a company's ownership in a globalized world only distracts us from real security threats posed by non-state actors. 234 Many terrorist threats do not exist as a result of primary support from any nation, but rather as tactics in service of an ideology. 235 As Jose Padilla, John Walker Lindh, and [\*200] many others have illustrated, no one ethnic group has a monopoly on Al-Qaeda membership or support. Instead of penalizing investments from various Arab states simply because terrorists draw support from that region, homeland security policy should focus on thwarting the terrorists themselves. The CFIUS must return to a focus on state military capabilities because the terrorist threats are from non-state actors, and restricting economic investment from certain nations does not, per se, deal with the threat of terrorism. Just because terrorism is a serious threat does not mean that the CFIUS is the best tool to protect critical infrastructure. In conclusion, 9/11 did radically change the world, and Exon-Florio should change to fit the new realities of homeland security. However, the most effective reform of Exon-Florio is not expansion of the definition of national security to include economic protectionism, but rather a narrowing of the definition to guard against real threats to American security while encouraging beneficial foreign investment. The security challenges of the twenty-first century cannot be met by protectionism. Only by embracing globalization and cooperation can the United States truly achieve national security.

#### And, oil and gas are the key energy issues for CFIUS.

Ellis-Vinson & Elkins LLP-6/1/07

US energy and foreign direct investment: Is the foreign capital flow for oil and gas at risk?

<http://www.ogfj.com/articles/print/volume-4/issue-6/capital-perspectives/us-energy-and-foreign-direct-investment-is-the-foreign-capital-flow-for-oil-and-gas-at-risk.html>

Energy has traditionally been an area of some concern for CFIUS. In fact, one early controversial transaction reviewed by CFIUS was the 1981 acquisition of Santa Fe International Corp., a major drilling, exploration, and services company, by Kuwait Petroleum. Santa Fe owned some sensitive technology that had nuclear defense applications. At the time, CFIUS did not yet have any enforcement authority, so the Antitrust Division of the Justice Department was asked to hold up the merger. Ultimately, the transaction was allowed to go forward after Santa Fe agreed to sell off its sensitive technology so that it would not be transferred to Kuwait Petroleum. While it is not difficult to see how nuclear technology and nuclear energy deals would be subject to CFIUS scrutiny, the relationship between oil and gas and national security is more tenuous. On Sept. 11, 2001, the nation’s concept of “national security” was changed forever. In response to the terrorist attacks of 9/11, the government’s focus switched from its traditional examination of military targets and military assets, to a new emphasis on “critical infrastructure.” In order to facilitate protection of critical infrastructure, the President issued a directive in 2003 requiring, among other things, oversight by the Department of Energy of critical infrastructure related to “energy, including the production refining, storage, and distribution of oil and gas.” Additionally, since 9/11, CFIUS has been subject to increasing pressure by Congress to review foreign acquisitions of “critical infrastructure” for national security concerns. Since 9/11, the number of CFIUS filings per year has doubled, with significant growth projected for 2007 (See Figure 1). Nearly 20% of CFIUS filings in 2006 were energy-related - a trend that has continued thus far in 2007.

#### And, the US should clarify that energy production does not undermine national security-- explicitly exempting specific industries from CFIUS review is key.

Pane 05 (Marc, studied ILaw at Fordham, worked for the Office of the Principal Defender for the Special Court for Sierra Leone, CNOOC’s Bid for UNOCAL: Now is the Time to Improve theExon-Florio Amendment, http://www.scribd.com/doc/61823408/CNOOC-s-Bid-for-UNOCAL-Now-is-the-Time-to-Improve-the-Exon-Florio-Amendment)

What does this all mean for Exon-Florio? Almost since its enactment, numerous critics have raised the need, in one way or another, to narrow the scope of CFIUS review and to make it more transparent and accessible to concerned parties. 152 One student of Exon-Florio recently suggested that CFIUS define “national security” by explicitly specifying, among other things, exempt industries and protected technologies. 153 Sixteen years earlier, another had argued that “more detailed criteria in the regulations on the meaning of ‘national security’ and sample hypotheticals illustrative of ‘threats’ to national security, could help guide investors.”154 Confusion about the definition of national security is not limited to parties outside the black-box of CFIUS. A Government Accounting Office (GAO) report released in September of 2005 indicates that there is disagreement within CFIUS itself. 155 The Department of the Treasury takes a “narrow” definition, considering “a U.S. company’s possession of export controlled technologies or items, classified contracts, and critical technology; or specific derogatory intelligence on the foreign company.” 156 The Departments of Defense, Justice, and Homeland Security, on the other hand, take a broader view, examining such factors as the effects of foreign control on “critical infrastructure” and a decrease in the number of domestic businesses engaged in defense-critical industries. 157 The report suggests that the possible negative impact of Exon-Florio review on trade policy is a greater factor in Treasury considerations than it is for the other mentioned departments. 158 In its conclusions, the report states that “In light of the differing views within [CFIUS] regarding the extent of authority provided by Exon-Florio, the Congress should consider amending Exon-Florio by more clearly emphasizing the factors that should be considered in determining potential harm to national security.” 159 Possibly recognizing that it is a function of Congress, not the GAO, to make any amendments, the report does not comment on the form they should take. 160 CNOOC-Unocal might offer some guidance. The traditional view of national security as dependant on domestic control of technologies and resources alone seems increasingly anachronistic. Exon-Florio should be updated to reflect a world where security threats may arise from a failure to properly integrate national interests with the global economy. To that end, any definition of national security should incorporate a definition of “energy security,” and do so in a form that clearly indicates what degree of national control over production, distribution, and physical energy reserves is necessary or desirable (taking into account that any policy which seeks to isolate the United States and other global players from global energy markets might result in a greater risk of supply disruption).

## Round 1 VS USC

### T- People not places

#### ---The plan specifies that it removes restrictions only on the production stage. There is no other way to read it and the plan should be the ultimate arbiter of this question.

---we meet-foreign investment restrictions on production

Hirsch-former senior energy program adviser for Science Applications International Corporation-11 Commentary: Restrictions on world oil production

<http://www.energybulletin.net/stories/2011-03-28/commentary-restrictions-world-oil-production>

Restrictions on world oil production can be divided into four categories: 1. Geology 2. Legitimate National Interests 3. Mismanagement 4. Political Upheaval Consider each in reverse order: Political upheaval is currently rampant across the Middle East, resulting in a major spike in world oil prices. No one knows how far the impacts will go or how long it will take to reach some kind of stability and what that stability will mean to oil production in the Middle Eastern countries that produce oil. We are thus relegated to best guesses, which span weeks, months, or years before there are clear resolutions. One pre-Middle East chaos country limited by political upheaval is Iraq, which is believed to have the oil reserves to produce at a much higher level, but Iraqi government chaos has severely limited oil production expansion. In another long-standing case, Nigeria has been plagued by internal political strife, which has negatively impacted its oil production. Mismanagement of oil production within a country can be due to a variety of factors, all of which mean lower oil production than would otherwise be the case. Venezuela is the poster child of national mismanagement. The country has huge resources of heavy oil that could be produced at much higher rates. Underproduction is due to the government syphoning off so much cash flow that oil production operations are starved for needed funds. In addition, Venezuela has made it extremely difficult, if not impossible for foreign oil companies to operate in the country. Another example of mismanagement is Mexico, where government confiscation of oil revenues, substandard technology, and restrictions on foreign investment has led to significant Mexican oil production decline.

#### CFIUS reviews restrict production- the Ralls wind example is the biggest example of the US restricting production

Voss 12 (CJ Attorney at Stoel Rives LLP) September 24, 2012 "Energy Law Alert: CFIUS Intervenes in Chinese-Owned Wind Project" http://www.stoel.com/showalert.aspx?Show=9813)

On September 12 a U.S. wind project development company, Ralls Corporation ("Ralls"), owned by two Chinese nationals, filed suit against the Committee on Foreign Investment in the United States ("CFIUS"), an inter-agency U.S. government body charged with assessing the potential national security effects of foreign acquisitions of U.S. businesses. The Ralls complaint alleged that CFIUS exceeded its authority by blocking Ralls's investment in and development of a proposed 40-megawatt wind project in Oregon, through its acquisition of four Oregon limited liability companies (the "Oregon Projects"). Ralls subsequently filed a motion requesting that the U.S. District Court for the District of Columbia issue a temporary restraining order ("TRO") to permit Ralls to resume construction of the Oregon Projects so that Ralls could benefit from approximately $25 million in federal investment tax credits. On September 19, Ralls withdrew its motion for a TRO following an agreement with CFIUS regarding the resumption of preliminary construction activities. The CFIUS order to which the lawsuit responds marks an unprecedented intervention by the U.S. government in renewable energy project development, which, since its inception, has benefitted from substantial investment by foreign investors.

-xxx--We-meet-the plan reduces restrictions that block, delay, and alter foreign investment in energy production

Inside Energy with Federal Lands 4/12/10 (Herman Wang, HEADLINE: Foreign energy investments spark security concerns)

Foreign firms appear to be increasingly interested in investing in US oil companies, electric utilities and other parts of the US energy infrastructure, as they are seeking to profit from America's appetite for oil, coal and other commodities, as well as the Obama administration's emphasis on renewable power. But with those deals will come scrutiny from a little-known federal panel that has the power to block the transactions for national security reasons, through a review process that industry insiders say is sometimes inconsistent, politically driven and opaque. The Committee on Foreign Investment in the United States is an inter-agency panel that gave the Energy Department a permanent seat in 2007 to help it investigate business transactions in which foreign governments or companies seek to acquire "major energy assets" in the US. But some experts say CFIUS does not offer enough up-front guidance to US companies that are being acquired by foreign interests, wasting time and money. "We face situations where we tell our clients we see no security risk," said Billy Vigdor, a Washington-based partner with law firm Vinson & Elkins. "And then we spend hours trying to figure out whether we should file [a disclosure] because the government might think it is, in fact, a security risk. The last thing you want is to have a contract in place, and you think you're going to close in 30 days, and then CFIUS calls and says you need a filing." Companies being acquired by a foreign-owned firm can voluntarily notify CFIUS of the transaction, but the committee also has the power to investigate all transactions it sees fit to review. Representatives from 16 federal departments and agencies, headed by the Treasury Department, comprise the committee. Those investigations can leave foreign companies feeling unfairly targeted, potentially discouraging needed foreign investment in US energy infrastructure, said Al Troner, president of Houston-based Asia Pacific Energy Consulting. Troner said CFIUS' rulings on what constitutes a security threat can be arbitrary and inconsistent. Even when the committee determines there is no security risk for a transaction, politics can sometimes trump the ruling, Troner said. Troner cited CFIUS' approval in 2006 of a deal by a Dubai-based company to manage several US ports, only to have the company back out after many lawmakers cried foul due to fears of terrorism. "We want investment, but we want 'safe' investments, even though we can't define what is safe," Troner said. "So a big problem in all this is uncertainty, which makes this a funny market to invest in. [Foreign firms] don't feel treated fairly as to what the criteria are for energy security. If you don't know what you're getting into, at a certain point, you ask if this is worth it." Steven Cuevas, who was DOE's director of investment security in 2007 when the department gained a seat on CFIUS, said the committee makes its decisions apolitically. CFIUS, originally established in 1975, received a legislative mandate in 2007 to tighten its oversight of foreign transactions, including defining critical infrastructure as an asset so vital that its incapacity or destruction would severely impact national security. A bill signed by then-President George W. Bush, sparked in large part because of the uproar over the Dubai Ports World deal, formalized CFIUS' review process, which until then had been loosely defined and applied. That same bill also gave DOE its seat on CFIUS. The committee reviews about 150 to 200 foreign business deals a year. "We left politics at the door," Cuevas said. "As with any national security program, you really need to look at the issues in national security and not worry about politics. It's not a situation where there's a bright-line rule. You have to look at each transaction by itself. The standard is, does this transaction, by itself, pose a risk to national security?" Richard Oehler, a Seattle-based partner with law firm Perkins Cole, said prior to the 2007 legislation, CFIUS primarily concerned itself with defense contracting and other issues related to defense and intelligence. The legislation, however, with its definition of critical infrastructure, put an increased focus on US energy assets. "They were not focused on energy, until the politicians redefined [CFIUS]," Oehler said. Cuevas, now a renewable-energy lobbyist with French-owned nuclear company Areva, was a Bush administration political appointee assigned the task of setting up DOE's new role on CFIUS. He said he could not disclose, for confidentiality reasons, how many transactions DOE reviewed during his time working on the committee. Cuevas left his DOE post in 2009 with inauguration of the Obama administration. "When we started the CFIUS program at DOE, we had no processes in place," he said. "There was no record keeping. I spent the last year and a half with the department trying to standardize those steps of review, who signs off on transaction, who tracks them. We were simply trying to keep up with the transactions. We set the foundation, and the folks that are there now are fleshing it out." Last month, DOE issued a draft policy outlining its role on CFIUS that is similar to the Bush administration's policy. The policy, signed by DOE Deputy Secretary Daniel Poneman, prescribes that the department's risk analyses must consider the "criticality and/or vulnerability of the US assets being acquired" and "the threat to those assets posed by the acquiring entity and the consequences to national security if the threat is realized." Each transaction must also be reviewed on whether it involves critical infrastructure and technology, as well as how the transaction would impact long-term projections of US energy consumption. In addition, if a foreign government-owned entity is involved in the transaction, DOE will assess "the adherence of the subject country to nonproliferation control regimes, including treaties and multilateral supply guidelines," the draft policy states. After the review, DOE can clear the transaction with no further action; refer it to CFIUS for a 45-day national security investigation; clear the case conditionally, pending the creation of a "mitigation" plan to resolve security concerns; or recommend to the president to block the deal. Energy Secretary Steven Chu is DOE's primary representative to CFIUS, but much of the department's responsibilities on the committee are delegated to Jonathan Elkind, DOE's principal deputy assistant secretary for policy and international affairs. Elkin was not available for comment. Cliff Vrielink, a Houston-based partner with Vinson & Elkins, said CFIUS can sometimes give US companies pause when seeking to be acquired by a foreign firm. "CFIUS presents a hurdle for a foreign buyer that a domestic buyer doesn't have," Vrielink said. "When someone as an asset they want to sell, and they have an auction where multiple companies have put in bids, the foreign buyer has the uncertain timing of a CFIUS filing, which can be a significant factor." Complicating matters for foreign companies is the fact that CFIUS reviews are not based on a clear set of guidelines and regulations outlining, for instance, how much of a US company a foreign firm can acquire without triggering an investigation. "We, as Americans, are fortunate in that in so many areas, we have bright-letter law, and I think that's one thing that's always been an attraction for foreign investment, that we have the sanctity of contracts and bright-letter law," Vrielink said.

### NU-Carroll CP

#### Permutation-- do the plan and limit CFIUS reviews as outlined by the counterplan.

#### This isn’t what carroll advocates at all…Zero solvency

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

This proposed definition of national security would be even more limited than the original Exon-Florio signed by President Reagan, as Exon-Florio was designed to apply mainly to defense-based technological acquisitions.223 The main difference between this definition of national security and the original Exon-Florio legislation is that this definition would codify national security to explicitly prevent protectionist use of the CFIUS for political ends. Any consideration of economic security or protection of energy assets from foreign acquisition would be excluded from this definition, as inclusion of such economic factors can only encourage protectionism and politicization of the CFIUS process.224

#### Doesn’t solve- burden of proof is on the company

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

On July 26, 2007, President Bush signed FINSA into law.120 The new legislation modified Exon-Florio in several aspects, most notably by broadening the definition of national security to encompass “homeland security,” and also by including critical infrastructure, energy assets, and critical technologies under the umbrella of FINSA.121 FINSA added the Secretary of Energy as a voting member of the CFIUS122 and made investigations mandatory when either an acquisition is made by an entity controlled by a foreign government or the transaction could result in the control of any critical infrastructure, including major energy assets, by a foreign business.123 This requirement is excepted if the Secretary of the Treasury and the head of the lead agency jointly determine that the transaction will not impair national security.124 Thus, the burden of proof to show that a controlling acquisition of “critical infrastructure” does not threaten national security has arguably shifted from the government to the companies.125 FINSA does define critical infrastructure as “assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on national security.”126 But this definition still allows uncertainty, as the federal government has promulgated multiple evolving and expanding definitions of what constitutes critical infrastructure,127 which could encompass more than a quarter of the national economy.128 The Treasury regulations implementing FINSA do not attempt to define or limit the scope of critical infrastructure.129 Such a broad grab of power for the CFIUS by Congress represents a major intervention into the economy with potentially negative consequences for foreign direct investment.130 FINSA also includes a requirement that the CFIUS file a report with Congress at the completion of any 30-day review or 45-day investigation,131 which increases transparency and the likelihood of congressional involvement.

#### Anything can be considered a military threat

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

Senator Charles Schumer’s call to investigate the Borse Company’s purchase of a 20% interest in Nasdaq demonstrates the broad nature of the FINSA review.134 Although the Borse Company is a holding company owned by the Emir of Dubai,135 at first glance, there appears to be no conceivable relation between a Nasdaq purchase and national security. Critics of the Unocal deal claimed that the United States military uses oil,136 and critics of the Dubai Ports acquisition claimed that terrorists could infiltrate United States ports through the U.A.E. company.137 Schumer does not seem to have proof of any plausible threat of terrorism due to the purchase, and Nasdaq has no apparent relationship to the defense industrial base. The only conceivable portion of Exon-Florio that a partial Nasdaq acquisition could fall under is the critical infrastructure provision added in FINSA. Of course, if an electronic stock trading company can constitute critical infrastructure, then nearly any portion of the U.S. economy could qualify as such, and by extension, the vast majority of foreign direct investment within the United States would be potentially vulnerable to similar scrutiny.

#### ---Conditionality is illegitimate and a voting issue. Time constraints and the no risk nature of conditionality undermine 2AC strategy. Independently, conditionality undermines the value of debate by causing superficial exploration of competing policy options.

#### the counterplan doenst limit congresses ability to be involved in transactions- means the CP doesn’t solve politicization

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

FINSA mandates that the CFIUS conduct a 45-day investigation any time the foreign investor is controlled by, or acting on behalf of, a foreign government, unless the Secretary of the Treasury and the head of the relevant agency both agree that there is no threat to national security and waive the investigation.183 This provision shifts the burden of proof away from the U.S. government and to the foreign state-owned business in these transactions.184 To foreign governments, however, FINSA may appear to discourage investment because of political enmity.185 As such, continual politicized investigations of foreign direct investment in American infrastructure may alienate our allies and isolate America even further.186

#### The counterplan results in CFIUS overstretch -

Cyber security is a priority for CFIUS investigations---Caseload currently light but could change if M&A activity increases.

Skadden LLP ’11

Skadden's 2011 Insights"Global M&A"

<http://www.skadden.com/insights/global-ma>

Trends in the CFIUS Review Process

2010 was the second full year under the regulations the Treasury Department adopted to implement the Foreign Investment and National Security Act of 2007 (FINSA). CFIUS’ caseload remained light for much of the year, reflecting the relatively low levels of global M&A activity, but then increased substantially in the fourth quarter. While the number of cross-border transactions subject to CFIUS review in 2010 was still lower than the peak year of 2008, the number of filings in 2010 exceeded 2009 by a considerable margin. Trends in the CFIUS review process included: The number of transactions that went to investigation continued to increase. The CFIUS process consists of a mandatory 30-day review and a discretionary 45-day investigation period, which CFIUS can impose if, in its discretion, it determines that the transaction may “impair national security,” for instance because the transaction would result in “foreign government control” or in foreign control of “critical infrastructure.” We expect this trend to continue in 2011. Fewer transactions were subject to mitigation agreements. In the past, CFIUS has entered into mitigation agreements with parties to transactions to address national security concerns identified during the review process. The number of such agreements declined in 2010, a development largely attributable to FINSA’s requirement that mitigation agreements must be approved unanimously by all CFIUS member agencies. Because those agreements often reflect the concerns of one particular CFIUS member agency but not others, the unanimity requirement has had a pronounced effect and likely will continue to do so in the future. Industrial supply chain and defense industrial base concerns have crept into CFIUS review. The Department of Defense, as a CFIUS member agency, has increasingly pushed assessments of a transaction’s effect on the industrial supply chain and on the defense industrial base during CFIUS review. This reflects a growing concern on DOD’s part that it maintain trusted suppliers for telecommunications and other critical technologies and equipment used in DOD activities. Cybersecurity issues are increasingly important. Fears of cyber-espionage, the vulnerability of companies with sensitive information to cyberattack, and concerns that reliance on foreign telecommunications providers may expose U.S. government agencies and companies to risks all play a growing role in the CFIUS review process. These issues are especially acute in transactions involving the telecommunications sector, but FINSA now requires all U.S. companies involved in transactions subject to CFIUS review to provide their cybersecurity plans. Although CFIUS blocked two transactions (Firstgold and Emcore) involving Chinese acquirers, those transactions reflected broader concerns beyond the nationality of the foreign acquirer. Indeed, CFIUS approved a number of transactions involving Chinese acquirers, including Meadville Holdings Limited’s sale of its printed circuit board business to TTM Technologies. The Firstgold and Emcore transactions were distinguished instead by two key issues: Co-location of classified facilities. Emcore’s facilities reportedly were in close proximity to classified U.S. government facilities, which likely heightened CFIUS’ perception that foreign ownership of Emcore would pose a risk to U.S. national security. Similarly, Firstgold’s Nevada mine leases were on federal government property, and all four of its facilities were in close proximity to military installations and/or classified U.S. government facilities, limiting mitigation options. Access to export-controlled technologies and/or resources with military applications. Emcore’s fiber optics business also produced and/or used a number of export-controlled technologies with significant military applications, raising additional concerns about whether the proposed investment would give a foreign company access to such technologies. Likewise, CFIUS expressed concerns as to whether Firstgold’s mining operations might give China greater access to tungsten, a key component in missiles that is subject to U.S. export control restrictions. In 2010, the United States and other countries became increasingly active in their scrutiny of foreign investments in companies deemed strategically essential to national security. It remains to be seen whether this trend will remain limited to businesses involved in telecommunications, critical technologies and access to raw materials, or whether it will broaden to encompass a wider range of industries in 2011.

#### Lack of clarity in the definition of national security encourages companies on the margin to file with CFIUS. This overstretches limited agency resources.

Marchick 07 (David, partner at Covington & Burling, where he advises

companies on the CFIUS process, “Swinging the Pendulum too Far: An Analysis of the CFIUS Process Post-Dubai Ports World,” Jan, http://www.nfap.net/researchactivities/studies/NFAPPolicyBriefCFIUS0107.pdf)

In the wake of the Dubai Ports World controversy, the process for securing approvals within CFIUS (the interagency Committee for Foreign Investment in the United States) has grown more difficult for foreign investors, adding to uncertainty and increasing the regulatory risk associated with certain foreign acquisitions. Such uncertainty could inhibit investment in the United States. Reviews are taking longer, costs for companies have increased and CFIUS-imposed conditions are tougher. The more politicized environment surrounding CFIUS has created uncertainty for companies as to whether they should file a transaction with CFIUS. If a company does not file, then it risks CFIUS initiating its own review or opening a review after a deal has been finalized. Given CFIUS’s limited resources, a climate that encourages companies to file with CFIUS for transactions with only a limited nexus to national security actually impedes CFIUS's ability to protect national security by compelling CFIUS staff to focus on acquisitions with few genuine security concerns rather than cases that may require greater due diligence. While CFIUS's primary responsibility is to protect national security, a process which creates greater uncertainty for investments unrelated to national security is unlikely to make America more secure. U.S. national security depends in part on the strength of the U.S. economy, access to leading technologies and our relations with other countries. Therefore, Congress and the executive branch need to find the right balance to meet the twin objectives of protecting national security and promoting investment in the United States.

#### Telecom vulnerable- key to economic and national security

Rogers-Chair Committee on Intelligence-10/8/12

Investigative Report on the U.S. National Security Issues Posed by Chinese Telecommunications Companies Huawei and ZTE

http://intelligence.house.gov/sites/intelligence.house.gov/files/documents/Huawei-ZTE%20Investigative%20Report%20(FINAL).pdf

The United States’ critical infrastructure, and in particular its telecommunications networks, depend on trust and reliability. Telecommunications networks are vulnerable to malicious and evolving intrusions or disruptive activities. A sufficient level of trust, therefore, with both the provider of the equipment and those performing managed services must exist at all times. A company providing such equipment, and particularly any company having access to or detailed knowledge of the infrastructures’ architectural blueprints, must be trusted to comply with United States laws, policies, and standards. If it cannot be trusted, then the United States and others should question whether the company should operate within the networks of our critical infrastructure. The risk posed to U.S. national-security and economic interests by cyber-threats is an undeniable priority. First, the country’s reliance on telecommunications infrastructure includes more than consumers’ use of computer systems. Rather, multiple critical infrastructure systems depend on information transmission through telecommunications systems. These modern critical infrastructures include electric power grids; banking and finance systems; natural gas, oil, and water systems; and rail and shipping channels; each of which depend on computerized control systems. Further, system interdependencies among these critical infrastructures greatly increase the risk that failure in one system will cause failures or disruptions in multiple critical infrastructure systems. 4 Therefore, a disruption in telecommunication networks can have devastating effects on all aspects of modern American living, causing shortages and stoppages that ripple throughout society. Second, the security vulnerabilities that come along with this dependence are quite broad, and range from insider threats 5 to cyber espionage and attacks from sophisticated nation states. In fact, there is a growing recognition of vulnerabilities resulting from foreign-sourced telecommunications supply chains used for U.S. national security applications. The FBI, for example, has assessed with high confidence that threats to the supply chain from both nation-states and criminal elements constitute a high cyber threat. 6 Similarly, the National Counterintelligence Executive assessed that 2 “foreign attempts to collect U.S. technological and economic information will continue at a high level and will represent a growing and persistent threat to US economic security.” 7 Third, the U.S. government must pay particular attention to products produced by companies with ties to regimes that present the highest and most advanced espionage threats to the U.S., such as China. Recent cyber-attacks often emanate from China, and even though precise attribution is a perennial challenge, the volume, scale, and sophistication often indicate state involvement. As the U.S.-China Commission explained in its unclassified report on China’s capabilities to conduct cyber warfare and computer network exploitation (CNE), actors in China seeking sensitive economic and national security information through malicious cyber operations often face little chance of being detected by their targets. 8 Finally, complicating this problem is the fact that Chinese telecommunications firms, such as Huawei and ZTE, are rapidly becoming dominant global players in the telecommunications market. In another industry, this development might not be particularly concerning. When those companies seek to control the market for sensitive equipment and infrastructure that could be used for spying and other malicious purposes, the lack of market diversity becomes a national concern for the United States and other countries. 9 Of note, the United States is not the only country focusing on these concerns. Australia expressed similar concerns when it chose to ban Huawei from its national broadband infrastructure project. 10 Great Britain has attempted to address the concerns by instituting an evaluation regime that limits Huawei’s access to the infrastructure and evaluates any Huawei equipment and software before they enter the infrastructure. 11

#### Telecom vulnerability kills Air Power

Spade 12

INFORMATION AS POWER-CHINA’S CYBER POWER AND AMERICA’S NATIONAL SECURITY, Colonel Jayson M. Spade-Executive Agent for the Mongraph: United States Army War College, May 2012, http://www.carlisle.army.mil/dime/documents/China's%20Cyber%20Power%20and%20America's%20National%20Security%20Web%20Version.pdf

Cyber power is the ability of a nation-state to establish control and exert influence within and through cyberspace, in support of and in conjunction with the other domain-elements of national power. Attaining cyber power rests on the state’s ability to develop the resources to operate in cyberspace. Cyber power as a nation-state capability is no different than land, sea, air, or space power. Instead of tanks, ships, and airplanes, the state needs networked computers, telecommunication infrastructure, programs and software, and people with the requisite skills. As with the land, sea, air, and space domains, the state can produce effects within cyberspace or into another domain through cyberspace.35 A cyber attack could corrupt an adversary’s logistics database, degrading the adversary’s rapid deployment capabilities; bring down an air defense network, enabling an air attack; or jam the signals of a global positioning satellite, interfering with a warship’s ability to navigate or target its weapons systems.

#### Global WMD conflict

Tellis 98 (Ashley, Senior Political Scientist – RAND, Sources of Conflict in the 21st Century, http://www.rand.org/publications/MR/MR897/MR897.chap3.pdf)

This subsection attempts to synthesize some of the key operational implications distilled from the analyses relating to the rise of Asia and the potential for conflict in each of its constituent regions. The first key implication derived from the analysis of trends in Asia suggests that American air and space power will continue to remain critical for conventional and unconventional deterrence in Asia. This argument is justified by the fact that several subregions of the continent still harbor the potential for full-scale conventional war. This potential is most conspicuous on the Korean peninsula and, to a lesser degree, in South Asia, the Persian Gulf, and the South China Sea. In some of these areas, such as Korea and the Persian Gulf, the United States has clear treaty obligations and, therefore, has preplanned the use of air power should contingencies arise. U.S. Air Force assets could also be called upon for operations in some of these other areas. In almost all these cases, U.S. air power would be at the forefront of an American politico-military response because (a) of the vast distances on the Asian continent; (b) the diverse range of operational platforms available to the U.S. Air Force, a capability unmatched by any other country or service; (c) the possible unavailability of naval assets in close proximity, particularly in the context of surprise contingencies; and (d) the heavy payload that can be carried by U.S. Air Force platforms. These platforms can exploit speed, reach, and high operating tempos to sustain continual operations until the political objectives are secured. The entire range of warfighting capability—fighters, bombers, electronic warfare (EW), suppression of enemy air defense (SEAD), combat support platforms such as AWACS and J-STARS, and tankers—are relevant in the Asia-Pacific region, because many of the regional contingencies will involve armed operations against large, fairly modern, conventional forces, most of which are built around large land armies, as is the case in Korea, China-Taiwan, India-Pakistan, and the Persian Gulf. In addition to conventional combat, the demands of unconventional deterrence will increasingly confront the U.S. Air Force in Asia. The Korean peninsula, China, and the Indian subcontinent are already arenas of WMD proliferation. While emergent nuclear capabilities continue to receive the most public attention, chemical and biological warfare threats will progressively become future problems. The delivery systems in the region are increasing in range and diversity. China already targets the continental United States with ballistic missiles. North Korea can threaten northeast Asia with existing Scud-class theater ballistic missiles. India will acquire the capability to produce ICBM-class delivery vehicles, and both China and India will acquire long-range cruise missiles during the time frames examined in this report.

#### And, economic decline causes great power war.

Royal 2010 Jedediah, Director of Cooperative Threat Reduction at the U.S. Department of Defense, “Economic Integration, Economic Signaling and the Problem of Economic Crises,” in Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, pg. 213-215

Less intuitive is how periods of economic decline may increase the likelihood of extern conflict. Political science literature has contributed a moderate degree of attention to the impact of economic decline and the security and defense behavior of interdependent states. Research in this vein has been considered at systemic, dyadic and national levels. Several notable contributions follow. First, on the systemic level, Pollins (2008) advances Modelski and Thompson’s (1996) work on leadership cycle theory, finding that rhythms in the global economy are associated with the rise and fall of a pre-eminent power and the often bloody transition from one pre-eminent leader to the next. As such, exogenous shocks such as economic crisis could usher in a redistribution of relative power (see also Gilpin, 1981) that leads to uncertainty about power balances, increasing the risk of miscalculation (Fearon, 1995). Alternatively, even a relatively certain redistribution of power could lead to a permissive environment for conflict as a rising power may seek to challenge a declining power (Werner, 1999). Seperately, Pollins (1996) also shows that global economic cycles combined with parallel leadership cycles impact the likelihood of conflict among major, medium and small powers, although he suggests that the causes and connections between global economic conditions and security conditions remain unknown. Second, on a dyadic level, Copeland’s (1996, 2000) theory of trade expectations suggests that ‘future expectation of trade’ is a significant variable in understanding economic conditions and security behavious of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations, However, if the expectations of future trade decline, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases, as states will be inclined to use force to gain access to those resources. Crisis could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states. Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write, The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favor. Moreover, the presence of a recession tends to amplify the extent to which international and external conflict self-reinforce each other. (Blomberg & Hess, 2002. P. 89) Economic decline has been linked with an increase in the likelihood of terrorism (Blomberg, Hess, & Weerapana, 2004), which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. ‘Diversionary theory’ suggests that, when facing unpopularity arising from economic decline, sitting governments have increase incentives to fabricate external military conflicts to create a ‘rally around the flag’ effect. Wang (1996), DeRouen (1995), and Blomberg, Hess, and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997), Miller (1999), and Kisangani and Pickering (2009) suggest that the tendency towards diversionary tactics are greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak Presidential popularity, are statistically linked to an increase in the use of force. In summary, recent economic scholarship positively correlated economic integration with an increase in the frequency of economic crises, whereas political science scholarship links economic decline with external conflict at systemic, dyadic and national levels. This implied connection between integration, crisis and armed conflict has not featured prominently in the economic-security debate and deserves more attention.

#### the counterplan is worse- distracts attention.

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

Limiting the Exon-Florio definition of national security only to military threats may seem odd and reactionary in the post-9/11 world, where unconventional threats abound. However, counter-terrorism requires appropriate tools, and regulating foreign direct investment simply falls short of being a cost-effective method of ensuring homeland security.233 Focusing on the nationality of a company’s ownership in a globalized world only distracts us from real security threats posed by non-state actors.234 Many terrorist threats do not exist as a result of primary support from any nation, but rather as tactics in service of an ideology.235 As José Padilla, John Walker Lindh, and many others have illustrated, no one ethnic group has a monopoly on Al-Qaeda membership or support. Instead of penalizing investments from various Arab states simply because terrorists draw support from that region, homeland security policy should focus on thwarting the terrorists themselves. The CFIUS must return to a focus on state military capabilities because the terrorist threats are from non-state actors, and restricting economic investment from certain nations does not, per se, deal with the threat of terrorism. Just because terrorism is a serious threat does not mean that the CFIUS is the best tool to protect critical infrastructure.

### A2 Pan --- 2ac Frontlines

#### ---The affirmative is a strait turn --- Our advantage scenario occurs precisely because of irrational threat construction in congress that disrupts the CFIUS process. Means either

#### (A.) These arguments prove our china advantage claims which should now be assessed as 100% true.

#### ---or---

#### (B.) Any offense or turns the case scenario they could generate links to itself since it requires the same process of knowledge construction as the aff.

#### ---Prioritizing discourse eliminates the material factors that allow distinctions between different representations of China; reifying conservative cultural essentialism under the guise of poststructuralism.

