# \*\*\*2AC

### 2AC A2: Alt Causes

#### Doesn’t assume FDI which is key.

Blanton and Apodaca 2007

Robert G., Department of Political Science, University of Memphis, and Clair, Department of International Relations, Florida International University, The Social Science Journal 44 (2007) 599–619, https://umdrive.memphis.edu/rblanton/public/pubs\_cv\_blanton/soc\_sci\_journal\_2007.pdf

Traditionally, FDI has been a particularly controversial facet of globalization, as the “global reach” of multinationals arguably posed threats to the power and sovereignty of states. Our results, however, imply that FDI is a signiﬁcant force for peace. This impact may be due to the increased commitment implied by FDI. Though trade and portfolio investment ﬂows are often important to countries, they are “arms length” transactions requiring less direct contact between the involved parties. Moreover, trade and portfolio investment ties are generally easier to sever—the “electronic herd” (Friedman, 2000) of investors can quickly move from one market to another, and (in the case of most goods) alternate trading partners can be easily be found. FDI, by comparison, requires more commitment of both the investor and the host country. Such commitment increases the incentives of all involved actors to seek peace. Investors have a deﬁnite stake in the political stability of the area—not only do they face the “spotlight” (Spar, 1998) of negative public scrutiny if they maintain ties with a violent regime, but they are held increasingly responsible for the political practices of host governments (Ottaway, 2001). Host states, who often actively recruit FDI (Oman, 2000), are likewise anxious to maintain a positive, stable business environment to ensure the jobs and potential beneﬁts that FDI may bring. In short, both the host state and market “audience” play a more active role in FDI. While our economic measures were more inﬂuential in the second (intensity) stage, media access affected conﬂict occurrence. This implies that the free ﬂow of information can have a paciﬁc impact upon societies. States can no longer hide their antagonistic behaviors, but will confront the glare of unﬂattering publicity when their actions do not conform to domestic and international norms of behavior. Such scrutiny apparently has a pacifying impact. However, media access did not play a signiﬁcant role in polities in which a conﬂict did occur. Perhaps, once a state decides to repress its polity or to enter into a civil conﬂict, it implicitly accepts the “costs” of negative publicity and disregards them thereafter.

### 2AC T

we meet-foreign investment is a restriction 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.

We meet – the plan reduces restrictions that block, delay, and alter foreign investment on energy production

IEFL 10

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 delay and alter deals even if they’re not 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

#### ---Their interpretation is bad

#### A. Over limits – Their interpretation only allows drill baby drill affirmatives – kills affirmative ground because status quo production is sky high – plan innovation is necessary to circumvent this and produce non-stale debate

#### B. Capital key – Future oil and gas production depends on foreign capital – that’s Ellis – it’s intrinsically tied to extraction which proves its core aff ground

#### Reasonability first – predictability and debatable interpretations first – limits for limits sake is a race to the bottom and kills affirmative ground

### 2AC K

#### 1. No link to this if we prove that our claims are grounded in reality

#### 2. Apocalyptic rhetoric is necessary to motivate action like the plan, but it doesn’t have to be violent intervention, the plan is a pragmatic way to satiate those that are afraid.

Trombetta 2008

Maria Julia, Environmental security and climate change: analyzing the discourse, Cambridge Review of International Affairs, 21:4, 585-602

The recognition and constitution of a problem as a threat implies the identification of the political community that deserves protection, the legitimization of the means to provide security and eventually their institutionalization. Some of these aspects are more settled and consolidated than others, as are the different logics of security, such as the antagonistic, emergency-based one evoked by the Copenhagen School. These developed because, within a particular context, they were the most effective response against a specific representation of threats. This, however, does not mean that they are not open to negotiation when challenged by a new environment and threats. Climate change poses threats that are largely uncertain, diffuse, difficult to quantify and yet potentially catastrophic. This reflects the logic of a risk society portrayed by Beck. This article has explored how the practices associated with security are challenged by the attempts to transform environmental crises and climate change into a security issue, and has shown how appeals to security have emphasized the relevance of preventive, nonconfrontational measures and the importance of other actors than states in providing security. A potentially nonessentialist approach like securitization, which focuses on the social process that specifies threats, can be relevant in studying how various environmental issues gain priority and mobilize social action. However, the Copenhagen School identifies the ‘securityness’ of security with a specific logic determined by the realist tradition. In this way the School has imposed a problematic fixity that tends to essentialize an historical- and sector-specific understanding of security and the practices legitimized by it. Even if this logic is still relevant, the analysis of environmental security discourses and the securitization of climate change have shown that transforming an issue like climate change into a security issue is not about applying a fixed meaning of security and the practices associated with it. Rather, it is a reflexive and contextualized process that generates meanings and practices.

#### 3. Images of disasters are inevitable --- Only fostering imagery that rejects conflict & violence can prevent the utilization of imagery as a tool of war.

Paschalidis 1997

Gregory, of Aristotle University of Thessaloniki. “Images of War and the War of Images.” http://genesis.ee.auth.gr/dimakis/Gramma/7/06-paschalidis.htm

The choice, then, of the whole of the anti-war tradition of visual artists, photoreporters and activists of **representing the suffering body as a way to expose the evils of war and establish a common ground of** sensibility and understanding should seem now more clear and legitimate. If the beginnings of the modern humanistic tradition, in the Renaissance, were marked by the reinstatement of the dignity and the celebration of the beauty of the human body, it seems inevitable that the image of the degraded and defiled human body has since become the most potent symbol of everything that takes away from it and destroys its dignity and beauty, and thus, the most compelling incitation for ameliorative action. Ever since Leonardo and Goya, humanism is a quintessentially visual and at the same time embodied discourse, that constructs humanity as the most inclusive imagined community possible, through images that project a foundational, species identity centred on the human body. In the era of the generalized war of images brought about by the worldwide dissemination of the technical image, we are regularly confronted with images that instigate war and images that castigate war; images that legitimize war and images that reject and deny it; images that sublimate and glorify warfare and images that demystify and deglorify it; images that obscure its costs and obfuscate its grim reality, and images that expose the death, the destruction and the despair it causes; images that extoll the catastrophic potential of modern war technology, and images that focus on the insanity of it all; images that praise military virtue and patriotic duty, and images that testify to the courage of all those who oppose war, who resist violence and militarism. This war between war images is impossible to be won by restricting or avoiding them, or rejecting them all wholesale. This war can only be won by producing, by multiplying and by disseminating as much as possible, those images that castigate war, that expose its horror, **that undermine the rhetoric and the ideologies that lead to** it **and legitimize it**. The war against war involves, of course, much more than engaging in this war of images. We cannot possibly win the former, however, without having first prevailed in the latter.

#### The judge is a policymaker evaluating policy action, not a research paper or artifact – that’s key to predictability since our interpretation is contingent on the resolution and key to check multiple negative critical frameworks – even if one part of the 1AC is wrong, vote on the parts that are true because debate is about costs and benefits and relative risk – not an F.Y.I. on our research methods.

#### ---This is best---

#### (A.) Key to policy education --- Separating complexity analysis from material policy alternatives crushes political effectiveness.

Roe 1999

Emery, Director of the Center for Sustainable Resource Development at UC Berkeley, *Except Africa*, pg 184-185

Second, the conjunction of politics and complexity places up-front the core dilemma many power advocates have been happy to obscure. The social scientist or cultural theorist who finds, for example, that power is more complex than commonly supposed can leave the matter at that. No need to make anything like a practical recommendation about what real people with real problems in real time should do now that things have been shown to be more complex. Their critique is policy relevant simply by virtue of being a critique of power, and what is more policy relevant than power, right? Wrong. This trick won’t work in a politics of complexity. Here you can’t criticize your way to policy relevance. A politics that starts with complexity has always to ask: how do we underwrite and stabilize the assumptions for policy-making in the face of that complexity? How can we make policy choices in the presence of recurrent surprise and persistent unpredictability*?* Chapter 1 outlined six answers to the questions, while the bulk of Except-Africa has focused on one, the counternarrative option. Each option, however,shares the same implications. Each means avoiding the person who believes that the real objective of analysis is to critique and destabilize without obligation to provide an alternative to that which is being criticized. Each means avoiding people who automatically assume their analysis is policy relevant, who wouldn’t ever dirty their hands in such low-life things as having to choose the losers of a public policy, who in other words couldn’t care less whether they had access to policymakers who treated their work seriously and used it in making decisions. Each means, finally, avoiding people who think that just because something can be criticized, something needs to be criticized. In short—and this is the sobering part—it means avoiding precisely many advocates of the polarized power narrative.

#### (B.) Solves their offense --- They can have indicts into our research process as long as they’re tied to reasons why the plan is a bad idea.

#### ---The affirmative is a prerequisite to the critique ---

#### (A.) Politicization of the CFIUS review process means congress will ignore data that doesn’t fit their protectionist agenda --- That’s Carroll.