Vukovich 2010

Daniel, teaches postcolonial, PRC, literary, and theoretical studies at Hong Kong University, in the School of Humanities, China in Theory: The Orientalist Production of Knowledge in the Global Economy, Cultural Critique 76, Fall

I will return below to questions of economism and intellectual labor, and why such uses of China take the abstract form that they do. But to further my case for the orientalist use of China in theory, I want to turn to the generic poststructuralism in texts that examine the question of how China has been written in foreign and native literature alike. Here the new turn is called “Sinography”: “the study not simply of how China is written about, but the ways in which that writing constitutes itself simultaneously as a form of writing and a form of Chineseness” (Hayot, 87).10 But whereas Derrida targeted Western logocentrism, “Sinography” is focused on the process of graphesis or writing as such, and is in fact aimed against critique of the West and the marking of misrepresentation. It eschews evaluation, judgment, and criticism on the basis of what counts as the truth. That type of work—the work of the negative—in Eric Hayot’s view can only be “moralistic,” “debunking,” and can only falsely grant to China or the West “an ontological stability” that neither has (xiv, 180–81). Like Haun Saussy he is at pains to announce that the West has no such stability and is just as constructed and changing at different moments and in different texts as is China (Hayot, xii–xiii, 180–81; Saussy, 853–54, 885 n.14). While valid at a formal level of the signiWer, this claim misses the point of Marxist-inspired work on globalization: the world remains structured neocolonially by a core/periphery division centered on the West and First World, which exercises economic and political, if not cultural hegemony over “the Rest.” Indeed, Saussy will claim that the phrase “the West and the Rest” is “mythology” (182). What ex plains this perspective, aside from the substitution of ethics for politics à la Agamben, is a strident poststructuralism that presents itself as more “complex” and ethically sensitive than postcolonial or other critiques. It is as if facts, beliefs, or identities, accessible only through language, do not acquire material force and have real effects in the world; as if all constructions of China are the same. Thus, despite the caveat that Sinography will proceed “without abandoning the question of reference altogether,” it indeed abandons this, save for a few potshots at Maoist or “nationalist” intellectuals and the party-state (“the shadow of realpolitikal China”) (Hayot, 182). (Such shots further indicate that the eschewal of reference allows Sinography and other poststructuralist “new” readings of China to conceal their essentially cold war political dimensions.) All forms of knowledge—of writing China—are generally equivalent, as they are all “graphesis” (Hayot, 185). Here, China ceases to exist outside of constructions, dreams, or writings of “China.” For a theoretical turn that aims to be more sophisticated than Saidian critique, we are left with a China—and Sino–West encounter—that is an abstract thought ex periment. This is preordained in the original transformation of the topic of Western understandings of China into an act of generic crosscultural reading. The problem arises in part with Hayot’s positioning of China as only a space in Eurasia with a “more or less continuous history of being conceived as a political identity”; from this standpoint, the study of representations of China can only be an exercise in “intellectual history and cross-cultural reading” in general (Hayot, ix, my emphasis). As is often the case with strict “social constructionist” modes of criticism, the only reality is that of perception and form. My point here is not just that there is a difference between such constructions of reality and reality itself. That, as Roy Bhaskar reminds us is the epistemic fallacy: mistaking our knowledge of reality for the “thing,” reality, itself (111–12, 397). It is also that “Sinography” cannot help us discern what is being constructed. It cannot answer or even pose questions like, Why is one “graphing” of China more or less valuable than another? Why do Sinography other than to show that representations of China and Chineseness are “written”? There is here no dialectic, process, or relay between an actual event and our textualized knowledge of it. In the end we are presented with a closed system of discourse that like orientalism itself is only self-referential: “Whatever distinction exists between the West and ‘China.’ . . . nonetheless reveals itself . . . to be caught up in the ephemerality of self-recognition” (Hayot, 188). This echoes Saussy’s claim against critique and for theory as self-referential therapy: “Have we been missing something all these centuries, so that we take a work of critique to be the archetypal project of logical construction? Or is the difference (between philosophy as foundation and philosophy as therapy) merely illusory?” (189–90). There is indeed a long view of History here, resulting in a condition that can no longer say what China or “China” refer to, beyond a certain set of signifiers that refer back only to the text in question. This is indeed a postmodernism—a triumphalistic textuality reminiscent of the Modern Language Association of the late 1980s—writ large. The positional superiority of the Sinographer is as strong here as in Agamben and the rest. It is assumed that this “graphing” framework Wts China seamlessly, and virtually all writings of China at any point in time. Thus, Saussy can reach back to Mateo Ricci, the sixteenth century Italian missionary as easily as to journalist Edgar Snow (1905– 72), alleged Chinese nationalists, or Derrida, because he is unimpeded by contextualization. Note that this type of analysis departs from Said’s own sweeping history. Orientalism mapped changes within a discursive structure and rooted these within a larger history of contact and colonialism. The postmodern template of Sinography is also notable for its non-engagement with the large body of literature from China on postmodernism (as theory and as epoch) and its relationship to the mainland, a subject of intense debate since the late 1980s (for an overview, see Dirlik and Zhang, and Liu and Tang).11We can thus say of these texts directed against postcolonialism and for misrepresentation what Brennan has said of Rey Chow’s deconstruction of the “myth of origins” and “Chineseness”: that they do not deconstruct reference so much as “efface” it; and having done this, “there is no outer tribunal to compare China against the West’s ‘translation’ of it” (Brennan, 54). This is not to appeal to an unmediated reality but to a mediated one, to the context and constitutive outside of interpretation and cultural translation. In the case of China this must be informed by the antagonisms and epistemological challenges—such as orientalism— that have subtended the China–West relationship for, say, a good three hundred years. Without such ground not just critique but understanding is impossible. This tribunal will inevitably have to substantially address and not dismiss the complex matters of misrepresentation and judgment.

#### ---No Impact --- Predictions about China are self-correcting and essential for good policymaking.

Gilley 2005

Bruce, Ph.D. candidate in politics at Princeton University, March, The Whitehead Journal of Diplomacy and International Relations, http://www.ciaonet.org/olj/shjdir/v6n1/shjdir\_v6n1e.pdf

Prediction of regime changes, then, has been accurate in some cases and inaccurate in others. Like all inferences made in the social sciences, some have been right and some have been wrong. But in all cases, scholars who choose to predict have been forced to line up what they believe are the factors relevant to regime change and then inferred a prediction. Many have been wrong. But in doing so, they have concentrated minds, allowing policy-makers to be open to the potential sources and direction of change. What sets such efforts apart is not that they predicted correctly, but that they predicted at all. Those who have “eschewed prognostication” have implicitly endorsed some form of continuation of business as usual, or else have been so overwhelmed by a sea of data to have been hamstrung in making any inferences at all, descriptive, causal, or predictive. The costs of inaccurate prediction are to be ready for the wrong changes. The costs of a failure to predict are to be not ready for change at all. At least in the former case, there is a possibility of accurate prediction and preparedness for the right changes. Even where one is prepared for the wrong outcome—a liberal democracy rather than a form of electoral authoritarianism as in Putin’s Russia, for example—many of the same policies will be applicable, support for the rule of law and media, for example. In the latter case, policymakers are doomed from the start.

#### ---Turn Iconophobia --- Avoiding representations of china is just as imperialist as overdoing it and suppresses political change in the name of political correctness.

Chow 2004

Rey, Professor of the Humanities at Brown, Poetics Today, Vol. 25, No. 4, p. 677-78

In a similar vein, we may argue that Edward Said's Orientalism (1978), with its magisterial critique of Western imperialist representations of various colonized cultures of the past few centuries, belongs also in an iconophobic register. In this case, the West itself, with its culture producers, artists, intellectuals, novelists, and historians as well as politicians, is put in the position of a morally decrepit mythologizer and image maker whose constructs have led to the subordination and dehumanization of other peoples and their traditions. Although Said does not exactly focus on visual images, his work has given rise to a significant subfield of anti-imperialist studies of ideologically loaded visual artifacts, including art, film, photography, museum exhibits, architecture, urban geography, and other suspects. In their semiotic-Marxist, feminist, and postcolonial modes, what these theorists and **critics have** collectively **mobilized** is **a distrust of the visual image and**visual **representation**. Against the image as such, **they have popularized a kind of permanent wakefulness** —**as if one could combat the lure of the visual by not closing one's (critical) eyes and as if,** simply **by remaining watchful, (critical) sight itself could exorcize and ward off the charms of illusion**. Here, despite their considerable differences, the more politically self-conscious practices of theory (as in the three examples I just mentioned) unexpectedly join forces with the ''amoral'' and ''ahistorical'' inward-looking practices of deconstruction: the ethics of all these theoretical practices converges on a concerted negation, if not repudiation, of visuality. **In its attempts to confront what meets the (physical) eye** (in its erroneousness) **with** another kind of eye— **the** insomniac, undreaming, **critical eye**, an eye that often turns inward and metaphorical—**this ethics is condemned to oscillating, forever neurotically, between the extremes of supervision (surveillance of others) and introspection (gazing at oneself ). Nowhere is this upsurge of the iconophobia of ethics**, and the ethics of iconophobia, **articulated with more conviction than in the contemporary study of non-Western cultures**. Following the lead of Said and the many critics of Western imperialism, **some scholars, whenever they encounter ''images of '' another culture, tend** readily **to be on the qui vive about exploitation** , stereotyping, and deceit **and make it their mission to correct the falsehood** especially of visual representations. In my work on contemporary Chinese cinema, I have attempted to critique such knee-jerk antiorientalist reactions with regard to the early films of director Zhang Yimou (see Chow 1995). **What continues to concern me is that a certain predictable critical attitude tends to dominate the agenda whenever works that inhabit the East- West cultural divide are discussed. Instead of enabling the critical potential**embedded in such works **to come to light, this kind of attitude often ends up blocking and annulling that potential in the name of political rectitude.**

#### ---Err Affirmative --- Even if they’re wrong, predictions about china are critical to structural policy development and analysis which is key to solve problems like the advantage scenario.

Gilley 2005

Bruce, Ph.D. candidate in politics at Princeton University, March, The Whitehead Journal of Diplomacy and International Relations, http://www.ciaonet.org/olj/shjdir/v6n1/shjdir\_v6n1e.pdf

In the sections to follow I will critique this appeal to “eschew prognostication” as both logically flawed and professionally irresponsible. Predictions about China’s political future are not only logically implicit in most of the studies of the “complicated present” of China, but also a fulfillment of the mission of social scientists. Without them, we find ourselves in a muddle of thought and a muddle of policy. Second, I will argue that in the case of China, a prediction of an elite-led and fairly rapid transition to an electoral democracy is the most reasonable forecast. Nonetheless, and to complete the point, this prediction not only leaves open many important questions about the nature of democratic transition and consolidation in China, but will remain useful even if wrong. By orienting scholars and policy-makers towards the critical issues of the future, prediction serves to concentrate[s] minds admirably. The gravest danger is no prediction at all.

### A2 Energy Politicization --- 2ac Frontlines

#### ---Link describes the status quo

#### (A.) Absent the plan, the cifus review process will be dominated by racist congressional debate and china bashing --- The 1ac advantage scenarios are occurring BECAUSE congress is overly concerned with the preservation of national security.

#### (B.) Takes out alt solvency & means Xenophobes coopt the alternative.

The Economist 2006

America's ports and Dubai; Trouble on the waterfront, http://www.economist.com/node/5551176

XENOPHOBIA seems to be creeping into American politics. Last year, Congress saw off the yellow peril from China, whose CNOOC oil company dared to bid for America's Unocal (though most of Unocal's oil and gas reserves happened to be outside America). Now it is the Arabs—for which read terrorists—who are threatening to imperil America's national security by taking over some of its ports. On February 13th, DP World, a ports operator owned by the government of Dubai, a small but economically ambitious member of the United Arab Emirates, paid $6.8 billion to acquire P&O, a British firm which runs a global network of maritime terminals. With P&O came six American ports—Miami, Philadelphia, Baltimore, New Orleans, New Jersey and New York. Ever since the contract was signed there has been a noisy response from American politicians. Robert Ehrlich, the Republican governor of Maryland, and Jon Corzine, his Democratic peer in New Jersey, both want to stop the deal. The two most vocal protesters are Chuck Schumer, a Democratic senator for New York (and famed China-basher), and Pete King, the Republican chairman of the House Homeland Security Committee (and friend of Gerry Adams, the leader of Sinn Fein). They say they will shortly propose emergency legislation to block the deal before completion, which is due on March 2nd. Presidential hopefuls have also rushed to sound the alarm. Hillary Clinton, New York's other senator, will introduce legislation prohibiting the sale of port operations to foreign governments. On the Republican side, George Pataki, New York's ambitious governor (who is retiring), is considering cancelling the lease which the New York-New Jersey Port Authority has granted to the port operators. And the Senate majority leader, Bill Frist, has asked the president to take a second look. To his credit, George Bush has risen above such populism, reasserting his free-trade principles by promising to veto any legislation that tries to block the takeover. Mr Bush's problem is that, with the exception of Jimmy Carter and John McCain, no prominent politician seems inclined to speak out on his side. With mid-term elections looming in November, Congress may well find enough votes to override the presidential veto. As with CNOOC, politicians are claiming that this is less about protectionism than about the purchase of American assets by firms that are, in effect, arms of a foreign government. Continental Stevedoring & Terminals, one of P&O's partners, has filed a lawsuit in Miami claiming that under the sale it will become an “involuntary partner” with Dubai's government. The dockworkers' union says it is ownership by a foreign government that scares its members most. Yet Dubai is much more obviously a friend of America than is China. And, anyway, is this really what this dispute is about? The most persistent complaint, heard also from families of victims of the September 11th attacks (some of the terrorists had links to the United Arab Emirates), is that it will imperil America's national security. Critics protest that the deal has not been adequately vetted. The Committee on Foreign Investment in the United States (CFIUS), which includes representatives from the Departments of Defence, State, Treasury, Commerce and, most important, Homeland Security, approved the takeover in the minimum 30-day period. Critics say it must have been superficial, and they are furious that the deliberations behind the decision are classified. Inevitably, too, there is a business connection to the Bush administration. The sort of people who claim that the White House is a subsidiary of Enron and/or Halliburton have spotted a link between DP World and John Snow, the treasury secretary, whose agency heads the federal panel that signed off on the sales. Mr Snow used to run CSX, a railroad company that, after he had left, sold its port operations to the Dubai firm for $1.15 billion in 2004. Underneath all the posturing is one legitimate worry: ports are one of America's weak spots when it comes to national security. Only 5% of the containers that bring 2 billion tonnes of freight to the ports each year are inspected on arrival. That is up from 2% before September 11th 2001, but is still worryingly low. Weapons of mass destruction could be smuggled in and, if the ports themselves were targets, closures or even interruptions would disrupt the global supply chain, says William Daly of Control Risks, a consultancy. This would mean potentially huge consequences for the American and world economies. But will letting DP World operate there really make a material difference to that risk? Nobody denies that Dubai, though pro-western, is a notoriously porous place, with blind eyes reputedly turned to shipments of drugs and arms. A.Q. Khan's Pakistani nuclear-smuggling network, for instance, was hidden behind a Dubai front. But that does not mean DP World is unfit. It is a globally respected firm with an American chief operating officer, Ted Bilkey, and an American-educated chairman. When Mr Bush nominated an American manager from DP World to a ports post in the Department of Transport last month, nobody objected (though they are complaining now). The company will not own the American ports and it has no incentive to run them badly. Just as under P&O, American coast guards, customs and immigration people will remain fully responsible for security. The United Arab Emirates is a member of America's Container Security Initiative, which allows American customs officials to inspect cargo in foreign ports before it leaves for America. The employees will continue to be unionised (and presumably patriotic) American citizens. Any Arab employees whom DP World ships in will be subject to American visa approval, no easy matter nowadays. Alas, America's politicians seem to be in no mood to discuss this issue rationally. So much easier, and more popular, to base policy on the prejudice that every Arab is a potential terrorist.

#### (C.) Only immediate government action solves --- State management is the only buffer between ethnic minorities and a racist civil society.

Myers 2003

Tony, former lecturer at the University of Stirling. He is the author of Upgrade Your English Essay (Arnold, 2002) and numerous articles on postmodernism, psychoanalysis and politics, Slavoj Zizek, pg 107-108

Of course, as fantasies cannot ultimately coexist peacefully, particularly when they are ethnic fantasies, this ethic can only ever be an intermediate solution. For the present, Zizek has a more practical solution to the problem of racism, one which draws on his own experience in Slovenia. Surprisingly for a revolutionary, Zizek argues that we should support the state in opposition to civil society. By 'state' Zizek here means to refer to the institutions of government, whereas 'civil society' designates, in its wildest sense, the people of a nation or non-governmental groups. While Zizek might aspire to a nation based purely on the consensual will of civil society, he contends that, in the light of the currently existing racist fantasies of much of civil society, this is just not possible. If he finds this in Slovenia, where he argues that civil society is basically right-wing, Zizek also sees it, for example, in the United States: In America, after the Oklahoma bombing, they suddenly discovered that there are hundreds of thousands of jerks. Civil society is not this nice, social movement, but a network of moral majority conservatives and nationalist pressure groups, against abortion, for religious education in schools. A real pressure from below. (Lovink 1995) For Zizek is the state that should act as a buffer between the fantasies of different groups, mitigating the worst effects of thoses fantasies. If civil society were allowed to rule unrestrained, much of the world would succumb to racist violence. It is only the forces of the state which keep it in check. In the long term, Zizek argues that in order to avoid a clash of fantasies we have to learn to "traverse the fantasy" (what lacan terms "traversing the fantôme). It means that we have to acknowledge that fantasy merely functions to screen the abyss or inconsistency in the Other. In "traversing" or "going through" the fantasy "all we have to do is experience how there is nothing 'behind' it, and how fantasy masks precisely this 'nothing'". (The Sublime Object of Ideology) The subject of racism, be it a Jew, a Muslim, a Latino, an African-American, gay or lesbian, Chinese, is a fantasy figure, someone who embodies the void of the Other.

#### ---K can’t turn case --- Policy debates over energy regulation re-politicize the structure allowing it to self correct for technocratic mismanagement.

Rahman 2011

K. Sabeel, A.B., Harvard College, 2005; M.Sc., Economics for Development, Oxford University, 2006; M.St., Sociolegal Studies, Oxford University, 2007; J.D. Candidate, Harvard Law School, Class of 2012; Ph.D. Candidate, Government, Harvard University, ENVISIONING THE REGULATORY STATE: TECHNOCRACY, DEMOCRACY, AND INSTITUTIONAL EXPERIMENTATION IN THE 2010 FINANCIAL REFORM AND OIL SPILL STATUTES, http://www.harvardjol.com/wp-content/uploads/2011/07/Rahman\_Note.pdf

These weaknesses of the technocratic model create a fundamental challenge for the modern regulatory state. One response to this challenge might be to abandon the project of regulatory public policy altogether. This is the familiar response from laissez-faire ideologies and anti-government conservatism. Yet the social goals that regulation aims to advance remain vital, even if the technocratic model itself proves problematic. As a society, we still need some form of accountability for the actions of powerful private entities like oil and financial corporations. We also require systems to protect against broad social risks like financial crisis and ecological disaster. In short, we require a form of collective self-rule against crises and social evils. Rather than rejecting the goal of mitigating these challenges, the weaknesses of technocratic regulation drive us towards the need to develop an alternative democratic paradigm of regulation. Indeed, these weaknesses of the technocratic impulse—disparities in interest representation, obfuscation of normative debates, demobilization of engagement—share three key features that suggest the need for and viability of a more democratic framework for regulatory politics. First, each of these weaknesses can be overcome through a more democratic regulatory structure. Second, this turn to democracy need not involve a rejection of expertise; rather, some form of democratic politics can coexist with a role for technical expertise. Third, each of these weaknesses arises out of an effort to rationalize regulatory policy. This rationalization effort aims to protect policymaking from the influence of politics, subsuming questions of values and interests into a more coherent process of regulatory policymaking. This good governance ideal is attractive, but the effort to sterilize policy of politics threatens deeper ideals of democracy, responsiveness, and legitimacy. Further, as critics of the modern regulatory state have noted, the involvement of politics is inescapable; regulatory agencies should be structured not to avoid politics but rather to engage with the reality of political disagreement openly. Instead of focusing on the narrow question of agency discretion and constraint with an eye towards promoting rationality of policymaking, the central question should be bringing the foci of political debate to the forefront and engaging in those debates in a democratic manner. Rather than attempting to sterilize policy of politics, this approach looks for ways to constitute a dynamic political process, one that leaves ample room for the representation and engagement of different values.

#### ---Case Outweighs---

#### ---Permutation do both --- Claim the debate-space for those excluded by the police order and <plan>.

#### ---Perm is critical to political effectiveness and solves extinction.

Hildyard Lohmann & Sexton, Their Author, 2012

Nicholas, founder and Director of The Corner House, Larry, author of the book “Carbon Trading: A Critical Conversation on Climate Change, Privatization and Power” & works at the British NGO The Corner House, Sarah, a director of The Corner House, Energy Security For What? For Whom? The Corner House, http://www.thecornerhouse.org.uk/resource/energy-security-whom-what

Critically, there is a need for public discussion and debate that correct the fatal political vagueness of the purely physical concept of “energy” and instead scrutinise societal goals in the light of global warming, resistance to expansion of fossil fuel extraction, the different characteristics, materialities and contexts of different energy sources, and so on. Questions that need to be asked include: What do different groups of people expect not from “energy policy”, but from policies that address housing, food, mobility, electricity and livelihood? What do these aspirations imply for constraints on capital accumulation and the scale and ownership of the financial sector? And what do such debates imply not for “energy policy”, but for future policies on oil, coal, gas, nuclear and agrofuels? Likewise, to correct the unhelpful prevalent emphasis on “Security”, policymakers could highlight the unsustainable, insupportable long-term implications of continued fossil-fuel (and fossil-substitute) developments, thereby opening up for discussion the question of how a transition out of the fossil age can be achieved with the least pain and conflict for everyone. To do this, they will need to call on the knowledge of a much wider field of participants than they currently do. A first step is to look for friends who can help. Thai people have an expression, chuaykan khit: to help each other think. The initial task facing anyone who comes to the issues anew is to learn how to recognise potential allies and to find ways of helping each other think and act. There is no need to look far. Hundreds of communities, social movements, activists and thinkers worldwide have been working for many decades, in one way or another, on the issue of Energy vs. “energies” and Security vs. “securities”. Campaigns against pipelines and the hydraulic fracturing of underground rock to bring out ever more supplies of gas have grown up in countries like the United States, France, Argentina and South Africa, joining longer-standing struggles against large hydroelectric dams in countries such as India, Thailand and Brazil. The actions of “fenceline communities” against power plants polluting their neighbourhoods are being carried on alongside campaigns for public transport or electricity for all.1 One group of social movements that stands out in this respect are those organising to address directly the below-ground to above-ground transfer of carbon. These include those striving to “keep the oil in the soil, the coal in the hole and the tar sand in the land” in the Niger Delta, Canadian Alberta, Ecuador, South Africa, the US Appalachia and elsewhere; stopping the development of dozens of coalfired power plants in the US, Britain, Thailand and other countries; fighting agrofuel projects whose effect would be to take acres and acres of land so as to sustain a transport infrastructure designed for crude oil; and working to stop banks and other financial institutions supporting fossil-intensive or fossilextractive projects. Increasingly, such movements are aligning themselves with movements in support of ecological and peasant agriculture, more democratic public health, welfare and energy provision, cleaner air and water, and an end to militarism, environmental racism and “neoextractivism”.3 Such groups have anchored themselves firmly to defend little-e “energies”, little-s “securities” and other constituents of life and livelihoods. It is for this reason above all that they contest the pollution that comes with fossil-fuel extraction, the brutality and violence that enables and enforces it, and the social and political disintegration that often accompanies it. Yet in doing so, they quickly become aware that they are also directly challenging Energy and Security in all their global complexity. Their actions swiftly take them into confrontation with, among others, the legal and military apparatus that has been put in place to protect Energy and weapons companies, as well as governments who demand a “substitute” or “equivalent” for the coal and oil left in the ground. Such groups have had little choice but to assume their current role of intellectual as well as political leadership on “energy security”. Their knowledge and analysis will become increasingly valuable in the years ahead to any policymaker serious about planning for energy security in a progressive way that puts the collective security and survival of all at the forefront. Therein lies both the political challenge of “energy security” and the most pragmatic starting point for practical action.

#### ---Energy is good --- Its interchangeable nature is key to resolve multiple barriers to equity and poverty alleviation.

Epstein 2009

Alex, founder and director of the Center for Industrial Progress, Energy at the Speed of Thought: The Original Alternative Energy Market, TOS Vol. 4, No. 2.

The most important and most overlooked energy issue today is the growing crisis of global energy supply. Cheap, industrial-scale energy is essential to building, transporting, and operating everything we use, from refrigerators to Internet server farms to hospitals. It is desperately needed in the undeveloped world, where 1.6 billion people lack electricity, which contributes to untold suffering and death. And it is needed in ever-greater, more-affordable quantities in the industrialized world: Energy usage and standard of living are directly correlated. Every dollar added to the cost of energy is a dollar added to the cost of life. And if something does not change soon in the energy markets, the cost of life will become a lot higher. As demand increases in the newly industrializing world, led by China and India,2 supply stagnates3—meaning rising prices as far as the eye can see.

#### ---Foreign investment restrictions apply to extraction

Clark-partner Dewey & LeBoeuf LLP-11

LIMITS ON INTERNATIONAL BUSINESS IN THE PETROLEUM SECTOR: CFIUS INVESTMENT SCREENING,

ECONOMIC SANCTIONS, ANTI-BRIBERY RULES, AND OTHER MEASURES

<http://tjogel.org/wp-content/uploads/2012/05/ware_final1.pdf>

B. Petroleum Industry Experience and Challenges: Exon-Florio Although CFIUS’s focus on energy-related transactions is a recent development, U.S. government decision-makers have long viewed oil company deal-making as having a strategic dimension. 34 Concern about the oil and gas industry was a driving factor in the original establishment of CFIUS in 1975. In the 1970s Congress had grown concerned over the rapid increase in investments by Organization of the Petroleum Exporting Countries (“OPEC”) in portfolio assets, suspecting that they may be driven by political, rather than by economic, motives. 35 In 2006 congressional outcry over a CFIUS-approved acquisition of a port management business by UAE-controlled Dubai Ports World led to a broad reformulation of Exon-Florio. The legislation, the Foreign Investment on National Security Act (“FINSA”), reflects a congressional intent to scrutinize oil and gas acquisition intensively. As indicated above, the statute urges CFIUS to consider in assessing transactions “the long-term projection of the United States requirements for sources of energy and other critical resources and material” and “the potential national security-related effects on United States critical infrastructure, including major energy assets.” 36 The legislative history “makes clear that national security encompasses national security threats to . . . energy-related infrastructure.” 37 The House of Representatives committee that prepared the legislation expressed its view that it “expects that acquisitions of U.S. energy companies or assets by foreign governments or companies controlled by foreign governments . . . will be reviewed closely for their national security impact.” 38 Transactions in the energy sector have been subject to CFIUS review at various stages of the value chain, including extraction, transportation, conversion to power, and supply to the U.S. government. 39 Over time CFIUS appears to be paying closer attention to deals involving these types of assets, creating some uncertainty for potential mergers and acquisitions in this sector.

#### ---On indicates focus of the plan

Merriam Webster Online

<http://www.merriam-webster.com/dictionary/on>

Definition of ON

9a —used as a function word to indicate destination or the focus of some action, movement, or directed effort <crept up on him> <feast your eyes on this> <working on my skiing> <made a payment on the loan>

b —used as a function word to indicate the focus of feelings, determination, or will <have pity on me> <keen on sorts> <a curse on you>

c —used as a function word to indicate the object with respect to some misfortune or disadvantageous event <the crops died on them>

d —used as a function word to indicate the subject of study, discussion, or consideration <a book on insects> <reflect on that a moment> <agree on price>

e : with respect to <go light on the salt> <short on cash>

#### ---We meet---the investment restrictions are on energy production

#### ---The plan is directly tied to oil and gas production-Capital is intrinsically tied to future increases

Houston Chronicle 1/4/12 International players jump at U.S. shale Simone Sebastian

<http://www.chron.com/business/article/International-players-jump-at-U-S-shale-2439490.php>

Energy companies are funneling billions of dollars into the booming business of U.S. shale drilling. They are investing euros, yuan and krone, too. Chinese corporation Sinopec and French company Total this week became the latest in a string of foreign firms to announce big bets on the resurgence of U.S. fossil fuel production. International energy companies are signing billion-dollar deals with U.S. firms to reap the financial benefits of their oil fields and siphon knowledge from their experience in extracting petroleum from dense shale rock to carry the skills overseas. In return, they are ponying up the funds to get more wells drilled, so the oil and natural gas bounty trapped deep below can get to market quickly. "The big motivation for (U.S.companies) wanting to find a partner is finding someone with big pockets," said Scott Hanold, energy research analyst for RBC Capital Markets. "They are just money men at the end of the day." Total signed its second shale compact with Oklahoma-based natural gas producer Chesapeake Energy last week to secure acreage in Ohio's burgeoning Utica shale. The French energy giant got 25 percent interest in a 619,000-acre joint venture with Chesapeake and Houston-based EnerVest. In exchange, it forked over $700 million cash along with a promise to fund 60 percent, or about $1.63 billion, of the group's drilling and well completion costs in the Utica. The companies plan to have 25 rigs operating by 2014. China's Sinopec International Petroleum Exploration & Production Corp. muscled its way into U.S. shale with a $2.2 billion investment in oil fields owned by Oklahoma-based energy company Devon, announced Tuesday. The Chinese corporation gains one-third interest in Devon's 1.2 million acres in the Utica shale, the Michigan Basin, the Mississippian in Oklahoma, the Tuscaloosa marine shale in Louisiana and the Niobrara in Wyoming. Sinopec will pay $900 million cash when the deal closes, expected in 2012's first quarter, and cover 70 percent of Devon's drilling costs, about $1.6 billion.

#### ---C/I-Production is a distinct stage from exploration, transportation, storage, and distribution.

Elcock 04 (Deborah, ‘Environmental Policy and Regulatory Constraints to Natural Gas Production,” Argonne National Laboratory, Dec, http://www.ipd.anl.gov/anlpubs/2004/12/51652.pdf)

In 1999, the National Petroleum Council (NPC) reported that the demand for natural gas was growing and that the resource base was adequate to meet this demand; however, certain factors needed to be addressed to realize the full potential for natural gas use in the United States (NPC 1999). In 2001, the National Energy Policy Development Group (NEPDG), established by the President to develop a plan to help the private and public sectors promote dependable,2 affordable, and environmentally sound energy for the future, presented its National Energy Policy (NEPDG 2001). The NEP recommendations included investigating several areas that could be limiting domestic natural gas production. The potential for a near-term natural gas shortage prompted a June 26, 2003, Natural Gas Summit, designed to give the Secretary of Energy and other DOE officials information on the ramifications and potential resolutions of short-term challenges to the natural gas industry. In September 2003, the NPC released an update to its 1999 study (NPC 2003). In the update, the NPC reports that government policies encourage the use of natural gas but fail to address the need for additional natural gas supplies. The 2003 report states that a status quo approach to these conflicting policies will result in undesirable impacts to consumers and the economy. A key issue raised but not fully explored in these efforts was how environmental and regulatory policy constraints, which were developed to meet national environmental protection goals, can, at the same time, limit natural gas exploration and production (E&P) and transportation. Recent studies have examined limitations to accessing natural gas, particularly in the Rocky Mountain region, but even after the gas is accessed, numerous additional environmental policy and regulatory constraints can affect production and delivery to consumers. The purpose of this Phase I study is to identify specific existing and potential environmental policy and regulatory constraints on E&P, transportation, storage, and distribution of natural gas needed to meet projected demands. It is designed to provide DOE with information on potential constraints to increased natural gas supply and development in both the long and short terms so that the Department can develop, propose, and support policies that eliminate or reduce negative impacts of such constraints, or issues, while continuing to support the goals of environmental protection. It can also aid in setting priorities for regulatory reviews and for research and development (R&D) efforts. 1 A possible future Phase II study would identify potential short-, mid-, and long-term strategies for mitigating these environmental policy and regulatory constraints.

#### ---Our interpretation is Superior-it allows a core set of affirmatives that remove restrictions related to extraction. It excludes restrictions before or after the production stage like exploration and transportation.

#### ---their interpretation is bad- we shouldn’t have to prove we solve an increase in oil production to prove we are topical. if not solvency is a gateway issue and any aff that eventually effects production would meet.

#### ---Reasonability-Competing interpretations encourage a race to the bottom. Limits for limits sake have destroyed affirmative ground on the last several topics. You should err affirmative if our interpretation is proven debatable.

### PTX

### U

#### WONT PASS

#### ideology

Soto 1-4-12

Victoria M. DeFrancesco Soto, NBC Latino and MSNBC contributor, Senior Analyst for Latino Decisions and Fellow at the Center for Politics and Governance at the LBJ School of Public Affairs at the University of Texas http://nbclatino.com/2013/01/04/opinion-immigration-reform-will-not-be-easy-but-its-not-impossible/

Unlike in his first administration, the president seems to be on board and ready for rolling up his sleeves and getting into immigration reform, but that won’t cut it. The problem for immigration reform in 2013 is rooted in Capital Hill. The president’s support is a necessary condition for any major policy overhaul, but it is not a sufficient condition. Let’s just assume the president can arm-wrestle the Senate Democrats and a few Senate Republicans into supporting his immigration reform. Two out of three won’t cut it. The Republican-controlled House is what stands in the way of immigration reform. More specifically, the GOP’s split mindset regarding Latinos and immigration is what will likely prevent the president from crossing off immigration reform from his 2013 to-do list.

#### Fiscal debates

Spaeth 1/3 (Ryu Spaeth , Editor, *The Week*, “Will Congress' budget battles kill immigration reform and gun control?”, 1/3/13 http://theweek.com/article/index/238367/will-congress-budget-battles-kill-immigration-reform-and-gun-control)

Congress' budget battles are only expected to get gorier over the next couple of months, as Republicans and Democrats try to reach a deal that would prevent $1.2 trillion in crippling spending cuts, a U.S. debt default, and a government shutdown. However, the White House insists that President Obama "is planning to move full steam ahead with the rest of his domestic policy agenda," say Elise Foley and Sam Stein at The Huffington Post. Immigration reform and gun control are at the top of the list, but the chances of their quick passage seem slim given the heated atmosphere in Congress. "The negative effect of this fiscal cliff fiasco is that every time we become engaged in one of these fights, there's no oxygen for anything else," an unidentified Senate Democratic aide told HuffPo. "It's not like you can be multi-tasking — with something like this, Congress just comes to a complete standstill."

#### Nothing till summer

Vorhees 1/3/13 Josh, Editor, Slate Magazine, “White House (Quietly) Promises Immigration Push,” <http://www.slate.com/blogs/the_slatest/2013/01/03/obama_s_immigration_plans_white_house_officials_suggest_early_2013_won_t.html>

However, just because the administration is declaring that an unofficial launch to the immigration push is imminent doesn't mean anyone should expect major action anytime soon. The aides who laid out the plans to HuffPo cautioned that it would probably take about two months to cobble together a bipartisan bill, and then another few before either chamber votes on it. That would mean that if all goes as planned (something that is far from certain) it would likely be early or mid-summer before any concrete actions are taken.

#### Guns swamp

Weber 1-1-13

Joseph, Guns, immigration, fiscal issues emerge as top priorities for Obama, new Congress http://www.foxnews.com/politics/2013/01/01/gun-control-immigration-reform-fiscal-issues-emerge-as-top-issues-for-new/#ixzz2GxI2RO59

Gun control could answer both of those questions. Obama and leaders of the Democrat-controlled Senate have made clear their intentions to promptly introduce legislation restricting firearms, in the aftermath of the Dec. 14 shooting at a Connecticut elementary school in which six adults and 20 first-graders were killed. California Sen. Dianne Feinstein and other Democrats want to re-institute an assault-weapons ban – a plan Obama on Sunday again publicly supported. And related legislation could include proposed bans on high-capacity ammunition clips and tighter background checks for gun buyers. Lawmakers have suggested over the past weeks that debates on gun control could start as early as this month and delay those on immigration reform until spring – given the political climate and the Senate Judiciary Committee having oversight on both issues. However, Democrats can expect strong opposition from Republicans and the National Rifle Association, the country’s most influential gun lobby. And large-scale Second Amendment changes are not expected, even if Democrats pass legislation.

#### so does energy and other things

Munro 12/31/12 (Neil, “Obama promises new immigration plan but keeps endgame close to his vest” <http://dailycaller.com/2012/12/31/obama-promises-new-immigration-plan-but-keeps-endgame-close-to-his-vest/3/>)

President Barack Obama promised Dec. 30 to introduce an immigration bill during 2013, but activists on all sides of the debate are trying to understand his strategy. He may be gunning for a victory in the mid-term elections by introducing a bill so radical that it will spark an emotional controversy from whites, which would then spur many angry Latinos to vote Democratic in the 2014 midterm elections, said Robert de Posada, former head of a GOP-affiliated group, The Latino Coalition. “The word that I’ve heard from many, is [that he will] submit a very, very liberal plan that most Republicans will not support, that most southern and moderate Democrats will not support,” he said. When the bill fails, “they can announce once again that they tried [and that Latinos] need to rally in the next election,” said Posada, who helped President George W. Bush win 40 percent of the Latino vote in 2004, during the housing boom. But that strategy would break Obama’s election-trail promise to help Latinos, said one Hill staffer who is working to pass an ambitious bill that would eventually provide citizenship to millions of Democratic-leaning, low-skill Latinos and their extended relations. However, he noted, Obama hasn’t met with Democratic Illinois Rep. Luis Gutierrez, the leading Capitol Hill advocate for amnesty for illegal immigrants, since November. “We don’t quite know what the White House is doing,” he said. Obama sketched his 2013 plans during a low-pressure interview on NBC’s “Meet the Press” Sunday. “I’ve said that fixing our broken immigration system is a top priority,” he told interviewer David Gregory, who is now under police investigation for violating D.C. law by brandishing a 30-bullet magazine on his Dec. 23 show. “I will introduce legislation in the first year to get that done,” Obama said. “I think we have talked about it long enough. We know how we can fix it. We can do it in a comprehensive way that the American people support. That’s something we should get done.” Gregory did not challenge any of Obama’s claims, nor did he question Obama about how his bill would impact the high unemployment rate among low-skilled Americans, especially African-Americans, in a an increasingly high-tech economy. However, Obama’s language suggested that increased Latino immigration is a lower priority for him than other measures, and that he’s concerned any revamp would fail because of public opposition. Many previous immigration reform bills have died when leading supporters quietly backed away amid furious public opposition to what was perceived as an attempt at a general amnesty. In 2007, then-Sen. Obama voted against a temporary-worker provision in a pending immigration bill, helping kill the overall legislation. During his first term as president, Obama declined to push a comprehensive immigration bill, despite promising such a revamp while on the 2008 campaign trail. In his NBC interview, Obama showed more enthusiasm about other priorities. “We’ve got a huge opportunity around energy,” he said, “The most immediate thing I’ve got to do … is make sure that taxes are not going up on middle class families,” he claimed. Another priority, he added, is “rebuilding our infrastructure, which is broken.” Obama also touted his new project to counter gun-violence. “Anybody who was up in Newtown, who talked to the parents, who talked to the families, understands that, you know, something fundamental in America has to change … you know, that was the worst day of my presidency,” he told Gregory. “I will put forward a very specific [anti-violence] proposal based on the recommendations that Joe Biden’s task force is putting together as we speak,” he said.