#### (B.) That precludes rational debate --- Not addressing political xenophobia surrounding Chinese energy investment takes out alternative solvency.

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.) Solves their link claims better --- The plan reduces government authority to conduct unnecessary and poorly designed risk analysis review of foreign energy investment.

#### ---Permutation Do Both --- <Do the plan and critically examine the affirmatives methodology in light of complexity>

#### ---CFIUS restraints undermine rights creating a slippery slope that violates property rights.

Pryce 2008

Hon. Deborah, chairwoman of the subcommittee on domestic and international monetary policy, trade, and technology, FOREIGN INVESTMENT, JOBS, AND NATIONAL SECURITY: THE CFIUS PROCESS, WE NEED TO REFORM THE CFIUS PROCESS, http://www.zopenewbies.net/we-need-to-reform.html

As far as the CFIUS process is concerned, we should all be reminded that it is not, nor should it be, political in nature. That is a slippery slope, and it would be a mistake to take that step. In our discussions with the Treasury officials who administer CFIUS, they have expressed their willingness to communicate more effectively and more often with this committee and with Capitol Hill. We have discussed informal quarterly briefings, and we at the Financial Services Committee would welcome that. Now is a good time to think about the tremendous value of foreign investment for the U.S. economy and the message we want to convey to the world. According to the Organization for International Investment (OFII), U.S. subsidiaries of foreign-based companies employ 5.3 million Americans and support an annual payroll of $318 billion, with an average worker's salary of more than $60,000 a year. Also, according to the OFII, U.S. subsidiaries of foreign-based companies invest heavily in the manufacturing sector. In my own State of Ohio, 208,600 workers are employed by foreign-based companies. We should be welcoming and encouraging foreign direct investment, not shutting it out. I recommend to the members columnist Thomas Friedman's New York Times column on this issue that he wrote recently. And I quote, "The world is drifting dangerously toward a widespread religious and sectarian cleavage, the likes of which we have not seen for a long, long time. The only country with the power to stem this toxic trend is America." Let's not be ruled by our worst fears. Let's not close off America, as the terrorists would hope we would. While protecting ourselves against any security threat, let's remember our American values of free trade and fairness and capitalism and the inherent worth of our relationships with other nations. Those are the American ideals we need to export to the rest of the world.

#### Predictions are good and possible

Caldwell 2004

Bruce, Ph.D., Hayek’s Challenge: an Intellectual Biography of F.A. Hayek University of Chicago Press p. 330

Experimental economists like **Vernon Smith**, the other **Nobel Prize winner** in 2002, who focus on market experiments rather than on individual choice, have reached equally startling results: "In many experimental markets, poorly informed, error prone, and uncomprehending [FOUND] human agents interact through the trading rules to produce social algorithms which demonstrably **approximate the wealth maximizing outcomes traditionally thought to require complete information and cognitively rational actors**" (Smith 1994,118). When taken together, these diverse arguments seem to me to lend support to Robbins's contention that economic reasoning **does not depend** on real agents having **perfect foresight** or being able to exhibit **perfect rationality**. They support his idea that these assumptions are expository devices used in simple models, not fundamental assumptions. Their usage allows the models to capture the results of certain constraints that operate in a world of scarcity and that allow (typically market-level) predictions to be made.9

#### We win epistemology claims

Cowen 2004

Tyler, Department of Economics @ George Mason University, The Epistemic Problem Does Not Refute Consequentialism, http://www.gmu.edu/centers/publicchoice/faculty%20pages/Tyler/Epistemic2.pdf

The epistemic critique relies heavily on a complete lack of information about initial circumstances. This is not a plausible general assumption, although it may sometimes be true. The critique may give the impression of relying more heavily on a more plausible assumption, namely a high variance for the probability distribution of our estimates concerning the future. But simply increasing the level of variance or uncertainty does not add much force to the epistemic argument. To see this more clearly, consider another case of a high upfront benefit. Assume that the United States has been hit with a bioterror attack and one million children have contracted smallpox. We also have two new experimental remedies, both of which offer some chance of curing smallpox and restoring the children to perfect health. If we know for sure which remedy works, obviously we should apply that remedy. But imagine now that we are uncertain as to which remedy works. The uncertainty is so extreme that each remedy may cure somewhere between three hundred thousand and six hundred thousand children. Nonetheless we have a slight idea that one remedy is better than the other. That is, one remedy is slightly more likely to cure more children, with no other apparent offsetting negative effects or considerations. Despite the greater uncertainty, we still have the intuition that we should try to save as many children as possible. We should apply the remedy that is more likely to cure more children. We do not say: “We are now so uncertain about what will happen. We should pursue some goal other than trying to cure as many children as possible.” Nor would we cite greater uncertainty about longer-run events as an argument against curing the children. We have a definite good in the present (more cured children), balanced against a radical remixing of the future on both sides of the equation. The definite upfront good still stands firm. Alternatively, let us assume that our broader future suddenly became less predictable (perhaps genetic engineering is invented, which creates new and difficult-to-forecast possibilities). That still would not diminish the force of our reason for saving more children. The variance of forecast becomes larger on both sides of the equation – whether we save the children or not – and the value of the upfront lives remains. A higher variance of forecast might increase the required size of the upfront benefit (to overcome the Principle of Roughness), but it would not refute the relevance of consequences more generally.

#### ---Essentialist impact and internal link claims are good --- Individually empowering and self-correcting as debater skill level improves.

Zwarensteyn 2012

Ellen C., Masters Candidate in Communications at Grand Valley State University, High School Policy Debate as an Enduring Pathway to Political Education: Evaluating Possibilities for Political Learning, Masters Theses. Paper 35, http://scholarworks.gvsu.edu/theses/35

One frustration a few debaters expressed was the relatively reductionist style of argumentation early debaters often employed. Questions of unrealistic internal link chains or oversimplified impact arguments might attract initial intrigue in the argument but was cautioned against as part of an actual political education. As one person noted it was empowering to develop extravagant analysis inevitably resulting in nuclear war and/or extinction – it brought a sense that she may have important issues to think and talk about that adults were willing to listen to. Overall, most felt that over time this tendency toward reductionist claims is self-correcting; the more time in the activity the more time there is to research the nuance, realities, and complexities of argumentation.

### 2AC Complexity

#### The judge is a policymaker evaluating policy action, not a research paper or artifact – that’s key to predictability since our interpretation is contingent on the resolution and key to check multiple negative critical frameworks – even if one part of the 1AC is wrong, vote on the parts that are true because debate is about costs and benefits and relative risk – not an F.Y.I. on our research methods.

#### ---This is best---

#### (A.) Key to policy education --- Separating complexity analysis from material policy alternatives crushes political effectiveness.

Roe 1999

Emery, Director of the Center for Sustainable Resource Development at UC Berkeley, *Except Africa*, pg 184-185

Second, the conjunction of politics and complexity places up-front the core dilemma many power advocates have been happy to obscure. The social scientist or cultural theorist who finds, for example, that power is more complex than commonly supposed can leave the matter at that. No need to make anything like a practical recommendation about what real people with real problems in real time should do now that things have been shown to be more complex. Their critique is policy relevant simply by virtue of being a critique of power, and what is more policy relevant than power, right? Wrong. This trick won’t work in a politics of complexity. Here you can’t criticize your way to policy relevance. A politics that starts with complexity has always to ask: how do we underwrite and stabilize the assumptions for policy-making in the face of that complexity? How can we make policy choices in the presence of recurrent surprise and persistent unpredictability*?* Chapter 1 outlined six answers to the questions, while the bulk of Except-Africa has focused on one, the counternarrative option. Each option, however,shares the same implications. Each means avoiding the person who believes that the real objective of analysis is to critique and destabilize without obligation to provide an alternative to that which is being criticized. Each means avoiding people who automatically assume their analysis is policy relevant, who wouldn’t ever dirty their hands in such low-life things as having to choose the losers of a public policy, who in other words couldn’t care less whether they had access to policymakers who treated their work seriously and used it in making decisions. Each means, finally, avoiding people who think that just because something can be criticized, something needs to be criticized. In short—and this is the sobering part—it means avoiding precisely many advocates of the polarized power narrative.

#### (B.) Solves their offense --- They can have indicts into our research process as long as they’re tied to reasons why the plan is a bad idea.

#### ---The affirmative is a prerequisite to the critique ---

#### (A.) Politicization of the CFIUS review process means congress will ignore data that doesn’t fit their protectionist agenda --- That’s Carroll.

#### (B.) That precludes rational debate --- Not addressing political xenophobia surrounding Chinese energy investment takes out alternative solvency.

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.) Solves their link claims better --- The plan reduces government authority to conduct unnecessary and poorly designed risk analysis review of foreign energy investment.

#### ---Permutation Do Both --- <Do the plan and critically examine the affirmatives methodology in light of complexity>

#### ---CFIUS restraints undermine rights creating a slippery slope that violates property rights.

Pryce 2008

Hon. Deborah, chairwoman of the subcommittee on domestic and international monetary policy, trade, and technology, FOREIGN INVESTMENT, JOBS, AND NATIONAL SECURITY: THE CFIUS PROCESS, WE NEED TO REFORM THE CFIUS PROCESS, http://www.zopenewbies.net/we-need-to-reform.html

As far as the CFIUS process is concerned, we should all be reminded that it is not, nor should it be, political in nature. That is a slippery slope, and it would be a mistake to take that step. In our discussions with the Treasury officials who administer CFIUS, they have expressed their willingness to communicate more effectively and more often with this committee and with Capitol Hill. We have discussed informal quarterly briefings, and we at the Financial Services Committee would welcome that. Now is a good time to think about the tremendous value of foreign investment for the U.S. economy and the message we want to convey to the world. According to the Organization for International Investment (OFII), U.S. subsidiaries of foreign-based companies employ 5.3 million Americans and support an annual payroll of $318 billion, with an average worker's salary of more than $60,000 a year. Also, according to the OFII, U.S. subsidiaries of foreign-based companies invest heavily in the manufacturing sector. In my own State of Ohio, 208,600 workers are employed by foreign-based companies. We should be welcoming and encouraging foreign direct investment, not shutting it out. I recommend to the members columnist Thomas Friedman's New York Times column on this issue that he wrote recently. And I quote, "The world is drifting dangerously toward a widespread religious and sectarian cleavage, the likes of which we have not seen for a long, long time. The only country with the power to stem this toxic trend is America." Let's not be ruled by our worst fears. Let's not close off America, as the terrorists would hope we would. While protecting ourselves against any security threat, let's remember our American values of free trade and fairness and capitalism and the inherent worth of our relationships with other nations. Those are the American ideals we need to export to the rest of the world.

#### ---You are ethically obligated to reject property rights violations.

Holcberg 2005

David, “‘Public’ Use vs. Property Rights”, San Francisco Examiner, June 24, 2005, http://www.aynrand.org/site/News2?page=NewsArticle&id=11157

In another heavy blow to property rights, the Supreme Court has ruled against the homeowners in the New London, Connecticut, eminent domain case, and further entrenched the legal principle that government can seize an individual's property for "public use" whenever it deems appropriate. The justification the Court offered for violating the property rights of New London homeowners was that the taking of their property and its transfer to others would bring "benefits to the community," including "new jobs and increased tax revenue." But it should not matter that the government's seizure of legally owned property might increase tax revenue or supposedly benefit the local economy. If a person does not want to sell his property, he should not be forced to do so. Even though the Fifth Amendment to the U.S. Constitution makes it legal for the government to use eminent domain, there is, in fact, no moral justification for the violation of property rights. Individual rights should never be sacrificed, and certainly not to promote some alleged and indefinable "public" good. As this case demonstrates, "public use" is a term so vague as to have given government virtually unlimited power in using eminent domain to take property away from its legitimate owners. And as Ayn Rand has pointed out, the "public" as such does not exist. Only individuals exist. Whenever governments act to promote the "public" good, or to advance a "public" purpose, or to satisfy a "public" need--beware. For what invariably happens in such cases is that some individuals are forced by the state to sacrifice for other individuals. It is no coincidence that appeals to the "public" good have been used by dictatorships throughout history to justify tyranny over the individual. Thanks to the deplorable decision by five justices of the Supreme Court, America is a big step closer to tyranny and away from the freedom America's founders intended to establish.

#### ---Complexity doesn’t take out the aff

#### (A.) Cuts both ways --- Complexity is an impact magnifier since it’s just as possible that the affirmative UNDERESTIMATED the severity of advantage impacts.

#### (B.) Nobel prize winning studies confirm the possibility of economic prediction in the face of uncertainty and essentialist models.

Caldwell 2004

Bruce, Ph.D., Hayek’s Challenge: an Intellectual Biography of F.A. Hayek University of Chicago Press p. 330

Experimental economists like **Vernon Smith**, the other **Nobel Prize winner** in 2002, who focus on market experiments rather than on individual choice, have reached equally startling results: "In many experimental markets, poorly informed, error prone, and uncomprehending [FOUND] human agents interact through the trading rules to produce social algorithms which demonstrably **approximate the wealth maximizing outcomes traditionally thought to require complete information and cognitively rational actors**" (Smith 1994,118). When taken together, these diverse arguments seem to me to lend support to Robbins's contention that economic reasoning **does not depend** on real agents having **perfect foresight** or being able to exhibit **perfect rationality**. They support his idea that these assumptions are expository devices used in simple models, not fundamental assumptions. Their usage allows the models to capture the results of certain constraints that operate in a world of scarcity and that allow (typically market-level) predictions to be made.9

#### (C.) Winning an epistemological challenge doesn’t disprove the affirmative --- Disproving the possibility of epistemic certainty also disproves the possibility of total epistemic uncertainty meaning even winning 100% of their argument only functions as partial case defense.

Cowen 2004

Tyler, Department of Economics @ George Mason University, The Epistemic Problem Does Not Refute Consequentialism, http://www.gmu.edu/centers/publicchoice/faculty%20pages/Tyler/Epistemic2.pdf

The epistemic critique relies heavily on a complete lack of information about initial circumstances. This is not a plausible general assumption, although it may sometimes be true. The critique may give the impression of relying more heavily on a more plausible assumption, namely a high variance for the probability distribution of our estimates concerning the future. But simply increasing the level of variance or uncertainty does not add much force to the epistemic argument. To see this more clearly, consider another case of a high upfront benefit. Assume that the United States has been hit with a bioterror attack and one million children have contracted smallpox. We also have two new experimental remedies, both of which offer some chance of curing smallpox and restoring the children to perfect health. If we know for sure which remedy works, obviously we should apply that remedy. But imagine now that we are uncertain as to which remedy works. The uncertainty is so extreme that each remedy may cure somewhere between three hundred thousand and six hundred thousand children. Nonetheless we have a slight idea that one remedy is better than the other. That is, one remedy is slightly more likely to cure more children, with no other apparent offsetting negative effects or considerations. Despite the greater uncertainty, we still have the intuition that we should try to save as many children as possible. We should apply the remedy that is more likely to cure more children. We do not say: “We are now so uncertain about what will happen. We should pursue some goal other than trying to cure as many children as possible.” Nor would we cite greater uncertainty about longer-run events as an argument against curing the children. We have a definite good in the present (more cured children), balanced against a radical remixing of the future on both sides of the equation. The definite upfront good still stands firm. Alternatively, let us assume that our broader future suddenly became less predictable (perhaps genetic engineering is invented, which creates new and difficult-to-forecast possibilities). That still would not diminish the force of our reason for saving more children. The variance of forecast becomes larger on both sides of the equation – whether we save the children or not – and the value of the upfront lives remains. A higher variance of forecast might increase the required size of the upfront benefit (to overcome the Principle of Roughness), but it would not refute the relevance of consequences more generally.

#### ---Essentialist impact and internal link claims are good --- Individually empowering and self-correcting as debater skill level improves.

Zwarensteyn 2012

Ellen C., Masters Candidate in Communications at Grand Valley State University, High School Policy Debate as an Enduring Pathway to Political Education: Evaluating Possibilities for Political Learning, Masters Theses. Paper 35, http://scholarworks.gvsu.edu/theses/35

One frustration a few debaters expressed was the relatively reductionist style of argumentation early debaters often employed. Questions of unrealistic internal link chains or oversimplified impact arguments might attract initial intrigue in the argument but was cautioned against as part of an actual political education. As one person noted it was empowering to develop extravagant analysis inevitably resulting in nuclear war and/or extinction – it brought a sense that she may have important issues to think and talk about that adults were willing to listen to. Overall, most felt that over time this tendency toward reductionist claims is self-correcting; the more time in the activity the more time there is to research the nuance, realities, and complexities of argumentation.