#### labor democrats

Dallas News 1-2-13

Editorial: Actions must match Obama’s immigration pledge http://www.dallasnews.com/opinion/editorials/20130102-editorial-actions-must-match-obamas-immigration-pledge.ece

President Barack Obama said all the right things Sunday about immigration reform. The president told NBC’s Meet the Press that he is serious about getting Congress to overhaul the laws governing immigrants. He even declared that he will introduce an immigration bill this year. This newspaper welcomes that announcement. Texans particularly understand the unique challenges that an outdated immigration system presents. Even though the flow of illegal immigrants into the U.S. has subsided in the last few years, the many holes in the system leave families, schools, businesses and law enforcement struggling. And those are just some of the constituents challenged by flawed immigration laws. The president’s words to NBC’s David Gregory are only that — words. What will really matter is whether he puts his muscle into the task this year. We suggest that Obama start by looking at the example of former President George W. Bush. Back in 2006 and 2007, the Republican and his administration constantly worked Capitol Hill to pass a comprehensive plan. They failed, largely because Senate Republicans balked. But the opposition didn’t stop the Bush White House from fully engaging Congress, including recalcitrant Republicans. Obama may have a similar problem with his own party. The dirty little secret in the 2006 and 2007 immigration battles was that some Democrats were content to let Senate Republicans kill the effort. Labor-friendly Democrats didn’t want a bill, either. And they may not want one this year. That reluctance is a major reason the president needs to invest in this fight. He must figure out how to bring enough Democrats along, while also reaching out to Republicans.

#### elections

Workpermit.com 12/31/12 (Workpermit is a specialist visa consultancy with nearly twenty-five years of experience dealing with visa applications. We are OISC registered. We can help with a wide range of visa applications to the UK or your country of choice. Please feel free to contact us for further details, “White House to campaign for immigration reform in 2013” <http://www.workpermit.com/immigration-video.htm>)

Many Republican Party strategists say that, if the Republicans adopt an anti-immigration stance, they will find it increasingly difficult to win elections as the demographic makeup of the US changes. Asian Americans, Hispanic Americans and African Americans already make up 34% of the US population and they all vote overwhelmingly for the Democrats. As the Republicans have become more anti-immigrant, so their share of the Latino vote has gone down. George W Bush received over 40% of the Latino vote in 2000 and 2004. Mitt Romney received about 29% in 2013. However, in their Behind the Curtain column on the Politico.com website, journalists Jim Vanderhei and Mike Allen point out that, whatever the bigger picture may be, many Republican congressmen and women will be loath to vote in favour of immigration reform. Vanderhei and Allen say that Washington Republicans who vote in favour of immigration reform, in particular, in favour of allowing illegal immigrants to become citizens, will be punished by anti-immigration Republican voters in their states. 'Many of the Republicans who would have to vote on such a [immigration reform] package' would then have to 'run for re-election in elections dominated by white conservatives…Regardless of exit polls, demographic trends and lectures from party leaders, lawmakers know that many voters, especially primary voters, and especially their primary voters, hate anything that smacks of amnesty', they write. In the US system, any new law must be passed by both chambers of Congress, the Senate and the House of Representatives, and signed by the president, in order to become law. Since the election in November, President Obama's Democrats hold control of the Senate but the Republicans control the House of Representatives. It remains to be seen whether enough Republican Representatives will vote for change when the chips are down.

#### **Won’t pass – GOP doesn’t want Obama’s plan – assumes the optimism of their evidence**

Stanage and Easley 12/17/12 (Niall, Jonathan, staffwriters for the hill

“Republican leaders balance politics and principle on immigration reform” http://thehill.com/homenews/campaign/273137-republican-leaders-balance-politics-and-principle-on-immigration-reform)

Senior Republicans say the party is struggling to thread the needle on immigration reform, an issue emerging as the next big item on the political agenda once the ongoing deficit talks reach their conclusion. On the one hand, GOP leaders recognize the party needs a new approach. Mitt Romney performed dismally with Latino voters in November’s general election. On the other hand, internal skeptics fear that a GOP rush to embrace a more liberal approach to immigration would risk sundering the conservative movement without paying any electoral dividends. These dilemmas are not entirely new. President George W. Bush and Sen. John McCain (R-Ariz.) pushed immigration reform in the middle of the last decade. They had no success, were subjected to considerable criticism from other conservatives and the issue almost capsized the latter’s run for the 2008 presidential nomination. The difference this time might be that the party is coming off a sizable election loss in which its unpopularity among Hispanics was a key factor. Romney received the support of only 27 percent of Latino voters, according to exit polls — a stark contrast to the 44 percent Bush racked up in 2004. But some influential voices in the party worry that a more centrist line on immigration reform is being pushed too hastily. They also face a tactical decision — whether to support broad reforms or back a more piecemeal approach to the issue. Rep. Jeff Flake (R-Ariz.), who will replace Sen. Jon Kyl (R-Ariz) in the next Congress, said that while “there is a recognition” that the immigration issue had hurt the GOP with Hispanics, he believed “some might overplay it.” He added that there was a danger in “thinking [that] if we do immigration reform, we all of a sudden get 44 percent, like Bush. That’s not the case.” Even so, however, Flake acknowledged that the party’s current position was simply doing it too much damage, especially when the dangers were exacerbated by an inflammatory tone. “Our policy on immigration, or the voices that come from our party, certainly have alienated some in the Hispanic community, but it also alienates others,” he said. “It’s not just that it’s turned off Hispanics -— and it has — but more broadly it’s turned off a lot of people.” Rep. James Lankford (R-Okla.), the chairman of the House Policy Committee, argued that “a vast number of Republicans are supportive of immigration reform.” He also asserted, as do many conservatives, that a significant proportion of the Latino population is simpatico with the GOP’s worldview on economic and social issues. Lankford emphasized that as Republicans ponder whether to modulate their position on immigration reform, “the first consideration can’t be the political benefit.” Yet he fears Republicans who supported any kind of sweeping reform would come under attack from their right flank while most of the benefit could accrue to President Obama. “Whoever is president, they sign it and they get credit for it,” he said. “Some say that if Republicans push immigration reform here, we’ll get credit for it. That’s not true. The president will get credit for it.” The answer, many Republicans and strategists believe, could lie in part with a shift toward supporting something akin to an expansive DREAM Act, without going so far as any deal involving a broader amnesty. Republican strategist Hogan Gidley, who worked closely with former Arkansas Gov. Mike Huckabee (R) and served as the communications director for former Sen. Rick Santorum’s 2012 presidential bid, told The Hill that Republicans need to convince Latinos they are receptive to the challenges the community faces. “It doesn’t mean we open our borders. It doesn’t mean that we grant amnesty. But Huckabee used to make that point that the children were here through no fault of their own. Why deny them a college education?” Gidley cautioned that a broader reform package could be a big political loser for Republicans. He cited the amnesty to which President Ronald Reagan agreed in the 1980s, and added “he still never got their votes.” The lesson to be drawn, he added, was that “we shouldn’t run to change our principles or sell out our convictions for votes, because there is no guarantee that you will get the votes. Then you’re left without your principles and without political support.” Some Republicans believe that progress could be made simply by adopting a less hostile tone when addressing issues like immigration. Such an approach, according to pollster Whit Ayres, could help win over those Hispanics who, ethnicity aside, fit the demographic profile of Republican supporters neatly. “A great deal of what needs to change is adopting an attitude that says, ‘We want Hispanics who believe in limited government and lower taxes and entrepreneurial opportunity as part of our coalition,’ ” he said. Ayres’ company, North Star Opinion Research, last week released a poll from four battleground states — Florida, Colorado, Nevada and New Mexico — that underlined this point. In each of those four states, the poll found many Hispanics who considered themselves conservative did not vote for Romney in November. In the three states other than Florida, the margin was striking. In Nevada, 40 percent of Hispanics declared themselves conservative but only 25 percent said they voted for Romney. In New Mexico, the figures were 47 percent and 29 percent, respectively. “If we simply got the portion of Hispanic voters who consider themselves conservative, we would be back in the hunt,” Ayres said. For Republicans, the current crisis has been a long time coming. Strategist Ed Rollins told The Hill he remembered having a conversation in 1982 with legendary consultant Lee Atwater about how to boost the GOP’s standing with blacks and Latino. Rollins added that the damage that has been done in the interim could not be undone overnight. He counseled the party to think in terms of five-year or 10-year plans that involved selecting more Hispanic candidates among other things. But a more generous approach to immigration reform, he insisted, had to be part of the picture. “It might be a piecemeal thing where where you begin with the DREAM Act and move beyond it,” he said. “Republicans, realistically, can’t be obstructionist.”

### THUMP

#### NO LINK UNIQUENESS

#### Hagel

Rubin 1-4 (Jennifer, fopo writer for the Washington Post, Conservatives relish prospect of Hagel confirmation fight, http://www.washingtonpost.com/blogs/right-turn/wp/2013/01/04/conservatives-relish-prospect-of-hagel-confirmation-fight/)

Reports suggest that the White House on Monday will name controversial former Sen. Chuck Hagel (R-Neb.) as the nominee for secretary of Defense, setting up what may turn out to be the nastiest confirmation battle of the Obama presidency. One executive from a pro-Israel group said to me, “There is only one reason [for the nomination]: The president likes him and feels comfortable with him.” Indeed, it is becoming hard to deny that Hagel’s anti-Israel rhetoric and views and antipathy toward defense spending and sanctions on Iran are positives with this president, not demerits. A leading Democrat with a pro-Israel organization told me, “If the rumors are true and despite Hagel’s offensive record — from his extreme anti-choice actions, being pro-high capacity magazines and against universal background checks and his slurs again minority groups like gays and Jews to his views on Iran and terrorist groups like Hezbollah and Hamas — President Obama wants to embrace Hagel, it is going to be very awkward for Democrats in the Senate. ” He seemed baffled by the choice: “Given the fact that his staff has said it will be ‘a tough confirmation,’ the GOP is lining up against [it], and there are highly capable alternatives, the choice would be virtually inexplicable, unless the President either deep down shares Hagel’s views or doesn’t care about anyone in his party but himself.” Indeed, it is Democrats on Capitol Hill who seem glum and pro-Israel critics of the president who are nearly giddy with anticipation. Chuck Todd is reporting that as many as ten Democrats may vote against Hagel, making his confirmation a shaky proposition at best. One Capitol Hill Democrat put it to me this way: “Why not Sen. Inhofe (R-Okla.) to replace Lisa Jackson at EPA? Hey, both Inhofe and Hagel are Republican. Both disagree on major policy issues with the president. And both have pissed off big Democratic constituencies.” Other Democrats seem fretful as well. A longtime pro-Israel activist bemoaned that “Hagel is wrong on everything” and that at some point Democratic senators from states like New Jersey and New York will have to say “enough.” The activist expressed consternation that Obama had folded his tent on a possible Susan Rice nomination but was apparently going to bat for a Republican who had offended gays and Jews. Other Democratic commentators and lawmakers have publicly voiced doubts about a Hagel nomination or tried to avoid the topic entirely.

#### A123 review

Washington Times 1-2 (Creditors want help with A123 sale to Chinese, http://www.washingtontimes.com/news/2013/jan/2/creditors-want-help-with-a123-sale-to-chinese/#ixzz2GvnpKZzW)

Creditors of a bankrupt U.S. battery maker that went broke after winning a multimillion-dollar federal grant want permission to hire a lobbying firm to keep the proposed sale of the company to a Chinese competitor on track. The official committee of unsecured creditors in the bankruptcy of A123 Systems Inc. filed court papers Friday asking a federal judge to sign off on the $75,000 hiring of lobbying group Capitol Counsel LLC. Citing “considerable political pressure” against the sale of A123 to China-based Wanxiang America Corp., the committee said it needs lobbyists to protect the proposed sale from political opposition. Although the sale has been approved by a bankruptcy court, it requires the approval of the Treasury Department's Committee on Foreign Investment in the United States, which reviews proposed sales of U.S. companies to foreign buyers. “Considerable political pressure has been raised against CFIUS approval of the proposed sale to Wanxiang,” attorneys for creditors wrote in their filing asking to hire lobbyists.

#### Obama was a jerk in the lame duck

Shear and Calmes 1-3-12

NYT Lawmakers Gird for Next Fiscal Clash, on the Debt Ceiling http://www.nytimes.com/2013/01/03/us/politics/for-obama-no-clear-path-to-avoid-a-debt-ceiling-fight.html?\_r=1&

Moody’s, the rating agency, warned on Wednesday that the looming political battles over the nation’s debt could lower the group’s rating of American debt. “We’re in for another round of brinkmanship and uncertainty,” said Mark Zandi, the chief economist at Moody’s Analytics, who predicted weeks of “angst, discussion and hand-wringing” in Washington. “I don’t think the economy can really find its footing and jump to a higher level of growth until we get to the other side of this.” Joel Prakken, senior managing director of Macroeconomic Advisers, an economics forecasting firm, said bluntly, “This is kind of a mess.” The financial imperative for an increase in the debt limit comes at a time of increasingly sour relations between the president and his Republican adversaries in the House. To secure a deal to avert automatic tax increases and spending cuts on Jan. 1, Mr. Obama was forced into last-minute talks with Senator Mitch McConnell of Kentucky, the Republican leader, after weeks of negotiations with Speaker John A. Boehner in the House collapsed amid acrimony and internal Republican dissension.

### L

#### China FDI popular – economic considerations and China lobbyo

Schatz 10-5-12 (Joseph, POLITICO Pro’s tax editor. Before joining POLITICO, Schatz spent nearly a decade at Congressional Quarterly, covering politics and economics on Capitol Hill. Most recently, he was CQ's senior economic writer for four years, covering everything from the Wall Street bailout and the debt ceiling crisis to trade and the U.S.-China relationship, for which he received the National Press Club’s Sandy Hume award in 2010, “China politics aren't black and white,” Politico.com October 5, 2012, lexis)

Mitt Romney's hard-hitting ads claim President Barack Obama needs to "stand up" to China. Paul Ryan has fanned out across the industrial Midwest, saying that Beijing is treating Obama "like a doormat." The president, of course, is in on the act as well -- an Obama television spot accuses Romney of supporting "sweatshop conditions" through an old Bain Capital investment in China. Yet amid all the campaign tough talk about China, three of Romney's most prominent GOP surrogates were down in Texas last week, begging Chinese investors to set up shop in their states. "We're all here talking to them about why they should come to each of our states, and why for sure they should come to our country," Florida Gov. Rick Scott told FOX News as he, Rick Perry of Texas, Scott Walker of Wisconsin gathered at Cowboys Stadium in Arlington, Texas to meet with a traveling contingent from China touring the United States for nine days, looking for places to park their cash. It just goes to show: Black-and-white campaign slogans don't easily translate into economic policy, including the exquisitely complex U.S.-China economic relationship. For one thing, most economic experts doubt that Romney would really wrangle with the United States's biggest creditor, given the risks of a trade war. Indeed, the former Massachusetts governor's tone in the first presidential debate Oct. 3 already seemed a bit softer, as he promised to "crack down on China, if and when they cheat." But the dynamics are even more complicated when it comes to rapidly rising Chinese investment in the United States, particularly at the state and local level, where government officials of both parties are eagerly courting Chinese investments in waterfront rehabilitation plans, energy deals, greenfield projects and auto manufacturing. There are plenty of hiccups and failed deals, like Obama's high-profile decision to block the acquisition of four Oregon wind farms by Chinese-affiliated Ralls Corp., last week, on national security grounds. With China, you never quite know whether a firm is truly "private," or an arm of the state. But Chinese investment is way up in recent years, and Congress, which helped sink the Chinese purchase of Unocal Corp. in 2005, has been largely quiet on a broad range of Chinese acquisitions. That's in part because the U.S. economy badly needs the investment -- attracting foreign investment is going to be a major theme in any tax reform debate next year -- and in part because Chinese firms have gotten smarter about lobbying, and have won friends in Washington. Kevin G. Nealer, a partner at the Scowcroft Group, says that the scale of China's investments have changed the equation. Nealer was a Senate l8

5eadership staffer in the 1980s, when Japan's sudden emergency as a car and technology powerhouse provoked rage on Capitol Hill -- and when that fury started abating. "I saw the inflection point in trade neuralgia come when Japanese firms started making major investments here, building factories and hiring American workers at Toyota and Honda plants by the thousands," Nealer says. Business groups and analysts say that's already beginning to happen, though the level of investment is still small compared to countries like Germany. While China is the U.S. government's biggest creditor, with $1.15 trillion in Treasury securities, it still has relatively little money invested in elsewhere in the U.S. economy. In a report last week, Thilo Hanemann and Adam Lysenko of the Rhodium Group, an investment firm that closely tracks Chinese investment, said that before 2008, Chinese firms were responsible for very few jobs in the United States. "One of the most important questions is how Chinese investment affects U.S. employment," the authors note. While the figure is still small, it now stands at about 27,000, they said, as China has rapidly ramped up its investments "from an annual average of around 30 deals worth less than $500 million before 2009 to almost 100 deals worth about $5 billion in 2010 and 2011." Investment in the first half of 2012 alone totaled $3.6 billion, led by big Chinese acquisitions in the U.S. energy and banking sectors, like the Industrial & Commercial Bank of China Ltd.'s purchase of an 80 percent stake in the Bank of East Asia's U.S. subsidiary, a move that required approval by the Federal Reserve. For state and local governments, it's all about jobs. U.S. governors from both parties regularly go to China to solicit investment. And Michael Bell, the Democratic mayor of Toledo, Ohio -- exactly the region where Romney and Ryan are directing some of their harshest China attacks -- has drawn attention for attracting $200 million in Chinese property development investment. It's one of the chief reasons that China weathered the failed 2005 attempt by state-owned China National Offshore Oil Company Ltd. (CNOOC) to purchase Unocal. "To a degree, all politics are local," said one D.C. lawyer who has worked with Chinese investors. "If you're able to do it the right way, in a way that benefits someone's local district, that helps tamp down some of the concerns." U.S. lawmakers revamped the Committee on Foreign Investment in the United States (CFIUS), the Treasury-based group that last week recommended that Obama block the Ralls sale. And they still raise criticisms about many proposed deals in the sensitive telecom and Internet sectors, where a Chinese firm with government ties could pose a security threat. In July, Chinese telecommunication companies Huawei and ZTE were grilled by members of the House Intelligence Committee about the companies' relationship with the Chinese government. But some Chinese firms have become savvier. They've hired lobbyists at Hill and Knowlton, Patton Boggs and other D.C. shops to press their cases in the corridors of power in Washington. Still, notes Scowcroft's Nealer, some Chinese investors, coming from a culture of government control, can't believe that the U.S. investment process is largely free and open. The U.S. Chamber of Commerce circulated a report in July touting Chinese investment success stories in the United States. The Obama administration has also made efforts to link Chinese firms with American companies.

#### Fiscal Cliff proves Obama can manage energy fights and his agenda

Heritage Foundation 1/3/13 (Nicolas Loris and Katie Tubb, “Corporate Welfare for Energy Companies Should Have Gone Off the Cliff,” <http://blog.heritage.org/2013/01/03/corporate-welfare-for-energy-companies-should-have-gone-off-the-cliff/>

The fiscal cliff deal is not only preventing certain politically motivated energy tax policies from falling off the cliff, but it’s also resurrecting ones that have been dead and buried for a year.¶ Lumped into the 157-page fiscal cliff bill are extensions of energy handouts that were originally scheduled to retire, as well as retroactively rewarded tax breaks for renewable energy that expired at the end of 2011. The inclusion of these targeted tax breaks is a clear indication that Congress is not serious about (1) reducing spending, (2) ending the government’s meddling in the energy sector, or (3) standing up against political interests.

#### The plan is guidance not legislation

Jackson 10 (James K. Jackson, CRS Specialist in International Trade and Finance, Foreign Investment, CFIUS, and Homeland Security: An Overview, February 4, http://fpc.state.gov/documents/organization/138597.pdf)

While CFIUS’s activities often seem to be quite opaque, the Committee is not free to establish an independent approach to reviewing foreign investment transactions, but operates under the authority of the President and reflects his attitudes and policies. As a result, any discretion CFIUS uses to review and to investigate foreign investment cases reflects policy guidance from the President. Foreign investors are also constrained by legislation that bars foreign direct investment in such industries as maritime, aircraft, banking, resources and power. 7 Generally, these sectors were closed to foreign investors prior to passage of the Exon-Florio provision in order to prevent public services and public interest activities from falling under foreign control, primarily for national defense purposes.

#### That means no link

Hamilton and Schroeder 1994 [James T. Hamilton is an assistant Professor of Public Policy, Economics and Political Science at Duke University, Christopher H. Schroeder is a Professor of Law at Duke University School of Law “Strategic Regulators and the Choice of Rulemaking Procedures: The Selection of Formal vs. Informal Rules in Regulating Hazardous Waste http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4229&context=lcp]

3. As the regulatory costs imposed on parties increase, the more likely the parties will resist and, hence, the more likely the agency is to use informal rulemaking. Industry interest groups may attempt to weaken costly formal rules by commenting on them during the formal rulemaking process or by challenging them in court. Similarly, environmentalists may attempt to strengthen provisions through submissions and court challenges. Regulatory costs for industry include expenditures arising from compliance and enforcement actions, while costs for environmentalists may relate to the potential environmental damages posed by the activity regulated. The more at stake for regulated parties and other intervenors, the more likely the agency may be to issue the rule informally. Issuing a costly rule through the informal process has several advantages for the agency: it makes input from interest groups less likely than under the formal process; reduces the ease with which Congress may monitor agency performance and hence lessens the ability of interest groups to "pull the fire alarm" on agency actions; lessens the probability that an interest group will be able to challenge the rule in court as informal rules lack the long administrative records of formally published rules; and enables the agency to alter costs of compliance for particular parties since informal rules may be applied with more discretion than formal rules.

#### Natural gas production creates political capital.

Davenport 12-6-12

Coral, Energy and Environment Correspondent, How Obama and Congress Could Find Common Ground on Energy http://www.nationaljournal.com/magazine/how-obama-and-congress-could-find-common-ground-on-energy-20121206

Ironically, new U.S. fossil-fuel production could create allies for an energy deal in Washington. During Obama’s first term, a revolution in hydraulic-fracturing technology (“fracking”) unlocked vast new reserves of oil and natural gas trapped in shale, transforming the nation’s energy picture. While just five years ago it appeared that the nation faced growing dependence on foreign oil and gas, it now seems possible that North America will be the world’s biggest energy producer within a decade. The White House is supportive of fracking, because the boom could create up to 1 million jobs and because shale gas produces about 30 percent less carbon pollution than coal. Electric utilities are building power plants to run on gas, not coal, which will also slow the nation’s carbon output. Obama’s embrace of the shale gale has united the White House and some former foes. Earlier this year, White House energy adviser Heather Zichal spoke at an event sponsored by the American Petroleum Institute, the lobbying arm of the oil industry. Halliburton, now the nation’s biggest provider of fracking services, has held multiple meetings with the White House and the State Department about how to safely expand gas fracking at home and abroad. Exxon Mobil, which is now the nation’s largest shale-gas producer, has even expressed cautious support for a carbon tax. Democrat Byron Dorgan, the former senator from North Dakota, the state at the heart of the fracking boom, says these new alliances could result in deals that once seemed unimaginable. “It’s one thing to do it in a crisis; it’s another to do it when you have an opportunity. I think energy can be a signature achievement for this president,” says Dorgan, who is frequently mentioned as a top candidate to become Obama’s second-term Energy secretary.

#### Winners win

Heineman 10 (Ben Heineman Jr. has held top positions in government, law, and business. He is the author of High Performance with High Integrity “No Presidential Greatness Without Spending Political Capital” <http://www.theatlantic.com/politics/archive/2010/03/no-presidential-greatness-without-spending-political-capital/37865/>)

**Only in recent months**, when he was willing to make it his personal issue and to spend significantly from his store of political capital, was President Obama able to achieve victory in the bitter congressional battle over **health care** reform. Presidential greatness is combining policy and politics to win significant victories that have a major impact on the trajectory of national life. Such victories--which upset the status quo--**only occur** when a president takes political risks and is willing to incur short-term unpopularity with significant segments of the electorate. There have been two great Democrat presidents since FDR--Harry Truman and LBJ. Both came to office through the death of a president; both could have run for a second elected term; both declined to do so because they were extremely unpopular; but, part of their unpopularity was due to courageous decisions which required large expenditure of personal capital and which changed the course of history. Truman, now considered by historians as one of our most momentous presidents, has an astounding list of major decisions by his name: the dropping of the atomic bomb; the formation of the UN and NATO; the adoption of the Marshall Plan; the formulation of the Truman Doctrine and the strategy of "containing" the Soviet Union; a willingness to oppose Communist aggression in North Korea (and to fire General Douglas MacArthur); the issuance of executive orders desegregating the Armed Forces, the civil service and government contracting; recognition of the state of Israel; and promotion of the Fair Deal (which was only a mixed success but which expanded social security, the minimum wage and federal housing support). To be sure, Truman's unpopularity was also due to scandals, a war weary nation and vicious debates about who lost China. But his historical standing today is owed, in no small part, to his political courage and willingness to use up the political capital of the presidency on issues of major import. Similarly, LBJ was one of our greatest domestic presidents. Under his leadership from 1964-66, Congress passed the Civil Rights Act of 1964, the Voting Rights Act of 1965, Medicare, Medicaid, the War on Poverty and a path-breaking elementary and secondary education act. Johnson had the courage to spend political capital on great tasks even though he, of all people, knew that his initiatives, especially on race, would split the Roosevelt coalition, drive away Southern whites, weaken the Democratic Party and put his own reelection in jeopardy. After Lincoln, Johnson is considered the president who did the most to overcome the nation's shameful history of slavery and racial discrimination and to advance the ideal of racial justice. To be sure, Johnson's unpopularity also stemmed, in important part, from his prosecution of an increasingly divisive war in South Vietnam and from a complex, domineering personality that his oleaginous rhetoric could not conceal. Yet, his place in history is secure because of courageous domestic decisions which weakened him politically. By contrast, Jimmy Carter and Bill Clinton, the other two Democratic presidents prior to President Obama, are unlikely (even in light of more even-handed views of historians a generation from now) to enter the pantheon of greatness. President Carter's fundamental problem, oddly enough, was that he recklessly spent presidential capital in his first year in office--on reforming water projects, energy reform, welfare reform and numerous other initiatives--with limited or no success. By the end of 1977, his apolitical approach, and his serial failures, had dramatically diminished his reputation in Washington and seriously eroded his popularity in the nation. And he could never recover from his naive policy profligacy as the nation's economy began to suffer from the lethal combination of high inflation and high interest rates. By contrast, President Clinton tried one major domestic initiative early in his administration--health care--and, after being defeated on that, was either on the defensive or advanced a minimalist, safe agenda. With the Republican take-over of Congress in 1994, Clinton had to fight a rear guard action until the 1996 election. Then the Lewinski scandal and impeachment consumed much of the administration's energy, and Dick Morris's "triangulation" meant that Clinton took few significant political risks. Never has there been a president with as much political and policy talent, who presided over a booming economy (due, only in small part, to public policy) but whose major accomplishments were so slender. I always felt that it was a badge of dishonor for Clinton to leave office with a high approval rating for the reasons I have tried to develop here**: no great deeds are possible for a president without a willingness to risk political standing**. The saga of President Obama is but 14 months old. It is too soon to tell whether health care reform will be a policy succ ess in implementation and a long-term political success (like Medicare) as it changes a health care system bristling with problems. And, of course, it is far, far too soon to make any meaningful judgments about his tenure. But, after a first year of aloofness from the political fray of health care, Obama's willingness, since the Massachusetts senatorial election to push his chips on the table, take a huge political gamble, and win a major legislative victory (with uncertain short-term political consequences) echoes decisions of his great Democratic predecessors, Harry **Truman** and Lyndon **Johnson**.

#### No one will fight the plan- pro-energy lobbyists empirically win out

Schwartz and Wald 1/2/13 (NELSON D. SCHWARTZ and MATTHEW L. WALD, Staff, New York Times, “Some Breaks for Industries Are Retained in Fiscal Deal,” <http://www.nytimes.com/2013/01/03/business/some-breaks-for-industries-are-retained-in-fiscal-deal.html?_r=0>

Nearly $250 million for Hollywood. Over $330 million for the railroad industry. More than $220 million for rum producers. And $62 million for doing business in American Samoa.¶ While taxes are expected to increase for most Americans as a result of the deal between the White House and Congress to end the fiscal impasse in Washington, corporate America was more fortunate. A bevy of tax breaks and credits that had been scheduled to expire at the end of 2012 will be extended for another year, costing taxpayers $46.1 billion over the next decade, according to Congress’s Joint Committee on Taxation.¶ The preservation of these subsidies and deductions has become a perennial Washington ritual in recent years, with lobbyists and companies and their allies on Capitol Hill securing their survival in the fine print of the tax code. Washington’s inability to close many of these loopholes is a sign of just how reluctant business is to sacrifice prized subsidies despite loud calls from many chief executives in recent months to raise taxes, cut spending and deal with huge budget deficits.¶ “Except for the people who like it, it’s a giveaway,” said Eric Toder, co-director of the Urban-Brookings Tax Policy Center. “It’s hard to mobilize opposition, but the people who benefit from it benefit a lot.”¶ Many of the provisions survive because they are so obscure. A $62 million tax credit for employers in American Samoa benefits StarKist, which is the largest private employer in the South Pacific island chain, with nearly 2,000 workers there. The tax break was supported by Jeff Bingaman, Democrat of New Mexico, who as former chairman of the Senate Energy and Natural Resources Committee was an advocate for American territories that lack formal Senate representation.¶ “We support the development credit, and it’s a key factor in our ability to maintain competitive operations in American Samoa,” said Mary Sestric, a spokeswoman for StarKist. “This is a big priority for us.”¶ Corporations were keenly sensitive to changes in broader tax policy, in addition to benefiting from direct tax breaks. For example, Goldman Sachs distributed $65 million in stock to 10 senior executives in December instead of January, when the firm typically makes such awards. That move helped them avoid the higher tax rates that will now be imposed on income of $400,000 or more.¶ The chief executive of Goldman, Lloyd C. Blankfein, was among the most prominent corporate executives who backed higher taxes as part of a broader deficit-reduction package. He and other business leaders also met with President Obama late last year as the White House sought support from corporate America during negotiations with Republicans in Congress.¶ Some subsidies, like a break for research by companies, can actually have long-term benefits for the economy, defenders argue.¶ Others, like the one that allows filmmakers to deduct the first $15 million in production expenses for movies made in the United States, are much more narrowly focused but have loyal supporters that manage to keep them alive year after year. Another beneficiary of Congressional largess is Nascar, which will enjoy a $78 million subsidy for racetrack construction over the next 10 years.¶ “Once they get in, they tend to stay in,” said Alan Auerbach, director of the Robert D. Burch Center for Tax Policy and Public Finance at the University of California, Berkeley.¶ Besides the $46.1 billion in corporate incentives over the next 10 years, there is another $18.1 billion in breaks for alternative energy, much of that going to companies as well. Producers of biodiesel, for example, will reap more than $2 billion in tax breaks. And while it may not exactly be an alternative source of energy, producers of coal on Indian lands retained $1 million in tax breaks — a provision backed by Max Baucus, the Montana Democrat who is chairman of the Finance Committee.¶ The wind industry, a chief beneficiary of support from Washington, will get $12 billion in subsidies over the next decade. In fact, the benefits that were included for the wind sector are slightly broader now than in previous years.¶ Under the new rules, contained in the legislation that Mr. Obama signed on Wednesday, new wind farms will be covered by a production tax credit or an investment tax credit similar to the ones that just expired, but the projects will not need to be finished by the end of this year to qualify; they simply must have been started in 2013.¶ The American Wind Energy Association, a trade group, said in an e-mail to its members that the change was made by Congress “specifically in order to accommodate the business timelines of our industry.” The business has been in a tax-driven boom-and-bust cycle.¶ The renewal of the tax benefits was pushed strongly by Mr. Bingaman, Mr. Baucus and Charles E. Grassley, Republican of Iowa. When the Senate began considering “tax extenders,” or continuations of various tax breaks, wind advocates pushed to have all of them included.¶ “There always seemed to be some bipartisan support for this,” said Philip D. Tingle, a lawyer who specializes in energy taxes. “The element, the issue was, how they were going to pay for it.” The renewal will probably cost the Treasury about $12 billion, although the wind industry insists that it will generate so much taxable activity that total tax revenue, including those at the state and local level, will exceed the tax expenditure.¶ The industry undertook a large lobbying campaign and says it generated more than 750,000 letters, e-mails and other communications with Congress. It took nearly 100 members of Congress on tours of wind farms and factories where components are built. The issue may be more regional than partisan; according to the American Wind Energy Association, 80 percent of wind farms are in Congressional districts represented by Republicans, as are 67 percent of the factories.¶ The tax credits were also extended to cover electricity made from biomass, tides and ocean waves, landfill methane and improvements to hydroelectric stations.

### I

**No impact - Soft power is useless**

**Fan 7** (Ying, Senior Lecturer in Marketing at Brunel Business School, Brunel University in London, “Soft power: Power of attraction or confusion?”, November 14)

Despite its popularity, the concept soft power remains a power of confusion. The definition is at best loose and vague. Because of such confusion it is not surprising that the concept has been misunderstood, misused and trivialised ( Joffe, 2006a ). Criticisms of soft power centre mainly around three aspects: defi nition, sources and limitations. There may be little or no relationship between the ubiquity of American culture and its actual influence. Hundreds of millions of people around the world wear, listen, eat, drink, watch and dance American, but they do not identify these accoutrements of their daily lives with America ( Joffe, 2006b ). To Purdy (2001) soft power is not a new reality, but rather a new word for the most effi cient form of power. There are limits to what soft power could achieve. In a context dominated by hard power considerations, soft power is meaningless ( Blechman, 2004 ). The dark side of soft power is largely ignored by Nye. Excessive power, either hard or soft, may not be a good thing. In the affairs of nations, too much hard power ends up breeding not submission but resistance. Likewise, big soft power does not bend hearts; it twists minds in resentment and rage ( Joffe, 2006b ). Nye’s version of soft power that rests on affection and desire is too simplistic and unrealistic. Human feelings are complicated and quite often ambivalent, that is, love and hate co-exist at the same time. Even within the same group, people may like some aspects of American values, but hate others. By the same token, soft power can also rest on fear ( Cheow, 2002 ) or on both affection and fear, depending on the context. Much of China ’ soft power in south-east Asia testifi es to this. Another example is provided by the mixed perception of the United States in China: people generally admire American technological superiority and super brands but detest its policies on Taiwan.

The plan is a vital link to US soft power

Carroll-Emory International Law Review-9 23 Emory Int'l L. Rev. 167

COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

1. Foreign Policy Consequences FINSA mandates that the CFIUS conduct a 45-day investigation any time the foreign investor is controlled by, or acting on behalf of, a foreign government, unless the Secretary of the Treasury and the head of the relevant agency both agree that there is no threat to national security and waive the investigation. 183 This provision shifts the burden of proof away from the U.S. government and to the foreign state-owned business in these transactions. 184 To foreign governments, however, FINSA may appear to discourage investment because of political enmity. 185 As such, continual politicized investigations of foreign direct investment in American infrastructure may alienate our allies and isolate America even further. 186 For example, Dubai Ports World was not purchasing the operations of the ports from an American company; the ports were run by a British company, P&O. 187 The U.A.E. is perhaps the most moderate secular Arab regime in the Middle East, the central location for Middle Eastern banking, and a strong supporter of the war on terror, housing over a thousand U.S. soldiers and cooperating with initiatives to track down terrorist finances and insure container security. 188 Dubai's control of the ports would not have changed security in any measurable way - American unions would continue to unload the ships, and the Coast Guard and port authorities would still be responsible [\*193] for picking which containers to scan. 189 Also, Dubai Ports World would have had a unique incentive to prevent any terrorist attacks, since any such attack would immediately put an end to all of their operations and investments in America. 190 Given these facts, and the reality that other foreign port companies operate U.S. ports without political backlash, Arab businessmen may see the Dubai Ports controversy as a racially biased investigation. 191 If the CFIUS discourages the U.A.E. from investing in America after all of the favors that the U.A.E. has done for the United States, then what would be the incentive for other moderate Arab regimes to cooperate with American goals in the region? 192 The United States cannot afford to alienate moderate Arab states with the CFIUS process because their cooperation is crucial to the war on terror. 193 Instead, integrating the moderate Arab regimes, such as the U.A.E., into the global financial order would minimize security risks. Encouraging investment in the American economy would give moderate Arab regimes a stake in preventing terrorist attacks upon American soil, since such attacks would devastate the value of their assets as well. 194 America should welcome foreign investment from the Middle East, not fear it as a security threat. Similarly, CNOOC's purchase of Unocal did not threaten American access to oil. 195 Some advocates of vetoing the Unocal sale argued that if China was able to purchase Unocal, it would be able to corner a portion of the oil market [\*194] and prevent the United States from satisfying its own energy needs. 196 But the global market for oil is fluid, so the price is not affected by who owns it. 197 If China were to hoard oil from its own oil fields in an energy crisis, the price would still be determined by global supply and demand. 198 Thus, there is no basis for fear of Chinese ownership of energy resources. 199 China promised that the Unocal oil and gas produced in the United States would continue to be sold there, not shipped directly to China. 200 Even if CNOOC would divert Unocal's products to China, there would be no effect on the global oil markets; the United States would still be able to purchase the oil it needs. 201 Moreover, Unocal is only responsible for 0.23% of global oil production - hardly a devastating weapon. 202 Thus, CNOOC's purchase of Unocal did not remotely threaten American national security. Ironically, by rejecting the Chinese purchase of Unocal for fear that it would threaten U.S. energy security, the United States drove China to invest in oil operations in various "pariah" states, including Iran and the Sudan. 203 China now depends on Sudan and Iran to satisfy domestic oil demand, and the Chinese leadership may become less willing to cooperate with international efforts to pressure Sudan or Iran to change their behavior. 204 China is profiting handsomely from its oil investments in Sudan and Iran, making it more difficult for the international community to take unified action to resolve the conflict in Sudan or pressure Iran to stop its nuclear programs. 205 If the United [\*195] States wants to avoid China politicizing its oil deals with Sudan and Iran, then it should avoid politicizing China's oil deals with the United States by allowing China to acquire American energy companies as it sees fit. 206 China may view the United States' actions in the Unocal deal as a hostile attempt to prevent China's development by preventing its purchase of natural resources. 207 Should the Chinese take this viewpoint, it could lead to a cycle of conflicts between the United States and China. 208 Engaging China, by encouraging their investment within the United States and removing their fear that access to energy could be cut off, would greatly increase China's willingness to work within the international system and strengthen American national security. 209 The Unocal and Dubai episodes illustrate the futility of a broad definition of the term national security. An open-ended approach by the CFIUS will encourage protectionism and alienate U.S. allies abroad. 210 FINSA's scrutiny of the Borse Company's proposed acquisition of an interest in Nasdaq indicates that FINSA has opened the floodgates for further scrutiny of foreign acquisitions. 211 Since it was enacted, FINSA has threatened several other major transactions. For instance, in 2008, Bain Capital, a U.S. private equity firm, and Huawei Technologies, a Chinese telecom firm, jointly proposed to purchase a minority stake in 3Com, a U.S. network equipment maker, for $ 2.2 billion. 212 The deal collapsed in the face of the CFIUS's national security concerns. 213 Senator Christopher Dodd, chairman of the Senate Banking Committee, even threatened that more restrictive legislation might be necessary in order to prevent "potential pitfalls associated with" foreign investment. 214 Dodd explicitly conditioned his support for future foreign [\*196] investment on it not "posing a threat to our economic stability," 215 thus resurrecting the old economic security test in an even more blatant form. Sovereign wealth funds pose another challenge to the new FINSA regulations. Governments have long pooled their money into funds with which to make purchases, and several U.S. states have their own sovereign wealth funds. 216 High oil prices coupled with several East Asian countries' transfer of foreign reserves from government bonds to more aggressive investing strategies have driven the value of global sovereign wealth funds past $ 2 trillion. 217 Yet under FINSA, each sovereign wealth fund acquisition would have to be automatically reviewed by the CFIUS, absent special approval from the Secretary of the Treasury or the relevant agency. 218 Such a rule opens the possibility of more Dubai Ports type incidents. Indeed, the 2008 World Economic Forum exposed the danger that sovereign wealth funds may ignite protectionist sentiment in the United States. 219 The United States would be wise to create transparent rules that limit the definition of national security as soon as possible, rather than reviewing every foreign governmental transaction and hoping to avoid an international incident. 220 Considering recent events such as Unocal, Dubai Ports, and 3Com, it appears possible that xenophobic scrutiny of foreign investment will increase in the years ahead. Nevertheless, in the post-9/11 world, openness to foreign [\*197] investment and cooperation with other governments is an absolute necessity. 221 National security must be clearly defined to encourage foreign direct investment.

#### Insecurity in the energy relationship causes Russia-China counterbalancing. SCO. Impact is Central Asian conflict.

Ziegler 2006

Charles E. Ziegler is Professor and Chair of the Department of Political Science at the University of Louisville, and Director of the Institute for Democracy and Development, THE ENERGY FACTOR IN CHINA’S FOREIGN POLICY, The Energy Factor in China’s Foreign Policy,” Journal of Chinese Political Science 11 (2006) http://louisville.edu/democracydevelopment/research/current-publications/the-energy-factor-in-china2019s-foreign-policy.html

Chinese oil companies have even sought to acquire major holdings in North America, the most notable of which was the 2005 attempt by China’s National Offshore Oil Company (CNOOC) to purchase the American oil company Unocal. The CNOOC bid, valued at $18.5 billion, resulted in a firestorm of criticism from the U.S. Congress amid fears that U.S. energy security would be compromised. CNOOC’s chairman Fu Chengyu insisted his company’s attempt to outbid Chevron was purely commercial, but the process collapsed amid charges that the Chinese government was subsidizing the purchase to enhance its leverage over oil and gas producers in Central and Southeast Asia.[49] Chevron lobbied Washington far more effectively than did CNOOC, and acquired Unocal for nearly two billion dollars less than the Chinese offered. Clearly, politics and security issues shaped the behavior of leaders in both countries. Chinese companies will continue a long-term strategy of acquiring energy assets around the world. The Unocal experience may lead China to focus on the more unstable or politically unsavory oil and gas producers. China’s arrangements with individual producers—Iran, Saudi Arabia, Russia, Kazakhstan, Indonesia, Azerbaijan, Sudan, Brazil and Venezuela—are promising, but each of these countries faces serious domestic or international problems. The uncertainty of bilateral energy ties has contributed to a new appreciation for multilateral organizations in Beijing’s international energy policy. CHINA, ENERGY, AND MULTILATERAL ORGANIZATIONS China’s growing involvement in the global economy, and its more active diplomacy, provide Beijing’s leaders with a new perspective on participation in multilateral institutions. The organizations that are of greatest relevance to China’s energy strategy are the World Trade Organization (WTO), the Shanghai Cooperation Organization (SCO), and the International Energy Agency (IEA). Securing membership in the World Trade Organization has been an important component of Chinese foreign policy, although it is a mixed blessing for Chinese businesses and the Chinese people. The open market provisions of the WTO will pay the greatest dividends in areas where China has a comparative advantage—textiles, clothing, processed foods and leather goods. China’s agricultural sector will be hit hard, as will much of China’s energy industry. Expectations are that output of all energy sectors will be reduced, with the greatest impact falling on downstream industries. Many of China’s inefficient refineries, which rely on outmoded technology, will be forced to close or will be forced to join with foreign partners. Retail sales outlets will be taken over by the larger multinationals as non-tariff barriers fall. The impact will be lower on upstream oil and gas, including exploration and development.[50] Tariff cuts under the WTO mean that Chinese companies will have to reduce production costs in order to compete with imports. Under WTO China was required to phase out its trade barriers to the import of oil products by the end of 2004. In addition, restrictions on distribution will be lifted, allowing U.S. and other foreign firms the right to sell gasoline and other oil products in the Chinese market. Royal Dutch Shell, Exxon Mobil and BP are now retail marketing in China; these companies own some 300 of China’s 75,000 gasoline stations. The number of retail gasoline stations will increase as car ownership continues to grow. By lowering import barriers and tariffs WTO membership will encourage gasoline consumption in China. In 2003, China had some 96.5 million motor vehicles on the road, of which about 80 percent were publicly owned. But China’s affluent middle class is purchasing automobiles at a furious pace--car sales increased by 75 percent in 2003, and production for 2004 is expected to be 40 percent higher than the previous year.[51] Imports are also expected to increase as WTO regulations force price reductions. Imported cars had been taxed at 80-100 percent tariff rates, which allowed domestic manufacturers to keep automobile and parts prices high. Shortly after joining the WTO, prices on Chinese-made cars dropped as much as 20 percent. Tariffs on imported cars are projected to decline to 25 percent by 2006, and tariffs on spare parts will drop to 10 percent.[52] Lower prices, together with the government’s policy of promoting private automobile ownership, virtually guarantees continued growth in demand for oil. Energy cooperation through the Shanghai Cooperation Organization has recently gained in importance for China. Originally formed to deal with territorial issues arising from the breakup of the Soviet Union, the SCO, whose members also include Russia, Kazakhstan, Uzbekistan, Kyrgyzstan, and Tajikistan, has in recent years focused more on problems of terrorism, religious extremism, and narcotics smuggling. China and Russia have used the organization to gain Central Asian support in their campaigns against separatism in Xinjiang and Chechnya, and both Moscow and Beijing view the organization as a possible counterweight to American influence in the region. China’s new focus on SCO energy cooperation derives from its concern over instability in the Middle East, and the goal of securing both Russian and Kazakh oil and gas.[53] Within the SCO Russia, Kazakhstan and China appear to be forming an energy and security triangle. Kazakh oil is currently exported through the Caspian Pipeline Consortium, which runs through southern Russia and terminates at Novorossiysk, and there are plans to ship Kazakh oil through the Baltic pipeline when it is finished. Russia’s state natural gas monopoly Gazprom has secured rights within Kazakhstan, as it has within all five of the Central Asian states. Russia’s Unified Energy Systems, the electricity monopoly, has tied Kazakhstan and its neighbors into an electrical power grid.[54] Kazakhstan continues to negotiate with China on an oil pipeline eastward, while the government suppresses Uighur separatists and leases agricultural land to ethnic Chinese.[55] Trade among the three continues to grow. Government officials and political observers in Kazakhstan are increasingly worried that economic and political pressures are forcing Astana to tailor its policies to suit Moscow and Beijing.[56] Emphasis on energy cooperation within the SCO could lead to conflict with the United States, since American oil companies have been actively developing Kazakhstan’s oil sector for over a decade. Kazakhstan’s western fields already pipe about 300,000 bpd through the Caspian Pipeline Consortium, in which Chevron has a leading interest, and the Kazakh government plans to export up to ten million tons of crude oil per year through the Baku-Tblisi-Ceyhan pipeline. Washington adamantly supported the BTC pipeline’s route through the Caucasus, in part because it skirts Russian territory.[57] And the U.S. has worked hard to consolidate support among its new Central Asian allies in the war on terror. Defense Secretary Donald Rumsfeld visited Kazakhstan and Uzbekistan in February 2004 to discuss expanding military relations and ensuring security in the oil-rich Caspian region.

#### ---Central Asian instability causes global nuclear war.

Starr 2001

S. Frederick, Chair of Central Asia-Caucasus Institute at John Hopkins University, “The War Against Terrorism and U.S. Bilateral Relations with the Nations of Central Asia,” Testimony before Senate Subcommittee on Central Asia and the Southern Caucasus, Dec 13, http://www.cacianalyst.org/Publications/Starr\_Testimony.htm

However, this does not mean that US actions are without risk to the Central Asian states. Quite the contrary. For a decade they have faced not only the dangers arising from Afghanistan but also the constant threat posed by certain groups in Russia, notably the military and security forces, who are not yet reconciled to the loss of empire. This “imperial hangover” is not unique to Russia. France exhibited the same tendencies in Algeria, the Spanish in Cuba and Chile, and the British when they burned the White House in 1812. This imperial hangover will eventually pass, but for the time being it remains a threat. It means that the Central Asians, after cooperating with the US, will inevitably face redoubled pressure from Russia if we leave abruptly and without attending to the long-term security needs of the region. That we have looked kindly into Mr. Putin’s soul does not change this reality. The Central Asians face a similar danger with respect to our efforts in Afghanistan. Some Americans hold that we should destroy Bin Laden, Al Queda, and the Taliban and then leave the post-war stabilization and reconstruction to others. Such a course runs the danger of condemning all Central Asia to further waves of instability from the South. But in the next round it will not only be Russia that is tempted to throw its weight around in the region but possibly China, or even Iran or India. All have as much right to claim Central Asia as their “backyard” as Russia has had until now. Central Asia may be a distant region but when these nuclear powers begin bumping heads there it will create terrifying threats to world peace that the U.S. cannot ignore. This prospect, along with the unresolved problem of Russia’s imperial hangover, is the reality that the Central Asian states must face if the US precipitously withdraws from their region once the military campaign has achieved its goals. It requires that the United States develop and implement a longer-term strategy for regional security in Central Asia of a sort which, until this moment, has existed only in fragmentary form, if at all. Such a strategy is essential for the viability and sustainab

Terrorists can not mount effective attacks

**Byman and Fair, 10 - \*** senior fellow at the Brookings Institution's Saban Center for Middle East Policy and the director of Georgetown University's Center for Peace and Security Studies AND \*\* assistant professor at Georgetown University's Center for Peace and Security Studies (Daniel and Christine, “The Case for Calling Them Nitwits,” The Atlantic, July/August, <http://www.theatlantic.com/magazine/archive/2010/07/the-case-for-calling-them-nitwits/8130/>)

But this view of the jihadist community is wildly off the mark. To be sure, some terrorists are steely and skilled—people like Mohamed Atta, the careful and well-trained head of the 9/11 hijackers. Their leaders and recruiters can be lethally subtle and manipulative, but the quiet truth is that many of the deluded foot soldiers are foolish and untrained, perhaps even untrainable. Acknowledging this fact could help us tailor our counterterrorism priorities—and publicizing it could help us erode the powerful images of strength and piety that terrorists rely on for recruiting and funding.

Nowhere is the gap between sinister stereotype and ridiculous reality more apparent than in Afghanistan, where it’s fair to say that the Taliban employ the world’s worst suicide bombers: one in two manages to kill only himself. And this success rate hasn’t improved at all in the five years they’ve been using suicide bombers, despite the experience of hundreds of attacks—or attempted attacks. In Afghanistan, as in many cultures, a manly embrace is a time-honored tradition for warriors before they go off to face death. Thus, many suicide bombers never even make it out of their training camp or safe house, as the pressure from these group hugs triggers the explosives in suicide vests. According to several sources at the United Nations, as many as six would-be suicide bombers died last July after one such embrace in Paktika.

### 1ar- Fw

#### ---Reality shapes discourse --- Materiality is a prerequisite to discursive construction.

Roskoski & Peabody 1991

Matthew, Joe, “A Linguistic and Philosophical Critique of Language ‘Arguments,’” http://debate.uvm.edu/Library/ DebateTheoryLibrary/Roskoski&Peabody-LangCritiques

The first is that the hypothesis is phrased as a philosophical first principle and hence would not have an objective referent. The second is there would be intrinsic problems in any such test. The independent variable would be the language used by the subject. The dependent variable would be the subject's subjective reality. The problem is that the dependent variable can only be measured through self- reporting, which - naturally - entails the use of language. Hence, it is impossible to separate the dependent and independent variables. In other words, we have no way of knowing if the effects on "reality" are actual or merely artifacts of the language being used as a measuring tool. The second reason that the hypothesis is flawed is that there are problems with the causal relationship it describes. Simply put, it is just as plausible (in fact infinitely more so) that reality shapes language. Again we echo the words of Dr. Rosch, who says: {C}ovariation does not determine the direction of causality. On the simplest level, cultures are very likely to have names for physical objects which exist in their culture and not to have names for objects outside of their experience. Where television sets exists, there are words to refer to them. However, it would be difficult to argue that the objects are caused by the words. The same reasoning probably holds in the case of institutions and other, more abstract, entities and their names. (Rosch 264).

### 1ar- k

#### (A.) Individual focus fuels economic nationalism --- CFIUS politicization means every local problem will be blamed on China & foreign investment.

Bello & Mittal 2000

Walden, Anuradha, Dangerous Liaisons: Progressives, the Right, and the Anti-China Trade Campaign, Institute for Food and Development Policy/Food First, May, http://www.tni.org/archives/archives\_bello\_china

Sixth, the anti-China trade campaign is dishonest. It invokes concern about the rights of Chinese workers and the rights of the Chinese people, but its main objective is to protect American jobs against cheap imports from China. This is cloaking self-interest with altruistic rhetoric. What the campaign should be doing is openly acknowledging that its overriding goal is to protect jobs, which is a legitimate concern and goal. And what it should be working for is not invoking sanctions on human rights grounds, but working out solutions such as managed trade, which would seek to balance the need of American workers to protect their jobs while allowing the market access that allows workers in other countries to keep their jobs and their countries to sustain a certain level of growth while they move to change their development model. (13) Instead, what the rhetoric of the anti-China trade campaign does is to debase human rights and democratic rights language with its hypocrisy while delegitimizing the objective of protecting jobs-which is a central social and economic right-by concealing it.

#### (B.) The alternative locks workers in the forced choice between accepting structural inequality and hating their foreign counterparts.

Hart-Landsberg & Burkett 2006

Martin, Professor of Economics and Director of the Political Economy Program at Lewis and Clark College, Paul, professor of economics at Indiana State University, China and the Dynamics of Transnational Accumulation: Causes and Consequences of Global Restructuring, Historical Materialism, volume 14:3 (3–43)

Although China’s National Bureau of Statistics has concluded, based on survey research, that only 5 per cent of the country’s population can currently be considered middle-class, the government is conﬁdent that its economic policies will raise this to 45 per cent by 2020. However, such a prediction ﬂies in the face of the lived experiences of Chinese working people. As a Hong Kong Confederation of Trade Unions report explains, ‘globalisation’ has left Chinese workers: isolated in a global equation in which job insecurity and poverty award employers with the upper hand in what has become known as the race to the bottom. Workers in developed countries are told that they must accept lower wages and ﬂexible working conditions to stop their bosses moving production abroad. Meanwhile, workers in SOEs in China are told they must accept a decline in conditions and welfare or be replaced by migrant workers from the countryside. And migrant workers, especially in the coastal Special Economic Zones, are told that they must accept wage arrears and lax health and safety or the boss will move to a more investor-friendly environment further inland.

#### ---Statistical studies prove structural violence is not the root of war.

Sambanis 2004

Nicholas, Associate Professor of Political Science at Yale University, Brookings Trade Forum, p. 201-203

Importantly, preliminary evidence presented here suggests no significant effect of poverty on within-country variation in civil war onset. This may suggest that only long-term differences across countries' levels of poverty matter in explaining cross-national differences in the onset of civil war. A related conjecture is that short-term fluctuations in the level of poverty should not increase the risk of violence (though there was some evidence from instrumental variables models that find a significant correlation between income shocks and violence in African countries). It may be the case that violence risks are magnified in countries with chronic poverty (these poverty rates are more stable and more likely to be picked up in cross-national studies). But these macrolevel results are suggestive at best. Data from microlevel studies are still not sufficient to confirm whether the socioeconomic characteristics of those who actually engage in violence conform with the theoretical interpretations given to empirical analyses that use macrolevel data. A serious challenge to the microfoundations of rational choice economic theories of political violence (notably the opportunity cost theory) was presented by a recent study on terrorism.166 That study revealed that terrorists are on average more educated and have a higher standard of living than the rest of their society. This is consistent with relative deprivation theories that were reviewed early on in this paper, but it may also be a region-specific effect. This finding can be reconciled with theories of civil war if one views terrorism as proto-civil war, fought by elites with more education and greater commitment to their cause than the average rebel in a civil war. A final conjecture is that economic incentives and opportunity are not the only explanations of political violence. Ideology, ethnicity, coercion, and religion can all motivate participation in insurgency. The type of insurgency (ethnic versus nonethnic) and the form the violence assumes (coup, terrorism, civil war) influence the mix of recruitment incentives. Thus, while there is ample evidence that increasing the level of economic development will reduce the overall prevalence of political violence in the world, this alone will not be sufficient to eliminate political violence. Violence changes forms over time and across space and forms a cycle that stops recurring only with successful nation-building, combined with high levels of economic development. Policy interventions aimed at reducing violence should indeed have an economic core. But a strategy to eliminate, or reduce, organized political violence must necessarily be complex, targeting the various forms that violence might take at different stages in the political evolution of different countries

#### ---Oil is good --- Using more now spurs transitions to alternate fuels while conservation slows the shift and undermines third world economies.

Semmens 2007

John, transportation policy analyst at the Laissez Faire Institute in Arizona - April The Freeman: Ideas on Liberty Vol. 57 No. 3 “Freedom Is the Environment's Best Friend”

Whether petroleum will be as crucial in the future as it is now is unknown. It is likely that it will not be. The history of technology indicates that new methods continually replace old methods. For tens of thousands of years humans traveled on foot. For thousands of years humans used animals to ride or to pull vehicles. For the last 100 years humans have ridden in gasoline-powered vehicles. The efficiency with which this gasoline has been used has continuously increased, netting more person-miles and ton-miles to the gallon. Alternatives to gasoline-powered vehicles are being developed. At some point, gasoline may go the way of the horse and drop out of contention as the main transportation power source. So saving petroleum or other substances that may be critical resources now in anticipation that they will be needed in the future may be unwarranted. Conserving resources for the future may impose unnecessary constraints on progress. The long-term trend since the Industrial Revolution some 200 years ago has been one of increasing prosperity. Succeeding generations have been wealthier than preceding generations. Chances appear pretty good that later generations will be able to afford a higher standard of living than we now enjoy. Consequently, requiring the poorer current generation to save more so that wealthier following generations will have more seems inequitable. The inequity is especially egregious when it comes to those currently living in poverty. “Sustaining” subsistence is far less tolerable than sustaining a life lived in the relative comfort of your typical American environmental activist. Many inhabitants of Third World countries depend on selling raw materials like petroleum. They depend on affordable fuel to help grow their economies. Measures that reduce the availability or increase the price of resources will be a lot harder on these poor people than on the affluent in the West.

### 1ar- Politics

#### Hagel nomination kills capital.

Gorman and Lee 1-6-13

Wall Street Journal, White House to Go on Offense for Hagel Pick http://online.wsj.com/article/SB10001424127887323482504578225532918927080.html

WASHINGTON—President Barack Obama plans to announce Monday that he is nominating former Republican Sen. Chuck Hagel to be his next defense secretary in the face of intensifying opposition from Republican lawmakers, administration officials said Sunday. Those officials acknowledge they have a bruising confirmation fight ahead. They also say they are confident they will prevail because Republicans ultimately won't be able to topple a former colleague, a Vietnam veteran and a two-term GOP senator from Nebraska who served on the foreign relations and intelligence committees. Mr. Obama also may announce his nominee to head the Central Intelligence Agency, a position left vacant when David Petraeus resigned last year after admitting to an affair. The two leading candidates for the post are White House counterterrorism chief John Brennan and acting CIA Director Michael Morell. Republican lawmakers on Sunday stepped up their opposition to Mr. Hagel, who initially voted for the Iraq war but grew to oppose it and who supported Mr. Obama for president in 2008. Critics also have cited Mr. Hagel's past criticisms of Israel as a basis for their opposition. Sen. Lindsay Graham (R., S.C.) said Sunday on CNN that it would "probably be a bridge too far" for him to support Mr. Hagel. Mr. Hagel's foreign policy views, he said, are "outside the mainstream," and he would be "the most antagonistic secretary of defense towards the state of Israel in our nation's history." Other Republicans, such as Sen. Ted Cruz (R., Texas), cited what they see as a leniency on Iran and a past reluctance to impose sanctions on Tehran as reasons for their opposition. "He has consistently advocated weakness with respect to our enemies, with respect to the nation of Iran," Mr. Cruz said on Fox. "Weakness in a secretary of defense invites conflict, because bullies don't respect weakness." Mr. Hagel's backers say he will respond to charges he isn't sufficiently supportive of Israel by pointing to votes he made in the Senate for a total of $38 billion in aid for the Jewish state, along with multiple trips to meet with leaders there. Mr. Hagel, said a person close to the decision-making process, believes in America's "special relationship" with Israel, but also believes that relationship enables officials from both governments to "speak frankly" with each other. Regarding Iran, Mr. Hagel voted at least three times for sanctions and is a supporter of multilateral sanctions, the person said, adding that Mr. Hagel has opposed some sanctioning based on specific details, not a broader opposition to sanctions. Mr. Hagel believes that military action should always be an option but, based on his war experience, believes it should only be seriously considered after diplomatic options are exhausted, this person said. The monthlong lag between the initial floating of Mr. Hagel's name for the post and Monday's expected announcement has provided opponents with ample oxygen for a strong fight. While a number of former high-ranking national-security officials have voiced support, backers on Capitol Hill were reluctant to campaign hard for someone who had yet to be nominated, said one person close to the process. The Republican National Committee also joined the fray Sunday, firing its initial shots against Mr. Hagel and indicating the opposition is increasingly organized. Mr. Hagel already has been openly criticized on the airwaves by the Emergency Committee for Israel, an issue-advocacy group that criticized Democrats during the 2012 campaign. Opponents also have been quick to circulate additional ammunition for their cause, such as an Iranian PressTV report Sunday headlined, "Obama expected to nominate anti-Israel Hagel as secretary of defense." One of the chief reasons Mr. Obama chose Mr. Hagel is his willingness to buck his own party in opposing the Iraq war, a senior administration official said. The position plays well to Democrats, some of whom have been critical of his potential nomination. Mr. Hagel's views on Afghanistan and the drawdown of troops there also dovetail with Mr. Obama's, and overseeing the final phases of the war may be the most important task the next secretary of defense faces. It was vital to Mr. Obama that he have someone in that position whose views are aligned with his own on Afghanistan. Another key reason Mr. Obama is willing to spend political capital on Mr. Hagel is the president wants a Republican in his cabinet, said the person familiar with the process, and there are few open positions to fulfill that goal. Defense has been a problematic area for Democratic presidents, and the White House feels Mr. Obama benefited from initially having Robert Gates, a Republican, in the slot because it gave him some political cover with GOP critics. Mr. Obama is less likely to back down in the face of opposition to Mr. Hagel after losing the nomination of U.N. Ambassador Susan Rice, who withdrew from consideration for secretary of state in the wake of GOP criticism. The White House plans to push back by casting Mr. Hagel as a decorated war hero with two Purple Hearts and underscoring that he would be the first enlisted military member to run the Defense Department. Crucial for Mr. Hagel's nomination will be the extent to which Democrats back him to offset Republican criticism. The White House intends to make clear Mr. Hagel apologized for a comment he made opposing an openly gay ambassador nominee about a decade ago. Officials also will stress the president is confident that Mr. Hagel will complete the implementation of the repeal of "don't ask, don't tell," the policy banning gays from serving openly in the military. A senior administration official said Mr. Obama would not have chosen Mr. Hagel unless he had been assured he would see through the implementation of "don't ask, don't tell." The White House also intends to push back against critics of Mr. Hagel's positions on Iran and Israel by stressing that he will be responsible for carrying out the president's policies. Supporters of Mr. Hagel noted Sunday that the top Republican in the Senate, Sen. Mitch McConnell (R., Ky.) refused to voice opposition to Mr. Hagel, whose national-security expertise he has praised in the past. "I'm going to wait and see how the hearings go and see whether Chuck's views square with the job he would be nominated to do," Mr. McConnell said on ABC, where he pledged Mr. Hagel would receive "a fair hearing" from Senate Republicans. Still, marshaling the votes to back the controversial nominee will not be easy. A senior Republican aide on Capitol Hill said he didn't think Mr. Hagel would garner much Republican support and predicted as many as 15 to 20 Democrats would have difficulty voting for him, especially those who are facing re-election in 2014 and worry about upsetting the powerful pro-Israel lobby. Democrats and their independent allies hold 55 seats in the new Senate. Administration officials said they believe they can gain majority support, and they don't think that Republicans would go so far as to block consideration of the nomination entirely.

#### Hagel will take capital.

Stirewalt 1-7-13

Chris Stirewalt is digital politics editor for Fox News http://www.foxnews.com/politics/2013/01/07/obama-antagonizes-with-hagel-pick/#ixzz2HIxgDXMu

Hagel is disliked by Republicans for his foreign policy attacks on the party during the Bush years and strongly opposed by pro-Israel groups for his seemingly neutral stance on the Arab-Israeli conflict. Hagel’s swaggering talk in a post-Senate interview about the “Jewish lobby” and its undue influence on American foreign policy is a huge red flag for Jewish Americans who work very hard to make the U.S. alliance with Israel something beyond the reach of culture and religion. With Republicans still resentful of Hagel’s ostentatious opposition of Bush-era policies and support for Obama’s two presidential runs, confirmation would have been tricky enough. But the queasy feelings of pro-Israel Democrats on the tough-talking Vietnam vet will make it so much worse. Maryland Sen. Ben Cardin, a dutiful Democrat if ever there was one, told the soon-to-be-former cable news network Current TV on Sunday that there are “some statements that [Hagel] needs to clarify” and called the nomination “controversial.” Coming from Cardin, ranked in the 10 most liberal senators by National Journal, that’s the equivalent of a cannon shot across Obama’s bow. It will take lots of time and effort to drag Hagel, opinionated and confrontational, across the finish line. The president can get it done, but the ordeal will be frightful and expend plenty of political capital. The president is already staring down a double-barreled battle over government spending on the debt ceiling and the expiry of the law funding the government in lieu of a budget. Plus, Obama’s pick to lead the CIA, counterterrorism chief John Brennan, will face plenty of thorny questions from the left about his role in “enhanced interrogation techniques” and from the right about the Islamist raid on the U.S. consulate in Benghazi, Libya.

## Round 4 – Northwestern MP

### Congress Turn

#### Clarifying energy assets gives the CFIUS process transparency which assures Congress and avoids protectionism.

Feng, JD-NYU, 09 (YIHENG, CONSEQUENCES OF THE CONGRESSIONAL POLITICIZATION OF FOREIGN DIRECT INVESTMENT ON NATIONAL SECURITY GROUNDS, http://www.law.nyu.edu/ecm\_dlv1/groups/public/@nyu\_law\_website\_\_journals\_\_journal\_of\_international\_law\_and\_politics/documents/documents/ecm\_pro\_064915.pdf)

Finally, in Part IV, I will propose two potential reforms that would address many congressional concerns (namely, lack of transparency and improper scope) and that potentially could reduce the likelihood of congressional interference in the Exon-Florio process. First, CFIUS should publicize the process of reaching mitigation agreements, a process that was only recently codified in FINSA. By creating a more formalized mitigation process and keeping past agreements accessible to the public in a database, foreign entities can obtain a better idea of what CFIUS (and, by extension, the President) is concerned with, depending on country of origin and area of investment. More importantly, formalization and publication would help allay Congress’s fears that problem deals are slip-ping by CFIUS’s limited resources by creating a more transparent process that is subject to greater oversight. Second, I will argue that implementation of the “national infrastructure” language in FINSA remains overly vague and that CFIUS’s review process should include an analysis of regulatory parity with foreign nations who seek to invest within our borders. By doing so, CFIUS can address criticisms that it is myopic by viewing transactions within the broader framework of bilateral relationships between the United States and investing states. Moreover, regulatory parity provides a workable and legitimate method of dealing with national security concerns regarding problem states such as China, without resorting to crude protectionist arguments.

#### --- plif

#### They already have enough uranium

Lewis 9-14-2012

Jeffrey, Director of the East Asia Nonproliferation Program at the James Martin Center for Nonproliferation Studies at the Monterey Institute of International Studies, How Close Is Iran to Bomb #1?, Arms Control Wonk, http://lewis.armscontrolwonk.com/archive/5699/how-close-is-iran-to-bomb-1

But to make a long story short, Cochran and Paine estimate that a relatively low-tech bomb program would need between 8 and 16 kg of U-235 for a pure fission weapon (an “A-bomb”), depending on how much explosive yield is desired. A medium-tech program, which is perhaps where Iran fits thanks in part to the foreign assistance described in GOV/2011/65, would need between 4 and 9 kg of U-235. As a reminder, Iran already has about 11 kg of U-235 in the almost-20% U-235 UF6 that’s sitting in storage, and about 20 kg of U-235 available if you throw in other material that could be turned back into UF6. What’s more, GOV/2012/37, the source of the UF6 numbers above, is already out of date. As Table 3 of the report shows, more UF6 enriched to almost 20% U-235 is accumulating rapidly. The bottom line is that Iran probably has enough material on hand today to support the breakout scenario that Israeli officials reportedly fear is coming within months. On to the next artificial threshold of capability!

#### 3. They can quickly weaponize

Washington Post 11 (IAEA says foreign expertise has brought Iran to threshold of nuclear capability, Nov 6, http://www.washingtonpost.com/world/national-security/iaea-says-foreign-expertise-has-brought-iran-to-threshold-of-nuclear-capability/2011/11/05/gIQAc6hjtM\_story\_1.html)

Intelligence provided to U.N. nuclear officials shows that Iran’s government has mastered the critical steps needed to build a nuclear weapon, receiving assistance from foreign scientists to overcome key technical hurdles, according to Western diplomats and nuclear experts briefed on the findings. Documents and other records provide new details on the role played by a former Soviet weapons scientist who allegedly tutored Iranians over several years on building high-precision detonators of the kind used to trigger a nuclear chain reaction, the officials and experts said. Crucial technology linked to experts in Pakistan and North Korea also helped propel Iran to the threshold of nuclear capability, they added. The officials, citing secret intelligence provided over several years to the International Atomic Energy Agency, said the records reinforce concerns that Iran continued to conduct weapons-related research after 2003 — when, U.S. intelligence agencies believe, Iranian leaders halted such experiments in response to international and domestic pressures. The U.N. nuclear watchdog is due to release a report this week laying out its findings on Iran’s efforts to obtain sensitive nuclear technology. Fears that Iran could quickly build an atomic bomb if it chooses to has fueled anti-Iran rhetoric and new threats of military strikes. Some U.S. arms-control groups have cautioned against what they fear could be an overreaction to the report, saying there is still time to persuade Iran to change its behavior.2

### T- People not places

#### ---Foreign investment restrictions apply to extraction

Clark-partner Dewey & LeBoeuf LLP-11

LIMITS ON INTERNATIONAL BUSINESS IN THE PETROLEUM SECTOR: CFIUS INVESTMENT SCREENING,

ECONOMIC SANCTIONS, ANTI-BRIBERY RULES, AND OTHER MEASURES

<http://tjogel.org/wp-content/uploads/2012/05/ware_final1.pdf>

B. Petroleum Industry Experience and Challenges: Exon-Florio Although CFIUS’s focus on energy-related transactions is a recent development, U.S. government decision-makers have long viewed oil company deal-making as having a strategic dimension. 34 Concern about the oil and gas industry was a driving factor in the original establishment of CFIUS in 1975. In the 1970s Congress had grown concerned over the rapid increase in investments by Organization of the Petroleum Exporting Countries (“OPEC”) in portfolio assets, suspecting that they may be driven by political, rather than by economic, motives. 35 In 2006 congressional outcry over a CFIUS-approved acquisition of a port management business by UAE-controlled Dubai Ports World led to a broad reformulation of Exon-Florio. The legislation, the Foreign Investment on National Security Act (“FINSA”), reflects a congressional intent to scrutinize oil and gas acquisition intensively. As indicated above, the statute urges CFIUS to consider in assessing transactions “the long-term projection of the United States requirements for sources of energy and other critical resources and material” and “the potential national security-related effects on United States critical infrastructure, including major energy assets.” 36 The legislative history “makes clear that national security encompasses national security threats to . . . energy-related infrastructure.” 37 The House of Representatives committee that prepared the legislation expressed its view that it “expects that acquisitions of U.S. energy companies or assets by foreign governments or companies controlled by foreign governments . . . will be reviewed closely for their national security impact.” 38 Transactions in the energy sector have been subject to CFIUS review at various stages of the value chain, including extraction, transportation, conversion to power, and supply to the U.S. government. 39 Over time CFIUS appears to be paying closer attention to deals involving these types of assets, creating some uncertainty for potential mergers and acquisitions in this sector.