### 2AC CP general

#### ---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.

#### Agent CPs are bad

#### Topic Education- CP shifts focus from the desirability of the aff to questions of implementation

#### Predictability and fairness- no literature comparing which agent should do the aff means we always lose to agent CP

#### Not key to ground- other CPs check- conditions and states, ect…

#### Voting issue

### 2AC Courts

#### 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

#### 7. CP will be rolled back.

Pacelle, poli sci prof-Missouri, 02 (Richard, poli sci prof and legal studies coordinator at the univ of Missouri at St. Louis The Role of the Supreme Court in American Politics: The Least Dangerous Branch?, p92)

Even if the Supreme Court was to carve out some sphere of power for itself, there would be significant limitations. Any Court decision has to be enforced, but enforcement power is the province of the president and the executive branch. Thus, the Court is at their mercy. If the president does not like the decision, he does not have to enforce it. Indeed, history books report that Andrew Jackson, upset at the Worcester v. Georgia (1832) decision, growled that “John Marshall made his decision, now let him enforce it.” There was concern that Dwight Eisenhower would not bsack the Brown decision when the Southern states resisted. Ultimately, though quite reluctantly, Eisenhower sent troops to Little Rock to support the decision. What if the Court’s decision requires active policy intervention and the allocation of resources to help carry out the directives? If the courts determine that prisons are overcrowded or schools are substandard, will the legislature, which has the taxing and spending power, be willing to raise and spend money to correct the problem? It took a decade before serious legislative support for the Brown decision was provided. Title VI of the Civil Rights Act of 1964 empowered the government to cut off federal funds to school districts that did not comply with the desegregation directive (Halpern 1995, 30—59). The bottom line is the adage “the Court lacks the sword and the purse”—it lacks the ability to enforce its decisions and the power over the resources to do so. This places a limitation on the justices. If they stray too far from the acceptable boundaries set by Congress or the president, they risk a negative response from the branches with the real power. If the Court can safely be ignored by the other branches and the public, the cost is its institutional legitimacy.

#### 8. Turn- separation of powers

#### A. The CP is Court policy making which crushes SOP.

Dunn 08 (Joshua, Assistant Professor of Political Science at the University of Colorado-Colorado Springs and the author of Complex Justice: The Case of Missouri v. Jenkins, “The Perils of Judicial Policymaking: The Practical Case for Separation of Powers,” September 23, 2008, http://www.heritage.org/research/reports/2008/09/the-perils-of-judicial-policymaking-the-practical-case-for-separation-of-powers)

There is an obvious constitutional implication that flows from realism's normative position: If judges are simply to make good public policy, the effect must be to erode the boundaries among institutions. The judiciary necessarily becomes another legislative branch. Institutionally, anything goes. Nothing really separates what courts do from what elected branches do. In fact, some legal realists explicitly called for judges to be "social engineers." It would be inaccurate simply to label legal realism the jurisprudential twin of political Progressivism, but one notices striking similarities between the two. Both obviously shared many of the same sentiments toward political and social reform. Most notably, legal realism shared the Progressive movement's goal of replacing politics with government by enlightened experts. In this case, however, the experts were to be judges. Likewise, their dispositions toward the Constitution were strikingly similar. For instance, the most important legal realist, Karl Llewellyn of Columbia Law School, called America's reverence for the Constitution "real" but "blind," a sentiment certainly shared by many Progressives. The Constitution functioned as a great symbol of security for Americans, but like all symbols, it could be manipulated. Llewellyn also derided what he called "orthodox" constitutional interpretation for asking questions such as "Is this within the powers granted by the Document?" This question for him addressed the "nonessential" and "accidental," by which he meant "what language happens to stand in the document." He contrasted orthodox interpretation with "sane" interpretation, which instead of consulting the text consults an "ideal picture." Thus, his "sane theory would utterly disregard a Documentary text if any relevant practices existed to offer a firmer, more living basis for the ideal picture."Ultimately, for Llewellyn, the important constitutional questions facing judges were not clearly answered by the text but instead were "penumbra-like," and the penumbra, he said, "will always be in flux."[10] Many legal realists, such as William O. Douglas and Thurman Arnold, made their way to Washington in the 1930s to assist in designing and implementing the New Deal-with Douglas eventually making his way to the Supreme Court. Few exemplified political decision making on the Supreme Court more than Douglas, whose "breezy" "polemical" opinions, Jeffrey Rosen has observed, seem "unconcerned with the fine points of legal doctrines" and "read more like stump speeches than carefully reasoned constitutional arguments."[11] Echoing Llewellyn, Douglas also blessed us, in his majority opinion in Griswold v. Connecticut, with the hopelessly obscure declaration "that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance."[12] Undoubtedly, there is some truth to the empirical claim of legal realism. The political preferences of judges obviously affect their voting behavior. Any advocate submitting a brief to the Court would certainly consider the political preferences of the justices when crafting his or her arguments. Today, if you want to predict how judges will decide cases, the best way to do so is to get some measure of their ideology. The "attitudinal" model, which "holds that judges decide cases in light of their sincere ideological values juxtaposed against the factual stimuli presented by the case,"[13] marshals powerful statistical evidence for its position. Even the most casual observer of the Supreme Court notes the dreary, even banal, predictability of its splits into liberal and conservative blocs in cases raising divisive social and political issues. Of course, many of these cases hinge on how factual stimuli will strike the ever-mercurial Justice Anthony Kennedy. The question is whether we must be resigned to this arbitrariness or whether there is instead some method of judicial decision making, such as originalism, which holds that the Constitution's meaning was established at the time it was written and can bind judges to something other than their political preferences. It is also reasonable to ask whether legal realism was a self-fulfilling prophecy: Perhaps telling judges that they should be social engineers led judges to embrace social engineering. While legal realism faded from prominence after the 1940s, its effects are still obviously with us. This is most apparent in the debate over judicial policymaking. The most able defenders of judicial policymaking explicitly reject, as they must, separation of powers: We have invested excessive time and energy in the effort to define…what the precise scope of judicial activity ought to be. Separation of powers comes in for a good deal of veneration in our political and judicial rhetoric, but it has always been hard to classify all government activity into three, and only three, neat and mutually exclusive categories.[14] Others have gone even further and said that judges have been willing to "engage in policy making" and violate "the long-standing principles of federalism, separation of powers, and the rule of law" because "there is something seriously wrong with all three principles." Separation of powers in particular is simply a relic of Newtonian science and "no longer operationally relevant."[15] This language, of course, harkens back to another critic of separation of powers, Woodrow Wilson, who also derided the Constitution for relying on Newtonian principles of physics and wanted to move us beyond such constitutional fetishism.

#### B. Loss of SOP risks nuclear war.

Redish and Cisar 91 (Martin and Elizabeth, prof of law at Northwestern, clerk for judge Bauer, 41 Duke L.J. 449)

3. The Costs of Abandoning Separation of Powers. The most significant problem with the modern attacks on separation of powers is that they completely ignore the very real fears that led to the adoption of the system in the first place. No critic has adequately demonstrated either that the fears of undue concentrations of political power that caused the Framers to impose separation of powers are unjustified, or that separation of powers is not an important means of deterring those concentrations. It might be argued that the dangers of tyranny thought to be prevented by the use of separation of powers are at best speculative. After all, no one can predict with certainty that, but for the formal separation of branch power, the nation would be likely to sink into a state of tyranny. It is, then, conceivable that all of the Framers' efforts to separate and check powers have been wasted. But that is a risk inherent in the use of any form of prophylactic protection: We cannot be sure that, but for the use of the protection, the harm we fear would result. The decision regarding whether to employ a particular prophylactic device, then, must come down to a comparison of the costs incurred as a result of the device's use with an estimate of both the likelihood and severity of the feared harm. 125 Although some undoubtedly believe that separation of powers imposes severe costs on the achievement of substantive governmental goals, it would be inaccurate to suggest that government has been paralyzed as a result of separation of powers. Too much legislation is enacted by Congress to accept such a criticism. More importantly, in critiquing the failure of the federal government to act, one [\*472] must do so behind a Rawlsian "veil of ignorance": 126 Assuming that abolition of separation of powers would result in an increase in governmental action, we cannot know whether those actions will be ones with which we agree. Moreover, the facilitation of governmental action could just as easily lead to a withdrawal of existing governmental programs that we deem to be wise and just. For example, but for separation of powers, election of Ronald Reagan could have easily led to the abolition of social welfare programs that had been instituted in previous Democratic administrations. Liberals who criticize separation of powers for the constraints it imposes on governmental action should therefore recognize how removal of separation of powers could act as a double-edged sword. Thus, the costs imposed by maintenance of separation of powers are probably nowhere near as great as critics have suggested. Whether the costs that we actually do incur are justified by the system's benefits requires us to examine the likelihood and severity of harm that could result if separation of powers were removed. As previously noted, some might question the likelihood of tyrannical abuse of power if separation of powers were abolished. After all, England lacks our system of formalistic separation of powers, and democracy still flourishes. Why, then, could we not do the same here? The same could, however, be said of the First Amendment rights of free speech and press: In England, speech and press receive no counter-majoritarian constitutional protection, yet it is probably reasonable to believe that for the most part those institutions flourish there. Yet few, we imagine, would feel comfortable with the repeal of the First Amendment. In any event, the political history of which the Framers were aware tends to confirm that quite often concentration of political power ultimately leads to the loss of liberty. Indeed, if we have begun to take the value of separation of powers for granted, we need only look to modern American history to remind ourselves about both the general vulnerability of representative government, and the direct correlation between the concentration of political power and the threat to individual liberty. 127 [\*473] The widespread violations of individual rights that took place when President Lincoln assumed an inordinate level of power, for example, are well documented. 128 Arguably as egregious were the threats to basic freedoms that arose during the Nixon administration, when the power of the executive branch reached what are widely deemed to have been intolerable levels. 129 Although in neither instance did the executive's usurpations of power ultimately degenerate into complete and irreversible tyranny, the reason for that may well have been the resilience of our political traditions, among the most important of which is separation of powers itself. In any event, it would be political folly to be overly smug about the security of either representative government or individual liberty. Although it would be all but impossible to create an empirical proof to demonstrate that our constitutional tradition of separation of powers has been an essential catalyst in the avoidance of tyranny, common sense should tell us that the simultaneous division of power and the creation of interbranch checking play important roles toward that end. To underscore the point, one need imagine only a limited modification of the actual scenario surrounding the recent Persian Gulf War. In actuality, the war was an extremely popular endeavor, thought by many to be a politically and morally justified exercise. But imagine a situation in which a President, concerned about his failure to resolve significant social and economic problems at home, has callously decided to engage [\*474] the nation in war, simply to defer public attention from his domestic failures. To be sure, the President was presumably elected by a majority of the electorate, and may have to stand for reelection in the future. However, at this particular point in time, but for the system established by separation of powers, his authority as Commander in Chief 130 to engage the nation in war would be effectively dictatorial. Because the Constitution reserves to the arguably even more representative and accountable Congress the authority to declare war, 131 the Constitution has attempted to prevent such misuses of power by the executive. 132 It remains unproven whether any governmental structure other than one based on a system of separation of powers could avoid such harmful results.In summary, no defender of separation of powers can prove with certitude that, but for the existence of separation of powers, tyranny would be the inevitable outcome. But the question is whether we wish to take that risk, given the obvious severity of the harm that might result. Given both the relatively limited cost imposed by use of separation of powers and the great severity of the harm sought to be avoided, one should not demand a great showing of the likelihood that the feared harm would result. For just as in the case of the threat of nuclear war, no one wants to be forced into the position of saying, "I told you so."