#### ---On indicates focus of the plan

Merriam Webster Online

<http://www.merriam-webster.com/dictionary/on>

Definition of ON

9a —used as a function word to indicate destination or the focus of some action, movement, or directed effort <crept up on him> <feast your eyes on this> <working on my skiing> <made a payment on the loan>

b —used as a function word to indicate the focus of feelings, determination, or will <have pity on me> <keen on sorts> <a curse on you>

c —used as a function word to indicate the object with respect to some misfortune or disadvantageous event <the crops died on them>

d —used as a function word to indicate the subject of study, discussion, or consideration <a book on insects> <reflect on that a moment> <agree on price>

e : with respect to <go light on the salt> <short on cash>

#### ---The plan is directly tied to oil and gas production-Capital is intrinsically tied to future increases

Houston Chronicle 1/4/12 International players jump at U.S. shale Simone Sebastian

<http://www.chron.com/business/article/International-players-jump-at-U-S-shale-2439490.php>

Energy companies are funneling billions of dollars into the booming business of U.S. shale drilling. They are investing euros, yuan and krone, too. Chinese corporation Sinopec and French company Total this week became the latest in a string of foreign firms to announce big bets on the resurgence of U.S. fossil fuel production. International energy companies are signing billion-dollar deals with U.S. firms to reap the financial benefits of their oil fields and siphon knowledge from their experience in extracting petroleum from dense shale rock to carry the skills overseas. In return, they are ponying up the funds to get more wells drilled, so the oil and natural gas bounty trapped deep below can get to market quickly. "The big motivation for (U.S.companies) wanting to find a partner is finding someone with big pockets," said Scott Hanold, energy research analyst for RBC Capital Markets. "They are just money men at the end of the day." Total signed its second shale compact with Oklahoma-based natural gas producer Chesapeake Energy last week to secure acreage in Ohio's burgeoning Utica shale. The French energy giant got 25 percent interest in a 619,000-acre joint venture with Chesapeake and Houston-based EnerVest. In exchange, it forked over $700 million cash along with a promise to fund 60 percent, or about $1.63 billion, of the group's drilling and well completion costs in the Utica. The companies plan to have 25 rigs operating by 2014. China's Sinopec International Petroleum Exploration & Production Corp. muscled its way into U.S. shale with a $2.2 billion investment in oil fields owned by Oklahoma-based energy company Devon, announced Tuesday. The Chinese corporation gains one-third interest in Devon's 1.2 million acres in the Utica shale, the Michigan Basin, the Mississippian in Oklahoma, the Tuscaloosa marine shale in Louisiana and the Niobrara in Wyoming. Sinopec will pay $900 million cash when the deal closes, expected in 2012's first quarter, and cover 70 percent of Devon's drilling costs, about $1.6 billion.

#### ---C/I-Production is a distinct stage from exploration, transportation, storage, and distribution.

Elcock 04 (Deborah, ‘Environmental Policy and Regulatory Constraints to Natural Gas Production,” Argonne National Laboratory, Dec, http://www.ipd.anl.gov/anlpubs/2004/12/51652.pdf)

In 1999, the National Petroleum Council (NPC) reported that the demand for natural gas was growing and that the resource base was adequate to meet this demand; however, certain factors needed to be addressed to realize the full potential for natural gas use in the United States (NPC 1999). In 2001, the National Energy Policy Development Group (NEPDG), established by the President to develop a plan to help the private and public sectors promote dependable,2 affordable, and environmentally sound energy for the future, presented its National Energy Policy (NEPDG 2001). The NEP recommendations included investigating several areas that could be limiting domestic natural gas production. The potential for a near-term natural gas shortage prompted a June 26, 2003, Natural Gas Summit, designed to give the Secretary of Energy and other DOE officials information on the ramifications and potential resolutions of short-term challenges to the natural gas industry. In September 2003, the NPC released an update to its 1999 study (NPC 2003). In the update, the NPC reports that government policies encourage the use of natural gas but fail to address the need for additional natural gas supplies. The 2003 report states that a status quo approach to these conflicting policies will result in undesirable impacts to consumers and the economy. A key issue raised but not fully explored in these efforts was how environmental and regulatory policy constraints, which were developed to meet national environmental protection goals, can, at the same time, limit natural gas exploration and production (E&P) and transportation. Recent studies have examined limitations to accessing natural gas, particularly in the Rocky Mountain region, but even after the gas is accessed, numerous additional environmental policy and regulatory constraints can affect production and delivery to consumers. The purpose of this Phase I study is to identify specific existing and potential environmental policy and regulatory constraints on E&P, transportation, storage, and distribution of natural gas needed to meet projected demands. It is designed to provide DOE with information on potential constraints to increased natural gas supply and development in both the long and short terms so that the Department can develop, propose, and support policies that eliminate or reduce negative impacts of such constraints, or issues, while continuing to support the goals of environmental protection. It can also aid in setting priorities for regulatory reviews and for research and development (R&D) efforts. 1 A possible future Phase II study would identify potential short-, mid-, and long-term strategies for mitigating these environmental policy and regulatory constraints.

---we meet-foreign investment restrictions on production

Hirsch-former senior energy program adviser for Science Applications International Corporation-11 Commentary: Restrictions on world oil production

<http://www.energybulletin.net/stories/2011-03-28/commentary-restrictions-world-oil-production>

Restrictions on world oil production can be divided into four categories: 1. Geology 2. Legitimate National Interests 3. Mismanagement 4. Political Upheaval Consider each in reverse order: Political upheaval is currently rampant across the Middle East, resulting in a major spike in world oil prices. No one knows how far the impacts will go or how long it will take to reach some kind of stability and what that stability will mean to oil production in the Middle Eastern countries that produce oil. We are thus relegated to best guesses, which span weeks, months, or years before there are clear resolutions. One pre-Middle East chaos country limited by political upheaval is Iraq, which is believed to have the oil reserves to produce at a much higher level, but Iraqi government chaos has severely limited oil production expansion. In another long-standing case, Nigeria has been plagued by internal political strife, which has negatively impacted its oil production. Mismanagement of oil production within a country can be due to a variety of factors, all of which mean lower oil production than would otherwise be the case. Venezuela is the poster child of national mismanagement. The country has huge resources of heavy oil that could be produced at much higher rates. Underproduction is due to the government syphoning off so much cash flow that oil production operations are starved for needed funds. In addition, Venezuela has made it extremely difficult, if not impossible for foreign oil companies to operate in the country. Another example of mismanagement is Mexico, where government confiscation of oil revenues, substandard technology, and restrictions on foreign investment has led to significant Mexican oil production decline.

-xxx--We-meet-the plan reduces restrictions that block, delay, and alter foreign investment in energy production

Inside Energy with Federal Lands 4/12/10 (Herman Wang, HEADLINE: Foreign energy investments spark security concerns)

Foreign firms appear to be increasingly interested in investing in US oil companies, electric utilities and other parts of the US energy infrastructure, as they are seeking to profit from America's appetite for oil, coal and other commodities, as well as the Obama administration's emphasis on renewable power. But with those deals will come scrutiny from a little-known federal panel that has the power to block the transactions for national security reasons, through a review process that industry insiders say is sometimes inconsistent, politically driven and opaque. The Committee on Foreign Investment in the United States is an inter-agency panel that gave the Energy Department a permanent seat in 2007 to help it investigate business transactions in which foreign governments or companies seek to acquire "major energy assets" in the US. But some experts say CFIUS does not offer enough up-front guidance to US companies that are being acquired by foreign interests, wasting time and money. "We face situations where we tell our clients we see no security risk," said Billy Vigdor, a Washington-based partner with law firm Vinson & Elkins. "And then we spend hours trying to figure out whether we should file [a disclosure] because the government might think it is, in fact, a security risk. The last thing you want is to have a contract in place, and you think you're going to close in 30 days, and then CFIUS calls and says you need a filing." Companies being acquired by a foreign-owned firm can voluntarily notify CFIUS of the transaction, but the committee also has the power to investigate all transactions it sees fit to review. Representatives from 16 federal departments and agencies, headed by the Treasury Department, comprise the committee. Those investigations can leave foreign companies feeling unfairly targeted, potentially discouraging needed foreign investment in US energy infrastructure, said Al Troner, president of Houston-based Asia Pacific Energy Consulting. Troner said CFIUS' rulings on what constitutes a security threat can be arbitrary and inconsistent. Even when the committee determines there is no security risk for a transaction, politics can sometimes trump the ruling, Troner said. Troner cited CFIUS' approval in 2006 of a deal by a Dubai-based company to manage several US ports, only to have the company back out after many lawmakers cried foul due to fears of terrorism. "We want investment, but we want 'safe' investments, even though we can't define what is safe," Troner said. "So a big problem in all this is uncertainty, which makes this a funny market to invest in. [Foreign firms] don't feel treated fairly as to what the criteria are for energy security. If you don't know what you're getting into, at a certain point, you ask if this is worth it." Steven Cuevas, who was DOE's director of investment security in 2007 when the department gained a seat on CFIUS, said the committee makes its decisions apolitically. CFIUS, originally established in 1975, received a legislative mandate in 2007 to tighten its oversight of foreign transactions, including defining critical infrastructure as an asset so vital that its incapacity or destruction would severely impact national security. A bill signed by then-President George W. Bush, sparked in large part because of the uproar over the Dubai Ports World deal, formalized CFIUS' review process, which until then had been loosely defined and applied. That same bill also gave DOE its seat on CFIUS. The committee reviews about 150 to 200 foreign business deals a year. "We left politics at the door," Cuevas said. "As with any national security program, you really need to look at the issues in national security and not worry about politics. It's not a situation where there's a bright-line rule. You have to look at each transaction by itself. The standard is, does this transaction, by itself, pose a risk to national security?" Richard Oehler, a Seattle-based partner with law firm Perkins Cole, said prior to the 2007 legislation, CFIUS primarily concerned itself with defense contracting and other issues related to defense and intelligence. The legislation, however, with its definition of critical infrastructure, put an increased focus on US energy assets. "They were not focused on energy, until the politicians redefined [CFIUS]," Oehler said. Cuevas, now a renewable-energy lobbyist with French-owned nuclear company Areva, was a Bush administration political appointee assigned the task of setting up DOE's new role on CFIUS. He said he could not disclose, for confidentiality reasons, how many transactions DOE reviewed during his time working on the committee. Cuevas left his DOE post in 2009 with inauguration of the Obama administration. "When we started the CFIUS program at DOE, we had no processes in place," he said. "There was no record keeping. I spent the last year and a half with the department trying to standardize those steps of review, who signs off on transaction, who tracks them. We were simply trying to keep up with the transactions. We set the foundation, and the folks that are there now are fleshing it out." Last month, DOE issued a draft policy outlining its role on CFIUS that is similar to the Bush administration's policy. The policy, signed by DOE Deputy Secretary Daniel Poneman, prescribes that the department's risk analyses must consider the "criticality and/or vulnerability of the US assets being acquired" and "the threat to those assets posed by the acquiring entity and the consequences to national security if the threat is realized." Each transaction must also be reviewed on whether it involves critical infrastructure and technology, as well as how the transaction would impact long-term projections of US energy consumption. In addition, if a foreign government-owned entity is involved in the transaction, DOE will assess "the adherence of the subject country to nonproliferation control regimes, including treaties and multilateral supply guidelines," the draft policy states. After the review, DOE can clear the transaction with no further action; refer it to CFIUS for a 45-day national security investigation; clear the case conditionally, pending the creation of a "mitigation" plan to resolve security concerns; or recommend to the president to block the deal. Energy Secretary Steven Chu is DOE's primary representative to CFIUS, but much of the department's responsibilities on the committee are delegated to Jonathan Elkind, DOE's principal deputy assistant secretary for policy and international affairs. Elkin was not available for comment. Cliff Vrielink, a Houston-based partner with Vinson & Elkins, said CFIUS can sometimes give US companies pause when seeking to be acquired by a foreign firm. "CFIUS presents a hurdle for a foreign buyer that a domestic buyer doesn't have," Vrielink said. "When someone as an asset they want to sell, and they have an auction where multiple companies have put in bids, the foreign buyer has the uncertain timing of a CFIUS filing, which can be a significant factor." Complicating matters for foreign companies is the fact that CFIUS reviews are not based on a clear set of guidelines and regulations outlining, for instance, how much of a US company a foreign firm can acquire without triggering an investigation. "We, as Americans, are fortunate in that in so many areas, we have bright-letter law, and I think that's one thing that's always been an attraction for foreign investment, that we have the sanctity of contracts and bright-letter law," Vrielink said.

---Mitigation measures block, delay, and alter deaks, even if they aren’t blocked

Marchick 07 (David, partner at Covington & Burling, where he advises

companies on the CFIUS process, “Swinging the Pendulum too Far: An Analysis of the CFIUS Process Post-Dubai Ports World,” Jan, http://www.nfap.net/researchactivities/studies/NFAPPolicyBriefCFIUS0107.pdf)

In the 18 years that Exon-Florio has been in force, there have been slightly more than 1700 CFIUS filings. Only one transaction has formally been blocked by the President — a 1990 aerospace investment by a Chinese company. From the data, one would think that CFIUS has merely been a rubber stamp, approving 99.9 percent of the acquisitions. The data belie actual practice, since tough restrictions are imposed by CFIUS as a condition for approval — typically through “mitigation” or “national security” agreements. In addition, parties typically will abandon a transaction in the face of a possible rejection rather than force the President to formally block a proposed acquisition. The public relations damage to a company if a President were to block an acquisition would be substantial.

#### ---Production deals with a high level of scrutiny are considered “restricted”.

Vinson & Elkins LLP 12 (V&E China Practice Update E-communication, “China Amends Foreign Investment Policy: New Foreign Investment Industry Guidance Catalogue,” January 13, http://www.velaw.com/resources/pub\_detail.aspx?id=20405)

The Catalogue classifies foreign direct investments in the various Chinese industry sectors as “encouraged,” “restricted,” “permitted,” or “prohibited,” and sets out specific industries in which foreign investment is either “encouraged,” “restricted,” or “prohibited.” Activities not listed are, in the absence of other rules to the contrary, considered to be “permitted” for foreign investments. Foreign investment in “encouraged” industries may enjoy certain tax benefits and is often subject to less strict administrative requirements from approval authorities. The “restricted” category includes industries into which foreign investment is subject to a higher level of scrutiny, stricter administrative requirements, and may be denied at the discretion of the approval authorities. Foreign investment is not permitted in industries categorized as “prohibited.”

#### ---C/I

#### Restrictions mean qualification on production

Wright v. Magellan Behavioral Health, Inc., 2007 U.S. Dist. LEXIS 48718  2007

In the instant case, the Court is required to interpret the word "restriction" as used by the parties in the Agreement. The parties apparently agree that the legal definition of restriction--"a limitation or qualification," Black's Law Dictionary 1341 (8th ed. 1999)--is a good place to start. Thus, the Court must determine whether the board's supervision requirement falls within this definition.

#### That means conditions on production not just prohibitions

Google Dictionary

qual·i·fi·ca·tion

noun /ˌkwäləfəˈkāSHən/

qualifications, plural

A quality or accomplishment that makes someone suitable for a particular job or activity

- only one qualification required—fabulous sense of humor

The action or fact of becoming qualified as a practitioner of a particular profession or activity

- an opportunity for student teachers to share experiences before qualification

A condition that must be fulfilled before a right can be acquired; an official requirement

- the five-year residency qualification for presidential candidates

### 2AC Courts CP

#### 1. Permute- do the counterplan-

#### A. Nullifying a law is the same thing as reducing a restriction.

Duchossois Indus. v. United States, 2010-1 U.S. Tax Cas. (CCH) P50,344 2010

In Kohler, the taxpayer purchased $ 19.5 million in Mexican pesos for debt in the amount of $ 11.1 million. The pesos had the same restrictions 2 as the restrictions imposed in the instant case; e.g., requiring that the pesos be used only to purchase Mexican goods and services, prohibiting guaranteed dividends, and prohibiting transfer of stock to any Mexican citizen or company for a period of ten years. These restrictions were specifically discussed in Kohler as lowering the value of the pesos that were disbursed in that case, just as in the instant case. "A dollar restricted to being used to purchase the currency of a country in the throes of a financial crisis is worth less than a dollar." Id. at 1035-37. Addressing the government's assessment in Kohler, the Seventh Circuit rejected the government expert's opinion that the stock restrictions had no economic cost or adverse impact. Consequently, the tax assessment in Kohler was "without any foundation whatsoever" and therefore the assessment was "naked." FOOTNOTES 2 The court agrees with plaintiff that the government's avoidance of the word "restrictions" [\*7] in its brief in opposition to plaintiff's motion for summary judgment, and its substitution of the word "conditions," constitutes a transparent attempt to minimize the impact of these restrictions to justify its position that they do not decrease the value of the pesos or the stock involved. As plaintiff points out, both the Seventh Circuit and the Fifth Circuit in GM Trading Corp. v. Commissioner, 121 F.3d 977 (5th Cir. 1997) describe these very same "conditions" as "restrictions." Indeed, the government's expert, Dr. Cragg, referred to them as "restrictions." Of course, a rose is a rose by any other name, and it is the impact of these conditions or restrictions that devalues the pesos and lowers the value of the stock.

#### B. the Court can “reduce restrictions”- contextual evidence

Shim 96 (Yumee, Mountain States Legal Foundation v. Glickman: When a Tree Falls in the Forest, is Anything Left (Of) Standing?, Fall, 1996, 15 Temp. Envtl. L. & Tech. J. 277)

Specifically, plaintiffs alleged that the implementation of the Guidelines would drive up the price of available timber, which would damage their economic well-being as well as the "quality of life of lumber-dependent communities." Additionally, plaintiffs claimed that the Guidelines were environmentally unsound because they would increase the risk of disease and wildfire. Finally, plaintiffs "argued that a favorable ruling by [the] Court [would] redress their injuries because striking down the Guidelines [would] reduce restrictions on timber harvesting, do less damage to the environment, and force the agency to comply with the procedural commands of NFMA and NEPA ...." Id.

#### 2. Permute- do both- Court action provides political cover.

Zotnick, law prof- RWU, 04

David M. Zlotnick, associate professor of law at the Roger Williams University School of Law, visiting professor of law at Washington College, Spring 2004, Roger Williams University Law Review, 9 Roger Williams U. L. Rev. 645, p. 684

On the federal level, the time has come to listen to the voices of reason. In a democracy that claims much of its strength from the power of an independent judiciary, we must heed the moment when its judges proclaim that democratically made laws are nevertheless morally flawed. While by rule and role, many judges feel compelled to restrain their voices, even small efforts may matter. Like the "Whos" of "Whoville" in the Dr. Suess classic, n196 sometimes all it takes is one more voice. Now that the Justices of the Supreme Court are weighing in more forcefully, these voices of conscience may be heard above the din of political posturing. Perhaps, too, these judicial voices will provide political cover to a courageous politician of either party willing to take on this issue. n197 Until that day, however, sentencing under the dual mandatory minimum and Guidelines regimes continues with prosecutors essentially serving as both partisan and judge. To federal judges, chosen for their experience and judgment, this makes a travesty of the justice they have sworn to uphold.

#### 3. CP Links to Politics

Treanor and Sperling, 1993 (William Michael, Associate Professor of Law @ Fordham University, and Gene B., Deputy Assistant to the President for Economic Policy, December, Prospective Overruling and the Revival of "unconstitutional" Statutes, 93 Colum. L. Rev. 1902, Columbia Law Review)

**A judicial decision invalidating a statute** also **skews the political dynamic because**, as a result of that decision, **proponents and opponents of the statute will attach different levels of symbolic importance to its repeal**. Similarly, they will attach different levels of symbolic importance to the passage of new statutes that are also unconstitutional under the invalidating decision. Again, **the skewing favors the proponents of the invalidated statute. The proponents,** having lost in the courts**, place a premium on** legislative endorsement of their position**: the legislature alone can provide a statement in favor of their views by an official governmental actor**. **Opponents of a statute will attach less symbolic value to what the legislature does.** For them, the effect of legislative endorsement will only be cumulative, since the courts have already embraced their position. This difference in symbolic importance for the two sides can alter the political process so that it produces a result inconsistent with majority wishes. **A legislator will incur the enmity of those who support an "unconstitutional" bill by working for its repeal or opposing similar legislation; she is unlikely to win offsetting support from the bill's opponents**. The fate of an Arkansas statute that required public schools to allocate as much time to the teaching of creation science as to evolution illustrates this phenomenon. Although understood to be unconstitutional, the statute was passed by the legislature almost without discussion. 64 The President Pro Tempore of the Senate explained, "It was meaningless, just a piece of junk, so why not vote for it." 65 Had opponents of the bill attached as much importance to blocking it as proponents did to ensuring its passage, the Senator would not have made that statement. But because the statute's symbolic importance was different for the two camps, he voted in favor of the bill.

#### 4. Congress key to Chinese investment – hostility perception.

Rosen and Hanemann 2011

Daniel H. Rosen is Founder and China Practice leader of the Rhodium Group and adjuct professor at Columbia University, Thilo Hanemann is Research Director at the Rhodium Group, AN AMERICAN OPEN DOOR?, May 2011, http://asiasociety.org/files/pdf/AnAmericanOpenDoor\_FINAL.pdf

Though the annual numbers are doubling, there is a growing perception in China that the United States is not enthusiastic about Chinese investment. Washington must recapture the high ground on this topic by pointing to the healthy growth in those investment flows to date and by making clear that U.S. policy will remain accommodative. A bipartisan congressional–executive statement is needed to send an unequivocal message of support for increased investment from China. It is especially important that the U.S. Congress plays a positive role in this messaging given its oversight role and recent activism on foreign investment.

#### 5. Turn- Delay-

#### the CP will be appealed which delays the final decision

Rosenberg, Law Prof- Chicago, 1991 (Gerald, The Hollow Hope, pg. 87)

The judiciary, like other large political institutions, is afflicted with many bureaucratic problems. However, as proponents of the Constrained Court view argue, the constraints imposed by the structure and process of the legal bureaucracy make courts a **singularly ineffective** institution in producing significant social reform. Among these constraints is the inability to respond quickly. The time between the initiation of a suit, the exhaustion of all appeals, and the issuance of a final decree can be years. This is no less the case when judges act in good faith. Delay is built into the judicial system and it serves to limit[s] the effectiveness of courts. Delay occurs for many reasons. One is overloaded court dockets. During the 1950s and 1960s, the Fifth Circuit, responsible for most of the South, had the nation's most congested dockets (Note 1963, 101). Appeals to that court were naturally delayed. Second, the judicial system allows for many appeals and will bend over backwards to hear a claim.21 Numerous appeals can serve as a tactic to delay final decision. Another reason for delay is the complicated nature of many civil rights suits. Questions of whether the suit is properly a class action, whether local remedies have been exhausted, or whether a different court is the more appropriate forum can keep cases bouncing around lower courts for years. Even if a lower court enjoins certain actions as discriminatory, it may stay the injunction pending appeal. Fourth, higher courts rarely order action. Normally, they remand to the lower court and order it to act. The time involved here, even assuming good faith, can add up. Finally, if a final order does not have a direct effect, if the discrimination is not remedied, the plaintiff's only judicial remedy is to return to court and re-start the process.

#### 6. Delays causes FDI chilling that wrecks the economy

Hamilton and Quinlan 06 (Daniel, and Joseph, Protecting Our Prosperity

Ensuring Both National Security and the Benefits of Foreign Investment in the United States, NATIONAL FOUNDATION FOR AMERICAN POLICY, JUNE, http://transatlantic.sais-jhu.edu/transatlantic-topics/Articles/economy/ProtectingOurProsperity\_NFAP\_June\_20\_2006.pdf)

Fifth, don’t shoot yourself in the foot. Political uncertainties and potential delays for foreign investors would have a huge chilling effect on their proclivity to buy American assets. The United States needs to attract almost $1 trillion of foreign financing a year to fund its huge and growing trade and current account deficits. The current account deficit has reached 6 percent of GDP, underscoring the wide gap that has developed between what Americans buy and what they sell to foreigners. This deficit has not harmed the U.S. economy because U.S. remains one of the best places in the world to invest. As a result, dollars that Americans send abroad when they buy imports are recycled back as capital investments. Americans are quite dependent on foreign investment inflows to cover the gap between what they produce and what they consume. At the end of 2004 (the most recent figures) foreigners owned about $12 trillion in US assets: $6 trillion in stocks and bonds; $3 trillion in debt to banks and other lenders and $3 trillion in hard assets such as factories. As we discussed earlier, these investments employ Americans, boost their salaries and keep interest rates down. If, however, the U.S. develops a reputation as a less welcoming place for investment, money will flow to other nations that otherwise may have fueled the U.S. economy. The result could be higher interest rates, higher mortgage rates, higher inflation, less innovation, lower wages, and lower stock prices. 35

### NU-Carroll CP

#### Permutation-- do the plan and limit CFIUS reviews as outlined by the counterplan.

#### This isn’t what carroll advocates at all…Zero solvency

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

This proposed definition of national security would be even more limited than the original Exon-Florio signed by President Reagan, as Exon-Florio was designed to apply mainly to defense-based technological acquisitions.223 The main difference between this definition of national security and the original Exon-Florio legislation is that this definition would codify national security to explicitly prevent protectionist use of the CFIUS for political ends. Any consideration of economic security or protection of energy assets from foreign acquisition would be excluded from this definition, as inclusion of such economic factors can only encourage protectionism and politicization of the CFIUS process.224

#### Doesn’t solve- burden of proof is on the company

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

On July 26, 2007, President Bush signed FINSA into law.120 The new legislation modified Exon-Florio in several aspects, most notably by broadening the definition of national security to encompass “homeland security,” and also by including critical infrastructure, energy assets, and critical technologies under the umbrella of FINSA.121 FINSA added the Secretary of Energy as a voting member of the CFIUS122 and made investigations mandatory when either an acquisition is made by an entity controlled by a foreign government or the transaction could result in the control of any critical infrastructure, including major energy assets, by a foreign business.123 This requirement is excepted if the Secretary of the Treasury and the head of the lead agency jointly determine that the transaction will not impair national security.124 Thus, the burden of proof to show that a controlling acquisition of “critical infrastructure” does not threaten national security has arguably shifted from the government to the companies.125 FINSA does define critical infrastructure as “assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on national security.”126 But this definition still allows uncertainty, as the federal government has promulgated multiple evolving and expanding definitions of what constitutes critical infrastructure,127 which could encompass more than a quarter of the national economy.128 The Treasury regulations implementing FINSA do not attempt to define or limit the scope of critical infrastructure.129 Such a broad grab of power for the CFIUS by Congress represents a major intervention into the economy with potentially negative consequences for foreign direct investment.130 FINSA also includes a requirement that the CFIUS file a report with Congress at the completion of any 30-day review or 45-day investigation,131 which increases transparency and the likelihood of congressional involvement.

#### Anything can be considered a military threat

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

Senator Charles Schumer’s call to investigate the Borse Company’s purchase of a 20% interest in Nasdaq demonstrates the broad nature of the FINSA review.134 Although the Borse Company is a holding company owned by the Emir of Dubai,135 at first glance, there appears to be no conceivable relation between a Nasdaq purchase and national security. Critics of the Unocal deal claimed that the United States military uses oil,136 and critics of the Dubai Ports acquisition claimed that terrorists could infiltrate United States ports through the U.A.E. company.137 Schumer does not seem to have proof of any plausible threat of terrorism due to the purchase, and Nasdaq has no apparent relationship to the defense industrial base. The only conceivable portion of Exon-Florio that a partial Nasdaq acquisition could fall under is the critical infrastructure provision added in FINSA. Of course, if an electronic stock trading company can constitute critical infrastructure, then nearly any portion of the U.S. economy could qualify as such, and by extension, the vast majority of foreign direct investment within the United States would be potentially vulnerable to similar scrutiny.

#### ---Conditionality is illegitimate and a voting issue. Time constraints and the no risk nature of conditionality undermine 2AC strategy. Independently, conditionality undermines the value of debate by causing superficial exploration of competing policy options.

#### the counterplan doenst limit congresses ability to be involved in transactions- means the CP doesn’t solve politicization

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

FINSA mandates that the CFIUS conduct a 45-day investigation any time the foreign investor is controlled by, or acting on behalf of, a foreign government, unless the Secretary of the Treasury and the head of the relevant agency both agree that there is no threat to national security and waive the investigation.183 This provision shifts the burden of proof away from the U.S. government and to the foreign state-owned business in these transactions.184 To foreign governments, however, FINSA may appear to discourage investment because of political enmity.185 As such, continual politicized investigations of foreign direct investment in American infrastructure may alienate our allies and isolate America even further.186

#### The counterplan results in CFIUS overstretch -

Cyber security is a priority for CFIUS investigations---Caseload currently light but could change if M&A activity increases.

Skadden LLP ’11

Skadden's 2011 Insights"Global M&A"

<http://www.skadden.com/insights/global-ma>

Trends in the CFIUS Review Process

2010 was the second full year under the regulations the Treasury Department adopted to implement the Foreign Investment and National Security Act of 2007 (FINSA). CFIUS’ caseload remained light for much of the year, reflecting the relatively low levels of global M&A activity, but then increased substantially in the fourth quarter. While the number of cross-border transactions subject to CFIUS review in 2010 was still lower than the peak year of 2008, the number of filings in 2010 exceeded 2009 by a considerable margin. Trends in the CFIUS review process included: The number of transactions that went to investigation continued to increase. The CFIUS process consists of a mandatory 30-day review and a discretionary 45-day investigation period, which CFIUS can impose if, in its discretion, it determines that the transaction may “impair national security,” for instance because the transaction would result in “foreign government control” or in foreign control of “critical infrastructure.” We expect this trend to continue in 2011. Fewer transactions were subject to mitigation agreements. In the past, CFIUS has entered into mitigation agreements with parties to transactions to address national security concerns identified during the review process. The number of such agreements declined in 2010, a development largely attributable to FINSA’s requirement that mitigation agreements must be approved unanimously by all CFIUS member agencies. Because those agreements often reflect the concerns of one particular CFIUS member agency but not others, the unanimity requirement has had a pronounced effect and likely will continue to do so in the future. Industrial supply chain and defense industrial base concerns have crept into CFIUS review. The Department of Defense, as a CFIUS member agency, has increasingly pushed assessments of a transaction’s effect on the industrial supply chain and on the defense industrial base during CFIUS review. This reflects a growing concern on DOD’s part that it maintain trusted suppliers for telecommunications and other critical technologies and equipment used in DOD activities. Cybersecurity issues are increasingly important. Fears of cyber-espionage, the vulnerability of companies with sensitive information to cyberattack, and concerns that reliance on foreign telecommunications providers may expose U.S. government agencies and companies to risks all play a growing role in the CFIUS review process. These issues are especially acute in transactions involving the telecommunications sector, but FINSA now requires all U.S. companies involved in transactions subject to CFIUS review to provide their cybersecurity plans. Although CFIUS blocked two transactions (Firstgold and Emcore) involving Chinese acquirers, those transactions reflected broader concerns beyond the nationality of the foreign acquirer. Indeed, CFIUS approved a number of transactions involving Chinese acquirers, including Meadville Holdings Limited’s sale of its printed circuit board business to TTM Technologies. The Firstgold and Emcore transactions were distinguished instead by two key issues: Co-location of classified facilities. Emcore’s facilities reportedly were in close proximity to classified U.S. government facilities, which likely heightened CFIUS’ perception that foreign ownership of Emcore would pose a risk to U.S. national security. Similarly, Firstgold’s Nevada mine leases were on federal government property, and all four of its facilities were in close proximity to military installations and/or classified U.S. government facilities, limiting mitigation options. Access to export-controlled technologies and/or resources with military applications. Emcore’s fiber optics business also produced and/or used a number of export-controlled technologies with significant military applications, raising additional concerns about whether the proposed investment would give a foreign company access to such technologies. Likewise, CFIUS expressed concerns as to whether Firstgold’s mining operations might give China greater access to tungsten, a key component in missiles that is subject to U.S. export control restrictions. In 2010, the United States and other countries became increasingly active in their scrutiny of foreign investments in companies deemed strategically essential to national security. It remains to be seen whether this trend will remain limited to businesses involved in telecommunications, critical technologies and access to raw materials, or whether it will broaden to encompass a wider range of industries in 2011.

### Immigration Reform

#### ---Won’t pass

#### No Compromise – ideology.

Fox News 1/2

Meet Obama 2.0, Chris Stirewalt, January 02, 2013, http://www.foxnews.com/politics/2013/01/02/meet-obama-20/#ixzz2GpyaOXmV

And in the end, Obama got exactly what he wanted: more taxes, more spending and no cuts.

The lesson for Republicans from this is simple. The old Obama, a cautious, calculating practitioner of politics, is no more. Second term Obama is more ideologically rigid and more willing to take risks. And having just gotten precisely what he wanted out of this lame duck session of Congress, those tendencies will be intensified.

While Republicans made much noise about moving on to address spending cuts now that the tax hikes were in place, not even the most trusting soul could believe that the president is now interested in cutting anything.

Conservatives say that they are ready to fight Obama on the still-looming federal borrowing limit. They had better be ready to take it all the way and actually start shutting down the government. The second-term Obama on display in the “fiscal cliff” fight looks like a man perfectly willing to do exactly that.

#### No risk of a link. Resolve is key and financial industry will force GOP to back down.

Wolraich 1-4-12

Michael, founder of the political blog dagblog.com and the author of "Blowing Smoke: Why the Right Keeps Serving Up Whack-Job Fantasies about the Plot to Euthanize Grandma, Outlaw Christmas, and Turn Junior into a Raging Homosexual, GOP's obstructionism is suicide strategy http://www.cnn.com/2013/01/04/opinion/wolraich-gop-strategy/index.html

But this bomber will not be satisfied by a few payoffs. The Republicans continue to use every opportunity to extract concessions by threatening to wreck the economy ... again. When Treasury Secretary Tim Geithner proposed a permanent debt ceiling extension during the last round of negotiations, McConnell reportedly laughed in his face. The suicide bomb has become the Republicans' most effective weapon. Why would they give that up? President Obama was slow to see the pattern, but after three nail-biting suicide negotiations in two years, he seems to have finally realized that he cannot continue to encourage the bomb threats with concessions. As attention turned to the next debt ceiling battle, he declared, "While I will negotiate over many things, I will not have another debate with this Congress over whether or not they should pay the bills that they've already racked up through the laws that they passed." Hopefully, he will maintain this resolve. The endless threats not only enable Republicans to subvert the democratic process, they hurt the country. Even if the Republicans never actually fulfill their ultimatums, the anxiety provoked by such threats damages the economy by creating uncertain business conditions. To extend the metaphor: The suicide bomber is scaring away the customers. So what will happen when Obama finally says enough is enough? Is the country destined to go BOOM? Fortunately not. The joke has a hidden punchline. It turns out that the suicide bomber is a part-owner of the bar. The folks who will lose the most if the bomb goes off are the investors, bankers and businesspeople who still retain large stakes in the Republican Party. When the Republicans threatened to let the government default in 2011, the U.S. Chamber of Commerce and other industry advocates objected with growing concern. If the Democrats refuse to negotiate this time around, industry advocates will not sit idly while the party they finance deliberately ruins their businesses.

#### decline now- tax reform

Gasparino 1-2-13

This ‘cure’ worse than the disease, Charles is a Fox Business Network senior correspondent, 1/2/13, http://www.nypost.com/p/news/opinion/opedcolumnists/this\_cure\_worse\_than\_the\_disease\_1dmq1TDFG6PdOQ7a2HfaCN

For all Obama’s much-stated willingness to compromise, the only ground he (reluctantly) gave was his absurd notion that families earning $250,000 a year are rolling in the dough and need to pay more taxes. Again, the deal offers no specific cuts to the entitlement programs that drive the country’s rapidly expanding debt. Nor does it offer much hope on our anemic economic growth. In fact, this deal all but assures more anemic growth. Payroll taxes are set to rise on everyone, while a bunch of nasty new ObamaCare taxes go into effect. The deal’s tax-rate hikes yield a measly $600 billion in alleged revenues over 10 years — a drop in the bucket of our $16 trillion-and-growing national debt. And that money comes from small-business owners who employ working-class people and from families who (particularly in New York) aren’t living like billionaires, though they do add mightily to economic growth. People targeted by tax hikes usually respond by altering their behavior — such as cutting payroll if you’re a small-business owner, or cutting back on spending if you’re a family. Either way, the economy loses. Yes, the Dow rose more than 100 points Monday on the euphoria of a deal. But a single day in the exchanges is just a snapshot of traders selling or buying on headlines. The markets rallied on news of the government bank bailout in 2008, only to fall to Depression-like levels in March 2009.