### 2AC Rider DA

#### 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.

#### ---NU-The link is inevitable-Future legislation like gun control or immigration or literally the next thing congress passes makes this inevitable

#### ---Fiat solves the link---a minimal means fiat would exclude controversial riders like Keystone

#### ---Non-Intrinsic-pass the plan without the rider---the rider is not a true opportunity cost of the plan as any rational policy maker could advocate a reduction in CFIUS restrictions without the rider.

#### ---Empirically denied or non-unique-Debt Ceiling

Washington Post 1/31/13

<http://www.washingtonpost.com/business/news-summary-congress-passes-bill-to-extend-federal-borrowing-authority-and-avert-default/2013/01/31/4bf2abb4-6bf3-11e2-8f4f-2abd96162ba8_story.html>

A REPRIEVE: Congress passed legislation Thursday to permit the government to borrow hundreds of billions of dollars more to meet its obligations, averting a first-ever government default that had loomed as early as mid-February. THE DETAILS: The Democratic-controlled Senate approved the bill, sending the measure to President Barack Obama, who has said he will sign it. The Republican-led House passed the legislation last week.

#### ---NU-Keystone inevitable

National Journal 9/5/12

http://www.nationaljournal.com/2012-election/both-sides-agree-keystone-pipeline-will-be-approved-after-the-november-election-20120905

No matter who wins the presidential race in November, the controversial Keystone XL pipeline will eventually be approved, Sen. John Barrasso, R-Wyo., and former Vermont Gov. Howard Dean agreed on Wednesday. “I think it’s going to be approved one way or the other,” said Barrasso, speaking at a Democratic National Convention event in Charlotte hosted by National Journal, The Atlantic, and the American Petroleum Institute. Earlier this year, Barrasso had pushed for an expedited decision from the White House on the pipeline proposed to carry oil from Canada’s tar sands to Gulf Coast refineries. But after Republicans in Congress set a 60-day deadline for action, President Obama said there wasn’t sufficient time for a full review and rejected a permit for the project. Dean, a former Democratic presidential candidate who now works for a law firm that represents TransCanada, the company hoping to build the Keystone XL, said he thought Obama was going to approve the pipeline, but was pushed to reject it by the Republican ultimatum. “I actually think that President Obama would have said ‘yes’ to Keystone,” Dean said. “They essentially forced him to block it. It didn’t get built because Republicans shortened the approval time.” The former chairman of the Democratic National Committee also said politics appeared to guide Obama’s initial decision a year ago to delay a permit decision until 2013. “I think he was intending to put it off till after the election for obvious reasons, because there’s a fair number of constituents that don’t like it,” Dean said. Dean said he now expects Obama to approve the pipeline project after the election, noting that the Canadian oil sands will be developed no matter what happens. After Obama rejected a permit for the full project in January, he came out in support of building the southern portion of the pipeline to ease a jam on oil moving from the Midwest to the Gulf Coast. Since then, TransCanada has applied for a new permit for the northern portion of the project and on Wednesday announced a new route for that leg. Barrasso, expected to easily win a second Senate term this fall against Democrat Tim Chesnut, went further than he has before to acknowledge the problem of climate change at the NJ/Atlantic/API panel. “I think that over the history of the Earth, climate has continued to change,” Barasso said. “The extent is still up to debate.” Meanwhile, Dean said regulation of hydraulic fracturing, the process of extracting shale gas also known as “fracking,” should be regulated by states. “There are some things that can be regulated by the states, and I think this is one of them,” Dean said, citing a typically Republican stance on the issue. Although Vermont was the first state to ban fracking, Dean said that he does not oppose natural-gas production in the U.S. “I think there’s a safe way to produce and use natural gas,” he said.

#### ---No Impact---Keystone effect will be limited

<https://ecmp.nebraska.gov/deq-seis/DisplayDoc.aspx?DocID=5mrIGBThTIY0PRiflK1dmA%3d%3d>

CUT ME IN PREP TIME

#### ----Rider will be blocked – empirics

**Digital Journal 2/1** Op-Ed: The politics of oil — Green energy alternatives LIKE THIS ARTICLE17 Karl By Karl Gotthardt Feb 1, 2013 - yesterday in Environment 15 comments Read more: http://www.digitaljournal.com/article/342606#ixzz2JmdNbQqL

The XL Keystone Pipeline was put on hold last year by President Obama claiming environmental concerns, specifically the Nebraska Sandhills. Congress attempted to force the President's hand by including the approval of the pipeline in various bills, which prompted the President to reject the pipeline outright. Obama's rejection came after weeks of anti-oilsands protests in Washington, including high profile Hollywood celebrities. Hollywood was a major supporter of the Obama campaign, with George Clooney committing to raise $12 Million in a fundraiser.

#### ---No Internal link---Obama can block it

**McCarthy 1/22** ENERGY Obama’s vow on climate change signals bumpy road for Keystone SHAWN MCCARTHY OTTAWA — The Globe and Mail Published Monday, Jan. 21 2013, 9:18 PM EST Last updated Tuesday, Jan. 22 2013, 1:25 AM EST

But Mr. Obama’s promise of action on climate change may signal trouble for the Canadian pipeline project, particularly if he is looking for a highly visible action that does not requires backing from Congress. “After President Obama’s inaugural remarks about climate change, Keystone XL pipeline proponents should not assume he will approve it,” said Daniel J. Weiss, director of climate strategy at Washington’s Center for American Progress.

#### ---Long-time-frame proves intervening issues will swamp the link

**Reuters 1/31** Keystone pipeline decision to languish until mid-June-US source inShare 5 Share this Email Print Related News Canada's Flaherty less optimistic on Keystone prospects Fri, Jan 25 2013 UPDATE 8-Oil rises on encouraging economic data, Seaway optimism Thu, Jan 24 2013 Majority of senators back Keystone XL pipeline Wed, Jan 23 2013 State Department delays Keystone pipeline decision Tue, Jan 22 2013 UPDATE 8-Oil rises on BOJ plan, German investor sentiment Tue, Jan 22 2013 Analysis & Opinion Who are Justice Department’s ‘outside experts’ on prosecuting banks? Judicial overreach to redefine presidential power Related Topics Energy » Industrials » Utilities » Thu Jan 31, 2013 5:16pm EST \* State Dept needs to take series of steps \* Environmental review due any day \* No time frame for national interest determination By Timothy Gardner

WASHINGTON, Jan 31 (Reuters) - The Obama administration's decision on the Keystone XL oil pipeline will not be made until at least June, a U.S. official said, which would delay the project for months and frustrate backers of Canada's oil sands. "We're talking the beginning of summer at the earliest," said the source, who did not want to be identified due to the sensitive nature of the TransCanada Corp project, which has been pending for more than four and a half years. "It's not weeks until the final decision. It's months." A series of steps still have to be taken by the State Department, where the decision will be made because the 830,000 barrels per day crude oil pipeline crosses the national border. The pipeline will link Alberta's oil sands and North Dakota's Bakken shale fields to refineries and ports in Texas.