#### ---No link U

#### Obama has already said energy is more important than immigration for his agenda.

**Daily Caller**, **12/31**/2012 (Obama promises new immigration plan but keeps endgame close to his vest, p. <http://dailycaller.com/2012/12/31/obama-promises-new-immigration-plan-but-keeps-endgame-close-to-his-vest/>)

However, Obama’s language suggested that increased Latino immigration is a lower priority for him than other measures, and that he’s concerned any revamp would fail because of public opposition. Many previous immigration reform bills have died when leading supporters quietly backed away amid furious public opposition to what was perceived as an attempt at a general amnesty. In 2007, then-Sen. Obama voted against a temporary-worker provision in a pending immigration bill, helping kill the overall legislation. During his first term as president, Obama declined to push a comprehensive immigration bill, despite promising such a revamp while on the 2008 campaign trail. In his NBC interview, Obama showed more enthusiasm about other priorities. “We’ve got a huge opportunity around energy,” he said, “The most immediate thing I’ve got to do … is make sure that taxes are not going up on middle class families,” he claimed. Another priority, he added, is “rebuilding our infrastructure, which is broken.”

#### Hagel will take capital.

Stirewalt 1-7-13

Chris Stirewalt is digital politics editor for Fox News http://www.foxnews.com/politics/2013/01/07/obama-antagonizes-with-hagel-pick/#ixzz2HIxgDXMu

Hagel is disliked by Republicans for his foreign policy attacks on the party during the Bush years and strongly opposed by pro-Israel groups for his seemingly neutral stance on the Arab-Israeli conflict. Hagel’s swaggering talk in a post-Senate interview about the “Jewish lobby” and its undue influence on American foreign policy is a huge red flag for Jewish Americans who work very hard to make the U.S. alliance with Israel something beyond the reach of culture and religion. With Republicans still resentful of Hagel’s ostentatious opposition of Bush-era policies and support for Obama’s two presidential runs, confirmation would have been tricky enough. But the queasy feelings of pro-Israel Democrats on the tough-talking Vietnam vet will make it so much worse. Maryland Sen. Ben Cardin, a dutiful Democrat if ever there was one, told the soon-to-be-former cable news network Current TV on Sunday that there are “some statements that [Hagel] needs to clarify” and called the nomination “controversial.” Coming from Cardin, ranked in the 10 most liberal senators by National Journal, that’s the equivalent of a cannon shot across Obama’s bow. It will take lots of time and effort to drag Hagel, opinionated and confrontational, across the finish line. The president can get it done, but the ordeal will be frightful and expend plenty of political capital. The president is already staring down a double-barreled battle over government spending on the debt ceiling and the expiry of the law funding the government in lieu of a budget. Plus, Obama’s pick to lead the CIA, counterterrorism chief John Brennan, will face plenty of thorny questions from the left about his role in “enhanced interrogation techniques” and from the right about the Islamist raid on the U.S. consulate in Benghazi, Libya.

#### A123 review

Washington Times 1-2 (Creditors want help with A123 sale to Chinese, http://www.washingtontimes.com/news/2013/jan/2/creditors-want-help-with-a123-sale-to-chinese/#ixzz2GvnpKZzW)

Creditors of a bankrupt U.S. battery maker that went broke after winning a multimillion-dollar federal grant want permission to hire a lobbying firm to keep the proposed sale of the company to a Chinese competitor on track. The official committee of unsecured creditors in the bankruptcy of A123 Systems Inc. filed court papers Friday asking a federal judge to sign off on the $75,000 hiring of lobbying group Capitol Counsel LLC. Citing “considerable political pressure” against the sale of A123 to China-based Wanxiang America Corp., the committee said it needs lobbyists to protect the proposed sale from political opposition. Although the sale has been approved by a bankruptcy court, it requires the approval of the Treasury Department's Committee on Foreign Investment in the United States, which reviews proposed sales of U.S. companies to foreign buyers. “Considerable political pressure has been raised against CFIUS approval of the proposed sale to Wanxiang,” attorneys for creditors wrote in their filing asking to hire lobbyists.

#### Obama was a jerk in the lame duck

Shear and Calmes 1-3-12

NYT Lawmakers Gird for Next Fiscal Clash, on the Debt Ceiling http://www.nytimes.com/2013/01/03/us/politics/for-obama-no-clear-path-to-avoid-a-debt-ceiling-fight.html?\_r=1&

Moody’s, the rating agency, warned on Wednesday that the looming political battles over the nation’s debt could lower the group’s rating of American debt. “We’re in for another round of brinkmanship and uncertainty,” said Mark Zandi, the chief economist at Moody’s Analytics, who predicted weeks of “angst, discussion and hand-wringing” in Washington. “I don’t think the economy can really find its footing and jump to a higher level of growth until we get to the other side of this.” Joel Prakken, senior managing director of Macroeconomic Advisers, an economics forecasting firm, said bluntly, “This is kind of a mess.” The financial imperative for an increase in the debt limit comes at a time of increasingly sour relations between the president and his Republican adversaries in the House. To secure a deal to avert automatic tax increases and spending cuts on Jan. 1, Mr. Obama was forced into last-minute talks with Senator Mitch McConnell of Kentucky, the Republican leader, after weeks of negotiations with Speaker John A. Boehner in the House collapsed amid acrimony and internal Republican dissension.

#### non-intrinsic – the plan would be a part of the deal and solves better than the DA

Richardson-Chairman of the Association for Foreign Investment in America-11

<http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1675&context=auilr>

United States Policy Toward Foreign Investment:We Can't Have It Both Ways

The federal budget deficit has been funded by borrowing and attracting large inflows of foreign investment into the United States As of November 1988, the current expansion of the United States economy has extended for almost six consecutive years, the longest peacetime period of growth in the history of the United States economy. In 1987, the real output of the economy rose by 3.4 percent, 4 with three million additional jobs created. 6 5 The inflation rate remained in the four percent range, well below the double-digit rates at the outset of this decade. 6 During this period, gross private investment has averaged 16 percentof the Gross National Product (GNP)."' At the same time, the annual budget deficits of the federal government have hovered at about four percent of GNP, reaching levels in excess of $200 billion a year, until the recent decline brought about by the balanced budget initiative. 08 But even the balanced budget initiative has yet to achieve a reduction in the structural deficit. It bears repeating in this context that the budget deficit has been funded by the sale of government securities which have competed with private borrowers for available funds. In a sense, this competition for investment capital has acted like a vacuum, attracting all available capital, both domestic and foreign. Without foreign investment in the United States, interest rates would have risen dramatically, as the federal government would be competing with the American private sector for a smaller pool of funds." 9

#### FDI is the key contributor to growth.

Feng, JD-NYU, 09 (YIHENG, CONSEQUENCES OF THE CONGRESSIONAL POLITICIZATION OF FOREIGN DIRECT INVESTMENT ON NATIONAL SECURITY GROUNDS, http://www.law.nyu.edu/ecm\_dlv1/groups/public/@nyu\_law\_website\_\_journals\_\_journal\_of\_international\_law\_and\_politics/documents/documents/ecm\_pro\_064915.pdf)

As the world’s preeminent economic and political superpower, the United States has been called the “single most important market for foreign investors,” 12 and its experience with FDI has yielded predictably fruitful results. 13 FDI in the United States has been not only a beneficial side effect of its economic growth but also an essential contributor to American economic well-being. 14 Historically, therefore, the United States has encouraged FDI 15 with relatively expansive and liberal investment policies. 16 Indeed, the United States has, until relatively recently, lacked an FDI review process. 17

#### **China liquid investment means dollar collapse is inevitable- the plan solves the biggest internal link to the economy**

Marchick and Larson 06 (David- deputy assistant secretary for trade policy at the State Department and principal deputy assistant secretary of commerce for trade development, and Alan- strategic adviser and director at the World Economic Forum and a distinguished fellow at the Council on Competitiveness, “Foreign Investment and National Security: Getting the Balance Right,” http://www.cfr.org/business-and-foreign-policy/foreign-investment-national-security/p11146)

Further, in a period of large U.S. current account deficits, maintaining a healthy balance between foreign investments in physical, as opposed to liquid, assets is also in the U.S. interest. There is always a risk that large foreign holdings of liquid U.S. assets could, if disposed of rapidly, destabilize the dollar and U.S. interest rates. However, when foreign firms, including firms from China and the Persian Gulf, make physical investments in the United States, they create a more permanent stake in the health of the U.S. economy.

#### FDI key to economic growth, high-wage jobs, and R&D funding.

Marchick and Larson 06 (David- deputy assistant secretary for trade policy at the State Department and principal deputy assistant secretary of commerce for trade development, and Alan- strategic adviser and director at the World Economic Forum and a distinguished fellow at the Council on Competitiveness, “Foreign Investment and National Security: Getting the Balance Right,” http://www.cfr.org/business-and-foreign-policy/foreign-investment-national-security/p11146)

There are two fundamental reasons why it is important that Congress and the administration effectively balance the twin objectives of maintaining openness to foreign investment and protecting national security. First, both the economic health of the United States and its long-term security depend on maintaining a welcoming environment for the majority of foreign investments. Second, if the United States creates a restrictive foreign investment climate marked by unnecessarily cumbersome regulatory reviews, other countries will surely follow that course, with real costs to the United States. 6 Foreign investment in the United States plays an important role in maintaining the vitality and vibrancy of the U.S. economy.1 In 2003, U.S. affiliates of foreign investors employed 5.3 million workers in the United States, or about 5 percent of the U.S. workforce. On average, and particularly within major manufacturing subsectors with significant numbers of foreign-controlled firms, U.S. affiliates of foreign firms pay higher annual wages and salaries than their domestically owned competitors. Further, foreign investors spend heavily on research and development (R&D) in the United States, which creates high-skill, high-wage jobs that might not have been created otherwise. In addition, the United States depends heavily on continued inflows of foreign investment because U.S. saving is insufficient to finance domestic investment. In 2005, the U.S. current account deficit was slightly more than $800 billion and growing, implying that the United States needed to import more than $2 billion each day to close the gap between domestic investment and savings.

#### **Investor confidence is screwed- Lame Duck was the key time**

NBC 1/2

Fiscal cliff compromise leaves few satisfied, Daniel Strieff, NBC News, 1/2/13, http://nbcpolitics.nbcnews.com/\_news/2013/01/02/16298460-fiscal-cliff-compromise-leaves-few-satisfied?lite

Erskine Bowles and Alan Simpson, who headed a deficit commission for Obama, said lawmakers missed a "magic moment to do something big" for the American economy. “The deal approved today is truly a missed opportunity to do something big to reduce our long term fiscal problems, but it is a small step forward in our efforts to reduce the federal deficit,” they said in a joint statement released Tuesday. In a scathing editorial, the Wall Street Journal called for the parties to go their own ways in Congress and tried to rally Republicans against Obama. “Having been cornered into letting Democrats carry this special-interest slag heap through the House, Speaker John Boehner should from now on cease all backdoor negotiations and pursue regular legislative order. House Republicans should pursue their own agenda and let Mr. Obama and Senate Democrats pursue theirs. Mr. Obama has his tax triumph. Let it be his last,” it wrote on the editorial page. Economists had been warning that the tax increases and spending cuts could take a chunk out of the U.S. economy. But early Wednesday, world markets registered relief over the deal. Benchmarks in Australia and Hong Kong boomeranged on the first trading day of the year. Asian markets had slipped on Monday, fearing that negotiations over the measure might collapse. Many analysts were gloomy about long-term prospects. “The process was so chaotic and the outcome so unsatisfactory that we are likely to see a further U.S. downgrade at some point,” Steven Englander, fixed-income strategist at Citi, wrote in a research note.

#### Capital just pisses off the GOP

Tobin 1/1

GOP Plays Into Obama’s Hands on Cliff, Jonathan S. Tobin, 1/1/13, http://www.commentarymagazine.com/2013/01/01/gop-plays-into-obamas-hands-on-cliff/#more-814881

One day later, it looks like he got his wish. Though the Tea Partiers in the GOP caucus might have opposed the deal anyway, as did presidential hopefuls Rand Paul and Marco Rubio in the Senate, Obama’s remarks had to have pushed many Republicans over the edge into opposition. Though the alternative to passing the deal, which would entail sending the country over the fiscal cliff and generate ruinous tax increases for all Americans, is unthinkable, it is hard to blame House Majority Leader Eric Cantor and other Republicans for thinking they are dealing with a negotiating partner in the president who is only interested in raising taxes and not in dealing with the nation’s problems. Though it can be argued that the GOP will be in a stronger position to fight the Democrats on entitlement reforms once taxes on the wealthy have already been raised, Cantor and his colleagues understand that Obama will not negotiate in good faith two months later on the debt ceiling any more than he has this time. That’s exactly the message the president wanted to send, and his intended audience responded just as he wished.

#### Obama won’t get involved

Shear and Calmes 1-3-12

NYT Lawmakers Gird for Next Fiscal Clash, on the Debt Ceiling http://www.nytimes.com/2013/01/03/us/politics/for-obama-no-clear-path-to-avoid-a-debt-ceiling-fight.html?\_r=1&

Even as Republicans vow to leverage a needed increase in the federal debt limit to make headway on their demands for deep spending cuts, Mr. Obama — who reluctantly negotiated a deal like that 18 months ago — says he has no intention of ever getting pulled into another round of charged talks on the issue with Republicans on Capitol Hill. “I will not have another debate with this Congress over whether or not they should pay the bills that they’ve already racked up through the laws that they passed,” the president said Tuesday night after he successfully pushed Republicans to allow tax increases on wealthy Americans. On Wednesday, he signed the legislation. The president’s position is sure to appeal to his liberal allies, who fear another round of compromises by Mr. Obama. But it once again sets the stage for a nail-biting standoff that economists warn could lead to a damaging financial default and doubt from investors about the ability of the country to pay its obligations.

non-intrinsic – the plan would

#### China FDI popular – economic considerations and China lobbyo

Schatz 10-5-12 (Joseph, POLITICO Pro’s tax editor. Before joining POLITICO, Schatz spent nearly a decade at Congressional Quarterly, covering politics and economics on Capitol Hill. Most recently, he was CQ's senior economic writer for four years, covering everything from the Wall Street bailout and the debt ceiling crisis to trade and the U.S.-China relationship, for which he received the National Press Club’s Sandy Hume award in 2010, “China politics aren't black and white,” Politico.com October 5, 2012, lexis)

Mitt Romney's hard-hitting ads claim President Barack Obama needs to "stand up" to China. Paul Ryan has fanned out across the industrial Midwest, saying that Beijing is treating Obama "like a doormat." The president, of course, is in on the act as well -- an Obama television spot accuses Romney of supporting "sweatshop conditions" through an old Bain Capital investment in China. Yet amid all the campaign tough talk about China, three of Romney's most prominent GOP surrogates were down in Texas last week, begging Chinese investors to set up shop in their states. "We're all here talking to them about why they should come to each of our states, and why for sure they should come to our country," Florida Gov. Rick Scott told FOX News as he, Rick Perry of Texas, Scott Walker of Wisconsin gathered at Cowboys Stadium in Arlington, Texas to meet with a traveling contingent from China touring the United States for nine days, looking for places to park their cash. It just goes to show: Black-and-white campaign slogans don't easily translate into economic policy, including the exquisitely complex U.S.-China economic relationship. For one thing, most economic experts doubt that Romney would really wrangle with the United States's biggest creditor, given the risks of a trade war. Indeed, the former Massachusetts governor's tone in the first presidential debate Oct. 3 already seemed a bit softer, as he promised to "crack down on China, if and when they cheat." But the dynamics are even more complicated when it comes to rapidly rising Chinese investment in the United States, particularly at the state and local level, where government officials of both parties are eagerly courting Chinese investments in waterfront rehabilitation plans, energy deals, greenfield projects and auto manufacturing. There are plenty of hiccups and failed deals, like Obama's high-profile decision to block the acquisition of four Oregon wind farms by Chinese-affiliated Ralls Corp., last week, on national security grounds. With China, you never quite know whether a firm is truly "private," or an arm of the state. But Chinese investment is way up in recent years, and Congress, which helped sink the Chinese purchase of Unocal Corp. in 2005, has been largely quiet on a broad range of Chinese acquisitions. That's in part because the U.S. economy badly needs the investment -- attracting foreign investment is going to be a major theme in any tax reform debate next year -- and in part because Chinese firms have gotten smarter about lobbying, and have won friends in Washington. Kevin G. Nealer, a partner at the Scowcroft Group, says that the scale of China's investments have changed the equation. Nealer was a Senate l8

5eadership staffer in the 1980s, when Japan's sudden emergency as a car and technology powerhouse provoked rage on Capitol Hill -- and when that fury started abating. "I saw the inflection point in trade neuralgia come when Japanese firms started making major investments here, building factories and hiring American workers at Toyota and Honda plants by the thousands," Nealer says. Business groups and analysts say that's already beginning to happen, though the level of investment is still small compared to countries like Germany. While China is the U.S. government's biggest creditor, with $1.15 trillion in Treasury securities, it still has relatively little money invested in elsewhere in the U.S. economy. In a report last week, Thilo Hanemann and Adam Lysenko of the Rhodium Group, an investment firm that closely tracks Chinese investment, said that before 2008, Chinese firms were responsible for very few jobs in the United States. "One of the most important questions is how Chinese investment affects U.S. employment," the authors note. While the figure is still small, it now stands at about 27,000, they said, as China has rapidly ramped up its investments "from an annual average of around 30 deals worth less than $500 million before 2009 to almost 100 deals worth about $5 billion in 2010 and 2011." Investment in the first half of 2012 alone totaled $3.6 billion, led by big Chinese acquisitions in the U.S. energy and banking sectors, like the Industrial & Commercial Bank of China Ltd.'s purchase of an 80 percent stake in the Bank of East Asia's U.S. subsidiary, a move that required approval by the Federal Reserve. For state and local governments, it's all about jobs. U.S. governors from both parties regularly go to China to solicit investment. And Michael Bell, the Democratic mayor of Toledo, Ohio -- exactly the region where Romney and Ryan are directing some of their harshest China attacks -- has drawn attention for attracting $200 million in Chinese property development investment. It's one of the chief reasons that China weathered the failed 2005 attempt by state-owned China National Offshore Oil Company Ltd. (CNOOC) to purchase Unocal. "To a degree, all politics are local," said one D.C. lawyer who has worked with Chinese investors. "If you're able to do it the right way, in a way that benefits someone's local district, that helps tamp down some of the concerns." U.S. lawmakers revamped the Committee on Foreign Investment in the United States (CFIUS), the Treasury-based group that last week recommended that Obama block the Ralls sale. And they still raise criticisms about many proposed deals in the sensitive telecom and Internet sectors, where a Chinese firm with government ties could pose a security threat. In July, Chinese telecommunication companies Huawei and ZTE were grilled by members of the House Intelligence Committee about the companies' relationship with the Chinese government. But some Chinese firms have become savvier. They've hired lobbyists at Hill and Knowlton, Patton Boggs and other D.C. shops to press their cases in the corridors of power in Washington. Still, notes Scowcroft's Nealer, some Chinese investors, coming from a culture of government control, can't believe that the U.S. investment process is largely free and open. The U.S. Chamber of Commerce circulated a report in July touting Chinese investment success stories in the United States. The Obama administration has also made efforts to link Chinese firms with American companies.

#### Fiscal Cliff proves Obama can manage energy fights and his agenda

Heritage Foundation 1/3/13 (Nicolas Loris and Katie Tubb, “Corporate Welfare for Energy Companies Should Have Gone Off the Cliff,” <http://blog.heritage.org/2013/01/03/corporate-welfare-for-energy-companies-should-have-gone-off-the-cliff/>

The fiscal cliff deal is not only preventing certain politically motivated energy tax policies from falling off the cliff, but it’s also resurrecting ones that have been dead and buried for a year.¶ Lumped into the 157-page fiscal cliff bill are extensions of energy handouts that were originally scheduled to retire, as well as retroactively rewarded tax breaks for renewable energy that expired at the end of 2011. The inclusion of these targeted tax breaks is a clear indication that Congress is not serious about (1) reducing spending, (2) ending the government’s meddling in the energy sector, or (3) standing up against political interests.

#### The plan is guidance not legislation

Jackson 10 (James K. Jackson, CRS Specialist in International Trade and Finance, Foreign Investment, CFIUS, and Homeland Security: An Overview, February 4, http://fpc.state.gov/documents/organization/138597.pdf)

While CFIUS’s activities often seem to be quite opaque, the Committee is not free to establish an independent approach to reviewing foreign investment transactions, but operates under the authority of the President and reflects his attitudes and policies. As a result, any discretion CFIUS uses to review and to investigate foreign investment cases reflects policy guidance from the President. Foreign investors are also constrained by legislation that bars foreign direct investment in such industries as maritime, aircraft, banking, resources and power. 7 Generally, these sectors were closed to foreign investors prior to passage of the Exon-Florio provision in order to prevent public services and public interest activities from falling under foreign control, primarily for national defense purposes.

#### That means no link

Hamilton and Schroeder 1994 [James T. Hamilton is an assistant Professor of Public Policy, Economics and Political Science at Duke University, Christopher H. Schroeder is a Professor of Law at Duke University School of Law “Strategic Regulators and the Choice of Rulemaking Procedures: The Selection of Formal vs. Informal Rules in Regulating Hazardous Waste http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4229&context=lcp]

3. As the regulatory costs imposed on parties increase, the more likely the parties will resist and, hence, the more likely the agency is to use informal rulemaking. Industry interest groups may attempt to weaken costly formal rules by commenting on them during the formal rulemaking process or by challenging them in court. Similarly, environmentalists may attempt to strengthen provisions through submissions and court challenges. Regulatory costs for industry include expenditures arising from compliance and enforcement actions, while costs for environmentalists may relate to the potential environmental damages posed by the activity regulated. The more at stake for regulated parties and other intervenors, the more likely the agency may be to issue the rule informally. Issuing a costly rule through the informal process has several advantages for the agency: it makes input from interest groups less likely than under the formal process; reduces the ease with which Congress may monitor agency performance and hence lessens the ability of interest groups to "pull the fire alarm" on agency actions; lessens the probability that an interest group will be able to challenge the rule in court as informal rules lack the long administrative records of formally published rules; and enables the agency to alter costs of compliance for particular parties since informal rules may be applied with more discretion than formal rules.

#### FDI is the key contributor to growth.

Feng, JD-NYU, 09 (YIHENG, CONSEQUENCES OF THE CONGRESSIONAL POLITICIZATION OF FOREIGN DIRECT INVESTMENT ON NATIONAL SECURITY GROUNDS, http://www.law.nyu.edu/ecm\_dlv1/groups/public/@nyu\_law\_website\_\_journals\_\_journal\_of\_international\_law\_and\_politics/documents/documents/ecm\_pro\_064915.pdf)

As the world’s preeminent economic and political superpower, the United States has been called the “single most important market for foreign investors,” 12 and its experience with FDI has yielded predictably fruitful results. 13 FDI in the United States has been not only a beneficial side effect of its economic growth but also an essential contributor to American economic well-being. 14 Historically, therefore, the United States has encouraged FDI 15 with relatively expansive and liberal investment policies. 16 Indeed, the United States has, until relatively recently, lacked an FDI review process. 17

#### **China liquid investment means dollar collapse is inevitable- the plan solves the biggest internal link to the economy**

Marchick and Larson 06 (David- deputy assistant secretary for trade policy at the State Department and principal deputy assistant secretary of commerce for trade development, and Alan- strategic adviser and director at the World Economic Forum and a distinguished fellow at the Council on Competitiveness, “Foreign Investment and National Security: Getting the Balance Right,” http://www.cfr.org/business-and-foreign-policy/foreign-investment-national-security/p11146)

Further, in a period of large U.S. current account deficits, maintaining a healthy balance between foreign investments in physical, as opposed to liquid, assets is also in the U.S. interest. There is always a risk that large foreign holdings of liquid U.S. assets could, if disposed of rapidly, destabilize the dollar and U.S. interest rates. However, when foreign firms, including firms from China and the Persian Gulf, make physical investments in the United States, they create a more permanent stake in the health of the U.S. economy.

## Round 5 VS USC

### econ

#### **Econ decline now- investors need a signal**

NBC 1/2

Fiscal cliff compromise leaves few satisfied, Daniel Strieff, NBC News, 1/2/13, http://nbcpolitics.nbcnews.com/\_news/2013/01/02/16298460-fiscal-cliff-compromise-leaves-few-satisfied?lite

Erskine Bowles and Alan Simpson, who headed a deficit commission for Obama, said lawmakers missed a "magic moment to do something big" for the American economy. “The deal approved today is truly a missed opportunity to do something big to reduce our long term fiscal problems, but it is a small step forward in our efforts to reduce the federal deficit,” they said in a joint statement released Tuesday. In a scathing editorial, the Wall Street Journal called for the parties to go their own ways in Congress and tried to rally Republicans against Obama. “Having been cornered into letting Democrats carry this special-interest slag heap through the House, Speaker John Boehner should from now on cease all backdoor negotiations and pursue regular legislative order. House Republicans should pursue their own agenda and let Mr. Obama and Senate Democrats pursue theirs. Mr. Obama has his tax triumph. Let it be his last,” it wrote on the editorial page. Economists had been warning that the tax increases and spending cuts could take a chunk out of the U.S. economy. But early Wednesday, world markets registered relief over the deal. Benchmarks in Australia and Hong Kong boomeranged on the first trading day of the year. Asian markets had slipped on Monday, fearing that negotiations over the measure might collapse. Many analysts were gloomy about long-term prospects. “The process was so chaotic and the outcome so unsatisfactory that we are likely to see a further U.S. downgrade at some point,” Steven Englander, fixed-income strategist at Citi, wrote in a research note.

### coal now

#### Increasing demand means only gas solves.

Schneider 2011

Keith, national correspondent for the New York Times, former media and communications director at the US Climate Action Network, founder and executive director of the Michigan Land Use Institute, Water Needs Curtail China’s Coal Gasification For Fuel, Yet Conversion To Chemicals Pushes Ahead, 27 APRIL 2011, Circle of Blue, http://www.circleofblue.org/waternews/2011/world/water-needs-curtail-chinas-coal-gasification-for-fuel-yet-conversion-to-chemicals-pushes-ahead/

Every step of the process—coal mining, processing, shipping, combustion, and gasification— requires huge amounts of water and produces the world’s largest emissions of climate changing gases. Though China is pursuing aggressive programs to improve energy efficiency, undertaking experimental programs in carbon capture and storage, investing in water-sipping and pollution-free renewable energy development, and recycling and conserving water when possible, the nation’s coal production and consumption is soaring. The result is that emissions of climate-changing pollution could double by the end of the decade, according to several studies by domestic and international science and environmental groups. And the national choke point caused by rising energy demand fueled by coal and diminishing water reserves, due in part from climate change, is growing steadily tighter. The Shenhua coal-to-liquids plant here in Ordos produces 3.2 million metric tons of carbon dioxide annually, according to company figures, and is one of the largest single sources of climate-changing gases on earth. Last year China consumed close to 3 billion metric tons of coal, about two-thirds of which was burned to produce nearly 80 percent of the nation’s electricity. Of the remaining 1 billion metric tons, about half was used to produce cement, steel, glass, and other basic raw materials of the manufacturing sector. Coal, as a result, accounts for 70 percent of overall energy consumption in China. No other industrialized nation comes close in its reliance on coal for energy and economic development. China, though, doesn’t stop there. Almost all of the rest of the coal it consumed—460 million metric tons last year—was pulverized to a powder, mixed with water, heated, and gasified for conversion to chemicals, fertilizers, and fuel, said Bill Zheng, of China CoalChem, a Shanghai-based monthly magazine that reports on the industry. “It makes sense to produce chemicals from coal,” said S. Ming Sung, a former utility industry engineer who is a representative in China for the Clean Air Task Force, an environmental organization based in the U.S. “As life here improves, we need more synthetic chemicals. More than 80 percent of the solid matter is hydrogen and carbon. In the U.S. and Europe, those come from oil and natural gas. China, though, has very little oil and very little natural gas. So we use coal.”

### Solves gas quickly

#### Once they get the technological know how, China can quickly switch to natural gas.

Saltvedt 10 (Thina Margrethe is Nordea Markets' senior macro oil analyst and global commodities strategist, she holds a PhD in Economics and MSc in International Business from the Univ. of Manchester's Institute of Science and Technology, “A Chinese shale gas Klondyke?,” 2 Nov, http://newsroom.nordeamarkets.com/en/files/2012/07/101102-Shale-gas-China.pdf)

The Chinese government has stressed that natural gas can specifically help to achieve three important energy goals: to provide sustainable energy supplies needed for social and economic development, to reduce the undesirable impact on the environment and the climate and to reduce the dependence on foreign energy suppliers. To fulfil these commitments the country has set an ambitious goal to increase the share of natural gas in its energy mix, from 3.7% today to 8% by the end of 2015. Although shale gas as an energy resource is still untapped, China is allocating large sums to assess the country’s shale gas reserves and strengthening its partnerships with foreign suppliers to gain access to advanced technology to develop the shale gas resources. Historically, the Chinese authorities have proved their ability to make major changes quickly. Thus, with the Chinese government’s heightened focus on natural gas development and with the US shale gas revolution fresh in mind, we expect to see a rapid transformation of China’s total energy mix. The shale gas market in China is still in its very early phases and there are many hurdles that need to be overcome before the country can experience a shale gas revolution like the one we have seen in the US. It is not certain that China can adopt the same game-changing technology which made shale gas production economically viable in the US. The geological potential in China may vary significantly from the US shales, and may vary markedly within China alone. The economics of future shale gas production depend on the amount of gas in each shale.

#### China is building up its infrastructure now.

Saltvedt 10 (Thina Margrethe is Nordea Markets' senior macro oil analyst and global commodities strategist, she holds a PhD in Economics and MSc in International Business from the Univ. of Manchester's Institute of Science and Technology, “A Chinese shale gas Klondyke?,” 2 Nov, http://newsroom.nordeamarkets.com/en/files/2012/07/101102-Shale-gas-China.pdf)

Ramping up domestic distribution networks quickly to support higher natural gas consumption In addition to large-scale inter-regional distribution networks it is necessary to construct domestic natural gas supply networks, pipelines and LNG facilities across the country to reach the end-users (Economides, M. J. and Wood, D. A. 2009). The increasing significance of natural gas as a fuel for China can be illustrated by the massive investments by Chinese companies over the past five years in developing transportation links such as domestic pipelines, LNG import terminals, LNG plants, LNG transportation vehicles and railways. Most of China’s natural gas reserves exist in the central and western regions, remote from the major markets in the developed southern and eastern parts of China, namely the Pearl River Delta and the Yangtze River Delta. This means that natural gas must be transported via long-haul pipelines to these loading centres. Seven large pipeline projects are under development or are soon to be initiated, increasing delivery efficiency from west to east and north to south. The seven pipeline projects are as follows: • West-East Pipeline I linking the Tarim basin in the west with Shanghai (see map below) (2005, 2008) • Shaanxi-Beijing Pipelines I & II (2008-09) • Puguang-Shanghai (2009) • West-East Pipeline II (2010-11) • West-East Pipeline III (2012-14) • Myanmar-China (2013-14)

### T-Restriction

---we meet-foreign investment restrictions on production

Hirsch-former senior energy program adviser for Science Applications International Corporation-11 Commentary: Restrictions on world oil production

<http://www.energybulletin.net/stories/2011-03-28/commentary-restrictions-world-oil-production>

Restrictions on world oil production can be divided into four categories: 1. Geology 2. Legitimate National Interests 3. Mismanagement 4. Political Upheaval Consider each in reverse order: Political upheaval is currently rampant across the Middle East, resulting in a major spike in world oil prices. No one knows how far the impacts will go or how long it will take to reach some kind of stability and what that stability will mean to oil production in the Middle Eastern countries that produce oil. We are thus relegated to best guesses, which span weeks, months, or years before there are clear resolutions. One pre-Middle East chaos country limited by political upheaval is Iraq, which is believed to have the oil reserves to produce at a much higher level, but Iraqi government chaos has severely limited oil production expansion. In another long-standing case, Nigeria has been plagued by internal political strife, which has negatively impacted its oil production. Mismanagement of oil production within a country can be due to a variety of factors, all of which mean lower oil production than would otherwise be the case. Venezuela is the poster child of national mismanagement. The country has huge resources of heavy oil that could be produced at much higher rates. Underproduction is due to the government syphoning off so much cash flow that oil production operations are starved for needed funds. In addition, Venezuela has made it extremely difficult, if not impossible for foreign oil companies to operate in the country. Another example of mismanagement is Mexico, where government confiscation of oil revenues, substandard technology, and restrictions on foreign investment has led to significant Mexican oil production decline.

-xxx--We-meet-the plan reduces restrictions that block, delay, and alter foreign investment in energy production

Inside Energy with Federal Lands 4/12/10 (Herman Wang, HEADLINE: Foreign energy investments spark security concerns)

Foreign firms appear to be increasingly interested in investing in US oil companies, electric utilities and other parts of the US energy infrastructure, as they are seeking to profit from America's appetite for oil, coal and other commodities, as well as the Obama administration's emphasis on renewable power. But with those deals will come scrutiny from a little-known federal panel that has the power to block the transactions for national security reasons, through a review process that industry insiders say is sometimes inconsistent, politically driven and opaque. The Committee on Foreign Investment in the United States is an inter-agency panel that gave the Energy Department a permanent seat in 2007 to help it investigate business transactions in which foreign governments or companies seek to acquire "major energy assets" in the US. But some experts say CFIUS does not offer enough up-front guidance to US companies that are being acquired by foreign interests, wasting time and money. "We face situations where we tell our clients we see no security risk," said Billy Vigdor, a Washington-based partner with law firm Vinson & Elkins. "And then we spend hours trying to figure out whether we should file [a disclosure] because the government might think it is, in fact, a security risk. The last thing you want is to have a contract in place, and you think you're going to close in 30 days, and then CFIUS calls and says you need a filing." Companies being acquired by a foreign-owned firm can voluntarily notify CFIUS of the transaction, but the committee also has the power to investigate all transactions it sees fit to review. Representatives from 16 federal departments and agencies, headed by the Treasury Department, comprise the committee. Those investigations can leave foreign companies feeling unfairly targeted, potentially discouraging needed foreign investment in US energy infrastructure, said Al Troner, president of Houston-based Asia Pacific Energy Consulting. Troner said CFIUS' rulings on what constitutes a security threat can be arbitrary and inconsistent. Even when the committee determines there is no security risk for a transaction, politics can sometimes trump the ruling, Troner said. Troner cited CFIUS' approval in 2006 of a deal by a Dubai-based company to manage several US ports, only to have the company back out after many lawmakers cried foul due to fears of terrorism. "We want investment, but we want 'safe' investments, even though we can't define what is safe," Troner said. "So a big problem in all this is uncertainty, which makes this a funny market to invest in. [Foreign firms] don't feel treated fairly as to what the criteria are for energy security. If you don't know what you're getting into, at a certain point, you ask if this is worth it." Steven Cuevas, who was DOE's director of investment security in 2007 when the department gained a seat on CFIUS, said the committee makes its decisions apolitically. CFIUS, originally established in 1975, received a legislative mandate in 2007 to tighten its oversight of foreign transactions, including defining critical infrastructure as an asset so vital that its incapacity or destruction would severely impact national security. A bill signed by then-President George W. Bush, sparked in large part because of the uproar over the Dubai Ports World deal, formalized CFIUS' review process, which until then had been loosely defined and applied. That same bill also gave DOE its seat on CFIUS. The committee reviews about 150 to 200 foreign business deals a year. "We left politics at the door," Cuevas said. "As with any national security program, you really need to look at the issues in national security and not worry about politics. It's not a situation where there's a bright-line rule. You have to look at each transaction by itself. The standard is, does this transaction, by itself, pose a risk to national security?" Richard Oehler, a Seattle-based partner with law firm Perkins Cole, said prior to the 2007 legislation, CFIUS primarily concerned itself with defense contracting and other issues related to defense and intelligence. The legislation, however, with its definition of critical infrastructure, put an increased focus on US energy assets. "They were not focused on energy, until the politicians redefined [CFIUS]," Oehler said. Cuevas, now a renewable-energy lobbyist with French-owned nuclear company Areva, was a Bush administration political appointee assigned the task of setting up DOE's new role on CFIUS. He said he could not disclose, for confidentiality reasons, how many transactions DOE reviewed during his time working on the committee. Cuevas left his DOE post in 2009 with inauguration of the Obama administration. "When we started the CFIUS program at DOE, we had no processes in place," he said. "There was no record keeping. I spent the last year and a half with the department trying to standardize those steps of review, who signs off on transaction, who tracks them. We were simply trying to keep up with the transactions. We set the foundation, and the folks that are there now are fleshing it out." Last month, DOE issued a draft policy outlining its role on CFIUS that is similar to the Bush administration's policy. The policy, signed by DOE Deputy Secretary Daniel Poneman, prescribes that the department's risk analyses must consider the "criticality and/or vulnerability of the US assets being acquired" and "the threat to those assets posed by the acquiring entity and the consequences to national security if the threat is realized." Each transaction must also be reviewed on whether it involves critical infrastructure and technology, as well as how the transaction would impact long-term projections of US energy consumption. In addition, if a foreign government-owned entity is involved in the transaction, DOE will assess "the adherence of the subject country to nonproliferation control regimes, including treaties and multilateral supply guidelines," the draft policy states. After the review, DOE can clear the transaction with no further action; refer it to CFIUS for a 45-day national security investigation; clear the case conditionally, pending the creation of a "mitigation" plan to resolve security concerns; or recommend to the president to block the deal. Energy Secretary Steven Chu is DOE's primary representative to CFIUS, but much of the department's responsibilities on the committee are delegated to Jonathan Elkind, DOE's principal deputy assistant secretary for policy and international affairs. Elkin was not available for comment. Cliff Vrielink, a Houston-based partner with Vinson & Elkins, said CFIUS can sometimes give US companies pause when seeking to be acquired by a foreign firm. "CFIUS presents a hurdle for a foreign buyer that a domestic buyer doesn't have," Vrielink said. "When someone as an asset they want to sell, and they have an auction where multiple companies have put in bids, the foreign buyer has the uncertain timing of a CFIUS filing, which can be a significant factor." Complicating matters for foreign companies is the fact that CFIUS reviews are not based on a clear set of guidelines and regulations outlining, for instance, how much of a US company a foreign firm can acquire without triggering an investigation. "We, as Americans, are fortunate in that in so many areas, we have bright-letter law, and I think that's one thing that's always been an attraction for foreign investment, that we have the sanctity of contracts and bright-letter law," Vrielink said.

---Mitigation measures block, delay, and alter deaks, even if they aren’t blocked

Marchick 07 (David, partner at Covington & Burling, where he advises

companies on the CFIUS process, “Swinging the Pendulum too Far: An Analysis of the CFIUS Process Post-Dubai Ports World,” Jan, http://www.nfap.net/researchactivities/studies/NFAPPolicyBriefCFIUS0107.pdf)

In the 18 years that Exon-Florio has been in force, there have been slightly more than 1700 CFIUS filings. Only one transaction has formally been blocked by the President — a 1990 aerospace investment by a Chinese company. From the data, one would think that CFIUS has merely been a rubber stamp, approving 99.9 percent of the acquisitions. The data belie actual practice, since tough restrictions are imposed by CFIUS as a condition for approval — typically through “mitigation” or “national security” agreements. In addition, parties typically will abandon a transaction in the face of a possible rejection rather than force the President to formally block a proposed acquisition. The public relations damage to a company if a President were to block an acquisition would be substantial.

#### ---The plan specifies that it removes restrictions only on the production stage. There is no other way to read it and the plan should be the ultimate arbiter of this question.

#### ---Foreign investment restrictions apply to extraction

Clark-partner Dewey & LeBoeuf LLP-11

LIMITS ON INTERNATIONAL BUSINESS IN THE PETROLEUM SECTOR: CFIUS INVESTMENT SCREENING,

ECONOMIC SANCTIONS, ANTI-BRIBERY RULES, AND OTHER MEASURES

<http://tjogel.org/wp-content/uploads/2012/05/ware_final1.pdf>

B. Petroleum Industry Experience and Challenges: Exon-Florio Although CFIUS’s focus on energy-related transactions is a recent development, U.S. government decision-makers have long viewed oil company deal-making as having a strategic dimension. 34 Concern about the oil and gas industry was a driving factor in the original establishment of CFIUS in 1975. In the 1970s Congress had grown concerned over the rapid increase in investments by Organization of the Petroleum Exporting Countries (“OPEC”) in portfolio assets, suspecting that they may be driven by political, rather than by economic, motives. 35 In 2006 congressional outcry over a CFIUS-approved acquisition of a port management business by UAE-controlled Dubai Ports World led to a broad reformulation of Exon-Florio. The legislation, the Foreign Investment on National Security Act (“FINSA”), reflects a congressional intent to scrutinize oil and gas acquisition intensively. As indicated above, the statute urges CFIUS to consider in assessing transactions “the long-term projection of the United States requirements for sources of energy and other critical resources and material” and “the potential national security-related effects on United States critical infrastructure, including major energy assets.” 36 The legislative history “makes clear that national security encompasses national security threats to . . . energy-related infrastructure.” 37 The House of Representatives committee that prepared the legislation expressed its view that it “expects that acquisitions of U.S. energy companies or assets by foreign governments or companies controlled by foreign governments . . . will be reviewed closely for their national security impact.” 38 Transactions in the energy sector have been subject to CFIUS review at various stages of the value chain, including extraction, transportation, conversion to power, and supply to the U.S. government. 39 Over time CFIUS appears to be paying closer attention to deals involving these types of assets, creating some uncertainty for potential mergers and acquisitions in this sector.

#### ---Production deals with a high level of scrutiny are considered “restricted”.

Vinson & Elkins LLP 12 (V&E China Practice Update E-communication, “China Amends Foreign Investment Policy: New Foreign Investment Industry Guidance Catalogue,” January 13, http://www.velaw.com/resources/pub\_detail.aspx?id=20405)

The Catalogue classifies foreign direct investments in the various Chinese industry sectors as “encouraged,” “restricted,” “permitted,” or “prohibited,” and sets out specific industries in which foreign investment is either “encouraged,” “restricted,” or “prohibited.” Activities not listed are, in the absence of other rules to the contrary, considered to be “permitted” for foreign investments. Foreign investment in “encouraged” industries may enjoy certain tax benefits and is often subject to less strict administrative requirements from approval authorities. The “restricted” category includes industries into which foreign investment is subject to a higher level of scrutiny, stricter administrative requirements, and may be denied at the discretion of the approval authorities. Foreign investment is not permitted in industries categorized as “prohibited.”

#### ---C/I-Production is a distinct stage from exploration, transportation, storage, and distribution.

Elcock 04 (Deborah, ‘Environmental Policy and Regulatory Constraints to Natural Gas Production,” Argonne National Laboratory, Dec, http://www.ipd.anl.gov/anlpubs/2004/12/51652.pdf)

In 1999, the National Petroleum Council (NPC) reported that the demand for natural gas was growing and that the resource base was adequate to meet this demand; however, certain factors needed to be addressed to realize the full potential for natural gas use in the United States (NPC 1999). In 2001, the National Energy Policy Development Group (NEPDG), established by the President to develop a plan to help the private and public sectors promote dependable,2 affordable, and environmentally sound energy for the future, presented its National Energy Policy (NEPDG 2001). The NEP recommendations included investigating several areas that could be limiting domestic natural gas production. The potential for a near-term natural gas shortage prompted a June 26, 2003, Natural Gas Summit, designed to give the Secretary of Energy and other DOE officials information on the ramifications and potential resolutions of short-term challenges to the natural gas industry. In September 2003, the NPC released an update to its 1999 study (NPC 2003). In the update, the NPC reports that government policies encourage the use of natural gas but fail to address the need for additional natural gas supplies. The 2003 report states that a status quo approach to these conflicting policies will result in undesirable impacts to consumers and the economy. A key issue raised but not fully explored in these efforts was how environmental and regulatory policy constraints, which were developed to meet national environmental protection goals, can, at the same time, limit natural gas exploration and production (E&P) and transportation. Recent studies have examined limitations to accessing natural gas, particularly in the Rocky Mountain region, but even after the gas is accessed, numerous additional environmental policy and regulatory constraints can affect production and delivery to consumers. The purpose of this Phase I study is to identify specific existing and potential environmental policy and regulatory constraints on E&P, transportation, storage, and distribution of natural gas needed to meet projected demands. It is designed to provide DOE with information on potential constraints to increased natural gas supply and development in both the long and short terms so that the Department can develop, propose, and support policies that eliminate or reduce negative impacts of such constraints, or issues, while continuing to support the goals of environmental protection. It can also aid in setting priorities for regulatory reviews and for research and development (R&D) efforts. 1 A possible future Phase II study would identify potential short-, mid-, and long-term strategies for mitigating these environmental policy and regulatory constraints.

#### ---C/I

#### Restrictions mean qualification on production

Wright v. Magellan Behavioral Health, Inc., 2007 U.S. Dist. LEXIS 48718  2007

In the instant case, the Court is required to interpret the word "restriction" as used by the parties in the Agreement. The parties apparently agree that the legal definition of restriction--"a limitation or qualification," Black's Law Dictionary 1341 (8th ed. 1999)--is a good place to start. Thus, the Court must determine whether the board's supervision requirement falls within this definition.

#### That means conditions on production not just prohibitions

Google Dictionary

qual·i·fi·ca·tion

noun /ˌkwäləfəˈkāSHən/

qualifications, plural

A quality or accomplishment that makes someone suitable for a particular job or activity

- only one qualification required—fabulous sense of humor

The action or fact of becoming qualified as a practitioner of a particular profession or activity

- an opportunity for student teachers to share experiences before qualification

A condition that must be fulfilled before a right can be acquired; an official requirement

- the five-year residency qualification for presidential candidates

#### ---Their interpretation is bad

#### A. Over limits-Their interpretation limits the topic to drill baby drill which is bad ground. SQ production is sky high which means better debates on the topic should be about things other than ANWR or the offshore drilling moratorium.

#### B. Capital key-Future oil and gas production will depend on foreign capital. That’s Ellis-Vinson-That capital is intrinsically tied to energy production proves it should be core affirmative ground.

#### ---Reasonability-Competing interpretations encourage a race to the bottom. Limits for limits sake have destroyed affirmative ground on the last several topics. You should err affirmative if our interpretation is proven debatable.

### NU-Carroll CP

#### Permutation-- do the plan and limit CFIUS reviews as outlined by the counterplan.

#### This isn’t what carroll advocates at all…Zero solvency

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

This proposed definition of national security would be even more limited than the original Exon-Florio signed by President Reagan, as Exon-Florio was designed to apply mainly to defense-based technological acquisitions.223 The main difference between this definition of national security and the original Exon-Florio legislation is that this definition would codify national security to explicitly prevent protectionist use of the CFIUS for political ends. Any consideration of economic security or protection of energy assets from foreign acquisition would be excluded from this definition, as inclusion of such economic factors can only encourage protectionism and politicization of the CFIUS process.224

#### Doesn’t solve- burden of proof is on the company

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

On July 26, 2007, President Bush signed FINSA into law.120 The new legislation modified Exon-Florio in several aspects, most notably by broadening the definition of national security to encompass “homeland security,” and also by including critical infrastructure, energy assets, and critical technologies under the umbrella of FINSA.121 FINSA added the Secretary of Energy as a voting member of the CFIUS122 and made investigations mandatory when either an acquisition is made by an entity controlled by a foreign government or the transaction could result in the control of any critical infrastructure, including major energy assets, by a foreign business.123 This requirement is excepted if the Secretary of the Treasury and the head of the lead agency jointly determine that the transaction will not impair national security.124 Thus, the burden of proof to show that a controlling acquisition of “critical infrastructure” does not threaten national security has arguably shifted from the government to the companies.125 FINSA does define critical infrastructure as “assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on national security.”126 But this definition still allows uncertainty, as the federal government has promulgated multiple evolving and expanding definitions of what constitutes critical infrastructure,127 which could encompass more than a quarter of the national economy.128 The Treasury regulations implementing FINSA do not attempt to define or limit the scope of critical infrastructure.129 Such a broad grab of power for the CFIUS by Congress represents a major intervention into the economy with potentially negative consequences for foreign direct investment.130 FINSA also includes a requirement that the CFIUS file a report with Congress at the completion of any 30-day review or 45-day investigation,131 which increases transparency and the likelihood of congressional involvement.

#### Anything can be considered a military threat

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

Senator Charles Schumer’s call to investigate the Borse Company’s purchase of a 20% interest in Nasdaq demonstrates the broad nature of the FINSA review.134 Although the Borse Company is a holding company owned by the Emir of Dubai,135 at first glance, there appears to be no conceivable relation between a Nasdaq purchase and national security. Critics of the Unocal deal claimed that the United States military uses oil,136 and critics of the Dubai Ports acquisition claimed that terrorists could infiltrate United States ports through the U.A.E. company.137 Schumer does not seem to have proof of any plausible threat of terrorism due to the purchase, and Nasdaq has no apparent relationship to the defense industrial base. The only conceivable portion of Exon-Florio that a partial Nasdaq acquisition could fall under is the critical infrastructure provision added in FINSA. Of course, if an electronic stock trading company can constitute critical infrastructure, then nearly any portion of the U.S. economy could qualify as such, and by extension, the vast majority of foreign direct investment within the United States would be potentially vulnerable to similar scrutiny.

#### ---Conditionality is illegitimate and a voting issue. Time constraints and the no risk nature of conditionality undermine 2AC strategy. Independently, conditionality undermines the value of debate by causing superficial exploration of competing policy options.

#### the counterplan doenst limit congresses ability to be involved in transactions- means the CP doesn’t solve politicization

Carroll-Emory International Law Review-9

23 Emory Int'l L. Rev. 167 COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

FINSA mandates that the CFIUS conduct a 45-day investigation any time the foreign investor is controlled by, or acting on behalf of, a foreign government, unless the Secretary of the Treasury and the head of the relevant agency both agree that there is no threat to national security and waive the investigation.183 This provision shifts the burden of proof away from the U.S. government and to the foreign state-owned business in these transactions.184 To foreign governments, however, FINSA may appear to discourage investment because of political enmity.185 As such, continual politicized investigations of foreign direct investment in American infrastructure may alienate our allies and isolate America even further.186

### K

#### The role of the judge is that of a policymaker – the role of the ballot is to weigh the costs and benefits of simulated government action

#### A. Predictability – the resolution begs for federal government action – only way for the affirmative to understand the role of the judge

#### B. Fairness – checks multiple negative critical frameworks

#### Voting issue for fairness

#### Abdication of simulated policy enactment makes political change impossible – policy focus key

Stevenson 2009

Ruth, PhD, senior lecturer and independent consultant – Graduate School of the Environment @ Centre for Alternative Technology, “Discourse, power, and energy conflicts: understanding Welsh renewable energy planning policy,” *Environment and Planning C: Government and Policy*, Volume 27, pg. 512-526

It could be argued that this result arose from the lack of expertise of the convenors of the TAN 8 in consensual decision making. Indeed, there is now more research and advice on popular participation in policy issues at a community level (eg Kaner et al, 1996; Ostrom, 1995; Paddison, 1999). However, for policy making the state remains the vehicle through which policy goals must be achieved (Rydin, 2003) and it is through the state that global issues such as climate change and sustainable development must be legislated for, and to some extent enacted. It is therefore through this structure that any consensual decision making must be tested. This research indicates that the policy process cannot actually overcome contradictions and conflict. Instead, encompassing them may well be a more fruitful way forward than attempts at consensus. Foucault reinforces the notion that the `field of power' can prove to be positive both for individuals and for the state by allowing both to act (Darier, 1996; Foucault, 1979). Rydin (2003) suggests that actors can be involved in policy making but through `deliberative' policy making rather than aiming for consensus: ``the key to success here is not consensus but building a position based on divergent positions'' (page 69). Deliberative policy making for Rydin involves: particular dialogic mechanisms such as speakers being explicit about their values, understandings, and activities: the need to move back and forth between memories (historical) and aspirations (future); moving between general and the particular; and the adoption of role taking (sometimes someone else's role). There is much to be trialed and tested in these deliberative models, however, a strong state is still required as part of the equation if we are to work in the interests of global equity, at least until the messages about climate change and sustainable development are strong enough to filter through to the local level. It is at the policy level that the usefulness of these various new techniques of deliberative policy making must be tested, and at the heart of this must be an understanding of the power rationalities at work in the process.

#### ---The dominant frame of Chinese oil and natural gas investment as an act of national aggression makes American security policy a self-fulfilling prophecy.

Pan 2007

Chengxin, School of International and Political Studies, Faculty of Arts, Deakin University, What Is Chinese About Chinese Business? Implications for U.S. Responses to China’s Rise, Asia Research Centre, CBS, Copenhagen Discussion Papers

From the global production network perspective, not only does the assumption of a zero-sum game between China and the United States become problematic, but the notion of the so-called ‘Chinese business practices’ becomes problematic, as what is often termed as ‘Chinese business practices’ may be seen as a product of the interactions between Chinese and transnational companies, including U.S. companies. For instance, the Unocal bids by CNOOC, a state-owned company in China, has been seen as a proof of China’s sinister business strategy to undermine U.S. national security. Yet, what is less well-known is that Goldman Sachs, whose CEO Henry Paulson is currently U.S. Treasury Secretary, was involved in financing the aborted CNOOC-Unocal deal (Hawkins 2006). In this sense, Chinese companies’ acquisitions of natural resources in various parts of the world, while drawing much alarm and criticism in the U.S. and elsewhere, are nothing uniquely Chinese. As Michael Klare explains, the United States, Britain, France, Japan, and other Western oil-importing countries have long competed among themselves for drilling rights in overseas producing areas…. China may be a newcomer to this contest, but is not behaving noticeably differently from the other oil-seekers. Indeed, the “National Energy Policy” announced by President George W. Bush on May 17, 2001, calls for US officials to conduct the same sort of diplomatic quest in pursuit of foreign energy as that now being undertaken by Chinese officials (Klare 2006:182). Understood this way, threatening to retaliate against ‘China’ is not only unlikely to eliminate those ‘Chinese’ business practices, but it could in fact provide further impetus to them. It is in this sense that I consider the policies based on a unitary Chinese economic Other counterproductive and potentially dangerous. Again take the American nationalistic responses to CNOOC’s Unocal for example. By effectively declaring to the Chinese that North America is off limits, American policy-makers sent ‘precisely the wrong message to China’s modernizing managerial class and encourage highly damaging … tendencies in China, including nationalism, mercantilism and distrust of the international markets’ Harding et al 2006:64). Similarly, Hadar notes that ‘by taking steps to derail the Unocal-CNOOC deal, Washington is helping set in motion what could be only described as a self-fulfilling prophecy’ (2005). Since no amount of U.S. legislation would be able to reduce the global production demand for energy in China, China would seem to ‘have no choice in light of the US policies but to form special economic or foreign policy relationships’ with the so-called ‘rogue states’ (Hadar 2005). Of course, this in turn could confirm the suspicion of China many Americans have long held, thereby giving rise to a vicious cycle of mutual suspicion and hostility. Starting out with the image of a homogeneous Chinese Other and consistently acting upon it, hawkish policy-makers in Washington could well succeed in bringing out a more unified rival in China down the road.

#### ---Link describes the status quo

#### (A.) POLITICS- Absent the plan, the cifus review process will be dominated by racist congressional debate and china bashing --- The 1ac advantage scenarios are occurring BECAUSE congress is overly concerned with the preservation of national security. Takes out alt solvency & means Xenophobes coopt the alternative.

The Economist 2006

America's ports and Dubai; Trouble on the waterfront, http://www.economist.com/node/5551176

XENOPHOBIA seems to be creeping into American politics. Last year, Congress saw off the yellow peril from China, whose CNOOC oil company dared to bid for America's Unocal (though most of Unocal's oil and gas reserves happened to be outside America). Now it is the Arabs—for which read terrorists—who are threatening to imperil America's national security by taking over some of its ports. On February 13th, DP World, a ports operator owned by the government of Dubai, a small but economically ambitious member of the United Arab Emirates, paid $6.8 billion to acquire P&O, a British firm which runs a global network of maritime terminals. With P&O came six American ports—Miami, Philadelphia, Baltimore, New Orleans, New Jersey and New York. Ever since the contract was signed there has been a noisy response from American politicians. Robert Ehrlich, the Republican governor of Maryland, and Jon Corzine, his Democratic peer in New Jersey, both want to stop the deal. The two most vocal protesters are Chuck Schumer, a Democratic senator for New York (and famed China-basher), and Pete King, the Republican chairman of the House Homeland Security Committee (and friend of Gerry Adams, the leader of Sinn Fein). They say they will shortly propose emergency legislation to block the deal before completion, which is due on March 2nd. Presidential hopefuls have also rushed to sound the alarm. Hillary Clinton, New York's other senator, will introduce legislation prohibiting the sale of port operations to foreign governments. On the Republican side, George Pataki, New York's ambitious governor (who is retiring), is considering cancelling the lease which the New York-New Jersey Port Authority has granted to the port operators. And the Senate majority leader, Bill Frist, has asked the president to take a second look. To his credit, George Bush has risen above such populism, reasserting his free-trade principles by promising to veto any legislation that tries to block the takeover. Mr Bush's problem is that, with the exception of Jimmy Carter and John McCain, no prominent politician seems inclined to speak out on his side. With mid-term elections looming in November, Congress may well find enough votes to override the presidential veto. As with CNOOC, politicians are claiming that this is less about protectionism than about the purchase of American assets by firms that are, in effect, arms of a foreign government. Continental Stevedoring & Terminals, one of P&O's partners, has filed a lawsuit in Miami claiming that under the sale it will become an “involuntary partner” with Dubai's government. The dockworkers' union says it is ownership by a foreign government that scares its members most. Yet Dubai is much more obviously a friend of America than is China. And, anyway, is this really what this dispute is about? The most persistent complaint, heard also from families of victims of the September 11th attacks (some of the terrorists had links to the United Arab Emirates), is that it will imperil America's national security. Critics protest that the deal has not been adequately vetted. The Committee on Foreign Investment in the United States (CFIUS), which includes representatives from the Departments of Defence, State, Treasury, Commerce and, most important, Homeland Security, approved the takeover in the minimum 30-day period. Critics say it must have been superficial, and they are furious that the deliberations behind the decision are classified. Inevitably, too, there is a business connection to the Bush administration. The sort of people who claim that the White House is a subsidiary of Enron and/or Halliburton have spotted a link between DP World and John Snow, the treasury secretary, whose agency heads the federal panel that signed off on the sales. Mr Snow used to run CSX, a railroad company that, after he had left, sold its port operations to the Dubai firm for $1.15 billion in 2004. Underneath all the posturing is one legitimate worry: ports are one of America's weak spots when it comes to national security. Only 5% of the containers that bring 2 billion tonnes of freight to the ports each year are inspected on arrival. That is up from 2% before September 11th 2001, but is still worryingly low. Weapons of mass destruction could be smuggled in and, if the ports themselves were targets, closures or even interruptions would disrupt the global supply chain, says William Daly of Control Risks, a consultancy. This would mean potentially huge consequences for the American and world economies. But will letting DP World operate there really make a material difference to that risk? Nobody denies that Dubai, though pro-western, is a notoriously porous place, with blind eyes reputedly turned to shipments of drugs and arms. A.Q. Khan's Pakistani nuclear-smuggling network, for instance, was hidden behind a Dubai front. But that does not mean DP World is unfit. It is a globally respected firm with an American chief operating officer, Ted Bilkey, and an American-educated chairman. When Mr Bush nominated an American manager from DP World to a ports post in the Department of Transport last month, nobody objected (though they are complaining now). The company will not own the American ports and it has no incentive to run them badly. Just as under P&O, American coast guards, customs and immigration people will remain fully responsible for security. The United Arab Emirates is a member of America's Container Security Initiative, which allows American customs officials to inspect cargo in foreign ports before it leaves for America. The employees will continue to be unionised (and presumably patriotic) American citizens. Any Arab employees whom DP World ships in will be subject to American visa approval, no easy matter nowadays. Alas, America's politicians seem to be in no mood to discuss this issue rationally. So much easier, and more popular, to base policy on the prejudice that every Arab is a potential terrorist.

#### Only immediate government action solves --- State management is the only buffer between ethnic minorities and a racist civil society.

Myers 2003

Tony, former lecturer at the University of Stirling. He is the author of Upgrade Your English Essay (Arnold, 2002) and numerous articles on postmodernism, psychoanalysis and politics, Slavoj Zizek, pg 107-108

Of course, as fantasies cannot ultimately coexist peacefully, particularly when they are ethnic fantasies, this ethic can only ever be an intermediate solution. For the present, Zizek has a more practical solution to the problem of racism, one which draws on his own experience in Slovenia. Surprisingly for a revolutionary, Zizek argues that we should support the state in opposition to civil society. By 'state' Zizek here means to refer to the institutions of government, whereas 'civil society' designates, in its wildest sense, the people of a nation or non-governmental groups. While Zizek might aspire to a nation based purely on the consensual will of civil society, he contends that, in the light of the currently existing racist fantasies of much of civil society, this is just not possible. If he finds this in Slovenia, where he argues that civil society is basically right-wing, Zizek also sees it, for example, in the United States: In America, after the Oklahoma bombing, they suddenly discovered that there are hundreds of thousands of jerks. Civil society is not this nice, social movement, but a network of moral majority conservatives and nationalist pressure groups, against abortion, for religious education in schools. A real pressure from below. (Lovink 1995) For Zizek is the state that should act as a buffer between the fantasies of different groups, mitigating the worst effects of thoses fantasies. If civil society were allowed to rule unrestrained, much of the world would succumb to racist violence. It is only the forces of the state which keep it in check. In the long term, Zizek argues that in order to avoid a clash of fantasies we have to learn to "traverse the fantasy" (what lacan terms "traversing the fantôme). It means that we have to acknowledge that fantasy merely functions to screen the abyss or inconsistency in the Other. In "traversing" or "going through" the fantasy "all we have to do is experience how there is nothing 'behind' it, and how fantasy masks precisely this 'nothing'". (The Sublime Object of Ideology) The subject of racism, be it a Jew, a Muslim, a Latino, an African-American, gay or lesbian, Chinese, is a fantasy figure, someone who embodies the void of the Other.

**B. Individual focus fuels economic nationalism --- CFIUS politicization means every local problem will be blamed on China & foreign investment.**

**Bello & Mittal 2000**

Walden, Anuradha, Dangerous Liaisons: Progressives, the Right, and the Anti-China Trade Campaign, Institute for Food and Development Policy/Food First, May, http://www.tni.org/archives/archives\_bello\_china

Sixth, **the anti-China trade campaign** is dishonest. It **invokes concern** about the rights of Chinese workers and the rights of the Chinese people, **but its main objective is** to protect American jobs against cheap imports from China. This is **cloaking self-interest with altruistic rhetoric**. What the campaign should be doing is openly acknowledging that its overriding goal is to protect jobs, which is a legitimate concern and goal. And what it should be working for is not invoking sanctions on human rights grounds, but working out solutions such as managed trade, which would seek to balance the need of American workers to protect their jobs while allowing the market access that allows workers in other countries to keep their jobs and their countries to sustain a certain level of growth while they move to change their development model. (13) Instead, **what the rhetoric of the anti-China trade campaign does is to debase human rights and democratic rights language with its hypocrisy while delegitimizing the objective of protecting jobs**-which is a central social and economic right-**by concealing it**.

**The alternative locks workers in the forced choice between accepting structural inequality and hating their foreign counterparts.**

**Hart-Landsberg & Burkett 2006**

Martin, Professor of Economics and Director of the Political Economy Program at Lewis and Clark College, Paul, professor of economics at Indiana State University, China and the Dynamics of Transnational Accumulation: Causes and Consequences of Global Restructuring, Historical Materialism, volume 14:3 (3–43)

Although China’s National Bureau of Statistics has concluded, based on survey research, that only 5 per cent of the country’s population can currently be considered middle-class, the government is conﬁdent that its economic policies will raise this to 45 per cent by 2020. However, such a prediction ﬂies in the face of the lived experiences of Chinese working people. As a Hong Kong Confederation of Trade Unions report explains, **‘globalisation’ has left Chinese workers: isolated in a global equation in which job insecurity and poverty award employers with the upper hand in what has become known as the race to the bottom. Workers in developed countries are told that they must accept lower wages and ﬂexible working conditions to stop their bosses moving production abroad. Meanwhile, workers in SOEs in China are told they must accept a decline in conditions and welfare or be replaced by migrant workers from the countryside. And migrant workers**, especially in the coastal Special Economic Zones, **are told that they must accept wage arrears and lax health and safety or the boss will move to a more investor-friendly environment further inland**.

**---The alternative fractures the left --- Rejecting the plan’s [global/production] focus unites the alternative with right wing china bashers and fractures opposition to the Pentagon’s militarist china policy.**

**Bello & Mittal 2000**

Walden, Anuradha, Dangerous Liaisons: Progressives, the Right, and the Anti-China Trade Campaign, Institute for Food and Development Policy/Food First, May, http://www.tni.org/archives/archives\_bello\_china

A coalition of forces seeks to deprive China of permanent normal trading relations (PNTR) as a means of obstructing that country's entry into the World Trade Organization (WTO). **We do not approve of the free-trade paradigm** that underpins NTR status. **We do not support the WTO**; we believe, in fact, that it would be a mistake for China to join it. **But the real issue in the China debate is not the desirability or undesirability of free trade** and the WTO. **The** real **issue is whether the U**nited **S**tates **has the right to serve as the gatekeeper to** international organizations such as the WTO. More broadly, it is whether the United States government can arrogate to itself the right to determine who is and who is not a legitimate member of **the international community. The issue is** unilateralism-the destabilizing thrust **that** is Washington's oldest approach to the rest of the world. **The unilateralist anti-China trade campaign enmeshes** many **progressive groups in the US in an unholy alliance with the right wing that**, among other things, **advances the Pentagon's grand strategy to contain China**. **It splits a progressive movement that was in the process of coming together** in its most solid alliance in years. It is, to borrow Omar Bradley's characterization of the Korean War, "the wrong war at the wrong place at the wrong time".

#### ---K can’t turn case --- Policy debates over energy regulation re-politicize the structure allowing it to self correct for technocratic mismanagement.

Rahman 2011

K. Sabeel, A.B., Harvard College, 2005; M.Sc., Economics for Development, Oxford University, 2006; M.St., Sociolegal Studies, Oxford University, 2007; J.D. Candidate, Harvard Law School, Class of 2012; Ph.D. Candidate, Government, Harvard University, ENVISIONING THE REGULATORY STATE: TECHNOCRACY, DEMOCRACY, AND INSTITUTIONAL EXPERIMENTATION IN THE 2010 FINANCIAL REFORM AND OIL SPILL STATUTES, http://www.harvardjol.com/wp-content/uploads/2011/07/Rahman\_Note.pdf

These weaknesses of the technocratic model create a fundamental challenge for the modern regulatory state. One response to this challenge might be to abandon the project of regulatory public policy altogether. This is the familiar response from laissez-faire ideologies and anti-government conservatism. Yet the social goals that regulation aims to advance remain vital, even if the technocratic model itself proves problematic. As a society, we still need some form of accountability for the actions of powerful private entities like oil and financial corporations. We also require systems to protect against broad social risks like financial crisis and ecological disaster. In short, we require a form of collective self-rule against crises and social evils. Rather than rejecting the goal of mitigating these challenges, the weaknesses of technocratic regulation drive us towards the need to develop an alternative democratic paradigm of regulation. Indeed, these weaknesses of the technocratic impulse—disparities in interest representation, obfuscation of normative debates, demobilization of engagement—share three key features that suggest the need for and viability of a more democratic framework for regulatory politics. First, each of these weaknesses can be overcome through a more democratic regulatory structure. Second, this turn to democracy need not involve a rejection of expertise; rather, some form of democratic politics can coexist with a role for technical expertise. Third, each of these weaknesses arises out of an effort to rationalize regulatory policy. This rationalization effort aims to protect policymaking from the influence of politics, subsuming questions of values and interests into a more coherent process of regulatory policymaking. This good governance ideal is attractive, but the effort to sterilize policy of politics threatens deeper ideals of democracy, responsiveness, and legitimacy. Further, as critics of the modern regulatory state have noted, the involvement of politics is inescapable; regulatory agencies should be structured not to avoid politics but rather to engage with the reality of political disagreement openly. Instead of focusing on the narrow question of agency discretion and constraint with an eye towards promoting rationality of policymaking, the central question should be bringing the foci of political debate to the forefront and engaging in those debates in a democratic manner. Rather than attempting to sterilize policy of politics, this approach looks for ways to constitute a dynamic political process, one that leaves ample room for the representation and engagement of different values.

#### ---Case Outweighs---

#### ---Permutation do both --- Claim the debate-space for those excluded by the police order and <plan>.

#### ---Perm is critical to political effectiveness and solves extinction.

Hildyard Lohmann & Sexton, Their Author, 2012

Nicholas, founder and Director of The Corner House, Larry, author of the book “Carbon Trading: A Critical Conversation on Climate Change, Privatization and Power” & works at the British NGO The Corner House, Sarah, a director of The Corner House, Energy Security For What? For Whom? The Corner House, http://www.thecornerhouse.org.uk/resource/energy-security-whom-what

Critically, there is a need for public discussion and debate that correct the fatal political vagueness of the purely physical concept of “energy” and instead scrutinise societal goals in the light of global warming, resistance to expansion of fossil fuel extraction, the different characteristics, materialities and contexts of different energy sources, and so on. Questions that need to be asked include: What do different groups of people expect not from “energy policy”, but from policies that address housing, food, mobility, electricity and livelihood? What do these aspirations imply for constraints on capital accumulation and the scale and ownership of the financial sector? And what do such debates imply not for “energy policy”, but for future policies on oil, coal, gas, nuclear and agrofuels? Likewise, to correct the unhelpful prevalent emphasis on “Security”, policymakers could highlight the unsustainable, insupportable long-term implications of continued fossil-fuel (and fossil-substitute) developments, thereby opening up for discussion the question of how a transition out of the fossil age can be achieved with the least pain and conflict for everyone. To do this, they will need to call on the knowledge of a much wider field of participants than they currently do. A first step is to look for friends who can help. Thai people have an expression, chuaykan khit: to help each other think. The initial task facing anyone who comes to the issues anew is to learn how to recognise potential allies and to find ways of helping each other think and act. There is no need to look far. Hundreds of communities, social movements, activists and thinkers worldwide have been working for many decades, in one way or another, on the issue of Energy vs. “energies” and Security vs. “securities”. Campaigns against pipelines and the hydraulic fracturing of underground rock to bring out ever more supplies of gas have grown up in countries like the United States, France, Argentina and South Africa, joining longer-standing struggles against large hydroelectric dams in countries such as India, Thailand and Brazil. The actions of “fenceline communities” against power plants polluting their neighbourhoods are being carried on alongside campaigns for public transport or electricity for all.1 One group of social movements that stands out in this respect are those organising to address directly the below-ground to above-ground transfer of carbon. These include those striving to “keep the oil in the soil, the coal in the hole and the tar sand in the land” in the Niger Delta, Canadian Alberta, Ecuador, South Africa, the US Appalachia and elsewhere; stopping the development of dozens of coalfired power plants in the US, Britain, Thailand and other countries; fighting agrofuel projects whose effect would be to take acres and acres of land so as to sustain a transport infrastructure designed for crude oil; and working to stop banks and other financial institutions supporting fossil-intensive or fossilextractive projects. Increasingly, such movements are aligning themselves with movements in support of ecological and peasant agriculture, more democratic public health, welfare and energy provision, cleaner air and water, and an end to militarism, environmental racism and “neoextractivism”.3 Such groups have anchored themselves firmly to defend little-e “energies”, little-s “securities” and other constituents of life and livelihoods. It is for this reason above all that they contest the pollution that comes with fossil-fuel extraction, the brutality and violence that enables and enforces it, and the social and political disintegration that often accompanies it. Yet in doing so, they quickly become aware that they are also directly challenging Energy and Security in all their global complexity. Their actions swiftly take them into confrontation with, among others, the legal and military apparatus that has been put in place to protect Energy and weapons companies, as well as governments who demand a “substitute” or “equivalent” for the coal and oil left in the ground. Such groups have had little choice but to assume their current role of intellectual as well as political leadership on “energy security”. Their knowledge and analysis will become increasingly valuable in the years ahead to any policymaker serious about planning for energy security in a progressive way that puts the collective security and survival of all at the forefront. Therein lies both the political challenge of “energy security” and the most pragmatic starting point for practical action.

#### ---Energy is good --- Its interchangeable nature is key to resolve multiple barriers to equity and poverty alleviation.

Epstein 2009

Alex, founder and director of the Center for Industrial Progress, Energy at the Speed of Thought: The Original Alternative Energy Market, TOS Vol. 4, No. 2.

The most important and most overlooked energy issue today is the growing crisis of global energy supply. Cheap, industrial-scale energy is essential to building, transporting, and operating everything we use, from refrigerators to Internet server farms to hospitals. It is desperately needed in the undeveloped world, where 1.6 billion people lack electricity, which contributes to untold suffering and death. And it is needed in ever-greater, more-affordable quantities in the industrialized world: Energy usage and standard of living are directly correlated. Every dollar added to the cost of energy is a dollar added to the cost of life. And if something does not change soon in the energy markets, the cost of life will become a lot higher. As demand increases in the newly industrializing world, led by China and India,2 supply stagnates3—meaning rising prices as far as the eye can see.