#### Biod is empirically unnecessary

Jablonski 1 (Prof @ Department of Geophysical Sciences, University of Chicago “Lessons from the past: Evolutionary impacts of mass extinctions” May 16. http://www.pnas.org/content/98/10/5393.full)

Mass extinctions have never entirely reset the evolutionary clock: even the huge losses at the end of the Permian, which appear to have permanently restructured marine and terrestrial communities, left enough taxa and functional groups standing to seed the recovery process without the origin of new phyla ([39](#ref-39)). One key to understanding the past and future evolutionary role of extinctions will involve the factors that permit the persistence of certain biological trends or patterns—e.g., net expansion or contraction of clades or directional shifts in morphology—in the face of extensive taxonomic loss and ecological disruption. Besides extinction, at least four evolutionary patterns can be seen in the fossil record. These are: (i) unbroken continuity, (ii) continuity with setbacks, (iii) survival without recovery (“dead clade walking”), and (v) unbridled diversification.

Beavers solve

Ferry 12 ( David Ferry is a writer in Oakland, California, writing for the Atlantic, citing studies in Idaho, “Leave It to Beavers” http://www.theatlantic.com/magazine/archive/2012/06/leave-it-to-beavers/308980/)

In the 1820s, one of the largest corporations on Earth tried to kill every beaver in the Pacific Northwest. Britain’s Hudson’s Bay Company, threatened by the United States’ westward expansion, sent trappers sweeping down the Columbia River watershed to exterminate all the beavers they found and harvest their valuable pelts. Without beavers to hunt, the company’s governor reasoned, the United States would have “no inducement to proceed hither.” Within 20 years, the beaver was nearly eradicated from an area the size of France. Now, nearly two centuries later, beavers are valued not just for their pelts, but for the environmental benefits of their gnawing and nesting. A growing community of “beaver believers” is reintroducing the animal to regional water systems throughout the American West in the hopes of reducing the incidence of floods and the damage from forest fires, alleviating drought, helping fish thrive, and conserving fresh water—in the process, helping to combat some of the effects of climate change. In the 1600s, as many as 400 million beavers were waddling about the continent. Just 6 million to 12 million remain today. “You have to imagine that there was a beaver dam every half mile, on every stream, in every single watershed in North America,” says Amanda Parrish, who manages the watershed program for the Lands Council, a nonprofit based in Spokane, Washington. Conservationists have been working to restore the population since as early as 1928, when Grey Owl (né Archibald Belaney), the original beaver believer, established his first colony with two baby beavers he found in the backwoods of Canada. In the 1940s, Idaho’s Department of Fish and Game embarked on an effort both larger in scale and kookier in method. Finding long, dusty overland trips too hard on the beavers, the department instead packed pairs of the animals into crates, loaded them onto airplanes bound for drought-stricken corners of the state, and dropped them by parachute. (The crates were rigged to open on impact.) The endeavor was apparently a success: a 1950 report notes that of the 76 beavers airdropped in the fall of 1948, only one fell to its death; the others began building dams and homes and founding colonies, which can grow as large as a dozen or so beavers. Idaho’s strategy has since been validated by dozens of scientific studies illustrating the vital role beavers play in ecosystems. Their dams create ponds and wetlands that retain rainwater and snowmelt, and while beaver ponds themselves are shallow little affairs, research has shown that they help preserve groundwater, allowing vegetation and trees to flourish and increasing biodiversity. According to one study, the amount of fresh water a single colony adds to a local ecosystem each day is the equivalent of at least a once-in-200-years flood event. To see a beaver today, I drove some 30 miles from Oakland, where I live, to suburban Martinez, California, where a beaver family has moved into the creek that cuts through town. There, a delightful beaver-believer couple showed me around the colony, pointing out the subtleties of beaver construction and anatomy, as a pair of yearlings swam below us. The beaver evolved to live in and out of water, and the result feels a bit schizophrenic. Your standard beaver comes with webbed hind feet and a scaly, flat tail (perfect for maneuvering underwater and for balancing on land), as well as grasping paws and a pair of buckteeth. It is further equipped with nose valves that close underwater and eye membranes that act as swim goggles. Adult beavers weigh about 40 pounds and are appealing in the way squirrels are: they’re cute, but they’re still rodents. From a historical perspective, the beaver’s most fateful feature is its coat, a combination of thick underfur and longer guard hair that allows the animal to thrive in widely varying climes. It is rugged enough to let the beavers of northern Canada linger beneath the surface of frozen ponds, but light enough to help keep the animal cool during hot New Mexico summers. Unfortunately for beavers, these qualities also make for very fine hats. Eastern Washington, where Amanda Parrish and her team are implementing their “Beaver Solution,” is today home to about 50,000 beavers, compared with a onetime high of perhaps 5 million. Because of rising temperatures, the snowpack is melting earlier and earlier in springtime, causing trillions of gallons of fresh water to gush down from the mountains, overwhelming streams and sluicing over the ground too fast to nourish the ecosystem. Repopulating such a large region with beavers is exceptionally complex. The dense forests that beavers once inhabited no longer cover the range, so reintroduced families have limited options for homes. And beavers, being wild animals, don’t always stay put. But each new family integrated into the ecosystem makes the job easier, stemming the loss of fresh water and creating habitat suitable for more beavers. So far, Parrish and her team have moved 45 beavers into the area. Their thinking is simple, and especially compelling as the Earth warms and droughts become more prevalent: where there are beavers, there is water.

### 2AC DOE DA

#### Not a disad- Obama hasn’t even named a candidate yet, there is NO PUSH for the plan to disrupt.

San Francisco Chronicle 2-1 (http://www.sfgate.com/business/article/Steven-Chu-to-leave-as-energy-secretary-4244852.php)

Obama praised Chu Friday and thanked him for his service, but did not nominate a successor. So far, rumored replacements have included former North Dakota Sen. Byron Dorgan, former Michigan Gov. Jennifer Granholm and former San Francisco hedge fund manager Tom Steyer. Clean slate All three of Obama's Cabinet secretaries who deal with energy and environmental issues have declared their intent to step down. Interior Secretary Ken Salazar, whose department oversees oil and natural gas drilling on federal land, plans to return to his home state of Colorado in March. Lisa Jackson, head of the Environmental Protection Agency, announced in December her decision to leave. Chu's supporters hope his successor continues the department's support for clean energy. If that successor can build bridges with skeptical conservatives, so much the better.

#### Zero impact- the DOE has little to do with Obama’s energy policy- other agencies key.

Cunningham 1-23 (Nick, http://energy.aol.com/2013/01/23/it-s-not-doe-that-drives-energy-policy/)

With Secretary of Energy Steven Chu set to depart his post in the coming weeks, many are watching for clues as to who President Obama will pick to be his successor. Some hope for a more industry-friendly pick, such as Duke Energy's CEO Jim Rogers. Environmentalists have been pulling for names like Tom Steyer, billionaire investor and cleantech enthusiast, or John Podesta, head of the Center for American Progress. Considering Secretary Chu's struggles with Congress, many want a more politically-adept pick like former Senator Byron Dorgan (D-ND). Or will they? Aside from the surge in funds from the stimulus act in 2009, much of DOE's annual budget is not allocated to energy technology development. Fully two-thirds of DOE's budget is dedicated to the stewardship of the nation's nuclear weapons stockpile, while only about 19% of the budget is dedicated to the Office of Science, which is where research for energy technologies is conducted. Despite its namesake, there are other agencies that are actually more influential over America's energy industry than the Department of Energy, and they will be at the center of how the Obama administration deals with the critical energy choices it faces in a second term. One of these choices is how to reduce greenhouse gas emissions in the electricity sector, which will depend on rulemaking from the EPA. If Lisa Jackson's successor at EPA decides to follow through on tougher carbon limits from existing power plants, building on last year's rule for new power plants, it will accelerate the demise of the coal industry that is already underway. The Department of Interior is central to another critical energy choice over the next several years: how to manage America's newfound fossil fuel abundance. The US is blessed with abundant resources of oil and natural gas, and advances in hydraulic fracturing and horizontal drilling have opened up vast new reserves. Oil production is at its highest level in 20 years and America is awash in natural gas. However, the surge in drilling has resulted in political blowback, as communities around the country have raised alarm over the effects on water and air quality. EPA is conducting a major review of the effects of fracking on groundwater, and it will be up to the Interior Department to issue regulations based on these findings, which will have a huge impact on the future oil and gas drilling in the US Similarly, the production of energy - both fossil fuels and renewable energy – on public lands was a contentious issue during the Presidential campaign last year. The Department of Interior manages 500 million acres of land, equivalent to roughly one-fifth of all surface land in the United States. Balancing energy development with conservation will fall to Secretary Ken Salazar's successor. Interior also has the authority over the outer continental shelf (i.e. offshore oil, gas, and wind). In particular, how DOI handles Shell's mishaps in Alaska will have huge bearing on the future of energy development in the Arctic. Another energy decision is the fate of the Keystone XL pipeline. The State Department, presumably led by Obama's nominee Senator John Kerry (an ASP board member), will decide in the coming months whether or not to grant a permit for its construction. The US also plays a critical role in international negotiations over a climate treaty, which would have large impacts on the domestic energy industry. While little progress is expected, to the extent that the US engages on this issue, the State Department will be in the lead. As the largest single user of energy in the country, the Department of Defense has a lot of influence over the deployment of new energy technologies. DoD is investing in biofuels to fuel its fleet, renewable energy to power its bases, as well as a variety of energy efficiency initiatives to cut down on its energy use. As a large consumer, the "demand pull" from DoD has great influence over energy markets. These issues will greatly shape America's energy picture in the coming years, yet all of them fall outside of the jurisdiction of the Department of Energy. Therefore, as we await President Obama's announcement for Secretary Chu's replacement, it is worth remembering that much of the nation's energy policy gets sorted out in agencies other than the one with "Energy" in its name.