#### ---The alternative fails --- Collective structures are responsible for an overwhelming majority of consumption.

Jensen 2009

Derrick, activist and the author of many books, most recently What We Leave Behind and Songs of the Dead, Forget Shorter Showers, Orion Magazine, http://www.orionmagazine.org/index.php/articles/article/4801/

WOULD ANY SANE PERSON think dumpster diving would have stopped Hitler, or that composting would have ended slavery or brought about the eight-hour workday, or that chopping wood and carrying water would have gotten people out of Tsarist prisons, or that dancing naked around a fire would have helped put in place the Voting Rights Act of 1957 or the Civil Rights Act of 1964? Then why now, with all the world at stake, do so many people retreat into these entirely personal “solutions”? Part of the problem is that we’ve been victims of a campaign of systematic misdirection. Consumer culture and the capitalist mindset have taught us to substitute acts of personal consumption (or enlightenment) for organized political resistance. An Inconvenient Truth helped raise consciousness about global warming. But did you notice that all of the solutions presented had to do with personal consumption—changing light bulbs, inflating tires, driving half as much—and had nothing to do with shifting power away from corporations, or stopping the growth economy that is destroying the planet? Even if every person in the United States did everything the movie suggested, U.S. carbon emissions would fall by only 22 percent. Scientific consensus is that emissions must be reduced by at least 75 percent worldwide. Or let’s talk water. We so often hear that the world is running out of water. People are dying from lack of water. Rivers are dewatered from lack of water. Because of this we need to take shorter showers. See the disconnect? Because I take showers, I’m responsible for drawing down aquifers? Well, no. More than 90 percent of the water used by humans is used by agriculture and industry. The remaining 10 percent is split between municipalities and actual living breathing individual humans. Collectively, municipal golf courses use as much water as municipal human beings. People (both human people and fish people) aren’t dying because the world is running out of water. They’re dying because the water is being stolen. Or let’s talk energy. Kirkpatrick Sale summarized it well: “For the past 15 years the story has been the same every year: individual consumption—residential, by private car, and so on—is never more than about a quarter of all consumption; the vast majority is commercial, industrial, corporate, by agribusiness and government [he forgot military]. So, even if we all took up cycling and wood stoves it would have a negligible impact on energy use, global warming and atmospheric pollution.” Or let’s talk waste. In 2005, per-capita municipal waste production (basically everything that’s put out at the curb) in the U.S. was about 1,660 pounds. Let’s say you’re a die-hard simple-living activist, and you reduce this to zero. You recycle everything. You bring cloth bags shopping. You fix your toaster. Your toes poke out of old tennis shoes. You’re not done yet, though. Since municipal waste includes not just residential waste, but also waste from government offices and businesses, you march to those offices, waste reduction pamphlets in hand, and convince them to cut down on their waste enough to eliminate your share of it. Uh, I’ve got some bad news. Municipal waste accounts for only 3 percent of total waste production in the United States. I want to be clear. I’m not saying we shouldn’t live simply. I live reasonably simply myself, but I don’t pretend that not buying much (or not driving much, or not having kids) is a powerful political act, or that it’s deeply revolutionary. It’s not. Personal change doesn’t equal social change.

#### ---Individual local strategies fail to adapt to the inevitability of global concerns and guarantees a world dominated by violence.

Monbiot 2004

George, journalist, academic, and political and environmental activist, Manifesto for a New World Order, p. 11-13

The quest for global solutions is difficult and divisive. Some members of this movement are deeply suspicious of all institutional power at the global level, fearing that it could never be held to account by the world’s people. Others are concerned that a single set of universal prescriptions would threaten the diversity of dissent. A smaller faction has argued that all political programmes are oppressive: our task should not be to replace one form of power with another, but to replace all power with a magical essence called ‘anti-power’. But most of the members of this movement are coming to recognize that if we propose solutions which can be effected only at the local or the national level, we remove ourselves from any meaningful role in solving precisely those problems which most concern us. Issues such as cli­mate change, international debt, nuclear proliferation, war, peace and the balance of trade between nations can be addressed only globally or internationally. Without global measures and global institutions, it is impossible to see how we might distribute wealth from rich nations to poor ones, tax the mobile rich and their even more mobile money, control the shipment of toxic waste, sustain the ban on landmines, prevent the use of nuclear weapons, broker peace between nations or prevent powerful states from forcing weaker ones to trade on their terms. If we were to work only at the local level, we would leave these, the most critical of issues, for other people to tackle. Global governance will take place whether we participate in it or not. Indeed, it must take place if the issues which concern us are not to be resolved by the brute force of the powerful. That the international institutions have been designed or captured by the dictatorship of vested interests is not an argument against the existence of international institutions, but a reason for overthrowing them and re­placing them with our own. It is an argument for a global political system which holds power to account. In the absence of an effective global politics, moreover, local solutions will always be undermined by communities of interest which do not share our vision. We might, for example, manage to persuade the people of the street in which we live to give up their cars in the hope of preventing climate change, but unless everyone, in all communities, either shares our politics or is bound by the same rules, we simply open new road space into which the neighbouring communities can expand. We might declare our neighbour­hood nuclear-free, but unless we are simultaneously work­ing, at the international level, for the abandonment of nuclear weapons, we can do nothing to prevent ourselves and everyone else from being threatened by people who are not as nice as we are. We would deprive ourselves, in other words, of the power of restraint. By first rebuilding the global politics, we establish the political space in which our local alternatives can flourish. If, by contrast, we were to leave the governance of the necessary global institutions to others, then those institutions will pick off our local, even our national, solutions one by one. There is little point in devising an alternative economic policy for your nation, as Luis Inacio ‘Lula’ da Silva, now president of Brazil, once advocated, if the International Monetary Fund and the financial speculators have not first been overthrown. There is little point in fighting to protect a coral reef from local pollution, if nothing has been done to prevent climate change from destroying the conditions it requires for its survival.

#### ---The alternative reifies constructed Western notions of the ‘local’ that collapses autonomy and masks oppression.

Escobar 1995

Arturo, Associate professor of Anthropology @ UMASS, Encountering Development: The Making and Unmaking of the Third World, pg. 170

As Ana Maria Alonso (1992) remarked in the context of another peasant struggle at another historical moment, one must be careful not to naturalize “traditional” worlds, that is, valorize as innocent and “natural” an order produced by history (such as the Andean world in PRATEC’s case or many of the grassroots alternative spoken about by activists in various countries). These orders can also be interpreted in terms of specific effects of power and meaning. The “local,” moreover, is neither unconnected nor unconstructed, as it is thought at times. The temptation to “consume” grassroots experiences in the market for “alternatives” in Western academe should also be avoided. As Rey Chow warns (1922), one must resist participating in the reification of Third World experiences that often takes place under such rubrics as multiculturalism and cultural diversity. This reification hides other mechanisms; The apparent receptiveness of our curricula to the Third World, as receptiveness that makes full use of non-Western human specimens as instruments for articulation, is something we have to practice and deconstruct at once…We [must] find a resistance to the liberal illusion of the autonomy and independence we can “give” the other. It shows that social knowledge (and the responsibility that this knowledge entails) is not simply a matter of empathy or identification with “the other” whose sorrows and frustrations are being made part of the spectacle…This means that *our* attempts to “explore the ‘other’ point of view” and “to give it a chance to speak for itself,” as the passion of many current discourse goes, must always be distinguished from the other’s struggles, no matter how enthusiastically we assume the nonexistence of that distinction. (111,112)

#### ---Scapegoating government restrictions are good --- Even if it falsely distributes blame, it’s a prerequisite to the alternative’s critical knowledge production.

Lohmann 2012

Larry, FINANCIALIZATION, COMMODIFICATIONAND CARBON:THE CONTRADICTIONS OFNEOLIBERAL CLIMATE POLICY, SOCIALIST REGISTER, http://thecornerhouse.org.uk/sites/thecornerhouse.org.uk/files/Socialist%20Register%20Neoliberal%20Climate%20Policy%20Contradictions.pdf

Scapegoating ideology, however, is as double-edged as its cynical variety, or as the climate commodification process itself. Depending on political circumstances, calls for ‘better regulation’ or ‘crackdowns on corruption’ can intersect fruitfully with the more strategic, long-term campaigns for decommodification of the earth’s carbon-cycling capacity being undertaken by grassroots movements and groups such as Via Campesina, the California Movement for Environmental Justice, and movements in Ecuador, Canada and Nigeria opposing fossil fuel extraction.37 Useful information on patterns of subsidies provided to fossil fuel polluters by the EU ETS, or on the perverse incentives associated with HFC-23 projects, often come from groups clinging to the fetish of reform, and important analyses of the contradictions of the climate commodity from Wall Street consultants who would be horrified at the extent to which their contributions are aiding the understanding of radical movements against the trade. Thus while frank discussion of the consequences of the continuing unfolding of the contradiction between exchange-value and use-value in carbon markets is more politically productive when undertaken with affected publics than with fetish-constrained state officials and technocrats, or in the pages of the financial press, political spaces for breaking the trance that carbon markets have imposed on climate policy can be, and are being, opened at many levels.

### ptx

#### Budget and Gun battles will come before immigration reform and jack its passage.

The Republic 1-4

(‘Cliff’ fight, gun control pushing immigration reform out of spotlight, http://www.azcentral.com/news/politics/articles/20130103immigration-reform-at-crossroads.html)

Immigration reform jumped to the top of President Barack Obama’s second-term agenda after he won re-election with more than 70 percent of the Latino vote. But the already-difficult challenge of passing comprehensive immigration reform this year, as Obama hopes, has been exacerbated by the drawn-out battle over the “fiscal cliff” and emergence of gun control as a major issue following the December shooting of 20 first-graders and six adults at an elementary school in Newtown, Conn. In an interview Sunday on NBC’s “Meet the Press,” Obama reiterated that “fixing our broken immigration system is a top priority.” “We’ve talked about it long enough,” he said. The overwhelming support Obama received from Latino voters in November also prompted many Republicans to call for immigration reform in a bid to rehabilitate their party’s negative image with Latinos. But immigration reform has a long history of being sidetracked by other issues. Health-care reform and fixing the economy knocked immigration reform off the table in 2009 and 2010. Now, spending cuts and gun control are threatening to derail immigration reform again. That’s because the window to pass immigration legislation is short, analysts and immigration-reform advocates say. If nothing happens this year, immigration reform may become too politically radioactive to tackle leading up to the 2014 congressional midterm election and then the 2016 presidential election. Obama has said numerous times since the election that he wants to begin tackling immigration reform this month. In his first term, he failed to deliver on his pledge to pass a sweeping bill that would have included a legalization program for the more than 11 million undocumented immigrants in the U.S., including about 350,000 in Arizona. To win back support from Latino voters leading up to the election, Obama directed Homeland Security Secretary Janet Napolitano to implement broad administrative changes aimed at helping some undocumented immigrants remain in the United States. One of those changes allows undocumented immigrants to remain in the country while they attempt to legalize their status through a spouse who is a U.S. citizen or other immediate relative. The rule change was finalized this week, a year after it was proposed by the Obama administration, and takes effect on March 4. In the past, illegal immigrants had to first leave the country to apply for a waiver to avoid having to wait outside the country for 10 years as punishment for entering illegally. After the change, illegal immigrants will still have to leave the country to apply for a green card, but they will be able to apply for the waiver inside the U.S., greatly reducing the amount of time they will have to spend separated from relatives who are U.S. citizens. A second change, announced on June 15, allows young undocumented immigrants who came to the United States as minors to apply to live and work temporarily in the country without the threat of deportation. So far, more than 367,000 young undocumented immigrants, often referred to as “dreamers,” have applied for the Deferred Action for Childhood Arrivals program. Meanwhile, the clock is ticking on immigration reform. Although Obama says he wants to jump right into immigration reform, he and Congress will have to focus their attention for months on several unresolved issues left over from the New Year’s Day deal to avert the “fiscal cliff,” including a March1 deadline to avoid billions of dollars in across-the-board spending cuts and a late February/early March deadline to raise the debt ceiling. “That is problem Number 1 for immigration reform. That will dominate the agenda for the time being,” said Louis DeSipio, a political-science professor at the University of California-Irvine. Immigration reform also will have to compete with gun-control legislation. After the shooting in Newtown, Obama appointed Vice President Joe Biden to head an anti-violence commission to come up with new gun-control measures by the end of this month. “That is going to put more pressure on Congress,” DeSipio said. Gun control, plus the divisive atmosphere demonstrated by the Republican-controlled House and the Democrat-run Senate during the fiscal-cliff debate, “makes it more and more unlikely that Congress will actually be able to debate a comprehensive immigration-reform bill,” he said.

#### Immigration won’t be until summer EVEN IF they immediately start hammering out a bill and Obama pushes

Voorhees 1-3 (Josh, editor of The Slatest. Before that, he reported on energy policy and politics for Politico & Greenwire, http://www.slate.com/blogs/the\_slatest/2013/01/03/obama\_s\_immigration\_plans\_white\_house\_officials\_suggest\_early\_2013\_won\_t.html)

With one fiscal-cliff fight in the rearview mirror and several more likely looming not too far up the road, many liberals are fretting aloud that President Obama won't have the energy or desire to tackle other issues near the top of his—and their—second-term wish list. White House officials, however, are doing their best to allay those concerns with the (somewhat quiet) promise of action on two high-profile issues: immigration and gun control. The Huffington Post: An Obama administration official said the president plans to push for immigration reform this January. The official, who spoke about legislative plans only on condition of anonymity, said that coming standoffs over deficit reduction are unlikely to drain momentum from other priorities. The White House plans to push forward quickly, not just on immigration reform but gun control laws as well. In the wake of last month's tragedy in Newtown, the president promised to send a gun-control proposal to Congress early this year, likely as soon as this month. The suggestion that the White House will also get to work on immigration reform—long a priority of the president but one that has largely taken a back seat during his time in office—comes as slightly more of a surprise. However, just because the administration is declaring that an unofficial launch to the immigration push is imminent doesn't mean anyone should expect major action anytime soon. The aides who laid out the plans to HuffPo cautioned that it would probably take about two months to cobble together a bipartisan bill, and then another few before either chamber votes on it. That would mean that if all goes as planned (something that is far from certain) it would likely be early or mid-summer before any concrete actions are taken.

#### Obama will inevitably spend political capital on energy production fights in the short term.

Felker 1-2 (Edward, Analysis: More cliffs await wind and biofuels, Energy Guardian, an email based energy newsletter, 2012)

In all the New Year's Day wrangling over the final fiscal cliff legislation, there were two clear winners beyond middle-class taxpayers -- the wind and biofuels lobbies. But the work to keep their tax credits is just beginning. Passage of the bill late Tuesday only re-set the clock for another year, one in which every special interest tax break will face possible elimination in a push to cut federal red ink. That's not to take away the victory the wind and biofuels groups won by getting their tax breaks included in the fiscal cliff bill as part of the Senate Finance Committee's $205 billion package of extensions for tax breaks that expired on Dec. 31. The "extenders" were clearly not a significant cause for heartburn in the Senate, which passed the bill by an overwhelming 89-8 vote, nor in the House. Republicans in that chamber initially balked at taking up the Senate bill, but not because of those tax breaks -- rather, over the lack of more ambitious spending cuts. But in the end, the legislation rolled through. Notably, it passed over the objections of some conservatives who had tried in recent weeks to kill the wind tax credit, which they and nuclear powerhouse Exelon Corp. argued has distorted regional electricity markets. With powerful Republicans like Sen. Chuck Grassley of Iowa and Sen. John Thune of South Dakota backing the wind tax break, the critics got little traction. Ironically, Grassley was one of five Republican senators to vote against passage of the bill early Tuesday morning, while his Iowa colleague Sen. Tom Harkin was one of three Democrats to vote no. The renewable energy Production Tax Credit extension was actually a double win for the wind industry. It not only continued through 2013 the 2.2 cents per kilowatt hour credit for energy produced by new projects for 10 years, but also was amended to apply to projects that begin construction in 2013. The bill also included tax credit extensions through 2013 for home energy efficiency improvements, for alternative fuel vehicle fueling stations, and for cellulosic biofuels, biodiesel and renewable diesel production. Lastly, the law allows alternative energy developers to take a one-year investment tax credit equal to the production tax credit, which is expected to help offshore wind development, biomass, geothermal and other projects that benefit from a larger up-front tax break. Yet the reprieve for all these groups is just that -- a 12-month stay in which more so-called cliffs over the national debt ceiling and federal spending arrive in just a few weeks. Resolving those fights between President Barack Obama and congressional Republicans could lead to a tax code rewrite that closes tax incentives for renewable and fossil fuel production alike. The American Wind Energy Association was already looking ahead in December when it said a six-year phaseout of the PTC would ensure a long-lasting domestic wind energy industry. Expect to see that idea and many others -- including defenses of oil and gas tax breaks by its trade groups -- come to the fore quickly after the fiscal cliff dust settles. One thing to keep in mind is that President Barack Obama continues to put energy among his top priorities. Late Tuesday, Obama alluded to the renewable energy tax breaks in the fiscal cliff bill, noting that the fiscal cliff bill will continue to give tax credits to companies for "the clean energy jobs they create." Obama campaigned for re-election on advancing clean energy, and he will be expected to fight for wind and solar energy in the tax talks ahead. He said Tuesday that deficit talks should not detract from other national challenges, including "protecting our planet from the harmful effect of climate change" and increasing domestic energy production. For now, the renewable energy sector can join the nation in breathing a sigh of relief over the fiscal cliff deal, knowing it got another year with the backing of Obama and members of both parties. More tests of that support are coming soon.

#### China FDI popular – economic considerations and China lobbyo

Schatz 10-5-12 (Joseph, POLITICO Pro’s tax editor. Before joining POLITICO, Schatz spent nearly a decade at Congressional Quarterly, covering politics and economics on Capitol Hill. Most recently, he was CQ's senior economic writer for four years, covering everything from the Wall Street bailout and the debt ceiling crisis to trade and the U.S.-China relationship, for which he received the National Press Club’s Sandy Hume award in 2010, “China politics aren't black and white,” Politico.com October 5, 2012, lexis)

Mitt Romney's hard-hitting ads claim President Barack Obama needs to "stand up" to China. Paul Ryan has fanned out across the industrial Midwest, saying that Beijing is treating Obama "like a doormat." The president, of course, is in on the act as well -- an Obama television spot accuses Romney of supporting "sweatshop conditions" through an old Bain Capital investment in China. Yet amid all the campaign tough talk about China, three of Romney's most prominent GOP surrogates were down in Texas last week, begging Chinese investors to set up shop in their states. "We're all here talking to them about why they should come to each of our states, and why for sure they should come to our country," Florida Gov. Rick Scott told FOX News as he, Rick Perry of Texas, Scott Walker of Wisconsin gathered at Cowboys Stadium in Arlington, Texas to meet with a traveling contingent from China touring the United States for nine days, looking for places to park their cash. It just goes to show: Black-and-white campaign slogans don't easily translate into economic policy, including the exquisitely complex U.S.-China economic relationship. For one thing, most economic experts doubt that Romney would really wrangle with the United States's biggest creditor, given the risks of a trade war. Indeed, the former Massachusetts governor's tone in the first presidential debate Oct. 3 already seemed a bit softer, as he promised to "crack down on China, if and when they cheat." But the dynamics are even more complicated when it comes to rapidly rising Chinese investment in the United States, particularly at the state and local level, where government officials of both parties are eagerly courting Chinese investments in waterfront rehabilitation plans, energy deals, greenfield projects and auto manufacturing. There are plenty of hiccups and failed deals, like Obama's high-profile decision to block the acquisition of four Oregon wind farms by Chinese-affiliated Ralls Corp., last week, on national security grounds. With China, you never quite know whether a firm is truly "private," or an arm of the state. But Chinese investment is way up in recent years, and Congress, which helped sink the Chinese purchase of Unocal Corp. in 2005, has been largely quiet on a broad range of Chinese acquisitions. That's in part because the U.S. economy badly needs the investment -- attracting foreign investment is going to be a major theme in any tax reform debate next year -- and in part because Chinese firms have gotten smarter about lobbying, and have won friends in Washington. Kevin G. Nealer, a partner at the Scowcroft Group, says that the scale of China's investments have changed the equation. Nealer was a Senate l8

5eadership staffer in the 1980s, when Japan's sudden emergency as a car and technology powerhouse provoked rage on Capitol Hill -- and when that fury started abating. "I saw the inflection point in trade neuralgia come when Japanese firms started making major investments here, building factories and hiring American workers at Toyota and Honda plants by the thousands," Nealer says. Business groups and analysts say that's already beginning to happen, though the level of investment is still small compared to countries like Germany. While China is the U.S. government's biggest creditor, with $1.15 trillion in Treasury securities, it still has relatively little money invested in elsewhere in the U.S. economy. In a report last week, Thilo Hanemann and Adam Lysenko of the Rhodium Group, an investment firm that closely tracks Chinese investment, said that before 2008, Chinese firms were responsible for very few jobs in the United States. "One of the most important questions is how Chinese investment affects U.S. employment," the authors note. While the figure is still small, it now stands at about 27,000, they said, as China has rapidly ramped up its investments "from an annual average of around 30 deals worth less than $500 million before 2009 to almost 100 deals worth about $5 billion in 2010 and 2011." Investment in the first half of 2012 alone totaled $3.6 billion, led by big Chinese acquisitions in the U.S. energy and banking sectors, like the Industrial & Commercial Bank of China Ltd.'s purchase of an 80 percent stake in the Bank of East Asia's U.S. subsidiary, a move that required approval by the Federal Reserve. For state and local governments, it's all about jobs. U.S. governors from both parties regularly go to China to solicit investment. And Michael Bell, the Democratic mayor of Toledo, Ohio -- exactly the region where Romney and Ryan are directing some of their harshest China attacks -- has drawn attention for attracting $200 million in Chinese property development investment. It's one of the chief reasons that China weathered the failed 2005 attempt by state-owned China National Offshore Oil Company Ltd. (CNOOC) to purchase Unocal. "To a degree, all politics are local," said one D.C. lawyer who has worked with Chinese investors. "If you're able to do it the right way, in a way that benefits someone's local district, that helps tamp down some of the concerns." U.S. lawmakers revamped the Committee on Foreign Investment in the United States (CFIUS), the Treasury-based group that last week recommended that Obama block the Ralls sale. And they still raise criticisms about many proposed deals in the sensitive telecom and Internet sectors, where a Chinese firm with government ties could pose a security threat. In July, Chinese telecommunication companies Huawei and ZTE were grilled by members of the House Intelligence Committee about the companies' relationship with the Chinese government. But some Chinese firms have become savvier. They've hired lobbyists at Hill and Knowlton, Patton Boggs and other D.C. shops to press their cases in the corridors of power in Washington. Still, notes Scowcroft's Nealer, some Chinese investors, coming from a culture of government control, can't believe that the U.S. investment process is largely free and open. The U.S. Chamber of Commerce circulated a report in July touting Chinese investment success stories in the United States. The Obama administration has also made efforts to link Chinese firms with American companies.

#### Fiscal Cliff proves Obama can manage energy fights and his agenda

Heritage Foundation 1/3/13 (Nicolas Loris and Katie Tubb, “Corporate Welfare for Energy Companies Should Have Gone Off the Cliff,” <http://blog.heritage.org/2013/01/03/corporate-welfare-for-energy-companies-should-have-gone-off-the-cliff/>

The fiscal cliff deal is not only preventing certain politically motivated energy tax policies from falling off the cliff, but it’s also resurrecting ones that have been dead and buried for a year.¶ Lumped into the 157-page fiscal cliff bill are extensions of energy handouts that were originally scheduled to retire, as well as retroactively rewarded tax breaks for renewable energy that expired at the end of 2011. The inclusion of these targeted tax breaks is a clear indication that Congress is not serious about (1) reducing spending, (2) ending the government’s meddling in the energy sector, or (3) standing up against political interests.

**No impact - Soft power is useless**

**Fan 7** (Ying, Senior Lecturer in Marketing at Brunel Business School, Brunel University in London, “Soft power: Power of attraction or confusion?”, November 14)

Despite its popularity, the concept soft power remains a power of confusion. The definition is at best loose and vague

. Because of such confusion it is not surprising that the concept has been misunderstood, misused and trivialised ( Joffe, 2006a ). Criticisms of soft power centre mainly around three aspects: defi nition, sources and limitations. There may be little or no relationship between the ubiquity of American culture and its actual influence. Hundreds of millions of people around the world wear, listen, eat, drink, watch and dance American, but they do not identify these accoutrements of their daily lives with America ( Joffe, 2006b ). To Purdy (2001) soft power is not a new reality, but rather a new word for the most effi cient form of power. There are limits to what soft power could achieve. In a context dominated by hard power considerations, soft power is meaningless ( Blechman, 2004 ). The dark side of soft power is largely ignored by Nye. Excessive power, either hard or soft, may not be a good thing. In the affairs of nations, too much hard power ends up breeding not submission but resistance. Likewise, big soft power does not bend hearts; it twists minds in resentment and rage ( Joffe, 2006b ). Nye’s version of soft power that rests on affection and desire is too simplistic and unrealistic. Human feelings are complicated and quite often ambivalent, that is, love and hate co-exist at the same time. Even within the same group, people may like some aspects of American values, but hate others. By the same token, soft power can also rest on fear ( Cheow, 2002 ) or on both affection and fear, depending on the context. Much of China ’ soft power in south-east Asia testifi es to this. Another example is provided by the mixed perception of the United States in China: people generally admire American technological superiority and super brands but detest its policies on Taiwan.

The plan is a vital link to US soft power

Carroll-Emory International Law Review-9 23 Emory Int'l L. Rev. 167

COMMENT: BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY

D. Foreign Policy Consequences FINSA mandates that the CFIUS conduct a 45-day investigation any time the foreign investor is controlled by, or acting on behalf of, a foreign government, unless the Secretary of the Treasury and the head of the relevant agency both agree that there is no threat to national security and waive the investigation. 183 This provision shifts the burden of proof away from the U.S. government and to the foreign state-owned business in these transactions. 184 To foreign governments, however, FINSA may appear to discourage investment because of political enmity. 185 As such, continual politicized investigations of foreign direct investment in American infrastructure may alienate our allies and isolate America even further. 186 For example, Dubai Ports World was not purchasing the operations of the ports from an American company; the ports were run by a British company, P&O. 187 The U.A.E. is perhaps the most moderate secular Arab regime in the Middle East, the central location for Middle Eastern banking, and a strong supporter of the war on terror, housing over a thousand U.S. soldiers and cooperating with initiatives to track down terrorist finances and insure container security. 188 Dubai's control of the ports would not have changed security in any measurable way - American unions would continue to unload the ships, and the Coast Guard and port authorities would still be responsible [\*193] for picking which containers to scan. 189 Also, Dubai Ports World would have had a unique incentive to prevent any terrorist attacks, since any such attack would immediately put an end to all of their operations and investments in America. 190 Given these facts, and the reality that other foreign port companies operate U.S. ports without political backlash, Arab businessmen may see the Dubai Ports controversy as a racially biased investigation. 191 If the CFIUS discourages the U.A.E. from investing in America after all of the favors that the U.A.E. has done for the United States, then what would be the incentive for other moderate Arab regimes to cooperate with American goals in the region? 192 The United States cannot afford to alienate moderate Arab states with the CFIUS process because their cooperation is crucial to the war on terror. 193 Instead, integrating the moderate Arab regimes, such as the U.A.E., into the global financial order would minimize security risks. Encouraging investment in the American economy would give moderate Arab regimes a stake in preventing terrorist attacks upon American soil, since such attacks would devastate the value of their assets as well. 194 America should welcome foreign investment from the Middle East, not fear it as a security threat. Similarly, CNOOC's purchase of Unocal did not threaten American access to oil. 195 Some advocates of vetoing the Unocal sale argued that if China was able to purchase Unocal, it would be able to corner a portion of the oil market [\*194] and prevent the United States from satisfying its own energy needs. 196 But the global market for oil is fluid, so the price is not affected by who owns it. 197 If China were to hoard oil from its own oil fields in an energy crisis, the price would still be determined by global supply and demand. 198 Thus, there is no basis for fear of Chinese ownership of energy resources. 199 China promised that the Unocal oil and gas produced in the United States would continue to be sold there, not shipped directly to China. 200 Even if CNOOC would divert Unocal's products to China, there would be no effect on the global oil markets; the United States would still be able to purchase the oil it needs. 201 Moreover, Unocal is only responsible for 0.23% of global oil production - hardly a devastating weapon. 202 Thus, CNOOC's purchase of Unocal did not remotely threaten American national security. Ironically, by rejecting the Chinese purchase of Unocal for fear that it would threaten U.S. energy security, the United States drove China to invest in oil operations in various "pariah" states, including Iran and the Sudan. 203 China now depends on Sudan and Iran to satisfy domestic oil demand, and the Chinese leadership may become less willing to cooperate with international efforts to pressure Sudan or Iran to change their behavior. 204 China is profiting handsomely from its oil investments in Sudan and Iran, making it more difficult for the international community to take unified action to resolve the conflict in Sudan or pressure Iran to stop its nuclear programs. 205 If the United [\*195] States wants to avoid China politicizing its oil deals with Sudan and Iran, then it should avoid politicizing China's oil deals with the United States by allowing China to acquire American energy companies as it sees fit. 206 China may view the United States' actions in the Unocal deal as a hostile attempt to prevent China's development by preventing its purchase of natural resources. 207 Should the Chinese take this viewpoint, it could lead to a cycle of conflicts between the United States and China. 208 Engaging China, by encouraging their investment within the United States and removing their fear that access to energy could be cut off, would greatly increase China's willingness to work within the international system and strengthen American national security. 209 The Unocal and Dubai episodes illustrate the futility of a broad definition of the term national security. An open-ended approach by the CFIUS will encourage protectionism and alienate U.S. allies abroad. 210 FINSA's scrutiny of the Borse Company's proposed acquisition of an interest in Nasdaq indicates that FINSA has opened the floodgates for further scrutiny of foreign acquisitions. 211 Since it was enacted, FINSA has threatened several other major transactions. For instance, in 2008, Bain Capital, a U.S. private equity firm, and Huawei Technologies, a Chinese telecom firm, jointly proposed to purchase a minority stake in 3Com, a U.S. network equipment maker, for $ 2.2 billion. 212 The deal collapsed in the face of the CFIUS's national security concerns. 213 Senator Christopher Dodd, chairman of the Senate Banking Committee, even threatened that more restrictive legislation might be necessary in order to prevent "potential pitfalls associated with" foreign investment. 214 Dodd explicitly conditioned his support for future foreign [\*196] investment on it not "posing a threat to our economic stability," 215 thus resurrecting the old economic security test in an even more blatant form. Sovereign wealth funds pose another challenge to the new FINSA regulations. Governments have long pooled their money into funds with which to make purchases, and several U.S. states have their own sovereign wealth funds. 216 High oil prices coupled with several East Asian countries' transfer of foreign reserves from government bonds to more aggressive investing strategies have driven the value of global sovereign wealth funds past $ 2 trillion. 217 Yet under FINSA, each sovereign wealth fund acquisition would have to be automatically reviewed by the CFIUS, absent special approval from the Secretary of the Treasury or the relevant agency. 218 Such a rule opens the possibility of more Dubai Ports type incidents. Indeed, the 2008 World Economic Forum exposed the danger that sovereign wealth funds may ignite protectionist sentiment in the United States. 219 The United States would be wise to create transparent rules that limit the definition of national security as soon as possible, rather than reviewing every foreign governmental transaction and hoping to avoid an international incident. 220 Considering recent events such as Unocal, Dubai Ports, and 3Com, it appears possible that xenophobic scrutiny of foreign investment will increase in the years ahead. Nevertheless, in the post-9/11 world, openness to foreign [\*197] investment and cooperation with other governments is an absolute necessity. 221 National security must be clearly defined to encourage foreign direct investment.

as a cashier too.

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#### ---The problem is one of framing. Interpreting CNOOC’s actions as aggression from a rising Chinese behemoth rather than a specific business interests working within transnational production networks is a political move designed to mask elite economic interests under a wave of populist nationalism.

Pan 2007

Chengxin, School of International and Political Studies, Faculty of Arts, Deakin University, What Is Chinese About Chinese Business? Implications for U.S. Responses to China’s Rise, Asia Research Centre, CBS, Copenhagen Discussion Papers

While such anti-China rhetoric and policies are lent credibility and urgency by the frightening image of a rising Chinese behemoth, I argue that these nationalistic economic policies are frequently unjustified, misguided, and even dangerous. To begin with, those policies do not necessarily serve America’s national interests as alleged. More often than not, as the U.S. Chamber of Commerce admitted, industry-specific or region-specific interests have been ‘miscast as homeland security or national security imperatives’ (Hawkins 2006:7). For example, the interests that the Schumer-Graham bill would best serve are more likely those of the textile industry in South Carolina, Graham’s home state. Similarly, it cannot just be pure coincidence that the author of a House resolution demanding a national security review of CNOOC’s bids of Unocal, House Resources Committee Chairman Richard Pombo, is from the district where the headquarters of Chevron, CNOOC’s rival bidder, are located (Weisman 2005:D1). Should these ‘China’ problems be framed in terms of specific business issues, which I think they are, they would have lost much of their galvanising impact on the government or the general public.

#### ---This policy places Chinese oil investment as part of a larger homogenous strategy for global domination. Corporate action that would otherwise be widely considered business as usual is presented as evidence of China’s coordinated global assault on the American way of life.

Pan 2009

Chengxin, Senior Lecturer in International Relations at Deakin University, What is Chinese about Chinese Businesses? Locating the ‘rise of China’ in global production networks, Journal of Contemporary China, 18(58), January, 7–25

While many foreign businesses are moving their operations to China, many Chinese businesses, following a ‘going global’ strategy, seem to have begun rapid expansion abroad. A recent example is that in 2005 China’s oil company CNOOC launched a bid to buy the California-based oil company Unocal. American economist and commentator Paul Krugman compared it with the Japanese challenge in the 1990s, but his conclusions were notably different. He wrote: Fifteen years ago, when Japanese companies were busily buying up chunks of corporate America, I was one of those urging Americans not to panic . . . But the Chinese challenge—highlighted by the bids for Maytag and Unocal—looks a lot more serious than the Japanese challenge ever did.5 Republican congressman Dana Rohrabacher was less circumspect, labeling the Unocal bid as ‘part of [China’s] long-term strategy for domination’. He insisted that the greatest threat to America’s freedom and prosperity ‘is not radical Islam [but] a China that is emerging on the scene that is belligerent to everything we stand for as a people’.6 Importantly, these views were echoed strongly among the American public: an opinion poll at the time found that 73% of Americans opposed the CNOOC– Unocal deal, with half of the respondents going as far as perceiving the Chinese as an adversary.7 According to Peter Navarro, the author of The Coming China Wars, China’s ‘unfair, mercantilist trading practices’ such as the China price, the ‘going global’ strategy, and its voracious appetite for energy and resources constitute what he calls ‘weapons of mass production’. Testifying before the Congress-mandated US–China Economic and Security Review Commission in early 2007, the University of California business professor charged that these ‘weapons of mass production’ have been allowing China to ‘conquer one new export market after another’.8 In this context, many security analysts and practitioners agree that the economic challenge will have far-reaching military and foreign policy implications. The Pentagon argues that the performance of China’s economy is a main driving force behind its domestic defense expenditures, foreign acquisitions, and indigenous defense industrial developments.9 Indeed, the emergence of Chinese businesses has been seen as a harbinger of the beginning of a historic power transition from the US to China. Like previous power transitions in the international system, it is argued that the rise of China does not bode well for international peace and stability.10 For Navarro, coordinated centrally by the Chinese government, the mercantilist practices of Chinese businesses do not just help China gain increasing economic and financial advantage over US businesses, but also contribute to China’s rapid military modernization and lay the groundwork for the ‘coming China wars’.11 At this juncture, what is remarkable about these analyses of Chinese businesses and business practices is not so much their attention to the aspect of economic and military threat. Rather, for the purpose of this essay, it is their grounding of Chinese businesses in an unproblematic, fixed, and more or less coherent actor called China, whereby Chinese businesses acquire their Chineseness. For example, the China price is believed to be produced ‘in the unique stew of China’s evolving business culture’,12 and the conquest of the global market by Chinese products is often traced back to the Chinese government. In the words of Hornig and Wagner, the ‘desk drawers of party strategists are filled with detailed plans promoting national industries from automaking to biotechnology’.13 Indeed, frequently the assumption of the Chineseness about Chinese businesses goes so far as to conjure up a scenario of a whole country engaged in concerted efforts of building national greatness through sustained economic development and aggressive business strategies. To illustrate this point, it helps to refer to a ‘bill’ metaphor used by some commentators, with the bill symbolizing the costs incurred by the US as a result of the influx of ‘Chinese’ cheap imports. On the bill, as the metaphor goes, the costs for America, apart from the big trade deficits with China, also include ‘domestic layoffs, the relocation of entire industries, cutbacks for research and development and the downfall of the oncealmighty dollar’. And the ‘payee’? ‘A population of billions’.14 In other words, what is behind Chinese businesses is nothing short of the whole Chinese nation.