#### There are 5 good candidates- they cannot hope to have a unique IL to their impact based off just ONE of these people

Rothkopf 1-29 (David Rothkopf, editor FOREIGN POLICY Magazine, JANUARY 29, 2013, http://www.carnegieendowment.org/2013/01/29/next-appointments/f73g)

I've included the Department of Energy in the list because nothing is more important to both America's economic recovery and to the world's shifting geopolitics than how the country manages the current paradigm shift in our energy supplies, available technologies, and demand, and in how they intersect with our concerns about climate. Chu was underappreciated in Washington because he was not a political animal, but no energy secretary in history has been so respected for his intellect or vision. The president is likely to replace him with a retired politician like Byron Dorgan, Jeff Bingaman, or Jennifer Granholm. But within the agency, he also has some terrific talent like Deputy Secretary Dan Poneman or, holding the international portfolio there, David Sandalow, who might also be seen as a successor to Poneman were he to move on. (Poneman, like Assistant Defense Secretary Derek Chollet, might be a solid replacement for McDonough at the NSC.)

#### A123 exemption triggers the link – plan doesn’t cause the scenario

McConnell 1/30/13 (William, Washington bureau chief, has covered a range of issues critical to the deal community, including antitrust, financial reform and corporate accounting, “CFIUS approval of A123 Systems deal draws critics” <http://www.thedeal.com/content/regulatory/cfius-approval-of-a123-systems-deal-draws-critics.php>)

A number of Washington lawmakers on Tuesday criticized national security regulators for allowing China's Wanxiang Group to acquire bankrupt car battery maker A123 Systems Inc. Wanxiang said it was informed late Monday by the Committee on Foreign Investment in the United States that it may proceed with the transaction. Lawmakers on both sides of the aisle have raised concerns about the sale, which they complained would transfer technology developed with subsidies from U.S. taxpayers to China. A123 filed for bankruptcy in October after having received roughly $130 million in stimulus money from the U.S. Department of Energy to fund its research. Wanxiang's $257 million bid bested one from Milwaukee-based Johnson Controls Inc. Wanxiang tried to blunt criticism of the deal by excluding A123's defense contracts, which were sold separately to Navitas Systems for $2.25 million. There's no avenue for reversing the CFIUS approval, although the outcome might fuel support among lawmakers for legislation that would hamstring companies that have received federal subsidiaries from selling themselves to foreign buyers. Still unknown is whether CFIUS imposed any conditions on the deal to mitigate possible national security threats. Two of the most prominent Capitol Hill critics of the transaction., Sens. John Thune, R-S.D., and Chuck Grassley, R-Iowa, demanded that CFIUS brief them on the decision. "We don't have any answers on whether U.S. national security concerns are protected. The only thing that's clear is a foreign-owned company will benefit from the millions of dollars given to A123 through the president's stimulus package. That's troubling," Grassley said in a statement. Kaye Scholer LLP partner Farhad Jalinous, who represents clients before CFIUS, said the agency almost certainly imposed some conditions. Federal law requires that CFIUS report to Congress on its review but it will not make a public report on the transaction. Wanxiang is under no obligation to make the details public, unless the bankruptcy court requires it. Rep. Marsha Blackburn, R-Tenn., who has written legislation that would require companies receiving research funding from the Department of Energy to report when they are being acquired by a "nonallied" foreign nation, criticized CFIUS's approval. "Just eight days ago, President Obama stated in his inaugural address that 'we cannot cede to other nations the technology that will power new jobs and new industries.' I could not agree more, which is why it disturbs me that the administration would approve the sale of A123 to Wanxiang," Blackburn said. "What's changed in the last week? Actions speak louder than words and this is a clear-cut example of a time when President Obama needs to step in and protect our national security interests. We cannot afford to have technology that is used in our drones and Navy SEAL delivery systems end up in the hands of the Chinese government. Especially as this administration has a new Asia pivot defense policy which will put our special forces units in China's backyard." Other opposing lawmakers have included Sens. Debbie Stabenow and Carl Levin, both Michigan Democrats, who said separating the company's business into military and nonmilitary components might not be feasible.

NOTINTRSC

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

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 leadership 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.

#### 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**.

#### Political capital not key to the agenda

Klein 12 (Ezra, citing George Edwards, the director of the Center of Presidential studies at Texas A and M is the editor of Wonkblog and a columnist at the Washington Post, as well as a contributor to MSNBC and Bloomberg. “THE UNPERSUADED” <http://www.newyorker.com/reporting/2012/03/19/120319fa_fact_klein?currentPage=5>)

The Obama Administration was taken by surprise when congressional Republicans turned against the individual mandate in health-care reform; it was the Republicans, after all, who had championed the idea, in 1993, as an alternative to the Clinton initiative. During the next decade, dozens of Senate Republicans co-sponsored health-care plans that included a mandate. Mitt Romney, of course, passed one when he was governor of Massachusetts. In 2007, when Senator Jim DeMint, of South Carolina—now a favorite of the Tea Party—endorsed Romney for President, he cited his health-care plan as a reason for doing so. Senator Orrin Hatch, of Utah, who supported the mandate before he opposed it, shrugs off his party’s change of heart. “We were fighting Hillarycare,” he has said, of the Republicans’ original position. In other words, Clinton polarized Republicans against one health-care proposal, and then Obama turned them against another. Representative Jim Cooper, a Democrat from Tennessee, takes Lee’s thesis even further. “**The more high-profile the communication effort, the less likely it is to succeed**,” he says. “In education reform, I think Obama has done brilliantly, largely because it’s out of the press. But on higher-profile things, like deficit reduction, he’s had a much tougher time.” Edwards’s work suggests that Presidential persuasion isn’t effective with the public. Lee’s work suggests that Presidential persuasion might actually have an ***anti-persuasive effect*** on the opposing party in Congress. And, because our system of government usually requires at least some members of the opposition to work with the President if anything is to get done, that suggests that the President’s attempts at persuasion might have the ***perverse effect of making it harder for him to govern.***

## \*\*\*1AR

### 1AR A2: Water DA

#### 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.

### 1AR Economy Impact

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Mathew, and Jennifer “Revisiting the Future: Geopolitical Effects of the Financial Crisis” <http://www.ciaonet.org/journals/twq/v32i2/f_0016178_13952.pdf>

Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the harmful effects on fledgling democracies and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which the potential for greater conflict could grow would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. Terrorism’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks\_and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any economically-induced drawdown of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an unintended escalation and broader conflict if clear red lines between those states involved are not well established. The close proximity of potential nuclear rivals combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on preemption rather than defense, potentially leading to escalating crises. 36 Types of conflict that the world continues to experience, such as over resources, could reemerge, particularly if protectionism grows and there is a resort to neo-mercantilist practices. Perceptions of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this could result in interstate conflicts if government leaders deem assured access to energy resources, for example, to be essential for maintaining domestic stability and the survival of their regime. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. If the fiscal stimulus focus for these countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional naval capabilities could lead to increased tensions, rivalries, and counterbalancing moves, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. With water also becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.

### 1AR Water Wars Defense

Even if they win the war scenario, water isn’t the root cause – politics is **Lawfield 10** – Thomas Lawfield is an MA candidate at the University for Peace. Water Security: War or Peace? Thomas Lawfield May 03, 2010 http://www.monitor.upeace.org/innerpg.cfm?id\_article=715

Second, water wars are not caused by water, but rather an inability of politics. Barnett makes the case clear by arguing that water war would be a ‘failure of politics’ rather than the outcome of justified demands for essential resources.[28] In this way, it is not scarcity that is the driver in the Malthusian sense, but a political, and politicised issue. This is most noticeable where conflict occurs in areas where there are both political tensions and water resources challenges. For example, there are absurd and exaggerated claims of a linkage between Israel’s water management and surrounding states. In reality, conflict in this region is strongly influenced by political circumstance that speaks to a wider discourse around Israel’s position in the Near East. That environmental constraints and pressures are woven into wider discourses of politics is no indication that they are the cause of conflict, but rather more that they are an important contextual factor that may be mobilised for political reasons. For instance, in 2000 Lebanon started building a small pumping station on the Wazzani river which is used by downstream Israel. This rapidly became a media issue in Israel, probably due to the heightened security discourse surrounding water. Claims were made that the action was comparable to the 1964 diversion of the Hasbani, an Arab coalition move to harm the Israeli economy. However, the story diminished even faster than it emerged, when officials on both sides showed their dismay at the emerging media frenzy.[29] There are two key trends to note from this example: first, that wider discussions around water wars influence the articulation of war in reality, and second the water component of the conflict is not significant, rather it acts as a trigger for the utilisation of wider political narratives. In essence, water is merely a tool for political ends. Third, war over water is illogical. States are not inherently belligerent, but act in self interested, utility-maximising ways. Rather, they engage in conflict if they stand to gain more than they loose. In the case of water, the costs of military engagement far outweigh the costs of cooperative engagement. For instance, Baskin points out that it would cost more for Israel to engage in war for the water resources of the West Bank than it would to buy the equivalent of the West Banks aquifers from elsewhere.[30] Water war protagonists also present the weak argument that there is a unique situation in the Middle East of the possibility of state territories changing, with water related land grabs. ‘Victory may bring land that offers more resources – either water or oil.’[31] This is not the case. State territories have been extremely stable for over a hundred years – conflict that attempts to enlarge boundaries would problematise the very existence and legitimacy of the state itself. By contrast, if they stand to gain by establishing cooperative relationships with other states in the international system, they will. It is difficult to see how good water management, which frequently demands cooperation, can be conducted through the use of conflict. That said, there are incidences of water related conflict on the intrastate level. For instance, in summer 2000, clashes involving thousands of farmers and police occurred in the Huang He river basin, China over government policy changes that meant a local dam runoff would no longer supply irrigation water for farmers but instead be used for urbanisation. In addition, in Pakistan there have been clashes between farmers in Punjab and Sind province over control of the Indus. But these are not resource pressure issues – rather water acts as one of many other triggers in a wider problem of social injustice and political discourses.

### 1AR Agency Shielding

#### ---Public and Congress won’t know

The Metropolitan Corporate Counsel 9/07

New CFIUS Reform Act Presents Challenges To Foreign Investment In The United States

<http://www.akingump.com/files/Publication/15683e0b-c890-4ade-9ebb-8245a9e09ac6/Presentation/PublicationAttachment/3b03d8b6-ada3-4f6b-a52f-85e00df1f4fb/1020.pdf>

The U.S. Congress has overwhelmingly passed the Foreign Investment and National Security Act of 2007 (FINSA), which fundamentally alters the process by which the Committee on Foreign Investment in the United States (CFIUS) reviews and clears proposed acquisitions of U.S. businesses by foreign persons under the so-called ExonFlorio law. CFIUS reform legislation was prompted by several high-profile transactions that raised considerable public and political controversy in 2005 and 2006, and concerns that some Members of Congress had regarding the sufficiency of the CFIUS process then in place. The FINSA bill, which is expected to be signed into law by President Bush very soon, expands the scope of foreign investment transactions that are subject to national security reviews, mandates second stage investigations of transactions involving U.S. critical infrastructure and state-owned or -controlled foreign entities, requires CFIUS to enter into and enforce agreements with foreign buyers to mitigate national security concerns, and increases congressional oversight of CFIUS proceedings. In summary, these changes will expose more transactions to this revised national security review procedure, impose additional requirements on the parties engaged in this process, and increase the level of congressional and public attention to transactions that are subject to Exon-Florio. This will necessarily increase the complexity of a CFIUS proceeding, as well as demand that parties navigating it employ more sophisticated and coordinated strategies to anticipate and deal with the full range of regulatory, policy and political issues that can be expected to arise. This article summarizes the major provisions of FINSA and discusses the implications for non-U.S. persons and entities contemplating acquisitions of U.S. businesses.

#### Its not a question of if we are allowed to clarify, its normal means implementation, that should guide our ground because it’s the most predicable

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)

The Exon-Florio provision grants the President broad discretionary authority to take what action he considers to be “appropriate” to suspend or prohibit proposed or pending foreign acquisitions, mergers, or takeovers which “threaten to impair the national security.” In this act, national security was not defined, but was meant to be interpreted broadly. Nevertheless, regulations developed by the Treasury Department to implement the law direct the members of CFIUS to focus their reviews of foreign investments exclusively on those transactions that involve “products or key technologies essential to the U.S. defense industrial base,” and not to consider economic concerns more broadly. CFIUS also indicated that in order to assure an unimpeded inflow of foreign investment it would implement the statute “only insofar as necessary to protect the national security,” and “in a manner fully consistent with the international obligations of the United States.”6

#### ---2008 proves this is normal means

Department of the Treasury ’10

Home » Resource Center » International » Committee on Foreign Investment in U.S. » Guidance

Guidance

http://www.treasury.gov/resource-center/international/foreign-investment/Pages/cfius-guidance.aspx

The U.S. Department of the Treasury, as CFIUS chair, published Guidance Concerning the National Security Review Conducted by CFIUS in the Federal Register on December 8, 2008. The guidance describes: the purpose and nature of the CFIUS process, how CFIUS analyzes whether a transaction poses national security risks, national security factors identified by FINSA, and the types of transactions that CFIUS has reviewed that have presented national security considerations.

### 1AR Winners Win

#### Forcing controversial fights key to Obama’s agenda.

**Dickerson 1/18** (John, Slate, Go for the Throat!, www.slate.com/articles/news\_and\_politics/politics/2013/01/barack\_obama\_s\_second\_inaugural\_address\_the\_president\_should\_declare\_war.single.html)

On Monday, President Obama will preside over the grand reopening of his administration. It would be altogether fitting if he stepped to the microphone, looked down the mall, and let out a sigh: so many people expecting so much from a government that appears capable of so little. A second inaugural suggests new beginnings, but this one is being bookended by dead-end debates. Gridlock over the fiscal cliff preceded it and gridlock over the debt limit, sequester, and budget will follow. After the election, the same people are in power in all the branches of government and they don't get along. There's no indication that the president's clashes with House Republicans will end soon. Inaugural speeches are supposed to be huge and stirring. Presidents haul our heroes onstage, from George Washington to Martin Luther King Jr. George W. Bush brought the Liberty Bell. They use history to make greatness and achievements seem like something you can just take down from the shelf. Americans are not stuck in the rut of the day. But this might be too much for Obama’s second inaugural address: After the last four years, how do you call the nation and its elected representatives to common action while standing on the steps of a building where collective action goes to die? That bipartisan bag of tricks has been tried and it didn’t work. People don’t believe it. Congress' approval rating is 14 percent, the lowest in history. In a December Gallup poll, 77 percent of those asked said the way Washington works is doing “serious harm” to the country. The challenge for President Obama’s speech is the challenge of his second term: how to be great when the environment stinks. Enhancing the president’s legacy requires something more than simply the clever application of predictable stratagems. Washington’s partisan rancor, the size of the problems facing government, and the limited amount of time before Obama is a lame duck all point to a single conclusion: The president who came into office speaking in lofty terms about bipartisanship and cooperation can only cement his legacy if he destroys the GOP. If he wants to transform American politics, he must go for the throat. President Obama could, of course, resign himself to tending to the achievements of his first term. He'd make sure health care reform is implemented, nurse the economy back to health, and put the military on a new footing after two wars. But he's more ambitious than that. He ran for president as a one-term senator with no executive experience. In his first term, he pushed for the biggest overhaul of health care possible because, as he told his aides, he wanted to make history. He may already have made it. There's no question that he is already a president of consequence. But there's no sign he's content to ride out the second half of the game in the Barcalounger. He is approaching gun control, climate change, and immigration with wide and excited eyes. He's not going for caretaker. How should the president proceed then, if he wants to be bold? The Barack Obama of the first administration might have approached the task by finding some Republicans to deal with and then start agreeing to some of their demands in hope that he would win some of their votes. It's the traditional approach. Perhaps he could add a good deal more schmoozing with lawmakers, too. That's the old way. He has abandoned that. He doesn't think it will work and he doesn't have the time. As Obama explained in his last press conference, he thinks the Republicans are dead set on opposing him. They cannot be unchained by schmoozing. Even if Obama were wrong about Republican intransigence, other constraints will limit the chance for cooperation. Republican lawmakers worried about primary challenges in 2014 are not going to be willing partners. He probably has at most 18 months before people start dropping the lame-duck label in close proximity to his name. Obama’s only remaining option is to pulverize. Whether he succeeds in passing legislation or not, given his ambitions, his goal should be to delegitimize his opponents. Through a series of clarifying fights over controversial issues, he can force Republicans to either side with their coalition's most extreme elements or cause a rift in the party that will leave it, at least temporarily, in disarray.